



## Penderfyniad ar yr Apêl

Ymchwiliad a gynhaliwyd ar 05-09/10/09  
Ymweliad â safle a wnaed ar 08 & 09/10/09

## Appeal Decision

Inquiry held on 05-09/10/09  
Site visit made on 08 & 09/10/09

**gan/by Stuart B Wild MRTPI MCIM**

**Arolygydd a benodir gan Weinidogion  
Cymru**

**an Inspector appointed by the Welsh  
Ministers**

Dyddiad/Date 18/11/09

**Appeal Ref: APP/R6830/A/08/2074921**

**Site address: Gorsedd Bran, Nantglyn**

**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 Tegni Cymru Cyf against the decision of Denbighshire County Council.
- The application Ref 25/2007/0642/PF, dated 30/05/07, was refused by notice dated 2/04/08.
- The development proposed is the construction of 13 wind turbine generators (up to 125m in overall height) c/w electrical control room & compound area, new & improved access tracks, underground cabling, 80m anemometry mast, ancillary works and equipment; temporary construction works; new vehicular access from the minor county road; removal of conifer forest.

### Decision

1. I dismiss the appeal.

### Procedural Matters

2. At the inquiry it was confirmed that the application related to the list of plans quoted on the refusal notice except for Drawing No 15 which was withdrawn, and Drawing No 02 which was replaced by A3 Drawing No 029-015 Rev A received on 19/11/07 showing minor amendments to the location of turbines. The Supplementary Environmental Statement and evidence presented at the inquiry by the appellants was on the basis of this amended layout plan. The Council had no objection to the application being considered on the basis of this amended plan. My considerations are therefore on the layout as amended.
3. It was also confirmed that the Council were not presenting evidence on the basis of refusal reasons 3 and 4. The ecology matters raised by reason 4 had been resolved between the main parties prior to the pre-inquiry meeting. The agreed Heads of Terms on hydrology and water supplies document meant that concerns raised in reason 3 about flooding, hydrology and pollution of water supplies could be dealt with by condition.

4. Prior to the inquiry I made extensive unaccompanied visits to the area to view the proposal from the majority of the viewpoints in the evidence together with a wide variety of other viewpoints along the local road network. These included distant views and those close to the site. On the Thursday afternoon I visited a number of residential properties closest to the site. After the close of the inquiry I made further unaccompanied visits to the public highways outside dwellings and properties close to the proposal. It is on the basis of my personal visits to the area that I make my judgements on the effect of the proposal and not on the visual representations of viewpoints in the evidence. With the agreement of the parties I did not make an accompanied inspection of the site itself. I had inspected the site from the public roads around and through the site itself prior to the inquiry. The dense nature of the conifer plantation would have made the location of the individual turbine locations very difficult and all that could have been seen from there would be the existing trees.

### **Main issues**

5. I consider that the main issues in this case are the visual effects of the proposal, both within the locality and from more distant views such as from the Clwydian Range Area of Outstanding Natural Beauty (AONB); and the effects of noise on the amenity of residents within the locality.

### **Reasons**

#### ***Policy***

6. There is a whole range of policy statements at UK National Government level which stress the importance of targets for renewable energy and the reduction in carbon emissions. These are contained in International Agreements and in UK Government policy. Of these the Renewable Energy Strategy is particularly important. The National Assembly for Wales has generally compatible policies and targets. I start my consideration of this case by attaching considerable weight to this policy background. The provision of renewable energy from this proposal would make a valuable contribution to the provision of renewable energy and the attainment of targets for Wales and the UK.
7. At the Welsh level I attach most weight to TAN8 and the associated Ministerial statements. This site is located within Strategic Search Area A (SSA A) where one might expect large scale wind energy projects to be concentrated. This aspect carries considerable weight. SSA A has been the subject of further detailed study by Arup. I attach significant weight to the findings of that study which suggest that the appeal site performs well when compared to many other sites within SSA A. However not all sites within SSAs will be suitable. I must weigh the advantages of renewable energy from this proposal against any harmful effects of the proposal in judging this particular case on its merits, having regard to the Development Plan and the other material considerations.
8. The Development Plan for the area is the Denbighshire UDP 1996-2011, adopted in 2002. It appeared common ground between the main parties that, while policies MEW8, GEN6, STRAT7, ENP1 and ENV2 are all relevant, the advice in these policies adds no value to the criteria based policy MEW10 on wind energy development. I shall consider this case against policy MEW10 of which criteria

(iii) on character and appearance of the landscape with especial reference to the AONB, (iv) on noise, (vii) on cumulative impact and (viii) on the enjoyment of the landscape for recreational and tourism purposes, are, in my view, the most relevant.

### ***Landscape and Visual Effects***

9. There was not a significant difference between the parties on the effects of the proposal on landscape character. Obviously there would be a change in the character of the site and the immediate area as a result of the introduction of the wind farm. However this change to a wind farm landscape is anticipated in TAN8. In my view the effect of the proposal on views from the AONB does not change the landscape character at such a distance. The objection is one which more properly relates to the visual effects.
10. I shall deal with the visual effects of the proposal in the immediate locality first before considering the effect on more distant views. It was suggested that as turbines become taller the appropriate separation distance between turbines and dwellings should also increase. In my view there is no specific distance at which turbines are too close. It all depends on the circumstances. In my view they are too close when the height, size of swept area, and relative elevation of the turbines is such that they appear unacceptably overbearing when viewed from a dwelling or its immediate surroundings.
11. By way of example to indicate how each dwelling must be considered individually I visited both Wern Uchaf and Nant Gwyn, two of the houses closest to the turbines. Wern Uchaf is currently being renovated but its main windows face down the valley away from the appeal site. Nant Gwyn is further from the site but most of the main rooms have large windows facing directly towards the site. In these cases the visual effect on the amenity of the residents inside Nant Gwyn would be greater than the effect on those inside Wern Uchaf. That is just one instance of the effect on resident's amenity. The setting of a dwelling, the visibility of turbines from the garden area and the approach to the dwelling, all potentially affect the resident's amenity. In this case there is also the question of the cumulative impact of this site taken together with the existing Tir Mostyn and Foel Goch turbines. Numerous of the dwellings in and around the communities of Nantglyn, Waen and Bylchau would have views of part of both wind farms.
12. Some visual impact of such large turbines is inevitable. One of the consequences of the SSAs as identified in TAN8 is that such impacts are likely to be concentrated in specific areas of Wales. I must assess when these visual impacts become unacceptably harmful.
13. Mr Roden's evidence included an assessment of the visual impact on most dwellings closest to the turbines together with representative assessments of the effect on groups of dwellings such as at Soar and Bylchau. He accepted that they were a representative selection identified off the ordnance survey map. It is perhaps unfortunate that the assessment omitted Nant Glyn, the second closest dwelling to the east. However I identified several other dwellings close to the site which were not included. These included the new bungalow on the approach track to Ty Newydd, Pennant Isa and the farm house on the lane leading up to Pen y Lon. I was not trying to identify every dwelling which might be affected but

trying to assess the general level of visual impacts over a range of properties. However I came to the conclusion that this area contains a relatively large number of dwellings scattered across the countryside to the north and east of the site which would experience significant visual effects from the proposal.

14. In terms of those effects becoming such that they would be unacceptably overbearing to residents I consider that they include the following properties; Wern Uchaf, Nant Gwyn, Rhiwiau, Cwm-y-rhinwedd, Pennant Isa, Nant-y-Garreg, Nant-y-Lladron, the Bungalow at the garage on the A543, the Sportsmans Arms, and the new bungalow on the approach to Ty Newydd. From at least all these properties the views of the turbines would be such that the presence of such large turbines located on the elevated appeal site would be overbearing.
15. The cumulative effect of this proposal together with the existing and consented turbines would result in the local community having the appearance of becoming increasingly surrounded by turbines on all the high ground to the south and west. I consider that this proposal would be in conflict with UDP policy MEW10 criteria (vii).
16. Turning to the more distant views I share the opinion expressed by Mr Roden that when viewed from a distance, say greater than about 10k, fewer larger turbines generally have less impact than a larger number of smaller turbines required to generate the same power. These turbines would be very large structures visible over a wide area of North Wales. However they would be seen generally as part of the wind farms existing, approved or likely to be approved in SSA A. From most views, including from the Snowdonia National Park and along most of Offa's Dyke in the AONB, they would not detract significantly from such long distance views. Their cumulative impact would be limited.
17. There is one exception to this general conclusion and that is the view from the Jubilee Tower at the summit of Moel Famau. This is a well known viewpoint and I have no reason to doubt the evidence of Mr Skuse that the section of the Offa's Dyke footpath from the car park to the summit is the most used and visited section of the AONB. I walked from the car park to the summit and back between 17.30 and 18.30 on the Thursday after the inquiry adjourned for the day. Despite it being a weekday in October and just before dark, I passed about 2 dozen other walkers on the path to and from the summit. At the summit there is a 360 degree view of North Wales, North West England, and on a clear day Scotland, Ireland and the Isle of Man. The views have boards identifying the important landmarks.
18. Mr Roden's cumulative wireframe Fig 9b (ii) proved most helpful when stood at the summit. Looking west towards Snowdonia the existing turbines at Tir Mostyn and Foel Goch are clearly visible and are of a size which I anticipated when dealing with that inquiry. They generally lie to the south of the outline of the larger Snowdonia hills. The consented Brenig scheme and any likely turbines at Clocaenog lie within the angle of view of those existing turbines or further to the south. The existing turbines at Moel Malogan are in line with Snowdonia, but because of their size and distance from the viewpoint, they appear relatively small and do not detract significantly from the overall view.

19. This proposal for Gorsedd Bran is somewhat different. Gorsedd Bran is one of the highest points on the Denbigh Moors. Most of the turbines would be taller than the summit of Moel Famau. I would expect that for most of the visitors to the Jubilee Tower, the first land mark they would seek would be the summit of Snowdon, rather than the more general area of Snowdonia. I confirmed at my visit that Gorsedd Bran lies directly between the summit of Snowdon and the summit of Moel Famau. As Fig 9b (ii) makes clear the turbines would be directly in line with Snowdon and would break the skyline on either side of the summit of Snowdon. In my view the impact on this important view would be unacceptably harmful. In this respect the proposal would be in conflict with UDP policy MEW10 criteria (iii) and criteria (viii).

### **Noise**

20. Concern was expressed about possible health risks caused by low frequency noise from turbines. Mr Hayes' evidence in this respect may have been a little blunt but it was clear, and he was at the inquiry and available for cross examination. The opposing views were only supported by documents and there was no expert present to explain that evidence. On the basis of the evidence before me I am satisfied that serious health problems would not result from low frequency noise.
21. Turning to the more general effects of noise on the amenity of local residents I have no doubt that these turbines could, with the suggested conditions, operate within or at the levels suggested in ETSU 97. These are the standards normally applied in Wales, however they are for guidance and are not absolute values. The problem is that those noise levels do not mean that the turbines cannot be heard. Local residents gave a clear account of the noise from the existing turbines which they currently experience. Some of the descriptions may have been a little colourful but they do indicate a level of nuisance which is experienced and which would not normally trigger a breach of the planning conditions on Tir Mostyn.
22. The experience of the noise is affected by the wind direction. On my visits in the area on the Thursday and Friday I experienced the difference as a result in the change of the wind direction. On the Thursday the wind was blowing towards the turbines from the dwellings in the valley opposite and I could not hear them. On the Friday the wind was blowing in the opposite direction and I could hear the turbines in a variety of locations where there was no other noise source. The consented Brenig turbines together with any at Clocaenog generally lie to the south of most of the neighbouring dwellings in the valley and to the south west of Nantglyn village centre. This means that any additional cumulative noise impact will be experienced when the wind blows from a southerly direction.
23. Gorsedd Bran lies to the west and south west of the dwellings most affected by Tir Mostyn noise. This means that the prevailing wind would introduce additional noise to the same dwellings when they might currently expect not to hear the existing turbines. This would significantly increase the general noise nuisance experienced by a significant number of local residents. This cumulative increase in noise, whilst likely to be within ETSU 97 levels, would result in a level of harm which would conflict with UDP policy MEW10 criteria (iv).

### ***Other Matters***

24. The question of the adequacy of the survey of red squirrels for EIA purposes was raised. Sufficient information must be available to the decision maker to assess whether the proposal would be likely to have a significant effect on a protected species such as the red squirrel. In this case the conifer plantation is mainly sitka spruce which is not normally a favoured habitat for red squirrels. That is not to say that there are no red squirrels on the site but the level of survey carried out was, in my view, adequate to assess whether or not red squirrels would be likely to be significantly affected. More detailed surveys may well be carried out prior to any felling operations but that is to avoid any possible offence under the Wildlife and Countryside legislation and not for any EIA purposes.
25. General concerns were expressed about the effect on local wildlife. The proposal is to remove the existing non-indigenous trees and to restore the former moorland habitat. In my view this would be likely to be of considerable benefit to the local wildlife and is a potential benefit of the scheme.
26. Having regard to the Heads of Terms on hydrology and water supplies document which was agreed between the appellants and the Council prior to the inquiry, I am satisfied that concerns over such matters as flooding, hydrology and pollution of water supplies could be adequately dealt with by the imposition of appropriate conditions.
27. The proposal does not include any detail of the grid connection which is normally controlled by other legislation. It is always helpful to have an indication of the likely nature and routing of any such connection. However I understand the appellant's difficulty in giving any clear indication of the likely grid connection given the general uncertainty of which future wind farms may need to use the same connection, and which route to the National Grid would therefore be the most appropriate. Absence of this information is not, in my view, grounds to reject this proposal.
28. I have taken into account all of the other matters raised at the inquiry and in writing but they are not of such significance that they would outweigh my conclusions on the main issues irrespective of whether I considered that they weighed in favour or against the proposal.

### **Overall Conclusions**

29. I conclude that this proposal would be in serious conflict with the appropriate UDP policy. The benefits of the provision of renewable energy would not outweigh the harm I have identified. The imposition of conditions would not overcome these strong planning objections. Therefore, for the reasons given above, I conclude that the appeal should be dismissed.

*Stuart B Wild*

Inspector

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Alan Evans	Of Counsel, Instructed by Denbighshire CC
He called	
Cllr Paul Marfleet	Councillor with DCC
Cllr Jane Yorke	Councillor with DCC
Iwan Evans BA(Hons) MRTPI	Planning Consultant

FOR THE APPELLANT:

Marcus Trinick	Partner, Eversheds
He called	
Malcolm Hayes BSc MIOA	The Hayes McKenzie Ptrs
Phillip Roden BA(Hons) BLandArch MLI	Axis PED Ltd
David Stewart MA(Cantab) DipTP MRTPI	David Stewart Associates
Stewart Lowther BA(Hons) MSc CENV MIEEM	Atmos Consulting

INTERESTED PERSONS: (all local residents unless stated otherwise)

Michael Skuse	Joint Advisory Cttee of the Clwydian Range AONB and Ramblers Cymru
Richard Welch	
Michael Jones	
Mr Howatson	
Mr G Bibby	Local resident and member Nantglyn Community Council
Melinda Gardner	

Jennifer Sandle

Dafydd Roberts

Hefin Edwards

Local resident and member Nantglyn Community Council

Kenny Evans

Elvin Davies

Dr Elaine Walker

Judy Young

Peter Caldwell

Works on forestry site adjacent to appeal site

Michael Williams

Local resident and Hon Sec Cyngrhair Hiraethog Alliance

Peter Davenport

Cllr Bob Barton

Community Councillor Llanarmon Yn Lal and Llandegla

Ian Gardner

Sue Griffith

Mr G Yorke

Dona Hughes

Adrian Hughes

Director Welsh Language School Denbigh

Doug Tidswell

Gwen Brockley

Malcolm Brockley

#### DOCUMENTS

- 1 Council's letter of notification of the Inquiry
- 2 List of Core Documents
- 3 List of suggested conditions
- 4 Heads of Terms for Hydrology and Water Quality elements
- 5 Agreed map showing location, height and AOD of wind farms and turbines in the area
- 6 Brochure giving details of Public Exhibition re Clocaenog Forest Wind Farm

Local Planning Authority Documents

- 7 Proof of Evidence of Cllr Paul Marfleet and appendices
- 8 PoE of Cllr Jane Yorke
- 9 PoE of Iwan Evans on Landscape and Visual Effects
- 10 PoE of Iwan Evans on Planning Policy
- 11 Appendices to 9 & 10
- 12 PoE of Elizabeth Barlow on Hydrology (witness not called)

Appellant's Documents

- 13 PoE of Malcolm Hayes
- 14 Appendices to 13
- 15 PoE of Phillip Roden
- 16 Landscape and Visual Effects Figures to 15
- 17 PoE of David Stewart
- 18 Appendices to 17
- 19 PoE of Stewart Lowther
- 20 Appendices to 19
- 21 PoE of Mr Cossons on Construction (witness not called)
- 22 PoE of Mr Hillman on Hydrology etc (witness not called)
- 23 Appendices to 22
- 24 Figures to 22
- 25 Atmos Consulting commentary on Habitat Management Proposals
- 26 Scottish Planning Policy 6 – Renewable Energy

Interested Person's and Third Party's Documents

- 27 Statement of Michael Skuse and appendices
- 28 Statement of Richard Welch and appendix
- 29 Statement of Melinda Gardner
- 30 Statement of Jennifer Sandle
- 31 Statement of Elaine Walker
- 32 Statement of Judy Young
- 33 Statement of Michael Williams

- 34 Statement of Cllr Bob Barton and appendices
- 35 Statement of Case of Ian Gardner
- 36 Submissions of Ian Gardner
- 37 Statement of Sue Griffith
- 38 Statement of Dona Hughes
- 39 Statement of Adrian Hughes
- 40 Statement of Gwenn Brockley
- 41 Statement of Malcolm Brockley
- 42 Bundle of letters handed in at the Inquiry
- 43 Report and minutes of meeting of Conwy BC Planning Department

PLANS

- A-N The Application Plans