

Project:
**Brenig Wind Farm,
Denbighshire**

Title:
Site Layout - As-Built

Key

- Site boundary
- Turbine
- ▲ Anemometry mast
- Crane pad
- Track
- Substation

Contains Ordnance Survey data © Crown Copyright and database right 2020.

Scale @ A3: 1:12,500

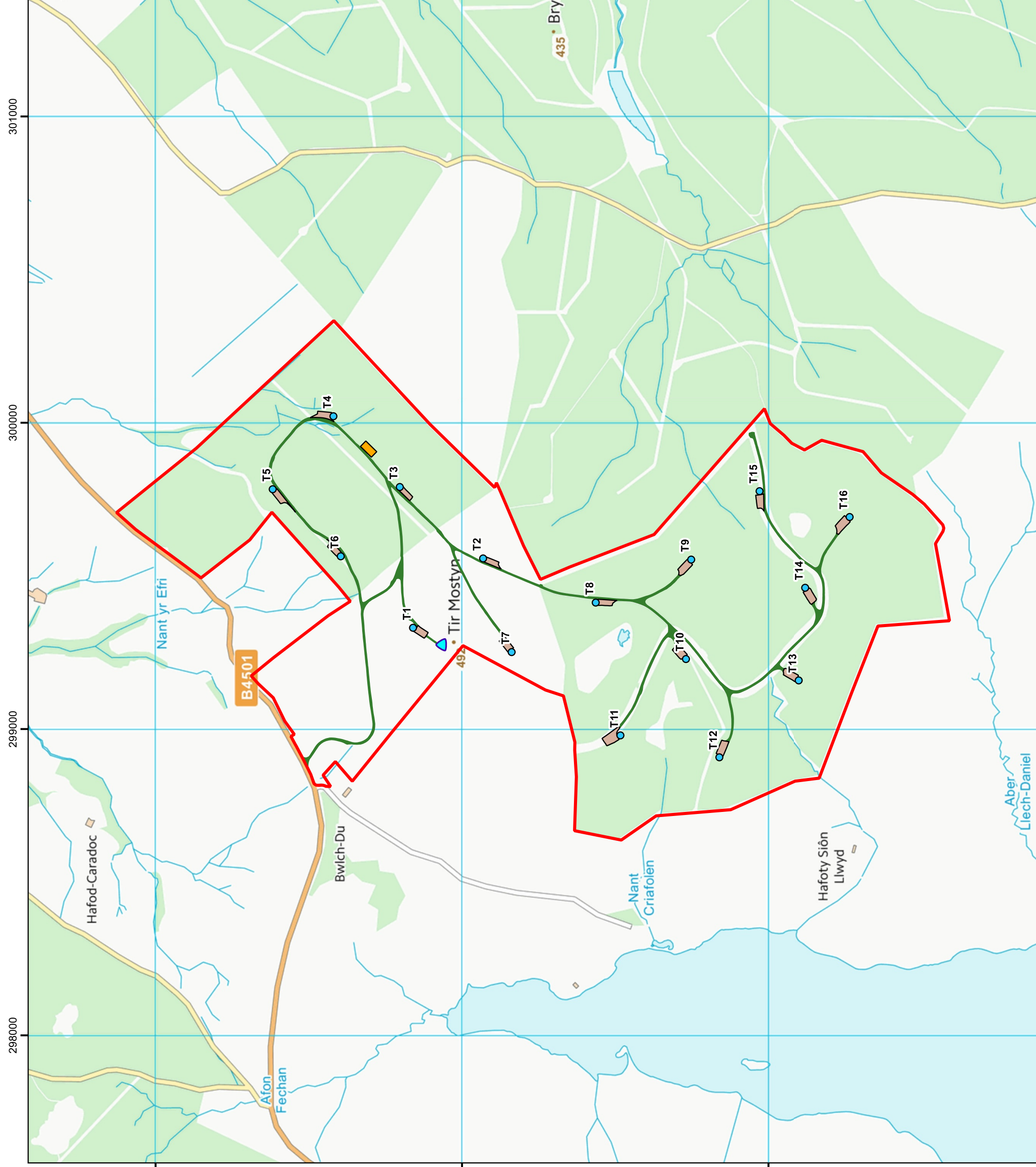
Coordinate System: British National Grid



Date: 31-03-20 Prepared by: DH Checked by: JS

Ref: GB200464_M_168_A Layout: 011119_16t_A

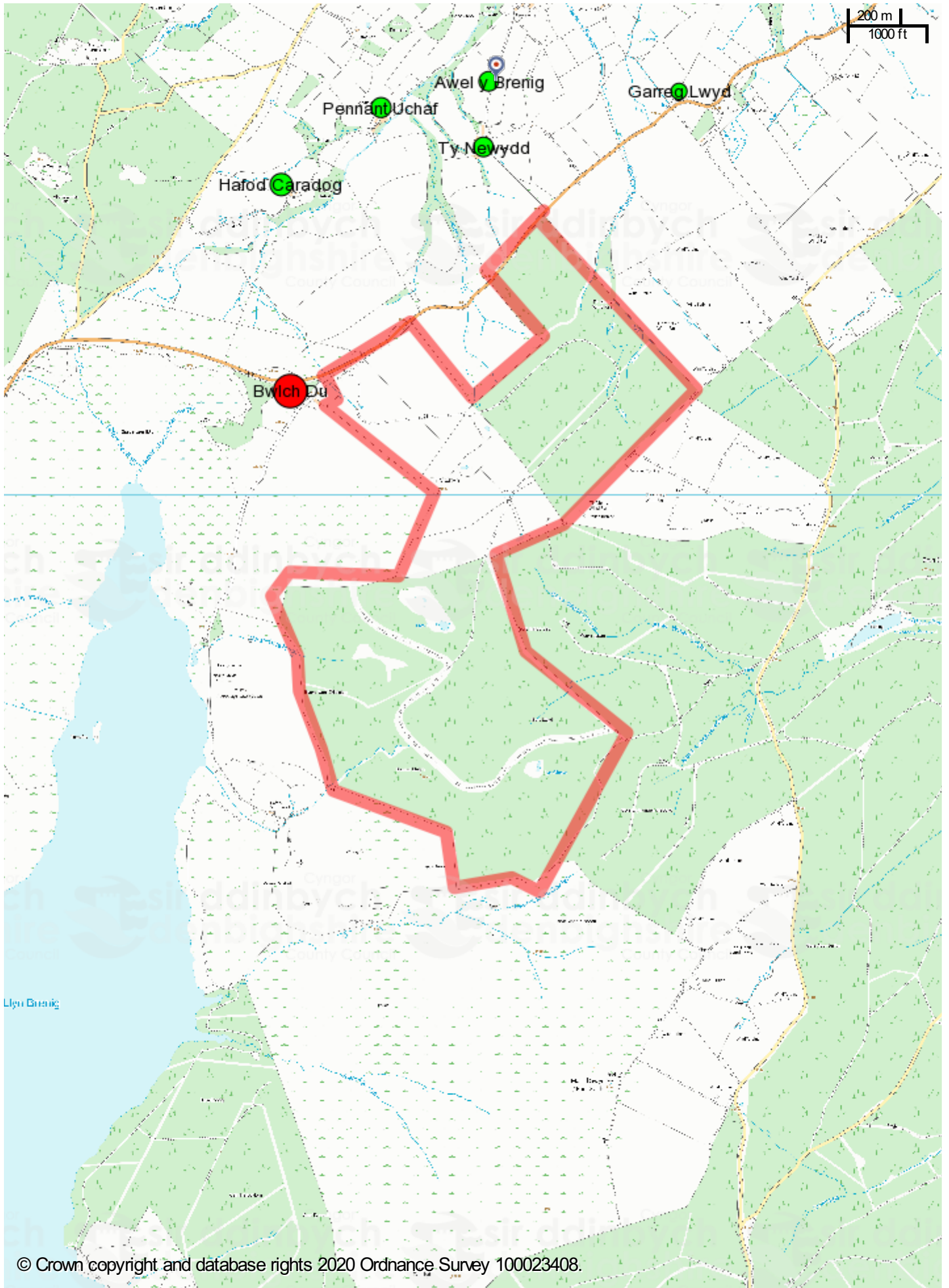
Drawing by:
The Natural Power Consultants Limited
The Green House
Forrest Estate, Dally
Castle Douglas, DG7 3XS, UK
Tel: +44 (0)1644 430008
Fax: +44 (0)845 299 1236
Email: sayhello@naturalpower.com
www.naturalpower.com



301000
300000
299000
298000

0009000 0008500 0008000

Notes: a) Information on this plan is directly reproduced from digital and other material from different sources. Minor discrepancies may therefore occur. Where further clarification is considered necessary, this is noted through the use of text boxes on the plan itself. b) For the avoidance of doubt and unless otherwise stated, 1. this plan should be used for identification purposes only, unless otherwise stated in accompanying documentation. 2. The Natural Power Consultants Limited accepts no responsibility for the accuracy of data supplied by third parties. 3. The Natural Power Consultants Limited does not accept any liability for any use which is made of this plan by a party other than its client. No third party who gains access to this plan shall have any claim against The Natural Power Consultants Limited in respect of its contents. 4. Where a line or feature recorded in the key of this plan is also shown as a line or feature by the Ordnance Survey, then the line or feature shall be deemed to follow the position as existing on the ground.



© Crown copyright and database rights 2020 Ordnance Survey 100023408.

Breing windfarm
Scale: 1:20000
Printed on: 25/6/2020 at 13:03 PM

WARD : Llanrhaeadr Yng Nghinmeirch

WARD MEMBER(S): Cllr Joseph Welch (c)

APPLICATION NO: 25/2020/0257/ PS

PROPOSAL: Variation of Conditions 32 and 37 of planning permission 25/2007/0565/WF for development of Brenig wind farm, seeking clarity of use of the word 'dwelling' in the context of assessment of impacts from shadow flicker and noise emissions from turbines, to reflect the legal status of dwellings lawfully in existence or which have been granted planning permission prior to the date of consent for the variations hereby sought.

LOCATION: Land East of Llyn Brenig Nantglyn

APPLICANT: Mr David Heelan

CONSTRAINTS: B Flood Zone SSSIPROW

PUBLICITY UNDERTAKEN: Site Notice - Yes
Press Notice - No
Neighbour letters - Yes

REASON(S) APPLICATION REPORTED TO COMMITTEE:
Scheme of Delegation Part 2

- Recommendation to grant / approve – 4 or more objections received
- Recommendation to grant / approve – Town / Community Council objection

CONSULTATION RESPONSES:

LLANTHAEADR YNG NGHINMEIRCH COMMUNITY COUNCIL

Llanrhaeadr Community Council OBJECTS to the subject planning application and plans for the following reasons:-

Members of the Community Council feels that the application would impact from shadow flicker and noise emissions from turbines on local properties

NANTGLYN COMMUNITY COUNCIL:

Nantglyn Community Council objects to planning application 25/2020/0257 because the council feels that the weakening of the planning conditions set out to protect households would not be in the interest of the current residents of Nantglyn, nor for the potential future residents of the village. We would urge Denbighshire to reject this application

DENBIGHSHIRE COUNTY COUNCIL CONSULTEES –

Public Protection Officer – Public Protection has no comment to make on this application.

RESPONSE TO PUBLICITY:

In objection

Representations received from:

Ms Trengrove & Mr Turner, Bwlch Du, Nantglyn

Dean Turner, Bwlch Du, Nantglyn

Michale Skuse, Caenant, Llangynhafal

Helen Job, 2 Maes Garnedd, Peniel

David Hall, 13 Valdene Drive, Worsley

Summary of planning based representations in objection:

- Conditions put in place to protect amenity of local residents, and variations sought would lessen level of protection currently afforded to local residents.
- Variations sought to shadow flicker condition would result in residents of nearby properties having to suffer effect of shadow flicker for 8 weeks until action is taken.
- Changing definition of dwelling may adversely impact upon amenity of Bwlch Du property.
- Changing definition of 'dwelling' as proposed is ambiguous and open to interpretation.
- Conditions should not be permitted to be varied if they lesson controls / protection.
- Variations sought don't meet the tests for conditions set out in the Use of Planning Conditions Circular

EXPIRY DATE OF APPLICATION: 28/05/2020

EXTENSION OF TIME AGREED? 20/07/2020

REASONS FOR DELAY IN DECISION (where applicable):

- Covid19 pandemic disruption
- awaiting consideration by Committee

PLANNING ASSESSMENT:

1. THE PROPOSAL:

1.1 Summary of proposals

1.1.1 The proposal is a variation of condition application seeking to vary the wording of condition 32 and 37 of planning permission 25/2007/0565/WF for development of Brenig wind farm.

1.1.2 The amended wording is sought to clarify the use of the word 'dwelling' in the context of assessment of impacts from shadow flicker and noise emissions from turbines within the consented windfarm, to reflect the legal status of dwellings lawfully in existence or which have been granted planning permission prior to the date of consent for the variations.

1.1.3 Conditions as currently attached to 25/2007/0565 are as follows:

Shadow Flicker Condition 32 – as existing:

32. None of the turbines shall be erected until the written approval of the Local Planning Authority has been obtained to the details of a scheme to address the incidence of shadow flicker at Ty Newydd; such scheme to include details of photocells or other measures to control, re orientate, or shut down particular turbines. Unless agreed in writing by the Authority, 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 scheme shall be implemented as approved.

Noise Condition 37 – as existing:

37. The rating level of noise emissions from the combined effects of the wind turbine generators when measured and calculated in accordance with the guidance notes shall not exceed the levels set out in the tables following: The figures in the body of the tables are noise levels from turbines measured in dB as an LA90 at each wind speed in accordance with the procedure set out in the guidance notes attached to this Certificate: At Ty Newydd, Pennant Uchaf, Garreg Lwyd, and Awel y Brenig:

Wind Speed m/s	4	5	6	7	8	9	10 and above
Individual Standard dB	43	43	43	43	43	43	43
At all other properties:							
Wind Speed m/s	4	5	6	7	8	9	10 and above
Individual Standard dB	35	35	35	35	38	40	42

- 1.1.4 Variation sought is set out below. Wording proposed to be omitted is strike through, and proposed new wording is underlined:

Shadow Flicker Condition 32 – as proposed to be varied:

32. None of the turbines shall be erected until the written approval of the Local Planning Authority has been obtained to the details of a scheme to address the incidence of shadow flicker at Ty Newydd; such scheme to include details of photocells or other measures to control, re orientate, or shut down particular turbines. ~~Unless agreed in writing by the Authority, 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 scheme shall be implemented as approved.~~ Should a complaint be received by the Authority in relation to any turbine producing shadow flicker at any other dwelling lawfully in existence and/or which has planning permission at the date of this Section 73 consent, the complaint will be addressed to the satisfaction of the Local Planning Authority within an 8 week period by the wind farm operator. The shadow flicker mitigation scheme shall be implemented as approved.

Noise Condition 37 – as proposed to be varied:

37. The rating level of noise emissions from the combined effects of the wind turbine generators when measured and calculated in accordance with the guidance notes shall not exceed the levels set out in the tables following: The figures in the body of the tables are noise levels from turbines measured in dB as an LA90 at each wind speed in accordance with the procedure set out in the guidance notes attached to this Certificate: At Ty Newydd, Pennant Uchaf, Garreg Lwyd, and Awel y Brenig:

Wind Speed m/s	4	5	6	7	8	9	10 and above
Individual Standard dB	43	43	43	43	43	43	43

At all other properties lawfully in existence and/or which have planning permission at the date of this Section 73 consent:

Wind Speed m/s	4	5	6	7	8	9	10 and above
Individual Standard dB	35	35	35	35	38	40	42

1.2 Other relevant information/supporting documents in the application

1.2.1 The application is supported by a covering letter and an addendum statement has also been submitted in response to objections which have been received.

1.2.2 The supporting information confirms that the applicant does not wish to amend or alter the technical limits or noise levels set out in the conditions, only to amend the wording to reflect that used in more recent planning permissions for neighbouring wind farms in the Denbighshire area including the operational Clocaenog Wind Farm, the consented Pant y Maen Wind Farm and the consented Nant Bach Wind Farm in Conwy. It is requested that the proposed condition wording amendments are applicable from the date of the consent given to this Section 73 application, to reflect the legal status of dwellings lawfully in existence or which have been granted planning permission prior to this date.

1.3 Description of site and surroundings

1.3.1 The site is an operational windfarm which is located on and around the hilltop of Tir Mostyn, and immediately to the west of the existing Tir Mostyn / Foel Goch Windfarm. The Clocaenog Forest windfarm lies to the east and there is a further consented windfarm at Llyn Bran approximately 2km to the west known as the Pant y Maen windfarm.

1.3.2 The northern tip of Llyn Brenig lies under 1km to the west.

1.3.3 The nearest village to the site is Nantglyn, some 3km to the north. Denbigh is 11km to the north east, and Ruthin 13km to the east. There are private dwellings to the immediate north and west of the site, and others beyond the neighbouring windfarms to the north, east and south.

1.1 Relevant planning constraints/considerations

- 1.1.1 The site is in open countryside outside any development boundaries approved in the Local Development Plan.
- 1.1.2 It lies within the boundary of the Clocaenog Forest Strategic Search Area identified in Technical Advice Note 8 (TAN 8), i.e. the area deemed suitable for large scale wind turbine development.

1.2 Relevant planning history

- 1.2.1 Planning permission for a windfarm comprising 16 no. 100m high turbines and associated works was granted in 2009. This consent has been implemented and the windfarm is now in operation.
- 1.2.2 A revised application for a windfarm comprising 16 no. 110m high turbines was subsequently allowed on appeal in 2016, however this consent was not implemented.
- 1.2.3 A number of approval of condition applications and non-material amendment applications have been approved and the 2009 consent has been implemented and the windfarm is now operational.
- 1.2.4 A non-material amendment application to vary the wording of conditions 32 and 37 was not approved in 2020 and the applicant was advised that approval to amend the wording of the conditions would need to be sought by way of a Variation of Condition application.

1.3 Developments/changes since the original submission

- 1.3.1 None.

1.4 Other relevant background information

- 1.4.1 To assist Members, information in relation to noise and shadow flicker effects from wind turbine development is set out below:

1.4.2 Noise from wind turbines

There are two quite distinct types of noise source within a wind turbine - the mechanical noise produced by the gearbox, generator and other parts of the drive train and the aerodynamic noise produced by the passage of the blades through the air.

Government guidance states a noise limit of 35 decibels (dB) is an acceptable level of noise for dwellings which are unrelated to windfarm developments. For dwellings which have a financial or business interests in the windfarm development, a higher level of 43dB can be applied. Noise limits are controlled by conditions.

1.4.3 Shadow flicker effects

Under particular circumstances the sun may pass behind the rotors of a wind turbine and cast a shadow over neighbouring properties, and the shadow flicks on and off as the blades rotate, which can adversely impact upon the amenity of occupants of those properties.

As a rule of thumb, only dwellings within 10 rotor diameter of a turbine are affected by shadow flicker effects and the problem is seasonal and typically only lasts for a few hours per day.

Government guidance recommends mitigation measures are put in place to address incidence of shadow flicker, which can be controlled by conditions.

- 1.4.4 Comparable conditions applied on other recent windfarm consents are attached at Appendix 1.

2. DETAILS OF PLANNING HISTORY:

- 2.1 25/2007/0565. Construction and operation of a wind farm comprising of sixteen wind turbines with a maximum tip height not exceeding 100m, along with transformers, access tracks, on-site switchgear and metering building, two anemometry towers and associated construction and operational infrastructure. Granted 06/04/2009. A number of approval of condition and non-material amendment applications relating to this consent have been approved and the development is completed and operational.
- 2.2 25/2015/0636. Construction and operation of a wind farm comprising of sixteen wind turbines along with transformers, access tracks, on-site switchgear and metering building, two anemometry towers and associated construction and operation infrastructure (revised scheme partially implemented under planning permission reference 25/2007/0565). Refused 09/12/2015 Allowed on Appeal 18/05/2016 (consent not implemented)
- 2.3 25/2015/1164. Variation of condition number 3 of planning permission ref 25/2007/0565 to allow turbine number 12 and relevant spur road to be permitted a 30m micro-siting allowance and turbine 14 and relevant spur road to be permitted a 49m micro-siting allowance. Granted 17/02/2016
- 2.4 25/2020/0018 - Amendment to Conditions 32 & 37 of planning application 25/2007/0565/WF (non-material amendment (NMA) application). NMA was not approved.

3. RELEVANT POLICIES AND GUIDANCE:

The main planning policies and guidance are considered to be:

3.1 Local Policy/Guidance

Denbighshire Local Development Plan (adopted 4th June 2013)

Policy VOE9 – On-shore wind energy

Policy VOE 10 – Renewable energy technologies

Supplementary Planning Guidance

Supplementary Planning Guidance Note: Renewable Energy

3.2 Government Policy / Guidance

Planning Policy Wales (Edition 10) December 2018

Development Control Manual November 2017

Technical Advice Notes

TAN 8 Renewable Energy (2005)

TAN 11 Noise (1997)

Use of Planning Conditions for Development Management contained in Circular WGC 016/2014 (October 2014)

3.3 Other material considerations

4. MAIN PLANNING CONSIDERATIONS:

In terms of general guidance on matters relevant to the consideration of a planning application, Section 9.1.2 of the Development Management Manual (DMM) confirms the requirement that planning applications 'must be determined in accordance with the approved or adopted development plan for the area, unless material considerations indicate otherwise'. It advises that material considerations must be relevant to the regulation of the development and use of land in the public interest, and fairly and reasonably relate to the development concerned.

The DMM further states that material considerations can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment (Section 9.4).

The DMM has to be considered in conjunction with Planning Policy Wales, Edition 10 (December 2018) and other relevant legislation.

The following paragraphs in Section 4 of the report therefore refer to the policies of the Denbighshire Local Development Plan, and to the material planning considerations which are considered to be of relevance to the proposal.

4.1 The main land use planning issues in relation to the application are considered to be:

4.1.1 Principle

4.1.2 Residential amenity

4.2 In relation to the main planning considerations:

4.2.1 Principle

The application is made under Section 73 of the Town and County planning Act 1990 (the 1990 Act). Section 73 allows applications to be made for planning permission without complying with conditions previously imposed on an extant planning permission. Where a section 73 application is granted, its effect is to grant a new planning permission.

Section 73 applications can be broadly separated into three different application types, based on their intended purpose. These are to:

- extend the time limit of an existing permission (commonly referred to as a 'renewal' application)
- allow 'minor material amendments' to planning permissions
- allow the variation or removal of any other condition attached to a planning permission.

This application falls within the third category above and is seeking to vary the wording of planning conditions attached to the original consent.

When considering applications to vary conditions, the scope of the assessment is limited to whether the conditions identified in the section 73 application should apply as originally stated, or if they would be acceptable if modified. The LPA cannot revisit the original permission and reconsider whether it should have been granted in the first place.

However, as a section 73 application is a planning application in its own right, it is necessary to assess what material changes there may have been in terms of policy since the original permission was granted in order to ensure that all relevant material considerations have been assessed.

In granting permission under section 73 the LPA may impose new or varied conditions upon the consent – provided the conditions do not materially alter the development that was subject to the original permission and are conditions which could have been imposed on the earlier planning permission

In this case Officers would consider the variation sought would not materially alter the windfarm development subject of the original planning permission and also consider the varied conditions proposed are conditions which could have lawfully been imposed at the time the original consent was determined.

Accordingly, Officers consider the principle of the proposal is acceptable, subject to an assessment of impacts. As the conditions sought to be varied relate to noise and shadow flicker effects, Officers consider the impact of assessments is limited to residential amenity, which is considered in the section below.

As a Section 73 application would generate a new planning consent, in addition to the varied conditions, all other relevant conditions from the original consent would need to be re-imposed. Similarly, the original consent was subject to a legal agreement to secure a Community Benefit Fund and one-off red squirrel and historic landscape contributions. A deed of variation of the Undertaking would also therefore be required to be entered into.

4.2.2 Residential amenity

The Development Management Manual advises at paragraph 9.4.3 that material considerations must be fairly and reasonably related to the development concerned, and can include the number, size, layout, design and appearance of buildings, the means of access, landscaping, service availability and the impact on the neighbourhood and on the environment; and the effects of a development on, for example, health, public safety and crime. The residential amenity impacts of development should therefore be regarded as a potential material consideration.

Objections have been received from the Community Councils and from members of the public on grounds of adverse impacts to residential amenity.

The original windfarm application and the subsequent tip height extension application were both subject to Environmental Impact Assessment which included assessment of noise and shadow flicker effects on residential properties in vicinity of the site.

The Environmental Statement for previous applications identified Ty Newydd, Pwntant Uchaf, Garreg Lwyd, Awel y Brenig and Hafod Caradoc as the five closest properties to the windfarm. The plan at the front of the report shows the location of these properties in relation to the windfarm.

With respect to shadow flicker, only properties within a distance of 10 times the rotor diameter of a wind turbine are likely to experience shadow flicker effects.

When the original windfarm was assessed, only Ty Newydd was identified as being at risk of shadow flicker effects and hence it's inclusion in condition 32.

With respect to noise, Ty Newydd, Pennant Uchaf, Garreg Lwyd, and Awel y Brenig were all considered to be financially involved properties and therefore condition 37 allows for a higher noise level of 43dB at these properties. For all other properties, condition 37 restricts noise to 35dB in accordance with Government guidance.

It should be noted the closest property to the windfarm is Bwlch Du, however the original windfarm Environment Statement did not consider this property to be a 'viable dwelling' due to its derelict condition and as such it was not subject to the noise and shadow flicker assessments. At the time of the determination of the original windfarm application and the subsequent tip height extension application, the Council held no planning history for Bwlch Du and no representations were received at any point during the publicity, consideration or determination of the applications which challenged the assertion that it was not a 'viable dwelling', and the applications were duly determined on that basis based on the available information.

Members will however recall the Bwlch Du property was recently subject to planning and listed building consent applications for extensions to the property and for ancillary domestic developments, which Committee resolved to grant in February 2020.

Whilst the lawful residential status of the Bwlch Du property has never been formally tested by way of a Certificate of Lawful Use application, Officers would nevertheless take the view that through the grant of planning permission in February 2020, the Council has concluded the debate over the residential use of Bwlch Du, and as such this property would be considered to be a lawful dwelling for the purposes of the noise and shadow flicker conditions.

Officers would also note that there may be other dwellings within the vicinity of the site which have come forward in the intervening years since the windfarm was consented which would currently be afforded protection by the conditions as currently worded. For example, Hafod Olygfa in Saron is a rural enterprise dwelling granted consent in 2010 which lies approx. 1.5km to the north-east of the windfarm. Officers would note however this property was included in the 2015 tip height extension application assessments.

Officers would stress the applicant is not seeking to vary the wording of conditions retrospectively, and in any event as the result of a variation of condition application would be to generate a new planning consent which would be dated contemporaneously and not back dated, any dwelling which may have come forward in the intervening years since the date of consent of the windfarm and the present day would fall within the scope of the varied definition of dwelling and would be afforded protection from unacceptable noise or shadow flicker effects.

The variations sought however would result in the noise and shadow flicker conditions not being applicable to new dwellings which may come forward **in the future**. This is considered to be a wholly reasonable approach to take and one which mirrors conditions on other windfarms as shown in the appendix attached to this report.

Officers would note the site is within open countryside away from any established development boundary where residential development is strictly controlled and therefore the potential number of future dwellings which may be impacted by the windfarm is considered to be low, and in any event the assessment of impact of proposals is limited to effects on existing, consented and planned development (including allocated sites and proposals which are within the planning system), and not upon future unspecified developments. Officers would also consider that imposing conditions to protect amenity of future unplanned developments would not meet the tests set out in the Planning Conditions Circular, and the variation of condition sought would provide more clarity.

Concern has also been raised in relation to the amendments sought to the shadow flicker condition, as representations received consider the variation would lessen the protection currently afforded to nearby residential properties as it would remove the requirement for turbines causing shadow flicker effects to remain stationary until shadow flicker effects have passed.

The variation sought is to introduce a clause within the condition is, following a complaint being received, to require the incidence of shadow flicker to be addressed to the satisfaction of the authority within 8 weeks.

Given that incidences of shadow flicker would need to be thoroughly investigated and for mitigation measures to be put in place, Officers do not consider it unreasonable to introduce an 8 week timescale for compliance.

Officers would also note there may be other technical fixes such as re-orientating a turbine which could mitigate the incidence of shadow flicker effects, and therefore the requirement for turbines to remain stationary is overly restrictive and could prevent the delivery of suitable mitigation measures.

Officers however consider the wording of the varied condition as put forward is not precise, and Officers would instead propose the following varied wording:

32. None of the turbines shall be erected until the written approval of the Local Planning Authority has been obtained to the details of a scheme to address the incidence of shadow flicker at Ty Newydd; such scheme to include details of photocells or other measures to control, re orientate, or shut down particular turbines. Within 8 weeks of receipt of a written request from the local planning authority and following a complaint to the local planning authority from the occupant of a dwelling which lawfully existed or had planning permission at the date of this consent, the windfarm operator shall, at its own expense, assess the incidence of shadow flicker effects from the windfarm at the complainant's property and submit details of a scheme to address the incidence of shadow flicker at that property, to include details of photocells or other measures to control, re orientate, or shut down particular turbines, to the Local Planning Authority for approval. The scheme shall then be implemented strictly in accordance with the approved details.

Other matters

Well – being of Future Generations (Wales) Act 2015

The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives. The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

The report on this application has taken into account the requirements of Section 3 'Well-being duties on public bodies' and Section 5 'The Sustainable Development Principles' of the Well-being of Future Generations (Wales) Act 2015. The recommendation is made in accordance with the Act's sustainable development principle through its contribution towards Welsh Governments well-being objective of supporting safe, cohesive and resilient communities. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

5. SUMMARY AND CONCLUSIONS:

5.1 The proposal is to vary the wording of conditions imposed on the Brenig windfarm consent.

5.2 The conditions proposed be varied relate to the control of noise and shadow flicker effects from the windfarm. The variations sought are to refine the meaning of the word dwelling so that it relates only to lawful dwellings or those with planning permission at the date of this consent. Variations are also sought within respect to the mechanism and timescales to address incidents of shadow flicker at nearby properties.

5.3 The variation of the conditions is not sought retrospectively, but shall be applied going forward, and therefore any lawful dwelling or dwelling which benefits from planning permission at the date of the consent of the variation of condition application, and not the original windfarm consent shall be afforded protection. Future dwellings however shall not be covered by the varied conditions, however Officers would stress that conditions cannot be imposed which seek to protect amenity of future unplanned developments. Accordingly Officers do not consider the amenity of any existing dwelling would be prejudiced by the variation of conditions.

5.4 With respect to the variation sought to the mechanism and timescales for incidences of shadow flicker to be addresses, whilst Officers accept the amendments sought remove the requirement for offending turbines to be turned off until shadow flicker effects have passed, given that any complaints need to be duly investigated and a mitigation scheme developed, Officers consider an 8 week compliance period to be reasonable in this instance. Officers however consider the varied shadow flicker condition put forward is not sufficiently precise, and therefore Officers have proposed to amend the condition in the interests of clarity.

5.5 As the effect of the Section 73 application is to generate a new planning consent, in addition to the varying conditions, Officers propose all relevant conditions should be re-imposed and a deed of variation of the legal agreement attached to the original windfarm consent should also be entered into. The agent has agreed to enter into a deed of variation should Committee resolve to grant consent.

5.6 Subject to necessary planning controls being imposed and legal agreements being entered into, Officers recommend the application for grant.

RECOMMENDATION: - GRANT subject to the following conditions:-

PLANS AND DOCUMENTS SUBJECT TO THE DECISION:-

- (i) Application forms received by the Local Planning Authority on 26th April 2007
- (ii) Environmental Statement Volume 1 of 2 received by the Local Planning Authority on 26th April 2007
- (iii) Environmental Statement Volume 2 of 2 received by the Local Planning Authority on 26th

April 2007

(iv) Site Layout plan (1:1000) received by the Local Planning Authority on 26th April 2007

(v) Drawing No. 140-M-052-A received by the Local Planning Authority on 26th April 2007

(vi) Drawing No. 140-M-037-NTS received by the Local Planning Authority on 26th April 2007

(vii) Non-Technical Summary received by the Local Planning Authority on 24th May 2007

(viii) Planning Statement (Bond Pearce) - received by the Local Planning Authority on 10th August 2007

subject to compliance with the condition(s) specified hereunder

1. The development hereby permitted shall begin before the expiration of 5 years from the date of this permission.
2. The planning permission shall be for a period of 25 years from the date of the first generation of electricity to the grid from the development. Written confirmation of the date of the first generation of electricity to the grid from the development shall be provided to the Planning Authority no later than 1 calendar month after the event.
(Condition complied with under code ref: 25/2014/0208)
3. Other than in respect of Turbines 12 and 14, the location of the turbines and ancillary structures such as anemometer masts, 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. Turbine 12 and its relevant spur road shall be permitted a 30m micro-siting allowance and turbine 14 and its relevant spur road shall be permitted a 49m micro-siting allowance.
(Condition previously varied under code ref: 25/2015/1164 - varied condition carried forward)
4. No work shall be permitted to commence on the switchgear and metering building until the written approval of the local planning authority has been obtained to its precise location, the external wall and roof materials. (Condition previously discharged under code ref: 25/2014/1223)
5. 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 100m from original ground level.
6. All the blades shall rotate in the same direction.
7. 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.
(Condition previously discharged under code ref: 25/2016/0901)
8. No part of the development shall display any name, logo, sign, advertisement or means of illumination without the prior written approval of the Local Planning Authority.
9. All electricity and control cables between the turbines and the switch room 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.

CONSTRUCTION METHOD STATEMENT

10. 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 in writing to and approved by the Local Planning Authority. The scheme shall include provisions relating to: Construction and reinstatement of the temporary site compound Construction and reinstatement of all internal tracks including measures to reinstate planting on approach tracks Soil stripping management Surface and foul water drainage Pollution Prevention and Control plan, in particular to demonstrate steps to prevent impacts on streams which provide

private water supplies, and proposals for mitigating and remedying any degradation in the quality of water supplies. Traffic Management including HGV routes Traffic signing along public roads Recording the existing state of the site Development shall be carried out in compliance with the approved Construction Method Statement, unless otherwise approved in writing by the Local Planning Authority.

(Condition previously discharged under code ref: 25/2013/1168; 25/2014/1099; 25/2016/1070; 25/2017/0082)

11. No works on the construction of the turbine bases or delivery of wind turbine components or wind turbine erection plant shall be permitted to commence until there have been submitted to and approved in writing by the Local Planning Authority: - a scheme for the recording of existing road conditions by the developer, - arrangements for the repair and reinstatement of public highways.
(Condition previously discharged under code ref: 25/2014/1099; 25/2016/1071)
12. Construction work on the site shall be confined to the hours of 0700-1900 Mondays to Fridays and 0700-1300 hours on Saturdays with no working on Sundays or national public holidays unless otherwise agreed in writing with the Local Planning Authority.
13. 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.
(Condition previously discharged under code ref: 25/2013/1155; 25/2014/1224; 25/2017/0352)
14. The permanent running widths of internal access tracks shall be no greater than 5m wide (10m on bends) unless agreed in writing by the Local Planning Authority.
15. No works of construction, laying out of access tracks, or work on the construction compound shall be commenced until a scheme for the disposal of foul and surface waters has been approved by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.
(Condition previously discharged under code ref: 25/2013/1152; 25/2014/1103; 25/2015/0472; 25/2016/1072; 25/2017/0972; 25/2018/0051)
16. Nothing other than uncontaminated excavated natural materials shall be tipped on the site.
17. 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 should be at least equivalent to the capacity of the tank plus 10%. If there is multiple tankage, the compound should 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 should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.
18. None of the trees within the application site shall be felled until the written approval of the Local Planning Authority has been obtained to the timing and methodology of the clearance operations, and to specific details of the means of addressing/attenuating surface water run off from the tree clearance, related construction operations, together with associated mitigation and monitoring arrangements, including steps to remedy any degradation in the quality of water supplies to private properties in the locality.
(Condition previously discharged under code ref: 25/2014/1103; 25/2014/1111; 25/2015/0472; 25/2016/1072; 25/2017/0972)

19. No works of construction, laying out of access tracks, works on the construction compound, or tree felling shall be permitted to commence until the written approval of the Local Planning Authority has been obtained to a preliminary site assessment, which shall include the following: - Identification of all water features both surface and groundwater (ponds, springs, ditches, culverts etc.) within a 300 metres radius of the site boundary. - Use made of any of these water features. This should include the construction details (e.g. depth) of wells and boreholes and details of the lithology into which they are installed; - An indication of the flow regime in the spring or surface water feature, for example whether or not the water feature flows throughout the year or dries up during summer months; - Accessibility to the spring/well; - This information should be identified on a suitably scaled map (i.e. 1:10,000), tabulated and submitted to the Environment Agency. The developer should photograph each of the identified water features during the survey. Based on the results of the survey the applicant must assess the likely impacts from the development on both quantity and quality of the surface water and groundwater. This should take into consideration both the preferred methods of construction and the assumed hydrogeology in the vicinity of the development. (Condition previously discharged under code ref: 25/2013/1154; 25/2014/1103; 25/2015/0472; 25/2016/1072; 25/2017/0972)
20. Not later 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 for the consideration of the Local Planning Authority. The scheme approved in writing by the Local Planning Authority shall be carried out and completed within 12 months from the date that the planning permission hereby granted expires.
21. If any wind turbine generator(s) hereby permitted ceases to operate for a continuous period of 6 months then, unless otherwise agreed by the Local Planning Authority, a scheme for the decommissioning and removal of the wind turbine generator(s) and any other ancillary equipment and structures relating solely to that generator(s), shall be submitted to and agreed in writing by the Planning Authority within 6 months of the end of the cessation period. The scheme shall include details for the restoration of the site. The scheme shall be implemented within 6 months of the date of its agreement by the Local Planning Authority.
22. No works of construction, laying out of access tracks, work on the construction compound or tree felling shall be permitted to commence until the written approval of the local planning authority has been obtained to the restoration/treatment of Public Footpath No. 67 during and after the construction phase of the development, including the timing of works on the footpath. (Condition previously discharged under code ref: 25/2013/1410; 25/2014/1100)
23. Full details of the proposed site access shall be submitted to and approved in writing by the Local Planning Authority before any work commences on site. (Condition previously discharged under code ref: 25/2013/1131)
24. Facilities shall be provided and retained within the site for the loading, unloading, parking and turning of construction vehicles in accordance with a scheme to be agreed with the Local Planning Authority, and which shall be completed before work on the turbines is commenced. These facilities shall be retained for the whole duration of the construction period. (Condition previously discharged under code ref: 25/2014/1099; 25/2017/0349)
25. 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 agreed with the Local Planning Authority, and which shall be completed prior to the commissioning of the wind farm. (Condition previously discharged under code ref: 25/2017/0349)

26. 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 as approved.
(Condition previously discharged under code ref: 25/2013/1158; 25/2014/1100; 25/2015/0473; 25/2017/0352)
27. No works of construction, laying out of access tracks, work on the construction compound or tree felling shall take place until the applicant has secured the implementation of a programme of archaeological mitigation in accordance with section 11.7 of the Environmental Statement and such other mitigation as has been submitted by the applicant and approved in writing by the Local Planning Authority, to include for a watching brief and an appropriate buffer zone marking of identified archaeological sites.
(Condition previously discharged under code ref: 25/2013/1132; 25/2014/1102)
28. Where development approaches to within 50 metres of any archaeological site, that site shall be protected and marked by a robust temporary barrier and the barrier should remain in place for the duration of the construction phase so that no accidental damage occurs. The placement of the barriers should not directly impact upon any unscheduled site or scheduled ancient monument areas and must be placed outside any scheduled monument boundary.
29. The developer shall provide written confirmation of the following details to the Ministry of Defence and the Civil Aviation Authority within 3 months of the date of this permission and the commencement of development shall not occur until this confirmation has been given:
- i) Proposed date of commencement of the development
 - ii) The maximum extension height of any construction equipment.
30. Within 14 days of the commissioning of the final turbine, the Company shall provide written confirmation of the following details 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.
 - iv) The lighting details of the site.
- (Condition previously discharged under code ref: 25/2009/0789; 25/2018/1967)
31. None of the turbines shall be erected until a baseline television reception study in the area has been undertaken by a qualified television engineer at the developer's expense, and has been 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 wind farm/turbine, 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 wind farm/turbine on the basis of the baseline reception study, such impairment shall be mitigated within 6 months of this decision according to the mitigation scheme outlined, unless otherwise agreed by the Local Planning Authority.
(Condition previously discharged under code ref: 25/2014/1098)
32. None of the turbines shall be erected until the written approval of the Local Planning Authority has been obtained to the details of a scheme to address the incidence of shadow flicker at Ty Newydd; such scheme to include details of photocells or other measures to control, re-orientate, or shut down particular turbines. Within 8 weeks of receipt of a written request from the local planning authority and following a complaint to the local planning authority from the occupant of a dwelling which lawfully existed or had planning permission at the date of this consent, the windfarm operator shall, at its own expense, assess the incidence of shadow

flicker effects from the windfarm at the complainant's property and submit details of a scheme to address the incidence of shadow flicker at that property, to include details of photocells or other measures to control, re orientate, or shut down particular turbines, to the Local Planning Authority for approval. The scheme shall then be implemented strictly in accordance with the approved details.

(Condition varied under this S.73 consent. With respect to Ty Newydd, condition previously discharged under code ref: 25/2017/0293)

33. No works of construction, laying out of access tracks, or works on the construction compound shall commence until the written approval of the Local Planning Authority has been obtained to a scheme for habitat management and enhancement for the protection of the Mynydd Hiraethog SSSI, during and after the lifetime of the windfarm, to include for a mechanism to establish a Steering Group/Committee to review the plan, and details of how the agreed measures are to be implemented, including timing. All measures shall be implemented in accordance with the approved details.

(Condition previously discharged under code ref:25/2013/1437; 25/2014/1147)

34. At the reasonable request of the Council, the operator of the development shall employ an independent consultant approved by the Council, at the operator's expense, to measure and assess the level of noise emissions from the wind turbine generators following the procedures described in the Guidance Notes attached to these conditions.

35. At the reasonable request of the Council the operator of the development shall employ an independent consultant approved by the Council, at the operator's expense, to measure and assess the tonal noise of the development in accordance with the procedure described in the Guidance Notes attached to these conditions.

36. The wind farm operator shall log wind speed and wind direction data at a grid reference to be approved by the Council as planning authority to enable compliance with conditions 34 and 35 to be monitored. This wind data shall include the wind speed in metres per second (ms-1) and the wind direction in degrees from north for each 10 minute period. At the reasonable request of the planning authority, the recorded data measured at 10m height above ground level and relating to any periods during which noise monitoring took place or any periods when there was a specific noise complaint shall be made available to them. Where wind speed is measured at a height other than 10m, the wind speed data shall be converted to 10m height, accounting for wind shear by a method whose details shall also be provided to the planning authority. At the reasonable request of the Council, the wind farm operator shall provide a list of ten-minute periods during which any one or more of a relevant set of turbines was not in normal operation. This information will only be required for periods during which noise monitoring in accordance with conditions 34 and 35 took place. The ""relevant set"" and ""normal operation"" are defined in the guidance notes.

37. The rating level of noise emissions from the combined effects of the wind turbine generators when measured and calculated in accordance with the guidance notes shall not exceed the levels set out in the tables following: The figures in the body of the tables are noise levels from turbines measured in dB as an LA90 at each wind speed in accordance with the procedure set out in the guidance notes attached to this Certificate:

At Ty Newydd, Pennant Uchaf, Garreg Lwyd, and Awel y Brenig:

Wind Speed m/s	4	5	6	7	8	9	10 and above
Individual Standard dB	43	43	43	43	43	43	43

At all other properties which lawfully in existence and/or which have planning permission at the date of this Section 73 consent:

Wind Speed m/s	4	5	6	7	8	9	10 and above
Individual Standard dB	35	35	35	35	38	40	42

(Condition varied under this S.73 consent)

The reasons for the conditions are:-

1. In order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990.
2. For the avoidance of doubt and in order that the Local Planning Authority retains control over the longer term uses of the land.
3. For the avoidance of doubt and to allow the Local Planning Authority to retain control over the development.
4. For the avoidance of doubt and in the interests of visual amenity.
5. For the avoidance of doubt and in the interest of visual amenity.
6. For the avoidance of doubt and in the interest of visual amenity.
7. For the avoidance of doubt and in the interest of visual amenity.
8. For the avoidance of doubt and in the interest of visual amenity.
9. In the interests of visual amenity.
10. To ensure proper controls over the matters referred to minimise the impact of the development.
11. In the interests of highway safety.
12. In the interests of amenity of occupiers of property in the locality.
13. To minimise the need for imported material and movement of HGV's on highways.
14. In the interests of visual amenity.
15. To prevent pollution of the water environment.
16. To prevent pollution of the water environment.
17. To prevent pollution of the water environment.
18. To ensure proper arrangements to limit surface water run off and to protect the quality of water supplies to private properties.
19. To protect controlled waters.
20. To ensure adequate arrangements are in place to reinstate the site.
21. To ensure adequate arrangements are in place to reinstate the site.
22. In the interests of safeguarding public rights of way.
23. In the interest of free and safe movement of traffic on the adjacent highway and to ensure the formation of a safe and satisfactory access.
24. To provide for the loading, unloading and parking of construction vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
25. To provide for loading, unloading and parking of service vehicles clear of the highway and to ensure that reversing by vehicles into or from the highway is rendered unnecessary in the interest of traffic safety.
26. To ensure proper arrangements for the capture of material for access tracks, and subsequent reinstatement of the land.
27. To ensure adequate arrangements for the archaeological recording and observations.
28. To ensure the protection of archaeological interests.
29. In the interests of air safety.
30. In the interests of air safety.
31. To ensure full investigation of television reception and arrangements to address any interference as a result of the development.
32. In the interests of the amenities of occupiers of Ty Newydd.
33. To ensure adequate steps are taken to protect and enhance the ecology of the area.
34. To minimise disturbance to residents in the vicinity of the wind farm.
35. To minimise disturbance to residents in the vicinity of the wind farm.
36. To minimise disturbance to residents in the vicinity of the wind farm.
37. To minimise disturbance to residents in the vicinity of the wind farm.

NOTES TO APPLICANT:

THE GUIDANCE NOTES IN RELATION TO NOISE CONDITIONS

The following paragraphs are based upon steps 2-6 specified in Section 2 of the Supplementary Guidance Notes to the Planning Obligation contained within pages 102 et seq of ""The Assessment and Rating of Noise from Wind Farms, ETSU-R-97"" published by ETSU for the Department of Trade

and Industry. It has been adapted in the light of experience of actual compliance measurements. It is further adapted here to allow for the condition where more than one wind farm may affect a property.

NOTE 1

Values of the LA_{90,10min} noise statistic should be measured at the affected property using a sound level meter of at least IEC 651 Type 1 quality. This should be fitted with a ½" diameter microphone and calibrated in accordance with the procedure specified in BS 4142: 1990. The microphone should be mounted on a tripod at 1.2 - 1.5 m above ground level, fitted with a two layer windshield wind shield or suitable equivalent, and placed in the vicinity of, and external to, the property. The intention is that, as far as possible, the measurements should be made in "free-field" conditions. To achieve this, the microphone should be placed at least 10m away from the building facade or any reflecting surface, where possible, and no less than 3.5m away where this is not possible with appropriate adjustment made to measured levels to account for facade effects.

The LA_{90,10min} measurements should be synchronised with measurements of the 10-minute average wind speed and with operational data from the turbine control systems of the wind farm or farms.

The wind speed and wind direction and a note of all 10 minute periods when one or more of the relevant set of turbines was not operating normally should be provided to the consultant to enable an analysis to take place.

The "relevant set" of turbines is the six turbines nearest to the monitoring location. The precise definition of "normal operation" should be agreed in writing with the local authority on the basis of data available but should generally be taken to mean when the turbine power output is not significantly different from the reference power curve using the nacelle anemometer.

In the interests of commercial confidentiality no information is required to be provided for individual turbines or on the nature of any abnormality or for any period during which noise monitoring is not taking place.

NOTE 2

The noise measurements should be made over a period of time sufficient to provide not less than 100 valid data points. Measurements should also be made over a sufficient period to provide valid data points throughout the range of wind speeds considered by the local authority to be most critical. Valid data points are those that remain after the following data have been excluded:

All periods during rainfall

All periods during which wind direction is more than 45 degrees from every line from each of the turbines in the relevant set and the measurement position.

All periods during which turbine operation was not normal

A least squares, "best fit" curve should be fitted to the data points.

NOTE 3

Where, in the opinion of the Local Authority, the noise emission contains a tonal component, the following rating procedure should be used. This is based on the repeated application of a tonal assessment methodology.

For each 10-minute interval for which LA_{90,10min} data have been obtained, a tonal assessment is performed on noise emission during 2-minutes of the 10-minute period. The 2-minute periods should be regularly spaced at 10-minute intervals provided that uninterrupted clean data are obtained.

For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, *L_{tm}, is calculated by comparison with the audibility criterion given in Section 2.1 on page 104 et seq of ETSU-R-97.

The margin above audibility is plotted against wind speed for each of the 2-minute samples. For samples for which the tones were inaudible or no tone was identified, substitute a value of zero audibility.

A linear regression is then performed to establish the margin above audibility at the assessed wind speed. If there is no apparent trend with wind speed then a simple arithmetic average will suffice.

The tonal penalty is derived from the margin above audibility of the tone according to the figure below.

The rating level at each wind speed is the arithmetic sum of the wind farm noise level, as determined from the best fit curve described in Note 2, and the penalty for tonal noise.

The rating level shall be determined for each wind speed. If the values lie below the maximum values of turbine noise indicated by the table in the annex to these conditions then no further action is necessary.

NOTE 4

If the rating level is above the limit, a correction for the influence of background noise should be made. This may be achieved by repeating the steps in Note 2, with the wind farm that is the subject of the complaint switched off, and determining the background noise (including the noise from any other wind farm still operating) at the assessed wind speed, L_b . The wind farm noise at this speed, L_w , is then calculated as follows where L_a is the measured level with turbines running but without the addition of any tonal penalty:

$$L_w = 10 \log_{10} (10^{L_a} - 10^{L_b})$$

The Rating level is re-calculated by adding the tonal penalty (if any) to the wind farm noise. If the rating level lies below the values indicated from the table in the annex then no further action is required. If the rating level exceeds any of the turbine noise levels in the table in the Annex then the development fails to comply with Planning Condition 37.

NOTE 5

Where in the opinion of the Local Authority the complaint of noise relates to more than one wind farm or the Local Authority considers that it may be due to more than one wind farm the wind farms under suspicion (the nominated wind farms) should be identified in writing to the operators by the Local Authority. The procedures above should be carried out for each of the nominated wind farms. In practice this will normally mean that the same measurement data obtained by the procedure described above in notes 1 to 3 can be analysed separately for each wind farm though the duration of the measurements may have to be longer. Note that each analysis should use the wind speed measurements from the wind farm being assessed.

Should it be necessary to perform the procedure in Note 4 this may require that any one or more of the nominated wind farms to be switched off as required by the Local Authority. In the interests of clarity, if the procedure in Note 4 is not necessary then all nominated wind farms comply with the planning condition.

