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Your Ref:

Our Ref: EN010008

Date: 25 July 2012

Dear Sir/Madam,

Application for the Brechfa Forest West Wind Farm – Planning Act 2008 and the Infrastructure Planning (Examination Procedure) Rules 2010:

- **Examining Authority's Draft DCO**
- **S106 obligation(s)**
- **Responses to summaries and representations**
- **Request for further information – Rule 17**
- **Accompanied Site Visit – Rule 16**
- **Revised Timetable – Rule 8**

1. Examining Authority's Draft DCO

As indicated in the examination timetable, I will be issuing a copy of the Examining Authority's draft development consent order (DCO) on Thursday 26 July 2012. It will be published on the Brechfa Forest West project page of the Infrastructure Planning Portal¹ in the 'project documents' tab. The issuing of a draft DCO should not be taken to indicate that the Examining Authority has concluded that consent should be granted. The Examining Authority's recommendation to the Secretary of State will depend upon the outcome of the examination. The issue of a draft DCO is simply to ensure that a fully considered DCO is available in the event that the Secretary of State decides that consent should be given, having regard to the Examining Authority's report and recommendation and all other matters to which he is required to have regard. In accordance with the timetable all Interested Parties are invited to submit any comments they may have on the draft DCO, by **9 August 2012**. In making comments, please do **not** submit a tracked changed version of the draft DCO.

¹ <http://infrastructure.planningportal.gov.uk/projects/wales/brechfa-forest-west-wind-farm/?ipcsection=hearings>

The Planning Inspectorate will also publish in the same place a version of the DCO showing tracked changes from that submitted by the Applicant on 3 July and which was discussed at the DCO hearing on 12 July.

2. Completed S106 Obligations

At the Issue-specific hearing on 12 July 2012, I stated that completed s106 agreement obligations should be submitted by 9 August 2012.

I have reflected on this deadline in the light of comments made at the hearing and the evidence of progress and am extending this deadline until **20 August**. I confirm that any S106 obligations submitted must be completed (i.e. signed, sealed and dated).

3. Comments on summaries and other written material

Summaries of representations made at the hearings were requested by 28 June (for the hearings on 21 and 22 June) and 19 July (for the hearings on 11 and 12 July). Documents submitted for these deadlines are now available on the hearings tab on the Brechfa Forest West project page of the Infrastructure Planning Portal². This tab can be accessed from the main Brechfa page by clicking on "Representations" and then "Hearings".

A number of the documents submitted and included were not limited to summarising points made at the hearings. Many go further in adding comments or material which were not made at the relevant hearings. Also included is a response from the applicant to issues raised at the hearings. Should any Interested Party wish to respond to any new matters raised in these submissions they are required to do so by **9 August 2012** as set out in the revised examination timetable included at Annex B.

4. Further Question under Rule 17

Following the hearings there are a number of areas that I wish to explore further and have therefore decided to ask some further questions under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010. These are included at Annex A.

The questions are addressed to the named Interested Parties as stated in the text of Annex A:

- The Applicant
- The Welsh Government;
- Countryside Council for Wales;
- Forestry Commission Wales; and

² <http://infrastructure.planningportal.gov.uk/projects/wales/brechfa-forest-west-wind-farm/?ipcsection=hearings>

- o Environment Agency Wales.

Responses to the Rule 17 questions are also to be received by the Examining Authority by **9 August 2012**. The Examining Authority will take all responses received by this date into account including where Interested Parties choose to address requests not directed to them.

5. Accompanied Site Visit

Having considered the issues further following the Issue-specific hearings, I propose to undertake an accompanied site visit to examine the line of the proposed access track. My intention is to walk the main length of the proposed track to the forest. I shall be looking to Interested Parties to point out relevant features which have informed their assessments as submitted in written representations or in the hearings, with particular reference to ecological and landscape features, including the relationship with land covered by the Alltwalis Wind Farm s106 agreement.

This will take place on **14 August 2012, starting at 11:00** from the turning place of the field track adjoining the field over which the new access track is proposed to the north. For the avoidance of doubt I attach at Annex B a map showing the start location for the accompanied site visit.

Please note that this is not an occasion to discuss the merits of the issues and if you have any doubts as to what it might be appropriate to bring to my attention then I suggest you speak to the PINS secretariat.

I shall **not** be viewing the access track from the A485 road. I have viewed the site of the proposed access track from the road and see no need for an accompanied visit, which might also raise road safety considerations.

I would welcome participation in my visit to the route of the proposed access track by the applicant, CCC, and CCW with personnel able to identify the relevant characteristics that have informed their evidence. Grwp Blaengwen and adjacent landholders may also wish to join the visit. Given the limited parking facilities at the starting point I need to limit invitees to **a maximum of one car per** above named interested party. For the same reason we have to limit attendance from other Interested Parties to a few cars. If you wish to discuss this matter further please contact the Case Leader, Mrs Simone Wilding, via the email address or help line number provided at the top of this letter.

To enable the Planning Inspectorate to finalise the organisation of the accompanied site inspection interested parties wishing to attend must therefore inform the Case Leader, by **31 July 2012** using the email address or help line number provided at the top of this letter. Please provide your name and interested party reference number when advising us on whether you wish to participate in the accompanied site visit. Given the limited parking facilities we will also need to know whether you will be arriving by car, travelling in someone else's car or arriving on foot/bike.

Given the terrain and potential for adverse weather conditions, anyone participating is advised to wear appropriate clothing and footwear. I will only reschedule the accompanied site inspection to the next reserve date (16 and 21 August 2012) should weather conditions be severely adverse. Should weather conditions make it necessary to rearrange the site inspection we will advertise this on the front page of the Brechfa Forest West project page of the Infrastructure Planning Portal³.

6. Revised Timetable

A revised timetable giving effect to the above changes is attached at Annex C.

I would like to encourage all Interested Parties to ensure their responses to the issues addressed in this letter are received on time. I may disregard responses received after the deadlines shown in the timetable.⁴

Please note that I intend to close the examination as soon as I consider that I have all necessary information. In any event the examination must be closed by 14 September 2012 at the latest.

All Interested Parties are reminded of the possibility of the award of costs against Interested Parties who behave unreasonably. You should be aware of the relevant Costs Policy that applies to National Infrastructure Projects. The policy is available on the National Infrastructure pages of the Planning Portal website.

Yours sincerely

Bob Macey
Examining authority

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.

⁴ Infrastructure Planning (Examination Procedure) Rules 2010, Rule 10 (8)

Annex A

Proposed Brechfa Forest West Wind Farm – Carmarthenshire (EN010008)

Examining Authority's Questions Under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2012

1. Q R17[2]-1 To the **Welsh Government** relating to European Protected Species:

The Countryside Council for Wales has suggested that a licence under the Conservation of Habitats and Species Regulations 2010 may be required to be obtained from the Welsh Government, and has suggested additional survey work is necessary to inform this issue. The applicant is firmly of the view that no such licence is likely, and that should it emerge that a licence is required then the relevant derogation tests would be met. Given its responsibilities for determining a licence application, does the Welsh Government have any views on the likelihood of the derogation tests being met and a licence being granted that might inform the Secretary of State's consideration?

2. Q R17[2]-2 To the **Applicant** relating to Nightjars

The applicant's written summary following the DCO hearing sought to clarify its intent with respect to nightjar mitigation. It is noted in paragraph 3.17.5 that if the wind farms proceeds some 90ha of additional nightjar habitat would be created, and that the wind farm will result in a net increase in nightjar habitat. This assessment does not appear to be immediately consistent with the previous evidence provided in response to written questions on 25 April. In particular tables 1 and 3 of Appendix 7 suggest an apparent decrease in available habitat as a result of the wind farm. This evidence was discussed at the Issue-specific hearing on ecology. Could the applicant please provide an analysis which reconciles the apparent differences between the more recent conclusion of a 90ha increase in availability of appropriate habitat with the previous evidence?

3. Q R17[2]-3 To the **Countryside Council for Wales, Forestry Commission and Environment Agency** relating to Forestry Felling and Appropriate Assessment

The Countryside Council for Wales (CCW) in its letter of 7 July addressed the requirements it judges necessary in the context of a need for appropriate assessment. CCW will note that its proposed amendment to requirement 9(g) has been taken into account in the draft Development Consent Order (DCO) being issued on 26 July. Further information is requested in relation to its proposal that Requirements 17 and 9 need further amendment in relation to felling where CCW appear to judge the relevant forestry guidelines to be insufficient. The Examining Authority assumes these guidelines are currently followed in relation to felling within Brechfa Forest and it is not clear why felling for the proposed wind farm

might raise issues that might not arise from the present felling operations within the Forest. The applicant has noted that the Environment Agency Wales (EAW) has previously commended these guidelines, with their response of 25 April identifying these as the most appropriate pollution prevention guidance for felling.

Could CCW confirm (or otherwise) that they believe that the relevant guidelines are insufficient for the proposed felling, and if they do confirm that they are insufficient then please explain why they believe this to be the case? It would be helpful to the examination if they could agree a common line with EAW and Forestry Commission Wales and CCW is requested to explore this with the 2 other environmental bodies?

Should a common line not be agreed then the views of EAW and FCW are also requested on this issue?

Annex B

Proposed Brechfa Forest West Wind Farm – Carmarthenshire (EN010008)

Start Location for Site Inspection in the Company of Interested Parties

Annex C

Revised Timetable for Examination of the Application issued on 6 July 2012 under Rule 8(3)

Item	Matters	Due Dates
1.	<p>Deadline for receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Any written comments on summaries and any written material submitted by Interested Parties for the deadlines of 28 June 2012 and 19 July 2012; <input type="checkbox"/> Any written comments on the draft Development Consent Order. <input type="checkbox"/> Any answers to the questions contained in annex B. 	9 August 2012
	Examining Authority's site inspection in the company of Interested Parties ⁵	14 August 2012
	Reserve dates for accompanied site inspection should weather conditions on 14 August prevent a meaningful site inspection to take place	16 and 21 August 2012
2.	<p>Deadline for receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Completed S106 obligation(s) 	20 August 2012
<p>The Examining authority is under a duty to complete the examination of the application by the end of the period of 6 months beginning with the day after the start day (s98 PA 2008). This means that the examination must be closed by 14th September at the latest, but may close earlier at the ExA's discretion.</p>		

⁵ Infrastructure Planning (Examination Procedure) Rules 2010, Rule 16 (3)