

Repowering wind farm sites

Over the last 20 years the UK has seen a dramatic increase in the number of wind farms, from the first 4MW site at Delabole to a total UK onshore deployment of over 4GW. Some of those early wind farms are now approaching the end of their life and many owners and developers are considering the possibility of repowering these sites. Delabole itself has just been repowered. However, repowering sites is not as easy as it may first seem. Burges Salmon has experience of advising on some of the UK's first repowering projects and set out below are some of the issues developers need to consider:

Regulation and Incentives

- Will the financial incentives still be available and what will they be? The Renewables Obligation (RO) is likely to be phased out. Will the repowered scheme take advantage of the small scale feed in tariff (FIT) scheme and what is the likelihood of that being available to the project? Whichever support mechanism is around, can you qualify for it if you are reusing equipment at the site (e.g. cables, grid connection, substations)?
- Are you looking at repowering a NFFO site prior to the end of the NFFO contract? So be careful, this is likely to prevent you from taking advantage of the RO or FIT.

Landowner arrangements

- A new option agreement with the landowner will almost certainly need to be put in place and that will undoubtedly lead to fresh negotiation over rental payments. Market rents have moved on considerably since the early wind farms and increasingly landowners are looking for an interest in new wind projects.
- You will need to consider dovetailing the land arrangements and obligations under the "old" property documents with those applicable to the "new". For example, certain obligations and restrictions on the "old" wind farm developer and landowner must "stay alive" whilst others must be varied or reversed to accommodate the successful decommissioning of the "old" wind farm on the one hand and the requisite flexibility to obtain all necessary rights to construct the new wind farm on the other.

Planning

- Planning has moved on since the early days of wind farm consents and securing consent is not necessarily a formality.
- Developers will now have to get to grips with the localism agenda and community benefit.

- Most repowering projects need to be treated from a planning perspective, as completely new greenfield projects. Any repowering is still likely to require full planning permission and for large wind farms application to the new Infrastructure Planning Commission or its successor process. Any planning permission application will also require a renewed Environmental Impact Assessment although you may be able to restrict down the scope based on the reported and documented effects of the existing turbines.
- The repowered turbines are likely to be larger with greater landscape and visual impacts and the potential for noise issues.
- We now have an educated anti-wind lobby who use various methods of legal challenge to object to projects including judicial review. This causes delay and further expense to a project. Burges Salmon has defended a number of consents from attack.

Decommissioning of the old project

- Before the new repowered installation can be constructed the old turbines will need to be decommissioned and there will need to be compliance with decommissioning lease and planning requirements. The construction requirements for the new project may mean you have to adapt and vary the original decommissioning requirements.
- At the outset it is worth considering how much of the existing infrastructure can be used e.g. cabling and tracks. This feeds into the property, planning and construction strategy.
- Bear in mind here is likely to be increased traffic noise impacts as a result of a repowering given the decommissioning the old project and constructing the new one.
- It is worth exploring whether the old turbines can be utilised elsewhere. There is a secondhand market for wind turbines and the possibility of recouping a proportion of decommissioning costs.

Grid connection and Power Offtake

- What grid connection arrangements and new offers are required for the repowered project?
- If you need additional grid capacity how can you maintain the existing capacity and add to it?

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- If the site is being decommissioned prior to the end of the power offtake contract (PPA) you need to consider what termination rights you have in the PPA. What will the price be under any new PPA and will one be available easily given the new arrangements proposed under Electricity Market Reform? (We have produced a separate briefing on the EMR and its affects on projects to 2017).

Purchasing a site to repower

- If you are purchasing a site to repower the due diligence is very important and all of the above is relevant. In addition, you may need to think about issues such as novation or assignment of the NFFO contract allowing it to run its course.

Burges Salmon's Renewable Energy Team can provide owners and developers with all the advice they require to bring a repowered project to fruition in any part of the UK. We have acted on over 200 onshore wind projects and provide our clients with a full service from site assembly through planning (including advocacy at inquiry) to project financing, build out and operation. If you would like to know more about the services Burges Salmon can offer or have any queries relating to repowering projects contact **Ross Fairley Head of Energy** on 0117 902 6351 or any of the team listed on our website at http://www.burges-salmon.com/our_people/Sectors/energy_and_utilities/default.aspx