

PLANNING AND DEVELOPMENT CONTROL COMMITTEE

REPORT OF THE HEAD OF PLANNING – N.PEARCE

21ST OCTOBER 2014

SECTION A – MATTERS FOR DECISION

1. Planning Applications Recommended for Approval

<u>ITEM 1.1</u>	
<u>APPLICATION NO:</u> P2014/0402	<u>DATE:</u> 05/05/2014
PROPOSAL: Variation of condition 1 of Planning Permission P2007/1413 (Granted on Appeal on the 07.05.09) to allow for the extension of time for the commencement of development and variation of conditions 3 (reference to all works in Environmental Statement and to allow a maximum tip height of 100m and maximum blade diameter of 82m), 9 (borrow pits), 14 (highway improvement works to facilitate revised access route) and 15 (internal access tracks)	
LOCATION:	MYNYDD Y GWRHYD, North of Pontardawe, East of Cwmgors
APPLICANT:	DAN McCALLUM
TYPE:	Full Plans
WARD:	Gwaun-Cae-Gurwe

Background information

Members should note that this application is reported to the Planning and Development Control Committee at the request of Councillor Arwyn Woolcock on the grounds that the application includes significant changes to the approved scheme allowed at appeal.

Relevant Planning History

04/1381	Community wind farm consisting of 4 turbines (as opposed to 5 previously), sub station, met mast and access road and additional works including borrow	Refused	01/09/05
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	<p>pits. Planning permission refused September 2005.</p> <p>-Appeal dismissed September 2006</p> <p>-Judicial Review draft judgement October 2007, which held that the appeal be dismissed.</p>		
07/1059	Revised scheme screening opinion for 2 wind turbines 100m to tip (60m tower, 40m blade)	Disposed under article 29	12/12/08
07/1413	<p>Community wind farm consisting of 2 turbines, substation met mast and access tracks also additional temporary works including borrow pits</p> <p>- Appeal allowed May 2009</p>	Refused	17/08/08
10/0921	Erection of an anemometry mast up to 60.0m in height for a temporary period of 18 months	Approved	15/10/10
10/1225	Lawful development certificate for the proposed construction of two wind turbines with hub height of 59 metres and tip height of 100 metres	Lawful development certificate issued (proposed)	03/03/11
13/0893	Details to be agreed in association with condition 5 (scheme of archaeological investigation) and Condition 6 (archaeological sites) of planning permission ref: P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/2009	Approved	23/01/14
13/0905	Details to be agreed in association with condition 21 (facilities for storage of oils, fuels or chemicals) of planning permission ref: P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/2009	Approved	06/05/14
13/0914	Details to be agreed in association with condition 13 (siting of substation), of planning permission	Approved	23/01/14

	ref: P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/2009		
13/0916	Details to be agreed in association with condition 8 (construction method statement) of planning permission ref: P2007/1413 APP/Y6930/A/08/2092727 granted on 07/05/2009	Approved	13/02/14
14/0078	Details to be agreed in association with condition 10 (Ecological management and mitigation monitoring plan) of planning permission Ref P2007/1413 (APP/Y6930/A/08/2092727) granted on 07/05/09	Approved	06/05/14

Publicity and Responses (if applicable):

A total of 6 site notices were posted and the proposal was advertised in the press.

In response, to date 53 letters of objection have been received which includes 4 letters received from West Glamorgan Commoners Association (WGCA), Caegurwen and Panlle'rfedwen Commoners Association, The Gower Society and Rhiwfawr Action Group.

The issues raised can be summarised as follows:

- (1) Applicants have not consulted WGCA surely this is a breach of planning law as our graziers have legal grazing rights on the land and the proposal will impact upon this and their business. Only one member of WGCA supports the proposals who has an interest in the scheme
- (2) Impact on property prices
- (3) Creation of roads and tracks will lead to increased use of motorbikes on the common, dog worrying and fly tipping. Route goes through and disturbs Common Land, concerned as the movement of large lorries may cause damage. Proposal would create massive disturbance to the common. Land Transfer as compensation for Commoners has not been agreed.
- (4) Site falls within the area of consideration by Natural Resources Wales as an extension of the Gower Area of Outstanding Natural Beauty

- (5) Environmental conditions should not be removed as they protect the area.
- (6) Additional works required as part of the common land consent should be included in this application.
- (7) Questions over whether the scheme can be delivered by the applicants given the unresolved issues including planning conditions. Applicants do not have the capacity or the capability that they claim to have to take this forward.
- (8) Debatable whether any bank or lender would be prepared to risk funding such an enterprise
- (9) Changes to scheme are substantial, at odds with original application and should be considered by a new planning application and not an extension of time
- (10) Applicant makes threats that a larger developer will take over the proposal. The applicant's commitments to the community suddenly seem quite remote. If this happens, the local community would miss out on a large proportion of the benefits, which will instead be returned to a developer. If this happens shouldn't any assets be passed onto a company with similar objectives.
- (11) Community does not support proposal as applicant implies
- (12) Traffic route has been significantly revised. Plans for Mynydd y Betws wind farm have been known for a considerable time, why did the applicant not consider this 'southern' route long before the recent application.
- (13) Change to condition 14 suggests the applicants inability to align their plans with current conditions.
- (14) Locality of stone to be used has been changed causing more traffic issues
- (15) Environment study may not be valid and the area contains wildlife
- (16) Application should be refused under Section 73 (b) of the 1990 Act as there has been a material change in circumstances, changes in policy and failure to begin development

- (17) Welsh Ministers should call in this application for their own consideration
- (18) Community benefits should be managed by the Local Authority rather than AAT. Applicants have continually promised that they would supply things to the community all of which they have failed to deliver. Applicant confirmed possibility that the application could be 'sold on'.
- (19) Now borrow pits are removed no farm diversification / benefit to farms will result from the scheme as previously Perthigwynion farm quarry was to be used. Failure to check the quality, quantity and suitability of stone available at Perthigwynion Farm shows lack of competence.
- (20) Ground is unstable
- (21) Insufficient time for interested parties to comment on the application especially given holiday period, consultation period should be extended. Why have letters not been sent out to local community. Insufficient site notices posted.
- (22) The area is plagued with other turbines including on the Betws Mountain which are so intrusive from the Black Mountain (an area of outstanding beauty) that if turbines are erected on Mynydd Y Gwrhyd the whole area will be surrounded. No more an area of outstanding beauty.
- (23) The area that AAT propose to contaminate has exceptional uninterrupted panoramic views and is a truly marvellous place to walk and to watch wildlife. Visitors come to enjoy the common for these reasons.
- (24) Is the Blaenhonddan Farm Quarry the same quarry that Western Power have just submitted a planning application P2014/0722 for consultation for overhead lines
- (25) The application is a ploy to get more turbines granted in the future
- (26) The site is not within the designated government area for such development.
- (27) No details of how wheel wash is to operate and sources of water. Further wheelwash facility required where the access track joins the highway at Perthigwynion Farm and Blaenegel Farm.

(28) Applicant has offered money to each commoner if they would write to support the wind farm.

Gwaun Cae Gurwen Community Council: No response therefore no observations to make.

Cwmllynfell Community Council: No response therefore no observations to make.

Pontardawe Town Council: No objection

Brecon Beacons National Park: No objection

Natural Resources Wales: No objection

R.S.P.B: No response

Ministry of Defence (Wind): No objection subject to conditions

Glamorgan Gwent Archaeological Trust: No objection

Swansea Airport: No response

BBC (Research Department): No response

OFCOM (Windfarm Site Clearances – operation Licensing): No objection

Civil Aviation Authority (Director of Airspace Policy): No response

National Grid Plant Protection: No response

The Coal Authority: No objection

Joint Radio Company: No objection

Head of Engineering and Transport (Highways Section): No objection subject to conditions

Head of Engineering and Transport (Drainage Section): No objection subject to conditions

Pollution Control (Noise): No objection - previous conditions fit for purpose

Contaminated Land: No objection, subject to condition

Footpaths: No objection subject to condition

Arboricultural Officer: No response

Biodiversity Unit: No objection

Description of Site and its Surroundings

The application site comprises an area of approximately 10 hectares located on Mynydd y Gwrhyd to the east of Cwmgors and Gwaun Cae Gurwen, to the south of Tairgwaith and to the west of Rhiwfawr. It lies to the east of the A474 which is the principal route from Neath to Ammanford.

Access to the site will be gained via an existing access off the A474 (Pontardawe to Cwmgors) at a point opposite the entrance road to Pwllfawatkin Landfill Site.

The site occupies a prominent, elevated and isolated position on Mynydd y Gwrhyd just off the ridgeline on Mynydd Uchaf at about 350m Above Ordnance Datum (AOD) and from which there are panoramic and extensive views across the surrounding countryside and settlements and which extend to the Brecon Beacons National Park to the north, the southern boundary of which is some 2.8km from the nearest proposed wind turbine.

There are a number of farms in the locality together with the remains of previous mineral workings. Planted woodland has been undertaken in the locality, primarily with evergreen species. The site lies adjacent to the 33kv and 11kv local electricity distribution networks.

The existing closest residential properties in Cwmgors and Gwaun Cae Gurwen are some 1.8km from the nearest turbine, with those in Tairgwaith being some 1.3km away and the closest properties in Rhiwfawr some 1.1 km away. There are also individual properties located adjacent to the access road and farms located close to the site.

The site area comprises part private land and part Common Land and is not allocated for any purpose in the Unitary Development Plan. It lies outside Strategic Area E identified in Technical Advice Note 8.

Brief description of proposal

Members will be aware that planning permission (P2007/1413) has previously

been granted at appeal (May 2009) for two no. wind turbines at this location, including substation met mast and access tracks and additional temporary works including borrow pits.

This submission relates to a Section 73 application to vary and remove conditions attached to this planning permission. This type of application allows the Local Authority the power to remove or amend planning conditions. The approval of such an application would result in a new planning permission for the development being granted.

The application is supported by a Design and Access Statement, together with copies of the previous Environmental Statement with updated addendum, Transport Assessment, Coal Mining Report, and an updated Ecology Assessment.

Details of the conditions to be varied / removed are summarised as follows:

Condition 1:

The development hereby permitted shall begin not later than five years from the date of this decision.

The application seeks to vary the condition to extend the time for commencement of development until 7th May 2019.

Condition 3:

This permission relates solely to the erection of two, 3 bladed wind turbines and associated works as described in the application plan and accompanying ES, with a maximum height to the blade tip of 100 metres from the original ground level.

The application seeks to vary the condition to remove reference for works to be in accordance with the original Environmental Statement (ES), given that this document refers to the use of borrow pits (It is now proposed to use an off site quarry – see below) (i.e. tighten reference to the ES so there is no reference to sections referring to borrow pits or original traffic calculations in the original ES and ES Addendum). In addition it seeks consent for minor alterations to the approved wind turbine design with the wind turbine maximum height remaining the same, but the hub height would reduce by 1m and blade radius increase from 40m to 41m. In addition, the construction traffic route was previously approved to access the site from the north (Ammanford direction) but it is now proposed from the south (Pontardawe direction).

Condition 9:

No development shall commence until a scheme has been submitted to and approved by the local planning authority indicating the location of the borrow pits, their size, the prevailing ground conditions including the level of the water table, the nature of the material to be excavated and the use of the material, the nature and origin of any backfilling material, any pollution control measures necessary to protect controlled waters from suspended solids and the potential impacts on the hydro-geological regime as a result of the excavation and back-filling.

The applicant seeks to remove this condition given that details of borrow pits are no longer required as they propose to use an off site quarry rather than on site borrow pits as a source of stone.

Condition 14

No construction works shall commence at the site of the turbines, until the highway improvement works as detailed on Figure 14 at 1:500 dated August 2004 have been implemented, unless otherwise agreed in writing by the Local Planning Authority.

The approved delivery route for turbine components was via the M4 and the A474 through the town of Ammanford (the northern route). This application instead proposes that construction vehicles will access the site from the south (southern route) from Pontardawe at a point opposite the entrance road to Pwllfawatkin Landfill Site. The change in direction of construction traffic necessitates a change in design of the junction with the A474 when compared to the previously agreed scheme. It is proposed to widen the bellmouth at the junction and to widen the adopted highway for a length of some 160m by removing existing vegetation and trees.

Condition 15

The permanent running widths of the internal access tracks shall be no greater than 5 metres wide (10 metres on bends) unless agreed in writing by the local planning authority. All new tracks shall be surfaced with stone from the approved borrow pit(s) or excavations for the turbine bases, unless otherwise

agreed in writing by the local planning authority.

The applicants seek to vary the above condition to remove the second sentence, which currently states that new tracks will be surfaced with stone from the borrow pits (which are now not proposed). They also seek to vary the condition to allow wider sections of track to provide passing places along the access track and a wheel wash facility. The passing places/ wheel washing are identified as areas between 6m and 9m.

ASSESSMENT

Members should note that the principle of locating 2 turbines at this location has previously been accepted by the granting of the original appeal in May 2009. Accordingly, having regard to the approval of planning permission ref. P2007/1413 for two wind turbines and associated infrastructure, the main issues for consideration in the determination of the application relate to whether there has been any material change in site or policy circumstances since that approval, together with an assessment of the impact of the proposed amendments to the consent (through changes in the wording of the conditions) having regard to matters including safety, noise; socio-economic and cultural issues.

This report therefore concentrates on those areas where there are significant changes in the likely impacts arising from the proposals to vary / remove conditions whilst noting those relevant material considerations where the judgement is that there will be no change arising from the amendments proposed.

In summary therefore the issue is whether the proposed changes raise sufficient new material issues such as to make the current proposals unacceptable.

The key issues to be assessed within this report are set out below:

- **Landscape and visual effects**
- **Ecology and archaeology**
- **Ground Stability & Hydrology**
- **Traffic and Transport**
- **Shadow Flicker**

- **Electromagnetic Interference, Aviation, Public Access, Recreation, Safety and Shadow Flicker Assessment**
- **Noise and disturbance**

Environmental Impact Assessment

Under the Town and Country Planning (Environmental Impact Assessment) Regulations 2011, as the original full planning application for this site was EIA development, this application for the variation of conditions is also regarded as an EIA application.

The local planning authority considers that the Environmental Statement (ES) accompanying the original full planning permission adequately addresses the environmental effects of the proposals. However, given the alterations proposed to the approved scheme, the local authority requested that the original ES was updated via an addendum to take account of the revisions to the proposed scheme together with any potential material change in circumstances that have occurred in the intervening years.

As such, the environmental information submitted with this application ie the Environmental Statement submitted with the original application and the updated information in the form of the addendum, is considered adequate to assess the environmental effects of the development. As a result, this information will be taken into account and considered in the assessment of this application, the officer recommendation and therefore the determination.

Policy Context:

Development Plan Policies and Planning Guidance

The following policies were considered relevant to this proposal at the time of the original decision and remain in force.

The Unitary Development Plan

Policy ENV1 – Development in the Countryside

Policy ENV3 – Impacts On The Landscape

Policy ENV17 – General Considerations

Policy IE4 – Renewable Energy

Policy M6 – Borrow Pits

Draft Interim Planning Guidance: Wind Turbine Development

The draft Interim Planning Guidance (IPG) was prepared in accordance with the Ministerial Interim Planning Policy Statement (MIPPS) 01/2005 and Technical Advice Note (TAN) 8 (2005). It states that the Council will have regard to the IPG when making planning decisions with immediate effect.

National Planning Policy

Planning Policy Wales

Technical Advice Note 8 (TAN 8)

The appeal inspector noted the following:

‘TAN 8 provides a National framework within which wind energy developments are considered. Its thrust is to concentrate large scale onshore wind energy developments, defined as projects producing 25MW or more, into identified Strategic Search Areas (SSAs). One such SSA (Pontawdawe SSA[E]) lies about 500 metres to the south of the appeal site, but a note on the map within the TAN states that boundaries may be slightly refined and that there was scope to increase the area to the north-west. Annex D of the TAN provides guidance to local planning authorities on dealing with SSAs, including that minor adjustments could be made to the ‘broad brush’ boundaries when translating these into the locally generated planning documents such as the UDP or the IPG.

‘In this regard, I note that the IPG provides a refined SSA boundary, although it makes little difference in terms of the application site and the broad area covered. The application site lies beyond the areas identified for large scale developments where the TAN makes clear at paragraph 2.13 that such areas should remain free of large wind energy developments. However, it is clear from paragraph 2.2 of Annex D of the TAN that areas within 5 kilometres of the SSA are recognised as having an association with the identified areas in terms of possible sites. Thus the site can be regarded as being close to the SSA. Nevertheless as made clear in paragraph 2.13, outside the SSA, a balance has to be struck between the desirability of renewable energy and landscape protection, although that balance should not result in a severe restriction on the development of wind power capacity.’

‘The proposal however is made as a community based scheme with an output of 4MW. The submitted ES provides adequate evidence that the proposal would fall within this definition. Paragraph 12.8.11 of the MIPPS and paragraph 2.12 of TAN 8 notes that *smaller (generally less than 5MW) domestic or community-based wind turbine developments may be suitable within or without SSAs subject to material planning considerations*. In this regard, I note that the MIPPS does not define ‘smaller’ in physical terms such as the height/radius of the turbines and blades, although the Inspector considering the proposal for 4 turbines did make comment in this regard.’

‘Outside the SSA, smaller scale schemes could be appropriate. I consider that having regard to paragraph 2.13 of TAN 8 in full, there is a clear inference that whereas wind energy developments larger than 5MW outside the SSA and urban/industrial brownfield sites would probably lead to the refusal of planning permission, smaller schemes should be generally supported.’

The Appeal Inspectors concludes these matters by stating:

‘Having an output of no more than 4 MW, the proposal would fall within the parameters of small community based schemes set out in TAN 8 of up to 5MW and also within the more restricted maximum set out in the Council’s IPG. Whilst recognising that the height of the turbines and blades would be substantial and that comment in this regard was made by the last inspector, I find insufficient grounds for departing from the policy standpoint that the proposal must now be regarded as being ‘small scale’.

As such it is clear the Planning Inspector considered the location to be appropriate for a two turbine community scale scheme and the key policies in TAN8 remain the same as they were in 2009.

Furthermore, the key development plan policies referred to above are still relevant to the scheme and generally remain the same in 2014 as they were in 2009.

The below is an overview of the additional / new guidance that has come into effect since the original approval in 2009:

Environment Minister, John Griffiths, in his letter to Chief Planning Officers (July 2011) emphasised the Welsh Government’s ongoing commitment to limiting the development of large scale wind farms to seven specially selected areas, increased the maximum capacities for the Strategic Search Areas (SSAs) and called on decision makers to respect maximum installation capacities for onshore wind.

The Minister for Housing and Regeneration, Carl Sergeant, in his letter to Chief Planning Officers in December 2013, emphasised that the Welsh Government is seeking to promote and support community driven renewable energy projects where benefits from the projects are returned to the host community, and recognised that the planning system plays a crucial role and is fundamental to the deployment of community energy projects in Wales.

His letter advised that *‘Planning decisions should be based on an assessment of the impacts of any proposed development irrespective of who the applicant is. However, by recognising the particular needs of community groups and organisations, and offering the opportunity for early engagement in the planning process, I hope that we will be able to realise our ambitions to see community owned renewable energy projects flourishing across Wales’*.

“A Low Carbon Revolution” – (The Welsh Government Energy Policy Statement (2010))

In this policy statement, the Welsh Government sets out its ambitions for low carbon energy in Wales. It recognises the challenge of climate change and the aim is to renewably generate up to twice as much electricity annually by 2025 compared to output in 2010.

UK National Renewable Energy Action Plan (2010)

The National Renewable Energy Action Plan provides details on a set of measures that would enable the UK to meet its 2020 target for renewable energy. It also seeks to secure UK energy supplies through 2020 and beyond and provides a sound framework for business to develop in the new industries, providing jobs and cutting harmful greenhouse gases.

The action plan recognises the role of the planning system to deliver the infrastructure required to reduce carbon emission. It also equally recognises the need for the planning system in

“safeguarding our landscape and natural heritage and allowing communities and individuals the opportunity to shape where they live and work.”

UK Renewable Energy Road Map (July 2011)

This document sets out the shared approach to unlocking the UK renewable energy potential and ensures that 15% of the UK energy demand is met from renewable sources by 2020 in the most cost effective way.

The role of the planning system is also recognised within the document.

Paragraph 3.20 states

“The planning system plays a central role in delivering the infrastructure we need to reduce our carbon emissions, to ensure continued security of energy supply and help our economy to grow. It has a vital role in safeguarding our landscape and natural heritage and allowing individual communities the opportunity to shape their environment.”

Planning Policy Wales Edition 7, July 2014) sets out the strategic framework for the effective operation of the planning system in Wales.

Biodiversity and landscape considerations must be taken into account in determining individual applications contributing to the implementation of specific projects. The effect of a development proposal on the wildlife or landscape of any area can be a material consideration. In such instances and in the interests of achieving sustainable development, it is important to balance conservation objectives with the wider economic needs of local businesses and communities. Where development does occur it is important to ensure that all reasonable steps are taken to safeguard or enhance the environmental quality of land.

Conclusion in respect of the principle of the proposed development

As emphasised above, the erection of two wind turbines in this location has previously been deemed to be acceptable by an independent Planning Inspector. Since that date, there has been no material change in local policy, while national policy has only reinforced the Government’s commitment both to the SSAs and especially to small-scale community-based wind projects.

Accordingly, there remains a general presumption in favour of developing wind farms subject to there being no resultant adverse impacts, and there are no reasonable or sustainable grounds on which to object to this development in respect of the principle of development.

ASSESSMENT

Landscape and visual effects

The table below sets out a comparison between the details of the previously approved turbines and those proposed under this application, from which it will be noted that the change to the turbine design is minimal.

	Overall height	Hub Height	Blade radius
Approved	100m	60m	40m

scheme 2009			
Current proposal	100m	59m	41m

The Appeal Inspector in 2009 dealt with and summarised the question of the visual and landscape impact of the proposed turbines as follows:

- *'the impact upon part of the area's landscape character would be significant but not unacceptably harmful' and 'the proposal would not result in significant change to the landscape's overall appearance and its appreciation.'*
- *'upper parts of the turbines may be seen and may result in some significant changes to the views, I consider that the area's key visual characteristics would not be significantly changed.'*

Bringing these two issues together the Appeal Inspector noted the following:

- *'it is clear that the proposed turbines would have an effect upon the landscape character and visual appearance of the area. Those impacts would be largely contained by the existing topography within a 10km radius that encloses the appeal site and separates it from the wider landscape.'*

The Appeal Inspector also referred to and assessed the potential cumulative impact stating

- *'I have also had regard to the possible cumulative impact of similar developments within and adjoining the Council's area and note in particular those developments within the defined SSA's. However, taking into account the level of exposure of and to those developments as illustrated in the ES and noted during my site inspection, together with the reduced scale of the current proposal, I conclude that the proposal would not result in significant change to the landscape's overall appearance and its appreciation.'*

The original planning application was supported by landscape and visual assessment. The approach taken to the landscape assessment was based upon the LANDMAP methodology and data. This methodology accorded with Best Industry Practice. The studies concluded that the turbines would have a very limited zone of visual influence.

The requested variation to condition 3 will result in the proposed turbines

potentially having a greater swept area of 1m by virtue of the increased blade radius. However, this is to a degree offset by the reduction in hub height which results in the overall tip height remaining the same as that previously approved.

As stated, in terms of the overall height, the maximum tip height will remain the same at 100m, but clearly there is an increase in blade length and as a result whilst in motion, particularly from closer views, one may be more aware of the turning of the turbines when in operation. On balance however and given the limited increase in blade radius, it is considered that there would be no materially greater impact in landscape and visual terms to the extent that it would justify refusing consent.

Notwithstanding the above, it is necessary to consider cumulative impact, and notably whether there are any changes since the appeal decision in terms of other approvals which would materially affect the overall conclusions in terms of landscape impact. In this regard, the following planning applications for developments in close proximity to the site have been granted / become operational, and are analysed below:

Mynydd y Betws Wind Farm - Although the scheme at Mynydd y Betws was consented after the Mynydd y Gwrhyd scheme, the two schemes were determined at a very similar time and cumulative impacts were considered at the appeals for both proposals. Neither scheme was refused on grounds of cumulative impact.

Summary: Cumulative impact assessed at time of original application Mynydd y Gwrhyd.

Mynydd y Gwair –When the original application for the Mynydd y Gwrhyd scheme was considered, this application was under consideration and although not being part of the baseline, the cumulative impacts were considered at the Mynydd y Gwrhyd appeal. The Mynydd y Gwair application for 19 turbines was refused and dismissed at appeal. A revised scheme consisting of 16 turbines was approved by the City of Swansea County Borough Council in February 2013. The revised scheme has fewer turbines than the proposal considered for cumulative impacts at the Mynydd y Gwrhyd appeal.

Summary: Cumulative impact assessed at time of original Mynydd y Gwrhyd application when it was considered there was no unacceptable impact. 2013 scheme for fewer turbines approved, and therefore no unacceptable impact

Ffynnon Oer Wind Farm - wind farm located 16.2 km southeast of Mynydd y Gwrhyd. The Ffynnon Oer Wind Farm wind farm was operational at the time of the planning application for the Mynydd y Gwrhyd scheme. A cumulative ZTV was presented in the ES Addendum submitted in 2007 (ES Addendum Figure 18, Dulas 2007) and concluded that there would be no significant cumulative effects arising from the Ffynnon Oer Wind Farm when considered alongside the Mynydd y Gwrhyd scheme.

Summary: Cumulative impact assessed at time of original Mynydd y Gwrhyd application

Mynydd Marchywel – Five wind turbines of up to 126.5 m are proposed at Mynydd Marchywel, approximately 6.7km to the south east of Mynydd y Gwrhyd. The application was submitted in October 2012 and therefore was not considered in the cumulative impact assessment for Mynydd y Gwrhyd. The application was refused in February 2014 and therefore is not part of the baseline situation under which this Section 73 application is considered. However, given that the applicant has submitted an appeal, the project is considered here.

The Mynydd y Gwrhyd scheme had an extant consent when the application was submitted. Therefore, cumulative impacts of the Mynydd Marchywel wind farm alongside the Mynydd y Gwrhyd scheme were considered throughout the planning process for the Mynydd Marchywel scheme

The LVIA for Mynydd Marchywel concludes that:

‘The assessment of cumulative effects indicates that the proposed wind farm would introduce negligible new areas of visibility, where wind energy development is currently not seen, into the study area. Whilst the proposed wind farm would be seen in combination with other cumulative development across most of the LCT and LCA in the study area, the addition of the proposed wind farm would not add significantly to existing and proposed cumulative development and would have a relatively limited effect which would not be significant on any LCT or LCA’ (page 129).

As stated the Mynydd Marchywel planning application was refused, however, the reasons did not relate to cumulative impacts.

Summary: Not considered at time of original Cumulative Mynydd y Gwrhyd application. However, Mynydd Marchywel application considered cumulative impact and concluded there would be no unacceptable impact.

As such, analysis of the above schemes demonstrates that the Mynydd y Gwair

and Mynydd Marchywel wind farms that have been approved since the original Mynydd y Gwrhyd appeal decision. However, both of these schemes included cumulative impact assessments examining their impact alongside the impact of this proposed development at Mynydd y Gwhryd.

Having regard to the above, it is considered that all proposals considered since 2009 have assessed cumulative impacts alongside the Mynydd y Gwrhyd scheme, and no proposals have been refused due to unacceptable cumulative impacts. In any respect, it is concluded that the changes proposed as part of this application are minor and there are no reasonable grounds to object to the development on landscape grounds, including in respect of cumulative impact.

The other changes proposed under this application, namely the decision not to use on site borrow pits, to change the route of construction traffic and make amendments to internal access roads, would have negligible impacts upon the landscape over and above those identified in the previous application. Indeed, the Appeal Inspector does not relate to these individual aspect elements in his assessment on visual impact and almost solely refers to the impact of the turbines only.

Ecology

Within the original planning application it was assessed that there was no significant habitat change and there was no objection from CCW or the Council's Biodiversity Unit to the development. Similarly the appeal inspector did not raise any objection or issues in respect of ecology but recommended the following condition:

No development shall commence until an ecological management, mitigation and monitoring plan has been submitted to and approved in writing by the local planning authority: the plan shall be implemented as approved.

Several ecology surveys have been carried out since 2009 as part of work to discharge the above condition and to secure Section 194 Common Land consent including surveys in June 2011. They include a Discharge of Ecology Planning Condition report produced by Barry Stewart & Associates in September 2013 and an Ecological Mitigation Method Statement produced by Amber Environmental Consultancy in February 2014. The above have been submitted to NPTCBC and have been reviewed by the Biodiversity Unit. The Biodiversity Unit has confirmed that they were satisfied with the information submitted and the condition was discharged in June 2014 under planning reference P2014/0078.

There is also no evidence that there will be any increased impact upon local wildlife arising from the proposals as opposed to that within the originally approved scheme. There are therefore, no outstanding matters relating to Ecology.

Archaeology

The archaeological impacts of the scheme were previously assessed within the ES concluding that no unacceptable impacts would result. The Planning Inspector accepted this approach and recommended the following conditions:

'No development shall commence until a scheme to ensure the implementation of archaeological work in accordance with a written scheme of investigation has been submitted to and approved in writing by the local planning authority.'

'No development shall commence until all identified archaeological sites within the application site area have been fenced in accordance with details to be submitted and approved by the local planning authority: throughout the development, no works shall be undertaken within the fenced area without written consent of the local planning authority.'

The above conditions were discharged on 23rd January 2014 under Planning reference P2013/0893. The relationship between the proposed wind turbines and archeological assets has not changed. As such, the alterations subject of this application would not result in any significant additional impact. Glamorgan Gwent Archeological Trust also raised no concerns to the amendments which are proposed within this application and have confirmed that they have no objection to the proposed scheme. As such, conditions are recommended which refer to implementation of the aforementioned agreed schemes.

Ground Stability & Hydrology

With regard to ground conditions that exist and its suitability to accommodate the foundations for the proposed turbines, it is noted that investigations have previously been undertaken by Consultants commissioned during the submission of the original application for four wind turbines. The Appeal Inspector does not refer to this issue in any detail in respect of the appeal allowed in 2009 in respect of the 2 turbine scheme. However, no evidence was presented at this time to suggest that the erection of the turbines would cause ground stability problems.

However, the Coal authority have reviewed the proposals put forward under

the current application and confirm that the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application.

The Coal Authority records show that the site contains a number of mine entries (shafts / adits); with further mine entries within 20 metres of the application boundary. The site is also within an area of recorded past shallow workings and is likely to have been subject to historic unrecorded shallow workings. The Coal Authority records also indicate that the site has been subject to past surface mining operations.

The Coal Authority state that the applicant has obtained appropriate and up-to-date coal mining information for the proposed development site; including Coal Authority Mine Abandonment Plans, BGS geological mapping and information from a recent site investigation, permission of which was obtained from The Coal Authority records. This information has been used to inform the Coal Mining Risk Assessment Report (April 2014, prepared by The Natural Power Consultants Limited).

Based on this review of existing mining information, and on the basis that all of the mine entries are remote from where the turbines are proposed, Section 6 of the report confirms that it is highly unlikely that there are any workings or disturbed ground in the vicinity of the locations that would have an adverse effect on the proposed development. Consequently, the report concludes that the risk is assessed as extremely low. Accordingly, no specific remedial measures or further investigation are considered necessary.

The Coal Authority advise that the results of the site investigations, an analysis of which is provided in the submitted Coal Mining Risk Assessment Report, are broadly sufficient for the purposes of the planning system and meet the requirements of Planning Policy Wales (PPW) in demonstrating that the application site is safe and stable for the proposed development. The Coal Authority therefore has raised no objection to the proposed development. However, it is stated that further more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent Building Regulations application.

It is therefore considered that material circumstances therefore remain broadly unchanged since 2009, when the Appeal Inspector judged the proposal to be acceptable in terms of ground stability.

A Hydrology report was also commissioned by the applicants during the submission of the original application, which acknowledged that some

dwelling in the area are served by natural water supplies. The conclusions reached in the report were that the development should not have an impact on natural water supplies and licensed abstractions but recommends that the situation be monitored.

Natural Resources Wales have provided further confirmation in respect of the current application that they have no objection to the development in principle. Given that the amended application still consists of only two turbines it is not considered that the proposed development would have any additional impact over and above that previously considered.

Traffic and Transport

The access road on the site (defined as the area within the red line boundary) was consented in 2009 and the route from the A474 has not changed since this date. A detailed design for the access road has however been produced that includes minor amendments to the track widths at certain locations.

Traffic route

Access arrangements to the site have changed since those assessed in the original ES. The original ES described the access for Abnormal Indivisible Loads (AILs) to the site as along the A474 from the north. The original route described in the ES was along the A483 towards Ammanford from the west and then went onto the High Street through the centre of Ammanford. At the time of the original ES preparation, the High Street was the A474. In 2006, a bypass was constructed in Ammanford which significantly changed the road layout. The A474 now follows the bypass. The route as assessed in the original ES no longer exists due to these changes.

In terms of the original route proposed via Ammanford, the High Street has been substantially modified to discourage through traffic from using it. Traffic calming measures have been installed along the full length of the road. In addition to necessary street furniture and signage modifications.

The route now proposed is from the south and has been adopted following changes to the highway network from the north described above. In addition, this seeks to take advantage of the enabling works now in place following the successful delivery of the Mynydd y Betws project.

The proposed route for AILs comprising the Wind Energy Converters or Wind Turbines (WEC) components is therefore now expected to begin with importation to Swansea dock from where they will be transported to the site via A483 Fabian Way to the M4 at Junction 42. The route continues north west

along the M4 to junction 45 where it leaves to join the A4067 north to Pontardawe, and then along the A474 north to a minor junction opposite the Pwllfawatkin tip at OS reference SN 703 086.

The route from the south has been assessed by the local authority as an acceptable route for the Mynydd y Betws project (which was implemented without unacceptable impact) and as the proposed development is smaller, in both size and number of turbines, it is considered that there will be no significant impact from using this route.

The only part of the Mynydd y Gwrhyd route that is not coincident with the Mynydd y Betws route is about 800m of lane/access track leading from the Pwllfawatkin cross roads to the Gwrhyd Common. Nevertheless there are no highway objections to this part of the route.

Traffic Movements

This application also requests the removal of condition 9 that requires details of on site borrow pits to be submitted to the local planning authority. This is on the grounds that the original application proposed the inclusion and use of borrow pits for the extraction of stone to construct the access track. However, although the borrow pits were discussed in the original ES and planning conditions, the borrow pits were not within the red line boundary for the application. This Section 73 application therefore applies to vary conditions to enable AAT to use stone from a local quarry as opposed to the originally proposed (but not previously approved) borrow pits.

The applicant originally considered three options for obtaining stone for construction, including use of materials excavated as part of development (e.g. turbine foundations), use of borrow pits near the turbines and purchasing stone from off site. The two borrow pits considered were located at Perthigwynion Farm and to the north of Bryn Melyn Farm.

However, it has since been concluded that the quality of stone from the two aforementioned farms is inadequate and the quantity available is insufficient from Perthigwynion farm. Furthermore, the site to the north of Bryn Melyn is also unavailable as it is located on common land and was withdrawn from the Section 194 application by the applicant in order to reduce the impact of the scheme on the Gwrhyd Common, an area of open public access.

The applicant therefore now proposes to source stone from Blaenhonddan Farm quarry (also known as Gilfach Quarry). This quarry is located about 5.5 miles from the site to the south of Pontardawe. The route to site will be along a short length of minor road onto the A474 to the east of Bryncoch then north

along the A474 to the Pwllfawatkin crossroad. It is of note that this quarry recently supplied 60,000 tonnes of stone to the nearby Mynydd y Betws wind farm development.

It should be noted that the original ES estimated that with the borrow pits, in excess of 85% of the required stone for the project could be won on site. It is not clear what proportion of this 85% would be sourced from excavations associated with the turbine and ancillary development as the assessment also considers this as an option.

As such, it is clear that by sourcing stone from off site, there will be a resultant increase in construction vehicular movements over and above that which was previously anticipated. However, a Traffic Management Plan was not produced as part of the application consented in 2009, and details of the exact number of vehicular movements was not provided. As such, a condition was placed on the consent by the Appeal Inspector to enable preparation of additional information on traffic movements and mitigation of any impacts.

The proposed scheme estimates that 1,727 deliveries will be required over a six month construction period, creating an average of 12 deliveries (24 movements) per day. However, the number of vehicles per day will generally be less than 12, but may rise to about 50 HGV vehicles (100 movements) per day during periods of intense activity, typically during concrete foundation pours (which will normally take one day for each of the two bases). These figures exclude the site personnel and visitors travelling to and from the site which will be about 8-10 cars or light vans per day.

The bulk of the 1,727 figure referred to above relates to the importation of stone (1,397 loads - 2794 vehicle movements). The applicant has confirmed that the construction will last for approximately 6 to 7 months and that for the first one and a half months of the construction, HGVs will be delivering the stone on a 10 hour working day. The deliveries would however be restricted to Monday to Friday and Saturday mornings, so effectively 5 ½ days per week.

As such the Local Planning Authority has assessed the number of movements related to stone on the basis of a seven week period (38.5 days). This assessment indicates that there will be an average of 36.3 HGV loads (72.6 HGV movements) per day which equates to 3.63 (7.26 movements) per hour.

If the stone deliveries were more intense (over a 6 week (33 day) period) this would increase the vehicles to an average of 42.3 HGV loads (84.6 HGV movements) per day, which equates to 4.23 per hour (8.46 movements)

As stated above, the calculated proposed vehicle movements relating to stone

would represent an increase over and above those that were originally envisaged under the previous approval. Nevertheless, the Head of Engineering and Transport has assessed the proposed development and considered the above calculations and advised that there is sufficient capacity within the highway network serving this site to accommodate these movements without impacting upon highway safety. As such there is no highways objection to the proposed development.

Accordingly, provided an appropriate Traffic Management Scheme is conditioned and implemented, along with other appropriate conditions, it is considered that the impacts of the proposed development during the construction phase of the wind farm would not result in any unacceptable impact upon highways and pedestrian safety.

Shadow Flicker

Guidance on shadow flicker at the time of the original approval stated that the effects only occur at distances of up to, and no more than, 10 rotor diameters from the turbine.

Both the original ES and the Appeal Inspector stated that given the distance from any dwellings, shadow flicker is not an issue for the proposed scheme. Following the appeal decision, Parsons Brinckerhoff in 2011 reviewed the evidence base for Shadow Flicker on behalf of the Department for Energy and Climate Change. The study concluded that the rotor diameter approach is widely used by different organisations in different parts of the UK and still deemed to be an appropriate assessment area. This approach is still used to guide shadow flicker assessments in 2014 and therefore remains appropriate to this application.

The closest property is Bryn Melyn, which is located 750m south of the nearest turbine. However, as previously assessed, properties to the south of a turbine cannot be affected by shadow flicker. Impacts only occur within 130 degrees either side of north from a turbine. As such, despite the increased rotor diameter distance it is still the case that no residential properties fall within the affected zone.

It is therefore considered that material circumstances remain broadly unchanged since 2009, when the Appeal Inspector judged the proposal to be acceptable in terms of shadow flicker impact.

Electromagnetic Interference, Aviation, Public Access, Recreation, Safety and Shadow Flicker Assessment

The original ES (2004) included a section assessing the impacts of the five turbine Mynydd y Gwrhyd scheme on microwave and electromagnetic signals, television reception and aviation. The ES Addendum (2007) did not update the 2004 assessment.

Microwave and other electromagnetic signals are transmitted throughout the country by a wide range of operators, including both statutory agencies and commercial companies. As part of the original ES (2004) all bodies controlling communication links were contacted including Home Office, Orange, Crown Castle UK Ltd, BBC, ITC, NTL, Radio Communications Agency, Cable and Wireless and Radio Safety Branch. With the exception of NTL, none of these organisations voiced any concerns.

The ES reported that NTL stated that no Super High Frequency links would be affected, but that there could be an impact on an NTL operated UHF Re-Broadcast link between Carmel and Ystalyfera.

As such, while there were no significant impacts identified in the original ES, a condition was placed on the consent requiring a scheme to be submitted and approved in writing to alleviate any interference with electro-magnetic signals (condition 27). Should this application be approved this condition can be re-imposed.

In respect of aviation, the Appeal Inspector did not include any planning conditions on the consent relating to aviation. However, the MOD have responded by stating that the principal safeguarding concern of the MOD with respect to the development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations.

As such, the MOD, in the interests of air safety request that the turbines should be fitted with aviation safety lighting.

Defence Infrastructure Organisation Safeguarding also wishes to be consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests. If planning permission is granted the MOD state that they would like to be advised of the following;

- the date construction starts and ends;
- the maximum height of construction equipment;
- the latitude and longitude of every turbine.

It is stated that this information is vital as it will be plotted on flying charts to make sure that military aircraft avoid this area.

Subject to conditions securing the above, given the nature of the proposed alterations, it is considered that there will be no additional impact over and above that previously identified.

In terms of public access, recreation and safety, the limited alteration to this proposal which primarily relates an increased blade diameter, will ensure that there would be no further impact over and above that assessed under the previous permission.

Noise and disturbance

Noise issues relating to the potential noise impact of this Wind Farm scheme have been previously assessed in the Environmental Statement, and the Addendum to the Environmental Statement. The Environmental Health Officer and the Appeal Inspector also raised no objection to the previous proposal regarding noise implications.

The previous noise assessment followed the guidance contained within the report by the DTI Working Group on Noise from Wind Turbines and which is detailed in ETSU-R-97. ETSU-R-97. This remains the key guidance for wind turbine noise assessments in 2014.

Planning conditions were however placed on the previous consent to ensure that noise levels will be acceptable and outlining the remedial action that can be taken if complaints are received. The Environmental Health Officer has not raised any objection to this revised scheme.

Furthermore the extraction of stone from an existing quarry at some distance from the site will result in less noise and disturbance during the construction phase of the development, when compared to the potential use of borrow pits adjacent to the site. Therefore, use of stone from a commercial quarry could be considered to have a minor positive impact by reducing noise levels associated with new quarrying activities and also reducing the impact upon the existing landscape. Furthermore, the applicant has confirmed that during negotiations on the Common land consent, it was explicitly requested that the borrow pit on the Common was removed from the scheme.

As such, it is considered that subject to the inclusion of conditions in respect of noise the proposed scheme would not lead to any additional unacceptable impact over and above that which was previously identified.

Comments on the Grounds of Objection raised by the Public

In response to the objections raised mainly by local residents, it is considered that the concerns relating to planning policy, visual amenity, ground stability, site stability, ecology, traffic implications, cumulative impact and planning policy have been addressed in the report.

In respect of the other matters:

In response to the above issues concerning the consultation process and the fact that WGCA were not consulted by the applicant. Site notices were posted at the site and other locations in close proximity to the site and the application was advertised in the press. The consultation was considered as sufficient and was carried out in accordance with statutory requirements associated with publicity for a Planning Application as set out within the Town and Country Planning (General Development Management Procedure) (Wales) Order 2012.

It is a private matter between WGCA and the applicant as to whether consultations should have been sent to this organisation rather than a legislative requirement.

In respect of the issues concerning impact on property prices. There is no justifiable evidence that the windfarm would devalue property and notwithstanding this, the impact a planning application may have on property value is not a material planning consideration.

In respect of the issues raised concerning the impact upon the Common and the land transfer issue. Issues such as fly tipping would be dealt with under separate legislation. However, there is no evidence presented to suggest that the proposals would have an unacceptable impact upon the Common and the local authority is of the view that any impact would in any case not be to an unacceptable level. Matters of grazing rights over the common are the issue of the land transfer and are not material to the consideration of this application as they were dealt with under a separate application under the Common Land Act which has already been granted.

In response to the issue of the proposed alteration works required as part of the common land consent. Some of these works will require planning permission. However the applicant is not required to submit these details as part of this current planning application and can apply for planning permission at a later date for these works.

While it is accepted that the applicant has not progressed matters quickly in line with the previous approvals at this site, questions relating to whether the applicant is able to deliver this scheme are not material to this decision.

Regarding the issues raised highlighting the extent of the changes to the application, the legality of the submission and that a new full application should be submitted, an applicant can apply for consent under section 73 of the Act, to remove or vary a planning condition any time prior to the expiry of the host planning permission. Officers were of the view that a variation of condition application, provided it was made as a formal planning application, was the appropriate procedure given that it allows for all interested parties to be consulted and for appropriate publicity to be given to the revised proposals. Furthermore, while objectors state that the application should be refused under section 73 (b) of the act, it is considered that this is the applicants first attempt at renewing this permission and as such to refuse the application on failure to begin / implement the development would be unreasonable.

In response to the allegations that the applicant has threatened that larger developers could take over the scheme and issues of community benefit, the contribution towards a community fund would be the responsibility of the applicant or any successor. As such it is considered that community benefit for the purposes of the planning application would be maintained even if other developers took over the scheme. It should be noted however that Community Benefit is not a material planning consideration.

Turning to the statement that the community does not support the proposal as the applicant implies. It is understood that there are varied reasons why the members of the local community do not support the proposed development. However it is the local planning authority's role to consider all material planning considerations in making their decision, as part of this the local community have provided their views on the proposal which are assessed in this report.

Responding to the issues raised concerning the change in route for construction traffic, the applicant had previously chosen an alternative route that the Appeal Inspector allowed. However, for the reasons already set out in this report, this route is no longer as viable as previously assessed.

In respect to the issues raised concerning condition 14 of the Appeal Inspectors decision that requests highway improvements to the junction, the applicant has requested amendments to this arrangement given the altered route of construction traffic and the fact that the previous junction arrangement cannot

adequately accommodate vehicles entering the application site from the south as currently proposed.

In respect of the issues raised concerning the potential for there to be more vehicular movements. The Head of Engineering and Transport has assessed the proposed development and has no objection to the proposals.

An objector suggests that this application should be 'called in' by Welsh Ministers. However, this application is not a type that falls under The Town and Country Planning (Notification) (Wales) Direction 2012 and as such does not need to be referred to Welsh Government. Nevertheless any interested party is able to request that an application be called in by the Welsh Government prior to its determination (They must make that request direct to the Planning Division of the Welsh Government). However the Welsh Government will only agree to 'call in the application' if it is of more than local importance. It is not considered that this application is of more than local importance. Nor have we been advised by the Welsh Government that they intend to 'call it in'.

In respect of the issue relating to the loss of potential for agricultural diversification / benefit as a result of the alteration to use on site borrow pits, the Appeal Inspector did not cite this as justification for allowing the appeal and in any case it is considered that the loss of the on site borrow pits would not lead to any unacceptable impact that would merit refusal of this application.

In response to the enquiry as to whether Blaenhonddan Farm Quarry is the same quarry that Western Power have just submitted a planning application P2014/0722 for consultation for overhead lines. The site subject to Planning application P2014/0722 is Gwrhyd Special Stone Quarry not Blaenhonddan Farm Quarry.

In respect of the issue raised concerning the potential for there to be more wind turbines at this location in the future, any future application will be considered on its own merits and should this application be approved, it will not set a precedent for future wind turbines at this site.

In respect of the allegations relating to money being offered, scare tactics and lack of bank funding, there is no evidence to back up these allegations nevertheless they are not material planning considerations.

In respect of the amendments requested to condition 3, this will not result in any Environmental conditions being removed.

The comments are noted that indicate that the site falls within the area of consideration by Natural Resources Wales as an extension of the Gower Area of Outstanding Natural Beauty. However, Natural Resources Wales have raised no concerns in this respect and have no objection to the proposed development.

In respect of the issues raised concerning wheel wash facilities, the final detail for these arrangements will be agreed as part of a condition requiring a Traffic Management scheme. Notwithstanding this, it is considered that an option could be to utilise a wheel washing bowser at the site so no mains or other sources of water would be required.

Community Benefit

Developers, in consultation with local planning authorities, should take an active role in engaging with the local community on renewable energy proposals.

Experience has shown that there are opportunities to achieve community benefits through major wind farm development. Local Planning Authorities, where reasonably practical, should facilitate and encourage such proposals. However, such contributions should not enable permission to be given to a proposal that otherwise would be unacceptable in planning terms.

TAN 8 Renewable Energy (2005) considers “Community Involvement and Benefits” and recognises the opportunities that large developments provide in making contributions that benefit the community, and experience has shown that there are opportunities to achieve community benefits through major renewable energy developments including solar”.

These include where developers offer benefits not directly related to the planning process. However such contributions should not impact on the decision making process, and as stated above should not enable permission to be given to a proposal that otherwise would be unacceptable in planning terms.

Having regard to the above, and to the Authority’s recent success in ensuring other such large-scale renewable energy proposals directly benefit the community from hosting such development, the applicant has offered to provide a community benefit contribution of £6,000 per MW. This reflects the sum offered under the previous approval which was for the same amount.

The applicant has indicated that a further contribution of £4,000 per MW has been agreed as part of the legal agreement for the Common Land Consent.

As stated above, community benefit is not put forward as mitigation and must not be taken into consideration in the decision of the planning application.

Conclusion

As with the original proposal a range of issues have been raised during the assessment of this application. National policy continues to support renewable energy projects such as this and as such the key issue for Members is whether the revised proposals raise new material issues that have such an adverse impact that the overarching policy support for renewable energy should be set aside in this particular case.

Key issues relate to whether it would be appropriate to extend the date for commencement of development, landscape and visual impacts together with the revised access route and potential for additional vehicular movements. It is not considered that there has been a material change in circumstances since the previous grant of planning permission and the proposal continues to broadly accord with national policy. It is therefore considered that it would be unreasonable to refuse to allow the extension to the time period proposed for commencement of development. In terms of visual impact it is concluded that there will be no greater impact than the earlier proposals. Furthermore, the suitability of the local road network has been assessed and it has been confirmed by the Highway Authority that they have no objections to the revisions, subject to conditions.

All environmental information submitted within the ES and the Supplementary Environmental information along with the comments of statutory consultees on the information supplied, and the comments, observations and representations provided by members of the public have been taken into consideration in this recommendation.

As such it is considered that the submitted scheme demonstrates that there are no unacceptable detrimental effects over and above those previously identified. The development therefore accords with Planning Policy Wales, TAN 8, Policy GC1, ENV1, ENV3, Policy ENV17, Policy IE4 and Policy M6

Recommendation

APPROVAL subject to a section 106 agreement to secure a community benefit payment of £6,000 per MW per year for the life time of the project and securing of a bond of £65,000 to cover the scenario that the applicant can not fulfil its obligation for the decommissioning of the scheme.

CONDITIONS

(1) The development hereby permitted shall be begun before the expiration of 5 years from the date of this permission.

Reason

To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

(2) This permission relates solely to the erection of two, 3 bladed wind turbines and associated works as described in the application plan and accompanying updated ES, with a maximum height to the blade tip of 100 metres from the original ground level and shall be restricted to the maximum generation of 4 MW of electricity only.

Reason

In the interest of clarity

(3) The permission hereby granted shall endure for a period of 25 years from the date when electricity is first exported from any wind turbine to the electricity grid network (First Export Date). Written confirmation of the First Export date shall be notified in writing by the developer to the Local Planning Authority within one month of the First Export Date.

Reason

In the interests of visual amenity

(4) Not later than 24 years after the First Export Date a decommissioning and site restoration scheme shall be submitted to and agreed in writing with the Local Planning Authority. Such a scheme will include:

-the removal of all surface elements of the development and one metre of the turbine bases below ground level;

-confirmation of the management and timing of works;

-a traffic management plan to address highway issues during the period of the decommissioning works;

-any other works of restoration and aftercare

The scheme shall be implemented as approved.

Reason

In the interests of visual amenity

(5) Notwithstanding the requirements of condition 4, if any wind turbine fails to produce electricity to the grid for a continuous period of 12 months, that turbine and its associated ancillary surface equipment shall be removed from the site in accordance with a scheme that shall have been submitted to and agreed in writing with the Local Planning Authority within 28 days of the end of such 12 month period. The scheme shall include provisions for the decommissioning of the turbine and associated equipment and the restoration and aftercare of the relevant land (herein referred to as the restoration scheme). The submission shall also include a timetable for the aforementioned and the works shall be completed in accordance with the approved restoration scheme.

Reason

In the interests of visual amenity

(6) The blades of the wind turbines shall rotate in the same direction.

Reason

In the interests of visual amenity

(7) No development shall take place until full details of the following have been submitted to, and approved in writing by the Local Planning Authority:

-The external finish and colour of the proposed turbines;

-The materials to be used for any external unit transformer housing;

The development shall be carried out in accordance with the approved details.

Reason

In the interests of visual amenity

(8) All electricity and control cables between the turbines and the switch room shall be laid underground and alongside tracks which are to be constructed as part of the development.

Reason

In the interests of visual amenity

(9) No construction work shall be undertaken outside the hours of 0730 - 1800 hours on weekdays (Monday - Friday) and 0730 - 1200 hours on Saturdays and at no time on bank holidays and Sundays.

Reason

In the interests of residential amenity

(10) The temporary construction compounds and other temporary construction works as set out in the submitted application details shall be removed no later than three months from the First Export Date and the ground restored in accordance with the proposed restoration of the site within 6 months of such removal.

Reason

In the interests of residential amenity

(11) Variations of the position of any turbine(s) and their associated infrastructure shall be permitted by up to 30 metres in any direction within the application site. Such variations shall be notified to the Local Planning Authority prior to their erection on site via the submission of a plan showing the approved siting and proposed micro siting, together with a reasoned justification for the proposed micro siting. The turbine(s) shall be completed in accordance with the submitted plan. A plan showing the approved siting of the turbines shall be submitted within one month of their construction on site.

Reason

In the interests of visual amenity

(12) Prior to the commencement of development written confirmation shall be submitted to the Local Planning Authority confirming that the Ministry of Defence has been given written notice of the proposed date of commencement and completion of the development, the maximum height of construction equipment, the latitude and longitude of every turbine and the maximum extension of height of any construction equipment, turbines or structures.

Reason

In the interests of Aviation safety to ensure that there is no obstruction to air traffic movements and interference to Air Traffic Control and Air Defence radar installations.

(13) The implementation of the archaeological work and protection of archaeological sites within the application site area shall be carried out in accordance with Archaeology Wales Limited, Written Scheme of Investigation (WSI) (dated September 2013) and QuadConsult Limited Construction Method Statement (dated September 2013), as agreed under planning permission P2013/0893 approved on 23.01.14.

Reason

In the interests of archaeology

(14) The implementation of the ecological mitigation work shall be carried out in accordance with Amber Environmental Consultancy, Ecological Mitigation Method Statement (dated February 2014), as agreed under planning permission P2014/0078 approved on 06.05.14.

Reason

In the interests of ecology

(15) No trees, other than those within a 200 metre radius of the proposed turbines and those required for the new track and the widening of the existing track (as detailed in the Amber Environmental Consultancy Ecological Mitigation Method Statement (February 2014)) shall be felled within the application area.

Reason

In the interests of ecology

(16) Notwithstanding the submitted information, no development shall take place until a Traffic Management scheme (TMS) has been submitted to and approved in writing by the Local Planning Authority. The TMS shall set out the timings of works and include details of any alterations/amendments to the existing A474 on route through Pontardawe and up to the site location. This shall include temporary speed reduction measures (if applicable), give way markings, times of operation, removal of existing street furniture, roundabouts, kerb alignments etc. that allows safe delivery of the wind turbines. The development shall be carried out in accordance with the approved Traffic Management Scheme including the reinstatement / restoration of

temporary works necessary to allow for the deliveries associated with this development.

Reason

In the interest of highways safety

(17) There shall be no Abnormal Indivisible Load deliveries to the site before the implementation of the highway junction improvement works (with the A474) as detailed in QuadConsult Limited Construction Method Statement (dated September 2013) paragraph 3.3 and Drawing 13040 100 Rev 5 (submitted 07/10/14).

Reason

In the interests of highway safety.

(18) No part of the development shall display any name, logo, sign or advertisement or means of illumination (save for that required for aviation safety purposes).

Reason

In the interests of visual amenity.

(19) The development hereby permitted shall be carried out in accordance with QuadConsult Limited Construction Method Statement (dated September 2013), as agreed under planning permission P2013/0916 approved on 13.02.14.

Reason

In the interests of highway safety.

(20) The tonal noise emitted from any of the turbines shall not exceed the levels

recommended in guidance in the BERR ETSU-R-97 at any residential property. In particular, the level of noise emissions from the wind farm, measured as described

below, at any dwelling lawfully existing at the date of this permission shall not exceed:

(i) between 0700 and 2300 hours on any day the greater of 40dB LA90 (10 mins) or 5dB(A) above the Quiet Waking Hours Background Noise Level at that property;

or

(ii) between 2300 hours on any day and 0700 hours on the following day the greater of 43dB LA90 (10 mins) or 5dB(A) above the Night Hours Background Noise Level at that property.

The following definitions shall apply:

(i) “ETSU” means “The Assessment and Rating of Noise from Wind Farms” published by the Energy Technology Support Unit for the DTI in 1996.

(ii) “Background Noise Level” means the derived prevailing background noise as reported in the Environmental Statement 2007 at Table 5.1.

(iii) “Tonal Noise” has the meaning given on page 95 of ETSU.

(iv) “Quiet Waking Hours” “Night Hours” have the meaning given on page 95 of ETSU.

Reason

In the interest of the environment and residential amenity

(21) At the request of the Local Planning Authority following a complaint to it, the developer shall measure the level of noise emissions, including tonal noise, resulting from the operation of the wind farm in accordance with the methods recommended in Section 2.0 of ETSU at pages 102-109. Wind speed shall be measured on the wind farm site and referenced to a height of 10 metres. Where it is necessary to convert between measured wind speeds and the wind speed at 10 metres height this conversion shall be undertaken using a methodology approved by the Local Planning Authority.

Reason

In the interest of the environment and residential amenity

(22) If the noise and / or tonal noise measured for the site following a complaint as referred to under conditions 21 exceeds the limits specified within condition 21, a noise management plan shall be submitted to and agreed in writing with the Local Planning Authority within one month of the exceedence being identified and the proposed mitigation measures shall be fully implemented in accordance with the timescales as set out within the agreed Noise Management Plan.

Reason

In the interest of the environment and residential amenity

(23) No development shall take place until an aviation safety lighting scheme for the wind turbines has been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details prior to erection of either wind turbine.

Reason

In the interests of Aviation safety to ensure that there is no obstruction to air traffic movements and interference to Air Traffic Control and Air Defence radar installations.

(24) In the event that contamination is found at any time when carrying out the approved development that was not previously identified, work on site shall cease immediately and shall be reported in writing to the Local Planning Authority. A Desk Study, Site Investigation, Risk Assessment and where necessary a Remediation Strategy must be undertaken in accordance with the following document:- Land Contamination: A Guide for Developers (WLGA, WAG & EAW, July 2006). This document shall be submitted to and agreed in writing with the Local Planning Authority. Prior to occupation of the development, a verification report which demonstrates the effectiveness of the agreed remediation, shall be submitted to and agreed in writing with the Local Planning Authority.

Reason:

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off site receptors.

(25) Notwithstanding the submitted information, Unless otherwise agreed in writing with the local planning authority, 2.4m x 160m visibility splays in each direction along the A474 at the entrance of the proposed access track, clear of any obstruction over 600mm shall be constructed prior to commencement of any work on site. These splays shall be retained and maintained as such thereafter.

Reason

In the interest of highway and pedestrian safety

(26) Unless otherwise agreed in writing, prior to the commencement of any work on the Wind farm development, a condition survey of the existing highway network along the proposed access route for deliveries, which shall include the condition of the carriageway and footway shall be undertaken. The survey shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of work on site. Within 1 month of the completion of the associated wind farm a further condition survey of the same highway network, shall be undertaken, which shall include the condition of the carriageway and footway and shall be submitted to the Local Planning Authority. Any damage to the highway identified as a result of the increased volume of construction vehicles shall be repaired within 6 months of the completion of the associated wind farm in accordance with a scheme to be first submitted and agreed in writing with the Local Planning Authority.

Reason:

In the interest of highway safety

(27) Notwithstanding the submitted information, no development shall commence until such time as a Drainage Strategy to provide evidence of how the surface water along the proposed new access tracks is to be disposed of, together with an associated programme of works, has been submitted to and approved in writing by the local planning authority. The proposed drainage works shall be completed in accordance with the approved scheme.

Reason

In the interest of highway and pedestrian safety and to ensure the provision of a satisfactory means of surface water disposal for the development.

(28) Notwithstanding the submitted information, unless otherwise agreed in writing by The Local Planning Authority, prior to commencement of development on site, a maintenance and management strategy for all existing watercourses, culverts (new or existing) and associated structures sited within and adjoining the application site and effected by the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme as approved shall be implemented and maintained during the lifetime of the consent.

Reason

To ensure drainage system is satisfactorily maintained and to ensure ongoing optimal performance of system

(29) The running widths of the internal access tracks shall be no greater than 5 metres wide, 10 metres on bends and 9 metres at passing places / wheel washing areas.

Reason

In the interest of visual amenity

(30) The location of the substation shall be as agreed under planning permission P2013/0914 as approved on 23.01.14.

Reason

In the interests of ecology

(31) Facilities for the storage of oils, fuels or chemicals shall be as agreed under planning permission P2013/0905 as approved on 06.05.14.

Reason

In the interests of ecology

(32) Prior to the commencement of the construction of any turbine, a scheme which shall include a programme of mitigation shall be submitted and approved in writing by the local planning authority to alleviate any interference with electro-magnetic signals: the scheme shall detail any necessary mitigation measures should interference attributable to the development occur: Any necessary mitigation measures shall be implemented in accordance with the agreed details and the associated programme of works.

Reason

In the interests of residential amenity

(33) The construction compound shall be constructed as set out in the approved construction method statement (September 2013) and drawing numbers 007 and 008.

Reason

In the interests of ecology, visual amenity and the environment