

1. Powys LDP Team  
Planning Policy  
Powys County Council  
The Gwalia  
Llandrindod Wells  
LD1 6AH

2. Mrs Nicola Gulley  
Inspector

4 June 2017

Dear Sirs

Revised Response to Consultation on Further Focussed Consultation to Powys Local Development Plan ('Powys LDP') from Representor No. 6590, William Wilson

1. I am writing as a part owner of a house in Aberedw and of Pen-y-garreg Farm adjoining the moorland above Aberedw. I have revised and updated this statement in the light of Powys County Council 'Powys CC''s revised proposals on renewable energy, as published on 12 May 2017. I have put a summary of key points in the concluding paragraph 23.

2. Our woodland adjoining Pen-y-garreg Farm also makes up the majority of the Coed Aberedw Site of Special Scientific Interest 'SSSI', was initially included in the Powys County Council 'Powys CC' Local Search Area 'LSA' for proposed solar developments, without any consultation of us as owners. I have written separately to Natural Resources Wales to ask, that being the case, whether they would have any concerns if we clear-felled the woodland in this SSSI and replaced it with a solar farm, or whether that would result in our prosecution. Hopefully that body will share any concerns it may have frankly with the Inquiry: it is important that it discharges its statutory responsibilities for these protected areas instead of leaving that to private citizens and NGOs.

3. In addition, our farm adjoins and has grazing rights over the moorland above Aberedw, (subject, it should be noted, to all the environmental requirements and restrictions of environmental schemes such as Glastir) which includes the Llandeilo, Rhulen and Llanbedr Hills SSSIs and SSSIs covering Glaschw, and Gladestry. All of these were also included in the Powys LDP LSAs as originally produced, despite the statutory protections which are supposed to attach to SSSIs under the Wildlife and Countryside Act 1981.

4. I share the concerns expressed by many other local residents, and bodies such as the CPRW, Community Councils and local businesses about the potential for wind farms (110 metre turbines, 3,000 tonnes of concrete per turbine) and renewable energy projects taking place on the moorlands in Powys. These would have massive impacts on local residents, major impacts on transport and local roads, and a permanent degradation of what is at present spectacular unspoiled landscape, protected moorland, most of it peat-based, much of it SSSI-protected, all of it important habitats for endangered species. Insofar as those habitats are European protected areas, developments of that character would not be lawful if they had adverse impacts on the protected habitats.

Welsh Government guidance, and how the Further Focussed Changes 'FFC' failed to meet it

5. I understand that Welsh Government Guidance introduced Strategic Search Areas in policy TAN8 for proposed new renewable developments. Presumably there must be a legitimate expectation that if that is Welsh Government policy, it should be followed, until a different policy is introduced with proper explanation? However, I further understand that the Powys LDP and FFC together would result in a different policy, by having Local Search Areas applying different criteria, resulting in a stronger presumption that develop-

ment proposals will be approved, and that they will be called in if over 10MW anyway.

6. The documents introducing the FFC also quoted Welsh Government Guidance on 'Further Focussed Consultation' in the Welsh Government's LDP Manual, 2015. This states that -

- \* FFC should be avoided wherever possible.
- \* Exceptionally they may prove necessary where there has been a sudden, major change in local circumstances, such as when -
- \* New national planning policy is introduced; or
- \* Deposited Plans identify unforeseen soundness issues; or
- \* One (emphasis added) set of extremely limited number of focussed changes are made that reflect key pieces of evidence, but do not go to the heart of the Plan; and
- \* The FFC must be supported by reasoning and robust evidence for the change.

7. The FFCs the subject of this consultation failed each and every one of these tests. There has been no sudden, major change in local circumstances. They were apparently the second set of FFCs on the same Powys LDP (they were introduced as *'An Addendum to the Powys Local Development Plan Deposit Draft and Focussed Changes 2011-2026*, preceded by other FFCs). And most importantly they made pages and pages of proposed changes on a whole range of issues, to judge by the amended text in yellow to the Powys LDP submitted. These changes were of fundamental importance in key policy areas, not tidying up or clarifying points of detail.

8. For example, the FFC re-wrote the linkage between the Powys LDP and the One Powys Plan (paras 2.3.9a-2.3.11). They linked in the the very high level goals and aspirations of the Well-being of Future Generations (Wales) Act, which allow the Council extremely wide latitude to decide almost anything - it is unclear whether they still purport to do this. But they then tried to prevent any further comment or objection to the Powys LDP itself, on the grounds that that has already been submitted.

9. The FFC stated in the amended LDP text that Powys should ... "protect and enhance the County's outstanding physical, social and cultural environment, including the outstanding landscape ... in order that these important aspects of the plan area are sustained for future generations" - but then proposed to do the opposite by, in effect, opening up the moors to unrestrained renewable energy developments.

10. The FFC introduced and stated a number of themes, but against these, the renewable energy proposals would not be sustainable under Theme 1, would damage the £720 million revenue from tourism under Theme 2 and would not constitute proper guardianship of natural assets under Theme 4.

11. However, the most striking, and relevant area of fundamental re-writing of the submitted LDP could be seen at LDP Objective 5, which was originally stated as -

"Provide an additional 50MW installed capacity of renewable electricity generating technology (outside the Strategic Search Areas), 30MW biomass and 16MW building integrated heat generating technology"

but was altered to read -

"Deliver the County's contribution to the national targets for renewable energy generation".

12. This raised serious questions about whether the Powys LDP really constituted a Local Development Plan, or not, or whether it was simply an extension of other plans set out in Cardiff, and if Powys raises any concerns about a development over 10MW, it would simply simply be called in?

13. The FFC as originally drafted failed to constitute a properly reasoned and justified case for making limited and technical changes. The short consultation on what is effectively a re-writing of significant parts of the Powys LDP went far beyond any conceivable reading of the Welsh Government's own guidance of 2015, which made the original consultation completely defective and not genuine. They were nevertheless defended by the Council as introduced, for many months.

Letter to County Councillor W. Barry Thomas, Executive Leader, Powys CC 7 February 2017

14. In a letter dated 7 February 2017 to the Executive Leader at Powys CC I stated that -

... "I share the concerns expressed by 882 other residents of Powys on the Powys Local Development Plan and 806 Powys residents on what are misleadingly described as "Further Focussed Changes" ...

... The "Further Focussed Changes" that Powys County Council is aiming to ram through ignore all of that, and simply rewrite the entire renewable energy policy for the whole county in such a way as to meet arbitrary targets introduced by the Welsh Government in Cardiff, with no reference to local need, raising doubts on whether this is, any longer, a "Local" Development Plan.

They will subject 40% of the whole County outside of the Brecon Beacons National Park, 100,000 hectares, to a special kind of planning blight in the form of hastily assembled "Local Search Areas", which will introduce a strong presumption in favour of multi-million pound wind and solar developments. It is like telling local residents that you have torn up the Green Belt and surrounded their homes with an arbitrary zone within which they will be hard pressed to object to big developments, which will in any event be called in and decided in Cardiff. And, by the way, the Local Search Areas include all the important Sites of Scientific Interest, so those can be developed too, and never mind about the environment or any of the legislation that is supposed to protect it. ..."

Letter to National Assembly for Wales Members 20 February 2017

15. On 20 February 2017 I wrote further to a number of Welsh Assembly Members that -

"In due course the political turkey presently known as the Powys LDP will land on your desks and that of the Welsh Government, so it may help to know at first hand why in its present form it is completely unacceptable to several thousand people in these parts. We also need your help in ensuring that arbitrary Welsh Government renewable energy targets which would result in increasing the required contribution from Powys twelve-fold, and silencing local consultation, are not allowed to dictate the destruction of completely unique landscape....

... The Powys LDP, as amended by the hastily assembled and poorly prepared FFC, will subject 40% of Powys outside of the Brecon Beacons National Park, 100,000 hectares, all of the upland areas, to a strong presumption in favour of large scale wind and solar development, by including all of these areas in what are referred to as "Local Search Areas" "LSAs", with massive effects on unique landscapes, local tourism and businesses associated with it, local residents, farmers, graziers and many others....

Powys CC has included in these Local Search Areas, and therefore subjected to this plan-presumption, large numbers of Sites of Special Scientific Interest "SSSIs" which should be protected under the Wildlife and Countryside Act 1981, ... It has also included in the Local Search Areas significant numbers of European Protected Areas, ... No explanation has been provided by Powys CC as to why this is being done, and letters, emails and correspondence to the Leader of the Council go unanswered.

The Powys LDP no longer has anything to do with local need. The original proposal in the LDP that the County should generate 50MW of installed capacity has been replaced with a

statement that Objective 5 is to “Deliver the County’s contribution to the national targets for renewable energy generation” - in other words, Powys’ job is to do what it is told by the Welsh Government, which is apparently to multiply its renewable energy generation by 12 times to 600MW: and, by the way, any development proposal over 10MW will be called in and decided by ... the Welsh Government, which is clearly leading Powys CC by the nose. So much for local democracy and local needs driving the “Local” Development Plan.

This impression that Powys CC is simply doing what it has been told to do by the Welsh Government is underlined by the report that Councillor Graham Brown stated to the Council meeting on 17 January that they were “having to dance to the tune of the Welsh Government” and having to introduce FFC79 “because we know that if we don’t its going to be rejected”, which the Chairman apparently described as “summing up the position very well.” This extraordinary approach by Powys CC and its advisers to giving up on their own decision taking and responsibilities appears to constitute fettering their own discretion and placing undue weight on the opinions of the Welsh Government. It has prompted two distinguished Q.C.s , R. Neville Thomas QC and Lord Carlile of Berriew CBE Q.C. to write to the Powys Cabinet expressing the view that it made the decision of the Council unlawful and asking for it to be re-taken, but - and this appears to be something of a pattern - the Leader of the Council has apparently not responded.

... Strong opposition to the plans has been expressed by numerous Community Councils including those at Aberedw, Painscastle, Old Radnor, Erwood, Gladestry, Glascwm, Llanfihangel Ridithon, Kinnersley Parish Council, Llanwrtyd Wells Town Council, Montgomery Town Council, Hay Womens’ Institute. Many hundreds of local residents have registered objections, and so have many dozens of local businesses, including numerous tourist businesses such as the highly successful Fforest Fields campsite, voted the best in Wales, which brings 6,000 visitors to the area and the local economy each year to enjoy unspoilt landscapes that cannot be found elsewhere, the Epynt Commons Association, the Begwyns Graziers Association , the Llangoed and Llandefalle Commoners Association and many more. ...”

Reply from the office of the Executive Leader, Powys CC 24 February 2017 [WW 1]

16. The reply from the Executive Leader dated 24 February 2017 is attached as WW1. It is fairly clear from this reply that Powys CC regarded itself as acting under direction from the Welsh Government, and had been required to introduce LSAs as originally proposed because of pressure from the Welsh Government - see p. 1. This is fairly straightforward evidence of a public authority fettering its discretion.

Letter to County Councillor W Barry Thomas, Executive Leader, Powys CC 9 March 2017

17. On 9 March I wrote further to the Executive Leader at Powys CC as follows -

“I am afraid that the fact that the Council received a letter from the Welsh Government Minister on 10th December 2015 “setting out his expectations”, and a further piece of peremptory correspondence from some planning official in the Welsh Government on 11th March 2016 provides no explanation or justification whatsoever for offering up 40% of Powys in Local Search Areas cooked up with your consultants that ignore all environmental constraints, including legal constraints.

The briefing for Members of the Council provided by Peter Morris on 10th November 2016 states that Local Search Areas “Are intended to be a “guide” to where “least constrained areas” may be - where “probably best to start looking.” But this is completely misleading - and you can only get to the view that these are “least constrained” areas by ignoring all relevant constraints, a sort of Alice in

Wonderland approach by your planners and consultants - because the upland areas deliberately include legally protected, and therefore “constrained”, European Protected Areas and Sites of Special Scientific Interest. The same areas are actively farmed by numerous graziers, and are subject to a variety of other “constraints”, such as the application of wider environmental protection schemes including Glastir. Other Welsh Government guidance of the same date explicitly refers to these protections as environmental “constraints” which need to be taken into account. Other councils have taken environmental constraints fully into account. Why then is Powys CC ignoring them and maintaining Local Search Areas which include these legally protected areas?

Presumably it is doing so because it intends to downgrade, or ignore, the legal protections presently to these areas, by changing the facts on the ground and by creating a *de facto* planning presumption in favour of development.”

Revisions to Powys LDP and Local Search Areas, published 12 May 2017

18. It is of some note that despite the revisions to the Powys LDP and LSAs now proposed in the revised proposals published by Powys CC on 12 May 2017, and the fact that no LSAs are now proposed for wind farms under 25 MW, the planning officers of the Council were still proposing a seven turbine wind farm at Hendy/Llandegley during the pre-election period, apparently without any reference to the planning policies subject to this Inquiry, but that was refused by the Council’s planning committee.

19. Although Powys CC is not now proposing any Local Search Areas for onshore wind, it is still proposing 33 such Local Search Areas for solar, despite the fact that its own Enplan Landscape Sensitivity Study of May 2017 recommends that 11 of these have “*No potential for locating solar development without significant landscape and visual harm*” and a further 2 have very limited potential. These conclusions are also reflected in the new Powys Renewable Energy Position Statement of May 2017 - ED061, see e.g. para 4.3.3.3 which states that “11 solar LSAs were *unsuitable in landscape terms and thus were ruled out*”. Examples of such areas include S24 Little Hill, 2.5km south-east of Hundred House and S25 Aberedw Hill.

20. If the Council itself concludes that these 11, or 13, areas have “no potential for Solar Farm Development”, there is no rational or reasonable basis for maintaining them as Local Search Areas for solar, and they should be excluded as such from the revised Local Development Plan.

21. The extent to which Powys CC continues to make up the rules for Local Search Areas as it goes along is fully reflected in paragraph 4.3.2.2 of ED 061 - for example, now the Council tells us that such LSAs should exclude SSSIs and European Protected Areas, having ignored representations to that effect, for months. Even now, and despite its own statements to the contrary, it is still not clear that Powys CC has excluded all SSSIs and European Protected Areas from its maps of identified resource.

22. Policy ED061 also does not yet fully reflect an understanding by Powys CC of what is a “least constrained area”. It is always going to be misleading to describe upland areas as “least constrained” if the Council ignores moorland uses such as the extensive graziers’ rights, constraints on those uses from agri-environmental schemes including Glastir, land in private ownership, and other aspects of the constraints on free development of such areas such as public access by walkers and riders, sporting rights and many other uses. Once again, the Council will not have assisted the Inquiry’s understanding of graziers’ uses of upland areas by fixing the Inquiry at a time when most graziers in Powys were busy with lambing.

## Summary of key points

23. (i) As originally introduced, FFCs breached Welsh Office Guidance and proposed fundamental changes to renewable energy policy through Powys instead of necessary minimal corrections.
- (ii) It was cynical of Powys CC to agree to the Inquiry being started in the middle of the lambing season, thereby excluding participation by many farmers and graziers closely affected - this has impaired understanding of real constraints on uses of upland areas.
- (iii) Local Search Areas covering 40% of the Country for wind and solar were published, ignoring all environmental or other constraints, and represented in Council briefings as "least constrained areas" including wholesale coverage of SSSIs, European Protected Areas, privately owned land, access to grid, areas in active use by graziers and many other residents and businesses. This could well have been unlawful, but was defended for months by Powys CC, who insisted that it was essential to multiply renewable energy production 12 fold in the County, ignoring any local need, mainly because the Welsh Government was telling them that that was the outcome required, and thereby the Council was fettering its own discretion. Powys CC's conduct of the consultation on this issue has undermined public confidence.
- (iv) In the face of determined opposition from numerous residents and groups such as CPRW, revised proposals have now applied some environmental constraints, removed LSAs for wind (although large scale wind farms could still be introduced and decided at Welsh Government level); but
- (v) The planned 33 solar LSAs still include at least 11 for which both the Council's own Renewable Energy Paper ED061 and its Enmap report ED060 conclude that no development would be suitable because of its severe impact on landscape. There is therefore no reasonable and rational basis for retaining as LSAs areas such as this, and these LSAs should be removed from the Council's revised proposals.
- (vi) Powys CC's revised proposals of May 2016 still reflect a large element of the rules for Local Search Areas being made up as they go along, (see ED 061 para 4.3.2.2) and do not properly reflect either the full range of uses or the full range of constraints upon upland areas of the County.

William Wilson  
4 June 2017

## Attachments

- WW 1. Reply from the office of the Executive Leader, Powys CC 24 February 2017
- WW 2. Extract of map from CPRW showing proposed LSAs as originally proposed by Powys CC covering most of the SSSIs on the upland areas above Aberedw, and adjoining and crossing European Protected Areas such as the River Wye and tributaries.
- WW 3. Extracts of maps provided by CPRW comparing proposed Powys LDP LSAs and SSSIs and European Protected Areas across the whole county