ATTENDANCE NOTE

CLIENT:	Welsh Government
MATTER:	DNS Garn Fach
DATE:	9 January 2024
ATTENDED BY:	Arwel Williams, James Cooke, Ben Standing and Rudo Mudyarabikwa
ATTENDANCE UPON:	DNS Hearing 1 – Ecology

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1. Hywel Jones – Inspector
2. Applicant
    - Marcus Trinick KC – Instructed by Stephen (Eversheds)
    - Katie Medcalf – ecology on the site – environmental systems in Aberystwyth
    - Owen Gabb – ecology
    - Dr Mills – peatland ecology
    - Paul Blackman (WHS) – hydrology
    - Jack Pugsley – director at Savills
3. Local planning authority Powys
    - Alan Southerby – planning consultant rep for council all 3 days. Principle contributor is Rachel
    - Rachel – planning and highway ecologist – Powys council
4. NRW
    - Mr Bryn Pryce – senior development planning advisor mid wale dev – rep NRW
    - Matthew Ellis – senior species advisor NRW
    - Patrick Lindley – ornithologist
    - Dr peter jones – peatland specialist
5. LQAS
    - Ben Standing – leading for LQAS
    - James Cooke – manage soil and Agri land use dept in dept of climate
    - Arwel Williams – Agri policy

Hearing – 10am

Hywel Jones

I have read the submission so no need to repeat matters

Indicated will allow some direct questioning but questions should be appropriate for hearing forum. No cross exam shall be permitted. If hearing format is not appropriate, then will transfer to inquiry.

Thursday will discuss planning conditions – based on Welsh Government circular 16

Not inviting application for costs

Have received request to submit docs by applicant in resp to decision to submit planning dec on Scottish case – no . yesterday afternoon submitted 2 docs and I accept the doc on basis of reasons sets out and understand LQAS have been provided with the same and doc forms applicant's kc skeleton argument

Mr Standing – content with approach

Revised SOCG was provided yesterday after dated January 2024 and signed by reps of applicant and Powys council – there is ref in track in row d 3 to see appendix 1 to statement – I could not find app 1 to that statement – someone look up at app juncture and let me know.

Mr Trinick KC

Relates to SOCG between NRW and applicant where late flurry of exchange resulted in new doc were point of disagreement has been provided and has been submitted to Nina (PEDW).

I have record of engagement btw NRW and applicant – in answer to delay in submission of SOCG.

Mr price question – apologies for lateness of doc. Provided usulfe table agree a number of points useful for hearing but also there are points on which we do not agree.

Inspector has accepted the document – I suggest as we proceed the 2 parties may wish to let me know if a point has been agreed or not so as to assist with digestion and consideration of the new document. Does it deal with all matters ecology and peatland? – it deal with HRA, detail of const env plan, protected species great crested newt, fish , bio security and then peat but only in response of peat that there are outstanding issues.

Minded to deal with other ecology matters before getting to peat.

Whilst issue of policy ch6 will affect and is relevant to other matters I propose to deal with this as a last issue of the hearing.

(LQAS – will leave conditions to NRW)

Conditions will be discussed on Thursday.

Mr Trinick KC – there has been short discussion over the past few days and have xls format on conditions agreed with Powys and those suggested by NRW . There is little difference between the

2 and applicant can submit the xls sheet to inspector so he can see where the difference lie on the conditions (copied to other parties).

11:51am

Peatlands

Inps wahthed to be lcrea on status of reps of LQAS. For benefit of others PEDW part of Welsh Government 2 yrs ago when replaced pinsbut there are chines walls btwn us and nay brancho r team so that they do nit have nay input on any decisions. So I hope Mr Trinick KC there are no concers with that and your submissions are not concerning that

Question whether LQAS reps itself or something larger in its reps – Mr Standing present briefly LQAS resp or LQAS and relation with NRW in this submission. Any relationship with planning division another brunch of Welsh Government and if you are speaking for planning div in interpreting the recent changes in policy. I am confused by the reps and representations being signed by JC as soil management team and then references to the department making its submission.

B standing – to answer will pass over to KC

James Cooke: the soil peat agr planning unit small unit per our reps we sit landscape division within dept for climate change. We can only rep the dept interest so not ints of the WELSH GOVERNMENT or other individuals. The role of us to represent our Welsh Government peatland interest acover biodiversity deep dive. Rep on specific policy matters on – it is

Insp – so no insitght on inter

JC- we were consulted on changes to PPW but we rep peat view and planning take into account all representations as a whole.

Inp – any question on the explanation

Trinick KC - I note that their submission is wholly based on PPW and nothing else. The evidence we see from LQAS view on meaning on step 1b

The dept view on peat only an other part of Welsh Government or the dept.

There are concerns of ver policy and detail but they are 2 separate things but can move to impact the other. the topic has been divided into 4 topics and seems to me the borrow pits issu will be considered in some or all the matter sbut there will be overlap on matters. I will start on biodiversity.

BS- before get into the throws of peat – because of how it plays into the policy – would it be useful our interpretation of that and then let NRW feed into that before we go into our interpretation of policy ie terms peat, peatland, blanket bog, peatland habitats

Yes do step out those defs:

Ben s :

Peatland – and therefore also bog – ref to habitat type – it is what is set as irreplaceable habitats – we set up according NVC m3 m6c m20 m23a m23b m25 and when located on deep peat b6 m26

Peat soils – one def inPPW – adopted from soil survey 1980. The second part of the definition I do not think it applies to this site. the significance of peats soils the first definition includes the peat soils buried under a mineral layer

Blanket bog – m3 m20 m25 m25b and u6 and m15 – on deep peat

Rachel

– in part of upland yes you find those habitats on site and there is m19 and m23(?) on site which is important blanket bog. In this situation these flashes are very shallow peat

Insp – what are submission in term of including m23

Jones – did not include m23 in definition and I think I will agree with applicant. M23 does appear on deep peat and will fall under s7 hab. There is where u6 acid grass habitat that needs to be included in the blanket bog hab.

Medcalf –I agree with Mr jones on submission about m23. I am happy to talk about m25 over majority of site. I do not think m25 is section 7 community its poor on the site

Standing from policy perspective where m23 falls is not an issue for us in the categories I will leave for NRW and app

Borrow pit

Insp – suggestion that 2 northern will not be carried out between the peat issue. I will keep my ref to peat simplified. Submission is to include condition to exclude the 2 borrow pits. It that's a mit measure then that will be scope of decision maker to impose such a decision. I am the person making recommendations. I suggest for time being we operate that the power is there to impose such a recommendation.

There is one point of confusion – the suggested con seeks to reduce the substation and temporary compound borrow pit. The latest peat sampling evidence does not identify peat presence under substation. There is also ref somewhere to deleting one borrow pit but I cannot remember that. Has anyone considered the evidence that the sampling (OPMP OHPM- addendum 3.2.4) does not identify the presence.

It would be useful if I get confirmation of the peat interest on the substation site.

If it is common ground that here is not peat in that area then – I accept that

Dr Peter Jones – it is my under standing in borrow on turmebin 1 and 4(?) removing that borrow is located in significant amount of peat.

Mills – opmp and ohms – temp construction compound will be floated rather than excavated and that is stated in the addendum. Para 2.4.17 and 2.4.18

We will consider the justification for imposing condition on borrow pits on Thursday.

In considering these matters I am interested on considering the effects of mitigation including the effectiveness and prospect of them being delivered. We start on biodiversity.

I will look at impact and propose of mitigation and then enhancement and compensation (?) – small point on the peat surveys fig 2 then there is map that shows depth in fig 2 on same doc it is the peatland management and rest plan – I wounder why more accurate survey was not used? It is the March opmp pge 14 and 15. First figure say the survey work. (Both show same info but presented in differenrt way – as now clarified by mills)

On the point about the unremarkable nature of peat resource on this site – in terms of value of resource (not so much on policy protection) what is the significance I should place on the unremarkable ref ?

Mills – in relation to geomorphology there is application in Scotland which considers the issue of geomorphology of peat. That is the exemplar banket bog in Scotland. This site lacks peat geoprmorho we would be looking to see as experts. In some respect you might know you are walking on peat. The peat geomorphology.

Medcalf - In bio diverse terms all habitats would be regards to be in poor and declining conditions. there are pickets where you have deep pool in hollow where there are a few characteristic specifies but so sparce and that it just is unremarkable in species terms. Less than remarkable. Esp in m25 there is none of m25 none of the defining features for a priority habitat of that type. The best bogs are in the north of the site.

When we say unremarkable is that to say vey common habitat or … you are both saying it ois not a resource with value that is the ech point but that is not the policy point at this time.

Medcalf – in the context of mid Wales it is unremarkable

Jones – important to point out the global importance of distribution of blanket bog – blanket bog is reconnec accounts 3% of peat and UK as whole 20% so important centre of gravity for this limited hab. With ref to Dr Mills not legitimate to refer to this peat to floor country. In my op will not put impat on lack of pools and __ and won't put much store on absence of peat piping. It is a cae we ack the bog is ion poor condition. But the irreplaceable natyer of habitat when lost. I don't think too much weight re the site is unimpettna and of course much bog in Wales is degraded. Peat as a whole in Wales amount to 3.9% of landscape whilst acknowledge to applicant figers have added to this number.

As a programme NRW would regard intervention to improve condition to be a priority.

Q; what mean peatland is at geo limits does that mean it is susceptible to further deterioration and if so what weigh I should give to app trying to revers some decline

Dr Pete Jones – a major review comm by uk country agency has looked a factoes controlling variations on bog area. There is correlation re appearance of bog and regions of country where rain is 12ml bcs bog grows as a result of rainfall and runoff. The area is around limit of rainfall

area. Bcs of succestabkilyt to climate change is the amount of time to get ont restoring that bog is limited and will get harder in areas where rainfall is less.

Q; if there are large areas of Wales re degradaingtion. Priorities on where funding will go will go to areas where intervention will success. Is area on the edge on the priority list i.e. we go to the west where rain is higher. There is nothing in any programme that idetieid areas where the money / funding will be made

Jones –peat is good at hanging on in periods – certain amount of resilience… fair point about funding refer to min stat 2022 anounce exp on peat resto attempt. If to realise climate change we have to restore quite a lot. Whilst ack not going to do everything we have to do as much as we can and this case will be in one of our sites.

Standing – introducing Cooke

JC – we have resp as sponsor national peatland programme and budget will double and then again long term comm to 2050 to meet biodiversity and climate change interests.

Q: If the peatlands for warels and est presence on this site is there nay local reason to suggest approach to measure resource is underestimating the resource

PJ - Upland veg survey don't think it was identified by my predecessor. Not surprised it was not inc but delighted the app has identified this peat resource.

13:08 - 13:45 pm lunch

Recap – dealing with peat – considering direct impacts of the scheme. A few questions for the app. Ppw para 6.4.21 per pre iteration published in feb 2021 before schem submitted- adverse environmental effect should be avoided miminied and compensated in that order – identifie env statement consideres resonalen alternatives. did scheme seek to avoid impact on peat. If attainable or more case of sougt to miminmise to effect

Mills – first remember we have to work with other env issues…

The peat resource not idetifes on constraint map in es and planning statement (?)

Mills – I think there are couple of issues when original constraints the threshold was at diff levels than that in present day and at that time was on Scottish threshold not the local depth requirement for Wales.

Q: that does not expl not shown on constrain maps. Not criticise but comment…

Mills – I was not involved at that time …

Q; the issue about overlay etc is not relevant.

Mills; - it is an explanation as opposed to a point

Q: based on cnstrints identied and eco and tech conditions and oto[tion to alt design will be limited and will be step too far to say … will struggle on the basis that micro siting will help other than something not micro will help more

Mills – had this converstion with NRW . We explained why we where not able to move some of the turbines. Referred to peatland hearing statement page 22 (table at the back of that) – policy annex 2 follows glossary – we sought to illustrated reduction.

These are point re finetuning layers submitted but scheme was submitted on contrct that was different the values, depth and planning policy was not know at the time the layout that was submitted. you were discussiong to tweak the scheme as opposed to start on blank

Trinick KC- 6.4 PPW – I think looking at subparagraph 1 am I right? – sarts step wise approach … then first para referes to bio div just want to be clear because we are talking

Q; re micro siting as the maimum you could move infra to what extent does that cause problem. Micro siting is there to accommodate annknowd when get to cotst stage to aviid things that come up. What happens if you are already using the micro siting allowance at this stage.

Trinick KC – the dev risk if we have absorbed micro siting at pre consent stage and we need more micro-sitting area at post consent stage then the applicant will have a problem. The applicant's Micro siting proposals needs a review I agree.

WQ; concern thater may be compromises on snest practice etc which may cause harm and otherwise may be avoided.

Trinick – sub ideal to use micri preconsent. But circumstances have pushed us in this direction.

Standing : quick point LQAS concern about avoidance re stated in app docs re Pre-Assessed area ends south of Garn Fach and half are on north of that so when application was submitted it would have been outside PAA. Re micro siting need to be aware DNS not outline – limit the unknowns

Insp – use of micro in these schemes it has been a featue whener dnsp nsip or la apps I don't know if there is something you want to point me to re not appropriate?

Standing : no just submission we need to be careful

Q: point re temp removal of peat for area for tubenies and resued for borrow pits in the south. there will be quite some quantity of peat and have to be stored for 2 yrs or etc I am not clear whether you have to store in area where it retains its structure. Undertandng the pr

Mills – temp exc – on table of 31 addendum 2 columsn there says temp excavation is stored locally. The exacation where there is hardstanding and cannot return. Those borrow pits will be the first to be excavated…

If there has to be storare and part of the ecal is to ensure that peat is not placed on other habitats or structures that will affect the structure of peat. When peat dries it provides a barrier for the peat underneath.

The potential double handling of material increases the risk of structure breaking. The lower layer is more fragile than upper layer and implication of that. If lower layer fragements the properties

Mills – dod nthin that is the case. 2 layers of peat. Fibrous peat and habitat on top and the soily peat we think of as peat. The properties is the carbon stoage. So it wount loose that function it won't loose the habitat function. Proved the peat remains it will continue to serve carbon holding.

Q: So moving the catelmic once put back it will function as it did before?

Mills - yes. Carbon storage.

Q: so even more brittle and fragile it can still be made to work.

Pryce – refer to our hearing statement. Section 2.2 specific to restoration of borrow pits

PJ – removing will irreparably damage the peat structure in situ. That hab has been in situ 5000 yrs so when dig out and remove unless you are doing some extraordinary whole peat removal which is not being proposed here

Q: how is the damage cause what is it about what mills has saig not correct

PJ: the surface living skin and the one underneath will be removed. Removing catatelmic peat being removed is not being preserved. Put in holding area and preserved then returned to borrow peat and that will jumble up the peat structure

Q: if take a strip of peat and take upside down that impacts it.

PJ – yes. The top and bottom of the dark area will probably have a different veg structure. And loss of the original peat structure. The use of the borrow pits is better than allowing the peat to oxidice away. You are jumbling peat formed in situ into new structure. You are not going to reain the original integrity. In revisiting application details the borrow pit area is smaller than are of peat excavation. It is not a like for like preservation of peat.

Mills: ref to surface are. Infra is in large blobs of peaty areas. Of 6 turbines on peat under a meter. 4 of these large part mitigated by rocks. Calculations of the excavation in the opmp and ….. on strucyre. It is case the sequence of creation of peat is important. There is 200 hectares of peat and there are areas we are not touching. Carbon hydro and habitat it is our submission that these will not be impacted by moving the peat.

PJ : refer to rock replacement – we ack it ha roll in reducing peat to be removed. We assert it is not without its risks…. (hold) the precise relationship re vegof blanket bog ans how underlying peat sustatins it is not understood. We are fundamentally disturbing the peat and underlying peat and vegetation I fear it has some impact. There is values in maintaining that peat

Standing : one quick point – if takking precaustion if we are talking about loss of habitat – I would like to excerside caution – intro Mr Cooke

JC: we do have limited over last 15yrs engaging in mineral dev and role to play in resto and in south of Wales I am not aware of any resto using peat material because of difficult in storing and maintaining structure and pouttiong back in functuinons structure and restoring the habitat – in a

Q: your exp not been att because of the perceived diff of soing successfully

JC: seen app it was suggestred and did not go through with it and not attemptmed because not going through with it.

Q: dev with skill and resource and exp input re expert inlut to have success

JC; have exp with that on mineral dev. That detail is up front. I would have thought those operators would have provided it earier on. Has it occurred else whare if not it is probably symptomatic it is extremely difficult to do.

Mills: need to remember large number of wind farm on peat. Several in Wales. Google ealr pro show you period before during and after construction. Eveindence of good practice we can deliver successfully i.e. in Scotland. Mineral resource planning are laerger and what we are looking at is much smaller and discrete.

JC – yes present at the site. I can only report on what I was told and reported on the site. and issue about borrow pit it was unrestored. But there was area of translocated peat and when reviewed it was everly dried out and as mills drying is bad for peat. We did not see evidence of peat covered in soft rush. Shewos risk of taking peat and placing on gully

Q: are those failures intisc ineveitable or due to management plan pr resto plan

JC – probably a combnation of both I can only tell you about what I was told. Based on what we saw it

Q; on the addendum OHMP.concners that NRW raised. It is fair to say some of that matter is there was approval with conditions how will those fall away?

Pryce – the tech aspects pf resto could be agreed by condition we have said in hearing statement. We recommend number of conditions in resp of that. Whilst rec uncertainties we recognise those technical aspect of restoration could be considered in detailed

Dr Pete Jones - acknowledge the efforts the applicant have gone to coming uo with pakusibe resot but topoint out in hearing statement they refer to delivering up to 70 … we think restor on this site presents challenges. It is reasonable some of the tech will work but not clear how much …

Medcalf – LQAS over weekend we haves secured landowner permission to try/test different methods of m26 mitigation that will stattt soon. 4ha on nother of site were we have agreement to do some trials.

Trinick – if it is accepted the Garn Fach is not a top peat site. given info we have provided and proposal to develop on peat and trial restoration. Set citr

Q; what timescale will be sufficient to show success

Mills: 3-4 years . start the process soon.

Q: there is ref to peat improvement plan – dod see I have seen a suggested condition for peat improviement plan

Mills ; happy to build it in as a condition

Trinick KC– re what are thoughts on policy – highly unlikely to get to policy this afternoon.

15:07 – 15:17

Q: in terms of hydro the ground doen side is drying suggest inro of stone encourages drainage.

JC : it might be draining horizontally or downward and that flow is not going through peat as it would. Would not traverse the soil as it would naturally.

PJ: iuc and uk peatland programme work on floating roads blocking flow of water and compaction. Figure p1 overlaing – we are looking at fragmentation and one does wonder about long term effect of these.

Q: wud you prefer to see resto scheme of removal

PJ : not sure it would change the effect. There will be layer of rock to remove and what peat will be used to restore that void to the level it was

Q: how deed will stone be compacted

Mills: suggest 4 tone.. there sill wbe degree of supplement

Issue of use of track which will compact.

Mills ; might consolidate. Depth of more than a meter. Applicant will adpt on shallow peat to reduce excavation. If track is obliqu to contour there may be lesser impact. Pre const details identifying service drainage –

PJ; not sure we can mitigate impact these are thousands of metres which are sitting on peat and impact on peat. No evidence to provide but based on ones knowledge of the area. It is difficult to quantify the hydro issue the ease with which wate r moved through meduam will be affected by the compaction. The floating track goes across the peat and that is extended extend of the track over the peat. With ref to hearing statement figure re extnd of floating track

Insp: rock displacement hardstanding. Described by app as innovative. NRW say impactful.

Mills: typically, hardstanding is typically excavated. Standard approach. Next otp is transfer platform involve piling and pushing rhe hardstanding to deep peat. Rock disp are used in wind but for track construction it is fair to say it is

Dr Pete Jones: rock displacement as a tech will displace some of the peat and potentially in a transmissive medium to water. End up impacting adjacent peat (cut and fill) and when comes to decommissioning what happens. To what extent is that recoverable?

Q: so acts as a drain?

Mills: depends on the site specific info.

Enhancement measures

Q; in terms of uncertainty of success I have no clear understanding to what extent enhancement measures would fail to success in context that there is enough comp to address any harm before getting to point we need enhancement measures.

Mills; table 3.1 expect the depths to change /vary. Can assure at hmp on condition builithng monitoring of bunds. 30yr resto on applicant.

PJ: if case of faulire is due to construction the remediation is better. But if because the peat is just shallow not sure what to do.

PJ: peat action pro is poised on brink of expansion and sites in Garn Fach within the area covered. There is prospect of sustainable farming and alternatives for funding .. national peatland offer dev grant for app to work up peat resto to point

Medcalf: NRW have certity re resto in this matter on our app than another way i.e. funding. Garn Fach can be used for informing other sites in wale re restoration.

Standing ; LQAS will be cautionus about likelihood of future prog undertaking respton this site. bio diversity deep dive have said how … cannot say it is not likely to be subject to public funding to resort. The only thing we can say is removing peat will be unlikely to recover the same in 1000 yrs. Got to be careful about coming to conclusion it is not going to be restored. Uncontroversial there is loss of hab. Trading guaranteed loss for accelerated restoration of a wider part although no firm submission when it will be resto you have NRW it is suitable candidate I don't think it is unacceptable do we accept loss now for acceleration – this is how we are seeing on our side.

Insp – nothing before me to indicate this farm will received funding although Dr jones thinks it is a suitable site.

Dr Pete Jones – draw attention to figures in end of hearing statement.

Medcalf – we understand bogs in Wales natural habitat on top of hydro strycyree are irreplaceable none are being touched by dev none of m19 and 2(/) will be touched. Modified bog does not meet statement iof irreplaceable because you can make it better.

PJ : don't agree with that position wet doifies habitat is part of s7 habitat and comes under blanket bog and refe to figures in the table at end of hearing statement by app.

Pryce : draw discussion to statement between app and NRW I think has covered these points.

Trinick KC– point 15 within SOCG which is not agreed. as final word Dr Medcalf come once more ..

Medcalf ; reiterate position if m20 and restr by rewetting to m19 then we contend that m20 is replaceable because we replace with m19

Standing : desperately teetering on going into policy. Need to be clear to go to diff NVC classification regardless of what applicant thinks irreplaceable or not. Talk anout what will be lost and not lost and will structure policy submission tomorrow. Applicant demonstrates there will be loss of NVC and think useful to clarify that

Trinick KC– a going back to where we were. LQAS have not advanced tech evidence. Resist revisiting of NVC classification.

Insp – not minded to agree not withstanding it is mir Trinick view.

Standing : realise we won't agree what is irreplaceable or not just NVC that is actually being lost ….

Insp : concerns re efficacy of some of the measures but comp issue concern lost of impact good and bad and have not come to a firm view if benefits

PJ: we don't have a golden figure on looking at compnation figre. When we look at resto sight we do without losing habitat and

Standing: once we spend today on harm and proposal. If you want guidance on how to balance it comes down

Benefits and disbenefit of measures that affect peatland.