

Deadline 7 Response on Behalf of the Executors of the Late Sir David Watkin Williams-Wynn Bt. and others (referred to as 'The Cefn Estate)'

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Overview

The Cefn Estate is committed to negotiating a voluntary agreement with EnBw & BP (the Applicant).

As at the date of this paper there has been a **lack of meaningful negotiation and engagement** on the part of the Applicant.

The Applicant is **requesting compulsory acquisition powers over a disproportionate area of land (akin to a land grab)** and the **freehold acquisition is not justified**.

The Estate requests that the Examining Authority exercise extreme caution in granting compulsory powers for the acquisition of the land subject to the Option for the substation and surrounding land. **It is not necessary or proportionate to grant compulsory powers over operational and non-operational land extending to over 70 acres.** This is especially significant when considering the financial and planning benefit to the Applicant who has dual privileges by allocating all the mitigation onto the Estate's land, at the financial impediment of the Estate. **We ask the Examining Authority to question why freehold Compulsory Acquisition powers should be granted over an entire area, where we understand only 15% of it is required for the actual substation.**

The mitigation land should not be secured by freehold acquisition under the Development Consent Order. It is **not reasonable** for the Applicant to apply for powers to freehold acquire over 50 acres of land with future for grid connectivity and renewable energy development – **purely to satisfy the Applicant's requirements with NRW.**

Response to document S D6 5 (Document Reference: MOCNS-J3303-BGS-10481) – Submitted on 20 December 2024

In response to Burges Salmon's summary of CAH 2, the Cefn Estate disagree with the claim made by Burges Salmon, that the Cefn Estate's main issue is the area of land required. Our concerns are as follows:

- 1 – Lack of Meaningful Negotiation
- 2 – Proportionality
- 3 – Sterilisation of land for future grid connection opportunities

1) Lack of Meaningful Negotiation

Lack of evidence of reasonable negotiation and engagement to date. **The Applicant has, to date, made minimal effort to secure land rights through agreement.** The Applicant is instead hoping to rely on freehold compulsory purchase powers, which is normally considered as a method of last resort to acquire a significant area of land; circa 137 acres of the Cefn Estate's land.

1. **Long Leasehold HOTs were not provided until 8/11/2024.** This was mid-way through the Examination process. The Applicant had only provided Freehold HOTs prior to this, this indicates a lack of meaningful negotiation as the Applicant is an experienced operator who will be aware (from previous projects) that the standard arrangement for such agreements is a long leasehold basis.
2. **Lack of clarity** - The long leasehold HOTs do not provide a justification for how the figures have been arrived at, nor do they stipulate the area required. **The Estate is unfortunately still waiting for a summary detailing how the calculation has been assessed.**
3. The Estate submitted a counteroffer to the Applicant on 17/12/2024 with robust supporting evidence. **No response has yet been received.**
4. **The Mona scheme requirements necessitate separate agreements** for the following. **To date, these have not been provided, thereby the Applicant have not shown reasonable attempts to negotiate.**
 1. Short term mitigation areas
 2. Construction compound areas
 3. Long term mitigation land (with the exception of the woodland area).
5. **Probate** - **The Applicant has not been reasonable in their approach negotiations, given the land is currently in probate.** In November 2023, unfortunately the owner of the Estate (late David Watkin Williams-Wynn) sadly passed away, less than 3 months (Feb 2024) before the DCO was submitted. 2 months after his death, the agents, Dalcour Maclaren issued option plans and Heads of Terms to the Executors of his estate. It is not reasonable, to expect a family in mourning, before probate has even been granted, to enter practical negotiations for a substation agreement. **The approach taken by the Applicant has not enabled viable negotiations.**
6. **Applicant's reliance on CA Powers** - A meeting was held between the parties on Monday 13 January 2025 at 9am, with a number of actions taken. Carter Jonas on behalf of the Cefn Estate submitted a detailed counteroffer with evidence for discussion for this meeting on Wednesday 17th December and a response was received from the Applicants agent on Friday 10th January at approximate 4pm. This is not reasonable and reinforces the point that the Applicant has no incentive to pursue a voluntary agreement, as the Applicant can rely on freehold Compulsory Acquisition powers over the whole Option area.

2) Proportionality

The area of land required within the Option put forward is not proportional to the size of the substation and the size of the windfarm. Therefore, more land is being requested within the DCO than necessary with insufficient justification.

Please refer to the table and associated information provided within the Cefn Estate's Deadline 6 response.

1. **Leasehold Area not defined** - The Applicant is still unclear about the area of land required for the proposals. For example, a revised lease plan was shown to the Cefn Estate on 13 January 2025, however, neither the HOTS nor the plan summarised the total size of the leasehold area.
2. **Lack of engineering Design meaning optionality is included within the DCO** - It is clear that the Applicant is still finalising design, and there have been no engineering proposals drawn up. It is not reasonable for the Cefn Estate to sign up to HOTS where there is a lack of clarity over the land required and the designs are still unclear. For example, the Applicant does not know where it will connect into the Grid, and therefore has optionality within the design. This has been achieved by including large swathes of the Cefn Estate's land within the Option area, in enable a variety of connection options.
3. **Scale of Impact** - There is an undue impact on the Cefn Estate. The Estate is shouldering the burden of not only the largest portion of land impacted by the proposals, **but also the only above ground infrastructure**. It is clear that the **Applicant has focused on obtaining agreements with the cable route landowners, but have neglected discussions with the Cefn Estate who are impacted by the following uses:**
 1. Permanent operational substation
 2. Long term mitigation land
 3. Construction compounds (x2)
 4. Ecological mitigation land
 5. Short term mitigation land
 6. Construction of new Access routes into the proposed substation
 7. Easement corridor – two options currently within design and option.
4. **Lack of due diligence on the land required.** For example, the late addition and consultation of the access track and optionality currently within design.

3) **Sterilisation of land for future grid connections**

The 'land grab' approach which will allow BP (the Applicant) the opportunity to both ransom and sterilise connections for future renewable projects thereby preventing future opportunities for the UK's route to net zero.

1. **We note that National Grid have recently submitted an objection summarising that the protective provisions tabled by the Applicant are "inadequate". National Grid added it had been "caught by surprise" at the omission of safeguarding measures it had suggested to protect its ability to upgrade and connect other customers to the site.**
2. **Creation of a Private Grid Supply Point** – The Estate asks the Examining Authority to consider whether the Applicant is seeking to use the substation **for future uses as a private Grid supply point** as the Applicant is taking more land than needed and intends to ransom future connections to the Grid.
3. **Mitigation Land** - The Applicant is proposing to acquire over 50 acres of land, merely to satisfy their planning requirements with respect of mitigation and screening for the substation and proposed development. This is strategic land with adjacency to the National Grid substation. **Either other less valuable land should be investigated by the Applicant for this mitigation, or a reasonable commercial agreement should be put in place.** The Applicant is achieving a

triple benefit of value: mitigation; screening and ticking the box of planning requirements, without having to seek these resources in land elsewhere. **This is for the financial benefit of the Applicant, at the expense of the Estate.**

4. **Evidence of other renewable proposals, demonstrating the land is unequivocally strategic land.** The Estate has agreements with other renewable developers which overlap with the Option area (which the Applicant intends to acquire by freehold compulsory acquisition). The Mona proposals will prejudice and sterilise these, which include:
 1. NSIP – HOTs agreed and An Option with a solar developer (to be signed January 2025).
 2. Exclusivity agreement with a BESS developer.
 3. Ongoing discussions with a BESS developer, who are actively pursuing land that is included within the DCO.
5. Demand for this type of land is only going to increase, and the Estate have interested developers in the land to support the values we are requesting within an agreement.
6. In addition, the long-term mitigation (i.e. woodland) will permanently sterilise the Estate's land, and this has not been reflected within the HOTs provided.

Timeline of Negotiations/ Engagement since CAH 2

For a timeline of negotiations/ engagement since CAH 1, please see the Cefn Estate's response to Deadline 6.

Please note, Heads of Term (HOTs) on a long leasehold basis (industry standard) were only supplied to the Estate on 08/11/2024 (mid-way through Examination).

- **16/12/2024** - Chaser email received from the Applicant.
- **17/12/2024** – Letter sent to Harry Stubbs from the Estate with a counteroffer and a robust rationale for why the offer provided is not reasonable. Market facing comparable evidence sent to the Applicant. The Applicant's agent, Harry Stubbs will be aware of such as his company acts for other developers, including RWE he also negotiated one of these historic agreements.
 - **To date, no response has been received from the Applicant.**
- **19/12/2024** – Tracked changes word document of the HoTs sent to Harry Stubbs and Tom Harrison.
- **20/12/2024** – Queries put forward via email regarding the construction compound rate offered and the short-term mitigation. A detailed response on the HoTs for the cable easement was also provided to the Applicant.
- **10/01/2025** – Response received from Harry Stubbs (at 16:15 on Friday 10th January 2025) regarding the substation HOTs with plans attached documenting the following: Land required during and post construction.
 - Please note, **the total leasehold area required (in acres) was still not detailed on the plan.**
 - **In addition, no amendment to the commercial offer was provided.**
 - **Nor were necessary separate agreements for the short-term mitigation land, construction compounds or ecological mitigation supplied.**

- **13/01/2025** – An online Teams call was held with the Applicant held at 9:00 on 13th January 2025.
 - Only an hour was scheduled which was inadequate.
 - As the HOTs were only sent via email on 10th January 2025, that left the Estate merely 1.15 hours within the working week to review, prior to the scheduled call at 9am on Monday. This is not reasonable for viable negotiations.

The land subject to the Mona proposals in unequivocally Strategic Land

The Cefn Estate currently accommodates 3 substations. The Cefn Estate is a reasonable operator who has historically negotiated these substation agreements on their land. These were agreed by mutual consent under appropriate lease terms, with reflective capital payments. The Cefn Estate is familiar with energy operators and the negotiation process to reach voluntary agreements.

The Cefn Estate is strategically important for renewable energy projects due to its existing infrastructure and ease of Grid connectivity. With reference to offshore wind, the Cefn Estate's land has both proximity to the Grid and the coastline, facilitating cabling for energy scheme connections. In addition, the land's proximity to the Grid creates demand from other energy developers including, but not limited to: Solar, BESS, offshore wind, grid stability schemes and data centres. As a result, numerous developers have approached the Estate, expressing interest in utilising the Cefn Estate land both for development of their own renewable energy schemes and connections to schemes proposed in the surrounding area.

Land with development potential for energy schemes is more valuable than regular agricultural land because it can generate higher and more stable income streams. This reliability, combined with the environmental benefits of clean energy, makes land for solar development a highly sought-after and valuable commodity.

Given these factors, the offer presented by the Applicant's agent does not accurately reflect the strategic value and competitive interest in the market. The unique advantages of the Cefn Estate, including its existing infrastructure and location, significantly enhance its value for renewable energy projects, making it a prime site for future development.

The value of the land at the Cefn Estate is categorically rooted in its development value (hope value) for energy projects (both current, planned and future). Given the quantity of future projects and projects currently in the pipeline nationwide, more robust Market facing comparable evidence, supporting open market values for similar parcels of land, will become public over the coming years. These would undoubtedly be relied upon should any form of dispute resolution develop.

Land surrounding existing National Grid substations is extremely valuable, due to providing connection opportunities for future energy generation projects. Standard assessments for the freehold value of BESS schemes are in the region of **25 Megawatts (MW) per acre** when assessing the capacity of a site.

The Mona scheme proposals have a disproportionate impact on the strategic land surrounding the existing National Grid substation, thereby preventing planned, current and future developments and connections on the Cefn Estate. As outlined above, demand for strategic parcels of land (such as the land owned by the Cefn Estate) is high and will grow exponentially over the coming years.

Conclusion

The Mona proposals have a **disproportionate** impact on the Cefn Estate in terms of the scale of land take both for operational and non-operational land. This concern has been raised with the Examining Authority on numerous occasions.

The Applicant cannot demonstrate reasonable attempts to negotiate and is instead hoping to rely on Freehold compulsory acquisition powers. The Applicant has taken an **overly aggressive** approach by applying for compulsory powers for freehold acquisition – **for a disproportionate amount of land.**

The Mona scheme proposals will sterilise a significant proportion of the Cefn Estate's strategic land where the Estate has long term plans related to the Grid Connectivity. **The issue of scale and sterilisation is a point that has also been raised by National Grid who are concerned about the lack of regard for other renewable energy projects and their access to the grid location.**

It is inappropriate to value the land on an existing use value basis considering the timescales around the DCO, the additional energy schemes that the Cefn Estate has in the pipeline and the development potential as a result of the land's connectivity to the grid. **Given the land's strategic connectivity to the grid, there are already 3 existing substations in this location, further strengthening the development potential on that basis. In addition, the Applicant has undertaken numerous feasibility studies on the site's capability, which further strengthens the above point.**

In a no Scheme world, the Cefn Estate has been and will continue to be approached by third party developers on the basis it has good connectivity to the grid. In a world where renewable energy project and planning permissions are being pushed forward and demanded to a significant degree, as stipulated in the commentary above, this needs to be reflected in a reasonable offer and reasonable attempts to negotiate from the Applicant. This has not been evidenced to date.