



Electricity Act 1989 (Sections 36, 37, 62(3) & Schedule 8)

Town and Country Planning Act 1990 (Section 90)

and the

The Electricity Generating Stations and Overhead Lines (Inquiries Procedure)(England and Wales) Rules 2007

Application by Vattenfall, dated 30 November 2007 for consent under Section 36 of the Electricity Act 1989 to construct and operate a 59.5MW wind turbine generating station in Powys, Mid Wales ('Llanbadarn Fynydd')

Application by Fferm Wynt Llaithddu Cyf, dated 7 May 2008 for consent under Section 36 of the Electricity Act 1989 to construct and operate a 66.7 MW wind turbine generating station in Powys, Mid Wales ('Llaithddu')

Application by CeltPower Limited, dated 9 May 2008 for consent under Section 36 of the Electricity Act 1989 to construct and operate a 126MW wind turbine generating station in Powys, Mid Wales ('Llandinam')

Application by RES UK & Ireland Limited, dated 27 March 2009 for consent under Section 36 of the Electricity Act 1989 to construct and operate a 100MW wind turbine generating station in Powys, Mid Wales ('LLanbrynmair')

Application by RWE NPower Renewables Limited, dated 11 December 2008 for consent under Section 36 of the Electricity Act 1989 to construct and operate a 130-250MW wind turbine generating station in Powys, Mid Wales ('Carnedd Wen')

Application by SP Manweb PLC, dated 2 December 2009 for consent under Section 37 of the Electricity Act 1989 to install and keep installed a 132kV overhead electric line connection from the proposed Llandinam Wind Farm to Welshpool Substation

Cyf ffeil/File ref:

Conjoined Public Inquiry

Notes of the Pre Inquiry Meeting (PIM)

Held on Monday 18 February and Monday 25 February 2013

1.0 Introductions

- Andrew Poulter introduced himself as the Inspector appointed to hold the Inquiry
- Emyr Jones was introduced as the Inspector likely to be appointed to assist, particularly with regard to the Llandinam grid connection proposal.
- Chris Banks was introduced as the Programme Officer. Hefin Jones was introduced as the Planning Inspectorate procedure officer.
- It was announced that the purpose of the meeting was to establish a draft timetable for the Inquiry, to be submitted for approval to the Secretary of State, and to discuss the arrangements for the Inquiry. It was emphasised that it was not the purpose of the meeting to discuss the merits of the applications.

2.0 Alliance submission: letter dated 4 February 2013, and comments and other matters arising.

- The Alliance submission, as set out in the letter of 4 February and supplemented by a 'skeleton' argument and speaking notes, was presented by the Alliance's advocate. Comments were also heard from advocates for the applicants and the Local Planning Authority (LPA). It was confirmed that no decision or ruling would be made on the first day of the PIM, but that that a report and recommendation on the application would be made to the SoS, along with the recommended timetable.
- It was announced at the opening of the second day of the PIM that the Inspector would be recommending that the Inquiry should proceed, on a timetable to be agreed¹.

3.0 Matters arising from the Introductory Meeting and responses

- All suggestions for the main Inquiry venue had been carefully considered. Although there was not universal agreement, the clear majority of the persons likely to participate in the Inquiry preferred Welshpool as the main venue. The Inspector and Programme Officer had drawn up a short list of potential venues in the Welshpool area and had inspected them. The Royal Oak Hotel had been found to have the necessary rooms and facilities, had good availability, and had been found to be the most suitable venue in all other respects. The Royal Oak Hotel in Welshpool would therefore be the main Inquiry venue.
- Venues for evening sessions, more local to the sites of the applications, would be arranged in due course.

¹ See speaking notes attached as Annex A to these notes, paragraphs 1-5.

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- On balance, strong preference had been expressed for the Inquiry format to be topic based, on a rolling programme, and arranged to include separate sessions on SSA B, SSA C, the Llandinam grid connection, and cumulative effects.
 - Requests had been made to allow cross examination by representatives for local residents and interest groups objecting to the applications. The Inspector explained that he would not exclude anyone from asking questions, providing that they are relevant and not repetitive. He would prefer that such questions should be asked by a skilled advocate representing as many people as possible. He would therefore allow the Alliance's advocate the first opportunity of putting questions to the applicants' witnesses, following cross examination by the LPA's advocate. However, those questions should be aimed at establishing facts, and should be direct and to the point.
 - The questioning of witnesses by the Alliance's advocate does not preclude others from asking questions, but time may be limited.

4.0 Working Groups to develop timetables for Inquiry sessions

- Inspector Emyr Jones raised the matter of whether any necessary wayleaves and easements would be applied for in time to be dealt with at the Llandinam grid connection Inquiry session. The timetable for this session should allow for the necessary discussions.
- On 18th February working groups were established to develop timetables for sessions 1 – 4 as follows. These were led by representatives of the LPA.

Session 1: SSA C

Session 2: SSA B

Session 3: Llandinam Grid Connection

Session 4: Matters in common / area-wide cumulative effects

- The LPA's representatives then reported on the outcome of the discussions. In most cases, the length of time proposed by the groups exceeded that anticipated by the Inspector. For Session 4 (matters in common etc) the length of time far exceeded expectations. The Inspector therefore requested the group leaders to prepare notes on the discussions. These were carefully reviewed by the Inspector before the PIM resumed on the 25 February.
- On resumption of the PIM the Inspector led a group of representatives of all the interested parties in a discussion about the timetable. He reiterated the purpose of the Inquiry, and further explained the procedure. He emphasised that it is not the purpose of the Inquiry to consider evidence relating to the principle of windfarm and associated development in Powys in general, or to consider objections to energy policies set out in National Energy Policy Statements, PPW and TAN 8. No application has yet been made in relation to future grid connections, other than the

Llandinam grid connection. He emphasised that it would not assist the Inquiry to examine future grid connections in detail, other than the Llandinam connection².

- The Inspector then tabled a draft timetable for discussion. It was proposed to open the Inquiry on June 4 as anticipated, but to then adjourn until September, as the timetable for preparation of information for the Llandinam grid connection would not allow the relevant Inquiry session to proceed until the New Year. The adjournment would allow time for discussions aimed at narrowing down areas of disagreement, thus shortening Inquiry time. Case management would take place during the adjournment period to monitor discussions.

5.0 Timetable for the Inquiry Sessions

- The draft timetable was developed during the discussions. The final draft is attached at Annex B.

6.0 Timetable for submission of Supplementary Environment Information (where relevant), Statements of Common Ground, Statements of Case / Summaries, and Proofs of Evidence.

- Dates will be on a rolling programme timetabled to accord with the timing of each Inquiry session. In general, the final date for submission of details about the application, including SEI, would be 12 weeks before the relevant Inquiry session. Full statements of case and statements of common ground would be required 8 weeks before the relevant session, and proofs of evidence would be required 4 weeks in advance. These requirements have been incorporated into the final draft of the timetable.

7.0 Site Inspections

- The Inspector requested all interested persons to prepare a list of selected viewpoints, to assist with the preparation of a schedule of accompanied and unaccompanied site inspections. Lists should be provided to the Programme Officer. He also requested that early consideration be given to the necessary arrangements for access and transport, particularly for any viewpoints that would not be accessible by ordinary road vehicles.

8.0 Inquiry Documents

- All documents should be submitted to the programme officer, who will number, publish and circulate them
- It is strongly preferred that all documents should be prepared and made available in an electronic format. The Programme Officer particularly requests links to application documents, so that these can be made accessible through the Inquiry website. However, it is not practicable to work entirely in electronic format. Four hard copies of documents are therefore requested, in addition to a copy in an

² See paragraphs 6 – 20 of the speaking notes attached at Annex A.

electronic format, to be made available for the Inspector's use, for public inspection, for use in the Inquiry library, and at the Inquiry.

9.0 Any Other Business etc

- There being no other business the PIM was closed on 25 February. The Programme Officer will circulate and publish these notes

Annex A – Inspector’s Speaking Notes

The following notes were read out at the PIM on 25 February. Paragraphs 1 – 5 were read out at the resumption of the PIM. Paragraphs 6 - 20 were read out before the discussion on the draft timetable.

Matters arising from the Alliance submission of 4 Feb, subsequent skeleton/speaking notes, and comments thereon

- 1.0** The purpose of the PIM is to discuss the timetable for the Inquiry. The task of recommending a timetable is linked with the merits of the submission. In order to progress this meeting I need to inform it of what my recommendations on the application will be.
- 2.0** Similar representations to those made by the Alliance were made by the local planning authority at the conjoined Steadings, Ray Estate and Green Rigg Inquiry ('Green Rigg')³. In his ruling, the Inspector took account of the various legal authorities brought to his attention, and reached the conclusion that although each of the proposed wind farms and future grid connections would have an inextricable link, the grid connections would be a secondary and subsidiary consequence of approval or consent for any of the wind farm developments. In that regard, even though the wind farms and the grid connections would not proceed independently, they could be distinguished from each other and said to be separate projects⁴. The Secretaries of State (SoSs) shared the Inspector’s view. On that basis, it was concluded by the SoSs that each could be the subject of a separate application and an appropriate EIA.
- 3.0** I have taken into account the legal authorities brought to my attention by the Alliance and the other parties, and the particular circumstances of the applications that are the subject of this Inquiry. However, I find nothing that would lead me to a different conclusion to that reached by the Inspector in the 'Green Rigg' Inquiry. I shall therefore not recommend that the Inquiry procedure should be halted.
- 4.0** Any necessary Supplementary Environmental Information (SEI) can be provided in accordance with a 'rolling programme' included in the timetable. Providing that the SEI is provided in accordance with the timetable, all the parties would have sufficient time to assess the implications before preparing full statements of case and proofs of evidence. The procedure would not then be 'incurably unfair'.
- 5.0** I conclude that I must recommend that the Inquiry should proceed, on a timetable to be agreed.

³ Appeal Ref 2039188. Inspector’s Report dated 27 November 2009.

⁴ Para 15.14 of the above report

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- 6.0** For the proposed windfarms, the statement of matters to be considered at the Inquiry includes the individual and combined landscape and visual impacts of the proposed developments, taking into account cumulative impact with other wind farms in the Powys area which have already been granted planning permission or where planning permission has been applied for. Similarly, it requires cumulative impacts to be taken into account with regard to construction traffic and noise. The potential for the proposed developments to be connected to the electricity grid network is also a matter to be considered. For the proposed overhead electric line development (Llandinam) the matters to be considered include the landscape and visual impact of the proposed development, both individually and cumulatively with existing infrastructure and any energy infrastructure which has already has planning permission or where planning permission has been applied for. In accordance with the relevant Directive and EIA regulations, the description of the likely significant effect of the development on the environment should cover (inter alia) any indirect, secondary and cumulative effects.
- 7.0** In accordance with Circular 2/99, the development should be judged on what is proposed by the developer. The developer can be asked to provide an Environmental Statement only in respect of the development he has proposed, though the statement will need to address not only direct, but also indirect effects of the development. My attention has been brought to legal authority for the proposition that the development which is considered by any EIA is limited to the actual development for which permission/consent is sought⁵. The developer is only expected and required to provide information which is reasonably required and which can be reasonably required to compile, having regard to current knowledge and methods of assessment. In this instance, any wider implications would be for the SoS to consider, but it is open to developers to assist by supplying any additional information relevant to his consideration.
- 8.0** Four of the five wind farms would be dependant for their operation on electricity connections for which consent has yet to be applied for. As these windfarms and their future grid connections would be inextricably linked it would be reasonable to require the developers concerned to provide some information about the future grid connections, to assist the SoS with his consideration of the wider implications, even if no application has yet been made. However, the level of information expected is limited to that which can be reasonably required, having regard to current knowledge. In practice, that is likely to be the latest published information available at the time. It would be possible to provide this information in accordance with the rolling programme and the timetable without causing prejudice.
- 9.0** Importantly, it would not be necessary or appropriate to carry out a full EIA of the future grid connections as part of this Inquiry process. That would be a matter for the processes associated with the future applications.

⁵ R(Candlish) v Hastings BC, [2005] EWHC 1539 (Admin) [2006]

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- 10.0** With regard to procedure at the Inquiry, consideration of the evidence relating to individual topics within each Inquiry session would follow the normal order for planning Inquiries: i.e., evidence for the local planning authority (or others opposing the application if the LPA does not object on this topic) would be presented first. The full written proof would normally be taken as read. Presentation of evidence in chief would normally be brief. Cross examination would follow. In the context of the conjoined Inquiry it would assist the Inquiry if, where possible, one advocate could take the lead on cross examination for all applicants, though short supplementary questions would be permitted from others. It would not be normal for those opposed to the proposals to ask questions of the LPA's witnesses. Inspector's questions and re-examination (again brief) would follow.
- 11.0** Any other persons entitled to appear, and opposing the proposed developments, would then present their evidence. Witnesses who have submitted statements of case and proofs of evidence would appear first. Their evidence would be presented and would be subject to cross examination and questions in the same way as the Council's witnesses. Persons wishing to make an oral statement would then be heard.
- 12.0** The evidence for each topic would then be completed by the hearing of the evidence for the applicants. Only the Council would be entitled to cross examine, but requests to ask questions of the applicants' witnesses would not be unreasonably refused. Priority will be given to questions asked by an advocate on behalf of local residents and/or interest groups. Questions should be succinct and to the point. Irrelevant or repetitious questions will not be allowed. Cross examination or questions will be required to be ceased if it appears that permitting it to continue would have the effect that the approved timetable could not be met.
- 13.0** As repetitious evidence or questions will not be allowed the applicants, and the Council and other objectors are strongly advised to cooperate in advance, to avoid duplication and waste of effort.
- 14.0** All parties should note that evidence relating to the principle of windfarm and associated development in Powys, and objections to energy policy set out in National Energy Policy Statements, PPW and TAN 8 will be considered to be irrelevant. Oral evidence relating to such objections will not be allowed, but persons wishing to give such evidence may do so in writing before the close of the Inquiry.
- 15.0** In the light of the above, it appears to me that the estimated duration length of time estimated by most of the working groups on 18 Feb would be unnecessarily long.
- 16.0** Please note, that with regard to technical matters such as landscape and visual impact assessments, noise and health, and Indivisible Abnormal Loads (transport matters), it may not be necessary or helpful to the Inquiry to hear from more than one expert witness speaking against the applications, and one speaking for them. That does not mean that statements cannot be made about

those matters cannot be made by others, but those statements and questions about them should be brief.

- 17.0** I have considered the Council's response to the Alliance's application, but as it is not the purpose of this Inquiry to consider the development of windfarms in Powys as a whole, I will not be recommending that any other application is called in for a decision by the SoS's or Welsh Ministers. However, the suggestion of making time for the parties to narrow the issues through further discussions has merits.
- 18.0** As I said earlier, I think the Inquiry time estimates prepared by some of the working groups are too long. The estimate for session 4 was particularly disproportionate, but that may have been because participants were under the misconception that the future grid connections should be looked at in detail.
- 19.0** I have therefore taken away the notes prepared by those working groups, and have developed a timetable which I now propose to the meeting. As you will see, I propose opening the Inquiry in June, as anticipated. This will get things under way. The details of the timetable can then be adjusted to be adjusted if necessary, provided that the end date is not put back. However, as session 3 could not take place until the New Year, there could be a lengthy adjournment after the opening session, during which the parties would be expected to narrow down some issues through discussion. Progress on the discussions could be monitored by a case manager. Even if issues are not narrowed down, I think 6 weeks of Inquiry time would be appropriate for sessions 1 and 2. The Inquiry could therefore resume after the August break.
- 20.0** I therefore table the draft timetable for discussion.

Annex B – Final Draft Inquiry Timetable

(NB minor amendments have been made to the timetable following SPM's comments on the first draft, letter dated 12 March 2013)

Opening Session

Topics: opening submissions, planning and energy policy (interpretation and application)

Tuesday 4 June – Friday 7 June 2013
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Session 1: SSA C

Topics: landscape, cultural heritage, noise and health, local transport, peat/hydrology, wildlife

Tuesday 3 September – Friday 6 September 2013
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Tuesday 10 September – Friday 13 September 2013
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Tuesday 17 September – Friday 20 September 2013
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*****Break*****

Tuesday 1 October – Friday 4 October 2013
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Tuesday 8 October – Friday 11 October 2013

Tuesday 15 October – Friday 18 October 2013
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Deadlines for submissions: SSA C

Supplementary Environmental Information & other information	12 June 2013
Full statements of case and statements of common ground	9 July 2013
Proofs of evidence	6 August 2013

Session 2: SSA B

Topics: landscape, cultural heritage, noise and health, local transport, construction/peat/hydrology/ forestry, wildlife

Tuesday 5 November – Friday 8 November 2013
Tuesday 12 November – Friday 15 November
Tuesday 19 November – Friday 22 November
*****BREAK*****
Tuesday 3 December – Friday 6 December
Tuesday 10 December – Friday 13 December
Tuesday 17 December – Friday 20 December

Deadlines for submissions: SSA B

Supplementary Environmental Information & other information	13 August 2013
Full statements of case and statements of common ground	10 September 2013
Proofs of evidence	8 October 2013

Session 3: Llandinam Grid Connection

Topics: design, need, landscape, cultural heritage, wildlife and ecology, way-leaves & easements.

Tuesday 21 January – Friday 24 January 2014
Tuesday 28 January – Friday 31 January 2014
Tuesday 4 February – Friday 7 February 2014
*****Break*****
Tuesday 18 February – Friday 21 February 2014
Tuesday 25 February – Friday 28 February 2014

Deadlines for submissions: Llandinam Grid Connection

Anticipated date by which SEI will be available (SPM estimate)	30 September 2013
Latest date for SEI & other information	29 October 2013
Full statements of case and statements of common ground	26 November 2013
Proofs of evidence	24 December 2013

Session 4: Matters in Common/Cumulative Effects

Topics: landscape, transport (strategic), socio-economic effects including tourism, wildlife and ecology.

Tuesday 18 March – Friday 21 March 2014
Tuesday 25 March – Friday 28 March 2014
Tuesday 1 April – Friday 4 April 2014
*****Break*****
Tuesday 15 – Wednesday 16 April 2014
(Easter bank holiday)
Wednesday 24 – Thursday 25 April 2014

Deadlines for submissions: Matters in Common/Cumulative Effects

Supplementary Environmental Information & other information	24 December 2013
Full statements of case	21 January 2014
Proofs of evidence and statement of common ground	18 February 2014

Closing Session

Topics: planning balance, general conditions/legal undertakings, closing statements, other applications.

Tuesday 20 May – Friday 23 May 2014
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Wed 28 May – Friday 30 May 2014 (Monday 29 May = bank holiday)

Deadlines for submissions: Closing Session

Proofs of evidence	6 May 2014
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Notes:

Topics listed are provisional

Deadlines for submissions are generally:

SEI and other information: 12 weeks before the relevant session

SCG and full statements of case: 8 weeks before the relevant session

Proof of evidence: 4 weeks before the relevant session

Rebuttal proofs are not encouraged, but if rebuttals are to be submitted they should be exchanged at least 2 weeks before the relevant session.

The dates for submission of SEI & other information relating to the Llandinam grid connection reflects SP EN's indication that SEI and other information will be available by 30 September 2013, and that it may include design changes that will require careful consideration by other parties.

The deadline for submission of proof of evidence for the closing session relates to evidence on planning balance only. It reflects the need for witnesses to take evidence presented in the matters in common / cumulative effects session into account, and the nature of such evidence.