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# WAIT FOR VERDICT IN WIND SITE CASE

## Judge reserves a decision on second legal challenge

**EXCLUSIVE**

by Carline Abbott

THE Mid Devon resident who mounted a second legal challenge to plans for the Den Brook wind farm must wait for a verdict from the High Court.

Mike Hulme, who has lived with his wife at Coxmoor, Spreyton, for over 30 years, has challenged plans for nine wind turbines, each 120m high, the closest of which would be less than a mile from his home.



Mike Hulme

He claimed that the development would plague locals with the helicopter-like noise of "blade swish" as well as casting a flickering shadow over the landscape and endangering bats.

Judge Frances Patterson QC has reserved her de-

cision about whether to quash the planning permission for the turbines, so that she can give a fully considered judgment at a later, unspecified date.

Mr Hulme, a leading member of the Den Brook Judicial Review Group (DBJRG), told the Gazette before the hearing: "The driving force behind the challenge is directed towards the conditions to control excessive noise that are widely considered to be defectively worded."

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"Nine further grounds are also to be pursued."

"The planning inspector was convinced that a noise condition to control excessive noise was both 'reasonable and necessary'."

"The defective wording effectively renders the noise conditions useless for our protection. We must ensure that they are both precise and enforceable."

"In the event that noise problems do occur, an effective noise condition would compel the developer to adopt mitigation measures that may require switching off some, or all, of the turbines for considerable periods of time."

"This could drastically affect the developer's profitability or even significantly undermine the overall financial viability of this wind farm."

At the hearing, lawyers for wind farm operators RES Developments Ltd argued that the planning permission should stand.

Gordon Nardell QC argued that Mr Hulme had failed to identify any error of law in former minister John Denham's decision to grant planning permission for the wind farm on a 200-hectare agricultural site between North Tawton, Bow and Spreyton.

He argued that the noise control conditions were a matter for the judgment of Mr Denham's inspector, on whose report the decision was based.

He said the condition protected neighbouring landowners by ensuring that the wind farm could not operate until a noise control scheme was approved by the local council.

He also argued that the issue of visual impact had been fully addressed from a variety of vantage points, and the inspector had decided that local bat populations would not be threatened.

Mr Hulme forced a rethink of an earlier planning permission after the Government backed down in the face of legal proceedings that had gone as far as the Court of Appeal.

Now he hopes that the judge will order Mr Denham's successor as the country's planning supremo, Secretary of State for Communities and Local Government Eric Pickles, to have the matter considered for a third time.

Talking to the Gazette after the hearing in London, which lasted a day and a half, Renewable Energy Systems (RES) spokesman Anna Stanford said there was not much to say before the decision was announced.

She said: "We feel confident in the case we presented to the court and we will now await the final decision."

Mr Hulme, who has been involved in the battle for the past six years, said: "What this case is all about is people suffering from sleep deprivation. We can appeal if we are unhappy with the judgment, but hopefully the judge will give it serious thought and come to the right decision."