

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 ECOLOGY AND NATURE
CONSERVATION BETWEEN:

Vattenfall

And

Natural Resources Wales

1. Introduction

- 1.1.1 This is a Statement of Common Ground (SOCG) between Vattenfall and Natural Resources 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 Llanbadarn Fynydd Wind farm, 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 only. A separate SOCG will be produced for session 4 of the Inquiry, which will seek common ground in relation to the grid connection (NRW have an outstanding objection in relation to this matter).
- 1.1.4 This SOCG concerns the topic of Ecology and Nature Conservation (a separate Ornithological SOCG has been prepared). NRW¹ is not pursuing an objection based upon the effects arising from the construction, operation or decommissioning of Llanbadarn Fynydd Wind Farm on its own ecological receptors. This is subject to the implementation of measures to reduce potential effects to a satisfactory level secured through appropriately worded conditions.

2. Ecology and Nature Conservation

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 9 of the ES (2007);

¹ Previously the Countryside Council for Wales (CCW)

- Section 6 of the 2008 and February 2013 Supplementary Environmental Information (SEI) documents; and
- Section 3 and Appendix B of the 2010 and June 2013 SEI documents.

2.2 Methodologies

2.2.1 The scope of the baseline data gathering work was agreed with the Countryside Council for Wales, the Environment Agency (NRW's predecessor bodies) and Powys CC in 2006 via a scoping request and early consultation as described in Section 9.2 of the ES.

2.2.2 An ecological desk study for the proposal was completed in 2006 and updated in 2012. Baseline ecological surveys were completed at the site between 2006 and 2012. In summary the following surveys were completed with reference to best practice guidance available at the time of the survey:

- a Phase 1 Habitat survey (2006, 2007 and 2012);
- water vole presence/absence survey (2006);
- otter presence/absence survey (2006 and 2012);
- badger presence/absence survey and habitat assessment (2006 and 2012);
- great crested newt presence/absence surveys (2006 and 2012);
- fisheries assessment (2006); and
- a suite of bat surveys including walking activity transects, roost inspection and static activity monitoring (2006 and 2012).

2.3 Results

2.3.1 The site is not subject to any statutory or non-statutory nature conservation designations. There are five statutory designed sites within 2km of the site, three of which, notified for the habitat types and fauna they support, are located near to the site boundary (separated by the A483):

- River Wye Special Area for Conservation (SAC);
- River Ithon Site of Special Scientific Interest (SSSI) – forms part of the River Wye SAC; and
- Esgairdraenllwyn Pastures SSSI.

2.3.2 The principal habitats present within the application site are improved, semi-improved and marshy grassland with small areas of bracken, scrub and dry heathland. Small conifer plantations occur across the site, some

of which have been felled between the 2006 and 2012 surveys. The boundaries are predominantly demarcated by fencelines or species-poor hedgerows.

2.3.3 The baseline information gathered confirmed the presence of the following species present on the site:

- badger: evidence throughout the site, including setts;
- otter: limited but regular evidence on the Nant-ddu watercourse in the centre of the site;
- great crested newt: small and medium sized populations in five ponds (2012 surveys); and
- six species/species groups of bat: common and soprano pipistrelle, noctule, long-eared, *Myotis* spp and *Nyctalus* spp/‘big bat’².

Valued Ecological Receptors

2.3.4 The biodiversity value of each of the ecological receptors present at the site was determined based on professional judgement by Entec UK Ltd. (now AMEC E&I) and with reference to the Institute of Ecology and Environmental Managements guidelines (IEEM, 2006). As a result the following receptors were identified as Valued Ecological Receptors (VERs) (ES 2007, paragraph 9.2) as they were assessed as being of sufficiently high value that an effect upon them could be significant;

- all (five) designated sites within 2km of the site (including the River Wye SAC discussed below); and
- great crested newts.

2.3.5 Additionally, the ES (section 6.2.2 of the 2013 SEI and section 9.2 of the 2007 ES) recognised that some species recorded were not of sufficient value to be categorised as a VER, but were nonetheless legally protected. These legally protected species were badger, otter and a bat assemblage.

² *Nyctalus* refers to noctule and Leisler’s bats. The term ‘big bat’ is used to refer to indistinct calls of noctule, serotine and Leisler’s which cannot be separated to species (as the calls are similar in characteristic).

2.4 Assessment of Effects

Mitigation

2.4.1 Incorporated into the construction and operation phases of the development are environmental measures designed to avoid or reduce potential adverse effects on VERs and legally protected species. These are described in detail in Section 9.7 of the ES, Appendix B of the 2010 SEI and Section 6.4 of the February 2013 SEI. In summary, the outcome of the measures when considered for the scheme in isolation would be:

- Construction
 - minimisation of adverse effects to VER (all (five) designated sites within 2km of the site) designated features caused by deterioration in water quality due to pollution from runoff or spillage or through dust deposition;
 - maintenance of River Wye SAC site integrity by avoiding potentially significant adverse affects caused by deterioration of water quality;
 - minimisation of adverse effects on VER (great crested newts) caused by changes in habitat area and quality and population size;
 - avoidance of adverse impacts on on-site wetlands (ponds, marshy grassland and on site stream) caused by deterioration in water quality due to pollution from runoff or spillage or erosion;
 - compliance with legislation relating to protected species.
- Operation
 - avoidance of adverse effects on on-site wetlands (ponds, marshy grassland and on site stream) caused by deterioration in water quality due to pollution from runoff or spillage;
 - minimisation of harm or injury to foraging and commuting bats.

2.4.2 In addition, biodiversity enhancement at the site would be secured through habitat enhancement measures, particularly targeted at improving great crested newt habitat, as detailed in the outline Habitat Management Plan (contained within the ES).

Predicted effects Llanbadarn Wind Farm Alone

2.4.3 The predicted effects of the construction, operation and decommissioning of the development on biodiversity were assessed within the ES, with the conclusion that, subject to the proposed mitigation measures, significant effects on biodiversity receptors (inclusive of VERs) were unlikely to occur.

- 2.4.4 Following changes to the site access and additional passing places off-site the assessment was subsequently updated in the 2008 and 2010 SEI documents. It was concluded that these alterations to the scheme design did not change the ES conclusion that significant effects on biodiversity were unlikely to occur.
- 2.4.5 The 2013 SEI documents, which provided updated survey information, did not change the conclusions of the original ES that significant effects are unlikely to occur.

Cumulative Effects

- 2.4.6 Implementation of the mitigation measures proposed within the ES and SEIs, which aim to ensure that the potential for a breach of the relevant legislation is kept to a negligible level and that no significant effects (in EIA terms) will occur in relation to the proposed development, result in all the ecological receptors identified at the site being scoped out of EIA cumulative assessment.
- 2.4.7 Common ground with respect to the cumulative effects of the proposed development in combination between other developments within SSA C and within SSA B will be published in advance of Inquiry Session 4.

Cumulative Effects upon the River Wye SAC

- 2.4.8 It has yet to be demonstrated that there will not be a significant effect on the SAC in-combination with other schemes and as such an appropriate assessment is required. In-combination effects on Natura 2000 sites are currently being assessed in line with scoping advice provided by NRW.

3. Conclusions

- 3.1.1 Baseline data gathering has identified a limited number of ecological receptors that are of sufficient value for an effect upon them resulting from the development to be significant. Potentially significant effects on these receptors have been minimised or avoided by the mitigation measures that have been incorporated into the proposal. Biodiversity enhancement will be provided through the habitat management plan.
- 3.1.2 Subject to the various mitigation measures proposed being included as planning conditions in any decision notice, NRW does not object to the scheme with respect to ecological receptors within the site boundary and with respect to the development alone.

- 3.1.3 However, as described above, issues concerning the in-combination Habitats Regulations Assessment are currently still outstanding.
- 3.1.4 Natural Resources Wales are of the view that the proposed grid connection has the potential to have significant environmental impacts cumulatively with other grid connections and wind farms, and there is an outstanding objection to this issue.

For and on behalf of Vattenfall

Signature:



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Position: Senior Development Manager

For and on behalf of Natural Resources Wales

Signature:



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