

Planning Inspectorate ref:

EN010014

Council ref:

ENQ/25324



Planning Act 2008

North Wales Wind Farms Connection Project

Written Representations

August 2015

1. Introduction

- 1.1 The Council submits these representations in response to the application for Development Consent Order (DCO) by SP Manweb to construct a 132Kv overhead line between the Clocaenog Strategic Search Area and the grid substation near St Asaph (the Application).
- 1.2 The Council is the local planning authority for the most of section of the Order Site between the crossing over Afon Ystrad near Pandy (Grid ref: 30244, 36411) and the crossing over Afon Elwy near Bodysgaw Isa (Grid ref: 29979, 37201), although part of that section (south of Eriviat Bach) straddles the boundary with Denbighshire.
- 1.3 The Council objects to the Application on the following grounds:
 - A) Significant adverse impact on the setting of the group of listed buildings at Berain;
 - B) Significant adverse effects from the A543 including views towards the Elwy and Aled Valleys Special Landscape Area.

The above grounds are referred to in these Written Representations as Ground A and Ground B respectively.

- 1.4 The Council does not object in principle to the remainder of the Application, but does make comments on specific impacts and requirements. These comments are detailed in its Local Impact Report and in its response to the Examining Authority's Written Questions.

2. Background to the Written Representations

- 2.1 A report was submitted by the Council's Officers to the Planning Committee on 12th August 2015, which is appended to these representations. The report was accompanied by a working draft of the Local Impact Report and by the Non-Technical Summary of the Environmental Statement.
- 2.2 The Committee resolved in accordance with the Officers' Recommendation. It also resolved to nominate Cllrs P Lewis MBE and I Lloyd to represent the Council's Members at the Examination Hearings.

3. Amplification of the Ground A Objection

- 3.1 The Applicant has a statutory duty under Schedule 9 of the Electricity Act 1989 to have regard to the preservation of amenity. Specifically, paragraph 1(2) of that Schedule states:

“In formulating any relevant proposals, a licence holder or a person authorised by exemption to [generate, transmit, distribute or supply electricity]—

(a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archeological interest; and

(b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.”

- 3.2 There is also a duty under Section 66 of the Planning (Listed Buildings and Conservation Area) Act 1990, in considering whether to grant planning permission for development which affects a listed building or its setting, for local planning authorities and the Secretary of State to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 3.3 Whilst the above provision is specific to applications for planning permission, the Council requests the Examining Authority to consider whether that duty should be treated as a material consideration in respect of proposals that are subject to the procedures under the Planning Act 2008.
- 3.4 The UK Government’s Overarching National Policy Statement for Energy (EN-1) addresses key material considerations. Section 5.8 of EN-1 specifically addresses the historic environment.
- 3.5 Paragraph 5.8.12 of EN-1 states:

“In considering the impact of a proposed development on any heritage assets, the [Examining Authority] should take into account the particular nature of the significance of the heritage assets and the value that they hold for this and future generations. This understanding should be used to avoid or minimise conflict between conservation of that significance and proposals for development.”

- 3.6 Paragraphs 5.8.14 and 5.8.15 state:

“There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact.

Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a grade II listed building park or garden should be exceptional. Substantial harm to or loss of designated assets of the highest significance, including Scheduled Monuments; registered battlefields; grade I and II listed buildings; grade I and II* registered parks and gardens; and World Heritage Sites, should be wholly exceptional.*

“Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. Where the application will lead to substantial harm to or total loss of significance of a designated heritage asset the IPC should refuse consent unless it can be demonstrated that the substantial harm to or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm.”

3.7 Also relevant is paragraph 5.8.18, which states:

“When considering applications for development affecting the setting of a designated heritage asset, the [Examining Authority] should treat favourably applications that preserve those elements of the setting that make a positive contribution to, or better reveal the significance of, the asset. When considering applications that do not do this, the [Examining Authority] should weigh any negative effects against the wider benefits of the application. The greater the negative impact on the significance of the designated heritage asset, the greater the benefits that will be needed to justify approval.”

3.8 In terms of Welsh national policy, paragraph 6.5.9 of Planning Policy Wales (Ed. 7) states:

“Where a development proposal affects a listed building or its setting, the primary material consideration is the statutory requirement to have special regard to the desirability of preserving the building, or its setting, or any features of special architectural or historic interest which it possesses.”

3.9 Paragraph 11 of Welsh Office circular 61/96 also refers to the above duty.

3.10 In terms of local planning policy, the Conwy Local Development Plan (LDP) was adopted in 2013. The critical policy is Policy CTH/2 (Development Affecting Heritage Assets) which states that development proposals which affect a defined heritage asset or its setting shall preserve or, where appropriate, enhance that asset. The full text of that Policy and related policies are included in the Local Impact Report.

3.11 The Ground A objection relates to the impact of the proposal on the group of four listed buildings which are collectively known as ‘Berain’. These comprise:

- i) The farmhouse, which was first listed in 1952. The building is now subject to a Grade II* listing for its special architectural significance as an important early

- Tudor gentry house and for its special historic importance as the home of Katherine (Tudor) or Berain, ‘The Mother of Wales’.
- ii) The L-shaped agricultural range, which is also listed as Grade II* for the special interest of its origins as an exceptionally large and scarce example of a timber-framed Elizabethan barn, retaining its original roof trusses, and for Berain’s important historic associations.
 - iii) The former carhouse, which is listed for group value with other listed items in this exceptionally interesting farm group.
 - iv) The brewhouse and pigsty range, which are also listed for group value.
- 3.12 The list descriptions are included in Appendix 1 of these Written Representations and a location plan identifying each building is included in Appendix 2.
- 3.13 Figure 1 was taken looking South West from the minor road (Henllan to Pont-y-Ddôl), slightly north west of its crossroads with a second minor road (Bont-newydd to Cefn Berain) which is visible on the left of the image. The farmhouse is situated towards the left of that image, with the L-shaped range and carhouse to the right of the farmhouse. The brewhouse and pigsty range are not distinctly visible due to intervening vegetation



Figure 1 - Berain from the North East

- 3.14 Figures 2, 3 and 4 each show parts of the south-east and north-east elevations of the farmhouse. These images show some of the distinctive architectural features that are referred to in the listing description, including the distinctive chimney stacks, windows and roll-moulded eaves.



Figure 2 - South East elevation



Figure 3 - North East elevation



Figure 4 – North East and part South West elevations

- 3.15 The centre line of the Order site crosses the Bont-newydd to Cefn Berain road approximately 165m to the south west of the farmhouse. The line proceeds in a northerly direction, and at its closest point, runs within approximately 115m west of the Grade II* range.
- 3.16 Technical Appendix 7.3 Part B of the Environmental Statement includes both wireframe and photomontage visualisations which were taken from a viewpoint to the south east of Berain (Viewpoint 26). Whilst these visualisations provide an indication of the impact of the proposal from that viewpoint, they do not fully show the extent of that impact from viewpoints closer to Berain and the connection route.
- 3.17 The proposed connection would run to the west of, and almost parallel to, the main axis of farmhouse shown in Figure 1 above. As the terrain along the proposed connection is more elevated than the location of the listed buildings, it is anticipated that the overhead infrastructure would be distinctly visible as a discrete feature above the profiles of the buildings.
- 3.18 The Council acknowledges that the setting of the listed buildings has already been affected by modern farm buildings, some of which are significant in scale. However, the impact of these buildings on the setting of the traditional buildings has been mitigated by their position to the west / north west of those buildings and by the use of neutral colours and generally low roof profiles.
- 3.19 The DCO proposal by contrast would form an extensive linear feature that would be seen above the roof profiles of the buildings. The Council considers that it would have an adverse effect on the setting of the listed buildings both in its own right and by virtue of its cumulative effect with the modern farm buildings.

- 3.20 The Council therefore consider that the DCO proposal is contrary to the Applicant's duty under Schedule 9 of the Electricity Act 1989 to do what it reasonably can to mitigate effects on buildings of architectural or historic interest. The Council further requests the Examining Authority to have regard to the importance of the listed buildings in exercising its duty under paragraph 5.8.18 of EN-1 in weighing the negative effects against the wider benefits of the Application.

4. Amplification of the Ground B Objection

- 4.1 The Applicant's duty under Schedule 9 of the Electricity Act 1989 includes the need to have regard to, and to do what it reasonably can to mitigate impacts on, natural beauty.
- 4.2 The impact of proposals on local landscape designations is addressed in paragraphs 5.9.14 and 5.9.15 of EN-1:

“Outside nationally designated areas, there are local landscapes that may be highly valued locally and protected by local designation. Where a local development document in England or a local development plan in Wales has policies based on landscape character assessment, these should be paid particular attention. However, local landscape designations should not be used in themselves to refuse consent, as this may unduly restrict acceptable development.

“The scale of such projects means that they will often be visible within many miles of the site of the proposed infrastructure. The [Examining Authority] 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.”

- 4.3 In respect of mitigating visual impacts, paragraph 5.9.21 states:

“Reducing the scale of a project can help to mitigate the visual and landscape effects of a proposed project. However, reducing the scale or otherwise amending the design of a proposed energy infrastructure project may result in a significant operational constraint and reduction in function – for example, the electricity generation output. There may, however, be exceptional circumstances, where mitigation could have a very significant benefit and warrant a small reduction in function. In these circumstances, the [Examining Authority] may decide that the benefits of the mitigation to reduce the landscape and/or visual effects outweigh the marginal loss of function.”

- 4.4 EN-5 provides specific guidance on Electricity Networks Infrastructure. Paragraph 2.8.2 considers that:

“... For the most part these [landscape and visual impacts] impacts can be mitigated, however at particularly sensitive locations the potential adverse landscape and visual impacts of an overhead line proposal may make it unacceptable in planning terms, taking account of the specific local environment and context...”

- 4.5 EN-5 also refers to the Holford Rules (paragraph 2.8.6) and to the circumstances where undergrounding will be justified (paragraphs 2.8.8 – 2.8.9).
- 4.6 Planning Policy Wales recognises (in paragraph 5.1.1) that the valued landscapes of Wales are not confined to statutorily designated sites but extend across all of Wales. In respect of non-statutory landscape designations, such as Special Landscape Areas, paragraph 5.3.11 advises that:
- “... Local planning authorities should apply these designations to areas of substantive conservation value where there is good reason to believe that normal planning policies cannot provide the necessary protection. Such designations should not unduly restrict acceptable development.”*
- 4.7 Technical Advice Note (Wales) 8 specifically addresses renewable energy. Paragraph 2.12 of Annex C notes the relative expense of laying high voltage cables underground, but considers that this could be justified for limited lengths and / or special circumstances.
- 4.8 The Conwy LDP designates six areas as Special Landscape Areas (SLAs). Part (2) of Policy NTE/4 states that:
- “In order to conserve the attributes of the Special Landscape Areas development proposals will have to show particular regard to the character of each locality in order to minimise their impact. Development will only be permitted if it is shown to be capable of being satisfactorily integrated into the landscape. In appropriate cases planning applications should be accompanied by a Landscape and Visual Impact Assessment to assess the visual and landscape impacts of the development.”*
- 4.9 The DCO proposal would affect the setting of the Elwy and Aled Valleys SLA includes the range of hills to the east of Aled Valleys as far south of the settlement of Bylchau, and comes within 1.8km of the Order Site. This SLA forms a backdrop to a number of sections of the DCO proposal when viewed from the east. The extent of the SLA is shown on the LDP Proposals Map¹.
- 4.10 The erstwhile Countryside Council for Wales carried out a LANDMAP evaluation of the landscape character over the whole of Wales, based on identified Aspect Areas. This part of the SLA is located within the Elwy and Aled Valley Moorland Hills Visual and Sensory Aspect Area (VSAA). This VSAA is evaluated as being High in respect of both scenic quality and character, Moderate in terms of integrity, and Rare. The VSAA is given an overall evaluation as High, with reference made to its function in providing a backcloth to the adjacent valleys with a distinctive sense of place².

¹ http://www.conwy.gov.uk/upload/public/attachments/589/Map_1_County.pdf

²

<http://test.landmap.ccw.gov.uk/PrintExtendedResults.aspx?filter=VS|CNWVS008&MapCollectionName=LandMap&Layer01=VS;CNWVS008>

- 4.11 The Council considers that the DCO proposal is generally compliant with the above statutory and policy requirements, but raises specific concerns in respect of its visual and landscape impact in the vicinity of the A543 east of Groes. The Council considers this area to be particularly sensitive to landscape change, due to the open field pattern, the low height of the boundary hedges and the relatively sparse tree cover. As noted in the Landmap evaluation, the upland areas to the west provide a distinctive sense of place. Furthermore, the undulating alignment of the A543 provides travellers with frequent changes of view. Whereas westward views from viewpoints east of this location are contained by topography and tree cover, the location of the proposed crossing provides an uninterrupted view from the lowland landscape of the Vale of Clwyd towards the upland area west of Groes, which forms a distinctive backdrop to it.
- 4.12 Technical Appendix 7.3 Part A of the ES includes both wireframe and photomontage visualisations in this area from Viewpoint 11. The SLA includes part of the upland area which can be seen in these images (i.e. beyond and to the right of the double pole at the right hand side of the image). Whilst the proportion of the image landscape that is located within the SLA is fairly minor, it should be noted that the visualisations do not show the full extent of the SLA's visibility from this location.
- 4.13 The visual and landscape effects of the DCO proposal at this location are two-fold. First, there would be an adverse effect on landscape character, in that the proposal would introduce visual clutter into an open landscape. Second, the proposal would present a significant visual detractor to receptors travelling along the A543 when viewed against the backdrop of the SLA.
- 4.14 The Council therefore considers that the proposal is contrary to the Applicant's duty under Schedule 9 of the Electricity Act 1989 to do what it reasonably can to mitigate effects on natural beauty. The Council also considers that the visual and landscape impacts in the vicinity of the proposed A543 crossing would be so exceptional as to justify a requirement to bury the connection underground in this area, in accordance with paragraphs 2.8.2 of EN-5 and 2.12 of Annex C of TAN8.

5. Conclusion

- 5.1 The Council does not object to the DCO proposal in its entirety but has particular concerns over two areas of the proposal. The Examining Authority is requested to critically assess the impacts of the proposal on historic and landscape assets in these areas and to conclude that the case for requiring the partial burial of the connection underground is established.