

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2015/0803 **Grid Ref:** 277025.28 207387.59

Community Council: Ystradgynlais **Valid Date:** 17/09/2015 **Officer:** Gemma Bufton

Applicant: Ystalyfera Wind Energy Ltd

Location: Varteg Hill Land South of Ystalyfera, Neath and Port Talbot.

Proposal: Construction and improvement of access track and improvement to the junction access point to serve wind farm comprising four wind turbines (with tip height upto 115m), internal access tracks, substation building, associated infrastructure

Application Type: Application for Full Planning Permission

REPORT UPDATE

Consultee Response-

Ecologist-

Following my previous report consideration has been given to the quality of the Ecologist comments as attached to my previous report and therefore I attach hereto a clearer copy for Members consideration:

Ecological Topic		Observations
EIA Screening Requirement	Not applicable	The development as a whole falls within Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England & Wales) Regulations 1999. Following a Screening Opinion in August 2011 an Environmental Statement has been completed and submitted with the planning application.
Protected Species & Habitats ¹	European Species ☒	<p>The following information, suggestions and conditions are based on as review of the details provided in Chapter 6 of the submitted Environmental Statement.</p> <ul style="list-style-type: none"> • One medium – high potential roost building in Farteg Isaf, adjacent to the proposed access corridor, but direct impacts on this building unlikely. • Nine trees of moderate – high potential for roosting bats, mostly adjacent to the proposed access track. However, these trees understood to be retained so no significant impacts have been predicted. • No direct impacts on flightlines or commuting routes used by bats as no tree or hedgerow removal proposed for the access tracks. Disturbance during construction unlikely as construction limited to times of day when bats are inactive.

¹ Species records within 1km (minimum). Change distance dependant on project type, scale, etc.

	Local Sites (within 500m) <input type="checkbox"/>	None within 500m.
Invasive Non-Native Species	No	None recorded within the site.
Cumulative Effect	No	This application forms part of a larger application to provide four wind turbines and associated infrastructure. The cumulative effect of the whole development with other developments within 10km has been considered in the ES that has been submitted. No significant cumulative effects on biodiversity have been identified.
Summary of recommendations / further assessment or work		<p>1) Paragraphs 6.6.26 and 6.6.28 (Chapter 6, Environmental Statement) refer to the main bird breeding season as being March to July inclusive. To accord with RSPB and Powys County Council guidance I suggest that this is extended up to the end of August.</p> <p>2) Paragraph 6.6.6 (Chapter 6, Environmental Statement) proposes agreement of mitigation requirements with Neath CBC, but does not mention the inclusion of Powys CC. I suggest that Powys CC is involved in agreeing mitigation requirements for the element of the development that falls within the Powys unitary boundary.</p>
Recommended Conditions		<p>Should you be minded to approve this application, I recommend the inclusion of the following conditions:</p> <p><i>1) The recommendations and mitigation measures proposed in Section 6.6 (Mitigation) and summarised in Table 6.2.4 of Chapter 6 of the Environmental Statement shall be adhered to and implemented in full unless otherwise agreed in writing with the LPA.</i></p> <p><u>Reason:</u> To comply with Powys County Council's UDP Policies SP3, ENV3 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.</p>

2) Mature Oak and Ash trees that are retained alongside the access track shall be protected from being damaged during the construction works in accordance with BS 5837:2012.

Reason: To comply with Powys County Council's UDP Policies SP3 and ENV3 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

3) Prior to commencement of development the Site-specific Ecological Mitigation Strategy referred to in Paragraph 6.6.3 (Chapter 6, Environmental Statement) shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies ENV3, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

4) Prior to commencement of development the Pre-construction Ecological Mitigation Strategy referred to in Paragraph 6.6.5 (Chapter 6, Environmental Statement) shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies ENV3, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

5) Prior to commencement of development the Habitat Management Plan referred to in Paragraph 6.6.13 (Chapter 6, Environmental Statement) shall be submitted to the Local Planning Authority and implemented as approved and maintained thereafter unless otherwise agreed in writing with the LPA.

Reason: To comply with Powys County Council's UDP Policies ENV3, ENV5 and ENV7 in relation to The Natural Environment and to meet the requirements of Planning Policy Wales (Edition 7, July 2014), TAN 5: Nature Conservation and Planning and the NERC Act 2006.

Informatives

Birds - Wildlife and Countryside Act 1981 (as amended)

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August or late September in the case of swifts, swallows or house martins). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended)

It is an offence for any person to:

- Intentionally kill, injure or take any bats.

	<ul style="list-style-type: none"> • Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not. • Under the Habitats Regulations it is an offence to: • Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved. <p>The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees or buildings where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0845 1300 228 or email enquiries@bats.org.uk</p>
<p>Relevant UDP Policies</p>	<p>UDP SP3 – Natural, Historic and Built Heritage Policy E3 – Wind Power Policy Env 3 – Safeguarding biodiversity and natural habitats Policy Env 5 – Nationally important sites Policy Env 7 – Protected Species</p>

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