



Campaign to Protect
Rural England

Goodwill payments:

Do they benefit communities or bring planning into disrepute?

A CPRE briefing

Introduction

The UK is seeing a growth in the development of wind power generation as the Government seeks to meet EU renewable energy targets. Wind energy developments can often have a significant impact on the appearance of the landscape. For this and other reasons they are often highly controversial in the local areas where they are proposed. This briefing sets out the findings of CPRE's investigation of a growing number of cases where developers of new wind farms are offering various forms of payments and benefits directly to local communities, as a means of overcoming opposition to development. These voluntary 'goodwill payments', sometimes also known as 'community funds', are also routinely offered by at least three leading generators of wind power in connection with every new proposed development (see Figure 1 below).

Figure 1: Wind farm developer statements on goodwill payments

E-ON UK: 'The local community can expect to receive an annual income for the lifetime of the wind farm. This can be spent as the community sees fit, for example books for schools, restoration projects, social enterprise projects and even microgeneration technologies.' (Accessed at www.eon-uk.com/about/community.aspx on 30 September 2008).

npower renewables: 'npower renewables offers a range of community benefit packages at our operating onshore and offshore wind farms, these usually benefit those communities living closest to the site...these packages have been used to fund a variety of activities including community building refurbishments, environmental education programmes, energy efficiency schemes and supporting local groups and organisations.' (Accessed at www.npower-renewables.com/bearsdown/community.asp on 30 September 2008).

Renewable Energy Systems (RES) Ltd:

'At each wind farm site we design, construct and operate, our goal is to ensure that we create significant environmental, economic and community benefits at the local and global scale... We are happy to discuss with local communities living around Wadlow Farm the following ideas, either as individual or combinations of benefits:... (which include) based on an annual payment paid by the owner of the wind farm to the local community for the lifetime of the wind farm, the community fund can then be used to provide assistance and support to local projects, events and good causes... the value of the funds is related to the size of the wind farm and at Wadlow Farm, we anticipate that the community fund available will be £29,900 / year.' (Accessed at www.wadlow-farm.co.uk/index.asp?pageName=benefits, a website managed by RES, on 30 September 2008).

CPRE is aware of at least 35 local cases of goodwill payments being offered. These are listed at the Appendix to this briefing.

The planning system has well-established methods of allowing developers to agree contributions to local communities, through the use of 'Section 106 agreements' (named after the relevant section of the *Town & Country Planning Act 1990* from which they derive). These agreements are generally accepted by all interests involved in planning and work well where they are used. Goodwill payments are not Section 106 agreements, and there are a number of crucial differences between them. For example, goodwill payments have to be offered outside the planning system, because to do otherwise would lead to accusations that planning permission is being brought and sold.

CPRE believes that the situation by which goodwill payments have become so widespread is highly unsatisfactory, and for at least two reasons:

- the process by which the payments are made, with one or two possible exceptions in individual cases, is not fully transparent or open to full public involvement; and
- local communities that accept such payments are also likely to be getting short-changed. CPRE believes that they would get a much better deal if offers of community benefit from proposed wind farms were properly considered through the local planning process.

We believe that the Government, through the Planning Bill currently before Parliament, should stamp out the process altogether. The Government should also require contributions from wind farm developers to be declared formally, and to firmly relate to renewable energy development, through the proposed Community Infrastructure Levy (CIL), and to be considered openly alongside other issues such as the appropriateness of individual locations for wind energy development.

What is the problem?

Public faith in planning is being undermined: CPRE opposes goodwill payments on principle as we believe that they could easily be seen as akin to buying planning permission. Currently, goodwill payments only appear to be an issue in planning in relation to wind energy development. Community benefits that may arise in relation to most, if not all other forms of new development are addressed through the Section 106 process. CPRE highlighted to the Committee on Standards in Public Life in the 1990s a growing public perception that Section 106 powers were being abused and that planning permission could be brought and sold. As a result the Committee called on the Government to directly address these concerns by requiring Section 106 agreements to be publicly available on the local planning register, and to issue tighter policy guidance (Committee on Standards in Public Life: *The First Seven Reports – Review of Progress*, p.84, downloaded from www.publicstandards.gov.uk on 1 October 2008). These reforms have been instituted, and the Section 106 process is now generally seen as working in accordance with publicly agreed policy objectives as set out in the development plan. Full public involvement in the negotiation of individual Section 106 agreements is also encouraged by Government policy. Also, the legal enforceability of the agreements ensures that a reasonable share of development profits goes to necessary public goods such as affordable housing that also relate closely to the development in question.

Goodwill payments are unsatisfactory when compared to Section 106 agreements in all these respects. We understand that in many cases goodwill payments are offered and/or publicised in many cases to whoever it is in the 'local community' that a developer feels like offering them to (often the nearest parish council and local residents closest to the proposed development), rather than openly considered and channelled through the established consultation processes of the planning system run by local authorities. Money from the payments is often used for purposes bearing no relationship to the development, such as senior citizen's lunches and youth clubs, however worthy these may be in themselves. The payments offered to date also often have no

means of being legally enforced. At the very least, the attempt to focus on particular parish councils and other groups, as has happened in the majority of cases notified to us, is unfair and potentially divisive.

Figure 2: Unrelated benefit?

Wind farm developers currently have to make sure that their offers of goodwill payments are in no way connected with the submission of a planning application. Were developers to follow the planning process and offer benefits through a Section 106 agreement, developers would be subject to a number of tests set out in Government policy. The policy states:

'A planning obligation must be:

- (i) relevant to planning;
- (ii) necessary to make the proposed development acceptable in planning terms;
- (iii) directly related to the proposed development;
- (iv) fairly and reasonably related in scale and kind to the proposed development; and
- (v) reasonable in all other respects.'

(Office of the Deputy Prime Minister, Circular 05/2005, paragraph B5).

Money from goodwill payments has been used to subsidise senior citizens' lunch clubs (in the case of Bears Down in Cornwall) and a childrens' playground and bird-watching event (in the case of Out Newton in East Riding). However worthy these may be in themselves, it is highly questionable as to how well they relate to the development of a wind farm. This is probably as a result of wind farm developers giving sums to their chosen community 'stakeholders' rather than working with the relevant local authority planning department.

In view of the large amounts of subsidy that new wind farms receive via the Renewables Obligation (see below), CPRE believes that it is far more in the public interest for community benefits from wind farms to be negotiated transparently with local planning authorities, and focused on investment in much needed energy-related investment. This would bring them firmly into line with other types of development such as housing and commercial offices. In these cases planning obligations are invested in community benefits, such as affordable housing, that are clearly necessary and clearly related to the proposed development.

Mixed messages from central Government: One Government department, Communities and Local Government (CLG), has stated that goodwill payments should be seen as entirely outside the planning system and that they should not in any way influence decisions on planning applications. Yet, on the other hand, the former Department for Trade and Industry (DTI; now Business, Enterprise and Regulatory Reform [BERR]) endorsed a May 2007 report, *Delivering Community Benefits from Wind Energy Development: A Toolkit*, calling for greater use of community benefits in relation to wind energy development. Although the report, also held on the BERR website, reiterates the CLG statements, p.14 advises on the possibility of a 'grey area' in relation to the consideration of community goodwill payments in planning decisions.

CPRE agrees in principle with the Government's stated position. In practice, however, the distinction between the planning process and the offer of community goodwill payments is difficult to maintain. CPRE is aware of examples (set out in the box below) where the implication of parish councils in the offer of goodwill payments may be having a clear, if indirect and unintended, effect on the process of deciding planning applications.

Figure 3: Do goodwill payments influence decisions on planning applications?

The Government's official position on goodwill payments was stated in the 2007 Planning White Paper (p.221): 'Developers are not prevented from making goodwill payments to individuals; however, any such payment would be outside the planning system and cannot directly influence or be taken into account by

a local planning authority in its determination of any planning application’.

CPRE has evidence that goodwill payments are not merely being offered to individuals, but also to parish councils and other community organisations. Parish councils are legally entitled to be consulted on planning applications in their area and their views on planning applications are important considerations in final decisions to grant planning permission, which are made by district councils. Developers of a Cumbrian wind-farm have recently offered a large financial gift to a youth club in the county, thus obliging some parish councillors to declare their interest in the youth club and withdraw from the Parish Council meeting. The effect of the withdrawal of these members was to leave the Council ‘inquorate’, meaning that it was unable to reach a view on the planning application made by the same developer. CPRE is also aware of cases in Hertfordshire where wind farm developers have approached parish councils directly with offers of payment before a planning application has been submitted.

For more information on the local cases above, please contact:

Andrew Forsyth, Director, Friends of the Lake District / CPRE Cumbria, on 01539 720788 (on the Cumbria case); or

Kevin Fitzgerald, Director, CPRE Hertfordshire, on 01438 717587 (on the Hertfordshire case), or via CPRE’s press office.

CPRE does not have firm evidence of offers of goodwill payments directly influencing final decisions made on planning applications by district councils. However, a 2005 report, *Community Benefits from Wind Power*, produced by the Centre for Sustainable Energy with Garrad Hassan for the DTI (p.10 and 54) found anecdotal evidence that offers of goodwill payments may be having a ‘behind the scenes’ influence on council members sitting on planning committees that vote on whether to grant planning permission. CPRE contends, moreover, that the cases involving parish councillors are clear evidence in themselves of the influence, which may be in itself unintended, that goodwill payments can have on the planning process.

Are local communities being short-changed by goodwill payments?

CPRE’s investigation has found that the level of benefits offered in these ‘goodwill payments’ tends to follow a set formula. The amount of electricity that a wind farm is rated as having capacity to generate is measured in megawatts (MW). On average, a typical large wind turbine of the type that is used in wind farms across the UK has a rated capacity of 2 MW and can run for between 20 and 25 years. On average, in most of the cases we have surveyed, a developer tends to offer an annual rate of around £1,000 per MW of proposed generating capacity, although developers are generally beginning to offer slightly higher sums. In the example of the Bears Down wind farm in Cornwall operated by npower renewables, the benefit package of £300,000 over a 20-year period translates to approximately £1,600 per MW per year when the **9.6 MW rated generating capacity of the wind farm** is factored in.

These figures need to be put into context. It can be shown, first, that new wind farm developments make money from both the sale of electricity to either a licensed supplier or (in the many cases where the electricity generator is also a supplier) the grid, and from the presentation by the generator of Renewables Obligation Certificates (ROCs), which are administered by the Office of Gas and Electricity Markets (Ofgem) and paid for by the general public as electricity consumers. ROCs form a key part of the Renewables Obligation (RO) designed to encourage generation of renewable energy to meet the UK’s internationally agreed targets¹.

1. According to the Ofgem website, ‘A Renewables Obligation Certificate (ROC) is a green certificate issued to an accredited generator for eligible renewable electricity generated within the United Kingdom and supplied to customers within the United Kingdom by a licensed electricity supplier. One ROC is issued for each megawatt hour (MWh) of eligible renewable output generated.’

Second, to illustrate the amount of money that the generator which runs an individual wind farm development can make from a ROC, the expected number of megawatt hours (MWh) need to be calculated.

A simple calculation formula is used by the industry, which multiplies the rated turbine capacity in MW (the 9.6 MW in the case of Bears Down) **by the number of hours in a year (8760)** by the 'capacity factor'.

The 'capacity' or 'load' factor builds in a constant calculation of amount of generating time a wind farm loses in a year due to issues such as the intermittent nature of wind, availability of wind and energy lost due to one turbine being in the wake of another. In 2004 the UK's wind turbines achieved a capacity factor of 26.6% and in 2006 a factor of 27.4% (DTI, *Digest of United Kingdom Energy Statistics 2007*). In terms of calculating the output of a wind farm, **this percentage would be expressed as a decimal (i.e. 0.27)**, so if one used the 2006 capacity factor, **the calculation would be $0.27 * 8760 * 9.6$** if one applied the national average to Bears Down. It should be noted that wind farm developers will apply different capacity factors in specific developments and the average figure is given for illustration. Based on this capacity factor, the formula anticipates an average annual electricity production of 22,705 MWh for the sixteen turbines at Bears Down.

Third, to find out the amount of money that the generator which runs an individual wind farm development can make from an ROC, the anticipated output can be multiplied by the individual value of each ROC that the development earns. The value of an individual ROC is set by the open market. ROCs can be sold at auction and industry sources have informed CPRE that the auction value of £53 is a close representation to the value they generate on a particular site². If one multiplies the anticipated output by the estimated current value of each ROC at auction, it can therefore be seen that the Bears Down wind farm could potentially make around £1,200,000 a year in RO subsidies alone, even before any electricity is sold to the grid. The average price of wholesale price of electricity is highly volatile, but this has also been consistently at a level of at least £40 per MWh in recent years. CPRE understands from the industry that during 2008 the price has risen exponentially to the point where it may be nearer £70 per MWh. It is thus likely that the actual profit margin of the wind farm could be well over double the £1,200,000 figure³. Now compare this with the £15,000 per year that is being offered in community benefits.

What is the solution?

CPRE strongly believes that the most important first step towards addressing the issue is to outlaw the offer of goodwill payments in connection with all types of development. We strongly welcome the recognition in the Government's draft UK Renewable Energy Strategy of the need to address the issue of goodwill payments. We have also made the points raised here in our response to the consultation on the Strategy, which closed in September 2008. The consultation paper suggests that there is a need to formalise provision of community benefits and hints that this might be achieved through the Community Infrastructure Levy provisions in the Planning Bill, to avoid relying on the largesse of developers.

CPRE believes that wind farm developers can be reasonably expected to contribute significantly more to local communities than they are at present. The best way to achieve this is to bring offers of benefits firmly within the planning system. This would also allow the issue to be debated openly and transparently alongside other planning matters such as the appropriateness of particular locations for wind energy development. The experience of Argyll & Bute and Highland Councils in Scotland since 2003 also suggests that local communities can expect a great deal more in terms of community benefits than the £1,000 per MW of electricity generated that is being offered by wind farm developers on average, and that clear policies set by local planning authorities can play a crucial role in this (see Figure 4 below).

2. The Non-Fossil Purchasing Agency Ltd. (www.nfpa.org.uk) organises auctions of ROCs. According to the NFPA, the average prices obtained at the most recent auction date (8 July 2008) are **£53.27 per ROC**.

3. CPRE recognises that costs associated with a development such the development of road infrastructure and the provision of turbines have to be factored in.

Government and local authorities should be able to secure fairer and better provision of community benefits, and use them for investment in local community energy efficiency schemes, small-scale renewable energy and/or landscape benefits

CPRE strongly urges the Government to use the remaining stages of the Planning Bill, due to begin its Committee stage in the House of Lords on 6 October 2008, and the development of the proposed Community Infrastructure Levy (CIL) to fully address the issue of goodwill payments. We are keen to work closely with the Government on these areas.

CPRE calls on the Government to bring about amendments to the Planning Bill to:

- outlaw the use of goodwill payments for all types of development;
- make clear that wind farm developments are liable for CIL and local planning authorities can negotiate more proportionate levels of community benefit through CIL charging schedules;
- allow the following types of 'infrastructure' to benefit from CIL: community energy efficiency; small-scale 'microgeneration' and distributed energy; schemes for renewable or low-carbon heat and power, and 'green infrastructure' schemes aimed at improving landscapes and/or wildlife habitats. Funding for green infrastructure could help to address concerns about the landscape and biodiversity impacts of wind farms. There should also be support for microgeneration schemes other than those that rely on wind power, to ensure a diversity of supply of renewable energy when wind rates are low; and
- set clear policies strongly encouraging local planning authorities to hypothecate CIL revenues from wind farm development towards community energy efficiency; small-scale 'microgeneration' and distributed energy; schemes for renewable or low-carbon heat and power, or green infrastructure schemes. Such a move would clearly link benefits to the development from which they are sought, a well-established principle of Section 106 agreements that the Government also intends to build into CIL, as well as to the intentions behind the RO.

The Government should also firmly resist calls from the industry to refer decisions on onshore wind farms to the Infrastructure Planning Commission (IPC) proposed in the Bill. If the issue of community benefits is to be properly addressed and integrated with other planning concerns, it is crucial in CPRE's view that this is done by democratically elected local authorities as far as possible.

To CPRE's knowledge, no local planning authority in England has an official policy on how it would respond if a goodwill payment is offered in connection with a proposed wind farm in its area. Partly this may be due to Government policy stating that goodwill payments should be seen as being entirely outside the planning process.

The Government will not require local authorities to have a CIL scheme as such, but CPRE suggests that including wind farm development within CIL would be a strong incentive for local authorities to do so in areas that may be appropriate for wind energy development. It would also be a more efficient and transparent means of negotiating community benefit than the Section 106 process, as most of the issues would be resolved at the stage of planning policy rather than on individual applications. The Government has stated that local authorities would still be able to use Section 106 powers if they wished.

Figure 4: Calling for more from wind farm developers in Scotland

In some parts of Scotland there has been an open public debate about the amount of benefit a local community can expect from a proposed wind farm. As a result, Highland Council has issued a formal policy statement, *Community Benefit* (available at www.highland.gov.uk). This report refers to the increased profitability of wind farm developments as a result of the Renewables Obligation, and states that 'taking

current profitability into account, we consider that the level of community benefit contribution should rise to at least £4,000 – £5,000 per megawatt per annum’.

Argyll and Bute Council has drawn up Strategic Concordats with renewable energy companies and utilities operating in the area. These are based on principles which include a recommended minimum payment for community benefit of £2,000 per MW of installed capacity, with an additional £1,000 per MW based on the actual annual output of the wind farm. 60% of the funds raised are encouraged to go to a trust fund for immediate local communities, with 40% going to energy projects across the wider region (Centre for Sustainable Energy, May 2007, pp.35/6).

Developers may argue that (i) bringing wind farm developments within the remit of CIL would lead to significant added burdens for renewable energy developers, thereby driving them to take their investment away from the UK; and (ii) in some cases they also offer community part-ownership in a wind farm in addition to direct community benefits in kind or in the form of cash. CPRE’s responses to these points are set out below.

Increasing burdens on developers will drive them out of the UK. CPRE is unconvinced by this view. The large amounts of money made by wind farm operators, illustrated above, suggest that there is plenty of scope for them to be more generous. We suggest that the CIL charging scheme should have the effect of increasing the amount of contribution made from the current average of £1,000 per MW of electricity generated per year to at least four or five times this amount, an approach that is already well-established as local policy in Argyll and the Highlands in Scotland. As in Argyll, a mechanism can also be built in to link the payment of CIL to the amount of electricity actually generated, to account for the uncertainties of wind energy generation. Other European countries, notably Germany and Spain, also achieve higher levels of community benefit from wind farm development through local taxation and licensing in addition to other measures (Centre for Sustainable Energy 2005 p.67 and 82), and this has not stopped them from consistently achieving much higher rates of renewable energy development than the UK in recent years.

Wind farm developers don't need to offer more cash benefits as they offer part-ownership. In CPRE’s view it is entirely a matter for local communities as to whether they wish to take up opportunities for part-ownership. We would note, however, that in most if not all of the cases we are aware of, developers have felt able to offer part-ownership in addition to a community goodwill payment. The 2005 Centre for Sustainable Energy report for the DTI (p.41) also points out that the idea was abandoned in one Scottish case as being divisive between those who could afford it and those who could not. CPRE therefore believes that it is far more clearly in the public interest for issues relating to community benefit, including the maximum level that can be reasonably expected to be offered, to be fully and openly discussed through the planning process, and for this benefit to be realised in the form of further investment in small-scale renewable energy at the local level. Offers of co-ownership and part-ownership should be strictly additional to a rigorously assessed level of CIL agreed through the planning process.

CPRE
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