

**REPORT TO SEEK A RESOLUTION ON THE PLANNING CONDITIONS TO BE
ATTACHED TO PLANNING APPLICATION 03/2012/0373**

WARD NO: Efenechtyd

APPLICATION NO: 11/2012/0373

PROPOSAL: Installation of a 50kW micro-generation wind turbine (No. 1) with control box and access track

LOCATION: Cil Llwyn, Bontuchel, Ruthin

APPLICANT: Mr D Roberts

1. PURPOSE OF THE REPORT

- 1.1 To seek a resolution from Members on the planning conditions to be attached to the Certificate of Decision for planning application ref: 11/2012/0373 granted permission at the previous meeting of the Committee.

2. BACKGROUND

- 1.1 Planning Committee on the 17th October 2012 resolved to grant permission for the erection of a 50kW wind turbine at Cil Llwyn, Bontuchel contrary to the Planning Officer's recommendation.
- 1.2 For information, the Officer report to the October Committee meeting follows as an appendix to this report. The merits of the application are not for consideration at this point.
- 1.2 The discussion at the October Committee was based around the need to support local farming enterprises, however no specific reason for going against officer recommendation as required by protocol was given and planning conditions were not discussed.
- 1.3 Following advice from the Council's Legal Officer and discussions with the Committee Chair and Vice Chair, Officers are presenting this report to Committee for Members to offer for the record a planning based reason for the granting of permission contrary to Officer recommendation, and to consider and make a resolution on the suggested conditions to be attached to the permission prior to the decision notice being issued.
- 1.4 Officers believe the conditions as drafted in Section 2 of the report are reasonable and necessary in relation to the application, and cover matters such as the construction, siting and appearance of the turbine, noise and amenity, landscaping, biodiversity mitigation measures and arrangements for reinstating the site when the turbine is removed. The suggested conditions are also in accordance with planning permissions for 50kW wind turbine proposals previously issued by the Council.

2. DRAFT CONDITIONS

The Condition(s) is(are):

1. The development hereby permitted shall be begun before the expiration of five 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 from the turbine. Written confirmation of the date of the first generation of electricity from the development shall be provided to the Local Planning Authority no later than 1 calendar month after the event.
3. The location of the turbine, site access and track shall be erected in the positions indicated on the submitted plans. A variation of the indicated position of the turbine by up to 25 metres shall be permitted provided the turbine is moved no closer to Pengalltegfa private dwelling or any existing hedgerows. Any variation greater than 25 metres shall require the written approval of the Local Planning Authority.
4. This permission relates solely to the erection of 3 bladed wind turbine as described in the application plans and drawings with a maximum height to blade tip of 46m from original ground level.
5. The finish of the turbine towers, hub and blades shall be semi-matt. The turbine blades and nacelle shall be RAL 9003 Signal White and the tower shall be RAL 9016 Traffic White, or as approved in writing by the Local Planning Authority prior to the commencement of any work on their erection on site.
6. The equipment cabin shall be erected in accordance with the approved plans and no additional external ancillary equipment required in connection with the operation of the turbine, such as metering boxes, switchgear and overhead lines and poles shall be permitted without the prior written approval of the Local Planning Authority.
7. 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.
8. All electricity and control cables shall be laid underground and cable routes shall cross hedgerows where there are existing gaps in planting.
9. No trees or hedgerows shall be removed or damaged during the construction of the development and fencing to protect dormouse habitat shall be erected along any hedgerow adjacent to the temporary construction access track and the construction site compound for the duration of the construction phase.
10. All temporary construction access tracks and the construction site compound shall be removed and the land shall be restored to its former profile and condition within a period of 6 months of the date of the first generation of electricity from the development.
11. The supplementary planting of native species including hazel along existing hedgerows within the applicant's control as indicated on the approved plans shall be implemented before first generation of electricity to the grid.
12. Noise from the turbines shall not exceed $35\text{dB}_{\text{LA90,10min}}$ for wind speeds of up to 10m/s at 10m height when cumulatively measured freefield at the nearest noise sensitive receptor in accordance with ETSU-R-97.

13. In the event of complaints to the Local Planning Authority over noise attributable to the operation of the turbine, and after initial investigation by the Authority to assess that there is justification for such complaint:

- a) The Authority shall notify the applicant, in writing, of the complaint.
- b) Within one month of notification by the Authority the applicant shall organise, at their own expense, a noise assessment by independent acoustic consultants, in accordance with a brief to be set by the Authority, to establish whether the terms of Condition 11 are met.
- c) A copy of the noise assessment undertaken in accordance with b) shall be submitted to the Authority no later than two months from the date of notification.

14. In the event that noise attributable to the turbine is found to be exceeding the levels set out in Condition 12, mitigation measures to ensure compliance with Condition 12 shall be submitted to and agreed in writing with the Local Planning Authority and implemented within 3 months. Where mitigation measures have not been implemented within 3 months, the turbine shall be shut down and shall not commence operation until the mitigation measures have been implemented.

15. To aid cumulative impact and complaint investigations, the applicant shall temporarily turn the turbine off (braked to stop the rotors) to facilitate noise investigations being undertaken in nearby locations, when requested in writing by Local Planning Authority.

16. If justified complaints of shadow flicker are received by the Local Planning Authority from any occupied dwelling which existed or was consented at the time that this permission was granted, the developer will be notified in writing and mitigation measures to control, re orientate, or shut down the turbine until the conditions causing those shadow flicker effects have passed shall be agreed with the Local Planning Authority and implemented within 3 months of notification.

17. If the wind turbine hereby permitted ceases to operate for a continuous period of 6 months, the wind turbine and ancillary equipment shall be dismantled and removed from the site, and the foundations shall be removed down to a minimum depth of 1.0m below ground level, and the land shall be restored to its former profile and condition within a period of 6 months from the end of the 6 month period unless otherwise agreed with the Local Planning Authority.

18. No later than 12 months before the expiry of the 25 year operational period of this permission, a scheme for the remediation and restoration of the site to its former profile and condition, including the dismantling and removal of all elements above ground level, and the removal of turbine foundations down to a minimum depth of 1.0m below ground level, shall be submitted for the consideration of the Local Planning Authority. The scheme approved in writing by the Local Planning Authority shall be implemented within 12 months from the date that the planning permission hereby granted expires.

The reason(s) for the condition(s) is(are):-

- 1: 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, to allow the Local Planning Authority to retain control over the development and in the interests of residential amenity and nature conservation.

- 4 For the avoidance of doubt and in the interests of visual amenity.
- 5: For the avoidance of doubt and in the interests of visual amenity.
- 6: For the avoidance of doubt and in the interests of visual amenity.
- 7: In the interests of visual amenity.
- 8: In the interests of visual amenity and nature conservation.
- 9: In the interests of visual amenity.
- 10: In the interests of visual amenity.
- 11: In the interests of nature conservation.
- 12: In the interests of the amenity of occupiers of residential property in the locality.
- 13: To ensure adequate measures are in place to monitor and assess noise from the turbine in the event of complaints and in the interests of the amenity of occupiers of residential property in the locality
- 14: to allow the Local Planning Authority to retain control over the development and in the interests of the amenity of occupiers of residential property in the locality.
- 15: To ensure adequate measures are in place to monitor and assess noise from the turbines in the event of complaints, and in the interests the amenity of occupiers of residential property in the locality.
- 16: In the interests of the amenities of occupiers of residential property in the locality.
- 17: To ensure adequate arrangements are in place to reinstate the site, in the interests of visual amenity.
- 18: To ensure the long term reinstatement of the site, in the interests of visual amenity.

NOTE TO APPLICANT:

Your attention is drawn to:

- Denbighshire County Council Highway Supplementary Notes Nos. 1,3,4,5 & 10
- New Roads and Street Works Act 1991 - Part N Form
- Environment Agency "Standard Advice" Guidance Note for Developers

MOD

You are reminded of the need to advise the Ministry of Defence of the date construction starts and ends; the maximum height of construction equipment; and the latitude and longitude of the turbine.

MOD contact details: MOD Safeguarding, Defence Infrastructure Organisation, Kingston Road, Sutton Coldfield, West Midlands, B75 7RL Telephone: 0121 311 3781 Fax: 0121 311 2218 Email: DIO-Safeguarding-Wind@mod.uk

RECOMMENDATION

3.1 Members are requested to:

- a) confirm the planning reason for granting permission contrary to recommendation;
and
- b) accept the conditions as drafted above and agree to these being imposed on the permission.