

Wind Turbines – Advice for landowners

Stand first: With increasing interest in wind power in Northern Ireland UFU Policy Officer Chris Osborne offers some advice to landowners.

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With the enhanced incentives fuelling the popularity of wind power in Northern Ireland over the last 12 months, many UFU members have been approached by companies/developers seeking to develop on-farm wind turbine sites, with the landowner receiving an annual rental income.

If a landowner is approached by a would-be developer they should take note of the following points:

Developer References and Credentials – In the first instance, the landowner should enquire about the background to the company. Ask for a business card. How long have they been in business? What is their web address? Where is their head office? Details of any completed projects? Have they approached other farmers locally? Landowners could even conduct a simple internet search to determine the company background.

Deeds – A landowner should never hand over any farm deeds to a prospective developer. Deeds will only be handed over when a contact has been agreed by all parties and the landowner has consulted with a solicitor.

Site visit – The prospective company may approach the land owner telling them that they have an ideal site for a turbine. The best person to be the judge of this is the landowner. The landowner should insist on a site meeting with the developer's representative. As well as indicating where the optimum wind capture would be, the landowner can also confirm the ideal access points and the availability of a three-phase power line if needed. The exact positioning of any wind turbine is subject to formal wind speed surveys which will need to be conducted by the developer. There will be a requirement for planning permission.

Grid Connection – This will be the responsibility of the developer, however, the land owner will have first hand knowledge about the whereabouts of three phase connections and this could be shared with the developer.

Future Planning Permission – Landowners should ensure that the planning application is in the name of the developer and that any turbine installed on your ground will not impact upon any future planning intentions, a retirement dwelling for example.

Future Farm Business Plans – Aside from planning other long terms factors should be taken into consideration. Any turbine agreement will be for a lengthy period, often in excess of 20 years. Landowners should detail their proposed land use where possible into the contract. For example, the landowner may wish to develop a farm with the planting of trees, incorporation of new sheds etc. They will need to ensure that they detail the size and location of these. Contracts relating to wind turbines often restrict development on their own land, this is done so as to avoid interrupting the wind flow.

Restrictions on your day-to-day business – Landowners should make sure that the contract contains no stipulations upon restricting livestock within a certain radius of the turbine for example. This should also be considered in terms of arable crops etc.

Negotiate – Landowners should express their requirements in the contract. Will the annual payment be index-linked? Will the annual payment be fixed or be determined by the amount of electricity generated over the year? Will the landowner receive any of generated electricity for use on-farm? Will there be reimbursement for loss of Single Farm Payment? Will there be disturbance payments should a project over-run? Landowners should not sign anything until they spoken with a solicitor.

Impact upon other payment scheme – The landowner should make sure that the presence of a turbine on their ground does not restrict their access to other farm subsidies, e.g Countryside Management or the Axis 3 NI Regional Development Programme Renewable funding.

Know Your Future Responsibilities – The developer should have adequate insurance in place for risks associated with their representatives and contractors being on the landowners land. Nevertheless, the landowner should check their own insurance position with the NFU Mutual.

In addition, there are a couple of questions to ask;

- Who is responsible for building and maintaining the access lane to the turbine?
- Who will responsible for the removal of soil and rubble in the construction of the turbine?
- Should the project fail, who will be responsible for the de-commissioning of the turbine and remove it?

Shop around – Before being asked to sign any confidentiality clauses, the landowner should make sure they are happy that they are getting the best deal. Perhaps get a quote from another couple of companies, that way they should be content that they have shopped around and have ensured the best deal is available to them.

Legal Advice – This is a binding commercial transaction. It is essential that the landowner should consider receiving independent legal advice. This will assist negotiations, and landowners should also communicate with their bank.

Further Planning – Due to the nature of the commercial transaction, the landowner should check their taxation position. The landowner should meet with their accountant after obtaining legal advice on the contract and any longer term implications.

Further advice – if you need any further advice, please contact your solicitor or Chris Osborne in UFU Headquarters on 02890 370222.