

Amgylchedd a Datblygu Cynaliadwy
Environment and Sustainable Development



Llywodraeth Cymru
Welsh Government

Mr Alan Southerby
Head of Planning Services
Powys County Council
County Hall
Llandrindod Wells
Powys
1D1 5LG

Your ref: P/2012/0573
Our Ref: qA1035740
Date: 22 February 2013

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT)
(ENGLAND AND WALES) REGULATIONS 1999 (AS AMENDED)
PROPOSED NEW SITE ACCESS ROAD A4113 TO THE LLANSHAY LANE AND
CREATION OF PASSING PLACES TO ENABLE ACCESS TO REEVES HILL WIND
FARM, AT LAND SOUTH OF A4113, KNIGHTON POWYS**

1. I refer to your request of 3 September 2012 for the Welsh Ministers to make a screening direction under the above regulations for a proposed access road to the Reeves Hill Windfarm.
2. I am authorised by the Minister for Environment and Sustainable Development to consider and make the screening direction.
3. The development proposed, namely "*Proposed new site access road A4113 to the Llanshay Lane and creation of passing places to enable access to Reeves Hill Wind Farm, at land south of A4113, Knighton, Powys*", falls within the description at paragraph 10(b) of Schedule 2 to the 1999 Regulations (as amended) and exceeds the thresholds in column 2 of the table in Schedule 2 to the 1999 Regulations. Therefore, I consider your proposal to be "Schedule 2 development" within the meaning of the 1999 Regulations.
4. I am satisfied from the information before me that there is a close interdependency between the access road and the windfarm and that, because of this, the projects involved should be considered cumulatively. The consultations below were carried out, and responded to, on that basis.

5. To assist me in the consideration of whether the proposed development is EIA development advice was sought from Cadw:

"Thank you for your minute of 24 January 2013 requesting Cadw to consider whether Environmental Impact Assessment (EIA) is required for the proposed development described above.

The proposal lies in the vicinity of a Grade 1 historic park and gardens known as 'Stanage Park' which features in the Register of Historic Parks and Gardens in Wales and would also have a visual impact on three scheduled monuments. It is Cadw's view that taking the development as a whole, to include both the turbines and the access road, an EIA would be required.

The overall development would fall under Schedule 2 regulations and would meet the selection criteria under headings (a) major development of more than local importance, and (b) development in a particularly environmentally sensitive location.

(a) The size and location of the turbines would lead to a major and wide-ranging adverse visual impact of more than local importance. Four turbines, 105 m high are proposed, to be located in a prominent position on the ridge top of Reeves Hill. This location is within England (Herefordshire) but a few metres away from the border with Wales (Radnorshire). The large height of the turbines would make them visible over a very wide area. Cadw's view of the potential major adverse impact of the turbines on the adjacent Grade I registered historic park of Stanage Park are set out in a letter of 5th December 2008 to Mr P. Mullineux, Planning Services, Herefordshire Council (enclosed). Stanage Park is of international importance in being an exceptionally well preserved park designed in the early nineteenth century by Humphry Repton, the leading landscapers in Britain at that time.

(b) The location of the turbines is environmentally sensitive. It is immediately adjacent to the registered historic park of Stanage Park and forms part of its setting. Reeves Hill is one of the highest points in the landscape, with wide-ranging and distant views in all directions. Stanage Park lies below it, immediately to the north. The dominant character of the landscape is rural and agricultural. The access road would introduce an unsympathetic feature, namely a road of urban, industrial character rather than rural, into this scene.

In addition the Supplementary Environmental Report notes that there will be 'significant' impacts on the setting of scheduled ancient monuments of national importance at Norton Mound and Bailey Castle (RD056) and two sections of Offa's Dyke (RD019 and RD020)."

The contents of the letter of Cadw of 5th December 2008 to Mr P. Mullineux, Planning Services, Herefordshire County Council are as follows:

"You consulted Cadw on this application in June 2008. Unfortunately, an error by our mapping team caused Cadw to offer a nil return, confirmed in my e-mail of 27 August. On 27 October our error was brought to our attention and you kindly agreed to us offering further comment.

The proposed windfarm on the summit of Reeves Hill, Herefordshire, consists of four turbines 105 m high, hardstandings, an electricity sub-station, the upgrading of existing roadways and the construction of new access roadways.

It is Cadw's view that the proposed turbines would cause serious harm to the historic and visual character and value of Stanage Park, one of the most important historic parks and gardens in Wales.

Stanage Park is one of the most important historic parks in Wales. It is of exceptional value not only in Wales but in Britain as a whole. This is recognised by its grade I status on the Cadw/ICOMOS Register of Parks and Gardens of Special Historic Interest in Wales (an extract from the register is enclosed). There are only 36 historic parks and gardens of Grade I status in Wales. Planning Policy Wales (2002) (p. 75) states that 'Local Planning authorities should protect parks and gardens and their settings on the first part of the 'Register of Landscapes, Parks and Gardens of Special Historic Interest in Wales'. A parallel policy for England is set out in paragraph 2.24 of PPG 15.

Stanage Park is a remarkably well preserved picturesque park designed by the famous landscaper Humphry Repton (1752 – 1818) in about 1803. Only two other parks in Wales were landscaped by Repton – Rug in Denbighshire (1793) and Plas Newydd on Anglesey (1799). At Stanage (or 'Stanedge', as Repton called it) almost all of Repton's design, the most important elements of which are the castellated house, garden and parkland, survives intact. These are recorded in a rare 'Red Book' by Repton, which includes 'before' and 'after' watercolour sketches of his proposals. The comprehensiveness of Repton's scheme for Stanage, its extremely good state of preservation and lack of subsequent alteration give it exceptional value.

Two hundred years ago Humphry Repton himself recognised the special qualities of both the park itself and of its setting. These he set out in his 'Red Book' for Charles Rogers, the owner who commissioned the scheme. He remarks on 'the wild and shaggy Genius of Stanedge' and comments: 'The antiquity, the extent, and the beauty of this park, together with the command of surrounding property, would justify very great expenditure in preserving the Character of the place'. That he appreciated the qualities of the existing landscape is clear: 'I never saw a place which required more caution not to injure its Character than this Park'.

The topography of the area would lead to the proposed turbines Nos 1 and 2 being visible throughout most of Stanage Park and from the house (Listed Building, Grade II*). The park lies 2 - 3 km to the north of Reeves Hill. Between Reeves Hill and the park the ground drops steadily, with no intervening ridges, down to the house at its core. To the north of the house the ground rises to a small hilltop within the park, Park Bank Wood (280 m). Figure 24a of the Environmental Assessment, Landscape and Visual Assessment section, shows that from most of the park one or two turbine tips would be visible from the two northernmost turbines. It is Cadw's opinion that they would be visually dominant and would be highly unsympathetic to the park's character. This, as Repton recognised, is highly picturesque: great natural beauty enhanced by sensitive landscaping.

Situated on ground that is more than 100 m higher than any part of the park, in terms of scale the 105 m high turbines would tower over it and be visually dominant, projecting well over the tree canopy in most areas and being uninterruptedly visible where there is no intervening woodland. Their total height above the highest part of the park (Park Bank Wood) would be over 200 m; their height above the house would be about 300 m.

Woodland in the southern part of the park would partly obscure the turbines, from parts of the park below the woods, but would not entirely hide them, particularly where the woodland is deciduous. From much of the park there would be no intervening woodland and the height of the canopies would not be sufficient to mask the entire height of the turbines from many parts of the park. The cycle of growth, decay and death of trees also implies the possibility that at some stage in the lifetime of the turbines the trees would not be present, thus exposing the park to the visibility of the turbines to an even greater extent.

The modern, industrial character of the turbines, and their movement, would jar with and cause serious harm to the exceptionally picturesque qualities of the landscape park, thus damaging its historic and aesthetic value.

It is of particular concern that the wind turbines would affect the key parts of Repton's landscaping, by being visible from them. Repton produced 'before and after' watercolour sketches in his Red Book for Stanage Park (1803), to show how his landscaping might look. His sketch no X shows the creation of a large pond, together with planting around it, to the west of the house. This picturesque scene is well preserved today, looking not very different from Repton's sketch. The turbines would be visible from it, thus intruding on one of the most important of Repton's landscaped features in Wales in a highly insensitive way. Sketch no VIII, 'Park-Keepers House (not built) from without', shows part of the east side of the park, on the main drive, that would also be affected.

The Environmental Statement's Landscape and Visual Assessment fails to give due consideration to the impact of the proposed turbines on Stanage Park and other historic parks in the vicinity. The viewpoint analysis (p. 72) indicates 'significant' visual effects up to about 4.5 km to the north. Stanage Park is well within this range. However, this is then denied in the section 'Effects on Parklands' (p. 73) where it is claimed (4.11.6.15) that the four parks within a 10 km radius in Wales would not 'experience a change in view. Therefore no further assessment has been undertaken'. In the case of Stanage Park this is clearly inaccurate and further assessment should be undertaken. It is presumed that the other three parks are Boultonbrooke (registered grade II), Evancoyd (registered grade II) and Silia (registered grade II). The registered garden of Broad Heath (grade II) and the unregistered park of Norton Manor also fall within this area. Figure 24a makes it clear that the turbine tips would be visible from the nearer sites of Boultonbrooke, Broad Heath, Silia and Norton Manor, thus harming both the sites themselves and their setting.

A huge contribution to the value, both aesthetic and historic, of Stanage Park, is made by its uninterrupted rural setting. Humphry Repton recognised the value to the park of its setting when he noted in his Red Book: 'the command of surrounding property, would justify very great expenditure in preserving the Character of the place'. Visible from the park are rolling farmland, woods, nearby river valleys, distant hills and moorland, together with small-scale scattered settlement, all of which make up the distinctive character of the landscape of the area. There are no visible, large-scale intrusions into this tranquil scene. Thus the setting of Stanage Park can have changed little, in essence, over its entire existence.

The turbines would seriously injure the character of this setting. They would be situated on the highest ground in the immediate setting of the park. The nearest turbine (no 1) would be 2 km to the south of its southern end. The turbines would be visually dominant throughout the setting, both near and far, because of their hilltop location, height (105 m), scale and movement.

The summit ridge of Reeves Hill, on which the turbines would be situated, is 390 – 400 m high. The maximum height of the blade tips of the turbines would therefore be about 500 m. The nearest hills of comparable height in the park's setting are Hengwm Hill (405 m) 6 km to the south-west and Stow Hill (424 m) 4 km to the north. The blade tips would overtop these hills. The hilltops of Beacon Hill, 16 km to the north-west (548 m) and the Radnor Forest 13 km to the south-west (494 – 660 m) are the dominant hills in the middle distance. Figure 24a (30km Zone of Theoretical Visibility) of the Environmental Statement – Landscape and Visual Assessment (May 2008) indicates that some or all of the blade tips of the turbines would be visible from most of the higher ground and some of the lower, including parts of the Teme valley to the north, surrounding Stanage Park. The setting of the park would therefore be seriously visually compromised by the proposed turbines.

There are also three scheduled ancient monuments in the vicinity, Norton Mound and Bailey Castle (RD056) and two sections of Offa's Dyke, 'Section extending 2143m south from The Firs, Rhos-y-Meirch' (RD019) and 'Section extending 1125m south west to Gilfach Wood (RD020). I attach details of these. Planning Policy Wales 2002 states, in para 6.5.1, that "The desirability of preserving an ancient monument and its setting is a material consideration in determining a planning application..." A parallel policy is set out in para 18 of PPG16. As accepted in the Supplementary Environment Report, there would be a significant impact on the setting of the scheduled remains."

6. Advice was also sought from CCW who responded:

"Thank you for your letter dated 24th January 2013, requesting the views of the Countryside Council for Wales on the requirement for an Environmental Impact Assessment for the combined Reeves Hill windfarm (consented by Herefordshire County Council) and proposed access route (currently in the planning system).

CCW have previously provided consultation responses to both the windfarm application and the access road. I attach these responses, dated 7th August 2008 and 18th July 2012.

Great crested newts

There is potential for the development to have an impact on great crested newts, and our advice on this can be found in our consultation response dated 18th July 2012, that, provided that the mitigation measures and recommendations contained in the Environmental Report and Design and Access Statement May 2012 by Dulas Ltd, are implemented, we do not consider the proposed development will result in the detriment to the maintenance of the favourable conservation status of great crested newts."

The CCW letter of 7 August 2008 stated:

"Thank you for consulting CCW on this application.

In discharging its functions under Section 130 of the Environmental Protection Act 1990 the Countryside Council for Wales (CCW) champions the environment and landscapes of Wales and its coastal waters as sources of natural and cultural riches, as a foundation for economic and social activity, and as a place for leisure and learning opportunities. CCW aims to make the environment a valued part of everyone's life in Wales.

As stated in the ES, Offa's Dyke and the National Trail are 3km to the west of the application site. It is acknowledged within the ES that the turbines would be intermittently visible for a 2km long section of the Trail at Hawthorn Hill and we concur with the view that the impacts along this section are likely to be moderate to substantial. However, in this case and in the context of the 285km Trail in its entirety, it is CCW's view that despite this acknowledged local impact, the scheme is unlikely to constitute a major detrimental impact on Trail users.

CCW would also point out that the ES has failed to acknowledge the presence of Glyndwr's Way, a 135 mile National Trail which starts/ends in Knighton and as such, no consideration has been given to the likely visual impact and walking experience of the proposal along sections of this route. The impact of the scheme on Glyndwr's Way is therefore not known.

Offa's Dyke Path and Glyndwr's Way are two of only fifteen National Trails in England and Wales designated under the 1949 National Parks and Access to the Countryside

Act, "to allow the public to make extensive journeys on foot, horseback or bicycle, on which, for the most part, do not pass along roads used by vehicles"

The national status of these Trails provide an important asset in terms of access, recreation and tourism and bring valuable economic benefits to the local community.

We would urge your authority to satisfy itself that the LVIA, particularly with respect to its impact on the setting of the Offa's Dyke Scheduled Ancient Monument, is adequate. Viewpoint analysis concludes that the visual effects are likely to be either substantial or moderate/substantial (p.63-64). It appears therefore that this proposal could have an impact on its setting and we advise that CADW should be consulted.

Their address is:
Cadw
Plas Carew
Unit 5/7 Cefn Coed
Parc Nantgarw
Cardiff CF15 7QQ

Please note also that Figure 3 in Volume 3 of the Environmental Statement should read "SSSI" not "NNR" and that, in Figure 22, Offa's Dyke is a National Trail rather than a Long Distance Route."

The letter of advice from CCW to Monmouthshire CC of 18 July 2012 stated:

"Thank you for your consultation regarding the above development proposal, received here 28th May 2012.

The Countryside Council for Wales (CCW) welcomes the inclusion of an 'Environmental Report and Design and Access Statement' May 2012, Dulas Ltd, which includes an ecological assessment based on the surveys and reports carried out by Border Ecology, May 2008 and Ecology Matters, June 2011.

CCW previously commented on planning proposals for an access route to the Reeves Hill wind farm site in our letter dated the 20th November 2008. We objected to the scheme until further information on great crested newts was provided. The scheme has since been re designed and submitted as a 2012 planning application.

We are aware that there is currently debate as to whether this application should be considered in the context of the whole wind farm development. The comments outlined in this response are restricted to the specifics of this application only.

EUROPEAN PROTECTED SPECIES: GREAT CRESTED NEWTS

Legislation and Policy

We note from the survey report that records of great crested newts have been found within the vicinity of the application site foot print. No survey work to determine the presence or likely absence of great crested newts has been completed as part of this planning application but ponds adjacent to the site foot print have been assessed as being suitable for the presence of great crested newts.

As you are aware, Great crested newts are European Protected Species, protected by The Conservation of Habitats and Species Regulations 2010.

Where a European Protected Species is present, and a development proposal is likely to contravene the protection afforded to it, development may only proceed under a licence issued by the Welsh Government (WG), having satisfied three requirements set out in the legislation. One of these requires that the development authorised will 'not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status (FCS) in their natural range.'

These requirements are translated into planning policy through Planning Policy Wales (PPW) July 2010, sections 5.5.11 and 5.5.12, and Technical Advice Note (TAN) 5, Nature Conservation and Planning September 2009. The planning authority should take them into account when considering development proposals where a European protected species is present.

CCW advice on the application

At present CCW understands that this planning application is for the construction of an unbound surface access track through agricultural fields at Llanshay Farm and the construction of heavy load and construction traffic passing places along Llanshay Lane, Knighton. We believe that all hedgerows to be impacted on as part of the scheme will be retained and moved no more than 3.5m from their current location. As no reference to the use of gully pots is made within the documentation supporting the planning application, it is assumed that gully pots will not be used.

As stated above we welcome the submission of the Environmental Report by Dulas Ltd. In section 6.4.1 a number of recommendations for impact avoidance measures for great crested newts are made. Subject to the implementation of the mitigation and recommendations set out in the Environmental Report, we do not consider the proposed development will result in a detriment to the maintenance of the favourable conservation status of the great crested newts.

Therefore, should your authority be minded to grant planning permission, we advise that suitable conditions are attached to the permission to address the following;

- A detailed method statement demonstrating how great crested newts will be conserved during the development will be prepared and agreed with the LPA (in consultation with CCW) prior to works commencing at site. The method statement will provide details on, but not exclusively;
 - the timing of and methods involved in works, demonstrating how works will avoid killing, injuring or disturbance to great crested newts, including a schedule of works,
 - the number, size and location of culverts under the new section of access track
 - consideration of how great crested newts will be encouraged to adopt the new mitigation measures,
 - details of and management measures for the vegetation to be retained and new planting on site.

EUROPEAN PROTECTED SPECIES: BATS

Section 6.4.1 of the Environmental Report details the possibility of bats being present in an old crab apple tree within the development site. CCW understands that no survey work has been undertaken on this tree to determine the presence or likely absence of bats. If this tree is to be removed as part of the development CCW recommends that survey work is completed to determine if bats are present. If bats are present, European protected species licence from the Welsh Government will be required for its removal.

TREES, HEDGEROW AND ROADSIDE VERGES

We welcome the mitigation measures outlined in sections 6.4 of the 'Environmental Report and Design and Access Statement' which in addition to the Great Crested Newt management includes mitigation for impacts to trees and hedgerows as a result of the creation of the new access track and passing places along Llanshay Lane. Several sections of hedgerow require translocation as part of the proposals. It should be ensured that translocation work adheres to the method outlined in section 6.4.5 in order to ensure the best chance of survival of the hedgerow.

In addition the measures relating to protection of bat flight routes and bird-nesting sites, and the additional tree and hedgerow planting proposed (table 6.2) should be undertaken.

It should also be ensured there is mitigation for any loss of species-rich verges such as the verge at AVL1 and at passing place 3.

Hedgerows and roadside verges are included in the Linear Habitats Habitat Action Plan within the Powys Local Biodiversity Action Plan (LBAP), and there should be no net loss of these habitats as a result of this development proposal.

CCW advise that implementation of the Habitat and Species Management Plan presented in Figure 6-1 of the application be made the subject of a planning condition.

LANDSCAPE

The applicant has submitted a Landscape and Visual Assessment (section 4 of the Environmental Report and Access Statement) which concludes that the works will result in a low magnitude of change within an area of medium sensitivity. Measures set out in the Landscape and Visual Assessment (section 4.2.3) to mitigate effects on the landscape should be included as planning conditions, and should cover hedge reinstatement, replacement of the section of drystone wall at site entrance 3, and replacement of trees removed at the site entrances and elsewhere.

Please note that we have not considered possible effects on all species and habitats listed in section 42 of the Natural Environment and Rural Communities (NERC) Act 2006, or on the Local Biodiversity Action Plan or other local natural heritage interests. To comply with your authority's duty under section 40 of the NERC Act, to have regard to conserving biodiversity, your decision should take account of possible adverse effects on such interests. We recommend that you seek further advice from your authority's internal ecological adviser and/or nature conservation organisations such as the local Wildlife Trust, RSPB, etc. The Wales Biodiversity Partnership's web site has guidance for assessing proposals that have implications for section 42 habitats and species (www.biodiversitywales.org.uk).

In summary, CCW does not object to the above application, providing appropriately worded conditions are attached to any planning permission your authority is minded to grant.

We would be happy to comment on the wording of conditions. I hope you find these comments of assistance and please feel free to contact me if you have any further queries."

Having taken into account the criteria in Schedule 3 to the 1999 Regulations and the advice offered by the Cadw, which I accept, in my opinion this development would be likely to have significant effects on a historic park in the area. Consequently I consider that EIA is required for the proposed development due to:

- The likely adverse visual impact on the Grade 1 Historic Park and Gardens known as 'Stanage Park'.

7. Accordingly, in exercise of the authority referred to in paragraph 2 above and the powers conferred by regulation 4(7) of the 1999 Regulations, and for the reasons given in paragraphs 5 and 6 above, I hereby direct that the proposed development described in the request for a screening direction and the documents enclosed with it is 'EIA development' within the meaning of the 1999 Regulations. This letter constitutes the statement required by Regulation 4(6)(i).

8. Any application for planning permission for this development must be accompanied by an Environmental Statement. Under Regulation 2(1) of the 1999 Regulations an Environmental Statement must contain, for the purpose of assessing the likely impact on the environment, the information specified in that regulation. I recommend that you refer to the Regulations and the accompanying Circular, Welsh Office Circular 11/99, before and during the preparation of the Environmental Statement.

9. Guidance on the preparation of Environmental Statements was issued by the former Department of the Environment, Transport and the Regions and entitled "Preparation of Environmental Statements for Planning Projects that require Environmental Assessment: A Good Practice Guide" (HMSO, £15.00, ISBN 9780117532076). This guidance is still available and may be of use to you, although the statutory provisions mentioned in the guidance have been superseded.

10. You should bear in mind that my opinion on the likelihood of the development having significant environmental effects is reached only for the purposes of this direction.

11. I am sending a copy of this letter to Cadw, CCW and the applicant.

Yours faithfully,



Mrs Rosemary Thomas
Chief Planner/Deputy Director
Department for Environment and Sustainable Development

Signed under authority of the Minister for Environment and Sustainable Development,
one of the Welsh Ministers.