

# **REPORT BY THE HEAD OF PLANNING AND PUBLIC PROTECTION**

## **CLOCAENOG FOREST DEVELOPMENT CONSENT ORDER APPLICATION (DCO)**

### **Proposed erection of 32 no. 145 metre high wind turbines**

#### **1. PURPOSE OF REPORT**

1.1 The report relates to an application submitted to the Planning Inspectorate (PINS) by RWE Npower Renewables Limited for a 'Development Consent Order' for the erection of 32 no. 145 metre high wind turbines in Clocaenog Forest.

1.2 In order to meet relevant deadlines for stages in the examination process by PINS, the report seeks a resolution from Committee on the principle of the development and on specific impacts following consultation responses. It also requests authorisation for the Head of Planning and Public Protection and / or the Development Control Manager to complete relevant reports and to make representation on the DCO in accordance with the PINS schedule.

1.3 The request for the resolutions is necessary as there is a strict timetable for the examination of the application and the Council has a limited time period to make representations on it.

#### **2. BACKGROUND**

2.1 This is the largest onshore wind energy development proposed in the Conwy and Denbighshire County areas and the first to be considered under the Nationally Significant Infrastructure Project (NSIP) procedures.

2.2 The Councils are 'relevant local authorities' and a 'statutory consultee' on the proposal. The application is examined by the Planning Inspectorate, who will then make a recommendation to the Minister for Energy and Climate Change on whether the development is acceptable. The Minister will then determine whether to approve or refuse the Development Consent Order.

2.3 Members may recall that the windfarm proposals have been developed over a period of approximately four years and various aspects of the process have previously been reported to Committee:

- Consultation on Draft Statement of Community Consultation - March 2010.
- Consultation on Draft Environmental Statement (Section 42 of the 2008 Act) - September 2011.
- Adequacy of Consultation - March 2013.

The development consent order (DCO) application was accepted by the Planning Inspectorate (PINS) in May 2013 for examination.

2.4 In view of the scale and cross-border nature of the proposed development, Officers of Denbighshire and Conwy have been working on a collaborative basis and have entered into a Planning Performance Agreement with the Developer. The Planning Performance Agreement allows the Councils to recover costs in relation to their impact into the process.

2.5 The application is currently at the "pre-examination stage". Denbighshire has registered with PINS to take an active part in the examination process.

2.6 There are four important aspects of the examination process that the Council will need to engage in, namely:

- Produce a Local Impact Report (LIR).
- Contribute to the applicant preparing and submitting a Statement of Common Ground (SOCG).
- Decide whether the Council wishes to object or support the application.
- Produce statements to support its adopted position, attend hearings and open forums and answer questions posed by the Inspector.

2.7 The Examination will open following a Preliminary Meeting organised and run by PINS, to which all interested parties have been invited. The Preliminary Meeting has been set for the 12<sup>th</sup> September, 2013, and at that meeting the Inspector will explain the examination process and discuss the examination timetable. The Examining Inspector has indicated that the LIR, SOCG and written representations will need to be submitted by the 17<sup>th</sup> October 2013. The Inspector has also provided an Initial Assessment of the Principal Issues, which is included as Appendix 1 to this Report.

### **3. LOCAL IMPACT REPORT (LIR)**

3.1 The LIR is a critical analysis of the information submitted in the application, identifying the local impact(s) the development may have on the area and the people who reside in and around the proposed wind farm. The Inspector and subsequently the Minister must take the Council's LIR into consideration when determining the application. The LIR is distinct from any representation that the Council may wish to make on the merits of the application.

3.2 In view of the scale and cross-border nature of the proposed development, the Councils have been working on a collaborative basis, and it intended to

produce a joint Local Impact Report. Officers from both Conwy and Denbighshire County Councils have been reviewing the application to assess whether the impacts are positive, neutral or negative.

3.3 In preparing the LIR, consultations have taken place with Officers of both Councils and external consultants. The following topics have been looked at:-

- Landscape and Visual Impact.
- Noise.
- Ecology and Ornithology.
- Access, Traffic, Transportation and associated Engineering.
- Hydrology and Geology.
- Socio-Economic (including Tourism)
- Public Access and Recreation.

3.4 From the consultation responses received so far, it is clear that the principle of developing a large wind farm within the SSA is considered to be in line with National Energy Policy, Welsh Government policy and Local Development Plan policy.

3.5 However, there are concerns expressed from consultees over potentially significant negative impacts for the area and for the residents living in and around Clocaenog Forest. There are considered to be specific negative impacts in respect of:-

- a) The landscape and visual impact of 32 no. large turbines of the size proposed (145m).
- b) The cumulative noise impact and the impact on the residential amenities of residents.
- c) The likely impact of the development on Private Water Supplies.

3.6 There will also be other impacts, which may not be so significant, which may be addressed by mitigation, or where mitigation needs to be improved.

3.7 As noted, the aim of the LIR is to identify any local impact(s) that the Council considers PINS should be aware of, but not to assess the merits of the application, or weigh-up the proposal. The LIR is distinct from any representation that the Council may wish to make on the merits of the application, and the Council has the opportunity to make such views known separately when making written representations on the application. Written representations are covered in Section 6 of this report.

3.8 The Examining Inspector has indicated that the Council's LIR will need to be submitted by the 17<sup>th</sup> October 2013. Given the extent of work involved, the LIR is not expected to be completed by the date of the September Planning Committee meeting. However, a working draft LIR will be made available for Members' information prior to the Committee. Preparation of the LIR is expected to continue until it is submitted to PINS by the deadline of the 17<sup>th</sup> October. Officers are therefore requesting delegated authority from the Committee to complete the LIR, and submit the LIR to PINS.

## **4. STATEMENT OF COMMON GROUND (SOCG)**

4.1 The Statement Of Common Ground (SOCG) will enable the Examining Inspector to see where the applicant and other parties (including the Local Councils) are in agreement and where there is disagreement. This is intended to help determine the main areas of concern that will need the most scrutiny as part of the examination process. The provisional timetable for the applicant to submit the completed SOCG to the Inspector is the 17<sup>th</sup> October 2013.

4.2 Officers are in discussions with the applicant, but the draft SOCG is not expected to be completed by the date of the September Planning Committee meeting. However it is anticipated that further information on some of the issues will be reported in the Addendum to be circulated prior to the meeting.

4.3 Preparation of the SOCG is expected to continue until it is submitted to PINS by the deadline of the 17<sup>th</sup> October. Officers are therefore requesting delegated authority from Planning Committee to complete the SOCG with the applicant, and for the SOCG to be submitted to PINS.

## **5. ASSESSMENT OF THE DEVELOPMENT CONSENT ORDER (DCO)**

5.1 The applicant has submitted a draft Development Consent Order (DCO) as part of the application. After the Examination, the DCO will either be accepted or refused by the Minister of Energy and Climate Change.

5.2 The purpose of the Order is to grant 'development consent' for the construction and operation of a wind energy electricity generating station comprising a nationally significant infrastructure project as defined in Sections 14 and 15 of the 2008 Act. In summary this consists of:-

- Up to 32 wind turbines;
- A series of electrical and electronic communication cables buried beneath the ground connecting the wind turbines;
- A series of new tracks, existing tracks which will be improved and widened and public roads which will be widened;
- Widening of an unnamed public road to provide a construction, maintenance and emergency site access;
- An on site electricity substation including a control building;
- Two meteorological masts;
- Two temporary civil construction compounds;
- Four borrow pits for the extraction of stone; and
- A temporary electrical compound.

5.3 The Order also allows for the compulsory purchase of land required to construct and operate the wind farm.

5.4 The Council will be expected to comment on the draft Order and suggest changes where necessary. The draft Order has been prepared on similar lines

to one which was submitted in relation to the recently granted wind farm development at Brechfa Forest, Carmarthenshire.

5.5 The draft Order also includes “requirements” which are equivalent to Conditions on a planning permission. Regardless of its view on key issues, the Council is expected to contribute, on a without prejudice basis, to the framing of the “requirements” in the event that the DCO is granted. The draft “requirements” in the submitted Order are considered to be fundamentally sound. However, Officers consider that certain “requirements” are too prescriptive and need to be more flexible. In making comments on the draft DCO, Officers will request minor amendments to build in that flexibility to allow minor alterations to approved details within the terms of the “requirement”.

5.6 The provisional Examination timetable indicates that the First Issue Specific Hearing on the DCO will be held on 29<sup>th</sup> October 2013. The initial proposed amendments to the draft DCO will need to be submitted to PINS by 14<sup>th</sup> October 2013. A Second Issue Specific Hearing on the DCO will be held in January 2014, with final comments on the draft DCO in February 2014. Officers are therefore requesting delegated authority from Planning Committee to make comments on the draft DCO and to submit those comments to PINS within the Examination timetable.

## **6. THE COUNCIL’S POSITION IN RESPECT OF THE EXAMINATION PROCESS**

6.1 If the Council wishes to make an active contribution to the Examination process, Officers consider that the Council should make an early decision on whether to support or object to the development proposal.

6.2 In respect of the principle of the windfarm development, National Energy Policy, Welsh Government policy and Local Development Plan policy support the large scale wind energy development in the Strategic Search Area (SSA) at Clocaenog Forest:

- i) National policy on the generation of Renewable energy ENE1 and ENE3.
- ii) Welsh Government Policy as indicated in Planning Policy Wales (5<sup>th</sup> Edition) and TAN 8
- iii) Policy VOE 9 and VOE 10 of the recently adopted Denbighshire Local Development Plan
- iv) Policy NTE 7 and NTE 8 of the Conwy Local Development Plan which is nearing Adoption.

Officers therefore consider that it would be very difficult to sustain an objection to the principle of this wind farm development.

- 6.4 However, there are specific concerns over the potentially significant negative impacts of the development of 32 no. 145 metre high turbines and associated works including:-
- i) The Council's Landscape Consultant and the Senior Landscape Officer, who consider that a scheme of this size and scale will have a significant negative impact on the locality, in terms of visual and landscape considerations.
  - ii) The Council's Noise Consultant, who considers that there will be unacceptable cumulative levels of noise over and above that which residents living in the locality could reasonably expect to endure.

6.5 Responses from consultees on Private Water Supplies, socio-economic issues (including tourism) and ecology are awaited. These responses may raise other areas of significant concern which will need to be submitted to the Inspector.

6.6 Officers therefore recommend that the Council should express objection to the application based on the specific concerns outlined above. Further information on the outstanding consultation responses will be reported in the Addendum report to be circulated prior to the meeting.

## **7. SUMMARY AND CONCLUSION**

7.1 Officers consider that the Council should continue to play an active role and contribute fully to the Examination of this application. The Examining Inspector has issued a draft Examination timetable and called a Preliminary Meeting on 12<sup>th</sup> September 2013. The Examination period is expected to continue until March 2014.

7.2 During the Examination period, the Council will need to respond quickly on various matters and within tightly prescribed deadlines. Officers are therefore requesting delegated authority from Planning Committee to respond to matters raised during the Examination process. Officers are also requesting delegated authority to complete the Local Impact Report (LIR) and the Statement of Common Ground (SOCG), and to make representations on the development proposal and the draft Development Consent Order (DCO), within the Examination timetable.

## **8. RECOMMENDATION**

- A) That the Council raise no objection to the principle of a large scale Wind Farm development in the SSA at Clocaenog Forest
- B) That the Council raise objection to the potentially significant negative impacts of the development in respect of the landscape and visual impact, noise and any other negative impacts that the Head of Planning and Public Protection and / or Development Control Manager considers to be significant following receipt of consultation responses.
- C) That the Committee authorises the Head of Planning and Public Protection and / or Development Control Manager to complete the Local Impact Report (LIR) and the Statement of Common Ground (SOCG), and make representations on the development proposal and the draft Development Consent Order (DCO), and to respond to other matters raised during the Examination process.

**GRAHAM H. BOASE**

**HEAD OF PLANNING AND PUBLIC PROTECTION**