

Electricity Act 1989

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

Application by Vattenfall dated 30 November 2007 for consent to construct and operate a 59.5MW Wind Turbine Generating Station in Powys, Mid-Wales (“Llanbadarn Fynydd”)

STATEMENT OF COMMON GROUND ON ORNITHOLOGY BETWEEN:

**Vattenfall**

**And**

**The Natural Resources Body for Wales**

## 1. Introduction

- 1.1.1 This is a Statement of Common Ground (SOCG) between Vattenfall and the Natural Resources Body for Wales (NRW) concerning an application made to the Department of Energy and Climate Change (DECC) for consent under section 36 of the Electricity Act 1989.
- 1.1.2 The Secretary of State for Energy and Climate Change has given notice that a combined inquiry (Inquiry) will be held under Section 62(3) and Schedule 8 of the Electricity Act 1989 into the Llanbadarn Fynydd Wind Farm proposal, in addition to four other Section 36 wind farm applications and one Section 37 Grid Connection application.
- 1.1.3 This SOCG has been produced and agreed by the parties in connection with session 1 of the Inquiry and is specific to Vattenfall's application for the Llanbadarn Fynydd Wind Farm.
- 1.1.4 This SOCG concerns the topic of Ornithology (a separate Ecology and Nature Conservation SOCG has been prepared). No objections regarding the effects arising from the construction, operation or decommissioning of Llanbadarn Fynydd Wind Farm on its own or cumulatively with other plans or projects, upon ornithological receptors have been raised by NRW, Powys County Council (PCC) or RSPB subject to the implementation of measures to reduce potential effects to a satisfactory level; which should be secured through appropriately worded conditions attached to any consent that the Secretary of State is minded to grant.

## 2. Ornithology

### 2.1 Baseline

- 2.1.1 Full details of the methodologies and baseline results for the Llanbadarn Fynydd Wind Farm site are provided in:
- Chapter 10 of the 2007 Environmental Statement (ES);
  - Section 7 of the February 2013 Supplementary Environmental Information (SEI) document; and
  - Section 2 of the June 2013 SEI document.

### Methodologies

- 2.1.2 The scope of the baseline data gathering work was agreed with NRW<sup>1</sup> and RSPB in 2005 via a scoping request and early consultation as described in Section 10.2 of the ES.

<sup>1</sup> Previously the Countryside Council for Wales (CCW)

- 2.1.3 An ornithological desk study for the proposal was completed in 2006. A baseline ornithological survey programme was completed at the site between November 2005 and January 2007; this survey programme was repeated between April 2012 and April 2013 to ensure that the baseline situation had not changed markedly since the submission of the ES. In summary the following surveys were completed with reference to best practice guidance (e.g. SNH 2005) available at the time of the survey:
- Breeding bird surveys based on the Common Bird Census methodology (2005 and 2012);
  - Breeding raptor surveys (2005 and 2012);
  - Vantage Point Surveys (November 2005 to January 2007 and April 2012 to April 2013);
  - Winter “field by field” surveys (August to December 2006 and November 2012 to February 2013).
- 2.1.4 The parties agree that the survey methodologies employed enabled a robust ornithological baseline to be established for the site of the proposed Llanbadarn Fynydd Wind Farm.

## Results

- 2.1.5 The site does not form part of any nature conservation designations that specifically relate to ornithology. The closest designation of European importance is Elenydd Mallaen Special Protection Area (SPA) at approximately 17.5km from the Llanbadarn Fynydd site. This SPA is designated as it supports breeding populations of both red kite and merlin.
- 2.1.6 Esgairdraenllwyn Pastures Site of Special Scientific Interest (SSSI) is a nationally important designation that lies adjacent to the planning application boundary (albeit on the opposite side of the A483). This SSSI supports a diverse range of habitats that support a varied passerine community.
- 2.1.7 Data on birds gathered during the desk-study included multiple records of red kite, barn owl and peregrine. The numbers of wading birds recorded in the area, including curlew, were shown to have been in decline since the 1980’s.
- 2.1.8 The survey programme recorded a range of bird species using the site during both the breeding season and over the winter period, the majority of which were largely widespread and common species that were not of sufficient nature conservation value (at the local level) to warrant detailed assessment within the ES. The species recorded regularly during the survey programme that were considered further within the assessment process were:
- red kite (breeding and winter periods);
  - golden plover (winter period only);
  - curlew (breeding period only); and
  - lapwing (breeding and winter periods).

- 2.1.9 Red kite were recorded foraging throughout the year, although no nesting attempts were observed within the site boundary. Golden plover were noted foraging within fields over the winter period, and flocks were recorded in flight over the south east of the site. Curlew and lapwing were noted breeding in the area in both 2006 and 2012. Breeding curlew and the majority of breeding lapwing were recorded at distances away from proposed wind turbine locations where the risk of significant impacts being realised was small. In 2012 the number of lapwing territories recorded was both greater in number, and closer to proposed wind turbine locations than in 2006.
- 2.1.10 The parties agree that the survey programme undertaken has provided an adequate baseline for informing the assessment of the potential effects on ornithological receptors of the Llanbadarn Fynydd Wind Farm.

## 2.2 Assessment of Effects

### Mitigation

2.2.1 Incorporated into the construction and operation phases of the development are environmental measures designed to avoid or reduce significant impacts on features of ornithological value. These are described in detail in Sections 10.6 and 10.10 of the ES and Section 2.5 of the June 2013 SEI, and will need to be secured and implemented through appropriately worded conditions. In addition the parties have agreed to modify the mitigation measures with regard to curlew. In summary, the following broad measures would be implemented, although this is not a comprehensive list:

- Construction:
  - removal of vegetation would only take place if no active nests are present within the construction area. This would be achieved by ensuring that the majority of vegetation would be removed over the winter period. Where this is not possible an Ecological Clerk of Works (ECoW) would ensure that no active nests were present in areas within which vegetation removal was to take place;
  - In order to avoid disturbance to breeding curlew, a scheme will be submitted (to be agreed with NRW) to ensure that construction within 800m of known curlew territories (based on all data collected over the two breeding seasons immediately prior to construction, where curlew are present in at least one year) is halted prior to curlew returning (from 15th February), to ensure that birds are not deterred from settling to breed by construction activity. Construction works will not resume in areas where activity was suspended unless it can be demonstrated that:
    - a. curlew have not arrived to occupy the territory, which would be demonstrated by no registrations up until 30<sup>th</sup> April, after which time construction activities may continue,
    - b. curlew have failed in their breeding attempt and left the territory, or have successfully fledged young and left the territory, which would be demonstrated by 3 consecutive surveys at least a week apart recording no birds, and not before the 30<sup>th</sup> April.

In all cases construction activity can recommence from 31<sup>st</sup> July.

- In all other areas, where construction activity has not been suspended, the ECoW (or another suitably qualified ornithologist) will undertake a weekly walk-over (between 15th February and April 30th) of the site to determine if any further curlew territories have been established. If these survey visits identify further curlew territories, construction works within 800m of the territory will be halted until it is determined that young have successfully fledged or the breeding attempt has failed.

Construction activity includes all pre-commencement activity, construction of turbine foundations, crane pads and access tracks and the erection of turbines, use of borrow pits, laydown areas and contractor compounds, etc. together with construction vehicle movements. However, it is accepted that in specific instances where curlew territories cross over access routes to significant parts of the application site, through traffic only could be permitted. These would need to be considered on a case by case basis depending on the location of the breeding curlew, and agreed in advance with NRW. In these circumstances, through traffic only would be permitted i.e. drivers would not be permitted to disembark from their vehicles in these areas etc.

- Mitigation measures have also been proposed to avoid disturbance to breeding lapwing. An area of 4 hectares of improved grassland, yet to be agreed, would be specifically managed by the applicant to attract breeding lapwings away from proposed turbine locations through the use of annual chisel ploughing and managed grazing pressure (detailed in Section 2.5 of the June 2013 SEI).
- Operation:
  - a habitat management plan (detailed in Appendix A of the July 2008 SEI and amended in 2013) would be implemented to improve the value of the site for birds. The general premise of the habitat management plan is to restore, enhance and create habitats on the site to benefit a wide-range of flora and fauna. Increasing the diversity and structure of existing dry heathland, semi-improved grassland, scrub and woodland will provide further opportunities to a range of bird species, especially breeding passerines and waders. Creation of hedgerows, heathland, rough grassland and ponds will also provide new habitats that could be exploited by both breeding and wintering birds. The inclusion of an area of grassland managed specifically for breeding lapwing (detailed in Section 2.5 of the June 2013 SEI) is likely to provide improved conditions for this species throughout the operational phase.

## Predicted effects

2.2.2 The predicted effects of the construction, operation and decommissioning of the development on ornithological receptors was assessed within the ES, with the conclusion that no significant effects on ornithological receptors were likely to occur. The exception to this was the potential for a significant effect on the local population of red kite to be realised due to the predicted rate of collision of individuals with wind turbines. Although presented as a potential significant effect within the ES as a precaution, CCW agreed with the view put forward (see Section 10.9 of the ES) that the results of the collision risk model were questionable (CCW response to DBERR 7



March 2008). That view is endorsed by NRW. There was also agreement between CCW and Vattenfall that an appropriate response to the uncertainty was the establishment of a monitoring programme aimed at determining actual collision rates.

- 2.2.3 The assessment and original conclusions remained unchanged in both the February and June 2013 SEI documents, with the exception of red kite. As further data became available between the submission of the ES and the 2013 SEI documents on both life history parameters of red kite, and their susceptibility to collisions with wind turbines in the UK, the potential for a significant effect at the local level was discounted when the Llanbadarn Fynydd Wind Farm was considered in isolation.
- 2.2.4 Following publication of the February 2013 SEI, CCW suggested that further habitat management measures should be undertaken to ensure that lapwing were not impacted upon by the proposed development. These measures included the ploughing and management of areas of pasture for lapwing on the periphery of the site in order to attract breeding birds away from the construction area. The suggestions made by CCW were accepted by Vattenfall and a description of the measures to be taken was provided in Section 2.5 of the June 2013 SEI.

### **Cumulative effects**

- 2.2.5 The cumulative impacts of the Llanbadarn Fynydd site were assessed within the February 2013 SEI. This assessment was provided for the project as the number of applications for other wind farm sites within Strategic Search Areas (SSA) B and C had changed significantly between the submission dates for the ES and the February 2013 SEI.
- 2.2.6 Seven species were considered for inclusion within a Cumulative Impact Assessment (CIA); however only red kite was considered to be at risk from the proposed Llanbadarn Fynydd Wind Farm when considered alongside other proposed and consented wind farms within Powys.
- 2.2.7 The potential for the cumulative losses of red kites to the Powys population due to collisions with wind turbines was investigated. When all these losses were assumed to take place concurrently over a 25 year period to breeding adult birds (i.e. a worst case scenario) the potential effects on the Powys population was shown to be a slowing of the population growth rate only (as opposed to a decline in population). Consequently, the potential for significant cumulative effects on red kites in Powys for the Llanbadarn Fynydd Wind Farm, cumulatively with other wind farm projects was discounted.

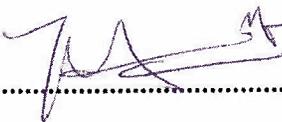
## **3. Conclusions**

- 3.1.1 Baseline data gathering has identified a limited number of ornithological receptors that are of sufficient value for an impact on them resulting from the development to be significant. Potential impacts on these receptors have been minimised or avoided by the environmental measures that have been incorporated into the proposal. These measures will also ensure compliance with the Wildlife & Countryside Act 1981 (as amended). Habitat enhancements will be provided through a habitat management

plan. As a result, potentially significant effects on ornithological receptors as a result of the development, or cumulatively with other nearby developments are unlikely to occur.

- 3.1.2 If the scheme is approved NRW have suggested various planning conditions are attached to the consent (Letter from CCW 15th February 2012); the titles of the planning conditions relevant to ornithology in the letter are reproduced in Annex I. Additional conditions will be required to address the land to be managed for lapwing proposed in Section 2.5 of the June 2013 SEI. These are outlined in section 2.2 of this SOCG.
- 3.1.3 Assuming the implementation of suitable planning conditions the parties agree that there will be no significant impacts on ornithological receptors.

**For and on behalf of Vattenfall**

.....  ..... **Signature**

..... *Jonny Hewett* ..... **Name**

..... *Project Development Manager* ..... **Position**

**For and on behalf of Natural Resources Body for Wales**

.....  ..... **Signature**

..... **Tim Jones** ..... **Name**

**...Executive Director Operations North & Mid Wales**

## **Annex I – CCW suggested planning conditions (relevant to ornithology) – titles only**

Please note that the titles provided below are reproduced from a letter written by CCW on 15<sup>th</sup> February 2012. The text has not been amended for inclusion within this SOCG.

### **Habitat Management Plan**

### **Ecological Clerk of Works**

### **Construction Management Plan**