

IN THE MATTER OF

**ELECTRICITY ACT 1989 (SECTIONS 36, 37, 62(3) AND SCHEDULE
8)**

**THE ELECTRICITY GENERATING STATIONS AND OVERHEAD
LINES (INQUIRY PROCEDURE (ENGLAND AND WALES)) RULES
2007**

**APPLICATION BY FFERM WYNT LLAITHDDU DATED 7TH MAY
2008 FOR CONSENT UNDER SECTION 36 OF THE ELECTRICITY
ACT 1989 TO CONSTRUCT AND OPERATE A 62.1MW WIND
TURBINE GENERATING STATION IN POWYS, MID WALES**

**OPENING STATEMENT AT SESSION 1
ON BEHALF OF FFERM WYNT LLAITHDDU**

INTRODUCTION

1. The applicants are grateful for the opportunity to make an Opening Statement for the purposes of Session 1.
2. As we said at the Inquiry Initial Session, we have continued to be greatly assisted by the approach adopted by those who participate in the inquiry as

objectors and consultees, and by the other applicants. We signalled our intention to seek as much agreement as possible between then and now.

3. In that context, we are able to summarise the current position on the main issues and the applicant's case on that which remains substantially in issue. We do so in the order of topics which appears on the "Draft Timetable Session 1".

TRANSPORT

4. In opening in June for the Initial Session, PCC explained its position as not yet being satisfied that it has been provided with sufficient information to demonstrate that access from the A483 road can be achieved to the site¹.
5. The applicants and PCC agree that any improvements required to local roads can be managed by appropriate conditions and agreements². The outstanding matters of concern for PCC are: (i) whether it is reasonably likely that the applicants can deliver the necessary improvements (this is an issue in common with PCC's concerns in respect of the Llandinam scheme), and; (ii) whether the applicants will enter into a suitable agreement to manage the works etc.
6. As to the former, the applicant's case is that there never has been any doubt about deliverability because all of the land required for the improvements is within the ownership of those members of the community who are associated with the Llaithddu scheme. We will seek to address this concern further in the evidence.

¹ §55 of OBJ-002-003 Powys Opening Statement - Final Version 4

² FWLC-Highways-SOCG-SSA-C

7. As to the second concern, we can confirm that the applicants are willing to enter into an appropriate agreement and we do not anticipate any difficulty in that regard.
8. Lastly, we make it clear that for this Session we only rely on those parts of Mr Buchan's evidence which relate to local roads. We do hope, however, that by Session 4 we will be able to fully understand the Welsh Government's case because at present we do not.

HISTORIC ENVIRONMENT

9. We touch briefly on historic landscape and specific assets. In respect of the former, a detailed assessment was carried out using the ASIDOHL³ methodology produced by Cadw/NRW. This was carried out at the request of CPAT despite the fact that the proposals site does not fall within any of the designated historic landscapes of special or historic importance. The nearest such areas are the Caersws Basin Landscape of Special Historic Interest (a minimum of 4km to the north) and the Clywedog Landscape of Special Historic Interest (a minimum of 7km to the west). The outcome is agreement between the statutory consultees that the effect on historic landscape is acceptable.
10. So far as the historic environment is concerned, the two principal heritage consultees have confirmed their agreement to a SoCG. It will be tabled, we anticipate, during the course of this week. An unsigned version appears in Appendix 1 to Mr Le Quesne's proof.

³ Assessment of the Significance of Impacts of Development on Historic Landscape

11. You may have seen during your site visit yesterday, if time permitted, the ancient monument which is Fowlers Armchair. As a result of consultation with Cadw and CPAT on the setting of Fowlers Armchair the application has been amended as set out in the revised planning application of June 2013. These involved the movement of Turbine 17, and also envisages providing access to the monument, fencing it from the existing nearby bridlepath, providing a stile and the provision of an information panel.
12. In the light of this agreement, and notwithstanding Mr Kibble's points⁴ in this regard, we will invite the conclusion that the third bullet point to Sch 9 of Electricity Act 1989 [CD/COM/023] has been amply satisfied, namely that the scheme protects sites, buildings and objects of architectural, historic or archaeological interest. We say this having regard to amendments made to the scheme, early in its development, which the statutory consultees do not suggest does anything other than minimise impacts.
13. Of course, we will say, there will be some effect but the reality is that the historic environment is all pervading. If there were a preferable location for such renewable energy projects on historic environment grounds, TAN 8 would have directed us to it.

COMMUNITY BENEFITS

14. Towards the end of this week we will call David Harries. He will draw attention to some of the generic and specific benefits which would flow from consenting of the scheme. Those benefits will include, but of course not be limited to, the local economic benefits. In particular, he deals with the extent of community benefit in financial terms and the way in which

⁴ ALL-SSAC-POE-05

those funds might manifest themselves in real community benefits - things actually happening to improve lives which would not otherwise happen.

15. His evidence also summarises the design approach so far as turbine selection is concerned. In order to minimise effects upon the local community the scheme was literally “minimised” so far as noise, landscape and transport effects were concerned by selection of the Enercon E70. It is a shorter turbine than might otherwise have been selected and also gearless. Mr Harries explains the rationale (but not the detail, which is for others) in transportation, visual impact and noise terms.

LANDSCAPE

16. We are going to focus considerable attention on this topic in October. We do not propose to burden you with any detail now, but to set out some of the obvious parameters.
17. The Alliance’s case is uncompromising. It seeks to advance the ambitious and bold case that no combination of proposed wind farms before the Inquiry is acceptable in principle⁵.
18. PCC take the view that some further development in this area could provide a significant contribution to the indicative capacity limits in TAN 8⁶. However, PCC propose to demonstrate the the Llaithddu scheme is not acceptable in landscape and visual terms, though it is satisfied that some further development on the Llandinam ridge is acceptable having regard to the need.

⁵ See the conclusions to Mr Watkins’ proof (ALL-SSAC-POE-04)

⁶ §54 of OBJ-002-003 Powys Opening Statement - Final Version 4

19. PCC explain that while the indicative capacity limits could be reached by development on the northern part of the Llandinam ridge it will argue that the impacts should not be accepted.
20. This, apparently, arises from the position which the Council adopted by its decision dated 25th September 2012, namely *“In the light of concerns expressed by the Countryside Council for Wales (now NRW) regarding cumulative impacts and lack of mitigation, it is considered that the landscape and visual impact of the proposal is unacceptable.”* It has to be observed that NRW’s case is entirely silent on the topic of landscape.
21. In the absence of any continued objection by NRW, the applicants are now invited to meet the Council’s case as it has developed and which seems to have two limbs: (i) in respect of indicative capacity limits, and; (ii) in respect of landscape and visual impact of a part of the Llaithddu scheme.
22. So far as the first limb is concerned, we have set out our position at the Initial Inquiry session and will return to it towards the end of the Inquiry. So far as LVIA is concerned, the applicants will rely upon the evidence of Colin Goodrum. Via detailed and carefully considered evidence, he will demonstrate that the Llaithddu scheme:
 - (i) has been designed sensitively in response to local landscape character, landform and visual receptors;
 - (ii) which design responds particularly well to the scale and pattern of the landform and character of the landscape at Waun Ddubarthog and Brondre Fawr;
 - (iii) which will itself present as an attractive composition
 - (iv) which design, after responding to feedback provided on behalf of the Council, was considered acceptable by landscape consultants

appointed by the Council to give their independent and expert opinion;

- (v) which would cause some significant but limited effects which are acceptable, and;
- (vi) is a very good scheme which should be consented.

23. There are no real issues (as is often the case) in respect of impacts on particular properties. So far as effects on landscape character are concerned, two landscape character areas which would host the wind turbines would experience significant effects - Waun Ddubarthog (M32 - in which the P&L turbines are in any event a defining characteristic) and Bwlch-y-Sarnau Uplands (R17). Overall, however, the effects on these character areas would not be significant.
24. So far as cumulative effects are concerned, Mr Goodrum will say that there are no significant cumulative effects between SSA B and C. For the seven proposed wind farms within SSA C he considers them in terms of those on the eastern and western sides of the valley. In particular, he will note the Llaithddu option 2 and Llandinam wind farms provide a good combined arrangement.

PROTECTED SPECIES AND HABITATS (INCLUDING HYDROLOGY)

25. The position during the Initial Inquiry Session was that NRW considered that Llandinam repowering “will make the most significant contribution to the cumulative effect of the three schemes, including Llaithddu and Hirddywel” and “does not accept the view that there would be no significant effect for the existing curlew populations from either the Llandinam or Llaithddu schemes.” We were surprised by that position having regard to the scheme amendments and mitigation proposed and the

reaction we had from NRW officers during early 2012. There was further helpful dialogue after the Inquiry Initial Session. This resulted in a SoCG which records that “The method of the surveys was discussed and agreed with CCW/NRW.”⁷ Four or five pairs of curlew were recorded, all of them outside the site boundary. All were over 600m from proposed turbines.

26. The formal amendment of the application post the NRW’s Outline Statement of Case implements the mitigation requested by NRW in respect of curlew. The amendments, the draft Habitat Management Plan (HMP) and the Breeding Birds Protection Plan (BBPP)⁸ reduce the cumulative effects of the Llaithddu proposal to an acceptable level when considered with other schemes⁹.
27. In common with curlew, NRW now agrees that there will be no significant effect on any other species¹⁰. In the result, we do not propose to call any ecological or ornithological evidence.
28. NRW has never advanced a case specifically against the Llaithddu proposal on the basis of its impacts on either peat or the historic landscape¹¹. So far as peat is concerned, further surveys, micrositing of turbines and the deletion of turbines 1 and 2 have resolved NRW’s initial concerns. It is now agreed that, subject to a condition on the submission, agreement and

⁷ FWLC-SoCG-003 with NRW on Ecology and Ornithology at § 5.3

⁸FWLC-SoCG-003 with NRW on Ecology and Ornithology at Appendix 2 and 3 respectively

⁹ FWLC-SoCG-003 with NRW on Ecology and Ornithology at § 7.4

¹⁰ FWLC-SoCG-003 with NRW on Ecology and Ornithology at § 7.5

¹¹ CON-003-004; the NRW opening Statement at §3.2 and 3.3

implementation of a Peat Management Plan, there is no impact on peat on the majority of the site and the impact elsewhere is acceptable¹².

29. So far as the River Wye Site of Special Scientific Interest and Special Area of Conservation is concerned, NRW and Llaithddu have had productive discussions during the course of the summer. In that regard, a SoCG has been agreed so far as the impacts of the Llaithddu scheme are concerned.

30. The River Wye catchment as a whole is in excess of 4000 km², of which the sub-catchments in which the Llaithddu site is situated constitutes less than 1%. Having considered the assessment of construction impacts on the SAC and the SEI, NRW is content that suitable conditions which secure, amongst other things, a Construction Environmental Management Plan, would ensure that there would be no likely significant effect on the SAC when the Llaithddu scheme is considered alone¹³. So far as in combination effects are concerned, the first question remains ‘in combination with what?’ Grid connection agreements which are in place suggest that simultaneous construction of SSA C consented wind farms is unlikely. In any event, even on a ‘worst case’ scenario, and after very careful consideration, the hydrological specialists instructed by the three applicants in SSA C will say that there is no likely significant effect on the SAC.

31. On this basis, we can report that the energy expended in discussing these issues has resulted in a saving of inquiry time and the substantial elimination of these issues for debate. We note and respect the views advanced by the Alliance and others, for example via the evidence of Dr

¹² FWLC-SoCG-004 with NRW on Peat Resource

¹³ FWLC-SOCG-005 at §6.3

Rodda¹⁴. However, in that regard discussions continue with a view to narrowing the issues in the light of the common ground which exists with NRW.

32. Overall, we will submit that this body of evidence and agreement demonstrates that the application scheme succeeds in conserving flora, fauna and geological and physiographical features of special interest¹⁵.

NOISE

33. There never has been any real objection to the scheme on an acoustic basis. There have, however, been productive discussions on the cumulative effects. The Inquiry is fortunate to have particular experience and expertise amongst the parties' witnesses. As a result, agreed conditions have been arrived at which deal with the individual and cumulative effects of the schemes. We need say little more save to point out that so far as concern has been raised in respect of the effects of amplitude modulation¹⁶ those concerns are misplaced for the reasons explained in Mr Hayes' Note on the topic. We would emphasise that we would be happy to make Mr Hayes available outside of the inquiry to discuss either the conditions or the question of AM, if anybody would so wish.

CONCLUSION

34. In summary, at this stage, there is already a very substantial measure of agreement as to the acceptability of the proposal in respect of those many areas of impact which commonly arise in onshore wind applications. So far as the main outstanding issue, namely LVIA, is concerned for this Session,

¹⁴ ALL-SSAC-POE-02 Hydrology

¹⁵ Schedule 9 to the Electricity Act 1989 [CD/COM/023]

¹⁶ OBJ772-Noise PoE-Weller-SSA C

we are grateful for PCC's concessions in respect of much of the scheme and look forward to the debate as to the remainder during October.

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