

FLINTSHIRE COUNTY COUNCIL

REPORT TO: **PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

DATE: **20TH JULY 2016**

REPORT BY: **CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

SUBJECT: **FULL APPLICATION - USE OF LAND FOR THE ERECTION OF A SOLAR PHOTOVOLTAIC ARRAY INCLUDING METERING AND INVERTER KIOSKS, SECURITY CAMERAS, FENCING AND GATES, TEMPORARY CONSTRUCTION COMPOUND AND ACCES TRACK AT CELYN FARM, STRYT CAE RHEDYN, LEESWOOD**

APPLICATION NUMBER: **054041**

APPLICANT: **EARTHWORM ENERGY PLC LTD**

SITE: **LAND AT "CELYN FARM", STRYT-CAE-RHEDYN, LEESWOOD, FLINTSHIRE.**

APPLICATION VALID DATE: **29TH OCTOBER 2015**

LOCAL MEMBERS: **COUNCILLOR R. HUGHES**

TOWN/COMMUNITY COUNCIL: **LEESWOOD COMMUNITY COUNCIL**

REASON FOR COMMITTEE: **THE SIZE OF THE APPLICATION SITE EXCEEDS THAT FOR WHICH DETERMINATION POWERS ARE DELEGATED TO THE CHIEF OFFICER (PLANNING AND ENVIRONMENT)**

SITE VISIT: **YES**

1.00 SUMMARY

1.01 The proposal is a full planning application for a 5MW photovoltaic solar farm and ancillary works on agricultural land at Celyn Farm, Stryt-Cae-Rhedyn, Leeswood. The site extends to 10.4 hectares.

2.00 RECOMMENDATION: TO GRANT PLANNING PERMISSION, SUBJECT TO THE FOLLOWING:-

2.01 That planning permission be granted subject to the following conditions:

1. Commencement of development within 2 years
2. Carried out in accordance with the submitted details
3. No generation of electricity hereby permitted shall take place after 25 years from the date on which electricity is first transmitted from the site, nor after electricity ceases to be generated for a continuous period of 6 months, whichever is the earlier.
4. No generation of electricity hereby permitted shall take place unless a monthly record is kept by the site operator of the amount of electricity generated that month; and that record shall be made available for inspection by the local planning authority
5. When electricity ceases as per the requirements of any of the circumstances in condition 3, within 12 months all plant/machinery/development to be removed and land restored to its pre-development condition in accordance with a scheme to be submitted to be agreed in writing with the Local Planning Authority prior to such works being undertaken.
6. No land drainage run-off into the public sewerage system
7. No surface water to connect to the public sewerage system
8. Foul and surface water drainage drained separately from site
9. No part of the solar panel or associated structure shall be higher than 2.4 metres above existing ground level
10. Full details of both hard and soft landscaping works, including materials to be submitted to and approved by the Local Planning Authority.
11. Prior to commencement of development, a scheme providing a detailed GCN method statement, which includes a scheme for reasonable avoidance measures for great crested newts, mitigation and compensation including a bio-security risk assessment and an ecological compliance audit. The agreed details shall also be used to support an application for a Regulation 53 ((1) e) derogation licence by NRW which demonstrates how the Great Crested Newt population will be protected and any impact properly mitigated, and implemented thereafter. All activities undertaken on site shall be strictly in accordance with those details unless otherwise agreed in writing by the Local Planning Authority.
12. External lighting scheme to be submitted and agreed.
13. Bird Hazard management plan to be submitted and agreed.
14. Implementation of landscaping scheme.
15. Development to undertaken in strict accordance with Coal Mining Risk Assessment Report and mitigation strategy.
16. Navigational aids impact assessment to be submitted and agreed.

17. Construction Traffic Management Plan to be submitted and agreed.

3.00 CONSULTATIONS

3.01 Local Member
Councillor R. Hughes
No response at time of writing.

Leeswood Community Council
No response at time of writing.

Highways DC
No objection subject to the imposition of conditions.

Pollution Control Officer
No adverse comments.

Welsh Government – Land Use Planning Unit
No objections raised. Considers the agricultural land quality report provided as part of the application is accurate and confirms the conclusions that the site comprises 25% Grade 3a land and 75% Grade 3b land.

Clwyd Powys Archaeological Trust
Advises that they agree with the conclusions of the Archaeophysica report which concludes that there are no significant sub-surface archaeological features of interest across the site. Therefore there is no archaeological requirement arising from the proposal.

CADW
Advises that whilst there are a number of scheduled monument and registered historic parks and gardens within the vicinity, the distance between the site and these heritage features is such that there is no inter-visibility with them and therefore any impact is neutral in scale. Therefore, no objection is raised.

Natural Resources Wales
No objection to the proposals subject to the imposition of suitable conditions to safeguard the favourable conservation status of the Great Crested Newt Population in the area.

Dwr Cymru/Welsh Water
No response at time of writing.

The Coal Authority
No objection. Advises that concerns in relation to the stability and safety of the site have been addressed in the submitted Coal Mining Risk Assessment Report and mitigation strategy. Requests a condition that the development is carried out in accordance with these details.

Airbus

Advises that the Glint and Glare information indicates that there is no significant concern in relation to aerodrome safeguarding arising from the proposals.

Notes that the proposals have potential to increase the risk of bird strike at the airport. Requests the imposition of a condition requiring the submission, agreement and implementation of a bird hazard management plan.

Also requests the imposition of conditions in relation to the need for a navigational aids impact assessment, scheme of site lighting and a construction management strategy.

Council for the Protection of Rural Wales

Objects on the following grounds:

- Considers no need case has been proven to override Policy GEN3;
- Considers that part of the site amounts to Best and Most Versatile Agricultural Land (BMV) and should be protected;
- The loss of the land to agricultural production for 25 years will result in a cumulative impact when taken into account with other land loss in the county and country for this purpose;
- Concerned that return to BMV status post development is impracticable;
- Concerns in relation to means and location of grid connection; and
- Adverse impacts upon landscape character and receptors of the landscape.

4.00 PUBLICITY

4.01 The application has been publicised by way of a press notice, site notice and neighbour notification letters.

At time of writing, 4No. letters have been received which raise objection on the following grounds:

- Landscape impact in the open countryside;
- Detriment to visual amenity; and
- Adverse impact upon landscape character.

5.00 SITE HISTORY

5.01 **035000**

Erection of a 20m monopole telecommunications mast and with associated equipment.

Permitted 03.02.2003

035289

Erection of a farm building
Permitted 14.05.2003

6.00 PLANNING POLICIES

6.01 Flintshire Unitary Development Plan

- Policy STR1 – New Development
- Policy STR7 – Natural Environment
- Policy STR10 – Resources
- Policy GEN1 – General Requirements for Development Control
- Policy GEN3 – Development in the Open Countryside
- Policy D1 – Design Quality, Location and Layout
- Policy D2 – Design
- Policy D3 – Landscaping
- Policy L1 – Landscape Character
- Policy WB1 – Species Protection
- Policy WB6 – Enchantment of Nature Conservation Interests
- Policy AC2 – Pedestrian Provision and Public Rights of Way
- Policy AC13 – Access and Traffic Impact
- Policy CF7 – Development by Utilities
- Policy EWP1 – Sustainable Energy Generation
- Policy EWP5 – Other Forms of Renewable Energy Generation
- Policy RE1 – Protection of Agricultural land

Planning Policy Wales (2014);

Technical Advice Note 5: Nature Conservation and Planning (January 2011);

Technical Advice Note 6: Planning for Sustainable Rural Communities (July 2010);

Technical Advice Note 8: Renewable Energy (July 2005); Technical Advice Note 23: Economic Development (February 2014)

7.00 PLANNING APPRAISAL

7.01 The Site and Surroundings

The site is a 10.6ha area (including access) of land to the east of Celyn Farm. The site comprises 5No. field parcels of varying shapes which themselves amount to some 10.4ha of agricultural land. Access to the site is derived via the farm track through Celyn Farm, which in turn is accessed from Stryt Cae Rhedyn to the north of the site.

7.02 The site topography varies but generally slopes downhill from the north east. The northernmost field parcels are generally undulating but become steeper in slope towards the south west. The fields to the south are steeply sloping for the most part. Site boundaries are formed by established hedgerows, interspersed with occasional trees. More heavily wooded areas are located to the north western and

south western site fringes of the site. The site is reflective of the general surroundings in terms of appearance and topography.

7.03 The Proposed Development

The proposals seek permission for the development of the site to provide a 5MW solar park. The proposal seeks permission on a temporary basis of 25 years. The proposals provide for the siting of solar panels arranged in arrays running across the site. The panels are proposed to be mounted upon a metal frame at an angle of 15 degrees from the horizontal. The panels will be 2.4 metres above ground level at the highest point and 0.8 metre at their lowest.

7.04 In addition, cabling conduits, set 1 m into the ground are proposed which in turn link with inverters and control cabinets. The proposals provide for the site to be enclosed by a 2m high fence and a new electricity sub-station is proposed within the northern part of field 4 to provide connections to the national grid. Access to the site will remain as existing.

7.05 The Main Issues

I consider the main issues for consideration in connection with this application are:

1. The principle of development having regard to both national and local planning policy;
2. Loss of Best and Most Versatile agricultural land (BMV);
3. Impacts of land stability arising from historical mining in the area;
4. Impacts upon the visual character and appearance of the landscape; and
5. Impacts upon aerodrome safeguarding.

7.06 The Principle of Development

National Policy and Guidance

The Welsh Government (WG) has clear priorities to reduce carbon emissions, with one of the important ways of delivering this being through the continued development of renewable energy generating projects. TAN8 included a target of 4 TWh (Terrawatt hours) per annum of renewable energy production by 2010 and 7 TWh by 2020.

7.07 PPW advises that the WG's aim is to secure an appropriate mix of energy provision for Wales, whilst avoiding, and where possible minimizing, environmental, social and economic impacts. This will be achieved through action on energy efficiency and strengthening renewable energy production.

7.08 When considering planning applications for renewable energy schemes, WG advises that planning authorities should take into account:-

- The contribution a proposal will play in meeting identified national, UK and European targets and potential for renewable energy.
- The wider environmental, social and economic benefits and opportunities from renewable energy and low carbon development.
- The impact on the national heritage, the coast and the historic environment.
- The need to minimize impacts on local communities, to safeguard quality of life for existing and future generations.
- To avoid, mitigate or compensate identified adverse impacts.

7.09 In addition to this there is a raft of further key documentation relevant to the proposal, for example, EU Energy Strategy 2020, Climate Change Strategy for Wales (2010), Energy Wales a Low Carbon Transition (2014), Planning implications of Renewable and Low Carbon Energy – Practice Guidance (Welsh Government, 2011) and Planning for Renewable and Low Carbon Energy – A Toolkit for Planners (Welsh Government, 2015).

7.10 The above paragraphs therefore set out the national planning policy framework associated with renewable energy proposals.

7.11 The Planning and Compulsory Purchase Act 2004 stipulates at S.38 that ‘if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise’. Accordingly, the UDP is the starting point for the consideration of this application, unless National Planning Policy supersedes the provisions of those applicable policies.

7.12 The Planning and Compulsory Purchase Act 2004 states at S. 38(6) that, “If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise”.

7.13 The development plan is therefore the starting point for the consideration of this application. The proposed development has been advertised as a departure to the adopted UDP because the site is not allocated in the UDP for any specified use nor is it within a settlement boundary.

7.14 **Local Planning Policy**

There are a number of strategic and general policies within the UDP which are applicable to this proposal and I consider each in turn below:

- 7.15 STR1 New Development - Advises that development should generally located within existing settlement boundaries, allocations, development zones, principal employment areas and suitable brownfield sites and will only be permitted outside these areas where it is essential to have an open countryside location. Whilst located within an area of open countryside, I consider that the size of site require precludes these other locations for reasons discussed later in this report. Accordingly I consider that the proposal satisfies criterion a. of STR1.
- 7.16 STR7 Natural Environment – One of the stated aims of this policy is to safeguard Flintshire’s natural environment by protecting and enhancing the character, appearance and features of the open countryside. The site is within an area of open countryside but is well screened by a combination of landscape topography, existing and proposed screening. The site and the surroundings are not formally designated or protected for any intrinsic landscape value.
- 7.17 STR10 Resources – Criterion a) requires that new development must make the best use of resources through utilizing suitable brownfield land wherever practicable in preference to greenfield land or land with ecological, environment or recreational value. It is arguable that the proposal does not do this as it is a greenfield site and part of the sites intrinsic environmental value is it’s open countryside character, however the policy refers to “wherever practicable in preference to” and in this instance there is an arguable case to be made that the proposal is policy compliant (considered later in this report). I am also satisfied that proposal accords with criterion e) of STR10 in that it clearly utilizes clean, renewable and sustainable energy generation.
- 7.18 Policy GEN1 requires that proposed development should harmonise with the site and surroundings and, amongst other matters, the development should not have a significant adverse impact on recognised wildlife species and habitats. The appraisal below illustrates that the proposals accord with these general policy aims.
- 7.19 Policy GEN3 sets out those instances where development will be permitted in the open countryside and criterion j refers to other development which is appropriate to the open countryside and where it is essential to have an open countryside location rather than being sited elsewhere. I have stated earlier that I consider the proposal is of such a size where an open countryside location is essential.
- 7.20 Taking all of the above into account, I am comfortable that the proposals satisfy the requirements of national and local policy as a matter of principle.
- 7.21 Loss of Best and Most Versatile agricultural land (BMV)
The Agricultural Land Classification Map indicates the site as Grade 3. The applicant has undertaken an Agricultural Land Classification

Investigation, carried out in accordance with MAFF's revised guidelines and criteria. This investigation classifies approximately 2.5 ha (25%) as Grade 3a with 7.5 ha (75%) as Grade 3b. The report also notes that there are some areas of Grade 4 land but these are too small to map separately. The assessment records that variability of slope across the site inhibit the use of farm machinery such that the agricultural utility of the land is restricted.

- 7.22 The assessment report has been considered Welsh Government's land Quality Advisory Service who have concluded that the survey appears sound and the report conclusions of a mixture of subgrade 3a and 3b is an accurate indication of the agricultural land quality. It should be noted that they have not raised any objection to the proposals upon the basis of the loss of BMV.
- 7.23 Both national and local planning policy seek to prevent the permanent loss of the best and most versatile agricultural land where either suitable previously developed land or land in lower agricultural grade is available. The application site is a mixture of grades 3a (BMV) and 3b. The applicant contends that the loss of the 3a land would not be permanent on the basis that once the arrays of panels are in situ sheep grazing can take place underneath them.
- 7.24 Whilst 25% of the site clearly falls within the best and most versatile agricultural land, this land is surrounded both areas of Grade 3b land, which is not BMV. Furthermore, the 3a land is located principally to the north of the site and is made up of the smaller of the 2 field parcels. This, coupled with site slopes, places a restriction upon the operation of machinery within the fields in such a way as would not enable the maximising of the yields from the agricultural use of these fields. I also note that the area indicated to comprise Grade 3a land is actually not developed fully for the siting of arrays and therefore approximately 40% of the land remains undeveloped and available for grazing in addition to the land beneath the arrays.
- 7.25 However when assessing the proposal against criteria k) of GEN1 it is important to note that reference is made to the 'permanent loss'. The safeguarding of the best and most versatile agricultural land is reinforced in UDP Policy RE1 and Paragraph 4.10 in PPW. Whilst I am conscious of the high quality agricultural land that is to be developed I am also conscious of the fact that the site would not be lost to agriculture in the long term since the proposal is limited to a period of 25 years with the reinstatement of the land to agricultural use at the end of that period. The reversibility of the scheme is an important consideration of this issue.
- 7.26 The national asset of Grade 3a land is not being permanently lost as a result of any grant of planning permission. However, whilst the intensity of that agricultural use would undoubtedly be diminished, it is

not, in my opinion, to such a degree as to override the national presumption in favour of renewable energy development.

7.27 Accordingly I do not consider that the temporary removal of the BMV land (Grade 3a) is a matter of sufficient weight in itself to warrant the refusal of this application.

7.28 Land Stability Issues

The site is located within an area of known historical coal mining features and hazards. Accordingly the proposal needs to be considered in the context of actual and probable shallow coal mine workings and recorded mine shafts. Therefore, regard has to be had to the potential for this to give rise to land stability issues which may affect the development.

7.29 A Coal Mining risk assessment has been provided in response to the issues raised in consultation by The Coal Authority. This identified that the site had been subjected to historic and unrecorded underground coal mining at shallow depths. In addition, four mine shafts are recorded within the site or within 20m of the site.

7.30 The applicant has responded to the results of the assessment by amending the layout of the proposed arrays such that there is a 20m exclusion buffer around each of the mine shafts. In addition, a mitigation strategy has also been developed. These amendments and strategy have been the subject of further examination by The Coal Authority and I am advised that the concern has been addressed by this additional information. I propose to condition that the development is carried out in strict accordance with the proposed mitigation strategy.

7.31 Impact on landscape character and visual amenity

GEN3 sets out those instances where development will be permitted in the open countryside and criterion j) refers to other development which is appropriate to the open countryside and where it is essential to have an open countryside location rather than being sited elsewhere. Whilst in my view it is not specifically essential for solar panel developments per se to be located in the open countryside, an open countryside location is often considered to be logical and essential given the land take requirements usually associated with "solar farms". In this instance the site area is approximately 10.6 hectares (including access).

7.32 The applicant has considered the use of other land in the form of seeking to site the arrays upon roofs of buildings. For a variety of reasons it is concluded that this is not a viable or feasible solution in the case of seeking to generate 5MW of power.

7.33 Accordingly I am satisfied that the area of land required for the development naturally precludes other brownfield sites or land within

the settlements of the County. As discussed, the site utilizes, in the main, lesser grade agricultural land which, in the absence of other suitable sites, is sequentially preferable.

- 7.34 I turn then to consider whether the proposed siting of the arrays in this area would have an adverse impact upon the landscape itself. I note that the application has been the subject of landscape and visual impact assessment and the proposals are accompanied by a Landscape and Visual Impact Assessment (LVIA) and a Cultural Heritage Assessment (CHA). These assessments have assessed both the visual impacts of the proposed development from various vantage points around the site and also the impact of the proposals upon any historic assets in the locality.
- 7.35 The vantage points from which the LVIA has been undertaken at points ranging between 200m to 4km from the site. The LVIA concludes that the impact from these viewpoint is for the most part negligible. There is considered to be an impact of scale between negligible and slightly adverse in respect of 3 properties within the area but it is noted that this impact is fragmented due in part to distance and landscaping in the intervening land. Similarly, a slightly adverse impact is considered likely in respect of footpaths P1, P2 and P6 which are routed closest to the site. This impact is proposed to be mitigated via a landscaping scheme and proposed programme of hedgerow planting. This will of course take time to become fully established but given the low scale of the impact, is considered a proportionate response to the impact.
- 7.36 In terms of impacts upon Historic Assets, the CHA illustrates that there are a range of Scheduled Ancient Monuments, Listed Buildings, Conservation Areas and Registered Parks and Gardens within the 5km search area. The report identifies that due predominantly to the nature of the topography of the landscape in the area, there is no direct inter-visibility between the site and the majority of these assets and therefore no impact arises. Where the low potential for some inter-visibility between the eastern part of the site and Leeswood Green farm is identified, a scheme of hedgerow landscaping (Holly) to the site boundary is proposed which will provide an effective evergreen screen. It should be noted however that there is no impact upon the views to or the setting of the listed building itself.
- 7.37 Accordingly, I conclude that both the LVIA and the CHA demonstrate that the impact within the landscape of the proposals is in actual fact, largely well screened by the landscape and topography of the landscape itself. Taking the requirements of Policies GEN3 & L1 into account I conclude that the proposals would comply with these policies.

7.38 Impacts upon Aerodrome Safeguarding

The site lies within 10km of Hawarden Airport. In recognition of the importance of considering the impacts of solar reflection (Glint & Glare) from solar panels and their impact upon aircraft approaching, and leaving Hawarden and the control tower itself an assessment report accompanies the application.

7.39 The report has assessed risk having regard to:

- The Air Traffic Control Tower (ACT) and its ability to see the site directly; and
- Impact upon aircraft approaching the last 2 miles of the runway 04 and 22 on either bearing.

7.40 Using both the Solar Glare Hazard Analysis Tool (SGHAT) and the Pager Power model, it was predicted that no glint or glare effects are predicted at the ATC tower.

7.41 Both models were used to assess impact upon both runway 04 and runway 22. Both predict no glint and glare effect upon aircraft on final approach for last 2 miles on either runway threshold.

7.42 No objection has been raised from AIRBUS from an aerodrome safeguarding perspective. Conditions have been requested to require the submission, agreement and implementation of a bird hazard management plan; a navigational aids impact assessment; a scheme of site lighting and a construction management strategy. I propose to condition accordingly.

8.00 CONCLUSION

8.01 In coming to my recommendation, I have weighed into the balance the strong support at national and local levels for the development of renewable energy generation against the presumption against non-essential development in the open countryside, the impact arising therefrom and the loss of BMV land for the duration of the life of the site.

8.02 I consider the national presumption on favour of proposals of this form has significant weight, especially where the other matters which might normally weigh against such a proposal, namely the loss of BMV and landscape impact, do not in themselves have such a significance as would outweigh the national presumption.

8.03 Accordingly I consider that the proposals are acceptable having regard to the policies within the UDP and having regard to the national policy guidance framework.

8.04 **Other Considerations**

The Council has had due regard to its duty under Section 17 of the Crime and Disorder Act 1998 and considered that there would be no significant or unacceptable increase in crime and disorder as a result of the recommended decision.

8.05 The Council has acted in accordance with the Human Rights Act 1998 including Article 8 of the Convention and in a manner which is necessary in a democratic society in furtherance of the legitimate aims of the Act and the Convention.

8.06 The Council has had due regard to its public sector equality duty under the Equality Act 2010.

8.07 The Council has had due regard to its duty under Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 and considered that there would be no significant or unacceptable impact upon the achievement of wellbeing objectives as a result of the recommended decision.

LIST OF BACKGROUND DOCUMENTS

Planning Application & Supporting Documents
National & Local Planning Policy
Responses to Consultation
Responses to Publicity

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