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THIS IS A MEETING WHICH THE PUBLIC ARE ENTITLED TO ATTEND

1st January 2021

Dear Sir/Madam

PLANNING, REGULATORY & GENERAL LICENSING COMMITTEE

A meeting of the Planning, Regulatory & General Licensing Committee will be held in Virtually Via Microsoft Teams (if you would like to attend this meeting live via Microsoft Teams please contact committee.services@blaenau-gwent.gov.uk) on Thursday, 7th January, 2021 at 2.00 pm.

Yours faithfully

Michelle Morris
Managing Director

AGENDA

Pages

1. SIMULTANEOUS TRANSLATION

You are welcome to use Welsh at the meeting a minimum notice period of 3 working days is required should you wish to do so. A simultaneous translation will be provided if requested.

We welcome correspondence in the medium of Welsh or English. / Croesawn ohebiaith trwy gyfrwng y Gymraeg neu'r Saesneg.

2. **APOLOGIES**

To receive.

3. **DECLARATIONS OF INTEREST AND DISPENSATIONS**

To consider any declarations of interest and dispensations made.

4. **APPEALS, CONSULTATIONS AND DNS UPDATE JANUARY 2021** 5 - 6

To consider report of the Service Manager Development & Estates

5. **QUARTERLY PERFORMANCE INFORMATION QUARTER 2: JULY – SEPTEMBER 2020** 7 - 12

To consider report of the Service Manager Development & Estates

6. **PLANNING APPEAL UPDATE: 30MW SOLAR PARK AT WAUNTYSSWG FARM, ABERTYSSWG, RHYMNEY, TREDEGAR** 13 - 26

To consider report of the Service Manager Development & Estates

7. **AREAS FOR MEMBER BRIEFINGS/TRAINING**

To consider.

EXEMPT ITEM

To receive and consider the following report which in the opinion of the proper officer is an exempt item taking into account consideration of the public interest test and that the press and public should be excluded from the meeting (the reason for the decision for the exemption is available on a schedule maintained by the proper officer).

8. **PLANNING APPEAL: SOLAR FARM AT WAUNTYSSWG, TREDEGAR** 27 - 30

To consider report of the Service Manager – Development & Estates.

To: Councillor D. Hancock (Chair)
Councillor W. Hodgins (Vice-Chair)
Councillor D. Bevan
Councillor G. L. Davies
Councillor M. Day
Councillor J. Hill
Councillor C. Meredith
Councillor K. Pritchard
Councillor K. Rowson
Councillor T. Smith
Councillor B. Thomas
Councillor G. Thomas
Councillor D. Wilkshire
Councillor B. Willis
Councillor L. Winnett

All other Members (for information)
Manager Director
Chief Officers

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Agenda Item 4

Report Date: 18th September 2020

Report Author: Katherine Rees

BLAENAU GWENT COUNTY BOROUGH COUNCIL	
Report to	The Chair and Members of Planning, Regulatory and General Licensing
Report Subject	Appeals, Consultations and DNS Update January 2021
Report Author	Service Manager Development & Estates
Report Date	16th December 2020
Directorate	Regeneration & Community Services
Date of meeting	7th January 2021

1.0	Purpose of Report
1.1	To update Members in relation to planning appeal and related cases.
2.0	Present Position
2.1	The attached list covers the “live” planning appeals and Development of National Significance (DNS) caseload.
3.0	Recommendation/s for Consideration
3.1	That the report be noted.

	Application No Appeal Reference Case Officer	Site Address	Development	Type Procedure	Sit Rep
1	C/2019/0280 APP/X6910/A/20/3257588 Justin Waite	Wauntysswg Farm, Abertysswg, Tredegar	Variation of cond 3 of planning permission DNS/3213639 (30MW solar park and ancillary development) to extend the life of the permission from 30 to 40 years.	Refusal of planning permission Written	Decision received 01/12/2020: Appeal allowed and full costs awarded to the appellant. Refer to separate report on this agenda.
2	C/2020/0024 APP/X6910/A/20/3259528 Joanne White	51 Coronation Street, Blaina, NP13 3HS	Application for a Lawful Development Certificate for an existing shelter.	Refusal of Lawful Development Certificate Written	Statement of LPA submitted. Awaiting decision.
3	C/2020/0203 APP/X6910/D/20/3263449 Jane Engel	17 Railway View Tredegar	Garage (Retention)	Refusal of planning permission Written	Questionnaire Submitted Awaiting decision

BLAENAU GWENT COUNTY BOROUGH COUNCIL	
Report to	Chair & Members of Planning Regulatory & General Licensing Committee
Report Subject	Quarterly Performance Information Quarter 2: July – September 2020
Report Author	Service Manager Development & Estates
Directorate	Regeneration and Community Services
Date of Meeting	7th January 2021
Key Words	Performance Management Speed and quality of decision making Welsh Government Performance Monitoring Quarter 2: July – September 2020

1.0	Background
1.1	Every local planning authority (LPA) in Wales is required to collect performance information regarding the speed and quality of decision making on all types of planning and related applications. This is submitted to Welsh Government on a quarterly basis.
1.2	This report considers the most recent data published by WG. The information relates to the second quarter of the current financial year i.e. <u>July to September 2020</u> .
1.3	It was published on the Welsh Government website on 23 rd November 2020. Link to Data .

2.0	Options for Consideration
2.1	<p>I have included 3 tables to illustrate current performance.</p> <ol style="list-style-type: none"> 1. Fig 1 - ranks the 25 LPA's in order of speed of determining all applications "on time". This is defined as within the 8-week target period or longer time that may be agreed with the applicant. 2. Fig 2 – ranks the LPA's in Wales and in respect of the average time (in days) taken to determine all applications. 3. Fig 3. – shows decisions taken by Planning Committee that are contrary to the recommendation of its officers.
3.0	Performance Information
3.1	<p><u>Fig 1</u>: this Council decided 100% of all applications in time. This compares to a Welsh average of 80%.</p>
3.2	<p><u>Fig 2</u>: on average it takes 85 days from registration to decision for this Council to decide each planning application set against a Wales average of 94 days.</p>
3.3	<p><u>Fig 3</u>: 0% of Planning Committee decisions were contrary to officer recommendation.</p>
4.0	Consideration
4.1	<p>The data in this quarter includes the period in the national Covid "lockdown". The returns therefore have to be viewed in that context. They are not necessarily representative of our normal service provision or for that matter any other Local Planning Authority.</p>
4.2	<p>During this period, the service continued despite staff absences due to deployment.</p>
4.3	<p>We held two Committee meetings during the quarter but as normal, there was no meeting during August.</p>
5.0	Recommendation
5.1	<p>That the report be noted.</p>

Fig. 1

Welsh Government Quarterly DM Survey
Percentage of Planning Applications Determined “On Time”
(Ranked in Order of Performance)

Welsh Local Planning Authority		Percentage Determined On Time	
		Quarter 2: 20-21	
		% in Time	No. of decisions
1	Blaenau Gwent	100	70
	Merthyr Tydfil	100	71
3	Brecon Beacons NPA	99	109
4	Swansea	98	438
5	Neath Port Talbot	96	181
6	Caerphilly	95	216
	Monmouthshire	95	272
8	Ceredigion	91	205
9	Conwy	89	196
10	Vale of Glamorgan	87	278
11	Rhondda Cynon Taff	84	335
	Torfaen	84	93
13	Cardiff	80	626
14	Isle of Anglesey	79	218
15	Powys	76	141
16	Bridgend	74	188
17	Denbighshire	71	196
18	Flintshire	66	179
	Newport	66	183
20	Pembrokeshire	57	181
21	Carmarthenshire	56	296
22	Snowdonia NPA	48	79
	Gwynedd	48	207
24	Pembs Coast NPA	46	69
25	Wrexham	-	-
WALES AVERAGE		80%	-

Fig. 2

Welsh Government Quarterly DM Survey
Average Time to Decide Applications in Days
(Ranked in Order of Performance)

Welsh Local Planning Authority		Average Days Taken to Decide An Application
1	Merthyr Tydfil	43
2	Swansea	59
3	Neath Port Talbot	62
4	Bridgend	72
	Rhondda Cynon Taff	72
6	Caerphilly	74
7	Conwy	76
8	Blaenau Gwent	85
9	Cardiff	86
	Denbighshire	86
11	Vale of Glamorgan	87
12	Pembrokeshire	91
13	Brecon Beacons NPA	92
14	Gwynedd	93
	Monmouthshire	93
16	Torfaen	101
17	Newport	106
18	Snowdonia NPA	109
19	Ceredigion	112
20	Carmarthenshire	114
	Isle of Anglesey	114
22	Pembs Coast NPA	119
23	Flintshire	120
24	Powys	141
25	Wrexham	---
WALES AVERAGE		94

Fig 3.

Welsh Government Quarterly DM Survey
Decisions Contrary to Officer Recommendation
(Ranked in Order of Performance)

Welsh Local Planning Authority		% Decisions Contrary to Recommendation
1	Blaenau Gwent	0
	Brecon Beacons NPA	0
	Bridgend	0
	Cardiff	0
	Caerphilly	0
	Gwynedd	0
	Isle of Anglesey	0
	Merthyr Tydfil	0
	Monmouthshire	0
	Neath Port Talbot	0
	Newport	0
	Pembrokeshire	0
	Pembs Coast NPA	0
	Powys	0
	Snowdonia NPA	0
	Swansea	0
	Vale of Glamorgan	0
18	Carmarthenshire	6
19	Conwy	10
20	Torfaen	14
21	Ceredigion	17
	Denbighshire	17
23	Flintshire	18
24	Rhondda Cynon Taff	26
25	Wrexham	---

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BLAENAU GWENT COUNTY BOROUGH COUNCIL	
Report to	The Chair and Members of Planning, Regulatory and General Licensing Committee
Report Subject	Planning Appeal Update: 30MW Solar Park at Wauntysswg Farm, Abertysswg, Rhymney, Tredegar
Report Author	Steve Smith
Directorate	Regeneration and Community Services
Date of meeting	7th January 2021

1. Purpose of Report

1.1 To advise Members of the decision of the Planning Inspectorate in respect of a planning appeal against the refusal of permission to extend the operational life of the proposed 30MW solar park at Wauntysswg Farm from 30 to 40 years (Ref: C/2019/0280). At Planning Committee on 6th February 2020 Members resolved to refuse planning permission contrary to officer's advice, and delegate authority to officers to issue a reason for refusal. Accordingly, the planning application was refused on 12th February 2020 for the following reason:

“The proposed 30 MW solar park, by virtue its size, mass and industrial appearance, would have an unacceptable adverse impact on the character and appearance of the rural landscape and the setting of Tredegar Cholera Cemetery Scheduled Ancient Monument. This unacceptable harm to the character and appearance of the landscape and the setting of the heritage asset would subsist over the 40 year operational lifetime of the solar park. Not only does this represent a substantial period of time, it is

materially and significantly longer than previously approved under the DNS consent process. Accordingly, the proposal conflicts with policies SP10, SP11, DM1 and ENV2 of the Local Development Plan.”

- 1.2 When the planning appeal was submitted to the Planning Inspectorate, the appellant also made an application for costs against Blaenau Gwent County Borough Council. The Planning Inspectorate’s decisions in respect of the planning appeal and costs applications are considered separately below.

2.0 Scope of the Report

- 2.1 Members will recall that the Welsh Minister for Housing and Local Government previously granted planning permission (subject to conditions) for a 30MW solar park, access and ancillary development at Wauntysswg Farm on 31st July 2019. The Local Planning Authority (LPA) was not responsible for the determination of that planning application, due to the 30MW solar park’s classification as a Development of National Significance (DNS). An application was subsequently made to the LPA to vary condition 3 of that planning permission in order to extend the operational life of the solar park from 30 to 40 years.

Appeal Decision

- 2.2 The Inspector acknowledged that the proposed solar park would have harmful impacts on the landscape, visual receptors and the setting of Tredegar Cholera Cemetery Scheduled Ancient Monument. However, the nature and magnitude of these adverse impacts remains the same as those considered by the Welsh Minister as part of the original DNS application. At the time, the Minister concluded that as these impacts would be temporary and fully reversible, the benefits of the proposed solar park in generating renewable energy would outweigh the identified harm. The Inspector acknowledged that the extant permission remains a valid fall-back position and attached substantial weight to the Minister’s decision.
- 2.3 The key consideration for the planning appeal as identified by the Inspector was whether the benefits of extending the life of the solar park for a further 10 years outweigh any harm. As part of the planning balance, the Inspector highlighted the fact that an

additional ten years of operation would contribute to a sustained offsetting of carbon emissions and would also contribute to energy security over this extended period. Significant weight was attached to these energy and climate change benefits. In contrast, whilst the Inspector accepted that the proposed variation of condition 3 would increase the length of time over which the identified adverse impacts would be experienced, he was satisfied that the impacts would remain time-limited and fully reversible. As such, the Inspector concluded that the benefits of proposed solar park in generating 30MW of renewable electricity per annum over an additional 10-year period would accord with the objectives of Planning Policy Wales, significantly outweighing the conflict with the LDP.

2.4 The Inspector accordingly ALLOWED the appeal.

Costs Decision

2.5 In its appeal submission, the Council contended that the proposed 33% increase in the operational life of the solar park would be materially and significantly longer than that originally permitted, and that the identified harmful impacts of the proposed development would be unacceptably prolonged as a result. The Inspector acknowledged that whether or not an additional 10 years amounts to a 'significant' time period is a matter of planning judgement and the Council is entitled to come to that view. He also accepted that Members of Planning Committee were entitled to come to their own view on the weight to be attributed to the proposal's beneficial and harmful impacts.

2.6 Nevertheless, the Inspector highlighted the fact that the solar park's proposed extended period of operation would result in energy security benefits subsisting for 33% longer and more CO₂ being offset than the originally permitted scheme. He also drew attention to the Minister's decision on the original DNS application, where the solar park's climate change and energy security benefits were found to clearly outweigh the temporary and fully reversible harmful impacts over the original 30 year period. The permitted scheme was considered to be physically identical to the appeal scheme, with little evidence of changed circumstances since the solar park was originally approved in 2019.

2.7 The Inspector considered the Minister's decision to be an important

material consideration in this case, and was of the opinion that there is little evidence within the committee minutes to explain how the substance of the Minister's decision was taken into account as part of the 'planning balance' underpinning Planning Committee's decision. Moreover, the Inspector was of the view that there is little evidence that Planning Committee afforded the Minister's decision due weight when coming to its decision to refuse the planning application. This is considered to be a significant oversight which, in the view of the Inspector, amounts to irrationality in the decision making process. As such, he concluded that Planning Committee's decision to the refuse planning permission was unreasonable and resulted in an appeal which should not have been necessary.

2.8 The Inspector accordingly GRANTED the appellant a full award of costs.

3. Recommendation/s for Consideration

3.1 That Members note for information the appeal and cost decisions for planning application C/2019/0280 as attached at **Appendix 1**.



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 09/11/20

gan Paul Selby, BEng (Hons) MSc
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 1st December 2020

Appeal Decision

Site visit made on 09/11/20

by Paul Selby, BEng (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 1st December 2020

Appeal Ref: APP/X6910/A/20/3257588

Site address: Wauntysswg Farm, Abertysswg, Rhymney, Tredegar, NP22 5BQ

The Welsh Ministers have transferred the authority to decide this appeal to me as the appointed Inspector.

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
 - The appeal is made by Elgin Energy EsCo Ltd. against the decision of Blaenau Gwent County Borough Council.
 - The application Ref: C/2019/0280 dated 2 October 2019, was refused by notice dated 12 February 2020.
 - The application sought planning permission for 30MW solar park, access and ancillary development without complying with a condition attached to planning permission Ref: DNS/3213639 dated 31 July 2019.
 - The condition in dispute is No. 3 which states: "This planning permission shall endure for a period of 30 years from the date when electricity is first exported from the solar farm to the electricity grid ('First Export Date'). Written notification of the First Export Date shall be provided by the developer to the Local Planning Authority no later than 1 calendar month after that event."
-

Decision

1. The appeal is allowed and planning permission is granted for 30MW solar park, access and ancillary development at Wauntysswg Farm, Abertysswg, Rhymney, Tredegar, NP22 5BQ, in accordance with application Ref: C/2019/0280 dated 2 October 2019, without compliance with condition No. 3 previously imposed on planning permission Ref: DNS/3213639 dated 31 July 2019, but subject to the conditions set out in the schedule to this decision letter.

Application for costs

2. An application for costs was made by Elgin Energy EsCo Ltd. against Blaenau Gwent County Borough Council. This application is the subject of a separate Decision.

Background and Main Issue

3. In July 2019 the Minister for Housing and Local Government (the Minister) granted planning permission for a 30MW solar park, access and ancillary development on the site (Ref: DNS/3213639). This appeal seeks permission to carry out the development subject to a variation to condition No. 3, which would extend the life of the permission from 30 to 40 years. No reasons for condition No. 3 are stated in the original decision
-

letter but having regard to the submitted documents I consider the 30-year limit to have been imposed in the interests of the area's character and appearance and the preservation of historic assets. Consequently, and having particular regard to the Council's reason for refusal, the main issue in this appeal is the effect that varying condition No 3 would have on the character and appearance of the area and the setting of the Tredegar Cholera Cemetery Scheduled Ancient Monument (SAM).

4. The full site boundary pertaining to the original permission extends into Caerphilly County Borough Council (CCBC). An application to vary condition No. 3 for the part of the development in Caerphilly County Borough was approved by CCBC on 5 December 2019. The appeal before me relates to the part of the development that lies within Blaenau Gwent County Borough, which is the major part of the site area.
5. Following the appeal being made the Planning Inspectorate undertook an Environmental Impact Assessment (EIA) screening assessment on behalf of the Welsh Ministers. A screening direction was consequently issued confirming that the appeal scheme is not 'EIA development' within the meaning of the relevant regulations. I have determined the appeal on this basis.
6. At the time of writing this decision a 'working draft' of the National Development Framework was under scrutiny by the Senedd. Whilst including policies relating to renewable energy, it is a draft document that does not yet form part of the statutory Development Plan for the County Borough. The draft document makes clear that it must not be used as a source of policy and I have consequently not sought the views of the parties on it, nor afforded it any weight in my decision.

Reasons

7. The appeal site is situated within a topographical depression, on land which slopes in a south/south westerly direction. The site is used for agriculture and predominantly composed of open grassland, dispersed trees and scrub, with enclosures separated by fences and bisected by drainage channels and minor watercourses which flow to the Nant Tyswg at the site's western boundary. The southeast part of the site accommodates a conifer plantation.
8. The site falls within the Mynydd Bedwellty, Rhymney Hill and Sirhowy Sides Special Landscape Area (SLA) as designated by policy ENV2 of the Blaenau Gwent Local Development Plan (LDP). I saw that this is a remote agricultural landscape of uplands punctuated by valleys, with infrequent isolated farms and dwellings. Whilst some energy and communications infrastructure and settlement edges are discernible from within Cwm Tysswg, the principal human influence on the landscape is formed by the rural highways which encircle part of the site on elevated land; from which the appeal site is readily visible. The site also forms part of the rural setting of the Tredegar Cholera Cemetery, a SAM which lies on elevated ground to the south.
9. In the decision letter for permission Ref: DNS/3213639 the Minister found no reason to disagree with her appointed Inspector's evaluation that the proposal would, from some viewpoints, result in harmful landscape and visual effects within Blaenau Gwent and/or Caerphilly County Boroughs, and that there would be an adverse impact on the setting of the SAM. Nonetheless, the Minister concluded that as these impacts would be temporary and fully reversible, the benefits of the proposal in generating an anticipated 30MW of electricity annually from a renewable source, for a period of 30 years, would outweigh the identified harm.
10. The appellant seeks to amend the time limit for operating the development due to advances in solar panel technology. There is, however, little to suggest that the extant

permission would not be implemented were this appeal to fail. The question at hand is therefore whether the benefits of extending the life of the development for a further 10 years outweigh any harm.

11. A relatively limited period has elapsed since the original planning permission was granted and there is little to indicate that the landscape has altered materially since then. Nor has there been any material change in relevant adopted national or local planning policy in the intervening period. I therefore attach substantial weight to the Minister's decision letter for planning permission Ref: DNS/3213639.
12. Based on the submitted documents and my own site observations, I have no reason to come to a different conclusion to the Minister about the nature and magnitude of the adverse impacts of the solar farm. Varying condition No. 3 would result in these impacts enduring for 40 years, rather than 30. Whilst the extended period of operation would not be of a wholly different order of magnitude to the fallback position, the time period during which the proposal's harmful impacts on the landscape, visual receptors and the setting of the SAM would be experienced would increase by one-third.
13. There is little dispute between the parties about the nature of the proposal's benefits. The appellant estimates that the additional 10-year period of operation would result in a saving equivalent to 160,000 tonnes of CO₂, one-third greater than the extant permission. Whilst government climate change and renewable energy targets typically run up to 2050, the additional 10 years of operation would contribute to a sustained offsetting of carbon emissions from electricity generated within the County Borough. The variation to condition No. 3 would also contribute to energy security during the extended 10-year period. I attach significant weight to these energy and climate change benefits. Whilst the appellant also proposes to increase contributions to a community benefit fund, that is not a planning obligation nor directly related to the development and I afford it no weight as a benefit.
14. PPW para 5.9.17 indicates that where protected landscape and historical designations are considered in the decision-making process, only the direct irreversible impacts on statutorily protected sites and their settings should be considered. It stands to reason that this principle should also apply to the designated landscapes of local significance in the vicinity of the appeal site. Whilst the proposed variation to condition No. 3 would increase the length of time over which the identified adverse effects would be experienced, the impacts would remain time-limited and fully reversible.
15. I accept that the adverse landscape, visual and heritage impacts of the appeal scheme would result in conflict, in whole or part, with LDP policies SP10, SP11, DM1 criterion 1b and ENV2. Nonetheless, in the planning balance I conclude that the benefits of the proposal in generating 30MW of renewable electricity per annum over an additional 10-year period would accord with the objectives of PPW, significantly outweighing the conflict with the LDP.

Other Matters and Conclusion

16. I have had regard to the other matters raised. As the arrangement of solar panels would not alter from that already permitted, I do not consider that the extended operating period would result in unacceptable glint or glare impacts. Nor would the variation to condition No 3 increase the amount of material to be disposed of. Having regard to the fallback position, I do not consider that allowing the development to operate for an additional 10 years would materially affect the viability of existing local businesses. I afford these matters limited weight.

17. For the stated reasons, and having regard to all other matters raised, I conclude that the appeal should be allowed. I shall vary the planning permission by deleting condition No. 3 and substituting it with an amended condition, as set out and for the reason given in the formal decision.
18. As I have no information before me about the status of the other conditions imposed on the original decision, as advised by the Development Management Manual I shall impose all those which I consider remain relevant. In the event that some have been discharged, that is a matter which can be addressed by the parties.
19. In reaching my decision, I have taken account of the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the sustainable development principle through its contribution towards the objective of driving sustainable growth and combatting climate change.

Paul Selby

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development to which this permission relates must begin not later than the expiration of 5 years beginning with the date on which the permission is granted.
Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.
- 2) The development shall be carried out in accordance with the details of the following approved plans and documents, except where amended by conditions attached to this planning permission:
 - i. Drawing reference: JPW0888-DNS-005 DNS Site Application Plan;
 - ii. Drawing reference: JPW0622-WAU-002 Rev I Site Layout Plan;
 - iii. Drawing reference: 17/611/01 Tree Location and Constraints Plan;
 - iv. Drawing reference: 17/611/02 Rev A Tree Protection Plan; and
 - v. Drawing reference: JNY8819-01 Junction Layout and Visibility Splays.**Reason:** For the avoidance of doubt and to ensure compliance with the approved plans.
- 3) This planning permission shall endure for a period of 40 years from the date when electricity is first exported from the solar farm to the electricity grid ('First Export Date'). Written notification of the First Export Date shall be provided by the developer to the Local Planning Authority no later than 1 calendar month after that event.
Reason: To ensure that the development is temporary with a maximum duration of 40 years, in the interests of the area's character and appearance and the preservation of historic assets (LDP policies SP10, SP11, DM1 and ENV2).
- 4) If the solar park hereby permitted ceases to export electricity to the grid for a continuous period of 12 months the developer shall notify the Local Planning Authority in writing. A scheme shall be submitted to the Local Planning Authority for written approval within 3 months of the end of the 12-month period, for the repair or removal of all infrastructure. The scheme shall include, as relevant, a programme of remedial works where repairs to infrastructure is required. Where removal is necessary the scheme shall include a programme for removal of all infrastructure approved under this permission, including details of site restoration measures following the removal of infrastructure. The scheme shall thereafter be implemented in accordance with the approved details and timetable.
Reason: In the interests of visual amenity and to ensure that the environmental effects of the decommissioning process are minimised and controlled.
- 5) Not later than 12 months prior to the end of this permission, a Decommissioning Management Plan shall be submitted for the written approval of the Local Planning Authority. The scheme shall make provision for, inter alia, the removal of all infrastructure approved under this permission and the restoration of the site. The approved scheme shall be fully implemented within 6 months of the expiry of this planning permission.

Reason: In the interests of visual amenity and to ensure that the environmental effects of the decommissioning process are minimised and controlled.

- 6) Prior to the commencement of any works associated with this development full details of the precise siting, layout and design of the solar arrays, including cross-sections and details of nonreflective finishing materials, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

- 7) Notwithstanding the details shown on the plans hereby approved, prior to the commencement of development full details of the proposed invertors, district network operator substation and client substation shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

- 8) Notwithstanding the details shown on the plans hereby approved, prior to the commencement of development full details of the proposed lattice telecoms tower shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

- 9) Notwithstanding the details shown on the plans hereby approved, prior to the commencement of development full details of the mounted CCTV cameras and associated poles, including the precise siting thereof, shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity.

- 10) All electrical cabling between the solar park and the grid connection shall be installed underground. Prior to the commencement of any works associated with this part of the development, details of the routes of underground cabling shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual amenity.

- 11) No development shall take place until a written scheme of historic environment mitigation has been submitted to and approved in writing by the Local Planning Authority. Thereafter, the programme of work will be carried out in accordance with the requirements and standards of the written scheme.

Reason: To ensure that features of archaeological interest are protected and recorded where they cannot be physically preserved in situ.

- 12) No development or site clearance shall commence until the Local Planning Authority has been informed in writing of the name of a professionally qualified archaeologist who is to be present during the undertaking of any excavations in the development area so that a watching brief can be conducted. No work shall commence until the Local Planning Authority has confirmed in writing that the proposed archaeologist is suitable. A copy of the watching brief report shall be submitted to the Local Planning Authority within two months of the archaeological fieldwork being completed.

Reason: To identify and record any features of archaeological interest discovered during site works and to mitigate the impact of the works on the archaeological resource.

- 13) No development shall take place until an assessment of the stability of the land (and the surrounding area) has been carried out in accordance with a methodology which must first be submitted to and approved in writing by the Local Planning Authority. The results of such an assessment including any intrusive site investigation works identified as being necessary shall be submitted to the Local Planning Authority before works commence on site. If any land instability issues are found during the site investigation, a further report specifying the measures to be taken to remediate the site to render it suitable for the development hereby approved shall also be submitted to and approved in writing by the Local Planning Authority before works commence on site. The development shall not be brought into use until all the measures identified as necessary in any reports that are approved by the Local Planning Authority are implemented and the Local Planning Authority is provided with a validation report, signed by a suitably qualified person that confirms that such measures and/or works have been fully implemented.

Reason: To ensure that the development is implemented in a manner that gives due regard to ground stability issues.

- 14) No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The submitted scheme shall include:
- i. Indications of all existing trees (including spread and species) and hedgerows on the land clearly identifying those to be lost or retained;
 - ii. Measures for the protection of retained trees or hedges throughout the course of development;
 - iii. Details of ground preparation, planting plans, number and details of species;
 - iv. Maintenance details for a minimum period of 5 years; and
 - v. A phased timescale of implementation.

The landscaping scheme shall be carried out as approved.

Reason: To ensure submission of an appropriate landscaping scheme and to secure a development that makes a positive contribution to the landscape and visual amenities of the area.

- 15) All planting or seeding comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the development or any alternative timescale that may be approved in writing by the Local Planning Authority before works commence on site. Any trees, shrubs or plants which within a period of 5 years from implementation of the planting scheme die, are removed or become seriously damaged or diseased, shall be replaced by one of the same species and size in the next available planting season.

Reason: To ensure timely implementation of an appropriate landscaping scheme.

- 16) No development shall take place (including ground works or vegetation clearance) until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall include details of the following:
- i. A risk assessment of any potentially damaging construction activities;
 - ii. Identification of "biodiversity protection zones";
 - iii. Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction;
 - iv. The location and timing of sensitive works to avoid harm to biodiversity features;
 - v. The times during construction when specialist ecologists need to be present on site to oversee works;
 - vi. Responsible persons and lines of communication;
 - vii. The role and responsibilities on site of an Ecological Clerk of Works or similarly competent person; and
 - viii. The use of protective fences, exclusion barriers and warning signs.

The CEMP shall be strictly implemented and adhered to throughout the construction period in full accordance with the approved details.

Reason: To protect biodiversity interests and ensure that suitable measures are taken to mitigate any adverse impacts on biodiversity.

- 17) Prior to its construction, details of the bridge crossing the Nant Tysswg shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the agreed scheme.

Reason: To protect biodiversity interests and ensure that suitable measures are taken to mitigate any adverse impacts on biodiversity.

- 18) Notwithstanding any details indicated within the Ecological Mitigation Plan, no development shall be carried out until a final plan for a Curlew Habitat Enhancement Area has been submitted to and approved in writing by the local planning authority. The plan must include details of future monitoring and management. The Curlew Habitat Enhancement Area will be implemented in accordance with the approved details.

Reason: To protect biodiversity interests and ensure that a suitable curlew habitat enhancement area is provided.

- 19) Prior to the commencement of development, details of any temporary lighting for the construction period shall be submitted to and approved in writing by the Local Planning Authority. The temporary lighting shall be installed in accordance with the approved details for the duration of the construction period only. With the exception of the temporary lighting, no floodlights or any other form of external lighting shall be installed at the site.

Reason: To protect residential and visual amenity.



Penderfyniad ar gostau

Ymweliad â safle a wnaed ar 09/11/20

gan Paul Selby, BEng (Hons) MSc
MRTPI

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 1st December 2020

Costs Decision

Site visit made on 09/11/20

by Paul Selby, BEng (Hons) MSc MRTPI

an Inspector appointed by the Welsh Ministers

Date: 1st December 2020

Costs application in relation to Appeal Ref: APP/X6910/A/20/3257588

Site address: Wauntysswg Farm, Abertysswg, Rhymney, Tredegar NP22 5BQ

The Welsh Ministers have transferred the authority to decide this application for costs to me as the appointed Inspector.

- The application is made under the Town and Country Planning Act 1990, sections 78, 322 and Schedule 6.
 - The application is made by Elgin Energy EsCo Ltd. for a full award of costs against Blaenau Gwent County Borough Council.
 - The appeal was against the refusal of planning permission subject to a varied condition.
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Decision

1. The application for a full award of costs is allowed in the terms set out below.

Reasons

2. The Section 12 Annex 'Award of Costs' of the Development Management Manual ('the Annex') advises that, irrespective of the outcome of an appeal, costs may only be awarded against a party who has behaved unreasonably, thereby causing the party applying for costs to incur unnecessary or wasted expense in the appeal process.
 3. The costs application is made on substantive grounds. The applicant contends that development which should clearly have been permitted was prevented or delayed, having regard to its accordance with the development plan, national policy and any other material considerations; and that in refusing permission, the Council took a decision contrary to professional advice without there being reasonable planning grounds to do so.
 4. In the decision letter of July 2019 granting permission for the original development (Ref: DNS/3213639), the Welsh Minister for Housing and Local Government (the Minister) accepted that a solar park on the appeal site would cause visual harm of a specific nature and magnitude. The permitted scheme is physically identical to the appeal scheme, the only difference being the period of operation. There is little evidence of changed circumstances, policy or physical, since the 2019 decision was taken.
 5. In the main decision letter I have found that the appeal scheme would conflict with policies of the Blaenau Gwent Local Development Plan relating to landscape, visual impacts and historic assets. It is for these reasons that the Council refused permission to vary condition No. 3. In its appeal submissions the Council has asserted that the
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proposed 33% increase in the operating period of the solar farm would be materially and significantly longer than that originally permitted, and that the identified harmful impacts of the development would be unacceptably prolonged as a result. Whether or not 10 years amounts to a 'significant' time period in the operating life of a solar farm is a matter of planning judgement and the Council is entitled to come to that view.

6. Nonetheless, the solar farm's proposed extended period of operation would result in around 33% more CO₂ being offset than the permitted scheme. A key factor in the Minister's decision was the solar farm's climate change and energy security benefits over a specific period, which were found to clearly outweigh the temporary and fully reversible, albeit harmful, impacts over the same time period. I accept that Members of the Council's Planning Committee were entitled to come to their own view about the weight to be attributed to the appeal scheme's beneficial and harmful impacts. Yet irrespective of letters exchanged since the application was lodged with the Council, or the un-minuted discussions which may have taken place at the County Borough's Planning Committee, there is little in the submitted documentation to explain how the substance of the Minister's 2019 decision bore on the 'planning balance' underpinning the Council's decision.
7. There was no reason for the Council to be bound by the decision of Caerphilly County Borough Council to permit its part of the overall development, particularly given that the majority of the wider site lies within Blaenau Gwent County Borough. Nonetheless, the Annex advises that local planning authorities are at risk of an award of costs being made against them where they refuse or object to particular elements of a scheme that the Welsh Ministers have previously determined to be acceptable.
8. The Minister's 2019 decision is an important material consideration in this case, yet there is little evidence that the Council afforded it due weight when coming to its decision. This is a significant oversight which I consider amounts to irrationality in the decision-making process. I therefore conclude that the Council's decision to refuse planning permission was unreasonable and resulted in an appeal which should not have been necessary. Consequently I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Annex, has been demonstrated, and that a full award of costs is justified.

Costs Order

9. In exercise of the powers under section 250(5) of the Local Government Act 1972 and Schedule 6 of the Town and Country Planning Act 1990 as amended, and all other enabling powers in that behalf, IT IS HEREBY ORDERED that Blaenau Gwent County Borough Council shall pay to Elgin Energy EsCo Ltd the costs of the appeal proceedings described in the heading of this decision.
10. The applicant is now invited to submit to Blaenau Gwent County Borough Council, to whom a copy of this decision has been sent, details of those costs with a view to reaching agreement as to the amount. In the event that the parties cannot agree on the amount, a copy of the guidance note on how to apply for a detailed assessment by the Senior Courts Costs Office is enclosed.

Paul Selby

INSPECTOR

By virtue of paragraph(s) 16,17 of Part 1 of Schedule 12A of the Local Government Act 1972.

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