



Awel y Môr Offshore Wind Farm

Note on the Weight to be Given to Enhancement

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Contents

1	Introduction.....	4
2	Landscape	5
2.1	Policy	5
2.2	Assessment	6
2.3	Morlais	8
2.4	Weight.....	9
3	Biodiversity.....	12
3.1	Policy	12
3.2	Assessment	13
3.3	Weight.....	14
4	Tourism Fund.....	16

1 Introduction

- 1 This note addresses the weight which the Applicant submits should be given to the enhancements being proposed for the Awel y Môr offshore wind farm development (AyM). It focusses on the landscape enhancement scheme that has been agreed with Denbighshire County Council, Conwy County Borough Council, Isle of Anglesey County Council, Natural Resources Wales and Eryri National Park Authority (the North Wales authorities) but also addresses biodiversity enhancement and the Conwy County Borough Council tourism fund.
- 2 This note explains the policy context for the proposed enhancements and the extent to which they should be given positive weight in the Development Consent Order (DCO) decision.

2 Landscape

- 3 Extant National Policy Statement (NPS) EN-1 provides that *“Virtually all nationally significant energy infrastructure projects will have effects on the landscape”* (5.9.8), and that in considering applications, regard should be had to *“any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated”* (5.9.9). The Applicant has set out a full assessment of the potential seascape, landscape and visual impacts of the proposed development (AS-027) and has described how mitigation has been applied through the design iteration process to minimise the impacts of AyM (see 10.9 of AS-027).

2.1 Policy

- 4 NPS-EN1 also states:
- ▲ 5.9.13 The fact that a proposed project will be visible from within a designated area should not in itself be a reason for refusing consent.
 - ▲ 5.9.15 The scale of such projects means that they will often be visible within many miles of the site of the proposed infrastructure. The IPC should judge whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project.
 - ▲ 5.9.17 The IPC should consider whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to minimise harm to the landscape, including by reasonable mitigation.
- 5 NPS EN-3 also requires consideration of the seascape effects of offshore wind farm proposals. This is set out in the seascape, landscape and visual impacts assessment (SLVIA) (AS-027) in accordance with paragraphs 2.6.199 and 2.6.202 of EN-3.
- 6 Paragraph 2.6.208 of EN-3 notes that *“Where a proposed offshore wind farm is within sight of the coast, there may be adverse effects”*. It then sets out that these effects are not a reason for refusal unless they can be avoided through changes such as layout alteration.

- 7 While the AyM DCO application must be determined in accordance with the extant NPSs under section 104 of the Planning Act 2008, the Applicant anticipates that the Examining Authority (ExA) will consider Welsh and local planning policies to be important and relevant considerations. Planning Policy Wales (11th Edition) sets out that the landscape of Wales is a key consideration when developing policies and when proposing development and Planning Authorities should provide for the conservation and, “where appropriate, enhancement” of local landscapes (Paragraph 6.3.12).

2.2 Assessment

- 8 The SLVIA concludes (in summary) that:
- ✦ a) There would be significant adverse effects on three of the 14 special qualities and the natural beauty of the Isle of Anglesey Area of Outstanding Natural Beauty (AONB);
 - ✦ b) There may be adverse effects on Eryri National Park’s special qualities of Diverse Landscapes and Tranquillity & Solitude – Peaceful Areas and Peacefulness, but such effects are not considered to be significant;
 - ✦ c) There would not be any significant effects relating to the Clwydian Range and Dee Valley AONB, but there would be some adverse effects which would conflict with the purpose of the AONB; and
 - ✦ d) There would be an effect on views from the Great Orme as part of its context, which also includes many other components including operational offshore wind farms and a large expanse of open sea. The effects of AyM on the character of the Great Orme would not physically change the pattern of elements but would occur as part of its context, which already contains many contextual features.
- 9 The Applicant has applied the mitigation hierarchy by seeking to avoid significant adverse impacts, and where these cannot be avoided to mitigate them. As set out in the ES Alternatives chapter (APP-044), the Applicant has mitigated the impacts on seascape, landscape and visual effects from the array in so far as is possible while maintaining a viable project, including:
- ✦ a) Reducing the proposed array area from 107km² at scoping to 78km²;

- ▲ b) Removing turbines from the western boundary of the offshore area;
 - ▲ c) Reducing the number of turbines from 91 to 50; and
 - ▲ d) Proposing an array area which is comparatively small and densely packed to reduce horizontal spread in views
- 10 Natural Resources Wales (NRW) has stated that a substantial reduction in the size/scale of AyM would be needed to reduce the significant SLVIA effects. The Applicant does not consider that a reduced number of turbines would be an economically viable and deliverable project, and that turbines of the size envisaged by NRW are no longer available. Accordingly, in the case of landscape, it is not possible to completely mitigate the impacts and some adverse impacts remain (as is anticipated by NPS EN-1). The Applicant has therefore considered the next stage of the mitigation hierarchy, compensation, with the relevant parties through a landscape enhancement scheme.
- 11 The Applicant has now agreed the scope of the landscape enhancement scheme with the North Wales authorities. The objective of the scheme is to compensate for the adverse impacts of the proposal on designated landscapes by funding improvements of other landscape features within the affected sites, in order (*inter alia*) to enhance onshore land characteristics, undertake landscape restoration and/or improve public access and interpretative resources.
- 12 The scheme is proposed to be used to strengthen onshore landscape features as compensation for the adverse impacts of the proposed development. The scheme purposes would be to strengthen, reinforce or enhance onshore landscape features or access to protect the protected landscapes' distinctiveness, special qualities or sense of place. For example, the fund could be used to strengthen the inherent pattern of elements in the landscape which create the distinctiveness of the Isle of Anglesey AONB. This will create long term landscape benefits as compensation for the adverse effects of AyM.

2.3 Morlais

- 13 This scheme for a tidal energy test and demonstration array of up to 240MW by Menter Môn was consented under the Transport and Works Act 1992, not the Planning Act 2008, however it is considered relevant as it also considered compensation for landscape impacts, affecting the Isle of Anglesey AONB.
- 14 It was not contested in the Morlais scheme that some views in the AONB, including those of the seascape, and the AONB's special qualities, would be impacted by the works as the installation of the array would inevitably change the view into and out of the coastal landscape areas. The Isle of Anglesey County Council's (IoACC) position was that these impacts would have a significant adverse effect on the Anglesey AONB and the Holy Mountain Heritage Coast, in particular. IoACC accepted that the Applicant had done what it could to mitigate these effects through design mitigation and placement of the devices offshore, and through proposed landscaping of the onshore infrastructure. However even with that designed-in mitigation, IoACC considered that there remained a significant adverse impact on some parts of the AONB and Heritage Coast.
- 15 As the Inspector found that further mitigation was not practical, it was necessary to consider whether the provision of compensation would be appropriate to off-set the harm which would be caused by the project. IoACC's position was that such compensation would be appropriate. The Inspector concluded in paragraph 122 of his report:

The second specific matter highlighted by the Inspector is character and appearance. IoACC does not now object on these grounds, because of mitigation committed to as part of the project, and because Menter Môn has agreed to fund certain measures, secured by a section 106 ("s.106") obligation cross linked to condition 21 of the draft deemed planning conditions.¹⁶⁴ Those funds are to be payable by Menter Môn and applied toward (1) landscape improvement works on land managed by IoACC, (2) providing funding to projects undertaking landscape restoration or enhancement programmes, (3) directly funding landscape improvement work on third party owned land, and (4) improving public access to land including the provision of new public road rights or improving existing roads. It is agreed these measures are sufficient to address IoACC's concern that the

proposals are contrary to the JLDP, specifically policies PS 19, AMG 3 and AMG 4.

- 16 The Inspector recommended, and Welsh Ministers determined to impose, condition 23 of the Morlais deemed planning permission, which secures completion of a scheme securing landscape enhancement funding. Post-consent the scheme has been prepared in the form of a section 106 planning obligation tied to the onshore substation site in order to ensure ongoing enforceability. The wording of this condition and the proposed requirement to be included in the AyM DCO is included in Appendix A of the Applicant's response to CAH and ISH4 actions (REP7-005).

2.4 Weight

- 17 NPS EN-1 states that the decision maker should consider any compensation measures for any adverse impacts of a project and any measures which provide environmental, social and economic benefits (paragraphs 4.1.3 and 4.1.4).
- 18 It is currently proposed that the landscape enhancement contribution is secured through a section 106 planning obligation agreement. At this time, and was the case in the Morlais project, the Applicant does not yet have an interest in suitable land to bind under such an agreement and it has been agreed with the North Wales authorities that it would be appropriate for the scheme to be secured via a DCO requirement.
- 19 In order to impose a requirement, the decision maker must be satisfied that it is necessary and fulfils a planning purpose. This is discussed in further detail in Appendix A of the Applicant's response to CAH and ISH4 actions (REP7-005).
- 20 In order to validly conclude a section 106 agreement, the contributions set out therein must be (*inter alia*) necessary to make the development acceptable in planning terms. 2.19

- 21 Accordingly, in proposing to secure this by means of a requirement, the Applicant and the North Wales authorities are agreeing that it is necessary. Should the ExA agree and include a requirement for securing this in its recommended DCO, then the scheme must be given weight in the planning balance against any adverse seascape, landscape and visual effects. A requirement cannot be considered necessary where it is not given any weight as that would indicate the decision maker did not consider it to be addressing (and therefore reducing the weight of in the planning balance) an impact. If there is no reduction in the adverse impact overall in the balance, the scheme cannot be deemed to be necessary. If the impact is the same regardless of the obligation's existence, the imposition of the obligation cannot comply with the requirements of the Community Infrastructure Levy Regulations and cannot be lawfully imposed.
- 22 The Applicant and the North Wales authorities have agreed that the requirement (Requirement 26 of the draft DCO submitted at Deadline 8) should be worded as follows:

26 —(1) Work No. 1 must not be commenced until a scheme for the provision of landscape compensation in accordance with the landscape compensation scheme principles document has been submitted and approved by the relevant planning authority following consultation with NRW, the Isle of Anglesey County Council, Eryri National Park Authority and Conwy County Borough Council.

(2) The landscape compensation scheme shall set out appropriate measures to compensate for the impact of the authorised development on the protected landscapes of Eryri National Park, the Isle of Anglesey Area of Outstanding Natural Beauty (including Anglesey Heritage Coast) and Great Orme Heritage Coast.

(3) The landscape compensation scheme shall be implemented as approved.

(4) In this requirement “landscape compensation scheme principles document” means the document certified as such by the Secretary of State under article 40

23 The Applicant therefore submits that the Landscape Enhancement Scheme should be given positive weight in the planning decision as compensation (in accordance with the mitigation hierarchy) for the adverse landscape and visual impacts of the development. Where such weight is not given, the scheme cannot be required as part of the consent.

3 Biodiversity

- 24 Biodiversity enhancement measures represent the provision of new benefits for biodiversity that are additional to those provided as part of mitigation or compensation measures. The Applicant has sought to enhance biodiversity, in line with relevant statutory and policy requirements, in the area around the Onshore Substation (OnSS). This section covers onshore biodiversity enhancement measures. An update on marine biodiversity measures is provided in the updated Marine Licence Principles document submitted at Deadline 8 (Document 8.11 of the Applicant's Deadline 8 submission).
- 25 Net benefits for biodiversity will be delivered through the provision of enhancement measures. As set out in the ES, the Applicant has sought to mitigate impacts along the route of the onshore works in proximity to where those impacts occur. The enhancements proposed are in addition to the mitigation and compensation proposals within the Application.
- 26 The enhancement measures are proposed in and around the area which the Applicant is seeking to acquire for the OnSS, including the areas required to access, drain and landscape the substation. The measures are set out in principle in the Outline Landscape and Ecology Management Plan (oLEMP) (REP7-026) and the maintenance of them are secured through the dDCO by Requirement 13, which requires approval of the final Landscape and Ecology Management Plan (LEMP).
- 27 This note considers why the Applicant considers the biodiversity enhancement proposals comply with policy objectives and should therefore be given weight in the planning decision.

3.1 Policy

- 3.5 NPS EN-1 requires that the Applicant should show how the project has taken advantage of opportunities to enhance biodiversity (5.3.4). The NPS explicitly provides that weight can be given to biodiversity benefits:

"5.3.6 The benefits of nationally significant low carbon energy infrastructure development may include benefits for biodiversity and geological conservation interests and these benefits may outweigh harm to these

interests. The IPC may take account of any such net benefit in cases where it can be demonstrated."

- 28 The draft revised NPS EN-1 encourages applicants to consider how proposals can contribute to Biodiversity Net Gain (BNG). Paragraph 5.4.17 of the draft NPS sets out that proposals should also consider any opportunities to maximise the restoration, creation, and enhancement of wider biodiversity. Given the existing legal and policy regime, the Applicant's focus has appropriately been on providing terrestrial biodiversity benefit.
- 29 Welsh and local planning policies, which the Applicant anticipates will be considered to be important and relevant by the ExA, also provide for the provision on biodiversity enhancement.
- 30 Future Wales: The National Plan 2040 considers how The Well Being of Future Generations (Wales) Act can be furthered by development. The goal, "A resilient Wales" is to be supported by maintaining and enhances a biodiverse natural environment. Policy 9 – Resilient Ecological Networks and Green Infrastructure states that the maintenance and enhancement of biodiversity (to provide a net benefit) must be demonstrated in all applications.
- 31 Section 6.4.5 of Planning Policy Wales (11th edition) states that planning authorities must seek to maintain and enhance biodiversity in the exercise of their functions.

3.2 Assessment

- 32 The application includes proposed enhancement measures for biodiversity within the area around the OnSS as set out in as set out in Section 7.1 and Figure 2 of the OLEMP.
- 33 Proposals to provide biodiversity enhancement have been discussed and agreed with NRW and Denbighshire County Council (DCC). The OLEMP sets out the in-principle measures which will be implemented to provide biodiversity enhancements as part of the onshore elements of AyM.
- 34 The OLEMP sets out the key elements that will be secured in the final LEMP which will be agreed with DCC, in consultation with NRW, prior to any construction works commencing.

35 The Applicant's proposals for biodiversity enhancements include:

- ▲ a) creation of five additional ponds located to the south east of the OnSS and ongoing management of the new ponds plus two existing ponds;
- ▲ b) creation of five reptile/amphibian hibernacula;
- ▲ c) creation of twenty reptile/amphibian refugia;
- ▲ d) erection of ten bat boxes (additional to those required as compensation for potential roost features to be lost) and ten bird boxes, including two pole mounted barn owl boxes;
- ▲ e) scrub management to promote structurally diverse grassland habitat and benefit reptiles and amphibians
- ▲ f) creation of 9.8ha of species-rich, lowland meadow Priority Habitat and 6.05ha of diverse neutral grassland, plus management thereafter to ensure its nature conservation interest is maintained; and
- ▲ g) creation of 2.96ha of locally native broadleaved woodland, including locally sourced black poplar.

36 The Applicant confirmed with NRW in December 2021 that: 'the mitigation/compensation/biodiversity enhancement quantum for the application is agreed and therefore meets the relevant Policy requirements (APP-303).

3.3 Weight

37 The ongoing maintenance of these enhancements will be secured through the approval of the final LEMP which will apply throughout the operational phase. As the locations of the enhancements are within the substation area and will be under the control of the Applicant (or any successor operator of the substation), the Applicant will be able (and required) to maintain these. The proposed enhancements are accordingly secured and the ExA can have confidence that these would be delivered, with DCC having approval of the final detail of that delivery.

38 Given that the biodiversity enhancements are in accordance with the provisions of NPS EN-1 and meet a policy objective of other important and relevant policy, and that their delivery is secured, the Applicant submits that these enhancements should be considered to be a benefit of the proposed development to which weight can be given in the planning balance. The degree of weight to be given is matter of planning judgement, however the Applicant suggests that biodiversity enhancement should be given moderate positive weight as a benefit of the proposed development.

4 Tourism Fund

- 39 The Applicant notes the matters raised by Conwy County Borough Council (CCBC) in relation to tourism and the request for a tourism fund. The Applicant recognises that CCBC's beaches are one of its main visitor attractions. However, the Applicant is not aware of any evidence showing that people (including day visitors and those staying longer) who visit for this reason, are likely to be discouraged by offshore wind farms or that the proposed development would spoil the experience of CCBC's beaches.
- 40 NPS EN-1 at section 5.12 requires that the relevant socio-economic impacts of a proposal are assessed in the ES, including effects on tourism (5.12.3). Volume 3, Chapter 4: Tourism and Recreation of the ES (APP-065) presents a detailed and comprehensive review of the evidence of the relationship between wind farms and tourism. It finds limited evidence that wind farm developments have a negative impact on the local tourism economy.
- 41 No significant adverse effects for which further mitigation is required have been found. Further mitigation or compensation (including in the form of an enhancement fund) has not been demonstrated to be necessary. The Applicant does not consider that there is any evidence to show that a tourism fund is necessary for the proposed development and submits that no weight should be attached to the lack thereof.
- 42 The Applicant is in discussion regarding the provision of contribution to CCBC to support some funding to support tourism. This is being proposed as a voluntary, goodwill measure and is outside of the planning process. It is not required to make the development acceptable, and the Applicant is not seeking to have any weight given to any such contribution in the AyM determination process.



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