

**Planning appeal reference 3171628, Hendy Wind Farm Ltd
Construction of seven wind turbines and associated works at land of A44
SW of Llandegley, Llandrindod Wells LD1 5UG**

- 1 The Open Spaces Society, founded in 1865, is Britain's leading pressure-group concerned with the protection of common land. We are a registered charity which campaigns to create and conserve common land, town and village greens, other open spaces and public paths in England and Wales. Our members include individuals, organisations and local authorities at all levels. We objected to the planning application and we object to this appeal.
- 2 The proposed wind-turbines would desecrate an area of natural beauty and high landscape value which is greatly enjoyed by the public. These vast turbines would dominate this very special and splendid landscape and would destroy the view of and from the magnificent Llandegley Rocks. People visit the area because of its natural beauty, peace and tranquillity. The turbines could deter them from coming and that would result in a serious loss of tourist income to the community.
- 3 From the slopes and summit of Llandegley Rocks the view is breathtaking, with a glorious sweep which takes in the magnificent hills and mountains of Wales, including those of the Brecon Beacons to the south. This view would be utterly destroyed by the siting of wind turbines here and a massive area of great natural beauty and cultural significance would be irreparably damaged.

Public access and enjoyment

- 4 The land to the north-east of the site is registered common land, Llandegley Rhos Common (RCL34), and the land surrounding Llandegley Rocks is mapped as access land under the Countryside and Rights of Way Act 2000. The public has the right to walk freely on the common and the access land, and many people enjoy this freedom. The sight and sound of the nearby turbines would industrialise this rural landscape and ruin that enjoyment. There are also several public paths crossing the area and users of these routes would be severely affected by the sight and noise of the turbines.

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Inclosure awarded land

5 The land on which it is proposed to construct at least four of the seven turbines and associated development is part of an area inclosed in 1885 under the inclosure Acts 1845 to 1878 by orders, made under the Commons Act 1876, for Hendy Bank and Llandegley Rhos. The Commons Act 1876 marked a change in the inclosure movement, with a recognition that inclosure must also provide benefit to the neighbourhood as well as to private interests. Thus, the inclosure awards for Hendy Bank and Llandegley Rhos give the public a right of access to the land and decree that no injury shall be done to it.

6 The wording is as follows:

And I declare that I do reserve to the Public a privilege at all times of enjoying air exercise and recreation on all parts of the lands to be inclosed which shall be unplanted or uncultivated for arable purposes. And I direct that in the fences of the Allotments gates or stiles shall be placed at convenient intervals at or about the places shown upon the Map hereunto annexed for the purpose of securing access for the Public but in the exercise of the privilege hereby reserved no injury shall be done to the lands or to the herbage or to the fences or to the stock or game or to anything upon such lands. And I declare that in the event of a belt of trees being planted the Public shall not thereby be deprived of the privilege hereinbefore reserved but that access shall be provided by means of paths or openings through the belt of trees to the uncultivated or unplanted land

7 No doubt at the time the inclosure awards were made no development of any kind was contemplated on this land and it was expected to remain open and unenclosed. That is how it should remain now. The construction of wind turbines here would interfere with the public's right of access and so the proposals are contrary to the provisions of the inclosure awards. It may well be that development here is unlawful since the award made no provision for suspension of access rights upon development of the land. **We urge the inspector to seek legal advice on this point.**

Common land

8 The access roads to the turbines would be sited along public rights of way and on common land, carving up the land and creating devastation. To enable the developers to upgrade, widen and create new access tracks on common land, in October 2014 the applicants submitted applications to the Planning Inspectorate. These were under section 38 of the Commons Act 2006 for works on common land, and under section 16 of the Commons Act 2006 for exchange of common land. Both were vehemently opposed. However, the Planning Inspectorate received no communication from the applicants between December 2014 and 29 October 2015 when it wrote to the applicants to say that it was therefore treating the application as withdrawn. Contrary to the indication in ES volume 1 (APP021), there are no current applications.

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- 9 The replacement land which the applicants proposed was unsuitable since it is likely already to be access land under the above-mentioned inclosure awards. We consider that there is no suitable land to compensate for that to be taken and that it will therefore prove impossible to site the access road to the turbines on common land. We shall oppose any future applications under the Commons Act 2006. We submit there is no point in granting planning permission when the development could not be constructed due to common-land constraints.
- 10 Moreover, the substantial and damaging tracks appear not to be treated as part of the application and there has been no assessment of their detrimental effect on the common or the wider public interest.
- 11 The siting of the turbines would conflict with the British Horse Society's stated 'safety' distance for riders, and would therefore put equestrians at risk.
- 12 In conclusion, we submit that the appeal should be rejected for reasons which include the following:
- its severely detrimental effect on
 - an area of natural beauty and high landscape value;
 - the views of and from Llandegley Rocks;
 - public paths and access land including common land
 - the public's access and enjoyment;
 - the fact that the turbines are proposed to be sited on land on which the public has a right of access under inclosure awards and may therefore be unlawful,
 - the fact that their construction includes works on and deregistration of common land, with no possibility of finding suitable land to offer in exchange.

Kate Ashbrook

Kate Ashbrook
General Secretary
8 February 2017

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