



**Campaign for the Protection of Rural
Wales
Brecon and Radnor Branch
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10th January 2019

Dear Holly-Ann Hobbs

HENDY WIND FARM: Land Off A44 SW Of Llandegley Llandrindod Wells Powys

Application for discharge of condition 31 from P/2014/0672 (APP/T6850/A/17/3176128): Engineering drawings for construction traffic access to site

CPRW Brecon & Radnor Branch reserves the right to make further representations in response to this application. Please note wording in **red**.

Phasing of development: It has emerged from documents submitted for discharge of condition 21 that the developer is treating this development as consisting of two phases, Phase One being the installation of Turbine 5 and the remaining construction work making up Phase Two. Phase One construction has failed to adhere to approved plans and the developer is in breach of Condition 2.

The developer has not even made clear how Phase One is to be completed and how, for example, AILs will arrive on site although this is planned in the coming three weeks. Once Phase One is complete, it is not clear whether the developer intends to revert to approved plans and access and AIL routes for the remainder of the development or not. It follows that information submitted specifically in relation to Phase One is not sufficient for discharge of conditions which, of course, have application to the entire development.

Traffic conditions: Relevant to the consideration of discharge of all traffic conditions is the critical fact that the developer has proposed a new means of access for AILs to the wind farm site within a discharge of conditions application. This is inappropriate and, even worse, there is no certainty that even if the N access (gate to common opposite Larch Grove) is used for Phase One the S access (via Pye Corner) may not be used for Phase Two, or even that a third option may yet be proposed.

It is essential therefore that, whatever statements the developer may have made to officers at Powys about his current intentions, it is borne in mind that the developer only has planning permission for the construction and the entrance management described in the ES, as set out below. This includes use of the route via Pye Corner and so he may, if it suits him, decide to use this route. Powys do not have the powers to remove permission for the Pye Corner route.

Powys must require the developer to set out the access construction and traffic management plan for the whole development at this stage. Any new planning permissions required, including permissions from the Local Authority and the Inspectorate for works on the common, should be applied for, consulted on and determined before discharge of conditions. All environmental impacts of any route from the A44, across the Llandegley Rhos Common must be fully considered.

If this is not done, and the developer continues to rely on verbal undertakings which are not shared with the public, the developer will continue to consider himself entirely free to pursue the route of his choosing without the appropriate constraints whatever valid objections are made.

We believe it is inappropriate to consider discharge of any of the traffic conditions until the developer has set out, in writing:

- 1) **precisely what the traffic access arrangements will be for both Phases of the wind farm construction, and**
- 2) **obtained all relevant consents and permissions for works as required under law.**

CONDITION 31: Engineering drawings for construction traffic access to site

*Full details of the highway works associated with any approved access onto the A44 including the detailed design, geometric layout, construction and drainage, shall be submitted to and approved in writing by the Local Planning Authority **prior the commencement of any works on the site** [our emphasis].*

N access – permissions required and land title: In support of the application to discharge this condition, the developer has submitted drawings setting out an entirely new piece of development which lies **outside the site red line** of approved plans for which the Minister has given consent. This new development requires both planning permission from the local authority, and, as ‘restricted works’ on a registered common will also require Commons Act consent from the Planning Inspectorate. PCC Highways have stipulated that a bituminous macadam surface for a minimum of the first 15m back from the road edge is required – this is also ‘restricted works’. The developer must also be required to demonstrate that he has the correct certificates in place to support an application for permission for works on this land, title of a major part of which has not been proved to be held by Sir Robert Green-Price. This is a point on which the Council would be well advised to take urgent legal advice.

N access - trees, reversibility, Larch Grove Grade II listed building

The plans do not describe what will happen to the trees. At the N corner of the N entrance there is a venerable scots pine which is said to be a drovers landmark associated with the Drovers Inn Grade II listed building at Larch Grove. This together with the traffic, hydrology and amenity issues at Larch Grove have not received proper attention. On the south side there is a copse of trees all along the road towards the signpost to the bridleway across the common. We have pointed out in our previous objection that the developer’s statement in submission for Condition 27 that the works at the N access are temporary and reversible is clearly untrue. The land in question is wet, undulating and rises to the west. It also contains a drainage ditch/stream and a copse on the roadside. This area, roughly 30m north-south along the A44 south of the gate, and extending approximately 60m along the track, is to be levelled, culverted, a new ditch created around it, and the entire area put down to hard standing. The wetland copse on the roadside will be felled. There is obviously no way that the works can be reversed and the site returned to its present state. There are no responses from NRW, Powys Built Heritage or Powys Ecology in relation to these matters.

There is already frequently a problem with flooding on this stretch of the A44, opposite Larch Grove Grade II listed building, and it is clearly essential that for the amenity of the neighbouring house and the safety of road users the suitability of any drainage plans proposed must be verified, and implications of culverting and felling for flooding issues on the A44 fully considered.

Powys Development Management must make absolutely sure, in view of the developer’s well evidenced disregard for planning law, that the developer is made fully aware of these requirements.

Powys Development Management should by now be aware of the level of public outrage which any failure to enforce against unlawful works on the Llandegley Rhos common will attract.

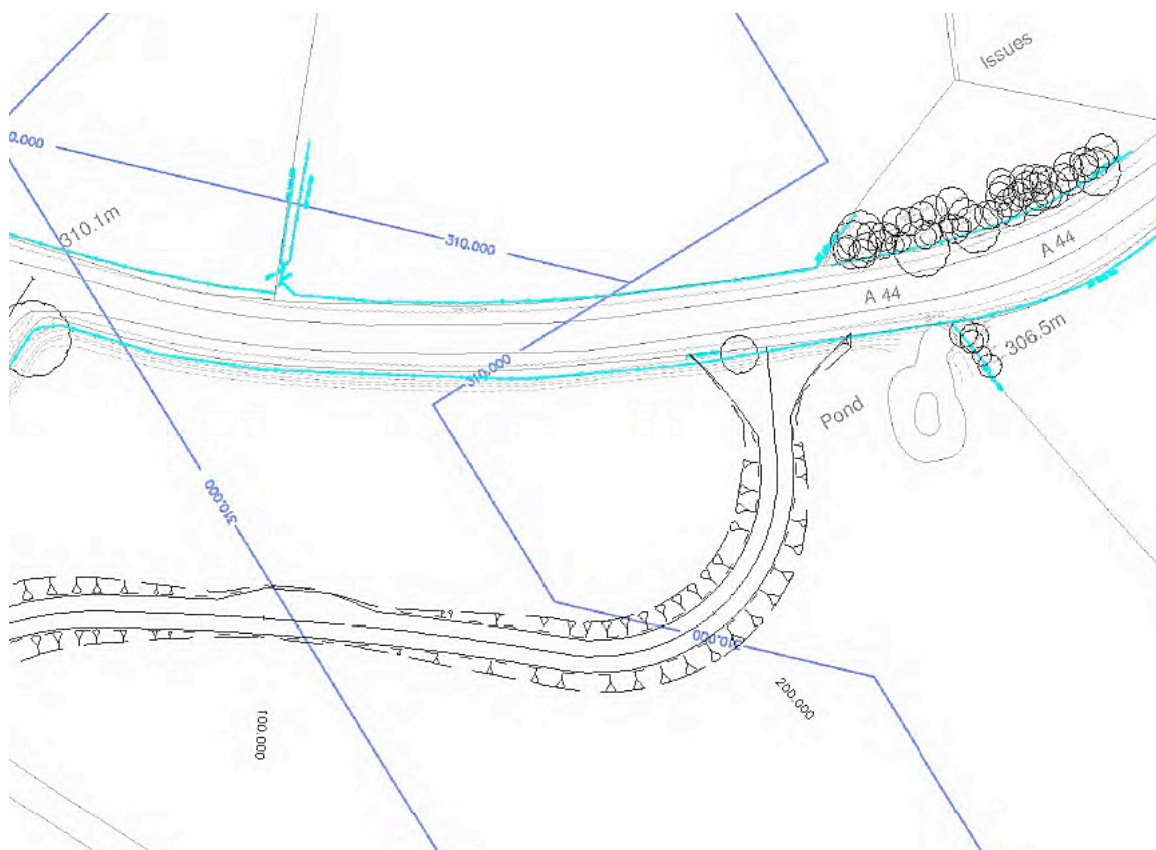
N access alternative method of turbine component delivery?

An extract from an account of the meeting between Powys Planning and the Developer’s team shows that an alternative was discussed with Powys on 4th December:

- **XX** confirmed that they are in the process of drawing up **alternative turbine delivery methodology** to address the need for works on the common that would require common land consent. **Delivery of turbine components on one lorry and transfer to another lorry on the access tract was mentioned.** **XX** advised that they were going to **and submit the amended information for condition 31 by Thursday morning (06/12/2018).**

There is no amended information on the website today, 10/1/19 and so we do not know what is intended nor if this is intended for all 7 turbine deliveries, nor what modifications in terms of site clearance, hardstanding, traffic control and safety are required. If and when the new information appears, it requires a 30 day consultation period and should be part of an integrated new application for planning permission for changed access arrangements. However, in keeping with the absence of regulation of this development, we anticipate that any new information will be considered over a month after entrance works, whatever they are, are done and T5 is delivered.

S access: The developer does have an existing planning approval for access via Pye Corner, and this is the 'primary' access route which was put forward in the ES and the only route for which planning approval for AIL access has been given. This access also requires a new junction onto the A44, for which the council must also request full engineering drawings. It is entirely possible that the S access will be used and Powys Highways must therefore be satisfied that **any** access from the A44 which may be constructed to facilitate **any** access route which the developer may use meets all their requirements. Full engineering drawings for this access shown in the diagram below (extracted from ES Fig 1.2.9) must be provided.



We would remind Development Management that the only access arrangements for which the developer currently has permission are as set out in the paragraphs below.

Permitted access off A44 to the wind farm site: The developer only has planning permission for access to the site as set out in the Environmental Statement (Section 13.2):

“Access to the Development would be taken from two points:

- The first will be a new priority junction located to the south of the junction of the A44 with the U1574 (Pye Corner) and will provide for all vehicles approaching from the south to turn left from the A44 and all vehicles leaving the site to turn left and head north on the A44. The left in left out arrangement will be enforced through central coloured surfacing, white lining and reflective bollards on the A44. Abnormal Indivisible Loads, which will approach the site from the north under civilian escort and police control, will be permitted to turn right into the site; this will require the temporary removal of the central bollards. The new access will connect to the U1574 approximately 80m southwest of the existing junction of the U1574 with the A44.*
- The second access will use an existing land off the A44 to the north of Pye Corner which will be modified to permit all inbound movement by general construction traffic. The access will be used by inbound vehicles only, the access track leading from the junction to the site will operate as one way only and no egress will be permitted onto the A44.”*

In ES 13 Fig 13.1 the S and N accesses are referred to as the 'primary' and 'secondary' access respectively.

The developer's own consultants (WYG, Edinburgh) appear confused in their letter on transport issues to Cunnane Town Planning dated 12th January 2015 (Appeal doc APP 140) where further, but conflicting, explanation of the two point access is set out. In this letter WYG set out **both** that all incoming traffic from the south would use the S access **and** that all incoming traffic would use the N access. However, it is reiterated that the N access would be a one way route for incoming traffic only, and would not be used by AILs. On behalf of the developer, WYG commit to provision of full engineering drawings of the accesses off the A44 should consent be given.

Note that the developer does not have permission for any vehicles to leave the site from the N access, or for any use of N access for AILs, incoming or leaving. This is important – the Powys Highways consultation response which was relied on when this application was approved considered road safety in relation to the access arrangements as set out in the ES ONLY. The developer's departures from ES permitted access arrangements have critical safety implications and planners should not be permitting this deviation from approved plans.

The developer has already deviated from the ES by using the N access for all incoming and outgoing traffic and constructing an extra track to T5. No doubt emboldened by the acquiescence of all authorities concerned so far, he clearly intends to do whatever is cheapest and quickest irrespective of conditions, environmental impacts and Common Land Laws. The relevant authorities have apparently lost all control.

Conclusions:

- 1) Further consultation period will be required when additional information requested by Dale Boyington, Highways, is provided.
- 2) N access: The developer must be made fully aware of the need for further consents in connection with the works required to facilitate use of the N access. Development Management must ensure these requirements are fully complied with and all relevant applications are determined before discharge of this condition is considered.
- 3) N access: In connection with the application for planning consent for the proposed works on the common at the N access, the council should obtain proof of legal title, or proof that the appropriate certificates have been obtained, and advertising requirements complied with as appropriate, and would be well advised to take legal advice before any planning approval is given.
- 4) S access: Powys must require full engineering drawings for the potential AIL access by the U1574 and Pye Corner. The developer's assertions that he will not use the S access cannot be made legally binding as Powys has no powers to remove the permission given by the Minister.
- 5) We believe it is inappropriate to consider discharge of any of the traffic conditions until the developer has set out, in writing:
 - a. precisely what the traffic access arrangements will be for both Phases of the wind farm construction, and
 - b. obtained all relevant consents and permissions for works as required under law.
- 6) **If the Developer is intending crane transfer, there are no plans at all for this and all the Statutory Consultee responses are invalid. A new plan requiring new planning permission must be submitted.**

This response has been compiled by members of the CPRW Brecon & Radnor Branch Committee.

Sincerely

Jonathon Colchester

Chairman of CPRW Brecon & Radnor Branch

