

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

**PLANNING APPEAL DECISION**

**PANT Y MAEN WINDFARM, LLYN BRAN, BYLCHAU, DENBIGH**

**1. PURPOSE OF REPORT**

1.1. This item provides members with information on the planning appeal decision received from Welsh Government on a proposed windfarm development on land south west of Nantglyn.

**2. CONTENTS**

2.1. The report sets out :

- the background to the planning application
- the decision of Planning Committee to refuse permission
- the appeal process
- a summary of the decision by the Cabinet Secretary for Energy, Planning and Rural Affairs to disagree with the recommendations of the Appeal Inspector and to allow the appeal.

2.2. For reference, copies of the two main appeal decision documents – the Welsh Government Formal Decision and the Appeal Inspector’s report are attached as appendices at the end of the report.

**3. RECOMMENDATION**

3.1. That the report be received for information.

**EMLYN GWYNEDD JONES**

**HEAD OF PLANNING AND PUBLIC PROTECTION**

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# PANT Y MAEN WINDFARM

Planning application 25/2015/0321

## 1. Background to the decision.

- 1.1. The planning application was submitted in March 2015 and was for the development of a windfarm comprising 7 turbines, with associated transformers, access tracks, substation, anemometry tower and infrastructure on land adjacent to Llyn Bran, Bylchau.
  - 1.2. The application was submitted for full planning permission, and was accompanied by a range of technical reports including – The approach to Environmental Impact Assessment; Site Selection and design; Policy Background and Project Benefits; Detailed Environmental Assessments including Landscape and visual assessment; Socio economic and tourism assessment; Hydrology, geology and hydrogeology; Ecology; Ornithology; Noise and shadow flicker; Forestry ;Cultural Heritage ; Traffic and Transport; Existing infrastructure and Residual impacts and mitigation.
  - 1.3. A wide range of statutory and non-statutory consultation was undertaken including with internal sections of the Council, and with external bodies including Nantglyn, Llanrhaeadr, and Denbigh Community Councils, Conwy County Council, Natural Resources Wales, Dwr Cymru Welsh Water, the Clwyd Powys Archaeological Trust, the North Wales Wildlife Trust, and CADW (Ancient Monuments).
  - 1.4. In addition, neighbour letters were distributed to addresses in the vicinity of the site, site notices were posted around the site and the application was advertised in the press.
  - 1.5. Objections were received from the two local Community Councils and from over 60 different private individuals. The basis of the objections were:
    - Principle of development
    - Planning history (previous refusal for a windfarm on the site)
    - Landscape and visual impact
    - Noise impact
    - Ecological impact
    - Ancient Monuments
    - Tourism impact
    - Highways
    - Flooding
    - Water supply
    - Conflict with planning policies
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- 1.6. The application was presented to Planning Committee for consideration in September 2016. The Officers' report detailed the proposals, responses to consultation and publicity, the material considerations, and matters which had arisen in the course of progressing the application. The report advised on the Council's adopted planning policies, Welsh Government policy and guidance, and relevant matters arising from a previous application for a windfarm at the site which had been refused and had gone through a long appeal process before being finally turned down.
  - 1.7. The report concluded on the basis of the responses from the key 'technical' consultees, that the harm which would arise in terms of impacts on landscape / visual interests and on the historic environment is significant, and should not be outweighed by the support for the principle of wind energy development at Welsh Government level and within the Local Development Plan, and the particular benefits in terms of renewable energy generated from the proposed 7 turbine scheme.
  - 1.8. The application was discussed at length at Committee. There were public speakers in favour and against the application. In debate, the local member referred to the history of the site, the recommended reasons for refusal, the extent of local opposition and public feeling against the development from individuals and local community councils. It was proposed and seconded that the application be refused for the reasons in the Officer report, and the vote was 23 in favour of refusal, no votes to grant, with one abstention.
  - 1.9. The three reasons for refusal were:
    1. *The development of 7 turbines with a height of 102 metres to blade tip in this prominent ridge top location would have an unacceptable impact on views of the Snowdon Horseshoe from the top of Moel Famau in the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty, extending turbine development in front of part of this significant view of the main peaks of Snowdonia. The harm it is considered would arise from the interruption of this nationally important view would be unacceptable and contrary to test ii) of policy VOE 9 and policy VOE 2 of the Denbighshire Local Development Plan, and considerations to be applied to statutory landscape designations in Chapter 5 of Planning Policy Wales 8.*
    2. *The visual effects of the proposed turbines would be unacceptably overbearing to residents of properties in the locality, and in combination with the existing and proposed wind farm developments in the area, would result in the local community having the appearance of becoming increasingly surrounded by turbines on high ground to the south and west. The harm it is considered would arise would be unacceptable and contrary to test ii) of policy VOE 9 of the Denbighshire Local Development Plan.*
    3. *The development is considered likely to have an adverse impact on the historic environment in the area, including on the setting of a number of nationally important scheduled monuments, and when considered alongside other existing and proposed schemes in the area, would give rise to significantly cumulative adverse impacts on the settings of these*
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*prehistoric funerary and ritual monuments. The harm it is considered would arise to the historic environment of this part of Wales would be unacceptable and contrary to policy VOE 1 of the Denbighshire Local Development Plan, Welsh Government policy and guidance in Planning Policy Wales 8 Chapter 6, and in Circular 60/96 Planning and the Historic Environment: Archaeology.*

## **2. The appeal process**

- 2.1. The applicants subsequently lodged an appeal against the refusal decision. The Planning Inspectorate informed Denbighshire County Council in March 2017 that the appeal was to be dealt with via the Written Representations process.
- 2.2. Officers prepared the Statement of Case for the appeal with input from CADW and the Local Member.
- 2.3. The Council was informed in May 2017 that Regulation 4 of the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) (Amendment) Regulations 2016 specifies the construction of an on-shore wind generating station that is expected to have (when constructed) an installed generating capacity of 10 megawatts or above is of national significance. It was confirmed that the appeal proposal falls within this category and the appeal was to be 'recovered for determination by the Welsh Ministers'. In effect, this meant that the appeal was to be dealt with by an Inspector appointed by the Welsh Ministers, but that the Inspector's report and recommendations were to be passed to Welsh Ministers for consideration and the final determination.
- 2.4. The site was visited by the Appeal Inspector in late June 2017.

## **3. The Appeal Decision**

- 3.1. The Council were informed of the appeal decision in a letter dated 11<sup>th</sup> January 2018, sent in the name of Welsh Government's Cabinet Secretary for Energy, Planning and Rural Affairs.
  - 3.2. The documents received from Welsh Government consist of :
    - A. The Appeal Inspector's Report, recommending the appeal be dismissed.
    - B. The deliberations of Welsh Ministers summarising the recommendations of the Appeal Inspector and setting out the Formal Decision to **allow** the appeal.
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## **The Inspector's report**

3.3. For members' information, the Appeal Inspector's report is a 54 page document dealing in considerable detail with matters considered relevant to the appeal. It contains sections dealing with the following:

- Planning policy considerations – at local and national level
- Planning History – including reference to the previous application for a 13 turbine wind farm in this location (referred to as Gorsedd Bran), refused by Denbighshire in 2008, and on appeal in 2009; and the Inspector's grounds for dismissing that appeal
- The current appeal proposals
- The Council's case
- The Appellant's case
- Representations from CADW, Natural Resources Wales and other interested parties
- Planning Conditions

### The Inspector's conclusions

The Inspector considered the main issues on the Pant y Maen appeal were the effect of the development on:

- Landscape character and visual amenity with particular reference to the views of Snowdonia from Moel Famau;
- the residential amenity of the occupants of properties in the locality in respect of outlook;
- the setting of scheduled ancient monuments in the local vicinity.

The Inspector's concluding paragraphs summarise the findings of the report and are quoted below:

#### *Planning Balance*

194. The planning system has an important role in delivering renewable energy schemes in order to meet the WG target for energy to be derived from renewable resources and the proposed development would contribute towards that target. Whilst TAN 8 directs large scale developments towards the SSA and there is an implicit objective within it to accept significant change in landscape character, it recognises that not all the land within the SSA may be environmentally suitable for major wind power proposals.

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Furthermore the SSA have a finite environmental capacity, although the evidence indicates that the development would not result in the maximum levels for SSA-A being exceeded.

195. A balance needs to be struck between the benefits of generating electricity from renewable onshore wind and the identified impacts of the scheme on the landscape and visual amenity, residential amenity, the setting of the SAMs and other matters raised in evidence.

196. I have concluded that the development would cause harm to the landscape and visual amenity and in reaching this conclusion I have weighed in the balance the implicit objective to accept significant change to the landscape character of the SSA. With regard to residential amenity, I have concluded that the development would have an unacceptable overbearing impact on the outlook from The Sportsman's Arms. However, it is a financially involved property and the effect of the development on residential amenity would not make the property uninhabitable, which would reduce the weight attributable against the proposal.

197. Although TAN 24 is clear that the public benefit of taking action to reduce carbon emission, or to adapt to the impact of climate change, should be weighed against any harm to the significance of historic assets, I nevertheless consider that the significant harm to the setting of several SAM I have identified carries substantial weight against the appeal.

198. I am satisfied that other material planning considerations raised can be satisfactorily addressed by planning conditions.

199. On balance I consider that the positive benefits of renewable energy and the location of the site within SSA-A are not sufficient to outweigh the harm in respect of the landscape and visual amenity, residential amenity and harm to the historic environment. The evidence persuades me that the balance is not in favour of the appeal and on this basis I consider that the appeal should be dismissed.

### **Recommendation**

200. For the reasons given above, and having had regard to all other matters raised, I therefore recommend that the appeal be dismissed.

### **3.4 The Formal decision of Welsh Ministers**

The Ministers' document provides a lengthy summary of the Appeal Inspector's report and recommendation to dismiss the appeal.

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The Formal Decision section of the report consists of 11 paragraphs covering two pages and is quoted below:

### **Formal decision**

53. The Welsh Government is committed to renewable and low carbon energy generation and Planning Policy Wales sets out the need to take into account the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development. In this case I am satisfied the Inspector has considered the relevant issues in full, however, I do not agree with the weight given by the Inspector to the benefits of increasing the supply of renewable energy through this proposal.
  54. PPW confirms the Welsh Government is committed to using the planning system to optimise renewable energy generation and recognises the benefits of renewable energy are part of the overall commitment to tackle climate change.
  55. PPW also notes in the short to medium term, wind energy continues to offer the greatest potential for delivering renewable energy and the need for wind energy is a key part of the Welsh Government's vision for future renewable electricity production. Technical Advice Note 8: Renewable Energy identifies 7 Strategic Search Areas (SSAs) as the most appropriate locations for large-scale wind development. The proposed wind turbines which form the appeal scheme are all located within the Clocaenog Forest SSA. Policy VOE 9 of the Local Development Plan supports on-shore wind development and states Local Authority Wide Scale developments (defined as having a generating capacity between 5MW and 25MW) will only be permitted within the Clocaenog Forest SSA where they do not prejudice the development of strategic/large scale schemes and subject to detailed assessment of localised impacts. The proposed development would have a potential total generating capacity of 17.5MW and, therefore, falls within the Local Authority Wide Scale category.
  56. The proposal would not prejudice the development of strategic/large scale schemes as development consent was granted in 2014 for a wind farm in the Clocaenog Forest SSA with a gross electrical output of up to 96MW, consisting of up to 32 turbines. Works are expected to start on this scheme next year.
  57. The Inspector notes the maximum installation capacity for wind energy in the Clocaenog SSA is 212MW. The Inspector confirms the evidence indicates the appeal scheme would not result in the maximum levels of installed capacity for the Clocaenog SSA being exceeded.
  58. Given this context, the Local Planning Authority provided written confirmation to the Inspector it accepted the principle of a wind farm in
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this location subject to detailed consideration of the localised effects of the development.

59. Therefore, the location of the proposed wind farm is acceptable, in principle. As the Inspector recognises, whether planning permission should be granted for the proposal rests on the balance between the benefits of generating electricity from renewable onshore wind and the identified impacts of the scheme on landscape and visual amenity, residential amenity, the setting of the SAMS and other matters raised in evidence,.
60. I consider the benefits of the proposal in terms of delivering renewable energy on a site located within a SSA are material considerations which are sufficient to outweigh the identified impacts of the scheme and the balance, therefore, weighs in favour of the appeal.
61. Therefore, I disagree with the Inspector's recommendation. In exercise of the power referred to in paragraph 2 of this decision letter, I hereby allow your client's appeal and grant planning permission for the construction and operation of a wind farm comprising 7 wind turbines together with transformers, access tracks, on-site substation, anemometry tower and associated construction and operation infrastructure (Ref: 25/2015/0321).
62. I note the Inspector refers to UK Government National Policy Statements in setting out the policy context for the appeal (IR27), however, these statements do not form part of the policy framework on which this decision is based.
63. In reaching this decision I note the duty to carry out sustainable development under section 2 of the Planning (Wales) Act 2015 and I consider the decision accords with the sustainable development principle set out in WFG Act 2015. In accordance with section 3(2) of the WFG Act 2015 and the well-being objectives of the Welsh Ministers, the decision will "drive sustainable growth and combat climate change" by increasing the amount of renewable wind energy generated in Wales.

**EMLYN GWYNEDD JONES**  
**HEAD OF PLANNING AND PUBLIC PROTECTION**

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