

DNS Pre-application Advice

DNS/3273368 - Mynydd Llanhilleth Wind Farm

27 July 2022

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Advice is provided following a request submitted by the applicants on 29 June 2022. This advice should be read in conjunction with PEDW's procedural guidance on Developments of National Significance. The applicant should also consider the contents of Welsh Government Circular 016/2014: 'The Use of Planning Conditions for Development Management' ['WGC 016/2014'] and Technical Advice Note 18: Transport ['TAN 18'].

The advice is not binding and does not prejudice PEDW's processing of the application if submitted, any recommendation made by an Inspector, or any decision made by the Welsh Ministers in relation to a development of this nature on this site.

Summary of Request

The written request pertains to the proposed access design and the proposed grid connection:

Proposed Access Design

1. Could detailed design and assessment be conditioned as part of the DNS Consent?
2. What level of detail would be required within the DNS to support this condition approach?
3. Could an example condition be provided?
4. Can it be confirmed that the proposed environmental assessment process is appropriate (i.e., baseline surveys and desk-based assessment for the submission, followed by a detailed assessment when discharging the condition)?

Proposed Grid Connection

1. Could detailed design and assessment of the Grid Connection be conditioned as part of the DNS Consent if an overground solution is progressed?
2. What level of detail would be required within the DNS to support this condition approach?
3. Are the proposed assessments strategies, both for underground and overground acceptable?

PEDW Response

Proposed Access Design

- I do not consider that detailed design could be conditioned so as to be left to consideration by the Local Planning Authority (LPA) after the DNS has been consented.

Section 62D(5) of the Town and Country Planning Act 1990 (as amended) ['the 1990 Act'] specifies that outline planning permission cannot be granted on a DNS application.

Outline planning permission is excluded from the list of Secondary Consents by virtue of Part 8 to the Schedule to the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016 (as amended).

Under Article 3(5) of the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 (as amended) [‘the DMPO’], “where access is a reserved matter the application for outline planning permission must state the area or areas where access points to the development proposed will be situated.”

It stands to reason therefore that a DNS application must include more detail regarding access than that specified for an outline application. The location of an access to a windfarm and the effect on highway safety is likely to be significant given the size of the component parts.

However, it may be possible to submit an application with a number of alternative detailed design access options to allow the decision maker to select the most appropriate option at the end of the examination process. Should this option be explored, the Environmental Statement (ES) would need to clearly describe the ‘worst case scenario’ for each access option presented in the application.

If planning permission is granted via the DNS process and the detailed access design is the subject of one or more discrete conditions, then it would be possible to apply to vary those conditions after the DNS process is completed. Such a variation of condition application would be made to the LPA. Under Regulation 51 of the Developments of National Significance (Wales) Regulations 2016 (as amended) [‘the DNS Regulations’] a variation of condition application related to a DNS is only made via the DNS process if it relates to the implementation time limit condition required under section 91 of the 1990 Act.

Proposed Grid Connection

- I do not consider that detailed design could be conditioned so as to be left to consideration by the Local Planning Authority (LPA) after the DNS has been consented.

Under article 3(3) of the DMPO, where layout is a reserved matter, the application for outline planning permission must state the approximate location of buildings, routes and open spaces included in the development proposed.

For the reasons stated above a DNS application must contain enough information for detailed planning permission to be granted. The grid connection is a significant matter that will need to be considered by the decision maker before planning permission can be granted for that connection.

If the consenting strategy is that Western Power Distribution (WPD) is to seek consent via route outside the DNS process, then this would not require detailed consideration by the DNS decision maker. However, the ES will still need to consider the impacts of the potential grid connection routes in a proportionate level of detail.

If the applicants wish to include the grid connection as part of the DNS application, then it would be possible to include a route corridor approach that allows scope for some limited post consent consideration of the siting of infrastructure, in a similar fashion to the ‘micro-siting’ approach taken to wind turbines.