

MYNYDD Y GWYNT WIND FARM

Ref: EN010020

POWYS COUNTY COUNCIL NOTE ON THE REVISED DRAFT DEVELOPMENT CONSENT ORDER

14th May 2015

1. Introduction

- 1.1. This note has been prepared in response to the revised draft Development Consent Order (dDCO) circulated by the Examining Authority (ExA) on 24th April 2015.
- 1.2. The revised DDCO was prepared following the Issue Specific Hearing on the Draft Development Consent Order (dDCO) held on 19th March 2015.
- 1.3. It is noted that a number of amendments requested by Powys County Council (PCC) have not been included within the Examining Authority's revised dDCO. PCC wish to take this opportunity to highlight the amendments that are still considered necessary.

2. Outstanding amendments to DDCO

- 2.1. **Article 6 – Power to Deviate** has not been amended in alignment with the proposed wording at Appendix 1 of PCC's note on the dDCO dated 11th March 2015. Having reviewed the ExA's draft wording PCC would like to suggest a number of alterations that would bring the requirement in line with mitigation package agreed with MyG. Please find below the suggested requirement:

In constructing or maintaining the authorised development, the undertaker may deviate laterally from the lines or situations shown on the works plan to the extent of the limits of deviation shown on the works plan except where;

(a) any such deviation that would result in any turbine being closer than 125 metres from any footpath or 200 metres from any path of a higher status (bridleways, restricted byways and byways open to all traffic) save that;

- i. turbine 1 can be located no closer than 110m from bridleway 48, and 138m from Wye Valley Walk;*
- ii. turbine 4 can be located no closer than 40 metres from footpath 47, and 186 metres from Wye Valley Walk;*
- iii. turbine 7 can be located no closer than 120 metres from footpath 139;*
- iv. turbine 8 can be located no closer than 10 metres from bridleway 47;*
- v. turbine 13 can be located no closer than 80 metres from bridleway 49;*

vi. turbine 14 can be located no closer than 163 metres from bridleway 49;

(b) any such deviation that would result in turbines and turbine foundations (as described in Work No 1) being located within 50 metres of a relevant watercourse; and

(c) any such deviation that would result in all turbines (including turbine blades) being located within 50 metres of any part of any tree in the Hafren Forest.

2.2. PCC considers that there is no justification for **R3 – Time limit** to be 8 years and request as follows:

The authorised development must be commenced within ~~8~~ 5 years of the date this Order comes into force.

Notice of the intended commencement of the authorised development must be given to the relevant planning authority prior to such commencement and in any event within 7 days from the date that the authorised development is commenced.

2.3. **R5 – Decommissioning and site restoration**

(2)(b) should be amended to read as follows:

removal of turbine foundations and bases and cabling to a depth of ~~up to~~ 1m below ground level, unless agreed otherwise in the decommissioning and site restoration scheme;, which shall be subject to the prior consultation with and the issue of written advice of by Natural Resources Wales

(4) contains a requirement for the applicant to submit to the local authority details of a mechanism, such as a restoration bond or similar form of security to ensure that sufficient funds are available to complete the restoration, monitoring and any subsequent remediation costs. (5) provides that the development should not commence until such time as the mechanism is approved and in place.

This approach was agreed between the parties at the ISH into the draft DCO held on 4th February and 19th March 2015 and follows the approach adopted at the Mid Wales Conjoined Inquiry. However the Council has today (14th May 2015) received a decision from the Welsh Government in relation to an appeal under section 78 of the Town and Country Planning Act 1990 relating to a wind farm at Garreg Lywd Hill, Llandrindod Wells, Powys. In his decision, the Minister for Natural Resources has deleted two of the conditions drafted by the Planning Inspector and agreed between the parties, which required the setting up and operation of a financial agreement for the provision of monies to cover decommissioning and site restoration costs on the basis that this is not something that can be required by condition and should be the subject of a legal agreement between the parties. This is a legal point which has not been raised so far in this examination. Powys County Council has been advised that it is now too late to amend the Unilateral Undertaking pursuant to section 106 of the Town and Country planning Act 1990 which has been prepared by the applicant. If the ExA or the

Secretary of State receive legal advice in relation to the requirement in (4) and (5), Powys County Council request an opportunity to comment further upon that point. The key point is that the securing of funds for restoration, remediation and monitoring costs is necessary and must be secured by some enforceable mechanism – as appears to not be in dispute. It has not been suggested otherwise. Accordingly, Powys CC would submit it is reasonable for further consultation should there be any suggestion that this could not be secured by requirement – and/or at the very least that any decision requires that the securing of funds by an alternative mechanism is achieved prior to the commencement of development.

- 2.4. PCC acknowledge the inclusion of highways post construction surveys and timescales for remediation in **R8 – Construction traffic management plan**. However, PCC consider that the conditions survey should be undertaken on the whole route affected by the authorised development. PCC suggest the following amendment to (k)(i):

the undertaking of condition surveys within 5km of the site entrance and offsite highway-works prior to construction and after first export