



Northern Ireland
Assembly

Committee for the Environment

OFFICIAL REPORT (Hansard)

Briefing by West Tyrone Against Wind
Turbines

27 June 2013

Please note that Official Report (Hansard) staff were not present at this meeting and that this report has been retrospectively compiled without the benefit of contemporary notes and details of the sequence of speakers.

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Members present for all or part of the proceedings:

Ms Anna Lo (Chairperson)
Mr Sydney Anderson
Mr Cathal Boylan
Mr Tom Elliott
Mr Barry McElduff
Mr Peter Weir

Witnesses:

Professor Alun Evans	Wind Watch
Dr Dan Kane	Wind Watch
Mr John Peacocke	Wind Watch
Mr Peter Sweetman	Wind Watch

The Chairperson: I welcome Dr Dan Kane, Professor Alun Evans, Mr John Peacocke and Mr Peter Sweetman from West Tyrone Against Wind Turbines.

Dr Dan Kane (Wind Watch): Chairperson, thank you very much for giving us the opportunity to address the Committee.

The Chairperson: You are very welcome. I am sorry that we did not bring sunshine to Omagh today.

Dr Kane: I have to tell you that I am voice-activated. If you want to make a sign to me that I am, perhaps, taking too long to speak or you are pointing at a watch or something, just rattle something at me and I will know.

The Chairperson: I am glad that you made that point because we are running behind time. Some of our members have to be back in Belfast by around 2.00 pm for a Committee this afternoon. We have already received your written submission. Perhaps, you could make a brief, 10-minute presentation, which would allow members to ask you questions afterwards. Would that be OK? We will keep you straight to 10 minutes.

Dr Kane: OK. We are a bit unhappy about the industry not having appeared. The decisions will continue between now and September. We are unhappy that that will be the situation, and we will not have had the issued examined.

Perhaps, I have the advantage over Committee members in that I can remember Omagh as it was up here. What you are seeing now is the despoliation of the area. In the past five years, around 250

applications for wind farms and turbines in this area, west Tyrone, have been approved. At present, there are over 200 additional ones in the system. What you will see is a continuing bank of turbines around Omagh. That will form the backdrop to the Ulster American Folk Park. It is interesting that you were turned away from the wind farm at Bessy Bell this morning. People tell an interesting old joke, which is, "Why is the wind industry so popular? Because it brings its own fans." I think that that is very much the case. We have been told for years that wind farms would be great tourist attractions, educational facilities, and so on. If you look at the original applications, you will see that Bessy Bell and the other wind farms in the area were sold on that basis. I am sure that you were stopped there this morning by the crowds trying to get a look at the turbines. Of course, that does not happen.

The issues that we want to look at in particular are separation distances and noise. There are many more. We could look at jobs, electricity supply, and so on. I want to give Peter an opportunity to speak because he has come here from Dublin. Representatives of the industry could not come here from Belfast. I do not believe that they have only one speaker. The standard that is used to decide separation distances in Northern Ireland is based on one document, which has the snappy title of 'ETSU-R-97'. We will just call it "ET" for short because it really is the type of document that an extra-terrestrial dropped on us. That document was written in 1996. It stated that the minimum separation distance of 300 metres to 400 metres would not be adequate even for small single turbines. At that time, turbines were no higher than around 32 metres. It was out of date. It was a bit like somebody walking in front of your bus this morning with a green or red flag. That is out of date. We know that it is out of date because the document itself says so. It says that it should be reviewed within two years. That has never been done. However, members of the group who wrote it, from the British wind industry and the Department of Trade and Industry, eventually, did presentations. In 2004, they decided that the distance of 300 metres to 400 metres should be doubled. So, according to Andrew Bullmore, who was one of the authors, and others, the minimum separation distance should now be 700 metres.

What is the situation in Northern Ireland? There is an image in the slides of a turbine beside a house. We could take you to homes around Northern Ireland where turbines have been placed as close as 100 metres to them. According to PPS 18, which is the standard that is supposed to be applied by Planning Service, the minimum separation distance is 500 metres. It is now trying to claim that it is not: it is ten times the rotor diameter. However, PPS 18 is quite explicit that it is 500 metres or 10 times the rotor diameter; whichever is the greater. It is quite simple. That is not being applied to single turbines and, in many cases, not even being applied properly to wind farms themselves.

There is a big issue here that is important for a number of reasons. In one way, we are glad that you did not get into Bessy Bell because, as you have, probably, never been told, the top fell off one of those turbines and rolled down the hill. The Health and Safety Executive does not even collect information on such accidents. We know that the accident rate among wind turbines is that, on average, every single wind turbine will have an accident every 10 years. So, if there are 500 turbines, there will be 500 accidents over 10 years. That will be around 50 accidents each year. That rate is increasing, particularly as turbines get older. That is one aspect.

The separation distance issue is very important. It is not being dealt with properly. Other jurisdictions are moving further and further away. They are saying that the minimum separation distance should now be at least two kilometres for a wind farm. Turbines are now much bigger. They are making noise of a different character. That is another issue that we think needs to be looked at. Recently, within the past week, we have submitted two papers to the Committee for Health, Social Services and Public Safety showing the impact of low-frequency noise. That noise is the main pollution that comes from the bigger turbines. How do we know that? The chief executive of Vestas Wind Systems, the biggest turbine manufacturer in the world, has stated that clearly to the Danish environment minister. We know that the low-frequency noise is present and that it travels much greater distances than ordinary audible tones. What we are finding is that people are becoming sick through the effects of sleeplessness and other aspects of low-frequency noise. The research is now there that shows that that is happening. What are we doing? The Environment Minister hides behind the Public Health Agency. He says that it says that there is no problem. However, it has never, ever looked at it. It has never measured anything or gone out and done any testing. Basically, the view that is being taken is that, if you cannot hear it, it does not hurt you. Well, I cannot hear radiation and neither can you, but I can assure you that it hurts you. So, that argument does not stand at all.

With regard to the standards that are being used, it is supposed to protect amenity, among other things. PPS 18 asked for protection of amenity — residential amenity and, obviously, health and safety and all the rest of it. ETSU-R-97, or "ET" as we were calling it, which is the standard that was used, does not protect amenity. It actually states that itself.

The Chairperson: Sorry.

Dr Kane: Do you want me to stop?

The Chairperson: It is OK; I just missed that word "amenity".

Dr Kane: So, ETSU-R-97 does not protect amenity. It states so itself. It does not protect amenity because it states that to set the noise level to one that is required to protect amenity would have too much impact on wind energy. So, there is a problem right away. With regard to the actual method that is used, ETSU-R-97 does not satisfy European requirements under the environmental assessment regulations which have to describe the impact on people who live near a wind-energy operation and what the impact on them will be of shadow flicker, noise and any other emissions. It does not satisfy that at all. It is still being used. It should have been reviewed a long time ago. As I said, ETSU-R-97 was written in 1996. It said itself that it should have been reviewed within two years. To give you an example of how out of date it is, the World Health Organization standard for night noise, which is the noise level to permit you to return to sleep if you wake at night, was originally 43 decibels. Therefore, when ET was written, it was set at 43 decibels. It is the only standard in the entire world that has a higher night-time noise than during the day, which is crazy. Not only that, but the World Health Organization has reduced the level from 43 to 38 decibels. We have not followed suit in Northern Ireland. Therefore, the whole policy is completely out of step. It does not protect the public. It does not properly describe the noise that is affecting people, particularly low-frequency noise, which it does not measure at all. It uses a particular scale, which is called the A-weighting scale, which does not measure low-frequency noise. Therefore, when the wind industry tells you that there are no noise impacts from wind turbines, it does not know that because it is not measuring it. It is not looking at that at all. The thing about low-frequency noise is that, when it reaches your home, it goes through the structure of the building. Insulation, double glazing and so on does not stop it. It actually resonates more loudly inside the home than it does outside. So, there is a big issue with low-frequency noise.

There are many other health impacts that we could talk about. The whole issue of 10 times the rotor diameter as a safe separation distance for noise just does not stand up. It was actually created for a totally different purpose; that of shadow flicker. It was wrong when it was created. It has no application to noise whatsoever. So, we have many concerns about the whole issue of separation distances. Why is it two kilometres in Scotland as a general rule of thumb? Many organisations, such as the French Academy of Medicine, UK Noise Association and the Society for Wind Vigilance, are saying that there should be a minimum separation distance of at least two kilometres. So, we are not going to sit here and argue about whether to have wind energy: the people in the countryside who have to live with the effects of the decisions are the ones who will suffer. They will suffer a reduction in the value of their properties and so on.

David Cameron has talked a great deal about giving power back to the people and the Localism Bill. However, we do not have a localism Bill here. Communities in England can stop applications for turbines and wind-farm developments. We are not being given that right here. We are not being given the right to say no. Now, attempts are being made to bribe us. People who have just lost £100,000 off the value of their home are not going to be greatly tempted by a £200 a year payment off their electricity bill. We need to be clear about that. Also, the benefits of that so-called energy source have to be looked at, such as employment, among others, and the actual number of jobs that are lost for every green job that is created. The big issue is health and safety. We ask the Committee to consider that issue.

At this point, I would like to bring in Peter Sweetman to talk about his view. He has come the whole way up from Dublin to talk about the issue.

The Chairperson: Peter, can you be very brief?

Mr Peter Sweetman (Wind Watch): I will be very brief.

I am a European. I am one of the few people who have taken a case the whole way to the European Court. At present, until now, I have worked only in the South. I have had a recent look at the Northern implementation of the EU environmental impact assessment directive, the habitats directive and the strategic environmental assessment directive. Northern Ireland legislation is completely out of line with the decisions of the European Court. I can give you a few figures. The first case that is relevant to the environmental impact assessment is C-50/09, which is the Commission versus Ireland. It states

clearly that article 3 of the directive is that the assessment is carried out by the regulatory authority, not the developer. The decision was made in March 2011. It does not seem to have filtered through to the North because, with regard to all of those wind farms, people are saying that their environment impact statement is the assessment. According to the law, it is not.

We still rely on the 1999 regulations here. There was a directive in 2003 — 2003/35 — which was to implement the relevance of the Aarhus convention into European law. That has recently been tested in the European Court, to a certain extent, by an English case — the Edwards case, reference C-260/11. The actual wording of the directive is that a review shall not be prohibitively expensive. The implementation of that here is that you have now made a ruling that the maximum cost that can be awarded is £5,000 against an individual or £10,000 against a group and that the maximum costs that can be awarded to you in a High Court case are £35,000. Basically, adding all of that up, it is still prohibitively expensive. It costs, in real terms, around £100,000 to take a case to the High Court in Northern Ireland and around €200,000 in Southern Ireland. We are now allowing a cost level of £35,000. That is not in compliance. The Edwards judgement needs a little bit more interpretation. However, it does not come along with that.

We then move on quietly to the habitats directive. The judgement in my case, which is C-258/11, made two very important points, which I will deal with quickly. The first was that there was a mistranslation of article 6 of the habitats directive whereby we assessed the necessity for an appropriate assessment to be carried out if it were not going to have a significant effect on the habitat. It was a mistranslation. The judgement now interprets that there must be an appropriate assessment if a development could have an effect on a habitat. There is an awful lot of difference between "have a significant effect" and "could have a significant effect". We are still going down the road here of not even having a significant effect. We are removing massive amounts of peat for wind farms and draining into protected rivers and suchlike. We are having no assessment at all. That will have to be sorted out.

The other point in my judgement is that when you perform an appropriate assessment on that — of the Narrow Water bridge, for example — the level is that there shall not be any lacuna. In the Narrow Water bridge situation, permission was granted despite the actual design of the bridge not being completed yet. That is a lacuna.

I will just make one final point on the strategic environmental impact assessment directive. What is proposed by your policy document, which was not strategically environmentally assessed, but should be — taking it down directly to Omagh — is being interpreted so that a ring of steel is being put around Omagh with no strategic environmental assessment. Northern Ireland is way outside European law. It is time that you came into compliance like everybody else. Thank you.

The Chairperson: Thank you, Peter. Thank you very much for your presentation. Obviously, we are hearing your concerns about distance. That is the main concern. Certainly, we have two very thick research papers here saying that noise has never been proven to be detrimental. We have two very thick research papers that say that noise has never been proven as being detrimental. How close in distance are wind farms to houses in Omagh? You said that there is one about only 100 metres away. Is that the worst-case scenario? How many of them are 500 metres or more away?

Dr Kane: The policies on single turbines have been handed down to the divisional planning offices. There is no consistency. There should be a minimum of 500 metres. There are many turbines, but we do not know the exact number. Many people are coming to me saying that they have one at 90 metres, 100 metres, 200 metres and 300 metres, all of which are well within the minimum separation distance. That separation distance was set in 1996 for a turbine that was only 32 metres high. Now they are 180 metres or 210 metres high. The turbines that are used as single turbines are, in many cases, bigger than the turbines used in the wind farms. Why should there be any difference in how people living beside them are treated? There are a lot of problems. Alun, would you like to comment on the health aspects?

Professor Alun Evans (Wind Watch): Yes. A 2009 report highlighted the major growing public health problems of night-time noise. Noise is the problem. It may be noise, as Dan told you, that you cannot hear. There are considerable health concerns. My colleague Chris Hanning and I wrote an editorial in the British Medical Journal (BMJ) last year. We have been criticised for not having a systematic review. In an editorial, you are allowed only 800 words, so it is very difficult to do a systematic review. We are well aware of the literature. There are no studies that show that wind farms are safe. That is a simple statement.

The problem with the noise that wind farms generate is that it is a form of noise pollution. It is particularly irritating because it is impulsive, intrusive and incessant. Noise pollution is a real problem. It may not be the noise that you hear, as Dan pointed out. The major problem with it is sleep disturbance and deprivation, which predisposes to a number of conditions. Unfortunately, old people, like me, and the very young are most affected. I would be most affected because I have lost my upper registers of hearing, and so the low registers are more prominent. Children have better hearing. Remember that sleep deprivation was used by the British Army as a form of torture in the early 1970s in this Province. It has been known that it is pretty nasty to deprive people of sleep. It leads to poor memory and possibly cognitive changes in old people and poor memory in the young. There are also disturbing associations between sleep deprivation in children and increased bodyweight. A host of diseases, some more strongly than others, are associated with sleeplessness. There is a relationship to cancer. My background is in cardiovascular epidemiology, where the term "risk factor" is originally said to have been coined. It was actually "factors of risk" that was coined; "risk factor" emanated from the aerospace industry around about 1952. The problem with risk factor — what we know from epidemiology — is that they tend to be continuously distributed. The more you have of it, the more the risk. It is artificial where you have a risk factor to have a cut-off point and say that there is no risk below that; there is a gradation of risk. That is a point to remember about the wind farm noise limits.

There is a big study and a small study this year. The big one is a Norwegian study that shows a very large association between symptoms of sleep deprivation and heart failure. We are swapping heart failure as a cause of death for myocardial infarction. This country used to lead the world in that respect. We have now, thankfully, dropped back, but we are getting more heart failure. There is a strong association with heart failure. The other thing is that a recently published study of sleep deprivation in volunteers showed surprising changes in a vast number of genes' expression: the genes are there, but it is the amount of music that they are playing. Some are increasing and others decreasing, so you explain the —

The Chairperson: That is not directly related to wind farms.

Professor Evans: I am talking about noise and sleep deprivation. This is the major thing that we have to worry about, and that is to do with the set-back distances, which are insufficient.

The Chairperson: According to our research paper, there has never been any medical evidence that wind farms cause sleep deprivation cause.

Professor Evans: We are talking about arguments of nuance, the problem being that the sorts of studies to indubitably prove associations that these things kill you have to be very large and are very slow to accrue. Therefore, we have a problem and have to take our evidence where we can find it. I conclude that there is sufficient evidence to be very worried about these things.

The Chairperson: OK. I will bring other members in.

Mr Sweetman: Sorry, may I just add one point? The report that you are relying on states that there is no evidence —

The Chairperson: It is based on a number of research studies.

Mr Sweetman: I quite agree with that, and it is not problem. The fact is that under European environmental law, the precautionary principle must hold sway. It is not up to them to say that there is no research; it is up to them to prove that there is no damage. It is not for us to prove that there is damage; it is up to the developer to prove that there is no damage. They cannot do that.

Professor Evans: That is the "primum non nocere" principle, which is enshrined in medicine, and I am surprised that our Public Health Agency does not wake up a bit.

The Chairperson: We can ask the Department what the criteria and guidance is for the set back distance and what distance it recommends between turbines and neighbours.

Mr McElduff: It is good that we are having this engagement, and we need more of it. I am struck by the fact that health-related and energy output issues are being raised. We are the Environment Committee and probably concentrate on the planning dimension, but it tells me that government needs to be joined up in how it looks at the whole are of wind energy. There may need to be some

interaction between the Environment Committee, Health Committee and Enterprise, Trade and Investment Committee. I think that this is a possible area to look at having a cross-Committee inquiry. However, we are in west Tyrone, which is made up of the Omagh and Strabane districts. In answer to a recent question that I posed in the Assembly, I was told that of nearly half of the North's wind energy infrastructure — I think that it is 48% — is located in this area. That begs the question of whether we have reached or exceeded saturation level in this area. The local campaign group sent us copies of draft questions and areas for consideration.

I will zone in on suggested question 15, which tells us that three major planning applications for this area are in or entering the system. They are described as "Slieveard" wind farm; "Lisnaharney", near Gortin glen in the Sperrins; and the Bessy Bell extension. Earlier, you asked me what type of shoes you should wear, Chair, on the site visit. Well, you did not need to change your shoes because we were denied access to the site. However, each of those sites —

The Chairperson: I brought my trainers.

Mr McElduff: — are within a five-mile radius of each other. So, will the panel perhaps make the case as to why those three planning applications should nearly be considered as one because of their cumulative effect? Will the delegation make a point that we can take to Planning Service about why they should be treated as one big application as opposed to three individual ones?

Mr Sweetman: I can answer that. It comes back to the point that there is a requirement under European law for a strategic environmental impact assessment. This is project-splitting. It is trying to minimise the overall effects by bringing three applications. What I referred to as the "ring of steel" around Omagh is technically one project and should be treated as such.

Professor Evans: From a noise aspect, the positioning of turbines on hilltops is worse because complex terrain makes the sound worse, which is bad news for people who live in the basin below.

Mr Elliott: Thanks very much for your presentation, folks. I am not exactly sure whether you are indicating that there should be no wind turbines or wind farms at all or whether you feel that they would be acceptable under the right and proper conditions.

Mr Sweetman: I feel that they have to be assessed under the right and proper law. Until such time as we have the right and proper law, we cannot answer that question.

Mr Elliott: If you were writing the law —

Mr Sweetman: The law is already written.

Mr Elliott: No, but, if you were starting with —

Mr Sweetman: It is just not being complied with.

Mr Elliott: If you were starting with a blank page and you wanted to write law that would allow wind farms, are you saying that you do not believe that you could write a law that would protect everyone from wind farms? Or, are you saying that there is a possibility that you could have enough safeguards to allow wind farms?

Mr Sweetman: It is possible.

Mr Elliott: What conditions would those be?

Dr Kane: You would need to assess the impacts accurately and honestly. That has not been done. For example, we are told in PPS 18 that a separation distance of 10 times rotor diameter would resolve the issue of shadow flicker. It would not. The original piece of research that that was based on says that it would not, so that is a misquote from the original research.

Mr Elliott: Forgive me, but, forgetting about PPS 18 and the law as it is written at the moment, what do you believe should be put in there that would protect people from wind farms or wind turbines?

Dr Kane: At this stage of our knowledge from the research that has been done, a separation distance of at least 2 kilometres is required.

Professor Evans: Some countries are going for more now. Some are going for 5 kilometres.

Mr Elliott: Do you believe that that would protect people?

Dr Kane: If we were wrong on that, you could always move the turbines closer later. You can never move them further away. That is the issue. So, that is being precautionary about it. A lot of the issues that come up in environmental impact assessments are never gone back on to be tested after the thing is up and running. In the case of wind farms that are causing noise problems, people are not reporting noise problems, because that affects their property value if they are trying to sell their house. Also, the Minister has told us that there is a penalty on the developer that prevents the developer from turning the turbines off so that you can assess the original background noise and so on. Therefore, they are basically saying that they cannot police the noise and cannot enforce anything against the noise. Therefore, if they do not get it right, by the time the applications have gone up, it is too bad and they are stuck with it. That is what we are being told.

Mr Elliott: So, you do believe that there could be opportunities for wind farms but only under very specific conditions, one of which is that it is at least 2 kilometres away from households.

Dr Kane: Yes, turbines are changing. There are now new types of turbines with the vortex inside them and things like this, which have a totally different principle and do not have the same impacts. We have to move on. That is old technology now, and the impact on people is more and more proven.

Mr Elliott: Finally, if there were opportunities for wind farms, do you believe that they would be better congregated in one site, with perhaps 50 turbines together, or do you believe that they would be better separated a few miles apart if that were possible?

Dr Kane: It is a pity that the slides did not work. I have a photograph of the Horns Rev wind farm. It is an offshore one. One of the things that you get with wind turbines is a vortex from the back of them, and that vortex affects the turbines in the next row and the next row and so on. So, there are major issues there about how you distribute turbines around the landscape, and it is now emerging from the research that is being done that turbines need to be scattered everywhere in groups that are quite disparate from each other, because this is how this vortex effect is reduced. In answer to your question, from the point of view of economy of landscape, you would put them all together, but that would mean that the largest proportion of the turbines would not perform properly at all.

Mr Boylan: Thanks for your presentation. To be honest, I think that the number of wind turbines and wind farms that are proposed is alarming. My colleague outlined the three planning applications.

I want to try to break it down into two or three issues and maybe try to get some answers. We have the new proposals; the adaptation, refurbishment or increase of existing wind farms; and I want to go into the noise and health issues. Those are the three main issues that you highlighted. When the professor was talking about "ET", I thought that that was a movie from the 1980s. That is a new meaning for us. I will come back to that point when I speak about the noise issues. Do you believe that with the new proposals in the area mean that we have reached saturation point for wind turbines?

Dr Kane: Yes.

Mr Boylan: Let us go back to the policy. If we are to look at it we need to look at the policy. Do you agree with that as far as the wind energy element of PPS 18 is concerned?

Mr Sweetman: Any strategic environmental assessment would find that we have reached saturation point in the Omagh area.

Mr Boylan: No problem. That is why we are here and that is what we want to hear. We can come here and talk about it or we can come here, take the evidence and come back and look at what we can do with the policy.

The policy states that the maximum size of a wind farm is 500 m for wind farms and 10 times the rotor diameter for single turbines. I am experiencing that in Armagh at the minute; that is what they are

using. That is what they say. It clearly does not outline it. Somebody could put in an application for turbines with rotor diameters of 50 m, knowing rightly that they could get away with 300 m. They will then come back and say that they will reduce the rotor diameter to 30 m. We want to look at that. I do not know what the rotor diameter will be on the new wind farm that we did not see this morning. Will it be 30 m, 40 m or 50 m? Does anybody know what the rotor diameter will be for the proposed Bessy Bell wind farm?

Mr Sweetman: I do not know about Bessy Bell, but we have other ones that are up to 60 m.

Mr Boylan: So, that would allow for a maximum wind farm size of 600 m. Is it correct that the policy clearly states that the maximum wind farm size should be 500 m?

Mr Sweetman: There is a conflict.

Mr Boylan: That is grand. The main point that I want to make is that you have a problem with the new proposals, which there will obviously be a challenge to. Your second issue is with existing wind farms. I can only use the following example: as you know, if people put in applications for extending or refurbishing existing businesses, a principle has been established. I do not know how that works and you may have different issues —

Mr Sweetman: An application was made to extend a wind farm — I think it is called Lisnaharney — to make it bigger and have more turbines. The planning authority found that no environmental impact statement was required. It has not been built yet, but it is going to be bigger and higher, and there will be more of them —

Professor Evans: And noisier.

Mr Sweetman: Yes. And they decided that no assessment was required. That is absolutely contrary to a recent European Court judgement C-244/12 on an Austrian case. That decision was that, even on threshold, if a wind farm comes into an EIA process it must be assessed. A line from the planner that no EIA is required is not an assessment. It is a statement of non-fact.

Mr Boylan: OK. Going through all that raises a couple of simple questions. Do you believe that a threshold should be set at the number of wind turbines that are established at the minute?

Mr Sweetman: I think that we have too many.

Mr Boylan: OK. What about a challenge to the policy? There are established wind farms and proposals for new ones. What is your intention? In any debate that we have on this issue, would you like us to ask whether a threshold should be set at the level that exists now?

Mr Sweetman: My attitude is that the strategic environmental assessment directive is there and should have been used to assess this.

Mr Boylan: No. I am asking about established wind turbines. Are you saying that we have reached the threshold?

Mr Sweetman: It has reached saturation.

Mr Boylan: OK. That is your word for it. That is grand. The other issue is —

The Chairperson: Cathal, I am afraid that —

Mr Boylan: I know Chair. I only have two more questions. This is important.

The Chairperson: OK. Well —

Mr Boylan: They have come down here for this. I do not want them to have to come back to the Assembly. Let us deal with it while they are here. I have two more questions.

You said that the ETSU is outdated, so it is time that we looked at that again. Is that basically what you are saying about that?

Mr Sweetman: Yes. By its own admission, it is out of date.

Dr Kane: The noise levels are completely out of date.

Mr Boylan: It is obviously up to local councils to deal with environmental issues. What contribution has been made by councils to the assessment of wind farms, given that you are talking about the ETSU?

Mr Sweetman: The assessments that I have looked at do not comply with European law.

Dr Kane: Usually, the environmental health people are not equipped to look at this. They follow the industry's guidance. The developer tells them what they mean by what they are going to do. They do not have the equipment to measure compliance or low-frequency noise. They also not have the training to look at the landscape impacts and so on.

I am sure that you have been a councillor. If you had a noise issue, you would have sent your environmental health officer, who would have done an assessment in the quietest part of the night and added five decibels to that. That is what you do under what is called BS4142. ETSU does not do that. From the very start, it assumes a minimum noise level for wind turbines of 35 decibels and 43 decibels at night. That means that it cannot protect amenity and you have an increase, particularly in a quiet areas like this, of 20-plus decibels. That does not sound a lot, but it is two, three or four times the noise that is being heard in the area. Under BS4142, that would be a statutory nuisance right away. However, wind turbines get a special dispensation — by the way, no other renewable energy gets, and all the rest have to play by the rules — and are allowed to be noisier at night. If environmental health ever come out to look at the problems they come out during the day. Even if we had got on to Bessy Bell today, the time to hear Bessy Bell's real nose impact is in the middle of the night.

Mr Boylan: OK. Finally, finally, Chair, I promise, you said that there is a separation distance of 2 km for single wind turbines and wind farms. Is that for both?

Dr Kane: Originally, there was supposed to be a difference for turbines with rotor diameters of up to 15 m. That was supposed to be permitted development, but that did not happen and it was then included in PPS18.

You could probably make the case for single turbines that are domestic or farm-related having a closer distance, in other words, those that are in scale with the buildings around them. That is particularly and obviously the case if it owned by the landowner. However, industrial-scale turbines of 100 m-plus are being built on farms. Those are not farm-related and are being built to attract subsidies. Therefore, they should have the same separation distance as wind farms. Those turbines are wind farms of one turbine.

We could talk through it. If we look at the noise aspect in particular, we could come up with a set of robust rules that would deal with that issue very easily. At the moment, we have a rule that there must be a minimum of 500 m and it is being breached left, right and centre.

Mr Boylan: Thank you very much. Thank you, Chair.

The Chairperson: Peter, if possible, could you just ask one question or certainly two?

Mr Weir: I will maybe ask one question, but I want to preface it slightly. As the Environment Committee, we are looking at the planning side of this issue. There seems to be three points. First, I think that a very valid point has been made about overall cumulative applications. One of the weaknesses in the system, whether it is wind farms or other bits, is when piecemeal applications are put in in the knowledge that that will get a particular part over the line. The intention is then to put another one in etc. That also applies to other areas of planning. Secondly, there is the issue that you have raised about what you feel the panning guidance should be, particular as far as separation distances are concerned. Then there is the third issue of the current guidelines. You mentioned that a number of wind turbines are in a position in which the distance is a lot less than the guidance recommends. I assume that, in those cases, housing has predated the wind turbine?

Dr Kane: Yes.

Mr Weir: From the point of view of implementation or enforcement, do you feel that the reason for that is that the guidelines are not strong enough for Planning Service? Is it simply one of a number of factors to be taken into account, and then rolled into an in-the-round position? Or is it that a blind eye has been turned to the guidance and Planning Service is simply happy to drive a coach and four through it? Why do you think that the guidance requirements, even as it is at present, are not followed through? I appreciate that you consider the distance to be inadequate.

Dr Kane: You have pointed out several of them. One is that the planners seem to be too intent on chasing the targets and, therefore, they are putting through applications. A 90%-plus approval rate is not a selection system. It is not really a policing system at all. They are putting them through. The cumulative impact of that comes out very well. I can take you to a situation in Northern Ireland where there are two existing wind farms, a third developer has come along and wants to have a wind farm nearby and his application is based on the assumption that the existing two wind farms comply with the noise standard. They do not, but the planners will not measure it. They say that it is not their job to measure it and they cannot do it. Environmental health officers say that they cannot measure it.

Mr Weir: I am sorry to interrupt. I appreciate that noise is a separate issue, but I am very specifically asking about the separation distance.

Dr Kane: There seems to be a misunderstanding, in the divisional planning offices in particular, over the minimal separation distance. However, it is quite clear. I have been in correspondence over several years with them over this, but the minimum distance is 500 m. There should not be a single turbine in Northern Ireland, which you do not own, less than 500 m from your property. With the exception, possibly, of turbines under 15 m in height.

Professor Evans: Small ones.

Dr Kane: Small ones, yes.

Mr Anderson: Thank you for your presentation. Tom asked some questions and I am trying to get my head around the answers. I am not clear about the answer that you gave to Tom's question as to whether you would be happy with certain conditions, or more wind farms here. I also picked up from a reply that this area had reached saturation point, when Tom asked about the way distances and clusters were done. Would you be happy, or would you say it was OK, if those conditions were met, as regards distances and clustering? Or do you really think that we have gone beyond saturation point, in this area, in relation to the number of wind turbines?

Mr Sweetman: It is not for us to come to an opinion on that. It is for the strategic environmental assessment of the issue to be addressed. We are — certainly, I am — of the opinion that we have reached saturation point, and, under the precautionary principle which is the guiding light under European law, it is up to wind farm developers to prove that we have not reached saturation point, rather than for us to prove that we have. That is what the law says.

Mr Anderson: I am involved in a single wind turbine application at the moment. The applicant has ticked every box to date, and every time he ticks a box, it goes back to the planner's desk because something else keeps coming up. We are trying to find out whether there is a satisfactory solution to the question of whether there is a point at which there is a number of turbines, in this area or any other, that we should not exceed and which should be set in regulations as well — never mind clustering, height or whatever else goes with it. Is that a case that you would argue? Have we reached the point of saturation and can take no more? Are we at that point?

Mr Sweetman: We think —

Mr Anderson: You think. I am trying to tease this out. So it does not really matter now. The case is this: what should the distance be? Should it be 500 metres; 700 metres or 1,000 metres? It does not matter for an applicant or someone trying to bring an application, because you are at a point where it is no more. You say that you think, but are you sure?

Mr Sweetman: If you were to take the existing ones and draw a line at 2 kilometres from them, there is nowhere left to put one. There is saturation.

Mr Anderson: Really, what we are saying today is that it is not a case of distance any more; it is that, in your view, there are too many. Is that what you are saying?

Mr Sweetman: We are not completely looking at this area. We are talking about the general common good. Certainly, in this area, we have reached saturation. However, in any other area, we would say that the 2 kilometre distance should be not affected for public health and safety under the precautionary principle.

Mr Anderson: You are West Tyrone Against Wind Turbines.

Mr Sweetman: We are not totally Nimby. We are looking for the common good across the whole of the country — the whole of the island, actually. That is why I am here.

Mr Anderson: As far as you are concerned, it is beyond the wind turbine situation in west Tyrone.

Dr Kane: I see where you are coming from. I am not going to say that I am anti-wind or pro-wind or anything. I do not think that that is the issue here. However, I do think that we are living with the history of all the bungalows that were built during the direct rule period and so on. We have more than any other part of the UK. It is difficult. Edwin Poots told me that he could not get adequate separation distances and we would have to live with the problem. Therefore, if we cannot get adequate separation distances, do we accept that and move people away? Do we move people? There is no compensation mechanism here. People's homes are being made valueless. I could take you to a family who are living with 111 turbines proposed and in existence around them. Their house is now valueless. In that situation, if a farmer wants to put up his own turbine, the issues that I have with that are whether it will affect me if I am a neighbour and, if it does not affect me, am I going to pay for it? That is another issue that we need to look at. However, other than those things, if he wants to do that to himself, I have no real problem with that at all.

Mr Anderson: What I am trying to find out is this: within regulations, it goes beyond distance and cluster, and it also goes beyond the numbers game in a particular area? Is that what you are trying to say?

Mr Sweetman: The cumulative effect must be assessed, and the cumulative effect is not being assessed under the precautionary principle. That is what we are trying to say.

Mr Anderson: OK. Thank you, Chair.

The Chairperson: Thank you, Sidney. I think that the cumulative effect is an issue for planning, whether it is in my constituency of South Belfast or in other parts.

Mr Sweetman: The law is not being effective.

Mr McElduff: Chair, may I ask one brief question relating to Planning Service? To go back to Planning Service, it has come to my attention that individuals who wish to object to a planning application are given very restrictive, controlled and supervised access to planning application material. Is the delegation aware of the rationale for that? Somebody who has a legitimate stake in either opposing or informing themselves about a particular application is sometimes restricted in how they can view the material and in the number of hours that they can view the material. Am I correct in my understanding of that?

Dr Kane: That is correct.

Mr Sweetman: That is contrary to the Aarhus convention. It is as simple as that. It is a breach of the convention, and we should be making a report to the compliance committee.

The Chairperson: Yes, that should not have happened.

Mr Sweetman: It should not have happened.

The Chairperson: There needs to be transparency. Thank you very much indeed.

Dr Kane: May I finalise that point, if you do not mind, because you have made a very important point? The notification distance is 90 metres. Therefore, most people are never told that a turbine is going to go up near them. That is a crucial issue.

The Chairperson: Knowledge and information are so important. Thank you very much. I am sure that we will be hearing the same argument again.