

## **PROPOSED BRECHF A FOREST WEST WIND FARM AND THE INFRASTRUCTURE PLANNING COMMISSION PROCESS**

This report provides members with an update on RWE Npower Renewables' (RNR) proposal to develop a wind farm comprising 28 turbines with associated infrastructure on Forestry Commission Wales (FCW) land in the Brechfa Forest, Brechfa, Carmarthenshire.

Members will recall endorsing the conclusions of the Head of Planning's report to the Planning Committee on 31<sup>st</sup> March 2011. This report formed the Council's response to Section 42 of the Planning Act 2008, which encompassed its representations on the Draft Environmental Statement submitted by the developer. The report raised a number of concerns, in respect of the wind farm project, and also highlighted areas where the developer was asked to provide more information and clarification.

The developer formally submitted its application to the IPC on 4<sup>th</sup> November 2011.

A summary of the IPC application process will follow, along with details of Carmarthenshire County Council's role in this process.

### **ACCEPTANCE**

The acceptance stage begins the day after an application for development consent is received by the IPC – the 5<sup>th</sup> November 2011 in this instance. On receipt of an application the IPC must decide whether or not to accept the application, and has 28 days to make this decision. In accordance with s37 of the Planning Act 2008, the developer must submit a consultation report with the application. This consultation report should set out the developer's pre-application consultation processes, a summary of the relevant responses to its consultation and how it has taken account of responses received in developing the application.

As part of its duties the IPC has invited Carmarthenshire County Council to submit an 'adequacy of consultation representation' which the IPC must have regard to in deciding whether or not to accept an application. This 'adequacy of consultation representation' means a representation about whether the developer has complied, in relation to the proposed application, with its duties under section 42, 47 and 48 of the Planning Act 2008 relating to consultation and publicity. The IPC indicate that this is not an opportunity to comment on the merits of the case.

A report containing the Head of Planning's 'adequacy of consultation representation' will be presented to members of the Planning Committee on 22<sup>nd</sup> November 2011 to endorse. The presentation will be preceded by a morning visit to the proposed wind farm site at Brechfa Forest West. A representative from Forestry Commission Wales (FCW) will accompany officers and members on the site visit. The site visit will give member's the opportunity to ask technical questions relating to the scheme and the opportunity to experience viewpoints of the proposed development.

If an application is accepted by the IPC, it will move to the pre-examination stage. The developer is then required to notify the relevant parties of the accepted

application and publicise the proposal widely. If, on the other hand, it is rejected the IPC must let the developer know this, providing reasons for the decision.

## **PRE-EXAMINATION**

It is the developer's duty to publicise the fact that their application has been accepted. They must do this in the manner detailed in the Planning Act 2008 which will include newspaper adverts locally, and letters sent to individual properties. The key elements of the pre-examination stage are explained below.

A single commissioner or panel of commissioners depending upon the scale of the proposal will be appointed to examine the application. This is also the stage when the public will be able to register to put their case on the application. Only people who register will be able to take part in the examination. Registration is time-limited but a minimum of 28 days will be always provided.

Everyone who has registered will later be invited to provide more detailed written views of the proposal, and to take part in the preliminary meeting and public hearings. All representations will be considered by the examining authority when considering any application for a development consent order.

The Local Authority will not be required to register to take part in the process as it is an interested party by right under the Planning Act 2008.

Towards the end of the pre-examination stage the Commissioner(s) will hold a preliminary meeting to which the developer and everyone who has registered, together with those who are by right interested parties, will be invited to attend. This is a procedural meeting only, the merits of the scheme will not be discussed at this stage.

Wherever possible, it will be held locally to the proposed development, providing a suitable venue is available. This meeting is run and chaired by the IPC Commissioner.

The purpose of the meeting is to discuss how the case will be examined; including identifying the issues which the Commissioner(s) believe should be looked at in more detail.

## **EXAMINATION**

The draft timetable for the examination stage will be discussed at the preliminary meeting and Commissioner(s) issue a procedural decision confirming the timetable for examination. The key elements of the examination stage are explained below.

The Local Authority will be asked to prepare a Local Impact Report (LIR). The Head of Planning will present the LIR to the members of the Planning Committee to endorse before submitting to the IPC. The LIR will highlight the impact of the proposal on the local area.

Once the LIR is received by the IPC, it will be published within the relevant project page of their website. People who have registered to put their case will have an opportunity to comment on the Local Impact Report and the deadline for doing so will be published.

The examination process will require the Local Authority to prepare written representations in the form of a LIR and to provide oral submissions to the examining authority at issue specific and open floor hearings which are chaired by the IPC Commissioner(s). People who have registered to put their case also have the opportunity to request to give their views in person at public hearings. The developer will also be given the opportunity to present their case to the Commissioner(s).

## **DECISION**

Once an application reaches the decision stage, it will either be decided by the IPC or by the relevant Secretary of State. Up until the end of March 2012 it is envisaged that development proposals for energy projects, like Brechfa Forest West, will be made by the IPC's panel of commissioners. This is set to change in April 2012. Under provisions in the coalition's Localism Bill, the IPC would be replaced by a National Infrastructure Directive, which would sit within the Planning Inspectorate (PINS). The main change this would bring from an operational point of view is that the final decision on major infrastructure projects would no longer be made by the commissioners. Instead, they would make a recommendation to the relevant secretary of state, who would then take the final decision. The Localism Bill is currently undergoing Royal Assent and the proposed changes are due to be legally finalized on 6<sup>th</sup> April 2012.

If the IPC is the decision maker then it has up to 3 months to make the decision whether or not to make a development consent order. If the relevant Secretary of State is the decision-maker then he/she has a further 3 months in which to make a decision. Due to where it currently sits in the process, it is likely that the decision on the proposed wind farm at Brechfa Forest West will be taken by the relevant Secretary of State.

At the end of the decision stage, the decision maker will either grant development consent, grant development consent with requirements (which may include those similar to conditions imposed on planning permissions) or refuse it. A statement of reasons will accompany the decision which will be published on the relevant project page of the IPC website.

## **POST DECISION**

If the decision is to grant development consent, a period for legal challenge runs from the date of the publication of the order (or the statement of reasons if published later). The legal challenge period runs from the publication of the statement of reasons if the decision is to refuse to make the order.

If the proposed wind farm at Brechfa Forest West is approved, the Local Planning Authority will instigate a programme of environmental monitoring to ensure the scheme is implemented in accordance with the approved details. This could have implications upon departmental resources, therefore an amendment to the existing charging regime will be considered.