

Public Inquiry

**into five proposals
for wind turbine generating stations and
the
132kv Llandinam connection, known as
Conjoined Wind Farm Inquiry (Powys)**

Summary Proof of Evidence on Curlew in relation to Llandinam Windfarm

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Natural Resources Wales

- 1.1 In my main proof I set out details of my background and qualifications, and role as a Windfarm Casework Adviser for Natural Resources Wales.
- 1.2 I then outline the scope of my evidence, namely the inadequacy of two key plans provided by the applicants; the Breeding Birds Protection Plan (BBPP) and the

Habitat Management Plan (HMP). I then refer to the evidence of Dr James Pearce-Higgins and Dr Sian Whitehead.

Breeding Birds Protection Plan

- 1.3 In relation to the no-construction areas, the evidence from Dr Pearce-Higgins is clear that in order to minimise the risk of breeding curlews being displaced:-
- the buffer around territories should be 800m,
 - it cannot be concluded that the disturbance caused by construction is limited to the turbines alone, and
 - curlew appear back on their breeding grounds from mid February onwards.
- 1.4 Dr Whitehead has shown that:-
- the curlew population across Wales is rapidly declining,
 - legislation and policy requires developers and consenting authorities alike to take reasonable measures to conserve and enhance the remaining population.
- 1.5 It is therefore essential that the BBPP ensures that these issues are properly addressed or else this important plan will not be fit for purpose.
- 1.6 No-construction areas would only be required in areas that had held a pair of breeding curlew in at least one of the two breeding seasons prior to work commencing, or where a breeding pair actually appeared whilst construction was underway. So, for example, based on the current situation at Llandinam, if decommissioning of the existing windfarm commences in 2015 as anticipated, then the survey years that would be taken into consideration would be 2013 and 2014. This year's survey has recorded a single pair at the southern end of the site, so at present this is the only no-construction zone that will be required. It is not known how many breeding pairs will be recorded in 2014, but the national and local trends, over many years, are down. Without positive management, it must therefore be unlikely that the population on site will increase, and highly unlikely, indeed unprecedented, that it will return to its 2008 population levels within the space of one year.

- 1.7 The presence of this one pair, and implementation of an 800m radius no-construction zone around it, would only temporarily delay the construction of four out of 34 of the proposed new turbines and associated access track, and the decommissioning of 20 out of 102 of the existing turbines, for a maximum period of five and a half months a year, or two and a half months if the birds fail to return to the site, over the expected three year decommissioning and construction phases of the development. Natural Resources Wales do not consider this to be unreasonable.
- 1.8 The applicants have argued that the imposition of an 800m buffer, and suspension of decommissioning and construction activities from the 15th February is unreasonable, and that it would cause unacceptable delays to their work programme. I refer in my proof to consented windfarms that have agreed to no construction activities across the entire site during the breeding season (1 March to 31 July - this start date was agreed prior to the publication of the recent research that has highlighted the importance of the construction period in curlew displacement). On the immediately adjacent Llaithddu application, the applicants have agreed to a BBPP including an 800m buffer and suspension of all activities from 15th February.
- 1.9 In relation to the location of the contractors compound and laydown area, decommissioning and construction activities associated with both of these areas can cause disturbance and could cause displacement. However, we acknowledge that the applicants consider that suspension of activities in these two areas would be commercially unacceptable. In an effort to work with the applicants, Natural Resources Wales are therefore prepared to concede on this point in this specific instance.

Habitat Management Plan

- 1.10 Turning to the subject of the HMP, Natural Resources Wales believes that prior to consent sufficient information needs to be provided by the applicants in order to ensure that the HMP delivery is adequate and fit for purpose. This includes:-
- a. a clear commitment from the applicants and the landowners to include the necessary land in the HMP,

- b. clear identification of the land on an appropriately scaled map, and
- c. broad proposed management prescriptions that will adequately deliver the aims and objectives of the HMP.

These basic pre-consent requirements are also set out in Scottish Natural Heritage's 'Planning for development: What to consider and include in Habitat Management Plans' (CD/CON/003/ORN/046).

1.11 I will go through each in turn:-

- a. The latest HMP submitted by the applicants is 'dependent on the conclusion of further discussion with the relevant landowners'. Natural Resources Wales believes that landowner commitment is required prior to consent. Without this, the aspirations expressed in outline HMPs prior to consent may not convert in to hectares on the ground post consent, because of subsequent difficulties in obtaining an agreement or agreeing terms with relevant landowners. This is confirmed in the SNH guidance referred to above (CD/CON/003/ORN/046), which states '*It is vital that in-principle agreements with all affected landowners are in place at the time of the submitted development proposal. This will avoid problems at later stages (for example a key landowner pulling out post-consent).*' Additionally, as five years have elapsed since the application was first submitted in 2008, we consider this would normally be a sufficient length of time for the applicants to have concluded their discussions with landowners regarding the HMP. If agreement has not been able to be concluded in that time, we have serious concerns about its agreement in the future.
- b. The applicants have not provided maps showing the location of the land they are proposing to enter into the HMP. It is therefore not possible to assess the value of the land they are proposing, or its suitability.
- c. The applicants have specifically decided not to include predator control amongst the management options they are proposing. Natural Resources Wales considers that legal predator control is an important component of the suite of management options required to reverse the decline in the breeding curlew population (CD/CON/003/ORN/030). This has been accepted by

developers and landowners elsewhere, but not by the applicants at Llandinam. We agree with the applicants that in order to be effective, predator control should be carried out across as large an area as possible, and we have therefore undertaken discussions with applicants to have it included in recent windfarm HMPs where breeding curlew occur, most of which are located in close proximity/contiguous with each other on upland plateaus in Strategic Search Areas B and C. Llandinam's refusal to include it in their HMP will reduce the effectiveness of efforts overall.

- 1.11 The proposed HMP of the scheme immediately adjacent to Llandinam, Llaithddu, is particularly relevant in this context. Llaithddu have managed to secure landowner consent over an area in excess of 300 ha. In addition they have set out on a map where these areas are, enabling us to assess their value and suitability. They have also included a commitment to carry out systematic predator control across the whole application site. Llandinam's rejection of this, lying as it does adjacent to this scheme, threatens its effectiveness.
- 1.12 I appreciate that the suggested planning conditions provide that development of this site may not proceed until an HMP is agreed with the LPA. However, it is important to establish the basic principles of the HMP at this stage in order to ensure that a satisfactory scheme is capable of being agreed post consent.

Conclusions

- 1.13 As Natural Resources Wales lead case officer for the Llandinam windfarm application, I am trying to secure mitigation that is reasonable, measured and likely to deliver the objectives that it sets out to do. Published evidence, good practice guidance, and our experience all strongly indicate that what CeltPower are currently offering in relation to a BBPP and HMP are inadequate, and will fail to deliver their objectives.
- 1.14 It is Natural Resources Wales' view that the incorporation into the scheme of the small number of very specific and reasoned requirements, set out in 1.3 and 1.10, are not unreasonable, and will mean that the scheme can proceed in its proposed

form, whilst at the same time minimising impacts on an upland bird whose population is in serious decline.

1.15 A clear illustration of this can be seen on the application site immediately adjacent to Llandinam, Llaithddu, where the applicants have agreed a package of measures in relation to both a BBPP and HMP, that are reasonable and practical, and, crucially, the evidence suggests will work. To try and reduce the decline of curlew, we consider that it is important that there is a common regime in relation to both of these documents across these two contiguous windfarms, and across other windfarm applications elsewhere in Wales.

1.16 Should Llandinam receive consent, I will be the person on the ground that has to work with the applicants to implement the conditions agreed at this Inquiry when decommissioning and construction starts, and to try and deliver their proposed objectives. It is my strongly held view that this is only possible with the inclusion of the amendments outlined in paragraphs 1.3 and 1.10 of our case.

References

CD/CON/003/ORN/046

CD/CON/003/ORN/030