



AH/160086/L0001

9<sup>th</sup> April 2018

Mr R Rigby  
Major Casework and Chart Case Officer  
The Planning Inspectorate  
Crown Buildings  
Cathays Park  
Cardiff  
CF10 3NQ

***By email only***

Dear Mr Rigby

**Town and Country Planning Act 1990  
The Developments of National Significance (Wales) Regulations 2016  
Application by Gwent Farmers' Community Solar Scheme Limited in respect of land at the  
Caldicot Levels to the south of the Llanwern Steelworks site  
PINS Ref 3150137**

Further to your letter of 5<sup>th</sup> March 2018 to my colleague Francesca Evans, I am instructed on behalf of Pontypool Park Estate (PPE).

PPE are owners and stewards of adjacent land to the above application site. As such PPE is committed to maintaining the unique heritage, ecology and landscape that make the Gwent Levels an environment of a national and internationally recognised standard.

PPE considers that this proposal will have significant adverse impacts on all these aspects and having considered the application submissions wishes to **object** to the above application on the following grounds.

#### **Alternative sites assessment**

Section 6 of the submitted Environmental Statement ("ES") considers alternative sites for the application proposal. This is described at paragraph 6.1 as " [a] ..critical assessment of potentially suitable and available sites undertaken in order to minimise any adverse effects on the environment and local community."

This consideration of alternatives is required under the EIA Regulations but is also a requirement under the Habitats Regulations where it must be shown that "imperative reasons of overriding public interest" justify a project being permitted which would result in adverse effects on a protected habitat (Regulation 49, Conservation (Natural Habitats, &c.) Regulations 1994/2716).

A further requirement for consideration of alternative locations stems from Local Plan policy CE9 which requires that new development in the coastal areas requires that location to meet an exceptional need which cannot reasonably be accommodated elsewhere.

Paragraph 3.24 of the supporting text to Local Plan Policy GP5 also notes that in respect of SSSI sites “..*The developer must demonstrate the case for development and why it could not be located on a site of less significance for nature conservation.*”

The objector does not consider that the applicant has undertaken any meaningful assessment of alternative sites and in particular has failed to consider whether any alternative site might allow such development to take place without harm to acknowledged interests of environmental importance.

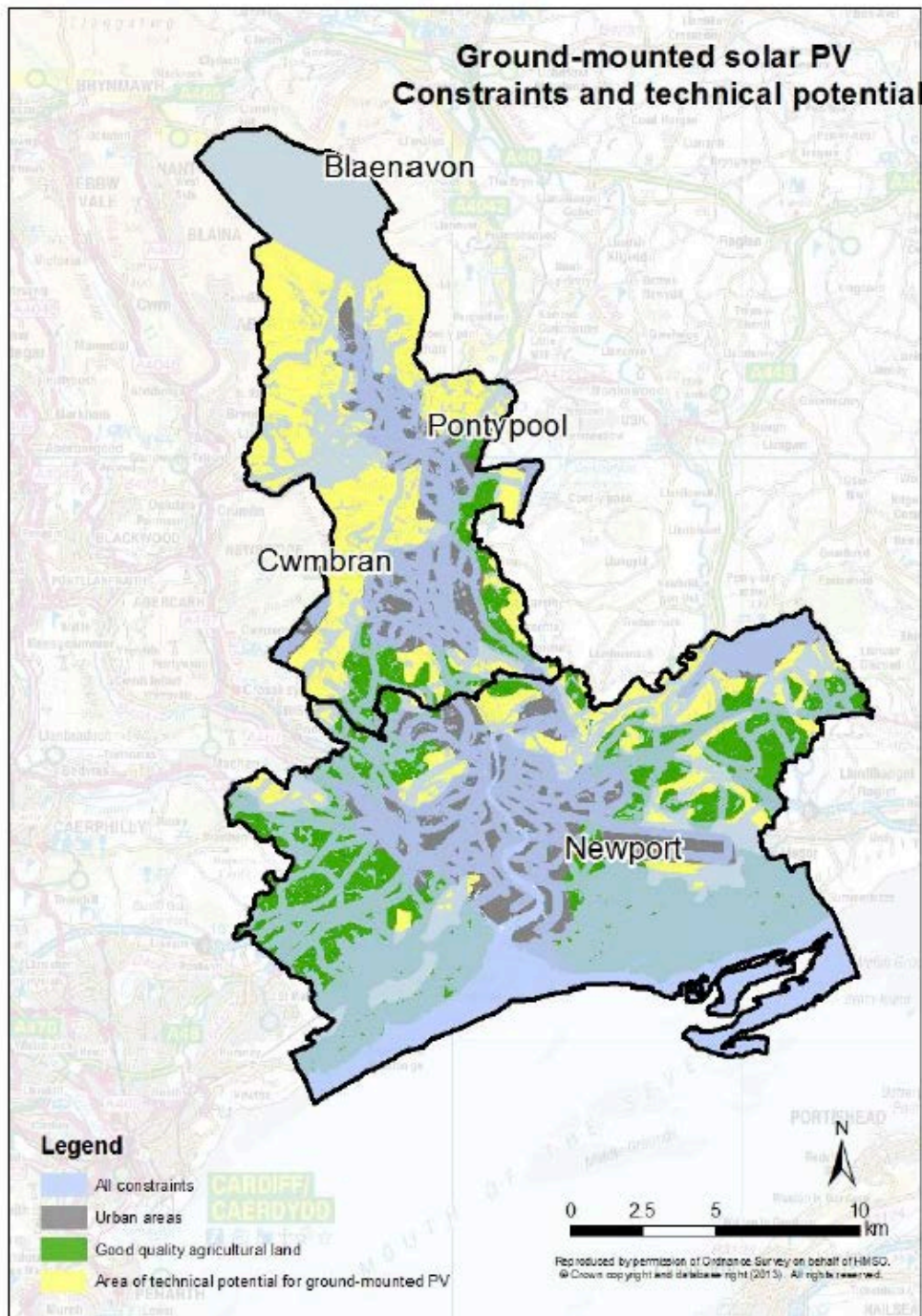
An obvious starting point for any consideration of alternative sites is the Renewables and Low Carbon Energy Assessment Study prepared by the Carbon Trust in 2013 for the Councils of Newport City and Torfaen County Borough (“The 2013 Assessment”) and indeed this report is referred to selectively throughout the application submission.

The ES acknowledges [at paragraph 6.3.1] that The Renewable and Low Carbon Energy Assessment study does not identify the site area as lying within an area considered to be potentially suitable for ground mounted solar PV. This is because it treats nature conservation designations, sites of historic interest, common land and buffer zones around rights of ways as constraints on appropriate development.

This approach is, perhaps unsurprisingly, criticised in the ES [*ibid*] for excluding these areas without consideration of grid connection and land availability. However, for the purposes of considering the environmental effects of a proposal and directing development towards areas with the lowest possible impacts, this is considered by the objector to be an entirely appropriate approach. Only after considering areas without statutory protection should areas with such protection be considered.

The ES then seeks to downplay the potential of alternative locations identified in the 2013 Assessment. In presenting the 2013 Assessment’s conclusions on areas of technical potential for ground mounted PV, the ES presents a selective view of the available sites, excluding the northern area of the assessment. This selective view is repeated in the Sequential Assessment in the appendices to the ESs.

The complete image is as below:



**Figure 57: Potential Ground Mounted SolarPV**

This shows (in yellow) significant areas in Torfaen with potential for ground based PV, with average sunshine duration values very similar to the application site.

This raises the question about what the “search area” for alternative sites [referred to at Paragraph 6.4.4] actually is. The criteria adopted in the sequential assessment of “100 miles from Goldcliffe” is arbitrary in the extreme and ought to have included the ‘yellow’ land on the above plan. This appears to have been dismissed without any real analysis.

The applicant criticises the 2013 Assessment's identification of the yellow land, concluding that much of the land identified would not be suitable. However that is not the findings of the 2013 Assessment. As it notes at Paragraph 45:

*"The potential for ground mounted PV is estimated from GIS mapping of land constraints, such as the quality of agricultural land and nature designations as set out in Appendix B. This analysis suggests that a relatively large area is potentially available for ground mounted solar. We have therefore made a further assumption that only a small proportion (1%) of the total land available could actually be used. This compares with 10% for energy crops. It is a somewhat arbitrary figure, but reflects the fact that solar farms have to compete with other land uses and will require unshaded flat land or land inclined to the south with potential for an economic connection to the grid.*

*Even on this basis it is clear that solar PV has far fewer constraints than wind energy and this there is a higher degree of flexibility as to where the potential capacity could be located."*

Indeed, Figure 4 of the Assessment concludes that even at the 1% ratio of available land to useable land, there is potential for 382,553 sq m of ground based PV across Torfaen and Newport City.

It does not appear that beyond platitudinous statements in the ES such as [at Paragraph 6.6.4. (iv) *"the large scale of a solar farm in terms of ground coverage will mean nearly all previously developed sites will in any event not be physically suitable"* and [at Paragraph 6.6.5 (v)] *"..solar farms cannot viably fund remedial works to clear a previously developed site"*, there has actually been no proper assessment of any other site at all.

The objector considers that the applicant in this case has sought to dismiss highly relevant information on potential alternative sites with lower potential for environmental harm, without any meaningful consideration of them.

Indeed, the only reason for selection of this site, with its recognised environmental constraints, appears to be [Paragraph 6.2.2] that *"the ability to connect to the grid represents the foremost benefit of the site and is not achievable in most other locations within the plan area or even at the national level."*

No evidence is provided to support this assertion, nor is any evidence provided from the DNO that the grid has the capacity to absorb the level of energy that is proposed to be generated.

In fact, the plan provided at Figure 2 of the sequential assessment simply shows existing infrastructure. While it does show the potential to connect, it does not confirm capacity. What it does show of course is that connection is available across south eastern Wales, including those areas of Torfaen identified in the 2013 Assessment as suitable for such development.

The objector raises this issue first since it is entirely pertinent when considering the significant, irreversible effects that this proposal will have on other interests of acknowledged importance, notably historical assets and ecology.

The only sites that the applicant does consider are brownfield sites. While this is an appropriate starting point for any assessment, this does not mean that having identified no brownfield sites that are suitable or available, the search ends there. As is required by policy

at all levels (as identified above) it is incumbent on the applicant to consider any sites that are not constrained by statutory designations before their development may be acceptable. Such assessment simply has not been done in this case.

### **Cultural Heritage Assessment**

Paragraphs 9.13.7 & 9.13.8 of the ES identify a series of built historical assets that may be potentially sensitive receptors to the proposed development. These include three Grade 2\* listed buildings, two Grade 2 listed buildings and two scheduled monuments.

Paragraph 9.13.9 also refers to the Gwent Levels Outstanding Landscape of Historic Interest, in particular HLCA areas 01, 02, 03, 04, 07 and 08.

The ES provides very limited commentary on the effects on the historical heritage assets.

In respect of the HLCA however it notes that the overall significance of impact of development on three of the five areas to be 'fairly severe' and two to be 'moderate'. The average score of these five assets was 13.2, which on a solus basis falls within the 'fairly severe' category. Yet at ES paragraph 9.16.26 this is concluded to represent a minor to moderate adverse effect on the historic landscape. This is inexplicable and plainly underplays the significance of the effect of the proposals on the historic landscape.

The applicant appears to consider that these adverse effects ought to be given reduced weight because the effect on the historic landscape is temporary and reversible. My client shares the concern of GGAT (Letter dated 7<sup>th</sup> March 2018) that *"The significance of impact has been reduced by stating the work will be temporary and reversible after the 30 years' lifetime of development; however the impact, particularly on the buried landscape, is neither reversible or temporary."* (Our emphasis).

PPE also shares GGAT's concerns about the accumulative effect of similar developments and their impact on the landscape of the Levels, both visually and physically. The Stratascan survey upon which much of the work is based excluded some 27.5% of the site and, as GGAT notes in page 2 of its letter (*ibid*) is *"incorrect and contradicts itself"*.

Without understanding the archaeological resource it is simply not possible for the applicant to design methodology for archaeological work.

The Town & Country Planning (Listed Buildings and Conservation Areas) Act 1990 sets as its raison d'être the preservation or enhancement of historic assets. This proposal plainly neither preserves or enhances historic assets and is consequently in direct conflict with both national and development plan policy. It draws on incorrect and contradictory survey information, a flawed scoring of impact, deficiencies in considering accumulative effects and the plainly incorrect assumption that all will be well as the works are only temporary.

The applicant has therefore failed to demonstrate that the proposal preserves or enhances the historic context of the application site, contrary to Local Plan policy SP9.

## Ecology

The application site falls within a number of SSSIs and in close proximity to the internationally important Severn Estuary SPA/SAC/RAMSAR site. The Gwent Levels support a wide variety of wetland breeding birds and wintering waterfowl, including a breeding population of lapwings, “a scarce and declining species in Wales and the UK and of acknowledged nature conservation concern”<sup>1</sup>. It is also noted that the Levels provides habitat for the nationally important shrill carder bee as well as regionally and locally important species.

There are few more sensitive or protected sites in Wales, and so how this development is considered by the Inspector will be a litmus test of the effectiveness of statutory protections of ecological interests across the Principality.

The SSSIs affected by the proposed development have a special interest founded on the reed drainage network and the flora and fauna that they support.

The applicant shares the concerns of the RSPB and other consultees that the proposal will have significant impacts on a number of these invaluable ecological characteristics.

It is noted that the applicant (ES at paragraph 11.10.16) notes impacts on shrill carder bee could be “significant up to National level”. Significant impacts at a local level are also identified for bats and european eels and on the Gwent Levels SSSIs. Further impacts are identified for the local zones of influence of many other species.

In terms of bird impacts, during the construction phase the applicant acknowledges [ES at paragraph 12.9.26] that there will be a significant adverse effect on the Schedule 1 protected Lapwing at a local level.

It also notes that in the ES the residual impacts on Lapwing will be significant adverse at the local level. [Paragraph 12.11.2]. However, no consideration is given in the ES of the potential for attraction to polarotactic insect species and the effect of that on bird feeding. It is also noted that no reference is made to the Birdlife Europe research<sup>2</sup> that highlights solar arrays on farmland may present particularly high risks for open habitat bird species such as lapwing. Without regard to this research the applicant may have understated the likely levels of impact on this and other species.

As the RSPB has highlighted in its representations (*ibid*) if the developer cannot show that there are no adverse impacts from the development on important populations of bird species and other ecological interests of importance, the applicant must show that there are no alternative locations or solutions. As already highlighted, the applicant has failed to undertake any meaningful assessment of locations, and no assessment has been undertaken at all of alternative solutions.

## Visual impact

The applicant acknowledges in the ES [at paragraph 10.11.74] that the proposal will have a “great” magnitude of change to the views of the site during the construction and operational phase from at least one vantage point. Moderate change is also anticipated from the national

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<sup>1</sup> Letter of the RSPB dated 17<sup>th</sup> April 2015

<sup>2</sup> See Natural England (2017) Evidence review of the impact of solar farms on birds, bats and general ecology (NEER012)

cycle route [Paragraph 10.11.58]. The conclusion is that the visual impact of the proposal will be moderately adverse, reducing as boundary screening matures. This is disputed by PPE.

The landscape within which this proposal sits is open, has an historic form and an unique character of remoteness and tranquility. It is therefore extremely sensitive to change. Any development within it will be prominent, particularly when viewed from the south where there is potential for reflection from the panels themselves. The provision of additional hedgerow will only have any effect 8-10 years into the operation.

PPE is therefore extremely concerned that the likely visual effects of this proposal have been understated by the applicant and would ask the Inspector to consider this point particularly carefully in determining this appeal.

### **Conclusions**

The above illustrates in the view of PPE that the applicant has promoted this site without proper and open consideration of alternative locations or solutions. Indeed the only justification for selecting this site, with the significant landscape, ecology and heritage constraints that it has, appears to be that this is the only site that the applicants control it and that there is a potential grid connection. These reasons do not present a sustainable 'exceptional justification' for impacts on interests that include those of acknowledged international and national importance.

Thank you for your consideration of the above. Please can you keep me advised of how this application progresses.

Yours sincerely

A black rectangular redaction box covering the signature of Arfon Hughes.

Arfon Hughes  
**Director**  
**Mango Planning & Development Limited**

cc. Mr J Hanbury-Tenison PPE