

# T. Llewellyn Jones

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Solicitors Regulation Authority No. 536270

*Please provide our reference on all communications*

*Our Ref.:* SLJ/CC/23090/61

*Your Ref.:* ENO10069

30 October, 2018

Dear Sir,

**Re: Objectors – Ferelith Joan Smith, Robert Malcolm Christie Smith,  
Malcolm Richard Christie Smith and Claire Louise Cooke  
Property – Land adjoining Lletty'r Morfil Farm, Felindre, Swansea**

I have pleasure in enclosing herewith Notice of Objection on behalf of the objectors together with copy Planning Consent and plans under reference APP/B6855/A/15/3139869

Yours faithfully

  
SARA E. LLEWELLYN JONES

The Planning Inspectorate,  
National Infrastructure Planning,  
Temple Quay House,  
2, The Square,  
BRISTOL BS1 6PN

Planning Act 2008 (as Amended)  
Section 88 and the Infrastructure Planning (Examination Procedure)  
Rules 2010 (As Amended) – Rule 6 and 13

Application by Abergelli Power Limited  
for an Order granting development consent for the  
Abergelli Power Station

TO : The Planning Inspectorate,  
National Infrastructure Planning,  
Temple Quay House,  
2 The Square,  
Bristol BS1 6PN.

**Reference: ENO10069**

Objectors : Ferelith Joan Smith, Robert Malcolm Christie Smith, Malcolm  
Richard Christie Smith and Claire Louise Cooke

Property : Land adjoining Lletty'r Morfil Farm, Felindre, Swansea

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**Objection submitted on behalf of the above named**

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1. On behalf of the Objectors objection is raised to the CPO in respect of the Property.
2. There is attached Planning Consent for a solar farm under reference number APP/B6855/A/15/3139879 ("the Planning Consent") on the Property.
3. Objection is therefore raised to the CPO insofar as it will adversely affect the Planning Consent.
4. An assurance has been secured from Abergelli Power Limited that the application will be restricted, at the expense of Abergelli Power Limited, to fell, lop or cut trees and hedges which are or may be standing on or over any of the easement strip and to carry out such works as required by the Planning Permission or to be granted over the Property.
5. It appears that the CPO plan indicates that land is required which is intended to be used for solar panels.

6. An assurance is therefore required that:-

- a. the easement strip will not extend to any part of the land over which there is Planning Permission for solar panels
- b. any work to be undertaken under the CPO will not adversely impact upon the Planning Consent

Dated ..... 30.10.2018 .....

Signature 

T. LLEWELLYN JONES  
Solicitors for the Objectors  
Ref: SLJ/CC/23090/61



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## Penderfyniad ar yr Apêl

Gwrandawriad a gynhaliwyd ar 26/04/16  
Ymweliad â safle a wnaed ar 26/04/16

gan Clive Nield BSc(Hon), CEng,  
MICE, MCIWEM, C.WEM

Arolygydd a benodir gan Weinidogion Cymru  
Dyddiad : 10 Mai 2016

## Appeal Decision

Hearing held on 26/04/16  
Site visit made on 26/04/16

by Clive Nield BSc(Hon), CEng, MICE,  
MCIWEM, C.WEM

an Inspector appointed by the Welsh Ministers  
Date : 10 May 2016

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**Appeal Reference : APP/B6855/A/15/3139869**

**Site Address : Llettyr Morfil Farm, U/S-Y878, Felindre, Swansea, SA5 7LU**

**The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by KS SPV 46 Ltd against the decision of the City and County of Swansea Council.
  - The application Ref 2015/1529, dated 22 July 2015, was refused by notice dated 18 November 2015.
  - The development proposed is the provision of a photovoltaic solar farm and ancillary infrastructure.
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### Decision

1. The appeal is allowed and planning permission is granted for the provision of a photovoltaic solar farm and ancillary infrastructure at Llettyr Morfil Farm, U/S-Y878, Felindre, Swansea, SA5 7LU in accordance with the terms of the application, Ref 2015/1529, dated 22 July 2015, and the plans submitted with it, subject to the conditions in the attached Annex.

### Main Issues

2. The main issues in this case are the visual impact of the proposed development, particularly its cumulative impact in relation to existing infrastructure and other solar farms in the area, and the renewable energy benefits of the scheme.
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## Reasons

### *Visual Impact*

3. Although the site is situated in the open countryside, the area has been subject to considerable development for electricity infrastructure and other solar farms. There are 2 large electricity sub-stations, one of which is immediately adjoining the south-east corner of the site, and numerous tall electricity pylons with overhead cables, 4 of which are fully or partially within the appeal site. 4 solar farms have been built in the area since 2013: 3 to the north-east of the appeal site and between 1-2 km away, covering some 57 hectares of land; and one some 2 km to the north-west, covering 20 hectares of land. A fifth, immediately to the south of the appeal site and covering 28 hectares of land, has been granted planning permission but has not yet been built.
4. The appeal site comprises 9 fields amounting to some 8.8 hectares, on which it would be proposed to erect 18,350 solar panels. The Council refused the application as it considered the cumulative effect of the scheme, when viewed in relation to the existing infrastructure and solar farms, would have a significant adverse visual impact on the countryside.
5. The City and County of Swansea Unitary Development Plan (2008) is the adopted development plan for the area, and Policy R11 supports the development of renewable energy schemes subject to certain criteria being met, one of which is that they would not significantly adversely affect visual amenity and that the cumulative impacts of proposals can be satisfactorily incorporated into the landscape. Policy EV1 sets out the objectives of good design and, amongst other things, requires development proposals to not result in significant detrimental impact on local amenity, including the visual impact. The third key policy is EV21 which aims to safeguard the countryside but which permits some types of development provided it is in accord with the conservation and design principles of the Plan. One of the types of development listed is that for renewable energy generation.
6. Whilst some of the existing solar farms are widely visible in local and distant views, the appeal proposal would be fairly well contained and would have negligible inter-visibility with the other solar farms. The Appellant has carried out a landscape and visual impact assessment (LVIA), which includes an assessment of the Zone of Theoretical Visibility (ZTV). This indicates views of the site from beyond its immediate locality are only possible to any significant degree from high land to the east, north-east and south, most of which is 2 km or more from the site. That ZTV is based on the topography of the land forms and takes no account of intervening trees and other vegetation, which is a significant additional factor in this case.
7. There are densely wooded areas along the western and southern boundaries of the site and extensive areas of woodland on its northern side, where it borders the Waun Garn Wen site of importance for nature conservation (SINC). Even the eastern side of the site is substantially screened by trees and tall hedgerows. At the hearing the Council confirmed that the only wider view of the site that led to concerns amongst members of its planning committee was Viewpoint 8 of the LVIA, which is a view from elevated common land over 2.5 km to the east of the appeal site. That view is from a considerable distance away, and only parts of 3 of the 9 fields would be visible with the substantial existing electricity sub-station in the foreground along with numerous large pylons. In that context I do not consider the visual impact of the proposed solar farm would be significant.

8. Extensive areas of the 3 existing solar farms to the north-east of the appeal site would be clearly visible from that viewpoint. However, the visual impact of the appeal proposal would be so small that it would add very little to the cumulative effect of the existing solar farms and other infrastructure. Clearly, when considering cumulative effects, it is always a matter of judgement as to when the accumulation becomes unacceptable. In this case, I do not consider the very limited additional visual impact of the appeal scheme to be sufficient to justify such a conclusion.
9. So far as short distance views are concerned, there are several public footpaths running along the access road and one running across one of the 9 fields. However, there is no evidence of any use of the latter as its route is blocked and appears to have been blocked for some time. There is also no particular evidence of the extent of use of the other public footpaths. However, the appeal scheme includes provision for maintaining the route of the footpath above and for the planting of additional lengths of hedgerow and the reinforcement of existing hedges where current growth is sparse. Although not immediate, these hedges would soon provide adequate screening of views from the public footpaths and the access road, which serves several local properties. Given these mitigation measures, I do not consider the proposed scheme would significantly harm the visual amenity of the local area or the amenity of users of the public footpaths and the access road.
10. The landscape itself would be subject to little change. All existing field boundary hedges would be retained, and the use of the land for a solar farm would be for a temporary period of 25 years. At the end of that period the installation would be capable of being removed without causing any significant damage to the quality or the character of the land itself. Furthermore, during the 25 year period the land would still be usable for grazing purposes.
11. The Gower Society has produced aerial photographs of the local area which clearly show the existing solar farms and electricity infrastructure. Like the Council, the Society argues that a further solar farm would harm the character and appearance of this area of countryside, which the Society hopes will one day be adopted as an extension of the Gower Area of Outstanding Natural Beauty. That is a matter far outside the scope of this appeal. However, I have concluded above that the appeal proposal would not have a significant visual impact either locally or in more distant views. Thus, bearing in mind the present character and appearance of the area, it would not significantly affect the Society's aspirations.
12. On the first main issue as a whole I conclude that the proposed development would not have an unacceptable effect on visual amenity or on the character of the countryside, even when the cumulative effect, together with the existing electricity infrastructure and the other existing and permitted solar farms in the area, has been taken into account. In this respect, the proposal does not conflict with the key development plan policies detailed above.

### ***Renewable Energy Benefits***

13. Turning to the second main issue, there is no dispute between the main parties as to the benefits of the renewable energy the scheme would bring. The solar farm would have the capacity to generate almost 5 MW of electricity and would make a useful contribution towards the Government's commitment for the increased use of renewable energy and reduced greenhouse gas emissions. These are set out in a series of statutory and non-statutory initiatives and are put into effect by strong policies in Planning Policy Wales. The City and County of Swansea Council has also adopted several clear commitments in this respect.
14. In accordance with national policy, I attribute considerable weight to the benefits of the proposed scheme in the provision of renewable energy.

### ***Overall Balance of Conclusions***

15. I have concluded above that the proposed development would not have a significant effect on the visual amenity or character of the countryside, even when the cumulative effects are taken into account, and that it would bring useful renewable energy benefits. These benefits substantially outweigh any limited harm caused by the development.
16. For the reasons given above I conclude that the appeal should be allowed and that planning permission should be granted subject to a number of necessary conditions. These were discussed and agreed at the hearing. To reflect the temporary nature and limited useful life of the solar farm, conditions are needed to ensure it is decommissioned and removed after 25 years and the land is restored to its original condition to safeguard the landscape and its visual amenity.
17. Several conditions are needed to safeguard the local environment and the amenity of nearby residents during the construction period: one for a construction traffic management plan; one for a pollution management plan, which would include limits on noise levels and hours of work; and one for surveys of the condition of the access road and for measures to repair any damage caused by heavy construction traffic. The solar panels and associated equipment have the potential to affect the natural surface water drainage regime, and a condition is necessary to ensure this is dealt with in a sustainable manner to avoid localised flooding.
18. Small areas of Japanese Knotweed are present on the site, and a condition is required to ensure this is eradicated. Finally, in the interests of visual amenity, conditions are needed to control the external appearance of the buildings included in the scheme and for the landscaping measures needed to provide effective visual screening (primarily hedgerow planting and reinforcement). At the hearing a local resident requested several minor improvements to the scheme to further alleviate its localised visual impact, and the Appellant was amenable to these suggestions. I am satisfied they can be accommodated within the terms of the landscaping condition.

*Clive Nield*

Inspector

## **APPEARANCES**

### **FOR THE APPELLANT:**

Mr Richard Marsden, TMRTPI	Managing Director, Laurence Associates.
Mr Ivor Matthew, BA, DipLA, CMLI	Landscape Architect, Laurence Associates.
Mr Frank Bohne, MBA	Director, Appellant Company.

### **FOR THE LOCAL PLANNING AUTHORITY:**

Mr Ian Davies, BSc(Hon), DipTP, MRTPI	Area Team Leader, Development Control, City and County of Swansea Council.
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### **INTERESTED PERSONS:**

Mrs Kirsty Thomas	Neighbouring resident.
Mr Gordon Howe	The Gower Society.

## **DOCUMENTS SUBMITTED AT THE HEARING**

- 1 Letter of Notification and list of persons notified.
- 2 Letter dated 22 March 2016 submitted by Mr Howe, including aerial photograph of existing solar farms.



## **ANNEX of Conditions**

- 1) The development hereby permitted shall begin not later than five years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 15141.01 – Site Location Plan; P14-EK01 – Inverter Station; P14-EK04 – Centre Station; P14-EK05 – Security Details; P14-EK06 – Camera Details; P14-EK07 – Access and Maintenance Roads; KS100-EM-01 D – PV Layout 1/2; and KS100-EM-01 D – PV Layout 2/2.
- 3) The planning permission hereby granted is for a period of 25 years electricity generation, after which electricity generation is to cease, the solar panels and all ancillary infrastructure are to be removed from the site and the land is to be restored to its former condition. Written confirmation of the date of commissioning of the development (defined as the date on which the solar farm is put into active operation for the generation of electricity) shall be submitted to the local planning authority within one month of that date.
- 4) No later than 12 months from the first generation of electricity, the following schemes shall be submitted to and approved in writing by the local planning authority:
  - (i) a scheme detailing the removal of all surface elements of the photovoltaic solar farm and any foundations or anchor systems to a depth of 300 mm below ground level;
  - (ii) a scheme detailing the restoration and aftercare of the land; and
  - (iii) a timetable for completion of the removal and restoration works.The schemes shall be implemented within 12 months of the date of the last electricity generation and completed in accordance with the approved timetable.
- 5) Construction traffic shall be managed in accordance with the Construction Traffic Management Plan submitted as part of the planning application, including the provisions to ensure vehicles leaving the site do not deposit mud or debris on the adjacent highway.
- 6) No development shall be carried out until details of the implementation, maintenance and management of a sustainable drainage system (SUDS) for surface water drainage (based on the outline proposals described in Section 6 of the "Flood Consequences Assessment incorporating Sustainable Drainage Strategy (Ref. J-5428-CFM)") have been submitted to and approved in writing by the local planning authority. The approved scheme shall be implemented prior to the construction of any impermeable surfaces draining to the system.

- 7) No development shall be carried out until a Landscape and Ecological Management Plan (LEMP), detailing strategies for ecological mitigation, compensation and enhancement as outlined in Section 4 of the "Extended Phase 1 Habitat Survey: Land at Lletty Morfil Farm, Felindre, Swansea – Proposed Solar Park (Ref. PW/3781/15)" has been submitted to and approved in writing by the local planning authority. The LEMP shall also include details of new tree and hedgerow planting, along with the reinforcement of existing hedgerows, as identified on Drawing No. KS100-EM-01 D. The scheme shall be implemented and managed in accordance with the approved details and shall be retained at all times as approved.
- 8) No development shall be carried out until a Construction Pollution Management Plan, detailing all necessary anti-pollution measures including noise and hours of work, has been submitted to and approved in writing by the local planning authority. The Plan shall be implemented as approved.
- 9) No development shall be carried out until a scheme for the eradication of Japanese Knotweed (including a timetable) has been submitted to and approved in writing by the local planning authority. The scheme shall be carried out as approved.
- 10) Prior to the commencement of development details of the external colour and facing materials of the buildings hereby permitted shall be submitted to and approved in writing by the local planning authority. The development shall be carried out and maintained in accordance with the approved details.
- 11) No development shall be carried out until details of the methodology for the scope and nature of highway dilapidation surveys, stretching from the public highway along the site access road and public right of way, have been submitted to and approved in writing by the local planning authority.

The highway dilapidation surveys shall be carried out in accordance with the approved details, and the results together with details of any remedial works proposed shall be submitted to and approved in writing by the local planning authority within 3 months of completion of the dilapidation surveys. Any remedial works shall be undertaken in accordance with the approved details within 6 months of the date of approval of such details.



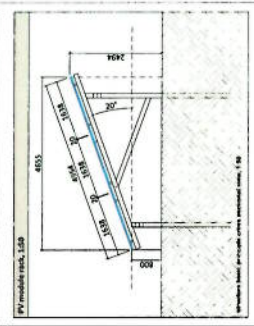


**Legend**

	PV modules north (length slope 4° - 4" - 22x146 modules; distance PV module - ground = 0.50m)
	PV modules east (length slope 3° - 4" - 22x146 modules; distance PV module - ground = 0.50m)
	PV modules south (length slope 2° - 3" - 22x146 modules; distance PV module - ground = 0.50m)
	PV modules west (length slope 1° - 2" - 22x146 modules; distance PV module - ground = 0.50m)
	PV modules north (length slope 4° - 4" - 22x146 modules; distance PV module - ground = 0.50m)
	PV modules east (length slope 3° - 4" - 22x146 modules; distance PV module - ground = 0.50m)
	PV modules south (length slope 2° - 3" - 22x146 modules; distance PV module - ground = 0.50m)
	PV modules west (length slope 1° - 2" - 22x146 modules; distance PV module - ground = 0.50m)
	area under canopy ("14.542m")

**Note**

- area of construction (width: "16.80m"/ north: "12.100m")
- private track
- existing track to be improved if necessary
- roof projection area (height: 0.5m, trees: r=5m)
- gas pipe / protection area (12m)
- foot path incl. buffer zone (6m)
- area of semi-improved pasture
- center station
- inverter station (2 transformers: 1.2 transformers)
- public protection area (5m around)
- electrical cable protection area (r = 5m)
- existing hedges
- existing trees (incl. root protection area)
- security camera



**Technical data**

PV modules	not counted	Inventory/Status	Schedule dates
PV module type	not counted	Inventory:	
Technical power	not counted	Type:	Monocr. / CT 60E
Total number	18,348	Total number of inverters / stations:	4 inverters / 4 stations

Substation/risers: not specified  
Type: not specified  
Year number: 2017/24  
Area of construction: ~ 87,000 m<sup>2</sup>

**PV plant Liely Morfil**

KSI00-EM-01 D

Project location: Liely Morfil, Republic of Latvia  
Project number: KSI00-EM-01  
Scale: 1:1000

**Author:** KSI00-EM-01  
**Client:** Liely Morfil, Republic of Latvia  
**Project start:** 2017.08.25  
**Project end:** 2017.10.23

**Project manager:** KSI00-EM-01  
**Project engineer:** KSI00-EM-01

