

MYNYDD Y GWYNT WIND FARM

Ref: EN010020

POWYS COUNTY COUNCIL NOTE ON THE REVISED DRAFT DEVELOPMENT CONSENT ORDER

11th March 2015

1. Introduction

- 1.1. This note has been prepared in response to the revised draft Development Consent Order (DDCO) circulated by Aaron & Partners LLP on 2nd March 2015, and submitted to the Examining Authority (ExA) at Deadline V.
- 1.2. The revised DDCO was prepared following the Issue Specific Hearing on the Draft Development Consent Order (dDCO) held on 4th February 2015.
- 1.3. It is noted that a number of important amendments requested by Powys County Council (PCC) have not been included by the applicant (MyG) within the revised DDCO. Whilst these matters will be discussed again in full on the 19th March 2015 at the "Issue Specific Hearing into the Development Consent Order (DCO)", PCC wish to take this opportunity to highlight the amendments to the DDCO that it considers are still necessary.

2. Outstanding amendments to DDCO

- 2.1. MyG have not amended **Article 6 – Power to deviate** to ensure that; turbines 1, 4, 7, 8, 13, and 14 are microsited no closer to public rights of way than they are currently shown on the works plan, and other turbines are not microsited within the minimum distances (125m from public footpaths and 200m from other PROW). This is despite oral agreement in principle of this on 4th February 2015 and PCC sending draft wording for a requirement to MyG on 11th February 2014 (a copy of this email is included at Appendix 1).
- 2.2. PCC consider that there is no justification for **R3 - Time limit** to be 8 years and request this is amended to 5 years.
- 2.3. The amendment made to (2)(b) of **R5 – Decommissioning and site restoration** is not satisfactory. It should read "*removal of turbine bases and cabling to a depth of 1m below ground level*". (4) states that "*requirement to be inserted for decommissioning bond – wording being discussed with PCC but agreed in principle*", PCC note that draft wording was sent to MyG on 11th February (seen in Appendix 1).
- 2.4. MyG have failed to amend (b) of **R6 – Failure of turbines** to ensure that turbine bases are removed to a depth of 1m.

- 2.5. MyG have failed to amend (1)(j) of **R8 – Construction traffic management plan** to ensure that the condition of the highways are surveyed post construction and that timescale for remediation work are agreed.
- 2.6. PCC note that five additional points have not been included in **R9 – Construction environmental management plan** despite MyG agreeing to two of them on the 4th February.
- 2.7. PCC note that **R20 – Appearance** has been amended however would like to point out that there is no need for Paragraph (2) of the requirement.
- 2.8. MyG have failed to include **R22a – Local labour provision** despite agreeing to include it at the hearing. Suitable wording for this was circulated previously in the PCC Local Impact Report.
- 2.9. PCC consider that the site specific wording proposed by PCC for **R25 – Archaeology** should be included within the DDCO and note that MyG have not amended the requirement wording to reflect this.

3. New matters to be secured in DDCO / S.106 Agreement

- 3.1. A number of public rights of way (PROW) mitigation measures are now proposed by MyG and these are not presently addressed within the DDCO, primarily as they have only recently been proposed. Whilst PCC does not consider the current mitigation package to be adequate, it is hoped that agreement on a suitable package can be reached in the near future. In the event that a package can be agreed, PCC believe these should be secured as follows.
- 3.2. PCC understand that the mitigation package currently consists of two car parks, one being to the south of the A44 for walkers and cyclists and within the application site boundary, the other being for horse riders to the north of the A44 and outside the application site boundary. In relation to these, PCC consider that:
 - A grampian style requirement must be included within the DDCO to ensure both are operational before development commences.
 - Both must be included within a Section 106 agreement, to which PCC would be a signatory, ensuring that they remain accessible and in a satisfactory condition until the wind farm is decommissioned and the site restored.
- 3.3. A number of permissive rights of way are also proposed across the site. To secure these PCC consider that:
 - Part (2) of **R16 – Access Management Plan** should be amended to include;
 - *details of furniture, signage to be provided on any public rights of way;*
 - *details of routes, furniture, signage and surfacing of any permissive rights of way to be provided;*

- A Section 106 Agreement is required to ensure that permissive rights of way, and their maintenance are secured for the lifetime of the development.

APPENDIX 1

Email sent from Powys County Council to Mynydd y Gwynt Limited
dated 11th February 2015

Jayne Foxley (CSP - Corporate Legal)

From: Jayne Foxley (CSP - Corporate Legal)
Sent: 11 February 2015 11:17
To: 'Keith McKinney'
Cc: 'Andrew Metcalfe'
Subject: Mynydd y Gwynt draft DCO - Proposed deviation requirement
Attachments: Proposed deviation requirement.docx

Dear Keith

Please find attached an amended form of wording for the proposed deviation requirement for your consideration and comment.

Kind regards

Jayne

Jayne Foxley

*Cyfreithiwr Cynllunio Dros Dro/ Interim Planning Solicitor
Corfforaethol a Chyffreithiol/ Corporate Legal
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Proposed amendment to deviation requirement

In constructing or maintaining the authorised development, the undertaker may deviate laterally from the lines or situations shown on the works plans to the extent of the limits of deviation shown on those plans save that;

- 1) Turbine 1 must be located more than 110m from bridleway 48, 138m from Wye Valley Walk, 125m from any other footpath, and 200m from any other path of a higher status (bridleways, restricted byways and byways open to all traffic).
- 2) Turbine 4 must be located more than 40m from footpath 47, 186m from Wye Valley Walk, 125m from any other footpath, and 200m from any other path of a higher status (bridleways, restricted byways and byways open to all traffic).
- 3) Turbine 7 must be located more than 120m from footpath 139, 125m from any other footpath, and 200m from any other path of a higher status (bridleways, restricted byways and byways open to all traffic).
- 4) Turbine 8 must be located more than 10m from footpath 47, 125m from any other footpath, and 200m from any other path of a higher status (bridleways, restricted byways and byways open to all traffic).
- 5) Turbine 13 must be located more than 80m from bridleway 49, 125m from any other footpath, and 200m from any other path of a higher status (bridleways, restricted byways and byways open to all traffic).
- 6) Turbine 14 must be located more than 163m from bridleway 49, 125m from any other footpath, and 200m from any other path of a higher status (bridleways, restricted byways and byways open to all traffic).
- 7) All other turbines must be located more than 125m from any footpath or 200m from any path of a higher status (bridleways, restricted byways and byways open to all traffic).

Proposed requirement securing the decommissioning of the scheme

No development may take place on the site until the developer has submitted to the planning authority details of a financial instrument, such as an escrow account, and arrangements which will ensure that funds sufficient to cover the completion of the decommissioning and site restoration costs, in accordance with Condition **[no.]** above, are available to the developer and local planning authority prior to the commencement of decommissioning and site restoration. The financial instrument must include arrangements for funds to increase with inflation and a review provision upon the 5th, 10th, 15th and 20th anniversary of the First Export to ensure that the funds remain sufficient to cover the completion of the decommissioning and site restoration costs in accordance with Condition **[no.]** above.

No development may take place on site until the local planning authority has approved the arrangements in condition **[no.]** above, the approved financial instrument is in place and arrangements have been secured to ensure that funds will be in place prior to the commencement of decommissioning and site restoration. The financial instrument must be maintained throughout the duration of the permission and reinstatement period and the arrangements for deposit of funds, inflation adjustment and review of the financial instrument will be implemented.