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Our Ref: 22/0078/PRE

Date: 5 May 2022

Direct Line: 01597 827161 / 01597 827169

Email: planning.services@powys.gov.uk

Dear Sir/Madam,

Reference: 22/0078/PRE

Proposal: Pre-planning application enquiry in relation to a 34kw hydropower scheme

Site Address: Ty Mawr, Mallwyd, Machynlleth, Powys SY20 9HS

Thank you for the above pre-planning application advice enquiry. The enquiry includes the completed application form, pre application planning statement including location plan, proposed site layout plan, indicative design for parts of the development and site photographs.

The pre-planning application guidance published on Powys County Council's website sets out what the service will provide and on this basis please find comments on the proposal below. Please note that a site visit has not been carried out and the comments are based upon the information supplied with the enquiry together with information gained from the Council's mapping systems as well as the Case Officer's knowledge of the area.

Principal Planning Constraints

Flood Map for Planning Rivers Flood Zones 2 and 3

Flood Map for Planning Surface Water and Small Watercourses Flood Zones 2 and 3
C2 Flood Zone

Public rights of way 209/4/4, 209/3/1

Class three highway C2017

Ancient Woodland Inventory 2011 – Plantation on Ancient Woodland Site

Ancient Woodland Inventory 2011 - Ancient Woodland of unknow category

Minerals Safeguarding Area – sand and gravel category 2

Welsh Language Stronghold community

Principal Planning Policies

National Planning Policy

Future Wales The National Plan 2040 (2021)

Planning Policy Wales (Edition 11, 2021)

Technical Advice Note 5 – Nature, Conservation and Planning (2009)

Technical Advice Note 6 – Planning for Sustainable Rural Communities (2010)

Technical Advice Note 8 - Planning for Renewable Energy (2005)

Technical Advice Note 12 – Design (2016)

Technical Advice Note 15 – Development and Flood Risk (new version to be published 1st June 2023)

Technical Advice Note 18 – Transport (2007)

Technical Advice Note 23 – Economic Development (2014)

Technical Advice Note 24 – The Historic Environment (2017)

Welsh Government - Planning implications of renewable and low carbon energy development: practice guidance (2011)

Local Planning Policy

Powys Local Development Plan (LDP) (2011-2026)

SP7 – Safeguarding of Strategic Resources and Assets

RE1 – Renewable Energy

DM2 – The Natural Environment

DM4 – Landscape

DM5 – Development and Flood Risk

DM6 - Flood Prevention Measures and Land Drainage

DM7 – Dark Skies and External Lighting

DM8 – Minerals Safeguarding

DM10 – Contaminated and Unstable Land

DM12 – Welsh Language

DM13 – Design and Resources

DM15 – Waste within Developments

T1 – Travel, Traffic and Transport Infrastructure

Powys Local Development Plan (2011-2026) Supplementary Planning Guidance

Biodiversity and Geodiversity Supplementary Planning Guidance Adopted October 2018

Powys Local Development Plan (2011-2026) Supplementary Planning Guidance

Landscape Adopted April 2019

Powys Local Development Plan (2011-2026) Supplementary Planning Guidance

Historic Environment Including Historic Environment Record Adopted July 2021

Powys Local Development Plan (2011-2026) Supplementary Planning Guidance

Archaeology Adopted July 2021

Powys Local Development Plan (2011-2026) Supplementary Planning Guidance

Renewable Energy Adopted April 2019

Planning history

MAGR/2002/0052 - Erection of agricultural building and extension to existing building.

No objection 26.11.2002

AGRI/2017/0066 - AGRI: Erection of an extension to an existing agricultural building for storage of machinery. Planning permission not needed 22.08.2017

Material planning considerations

The key material planning considerations for renewable energy developments are set out within Future Wales, Planning Policy Wales, Welsh Government's Renewable Energy Practice Guidance, Powys County Council's Local Development Plan and Powys County Council's Renewable Energy SPG and are discussed below. In addition, material planning considerations raised by consultees will be discussed.

Assessment of proposed development

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017

Hydro-power plants with a generation capacity above 0.5MW fall under Schedule 2.3(h) of the Town and Country Planning Act (Environmental Impact Assessment) (Wales) Regulations 2017. Given that the proposed development would have a generation capacity of 34kW and therefore does not exceed the applicable thresholds and criteria specified in the Regulations, it is considered that based upon the information currently before Development Management, the application is not required to be accompanied by an Environmental Statement.

Major Applications

Please note that Article 1 of the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 requires the developer to undertake a pre-application consultation for all major development (either full or outline). The above act defines a major development as the following:

"major development" ('datblygiad mawr') means development involving any one or more of the following—

(a) the winning and working of minerals or the use of land for mineral-working deposits;

- (b) waste development;*
- (c) the provision of dwellinghouses where—*
 - (i) the number of dwellinghouses to be provided is 10 or more; or*
 - (ii) the development is to be carried out on a site having an area of 0.5 hectares or more and it is not known whether the development falls within sub-paragraph (c)(i);*
- (d) the provision of a building or buildings where the floor space to be created by the development is 1,000 square metres or more; or*
- (e) development carried out on a site having an area of 1 hectare or more;*

The proposed development may be a major development if the site area will be 1 hectare or more (criterion e). It is the responsibility of the developer to undertake publicity/consultation procedures prior to the submission of a formal planning application as required by the abovementioned legislation.

Principle

The Council's Supplementary Planning Guidance on renewable energy identifies that hydro-power schemes are an example of potentially viable renewable technologies that could be capable of delivering renewable energy at a commercial scale and would be generally supported by the Council. Powys LDP Policy RE1 states that:

'Proposals for renewable and low carbon energy development will be permitted subject to the following criteria:

1. Within or close to the Strategic Search Areas (SSAs), proposals for wind energy greater than 25MW will be permitted subject to criteria 3 to 5; all other proposals for renewable and low carbon energy will only be permitted where they can demonstrate they would not prejudice the purpose of the SSA.
2. Within the Local Search Areas (LSAs), proposals for solar PV between 5 – 50MW will be permitted subject to criteria 3 to 5; all other proposals for renewable and low carbon energy will only be permitted where they can demonstrate they would not prejudice the purpose of the LSA.
3. Proposals for all types of renewable and low carbon energy development and associated infrastructure either on their own, cumulatively or in combination with existing, approved or proposed development, shall comply with all other relevant policies in the LDP.
4. Satisfactory mitigation shall be in place to reduce the impact of the proposal and its associated infrastructure. Proposals shall make provision for the restoration and after-care of the land for its beneficial re-use.
5. Where necessary, additional compensatory benefits will be sought by agreement with applicants in accordance with Policy DM1 - Planning Obligations.

It is proposed to construct a hydro power scheme outside of a Strategic Search Area and Local Search Area and as such the principle of development complies with LDP Policy RE1, subject to consideration of the proposed development in terms of the other material planning issues set out below.

The benefits of the proposed scheme are also recognised with the proposed development contributing towards meeting identified Welsh, UK and European renewable energy targets and to cutting greenhouse gas emissions.

Landscape and visual

The site is located within the Cwm Tafolog Visual and Sensory aspect area of LANDMAP which is evaluated as moderate and is summarised as 'A narrow valley formed by the steeply sided plateau ridges of the Mynydd Lluest Fach and Mynydd y Cemmaes. Traditional farming landscape with irregular field patterns and diverse vegetation cover with semi improved and marginal grazing with the valley slopes displaying rough grazing, bracken and gorse scrub. Enclosed, remote in part due to the steep landforms on either side that cut off the outer world - a "lost valley" sense of place. There are occasional glimpses of some Cemmaes turbines on the skyline from valley road'.

In accordance with policy DM4, proposals which are likely to have a significant impact on the landscape and/or visual amenity will require a Landscape and Visual Impact Assessment to be undertaken. Further guidance within the adopted Landscape SPG indicates that outside of settlements, applications for renewable energy schemes where the site area does not 1 hectare will not be expected to be supported by a Landscape and Visual Impact Appraisal (LVIA) however it is recommended that a Planning Statement is included within the application to include detail of how the development proposal has been sited and designed to be integrated into the landscape and an informal landscape assessment that demonstrates compliance with Policy DM4, using the baseline assessment (site analysis plus LANDMAP). If the site area is over 1 hectare, the Landscape SPG advises that a Landscape and Visual Impact Appraisal where related to non EIA development. In addition, the Design and Access Statement should include detail of how the development proposal has been sited and designed to be integrated into the landscape and that demonstrates compliance with Policy DM4, using the baseline assessment (site analysis plus LANDMAP) and the LVIA. Please refer to the Landscape SPG for further guidance.

Whilst there would be new physical features associated with the proposed development, the burying of the penstock pipeline and export cable along with the use of the existing transformer pole is welcome as mitigation of the visual and landscape impact. Public right of way 209/4/4 appears to travel in the vicinity of the meter cubicle and transformer pole and as such users of the right of way may see parts of the development at that location, however the siting of the meter cubicle adjacent to the hedgerow will also assist with mitigating the impact of the development. The intake weir, outfall point and power house would be new visible features, although neither are located in proximity to public rights of way. The powerhouse and outfall are of typical construction and not of a large scale and would be sited in proximity to existing vegetation. The weir would be sited within a section of the watercourse which appears to have 'high sides' and is screened with existing trees and vegetation. It is not known

at this stage whether water abstraction would have a visual impact upon waterfalls and as such it is recommended that the submission includes information on any downstream waterfalls and the impact. It is noted that a consented hydro power scheme (planning application ref 18/0875/FUL) is located approximately 2km to the north-east upon a tributary of the Afon Dugood and as such it is recommended that the impacts upon water abstraction from that scheme are considered in combination with that arising from the proposed development.

The site is located approximately 360m at its closest point to Snowdonia National Park and whilst it is not considered that the physical elements of the proposed development would affect the visual amenity of the national park area, the watercourse which would be utilised by the development appears to be a tributary of Afon Dugood which flows into the national park and as such the National Park Authority would be consulted upon any application, particularly in consideration of any downstream waterfalls.

Hydrology and hydrogeology

For all hydro-power schemes, Natural Resources Wales (NRW) will need to be contacted through its own pre-application advice service to ensure the scheme meets the relevant permitting regime and so be issued an abstraction license. In addition, Ordinary Watercourse Consent, an Impoundment Licence and/or Flood Risk Activity Permit may also be required.

NRW and the Council's Land Drainage Section will be consulted on the proposed planning application and as such their advice will be considered at time of receipt. However, the production and submission of an Environmental Management Plan, agreed with NRW, can help ensure best practice pollution prevention practices are implemented during construction and help minimise pollution to watercourses. Therefore it is recommended that the submission includes an Environmental Management Plan.

The application site is located within the C2 Flood Zone as well as the Flood Map for Planning flood zones 2 and 3 for river and surface water drainage. It is recommended that the submission includes a Flood Consequences Assessment, however you may wish to conform with NRW that such is required prior to submission.

Ecology

No comments have been received from the Powys County Council Ecologist at the time of writing this response but any comments received will be sent to you. It would also be beneficial to contact NRW for pre application advice.

Protected species

As a minimum, an application should be supported by a preliminary ecological appraisal and if the appraisal requires further survey work, such should be carried out prior to the

submission of the application. The ecological appraisal will inform of the ecological impacts on protected species and recommend mitigation, compensation and enhancement measures which should be included on the plans and documents. If any external lighting is proposed, for example at the powerhouse, the location and details of the lighting should be included in the submission which will need to demonstrate compliance with the recommendations outlined in the BCT and ILP Guidance Note 8 Bats and Artificial Lighting (12th September 2018) full details can be found at <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>.

Ancient Woodland and other trees/hedgerows

The intake weir and a section of buried pipeline would be located on land which is included within the Ancient Woodland Inventory 2011 as Plantation on Woodland Site. In addition, a section of the pipe would appear to be adjacent to another woodland on the Ancient Woodland Inventory 2011 which is listed as Ancient and Semi Natural Woodland. As such an Arboricultural Assessment will need to be included within the submission to allow an assessment of the proposed development upon the woodland as required by LDP Policy DM2. In addition, if the proposal would affect any other trees, these should be assessed in the Arboricultural Assessment.

Protected sites

In addition to the above identified parcels of Ancient Woodland, there are other sites designated as Ancient Woodland within 1km, however no other statutory or non-statutory protected sites are noted within 1km. However, the ecological appraisal should identify any relevant protected sites and assess impacts.

Biodiversity enhancement

In accordance with Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to Maintain and Enhance biodiversity through all its functions – this includes the planning process. It will therefore need to be demonstrated as to how the proposed development will incorporate biodiversity enhancements to ensure net biodiversity benefits through the proposed development. The ecological appraisal will likely include biodiversity enhancements, although there are also examples of enhancements within the Biodiversity SPG. As stated above, enhancements should be included on the plans.

Water Framework Directive

The Council has a duty under the Water Framework Directive to have regard to River Basin Management Plans for enhancing water quality in exercising its planning powers and referred to within the Renewable Energy SPG and LDP Policy DM2. For hydro-power schemes, this means ensuring that the hydro-power development will not compromise the ability to achieve:

- The environmental objectives of the River Basin Management Plan;

- Good ecological status / potential of the waterbody; and
- No deterioration of water quality status.

The ecological appraisal should assess the impacts upon water quality and along with the Environmental Management Plan, these documents would allow an assessment by NRW and the Council's Ecologist.

Highways

Part of the buried power cable would appear to travel under the C2017 highway. Access for the development would be via the C2017 highway off the A458 trunk road.

Unfortunately, the Highway Authority has not yet responded to the enquiry, however any response will be sent to you. However, the submission will need to include details of the proposed access to the site and traffic movements and sizes associated with construction and maintenance to enable consideration under LDP Policies DM13 and T1.

Impact on neighbouring uses

A desktop assessment of the application site identifies that there is a residential property within approximately 200 metres of the proposed powerhouse. Environmental Protection have provided the following response:

'Any application would need to take into consideration the impact of noise on nearby neighbours and should be accompanied by a noise impact assessment, I would suggest that the appropriate standard would be BS4142 for an assessment'.

Therefore, it is recommended that the application is accompanied by a noise impact assessment to allow assessment under LDP Policy DM13 of the impact of the development upon the amenities enjoyed by occupants of neighbouring dwellings.

Historic Environment

Archaeology

Whilst the site is not located within 1km of any designated statutory historic environment sites, the potential for archaeology on the development site should be considered. The Archaeology SPG should be consulted for advice on undertaking initial archaeological appraisals. Where the initial research or appraisal, or advice received from CPAT suggests that the site is likely to have significant archaeological potential or potential to impact on other archaeological sites, a more detailed desk-based assessment is likely to be necessary and should be included within any submission.

Economic impacts

Development Management is not aware of any fisheries upstream or downstream that may be affected by the proposed development; however you may wish to submit

information to address this consideration.

Loss of agricultural land

Following a review of the Agricultural Land Classification Map, the application site does not fall within an area of land classified as the best and most versatile land and as such there would be no conflict with Planning Policy Wales in this respect and no further information is required to support an application in respect of the loss of agricultural land.

Public rights of way

Public rights of way 209/4/4, 209/3/1 travel across the penstock pipe and power cable routes. Given that both elements would be buried, the impacts would be confined to the construction phase and developer can ensure the pipeline route is fully restored. The submitted location/site plan should identify the routes of the public rights of way. The Council's Countryside Services Department would be consulted on the application, and you may wish to contact the Countryside Services department for pre application advice via rightsofway@powys.gov.uk. You can access a digital interpretation of the Definitive Map using the link below. Please refer to the accompanying guide for access:

<https://data.gov.uk/data/map-preview?url=https%3A%2F%2Fgeo.powys.gov.uk%2Fgeoserver%2Fopendata%2Fwms%3Frequest%3DGetCapabilities>

Contaminated land

The Council's Contaminated Land Officer has advised that the subject site is identified as potential contaminated land due to the presence of 'unknown filled ground'. Therefore, in respect of the proposed development as a minimum a phase 1 desk study with preliminary risk assessment will be required in order that consideration can be made to the proposals. Reference to the Welsh Local Government Association document; Development of Land Affected by Contamination: A Guide for Developers should be made and if you seek further clarification on the Contaminated Land Officer's comments, please contact David Jones, Senior Contaminated Land Officer via david.jones1@powys.gov.uk.

Waste

LDP Policy DM15 – Waste within Developments states that development proposals shall demonstrate:

1. How the production of waste will be minimised during all stages of the development and how the waste materials that do arise will be managed in a sustainable way, in accordance with the waste hierarchy; and
2. That adequate provision has been made in the design of the development for the storage and collection, composting, and recycling of waste materials.

Therefore, the submission should include information to address the policy.

Decommissioning / Site Restoration

The Renewable Energy SPG states that applications for all renewable energy developments are expected to be accompanied with an agreed decommissioning schedule and details of the restoration and aftercare of the site. It is recommended that decommissioning and site restoration is addressed within the submission and more information can be found in the Renewable Energy SPG.

Minerals safeguarding

Part of the application site (south-eastern section) is located within a Minerals Safeguarding Area for sand and gravel (category 2). Therefore, the submission should include information to address LDP Policy DM8.

Welsh language

The site is located within a community identified as a Welsh Language Stronghold (Llanbrynmair), however the requirements of LDP Policy DM12 which relate to housing developments are not applicable to the proposed development.

Planning obligation requirements

The development is not expected to require a planning obligation.

SAB Approval

If the construction area associated with the proposed development is greater than 100sqm, the proposed development will require SAB approval prior to any construction works commencing onsite. It is recommended you contact the SAB Team via: sab@powys.gov.uk to discuss the proposals. For further information on the requirements of SAB and where relevant application forms/guidance can be accessed, please visit the following website <https://en.powys.gov.uk/article/5578/Sustainable-Drainage-Approval-Body-SAB> If for any reason you believe your works are exempt from the requirement for SAB approval, then please discuss this with the SAB Team via the above details. The requirement to obtain SAB consent sits outside of the planning process but is enforceable in a similar manner to planning law. It is a requirement to obtain SAB consent in addition to planning consent. Failure to engage with compliant SuDS design at an early stage may lead to significant un-necessary redesign costs.

Requirements of application

An application can be submitted online via the Planning Portal or alternatively application forms can be downloaded from the Council's website and would need to include the following:

- Completed planning application form.
- Location plan.
- Other plans and drawings or information necessary to describe the subject of the application.
- Plans / drawings must be drawn to an identified scale and, in the case of plans, must show the direction of north and identify the routes of public rights of way.
- Planning fee. Currently, we are encouraging payments to be made over the telephone by card via 01597 827161.

If a major application, the following documents are also required:

- Design and Access Statement.
- Pre Application Consultation Report.

If further information is required to register/validate the application, we will contact you.

The following documents are advised to be required to be submitted to enable determination of the application/avoid the imposition of conditions and if required as discussed above:

- Informal landscape assessment or Landscape and Visual Impact Appraisal depending on site area.
- Environmental Management Plan.
- Ecological appraisal.
- Ecological mitigation, compensation, enhancements etc indicated on proposed plans/documents.
- Arboricultural Assessment.
- Details of any external lighting.
- Planting details (if proposed).
- Noise impact assessment.
- Flood Consequence Assessment.
- Phase 1 desk study with preliminary risk assessment for contaminated land.
- Minerals Safeguarding information.
- Information on decommissioning and site restoration.
- Information on waste.
- Information on fisheries.
- Information on archaeology.
- Highway access information etc.

Conclusion

The principle of the proposed development as a renewable energy scheme is supported by LDP Policy RE1 and the benefits of the scheme in contributing towards the Welsh

Government's targets of increasing renewable energy production and tackling climate change are acknowledged. Subject to the other material considerations discussed above being adequately addressed, the proposed development would receive support and a favourable recommendation.

Yours faithfully

Kate Bowen MRTPI
Senior Planning Officer

Croesewir gohebiaeth yn y Gymraeg a'r Saesneg/Correspondence welcomed in Welsh and English

Data Protection and Privacy / Diogelu Data a Chyfrinachedd

In order to deliver the Planning Service (applications, complaints and appeals etc.) it is necessary for the council to process personal data, in accordance with relevant planning legislation, as listed on the Welsh Governments planning website

(<https://gov.wales/topics/planning/?lang=en>). If you wish to know more about how Powys County Council processes your personal data then please visit [Planning and Public Protection Privacy Statement - Powys County Council](#) and / or <https://en.powys.gov.uk/privacy>.

Er mwyn darparu Gwasanaeth Cynllunio (ceisiadau, cwynion ac apeliadau ac ati) mae'n angenrheidiol i'r cyngor brosesu data personol, yn unol â deddfwriaeth gynllunio berthnasol, fel y rhestrir ar wefan gynllunio Llywodraeth Cymru (<https://llyw.cymru/adeiladu-a-chynllunio>). Os hoffech wybod mwy am sut mae Cyngor Sir Powys yn prosesu eich data personol, ewch i <https://cy.powys.gov.uk/article/7085/Datganiad-Preifatrwydd-Cynllunio-a-Gwarchod-y-Cyhoedd> a / neu <https://cy.powys.gov.uk/preifatrwydd>