

IN THE MATTER OF

The Infrastructure Planning (Examination Procedure) Rules 2010

Application by Mynydd y Gwynt Ltd for an Order Granting Development Consent for  
the Mynydd y Gwynt Wind Farm

Deadline VII

COMMENTS ON THE INTERESTED PARTIES' DEADLINE VI SUBMISSIONS

**THE RIVER WYE SAC AND BATS**

16<sup>th</sup> April 2015

## **Introduction**

1. In its Deadline VI submission NRW raised two outstanding issues in relation to the potential impact on the River Wye SAC. NRW commented that due to the lack of specificity within the draft DCO there is uncertainty regarding the identification of the worst case scenario for assessing impacts (Paragraph 89). In paragraph 91 they refer to issues that should be considered as part of the in combination effects.
2. In paragraph 97, NRW raise the issue that their proposed requirement does not address the issue of the micro-siting of turbines away from high risk locations for bats.
3. In their response to the second round questions NRW noted that measures to secure that rallying will not have an in-combination effect in the construction and operational phase should be provided in the DCO.
4. In their response to 4.10 NRW suggest that otter disturbance of otter should be included in the in combination assessment.
5. This part provides MYG's response to NRW's comments.

## **Lack of Specificity within the draft DCO**

6. The issue raised by NRW is that because of the lack of specificity, the worst case has not been assessed by the ES. This is because the dimensions of the infrastructure could be increased following consent, because they are not specified within the DCO. MYG submit this is not the case, Requirement 7 of the Deadline VII dDCO states:

*Subject to the power to deviate set out in article 6 of this Order and any other Requirement the authorised development must be carried out in accordance with the plans or other documents certified in accordance with article 14 of this Order.*

7. Article 14 lists the ES as one of the documents which the development must be carried out in accordance with. Chapter 2 of the ES provides dimensions for the infrastructure, therefore these dimensions are the ones which must be adhered to when the scheme is built. By virtue of Regulation 7 and Article 14, the dimensions of the infrastructure are specified and secured by the DCO. Therefore, the worst case has been assessed in the ES as the dimensions given in Chapter 2 cannot be exceeded.

8. NRW also commented on the potential for infrastructure to be moved closer to watercourses if moved within the Limits of Deviation. Article 6 of the Deadline VII dDCO prevents such movement as paragraph (c) states that all turbines and turbine foundations (as described in Work No 1) must be located more than 50 metres from all restricted watercourses.

#### **In combination effects**

9. NRW has stated that the in-combination assessment for the River Wye SAC within the HRASR is incomplete as it needs to consider the Bryn Blaen Wind Farm, the Neuadd-goch Wind Farm and the Llandinam 132kV line. The HRASR has been updated and Version 4 includes consideration of the Bryn Blaen access track within the River Wye catchment, the Neuadd-goch Wind Farm and the 132kV connection. The Bryn Blaen grid connection has not been assessed as this will be subject to its own S37 and the route cannot be determined until work on the application has begun.

#### **Bats**

10. NRW do not consider that their proposed condition in respect of bats, which has been incorporated into Requirement 17 of the Deadline VII dDCO covers the issue of micro-siting turbines away from bat features. It is MYG's opinion that the Requirement adequately covers such a situation as paragraph (a) provides for necessary mitigation measures to be agreed following surveys to ensure the protection of the species. This could include micro-siting as well as curtailment. This is considered to provide adequate protection as it is clear from the survey data that bats do not forage along every watercourse. Nonetheless, Article 6(c) of the Deadline VII dDCO contains adequate protection for bats as it provides for 50m clearance from watercourses shown on the Works Plan.

#### **Rallying**

11. To overcome NRW concerns that the control of rallying should be secured within the DCO, the applicant has proposed a Requirement in the Deadline VII dDCO preventing work commencing until a suitable Section 106 agreement has been signed.

#### **Otters**

12. MYG provided a draft European Protected Species Licence for Disturbance of Otter in licence application to NRW for comment. At the ISH hearing the need for a licence

was discussed and NRW conceded that there were no significant populations of otter on site, therefore there could be no disturbance. If there is no effect on otters caused by MYG, it follows there can be no in combination effect.

### **Concluding Comments**

13. NRW make the claim that there is uncertainty about the scope and delivery of the mitigation to ensure that there is no significant effect on the River Wye SAC. While some detail will evolve as the project progresses towards construction, there are robust safeguards in place to ensure appropriate mitigation is provided. These measures are secured by the DCO which has been updated to incorporate measures suggested by various parties. The principal measures that secure the protection of the SAC are:
  - Article 6 limits the ability of the applicant to locate turbines closer than 50m to water courses within the Wye catchment,
  - The Construction Environment Management Plan and the Surface Water Management Plan are the principal documents that will specify the mitigation. They currently contains many measures to protect the SAC and will continue to evolve. Requirement 9 specifies that construction cannot begin until the CEMP has been approved by the planning authority following consultation and written advice of NRW and Requirement 29 contains the same provisions in respect of the SWMP. Therefore until NRW are content with the mitigation construction cannot begin and this provides a high degree of certainty that appropriate mitigation will be delivered.
  - Further mitigation is provided by the S106 agreement that prevents the use of rallying during the construction phase, prevents rallying during the operational phase until NRW is content that appropriate mitigation has been provided, prevents the use of all new tracks other than for the purpose of the authorised development and ensures that the new tracks are removed during decommissioning.
14. This level of protection provides a high degree of certainty that the mitigation offered as part of the application will be translated into effective mitigation on-site and allows MYG to conclude beyond reasonable scientific doubt that there would be No Likely Significant Effects on of the any European sites, either alone or in combination with other projects and plans.