

SECTION B – MATTERS FOR INFORMATION

APPEALS DETERMINED

Planning Appeal

Appeal Ref: A2014/0006 **Planning Ref:** P2012/0999

PINS Ref: APP/Y6930/A/14/2215628

Applicant: RES UK & Ireland Ltd

Proposal: Installation of a Wind Farm comprising five wind turbines up to 126.5 metres to maximum blade tip height, with associated transformers, electrical sub-station and control building, 82 metre anemometry mast, underground cabling, access tracks, site entrance, river crossing and crane hard standings; and temporary construction compounds, storage area and two temporary 82 metre high anemometry masts

Site Address: Mynydd Marchywel, between Rhos and Cilfrew, north of Neath

Appeal Method: Public Inquiry

Decision Date: 2 February 2015

Decision: Dismissed

The main issues concerned:

- The landscape and visual impact of the proposed turbines on the character and appearance of the area;
- The effect of the proposal on the living conditions of the occupiers of nearby residential properties;
- The effect of the proposal on heritage assets and the cultural heritage of the area; and
- Whether any harm identified in relation to the foregoing is outweighed by the benefits of the scheme in terms of its contribution to renewable energy production.

Landscape and Visual Impact on Character and Appearance

The Inspector noted that the proposed turbines were not all within SSA E, with T4 and T5 are outside the SSA boundary on land that is more agricultural in appearance. However, the Inspector considered that there is no marked difference between the character of the areas within and just outside the SSA, other than their relative height and positions on the ridge. The site is all within the same landscape character area, and the broad brush nature of the boundary definitions of the SSAs and the fact that the proposed turbines would be in close proximity to the boundary lead the Inspector to conclude that their position outside the SSA was not a factor that carried significant weight in the determination of this appeal.

The Inspector considered the ARUP refinement study for SSAs E and F undertaken for a consortium of South Wales Valleys Authorities including Neath Port Talbot CBC, and noted that the area was split into a number of zones, which were then assessed and ranked according to their suitability for wind farm development. He also noted that Zone E5 was eventually excluded because of concerns regarding cumulative impact on Crynant arising from wind farms on both sides of the valley if Zone E3 were developed, and Zone E6 was the second worst in the ranking order of the acceptable zones.

Officers accepted at Inquiry that, as the size of the refined area within the Council's Interim Planning Guidance (IPG) was insufficient to meet the identified output capacity envisaged by national policy, this element of the IPG should be afforded little weight, which the Inspector accepted.

Landscape Impact

Following the LANDMAP methodology of landscape assessment endorsed in Planning Policy Wales, the three main character areas affected were noted to be those surrounding the site i.e. Character Area 25 – Mynydd Marchywel (LCA 25) which includes the site and the higher ridge and forest to the north; Character Area 24 – Dulais Valley (LCA 24) to the east and Character Area 39 – Clydach Valley, Cilybebyll and Cilfrew (LCA 39) to the south and west.

It was agreed that there would be significant landscape effects in the area extending to around 1 km from the proposed turbines.

Following a detailed analysis of impact on landscape character areas, the Inspector did not agree with the appellant's view that it is only effects on

key characteristics of the landscape character area that are important, noting that the characteristics of the more local area and the effect of large scale additions on the area should also be taken into account. In this respect he stated that the turbines if approved would become a key characteristic of the area, would be prominent features located on a narrow ridge between two valleys, and as such there would be significant adverse effects on the landscape within LCA 25.

He also concluded that there would be significant adverse effects on the landscape within LCA 39 and within LCA 24.

Overall, the scale position and prominence of the proposed turbines in relation to the landform will have a significant adverse impact on the landscape character of the surrounding area. There would be particularly harmful effects on the important ridgelines. These adverse effects must be weighed against the proposal.

Visual Impact

The evidence on the visual effects of the proposal concentrated on the main impacts on settlements and dwellings as well as the users of public rights of way (PROW), minor roads and open access land.

The Inspector mainly considered the settlements most affected i.e. those closest to the proposal, but acknowledged that other settlements will be adversely affected, just not to the same degree.

In summary he concluded that: -

- There would be a significant visual impact on residents in large parts of the village of **Rhos**. Turbines would dominate the ridge that forms the backdrop to the village and would be highly prominent. The parties all agreed that the turbines would be dominant in views from the village due to their proximity and relative elevation above the village.
- There would be similar effects on the small settlement of **Fforest Goch** to the south.
- The village of **Crynant** would be less affected. However, there would be significant cumulative effects with the proposed wind farm at Hirfynydd, were that to be approved. This is the very concern that led to Zone E5 being excluded from the refined SSA boundary in the Arup Study.

- The settlements of **Bryn Coch** and **Cilfrew** are close to the proposal at less than 2 km distance. Views of the turbines are possible from parts of the settlements and the visual impact would be significant in these areas due to this proximity and the position of the turbines on the ridge.
- Other settlements such as **Aberdulais, Pontardawe, Ynysmeudwy, Cilmaengwyn, Tonna and Neath** are further away (between around 2 km and 3.5 km) from the proposal and have views from some areas within the settlement of some of the proposed turbines. Overall, there will be adverse effects that the landscape expert witnesses considered to range from low to moderate to major/moderate.
- There are several Public Rights of Way in the area around the site including the longer distance named routes of St. Illtyd's Walk and Sarn Helen roman road. The effects of 5 large turbines with rotating blades would be negative on those seeking a quiet walk to get away from it all. The adverse effects on users of these PROWs and minor roads would be adverse and significant

He thus concluded that there would be a significant adverse visual impact on the residents of the settlements identified above. There would also be impacts on users of the PROW and minor roads in the area as identified. These adverse impacts must weigh against the proposal.

In concluding on the Landscape and Visual Impact on the Character and Appearance of the Area, he stated that the proposed turbines will have a significant adverse impact on the landscape character of the surrounding area for the reasons given above. There would also be significant adverse visual impacts on important visual receptors as described above. Overall, he concluded that there would be a harmful landscape and visual impact on the character and appearance of the area as a result of the proposed turbines

Impact on the Living Conditions of the Occupiers of Nearby Residential Properties

It was agreed at the Inquiry that the appropriate test in respect of residential living conditions is whether the presence of the turbines would be so unpleasant, overwhelming and oppressive, that the dwelling would become an unacceptably unattractive (albeit not uninhabitable) place in which to live (known as "the Lavender Test"). It was also agreed that the assessment should be made "in the round" taking account of separation

distance, orientation and layout of the dwelling and garden, arc of view, screening and differences in level.

The Inspector visited the four properties referred to by the Council in evidence. In respect of 'The Old Barn' at Gelli March Farm (to the south, around 920m away from the nearest turbine) he noted that there would be no screening and the proposed turbines would be at a higher level than the dwelling. He thus concluded that that the effect on the living conditions of this property would be severe due to the layout and orientation of the dwelling with all its windows facing the proposed turbines on the ridge above the dwelling. There would be no screening available. There would be no opportunity for residents to avoid views of the turbines from within the dwelling. The rotation of the blades would draw the viewer's eye away from the wider landscape. This would render the dwelling an unacceptably unattractive (albeit not uninhabitable) place in which to live and so the proposal **would fail** the residential living conditions test in respect of this property.

The council's concerns over three other properties were not upheld, the inspector considering for each of these individually that the effects on dwellings, while major and/or significant, would not fail the residential living conditions test.

He also considered there would be more limited effects on the remainder of the properties within 1.5 km of the proposed turbines. Although none would fail the residential living conditions test, the impact would still be significant on the dwellings and gardens. Whilst these effects would not constitute unacceptable harm to living conditions, they are significant visual impact considerations weighing against the proposal.

Noise and shadow flicker

Noise and shadow flicker were considered to be matters which could be satisfactorily addressed by condition.

Cultural Heritage and Effect on Heritage Assets

Although not put forward as objections by the Council, concerns were raised by Marchywel Protection Group (MHPG) and objectors regarding the impact of the proposal on heritage assets including scheduled monuments, several listed buildings, the Gnoll registered park and garden and the archaeological landscape of the area including features of community historical value.

Noting that PPW refers to the desirability of preserving an ancient monument and its setting as a material consideration in determining a planning application, the Inspector considered that the proposal would represent a very substantial visual addition within the setting of GM326 (two house platforms, immediately adjacent to the proposed wind farm), and considered there would be a significant adverse impact on its setting, which must weigh against the proposal.

The appeal site forms part of the setting of the Gnoll registered park but the proposal would not cause substantial harm to this heritage asset. The setting of the heritage assets would be preserved. The setting of the other listed buildings would not be affected because the site does not form part of the setting and the lack of available views.

Other Matters

In respect of **Tourism**, the Inspector noted that the Council withdrew their objection in the reason for refusal to the detrimental effect on tourism. Evidence was put forward by the MHPG, but the Inspector noted contrary conclusions were reached in a recent study on behalf of the Welsh Government into the potential effects of wind farms on the visitor economy within Wales which found no evidence of significant impacts either locally in areas where there are established wind farms or nationally. In these circumstances the objection on these grounds was not a significant consideration in this case.

In respect of **traffic and transport effects** of the proposal, the Inspector noted that there would be a dry run to ensure that the vehicles could traverse the intended route and establish appropriate times of day to minimise traffic disruption. He noted that he had received no convincing evidence that the agreed conditions would not adequately address this matter.

Need for the Proposal

The Inspector noted that the proposal will have an installed capacity of 11.5 MW (sufficient to supply electricity to almost 10,000 homes) which was a significant benefit of the scheme which must weigh heavily in its favour. Matters relating to capacities in SSA E were not considered to be determinative in this appeal.

He also noted that the Welsh Government has stated that good progress is being made towards meeting the 2015/17 targets, but that there is a clear need for further wind energy development nationally and in this area, which is a clear policy imperative of both the UK and Welsh Government.

The Overall Planning Balance

The benefits of the proposal in meeting the acknowledged need for further onshore wind energy, which is a policy imperative for Welsh Government, were set out by the Inspector in detail. He also attached considerable weight to the site's inclusion within and close to SSA E, and that the site is well-placed to contribute to the target for wind energy production, as well as the potential shortfall across Wales in achieving future Welsh Government targets in this respect.

While noting that Policy IE6 aims to deliver renewable energy, and that the proposal would meet this objective, nevertheless he stated that the site encompasses a particularly sensitive and prominent edge to the SSA. The particular relationship of the proposed development to its surroundings lead him to find that the landscape impacts, all the visual impacts on residents and users of PROWs, impacts on views from heritage assets and effects on living conditions when taken together, would cause a degree of harm that would not be justified by the benefit of the scheme in terms of wind energy generation.

There are no planning conditions which could be imposed to acceptably mitigate this harmful effect, such that he concluded that the scheme would conflict with Unitary Development Plan Policies 19, ENV1, ENV3, ENV19, GC1 and GC 2 and national planning policies. Thus, on balance, it would be in conflict with Policy IE6 and the development plan as a whole.

In reaching his conclusion he had regard to the long-term effects of climate change on the environment and that the proposed turbines would be dismantled after 25 years in operation, or sooner if not in use, but these considerations did not alter his findings on the unacceptability on the scheme.