



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

# DNS Pre-application Advice - Pentre Bach Solar

27 September 2019

## 2 DNS Pre-application Advice

**Prepared by:** Kym Scott BSc MSc

**This advice should be read in conjunction with the Planning Inspectorate's procedural guidance on Developments of National Significance (DNS). Advice is provided on the basis of the information submitted to the Planning Inspectorate on 30 August 2019 and without the benefit of a site visit. The advice is not binding and does not prejudice any recommendation made by an Inspector or any decision made by the Welsh Ministers in relation to a development of this nature on this site.**

**The questions and issues raised in the request for advice are addressed in order below.**

### 1. Pre-Application Consultation & Procedural Matters

Based on the information provided, it is considered that the following consultees would be required to be consulted under Article 9 of the [Developments of National Significance \(Procedure\) \(Wales\) Order 2016](#) (the Order). It should be noted that the Applicant is required to satisfy themselves that they have met the relevant legislative requirements.

#### ***Specialist consultees***

Natural Resources Wales  
The Welsh Ministers (Cadw)

#### ***Relevant persons***

The requirement to consult 'relevant persons' only applies to applications that include prescribed secondary consents; see below for advice relating to secondary consents.

#### ***The proposed development as a Development of National Significance***

The status of the development as a DNS can only be formally confirmed via the 'Notification of proposed development' process set out at Article 5 of the Order.

However, for the purposes of this advice, it is considered that the proposal does fall within the thresholds for generating stations set out in the [Developments of National Significance \(Specified Criteria and Prescribed Secondary Consents\) \(Wales\) Regulations 2016](#) (as amended).

### 3 DNS Pre-application Advice

## 2. Form and Content of the Application and Supporting Documents

Please note that this advice cannot pre-empt the outcome of a formal Screening request under the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (as amended), nor any potential Scoping request under the same regulations.

The following advice is provided with the intention of assisting the Applicant to shape their application, but it does not preclude an appointed Inspector or the Welsh Ministers from seeking further information to aid determination.

### ***Main issues and considerations likely to be relevant to the application and the scope and form of assessment required***

It is suggested that the Applicant considers producing a Planning Statement which makes the planning policy case as to why the development is considered to be acceptable and would represent sustainable development. This can be cross referenced to an Environmental Statement (ES) or other submission documents as required. Such an approach would be consistent with the Inspectorate's standing advice that an ES should focus on identifying, describing and quantifying environmental impacts and not on policy arguments.

A Planning Statement should also include the Applicant's assessment of the planning merits of the scheme, its compliance with national and local policy and the Applicant's suggested conditions, particularly where they have been able to achieve agreement with the Local Planning Authority (LPA) on such matters. The Applicant may also want to consider expressing how they consider a grant of planning permission for this proposal would comply with the Well-being Goals set out in the [Well-being of Future Generations \(Wales\) Act 2015](#). The [Future Generations Commissioner for Wales](#) sets out further information.

In all cases, the assessments produced to support the application should provide a clear outline of the basis on which the scheme has been assessed and for which consent is sought.

Based on the information provided, the likely main issues and form of assessment are identified below. It remains to be seen whether an ES is required, and if so, which if any of these matters should be covered in the ES:

#### *Landscape Impact / Character and Appearance*

A landscape appraisal that takes full account of the scheme proposed is considered necessary and appropriate. The Applicant should satisfy themselves that they have fully considered the direct landscape impacts arising from the proposed development. Assessment should be undertaken in accordance with professional guidance.

#### *Archaeology*

As outlined in the Pre-Application request, an assessment to confirm any potential for archaeological remains within the site or surrounding areas may be appropriate.

## 4 DNS Pre-application Advice

### *Ecology*

The 'Henllys Bog' Site of Special Scientific Interest (SSSI) is located within 2km of the development site. Due to the distance between the development and the identified designation, there is little scope for direct effects on the designated site. However, consideration will need to be given to the potential for the proposed development to have indirect effects on the identified designations.

The potential impacts on the natural environment and ecological receptors in the locality and the wider area, including the identified protected site, should be given due consideration. The potential impacts on ancient woodlands should also be given due consideration.

If this proposal is not subject to EIA which includes this topic within the scope of the ES, it will be for the Applicant to consider whether to produce a standalone Ecological Assessment or whether this topic could be included within, for example, a Planning Statement. The appointed Inspector will need sufficient information to draw an informed conclusion on this issue. The Applicant may wish to seek advice from NRW and Torfaen County Borough Council (TCBC) on this issue.

### *Noise*

A noise assessment is considered necessary and appropriate. Noise assessment should be undertaken in accordance with professional guidance, most likely that contained within relevant British Standards. The methodology applied to the assessment should be clearly set out in the assessment, including any departures from standard guidance where applicable. As above, the Applicant may also wish to seek advice from NRW and TCBC on this issue.

### *Other Assessments*

It may be necessary for the appointed Inspector to make a recommendation to the Welsh Ministers, as the competent authority, on the issue of screening and appropriate assessment (AA) under the Conservation of Habitats and Species Regulations 2017. It would be beneficial to the DNS application process if the Applicant were to prepare a shadow screening report setting out their view of whether the proposal requires an AA, based on up-to-date information. If the Applicant's view is that AA is required, they should produce a shadow AA to inform the Inspector's recommendation. Doing so will ensure that the Inspector has the required information on hand and help to avoid unnecessary delay.

### *Other Considerations*

The potential impacts from glint and glare should be given due consideration. The appointed Inspector will need sufficient information to draw an informed conclusion on this issue. The Applicant may wish to seek advice from NRW and TCBC on this issue.

### ***Documents required for the application to be valid***

The statutory requirements for a valid application are set out at Article 12 of the Order.

The Welsh Ministers have the power to specify whether any additional information should be provided (normally the LPA under S62(3) of the 1990 Act, but for DNS applications, that power belongs to the Welsh Ministers, as indicated by Article 12(1)(vii) of the Order).

## 5 DNS Pre-application Advice

This provision allows non-standard information to be specified as a validation requirement for a development if the Welsh Ministers publish it as such on their website. However, based on the information provided, it is not considered likely that information over and above that set out at Article 12 would be required for the purposes of validation in this instance.

Further information and advice on the format of submissions and the validation process can be obtained from the Planning Inspectorate's Casework Team and does not attract a charge. A copy of the Planning Inspectorate's internal checklist for validation, which is based on Article 12, is attached as an Annex to this document to aid to the Applicant.

### 3. Other Information

#### ***Outline of the relevant policy framework***

The local policy framework is covered by the LPA's statutory pre-application advice duties under Regulation 7 of the Developments of National Significance (Wales) Regulations 2016 (as amended). The Applicant may therefore also wish to seek advice from the LPA on this aspect, as it will likely be able to provide a more comprehensive view of the relevant local policies. The policies outlined below are considered potentially relevant to the development as described, dependant on the final form of the application submission. The relevance of individual policies to the overall planning balance will vary based on the appointed Inspector's final identification of the main issues.

This advice is based on the versions of documents that are current at the time of writing. The Applicant should be aware that changes in policy may occur prior to the determination of any subsequent application.

Welsh Government is currently consulting on its proposed [National Development Framework \(NDF\)](#), the outcome of which is not yet known. It is not possible to state at this stage exactly what weight an appointed Inspector may attach to the NDF if it is not adopted at the time that this application is being considered. If the NDF has been adopted by the time this application is being determined, then the NDF will have the status of forming part of the development plan against which the proposal will be determined. The Applicant may wish to consider this in the preparation of any application; having particular regard to the 'Spatial strategy: Powering and heating places with renewable energy and District Heat Networks' and associated Policies 10, 11, 12 and 13.

#### *Relevant National Planning Policy*

##### *Planning Policy Wales – Edition 10*

Chapter 3 – Strategic and Spatial Choices

Chapter 5 – Productive and Enterprising Places

Chapter 6 – Distinctive and Natural Places

#### *Technical Advice Notes*

TAN 5: Nature Conservation and Planning

## 6 DNS Pre-application Advice

TAN 8: Renewable Energy

TAN 11: Noise

TAN 24: The Historic Environment

### *Relevant Local Planning Policy*

*Torfaen County Borough Council Local Development Plan (2006-2021)*

S2 Sustainable Development

S3 Climate Change

S4 Place Making/Good Design

S7 Conservation of the Natural and Historic Environment

BW1 General Policy – Development Proposals

HE1 Buildings and Structures of Local Importance

C1 Green Wedges

BG1 Locally Designated Sites for Biodiversity and Geodiversity

### *Supplementary Planning Guidance*

Development and its Incorporation within the Landscape: A Guide for Developers (2000)

### ***Overall assessment of the proposal and a view of its merits***

The acceptability of the proposal will rest on the impact of the proposed development on the matters listed above, and its compatibility with relevant planning policy. These issues will ultimately turn on more detailed site specific information.

Nonetheless, from the documents submitted for the purposes of this request, there is nothing in the information currently available that suggests that the issues described above could not be satisfactorily addressed through appropriate consultation, survey work, mitigation measures (if and where appropriate) and the imposition of appropriate planning conditions. There is some potential benefit from the scheme in terms of its ability to support the wider delivery of renewable energy by providing additional capacity to the National Grid. Provided the Applicant is able to show through evidence that there would be no unacceptable harm, it is considered that the scheme as proposed could be recommended for a grant of planning permission.

### ***Requirement for secondary consents***

The Applicant will need to satisfy themselves that they have obtained the necessary consents. From the information provided, the Inspectorate cannot confirm whether any of the secondary consents set out in the Schedule to the Developments of National

## 7 DNS Pre-application Advice

Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (as amended) would be required for the development proposed.

The Inspectorate does not have access to the 'definitive map' of Public Rights of Way (PRoW) in the area, and so is not able to provide the location of any routes in relation to the proposed scheme. If any PRoW are located on the development site, a secondary consent may be required. The Applicant should therefore direct any requests in relation to PRoW to the LPA.

Although not a prescribed secondary consent and therefore not part of the DNS application process, the Applicant's attention is drawn to the requirement for Sustainable Drainage (SuDS) Consent. The requirement is limited to schemes that include construction works, so it will be for the applicant to consider the extent of the proposed additions to the scheme as built and whether they will fall within that requirement.

## 8 DNS Pre-application Advice

### ANNEX – Planning Inspectorate Validation Checklist

<b>DNS APPLICATION CHECK LIST</b>		✓
<b>General Requirements</b>		
<b>1</b>	DNS application form completed.	
<b>2</b>	Submitting within 12 months of the notice of acceptance of a proposed application.	
<b>3</b>	Submitted a copy of the notice of acceptance letter.	
<b>4</b>	Submitted a site location plan.	
<b>5</b>	Submitted all other plans applicable to the development.	
<b>6</b>	Plans drawn to a scale and in the direction of north.	
<b>7</b>	Served notice on any other land owners.	
<b>8</b>	If yes to above, submitted a copy of the certificate(s) serving notice on other owners.	
<b>9</b>	Submitted an Environmental Statement (ES).	
<b>10</b>	If yes to the above, the ES has been assessed and meets the minimum requirements of the EIA regulations.	
<b>11</b>	Submitted a written statement about any secondary consents connected with the application.	
<b>12</b>	Served a copy of the application on the Local Planning Authority.	
<b>13</b>	Paid the fee.	
<b>14</b>	Submitted Design and Access Statement if required.	
<b>15</b>	If the application involves Crown Land - statement in respect of Crown Land submitted.	
<b>16</b>	If the application submitted by a person authorised to do so for Crown Land - copy of the authorisation submitted?	
<b>Publicity and Consultation</b>		
<b>17</b>	Submitted the pre-application consultation report.	
<b>18</b>	Displayed a notice in at least 1 place on or near the site for not less than 42 days.	
<b>19</b>	Written to any owners/occupiers of any land adjoining the site.	
<b>20</b>	Issued a notice in a local newspaper.	
<b>21</b>	Published the application, and supporting documents on a website for a period of not less than 42 days.	
<b>22</b>	Consulted relevant community & specialist consultees.	
<b>23</b>	If applying for a Secondary consent - Consulted relevant person/body who would have been responsible for the Secondary Consent application had it not been part of the DNS.	