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Our ref: 64711/01/AGR/rdo/25683179v1
Your ref:

Dear Matthew

Solar Farm at Caegarw Farm, Port Talbot - Application for Variation of Condition 3 of Permission Ref: P2016/0567

We are pleased to submit on behalf of our client, Lightsource Property Investment Management (LPIM) LLP as General Partner and Trustee for Lightsource UK Property Investments 1 LP (Lightsource bp), an application under Section 73 of the Town and Country Planning Act 1990 (as amended) to vary condition 3 of the above planning permission (As Amended). The application seeks approval to maintain the solar park in operation beyond the date currently permitted.

Background

To date, there have been three permissions of relevance to this application, as explained below.

Original Permission

Planning permission for the solar park was first granted on 17 May 2016 (ref. P2015/0692) for development described as:

“Installation of a Photovoltaic Solar Farm, access, infrastructure and associated works.”

That permission restricted the time in which the development could remain operational to a maximum of 25 years and six months following the completion of construction of the development.

Variation of Condition (2016)

In August 2016, an application (ref. P2016/0567) to vary condition 3 of the original permission was approved. The effect of that permission was to permit the solar park to remain in operation for 30 years and 6 months following the completion of construction of the development. The decision notice described the development as:

“Variation of condition 3 of application P2015/0692 to extend the period of time that the development can occupy the site before returning it to its former condition from 25 years and 6 months to 30 years and 6 months.”

Non-Material Amendment (2022)

In August 2022 (this year), a S96A application (ref. P2022/0537) to vary the description of development of the S73 permission was granted. The effect of that permission removed the specific time element from the description i.e. 30 years and 6 months. The description was therefore amended to read:

“Variation of condition 3 of application P2015/0692 to extend the period of time that the development can occupy the site before returning it to its former condition.”

This Non-Material Amendment allows for the application to seek permission to extend the operational lifetime of the solar park by amending condition 3 of the permission via a S73 application (this application).

The Current Application

This S73 application is seeking to vary condition 3 of the permission (ref. P2016/0567) to allow the solar farm to operate for a total of up to 40 years and 6 months following completion of construction of the development. This represents a potential additional 10 years of operation to the solar farm, given the planning history of the site and the S73 application in 2016 which extended the operational life to 30 years and 6 months .

It is important to note, this application is not seeking to make any physical changes to design, layout or scale of the solar farm or amend any proposed mitigation required as part of the permissions outlined above.

Application Submission

The application has been submitted via the Planning Portal (reference: PP-11146563) and comprises the following:

- 1 Planning Application Forms and Certificates;
- 2 Covering Letter (this document); and
- 3 Notice letter(s).

Payment for the requisite planning application fee of £230.00 has been made to Neath Port Talbot County Borough Council.

Proposed Variation of Condition

This application is seeking to vary the wording of condition 3 of planning permission P2016/0567, extending the operational life of the solar farm from 30 years and 6 months to 40 years and six months. It is proposed that the following wording changes are made to Condition 3 (additions shown in red and deletions shown as a strikethrough):

“Within ~~30~~ 40 years and six months following completion of construction of the development, or within six months of the cessation of electricity generation by the solar photovoltaic facility, or within six months following a permanent cessation of construction works prior to the solar photovoltaic facility coming into operational use, whichever is the sooner, the solar photovoltaic panels, frames, foundations, and all associated structures and fencing hereby approved shall have been dismantled and removed from the site. The developer shall notify the Local Planning Authority in writing no later than five working days following cessation of power production. The site shall subsequently be restored in accordance with a scheme, the details of which shall be submitted to and approved in writing by the Local Planning Authority no later than three months following the cessation of power production or within ~~30~~ 40 years and six months of the completion of construction, whichever is the sooner.

Reason: In the interests of visual amenity”

The proposed variation will enable an additional 10 years of renewable energy generation from the operational solar farm, facilitating the efficient use of existing resources. At the point of 30 years of operation (currently permitted), the implemented planting will be well established and provide the required screening of the solar farm from public views. The management of the solar farm will be continuous for the full operational period to ensure the planting and improved habitats for local ecology and biodiversity are maintained.

The support from local and national policy related to this proposal is detailed below. The following extended benefits are expected to be realised from an additional 10 years of renewable energy exportation at Caegarw Solar Farm:

- 1 Reuse of existing renewable energy resource to meet local and national renewable energy targets;
- 2 Continued use of fully functioning solar panels with an export of up to 3.8MW per annum; and
- 3 Continued management of biodiversity enhancements and native planting, which may otherwise diminish over time.

A common misconception is solar installations fail to operate efficiently after their performance warranty which typically guarantees a minimum level of performance for around 30 years lapses. These warranties are typically conservative in years covered and typically ensure at least 80% of ‘as new’ power output after the set number of years, however it is crucial to note that panels will continue to generate electricity at a gradual degrading rate or performance and can be expected to operate efficiently for many years beyond the end of the performance warranty. It is common practice for the operational lifetime of solar panels to be well beyond the equipment’s performance warranty through regular maintenance, operational monitoring and appropriate component refurbishment or replacement if faulty.

In this regard, it would be wasteful to replace or decommission items outside of warranty that are nevertheless still operationally functional. It should be noted that panels will not be replaced in a piecemeal approach overtime as other equipment within the solar installation will also be subject to performance degradation and it will only be through proactive monitoring and maintenance that the site will achieve a technically and economically feasible operational period of 40 years.

As the original permitted solar PV development did not comprise EIA development, it is not considered necessary to submit a screening request for this application, as no changes are proposed to the solar PV development as part of this application.

Consideration of the Proposed Amendment

The planning policy framework for the determination of this application is provided by national planning guidance, together with the development plan covering the application site.

National Planning Policy

Central Government planning policies for Wales are set out within Planning Policy Wales Edition 11 (PPW). It is supplemented by a series of Technical Advice Notes (TANs), Welsh Government Circulars, and policy clarification letters, which together with PPW provide the national planning policy framework for Wales.

PPW is very supportive of renewable energy : low carbon electricity must become the main source of energy in Wales (para 5.7.1).

PPW11 clearly identifies how and why local planning authorities should support the principle of development and positively contribute to the delivery of renewable energy generation to meet the national targets.

Paragraph 5.9.15 makes clear that “energy generation is of national significance and there is a recognised need to optimise renewable and low carbon energy generation.”

The policy is supplemented by technical advice notes (TAN), circulars and policy clarification letters. The TANs that are considered to be of particular relevance to the consideration of this application are as follows:

- TAN 5: Nature Conservation and Planning (2009)
- TAN 8: Renewable Energy (2005)
- TAN 11: Noise (1997)
- TAN 15: Development and Flood Risk (2009)

Future Wales - The National Plan 2040 was published in February 2021 and replaces the Welsh Spatial Plan. Unlike the Spatial Plan, the National Plan forms part of the development plan for Wales.

Policy 17 (Renewable and Low Carbon Energy and Associated Infrastructure) of the National Plan states that the Welsh Government “strongly supports” the principle of developing renewable and low carbon energy from all technologies and at all scales to meet future energy needs. In determining planning applications, decision makers must give “significant weight” to the need meet the country’s international commitments and the target to generate 70% of consumed electricity in Wales by renewable means by 2030.

Overall, there is national planning policy support for renewable energy developments, where the impacts are considered acceptable, and it is highlighted that small scale projects and the reuse of existing resources are encouraged to be supported. The approval of the original application (ref.

P2015/0692) and subsequent variation of condition 3 (ref. P2016/0567) highlight that impacts from the solar farm have been considered acceptable, and the proposals comprise sustainable development.

Local Planning Policy

This application has been considered in accordance with Section 38 of the Planning and Compulsory Purchase Act 2004, which requires that, in determining a planning application the determination must be in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Neath Port Talbot County Borough Council consists of the Local Development Plan (2011-2026), adopted in January 2016.

The County Borough have set out a number of strategic policies within their development plan. The policies relevant to this site and proposal are as follows and have been assessed in the context of this application:

- Policy SP1 - Climate Change
- Policy SP18 - Renewable and Low Carbon Energy
- Policy M1 - Safeguarded Coal Resource
- Policy EN2 - Special Landscape Area
- Policy EN3/5 - Green Wedge
- Policy RE1 - Criteria for the Assessment of Renewable and Low Carbon Energy Development

The first Strategic Policy, 'SP1 Climate Change', supports the principle of development where it states that "provision will be made for the County Borough's appropriate contribution to renewable and low carbon energy generation".

The principle of development is further supported in Strategic Policy 18 (Renewable and Low Carbon Energy) where it states, the Council will contribute to meeting national renewable energy targets, and that this will be achieved by "encouraging where appropriate all forms of renewable energy and low carbon technology development".

Any impacts from the proposed development are confined to local scale, and thus the proposals are in accordance with the criteria for the assessment of renewable energy development outlined in Policy RE1.

The site is located within a Mineral Safeguarding Area (Policy M1), which requires development proposals within mineral safeguarding areas where there is an overriding need for the development. Given, the additional policies at local and national level, there is a need for low carbon energy, by which extending the time period of this development will support and secure domestic Welsh energy from renewable sources.

The site is located within the Special Landscape Area of Margam (Policy EN2/4). In order to protect the area of high landscape quality, developments will only be permitted where it is demonstrated that there will be no significant adverse impacts on the features and characteristics for which it has been designated.

The application site lies within a Green Wedge (Policy EN3). Green wedges are identified to protect the setting of built-up areas and prevent urban coalescence between settlements. Planning Policy Wales

identifies renewable and low carbon energy generation to be considered appropriate development in a green wedge, provided the proposal preserves the openness and does not conflict with the purpose of the green wedge.

At the time of submission of the original planning permission for the solar farm (P2015/0692), the site was located within a green wedge and has continued to be subject to the green wedge allocation. At the time of granting permissions of the original application and variation of condition (P2016/0567), the proposal was not considered to conflict with the purpose of the green wedge. This application to extend the operational period of the development supports local and national policies and the nature of the proposal, renewable and low carbon energy generation of the solar farm is considered to be appropriate in this location.

Emerging Planning Policy

The Planning and Compulsory Purchase Act 2004 requires local authorities in Wales to prepare a Local Development Plan (LDP) for their area. The current LDP was adopted in January 2016, and as the above Act and the LDP Regulations require LDPs to be reviewed at intervals of not more than 4 years from adoption, the Council is obliged to undertake a plan review.

The Review Report concludes that a Replacement LDP (RLDP) should be prepared. When adopted, the new RLDP will supersede the existing NPT LDP and become part of the statutory development plan for the County Borough alongside Future Wales - The National Plan for 2040 will continue to have development plan status.

Whilst a draft RLDP has not been prepared, it will be required to support the National sustainable placemaking outcomes of Planning Policy Wales (PPW), as per the signed Delivery Agreement (11 January 2022). It is anticipated that the RLDP will be formally adopted in July 2025.

Relevant Material Considerations

Welsh Government Circular 'The Use of Planning Conditions for Development Management (October 2014)' provides guidance in relation to the imposition of planning conditions. It clarifies that planning conditions should only be imposed where they meet all of the following six tests:

- 1 Necessary;
- 2 Relevant to planning;
- 3 Relevant to the development to be permitted;
- 4 Enforceable;
- 5 Precise; and
- 6 Reasonable in all other respects.

In consideration of the above, we are of the view that condition no.3 is relevant and necessary to planning only in so far as ensuring that, at the end of the operational life of the solar park, the site is decommissioned and restored, in order to protect the landscape character and visual amenity beyond that time. It is not, necessary for the solar park to cease operation by a specific date in order to make it acceptable when considered against planning policy and material planning considerations.

Nevertheless, for consistency, we propose to retain, within the wording of the condition, reference to a date by which the solar farm is to cease operation.

In addition to the above, there is clear Government support for renewable energy development as set out in the following documents.

Renewable and Low Carbon Energy Supplementary Planning Guidance (July 2017)

This document supplements and explains the policies in the Local Development Plan (LDP). The LDP was adopted by the Council on 27th January 2016 and forms the basis for decisions on land use planning in the County Borough up to 2026.

The SPG identifies matters that will need to be taken into consideration in relation to all types of renewable / low carbon energy. This includes visual amenity, cultural and residential impacts on local communities, effects on the natural environment, highway safety implications, effects on communications, and site restoration. It also states that particular attention will need to be given to potential impacts on the landscape, townscape or seascape, nature conservation, wildlife interests, areas of historical and cultural importance and the potential for pollution, noise, dust, vibration, reflected light and shadow flicker.

This S73 application is not seeking to make any physical changes to design, layout or scale of the solar farm or amend any proposed mitigation required as part of the original permission. Therefore, in terms of the above matters of consideration, there will be no significant impact to the site and surroundings as a result of this proposal and is therefore considered acceptable.

In addition to the above, there is clear Government support for renewable energy development as set out in the following documents.

Environmental (Wales) Act 2016

The Environment Act sets a legal target of reducing greenhouse gas emissions by at least 80% by 2050. The Act also requires a series of interim targets (for 2020, 2030 and 2040) and associated carbon budgets for key sectors.

Energy Generation in Wales 2019 Report

The Energy Generation in Wales 2019 Report sets out the current energy generation capacity in Wales and analyses how it has changed over time. The aim of the report is to support the Welsh Government with the development of energy policy, helping to evidence the economic, community and environmental benefits from the development of Welsh energy projects.

In 2017, the Welsh Government announced a target of meeting the equivalent of 70% of Wales' electricity demand from Welsh renewable electricity sources by 2030. In 2019, it is estimated that this figure stands at 51%¹. The 2019 report sets out that progress towards the renewable energy generation has slowed and there "remain significant challenges to meeting the 70% target by 2030". Progress has slowed as a result of significant reduction of renewable installation rates.

National Grid ESO 'Future Energy Scenarios' (July 2020)

National Grid's Future Energy Scenarios [FES] Report 2020 looks at the investment required in energy infrastructure, the policy decisions and impacts in how we consume energy that need to be considered over the next 30 years to meet the net zero target. It sets out a number of future scenarios that explore how societal change and the rate of decarbonisation will lead to various possible pathways with regards to energy supply. The key insights in respect of solar development and renewables is as follows:

- There is strong policy support for the continued growth of wind and solar development to see an increase in growth of renewable generation;
- Solar capacity projections have increased significantly since the 2019 FES report; and
- Renewed government support for some renewable technologies (including solar) has driven the expectation of higher growth in renewable generation to a level which will be necessary to meet net zero.

There is therefore an expectation that solar development will continue to play a central part in meeting the net zero objective and extending the life of the existing solar farm will allow the site to continue to contribute to renewable energy generation.

Energy White Paper 'Powering our Net Zero Future' (December 2020)

The Energy White Paper sets out how “*the UK will clean up its energy system and reach net zero emissions by 2050*”. The White Paper builds on the Prime Minister's Ten Point Plan for a Green Industrial Revolution; putting in place a strategy for the wider energy system that includes a focus on clean energy technologies such as renewables, nuclear and hydrogen. This Paper states “*Onshore wind and solar will be key building blocks of the future generation mix, along with offshore wind. We will need sustained growth in the capacity of these sectors in the next decade to ensure that we are on a pathway that allows us to meet net zero emissions in all demand scenarios.*”

The White Paper is further supported by the Government's National Infrastructure Strategy (November 2020) which describes how the Government will put the UK on the path to meeting its net zero emissions targets by 2050.

Again, this highlights the importance of the continued use of this site for renewable energy generation.

Relevant Precedents and Recent Examples

There have been a number of examples where extensions to time limits on renewable energy permissions have been accepted. Recent appeal decisions against South Lakeland District Council (Appeal Reference: APP/M0933/W/18/3204360) and Blaenau Gwent County Borough Council (Appeal Ref: APP/X6910/A/20/325788) considered applications where time extensions for renewable schemes were refused by the Council and allowed at appeal.

In these cases, the Inspectors weighed up whether extending the time limits of the development outweighed any harm. In both instances, the energy and climate change benefits weighed significantly, and with appropriate decommissioning in place any impacts would be fully reversed and would outweigh the limited landscape and visual harm.

Summary

This application seeks to vary condition 3 of planning permission P2016/0567 to extend the operational lifetime of the solar farm to 40 years and 6 months. For the reasons set out above, we are of the firm view that the time limiting part of condition 3 is not necessary to make the development acceptable in planning terms, nevertheless we include it in the proposed rewording of condition 3 for consistency.

In the period beyond the current permitted operational life of development, there is no planned development that would materially change the sensitivity of the site and the surrounding area nor has there been any material change in any relevant adopted local planning policy in the period since the original permission was granted. The proposed amendment does not alter the design of the previously approved permissions and there are clear benefits in respect of energy and climate change; which outweigh any potential adverse impacts. The proposed amendment would not give rise to any additional impacts, above that assessed within the previous application and deemed acceptable. As such, there is clear continued support, and need, for renewable development in this area and for extending the life of the operation of the solar farm.

We trust that submission provides the Council with sufficient information to validate and determine the application. However, should you require any further information, please do not hesitate to contact me.

Yours sincerely



Rachel Dodd
Senior Planner