



Adroddiad

Ymchwiliad a gynhaliwyd ar 20-23, 27-
30/07/10, 3-6/08/10

Ymweliad â safle a wnaed ar 23/07/10,
5/08/10

Report

Inquiry held on 20-23, 27-30/07/10, 3-
6/08/10

Site visit made on 23/07/10, 5/08/10

gan/by Stuart B Wild MRTPI MCIM

**Arolygydd a benodir gan Weinidogion
Cymru**

**an Inspector appointed by the Welsh
Ministers**

Dyddiad/Date 27/10/2010

Erection of 19 Wind Turbine Generators and associated development

Mynydd Y Gwair

Swansea

Three S147 Applications for an Order of exchange Common Land

Two S194 Applications for Carrying out of works on Common Land

File Ref: APP/B6855/A/09/2114013

Site address: Land at Mynydd Y Gwair, Swansea

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by RWE Npower Renewables against City and County of Swansea Council.
- The application Ref 2008/1781 is dated 28/08/08.
- The development proposed is the installation of 19 wind turbines (maximum height to blade tip 127 metres) with associated tracks and ancillary infrastructure (including 80m high anemometer mast, electrical substation compound, hardstandings, transformers and underground cabling) and construction of new access track from A48 (Bolgoed Road at Pontarddulais) (approximately 13.9km in length) with improvements to 3.9km of existing road across Mynydd Pysgodlyn.

Summary of Recommendation: I recommend that the appeal be dismissed.

File Ref: A-PP184-09-qA725761

Site address: Land at Goppa Hill, Mynydd y Gwair, Swansea

- The application was made for an Order under Section 147 of the Inclosure Act 1845.
- The application is made by RWE Npower Renewables.
- The proposal is to exchange 0.97 hectares of common land at CL68, required for the development of 19 wind turbines and associated development, for 6.64 hectares of exchange land.

Summary of Recommendation: I recommend that the Order be not granted.

File Ref: A-PP184-09-qA725757

Site address: Land at Mynydd y Gwair, Swansea

- The application was made for an Order under Section 147 of the Inclosure Act 1845.
- The application is made by RWE Npower Renewables.
- The proposal is to exchange 20.55 hectares of common land at CL74, required for the development of 19 wind turbines and associated development, for 20.88 hectares of exchange land.

Summary of Recommendation: I recommend that the Order be not granted.

File Ref: A-PP184-09-qA725759

Site address: Land at Mynydd y Gwair, Swansea

- The application was made for an Order under Section 147 of the Inclosure Act 1845.
- The application is made by RWE Npower Renewables.
- The proposal is to exchange 10.44 hectares of common land at CL77, required for the development of 19 wind turbines and associated development, for 12.30 hectares of exchange land.

Summary of Recommendation: I recommend that the Order be not granted.

File Ref: A-PP184-09-qA849869

Site address: Land at Mynydd y Gwair, Swansea

- The application was made for consent under Section 194 of the Law of Property Act 1925.
- The application is made by RWE Npower Renewables.
- The application affects 900 sq metres.
- The development proposed is the erection of temporary fencing around Scheduled Ancient Monument GM2002 Penlle'r Bebyll Cairn.

Summary of Recommendation: I recommend that the consent be granted.

File Ref: A-PP184-09- qA849869

Site address: Land at Mynydd y Gwair, Swansea

- The application was made for consent under Section 194 of the Law of Property Act 1925.
- The application is made by RWE Npower Renewables.
- The application affects 144 sq metres.
- The development proposed is the erection of temporary fencing around Archaeological Monument MG62.

Summary of Recommendation: I recommend that the consent be granted.

Procedural Matters

1. At the time the planning application was made the applicants were Npower Renewables Limited. Subsequently the company name has changed to RWE Npower Renewables Limited. In this report I will refer to the appellants as Npower or the appellants. The Council is the City and County of Swansea which I shall refer to as the Council. Reference to the 'commons applications' should be taken to include the three applications under S147 – section 147 of the Inclosure Act 1845 and the two applications under S194 – section 194 of the Law of Property Act 1925. In this report I use the following abbreviations: WAG - Welsh Assembly Government, PINS – The Planning Inspectorate of England and Wales, SOCME – Save Our Common Mountain Environment, CCW – Countryside Council for Wales, ES – Environmental Statement, EIA – Environmental Impact Assessment, SCG – Statement of Common Ground, SSA – Strategic Search Area, RFR – reason for refusal, S78 - section 78 of the Town and Country Planning Act 1990 and UDP - City and County of Swansea Unitary Development Plan (2008).
2. At the time of the pre-inquiry meeting (PIM) there was just the S78 appeal outstanding which was transferred to an inspector for determination. At that meeting it was explained that applications for works affecting the commons would be submitted. This was done and consequently the determination of the S78 appeal was recovered so that the planning application and the commons applications could be considered at the same inquiry with the decisions on all the cases being made by the Minister.

3. The ES documentation refers to a possible range of output for the wind farm which could exceed 50MW. The question of jurisdiction for determining an application for a wind farm in excess of 50MW was raised by PINS and subsequently by me at the PIM. The appellant's position was set out in a letter to PINS dated 27/11/09 (Doc 16) and again in Mr Trinick's opening statement (Doc 6 para19-22). In essence their point is that it would not be lawful to build the wind farm with an installed capacity greater than 50 MW under any planning permission granted under S78 as a result of this inquiry. The type of turbines 'tested' under the noise calculations in the ES is a 2.5MW machine: collectively the output of the proposed 19 turbines would not exceed 50MW. It is these turbines which are part of this proposal. However, if permission were to be granted, an aggrieved party might consider challenging the decision on the grounds that there was not clear jurisdiction to determine the application under the planning legislation. In my view, this concern would be overcome if a condition were attached to any permission making it clear that the installed capacity of the turbines approved should not exceed 50MW. The appellant's view is that such a condition fails the test in Circular 35/95 since it would be unnecessary. Although I disagree for the reasons given, this is a legal matter for the decision maker. Whilst it was subject to submissions, no evidence was presented on this point during the inquiry and therefore I make no further comment on the point.
4. The inquiry opened on 20/07/10 and closed on 6/08/10. The main participants were Npower, the Council and SOCME. Mr Sinclair, who acted as advocate for SOCME and also gave evidence, organised most of the objectors so that all main concerns were raised with the minimum of repetition. This was most helpful and significantly reduced the length of the inquiry. In addition 4 members of the Council gave evidence on behalf of local residents but not as formal Council witnesses. A number of local residents and interested persons also gave evidence, mainly at the evening meeting in Felindre.
5. On the Friday before the inquiry opened WAG published a number of new documents (Docs CD 123-126) relevant to renewable energy and wind farms. None of the main parties had prior knowledge of these matters so it was agreed that the inquiry would not sit on Wednesday 22/07/10, so that all parties could study these documents before the main witnesses gave their evidence. The Council supplied me with copies so that I was able to read the documents.
6. I made an accompanied site inspection of the southern half of the access road on the afternoon of the 23/07/10 and of the remainder of the access road and the main wind farm site and exchange land on 5/08/10. Members of SOCME provided transport on both occasions. I also made unaccompanied inspections of the site and surroundings and viewpoints on 19/07/10 and 10 & 11/08/10.
7. The accuracy of the impression given by photo montages etc, which are included in the evidence, is often criticised at wind farm inquiries in that they tend to underestimate the actual size of the turbines as they would appear in the landscape. I explained that in my view they are there to

assist my assessment of likely visual effects, but that they should not be used without extensive site inspections. Before, during and after the inquiry, I visited most of the viewpoints in the ES and the various witnesses' evidence together with the dwellings in closest proximity to the site. During my site inspections I made reference to the photo montages, wireframes and photographs referred to in the evidence. Whilst travelling between these viewpoints I made numerous stops to assess the likely effects. I travelled extensively throughout the area to assist my assessment of the likely appearance of the turbines in the landscape and to assess the likely impact on the amenity of residents, walkers and people working in and around the wind farm site. In addition I walked up to the existing wind farm at Fynnon Oer.

8. The inquiry was held to consider six applications, the planning application for the wind farm, and the five associated applications for works affecting the commons. They are covered by different legislation. I shall therefore consider the planning application first, followed by my consideration of the common land matters.
9. These commons are 'urban commons' which give rights to the public for access and enjoyment. However these specific rights give rise to concerns which are generally similar to those of amenity and enjoyment of the open land which arise under the S78 appeal. I shall therefore have regard to these rights of the general public to use the commons under my considerations of the S78 appeal. I shall limit my detailed considerations under the commons applications to the more specific rights of the commoners.

The Proposals

10. The development proposed is described in section 3 of the SCG (Doc 12). In general it comprises the erection of 19 wind turbines and transformers, approximately 13.8 km of new access track, improvements to approximately 3.9 km of existing road running across Mynydd Pysgodlyn, no more than 19 crane hardstandings, electrical substation and compound, an anemometer mast, underground cabling and temporary construction compound, storage compounds and a temporary access onto the Rhyd-y-Pandy to Ammanford road. The hub of the rotors would be 80m above ground level with the rotor having a diameter of 94m, giving an overall height of 127m. Each turbine would typically be of 2.5 MW installed capacity.
11. The five applications under S147 and S194 are for the related provision of exchange land to replace that which would be lost from the commons by the permanent parts of the development, and to protect ancient monuments whilst works took place on the commons.

The Site and Surroundings

12. The majority of the application site is grazed moorland, registered as common land and owned by the Somerset Trust. The commons affected by the proposal are CL68, CL74, and CL77. CL68 has an area of 86ha, CL74 827ha and CL77 876ha. Of these areas 0.97ha, 20.55ha and 10.44ha

respectively would be taken up on a temporary but long term (25 years) basis by the wind farm.

13. The main part of the wind farm site is located on the south facing slopes of Mynydd y Gwair and Pentwyn Mawr on land which rises to 360m above sea level. It is part of a generally open upland area between Ammanford and the northern outskirts of Swansea. It lies close to the boundaries of Carmarthenshire and Neath Port Talbot and about 5 kilometres to the south westerly side of the Brecon Beacons National Park. The full details of the area are included in section 4 of the SCG (Doc 12).

Planning History and other agreed facts

14. There is no prior planning history on the site relevant to this case. Details of the consideration of the application by the Council are included in section 5 of the SCG (Doc 12). The reasons for refusal which the Council would have issued had the appeal not been lodged are included in section 5.7.
15. This wind farm is located within SSA Area E as identified in TAN 8. There is a consented wind farm site nearby at Mynydd y Betws, which has been granted planning permission on appeal and which would, if built, give rise to cumulative impacts.
16. The full details of the other facts agreed between the appellants and the Council are included in the SCG (Doc 12). None raise issues on which I feel that I need comment.

Planning Policy

17. At UK Government and WAG level there is a wide range of policy statements supporting the need to combat climate change and increase the production of renewable energy. The exploitation of wind power is a major part of policy at that level. The main policies are referred to in sections 6, 7 and 8.1 of the SCG (Doc 12).
18. The new WAG documents (Docs 123-126) published on the Friday before the inquiry, were available at the inquiry. In the main they reiterated or confirmed existing WAG policy and advice. The only one of these documents which figured in the evidence at the inquiry to any significant degree was that produced by ARUPs on SSA Reassessment and Validation, July 2010 (Doc CD124).
19. The Statutory Development Plan for the area is the City and County of Swansea UDP, which was adopted in 2008. Details of the appropriate policies are contained in section 8.2 of the SCG (Doc 12). The policies to which the Council makes most reference are R11, EV22 and EV29.

The Cases for the Parties

20. The full details of the cases for the parties are contained in their statements of case (Docs 2-5), opening statements (Docs 6-8) and closing submissions (Docs 9-11). In the sections below I shall comment on the main points of the respective cases.

The Case for RWE Npower

21. The appellant's submissions on the main issues deal with commons issues, access and landscape and visual issues. I shall refer to them in that order.
22. On the evidence and noting cross examination there appears to be no outstanding issue between the parties in relation to the S194 applications. Turning to the S147 applications and the exchange land, it is acknowledged that for most of the commoners movement by road would be required, noting and accepting Mr Glyn Morgan's evidence of difficulties in taking sheep and cattle through other hefts (see para 124 below re hefts). Overall the appellants acknowledge that the exchange land is not as convenient as might be because of the need to move stock by road, but it is the best and most convenient land that could be procured.
23. As to the quality of the land there would not appear to be an issue. The issues that arise relate to the management of the use of the exchange land. However, these issues arise assuming the exchange land would be required by the commoners. In fact this is not the case as shown by Mr Hadley's evidence (Doc CD118). It is clear from that evidence that the area benefiting from grazing rights that would be surrendered exceeds that which would be lost to the development by a factor of 10. There would be an overall net gain in grazing potential due to the wind farm, quite apart from the introduction of exchange land. Were it not that the appellant is compelled by law to make the exchange land applications because of the need to compensate the public, not the commoners, in respect of the use of land for air and exercise, then the view could be taken that a surrender of grazing rights would be more than adequate. To the commoners the exchange land represents a pure gain, as does the surrender of 90% of the grazing rights associated with that land.
24. Turning now to the access issues. The ES discusses the selection of the Bolgoed Road access (para 12.2.2.4 Vol 1 p305) and the route of the road is further examined in Appendix 12. The Council may not find the explanation of the selection of the access satisfactory, but it is explained and the main reasons for the selection are given. The level of detail provided by the appellant is considerable and much more than sufficient at this stage. The construction and operational effects will be limited and will be acceptable. The appellants expect to provide more detail, including measures for mitigation, at the pre-construction stage. The third deemed refusal reason, RFR3, is not well founded.
25. As regards the landscape and visual effects these relate to deemed refusal reasons RFR1 and RFR2. The first states that the application 'fails to properly consider' the ARUP recommendation that turbines in this part of the SSA should not exceed 100m. This is incorrect. The ES discussed a range of options for the development (Sec 4.6 Vol 1 CD6) and the options are displayed (Fig 4 Vol 2 CD6). If that is considered insufficient then Mr Roden's evidence within his proof and figures provides more detailed information. This provides comparisons between 127m and 100m tip

heights and different hub heights, and comparative wirelines. This material addresses the concerns of CCW and addresses RFR1.

26. RFR1 also contends that the alleged failure to provide sufficient information 'does not allow the proper balancing of the acknowledged adverse landscape and visual impacts'. The ES does not acknowledge adverse impacts. The application was before the Council and it was their duty to balance advantages against disadvantages. No request was made for further information to justify the height of the turbines. The Council produced no evidence to justify RFR1 and failed to engage the appellant's witnesses on the appropriate parts of their evidence.
27. As regards RFR2 Mr Evers' evidence is very limited. There was no reasoning to explain why he concluded that the effects determined in the ES were unacceptable. Mr Roden provided clear, GLVIA (Doc CD71) based material to the assessment which he followed through to his assessment and to the conclusions he reached on landscape and visual effects.
28. It must not be forgotten that Mynydd y Gwair is within SSA E. Planning Policy Wales (Doc CD57) and TAN8 (Doc CD58) envisage that larger scale development will take place in SSAs. Paragraph 8.4 of Annex D to TAN8 recognises that significant landscape change is to be accepted in SSAs.
29. When viewed from Castell Capel Carreg the consented Mynydd y Betws scheme is to be visualised in all cases in the foreground of views. Turning to the National Park this was a sensitive receptor taken into account by ARUP and by WAG on devising the SSAs. As recorded in cross examination of Mr Evers, Mynydd y Gwair performed well in comparison with other zones in Area E in terms of impact on the National Park.
30. In conclusion it is wrong to underestimate the importance of the failure of the Council to engage in more than an extrapolation of the findings of the ES of significant effects of landscape character and on visual amenity to reach conclusions of unacceptability without any reasoning at all. RFR2 is not justified.
31. CCW did not give evidence at the inquiry and therefore their written evidence was not subject to cross examination. It should therefore carry less weight. The appellant's evidence of mitigation of the effects on the peat habitat would address CCW's concerns. The appellant's submissions on all other matters are contained in detail in Doc 9. Attention is drawn to the evidence base on which the appellants maintain that there are no other grounds to justify the refusal of planning permission.
32. Against the background of national planning advice in PPW and TAN8, there has to be something quite fundamentally wrong with this proposal to justify a rejection in view of the local, national and/or international legal and policy circumstances. No such fundamental problems have been demonstrated in this case. The proposal represents a well located, well designed project. No evidence has been produced which would justify refusal. Planning permission should be granted and the commons applications approved.

The Case for the Council

33. Had the appeal not been lodged the Council would have refused permission for three reasons as set out in Section 5.7 of the SCG. The main elements of the reasons are firstly, that the EIA failed to consider properly the ARUP recommendation that the maximum height for turbines in this part of SSA E should not exceed 100m, because of the scale and type of land form of the area and to avoid the worst individual and cumulative landscape and visual effects. This does not allow for the proper balancing of adverse impacts against the strategic objective of achieving renewable energy targets. Secondly, the Council considers the landscape and visual impacts to be unacceptably adverse and to outweigh the strategic energy objectives. Thirdly, the EIA fails to adequately justify the selection of the proposed route for construction traffic or to explain what alternatives have been considered. All three reasons state that the proposal is contrary to UDP policies R11, EV22 and EV29.
34. In support of these reasons, it is maintained that the proposal would adversely impact upon the character of affected landscapes that would extend to the Brecon Beacons National Park. There would also be an adverse impact on a number of residential properties.
35. Not all sites within SSAs are suitable for turbines. This area has been the subject of an ARUP refinement study which recommends that the height of turbines in this area should not exceed 100m. This has been ignored by the appellants.
36. The UDP policies, principally R11, show that a balance must be struck between the policies which support the development of renewable energy and the protection of the environment. Mr Evers' evidence shows that the turbines would be out of proportion with the affected landscapes. There would be significant adverse effects on local amenity including those moving through the area. There would be significant adverse effects upon the National Park, including from the grounds and windows of Castell Carreg Cennen. There would be serious adverse effects upon rights of way, including important long distance routes, and users of open access land and the commons.
37. The new access route had not been properly assessed. It would have an adverse effect on landscape character and have an adverse visual impact on those using open access land and existing tracks. The associated engineering works would have a particular and obvious adverse visual and landscape impact, including upon the Ancient Monument at Penlle'r Bebyll Cairn.
38. This inquiry should only consider the proposal subject to the application and not any other form of modified proposal. The benefits put forward are essentially the reductions in CO₂ emissions and meeting the targets for bringing forward renewable energy. Mr Godfrey's evidence shows that the benefits have been exaggerated. They do not outweigh the disadvantages. This scheme cannot be constructed in time to meet the 2010 targets. It would therefore contribute to the 2020 target, which is the only relevant

target to be considered. The UK is substantially ahead of its greenhouse gas reduction targets for 2010 and the Kyoto period of 2008-2012. It is likely that for the UK the 2010 target for 10% of electricity from renewables would be met shortly after 2010. This is relevant because the Wales targets are a sub-set of the UK targets. The EU target of 15% from renewables by 2020, and the course to meet it, is dealt with in the UK Renewable Energy Strategy 2009. Under that Strategy 30% of electricity would be generated from renewables, of which more than two-thirds would come from on and offshore wind, and with important contributions from other sources such as hydro and bio-energy. This breakdown is illustrative but both UK and WAG governments stress the importance of a wide range of technologies.

39. In Wales the target for renewable energy is 4TWh pa by 2010 and 7TWh by 2020. The 2010 target is likely to be met shortly after 2010 and the 2020 target is also likely to be met if, for example, the biomass projects consented at Port Talbot and at Newport Docks come on stream together with the wind projects already approved (Doc P14 sec 6). There are further projects that make it almost certain that the 7TWh target will be comfortably reached. Hence a refusal of this proposal would not prejudice the attainment of national or international targets. The fact that the targets will be met is not, in itself, a reason to refuse permission, but it is highly material when striking the planning balance. All the environmental impacts must be addressed and the benefits shown to outweigh any adverse impacts as stated in policy R11. In the Council's view this has not been done.

The Case for SOCME

40. SOCME is a local organisation formed to represent the views of objectors in the surrounding communities affected by this proposal. It represents the members of the local population who are concerned about the proposed construction of large wind generators in the neighbourhood, and specifically with respect to their impact on the landscape and recreational enjoyment of this area of common land, and the amenities and living conditions of local residents.
41. Although concerned at the emphasis which has developed on cumulative proposals for onshore wind and the resultant pressure on landscapes and local amenity, particularly on the doorstep of Mynydd y Betws, SOCME notes the progressive shift towards offshore wind and other renewable energy sources, including wave and tidal power. Moreover, in accepting that the site is within SSA E, SOCME notes the acceleration of proposals to establish onshore wind projects within the SSAs, and that in this particular case the ARUP refinement study recommended that the relevant sub-area as being unsuitable for turbines greater than 100m total height, 27m lower than proposed. Further it remains that even in SSAs each application must be determined on its individual merits.
42. SOCME therefore believes that, on balance, the impact of the project would be unacceptably adverse to the landscape character, recreational assets, ecological resources and visual qualities of the surrounding area,

would impinge on the residential and recreational amenity of the local and visiting population, and would for these reasons be inconsistent with the objectives of WAG policy under TAN 8.

43. Accordingly, SOCME's case is grounded on the visual impact of the turbines on the landscape and the resultant detriment to visual amenity, tranquillity, recreation and enjoyment of the countryside. It also includes the associated impacts on the living conditions of local residents, and the working lives of the farmers and common graziers who manage the land, its animals and its agricultural ecosystem. Other important impacts include those arising from the transportation of the turbines and materials and construction activity on the site.
44. In SOCME's view, such adverse effects would not be outweighed by the project's benefits in terms of power generation, nor would they be overridden by national or regional policy for the development of renewable energy. TAN 8 and other policy and guidance are designed to create satisfactory development, but also require that wind power generation should take place in locations where environmental, social and economic impacts can be addressed. This proposal is contrary to that guidance particularly as the proposed 19 turbines are significantly larger than any yet built in rural Wales.
45. Consistent with these grounds of objection SOCME's evidence appraises the process of site selection, together with the assessment and presentation of the environmental effects, claimed benefits and potential contribution to relevant targets. It examines the visual impacts of the proposed installation on the landscape and tranquillity of the surrounding area, on local and residential amenities, on the living conditions of the residents, and on opportunities for access to and enjoyment of the countryside, particularly by the many active walking groups in the surrounding area. It also considers the issues raised in relation to the area's archaeological resources, together with the impacts on the effective management of the common land resource, and in particular, on the traditional and necessary hefting system and their contribution to the area's management as a working landscape and ecosystem. Finally it reviews the potential for cumulative effects in relation to the consented and adjacent project at Mynydd y Betws.
46. Having regard to this evidence SOCME concludes that, on balance, such benefits as the proposal may produce would be outweighed by its adverse effects, and that there are no sufficient material considerations which would justify finding to the contrary.

The Case for CCW

47. In their written submissions CCW raised concerns about the visual impact of the wind farm when seen from the north, particularly from Castell Carreg Cennen and the Beacons Way. They noted that the ARUP study advised that Mynydd y Gwair was suitable for turbines up to 100m to blade tip. In their view the unacceptable impact on the landscape character of the

Brecon Beacons National Park could be mitigated if turbines 5, 9, 10 and 13 were reduced to 100m and turbines 11 and 12 were removed.

48. The other major area of concern was the impact of the proposal on peat deposits of a depth greater than 300mm. They required a micro-siting condition of up to 100m to move turbines and tracks off areas of deep peat as identified in the additional peat survey completed as part of the Supplementary Environmental Information dated May 2010 (Doc CD18(h)(ii)).

The Case for Councillors and Interested Persons

49. Most of the concerns raised were part of the cases of the Council or SOCME, but with more emphasis on the possible problems of construction traffic using local roads. This related to general highway safety and capacity, and to traffic noise and vibration affecting neighbouring properties. Concern was expressed that the development could result in additional flooding problems, particularly in low lying areas of Pontarddulais and Pontlliw. The effect on the loss of the open upland areas on the potential for the local film making industry was also raised.

Written Representations

50. There have been a large number of written representations at the application and appeal stage which are on file. Generally the issues raised have been covered by the witnesses of the main parties.

Conclusions

The references in brackets are to paragraph numbers in my report or to documents which are the source of information on which my conclusions are based.

Key Issues

51. At the PIM I identified the main issues as likely to be landscape/visual matters, the access to the site, plus the usual range of wind farm issues including effect on recreational use, residential amenity, ecology/habitat, highway safety. I had advised that the use of the commons as open space would be considered under the Section 78 appeal.
52. I will consider the S78 appeal before the commons applications. The order in which I will deal with my considerations is the Development Plan policies first, followed by the landscape and visual effects of the main wind farm site, the access track both in terms of landscape and visual effects and highway safety and disturbance, the evidence of the Council's energy witness, CCW's habitat concerns, other SOCME issues and then other matters followed by a section on conditions and my overall conclusions on the S78 appeal. This is then followed by the consideration of the commons applications.

Planning Policy

53. At UK Government and WAG level there is a wide range of policy statements supporting the need to combat climate change and increase the production of renewable energy. The exploitation of wind power is a major part of policy at that level. I take the view that there is significant support for the principle of wind energy projects subject to the balance of benefits against more regional and local impacts.
54. Renewable energy policy generally sets national and international targets for the reduction of green house gases. The UK and WAG policies give clear support to these targets. The major parties did not disagree with the point that in Wales there are significant problems in reaching the 2010 targets. I need not go into those in detail but one specific point in favour of this site is the ability to link directly into the national grid. There appears little doubt that this site could make a positive contribution towards meeting Government targets.
55. As mentioned above the statutory Development Plan for the area is the City and County of Swansea UDP, which was adopted in 2008. Details of the appropriate policies are contained in section 8.2 of the SCG (Doc 12). The policies to which I attach most weight are R11, EV22 and EV29.
56. Policy EV22 is a general policy for the protection of the countryside and policy EV29 similarly protects areas of common land. Policy R11 specifically applies to renewable energy. Whilst there is an almost inevitable conflict between the objectives of policies EV22 and EV29 and a large wind farm, the tests included within policy R11 require the consideration of what are in effect the same matters. Therefore I consider that the most significant

policy to test this proposal against is R11. In my view this policy is generally in accord with WAG policy and sets out the range of issues which must be balanced. There is one potential problem identified by Mr Trinick in his closing submissions (Doc 9 para 58), in that the wording of criteria ii and iii introduce a test of 'no significant adverse effects'. Paragraph 8.4 of Annex D to TAN8 accepts that significant landscape change should be accepted within SSAs. In my view such change in this case would be adverse and therefore, to that extent, this proposal is in conflict with Policy R11.

57. I note that the site and surroundings are not subject to any national designation in respect of its landscape quality such as an Area of Outstanding Natural Beauty (AONB). Various witnesses made reference to considerations which have been given to extending the Gower AONB to this upland area of Gower. However I am not aware that any such proposals have progressed to the point where such a designation would represent a material planning consideration of significant weight.

Landscape and Visual effects

58. I start my considerations with the ARUP study (Doc CD70) since it is relevant to the question of landscape character and visual impact. My understanding of that study is that it was general in nature and intended to give an assessment of the likely capacity of the SSA to accommodate turbines. As such it had to make some general assumptions about what would be likely to be acceptable. At no time did it carry out a detailed EIA level study of a particular proposal. Again my understanding is that the recommended maximum height of the turbines of 100m referred to the whole of zone 13, a search area which is larger than the actual wind farm site in this proposal. This means that to some extent the turbines would be set back further from the edge of the steeper sloping parts of this upland area. Therefore they would appear less prominent than would be the case if they were located at the edge of this particular ARUP study area. In my view the ARUP study does not contain sufficient evidence to determine the appropriate height for turbines on this site.
59. These turbines would be very large man-made objects located in a prominent position on the upper slopes of Mynydd y Gwair and Pentwyn Mawr. Their prominence would be increased by the movement of the blades, which is a characteristic unlike other large man-made objects in the landscape. From the ES, the evidence at the inquiry and from my observations, it is clear that they would be visible from a wide range of vantage points. They would have a significant effect on the views of a large number of people living in, working in and travelling through the upland areas and the valley settlements surrounding this site.
60. There was some debate at the inquiry as to whether the upland around Mynydd y Gwair could be described as a plateau or not. In my view this area shows some characteristics of a plateau, particularly to the north and east where the land falls steeply into the adjacent valleys, but it has a more gentle slope towards the south. There was disagreement about the value of the suggestion that turbines greater than about a third of the height of

the landform on which there are seen would look out of scale with that landscape (Doc P13 para 8.6). In my view, these somewhat academic arguments do not help significantly in judging the effects of any specific proposal. All sites vary and it is important to consider the impact of a particular wind farm in its own context.

61. The third section of paragraph 8.4 of Annex D of TAN 8 states that 'within (and immediately adjacent) to the SSAs, the implicit objective is to accept landscape change: i.e. a significant change in landscape character from wind turbine development'. In my view this site, which lies within SSA E, would not add significantly to the level of change in landscape character which had been anticipated in the adoption of the boundary of SSA E in TAN 8. In my view, despite the conflict with policy R11 noted above, the inevitable change in landscape character of the site and its immediate surroundings to a wind farm landscape would be consistent with the advice in TAN 8.
62. From my observations I am satisfied that the scale of the turbines proposed on this site could be accommodated within the landscape without unacceptable harm to the landscape character of the site and its surroundings.
63. The Council also raised concerns that the effect of the substation and the access road on landscape character had not been adequately addressed. The substation would be immediately adjacent to the main part of the wind farm site in the north easterly corner of a field immediately adjacent to the common. It would be seen from most vantage points against the backdrop of the turbines. It would be part of the wind farm landscape anticipated by TAN 8. Whether any detailed landscaping scheme reflected the character of that further down the valley or not, would not have any significant extra effect on the landscape character of this area.
64. Turning now to the visual effects of the proposal, I note that there is a fair level of agreement between the main parties about the anticipated significance of visual effects of these turbines. In close proximity to the site the effects would be very significant. However, when one moves further away from the site itself some of the views from the valley settlements are partially screened by the natural slope of the land. From significant parts of the settlements along the surrounding valley floors, views of the turbines would be limited and intermittent. Turbines would be visible from most of the dwellings within about 2k of the nearest turbines (Doc P2 Fig7), but following my visits to the vicinity of these dwellings, I do not consider that the visual intrusion at any dwelling would be unacceptably harmful to the visual amenity of the occupiers. More unrestricted views would be available from the higher ground on the opposite side of the valleys and from the Brecon Beacons National Park. However, from many of these vantage points, particularly those to the south or north, this proposal would be seen directly or partially in front of, or behind, any wind farm built on Mynydd y Betws. At distances of above about 5k most people seeing the two wind farms would, in my view, perceive them as a single larger wind farm.

65. It is clear that over time the size of turbines proposed has continued to increase. When observed at close quarter (eg within about 1k), most turbines appear very large. In general terms from my observations, in terms of their perception, there does not appear to be any significant difference between the height of turbines once they are taller than about 50m. The direct effect on receptors situated very close to the turbines can be affected by a wide variety of specific considerations. For the more general and distant receptors the increased height means that they will be visible over a wider area, but that increase is generally at the extreme range of views. Again I do not consider this to be significant in most cases.
66. I consider that the apparent difference to the general observer, rather than those living and working in the immediate vicinity, is in the views from about 2k to 15k from the site. At these distances the increase in height would be noticeable. However the taller turbines generally have a higher installed capacity for power generation. Therefore one must balance the question of the height of the turbines against the number of turbines proposed for any particular site. In the ES (Doc CD6 Vol 1 Sec 4.6 and Vol 2 Fig 4.2a-d) there are details of the various different layouts considered for this site. The one before the inquiry has significantly fewer turbines contained in a smaller area than the earlier schemes considered. I take the view that, in general, fewer larger turbines have a less harmful effect on visual amenity than a greater number of smaller turbines.
67. On this issue, CCW considered that their objection could be overcome if turbines 5, 9, 10 and 13 were reduced to 100m maximum height to blade tip and turbines 11 and 12 were deleted from the scheme. CCW suggests that this would reduce the impact of the proposal from viewpoints generally to the north and from the Brecon Beacons National Park in particular. In my view reducing the height of turbines to that extent would significantly change the nature of the proposal which had been subject to the ES and EIA. Amendments to the details of a proposal on this scale should not be done by condition. If I considered that these turbines were too tall then the appropriate course would be to recommend that permission be refused.
68. The Council's view was consistent with that of CCW in so far as they considered that the increase in height above 100m suggested for this site in the ARUP study (Doc CD70) had not been justified.
69. However, the Council did not produce detailed evidence to compare the proposal with the turbines reduced to 100m. Whilst one might expect an increase in height of about 27m to be significant, the evidence produced by Mr Roden (Doc P2 Figs 12a-e) indicates to me that in most cases the increase in height would not add significantly to the visual effect of the turbines. I note Mr Evers' point that as a general rule the height of turbines should not exceed about one third of the perceived height of the landscape feature on which they are seen (Doc P13 para 8.6). That may be a helpful rule of thumb as used by ARUP in making general assessments of potential SSA capacity, but I do not consider that it is any substitute for a careful on site analysis of the likely impact of any particular proposal.

70. This is particularly so in the views available from the higher ground in the Brecon Beacons National Park, along the Beacons Way National Trail and from Castell Carreg Cennen. From such viewpoints, I do not consider that this proposal would have a significantly different effect to that of a wind farm on Mynydd y Betws or that the cumulative visual impact of both wind farms would be significantly greater.
71. The level of visual intrusion would be experienced by a large number of people living, working or passing through the area. The turbines would be prominent features on the top of Mynydd y Gwair. This intrusion would be particularly noticeable to people working on the commons and people using the open land and long distance footpaths for recreational purposes. However, on the basis of the evidence and my extensive travels within the area, I do not consider that the level of visual intrusion would be sufficient to justify withholding planning permission.
72. The other important aspect to consider under visual effects is any potential cumulative effects of this proposal with other wind farms. I have commented above about the close relationship of this site to Mynydd y Betws. In my view there is sufficient spacing between these two wind farms and the others currently built or consented, that the cumulative effects are generally as one would expect from the selection of the SSAs in TAN 8. The main area where there would be a significant cumulative impact would be in the vicinity of Penlle'r Castell. From that location, between the two wind farms, the views in almost all directions would be dominated by turbines. I consider this in more detail below in the effect on Ancient Monuments.
73. There would be sequential cumulative effects experienced by people travelling along the main roads through the area when one would see one wind farm followed by another. However this again would be no more than as one might expect as a consequence of the selection of the SSAs.
74. My considerations of the landscape and visual effects of this case have been on the basis of the existing planning permission for a wind farm on the nearby site at Mynydd y Betws. For the avoidance of doubt, if for any reason the scheme at Mynydd y Betws did not proceed, then the effects of this proposal on its own would be that much less significant and any harmful consequences would be reduced.

Access track

75. The upper third of the access track would cross the open common land and would again be seen against the backdrop of the wind farm and its wind farm landscape. In any event, the amount of change resulting from the access track would be relatively localised in what is a visually wide and extensive landscape. The middle section of the access follows the line of the existing road with only minor alterations at bends and junctions. In my view the changes along these sections would not significantly affect the landscape character. The lower section of the access track would involve some new route across parts of the common but, for most of its length, it would follow the line of existing farm and access tracks. Again the amount

of change would not be sufficient to have a significant effect on the landscape character of the area.

76. Numerous local residents and Councillors expressed a variety of concerns regarding traffic noise, vibrations, congestion and highway safety generally. I note that the highway authority did not register an objection. Various access routes to the site had been considered in the ES and the final version included in the application was the best practical solution.
77. During the operational phase of the wind farm, traffic generation would be slight and should cause no unacceptable harm. The provision of a direct access to the substation site was discussed at the inquiry. Such an access would significantly reduce the need for maintenance vehicles to pass along the access track across much of the open common land, hence reducing the disturbance to livestock and recreational users of the commons. The sections of the access track which would not follow the public highway would need to be retained only for exceptional loads and possibly for the decommissioning phase. The possibility of exceptional loads required for any replacement turbines would be unlikely to happen very often. Any large loads would be subject to the same arrangements as during the construction phase.
78. As far as the construction phase is concerned the normal traffic for workers and materials would be well within the capacity of the public highways identified. From the motorway junction 47 at Penllergaer to the start of the access track off Bolgoed Road at Pontarddulais, the route follows the main A48 road. Any increase in traffic volumes, noise or vibration would be no more than might be expected for properties fronting onto a main road. The section of the minor road to be used is mainly single track. However there are a number of passing places and existing traffic is unlikely to suffer significant inconvenience, particularly if empty vehicles leave the site by the temporary route to the east.
79. Much concern was expressed about the impact of the vehicles bringing abnormal loads. These vehicles would be large and heavy. However, the timings and routings of these deliveries would be strictly controlled. The vehicles would travel at relatively slow speeds, particularly when negotiating difficult sections of the highway which are mainly in the settlements. With the normal planning conditions in place, the use of the routes suggested should not result in unacceptable harm.
80. My only specific concerns relate to the proximity of the 4 dwellings, 141-147, on the north side of Bolgoed Road at Pontarddulais and the two dwellings, known as Hengoes and Henglawdd, located part way along the access route. In these cases the dwellings are close to where the changes in gradients and/or bends are likely to result in a significant increase in noise and vibration from passing traffic going to or from the wind farm site. Again these are problems which can be addressed by appropriate conditions.
81. The decommissioning phase is likely to result in some increase in traffic generation, but on a much lesser scale than the construction phase. The

general conditions relating to the use of the access would still be applicable and significant harm would be unlikely.

Provision of Renewable Energy

82. UK Government and WAG renewable energy policy generally sets national and international targets for the reduction of green house gases. The UK and WAG policies give clear support to these targets. No main parties disagreed with the point that in Wales there have been significant problems in reaching the 2010 targets.
83. In essence the Council's evidence in this respect was that other forms of renewable energy are being developed and will provide sufficient energy to meet the targets without the need to rely on large amounts of onshore wind generation. However, there is no clear indication that such major renewable schemes as the Severn Barrage will generate electricity in the immediate future. There are still significant problems with the provision of new grid connections for much of the capacity from SSAs in North and Central Wales (Doc 9 para 39).
84. Whilst there appears an almost inevitable problem with meeting whatever targets are set, there is a consistent thread in Government policy that renewable energy, from whatever source, is to be encouraged. In the WAG consultation draft of PPW Chapter 12.8 (Doc CD123) at section 12.10.1 it states that 'local planning authorities should recognise that where targets/potential have been met that this should not be used as a basis for refusal'. Whilst this is a consultation draft and accordingly carries relatively little weight, it does give a clear indication of current WAG thinking on the issue of targets. Mr Godfrey, in answer to my question, confirmed that if that view became part of the adopted WAG policy then each application would need to be considered on its merits.
85. One specific point in favour of this site is the proposal to link directly into the national grid. There appears little doubt that this site could make a positive contribution towards meeting renewable energy targets at a relatively early date.

Effect on Habitat

86. CCW had raised concern about the effects of the proposal on the peat bog habitat. In the initial ES surveys significant areas of peat had not been specifically identified. CCW has amended its concern about the importance of peat habitats in recent years. Consequently the appellants commissioned more detailed surveys which were undertaken as part of the supplementary environmental information dated May 2010 (Doc CD18). This work identifies several areas where turbines and access roads would be sited within areas of peat with a depth greater than 300mm.
87. The concern is that the development could result in changes to the water table with resulting drying out of the bog. Some effect on the habitat is inevitable with a development of this type. Generally turbines, access roads etc have been sited to minimise direct effects on the most sensitive areas. The suggested planning conditions give some flexibility in the

detailed siting of the features of the proposal to further reduce any effects. However CCW suggested a micro-siting condition with a variation of up to 100m: normally the maximum applied in appeal decisions in Wales is 30m.

88. A variation of up to 100m could result in turbines moving closer to other turbines which would then need to be re-sited. These effects could result in turbines moving significantly closer to sensitive receptors such as nearby dwellings. In my view, variations in the position of turbines or access roads to that extent would significantly change the nature of the proposal which had been subject to the ES and EIA. Thus amendments on this scale should not be done by condition. If I considered that the impact on the peat would be unacceptable then the appropriate course would be to recommend the refusal of permission.
89. In addition, the area of land to be taken out of the commons allows for a variation of siting generally up to 30m. If greater re-siting was proposed then new commons applications would be necessary.
90. On the site inspection I observed that the location of turbine 4 was almost in the centre of the deepest section of peat. The main access track would pass this turbine and cross most of this central area of peat. Also turbines 9 and 13 and associated tracks and sections of the access track near turbines 6, 7 and 8 would directly affect the peat in those areas of the site. The location of the peat deposits in relation to the turbines and tracks are shown on Fig 1 in Doc CD18 (h)(ii). It appears to me that the layout of turbines and tracks was established before the true extent of the peat deposits was known. Whilst some mitigation, such as 'floating tracks', could reduce the impact of the wind farm on the peat, there would still be a significant degree of impact on the peat deposits. This site is on the extremity of the peat habitat in South Wales and therefore it is of greater importance as a resource. It appears to me that a relatively minor re-design of the layout might remove most, if not all, of the impact on the peat deposits. However, this would result in a different proposal to that described in the ES and would go beyond an amendment that should be considered as part of the current proposal.
91. I note that CCW did not attend the inquiry and their evidence could not be subject to cross examination (31). However, I have come to my conclusions on this matter having regard to the appellant's evidence (Doc CD18(h)) and from my own observations on site. In my view the risk of an unacceptable degree of harm to the peat habitat is sufficient to justify refusal of this proposal.

Noise

92. General concerns regarding the effects of noise were raised at the inquiry and in the written objections. However no professional witness was produced at the inquiry to challenge the appellant's noise evidence. I am satisfied that on the basis of that evidence, and given the distance to the neighbouring dwellings, the imposition of normal noise conditions would ensure that any additional noise would not be unacceptably harmful to the amenity of the occupiers of neighbouring dwellings.

Effect on wildlife

93. Numerous representations were made about the likely effect on various species of birds and bats. I note that CCW raised no objections in this regard. The appellants had studied all species identified by CCW as potentially important in this area. Species identified by local residents had not been surveyed individually because CCW had not considered it necessary. I consider that the surveys and evidence (Doc P3) produced by the appellants demonstrate that the effects on birds and bats would not be unacceptably harmful.

Effect on footpaths and recreation

94. The commons are clearly an important and well used amenity to local residents and tourists alike. There is a relatively busy network of local roads passing the site. The users of the long distance St Illtyd's Way footpath and other local footpaths and bridleways would have very clear views of the turbines. The view from the south approaching the site with the Mynydd y Betws turbines beyond, and in the same general view, would be particularly affected. However, the presence of the turbines would not physically restrict, to any significant extent, the ability of a person to use the public rights of way or to exercise the more general right to roam provided by the CROW Act. I am in no doubt that the pleasure of some users would be diminished, but others may not share the same sensitivity to the presence of turbines in the open countryside. The wind farm at Fynnon Oer is similarly located on the same long distance footpath which crosses this site. I have walked along several kilometres of that footpath up to the turbines. Whilst they were visible and in some cases significant in my view, for substantial parts of the walk they were not visible. Even when I stood in very close proximity, the noise from the turbines was not overwhelming. Therefore, I do not consider that this proposal would prevent the reasonable enjoyment of the area by members of the public.

Effect on tourism

95. There are a number of tourist related businesses in the immediate locality. I can understand the concerns of the owners of those B&B and similar enterprises. It is difficult to predict what, if any, the effects of the introduction of the wind farm would be on the area's ability to attract the same level of visitors. However, the evidence from studies carried out elsewhere in the United Kingdom does not suggest that there would be significant long term harmful effects on tourism (Doc P10 sec 8.5.7.4).

Shadow Flicker

96. Given the distance between neighbouring properties and the relative positions of direct sunlight, the height of the turbines and windows facing turbines, shadow flicker is unlikely to affect any residents. However, it is a matter addressed by the suggested conditions should any property be affected.

Effect on Scheduled Ancient Monuments

97. There are two monuments close to the proposed works which would be protected by temporary fencing. In addition there are a number of monuments on the upland area both within and adjoining the wind farm site. Generally these monuments are a variety of burial sites. These include Penlle'r Bebyll and Tor Clawdd which are both Scheduled Ancient Monuments. I appreciate that the turbines and access tracks would change the appearance of the Mynydd y Gwair area. The turbines would be large man-made features of far greater scale than anything which currently exists. However they would be, if allowed, by their nature a temporary feature with a permission for 25 years. Any further extension of the life of the wind farm would require a new planning permission. Also, whilst large in height, the turbines are narrow in width. The existence of turbines on a site does not prevent views between the turbines of other features in the landscape. To that extent the effect on the inter-visibility of one monument to another would not be significantly harmed. In my view the effect on the setting of those monuments within and adjoining the site would not be unacceptably harmful.
98. Another aspect which was raised at the inquiry was the effect on the setting of Penlle'r Castell and the effect on views from Castell Carreg Cennen. Penlle'r Castell lies immediately to the north of the application site. It also lies immediately to the south of the approved Mynydd y Betws wind farm. If both proposals proceed it would, in effect, be surrounded by turbines. The importance of this monument is its history as a castle on the boundary between the potentially warring factions. It overlooks the land to the north as part of the defences of the areas to the south. Currently there are clear views across the open upland landscape which is only partially affected by the line of pylons. This view to the north will be completely dominated by turbines already approved. This proposal lies generally to the south west of the monument. Because of the height of the land in the immediate foreground the historic views to the south are somewhat restricted compared to those to the north. Nevertheless the Mynydd y Gwair turbines would be prominently visible. Standing on the monument one would be looking up at the top of the nearer turbines. However, again the wind farms would only have permission for 25 years. The turbines might be a distraction in the view, but they would not prevent a person perceiving the nature of the view from the castle across the open hillside prior to the erection of the turbines.
99. In addition, I have some reservations as to how many people might be affected by the change in this view. Whilst the monument is clearly marked on maps and is very close to the public roads, I observed no signs from those roads to the monument, nor are there any parking facilities on those roads close to the monument. Thus from a driver's viewpoint the monument is not obviously visible when travelling along those nearby roads. It is only when one walks up to the monument that its true scale can be appreciated and that the small notice explaining its significance can be seen. In my view the effect on the setting of this monument, even bearing in mind the cumulative effects of Mynydd y Gwair and Mynydd y

Betws wind farms, is not sufficiently harmful to justify withholding planning permission.

100. By contrast Castell Carreg Cennen is a very well sign posted visitor attraction. I have no doubt that it is visited by a substantial number of visitors. The turbines would be visible from both the Castle grounds and from the window in the inner courtyard. The turbines on this site would be clearly visible on the skyline, but at a distance of about 10 kilometres. Moreover the turbines on this site and those at Mynydd y Betws would appear generally in this same view. At this distance both developments would, in my assessment, have the appearance of a single large wind farm. Again I do not consider that the effect on this view is sufficient to withhold planning permission.

Water Supply

101. Welsh Water had raised concerns about the possible pollution of the Lliw Valley reservoir as a result of the building works. The evidence to which they referred appeared to relate to major clearance of conifer woodlands close to catchment areas and not the more limited works associated with a wind farm. Some of the turbines and access track would lie within the catchment area of the reservoir. However, given the evidence of the appellants (Doc CD18(f)), I consider that there is sufficient evidence to conclude that there would not be any significant harmful effects. I draw similar conclusions in respect of the concerns regarding the two water mains having considered the appellants' evidence (Doc CD18(e)).

102. Several local residents depend on springs for their water supply. Springs also supply water for some of the stock grazing on the commons and adjacent fields. I can appreciate the concern of people who may lose their only reliable water supply. Several people had experienced problems caused by the recent gas pipeline crossing the area. It can never be said that a proposal would not affect an underground water course. However, the depth of excavation associated with access tracks is much shallower than that for the pipeline. In addition there is a significant distance between most of the works and the nearest springs. Even where they are physically close, as towards the north of the sub station site, there is significant differences in the vertical levels. The turbine bases would normally be the deepest excavations and these relate to relatively small areas of the site. The appellant's evidence (Doc P4 and P5), together with the answers given at the inquiry, satisfies me that there is unlikely to be any significant impact on the private water supplies to neighbouring dwellings.

Effect on Farming

103. Concern was expressed about the effects of the wind farm on farming generally. Such possible problems include noise disturbance to stock and the intrusion of the turbines on the working environment of the farmers. These matters are considered in more detail under the commons applications section below. However, in respect of the S78 arguments I do

not consider that there would be any unacceptable harm to farming interests.

Other Matters

104. The effect of the proposal on property values and the ability to sell properties was raised by a number of interested persons. Generally these are not material considerations under the planning legislation. However, the effects on the amenity of the residents of those properties is material: indirectly this could have a relationship in planning terms to potential value. Such matters as are relevant to this case have been considered above.
105. Representations were made about the flooding problems in the low lying areas of Pontlliw and Pontarddulais which could be made worse by the proposal. My understanding is that these are existing flooding problems. However, the amount of development involved in this proposal and which would lie within the catchment area of the water courses that flow through Pontlliw or Pontarddulais is so small that I do not consider that it would have any significant effect on the frequency and extent of any future flooding events.
106. The provision of the access tracks between the turbines could result in better access across the commons for both people and livestock, but this would also increase the potential for unauthorised use of these tracks by off road vehicles. This could result in extra harm to the habitat and the peaceful use of the commons. However, in my view, these are matters which could be controlled by appropriate management and policing.
107. I recognise that the use of the upland parts of Swansea by the film industry could be affected by the presence of wind turbines (Doc P37). However, there are other upland areas within South Wales which would still be available for any such use.
108. I have considered all of the other representations made at the inquiry and in writing but none are of such weight that they would add significantly to the balance for or against this proposal.

Conditions

109. A list of conditions which should be attached to any permission was prepared by the appellants and the Council (Doc 17). These were largely agreed and the points of disagreement between the appellants and Council are shown in the list, together with some of CCW's suggestions. SOCME had prepared their own list of suggested additions and amendments (Doc 18). These two documents were used at the inquiry as a basis for the discussion on conditions.
110. I have already explained above why I do not consider CCW's suggestions about the omission of 2 turbines, the reduction in the height of 4 other turbines and a micro-siting condition of up to 100m are appropriate.
111. Some of SOCME's suggestions had already been incorporated into the final list. Others are unnecessary or not suitable for imposition as planning conditions. In some cases they would be too restrictive at this stage given

that much of the detail would be subject to later approval by the Council. It would be up to the Council who they would consult on the details to be approved, but they made it clear that consultation with the interested parties would be a normal and necessary part of the discharge of conditions.

112. My comments in this section refer to the numbers of the conditions in Doc 17. Where I make no comment I consider that the condition is necessary and appropriate as suggested. No 3 first line delete 'three months' and insert '18 months'. No 7 k line 3 insert between implemented and to the words 'in accordance to current best practice'. No 7 after p add 'q details of noise and vibration mitigation measures for the residential properties 141, 143, 145 and 147 Bolgoed Road and the two dwellings, known as Hengoed and Henglawdd, located part way along the access route. No 11 line 5 delete '11' insert '12'. No 13 insert the words 'and monitoring' between the words 'maintenance' and 'of' in the first line of the second bullet point. No 14 insert the words 'and bats' after the word 'bird' in line 1 of the first and second bullet points. The appellants do not agree to this condition as a matter of legal principle, as it is not necessary in planning terms and serves no planning purpose. This is a legal matter but I have some sympathy with the point. It may be nice to have the monitoring but I have some doubt what one might do if the monitoring revealed a serious problem since the permission would have been granted and implemented. If it were to be imposed then the cross reference suggested by CCW is to section 10.6 of the ES. If No 14 is not imposed then subsequent references to other condition numbers in the list would need to be adjusted accordingly. No 16 line 2 delete '14' and insert '15'. No 25 insert the word 'ponticum' after the word 'rhododendron' in line 2 and delete the word 'Bryn-back' before the word 'Common' and insert the word 'Bryn-bach' also in line 2. No 27 delete the words 'sited in areas of peat greater than 300mm in depth' in lines 5 and 6. This is to amend the condition so that it applies to all hydrological issues including private water supplies. No 28 add extra bullet point and the words 'stock handling facilities and water supply for stock'.

113. Should my recommendation not be accepted and it is decided to allow the appeal and grant planning permission then the conditions in Doc 17 should be imposed with the amendments suggested above, subject to my comments on condition No 14.

114. A list of the reasons for the conditions is attached after the documents list.

Overall Conclusions

115. I have already concluded above that this proposal is in conflict with criteria ii and iii of UDP Policy R11. Therefore, having regard to Section 38(6) of the Act, permission should only be granted if material circumstances indicate otherwise. I have weighed all the aspects raised against the proposal and balanced them against the benefits of granting permission. I place significant weight on the WAG and UK Government policies and targets and in particular to those in TAN 8. Also on the facts

that this proposal is likely to be seen from most vantage points as part of a single larger wind farm with that at Mynydd y Betws, and the ability to link this site directly into the national grid.

116. Setting aside for the moment the question of the effect of the proposal on the peat habitat, I am satisfied that the benefits of the production of renewable energy from this proposal would outweigh the conflict with the Development Plan and all the other material considerations. In general terms a development of this number of turbines up to a maximum height of 127m is acceptable in this location. However, for the reasons given, the effect on the peat habitat cannot be overcome by the imposition of conditions designed to mitigate the harmful effects. For this reason I conclude that permission should not be granted.

117. If my recommendation is not accepted and the conclusion is reached that this harm is outweighed by the benefits of the proposal, then planning permission should be granted subject to the conditions outlined above.

Recommendation

118. I recommend that planning permission should not be granted.

Common Land Matters, Section 147 and 194 applications

119. I note that a significant number of the written objections to the applications under the 'Commons Land Legislation' related to objections concerning the wind farm in general. I explained at the PIM that I took the view that objections to development on the commons in respect of the effects on such matters as visual amenity, noise, use of footpaths etc would be more properly considered under the S78 case. These applications were not an opportunity to repeat the same arguments. I explained that I wished to focus the evidence on the effects of the proposals on the Commoners' and others' ability to exercise their other rights to use the commons. This approach was acceptable to all parties.
120. Insofar as the right of the general public to use these 'urban commons' for recreational purposes is concerned, I have already concluded on the S78 case that there would not be any unacceptable harm in this regard. For the avoidance of doubt I make the same conclusions in respect of the effect on the commons.
121. Dealing first with the two S194 applications, these relate to the erection of temporary fencing around two monuments to safeguard them from any potential damage during the construction of the wind farm. One monument lies close to the part of the access track where it follows the public highway and the other is close to turbine 18 and its associated hardstanding. No evidence was given at the inquiry against these proposals, although I consider that some of the written representations about fencing the commons may have misunderstood the extent of these two applications. In my view, these temporary measures are necessary if planning permission were to be granted and thus it follows that the consents should be granted.
122. The three S147 applications relate to the land which would be permanently removed from the three commons CL68, CL74 and CL77. The area of CL68 is 86ha of which 0.97ha would be removed to allow for the construction of the access track through the common and for the improvement to parts of the public road where it adjoins the common. CL74 and CL77 are 837ha and 876ha respectively. The areas of land to be removed would be 20.55ha and 10.44ha: this land would accommodate turbine bases, crane hardstandings and access tracks. The area to be removed also includes the working areas around the various elements of the wind farm. Once construction is complete much of these areas would return to grazing land although not legally part of the common.
123. Generally the evidence on the use of the commons refers to the numbers of breeding ewes as a measure of use and capacity. Other livestock such as cattle and horses have grazing rights, but in much of the evidence they are equated to breeding ewes for calculation purposes. I note that the Somerset Trust, as the present owners of the exchange land, would not exercise their grazing rights in respect of that land over the commons (Doc CD118). Given the relatively small area of commons affected, this would result in a net gain of grazing capacity to other existing graziers.

124. However, my understanding is that exchange land must be provided for that which is to be taken out of the common. For most of the stock grazed on the commons the flocks of sheep are hefted flocks. This system of farming is explained in Mr Hadley's proof (Doc P8 Sec 10), but in simple terms the flocks of sheep have an inbred instinct to graze on a restricted area of the common closest to their home farm. To some extent this also applies to the cattle. Stock therefore does not graze freely over all of the open areas of the commons. In addition the grazing rights on parts of CL74 are legally restricted to defined areas of the common which relate to the historic hefts (Doc CD122). Most farmers do not have rights to drive their stock across other areas of the common outside their own hefts.
125. Given that general background there are two main aspects to consider in respect of the exchange land. The suitability of the land itself, and the convenience of its location.
126. There is no dispute that the quality of the exchange land is far better than that of the open common areas, since for the most part, it is enclosed improved grassland which has been used mainly for grazing and fodder crops. The main thrust of the appellant's argument is that this land is of far more potential benefit to the graziers than the land which would be lost. However, this is on the basis that it remains fenced and is used by the graziers as improved grassland for their stock in a managed way. The potential problem with this solution is the uncertainty as to the identity of who would manage the enclosed exchange land. The West Glamorgan Commoners Association would be the obvious choice, but that body does not necessarily represent all the parties who have rights over the commons. In addition the Association represents commoners with rights over all the commons in West Glamorgan and not just those affected by this proposal.
127. The alternative would be to remove any fences between the commons and the exchange land. The problem of unrestricted access to stock is that it would inevitably lead to over grazing as sheep and cattle would be naturally attracted to the better grass. This could potentially disturb the hefting instincts of the stock closest to the exchange land. For those farms furthest away from the exchange land it would result in greater problems of stock control if stock was to be attracted to this land or, if not, then there would be no benefit to compensate for the presence of the access track and/or turbines on the parts of the commons grazed by their stock.
128. There appears to have been no successful negotiations between the appellants, land owner and the commoners to resolve the problem of how to make the best use of the exchange land. I can well understand the reluctance of the commoners to enter such negotiations since it is clear that most object to the principle of the wind farm. However, if agreement could be reached between the parties, it appears to me that the potential income to the Association from the lease and management of the exchange land would provide funds for the compensation for any loss to those farmers most directly affected and for the future maintenance and improvement of the commons. Such negotiations would be difficult. If the Commoners Association agreed to manage the exchange land it could be difficult to apportion the use of, or benefits from, the exchange land to the commoners

directly affected by the wind farm. However, without some form of agreement on the best use of the exchange land for the graziers affected, I have doubts that the appellant's arguments (23) about the suitability of the quality of the exchange land can be accepted.

129. I have greater reservations about the location of the exchange land. The exchange land for CL68 is 6.64ha of land at Blaen Gerdinen. This is about 2.5 miles north of the northern edge of CL68. The area of land lost to CL68 is 0.97ha. I consider that the problem with the exchange land is its remote location. Whilst some graziers might have grazing rights over other intervening and neighbouring commons, the only effective way for graziers to make use of this exchange land would be to move stock by road. I do not consider that this land is close enough to provide effective exchange for the land lost.
130. The exchange land for CL74 and 77 is 33.18ha at Blaen Yr Olchfa farm. This would replace 30.99ha lost. That land adjoins part of CL77 but is about 1.5 miles from the nearest part of CL77 affected by the wind farm. It is about 1.5 miles from the nearest part of CL74 affected but only directly accessible across CL77. Again this is some distance from the land affected and given the hefting system it could only be accessed by most graziers by road. By way of example the distance from Mr Morgan's main farm, which has grazing rights on CL74, to the exchange land would be about 6 miles. In my view the location of this land is not suitable as exchange land for that lost in CL74.
131. I can appreciate the problem of trying to acquire by agreement suitable exchange land adjacent to the existing commons. However, following my questions at the inquiry, I understand that, in Wales, exchange land can be taken from one common to add to another (Doc 9 para 61). For example, the exchange land for CL68 could be taken out of CL74 where the two commons are next to each other. The land at Blaen Gerdinen could then be used as exchange land for that transferred to CL68 plus some of the CL74 land lost to the wind farm. The Blaen Gerdinen land adjoins CL74 and is in close proximity to part of that common affected by the wind farm. Any residual exchange land would then have to be accommodated at Blaen Yr Olchfa Farm.
132. The problem of the exchange land is made more difficult by the amount of land which is proposed to be removed from the commons. The areas calculated include all the land necessary for the working space around the access tracks, turbine bases and hardstandings. In effect much of that land is only required during construction and/or decommissioning. The problem of the location of the exchange land would be reduced if the working areas were subject to temporary consents under S194. That could significantly reduce the total area of exchange land required. Such alternative solutions are not before me to consider in this case. However, I mention them because it appears to me that the present proposals are unsatisfactory and that all possible alternatives have not been fully considered.
133. Concerns were expressed about the disturbance of stock on the commons as a result of the presence of the turbines and traffic to the wind

farm. During the operational phase of the development the amount of traffic visiting the site would be likely to be very modest and not sufficient to cause unacceptable disturbance to grazing stock. During my visit to Fynnon Oer I observed that the vegetation adjoining the access tracks had largely covered the margins leaving a track of about 3m wide linking the turbines. Sheep were grazing across the site with no apparent regard to the presence or proximity of the turbines. There were cattle in areas not far from the nearest turbines which again appeared unaffected by any noise or movement. Whilst this is not conclusive evidence, it was a general observation consistent with my experiences on other wind farm sites in Wales and elsewhere in the UK. It is also consistent with the appellant's evidence that no unacceptable levels of stock disturbance would result from the operation of the turbines.

134. During the construction stage, and to a lesser extent during decommissioning, there would be significantly more activity on the commons. However, construction would be likely to be concentrated at a few locations at a time. Given the large area of the commons, I see no reason why any disturbed stock would not be able to move a reasonable distance away from those areas where construction activity would be concentrated. Overall I do not consider that the levels of disturbance would be unacceptably harmful to the grazing of stock or their hefting instincts. I note that the appellants are prepared to make a financial contribution towards any increased costs of stock management during the construction period.
135. Doubts were expressed about the potential increase in unauthorised access to the commons along the wind farm access tracks. These would be gated and available for use by the wind farm operators and graziers only. The presence of access tracks could be a benefit to graziers by giving improved access to the higher parts of the commons for stock control and management. On other sites I have observed that such tracks are often used by stock, farmers and walkers to pass over upland areas even where they do not follow previous rights of way or established routes. The presence of an improved access track across the southern part of CL68 could well provide a more convenient route for local walkers than parts of the existing overgrown footpaths. If unauthorised access by vehicles causes problems then, in the first instance, it would be a management and policing matters for the land owner, appellants and/or the commoners.
136. There are other rights over parts of the commons such as that to collect fern, bracken and firewood (estovers). I do not consider that any of these other rights would be affected to any material degree by the wind farm. The exchange land contains a more varied habitat with a greater amount of woodland and field boundary trees and hedges which could give additional potential to exercise estover rights.
137. In terms of the rights over an 'urban common' for the public to enjoy the open space I do not consider that these rights would be significantly reduced by the wind farm. An individual's pleasure of enjoying the open space may be diminished by the presence of turbines but they would not physically prevent persons roaming across the commons for recreational

purposes. The existing character of the exchange land would give some new variety to the commons. This could provide new opportunities for public enjoyment particularly with the tree and hedgerow habitats. I see no overriding difficulty in providing access to these areas for the general public if it were decided to retain the existing field boundaries.

Overall Conclusions of Commons Applications

138. For the reasons given above I conclude that, in the absence of any firm management agreement between the parties concerning how the exchange land should be used, and having regard to the distance between the areas of commons CL68 and CL74 affected by the wind farm and the locations of the respective areas of exchange land, the exchange land is not suitable to replace that which would be lost from the commons. Therefore the three S147 Orders should not be granted. If planning permission is granted then I see no objection to granting the two S194 consents.

Recommendation

139. I recommend that the consents be granted but that the Orders be not granted.

Stuart B Wild

Inspector

FOR SOCME:

Mr G Sinclair	Environmental Information Services, landscape and visual matters
He gave evidence and called	
Glyn Morgan	SOCME introduction and common land and livestock management
Barry Stewart	Ecology
Charles Hill	Historic Environment
Malcolm Ridge	Gower Society
Phillipa Watkins	Swansea Civic Society
Janet Jones	Betws Mountain Protection Group
Vernon Davies	West Glamorgan Ramblers
Merion Bell	Mawr Walking Club
Mike Clark	Pontardawe Strollers Society
Alan Richards	Pontarddlais Walking Club
Chris Morgan	West Glamorgan Commoners Association
David Rowlands	Local Commoner
Frank Jones	Coynant Farm B & B and water supply issues
Professor L G Moseley	Methodology commentary
Anne Strawford	Local resident Lygos Farm
Clare Moseley	Local resident, miscellaneous concerns
Nigel Burden	Local resident, wildlife and water issues

INTERESTED PERSONS:

Councillor Miles	C & C of Swansea representing views of local residents
Councillor Richard	C & C of Swansea representing views of local residents
Councillor Wendy Fitzgerald	C & C of Swansea representing views of local residents

Councillor Sullivan	C & C of Swansea representing views of local residents
Mrs Kohll	Banc y Ffynnon, Cwcerdinen, Felindre SA5 7PX
Gwyn Davies	Ystrad Cathan Farm, Garnswllt, Swansea SA18 2SB
Karol and Julie Swoboda	Brynchwyth Farm, Baran Mountain, Rhydyfro SA84 4RT
Mervyn Thomas	25 Clos Glanlliw, Pontlliw SA4 9DW
Beryl Gammon	Ffynnon Las, Rhyd y Gwm, Craig Cefn Parc, Swansea
O Cellan Jones	Blaen Nant Ddu Farm, Felindre, Swansea SA5 7PR
Richard and Karen May	Llerfedwen Farm, Cwmcerdin, Felindre
Bridgette Rowlands	Llwyn Ifan Farm, Rhyd y Fro, Pontardawe SA8 4RT
Derek and Christine Wright	Ty Trawst, Cwmcerdinen SA5 7PX
Sharon and Paul Northcote	Tyr Darren, Felindre SA5 7NS
W Selwyn Williams	32 Gopa Road, Pontarddulais SA4 8JN Footpath Officer, Pontarddulais Partnership
Bob Morgan	Valley View, Craig Cefn Parc, Swansea
Barbara Mitchell	37 Clos Glanlliw, Pontlliw, Swansea SA4 9DW, Pontlliw and Tircoed Community Councillor
Tecwen and Rhian Snowdon	Penlanau, Rhyd y Fro, Pontardawe SA8 4RU
Ann Lewis	21 Fagwr Road, Craig Cefn Parc, Swansea, Mawr Community Councillor and member of riding club
Ron Waterhouse	145 Bolgoed Road, Pontarddulais
Jamie Nemeth	7 Lon Deg, Pontardawe
David Francis	Ffynnon Sant, Felindre
Pamela Hopkins	Blaen Cwm

DOCUMENTS

General Inquiry Documents

- 1 Council's letter of notification of the inquiry
- 2 Appellant's statement of case
- 3 Council's statement of case
- 4 SOCME's statement of case
- 5 CCW's statement of case
- 6 Appellant's opening statement
- 7 Council's opening statement
- 8 SOCME's opening statement
- 9 Appellant's closing submissions
- 10 Council's closing submissions
- 11 SOCME's closing submissions
- 12 Statement of Common Ground
- 13 Plan showing siting of turbines, access road etc with identification numbers (1-19) of turbines shown
- 14 Plan showing location and relative heights of turbines at MyG and MyB, telecom tower and other nearby turbines
- 15 Bundle of 3rd party representations handed during the inquiry
- 16 Letter dated 27/11/09 from RWEpower to PINS re S36 and 50MW jurisdiction issue
- 17 List of suggested conditions
- 18 SOCME comments on conditions

Proofs of evidence

Appellant

- P1 Mr Roden's proof and appendices
- P2 Figures to P1
- P3 Mr Woodfield's proof and appendices
- P4 Mr Young's proof
- P5 Mr Young's rebuttal proof (to points raised in SOCME evidence)
- P6 Mr Carter's proof

P7 Appendices to P6

P8 Mr Hadley's proof

P9 Appendices to P8

P10 Mr Stewart's proof

P11 Appendices to P10

Council

P12 Mr Lock's proof and appendices

P13 Mr Evers' proof and appendices

P14 Mr Godfrey's proof

P15 Appendices to P14

Other Parties and Interested Persons

P16 File containing SOCME proofs and appendices 1-22 (18 witnesses in person plus 3 written submissions)

P17 Written submissions of CCW

P18 Statement of Councillor Miles

P19 Statement of Councillor Richard

P20 Statement of Councillor Wendy Fitzgerald

P21 Statement of Councillor Sullivan

P22 Statement of Mrs Kohll

P23 Statement of Gwyn Davies

P24 Statement of Karol and Julie Swoboda

P25 Statement of Mervyn Thomas

P26 Statement of Beryl Gammon

P27 Statement of O Cellan Jones

P28 Statement of Richard and Karen May

P29 Statement of Bridgette Rowlands

P30 Statement of Wendy Jacob (Read by Mr Sinclair in her absence)

P31 Statement of Derek and Christine Wright

P32 Statement of Sharon and Paul Northcote

P33 Statement of I Jenkins (Read by Mr Sinclair in his absence)

- P34 Statement of W Selwyn Williams (Footpath Officer Pontarddulais Partnership)
- P35 Statement of Barbara Mitchel
- P36 Statement of Ron Waterhouse
- P37 Statement of Jamie Nemeth plus appendices

Core Documents

- CD1- 128 List giving details of Core Documents 1-128
- CD129 Next Steps to Building a New transmission Line to Mid Wales (National Grid Presentation)
- CD130 Letter dated 23/06/10 BBNP to Swansea Council objecting to the proposal
- CD131 Extract from reNews 22/07/10
- CD132 Press release re Gwynt y Mor offshore wind farm
- CD133 Extract on recovery of expenses due to extraordinary traffic
- CD134 Extract from Commons Register re restrictions on use by public
- CD135 Comparison between ES and Roden evidence re significance of effects on residential properties
- CD136 Email dated 12/07/10 re MOD requirements for lighting

LIST OF REASONS FOR CONDITIONS

1. Statutory time limit
2. & 3. To ensure 25 year temporary period for permission and subsequent decommissioning and reinstatement of the site.
4. To prevent any disused/derelict wind turbine causing visual intrusion or danger to the public.
5. 13, 14, 25 & 26. To ensure the minimum disturbance to the habitat and ecology of the site.
- 6, 8, 9 & 10 To ensure the proper control of traffic and highway alterations in the interests of highway safety and free flow of traffic.
7. To ensure that all necessary details of the scheme are approved by the local planning authority.
- 11, 12, 20 & 21 In the interests of residential amenity.
- 15, 16, 17, 18, & 19. In the interests of visual amenity.

- 22, 23 & 24 To ensure minimum disturbance to ancient monuments and to provide the opportunity to record any features exposed by the development.
27. In the interests of maintaining the existing hydrological regime.
28. To ensure the suitability of the condition of the exchange land.
- 29, 30, 31 & 32. To control noise emission from the development to protect the residential amenity of the occupiers of neighbouring dwellings.