

**Application Number:** 22/0353/NCC

**Date Received:** 06.05.2022

**Applicant:** Lightsource BP

**Description and Location of Development:** Vary condition 02 (Timescale for cessation and removal of solar PV facility and associated site restoration) of planning consent 14/0512/FULL (Install ground mounted photo voltaic solar arrays to provide circa 8.5MW generation capacity together with power inverter systems, transformer stations, internal access tracks, landscaping, deer fencing and associated access gate) to extend operational period of the solar farm up to 40 years and 6 months - Hill Farm Solar Park Penrhiwarwydd Farm Mynyddislwyn Mountain Road Mynyddislwyn.

**APPLICATION TYPE:** Development without complying with conds

### SITE AND DEVELOPMENT

Location: The application site relates to land at Penrhiwarwydd Farm, Mynyddislwyn, which is located on the upper slopes of northern side of the Sirhowy Valley above Nine Mile Point Industrial Estate.

Site description: The application site comprises of agricultural fields which accommodate rows of photovoltaic solar arrays arranged in an east-west alignment across the site. Ancillary infrastructure onsite includes a control house, substations, perimeter fencing and CCTV security cameras. Existing field boundaries on the site have been retained and the grass strips between the solar arrays remain available for sheep grazing. The site covers an area of 18.9 hectares and is surrounded by open countryside. Access to the site is gained off the mountain road that runs in a north/south direction to the east of the site.

Development: Planning permission was granted for the photovoltaic solar farm and associated infrastructure on 7th November 2014 (Planning Reference 14/0512/FULL) and condition No. 2 was imposed that reads as follows:

'Within 25 years and 6 months following completion of construction of development, or within 6 months of the cessation of electricity generation by the solar PV facility, whichever is the sooner, the panels, their supporting structures and associated stations and control buildings together with the security fencing, ground equipment, cabling, access paths and plant, shall be removed from the site and the site shall be subsequently restored in accordance with a scheme the details and timing of which shall have been submitted to and approved in writing by the Local Planning Authority.'

This application seeks to vary condition No. 2 in order to extend the operational life of the solar farm from 25 years and 6 months to 40 years and 6 months. The supporting letter submitted with the application states that solar installations can continue to

operate efficiently for many years beyond the end of their performance warranty, which typically guarantees a minimum level of performance for around 30 years. Moreover, it is common practice for the operational lifetime of solar panels to be well beyond the equipment's performance warranty through regular maintenance, operational monitoring and appropriate component refurbishment or replacement, where necessary. As such, it is technically and economically feasible for the solar farm to remain operational for a period of 40 years, which would also result in the following extended benefits:

- Reuse of existing renewable energy resource to meet local and national renewable energy targets.
- Continued use of fully functioning solar panels with an export of up to 8.5MW per annum.
- Continued management of biodiversity enhancements and native planting which may otherwise diminish over time.

It should be noted that the application is not seeking to make any physical changes to the design, layout or scale of the solar farm or amend any mitigation required as part of the original planning permission. The requirement to remove all solar farm infrastructure and reinstate the site to its original agricultural use at the end of the solar farm's operational life would also be retained.

#### PLANNING HISTORY 2010 TO PRESENT

14/0512/FULL - Install ground mounted photo voltaic solar arrays to provide circa 8.5MW generation capacity together with power inverter systems, transformer stations, internal access tracks, landscaping, deer fencing and associated access gate - Granted 07.11.2014.

18/0155/NMA - Seek approval of a non-material amendment to planning consent 14/0512/FULL (Install ground mounted photo voltaic solar arrays to provide circa 8.5MW generation capacity together with power inverter systems, transformer stations, internal access tracks, landscaping, deer fencing and associated access gate) to install a composting toilet and container on the site for use by site operatives - Granted 21.03.2018.

#### POLICY

LOCAL DEVELOPMENT PLAN Caerphilly County Borough Local Development Plan up to 2021 - Adopted November 2010.

Site Allocation: Land outside of the settlement boundary, which falls within Mynyddislwyn Special Landscape Area (SLA) and lies adjacent to Nant Hafod Tudor Site of Interest for Nature Conservation (SINC).

Policies: Development in the Southern Connection Corridor), SP5 (Settlement Boundaries), SP8 (Mineral Safeguarding), SP10 (Conservation of Natural Heritage), CW2 (Amenity), CW3 (Design Considerations - Highways), CW4 (Natural Heritage Protection), CW15 (General Locational Constraints), CW19 (Locational Constraints - Rural Development and Diversification), CW22 (Locational Constraints - Minerals).

Future Wales: Policy 17 - Renewable and Low Carbon Energy and Associated Infrastructure.

NATIONAL POLICY Planning Policy Wales (Edition 11, February 2021).

## ENVIRONMENTAL IMPACT ASSESSMENT

Did the application have to be screened for an EIA? Yes.

Was an EIA required? No.

## COAL MINING LEGACY

Is the site within an area where there are mining legacy issues? Yes, but the site is low risk and this application does not involve any new or additional built development.

## CONSULTATION

Transportation Engineering Manager - CCBC - No objection raised.

Rights Of Way Officer - Whilst no objection has been raised to extending the operational life of the solar farm, attention has been drawn to the fact that the existing Public Right of Way which crosses the site has not been diverted. The latter will now need to be progressed under Section 119 of the Highways Act 1980.

Natural Resources Wales - No objection raised.

Senior Engineer (Land Drainage) - Senior Engineer (Drainage) - No objection raised.

Head Of Public Protection - Environmental Health Manager - No objection raised.

Strategic & Development Plans - No comments received.

Dwr Cymru - No objection raised.

Western Power Distribution - Advised that the applicant will need to submit a separate application to Western Power Distribution if any new connections or service alterations are required.

Senior Arboricultural Officer (Trees) - No objection raised.

Glamorgan-Gwent Archaeological Trust - No comments made.

Civil Aviation Authority - No objection raised.

Police Architectural Liaison Officer - No observations or recommendations made.

Wales Air Ambulance - No comments received.

Council For The Protection Of Rural Wales - No comments received.

Chief Fire Officer - No objection raised.

Gwent Wildlife Trust - No comments received.

National Grid - No comments received.

Ramblers Cymru - No comments received.

Natural Environment & Agriculture Team - No comments received.

Welsh Government - Planning Directorate - No objection raised.

Ecologist - No comments received.

Landscape Architect - CCBC - No objection raised.

### ADVERTISEMENT

Extent of advertisement: The application was advertised by means of a site notice and neighbour letters.

Response: A local ward member has raised a number of matters for consideration and an objection has been received from a member of the public.

Summary of observations: The local ward member has questioned whether the solar farm development is liable for Community Infrastructure Levy (CIL) and raised the following matters on behalf of a constituent:

- The developer has not yet complied with the surface water planning condition to implement attenuation swales which might contribute to drainage issues and increased road repairs in the catchment.
- There is an access/highway issue in that some of the maintenance vehicles used at the solar farm come in on a transporter that cannot access the mountain road.

The matters raised by the member of the public are as follows:

- The solar farm is a massive blot on the landscape.
- It is not vital that an extension is given at this time as there are 12 or more years to go before the current planning permission expires.
- Better technological alternatives could be developed during the remaining operational life of the solar farm which would make solar farms on green spaces redundant.

#### SECTION 17 CRIME AND DISORDER ACT

What is the likely effect of the determination of this application on the need for the Local Planning Authority to do all it reasonably can to prevent crime and disorder in its area?  
Crime and disorder are not considered to be an issue for this application.

#### EU HABITATS DIRECTIVE

Does the development affect any protected wildlife species? No.

#### COMMUNITY INFRASTRUCTURE LEVY (CIL)

Is this development Community Infrastructure Levy liable? No - renewable energy developments are not CIL liable.

#### ANALYSIS

Policies: The reason provided for imposing condition No. 2 on the planning permission is to "retain effective control in the interests of visual amenity". It is considered that this reason reflects the solar farm's negative visual impact on the rural character of the area, the temporary nature of the solar farm operation and the need to ensure that all of the infrastructure associated with the solar farm is removed at the end of its operational life and the site is restored to its previous agricultural use. The proposed extension of the operational life of the solar farm to 40 years and 6 months is not considered to change the temporary nature of the solar farm development. The requirement to remove the infrastructure and restore the site to its original use also remains unaffected by the proposed variation of condition No. 2. The main consideration of this application is therefore considered to be whether the proposed extended benefits of the renewable energy generation over the additional 15-year period outweighs the prolonged negative landscape and visual effects of the solar farm.

The Welsh Government has set an ambitious target for 70% of electricity consumption to be generated from renewable energy by 2030 and a net zero greenhouse gas emission target by 2050. Planning Policy Wales (PPW) states that the planning system should maximise renewable energy and low carbon energy generation (see paragraph 5.7.7). Moreover, paragraph 5.9.29 of PPW indicates that the extension to the life of

existing renewable energy infrastructure is important to meeting renewable energy and decarbonisation targets and advises planning authorities to support such schemes and take into account changes in renewable energy technology and viability.

In terms of the development plan framework, a key objective of the LDP is improving energy, waste and water efficiency while promoting environmentally acceptable renewable energy to maintain a cleaner environment and help reduce our impact on climate change (paragraph 0.94). Policy 17 of Future Wales also states that, among other things, in determining planning applications for renewable and low carbon energy development, decision makers must give significant weight to the need to meet Wales' international commitments and the Welsh Government target for renewable electricity generation by 2030 in order to combat the climate emergency.

The supporting letter submitted with the application indicates that solar installations typically have a guaranteed performance for around 30 years, which is 4 years and 6 months longer than the limit currently imposed on the operational life of the solar farm by condition No.2. Moreover, the supporting letter advises that solar installations can also continue to operate efficiently well beyond the equipment's performance warranty through regular maintenance, operational monitoring and appropriate component refurbishment or replacement, where necessary. Whilst it is recognised that some degradation in the performance of the solar farm is possible over the final quarter of its operational life if it were to be extended to 40 years and 6 months, it is considered that the solar farm would continue to make an important and meaningful contribution to renewable energy generation and, in doing so, would contribute to meeting the longer term net zero greenhouse gas emission target, while also being of benefit to energy security over this extended period of time. As such, in accordance with the general thrust of national policy and the development plan framework, it is considered that significant weight should be afforded to these renewable energy and climate change mitigation benefits.

Turning to landscape and visual impacts, the application site is located within the Mynyddislwyn Special Landscape Area (SLA) (LDP Policy NH1.6). The distinctive and/or characteristic features of this landscape are protected by Policies SP10 and CW4 of the LDP. In addition, PPW states that, among other things, renewable and low carbon energy proposals should take into account the impact on the natural environment (see paragraph 5.9.20). The proposed variation to condition No. 2 would increase the length of time over which the solar farm's negative visual impact on this landscape would be experienced. However, it is considered that even with an increase in the operational life of the solar farm to 40 years and 6 months, the development would remain temporary and fully reversible.

It is therefore considered that, on balance, the benefit of the proposal in generating up to 8.5 MW of renewable electricity for over an additional 15-year period would outweigh the prolonged negative visual impact on the Mynyddislwyn SLA and the rural character of the area.

In addition to the above, it should be noted that the application site falls within a sandstone safeguarding area (LDP SP8). Criterion B of LDP Policy CW22 states that proposals for development uses of a temporary nature within mineral safeguarding areas will only be approved where they can be completed and the site restored to a condition that does not prevent mineral extraction within the timescale that the mineral is likely to be needed. There are currently no known proposals for the extraction of sandstone from the application site within the proposed extended operational lifetime of the solar farm and condition No.2 would retain the requirement to remove all infrastructure and restore the site to its original agricultural use at the end of its operational life. As such, the proposed variation of condition No.2 would comply with the requirements of LDP Policy CW22.

Comments from Consultees: With regards to the comments received from the Rights of Way Officer, there is a marginal conflict with the existing public right of way that crosses the site and photovoltaic solar arrays on certain areas of the site. The Rights of Way Officer has, however, raised no objection to the proposed variation of condition No.2 and the applicant has confirmed their intention to apply for the diversion of the public right of way under Section 119 of the Highways Act 1980. As such, this matter can be addressed outside of the planning system and should not influence the determination of this application.

Comments from public: In respect of the comments received by the local ward member, confirmation that this proposal is not liable for CIL is provided above. The planning authority is not aware of any breach in relation to the provision of the sustainable drainage measures on the site or access/highway issues relating to maintenance vehicles and no issues have been raised by the Council's Drainage Engineer or the Transportation Engineer Manager as part of the consultation undertaken on this application. Such matters can, however, be investigated through planning authority's enforcement service and addressed, as necessary, where they are controlled via a separate condition imposed on the original planning permission. It should also be noted that this Section 73 application specifically relates to the variation of condition No.2 and is not re-considering the original application or the solar farm's wider range of impacts.

The matters raised by the member of the public in relation to visual impact and the need for the solar farm over the proposed extended operational lifetime have been addressed above.

Other material considerations:

The duty to improve the economic, social, environmental and cultural well-being of Wales, has been considered in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015. In reaching the recommendation below, the ways of working set out at section 5 of that Act have been taken into account, and it is considered that the recommendation is consistent with the sustainable development principle as required by section 8 of that Act.

Future Wales - The National Plan 2040 was published on 24 February 2021 and forms part of the statutory development plan for the county borough. In addition to this Planning Policy Wales (PPW) has been amended to take account of Future Wales and PPW Edition 11 has also been published on 24th February 2021. In reaching the conclusion below full account has been taken of both Future Wales and PPW Edition 11 and where they are particularly pertinent to the consideration of the proposals they have been considered as part of the officer's report. It is considered that the recommendation(s) in respect of the proposals is (are) in conformity with both Future Wales and PPW Edition 11.

RECOMMENDATION that Permission be GRANTED

This permission is subject to the following condition(s)

- 01) Within 40 years and 6 months following completion of construction of development, or within 6 months of the cessation of electricity generation by the solar PV facility, whichever is the sooner, the panels, their supporting structures and associated stations and control buildings together with the security fencing, ground equipment, cabling, access paths and plant, shall be removed from the site and the site shall be subsequently restored in accordance with a scheme the details and timing of which shall have been submitted to and approved in writing by the Local Planning Authority.

REASON: To retain effective control in the interest of visual amenity.

- 02) Notwithstanding this approval, all other conditions on planning permission 14/0512/FULL shall remain in force and effect in relation to the development hereby approved unless expressly varied or discharged by the Local Planning Authority.

REASON: For the avoidance of doubt that the conditions contained in the Full Planning Consent reference number 14/0512/FULL are still applicable.