



**Campaign for the Protection of Rural
Wales
Brecon and Radnor Branch
Upper Noyadd, Clyro, HR3 5JS
01497 820814**

7.January 2019

Dear Holly-Ann Hobbs

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

Application for discharge of condition 9 from P/2014/0672 (APP/T6850/A/17/3176128):Micrositing Protocol

CPRW Brecon & Radnor Branch reserves the right to make further representations in response to this application.

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. Once Phase One is complete, it is not clear whether the developer intends to revert to approved plans and works as described in the ES for the remainder of the development or not. All new development options that are raised by the developer or all those for which he has previously received planning permission must be treated as possible elements in this development and must be fully taken into account before conditions can be discharged.

Condition 9

"No development shall commence until a micro-siting protocol has been submitted to and approved in writing by the Local Planning Authority. It shall set out a protocol for deciding on micro siting of all development to minimise the impact on environmental constraints. The protocol shall be implemented as approved and include, but not be limited to, the following criteria:

No development shall commence until a micro-siting protocol has been submitted to and approved in writing by the Local Planning Authority. It shall set out a protocol for deciding on micro siting of all development to minimise the impact on environmental constraints. The protocol shall be implemented as approved and include, but not be limited to, the following criteria:

- a) Take account of peat, blanket bog habitat, curlew, protected species, watercourses, public and permissive rights of way, heritage assets, bats, health and safety and any other identified environmental or engineering constraints.***
- b) Wind turbines 2, 3 and 6, their crane pads and directly associated infrastructure to be micro-sited from the positions shown on the approved plans so as to be further away from PROW."***

Issues identified with micrositing

Condition 9 has identified issues which must be included, but says the protocol is not limited to these.

Identified issues:

1. peat,
2. blanket bog habitat,
3. curlew,

4. protected species,
5. watercourses,
6. public and permissive rights of way,
7. heritage assets,
8. bats,
9. health and safety
10. any other identified environmental or engineering constraints.

The Application

(1) Purpose of the protocol mentions the above constraints (in spite of the drafting error saying the purpose is to keep impacts!) but fails to address all but two.

(2) & (3) The limits are described in C8 (not in C9).

(4) Identifies only 2 issues: the track crossing former woodland to T6 & T7 and proximity of T2, T3 and T6 to PROWs.

(5) The Protocol:

The wording of (5) is the heart of the response.

The developer has worded this so that discharge of Condition 9 will give permission to deviate from the locations in the approved plans at will without considering all the issues set out in the condition.

The developer would have permission to micro-site by 30m (turbines) and 20m (tracks) within the red-line boundary and within self-imposed limits. The only potential issues considered are the depth of peat under the track to T6 and the need to move T2, T3 and T6 “further from PROW.”

The self-imposed limits have apparently been carefully chosen to avoid restricting the developer:

badger setts (30m setback) – ES 7-46 explains 30m is the minimum NRW requirement and for major disturbance this is extended to 100m. At Bryn Blaen wind farm the same developer has flouted this requirement as we will show in relation to Condition 38.

SAMs (200m setback) – there are no SAMs within 300m of the application red line.

BOAT (no turbine moved closer) – T5 is already built (co-ordinates unknown!) and T2 must be moved north and T3 & T6 must be moved south. T7 is further south than T6 and so only T1 and T4 are relevant – the 200m setback for these already abuts the permissive bridleway and so they could not be moved closer to the BOAT.

Peat

The ES says 44 peat depth recordings were made in winter 2012. These are confined to limited areas of the site (see ES Volume II fig 7.4.) and many are far from any intended development. There is no explanation of criteria for selection of the probing sites. West of T7, a peat of depth 100 – 124cm is recorded showing that deep peat is not confined to areas marked on the plan with marsh or woodland symbols.

Peat probing measurements should be available for the principle areas of construction: turbine bases, crane-pads and other hard standing and access tracks. Not only are these missing in the ES, but the micro-siting protocol contains no undertaking to supply them before micro-siting is approved. In any case, no detailed information about construction management of “Phase 2” is supplied in the current applications to discharge conditions.

There are no peat recordings in the vicinity of T5 (base already constructed with piles), the new section of track to T5 (already constructed), the northern track across the Common Land (already heavily used by HGVs and earmarked for AIL delivery of T5), the southern BOAT access route (the Developer has still not clarified which access options will

be used in Phase 2). The ES statement (7.9.4) that “no areas of infrastructure were found to lie on deep or medium depth peat” is only true to the extent that there was no properly targeted search.

The report states that tracks to turbines 6 & 7 will only be micro-sited to areas of shallower peat. There are no peat depths recorded in the vicinity of T2, T3 and T6 which will be-sited. If peat depth is acknowledged to be a sensitive constraint for tracks, surely it is much more so for turbine bases of 2-2.5m depth (especially those like T5, already constructed, requiring bored piles- see ES 3.3.4).

Blanket bog habitat

Blanket bog is related to peat distribution but is not directly shown or discussed in the ES or application to discharge this condition. We note that at the Public Inquiry for Hendy Wind Farm, the list in C9 a) was submitted to the Inspector by the Developer and was an exact copy of C9 for the Bryn Blaen Wind Farm where there is more blanket bog. Nevertheless, Fig 7.2 shows “marsh/marshy grassland”, “valley mire” , “basic flush” and “mesotrophic standing water” while ES Fig 7.3 shows NVC type “mire” which is crossed by the track between T3 and T4 where it is associated with Nant Brook at what looks like a particularly ill-chosen point. The basic flush at Target Point 6 is on the track to a quarry which it is proposed to use for construction stone and is highly likely to sustain damage. There is a pond, “mesotrophic standing water”, hard by the point where the tracks to T5 and T6&T7 diverge. These issues should have been addressed in the protocol.

Watercourses

The ES contains no correct description and no readily legible maps of watercourses on site. Construction in the vicinity of Nant Brook poses a risk to the Wye SAC to the South. Construction of access on the BOAT just beyond Pye Corner and beyond poses a risk to the adjacent Edw (see attached map). The Inspector’s conditions, which are retained in full in the Minister’s permission, clearly requests site-specific issues relating to watercourses to be considered under Condition 9. A protocol which does not mention protection of specific identified watercourses is unacceptable.

Public and Permissive Rights of Way/Health and Safety

The Protocol does not say from which “PRoW” T2,T3 and T6 are to be distanced by micro-siting. The Protocol does not use the plural (PRoWs) and does not say how far the micro-siting will be. The hard standing and crane pads are shown in the approved WYG plans (see Condition 2) which replace the ES plans but which do not show the ProWs. The ProW plan (APP143) predates the substantial changes to plans introduced on the first day of the Public Inquiry. One of the principle flaws of this development is the manner in which the documentation fails to demonstrate how the wind farm construction and ProWs (existing and permissive) will be satisfactorily integrated so that they can be safely used by horses, bikes and walkers. We cannot understand why the 106 obligation plans were agreed.

For T6, the micro-siting is apparently to increase distance from the BOAT to 200m but T2 would have to be moved by 90m to achieve a 200m setback from the BOAT. This nonsensical situation is mirrored in the unsatisfactory trajectories of the “permissive rights of way”. The permissive snaking route from north of T5 to west, between T1 and T2, is clearly designed to mask the obvious public interest issue that the turbines are placed too close to the BOAT for health, safety and enjoyment of BOAT users. In stark contrast, the permissive route south from T3, far from providing a statutory setback from turbines, arises from the very centre of the T3 base which is not only highly dangerous, but physically impossible.

T6 is already very close to T7 which is already very close to woodland edge and it is not clear what micro-siting can be achieved.

Heritage Assets

Only SAMs are mentioned. ES appendix 8 fig. 4 shows other heritage assets which are listed in the text.

Of these, the relevant ones are:

93 Larch Grove Grade II listed building: this old drover’s stop-over is opposite an area of new development on Common Land, which has not been applied for, described in Plan for N exit A111075701. Any alteration of the track or micro-siting of tracks on Common Land would require Common Land Permission.

146 Ford on permissive route to Nant Brook HER: this is not mentioned and is apparently now a complex culverted water confluence.

158 NMRW Heritage Asset /Roman Road, Phase 1 construction, not in accordance with approved plans, has already crossed this linear site.

A protocol which does not mention protection of specific identified heritage assets is unacceptable.

Curlew, Protected Species, Bats

The revised PSPP submitted with the application to discharge C38 and C39 gives more information on these species but does not discuss micro-siting except in relation to bats. It says that T5 "*about 30m from a block of conifers*" will be micro-sited to be "*49m from any feature*". Fig 1 shows that 69.3m. between turbine and 15m tree is required to achieve a 50m setback from a 42m rotating blade. The PSPP goes on to say that micro-siting of turbines and the application of curtailment should effectively remove the risk of collision in the operational phase.

The revised Protected Species Protection Plan and (Condition 38) is still undergoing a consultation period until 4th February. Since the application to discharge of Condition 9 is relying on material in the PSPP, discharge should be deferred until this consultation time is over.

Any other identified environmental or engineering constraints

Condition 8 requires that micro-siting is subject to the red-line boundaries. T5 base has already been constructed using an access track and temporary compound which are not within the red-line boundaries and cannot be construed as micro-siting.

Conclusions

BRB-CPRW urges Powys Council to refuse this application because:

- **The Developer has already breached Conditions 2, 8 & 9 by constructing at distances far from the approved positions and outside the red-line boundary.**
- **Of the issues set out in Condition 9 a), only peat and rights of way are mentioned in the report which therefore does not meet the explicit requirement of the Minister's conditional consent to include all issues.**
- **For Protected Species and Bats, reference is made to the Protected Species Plan and Bat Protection Plan. The application for discharge of C9 should not depend upon any different, separate application. The material should be incorporated into this application and discharge of C9 should not be considered until the consultation period for C38 is complete .**
- **The developer has set out a protocol, which if it is agreed, will give carte-blanche for micro-siting without any obligation to consider the range of environmental protections identified in the condition. This is not what is intended in the wording of the condition.**

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

Sincerely

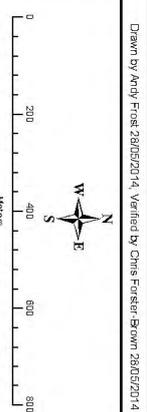
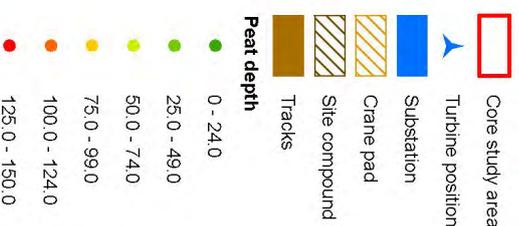
Jonathon Colchester

Chairman of CPRW Brecon & Radnor Branch

ADAS

Nr Llandrindod Wells, Powys

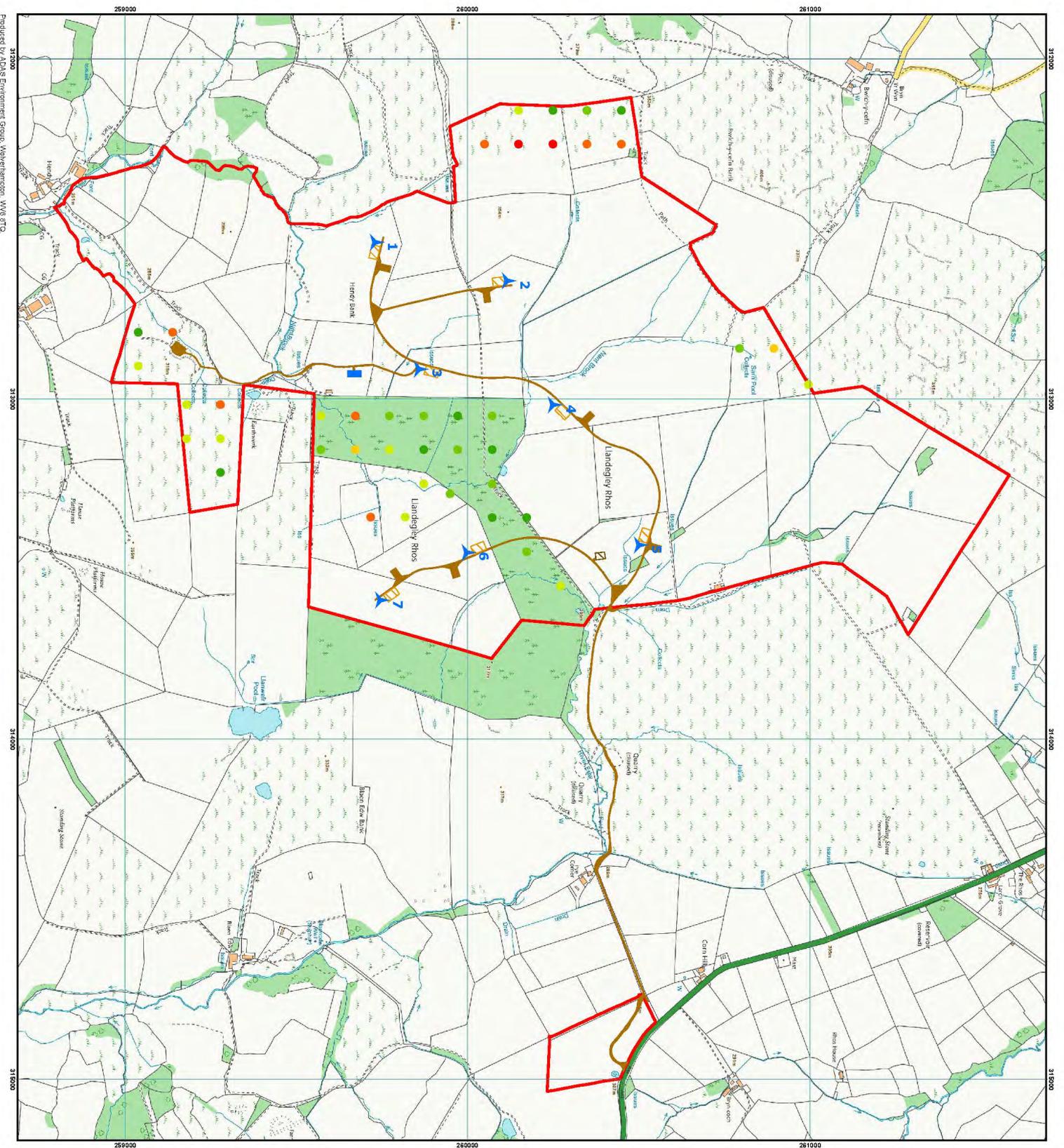
Figure 7.4 Peat Probing

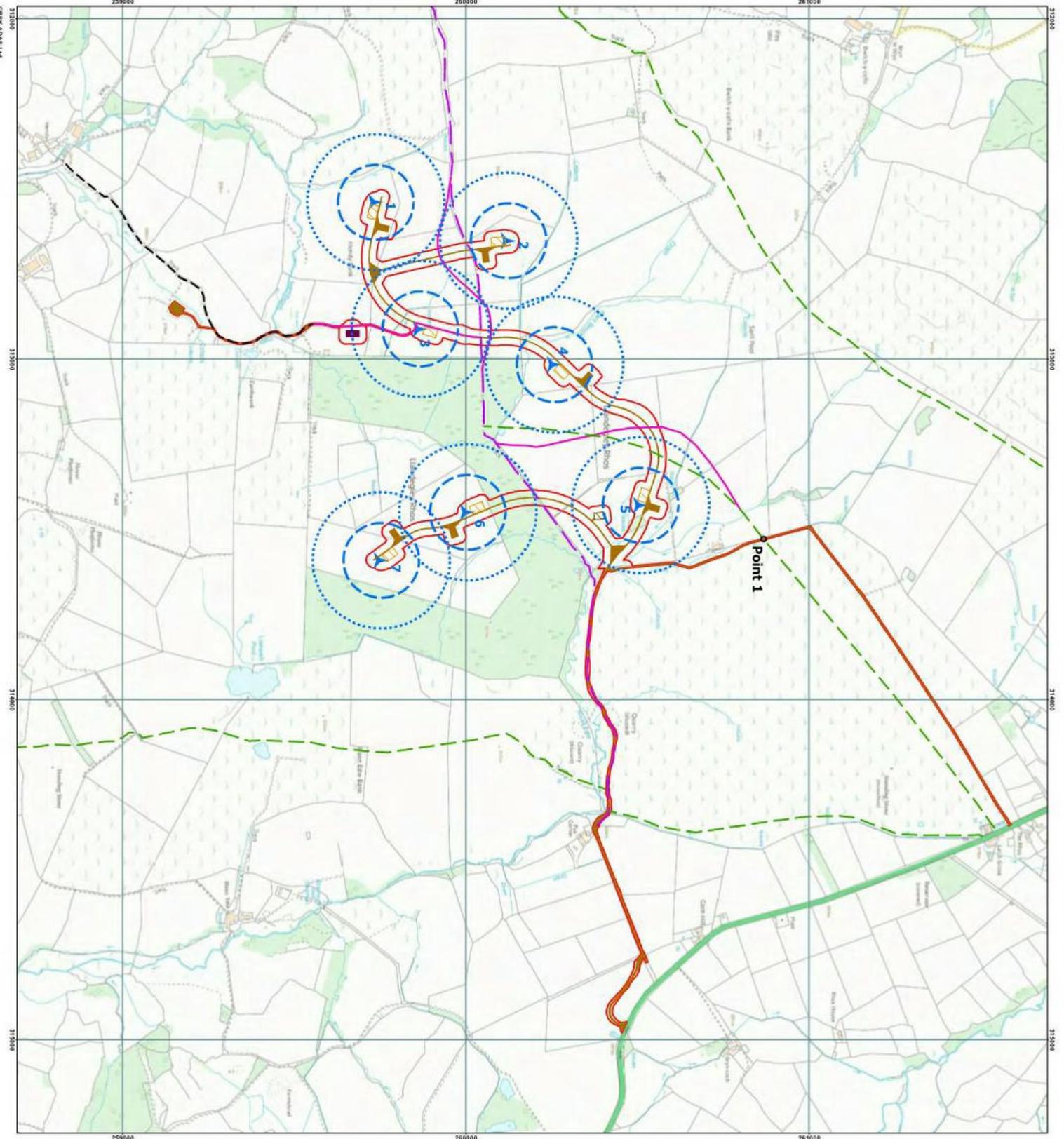


Drawn by Andy Frost, 28/05/2014. Verified by Chris Foster-Brown, 28/05/2014

ADAS UK Ltd, Pendeford House,
Pendeford Business Park, Wobaston Road,
Pendeford, Wolverhampton, WV9 5AP
Tel: +44 (0)1902 271571, Fax: +44 (0)1902 785774
ADAS Licence no. AL100020033 February 2013

This map is reproduced from Ordnance Survey material with the permission of
Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office
© Crown copyright. Unauthorised reproduction infringes Crown Copyright.





Hendy Windfarm Ltd.

Nr Llandrindod Wells, Powys

Plan 1

- Application area
- Turbine locations
- 110m turbine buffer
- 200m turbine buffer
- Substation
- Crane pad
- Site compound
- Tracks
- Bridleway
- Byway open to all traffic
- Footpath
- Permissive right of way
- Point 1

Drawn by Andy Frost 06/12/2018. Verified by Keith McKinney 06/12/2018



© Crown copyright and database rights 2018 OS 0100058606
For reference purposes only. No further copies may be made