

**Den Brook Valley Wind Farm  
Judicial Review Information  
Further Information  
STATEMENT ISSUED 3RD AUGUST 2008**

The Den Brook Review team appealed against an earlier judgement in the case heard at the High Court in March this year. A full copy of Mr Justice Mitting's judgement for that hearing can be found by clicking on the following link:

<http://www.bailii.org/ew/cases/EWHC/Admin/2008/637.html>

Attention is drawn to the following paragraphs from Mr Justice Mitting's judgement:

7. The developer refused to produce the raw data for a variety of reasons, which for myself I find thoroughly unconvincing. First, commercial confidentiality; it is difficult to see how there could conceivably be any commercial confidentiality in the matter of wind noise anywhere, let alone on this site. Secondly, that Mr Hulme, unaided, would not understand them; that may well be so, but he had indicated a willingness to obtain expert advice to permit him to do so. Thirdly, that the developer was unwilling to spend professional time and cost in assisting Mr Hulme to understand the raw data; that too was not a sensible argument, because all that he sought was the data itself and not any explanation of it.

8. The developer's attitude to the disclosure of this information, as can readily be understood, might excite suspicion as to their motive in insisting that it would not be disclosed.

9. Mr Forsdick, who appears today for Mr Hulme, submits that the denial of access to the raw data was a denial of natural justice to Mr Hulme such as, in the end, to vitiate the decision made by the inspector on the question of noise. He accepts that there is no traditional natural justice challenge here because the inspector did not see the raw data either, and so did not take into account anything that was not made available to Mr Hulme.

Justice Mitting's judgement has now been overturned. This is partly as a result of the Den Brook Judicial Review Team's submission of evidence to the Appeal Court following discovery of flaws in RES' assessment of the background noise and wind speed data. RES only released the data in May; subsequent to the hearing in March this year.

The Consent Order, precluding the need for an appeal hearing, was proposed and agreed by the Secretary of State and has quashed the unlawful planning permission given to RES, on appeal, for their proposed Den Brook Valley wind farm. The matter will now revert to the Government Inspectorate for re-determination.

Disagreement remains between the Den Brook Review team and RES as to the significance of the errors discovered. The court is not in a position to resolve the disagreement but only to determine the legality of the position.

It is the Den Brook Review team's view that not only did RES conduct their noise assessment in breach of Government guidance in the form of the 1997 ETSU-R-97 document, but that any assessment for noise impacts from wind turbines urgently needs to go beyond the more than 10 year old guidance.

If neighbours to the current generation of huge turbines are to be adequately protected from potential noise and health damaging impacts, there needs to be far more thorough assessment based on current understanding rather than reliance on the outdated and un-revised guidance. The ETSU-R-97 guidance does not address the major noise problems that are currently being experienced by an ever-increasing number of wind farm neighbours. It beggars belief that the wind industry consistently deny wind turbine noise is an issue – one has to wonder at their humanity.

The Den Brook Review team are determined, through evidence and valid argument, to persuade the Government and the Inspectorate [and maybe even the wind industry] that it is not in anyone's real interests to continue to ignore people's rights to a proper night's sleep and the peaceful enjoyment of their homes. Indiscriminate siting of industrial scale wind turbines, without comprehensive and trustworthy noise assessments, do nothing to reassure the public at large of

the validity of planning decisions that should balance any benefits with the potential harm that may have to be endured over the coming 25 year lifespan of modern huge wind turbines.