

Lesley Griffiths AC/AM
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref: qA1304443

Mr Paul Maile
Eversheds Sutherland (International) LLP
115 Colmore Row
Birmingham
B3 3AL

paulmaile@eversheds-sutherland.com

|| January 2018

Dear Mr Maile

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY PANT Y MAEN WIND LIMITED FOR THE CONSTRUCTION AND
OPERATION OF A WIND FARM COMPRISING 7 WIND TURBINES TOGETHER
WITH TRANSFORMERS, ACCESS TRACKS, ON-SITE SUBSTATION,
ANEMOMETRY TOWER AND ASSOCIATED CONSTRUCTION AND
OPERATIONAL INFRASTRUCTURE AT LAND ADJACENT TO LLYN BRAN,
BYLCHAU, DENBIGH, DENBIGHSHIRE.
APPEAL REFERENCE: APP/R6830/A/17/3171058**

1. Consideration has been given to the report of the Inspector, Kay Sheffield BA Hons DipTP MRTPI, into your client's appeal against Denbighshire County Council's refusal of outline planning application ref: 25/2015/0321 for "the construction and operation of a wind farm comprising 7 wind turbines together with transformers, access tracks, on-site substation, anemometry tower and associated construction and operational infrastructure" on land adjacent to "Llyn Bran, Bylchau, Denbigh, Denbighshire".

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

2. On 19 May 2017, in accordance with section 79 and paragraph 3(1) of Schedule 6 to the Town and Country Planning Act 1990 (“the 1990 Act”), the appeal was recovered for determination by the Welsh Ministers as the appeal falls within the criteria set out in Regulation 4 of the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016, as amended by the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) (Amendment) Regulations 2016 and is of national significance as it will have an installed generating capacity of 10 megawatts or above. Under the provisions of the Government of Wales Act 2006 the power to determine applications under section 79 of the 1990 Act has been transferred to the Welsh Ministers, these functions have been exercised by me as Cabinet Secretary for Energy, Planning and Rural Affairs.
3. In exercising their functions, as part of carrying out Sustainable Development in accordance with the Well-being of Future Generations Act (“the WFG Act 2015”), section 2 of the Planning (Wales) Act 2015 requires the Welsh Ministers, as a public body, to ensure the development and use of land contributes towards improving the economic, social, environmental and cultural well-being of Wales. In order to act in this manner, the Welsh Ministers have taken into account the ways of working set out in section 4 of ‘SPSF1: Core Guidance, Shared Purpose: Shared Future – Statutory Guidance on the Future Generations Act 2015’ through examination of the appeal by way of written representations in accordance with the Town and Country Planning (Referrals and Appeals) (Written Representations Procedure) (Wales) Regulations 2015.
4. The Inspector has considered written representations, and a site visit was carried out on 22 June 2017. The Inspector’s conclusions are set out in paragraphs 150 – 200 of her report, a copy of which is enclosed. The Inspector recommends the appeal be dismissed and planning permission refused.

Main Issues

5. I agree the main issues are those listed by the Inspector, which are the effect of the development on:
 - The landscape character and visual amenity with particular reference to the views of Snowdonia from Moel Famau;
 - The residential amenity of the occupants of properties in the locality in respect of outlook; and
 - The setting of scheduled ancient monuments in the local vicinity.

Gorsedd Bran Wind Farm (GBWF) Appeal Decision

6. The appeal site partially overlaps with an earlier application for a 12 turbine wind farm at Gorsedd Bran Wind Farm. A subsequent appeal was dismissed in 2009 and subsequently upheld by the Court of Appeal. The Inspector concluded that there would be unacceptable landscape and visual impacts which were in conflict with planning policy and the harm would not be outweighed by the benefits of renewable energy.
7. The Inspector states whilst it is for the decision maker to decide what weight should be afforded to it in determining the appeal, from the differences highlighted in the evidence and particularly the physical differences between the schemes, the Inspector does not consider the significant weight attributed to it by the Council is justified. The Inspector therefore considers limited weight should be attributed to the GBWF decision in the determination of the appeal and she has applied such weight in reaching her recommendation (IR152). Having regard to the differences in scale of the proposal in terms of the number and height of turbines, the size of the site which is smaller than the GBWF appeal, as well as the changes in local and national policy with the adoption of the Local Development Plan (LDP) and revisions of the relevant section of Planning Policy Wales (PPW), I agree with the Inspector's conclusion on this issue.

Amended Scheme

8. The application was originally submitted for 8 turbines. However, during the course of the application, the scheme was amended by the removal of one turbine (T6) and the layout was revised accordingly.

The effect of the development on the landscape character and visual amenity with particular reference to the views of Snowdonia from Moel Famau

9. The Inspector states Moel Famau is listed as an iconic visitor and cultural attraction within the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty (AONB) and the Jubilee Tower, at its summit, is a well-known and well visited viewpoint (IR153). The Environmental Statement (ES) assessed the impact of the proposal on views from the Jubilee Tower and concluded the effect on visual amenity would be medium. The proposed turbines were predicted to be a noticeable additional feature especially during good weather and at times of good visibility it was anticipated the movement of the blades would be discernible however not prominent. They would be viewed within a very large and open landscape and would occupy only a small proportion of the overall field of the view. Furthermore the turbines would not break the skyline and when viewed from the Jubilee Tower they would not be seen against the peak of Snowdon. However, the Inspector states at least three of the proposed turbines would encroach into views of the Snowdon Horseshoe and be visible against the backdrop of Y Lliwedd. She considers the turbines would appear as a visual distraction to the view of one of the main peaks of the Snowdon range, devaluing the vista and resulting in an unacceptable degree of harm to a view of acknowledged importance (IR154).
10. The Inspector considers the proposal would form a continuation of the series of wind farm developments within Strategic Search Area (SSA)-A extending the existing northern limit set by Tir Mostyn/Foel Goch Wind Farm (TMWF), Brenig Wind Farm (BWF) and Clocaenog Forest Wind Farm (CFWF). From Moel Famau the turbines of Moel Maelogen are also seen against the backdrop of the mountains north of Snowdon. The Inspector considers the separation distance between these turbines and the schemes to the south appears limited and would be reduced by the appeal proposal. It is accepted the combined operational and consented wind turbine developments within and adjoining SSA-A have and will continue to affect the special qualities and features of the AONB. Nevertheless the Inspector considers the appeal proposal would extend the existing wind turbine dominated landscape between the AONB and Snowdonia National Park further north, having a greater impact on the key views from the AONB, particularly those of the Snowdon Horseshoe (IR155).
11. In walking Offa's Dyke Way between Bwlch Pen Barras and the summit of Moel Famau, the main view is towards Snowdonia. The Inspector accepts the proposed turbines would form an additional component within a very broad panoramic view, however, the extension of the turbines further north in the landscape would result in the Snowdon mountains appearing to be fenced in by wind farm development. The Inspector considers this would not only be detrimental to the visual amenity of walkers, it would also be harmful to the setting of Snowdon and the important special qualities and features of the AONB which underpin the designation of the area as a nationally protected landscape (IR156).

12. The Inspector accepts the effect of the scheme on the view of the Snowdon Horseshoe would be significantly less than described by the Inspector in the GBWF appeal decision, where the turbines encroached further north and would have broken the skyline to either side of the peak of Snowdon. Nevertheless, the Inspector considers the key view for walkers is towards Snowdon and the development would create an unacceptable distraction to this view (IR157).
13. The Inspector states in respect of the CFWF, although the Examining Inspector considered there would be harmful changes westward from the AONB, it was considered the acceptance of significant visual and landscape impacts set out explicitly in the energy UK Government National Policy Statement (NPS) and in the designation of the SSA was a matter to be weighed in favour of granting consent. Whilst the Inspector acknowledges the CFWF is significantly larger than the appeal proposal in terms of the number and height of the turbines and they would occupy a greater proportion of the view from the AONB, she states the turbines would not be in line with the Snowdon Horseshoe in views from Moel Famau and its northern extent is contained within TMWF and BWF. The Inspector considers the main view for many walkers on Moel Famau is towards Snowdon and not to the south of the range in the direction of CFWF and, whilst the turbines together with those of other operational and consented schemes create a dominant feature in the view from Moel Famau, unlike the appeal proposal, they do not encroach into the view of the Snowdon Horseshoe (IR158).
14. The Inspector concludes views of the proposed turbines against the backdrop of the Snowdon Horseshoe would harm the views of this significant feature in Snowdonia National Park from Moel Famau, to the detriment of the landscape and the visual amenity of receptors and the special qualities of the AONB, contrary to Policies VOE9 and VOE2 of the Denbighshire County Council LDP. Although in Technical Advice Note (TAN) 8 there is an implicit objective to accept significant change in landscape character, the Inspector considers the degree of change which would be brought about by the development to the landscape and as a consequence to visual amenity would not be consistent with the aims of TAN 8 (IR159).

The effect of the development on the residential amenity of the occupants of properties in the locality in respect of outlook

15. The Inspector states the area to the north and east of the site contains a relatively large number of dwellings scattered across the countryside which have the potential to experience significant visual effects from the proposal. The Inspector confirms three properties would have views of three turbines. A further property would see the blade tip of one turbine. The Residential Visual Amenity Assessment (RVAA) found, with the exception of The Sportsman's Arms, the proposal would have no significant effects on the residential amenity of the occupants of the properties assessed (IR160). In respect of The Sportsman's Arms the Inspector confirms all seven turbines would be visible and the closest would be approximately 1.25km from the property. She considers the wind farm would therefore be a prominent feature, especially in the outlook from southeast facing rooms and outside areas. The effect on residential amenity was assessed in the RVAA as significant and adverse. The Rationale for Scheme Modification considered the effect the removal of T6 would have on the residential amenity of the property and predicted the visual effects would remain high and significant, although the angle of view which the turbines would occupy would be reduced (IR161).
16. With regard to the cumulative effect of the development with other operational and consented wind farms on The Sportsman's Arms, the Inspector states the appeal proposal would be closer to the property than TMWF, BWF and CFWF and it would extend the wind farm landscape further north. The RVAA considered turbines would occupy a significant portion of the visible ridgeline to the extent they would dominate the view from the property and its outside areas. The cumulative effect was considered to be significant and adverse (IR162).
17. The Inspector notes the Council contends five of the proposed turbines would be visible from Rhiwiau and Awel y Brenig. These properties were not assessed as part of the RVAA as they lie outside the study area agreed with the Council. The Zone of Theoretical Visibility (ZTV) does confirm this number of turbines would be visible, however, it does not take account of intervening vegetation which would limit the views. Nevertheless, the Inspector states the development would comprise large structures on an exposed hill top location and given the extent to which they would be visible from The Sportsman's Arms, the Inspector considers the proposal would appear overbearing in the outlook from this property (IR163).
18. The Sportsman's Arms is currently occupied by tenants and the tenancy expires in a few months. The terms of the option the Appellant has on the property restricts the creation of further tenancies without its consent and secures the long term financial involvement of the owner. Whilst the Inspector does not consider this is sufficient to justify a development which would have an overbearing impact on the residential amenity of the occupiers of the property, she acknowledges these conditions would not make the property uninhabitable (IR164).

19. The Inspector in his decision on the GBWF commented the cumulative effect of the GBWF scheme together with other existing and consented turbines would result in the local community having the appearance of being surrounded by turbines on all high ground to the south and west. Although the Council considered the physical impact of the appeal proposal would be less than the GBWF, it nevertheless felt there would not be a significant reduction in the impact on the surrounding community identified by the Inspector in his decision on the GBWF (IR165).
20. The Inspector, however, highlights the fact there are significant differences between the two schemes. In the appeal proposal the number and height of the turbines are less; the site boundary is smaller; it does not extend as far north; and the topography is lower. All these factors would result in fewer properties having views of the development. The Inspector acknowledges in some views from the northeast the turbines would be visible on high ground to the west and TMWF, BWF and CFWF would be seen to the east. Visually the proposal would extend the turbine landscape further west and the local community may have the perception of being surrounded by turbines. However, from the dwellings closer to the site which were assessed as part of the RVAA, only the blade tip of one turbine would be seen from one property. On this basis the Inspector does not consider the properties would appear surrounded by turbines (IR166).
21. The Inspector concludes the proposed development would have a significant and adverse effect on the residential amenity of The Sportsman's Arms to the extent in the outlook from the property the proposal would appear unacceptably overbearing, contrary to Policy VOE 9 (ii) of the LDP. The Inspector considers this weighs in the balance against the appeal (IR168).

The effect of the development on the setting of scheduled ancient monuments in the local vicinity

22. The Council's concerns centred on the impact on the development which, when considered alongside other existing and consented schemes, would be likely to constitute a significantly adverse impact on the settings of prehistoric funerary and ritual monuments in the landscape. The Inspector states the importance of setting lies in what it contributes to the significance of an historic asset. In respect of the appeal proposal it is the intervisibility between the Bronze Age funerary and ritual sites which contribute to the setting of the Scheduled Ancient Monuments (SAM) and their significance (IR169).
23. The Council, having taken account of Cadw's comments, was not satisfied the submitted information demonstrated the development would not have a significant adverse impact on the SAM. The Inspector considers there is sufficient evidence regarding the impact of the proposal on historic assets on which to reach a reasoned decision (IR170).

24. In the response to the amended scheme following the removal of T6 and having had regard to the Rationale for Scheme Modification, Cadw was of the view the development would have a significant adverse impact on the setting of Bwlch-Du Round Barrow (DE085); Circular Platforms northwest of Hen Ddinbych (DE087); Rhiwiau Round Barrow Cemetery (DE100); Round Cairn 648m northeast of Tan-Y-Foel (DE157); Gorsedd Bran Round Barrows (DE168) and Round Barrow 828m west of Cae-du (DE172). When other existing and consented schemes in the area are taken into account, Cadw considered the impact would be likely to constitute a significantly cumulative adverse impact on the settings of the prehistoric funerary and ritual monuments in this landscape (IR171).
25. Bwlch-Du Round Barrow (DE085) and the Circular Platforms northwest of Hen Ddinbych (DE087) lie to the east and southeast of the site. Seen as a group the Rationale for Scheme Modification considers their setting could be taken to include not only the immediately surrounding landscape, but also other related monuments such as Gorsedd Bran Round Barrows (DE168) which overlook the complex from the northwest. The Inspector states the intervisibility of the monuments is important in considering the group as a whole and whilst the development would not directly impede views the turbines would be visually intrusive in views towards DE168. However there would be no lines of sight between either DE085 or DE087 and the northeast pair of barrows of DE168 (IR172).
26. The Inspector states in views towards the southwestern pair of barrows of DE168 from DE085, turbine T8 would be very close to the line of sight and from DE087 all seven turbines would be clearly visible in the view. She accepts there is the potential with careful micro-siting to reduce the impact of T8 on the view from DE085. Nevertheless, the Inspector considers the proposal would affect the setting of these SAM and in particular the intervisibility between them and the southern pair of barrows of DE168. The Inspector agrees with Cadw the development would have a significant adverse effect on the setting of these assets (IR173).
27. The Inspector considers whilst views towards the Rhiwiau Round Barrow Cemetery (DE100) would be unimpeded by the development, in views to the southeast towards DE168 four turbines would be visible of which two would be barely seen. Given the extent of the turbines which would feature in the views based on bare earth data, which does not take account of the screening effects of properties and vegetation, she is of the opinion the proposal would only result in slight changes to the setting of DE168 when viewed from DE100. On this basis the Inspector agrees with the Appellant the resulting level of significance would be moderate/slight. She also accepts the cumulative effects would be slight (IR174).

28. The Inspector states Round Cairn 648m northeast of Tan-Y-Foel (DE157) sits in a prominent position in open moorland and its setting takes in the ridge on which it stands. The Inspector considers whilst views towards the barrow would be unaffected, in views from it towards the southeast the turbines would be visible above the skyline. These views would also encompass the turbines of other operational and consented wind farms. The Inspector therefore considers the proposed turbines would have a cumulative impact by introducing an additional intrusion into the overall panorama visible from the barrow. Whilst the evidence indicates only the tips of the turbines of CFWF and BWF would be visible behind the proposed turbines, the Inspector considers the development would detract from the views towards DE168. She agrees with Cadw's assessment of the impact on this SAM as moderate, with a moderate/large level of significance (IR175).
29. The Inspector states Gorsedd Bran Round Barrows (DE168) are the closest designated asset to the proposed development and the nearest turbine (T5) would be approximately 540m to the south. It has already been established there is no intervisibility between the northeast pair of barrows with DE085 and DE087. The Inspector therefore considers the visual impact on the settings of these assets is restricted to the effect the turbines would have on views between the southwest pair of barrows of DE168 and the other two SAM (IR176).
30. The Inspector considers the proposal would have a major visual impact on the southernmost pair of barrows, due to its proximity to the SAM, affecting views towards them from the southwest as well as views from the barrows towards the south. The barrows are presently screened by mature forestry which lies outside of the appeal site and is due to be felled. In combination with the clear felling which would take place as part of the proposal the views of the SAM would be opened up (IR177).
31. The Inspector acknowledges there is the potential, in time, for replanting on the land around the barrows and outside the site to again restrict the view, however, she states the heathland habitat proposed in the Habitat Management Plan would become established over the 25 year lifetime of the development making it more unlikely the commercial replanting of trees would take place on the appeal site. The Inspector considers there is therefore the potential the development would in the long term result in increased opportunity for intervisibility between the assets. The Inspector considers although the removal of trees is recognised as a measure which can enhance the setting of an asset, the effect of the turbines also has to be considered (IR178).

32. The level of significance of the impact has been assessed as large/very large for the closest barrows and moderate/large for the further pair. The Inspector states there is also the potential for cumulative impacts with operational and consented wind farms to the southwest, the magnitude of which has been assessed as major and its significance large/very large. The Inspector accepts this assessment and on this basis considers the overall impact of the development on the Gorsedd Bran Round Barrows (DE168) would be significant (IR179).
33. The Inspector considers the topography of the land on which Round Barrow 828m west of Cae-du (DE172) is sited dictates the main visual aspect is along the ridge towards the northeast. However she states there are uninterrupted views to the southeast and towards the development. The Inspector considers whilst the removal of turbine T6 may benefit the view from the SAM, nevertheless the remaining turbines would still introduce an additional intrusion into the overall panorama visible from the barrow and there would also be other turbines visible. The Inspector is not persuaded by the evidence the magnitude of the impact would be minor or the resulting level of significance both individually and cumulatively would be moderate/slight. The Inspector considers the significance of the effect would remain moderate/large (IR180).
34. The Inspector concludes by acknowledging the development would be time limited and would not have significant effects on the setting of all of the SAM in the surrounding area. However, she considers it would have significant adverse effects on several SAM which, when considered alongside other existing and consented schemes would likely constitute a significantly adverse effect on the settings of the prehistoric and funerary and ritual monuments in the landscape, contrary to Policy VEO 1 of the LDP, PPW and TAN 24 (IR181).

Other material considerations

Target Capacities for SSA-A

35. The Inspector confirms the parties are agreed the maximum capacity figure for SSA-A is 212 MW as published in the letter by the then Minister for the Environment and Sustainable Development to Chief Planning Officers in March 2011. Although both parties initially agreed the consented Nant Bach and Derwydd Bach wind farms were unlikely to come forward, the Council has now indicated Derwydd Bach may come forward in the long term and the principle of Nant Bach wind farm has been established. The Inspector states whilst there is no substantive evidence, it is known the permission in respect of Derwydd Bach is extant and it would appear the consent in respect of Nant Bach (granted in 2011) has lapsed (IR182).

36. The Inspector states in comparing the potential total capacity figure given in the TAN 8 Database 2016 of 237 MW with the revised TAN 8 target figure of 212 MW, the Council is correct the target figure would be exceeded. The Inspector goes on to state, however, as advocated by the Appellant, if allowance is made for the possibility Nant Bach and Derwydd Bach wind farms do not come forward and applying a reduced capacity figure for the appeal scheme of 17.5 MW, the total potential capacity figure is reduced from 237 MW to 184 MW. This is well within the maximum capacity figure of 212 MW issued in 2011 (IR183).
37. It is known the permission on Derwydd Bach wind farm is extant and although it may not be built out in the short term, the Inspector considers it should be included as potential capacity. Although there is no substantive evidence in respect of the permission for Nant Bach wind farm, the Inspector considers it seems highly probable the permission has lapsed and a new permission would need to be sought for development to take place. The potential capacity has therefore lapsed along with the permission. On this basis even if the capacity of Derwydd Bach wind farm is brought back into the equation, the Inspector is satisfied the total potential capacity figure is below the maximum target for SSA-A (IR184).

Noise

38. Interested parties raised concerns regarding the potential for noise pollution from the development which cumulatively with other schemes and due to the prevailing wind direction would affect the living conditions of residents. The Inspector states given the location of the site within SSA-A and the proximity of other operational and consented wind farms, it is possible, if the noise levels are not set appropriately, certain wind conditions may give rise to unacceptable cumulative noise levels at some properties. The most affected properties were identified as Cwm y Rhinwedd, The Sportsman's Arms, Wern Uchaf and Hafod Caradoc (IR185). However, the ES concluded for all receptors neighbouring the proposed development, noise levels would satisfy ETSU-R-97 requirements.
39. The reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

40. The Inspector states notwithstanding the above there is a need to manage noise levels through the imposition of appropriate conditions and it is with regard to the noise levels specified in the conditions the parties are in dispute. The Council considered it necessary to ensure noise levels would be no more than those predicted in the ES plus a 2dB margin whereas the Appellant suggested the limit for Cwm y Rhinwedd would be 5dB(A) above day time limits; a flat 45dB(A) across all wind speeds for The Sportsman's Arms; and a flat 35dB(A) across all wind speeds for all other residential properties. The Council considered the imposition of noise levels 5dB above combined day and night background noise levels would be preferable to those suggested by the Appellant (IR186).
41. The Inspector states ETSU-R-97 recommends external noise limits for residential properties are set within the range of 35 to 40dB or 5dB(A) above background noise, whichever is the greater. These limits are set at a level which protects amenity whilst providing reasonable flexibility for developers in the final turbine procurement. The noise limits suggested by the Appellant satisfy ETSU recommendations. It is also noted the TMWF, Wern Du and CFWF all have a daytime limit of 40db. The Inspector is therefore satisfied the approach taken by the Appellant is entirely reasonable (IR187).
42. The Council does not consider it appropriate to apply the higher noise levels in respect of The Sportsman's Arms as it has a duty to protect the amenity of the property in perpetuity. However, the Appellant has confirmed the basis on which The Sportsman's Arms is occupied and the Inspector is satisfied it is a financially involved property within the appeal proposal. Furthermore the proposed noise limit is in line with ETSU-R-97 recommendations regarding financially involved properties. On this basis the Inspector considers it would be appropriate to set the noise level limits for The Sportsman's Arms at the higher limit (IR188).

Water Sources

43. Concerns were raised with regard to the potential effect the development would have on the quality and continued supply of water. The Inspector states there is no evidence the development would interrupt or affect the quality of the water supply currently enjoyed by the occupants of local properties (IR189).

Highway Safety

44. The Inspector states whilst in its operational phase there would be some traffic associated with the maintenance of the wind farm, during the construction and decommissioning phases large volumes of traffic would be generated. However, the Inspector is satisfied there is no evidence of any significant concerns regarding highway matters subject to the co-ordination of operations through a Traffic Management Plan. This is a matter which could be addressed by condition (IR190). I have no reason to disagree with the Inspector on this matter.

Tourism and Local Economy

45. Concerns were raised by interested parties regarding the effect the development may have on visitor numbers and as a consequence the viability of local tourism related businesses. The Inspector states it is generally acknowledged wind farms have a limited effect on visitor activity and most tourists are not discouraged from visiting an area because of its proximity to wind farms. Furthermore the restricted visibility of the proposed turbines from many locations in the wider landscape would result in the development having a negligible effect on local tourist attractions (IR191).

Inspector's Overall Conclusions

46. The Inspector acknowledges the planning system has an important role in delivering renewable energy schemes in order to meet the WG target for energy to be derived from renewable resources and the proposed development would contribute towards the target. Whilst TAN 8 directs large scale developments towards the SSA and there is an implicit objective within it to accept significant change in landscape character, it recognises not all the land within the SSA may be environmentally suitable for major wind power proposals. Furthermore the Inspector states the SSA has a finite environmental capacity, although the evidence indicates the development would not result in the maximum levels for SSA-A being exceeded (IR194).
47. The Inspector states a balance needs to be struck between the benefits of generating electricity from renewable onshore wind and the identified impacts of the scheme on the landscape and visual amenity, residential amenity, the setting of the SAMs and other matters raised in evidence (IR195).
48. The Inspector concludes the development would cause harm to the landscape and visual amenity and in reaching this conclusion she has weighed in the balance the implicit objective to accept significant change to the landscape character of the SSA.
49. With regard to residential amenity, the Inspector has concluded the development would have an unacceptable overbearing impact on the outlook from The Sportsman's Arms. However, it is a financially involved property and the effect of the development on residential amenity would not make the property uninhabitable, which the Inspector considers would reduce the weight attributable against the proposal (IR196).
50. The Inspector states although TAN 24 is clear the public benefit of taking action to reduce carbon emission, or to adapt to the impact of climate change, should be weighed against any harm to the significance of historic assets, she nevertheless considers the significant harm to the setting of several SAM identified carries substantial weight against the appeal (IR197).

51. The Inspector considers, on balance, the positive benefits of renewable energy and the location of the site within SSA-A are not sufficient to outweigh the harm in respect of the landscape and visual amenity, residential amenity and harm to the historic environment (IR199).
52. The Inspector recommends the appeal is dismissed.

Formal Decision

53. The Welsh Government is committed to renewable and low carbon energy generation and Planning Policy Wales sets out the need to take into account the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development. In this case I am satisfied the Inspector has considered the relevant issues in full, however, I do not agree with the weight given by the Inspector to the benefits of increasing the supply of renewable energy through this proposal.
54. PPW confirms the Welsh Government is committed to using the planning system to optimise renewable energy generation and recognises the benefits of renewable energy are part of the overall commitment to tackle climate change.
55. PPW also notes in the short to medium term, wind energy continues to offer the greatest potential for delivering renewable energy and the need for wind energy is a key part of the Welsh Government's vision for future renewable electricity production. Technical Advice Note 8: Renewable Energy identifies 7 Strategic Search Areas (SSAs) as the most appropriate locations for large-scale wind development. The proposed wind turbines which form the appeal scheme are all located within the Clocaenog Forest SSA. Policy VOE 9 of the Local Development Plan supports on-shore wind development and states Local Authority Wide Scale developments (defined as having a generating capacity between 5MW and 25MW) will only be permitted within the Clocaenog Forest SSA where they do not prejudice the development of strategic/large scale schemes and subject to detailed assessment of localised impacts. The proposed development would have a potential total generating capacity of 17.5MW and, therefore, falls within the Local Authority Wide Scale category.
56. The proposal would not prejudice the development of strategic/large scale schemes as development consent was granted in 2014 for a wind farm in the Clocaenog Forest SSA with a gross electrical output of up to 96MW, consisting of up to 32 turbines. Works are expected to start on this scheme next year.

57. The Inspector notes the maximum installation capacity for wind energy in the Clocaenog SSA is 212MW. The Inspector confirms the evidence indicates the appeal scheme would not result in the maximum levels of installed capacity for the Clocaenog SSA being exceeded.
58. Given this context, the Local Planning Authority provided written confirmation to the Inspector it accepted the principle of a wind farm in this location subject to detailed consideration of the localised effects of the development.
59. Therefore, the location of the proposed wind farm is acceptable, in principle. As the Inspector recognises, whether planning permission should be granted for the proposal rests on the balance between the benefits of generating electricity from renewable onshore wind and the identified impacts of the scheme on landscape and visual amenity, residential amenity, the setting of the SAMs and other matters raised in evidence.
60. I consider the benefits of the proposal in terms of delivering renewable energy on a site located within a SSA are material considerations which are sufficient to outweigh the identified impacts of the scheme and the balance, therefore, weighs in favour of the appeal.
61. Therefore, I disagree with the Inspector's recommendation. In exercise of the power referred to in paragraph 2 of this decision letter, I hereby allow your client's appeal and grant planning permission for the construction and operation of a wind farm comprising 7 wind turbines together with transformers, access tracks, on-site substation, anemometry tower and associated construction and operational infrastructure (Ref: 25/2015/0321).
62. I note the Inspector refers to UK Government National Policy Statements in setting out the policy context for the appeal (IR27), however, these statements do not form part of the policy framework on which this decision is based.
63. In reaching this decision I note the duty to carry out sustainable development under section 2 of the Planning (Wales) Act 2015 and I consider the decision accords with the sustainable development principle set out in WFG Act 2015. In accordance with section 3(2) of the WFG Act 2015 and the well-being objectives of the Welsh Ministers, the decision will "drive sustainable growth and combat climate change" by increasing the amount of renewable wind energy generated in Wales.

64. A copy of this letter has been sent to Denbighshire County Council.

Yours sincerely
Lesley Griffiths

Lesley Griffiths AC/AM

Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs

Annex A

Schedule of Conditions

1. The development shall begin not later than five years from the date of this decision.
2. The development shall be carried out in accordance with the following approved plans and documents: Planning, Design and Access statement March 2015; Environmental Statement, Volume 1 of 4: Written Statement; Environmental Statement, Volume 2 of 4: Supporting Figures and Appendices; Environmental Statement, Volume 3 of 4: Visualisations (Viewpoints 1-24); Environmental Statement, Volume 4 of 4: Non-Technical Summary; Supplementary Environmental Information, Volume 1 of 2; Supplementary Environmental Information, Volume 2 of 2; and Rationale for Scheme Modification dated 22 December 2015.
3. The permission hereby granted shall endure for a period of 25 years from the date when electricity is first exported from the development. Written confirmation of the first export date shall be sent to the local planning authority within one month of the first export date.
4. The location of the turbines and ancillary structures such as anemometer mast, and the access tracks, shall be in the positions indicated on the submitted plans, subject to variation of the indicated position of any turbine or any track on the plans by up to 20 metres, or where the written approval of the local planning authority has been given to a variation arising from details approved in relation to other conditions of this permission. Any variation greater than 20 metres shall require the written approval of the local planning authority.
5. No work on the substation building shall commence until the written approval of the local planning authority has been obtained to its precise location and the external wall and roof materials. The development shall be carried out strictly in accordance with the approved details.
6. This permission relates solely to the erection of 3 bladed wind turbines as described in the application plans and drawings with a maximum height to blade tip of 102m from original ground level. No turbines shall be erected until the prior written approval of the local planning authority has been obtained to the type and make of turbines to be used. The development shall be carried out strictly in accordance with the approved details.
7. All turbine blades shall rotate in the same direction.
8. The finish of all the turbines shall be semi-matt and their colour shall be approved in writing by the local planning authority before the turbines are erected on site.

9. No part of the development shall display any name, logo, sign, advertisement or means of illumination, other than those required by law or good practice for health and safety reasons, without the prior written approval of the local planning authority.
10. All electricity and control cables between the turbines and the substation shall be laid underground and alongside tracks which are constructed on the site as part of the development unless otherwise agreed in writing with the local planning authority.
11. No work of construction, laying out of access tracks, or work on the construction compound shall be commenced until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The statement shall include provisions relating to:
 - i) Construction and reinstatement of the temporary site compound;
 - ii) Construction and reinstatement of all internal tracks including measures to reinstate planting on approach tracks;
 - iii) Soil stripping management;
 - iv) The investigation of any disturbance to peat within the footprints of the tracks and structures, to inform micro-siting to minimise peat loss;
 - v) The disposal of surface and foul water;
 - vi) Pollution Prevention and Control Plan, in particular to demonstrate steps to prevent impacts on sources of private water supplies; and proposals for monitoring, mitigating and remedying any degradation in the quality and quantity of water supplies;
 - vii) Construction Traffic Management Plan including HGV routes, traffic signing along public roads; and
 - viii) Recording the existing condition of the site.

The development shall be carried out in accordance with the approved Construction Method Statement.

12. No work shall take place until the following details have been submitted to and approved in writing by the local planning authority:
 - i) An assessment of the capacity and impact on all structures along those parts of the highway network which shall be utilised during the construction of the development including bridges, culverts, retaining walls, embankments; and
 - ii) Details of any improvement works required to such structures as a result of construction of the development.

The development shall be carried out in accordance with the approved details.

13. Prior to the commencement of the development, a scheme for the recording of existing public road conditions shall be submitted to and approved in writing by the local planning authority. The scheme shall specify:

- i) The frequency and timing of condition surveys to be undertaken prior to, during and on completion of the development;
- ii) The mechanism for reporting the findings of the condition surveys to the relevant highway authority; and
- iii) The procedure for undertaking any necessary remediation works should any damage directly attributable to the development to parts of the highway network occur during the construction phase.

The development shall be carried out in accordance with the approved scheme.

14. No Abnormal Indivisible Load (AIL) deliveries shall be made to the site until a Traffic Management Plan (TMP) for AIL has been submitted to and approved in writing by the local planning authority. The TMP shall include:

- i) Proposals to minimise any impact from transporting AIL from their point of entry to the trunk road network to the site on the safety and free flow of trunk road traffic;
- ii) Evidence of trial runs that mimic the movement of the worst case AIL along the access route;
- iii) Number and size of AIL, including loaded dimensions and weights;
- iv) Number and composition of AIL convoys, including anticipated escort arrangements;
- v) Methodology for managing trunk road traffic during AIL deliveries, including identification of passing places and holding areas as necessary;
- vi) Convoy contingency plans in the event of incidents or emergencies;
- vii) Estimated convoy journey durations and timings along the route, including release of forecast traffic queues;
- viii) Swept path analysis modelling the movement of the worst case AIL at all potential horizontal and vertical constraints along the access route;
- ix) Proposals for the temporary or permanent modification of any affected street furniture along the access route and details of how this would be managed;
- x) Plans for the reinstatement of any temporary works after completion of the construction phase;
- xi) Land ownership must be clarified on all drawings showing proposed highway modifications. The developer shall be responsible for the acquisition and reinstatement of all third party land including reinstatement of boundary features;
- xii) Proposals to liaise with all relevant stakeholders and members of the public regarding construction traffic and AIL movements; and
- xiii) Consideration of the cumulative impact of other wind farm schemes proposing to use all or part of the same access route.

The development shall be carried out in accordance with the approved TMP.

15. No movement of traffic associated with the maintenance and decommissioning of the development shall take place until a Traffic Management Plan (TMP) has been submitted to and approved in writing by

- the local planning authority and thereafter the approved TMP shall be implemented.
16. No construction work shall take place outside the hours of 07:00 and 19:00 Mondays to Fridays, 07:00 and 13:00 on Saturdays with no working on Sundays and Public Holidays unless otherwise agreed in writing with the local planning authority.
 17. All new tracks shall be surfaced with stone from the approved borrow pit(s) or excavations for the turbine bases, unless otherwise agreed in writing by the local planning authority.
 18. The permanent running widths of internal access tracks shall be no greater than 5m (10m on bends) unless agreed in writing by the local planning authority.
 19. Nothing other than uncontaminated excavated natural materials sourced within the site shall be tipped on the site.
 20. Any facilities for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound shall be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound shall be at least equivalent to the capacity of the largest tank, or the combined capacity of interconnected tanks, plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework shall be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets shall be detailed to discharge downwards into the bund.
 21. No tree felling within the development site shall take place until the following details have been submitted to and approved in writing by the local planning authority:
 - i) Timing and methodology of the clearance operations;
 - ii) Means of addressing/attenuating surface water run-off from tree clearance and related wind farm construction operations; and
 - iii) Measures to monitor, mitigate and remediate any degradation of the quality and quantity of sources of private water supplies in the locality.

The development shall be implemented in accordance with the approved details.
 22. No development shall take place until a preliminary site assessment has been submitted to and approved in writing by the local planning authority. The assessment shall include the following:

- i) Identification of all water features both surface and groundwater (ponds, springs, ditches, culverts etc.) within a 300 metres radius of the site boundary;
- ii) The use made of any of these water features, including the construction details (e.g. depth) of wells and boreholes and details of the lithology into which they are installed;
- iii) An indication of the flow regime in the springs or surface water features, for example whether or not the water feature flows throughout the year or dry up during summer months;
- iv) Accessibility to the springs/wells; and
- v) Where the assessments indicate impacts are likely, details of avoidance, mitigation and compensation measures.

This information shall be identified on a suitably scaled map (e.g. 1:10,000), tabulated and submitted to the local planning authority. Each of the identified water features shall also be photographed as part of the assessment. The development shall be carried out in accordance with the approved assessment.

23. No surface water or land drainage run-off shall be allowed to connect, either directly or indirectly, to the public sewerage system unless otherwise approved in writing by the local planning authority.
24. Not less than 12 months before the expiry of the 25 year operational period of this permission, a scheme for the restoration of the site, including the dismantling and removal of all elements above ground level, and the removal of turbine bases to a depth of 1.0m, shall be submitted to the local planning authority for its written approval. The approved scheme shall be carried out and completed within 12 months from the date that the planning permission hereby granted expires.
25. In the event of a wind turbine failing to operate for a continuous period of 6 months, unless otherwise agreed in writing by the local planning authority, a scheme for the decommissioning and removal of the wind turbine and any other ancillary equipment and structures relating solely to that turbine shall be submitted to and agreed in writing by the local planning authority within 6 months of the end of the cessation period. The scheme shall include details for the restoration of the site of the turbine and its ancillary equipment and structures. The scheme shall be implemented within 6 months of the date of its agreement by the local planning authority.
26. No development shall take place on the site access until full details of the access design and construction have been submitted to and approved in writing by the local planning authority. The access shall be constructed in accordance with the approved details.
27. No development shall take place on site until a scheme detailing the facilities for the loading, unloading, parking and turning of construction vehicles and the timing of their provision has been submitted to and approved in writing by the local planning authority. The development shall be carried out in

accordance with the approved details and the facilities shall be retained for the duration of the construction period.

28. Facilities shall be provided and retained within the site for loading, unloading, parking and turning of service vehicles in accordance with a scheme to be submitted to and approved in writing by the local planning authority. The facilities shall be carried out in accordance with the approved scheme prior to the commissioning of the wind farm and shall be retained for the duration of the development.
29. No development shall commence on any of the access tracks or turbines until full details of the location, maximum extent and depth, profiles, means of working including rock crushing and restoration of the borrow pits have been submitted to and approved in writing by the local planning authority. The development shall be implemented in accordance with the approved details.
30. No development shall commence until a programme of archaeological mitigation has been submitted to and approved in writing by the local planning authority. The programme shall include:
 - i) A watching brief;
 - ii) Details of appropriate buffer zones to be established around archaeological sites; and;
 - iii) Specifications for temporary barriers to be erected around archaeological sites during the construction phase.

The scheme shall be implemented in accordance with the approved details.

31. Where development approaches to within 30 metres of any archaeological site, that site shall be protected and marked by a robust temporary barrier and the barrier shall remain in place for the duration of the construction phase so that no accidental damage occurs. The placement of the barriers shall not impact directly upon any unscheduled site or scheduled ancient monument areas and the barrier must be placed outside any scheduled monument boundary.
32. Prior to the commencement of development, the developer shall provide written confirmation to the local planning authority that the following details have been sent to the Ministry of Defence and the Civil Aviation Authority and the commencement of development shall not occur until this confirmation has been given:
 - i) Proposed date of commencement of the development; and
 - ii) The maximum extension height of any construction equipment.
33. Within 14 days of the commissioning of the final turbine, the developer shall provide written confirmation to the local planning authority that the following details have been sent to the Ministry of Defence and the Civil Aviation Authority:

- i) Date of completion of construction;
 - ii) The height above ground level of the highest potential obstacle (anemometry mast or wind turbine);
 - iii) The position of that structure in latitude and longitude; and
 - iv) The lighting details of the site, to include details of the lighting to be fitted to the turbines indicated in the Ministry of Defence letter dated 27 August 2015.
34. Prior to the erection of any turbine a baseline television reception study of the area shall be undertaken by a qualified television engineer at the developer's expense and submitted to the local planning authority. Details of any works necessary to mitigate any adverse effects to domestic television signals in the area caused by the development shall also be submitted to and approved in writing by the local planning authority. Any claim by any person for domestic television picture loss or interference at their household within 12 months of the final commissioning of the turbines, shall be investigated by a qualified television engineer at the developer's expense and the results submitted to the local planning authority. Should any impairment to the television reception be determined by the qualified engineer as attributable to the turbines on the basis of the baseline reception study, such impairment shall be mitigated within 6 months of its identification according to the mitigation scheme outlined, unless otherwise agreed in writing by the Local Planning Authority.
35. No development shall commence until a scheme for habitat management and enhancement for all phases of the development, including its decommissioning and restoration has been submitted to and approved in writing by the local planning authority. The scheme shall include a mechanism to establish a Steering Group/Committee to review the details, and procedures for the implementation of the agreed measures, including timing. The development shall be carried out in accordance with the approved scheme.
36. Prior to any turbine being brought into operational use a bat surveillance strategy shall be submitted to and approved in writing by the local planning authority. The purpose of the strategy shall be to assess whether curtailment will be required in respect of informing the long term operation of the turbines. The strategy shall include the following.
- i) Aims and objectives of surveillance;
 - ii) Identification of adequate baseline conditions prior to the start of development;
 - iii) Appropriate criteria and triggers that inform the circumstances when curtailment will be required;
 - iv) Methods of data gathering and analysis;
 - v) Location of monitoring;
 - vi) Timing and duration of monitoring;
 - vii) Responsible persons and lines of communications; and
 - viii) Review, dissemination and where appropriate, publication of results and outcomes;
 - ix) Timetable for the submission of reports to the local planning authority.

37. A report shall be submitted to the local planning authority in accordance with the strategy set out in condition 36. The report shall contain the results of surveillance undertaken in accordance with the strategy and shall consider whether further surveillance is required. The Surveillance Strategy shall be implemented in accordance with the approved details. Within 12 months of the completion of the Surveillance Strategy, a Curtailment Plan shall be submitted to and approved in writing by the local planning authority. The curtailment plan shall include the following:

- i) The circumstances if and when operations will be subject to curtailment;
- ii) The times of the day when curtailment will restrict operations;
- iii) The times of the year when curtailment will restrict operations;
- iv) The weather conditions (temperature, wind speed and precipitation) when curtailment will restrict operations;
- v) Technical specifications of equipment to ensure suitability for curtailment purposes; and;
- vi) Mechanisms that will be undertaken to prove and audit implementation of curtailment plans;

The Curtailment Plan shall be implemented in accordance with the approved details.

38. Prior to the erection of any wind turbine a shadow flicker statement shall be submitted to and approved in writing by the local planning authority setting out the following details:

- i) The exact turbine make and model;
- ii) A micro-siting plan showing the exact siting of the turbines; and;
- iii) The results of an updated shadow flicker assessment based on i) and ii) above.

In the event that the updated shadow flicker assessment concludes that the development would cause shadow flicker effects at any nearby dwelling which lawfully exists or has planning permission for construction at the date of this decision, details of a scheme to address the incidence of shadow flicker at the affected dwellings shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of photocells or other measures to control, re-orientate or shut down particular turbines. Unless agreed in writing, any turbine producing shadow flicker effects at any dwelling shall be shut down and the blades remain stationary until the conditions causing those effects have passed. The development shall be carried out in accordance with the approved scheme.

39. The rating level of noise emissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes shall not exceed the values for the relevant integer wind speed set out below.

For Cwm-y-Rhinwedd									
Wind speed m/s	4	5	6	7	8	9	10	11	12 and above
Individual standard dB	35.0	35.0	36.6	39.3	42.0	44.8	47.4	49.8	52.0
For The Sportsman's Arms									
Wind speed m/s	4	5	6	7	8	9	10	11	12 and above
Individual standard dB	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0	45.0
For all other properties									
Wind speed m/	4	5	6	7	8	9	10	11	12 and above
Individual standard dB	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0

40.

A) Prior to the first export date, the wind farm operator shall submit to the local planning authority for its written approval specifications of the type and mode of operation of the turbines to be used. The specifications shall include the tested apparent sound power level of the turbines and the uncertainty values in the measurements for all running modes of the turbines in accordance with IEC61400-11. The specifications shall also set out the running modes in which each of the turbines shall be operated for each wind speed and direction. The development shall be implemented as approved.

B) Within 21 days from receipt of a written request from the local planning authority following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the local planning authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the local planning authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of the written request of the local planning authority made under this paragraph, the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph H) to the local planning authority in the format set out in Guidance Note 1(e).

C) Where there is more than one property at a location specified in Table 1 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location.

D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with this condition, the wind farm operator shall submit to the local planning authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Measurements shall be made in "free field" conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. Measurements to assess compliance with the noise limits set out in the Tables shall be undertaken at the measurement location approved in writing by the local planning authority.

E) Prior to the submission of the independent consultant's assessment of the rating level of noise emissions pursuant to paragraph F) of this condition, the wind farm operator shall submit to the local planning authority for written approval a proposed assessment protocol setting out the following:

- i) the range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation, running mode and times of day) to determine the assessment of the rating level of noise emissions;
- ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the local planning authority under paragraph B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise emissions shall be undertaken in accordance with the assessment protocol approved in writing by the local planning authority and the attached Guidance Notes.

F) The wind farm operator shall provide to the local planning authority the independent consultant's assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the local planning authority made under paragraph B) of this condition unless the time limit is extended in writing by the local planning authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements and analysis, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the local planning authority with the independent consultant's assessment of the rating level of noise emissions.

G) Where a further assessment of the rating level of noise emissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph F) above unless the time limit for the submission of the further assessment has been extended in writing by the local planning authority.

H) The wind farm operator shall continuously log all the data described in Guidance Note 1(d) of the attached Guidance Notes. The data from each wind turbine and the permanent meteorological mast shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) of the attached Guidance Notes to the local planning authority on its request within 14 days of receipt in writing of such a request.

Guidance Notes for Noise Conditions

These notes are to be read with and form part of the noise conditions. They further explain the conditions and specify the methods to be employed in the assessment of complaints about noise emissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level and any tonal penalty applied in accordance with Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

- a) Values of the $L_{A90,10 \text{ minute}}$ noise statistic shall be measured using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This shall be calibrated before and after each set of measurements, using a calibrator meeting BS EN 60945:2003 "Electroacoustics – sound calibrators" Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.
- b) The microphone shall be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the local planning authority.
- c) The $L_{A90,10 \text{ minute}}$ measurements shall be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d), and rain data logged in accordance with Note 1(f).
- d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic wind direction in degrees from north at hub height for each turbine and arithmetic mean wind direction in metres from north in each successive 10-minute period at the permanent meteorological mast erected in accordance with the planning permission on the site. Each 10 minute arithmetic mean wind speed as measured on the mast at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). The wind farm operator shall continuously log arithmetic mean wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle and arithmetic mean power generated and turbine running mode during each successive 10-minute period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in

10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

- e) Data provided to the local planning authority in accordance with paragraphs F), G), and H) of the noise condition shall be provided in comma separated values in electronic format.
- f) A data logging rain gauge shall be installed in the whole of the assessment of the levels of noise emissions. The gauge shall record the amount of rainfall in each 10-minute period synchronised with the periods of data recorded in accordance with Note 1(d). The wind farm operator shall submit details of the proposed location of the data logging rain gauge to the local planning authority prior to the commencement of the measurements.

Note 2

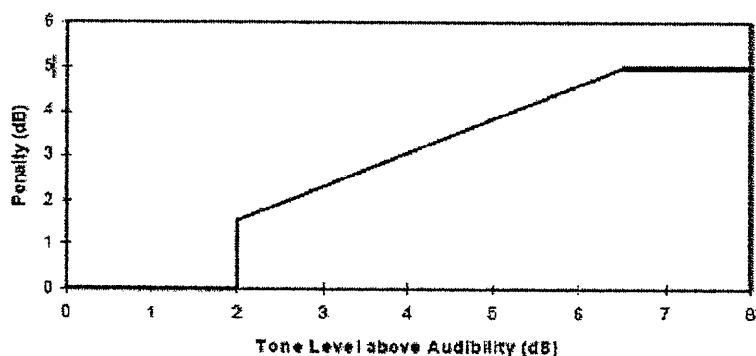
- a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b).
- b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the local planning authority under paragraph E) of the noise condition but excluding any periods of rainfall measured in accordance with Note 1(f) and any other periods which, in the opinion of the independent consultant, are not normal conditions.
- c) Values of the LA90,10 minute noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points and define the wind farm noise level at each integer speed.

Note 3

- a) Where, in accordance with the approved assessment protocol under paragraph E) of the noise condition, noise emissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.
- b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise emissions during 2 minutes of each 10-minute period. The 2-minute periods shall be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.
- c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.
- d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. In samples for which the tones were below the

audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

- e) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values within $\pm 0.5\text{m/s}$ of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.
- f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

- a) If a tonal penalty is to be applied in accordance with Note 3 the assessment level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol under paragraph E) of the noise condition.
- b) If no tonal penalty is to be applied then the assessment level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Note 2.
- c) If the assessment level at every integer wind speed lies at or below the values set out in the Tables attached to the noise conditions then no further action is necessary since the rating level is also clearly below the limits. In the event that the assessment level is above the limit(s) set out in the Tables attached to the noise conditions at any integer wind speed, the independent consultant shall undertake a further assessment to correct for background noise so that the rating level relates to wind turbine noise emission only.
- d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
 - i) Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph E) of the noise condition;

- ii) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty;

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

- iii) The rating level shall be calculated by adding the tonal quality (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at each integer wind speed; and
- iv) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note iii) above) at every integer wind speed lies at or below the values set out in the Tables attached to the noise conditions at all wind speeds then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the noise conditions then the development fails to comply with the conditions.

Notification of initiation of development and display of notice

You must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990. The duties in that section include the following:

Notice of initiation of development

Before beginning any development to which this planning permission relates, notice must be given to the local planning authority in the form set out in Schedule 5A to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details that must be given to the local planning authority to comply with this duty.

Display of notice

The person carrying out development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a notice of this planning permission in the form set out in Schedule 5B to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details that the person carrying out development must display to comply with this duty.

The person carrying out development must ensure that the notice is:

- (a) firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
- (b) legible and easily visible to the public without having to enter the site; and
- (c) printed on durable material. The person carrying out development should take reasonable steps to protect the notice (against it being removed, obscured or defaced) and, if need be, replace it.