



Penderfyniad ar yr Apêl

Ymchwiliad a gynhaliwyd ar 14, 15, 16, 20 a
21/10/08

Ymweliad safle a wnaed ar 17/10/08

Appeal Decision

Inquiry held on 14, 15, 16, 20 & 21/10/08

Site visit made on 17/10/08

gan/by Hywel Wyn Jones BA (Hons) BTP MRTPI

**Arolygydd a benodwyd gan y Gweinidog
dros yr Amgylchedd, Gynaliadwyedd a
Thai, un o Weinidogion Cymru**

**an Inspector appointed by the Minister for
Environment, Sustainability and Housing,
one of the Welsh Ministers**

Dyddiad/Date 18/11/08

Appeal Ref: APP/L6940/A/07/2058755

Site address: Land South of A465, Hirwaun, Rhondda Cynon Taf

**The Minister for Environment, Sustainability and Housing has transferred the
authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Pennant Walters Hirwaun Ltd against Rhondda Cynon Taf County Borough Council.
- The application (ref: 06/1415/10), is dated 13 July 2006.
- The development proposed is described as the "erection of 12 wind turbines together with ancillary infrastructure".

Decision

1. For the reasons set out below I dismiss the appeal.

Preliminary and Procedural Matters

2. In addition to an accompanied site visit to the appeal site and immediate surroundings carried out on 17 October, I undertook unaccompanied visits of the wider area at other times, primarily on 22 October. Weather conditions during both these days were favourable providing good visibility over an extensive area.
3. The description of the proposed development set out in the above bullet point reflects that contained in the planning application form. The appellant company subsequently sought to revise the scheme by reducing the total number of turbines to 9 and re-siting 6 of the remaining turbines. The length of the proposed access track was also reduced and alterations made to its route to correspond with the change in turbine position.
4. During a Pre-Inquiry Meeting held on 24 June I heard representations from the main parties regarding whether to determine the appeal on the basis of the amended scheme. For reasons set out in a note of that meeting, I decided to base my decision on the revised scheme, satisfied that to do so would cause no injustice to any party.

5. I have determined the appeal on the basis of the information contained in the Environmental Statement (ES) as amended by the Supplementary Environmental Information (SEI). Whilst these provide details of the scheme, some are for illustrative purposes only. Several of the precise details, including the type of turbines and anemometer mast, and the exact route of the access track would be matters that would be agreed with the Council before the commencement of development. The envisaged turbine would have a hub height of 70m and blades of 45m in length, providing a maximum height to tip of 115m. There are several turbines currently on the market which have similar dimensions to these and their generating capacity varies from 2MW to 3MW. The anemometer mast would be 50m high. The scheme also proposes other works including hardstandings, a substation and compound, and alterations to an existing vehicular access onto the A465. The revised layout plan in the SEI shows the omission of turbine Nos 1, 2 and 5 and the re-siting of turbine Nos 4, 8, 9, 10, 11 and 12.
6. The proposed development, in its amended form, was considered by the Council's Co-ordinating Development Control Committee in August of this year. In accordance with the recommendation of its officers it resolved that, had it retained jurisdiction over the application, it would have refused the scheme on the grounds that it would harm important landscape features and would be detrimental to the amenity of local residents and users of the nearby Country Park.
7. At the outset of the Inquiry I made it clear that, in relation to the high numbers of letters and the petitions submitted in response to the original scheme, that I would take the comments contained therein into account, insofar as they were pertinent to the revised scheme.
8. The Council's planning application form asks whether the applicant owns or controls land adjoining the site and if so to edge such land in blue. The answer given was "no". Miss Ellis, for the Council, suggested that this was wrong given that the appellant company's legal option over adjoining land amounted to 'control'. In response Mr Boswall, for the appellant, disagreed. Whilst, in the interests of openness it would have been desirable to have made the extent of the land affected by such options clear, as it was common ground that no interests had been prejudiced by the omission, it has not affected my determination of the appeal.
9. Another procedural matter raised by the Council was the Article 7¹ certificates that accompanied the application. The certificates, which were served on the owners of two farm holdings that formed part of the application site, were dated 13 July 2006 and purported to confirm that notice *had* been served on the land owners on the *following* day, 14 July. Mr Boswall explained that in completing the notice in this way the applicant had sought to make an allowance for the delay in the notifications reaching their destinations by post. I am in no doubt that the certificates were not properly served, and I note the importance attached to this procedure by Newman J in the Pridmore² case. Nevertheless, as the Council confirmed, the failure to properly serve notice on the owners in this case had not

¹ Of the *The Town and Country Planning (General Development Procedure) Order 1995*

² R (aoa Pridmore) v Salisbury District Council [2004] EWHC 2511

resulted in any prejudice to these land owners. There is no doubt that they were aware of the application and had opportunity to make their views known before determination of the appeal.

10. During the processing of the planning application the appellant submitted a completed unilateral undertaking under Section 106 of the above Act, which sought to provide an assurance that turbines would not be erected within certain parts of the site. The main parties agreed that, as the scheme before me does not propose to erect any turbines within the identified exclusion areas, it has no direct bearing on my determination of the appeal. I afford it no material weight.
11. At the Inquiry Mr Boswall queried the position of the Brecon Beacons National Park Authority (BBNPA); although no representative was present I was verbally assured that it supported the Countryside Council for Wales' (CCW) objection and that its officers had delegated authority in this respect. A letter confirming this position was sent to The Planning Inspectorate during the course of the Inquiry.

Main Issue

12. The main issue in this case is the effect of the proposed development on the character and appearance of the surrounding area, having regard to local and national planning policies.

Planning Policy

13. The development plan is the *Mid Glamorgan (Rhondda Cynon Taff County Borough) Replacement Structure Plan (1999)* and the *Rhondda Cynon Taf (Cynon Valley) Local Plan (2004)*. I refer to those policies of particular relevance to my consideration of the main issue. Structure Plan Policies U1 and U2 deal specifically with wind power developments. The former seeks to protect nationally or internationally designated sites and their settings from unacceptable levels of damage or disturbance, whilst the latter Policy is permissive of such development in other areas provided certain criteria are satisfied including that the location reduces visual intrusion to acceptable levels, taking into account cumulative effects, and that any effect on residential properties is reduced to acceptable levels. Policy EV4 refers to Special Landscape Areas (SLAs) and identifies the Coalfield Plateau and valley sides as being of strategic importance. In such areas the policy requires that any visual intrusion can be reduced to acceptable levels.
14. Local Plan Policy ENV21 permits renewable energy schemes provided that the cumulative effect of such schemes would not harm the landscape and that it includes measures to reduce the impact of ancillary development such as new roads and tracks. Among the general development control criteria set out in Policy ENV1 is that no harm would arise to the character or appearance of the area. The Proposals Map identifies the site as falling within a SLA and Policy ENVP1 prohibits development that would harm the landscape quality of such areas. ENV3 provides that particular emphasis would be placed on the details, including siting, of a scheme that is visually prominent in relation to the Brecon Beacons National Park.
15. Both the UK and Welsh Assembly Governments emphasise the importance of increasing the production of renewable energy in response to climate change. Specific planning policy guidance is set out in Ministerial Interim Planning Policy

Statement 01/2005: *Planning for Renewable Energy* (MIPPS), which replaces a section of *Planning Policy Wales*, and the associated Technical Advice Note 8: *Planning for Renewable Energy* (TAN8). Both documents were issued in 2005 and in a recent consultation document³ the Assembly Government reaffirms its commitment to increasing renewable energy generation and indicates that the targets set out in TAN8 should be revised upwards.

16. TAN8 seeks to concentrate large scale⁴ onshore wind developments into identified Strategic Search Areas (SSAs). One such area is SSA F, Coed Morgannwg, which has an indicative capacity of 290MW – this figure is set below the perceived maximum capacity of the area in order to allow local discretion in identifying the best sites. Contrary to its earlier position, the Council accepted at the Inquiry that all the turbines fell within the defined SSA boundary.
17. Annex D of the TAN provides guidance to local planning authorities on dealing with SSAs, including that minor adjustments could be made to the ‘broad brush’ boundaries when translated into their own planning documents. In response, a consortium of South Wales authorities commissioned Arup (who also undertook the TAN8 studies) to carry out a refinement of the boundaries of SSA E and F as well as providing guidelines on minimising the landscape and visual impact of wind farms. I shall refer to this report⁵ as the ‘Annex D Study’. As it has not been subject to any formal public consultation exercise and has only been noted as a background paper by the Council, I attach limited weight to its recommendations, which include reducing the extent of SSA F with the effect that the appeal site would lie outside the refined area.
18. In response to the fact that the Council had received 5 planning applications for wind farm proposals within a short space of time it commissioned Arup to comment on the relative merits of the proposals. This resulted in a report⁶ which I shall refer to as the ‘RCT Development Control Note’. It included an assessment of the appeal scheme on the basis of the originally proposed 12 turbines. As it was not the subject of public consultation and has not been formally approved by the Council, I attach little weight to its findings. Notwithstanding the weight that I attach to both these studies they provide useful information in my assessment of the scheme in relation to the main issue.

Reasons

19. Whilst some local objectors sought to question the emphasis placed by national Governments on onshore wind energy developments, I concur with the findings of

³ *Renewable Energy Route Map for Wales*

⁴ The TAN defines large scale as developments of 25MW or more. The scheme is described as being 27MW, although there is a possibility that the choice of turbine or its mode of operation would result in a capacity marginally below this threshold.

⁵ *Consortium of South Wales Valleys Authorities – TAN 8 Annex D study of Strategic Search Areas E and F: South Wales Valleys*, Final Report, Ove Arup & Partners Ltd, December 2006

⁶ *Rhondda Cynon Taf County Borough Council – RCT Onshore Windfarms, Development Control Support*, July 2007.

an Inspector in a report⁷ on a proposed wind farm in Cumbria that a public inquiry into a specific proposal is not an appropriate forum in which to challenge Government policy, and as such little weight should be afforded to these arguments.

20. There was no dispute that, within the 2010 timescale set by TAN8, the scale of wind turbine energy production within SSA F was likely to fall well below the target of 290MW. Within the Council's administrative area relatively modest sized developments have been approved at Maerdy, Mynydd Portref and Ferndale but, in the case of the last of these, the developer has withdrawn from the scheme. In the medium term it seems likely that woodland immediately to the south of the appeal site may be developed⁸ on a large scale.
21. Within Wales, Mr Stewart, for the appellant, painted a bleak picture of the progress being made in seeking to secure the Assembly Government's target for renewable energy production, set out in the MIPPS of 4TWh per annum by 2010, to increase to 7TWh per annum by 2020. Difficulties in securing connections to the national grid are effectively sterilising much of the other SSAs over the next 5 or so years, most notably in Mid Wales. In a Note⁹ presented to the Inquiry, he suggested that, even in the unlikely scenario that every proposal in the system which was identified in the *TAN 8 Progress Update*¹⁰ was approved and built by 2010, it would only amount to half the production necessary to meet the target.
22. The presence of a suitable grid connection within the site is a significant factor in the scheme's ability to deliver renewable energy generation in the short term. This factor is a major consideration which leads the appellant to anticipate that the scheme would be operational in 2010.
23. In the context of the fast-approaching target of 2010, and the scale of the likely short-fall in the sought-after provision, the project's ability to deliver sooner rather than later weighs heavily in favour of this appeal. In this context I find the approach adopted in the Annex D Study of effectively identifying only the minimum area of land required to meet the indicative capacity figure is unnecessarily restrictive. Such an approach fails to provide the degree of flexibility required in order to compensate for land within the refined areas that may not become available. Moreover, the total is an 'indicative capacity target' which does not prohibit a higher figure being achieved provided detailed considerations are found to be acceptable. Indeed a generally more accommodating strategic approach to such development is especially appropriate

⁷ Winash Wind Farm: Inspector's Report, February 2006.

⁸ A scoping exercise has been submitted by Nuon Renewables for the development of up to 112 turbines, each some 145m high to blade tip at the Pen y Cymoedd site which would involve Forestry Commission owned land over extensive areas to the south of the appeal site, all of which lies within SSA F whilst some lies outside the Refined Area defined in the Annex D Study

⁹ *Note on the ARUP Report of 31 October 2007 Prepared by David Stewart – October 15 2008* [see footnote 10]

¹⁰ *TAN 8 Progress Update: Review of Wind Farm Developer Interest in Wales*, by Ove Arup & Partners Ltd for Welsh Assembly Government Planning Division, October 2007

given the difficulties faced in delivering schemes within some of the other SSAs. The degree of reduction in the land area which is recommended by the Annex D Study when compared to TAN8 is significant, although I acknowledge that an element of this excluded land would be impractical for wind turbine development. As in the appeal decision at Wern Ddu, Denbighshire in June 2007, I find that this approach is not consistent with the 'minor adjustment' that would 'facilitate the inclusion of development on the margins of SSAs' envisaged by the TAN.

24. Whilst the imperative of delivering on-shore wind energy production is clear¹¹, as Mr Stewart readily acknowledged during the Inquiry, this need - even within an SSA - does not justify a 'development at all costs' approach. Indeed the TAN makes it clear that there is a need to balance the conflicting objectives of increasing production against landscape protection.
25. I turn now to consider the visual and landscape impacts of the proposed development. The proposed turbines are all sited on the relatively flat grassland that forms part of the Coalfield Plateau. There was no dispute between the landscape specialists at the Inquiry that the vast landscape character of the plateau top was generally suitable in terms of accommodating wind farms. Indeed TAN8 identifies this as a key characteristic and this is reinforced by the Annex D Study and the RCT Development Control Note.
26. Every proposed turbine would be sited within an attractive landscape as reflected in its inclusion within the SLA designation. It seems to me that, as the scheme would harm the landscape quality of the area it would be at odds with the aim of the specific Local Plan policy dealing with developments in SLAs. However, as is acknowledged in table 2.3.4 of the RCT Development Control Note, much of the upland parts of the SLA lie within the SSA. Given the Assembly Government's strategy of concentrating large scale wind farms within the SSA, the designation of which post-dates that of the SLA, it is inevitable that such areas are expected to accommodate significant changes to their landscape character.
27. The MIPPS notes that development should be sensitive to local circumstances, including local landform and TAN8 acknowledges that not all of the land within a SSA may be environmentally suitable for major wind power proposals. In terms of the landscape sensitivity, the site falls into 2 distinct areas – one is the area at the edge of the plateau close to the north and east facing scarp slopes, the other is the south-western part of the site. It is within this latter part of the site that turbine Nos 11, 12 and 9 are proposed. The Council is not opposed to the siting of these turbines. In terms of landscape impact I agree that this area's relationship to the surrounding landform means that the impact of these turbines would be acceptable.
28. In my opinion the crucial consideration in terms of the site's suitability to accommodate the remaining 6 proposed turbines is their proximity to the edge of the plateau. In this respect I note that micro-siting guidance set out in Appendix J to the Annex D Study and table 2.3.3 of the RCT Development Control Note identify the need to set wind farms back from the edge of a plateau, the former

¹¹ Letter from Welsh Assembly Government's Head of Planning Division to Chief planning Officers, 2 April 2007

suggests a distance of around 5 times its height to tip blade from the break of slope where possible, and also refers to avoiding the dwarfing of ridges.

29. Within some 70-80m of proposed turbines 3 and 4 is the clearly defined escarpment that forms an imposing backdrop to the large open expanse of gently sloping land of the valley floor to the north. The escarpment, defined by steep rock faces, contains 2 glacial cwm features, one of which is well-defined and readily visible across the valley.
30. It is along the gradually rising land of the valley floor and the escarpment that it is intended to construct a 5m wide access track with passing bays that would link the site to the A465 trunk road, which would widen to 13m on the sharp bends that would be required to provide a suitable gradient for vehicles to traverse the steeply sloping scarp. My site visit revealed that this will entail significant engineering operations to re-contour sections of the steep bank. The Annex D Study refers to the need to design access roads that are not widely visible.
31. The eastern edge of the plateau in this location is defined by another steep escarpment. The rock outcrop of Craig-yr-ysgol creates a sharp change in level from the plateau to the lower slopes that fall eastwards to Cwmdare. To the south of Craig-yr-ysgol is the particularly dramatic glacial cwm of Tan y Darren. Its sheer size and position in relation to the Dare Valley makes this an imposing feature of the local landscape. It is proposed to provide 4 turbines (Nos 6, 7, 8 and 10) in a row that would run broadly parallel with the Craig-yr-ysgol escarpment at a distance which Mr Roden estimated to be some 180m.
32. Mr White who appeared for the Council was a co-author of both the Annex D Study and the RCT Development Control Note. During cross-examination he conceded that there were some errors of recording in the Annex D Study which would have effectively downgraded the ranking of Zone 27, in which all but one of the turbines would be sited. He also accepted that, had the landscape sensitivity of the zone been defined purely on the study's methodology it would have resulted in a 'medium/low' classification. Mr White explained that, at the time of compiling the report, it had been decided that this was too low a rating which failed to reflect the sensitivity of the edge of the plateau areas of the zone; it was therefore changed to 'medium'. He emphasised that the identification zones was a strategic-level tool which, in this case, had failed to adequately reflect the variation of sensitivity within its boundary. Whilst, to some degree, the introduction of such subjective fine-tuning undermines the robustness of the report's findings, the reason for such adjustment is noteworthy in this case.
33. The LANDMAP categorisation of most of the appeal site is that is of a high quality landscape in terms of every aspect: visual and sensory; landscape habitats; geological landscapes; and historical and cultural landscapes. The only one exception is that the geological value of the south-western part is classed as medium to high with all other aspects within this area ranked as high. A high value is of 'Regional or County Importance'. The LANDMAP methodology is endorsed in paragraph 5.3.13 of Planning Policy Wales, March 2002, as a means of providing a consistent landscape assessment tool across Wales. CCW has confirmed that the methodology as it applies in Rhondda Cynon Taf has been quality assured. As the appellant points out, it is a tool available to assist the decision maker but does not remove the final subjective decision. In terms of

landscape quality I have also noted that the designation of the area as a SLA was supported by a detailed appraisal undertaken by landscape consultants in 1996¹².

34. The proximity of several of the turbines to the plateau edge would mean that the 115m tall structures would not only draw attention away from the imposing landform of the scarp slopes and their important geological features but would have the effect of reducing their apparent scale.
35. In considering visual impact I heard evidence during the Inquiry regarding the terms 'prominent', 'dominant' and 'overwhelming'. It seems to me that such effects will be dependent on a number of factors, with proximity to receptors being a crucial component. I note the findings of the Inspector in the Mynydd y Gwrhyd appeal, September 2006, who having taken into account research by the CPRW found that on a conservative basis the turbines in that case¹³ could dominate the landscape up to a distance of 2-3km and could be prominent up to 8km, especially if on the skyline.
36. In terms of the visual impact of the turbines there is no dispute that they would be seen over an extensive area, including a large swathe of the National Park as has been demonstrated by the Zones of Theoretical Visibility maps included in the SEI. Annex D to TAN8 makes it clear that there is an implicit objective within and immediately adjacent to SSAs to accept a significant change in landscape character. On this basis, the extent of the scheme's impact in the medium and longer distance views would be acceptable given the coherent arrangement of the group and the fact that it would occupy a narrow portion of a panoramic view.
37. From closer vantage points, given the screening effect of topography and woodland from views to the south and west, and the relatively few receptors in these directions, the greatest visual impact would be from the areas to the north and east. In these directions lies the populated low-lying valley floor from which the plateau top of the appeal site is not visible. As a consequence, the closest turbines to its edge would appear to be perched on a skyline ridge. This would serve to accentuate the relative prominence of the turbines from several nearby settlements.
38. I was urged by Mr Stewart to note the numerous appeal decisions in which Inspectors have concluded that the effects of wind turbines on local communities is outweighed by their contribution to renewable energy production. I have done so, mindful not only of the desirability of achieving consistency in decision making but also of the necessity to determine each case on its individual merits, allowing for differences such as site characteristics and the details of the project.
39. The closest dwellings to any of the turbines are within some 1.25km; they are Bwllfa Farm, Darren Cottage and the adjacent Bwllfa Terrace, which is an outlier of Cwmdare. There are 3 settlements that would be within 2.5km of the nearest turbine - Hirwaun to the north, Cwmdare to the east and, in between, Penywaun.
40. The heart of Hirwaun is within some 2km of turbines 3 and 4. The long east-west ridge that includes Tarren-y-bwlch and Craig-y-bwlch forms an important feature

¹² *Cynon Valley Special Landscape Area*, Landscape Design Associates, 1996

¹³ Height of 100m to blade tip

throughout the village in views along streets, from open spaces and from within many dwellings. From some points it is seen behind gently rising open land in the foreground, and in other views it is clearly visible above the rooftops of the village's terraced houses that mainly run broadly parallel with it. The northernmost turbines would appear positioned on a pedestal created by the plateau and would be likely to be perceived as dominant features. From this direction the proposed access track would appear as an incongruous and readily visible feature, though weathering would mellow this effect over time. Whilst the effect of the track would not in itself justify withholding permission, it adds to the visual and landscape impact of the project.

41. The spatial arrangement of much of Penywaun and its position on land sloping away from the appeal site leads me to find that the impact from this settlement would be less intrusive.
42. The terraced houses that front a long section of the main road through Cwmdare serve to frame a narrow vista, concentrated on the skyline above Craig-yr-ysgol upon which several of the turbines would be sited. From many other parts of the village the topography of the Dare Valley is such that the escarpments of Craig-yr-ysgol and Tarren y Bwllfa, together with the dramatic cwm at Tan y Darren, combine to function as a natural focal point. The towering presence of the closest turbines to these landforms would be likely to be perceived as dominant features.
43. The Dare Valley Country Park is a popular recreational facility, valued by local residents as well as an important tourist attraction, including a serviced touring caravan site, which is promoted by the Council. Its flat terrain and network of hardsurfaced paths provides easy access to the countryside and is appreciated by those wishing to exercise as well as those seeking to observe local wildlife. No empirical evidence was presented to show that the wind farm would harm the numbers of tourist to the site, and I am mindful of research elsewhere¹⁴ that suggests that the presence of turbines is not harmful to the tourist industry. Nevertheless as the closest turbine would be less than 1km from the Park, it seems to me that the wind farm's presence would significantly alter the experience of the Park for local residents, and I note the expressions of concern from regular users of this facility.
44. The site lies within designated open access land under the Countryside and Rights of Way Act 2000 and is traversed by a network of public rights of way. Local residents confirmed that the site was well-used by walkers. A long distance footpath, Coed Morgannwg Way, and route 47 of the Sustrans National Cycle Network lie to the south of the proposed wind farm. The effect on users of these long distance routes would be relatively short lived and would not be unacceptably harmful, especially in relation to the likely changes that would arise as a result of further developments within the SSA. In terms of the use of local routes it is inevitable that the presence of the turbines would appreciably alter the experience for such users. However, bearing in mind that it lies within a SSA, such an effect within an open upland context where users would continue to enjoy extensive views, would not be sufficient to withhold permission for the scheme.

¹⁴ Opinion surveys, presentations and a report reproduced in the Appendices to Mr Stewart's Proof of Evidence

45. In areas beyond the closest settlements I am mindful that the visual context for the site is likely to alter significantly when other schemes in the SSA F and, to a lesser extent SSA E, come forward. The Pen y Cymoedd scheme being the most significant in this respect. However, the proximity of some of the proposed turbines to the plateau edge will ensure that they would be especially prominent from several important vantage points, regardless of whether further developments take place.
46. Whilst the Council considers that the amendments to the scheme have ensured that the effect on the National Park is acceptable, the BBNPA and CCW continue to be opposed to the scheme on this basis, and the latter presented written and photographic evidence to the Inquiry. The boundary of the National Park is within some 2.5km from the nearest turbine and I am mindful of the duty to have regard to the purposes of the National Park, the primary one of which is to conserve or enhance its natural beauty, wildlife and cultural heritage, which applies to activities affecting such areas even if outside its physical boundaries. There are several significant vantage points, including picnic sites and public rights of way within the National Park which are within 8km or so from the appeal site, including around Penderyn and towards Ystradfellte, where the closest turbines would appear to be positioned on the long ridgeline that forms a dramatic skyline. Whilst in these views the wind farm would occupy a narrow segment of the field of vision in relation to its panoramic setting, the forward position of the northernmost turbines would be unduly intrusive.
47. Another significant vantage point is from the A465 trunk road on approaching the site from high ground from the east near to its junction with the B4276, some 7km or so from the nearest turbine. Merthyr Tydfil County Borough Council has objected for this reason. As one travels westwards along this section of the road the proximity of turbines to the north and eastern escarpments would accentuate the visual impact of the proposed wind farm along a significant section of the road.
48. I accept that local residents' perceptions of the turbines will vary from those who will welcome the scheme because of its contribution to renewable energy or because of they see them as elegant, attractive structures, to those, at the opposite end of the spectrum, who consider them to be unnecessary and serious detractors to the natural beauty of the landscape. However, it is evident that there are strongly held local concerns regarding the impact of this scheme, as evidenced by the volume of letters and petitions, one of which contained over 1600 signatories, in response to the original public consultation on the planning application.
49. At the Inquiry several local residents referred to their memories of the legacy left by heavy industry in the area. I am mindful of their particular sensitivity to development that, in their view, would undermine the regeneration work that has subsequently transformed the area, as well as the stated intentions of the community to concentrate on fostering the local tourism industry in the future.
50. I have borne in mind the parallels drawn by the appellant between this case and the appeal decision in April 2005 at Mynydd Ty'n Tyle, Ferndale. However, the particular landscape character of its surroundings, notably the narrow, steep-sided valleys is markedly different from site before me which lies at the head of converging valleys.

51. In my assessment of the overall effect of the scheme on the character and appearance of the surrounding area I have considered whether the scheme avoids or minimises harmful effects on the landscape and local communities, as sought by MIPPS. I acknowledge that, in these respects, the revision in the number and siting of the turbines from that originally proposed represents an overall improvement to the scheme. However, a reduction in harmful effects does not necessarily represent a minimisation of such consequences. In my opinion the proximity of several of the turbines to the escarpments markedly contributes to the detrimental effect of the scheme, not only on the geological and landscape features but also on the visual impact of the scheme from numerous significant vantage points. For this reason I consider that the scheme has failed to avoid or minimise harmful effects.
52. In concluding on the main issue I attach considerable weight to the site's inclusion within a SSA, and that the site is well-placed to contribute to the 2010 target for wind energy production, as well as the likely shortfall across Wales in achieving the Assembly Government's targets in this respect. Nevertheless, the site encompasses a particularly sensitive and prominent edge to the SSA. The relationship of parts of this site to the scarp slopes and nearby communities means that it does not perform well in terms of locating wind farms within plateau landscapes and in sparsely populated areas which are 2 characteristics of SSAs identified in TAN8. The particular relationship of the proposed development to its surroundings leads me to find that the landscape and visual impacts, when taken together, would cause a degree of harm to the character and appearance of the surrounding area that would not be justified by the benefit of the scheme in terms of wind energy generation. There are no planning conditions which could be imposed to acceptably mitigate this harmful effect. Thus, on balance, I find that the scheme would conflict with local and national planning policies.
53. In reaching my conclusion I have borne in mind the long-term effects of climate change on the environment and that the proposed turbines would be dismantled after 25 years in operation, or sooner if not in use, but these considerations do not alter my findings on the unacceptability on the scheme.

Other Considerations

54. Local residents, citing a research paper¹⁵, question the ETSU-R-97¹⁶ methodology and suggest that the increase in noise levels that would be experienced by the nearest neighbours would be unacceptable. However, this methodology was developed for the former Department of Trade and Industry by a cross-interest working group, and has recently been endorsed as relevant guidance on good practice in Annex C to TAN8. There is insufficient objective evidence to suggest that its methodology would fail to appropriately protect local residents in this case. I have also considered the concerns raised by local residents including during their questioning of Mr Parnell, the appellant's noise specialist. It seems to me that the separation distance between the scheme and the nearest neighbours is sufficient to ensure that, subject to commonly applied conditions to control

¹⁵ *Disconnect Between Turbine Noise Guidelines and Health Authority Recommendations*, John P Harrison, Professor Emeritus, Queen's University, Ontario

¹⁶ *ETSU-R-97: The Assessment and Rating of Noise from Wind Farms*, 1996

maximum noise levels, no unacceptable impact to neighbours' living conditions would arise in this case.

55. During the Inquiry I heard evidence regarding the pattern of use of the appeal site by local wildlife, in particular a pair of peregrine falcons; others include kestrels, teal, Canada geese, hen harriers, merlin, golden plover and fritillary butterflies. The veracity of certain elements of the ES on ornithology and the appellant's specialist evidence, which was presented to the Inquiry in written form, was disputed on the basis of local knowledge. In the light of the available evidence, and taking into account that, despite the fact that the local concerns have been drawn to the attention of the Council's ecology officer, the CCW and the RSPB, none have supported the objection, I find that any harm in this respect would have been insufficient to dismiss the appeal. Other concerns regarding the ecological and hydrological effects of the scheme can be acceptably controlled by conditions including the refinement of turbine and track positions and implementing a habitat management plan as discussed during the Inquiry.
56. I have taken into account every other concern raised in objection to the scheme, both in written representations and orally during the Inquiry. These include, at the macro level: the role of the British Wind Energy Association in promoting projects; the carbon footprint of the project; and carbon fixation and sequestration implications that would arise from developing over peat deposits. At the micro level concerns include: the impact on the emotional well-being of local residents; the impact of heavy traffic generation; the effects of construction activity including on the use of footpaths; television and radio reception; and the sourcing of stone. Given the scope to address or mitigate certain concerns through the imposition of planning conditions, none of the matters raised would have been of sufficient weight to justify withholding permission for the scheme had I found it acceptable in relation to the main issue.
57. In terms of concerns relating to ecology (including peat deposits), hydrology and the setting of listed buildings and ancient monuments the revisions to the scheme represent acceptable measures to avoid or minimise harm. Moreover, in this case I concur with Mr Stewart's contention that, setting aside landscape and visual impact, the fact that there are no overriding concerns with regard to any of a range of 'other' obstacles that are commonly encountered in wind farm proposals counts in favour of the scheme. However, neither this consideration, nor any other raised in support of the scheme, outweighs the harm that I have identified in terms of its effect on the character and appearance of the surrounding area.

Hywel Wyn Jones

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Miss Morag Ellis QC	Instructed by Mr Paul Lucas, Head of Legal and Democratic Services, Rhondda Cynon Taf County Borough Council
She called	
Mr S White DipLA DipUD (Dist) MA CMLI	Principal, White Consultants
Mr C Jones DipTP MRTPI	Development Control Manager, Rhondda Cynon Taf County Borough Council
Mr D M Hart Chartered EHO	Senior Environmental Health Officer, Rhondda Cynon Taf County Borough Council

FOR THE APPELLANT:

Mr Julian Boswall	Solicitor, Partner, Eversheds LLP
He called	
Mr P Roden BA (Hons) BLandArch MLI	Director, AXIS PED Limited
Mr D Stewart MA (Cantab) DipTP MRTPI	David Stewart Associates
Mr N Parnell BSc MRes AMIOA	Senior Consultant, Entec UK Limited

INTERESTED PERSONS:

Mr D E James	Representing The Ramblers, Council for the Protection of Rural Wales, Hirwaun and Penderyn Community Council, and the Rhondda Cynon Taf Access Forum – Plas Draw Road, Aberdare, CF44 0NR
Dr J M Edington BSc PhD FRES FRSA	Parc Isaf, Bwlfa Dare, Cwmdare, Aberdare, CF44 8UH
Mr J Snook	6 Lon-y-Brynnau, Cwmdare, Aberdare, CF44 8PU
Mrs P Snook	6 Lon-y-Brynnau, Cwmdare, Aberdare, CF44 8PU
Cllr Ms K Morgan	Local County Councillor - 11 Lisburn Rise, Hirwaun, CF44 9TR
Mr J Rogers	3 Brecon Close, Hirwaun, CF44 9NR

Mr C Bond	Chair, Action for Hirwaun - Riverside, The Pandy, Hirwaun, CF44 9SY
Mr L Parker	9 Windsor Street, Trecynon, Aberdare, CF44 8LL
Dr K Thomas	7 Lon-y-Brynnau, Cwmdare, Aberdare, CF44 8PU
Mr E J Jenkins	28 Woodland Park, Penderyn

DOCUMENTS

DOCUMENTS SUBMITTED BY THE LOCAL PLANNING AUTHORITY

- 1 Council's letter of notification of the Inquiry
- 2 Plan – Comparison of Hirwaun Common Visual and Sensory Area with SSA F Zone 27
- 3 Mr White's Revised Volume 2 Statement of Evidence
- 4 Letter from Nuon Renewables to Chris Jones, dated 26.9.08
- 5 Opening Statement of Miss Ellis
- 6 Appeal Decision APP/L6940/A/07/2059189
- 7 Extracts from Rhondda Cynon Taf (Taff Ely) Local Plan
- 8 Plan of Area of Interest of Nuon Renewables at Pen y Cymoedd
- 9 E-mail exchange between Chris Jones and Geoff White, Neath Port Talbot County Borough Council
- 10 Report on appeal scheme to Council's Co-ordinating Development Control Committee, 19.8.08
- 11 Report to Council's Cabinet on *Technical Advice Note 8: Study of Strategic Search Area F*, dated 18.6.07, and related Record of Decisions of the Executive
- 12 Judgement of R (oao Pridmore) v Salisbury District Council [2004] EWHC 2511 and commentary from JPEL, 2005
- 13 Rhondda Cynon Taf Official Area Guide 2008/09
- 14 E-mail to Entec from Council's Planning Technician
- 15 Mr White's comments on Entec's indicative layout of turbines for Forestry Commission land
- 16 Council's comments on appellant's draft list of conditions
- 17 Closing Submissions and appendices of Miss Ellis

DOCUMENTS SUBMITTED BY THE APPELLANT

- 18 Letter from Entec to BBNPA dated 18.6.08
- 19 Letter from Ms L Rich of Eversheds LLP to The Planning Inspectorate, dated 10.10.08
- 20 Opening Statement of Mr Boswall
- 21 Figure SW1 modified to show position of SSA boundary
- 22 Extract from Encyclopedia of Planning Law and Practice
- 23 RCT Development Control Note
- 24 Table 2.3.2 of RCT Development Control Note –with Mr Boswall’s numerical annotation added
- 25 Extract from *Planning* magazine dated 10.10.08
- 26 Additional Wireframe Views based on CCW viewpoints
- 27 Plan showing position of turbines on OS contoured map
- 28 Note on Arup Report of 31.10.07 prepared by Mr Stewart
- 29 Letter to Entec from Transport Wales, Welsh Assembly Government, dated 15.10.08
- 30 E-mail from Defence Estates Officer to Entec, dated 23.9.08
- 31 Non-technical Summary, Ferndale Windfarm Proposal
- 32 Plan by Entec showing indicative turbine location for Forestry Commission scheme
- 33 Bundle of documents relating to appellant’s legal options over adjoining land
- 34 Bundle relating to future development proposals at Tower Colliery site
- 35 Letter from WAG’s Head of Planning on Implementation of Renewable Energy Targets, dated 2.4.07
- 36 Suggested list of conditions dated 21.10.08
- 37 Habitat Management Plan
- 38 Suggested condition on siting of turbines and tracks
- 39 Closing Submissions of Mr Boswall

DOCUMENTS SUBMITTED BY OTHERS

- 40 Statement of Evidence of Dr Edington
- 41 Plan annotated by Dr Edington showing distances between proposed turbines and houses
- 42 *Disconnect Between Turbine Noise Guidelines and Health Authority Recommendations*, submitted by Dr Edington
- 43 Statement of Evidence of Mr D James
- 44 Aerial photographs of Cwmdare and Llandare submitted by Mrs Snook
- 45 Statement of Evidence by Cllr Ms K Morgan
- 46 Letter from Nuon Renewables to The Planning Inspectorate dated 20.10.08
- 47 Bundle submitted by Mr Jenkins
- 48 Letter from CCW to The Planning Inspectorate dated 21.10.08

OTHER INQUIRY DOCUMENTS

- 49 Agreed Statement of Common Ground
- 50 Additional Core Documents J7-J12
- 51 Revised list of Core Documents (to include J7-J12)
- 52 Agreed additional noise condition
- 53 *Guidelines for Landscape and Visual Impact Assessment*
- 54 Plan showing position of existing temporary anemometer mast