



## Adroddiad

Ymchwiliad a gynhaliwyd ar 16-19,  
23/09/08

Ymweliad â safle a wnaed ar 23-25/09/08

## Report

Inquiry held on 16-19,23/09/08

Site visit made on 23-25/09/08

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

**Arolygydd a benodwyd gan y Gweinidog  
dros yr Amgylchedd, Gynaliadwyedd a  
Thai, un o Weinidogion Cymru**

**an Inspector appointed by the Minister for  
Environment, Sustainability and Housing,  
one of the Welsh Ministers**

Dyddiad/Date 13/11/2008

---

Erection of 16 Wind Turbine Generators and associated development

Mynydd Y Betws

Ammanford, Carmarthenshire

S147 Application for an Order of exchange Common Land

S194 Carrying out of works on Common Land

**File Ref: APP/M6825/V/08/2064826**

**Site address: Land at Mynydd Y Betws, Ammanford, Carmarthenshire**

- The application was called in for decision by the Minister for Environment, Sustainability and Housing, one of the Welsh Ministers, under section 77 of the Town and Country Planning Act 1990, on 5/10/07.
- The application is made by Cambrian Renewable Energy Limited to Carmarthenshire County Council.
- The application Ref E/10446 is dated 17/05/05.
- The development proposed is the erection of 16 wind turbine generators, an anemometer mast, electrical substation and control building, electrical connections, access roads and temporary construction compound and borrow pits.
- The reason given for making the direction was that the development raises planning issues of more than local importance.
- On the information available at the time of making the direction, the following were the matters on which the Minister particularly wished to be informed for the purpose of the consideration of the application: (i) the direct effect of the development on the setting of scheduled ancient monuments within and adjacent to the application site; (ii) the effect on UK Biodiversity Action Plan priority habitats and in particular the hydrological impact; and (iii) the proximity of the development to neighbouring local planning authority boundaries.

**Summary of Recommendation: I recommend that planning permission be granted.**

---

**File Ref: APP/M6825/X/08/515052**

**Site address: Land at Mynydd Y Betws, Ammanford, Carmarthenshire**

- The application was made for an Order under Section 147 of the Inclosure Act 1845.
- The application is made by Betws Commons Holdings Limited.
- The proposal is to exchange 3.12 hectares of common land, required for the development of 16 wind turbines and associated development, for 3.59 hectares of exchange land.

**Summary of Recommendation: I recommend that the Order be granted.**

---

**File Ref: APP/M6825/X/08/515053**

**Site address: Land at Mynydd Y Betws, Ammanford, Carmarthenshire**

- The application was made for consent under Section 194 of the Law and Property Act 1925.
- The application is made by Cambrian Renewable Energy Limited.
- The application affects 12.19 hectares.
- The development proposed is the erection of temporary fencing around various construction sites, permanent fencing around the substation site, the permanent erection of 16 wind turbines, an anemometer mast and substation building, and construction of associated works.

**Summary of Recommendation: I recommend that the consent be granted.**

---

## **Procedural Matters**

1. The inquiry was held to consider three applications, the planning application for the wind farm, and the two associated applications for works affecting Common Land. They are covered by different legislation. I shall therefore consider the planning application first, followed by my consideration of the Common Land matters.

## **The Proposals**

2. The development proposed is the erection of 16 wind turbine generators, an anemometer mast, electrical substation and control building, electrical connections, access roads and temporary construction compound and borrow pits. The hub of the rotors would be 68.8m above ground level with the rotor having a diameter of 82.4m, giving an overall height of 110m. Each turbine would typically be of 2.3MW installed capacity.
3. The two applications under S147 and S194 are for the related provision of exchange land to replace that which will be lost from the Common by the permanent parts of the development, and to allow temporary works to take place on the Common.
4. The full details of the proposal are included in section 2 of the Statement of Common Ground (SCG) (Doc 3).

## **The Site and Surroundings**

5. The application site is the common land known as Mynydd Y Betws, which has an area of 797 hectares. Some 3.12 hectares would be taken up on a temporary but long term (25 years) basis by the wind farm. It is part of a generally open upland area between Ammanford and the northern outskirts of Swansea. It lies about 4 kilometres to the south westerly side of the Brecon Beacons National Park. The full details of the area are included in section 3 of the Statement of Common Ground (SCG) (Doc 3).

## **Planning History and other agreed facts**

6. The full details of the planning history of the site and the facts agreed between the applicants and Carmarthenshire CC are included in the Statement of Common Ground (SCG) (Doc 3).

## **Planning Policy**

7. At UK government and Welsh Assembly Government level there is a wide range of policy statements supporting the need to combat climate change and increase the production of renewable energy. The exploitation of wind power is a major part of policy at that level. The need for, and value of, this type of technology was not seriously challenged by any of the main parties appearing at the inquiry. I take the view that there is significant support for the principle of wind energy projects, subject to the balance of benefits against more regional and local impacts.

8. The Statutory Development Plan for the area is Carmarthenshire Unitary Development Plan (UDP), which was adopted in July 2006. Details of the appropriate policies are contained in the report to the Planning Committee (Doc CD 6). The policies to which I attach most weight are UT6 which is set out on page 12 of the report and BE1.

### **The Case for Cambrian Renewable Energy Limited (the applicants)(CREL)**

9. The key issues are (i) the effects of the development on the landscape character and visual amenity of the area; (ii) the effects of the development on the setting of the Scheduled Ancient Monuments within and adjacent to the site; and (iii) the convenience and acceptability of the exchange land offered from the perspective of the commoners and in terms of Section 147 Inclosure Act 1845.
10. With regard to the proximity to neighbouring Local Planning Authorities (LPA), save for the written submissions of Swansea and Neath Port Talbot Councils this issue never went anywhere useful in local environmental or policy terms. The further key issue is one of policy, and specifically TAN 8. Whilst the Development Plan policies must be addressed they were prepared before TAN 8 and national advice should ultimately carry greater weight.
11. Dealing first with matters which are not the determining issues, but on which evidence was given orally and in writing.
12. On matters of ecology, hydrology and hydrogeology the evidence was structured so that Mr Harris explained what would be done, Dr Edwards explained how this would be done in such a way as to avoid significant harm to hydrological and hydrogeological interests, and Mr Lowther explained that, if the project were to be constructed and designed in these terms, then harm to ecological interests could be successfully managed through the Habitat Reinstatement Plan (App 4 to Mr Lowther's evidence Doc 15). Great weight should be placed on this evidence in terms of the effect on blanket bog and upland heath. However if a split decision were to be recommended then CREL would prefer that to a refusal of the whole scheme. Whilst in the applicant's view this is not a determining issue, detailed evidence has been given at the request of the Minister. The witness from CCW was not an ecologist, hydrologist or hydrogeologist. Whilst accepting his practical experience in these areas, greater weight should be placed on the 3 CREL witnesses.
13. With regard to the Habitat Management Plan, that is by way of enhancement not mitigation. That would be governed by condition. CREL do not rely on the Tir Gofal scheme, although on the basis of the evidence from the freeholder and Commoners association, they are confident that a scheme could be agreed. CREL stands by its offer of the Habitats Management Scheme so as to bring benefits to the habitats of the area.
14. From the evidence given on mining issues, it is clear that Dr Evans possesses an enviable knowledge of the history of mining in the local area. However Mr Harris has taken great care to investigate claims of potential subsidence. With regard to deep mining, an examination of the deposited plans reveals no workings shallower than 180m below the surface. On this basis there could be no issue of subsidence even if settlement is still continuing underground. However sufficient time has elapsed since mining ceased in the relevant areas, earlier than the date

- of formal abandonment, that settlement will almost certainly be complete. With regard to shallow workings, this is something to be taken into account in preparing for construction in the Construction Method Statement.
15. Whilst having great sympathy with the flooding problems of Mr Rose and Mrs Jones, the real problem is the absence of sufficient head room at the bridge. At a distance of 4 kilometres from the nearest elements of the wind farm there would be no issues resulting from the construction of the proposal.
  16. The Defence Estates' letter dated 19/08/08 makes it clear that the only lighting required is to place fixed red lights of low intensity on the top of 5 turbine towers. This is not an issue in terms of the landscape and visual effects of the proposal.
  17. The Carmarthenshire Development Plan consists of the UDP and nothing else. The main policy is UT6 and only criterion (i) is at issue with CCW, and criteria (iii) and (iv) with other parties. Of the other policies raised, BE1 is of clear relevance. However in that there is conflict between the two, UT6 is technology specific and should be regarded as the lead policy for the purposes of this case. BE1 should not be allowed to defeat the proposal if the development would pass the test in UT6.
  18. It is CREL's case that 2 turbines are within Strategic Search Area (SSA) E of TAN 8 and the remainder of the development is within 5 kilometres of that boundary. Therefore in terms of TAN 8 the site is properly capable of being considered suitable for large scale wind energy development (more than 25MW). The SSA E map has a note 'boundaries may be slightly refined by LPAs. Scope to increase SSA has been identified to the north west'. This clearly refers to Mynydd Y Betws. TAN 8 envisaged refinement studies for all SSAs with that for areas E and F published in December 2006 (CD40). This site did emerge as one of 11 zones suitable for development following the removal of about 80% of the two SSAs. Table 11(a) of the study shows the final ranking of zones thought to be required to meet 2010 targets. This table does not include Mynydd Y Betws. Paragraph 5.3 makes it clear that zone 12 (Mynydd Y Betws) is regarded as acceptable in terms of the environmental issues examined in the report. The paragraph acknowledges 'that there is a continuum in environmental performance between the zones and the tables and that the distinction between the zones above and below the line is subtle; they all pass both sets of acceptability criteria outlined in section 4.3.1'. That section 4.3.1 referred to in the quotation refers back to paragraph 2.9 of TAN 8 and to paragraph 8.6 of Annex D to TAN 8. Therefore TAN 8 and ARUP support a large scale wind farm on this site.
  19. On landscape and visual issues, it should be noted that the evidence on behalf of CCW was limited to an examination of visual effects within the National Park, impacts on St Illtyd's Way Walk and the Beacons Way National Trails and the cumulative effects. As far as the evidence of BMPG is concerned, it was accepted that there was little difference in terms of significance of effects (Doc 42). The visual material produced should be used in the field to assess the likely effects. The real issue is the acceptability of the effects which all witnesses say would be significant. TAN 8 paragraph 8.4 of Annex D clearly acknowledges the implications for landscape character of substantial wind energy development.

The balances to be struck will be extremely painful for many people, but if TAN 8 targets are to be achieved then some difficult decisions will have to be faced and made.

20. It is accepted that there will be significant effects on the settings of Penlle'r Castell and the Scheduled Ancient Monuments. However the Monuments on this site were known to CADW. It appears that the wind farm has focused attention on this site. The importance of the ritual burial landscape to CADW is questioned given that it is not on the Register of Landscapes of Special Historic Interest for Wales. CADW had no answer when asked why it was not. Any harm to the setting of the Monuments is a matter to take into the balance, bearing in mind the relative time for which the permission would be granted.
21. Turning to targets there is no dispute that the 2010 targets will not be met. A site as Mynydd Y Betws, found acceptable by ARUP in accordance with the Annex D TAN 8 tests, with wind turbine supply assured, and with certain grid availability, should be looked at in the most positive light. The 2020 targets represent a much bigger challenge. The written evidence of British Wind Energy Association Cymru (BWEA) on targets generally is commended (Doc 52). The need to achieve the targets should be given great weight.
22. This is a well designed proposal in a location favoured by TAN 8 and endorsed as environmentally acceptable in the terms of the ARUP study. The site is a complete zone in that study and therefore the conclusions hold good for the site itself. The planning permission should be granted and the S194 and S147 applications approved.

### **The Case for Carmarthenshire CC**

23. The County Council as LPA resolved that, in principle this proposal is acceptable subject to the conditions outlined in the Committee report, the protection of all archaeological features and a Section 106 agreement to secure the restoration of the site. The LPA looks to the Minister to ensure that conditions and the S106 unilateral undertaking now submitted achieves its purposes.
24. The site lies adjacent to but outside the boundary of SSA E in an area indicated as having potential for expansion. The test applied by the LPA was that appropriate to a site outside the SSA; a balance between the benefit of renewable energy and the environment. This is consistent with the advice in TAN8. The ARUP refinement study is not capable of changing the boundary of the SSA. Such a change would require formal action by the LPA. However, the report indicates clearly that in landscape and visual terms the site is acceptable. Although the ARUP report recognises that the site is not required to fulfil the target for SSA E, that does not prevent its development, because the MIPPS urges general support to renewable energy provision. The ARUP report does not make a planning judgement since it does not take into account all the material considerations, including the point that SSA G is highly unlikely to make any contribution to the 2010 target since the preferred tenderer has dropped out.
25. Physical harm to any Scheduled Ancient Monuments should be avoided by the provision of a watching brief and the micro-siting condition. The effect on setting was taken into account by the Committee. The relevant UDP policies

were considered. The need to avoid direct harm was expressly articulated in the resolution.

26. Throughout the application process the LPA has sought protection and enhancement of the priority habitats. An enforceable Habitat Enhancement and Management Scheme, whether in conjunction with Tir Gofal or not, and a Construction Management Scheme, approved under Grampian style conditions, are capable of addressing the concerns of over grazing and habitat harm.
27. Although CCW made much of the impact on the Brecon Beacons National Park, the Authority do not object. It is concerned to avoid being faced with an uninterrupted band of turbines arising from numerous applications. When viewed from the Park the proposed turbines at Mynydd Y Betws and Mynydd Y Gwair would be seen largely one in front of the other. Nowhere in TAN 8 is there any indication that National Parks should have a buffer. It is at least reasonable to assume that the visual impact of such schemes was taken into account when defining the 'fuzzy' boundary of SSA E. The CCW evidence does not address the effect of climate change on the landscape.
28. Neath Port Talbot Council expressed concern about cumulative impact with the open cast workings. There is no suggestion in TAN 8 that cumulative impact should be considered in the context of development other than wind energy (Annex D 8.2). In any event the permission for the open cast workings was granted for 9.5 years in December 2004, commencing in March 2005, so 6 years is remaining. Cumulative impact, if such there would be, is therefore of limited duration.
29. Most of the concerns of Swansea City Council have been addressed with additional information or in evidence to the inquiry. The route via Morriston hospital would not be used. The ARUP report was jointly commissioned and when received, it generated no further detailed objection.
30. The test of landscape and visual impact in UDP policy UT6(i) is that turbines should 'not cause demonstrable harm to areas designated for their landscape value'. The sole designated area is the Brecon Beacons National Park and despite the lack of objection the Committee report took into account the views from the Park from a distance of 4 kilometres. The members went on an extensive site inspection to take into account the range of landscape and visual effects of the proposal.
31. The evidence of Betws Mountain Preservation Group (BMPG) raised no new significant matters at the inquiry which were not identified in the Committee report. Concerns about unstable land, subsidence and flooding had been brought to the LPA's attention. As regards lightning strikes the turbines would be considerably further from any dwellings than the anemometer mast erected at Mrs Newman's property.
32. On balance the LPA resolved to approve this proposal. Significant weight should be placed on the responsible and courageous decision of the Members of Carmarthenshire CC. The planning application should be approved subject to conditions and approval granted under S194 and S147.

### **The case for Countryside Council for Wales (CCW) and CADW**

33. Dealing with habitats first both upland heath and blanket bog are within Annex 1 of the Habitats Directive and the UK and Carmarthenshire Biodiversity Action Plans. It is inevitable that a quantity of this habitat would be directly impacted upon and lost or damaged by this proposal. These impacts would be of particular concern where they impact upon the blanket bog areas in the locality of turbines 9 and 12. There would also be possible indirect impacts resulting from an increase in grazing in sensitive areas by the introduction of 'sheep motorways' along the new access tracks.
34. Mitigation of impacts by the use of 'floating tracks' and 'macro turfing' is accepted but such new techniques have not yet been tested over a 25 year period. If damage is to be compensated for, then the Tir Gofal scheme has made very little progress and it gives no certainty of a reduction in grazing levels. The suggested Habitat Management Plan falls a very long way short of ensuring a reduction and control of grazing rights sufficient to make a substantive contribution to improving the quality of the habitat. CCW does not accept that the proposed compensation for the damage which would be caused by this development has so far been offered, or secured from, the developers.
35. Turning to landscape and visual impact, Mr Campion assessed the local landscape as having a low capacity to accept large wind turbines. The detracting elements there are have limited impact and provide no comparison to the turbines. They cannot justify an argument that the local landscape can be devalued without harm, particularly as it is noted for its openness and tranquillity. There would be a major change to the character of Mynydd Y Betws itself. Beyond that the concerns relate to visual rather than landscape effects.
36. One aspect not sufficiently acknowledged is the site's local and wider recreational value, arising from its wide ranging views, open access status, local accessibility, picnic area and the presence of St Illtyd's Walk. On a wider scale, it has views to and from the Brecon Beacons National Park.
37. The choice of viewpoints was criticised, particularly the omission of views from Castell Carreg Cennen. From this important location 13/14 turbines would be partly visible together with 7/8 at Mynydd Y Gwair. A cumulative impact would also be visible from Llyn Llech Owain Country Park. No account seemed to have been taken of the impact on views from the Beacons Way National Trail. In respect of St Illtyd's Walk, the likely impact had been seriously underestimated. The last few kilometres in either approach to the site would be dominated by the turbines and would be a major intrusive factor to walkers.
38. Turning to CADW's concerns regarding archaeology and the scheduled ancient monuments, this topic appeared to have been given scant consideration by the LPA's members in reaching their decision. The archaeological assessment seriously underestimated the impact as a result of the lack of appreciation of the function and settings of the Monuments. There were serious errors in the measurements and archaeological assessment. Dr Edis' assertion that the setting of a cairn would not be significantly affected beyond 10-15 metres was tantamount to saying that those monuments had no setting at all. Similarly the idea that the setting of Penlle'r Castell rapidly diminishes after 100 metres is

clearly nonsense when considering the specific purpose of the castle, which was to overlook the terrain to the north as far as the eye can see. At the very least, its setting should include the wind farm site on the plateau dominated both visually and functionally by the castle.

39. As regards policy, the key one is the national approach set out in TAN 8. The UDP provides protective policies in relation to habitat, landscape and archaeology which require an application to be refused in the event of 'adverse impact' or 'inappropriate development'. To set against this, UT6 provides a permissive policy for wind farm development subject to criterion requiring 'no significant adverse impact' on those same interests. It was maintained that there is a difference between the 'adversely affect' test in Policy BE1 and the 'significant adverse impact' test in UT6. It is not accepted that one policy takes priority over another. Both are specific, UT6 in relation to wind farms and BE1 in relation to, inter alia, the setting of Scheduled Ancient Monuments or archaeological remains considered to be of national importance. It is notable that BE1 refers to Scheduled Ancient Monuments and nationally important archaeological remains, whereas UT6 refers only to sites of archaeological importance. The tests in both policies, including the higher standard in BE1, need to be taken into account by the decision maker.
40. The correct approach to TAN 8 is to treat the case as one where the site lies outside the SSA, as was done by the Council. A balance must be made between the desirability of renewable energy schemes against landscape protection, taking into account all other material considerations including nature conservation, protection and enhancement of priority BAP habitats and the desirability of preserving the setting of Scheduled Ancient Monuments.
41. The position of CCW and CADW was that the impact of this proposal on landscape, visual amenity, habitats and archaeology, on a site outside the areas specifically identified by TAN 8 should lead to refusal.

#### **The case for Betws Mountain Preservation Group (BMPG)**

42. Mr Sinclair acted on behalf of BMPG both as advocate and in giving expert evidence. This brought together a wide range of interests against the proposal in an efficient and effective manner. This saved considerable inquiry time.
43. The main points of the Group's objections were that the site lies outside the boundary of the SSA. The Group had reservations about the contents of TAN 8 in that the final document appeared to have taken note of the comments of the wind power industry but not those of the general public. In this case the visual and landscape effects of the proposal were not outweighed by the generation of renewable energy. It would be close to the boundary of the Brecon Beacons National Park and within the area of the potential expansion of the Gower AONB. The Common is a recreational magnet for residents and walkers. It is the people's Common. Turbines are becoming increasingly large. These would be the largest yet built in Wales. They have the potential to effect substantial surrounding areas. In the ARUP refinement exercise this site lies at the bottom of the list which suggests how much weight should be placed on that evidence. There would be significant cumulative impacts, particularly with Mynydd Y Gwair on the setting of Penlle'r Castell. The Group had concerns over the

management/fencing of the Common and effects on open access. Doubts were expressed about lighting, flooding and subsidence. All the elements of concern should be weighed in the balance against the proposal.

#### **The case for Dr Evans**

44. Dr Evans' main areas of concern related to the possibility of increased flooding from the abandoned mine workings, and the possibility of subsidence triggered by the development. In his view insufficient detailed information was available about the extent of shallow coal workings across the site. These could well result in instability in the proximity of the turbines. In addition he was concerned about the danger to existing users of the mountain road as a result of extra traffic generated by the proposal, particularly large vehicles required during the construction phase.

#### **The case for the Campaign for the Protection of Rural Wales (CPRW)**

45. Much of the evidence of CPRW (Doc 47) was a criticism of current Government policy. In respect of the site specific concerns they were generally included within the topics raised by BMPG.

#### **The case for interested persons and Written Representations**

46. The only individual who gave evidence at the inquiry against the proposal and who raised a specifically different point was Mrs Newman. Her specific concern related to health and safety with reference to lightening strikes following her direct experience of a strike on the anemometer mast on her property. She also had concerns about the applicant's ability to discharge its responsibilities in an adequate manner and in regard to highway safety and access.

## Conclusions

***The references in brackets are to paragraph numbers in my report or to documents which are the source of information on which my conclusions are based.***

47. There are several general points concerning this proposal to which I need to draw attention before looking at the issues in dispute in more detail.
48. At UK Government and Welsh Assembly Government level there is a wide range of policy statements supporting the need to combat climate change and increase the production of renewable energy. The exploitation of wind power is a major part of policy at that level. The need for, and value of, this type of technology was not seriously challenged by any of the main parties appearing at the inquiry. I take the view that there is significant support for the principle of wind energy projects subject to the balance of benefits against more regional and local impacts.
49. Renewable energy policy generally sets national and international targets for the reduction of green house gases. The UK and Welsh Assembly Governments policies give clear support to these targets. No major parties disagreed with the point that in Wales there are significant problems in reaching the 2010 targets (21). I need not go into those in detail but one specific point in favour of this site is the proposal to link directly into the grid. There appears little doubt that this site could make a positive contribution towards meeting the 2010 targets.
50. The accuracy of the impression given by photo montages etc, which are included in the evidence, is often criticised at wind farm inquiries in that they tend to underestimate the actual size of the turbines as they would appear in the landscape. I explained that in my view they are there to assist my assessment of likely visual effects but that they should not be used without extensive site inspections. During and after the inquiry, I visited the various viewpoints in the Environmental Statement and the various witnesses' evidence. Whilst travelling between these viewpoints I made numerous stops to assess the likely effects. In all I travelled about 250 miles to assist my assessment of the likely appearance of the turbines in the landscape. In addition I walked up to the existing wind farm at Fynnon Oer where the turbines are nearly as large as the turbines proposed in this case.
51. The precise relationship of the site to the boundary of SSA E shown on Map 6 in TAN 8 could be open to some debate. The necessarily 'fuzzy' marking of SSA boundaries is generally understood and accepted by the main parties. It could be argued that turbines 1 and 2 lie within that boundary. However the applicant's case relies on the rest of the site being immediately adjacent to, and within 5 kilometres of the SSA boundary (18). Carmarthenshire Council considered the case on the basis that the site lies outside the SSA (24) and accordingly judged the case against the Development Plan policies applying to such areas. I shall consider the case on the basis that the site lies outside but adjacent to the SSA boundary. There is a comment on Map 6 that states 'scope to increase SSA has been identified to the north-west'. In practical terms this can only refer to Mynydd Y Betws. Certainly the application site was included in the ARUP refinement exercise (Doc CD40).

52. Finally in these introductory remarks, there is the question of the proposed wind farm at Mynydd Y Gwair. A planning application has now been submitted for 19 turbines on land just to the south of the current application site (Doc 8). The layout of that proposal had been known to the applicant's team and it had been taken into account in the consideration of likely cumulative effects. It is not for me to pre-judge the decision on that application. However, given that Mynydd Y Gwair lies within SSA E, and has been considered in the ARUP refinement study, I consider that the possibility of planning permission for a wind farm of the scale of that now proposed, must be regarded as a material consideration.
53. Now turning to the main considerations in this case which are the matters on which the Minister particularly wished to be informed for the purpose of the consideration of the application. These are (i) the direct effect of the development on the setting of scheduled ancient monuments within and adjacent to the application site; (ii) the effect on UK Biodiversity Action Plan priority habitats and in particular the hydrological impact; and (iii) the proximity of the development to neighbouring local planning authority boundaries. In addition there are the wide range of the normal planning considerations of a proposal for a wind farm development on this scale.

#### **Effect on neighbouring Local Planning Authorities**

54. Dealing with main consideration (iii) first, it was confirmed that the matter referred to the effect of the proposal on the neighbouring LPAs. Comments were received at the time of the application from Swansea City Council, Neath Port Talbot Council and Brecon Beacons National Park Authority (Doc 40). I am not aware of any comments from Powys County Council. None of the neighbouring LPAs were present or represented at the inquiry.
55. Brecon Beacons National Park Authority did not object to the proposal but raised concerns about the possibility of a large number of turbines being visible along the high ground to the south of the National Park. It seems to me that such an outcome is an almost inevitable conclusion of the selection of SSA E and SSA F in TAN 8. However the effect of the proposal on views from the National Park was part of the case of CCW to which I refer below.
56. The concerns of Swansea City Council and Neath Port Talbot Council raised issues of access and general visual and amenity considerations. The access route now included within the proposal would not route construction traffic past Morriston hospital (29). Planning permission has already been granted by Neath Port Talbot Council for that part of the access road which lies within their area. In my view there are no outstanding problems in respect of access. In respect of the more general concerns (28), the ARUP refinement study (Doc CD40) has considered this site along with all the other potential sites in and adjoining the SSAs. This site is considered acceptable with reservations about the timing of development referred to below. As regards other more general concerns, such as the visual effects on residential occupiers in the neighbouring valley settlements, my considerations of these aspects below are in relation to where the people live irrespective of the LPA boundaries.

## Effect on Scheduled Ancient Monuments

57. Main consideration (i) refers to the direct effect of the development on the setting of Scheduled Ancient Monuments within and adjacent to the application site. There are a large number of monuments within the overall application site. Some are Scheduled Ancient Monuments, some are of more local significance and it would appear from the site inspection that some are not specifically recorded. There was some dispute in the evidence as to just how near some turbines etc would be to the ancient monuments (38). It would appear that the applicant's evidence took the central point of the Monument site. This may be acceptable for a single feature, but could be misleading where a Monument included a number of features spread over a site. The parties agreed a table showing accurate distances from the Monuments to the nearest parts of the proposal (Doc 36). From that it is clear that no part of this proposal is near enough to any Monument to physically or directly affect the Monument itself. The proposed micro-siting condition would allow sufficient flexibility of the precise location of all parts of the development to avoid a direct impact on any monuments or parts of monuments which are not currently known or recorded.
58. The concern therefore relates to the effect of the proposal on the setting of these Monuments. CADW maintained that the burial cairns represented an important and extensive ritual burial landscape in which the setting of the Monuments is an important and integral part of their value. However I note that there is no historic landscape designation applicable to this site (20). I appreciate that the turbines and access tracks would change the appearance of the Mynydd Y Betws area. The turbines would be large man made features of far greater scale than anything which currently exists. However they would be, if allowed, by their nature a temporary feature with a permission for 25 years. Any further extension of the life of the wind farm would require a new planning permission. Also, whilst large in height, the turbines are narrow in width. The existence of turbines on a site does not prevent views between the turbines of other features in the landscape. To that extent the effect on the inter-visibility of one Monument to another would not be significantly harmed. In my view the effect on the setting of those Monuments within the site, whether they are burial cairns or more recent upland farmsteads, would not be unacceptably harmful. Large numbers of burial cairns are a feature of many upland areas in Wales. None of the expert witnesses was able to give any details of the likely extent of similar or comparable monuments on other sites in the immediate area, such as that of the proposed Mynydd Y Gwair wind farm. It would appear that the application site had only been subject to such detailed study because of this proposal (20). It begs the question of how many other potentially suitable wind farm sites could be prevented by the presence of similar monuments. If this site has such outstanding quality as now suggested by CADW, I am surprised that it does not have any specific historic landscape designation.
59. The other aspect which was explored in some depth at the inquiry was the effect on the setting of Penlle'r Castell and the effect on views from Carreg Cennen Castle. Penlle'r Castell lies immediately to the south of the application site. It also lies immediately to the north of the proposed Mynydd Y Gwair wind farm. If both proposals proceed it will, in effect, be surrounded by turbines. The importance of this Monument is its history as a castle on the boundary between

the potentially warring factions. It overlooks the land to the north as part of the defences of the areas to the south. Currently there are clear views across the open upland landscape which is only partially affected by the line of pylons. This view to the north would be completely dominated by turbines. They would be considerably taller than the existing pylons and well above the distant horizon. Standing on the Monument one would be looking up at the top of the nearer turbines. However, again the wind farm would only have permission for 25 years. The turbines might be a distraction in the view, but they would not prevent a person perceiving the nature of the view from the castle across the open hillside prior to the erection of the turbines.

60. In addition I have some reservations as to how many people might be affected by the change in this view. Whilst the Monument is clearly marked on maps and is very close to the public roads, I observed no signs from those roads to the Monument, there are no parking facilities on those roads close to the Monument, and that from a driver's viewpoint the Monument is not obviously visible travelling along those nearby roads. It is only when one walks up to the Monument that its true scale can be appreciated and that the small notice explaining its significance can be seen. In my view the effect on the setting of this Monument, even bearing in mind the likely development of Mynydd Y Gwair, is not sufficiently harmful to justify withholding consent.
61. By contrast Carreg Cennen Castle is a very well sign posted visitor attraction. No doubt it is visited by a substantial number of visitors. When one enters the inner part of the castle one's eye is drawn to the window in the opposite wall. From that window there would be a clear view of the turbines on the skyline (Doc 26). However that would be at a distance of about 8.5 kilometres. Also the turbines on this site and those at Mynydd Y Gwair would appear generally in this same view. At this distance both would have the appearance of a single large wind farm. Again I do not consider that the effect on this view is sufficient to withhold consent.
62. Whilst the effects on the settings of all the Monuments both within and near the site would be significant, they would be of a temporary nature, and would not physically harm the monuments. It would still be possible to perceive the setting of the Monuments in a context without the turbines. My conclusion in respect to the Ancient Monuments is that I do not consider that the adverse effects are sufficient to withhold consent whether one applies the tests in UDP policies BE1 or UT6.

### **Effect on Habitat**

63. The main consideration identified in the call in letter is the effect on UK Biodiversity Action Plan priority habitats and in particular the hydrological impact. The habitats on the site are shown on Environmental Statement May 2005 Vol 3 Figures Fig 19 (Doc CD2 (c)). That figure is inaccurate in that it failed to identify the area of blanket bog generally between turbines 10 and 11 and turbines 12 and 13. Turbines 9 and 12 lie within areas of blanket bog. Part of the access track to the east of turbine 7 crosses the edge of an area of blanket bog. More detailed survey information in a Botanical Survey was prepared in August 2008 (Doc 7). That identified the blanket bog in which turbines 9 and 12 and their associated tracks are located, as 'active' and is

within Annex 1 of the Habitats Directive and the UK and Carmarthenshire Biodiversity Action Plans. The areas of upland heath affected by turbines 11, 13, 14, 15 and 16 and the access tracks have the same status.

64. CCW had raised concern about the effects of the proposal on the habitat. In effect the main concern related to the possible harm to the upland wetland habitats, particularly the blanket bog (33). The danger would be that the development could result in changes to the water table with resulting drying out of the bog. This could be particularly damaging to this habitat given the amount of burning which has taken place on the Common over the years. Once set alight dry peat in the bog could burn for a considerable period of time effectively destroying the habitat.
65. Some effect on the habitat is inevitable with a development of this type. Generally turbines, access roads etc have been sited to minimise direct effects on the most sensitive areas. The suggested planning conditions give some flexibility in the detailed siting of the features of the proposal to further reduce any effects. On the site inspection, the position of the proposed turbines was established by GPS. From my observations on site turbine 5 could be sited outside, or on the edge, of the area of blanket bog where any harmful effect would be limited. Turbine 9 and its access track would involve some disturbance of the blanket bog but towards the edge of the area and where the drainage pattern would suggest that any drying out would be limited. From the measurements on site, Turbine 12 would be located about 100 metres from the outer edge of the blanket bog. That turbine and its access track would cut significantly into the blanket bog area and well 'down stream' in the drainage pattern. The micro-siting included in the suggested conditions would not allow for this turbine to be re-sited in a significantly less damaging position. In my view this part of the proposal could result in significant damage to the blanket bog habitat. The access track to the east of turbine 7 would cross the edge of the blanket bog. The suggested solution of 'floating' the track across the top of the bog would reduce any likely harmful effects (34). Some form of link between the turbines is a necessary part of the scheme and from my observations the route proposed would be the least harmful to the blanket bog habitat.
66. The effects on the areas of upland heath affected by turbines 11, 13, 14, 15 and 16 and the access tracks would be much less significant than on areas of wet habitats. The nature of the upland heath has been significantly affected by grazing and burning over time. Given that the areas directly affected represent a very small proportion of this habitat on the site, I do not consider that the proposal would result in any unacceptably harmful overall effects.
67. The provision of the access tracks between the turbines could result in better access across the common for both people and livestock (33). There would be the potential for unauthorised use of these tracks by off road vehicles. These matters could result in extra harm to the habitat. However, in my view these are matters which could be controlled by appropriate management.
68. The engineering, hydrological and habitat evidence of the applicant's (Docs 9, 10 and 13) give a clear picture of how the proposal has been designed to have the minimum effect on the habitat and hydrological qualities of the site. The

proposal does include significant aspects of mitigation, including the provision of a warden for the Common. With the exception of turbine 12, the proposal would not result in unacceptably harmful effects on UK Biodiversity Action Plan priority habitats. I consider that turbine 12 and its associated access track could be removed from any permission by condition. This was raised at the inquiry and I understand that the removal of this turbine would not render the overall scheme unviable (12).

69. Having addressed the specific issues raised in the call-in letter, I must now consider all the other material considerations raised in this case.

### **Planning Policy**

70. There appeared to be some implied criticism from some parties that Carmarthenshire CC had not adopted the ARUP refinement study as some form of Supplementary Planning Guidance. For my part, I see no fault in assessing the proposal against the existing Development Plan policies. There would seem little point in using staff resources to adopt some Supplementary Planning Guidance for the only site within Carmarthenshire which is part of the refinement study, when it was already the subject of a planning application which the Council resolved to support.
71. If one starts with the Development Plan policies and takes into account Tan 8 and the other relevant Welsh Assembly Government policy statements and the ARUP study as material considerations, there remains a generally consistent point that development of renewable energy proposals is supported subject to the appropriate considerations of local impacts. All these aspects must be placed into the balance when considering a specific proposal on its planning merits.
72. The ARUP study did not conclude against this site (18). It appears towards the end of the list of suitable sites, but my understanding is that was on the basis that the site was not needed to meet the 2010 targets. It is clear that the 2010 targets for Wales will not be met. This site is unusual in that a grid pylon line crosses the site and a direct connection is part of this proposal. In these circumstances it is clear that this site could make a contribution to the 2010 targets if planning permission were to be granted.

### **Landscape and Visual effects**

73. These turbines would be very large man made objects located in a prominent position on top of Mynydd Y Betws. They would be visible from a wide range of vantage points. They would have a significant effect on the views of a large number of people living in and travelling through the valley settlements surrounding this site.
74. In the third section of 8.4 of TAN 8 Annex D it states that 'within (and immediately adjacent) to the SSAs, the implicit objective is to accept landscape change ie a significant change in landscape character from wind turbine development'. In my view this site, which immediately adjoins the boundary of the SSA, would not add significantly to the level of change in landscape character which had been anticipated in the adoption of the boundary of SSA E

in TAN 8. In my view this change in landscape character to wind farm landscape is consistent with the advice in TAN 8.

75. I note that there is a fair level of agreement between the main parties in the anticipated significance of effect of these turbines (Doc 42). In close proximity to the site the effects would be very significant. However, when one moves further away from the site itself some of the views from the valley settlements are partially screened by the natural slope of the land. From significant parts of the valley floors, views of the turbines would be limited and intermittent (Doc 23 figs 18a-m). Turbines would be visible from most of the dwellings within 1.5 kilometres of the nearest turbines (Doc 23 viewpoints 1-74). However, I do not consider that the visual intrusion at any dwelling would be unacceptably harmful to the visual amenity of the occupiers. More unrestricted views will be available from the higher ground on the opposite side of the valleys and from the Brecon Beacons National Park. However from many of these vantage points this proposal would be seen directly or partially in front of any wind farm built on Mynydd Y Gwair. At distances of above about 5 kilometres most people seeing the two wind farms would, in my view, perceive them as a single larger wind farm.
76. This is particularly so in the views available from the higher ground in the Brecon Beacons National Park along the Beacons Way National Trail and from Castell Carreg Cennen. From such viewpoints, I do not consider that this proposal would have a significantly different effect to that of a wind farm on Mynydd Y Gwair or that the cumulative visual impact of both wind farms would be significantly greater (37). As far as the view from Llyn Llech Owain Country Park (37) is concerned, it would be of little significance given that the country park largely looks in on itself to the central lake. Views out are totally dominated by the adjacent transmitter mast. By comparison, a visitor to the Park would have to look hard to see the wind farm even if more of the surrounding conifers were to be felled.
77. The plan showing the zones of visual influence of the two wind farms (Doc 23 fig 13a) shows that there are relatively few areas where only one or other of the two wind farms would be visible. If I am incorrect in my assumption that there will be a wind farm built on Mynydd Y Gwair, then in most views, this proposal would not appear significantly different to what one might have seen if only a single wind farm had been built in the SSA on Mynydd Y Gwair.
78. The level of visual intrusion would be experienced by a large number of people living, working or passing through the area. The turbines would be prominent features on the top of Mynydd Y Betws. However, on the basis of the evidence and my extensive travels within the area, I do not consider that the level of visual intrusion would be sufficient to justify withholding consent.

### **Other Matters**

79. A large number of specific objections are contained within the written objections. For the most part they are covered by the contents of the Committee report (Doc CD6). I see no reason to disagree with the general way in which the objections were explained in that report. I shall restrict my comments to the

main points of objection which formed a significant part of the evidence presented at the inquiry.

80. No doubt the Common is an important amenity to local residents and tourists alike (43). The public are encouraged to visit the area by the provision of the picnic area and viewpoint. There is a relatively busy local road passing through the site. The users of the long distance St Illtyd's Way footpath and other local footpaths and bridleways would have very clear views of the turbines. However the presence of the turbines would not physically restrict, to any significant extent, the ability of a person to use the public rights of way or to exercise the more general right to roam resulting from the CROW Act. No doubt the pleasure of some users would be diminished, but others may not share the same sensitivity to the presence of turbines in the open countryside. The wind farm at Fynnon Oer is similarly located on the same long distance footpath which crosses this site. I walked along several kilometres of that footpath up to the turbines. Whilst they were visible and in some cases significant in my view. For significant parts of the walk they were not visible. Even when I stood in very close proximity, the noise from the turbines was not overwhelming. I do not consider that this proposal would prevent the reasonable enjoyment of the area by members of the public.
81. The flooding problems experienced by Mr Rose obviously had a serious impact on him and his family. However they are problems which currently exist (15). From what I observed on the ground, the problem appears to be related to the presence of the low bridge and the relative levels of his house and garden to that of the water level. The amount of development involved in this proposal which would lie within the catchment area of the water course which passes his home is so small that I do not consider that this proposal would have any significant effect on the frequency and extent of any future flooding events.
82. Dr Evans obviously has an extensive knowledge of the former mining in, around and under the application site (44). No doubt he is correct in that, over time, the water levels in the former mine workings will rise and additional water will drain out of the mountain into adjoining water courses. What I must consider is the likely effect of the proposal on that situation. In addition there is the question of the stability of the land above the former mine workings.
83. As regards the possibility of additional flooding the proposal would, in my view, only change the situation which will happen in any event, if there were to be additional subsidence caused as a direct result of the building of the wind farm and the turbines in particular. It seemed to be common ground that the deeper workings, which are generally the more recent and well recorded workings, are sufficiently deep below the surface that any additional weight on the surface would be spread over such a large area that additional subsidence is most unlikely. Also these deep workings have been completed for a sufficient period that any natural subsidence will already have taken place.
84. The problem appears to be with more shallow workings. These are often of some age with no or very limited records. My understanding of the applicant's evidence (Doc 9 section 10) is that the detailed design of the individual turbine bases would result from detailed study of each site. If specific problems were to be found, such as the presence of shallow mine workings, then the micro-siting

condition would allow for the exact position of the turbine to be moved to avoid any unsuitable location. In my view any problems would be restricted to the area immediately surrounding any specific turbine. It would be unlikely to have any effect on the stability of the ground in general. In the worst case scenario, if a turbine collapsed there are no dwellings or other buildings occupied by the public close enough to a turbine to be physically affected. It would be most unlikely that a member of the public would be walking near enough to a turbine at the moment of any collapse to be affected. I do not consider that this proposal represents an unacceptable risk to the stability of the site or to the risk of additional flooding.

85. Mrs Newman made particular reference to her experiences of a lightning strike on the anemometer mast on her property (46). I do not wish to make light of that problem but it was not a part of the proposal before the inquiry. The general concern of safety in relation to wind farms is referred to in section 2.19/20 of Annex C of TAN 8. That states that 'experience indicates that properly designed, erected and maintained wind turbines are a safe technology. The very few accidents that have occurred involving injury to humans have been caused by failure to observe manufacturers' and operators' instructions for the operation of the machines. There has been no example of injury to a member of public. The minimum desirable distance between wind turbines and occupied buildings calculated on the basis of expected noise levels and visual impact will usually be greater than that required to meet safety requirements'. The nearest dwelling to any turbine would be about 600 metres. In my view the turbines and anemometer mast in this proposal are sufficiently far from any occupied building to avoid any significant risk on grounds of health and safety.
86. The likely level of additional traffic which would be generated by the wind farm, other than during construction and decommissioning, would not have any significant effect on the safety and convenience of the users of any of the neighbouring highways. The routing and timing of abnormal loads to the site would be subject to detailed approval by the LPA in consultation with the Highways Authority. My understanding is that the large delivery vehicles would approach the site from the east along the new road link to the east which has been approved by Neath Port Talbot Council. There should be no need for large vehicles to use the existing roads across the mountain. I see no evidence to suggest that the traffic generated by construction and decommissioning would be unacceptably harmful.
87. At the inquiry, no one pursued any property specific noise objections at the inquiry. General concerns regarding the effects of noise were raised in the written objections. However the applicant's noise evidence (Doc 27) was not challenged at the inquiry. I am satisfied that on the basis of that evidence, the imposition of normal noise conditions would ensure that any additional noise would not be unacceptably harmful to the amenity of the occupiers of neighbouring dwellings.

### **Conditions and Undertakings**

88. A list of conditions which should be attached to any permission was prepared by the applicants and the Council (Doc 5). These were discussed at the inquiry and some amendments were made to improve the clarity and to make it clear when

CCW and CADW should be consulted by the LPA before discharging some of the conditions. Generally the conditions are necessary to ensure that the permission lasts for 25 years; that the development is carried out in accordance with the application, accompanying documents and assurances given in evidence; and that the site will be restored after the 25 year period. The only additional condition is that to remove turbine 12 and its access track from the permission. Those in the attached schedule are the conditions which I recommend should be attached to any permission rather than those in Doc 5.

89. The applicants and owners submitted a signed Unilateral Undertaking (Doc 4). This covers the provisions for the funding of the decommissioning of the wind farm and a contribution towards archaeological interpretation. The Council did not object to the contents of the Undertaking. I am not legally qualified but the Undertaking appears to make adequate and necessary provision for the matters which it covers.

### **Overall Conclusions**

90. It appears to me that the report to Carmarthenshire CC Planning Committee (Doc CD6) correctly examined all the material considerations for and against the proposal based on the context of the appropriate Development Plan policies. It is not surprising that much of the report is focussed on the objections. There are many which cover a wide range of issues. But it is not the number of objections which results in the decision, but the relative weight of those objections weighed against those factors in favour. In my view there has been no significant change in circumstances or overwhelming new evidence since the Council resolve to grant permission. They appear to have taken a careful and balanced view on the proposal. Many Councillors could be tempted to avoid taking what may be a potentially unpopular decision. This has not happened in this case. One of the Councillors made what I consider to be a very sensible remark in evidence as to what had influenced his decision when he said that 'no one will thank them when the lights go out'.
91. For my part I have weighed all the aspects raised against the proposal, both large and small, and placed them in the balance against granting consent. However, in particular, I place significant weight on the Welsh Assembly and Westminster Government policies and targets particularly TAN 8, the findings of the ARUP study conclusions in respect of this site, the fact that this proposal is likely to be seen from most vantage points as part of a single larger wind farm with that at Mynydd Y Gwair, and the ability to link this site directly into the national grid.
92. Having taken into account all the matters raised both at the inquiry and in writing, I consider that the benefits of the contribution that this proposal would make to the provision of renewable energy outweighs the sum total of all the harm which would result. The proposal would not be in significant conflict with the objectives of the appropriate UDP policies, particularly UDP policy UT6.

### **Recommendation**

93. I recommend that planning permission should be granted subject to the conditions set out in the schedule below.

### **Common Land Matters, Section 147 and 194 applications**

94. I note that a significant amount of the written objections to the two applications under the 'Commons Land Legislation' related to objections concerning the wind farm in general. I explained at the pre-inquiry meeting that I took the view that objections to development on the Common in respect of the effects on such matters as visual amenity, noise, use of footpaths etc were matters properly for consideration under the S77 case. These two applications were not an opportunity to repeat the same arguments. I explained that I wished to concentrate evidence on the effects of the proposals on the Commoners and the rights of persons to exercise those rights over the Common Land. This approach seemed to be acceptable to all parties.
95. At the inquiry there were no objections pursued by individual commoners in respect of any loss of their ability to enjoy their rights over the Common. Evidence was given by Mr Hicks on behalf of the Betws Commons Holdings (Doc 49 & 50) Limited, and by Mr Spooner on behalf of Betws Commoners Association (Doc 51). Whilst they did not necessarily speak for all those persons holding rights over the Common it was clear that they represented the views of the vast majority.
96. Objections were made by Mr C Morgan on behalf of the West Glamorgan Commoners Association (Doc 41 BMPGX) . They had rights over Mynydd Y Gwair Common. That Common lies immediately to the south of Mynydd Y Betws Common. Their concerns were mainly about how this Common might be managed and the problems of stock movement if permanent fences were to be erected. At least one person had grazing rights on both Commons.
97. In support of the applications the applicant explained that Mr Stewart's Appendix 16 (Doc 17) gave details of the background to, reason for and content of the S194 and S147 applications. That document also explained the effects of a consent under S194 and an Order under S147. As to the vicinage between the two Commons this is explained in the briefing note (Doc CD76) which addresses the ability of Betws Commons Holdings Limited to achieve fencing between the two Commons by way of a S194 application. Clearly gates and styles would be necessary to allow for the passage of stock and walkers. Mr Hicks confirmed that an application for a Tir Gofal scheme would be supported by the owners, Betws Commons Holdings Limited. However, what is proposed goes beyond what can be achieved in a Tir Gofal scheme. Fencing and the employment of a warden are welcomed by the owners and Commoners and would have the potential to improve the biodiversity of Mynydd Y Betws Common.
98. As regards the convenience of the exchange land, CCW expressed concern about its merits in terms of sheep husbandry. However, the evidence of Betws Commons Holdings Limited, and the Betws Commoners Association given in evidence and orally by those responsible for, and using the Common should carry more weight. They say that the exchange land is convenient. In addition sufficient land has been offered to compensate for that which would be taken by the development; and the exchange land is congruent with the existing Common.

99. The proposal before me does not involve any erection of fences other than those necessary for the protection of the temporary construction sites and a permanent security fence around the substation. It may be that future agreed management of the Common might include permanent or temporary fencing to manage stock grazing over the Common. Those are matters for future discussion and are not part of this current case. It was clear from the evidence that there are problems of over grazing in parts of the Common and problems of burning, whether intentional or accidental. These have a potentially damaging effect on the habitat of the Common. These are not new problems but the wind farm proposal does include money for habitat mitigation and management which would not otherwise be available. The wind farm does therefore offer potential benefits to the Common in addition to the normal financial benefit to the owners.
100. The amount of Common Land lost during the construction phase and that permanently lost as a result of the fixed development, mainly the turbines and sub station, represents a very small proportion (less than 1%) of the overall Common. The exchange land is slightly larger in area. I observed that this land, and that to be used on a temporary basis, is adjacent to the existing Common and appears of a generally similar land form. In my view the exchange land would represent an acceptable and appropriate replacement for that which is affected both on a temporary and permanent basis.
101. I recommend that the Order and consent be granted.

*Stuart B Wild*

Inspector

## **Schedule of Conditions**

1 The Development hereby approved shall commence not later than five years from the date of this permission.

2 Other than in respect of the temporary construction compound, the permission hereby granted is for the proposed development to be retained for a period of not more than 25 years from the date that electricity from the development is first supplied to the grid, this date to be notified in writing to the Local Planning Authority within 28 days of the electricity first being supplied by the development to the grid.

3 By no later than the end of the 25 year period the turbines shall be decommissioned and all related above ground structures shall be removed from the site. Twelve months before the due date for the decommissioning of the turbines, a scheme for the restoration of the site shall be submitted to the Local Planning Authority for approval in writing. The scheme shall make provision for the removal of all the above ground elements plus one metre of the turbine bases below the ground level. The approved scheme shall be implemented.

4 In the event that a turbine ceases to function for a continuous period of more than nine months it shall be dismantled to a depth of one metres below ground level and the site of the turbine restored within the following six months, or as may otherwise be agreed in writing by the Local Planning Authority.

5. No development shall take place until a Habitat

Reinstatement Plan has been submitted to the Local Planning Authority and approved in writing following consultation with CCW. The Plan shall apply to reinstatement of disturbed land during construction.

The Habitat Reinstatement Plan shall include:

(a) detailed methods for reinstating disturbed ground so as to minimise disruption to the various vegetation types affected.

Disturbed ground shall include land at turbine bases, crane hard standing, access tracks, borrow pits, and the construction compound.

(b) Detailed methods for the maintenance and support of the reinstated areas for a period of 5 years after the works of reinstatement have been carried out.

The works of reinstatement, maintenance and support detailed in the plan shall be carried out.

6. No development shall take place until a scheme for ecological enhancement and compensation, to be called the Habitat Management and Enhancement Scheme, has been submitted to, approved in writing by the Local Planning Authority following consultation with CCW and the scheme shall remain in place until the wind turbines scheme have been decommissioned and the land restored in accordance with Condition 3. The objective of the scheme shall be the enhancement of the habitats of the site.

7. The Habitat Management and Enhancement Scheme shall provide for:

- the management of the grazing of the site;
- reduction and control of stocking rates and species grazing the site;
- measures to prevent stock straying from the adjoining Common land of Mynydd y Gwair;

- measures to control the burning of heathland;
- maintenance of the hydrology of the habitats on the site;
- a Habitat Management Steering Group, comprising representatives of the LPA, CCW, wind farm operator, landowner and graziers, to oversee implementation of the scheme;
- monitoring of plant, bird and mammal species at five year intervals commencing in the year prior to the erection of the turbines in order to measure plan implementation
- a review of the scheme at five yearly intervals by the LPA to allow the scheme to be modified to achieve its objective.
- Shepherding to protect priority habitats as defined in UK BAP
- The employment of a warden to facilitate the delivery of the Habitat Management and Enhancement Scheme.

8. No development shall take place until details of the following have been submitted to, and approved in writing by, the Local Planning Authority: -

(a) The external finish and colour of the proposed turbines.

(b) The materials to be used in the construction of the external surfaces of the proposed buildings.

Development shall be carried out in accordance with the approved details, and there shall be no subsequent change to the finish or coloration of the turbines without the Local Planning Authority's prior approval, in writing.

9 All of the turbines' blades shall rotate in the same direction.

10 No development shall take place within the site until a programme of archaeological work has been implemented in accordance with a written scheme of investigation approved by the Local Planning Authority in consultation with CADW and in the event of any previously unidentified or

undisclosed archaeological remains being identified during the course of the development the works on the Site which may affect the said remains will cease until a further programme of works in respect of the said remains has been agreed in writing between the local planning authority and the developer and that scheme shall thereafter be implemented.

11 In conditions 12 to 17 the following definitions shall apply:

- (i) "ETSU" means "The Assessment and Rating of Noise from Wind Farms" published by the Energy Technology Support Unit for the DTI in 1996.
- (ii) "Background Noise Level" means the derived prevailing background noise as reported in the environmental statement 2005 at Figures 1-12 in Appendix H-4 as a best fit curve derived in accordance with Appendix C to ETSU.
- (iii) "Tonal Noise" has the meaning given on page 95 of ETSU.
- (iv) "Quiet Waking Hours" "Night Hours" have the meaning given on page 95 of ETSU.

12 The level of noise emissions from the wind farm, measured as described in Condition 11 at any dwelling lawfully existing at the date of this permission shall not exceed:

- (i) Between 0700 and 2300 hours on any day the greater of 40dB LA90 (10 mins) or 5dB(A) above the Quiet Waking Hours Background Noise Level at that property; or
- (ii) Between 2300 hours on any day and 0700 hours on the following day the greater of 43dB LA90 (10 mins) or 5dB(A) above the Night Hours Background Noise Level at that property.

13 In relation to the properties for which no background noise level measurements have been made Background Noise Level means the background noise level measured at the property which is (by agreement with the Local Planning Authority) most likely to experience background noise levels similar to those experienced at the property in question.

14. The noise emission limits specified in Condition 12 shall be increased for any dwelling occupied by a person having a financial involvement with the wind farm to the greater of 45dB LA90 (10 mins) or 5dB(A) above the Background Noise Level in accordance with the principle set out in ETSU at page 66.

15 At the request of the Local Planning Authority following a complaint to it the developer shall measure the level of noise emissions resulting from the operation of the wind farm in accordance with the methods recommended in Section 2.0 of ETSU at pages 102-104. Wind speed shall be measured on the wind farm site and referenced to a height of 10 metres. Where it is necessary to convert between measured wind speeds and the wind speed at 10 metres height this conversion shall be undertaken using a methodology approved by the Local Planning Authority.

16 At the request of the Local Planning Authority following a complaint to it Tonal Noise shall be assessed and rated in accordance with the advice in Sections 2.0 and 2.1 of ETSU at pages 103-109.

17 The developer shall supply wind speed and wind direction data to and at the request of the Local Planning Authority to enable it to evaluate measurements made by the developer in relation to the requirements of conditions 11-16.

18 No development shall commence until a scheme relating to the remediation of any shadow flicker effect at any relevant dwellings has been submitted in writing to and approved by the Local Planning Authority. The approved scheme shall be implemented

19 No development shall commence until a scheme has been submitted in writing to and approved by the Local Planning Authority providing for the investigation of and remediation of any interference with television reception which may be caused by the operation of the development. The scheme shall be implemented as approved.

20 Prior to the commencement of development a scheme of illumination of 5 of the turbines identified on the planning application plans by 25 candela Night Vision Goggle compatible lighting on the hubs of the said turbines shall be submitted to and approved in writing by the Local Planning Authority and the illumination scheme shall be carried out in accordance with the details approved.

21 Prior to the commencement of development, a Construction Method Statement, describing the works to be undertaken and pollution prevention measures to be implemented during the construction phase, shall be submitted in writing to and approved by the Local Planning Authority in consultation with CCW and CADW. Development shall be implemented in accordance with the approved Statement. This Statement shall provide for:

- (a) details of the excavation of borrow pits and turbine bases
- (b) the management and disposal of contaminated soils including

provision for the management of any further contaminated soils which may be identified during the construction process

(c) The restoration of the borrow pits

(d) All fuel, oil concrete and chemical storage facilities. All such storage facilities should be sited on an impervious base away from any watercourses or water features. .

(e) Details on the design and construction methods of the access tracks and pollution prevention measures to be implemented to ensure there are no polluting discharges from tracks and disturbed areas including provision to ensure that no polluting discharge from haul roads and disturbed areas enter any watercourse.

(f) Details of the nature, type and quantity of materials to be imported on site for backfilling operations (if insufficient material on site) or construction of access tracks.

(g) the management of ground and surface water (including any private water supplies). The surface water drainage of this development should be designed in accordance with the Sustainable Drainage Systems (SuDS) principal.

(h) the management of foul water

(i) the construction period and the sequence of development

(j) the construction of on site access tracks, wind turbine foundations and the erection of wind turbines and all other development to be carried out under this consent

(k) All appropriate mitigation measures to protect wildlife, habitats and hydrology

(l) the details of any soil and peat handling, storage and spreading

(m) the management of dust and waste arising from construction

(n) a scheme for off-site highways works and routing and timing of construction traffic has been approved in writing by the Local Planning Authority

(o) the precise location of new access tracks within the site

22 No development shall be implemented until a scheme of site investigation and assessment to identify the nature of the subsoil and bedrock geology and the extent and nature of any existing mine workings has been submitted to the Local Planning Authority for its approval in writing. The findings of that scheme shall be used to justify designs for the turbine bases, access tracks and other small buildings, plant or machinery hereby granted permission. The scope of the scheme shall include the following;

(a) Desk Study

(b) Exploratory Investigation

(c) Engineering Recommendations

(d) Validation

(e) A detailed scheme of monitoring the engineering recommendations

(f) A scheme of remedial works where appropriate

(g) A method statement including the timings of the proposed works

The findings and design justification shall be provided to the LPA together with the scheme identified in (e), (f) and (g) for their approval in writing. The development shall be carried out in accordance with the approved schemes.

23 No fences shall be erected on the application site without the prior written consent of the Local Planning Authority except for the fence around the substation and temporary fencing around construction sites

24 Following its first generation of electricity to the grid from the development the land within the site shall be dedicated as "access land" pursuant to Section 16 of the Countryside and Rights of Way Act 2006 where such access rights do not already exist by reason of any other legislation.

25 A micro-siting allowance of 50 metres radius around all turbine locations is permitted providing that such amendments to the location of any turbine and consequential amendments to the line of access tracks shall be submitted to the Local Planning Authority in consultation with CCW and CADW for approval in writing prior to the construction of the specific turbine

26 Notwithstanding what is shown on the application, accompanying plans and supporting documents this permission does not relate to turbine 12 and the associated access track. The permission hereby granted relates only to the other 15 turbines and associated development

## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Tina Douglas	Of counsel, instructed by Carmarthenshire CC
She called	
Mr E Bowen	Chief Planning Officer, Carmarthenshire CC

### FOR THE APPLICANT:

Marcus Trinick	Partner Eversheds Solicitors
He called	
Mr N Harris	Nth Power Ltd (Construction)
Dr A Edwards	SLR Consulting Ltd (Hydrology and Hydrogeology)
Mr S Lowther	Atmos Consulting Ltd (Ecology)
Mr D Stewart	David Stewart Associates (Planning Policy)
Dr J Edis	CgMs Ltd (Cultural Heritage)
Mr P Roden	AXIS P E D Ltd (Landscape and Visual effects)

### FOR CCW AND CADW:

Brian Smith	Partner Browne Jacobson Solicitors
He called	
Mr P Minto	Planning Officer CCW (Planning)
Mr H Williams	District Team Leader CCW (Habitats)
Dr K Roberts	Inspector of Ancient Monuments CADW (Historic Environment and SAMs)
Mr J Campion	Anthony Jellard Associates (Landscape and Visual Effects)

### FOR THE BETWS MOUNTAIN PRESERVATION GROUP:

Mr G Sinclair	Environmental Information Services
He gave evidence and	

called

Mr S Crimes	Scotch Pine Inn, Mountain Road, Betws, Ammanford, Dyfed SA18 2PL
Mr Chris Morgan	Chairman, West Glamorgan Commoners Association
Mr Glyn Morgan	SOCME Pantyfallen Farm, Felindre, Swansea
Mr M Ridge	Chairman, The Gower Society
Mr G D V Williams	Maesquarre, Bethlehem Road, Llandeilo SA19 6YA (Brecon Beacons Park Society, Local Access Forum, Ramblers)
Mr Anderson	Spokesman for BMPG and walkers
Mr Rose	Glancathan, 67 Lon y Felin, Garnswllt SA18 2RG (flooding)

#### INTERESTED PERSONS:

Cllr K Madge	19 Highfield Road, Twyn, Garnant, Ammanford SA18 1JL
Cllr J Edwards	168 Hendre Road, Capel Hendre, Ammanford SA18 3LF
Cllr P Cooper	107 Saron Road, Saron, Ammanford SA18 3LH
Cllr A W Jones	15 Maesllwyn, Bonllwyn, Ammanford SA18 2EG
Mr E Spooner	Betws Commoners Association
Mr T M Hicks	Chairman Betws Common Holdings Ltd
Dr J Evans	1 Argoed Cottage, Betws, Ammanford SA18 2PP
Mr Russell	Secretary CPRW Carmarthenshire Branch, Bryngoleu, Llanelli SA14 8JP
Mrs B Newman	Trumyrhwch, Grenig Road, Glanaman SA18 1YU

#### DOCUMENTS

- 1 Council's letter of notification of the inquiry
  - 2 Press notice
  - 3 Statement of Common Ground
  - 4 Unilateral Undertaking
-

- 5 Suggested conditions
- 6 List of Core Documents CD1-77 & Vol 15 I-V requested by BMPG
- 7 Supplementary Environmental Information 4 Sept 2008 & Advertisement
- 8 Fig 1.2 Mynydd Y Gwair planning application plan, n power renewables
- 9 Proof of evidence (PoE) of Mr Harris & Appendices
- 10 Dr Edwards Vol 1 Summary PoE
- 11 Dr Edwards Vol 2 PoE
- 12 Dr Edwards Vol 3 Appendices
- 13 Mr Lowther Vol 1 Summary PoE
- 14 Mr Lowther Vol 2 PoE
- 15 Mr Lowther Vol 3 Appendices
- 16 Mr Stewart PoE & Summary
- 17 Mr Stewart Appendices 1-18
- 18 Mr Edis Vol 1 Summary PoE
- 19 Mr Edis Vol 2 PoE
- 20 Mr Edis Vol 3 Appendices
- 21 Mr Roden PoE
- 22 Mr Roden Summary PoE
- 23 Mr Roden Vol 1 Figures
- 24 Mr Roden Vol 2 Figures
- 25 Mr Roden Table of turbine heights relative to height of existing transmitter
- 26 Mr Roden Fig 19 Wire frame of view from Castell Carreg Cennen
- 27 Mr Haynes PoE (Not present, taken as written submission)
- 28 Mr Minto PoE
- 29 Mr H Williams PoE
- 30 Mr Champion PoE
- 31 Mr Champion Summary PoE
- 32 Mr Champion Appendices

- 33 Mr Campion Extract from CADW document on Castell Carreg Cennen
- 34 Dr Roberts Summary PoE
- 35 Dr Roberts PoE & Appendices
- 36 Table of agreed distances from turbines to scheduled ancient monuments
- 37 Mr Bowen Summary PoE
- 38 Mr Bowen PoE and Appendices 1-3
- 39 Addendum report to Area East Committee re application
- 40 Bundle of letters – comments of neighbouring LPA's on application
- 41 List of BMPG witnesses' PoE and associated documents, written submissions BMPG1-17 & BMPGX (All contained in one file)
- 42 Mr Sinclair's summary of comparative assessments from each ES viewpoint (1<sup>st</sup> line ES, 2<sup>nd</sup> line Mr Roden and 3<sup>rd</sup> line Mr Sinclair)
- 43 Copy of appeal decision Brent Knoll
- 44 The Hewitts and Marilyn's of Wales
- 45 Plan showing Mr Sinclair's suggested additional viewpoints for site inspection
- 46 Dr Evans' submissions and attached enclosures
- 47 Mr Russell's submissions and attached Doc 1-4
- 48 Statement of Mrs Newman and attached documents
- 49 Letter from T M Hicks Chairman of Betws Common Holdings Ltd dated 14/08/08
- 50 Letter dated 8/09/08 from Betws Common Holdings Ltd re Tir Gofal application
- 51 Letter from Wyn Jones Chairman of Betws Commoners Association dated 14/08/08
- 52 Letter dated 15/08/08 from BWEA enclosing written submissions
- 53 Bundle of letters in support of proposal including those from Cllr Madge, Cllr P Cooper, Cllr W R A Davies, Cllr J Edwards & Cllr A W Jones
- 54 Bundle of letters of objection to proposal including those from Rhiwfawr Action Group dated 11/08/08, B Pearce dated 22/09/08 & Swansea Civic Society received 11/09/08

- 55 Note on Bluetongue disease
- 56 3 letters from CCW dated 6/02/07, 5/07/07 & 8/08/07  
commenting on other wind farm proposals