

From: Nicola Lake [<mailto:n.lake@neath-porttalbot.gov.uk>]
Sent: 04 September 2014 15:37
To: NI Enquiries
Cc: paul.vining; Iwan Davies; Helen Bowen; Steve Ball; Nicola Pearce
Subject: FW: Maesgwyn application P/2014/0733

Hi,

Could you please provide us with your opinion as to whether the following application would be a NSIP application or whether we are able to continue with the application.

A planning Application (our reference P2014/0733) has been submitted to us on the 28/07/14. The application seeks full planning permission for "Extension to the existing Maesgwyn wind Farm with an installed capacity of up to 30MW, comprising 10 wind turbines, anemometer mast, two sub-stations and a control building, access tracks and all associated building operations and landscaping, for an operational period of 25 years." (This description of development has been taken from the application form). The original Maesgwyn windfarm that the application proposes to extend was granted permission under application P2006/1261. The decision notice for this application has been attached. It states the development of "a 45MW wind farm comprising 15m x 3MW wind turbines...". However condition 2 of the permission omitted turbines 1 and 3, thereby reducing the permitted development down to 39MW.

A subsequent application P2008/1484 was granted permission to increase the tip height of 10 of the original 13 turbines from 115m to 119.5m. The remaining three turbines were constructed under the original permission. There was no mention within the P2008/1484 of any change in the permitted power generating capacity of the development.

Following validation of application P2014/0733, the issue of the combined generating capacity was raised. We checked with Section 15 of the Planning Act 2008 and it appears to the Authority that the application is an extension to an existing generating station which cumulatively would exceed the 50MW capacity. We sought clarification from the applicant's agent as to why the application had been submitted to us for determination and their response is set out below.

However, it would appear to the Authority that the reasons as set out by the agent in his email of the 29 August would not exclude the development from Section 15 and that the application would appear to be an NSIP development. Please could you provide us with a determination as to whether the application is an NSIP development. I have attached the relevant decision notices for the original development, a copy of the application form for the current proposed application, together with the application site plan which shows both the existing and proposed turbine layout. The layout plan shows both the existing and proposed turbines accessed off the same access track and the proposed turbines location adjacent to and amongst the existing turbines.

If the current application is an NSIP development the following situation has been suggested - It is understood that the original development as constructed has an actual generating capacity of around 26MW. If the current proposed development were reduced in capacity down to 23 MW and the applicants submitted a legal agreement limiting their original development to a maximum generating capacity of 26MW, would this be sufficient to ensure that the current proposed development was no longer a NSIP development?

Thank you for any help and clarification you can provide to help to resolve this matter. Please do not hesitate to contact me should you require any further information.

Regards,

Nicola Lake
Team Leader - Development Control

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From: paul.vining [<mailto:paul.vining@wyg.com>]
Sent: 29 August 2014 14:23
To: Nicola Lake
Cc: Dale Hart; [REDACTED]; Martyn Llewellyn
Subject: Maesgwyn application P/2014/0733

Hello Nicola

I refer to our telephone conversation yesterday when you suggested that our current application (no. P/2014/0733) was such that the proposal should be considered under the provisions of the Planning Act 2008 rather than the Town and Country Planning Act 1990. Your reasoning was that the development for which permission is now sought (maximum 30MW) would, when added to the installed capacity of the existing operational Maesgwyn wind farm (26MW), exceed the threshold of 50MW for a single generating station.

There is no statutory definition of a "generating station", other than that set out in section 64(1) of the Electricity Act 1989 (and adopted by the Planning Act 2008). That definition relates solely to generating stations driven by water and is clearly not applicable in this case.

In fact, in both legal and operational terms, the current proposal is not the extension of the existing generating station but an entirely separate generating station. In support of this we point to the following:

1. The owner and operator of the proposed wind farm will be the applicant for planning permission, Pennant Walters (MAESX) Limited, which is a separate legal entity from the owner and operator of the existing wind farm, Pennant Walters (Maesgwyn) Limited.
2. The applicant company has different shareholders and different funding arrangements from the owner and operator of the existing wind farm. Hence, the two wind farms will be owned, operated and managed separately.
3. As is made clear in the Environmental Statement, the electricity from the turbines now proposed will be exported to the Grid via new connections which will be physically separate from those serving the existing wind farm and they will be metered separately. One of the new substations will connect to the existing 132Kv line with independent metering; the other new substation will connect to the 33kV line, entirely separately.
4. The proposal will require a separate accreditation from OFGEM.

5. It will be necessary for the applicant company to seek rights from the owner of the existing wind farm, Pennant Walters (Maesgwyn) Limited, to use its tracks to access the turbines, etc. This is reflected in the fact that, on behalf of the applicant company, the necessary statutory planning notice was served on Pennant Walters (Maesgwyn) Limited, as you will see from the Certificate B that was submitted with the application.

6. Given that the Welsh Government's policy is to concentrate large scale (over 25MW) wind farms in the seven selected Strategic Search Areas, it is inevitable that separate generating stations will lie in close proximity to each other. Indeed, in the case of SSA E (in which the proposal is located), your authority's own policy of "refining" the SSA boundary to a very small part of the original SSA makes this proximity inevitable.

Our conclusion is that the two wind farms, although necessarily physically proximate, are legally and functionally separate generating stations and, as such, the correct consenting procedure is that available under the Town and Country Planning Act 1990.

I hope that this response will reassure you that the correct procedure is the one already being followed by both the applicant and your authority.

Regards

Paul Vining
Director

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