

## **MID-WALES CONJOINED WIND FARM PUBLIC INQUIRY**

### **Thoughts on the Structure of The Inquiry**

1. At the exploratory meeting on 28 November 2012 the Inspector sought views from parties on the most appropriate structure for the inquiry which has been called by the Secretary of State in order to secure information for decision making purposes on five proposed wind farms in Strategic Search (Area B) and Strategic Search (Area C). The conjoined inquiry will also consider a Section 37 application by SP ManWeb.
2. Following the exploratory meeting RWE Npower Renewables, Celt Power and Fferm Wynt Llaithddu Cyf (in this paper called "the developers") have discussed matters and jointly propose the following.

### **Inquiry Sessions**

3. Given the number of proposals that have been brought together into the same conjoined process, it is vitally important that the optimal inquiry structure is used if inquiry time is to be efficiently used. There are clearly some matters that are cumulative between all the proposals (excepting perhaps the s37 application) - such as wider cumulative landscape effects, and strategic transport issues - which otherwise fall readily to being considered on a joint basis, such as national energy and planning policy. Those issues can be identified, and cumulative sessions arranged accordingly on a Topic Basis. That leaves the more local impacts and issues, which may well constitute the bulk of the evidence at the inquiry. Those issues themselves break down into: Issues within SSA A; and Issues within SSA B. By reason of geography, those more localised impacts are distinct as between the SSA's, but tend to be cumulative within each SSA. Indeed, there are unlikely to be many issues that are purely site specific on a project-by-project basis (very local transport and access perhaps being one such). It seems to us that the optimal way of dealing with impacts within each SSA is to hold SSA-specific inquiry sessions, on a topic Basis. Most issues, such as local landscape and visual effects, or noise will, to a greater or lesser degree, be cumulative within an SSA in any event.
4. Such an arrangement has the particular benefit that so far as the local communities are concerned, it will be very clear to them which inquiry sessions are the ones they need to concentrate on, so enabling parties with potentially limited resources to maximise their engagement in the process in a meaningful way. Those who have a concern about visual impacts from projects within a particular SSA will know precisely which inquiry session they need to engage with. If they are concerned about all impacts from proposals within a particular SSA, again they will be able to engage across all those issues in a time-efficient and therefore cost-efficient way.

5. Against that background it seems sensible to adopt the following approach:
- (a) Separate inquiry sessions for Areas B and C – these sessions might commence with the hearing of evidence relating solely to one or other of the projects within Area B, but it is felt that very few issues do not ultimately become of cumulative interest. They would then follow a series of topic based sessions (see the next heading) addressing the solus effects of each development and the cumulative (within Area B) effects of the proposed development. The approach outlined in paragraph (a) can also be adopted for Area C. No view is given on whether B should come before C. That is a matter for the Inspector.
  - (b) The Section 37 Application can then be considered in a separate session, but strictly omitting cumulative considerations because these will be of interest to the projects in Area C.
  - (c) A series of cumulative sessions addressing topics which are of relevance to the Areas B and C proposals and possibly also the Section 37 Application. These topics will include transport and grid.
  - (d) A closing session to address matters normally considered at that stage, although conditions may be discussed earlier for each application.
6. There can be a phased submission of proofs topic by topic. However, it is felt important that for each topic proofs should be submitted by parties with interests in Areas B and C (and if appropriate the Section 37 Application) at the same time. This approach will minimise the need for rebuttal evidence as all parties will see what the others have to say about a particular topic at the same time. It may be that those in Area C may have little interest in what is said about Area B, but that cannot be guaranteed and hence again the need for the simultaneous submissions of proofs on each topic.

7. **The Evidential Topics**

The Secretary of State has issued a draft Statement of Matters (the SM) for both the Areas B and C Inquiries and for the Section 37 Application. As foreshadowed in paragraph 3 developers feel that evidence is best given on a topic basis, save on the very limited issues which will apply to the sites individually (see paragraph 4(a)). In suggesting appropriate discrete topics for oral evidence the developers have deliberately cross referenced the SM. A sensible approach to topics would appear to be as follows:

- (a) SM1-3 – an opening session on planning policy.
- (b) SM4 – landscape and visual effects.

- (c) SM5 – transport issues, divided into local (site only) or areas specific issues, with a cumulative session for all projects on strategic issues.
- (d) SM6 - (and insofar as issues arise) SM9
- (e) SM7, 12 and 13 - excluding birds.
- (f) SM7 – birds.
- (g) SM10
- (h) SM14
- (i) SM1 – 3 and 8 – this will be a wrap up session on policy, taking in any issues requiring coverage within SM8.

8. The reasons that the developers strongly prefer a topic basis for giving evidence derive from experiences at the following inquiries:

- Northumberland Conjoined Inquiry (Ray, Steadings and Green Rig)
- Northumberland Conjoined Inquiry (Barmoor, Toft Hill and Moorsyde)
- Perth and Kinross Conjoined Inquiry (Lochelbank, Snowgoat Glen, Mellock Hill and two others)
- Norfolk Conjoined Inquiry (Jacks Lane and Chiplow)
- Dumfries and Galloway/ South Lanarkshire Conjoined Inquiry (Harestanes and Clyde)
- Mid-Wales Conjoined Inquiry 1993 (Mynydd y Hendre, Mynydd Clogau and Nant Carfan)

Highland Council at Lairg (Achany and Invercassley)

The advocates for RWE, and Celt Power have been involved in some or all of the above inquiries. The inquiries related to conjoined appeals under the 1990 Act and under the 1989 Act.

9. Topic based approach to evidence would seem to be appropriate in this case for the following reasons:

- On the basis that evidence for Areas B and C (and the Section 37 application) are split for all except fully conjoined evidential purposes there are distinct and clear topics which unite the sites within a given area (the Section 37 application does not fall into this category, and may be seen as somewhat distinct).

- From the perspective of all participants at the inquiry the disposal of any given topic in one session enables the best focus on that topic, and avoids the need to revisit evidence already given.
- Conversely, addressing evidence on a party basis would mean the same topic being revisited on a number of occasions, perhaps separated by some considerable time. This cannot help in terms of the acquisition of the necessary environmental information and in terms of the time that parties will require in order to prepare for a particular topic.
- From the perspective of opposition groups and members of the public it must be sensible to focus on one topic at a time. Firstly, it may be that some people are only interested in a single topic. Secondly, if third parties are engaging witnesses then it is more efficient in terms of time and cost to have that witness attend for a single session (and possibly a cumulative session).
- The reason for SM11 is not clear. It is not believed that there are any aviation issues affecting any other projects before the inquiry.

10. We do not support the proposal to hold sequential inquiries on a project by project basis for the following reasons:

- (a) A topic based approach still provides certainty of timetabling for all parties and it will be of particular benefit to third parties who have focussed concerns (e.g. landscape and visual impacts). This has the potential to reduce third party costs quite substantially.
- (c) We are suggesting that the topic based approach is run within Area B and then Area C separately so we do not accept there would be a blurring of projects. Rather there is a much better opportunity to focus on the needs and concerns in one Area at a time. Third parties are likely to be interested in the Area as much as the individual project so we do not believe that the project basis would ultimately offer any advantage or cost saving, and on the contrary, it could end up costing all parties considerably more since all parties will need to maintain attendance at each other's individual sessions.

11. Even if matters are finally set to proceed on a project basis we repeat the point made in paragraph 6 above. We are of the strong view that all parties should submit evidence in relation to any given topic at the same time so that no-one is taken by surprise. If this is not provided for then the parties will all need to be present at each other's sessions to make points arising from what others have

said. The inquiry would then morph into a series of sequential topic sessions rather than one topic session per area.

12. We have set out a draft programme for a topic based inquiry (attached at the end of this note). This sets out, by reference to the Secretary of State's statement of matters, how the time could be appropriately organised but without attempting a level of detail that only the pre-inquiry meeting can provisionally resolve.

13. **Venue for Inquiry**

The developers will be content to receive whatever ruling the Inspector makes as to venue though we note that the Llanbrynmair Community Hall would be a suitable location for Area B inquiry sessions (this has already accommodated wind farm inquiries) and Llandrindod Wells would be suitable for the all project cumulative session.

However, in addition to the normal minimum requirements for an inquiry venue there would appear to be the following points requiring consideration for what will be a very long inquiry:

- (a) The permanence of the venue. It would not be sensible for parties to have to move documents out of the inquiry room once the inquiry has been established. In particular, there will be electronic facilities and a library which will not take kindly to being moved.
- (b) Facilities are important. These will need to include a large enough main inquiry room to cope with the fully conjoined sessions, together with accommodation for the general public (preferably within the room, if not then via a live video link); Wi-Fi access; copying facilities; individual and secure retiring rooms for each main party and the Inspector for the duration of the entire inquiry; adequate parking; refreshment facilities; lunch facilities within close proximity.

14. **Statement of Common Ground**

15. The developers attach great importance to Statements of Common Ground, which will need to be completed on a topic by topic basis, and inevitably involving different combinations of parties. SOCGs have the potential to materially limit oral evidence. While the 2007 Inquiry Rules do not specifically provide for SOCGs, the developers believe no party to the inquiry would resist strong encouragement by the Inspector to compile and agree SOCGs at an early stage.

16. **Miscellaneous**

The inquiry library will obviously comprise all submitted documents (from the date of the application) as well as proofs and Statements of Case (and no doubt other documents). The developers believe that all documents should be available electronically, noting that this is quite normal for large Inquiries. It may well be that the inquiry can proceed without a substantial number of sets of hard copy documents provided that advocates and witnesses accept the responsibility for providing hard copies of documents to which they specifically wish to refer in inquiry sessions. Documents that emerge during inquiry sessions can be accessed electronically. This means that there will need to be screens for each party to the inquiry., and the developers believe that this should be accepted

17. **Web Site**

The developers welcome the comments made at the exploratory meeting regarding the establishment at a very early stage of an Inquiry Website, managed by the Programme Officer. Following custom and practice on previous larger wind farm inquiries, we believe it is essential that all inquiry documents should be available on the inquiry web site – including “inquiry management” documents such as PIM minutes, rulings by the Inspector, Statements of Common Ground, Statements of Case etc; all submitted proofs of evidence; and access to all core documents (some of which may be via an internet web-link for convenience).

18. **Conclusion**

The developers hope that this document will be of assistance to the Inspector. If he would like to have clarification of any points which have been made then the developers would willingly provide this.

The developers feel that it is important that inquiry procedures are crystallised at the earliest possible date following the start date letter.

RWE Npower Renewables

Celt Power and

Fferm Wynt Llaithddu Cyf (FWLC)

– December 2012

## **Draft Inquiry Programme on a Topic Basis**

(Drafted by reference to SoS Statement of Matters ("SM"))

The precise order of the topics can be further discussed and agreed between the parties

### 1. **Opening session and first session on planning policy (SM1-3)**

- 2 weeks

### 2. **Area B**

(1) Individual sessions for CW & LB

(2) Cumulative of joint issues (in no particular order)

(a) Landscape & Visual (SM4) (time estimate 2 weeks)

(b) Area B transport (SM5) (0.5 weeks)

(c) Noise and Health (SM6+9) (0.5 weeks)

(d) Ecology, Hydrology, Peat (SM9, 12, 13) (2 weeks)

(e) Birds (SM7)

(f) Cultural Heritage (SM10) (0.5 weeks)

(g) Area B grid (SM14) (1 week)

Total time allocated = 6.5 weeks

= 1.5 weeks for any overrun

**Allow 8 weeks**

### 3. **Area C**

As for Area B, but allow extra week as three projects = 7.5 weeks

= 1.5 weeks for any overrun

**Allow 9 weeks**

### 4. **SP Manweb S.37**

- time estimated 3 weeks -

**Allow 4 weeks**

### 5. **Cumulative between Areas B & C & s37**

(a) Landscape and Visual (1 week)

(b) Grid ( 1 week)

(c) Transport (2 weeks)

(d) Final session on policy (1 week)

Time allocated = 5 weeks

**Allow 6 weeks**

6. **Closing submission** – (1 week)

**Therefore total inquiry length 30 weeks**

- Add breaks :-

(a) 3 weeks - July/August 2013

(b) 2 weeks - Christmas/New Year 2013/14

(c) 1 week each between Areas B, C, s.37 = (3 weeks)

(d) 2 weeks before cumulative session

(e) 1 week before closing submission

= 10 weeks

**Allow 12 weeks**

The above very rough timetable would mean that the inquiry could close in early March 2014.