

Dear

## **ATISN 20358 – Twyn Hywel Windfarm proposal**

Thank you for your request which was received on 13<sup>th</sup> March 2024. You asked for:

1. Names of individuals involved in the pre-assessed areas studies throughout Wales and their relevant qualifications.
2. Methods and practices to determine an area as 'pre-assessed' for example desk-based analysis, and specific desk based analysis analytical examination methods and processes.

### **Our response**

I have decided that some of the information is exempt from disclosure under Regulation 13 of the Environmental Information Regulations and it is therefore withheld. The reason for applying this exception is set out at Annex 1 to this letter.

Our response to the information you requested above is: -

1. Withheld under Regulation 13 of the Environmental Information Regulations.
2. Methodology in relation to research conducted by Arup to inform the development of renewable energy policy and Pre-Assessed Areas in Future Wales is set out in 'Assessment of onshore wind and solar energy potential in Wales [Stage 1 and Stage 2](#)'. (Please see note of information below which provides further information in relation to your request)

### **Note of information**

#### **Assessment of onshore wind and solar energy potential in Wales (Arup)**

The Arup research, '*Assessment of onshore wind and solar energy potential in Wales*', was a technical report to provide evidence to help inform the subsequent development of Future Wales renewable energy policy. Arup consulted specific stakeholders including those with specialist knowledge to support the research. Outcomes of stakeholder engagement and the methodological approach to the research are integrated into the [Stage 1 and Stage 2 reports](#), which are publicly available on the Welsh Government's website. Stakeholders commented on both the research and the preparation of Future Wales which included Pre-Assessed Area policy.

The two reports identify and consider different constraints from a variety of sources, this included Historic Landscapes and Cadw's Historic Assets Data and Designated Historic Assets Data.

The research put forward possible policy options and conducted a constraints exercise and landscape evaluation aimed at identifying areas that may be suitable for wind and solar energy development in Wales.

Further refinement of final Pre-Assessed Areas took place after the publication of the Stage 1 and 2 reports.

## **Future Wales**

Applications for large scale renewable energy projects (Developments of National Significance (DNS)) are assessed against [Future Wales](#) policies 17 and 18, and other material planning considerations such as [Planning Policy Wales](#), and the Local Development Plan.

Future Wales policy 18 sets out criteria that need to be taken into account when assessing DNS, and this includes Internationally designated sites, national statutory designated sites for nature conservation protected habitats and species, and statutorily protected built heritage assets.

## **Planning Policy Wales**

Reference to the importance of the historic environment is made throughout Planning Policy Wales, particularly chapter 6. The historic environment is made up of individual historic features which are collectively known as historic assets, including for example historic assets of special local interest, Historic Landscapes, World Heritage Sites, and archaeological remains (including scheduled monuments).

The planning system must take into account the Welsh Government's objectives to protect, conserve, promote and enhance the historic environment as a resource for the general well-being of present and future generations. The Welsh Government's specific objectives for the historic environment include the conservation of archaeological remains, both for their own sake and for their role in education, leisure and the economy. The conservation of archaeological remains and their settings is a material consideration in determining planning applications, whether those remains are a scheduled monument or not. For further details on Archaeological Remains in PPW please see sections 6.1.23 to 6.1.27, and 6.1.29 (bullet 2).

## **Technical Advice Note 24**

[TAN 24](#) provides guidance in support of Planning Policy Wales on how the planning system considers the historic environment during development plan preparation and decision making on planning applications. It is a material planning consideration.

TAN 24 explains that the Conservation Principles for the Sustainable Management of the Historic Environment in Wales (Conservation Principles) provide the basis upon which Cadw discharges certain statutory duties on behalf of the Welsh Ministers. Conservation Principles should be used by others (including owners, developers and other public bodies) to assess the potential impacts of a development proposal on the significance of any historic asset/assets and to assist in decision making where the historic environment is affected by the planning process. TAN 24 includes, for example, advice on archaeological remains (chapter 4), historic landscapes, and historic assets of special local interest.

## **Next steps**

If you are dissatisfied with the Welsh Government's handling of your request, you can ask for an internal review within 40 working days of the date of this response. Requests for an internal review should be addressed to the Welsh Government's Freedom of Information Officer at:

Information Rights Unit,  
Welsh Government,  
Cathays Park,

Cardiff,  
CF10 3NQ

or Email: [Freedom.ofinformation@gov.wales](mailto:Freedom.ofinformation@gov.wales)

Please remember to quote the ATISN reference number above.

You also have the right to complain to the Information Commissioner. The Information Commissioner can be contacted at:

Information Commissioner's Office,  
Wycliffe House,  
Water Lane,  
Wilmslow,  
Cheshire,  
SK9 5AF.

However, please note that the Commissioner will not normally investigate a complaint until it has been through our own internal review process.

Yours sincerely

Annex 1

**Environmental Information Regulations: Personal data**

Regulation 13 of the EIRs provides an absolute exemption if disclosure of the personal data would breach any of the data protection principles.

'Personal data' is defined in sections 3(2) and (3) of the Data Protection Act 2018 ('the DPA 2018') and means any information relating to an identified or identifiable living individual. An identifiable living individual is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of the individual.

We have concluded that, in this instance, the information requested contains third party personal data.

Under Regulation 13, personal data is exempt from release if disclosure would breach one of the data protection principles set out in Article 5 of the GDPR. We consider the principle being most relevant in this instance as being the first. This states that personal data must be:

*"processed lawfully, fairly and in a transparent manner in relation to the data subject"*

The lawful basis that is most relevant in relation to a request for information under the FOIA is Article 6(1)(f). This states:

*"processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child"*.

In considering the application of Article 6(1)(f) in the context of a request for information under FOIA it is necessary to consider the following three-part test:-

- **The Legitimate interest test:** Whether a legitimate interest is being pursued in the request for information;
- **The Necessity test:** Whether disclosure of the information/confirmation or denial that it is held is necessary to meet the legitimate interest in question;
- **The Balancing test:** Whether the above interests override the interests, fundamental rights and freedoms of the data subject.

Our consideration of these tests is set out below:

## **1. Legitimate interests**

The Welsh Government acknowledges the general public interest in openness and transparency, and the desire of interested parties to understand the full context of Welsh Government publications. Whilst there may be interest from members of the public in knowing the names and qualifications of officials involved in the work on the Pre-Assessed Areas, this information would add nothing to that already available.

All work on Future Wales was undertaken under the direction of the Minister with responsibility for Planning. All key decisions, including those relating to the Pre-Assessed Areas, were taken by the Minister. Civil servants supported the Minister in this role. Civil Servants do not undertake work under their own capacity. An external party (Arup) led the preparation of the studies. The details of the individuals involved in these studies from Arup is set out in the study reports. For these reasons I do not believe there is a legitimate interest in releasing the names of the officials involved in this work or their qualifications.

## **2. Is disclosure necessary?**

As there is no legitimate interest, I do not believe that disclosure outside of the information already in the public domain is necessary. I am therefore withholding the names of individuals and their qualifications. I believe that disclosure of this information would breach individual fundamental rights and freedoms provided by the GDPR.

### **3. The balance between legitimate interests and the data subject's interests or fundamental rights and freedoms**

On balance, I believe that disclosure of the identities of individuals and their qualifications would breach their fundamental rights and freedoms provided by the GDPR. As such I believe these individuals names can and should be properly withheld. As release of the information would not be legitimate under Article 6(1)(f), and as no other condition of Article 6 is deemed to apply, release of the information would not be lawful within the meaning of the first data protection principle. It has therefore been withheld under section 40 of the Freedom of Information Act. Section 40 is an absolute exemption and not subject to the public interest test.