**Minutes of the Fullabrook windfarm public meeting**

**Monday 8 February 2016, 6.30pm**

**Marwood Community Hall**

**Panel (l to r):**

* Andy Cole, Service Lead, Environmental Protection, North Devon Council (AC)
* Bob Davis, Robert Davis Associates – NDC’s noise consultant (BD)
* Cllr Rodney Cann, Portfolio Holder for the Environment, North Devon Council (RC)
* Jeremy Mann, Head of Environmental Health and Housing, North Devon Council (JM)
* Ian Whitehead, UK Windfarms Manager, ESBI (IW)
* Majella McCarron, Stakeholder and Community Engagement, ESBI (MM)

Also present:

* Claire Holm, Customer and Corporate Communications Manager, North Devon Council
* Cllr Joe Tucker, local ward member, North Devon Council

Jeremy introduced the panel and then invited Andy and Bob to outline the current position. Andy explained that the council received the findings of the most recent noise monitoring report from ESBI’s noise monitoring consultants Hayes McKenzie at the end of November. These findings showed the site was now compliant with its planning conditions. This was confirmed by Bob after he reviewed the report.

Bob explained what his involvement in the monitoring process was:

* He witnessed the sound monitoring equipment being installed at the seven properties deemed to be affected most by the noise
* He agreed the methodology and carried out interim checks on the equipment

He said that there was ‘reasonable certainty’ that the site was now compliant. He explained that the council has access to the operating conditions being controlled by Denmark-based wind-power experts Vestas to ensure the conditions aren’t changed.

Bob said, in his opinion, even though the site is technically compliant, the noise limits given in the planning conditions were too generous. He explained the government uses ETSU R97 as a measure of acceptable noise but Bob believes these limit are too generous and are tipped too far in favour of the wind industry. Nevertheless, it was the guidance used by the planning inspector to set out the conditions.

**Question:** How can the council check that the turbines are always operated in the same way as they were during the noise compliance survey?

There is a procedure where the council can inspect a continuous report at any time it wants to.

Jeremy explained that he recognised that the site being compliant wouldn’t necessarily make the residents content. At this point, the council doesn’t want any changes to the turbines and we have the knowledge of the settings used to secure planning consent.

Cllr Joe Tucker said it was good that the settings couldn’t be changed. When the planning permission was granted, the noise levels were too generous. It hasn’t been easy. It’s good to have the reassurance that the settings cannot be altered without our knowledge.

Majella explained that ESBI cannot control the settings and they are committed to the noise mitigation strategy.

Cllr Cann asked when the monitoring would take place.

Andy said that no specific interval had yet been set but we would probably be looking at an annual check. Bob said we would look at the data if there were any reports of noise levels changing.

Ian explained it was not in ESBI’s interests to change the settings and if the seven programmed to be shut down in certain conditions weren’t shutting down at all, it would be obvious.

Jeremy reaffirmed the council’s commitment to monitoring the site.

**Question:** Annual isn’t enough

Jeremy said we would review it and give a definitive answer.

**Question:** Has pragmatism been used in the report? It needs to be simplified

Bob said the planning conditions stated how monitoring should be done and it’s taken three years to get all the data required as we needed to capture all wind directions. Sometimes the data showed exceeded limits but on closer scrutiny, these noises were proven to have been caused by something else. He explained noise is very difficult to monitor and nobody can ever be certain but he is happy that the site is compliant.

**Question:** Who has the contract with whom to manage the noise levels?

Ian confirmed that Vestas, the turbine manufacturer, operate the turbines from their base in Denmark.

Bob explained that Vestas have set up a specific monitoring system, which is explained in a report submitted by ESBI, which is intended to ensure that the turbines are always operated in the agreed way. The system generates an alarm if any of the turbines operate outside the agreed operating parameters. Turbine operating data will be collected continually throughout the life of the turbines.

Majella explained it wasn’t in ESBI’s interests to tamper with the settings. They want to bring it into compliance.

Cllr Cann asked if defects and mechanical wear and tear was picked up.

Ian confirmed they were and that all picked up so far have been quickly resolved. Reports of defects have come from various sources – they don’t just rely on the data and will react to any reports of problems.

Rodney felt this was a bit hit and miss.

Ian explained Vestas have continuous monitoring so they pick up temperature changes and vibration. Some issues are picked up by people on site.

**Question:** How is the wear and tear on the blades checked?

Ian said they were checked at regular intervals and they have all been inspected at least once since 2011.

**Question:** What criteria are used to judge the condition of the blades and how often are they checked?

Ian explained the turbines are serviced once a year but pressing repairs are done immediately. He explained sometimes they would get a minor service, sometimes a major, just like a car, depending on what needed doing.

**ACTION: Ian to provide a schedule of routine maintenance to circulate to the community**

**Question:** Have there been any blade changes since the beginning?

Ian: No

**Question:** How long will they last?

Ian: The length of the planning consent. Some components will fail before that.

Majella said that the maintenance was carried out to keep them working at optimum capacity. They don’t want them to deteriorate.

Jeremy explained now that the planning conditions were met, they can now investigate statutory noise nuisance. They need to know who is still adversely affected so they can plan a strategy for investigating the noise nuisance. He invited residents to report noise nuisance but to use their own personal experiences and terminology as it has to be specific to individual situations.

He explained we’d had 30-35 noise complaints at the very beginning and we would now be writing to them all to see if they are still experiencing issues. He said people could make representations on the night or could go away and reflect and come back to us.

After several questions around noise nuisance, Jeremy explained there are no prescribed noise limits and if the council finds there is a noise nuisance, it will serve notice. However, the council must have regard to the planning compliance but he didn’t want that to discourage complaints. They will collect objective and subjective data and information. Statutory noise nuisance doesn’t allow for any vulnerability or special needs – only an average person.

Noise can be different according to the lay of the land and buildings. It’s the nature of the noise that’s important.

**Question:** Now compliance has been secured, does it mean a line has been drawn or can it still be challenged if noise is deemed to increase again?

Jeremy: If it breaches noise levels again, it will be challenged again.

**Question:** If there is statutory noise nuisance, what will ESBI do about it?

Ian explained that they like to work with the council and not get into confrontation. He would like to think that they would try and sort the problem out before a notice is served but as it’s never happened before, he can’t be sure what would happen.

**Question:** The best defence for statutory nuisance is ‘by best practicable means’ and no council has ever served notice on wind turbines.

Cllr Cann and Jeremy both reiterated that they won’t shy away from their responsibilities and they will serve notice if deemed appropriate.

**Question:** How long does a noise nuisance investigation take?

Jeremy: It’s hard to say until we know what we’re dealing with. We can’t set out a strategy until we know how many cases there are.

Cllr Cann reminded residents they can also involve their local councillor.

**Question:** The site should have been compliant from the start. What is the recompense? Shouldn’t ESBI pay the £60k it has cost the council and compensation for the residents affected over the three years?

Jeremy said he couldn’t comment on residents seeking compensation and residents should get their own legal advice.

Cllr Cann explained that North Devon Council has an enforcement role and has to use its own funds to carry out enforcement. We cannot make rules up to suit ourselves. If people need to make claims, it’s a civic matter.

Majella explained it would be improper to fund the enforcement as it could be seen as a bribe.

**Question:** Have ESBI put money into the community?

Majella: Yes through the Community Interest Company. It has funded local projects such as the Marwood Community Hall.

**Question:** If the site was compliant last September, why were there still noise complaints at the last public meeting in September?

Jeremy explained he accepted that even today, there are still complaints about the noise, despite compliance.

Cllr Tucker said that North Devon Council had no input into or control over the conditions imposed by the Secretary of State.

**Question:** If you report statutory noise nuisance, do you have to declare it when selling your house?

Jeremy: Yes, unfortunately.

**Question:** A council officer has experienced AM (amplitude modulation) on the site – is that not enough to take forward as statutory noise nuisance?

Jeremy explained we haven’t started investigating statutory noise nuisance yet.

**Question:** Will all previous complaints be wiped off?

Jeremy said we’d concluded one process and we’re starting another which will begin with writing to all the original complainants.

**Question:** What have other councils done?

Bob explained there had been one case of private action which led to an out of court settlement. In Cumbria, an operator voluntarily undertook mitigating action. The threat of statutory nuisance was enough for the operator to take action.

**Question:** Will people understand they can still complain, even though the site is compliant?

Jeremy confirmed they would explain this in the letter.

Further to the question about ‘previous complaints’ Bob observed that there had been significant reductions in noise since 2012 and therefore the Council could only be expected to respond to complaints about the current noise situation.

**Question:** Could you write to the government under ‘power of motion’ to get guidance on dealing with noise issues on sites with planning compliance?

Cllr Cann said he felt the threat of serving notice will probably be enough for the operators to take action.

**Question:** If complaints continue and statutory nuisance is proven, how long before action is taken?

Andy explained there is an opportunity for the issue to be resolved informally but the council will be criticised if it is deemed to be taking too long on this process. Time length is site specific but it would be weeks/months rather than years.

**Question:** Can a noise abatement notice be appealed?

Jeremy: Yes

Cllr Cann concluded by explaining that the council is on the side of the community and has been from the start and we will be strong if necessary.

A final question about light flicker was referred to the council’s planning department.