

## THE COUNTRYSIDE COUNCIL FOR WALES

The Countryside Council for Wales (CCW) was established in 1990 as statutory adviser to government on wildlife and landscape matters under Section 2 (4) of the Countryside Act 1968 (as amended) and, to quote the text of the legislation:

‘Section 130 (2) (a) of the Environmental Protection Act 1990 which requires CCW to discharge its functions for the conservation and enhancement of natural beauty in Wales and of the natural beauty and amenity of the countryside in Wales, both in areas designated under the National Parks and Access to the Countryside Act 1949 as National Parks or as areas of outstanding natural beauty and elsewhere.’

It replaced the Nature Conservancy Council and the Countryside Commission in Wales.

Since devolution, in July 1999, CCW has given its advice to the National Assembly for Wales (NAW) and the UK government does not formally consult CCW direct. However, as under Section 36 of the 1989 Electricity Act final decisions about power stations over 50 MW had not been devolved to Cardiff, Cefn Croes was to be determined by the Secretary of State for Trade and Industry. (Power stations below 50 MW are decided under the Town and Country Planning legislation by the Local Planning Authority, with NAW having the power of ‘call-in’.) Nevertheless, when it consulted NAW’s Energy Sector Branch on 28<sup>th</sup> July 2000, the Department of Trade and Industry (DTI) copied this consultation letter to CCW. When in due course CCW submitted its advice to NAW on 11<sup>th</sup> October 2000, it sent a copy, not only to the local planning authority, Ceredigion County Council (CCC), but also to the DTI. It is important to bear this in mind when later on we try to fathom the intricacies and confusions entailed in this complex relationship.

CCW’s policy on wind turbines originated in 1992, before the flood of applications confronted Welsh planners. The updated policy document of 1999 points out that CCW views wind farms within the framework of not only its landscape but also its energy policy. While stressing CCW’s support for all forms of renewable energy, the document voices concern that Non Fossil Fuel Obligation (NFFO) contracts are granted without regard to their implications for the wider landscape, considered only when individual proposals reach the planning application stage. Policy 4 reads:

‘There is a threat that the character of large parts of the countryside may become dominated by wind turbines; it is imperative that CCW’s policy remains effective to help counter this threat to Welsh landscapes.’

CCW would therefore like to see a more strategic approach, with the NFFO system favouring smaller-scale plants over a wider range of sites, taking pressure away from the hills and moors.

In addition, CCW pledges to

‘...encourage the National Assembly for Wales to introduce Strategic Planning Guidance to guide local planning authorities in the Unitary Development Plan [UDP] and development control functions in respect of wind turbine development.’  
(Policy 3.)

As a press statement following a meeting of the Council in Welshpool in April 2000 shows, CCW had made little progress towards this aim.

*‘The Council.....agreed to develop more robust criteria for assessing the impact of alternative energy development proposals. This could lead to an easier identification of areas which might be more acceptable for such developments. It is hoped that this work would be of assistance to Planning Authorities in deciding on applications for alternative energy developments in Wales.’*

As we shall see in what follows, though CCW’s intentions in general were commendable, sadly its results in the particular proved imperceptible.

A few poignant extracts from the 1999 document to carry forward in our minds as we examine the case of Cefn Croes:

‘CCW will seek to influence Government and developers not to propose wind turbines in sensitive landscapes .... CCW will also normally oppose wind turbine developments detrimental to the features and qualities of Special Landscape Areas identified in Development Plans.’ (Policy 5) [Editor’s note: Cefn Croes falls into this category.]

‘CCW will argue that wind turbine proposals and associated ancillary developments (including upgrading of National Grid equipment) should not be located on any sites which are of outstanding or high sensitivity for landscape reasons, e.g . . . . . where the cumulative effect of a number of wind turbines would be highly destructive of visual amenity ...’(Policy 7)

Apart from its responsibilities to landscape, CCW also has to pay regard to wildlife and habitat considerations. Cefn Croes lies immediately adjacent to a number of Sites of Special Scientific Interest (SSSIs) and is within an Environmentally Sensitive Area (ESA) of considerable biodiversity interest. It seemed logical to assume therefore, that CCW would vigorously oppose Cefn Croes on every count. Indeed, initially there seemed little doubt that it would oppose any giant wind ‘farms’ in this area.

Before CCW existed, National Park status had been sought in the 1970s for the Cambrian Mountains, and prior to that Sir Cyril Stapledon of the Welsh Plant Breeding Station near Aberystwyth, had promoted the idea in the 1930s. This was frustrated in part by the farming

lobby, but now, in line with latest government thinking, farmers within the ESA were being paid government subsidies to diminish the harmful effects of intensive agriculture such as over-grazing, and thereby protect both wildlife and the landscape.

In harmony with these aims, CCW in due course became engaged (alongside RSPB and the Development Board for Rural Wales) in assisting Forest Enterprise and ADAS on the prestigious Mynydd-y-Ffynnon agri-environmental project. This was focused on the experimental farm of ADAS at Pwllpeiran, Cwmystwyth. However, it became clear that the Cefn Croes wind 'farm' would encroach on ADAS tenanted land with additional turbines on adjacent FE lands. 'Cambrian News' readers were therefore not surprised on 11<sup>th</sup> June 1998 to see CCW's Chris Fuller saying: *'We will oppose wind farms tooth and nail. They make a nonsense of the whole scheme.'*

Things, however, are rarely what they seem. On March 16<sup>th</sup> 2000 the 'Cambrian News' reporting on cooperation between CCW and the developer RDC, quoted CCW's Area Countryside Officer Barry Long as saying:

*'The company has agreed to our recommendation to move, and in some cases reduce the height of, turbines away from important blanket-bog, heathland and acid-grassland onto forested areas.'*

A member of the Cefn Croes Campaign wrote to Chris Fuller to ask whether this now meant that CCW was no longer fighting 'tooth and nail against these wind 'farms''. The reply came not from Chris Fuller but from Barry Long himself, on April 20<sup>th</sup> 2000, saying:

*'I have now spoken to Chris Fuller on the matter. He cannot recall having made such a remark and believes he may have been misquoted or quoted out of context. CCW has not yet formed a final view on the proposal and certainly had not in 1998.'*

According to Mr Long, the facts were these:

*'The proposals have changed several times while we have been in discussion with the developers and I will not complete my landscape work until I know the number, size and locations of turbines in the final application. I have carried out landscape appraisal based on the layouts previously suggested by the developers and, as you are already aware, I have informed the developers of the possibility of an objection on landscape grounds.'* [Please note the word 'objection'.]

So, whereas a compromise appeared to have been reached as to wildlife and habitat, the impact on the landscape seemed rather more intractable. This is what Mr Long told the 'Cambrian News' on March 16<sup>th</sup> 2000:

*‘A key issue is the view from Pumlumon, where on a clear day you can see wind installations at Llangwryfon, Ystumtuen, Mynydd Gorddu, Corris, Carno and Mynydd y Cemmaes. Views from the Elan Valley and southern Cambrian Mountains are also affected. We have felt it only fair to the developers to say it is possible we may object on landscape grounds.’* (Again, please note the word ‘object’.) [Editor’s note – Plynlimon is the anglicised version of Pumlumon]

That was Barry Long just a short time before the formal application for the 39 huge turbines, which would close off the last remaining turbine-free vista from Pumlumon, was submitted in July 2000. Surely, not that much could have changed during those months in the matter of the views from Plynlimon, the Elan Valley or the southern Cambrian Mountains? Those existing wind installations at Llangwryfon, Ystumtuen, Mynydd Gorddu, Corris, Carno and Cemmaes had not gone away. And yet we find on October 6<sup>th</sup> 2000 the same Mr Long writing to a local resident:

*‘Officers of CCW have spent a great deal of time assessing the likely impact of this development on the landscape of the mid Wales plateau, on the habitats of Cefn Croes, particularly blanket bog, and on the bird species that are found there. A full report on the likely impacts has been drawn up and has been considered at a high level within CCW. Our advice will reflect all of the above matters and is intended to allow government to make a properly-informed decision on this application’*”

Was this an indication that fighting ‘tooth and nail’ was no longer on the agenda? Could the discreet disappearance of words such as ‘objection’ or ‘object’ be read as a sign of things to come?

Let us see how CCW behaved in the case of an application for a wind ‘farm’ in another Special Landscape Area, the 33 turbines originally planned for Tir Mostyn and Foel Goch on the Denbigh Moors. On October 22<sup>nd</sup> 1999 CCW told the local planning authority that it *‘objects to the proposed development’* because of concerns about impacts on landscape and biodiversity. In September 2000 CCW’s response to the redesigned 25 turbine proposal again was that it *‘objects’*. At the subsequent public inquiry (October – November 2001), Mr Peter Minto, a CCW planning officer, said in his Proof of Evidence: *‘CCW object to this proposal’*, and in conclusion he invited the Inspector *‘to recommend refusal of the application’*.

Would CCW do the same for Cefn Croes? The feeling at the time was that an objection by CCW could not possibly be ignored by the councillors on Ceredigion’s planning committee. And if Ceredigion voted against the proposal that would mean the Secretary of State would

call a public inquiry. The view was strongly held even by the civil servants at the time, and relayed to objectors, that if CCW objected to Cefn Croes, that would have a similar effect to the MOD objecting to Kielder (see chapter on MOD) and therefore trigger a public inquiry.

On October 11<sup>th</sup> 2000 CCW submitted its advice on the application for the turbines (signed by Barry Long, Area Officer, West Wales) to NAW, with copies to DTI and CCC, as indicated near the beginning of this chapter. It divides its comments under three headings. 1. Natural Beauty; 2. Wildlife; 3. Outdoor Enjoyment. Under each heading its opposition to the proposal is made crystal clear. These sections are here quoted in full, together with the Conclusion:

1. **Natural Beauty**

- 1.1 The site occupies a rolling hilltop which forms part of the Mid Wales plateau to the south of Pumlumon (Plynlimon). This land lies within a Special Landscape Area defined in the approved Development Plan and within the Cambrian Mountains Environmentally Sensitive Area. The Countryside Commission designated this area as the Cambrian Mountains National Park some thirty years ago, in recognition of its outstanding natural beauty and the opportunities it afforded for public outdoor recreation. The designation was not confirmed. Government at that time did not contest the assessment of natural beauty but asked that the area be conserved in other ways. In such a landscape a significant development such as that proposed should be subject to the most rigorous assessment.
- 1.2 An assessment of the impact on the enjoyment of the natural beauty when viewed from significant viewpoints indicates that the impact would be significant and detrimental. The proposed development would introduce strong vertical elements into a generally horizontal and tranquil plateau landscape. The issue of cumulative effect is important. The popular destination of walkers at the summit of Pumlumon already overlooks over 200 wind turbines, at nine locations at varying distances in most directions; only the view southward, across the application site and the plateau beyond is clear.
- 1.3 This southern plateau area, unlike areas slightly to the north in Powys and Ceredigion, is largely free of significant developments in the countryside, other than reservoirs. This proposed development would be the first significant intrusion into that plateau area. The turbines would be intrusive into views from the popular tourist areas in and around the upper Elan Valley. The fact that turbines would be visible from the road within the upper Elan Valley, and would be very noticeable from walks around the valley, causes concern. Other parts of mid Wales have lost the ability to provide this experience of "wilderness" for which it was once valued. Being on a plateau, there are many long views of the site and its impact would be over a wide area.

- 1.4 The relevant planning Document is the Dyfed County Structure Plan (1987). Supplementary Guidance was later prepared by Dyfed County Council in 1993 and was formally adopted in 1994. Policy EN3 of the approved Dyfed County Structure Plan designates the “Eastern Uplands” as a Special Landscape Area. This includes the present site. The supplementary Planning Guidance (1994) states, at Policy W2:

*Wind turbines, windfarms or groups of wind turbines will not be permitted within areas with a special landscape, scientific or other designation .... including the National Parks, Special Landscape Areas listed in EN3, ....*

- 1.5 Although abandoned in favour of making progress with the Unitary Development Plan, the Deposit Version of the Ceredigion Local Plan is often quoted as an expression of the planning policies of the present County Council and may be relevant. Policy ENV01 of this document changed the name of the Special Landscape Area to ‘the Cambrian Mountains’. Policy ESD10 of the same document states:

*Wind Energy Developments will be permitted at or in the following designated areas of localities only where their impact is judged not to be incompatible with the designations or character of the locality, or where necessary mitigation measures are practical and sufficient:*

*1. Special Landscape Areas (SLAs) ...*

- 1.6 CCW's own policy document states, at Policy 5:
- .... CCW will also normally oppose wind turbine developments detrimental to the features and qualities of Special Landscape Areas identified in the Development Plans.*

## 2. **Wildlife**

- 2.1 The site contains a mosaic of habitats – including blanket bog (mostly modified by grazing pressure), valley mire, acid grassland, improved and semi-improved grassland and coniferous forest. Although not within a Site of Special Scientific Interest, improvements to some of the semi-natural habitats could contribute to UK biodiversity targets. The site lies between two sections of the Elenydd-Mallaen Special Protection Area and is used by the upland bird assemblage for which that Area is important. Black grouse, a species for which a Biodiversity Action Plan has been produced, occur on the site. The site is, therefore, of biodiversity interest.
- 2.2 An assessment of the impact of the development has been carried out. Most of the turbines and significant lengths of track would avoid the better areas of semi-natural vegetation but there are some incursions, causing concerns over losses of some areas of blanket bog and flush. These losses could be limited by small changes to the layout and by conditions. The semi-natural habitats are not in favourable condition at this time but significant areas could be brought into favourable condition, in line with published UK biodiversity targets, through changes in management. The known lekking areas of the small population of black grouse have been taken into account in the siting of turbines; however, this is a species of conservation concern for which there is

a Species Action Plan, and this site is significant in terms of the range of the species. The effects of disturbance during construction and during the subsequent operation of the site are difficult to assess. There is currently little evidence that other bird species would be significantly affected by this proposal, other than through disturbance.

- 2.3 The possible effects of global warming and harmful emission on habitats and species have been considered and the contribution that renewable energy might make in assisting the reduction of those emissions is acknowledged.

### **3 Outdoor Enjoyment**

- 3.1 The issues relating to public enjoyment of the natural beauty of the area are mentioned above.
- 3.2 Two public rights of way cross the site and pass very close to turbines. It is likely that the rights of way would fall within the working area during construction. Legislation is currently before Parliament which would grant a public right of access to open country. Much of this site could fall within the anticipated definition of "open country". Although that right does not yet exist, it is referred to here as it may well be in force when the application is determined.
- 3.3 The obstruction of the public rights of way would be temporary and are not considered to be grounds for opposing the development. The issues of access to open country will not become clear until the legislation completes its passage through Parliament.

### **4 Conclusion**

- 4.1 CCW concurs with Policy W2 of the Supplementary Guidance produced by Dyfed County Council and with Policy ESD10 of the Deposit Version of the Ceredigion Local Plan. The proposed development would bring a major intrusion into a relatively unspoiled area which is of a nature which is becoming scarce in Wales. The effects on wildlife and habitats would be less significant, particularly with changes to the details of the layout, but the site has both a habitat (blanket bog) and a species (black grouse) for which there are Biodiversity Action Plans. The implications for outdoor recreation are difficult to assess in view of possible changes to rights of access.
- 4.2 CCW's advice is that, notwithstanding the contribution that the Cefn Croes development might make to the generation of renewable energy, it would be inappropriate because of its detrimental effect on the landscape.

It is for the Planning Authorities and the Department of Trade and Industry to weigh this advice against the other considerations which have to be taken into account and I trust that the advice will be helpful in enabling the National Assembly and others to come to a conclusion.

Few people, if any, would have noticed, and even fewer would have stopped to wonder at the absence of key words such as 'CCW objects'. The text as it stood seemed unequivocal

enough. The 'Cambrian News' headline on November 2<sup>nd</sup> 2000 interpreted it thus: *'Windfarm opponents gain powerful ally.'* Public opinion concurred with this assessment.

The text of the above advice was reproduced virtually in full by Ceredigion's Planning Officer, John Evans, in his report to the July 11<sup>th</sup> 2001 planning committee session. Once again, few people were surprised to find that in the Index of Consultee Responses at the start of his Report on the turbines application, Mr Evans employed the following formulation: *'The objection of CCW has been given to the Energy Sector Branch of the National Assembly for Wales in a letter dated the 11<sup>th</sup> October 2000 and copied to the DTI.'*

Similarly, no one would have been surprised during the debate to hear Council Leader Dai Lloyd Evans refer to CCW's 'objection', saying: *'The CCW have objected on landscape grounds only.'*

The situation with regard to the Overhead Lines application (submitted April/May 2001) was a little more complicated. Addressing this topic in a letter to a campaigner on June 12<sup>th</sup>, Mr John Evans wrote: *'CCW have objected to the wind farm on landscape grounds therefore, as a matter of logic they would claim that there is no justification for the grid connection.'*

But CCW seemed to be working to a different logic. As it turned out, they did not object to the nine miles of overhead cables on numerous 45 ft trident poles criss-crossing a renowned scenic landscape – the foothills of Plynlimon mountain and Dinas Reservoir.

In the separate report on the grid connection, likewise drawn up by Mr Evans for the July 11<sup>th</sup> 2001 session, there are two substantive paragraphs conveying CCW's advice. The first is a statement of the planning conditions that, in CCW's view, would have to be observed if consent were granted, while the second merely states (in terms one could describe as laconic when compared to CCW's extensive comments on the turbines application):

*'The grid connection line lies within a Special Landscape Area. Due to the time available and the Foot and Mouth situation, it has not been possible to carry out a full landscape assessment.'*

A more detailed explanation emerges in a letter Barry Long wrote on June 6<sup>th</sup> 2002 to a local resident asking how the decision on the grid connection had been reached.

*'We were unable to carry out a full landscape appraisal because of the closure of much of the countryside at that time. We did, however, look at much of the route from roads and we used the local knowledge of members of our staff. We then wrote to Ceredigion County Council on 25<sup>th</sup> April 2001 advising on conditions which should be applied if consent was to be granted.....It would not be appropriate for the Government's*

*statutory advisor to press its opposition to the turbines by changing its advice on the power line.'*

Mr Long's revelations make one wonder why, if Ceredigion received CCW's letter towards the end of April, Mr Evans was still hypothesising on June 12<sup>th</sup> that '*as a matter of logic, (CCW) would claim that there is no justification for the grid connection*'. This may be another of those mysteries that may never be revealed. Rightly or wrongly, it serves to strengthen the suspicions that things were happening behind closed doors that the public were not meant to know about.

'Powerful ally' to the campaigners or not, defender of the Welsh landscape and wildlife heritage or not, CCW and its advice were easily trampled under foot by Ceredigion Councillors. '*This publicly funded body needs to change its remit,*' opined Dai Lloyd Evans. Hywel Evans agreed: '*What we need is jobs, not landscape.*' With Ceredigion's rejection not only of CCW's advice as to the turbines but also of the Planning Officer's recommendation to reject both applications, the way was clear for the Secretary of State, if she so chose, to grant approval without a public inquiry.

'CCW should change its remit' was an oft repeated phrase between 1999 and 2002. It was first encountered in a 'Western Mail' report submitted by the Institute of Welsh Affairs, and made by Plaid Cymru AM Cynog Dafis and subsequently, David Williams from Cambrian Engineering, on the BBC Wales programme 'Dragon's Eye' in January 2002.

But first let us see what use the National Assembly made of CCW's advice, sent on October 11<sup>th</sup> 2000. More than a year after Mrs Lynn Griffiths of the Energy Sector Branch received this document she submitted her response to the DTI on October 26<sup>th</sup> 2001. In this she wrote:

*'The comments ...made by the Countryside Council for Wales, as Statutory Advisors to the National Assembly, on sustainable opportunity for outdoor enjoyment in Wales and its inshore waters, are set out in Annex A.'*

In her preamble Mrs Griffiths claims that CCW's comments are '*transcribed verbatim*'. However, when we compare 'Annex A' with the original, we find that nothing could be further from the truth.

While a few minor omissions can pass without comment, the same cannot apply to the flagrant omission of CCW's entire Conclusion. The Conclusion is where CCW nails its colours to the mast with the crucial statement:

*'NOTWITHSTANDING the contribution that the Cefn Croes development MIGHT make to the generation of renewable energy, it WOULD BE INAPPROPRIATE because of its DETRIMENTAL IMPACT ON THE LANDSCAPE.'* [Authors emphasis]

Before we dismiss this omission as an oversight, let us remember that NAW took over a year to prepare its response.

One could argue that NAW omitting this from its response to DTI was of no consequence since DTI would in any case have been familiar with the original CCW text as copied to them over a year earlier. Maybe. But that would be to miss the point. As Mrs Griffiths herself points out in her preamble to 'Annex A', CCW are the 'Statutory Advisors to the National Assembly' – not the DTI. That is why the DTI sent its formal consultation letter of July 28<sup>th</sup> 2000 to NAW, with a copy to CCW.

Just to set the record straight, the assertion made by Barry Long (in the covering letter he sent to Ceredigion County Council with the copy of his advice of October 11<sup>th</sup> 2000) that the *'National Assembly for Wales and Countryside Council for Wales have both been consulted directly by the Department of Trade and Industry,'* should not perhaps be taken literally. The accurate version appears in his opening sentence to Mrs Griffiths: *'I refer to the consultation letter of 28<sup>th</sup> July 2000, which was copied to CCW by the Department of Trade and Industry.'* Interestingly, the very next sentence: *'We believe that the most appropriate way to respond is by way of advice to the National Assembly, copied to DTI and the local planning authority'* - goes to show that this four-way relationship, even at the level of practicality, was not without its perplexities.

A function of this complex division – not to say confusion – of powers, is that the buck can be passed backwards and forwards and responsibility for decision can be ducked ad infinitum. It also provides infinite scope for one or other of the principals to sit on fences, knowing that sooner or later somebody is bound to throw the decisive dice.

The DTI, to give it its due, was not statutorily obliged to consider CCW's advice in the raw. It was, however, duty bound to weigh up that advice in so far as it was conveyed to it by NAW. What we have to ask ourselves, therefore, is whether or not NAW passed on that advice fully and truthfully. That 'Annex A' was not a verbatim copy we have seen already.

Was CCW's important Conclusion perhaps incorporated into NAW's response in some other way? Again, we have to conclude that it was not. Mrs Griffiths' letter is examined in more detail in the chapter dealing with NAW. Suffice it here to say that it contained no indication

that CCW's advice had been taken on board and there was nothing in Mrs Griffiths' response remotely akin to the strong opposition voiced by CCW.

Perhaps the real significance behind the missing passage is that its inclusion would have been at the very least to acknowledge awareness of its contents. Only its omission made it possible for NAW somehow to sit on the fence. Only its omission enabled the Welsh Assembly to submit such a wishy-washy response to the DTI.

But the Assembly seems to have been in denial ever since that they had attempted to emasculate CCW's advice. As late as April 5<sup>th</sup> 2002, a Mr M.J. Williams of NAW's Infrastructure and Sustainable Growth Division wrote this to a campaigner:

*'The Assembly Government recognised the view of the CCW on the proposal and great care was taken in our response to ensure that the views of CCW were fully and accurately conveyed to the Secretary of State for Trade and Industry.'*

Letters reminding Mr Williams, as well as Mrs Griffiths, that this was far from true did not receive replies. Earlier requests asking them to forward the full text to DTI had likewise been met with silence.

DTI nevertheless assured campaigners that the omission did not matter as it had received a copy of CCW's comments direct – a fact already known. This is what Gary Mohammed, Manager, Power Station Consents wrote on April 29<sup>th</sup> 2002:

*'The CCW also sent me another copy after they saw that the NAW had not attached the CCW's conclusions with their response. I can assure you that the Secretary of State took into account the comments which the CCW supplied direct.'*

That CCW felt compelled to send this second copy seems to indicate not only that its confidence in NAW was less than 100% but also that within CCW hierarchy there were unresolved concerns, perhaps divisions. At a certain level within that organisation there must have been frustration and disquiet over the way things were evolving. These officials had seen how Ceredigion councillors could treat CCW's formal advice with derision and contempt. What hope was there that it would fare any better with the Secretary of State, particularly after Mrs Griffiths had put in, or rather taken out, her penn'orth? Perhaps by sending this second copy these officials were hoping to appeal to the Secretary of State direct, as if to say: 'Never mind Ceredigion's decision, never mind NAW trying to water down our implied objection, we, the statutory government advisors on landscape, wildlife and outdoor enjoyment in Wales are the people you should really be listening to, and we are telling you this wind 'farm' should not be built.'

Their anxiety was well founded: DTI was sending signals that it was more inclined to listen to Ceredigion councillors than to them. This was written to a campaigner by the Consents Team on January 11<sup>th</sup> 2002:

*'Welsh opinion was fully taken into account. Neither the National Assembly for Wales nor any statutory consultee, including the Countryside Council for Wales, formally requested a public inquiry, while the relevant planning authority, Ceredigion County Council who can be expected to be familiar with the local terrain voted by a substantial majority in favour of it.'*

It was no good local residents reminding DTI that even the Council Leader, Dai Lloyd Evans, had confessed that he *'did not know the area well enough.'* (See chapter on CCC). Or that many of the Ceredigion councillors live up to 50 miles away from Cefn Croes. Ministers' minds had, it seemed, already been made up.

Even so, why was the DTI Consents Team saying that CCW had not 'formally requested a public inquiry'? Had they forgotten that passage in Mrs Griffiths' response of October 26<sup>th</sup> 2001 where she said:

*'As part of the determination process, I enclose copies of representations received by the National Assembly calling for a Public Inquiry into the proposed development. Since 1 August 2001, the National Assembly's Economic Development Division has received in excess of 200 letters requesting a public local inquiry, including 1, from CCW?'*

Could it be that the same malign influence that had caused the Conclusion to be omitted from 'Annex A' had also removed this letter from the batch? Or was it simply that DTI had chosen not to interpret it as a 'formal' request? Campaigners' requests for details about, let alone a copy of this mystery letter were met with silence from every quarter, even CCW.

Then towards the end of April 2002 out of the blue a copy of this letter reached the Cefn Croes Campaign from an anonymous source. It was dated August 2<sup>nd</sup> 2001 and was written by Dr David Parker, Conservation Director, to Kay Powell, Head of Planning Division at NAW, with a copy to Mr Martin Williams of Energy Sector Branch. Interestingly, in this case CCW did not send a copy direct to DTI. The letter is here reproduced in full.

*Dear Kay*

**PROPOSED WIND TURBINE GENERATING STATION AT CEFN CROES, CEREDIGION.**

*You will recall that we provided advice on the environmental impact of this project to the National Assembly in a letter to Ms L Griffiths in the*

*NAW Energy Sector Branch on the 11<sup>th</sup> October 2000; a copy is enclosed. This letter was copied to Walter Gusmag of the DTI and the Director of Environmental Services and Housing, Ceredigion County Council.*

*Our concerns with this proposal centre on its landscape impact and we believe that, despite the contribution the development would make to the generation of renewable energy, it would be inappropriate because of its detrimental impact on the landscape.*

*You will be aware that Ceredigion County Council supported the development at its meeting of 11<sup>th</sup> July, 2001, against the advice of its officers. CCW is concerned about this situation and trust that our advice to you on this case will be taken fully into account when you consider whether the National Assembly should request a Public Inquiry to examine this development in greater detail than has so far been possible.*

*Yours sincerely*

*Dr David Parker*

*Director Conservation.*

A 'mystery' letter, indeed, in more senses than one. That Dr Parker addressed himself to the Head of Planning Division at NAW is understandable: landscape protection is among their responsibilities and they, more than any other sector of NAW, might be amenable to persuasion. But why, if Dr Parker was so 'concerned about this situation', did he not do what was done in the case of the advice proper, namely, send a copy direct to the Secretary of State? Furthermore, why did he cloak his message in the convoluted formula contained in that last sentence? Why not come out with it straight and say 'we want a public inquiry'? Why did CCW not say (as it had done repeatedly in the case of Tir Mostyn): 'we object and we recommend that the proposal be refused'? Why give the DTI the excuse it needed to ignore CCW in the same way that Ceredigion councillors had done?

These questions were put by the campaigners with increasing fervour and frequency both to CCW and the DTI from the moment Energy Minister Brian Wilson made his dramatic announcement on 10<sup>th</sup> December 2001 that he intended to grant consent without a public inquiry. This was Mr Gary Mohammed's reply to the Chairman of the Cefn Croes Campaign, on January 22<sup>nd</sup> 2002:

*'Your view that Ministers entirely ignored the views of the Countryside Council for Wales (CCW) and the Ceredigion Planning Officer could not*

*be further from the truth. Ministers were informed that the CCW had raised concerns about the proposal but did not formally object. While it was recognised that concerns were expressed they were not sufficient for either the NAW or the CCW to formally object to the application but merely highlight their concern to Ministers.'*

As for CCW's explanations, they were confusing to say the least. In an email to a campaigner Mr Peter Minto, the Planning Officer who spoke at the Tir Mostyn inquiry shortly before this, wrote on December 12<sup>th</sup> 2001, two days after Mr Wilson's announcement:

*'The problem is that we gave our advice and we have no reason to suppose that it was not taken into account. Our difficulty is that we are government advisors, and the assumption is always that our advice is taken into account. As a result we do not attempt to oppose decisions that have been taken whether by an inspector or a Minister. Since on a case like this, the inquiry inspector merely reports to the Minister who takes the decision, the Minister is actually the superior authority. An inquiry would therefore be seen as a backward step in the process.'*

On April 29<sup>th</sup> 2002, in another part of a letter previously quoted, Mr Gary Mohammed wrote:

*'While the NAW and Ceredigion County Council may have interpreted the CCW's comments as being an objection, unlike them, I am not prepared to put an interpretation on someone else's stance. Interestingly, the only people who have not commented on not treating their advice as an objection is the CCW themselves.'*

Campaigners asked CCW to comment and were given some interesting replies. On May 7<sup>th</sup> 2002, Mr Minto emailed the following:

*'In relation to the use of the word "object", there is no specific form of words used by CCW when we comment on an application. That is, we can write anything we like in an effort to get our views over to the decision maker. In this case, I think our views were clear, and most people, including the assembly, interpreted them as asking for an inquiry. We did have objections to this proposal but we did not 'formally' object. CCW, however, has never made a distinction between objecting and formally objecting, and many people were no doubt surprised when the DTI chose to make this distinction.'*

As an attempt at obfuscation this surely takes the proverbial biscuit. First because the issue had never been a distinction between 'object' and 'formally object', but between using and not using the crucial words 'object' or 'objection'. And second because it was not CCW's

actual 'advice' (contained in Annex A) which NAW interpreted as 'asking for an inquiry', but rather that much later letter which Dr David Parker addressed to the Head of Planning Division and copied to the Energy Sector Branch.

That there was nothing to be gained by pressing CCW to revise its terminology was made painfully manifest in Barry Long's letter of June 6<sup>th</sup> 2002, a part of which has been quoted before. It said:

*'With regard to the turbines, we advised that this would be an inappropriate development "notwithstanding the contribution that the Cefn Croes development might make to the generation of renewable energy". That was very strong statutory advice indeed and if you have concerns as to its interpretation at the Department of Trade and Industry you should take this up with them. Their reference to our acknowledgement that there were other issues than landscape to be taken into account is correct, but that acknowledgement was qualified by the above wording.'*

Just how little weight the SoS attached to this 'qualification' was for all time set in stone in her decision letter of May 23<sup>rd</sup> 2002:

*'The Secretary of State is aware of the controversy of what the response of the Countryside Council for Wales (CCW) actually was. It has been suggested that the CCW objected to the Application. The Secretary of State takes this opportunity to clarify the situation as regards the status of the CCW's comments. The CCW are the statutory advisors to the Government on sustaining natural beauty, wildlife and the opportunity for outdoor enjoyment throughout Wales. The CCW's advice was that, notwithstanding the contribution the Development might make to the generation of renewable energy, it would be inappropriate because of its detrimental effect on the landscape. However, and this is important, the CCW went on to say that their advice was that it was for the planning authorities, the NAW and the Department of Trade and Industry to weigh their advice against the other considerations which have to be taken into account. Nowhere in their advice did the CCW recommend that the Secretary of State should hold a public inquiry into the Application.'* [Note the phrase 'nowhere in their advice'.]

At no point in her consent letter does the SoS allude to Dr David Parker's letter, confirmation if any were needed that she certainly did not accept that as any kind of formal request for a public inquiry. She clearly accorded to it precisely the same treatment as to the hundreds of other similar letters she received either directly or through NAW from groups and individuals at home and abroad. So much for the assurances that she could avail herself of her

discretionary powers to call a public inquiry on the mere strength of the arguments in letters such as those.

So, who was more to blame: CCW or the DTI? To give credit where credit is due, DTI provided the decision makers in Wales with an opportunity to take another bite at the cherry. On November 6<sup>th</sup> 2001, about a month before Brian Wilson announced his interim decision, Mr Gary Mohammed emailed NAW as follows:

*'Has the Assembly any intention either now or in the near future of granting National Park status to the Cambrian Mountains/Pumlumon? (We) only ask because the Assembly's response did not address the issue of the then Cambrian Mountains National Park. (Designation) Order 1972 which was not confirmed.'*

To this, Mr Martin Williams in NAW's Energy Sector Branch responded on November 8<sup>th</sup> 2001 as follows:

*'I have liaised with colleagues in Environment with responsibility for National Parks. Their response is below: 'The Countryside Council for Wales has a statutory duty under the National Parks and Access to the Countryside Act 1949 (as amended) to advise the National Assembly on the designation of National Parks in Wales. There are currently no plans to designate any new National Parks in Wales.'*

It has not been possible to find out whether the 'colleagues in Environment' actually bothered to consult 'the statutory advisors' about this inquiry from DTI. Questions about this have not been answered. The likelihood is that NAW was merely quoting from existing legislation and CCW was never given a look-in.

Hardly surprising, considering the kind of game NAW had played with CCW's 'advice'. It was after all NAW had quite deliberately (so it seems) omitted from 'Annex A' the all-important Conclusion to CCW's official advice. Perhaps CCW was more sinned against than sinning – and sinned against by NAW as much as by the DTI.

And again perhaps it is the complexities of the newly devolved relationship that were to blame. Let us quote from the letter which six Conservation Groups, headed by CPRW, wrote to the Secretary of State on January 28<sup>th</sup> 2002:

*'The principal fault, we hasten to add, does not as far as we can see lie within the DTI or its processes, but within the immature and previously untested procedures of conveying to it the responses of the Countryside Council for Wales.'*

A new policy document was published by CCW in 2001. It is a glossy publication, adorned with a beautiful photograph of a turbine-free landscape. It is entitled: 'A Better Wales: the Natural Environment of Wales in 2010'.

In his foreword, the Chairman, Mr John Lloyd Jones reminds us of its Cynnal Cynefin commitment to seek to secure: *'a beautiful land washed by clean seas and streams, under a clear sky: supporting its full diversity of life, including our own, each species in its proper abundance; for the enjoyment of everybody and the contented work of its rural and sea-faring people' .....*

He continues: *'Now the CCW articulates its vision in the context of the National Assembly for Wales Scheme of Sustainable Development. The scheme also supports the international commitments on sustainable development made by the Government.'*

The section on economic development stresses the vital importance to Wales of tourism, as highlighted by the 2001 foot and mouth epidemic. There is much emphasis on reform of the forestry and farming industries and partnerships with other agencies such as the Welsh Development Agency and the Wales Tourist Board. No tract on 'sustainability' however is complete without reference to renewable energy and there it is, on page 10, a hill-top with strings of wind turbines, and on page 12 *'renewable energy generation projects on land and at sea, with minimal landscape and wildlife impact, will be contributing to the Government's targets for renewable energy generation and offering employment opportunities at construction and operational stages'.*

Paul Loveluck, retiring CEO re-iterated in the winter/spring 2001-2002 newsletter:

*'We have to play our part in meeting the international obligations the UK has entered into to reduce global warming.'*

This bland statement is a long way from the fiery 1999 statement:

5.6 *'Either way, it is clear that achievement of the Government's 10% target will have profound implications for the Welsh countryside. There is a threat that large parts of the countryside may become dominated by wind turbines. It is imperative that CCW's policy remains effective to help counter this threat to Welsh landscapes.'*

What happened between 1999 and 2002 is a definite change in CCW's remit, as it is forced to comply with other Government agencies, and with national and international targets. Brian Riddleston, representing CCW on the advisory committee forming NAW's new energy policy said:

*'All sources of energy have an environmental impact. The skill will be to balance the future needs for energy with the effect on the environment.'*

It is clear on comparing the 1999 statement with the 2002 statement that CCW's presence on the energy committee served only to give legitimacy to the debate. CCW's views were not taken on board and they submitted without a whimper to the further erection of land-based turbines.

It should be remembered that CCW is funded by the NAW which in turn receives financial support from central Government. How can it therefore retain its influence as an independent body?