

Our reference MARSDC/VOLOT/373363-12

7 December 2023

BY EMAIL TO PETITIONS@SENEDD.WALES

Petitions Committee
Welsh Parliament
Cardiff Bay
Cardiff
CF99 1SN

Dear Sirs

Petition to decline planning permission for the development proposed as Parc Solar Caenewydd

As you are aware, we are instructed on behalf of Taiyo Power & Storage Limited (**Applicant**) in relation to their proposed application to the Welsh Government allocated reference DNS CAS-01900-V0J7C7 (**Application**) for "*construction operation, management, decommissioning of a ground mounted solar power and battery storage facility with associated development including battery storage facility, cable trench and connection infrastructure*" (**Proposed Development**).

The background to the Application is set out in our letter of 22 June 2023, a copy of which is appended to this letter for ease of reference.

Petition

We have previously written to you in relation to the petition registered on the Welsh Government website regarding the Application created by Richard Lake (**Petition**). By way of reminder, the Petition calls for the planning permission for the Proposed Development to be declined.

We note that the Petition has now got more than 10,000 signatures and, as such, will be considered for a debate in the Senedd.

This letter sets out the Applicant's position in relation to the Petition.

Applicant's position

Consultation

The Application is subject to an ongoing DNS application process. Pursuant to the provisions of the Development of National Significance (Procedure)(Wales) Order 2016 (**Order**), the Applicant is required to consult on the Application proposals before it formally submits its application. The Application proposals have been the subject of an extensive consultation process which commenced in September 2022 and included Public Exhibitions and meetings with Town and Community Councils. A formal consultation period ran from 8 June 2023 to 3 August 2023. The consultation process provided an opportunity for all interested parties to express their views on the Proposed Development.

A further re-consultation ran from 10th October 2023 to 22 November 2023, again providing opportunity for all interested parties to express their views on the Proposed Development.

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The Order imposes an obligation on the Applicant to prepare a Consultation Report to accompany the Application, which would, amongst other things provide:

- a summary of all issues including confirmation of whether the issues raised have been addressed and, if so, how; and
- the particulars of all responses received from persons consulted, including copies of responses from specialist consultees; and the account taken of these.

Following submission and validation of the Application, the Application will be subject to further consultation led by the Planning Inspectorate, again open to all interested parties, and the results of any such consultation summarised in the Local Impact Report.

If the Inspector determines that a hearing or inquiry is required, any members of the public are able to attend and those specifically invited to speak by the Inspector are able to formally participate in the process.

As such, signatories to the Petition have had and will have sufficient opportunities to raise their concerns in relation to the Application. The Petition is therefore considered to be premature and inappropriate, given that there are a number of alternative means for third parties to comment on the Application in a fair and balanced manner, as provided for in the Order.

Petition Grounds

Turning to the petition grounds, which have been amended following our letter of 22 June 2023, and are now stated to be as follows:

"This development will result in some of the farm being covered in solar panels. The resulting visual impact will result in some of the farm being covered in solar panels. The resulting visual impact will be negative on an approach route close to the Gower AONB.

It will have a negative impact on green space.

Not only will natural beauty be affected; ground nesting birds will be affected as well as migration route of bird species.

This project cannot be allowed to progress.

A farm that provides vital services to the local community will be changed significantly.

Loss of green space.

Animal habitats will be affected.

Whilst this project may be proposed as one that meets the criteria for green renewable energy; it can not be allowed to go ahead. The resulting impact to local farming; wildlife and the community far outweighs the need for this project."

(Petition Grounds).

Whilst amendments introduced to the Petition Grounds are welcomed by the Applicant, it remains the Applicant's position that the Petition Grounds contain grossly inaccurate statements and the Petition itself is based on false information defamatory to the Applicant, as set out in our letter of 21 June 2023.

The Petition Grounds are false and have no basis in fact. They completely ignore information that has been shared by the Applicant (whether as part of the consultation process or otherwise).

Inclusion of false and defamatory information in the Petition also led to false information being published in social media campaigns (drawing upon the original Petition wording) and, as a result, undermine the Application process. It has also resulted in harm to the Applicant's reputation in the industry.

Petition Standards and Examination of the Application

According to the Senedd's guidance on petitions, a petition may be submitted *"on any issue that is the responsibility of the Senedd or the Welsh Government"*. It further provides that petitions must call for a specified action from the Senedd or Welsh Government. However, a petition would be rejected if *"it's about something that the Welsh Government or Parliament is not responsible for"*. That includes:

"[...] something that your local council is responsible for (including planning decisions); something that the UK Government or Parliament is responsible for; and something that an independent organisation has done."

The Petition calls for the Application to be declined. Whilst it is acknowledged by the Applicant that the Welsh Government is responsible for decision making in the DNS process, it notes that process for deciding DNS applications is clearly set out in the Order and it would be inappropriate for Welsh Government to make a decision on the Application outside of that process. Instead, the Application should be subject to an appropriate examination and determination by the Welsh Ministers, and which members of public will be able to participate in and make their views known, as further explained above.

We would be grateful if the above could be taken into consideration when the Petition is considered further by the Petitions Committee on 11 December 2023.

Should the Petitions Committee require any further information in relation to the above, they should not hesitate to get in touch with either ourselves or the Applicant.

Yours faithfully

Addleshaw Goddard LLP

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Our reference VOLOT/373363-12

22 June 2023

BY EMAIL TO PETITIONS@SENEDD.WALES

Petitions Committee
Welsh Parliament
Cardiff Bay
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Dear Sirs

Petition to decline planning permission for the development planned proposed as Parc Solar Caenewydd

By way of introduction, we are instructed on behalf of Taiyo Power & Storage Limited (**Applicant**) in relation to their proposed application to the Welsh Government allocated reference DNS CAS-01900-V0J7C7 (**Application**) for "*construction operation, management, decommissioning of a ground mounted solar power and battery storage facility with associated development including battery storage facility, cable trench and connection infrastructure*" (**Proposed Development**).

Background

Notice of the Applicant's intention to submit the Application was submitted by the Applicant on 16 January 2023 and on the same day the notice was officially accepted by the Case Officer.

Pursuant to the provisions of the Development of National Significance (Procedure)(Wales) Order 2016 (**Order**) the Applicant is required to consult on the Application proposals before it formally submits its application. This consultation process commenced on 8 June 2023 and all persons and organisations required to be consulted under the Order have been notified accordingly and provided with the Application documents packs for their comments and input. The members of public who expressed interest in the Proposed Development have also been directed to the website¹, which contains copies of all Application documents.

The consultation period will run until 5pm on 3 August 2023 and any responses can be submitted to the Applicant either via email to parcsolarcaenewydd@pegasusgroup.co.uk, by phone at 01454 625945 or by post to Parc Solar Caenewydd, C/O Pegasus Group, First Floor South Wing, Equinox North, Great Park Road, Almondsbury, Bristol, BS32 4QL.

Petition

Following commencement of the consultation process the Applicant became aware of a petition registered on the Welsh Government website in relation to the Application. The petition was created by Richard Lake and calls for the planning permission for the Proposed Development to be declined (**Petition**).

¹ <https://www.parcsolarcaenewydd.co.uk/downloads>

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Reasons for the Petition are stated to be as follows:

"This development will result in 99% of the farm being covered in solar panels. The resulting visual impact will be negative on an approach route close to the Gower AONB.

It will have a negative impact on green space, with a loss of land used for agricultural production.

Not only will natural beauty be affected; there will be a loss of ancient rights of way; ground nesting birds will be affected as well as migration routes of bird species.

There will also be a loss of a vital public farm shop. This project can not be allowed to progress.

Loss of a vital farm will occur; a farm that provides vital services to the local community.

Loss of green space.

Animal habitats will be affected.

Whilst this project may be proposed as one that meets the criteria for green renewable energy; it can not be allowed to go ahead. The resulting impact to local farming; wild life and the community far outweighs the need for this project."

(Petition Grounds).

The Petition is collecting signatures until 23 November 2023 and, as at the date of this letter, has over 990 signatures.

Applicant's position

It is the Applicant's position that the Petition Grounds contain grossly inaccurate statements and the Petition itself is based on false information defamatory to the Applicant. Accordingly, it should not have been accepted and/or published by the Petitions Committee, as per the rules governing the petitions process (as further described below).

We would emphasise that, notwithstanding the fact that details of the Proposed Development are set out in this letter, the Applicant is not inviting any determination on the planning merits and the detail provided in this letter is used solely to illustrate the factual inaccuracies in the Petition Grounds.

Rules governing the petitions process

Any petition submitted to the Welsh Government is covered by the Standing Order 23.3 made by the Presiding Officer of the Welsh Government, which determines the proper form of public petitions (**Standing Order**).

Pursuant to the provisions of the Standing Order, any petition which does not meet the standards for petitions will be rejected. These standards provide, amongst other things, that petitions must not contain "*potentially false or potentially defamatory statements*".

False and defamatory statements

The Petition Grounds are based on a number of statements, which are grossly inaccurate and based on incorrect understanding of the Application. Each ground is addressed below in further detail.

The development resulting in 99% of the farm being covered in solar panels

No clarification has been provided in the Petition in terms of what farm is being referred to. The Proposed Development is spread across a number of fields, which are leased and form part of an estate with wider landholdings. The solar panels and battery elements of the Proposed Development are proposed to be located on fields currently leased to two tenants. One of the holdings is Penyfodau Fawr Farm and the other is Caenewydd (new fields).

The extent of the Proposed Development is shown on the Application drawings and plans, which are available publicly on the Applicant's website set up of the Proposed Development. In particular, they illustrate that across over 60% of the total leased fields across Penyfodau Fawr and Caenewydd are not proposed for the solar and/or battery elements of the Proposed Development and over 50 acres of that land are dedicated for improved wildlife habitats (as detailed in the Landscape Strategy Plan), including:

- planting over 4.5 acres of new trees and 3km of new hedgerows;
- creating over 7.5 acres of lowland meadow and over 8.5 acres of habitats for invertebrates, reptiles and farmland bird species;
- enhancing 17 acres of Rhôs pasture within the local Site of Importance for Nature Conservation; and
- extending the wildlife river corridor by over 13.5 acres.

The Petition Ground, which states that the Proposed Development will result in 99% of the farm being covered in solar panels is, therefore, clearly false and mis-interprets the Proposed Development.

The Planning Statement prepared by Pegasus on behalf of the Applicant (**Planning Statement**), as well as the Design and Access Statement (**DAS**) (both submitted to the persons and organisations required to be consulted as part of the Application documents pack) describe the Proposed Development in detail.

Paragraph 1.3 of the Planning Statement specifically describes parts of the Proposed Development, which will constitute solar PV arrays, by reference to percentages and reads as follows:

"The proposed development prioritises conforming with the designations for the landscape and nature conservation areas by including designs for over 57 hectares of green infrastructure and wildlife habitat improvements across c.63% of the fields; with the PV arrays only occupying c.37% (around 34 hectares) of the site".

As is further outlined in paragraph 1.2 of the DAS:

"The proposed development will deliver a host of landscape, biodiversity, soil and hydrological enhancements. These include measures to strengthen habitat connectivity through this part of the valley, the creation of green buffer zones and public rights of ways improvements."

Paragraph 1.2 of the DAS further reiterates that *"the proposed development prioritises conforming with the designations for the landscape and nature conservations areas"* and clarifies that the Proposed Development includes designs for over 57 hectares of green infrastructure and wildlife habitat improvements (across c. 63% of the fields), whereas PV arrays will only occupy around 34 hectares (c. 37% of the Application site).

Negative visual impact on an approach route to the Gower AONB

Landscape and visual impacts of the Proposed Development are covered in the Landscape and Visual Impact Assessment (**LVIA**), which again forms part of the Applicant's Application documents pack shared with the consultees. The LVIA was prepared in line with best-practice methodology. It confirms that the solar PV element of the Proposed Development would result in a degree of harm to the landscape character and visual amenity of the part of the Application site fronting the A484 and Swansea Road (B4560). However, the landscape and visual effects would be localised owing to the sloping landform of the Afon Llan valley, the surrounding built form, woodland and high sided hedgerows.

In relation to visual impacts on the Gower AONB, in particular, the LVIA provides as follows (paragraph 11.12):

"[...] The Gower AONB is located approx. 3.4km from the Site and is a material consideration [...]. Following the Site visits and Screened Zone of Theoretical Visibility [...] which shows no potential areas of visibility, it is assessed that there are no likely effects on visual receptors within the Gower AONB looking towards the Site or likely effects on the landscape character of the Gower AONB and its setting due to its distance from the Site."

The LVIA also addresses visual impacts of the Proposed Development on any road users and the Public Rights of Way (**PROW**) network surrounding the Proposed Development and concludes as follows (paragraphs 11.10 and 11.11):

"Considering the intervening boundary vegetation and low-lying profile of the proposed development it is assessed that views from the surrounding network of PROW would be considerably screened and visual effects would not be adverse. Views from small sections of the PROW footpaths which cross or are close to the Site including LC26 (Viewpoint 1) which runs south from Swansea Road (B4560), west of Days Motors to the Afon Llan, LC101 (Viewpoint 4) north and south of Afon Llan, and CO600 south of Afon Llan, would be subject to adverse visual effects due to the proposed developments proximity causing a high magnitude of change to existing views at year 1.

There would be no major effects on road users along Swansea Road/A484 [notably due to the A484 passing through a cutting and the Swansea road lined with mature tree belts], Titanium Road, Statutory Access land users north and west of the Site, or long distance footpath users (Wales Cost Path and the Gower Way)".

Negative impact on green space/loss of green space

The Proposed Development's impact on green space is assessed in the Planning Statement and paragraphs 6.114 -6.115 provide as follows:

"[...] habitat retention, creation and enhancement measures are designed to increase the extent and quality of habitat on key corridors within and through the application site. These measures will strengthen habitat connectivity through the application site, including creation of buffer zones. This will include native wildflower seeding/green hay from a donor site (likely to be from retained habitat to the south) and alteration of grassland management to extend and enhance priority habitat. A wildlife corridor will be created along the public right of way linking the site from north to south. This will comprise a habitat mosaic of grassland, scrub and hedgerow planting. Additional woodland and hedgerow creation and infill planting will also strengthen habitat connectivity across the wider site.

The river corridor and adjacent SINC are considered to be a key component of the mitigation approach; a continuous wide corridor of habitat creation and enhancement will be created along the river corridor within the redline boundary, extending and linking valuable habitats as an ecological network. Open riparian habitats will be retained as part of the mosaic, but with a wider buffer zone than at present. An area of farmland bird mitigation will also be created adjacent to the river. Treatment and removal of extensive Japanese Knotweed will also provide habitat enhancement".

Furthermore, drawings and plans submitted for consultation as part of the Application pack and, in particular the Green Infrastructure Plan, clearly illustrate the amount of the green space enhancements that are proposed to be delivered as part of the Proposed Development. As is further outlined above, extensive part (over 57 hectares) of the Proposed Development constitutes green infrastructure and wildlife habitat improvements lying across 63% of the Application site.

Green infrastructure proposed to be provided as part of the Proposed Development is described in detail in the Application documents and includes:

- 4.75 acres of new tree planting;
- 3km of new hedgerows;
- re-establishment of the 6.8ha Rhos grassland habitats;
- enhanced 5.5ha of riparian habitats along the Afon Llan;
- Creation of 2.9ha of lowland meadow; and
- 3.5ha of targeted habitats for reptiles, invertebrates and farmland birds.

As provided in the Planning Statement, overall the Proposed Development will result in a biodiversity net gain of 24.99% when measured against existing baseline conditions. Paragraph 6.41 of the Planning Statement provides:

"[...] Based on improvement of the habitat distinctiveness of improved grassland habitats, conversion of arable habitats to grassland and enhancement of grassland in ecological buffer areas, the development proposals are currently likely to result in a significant net gain in biodiversity on the application site."

Loss of agricultural production, farm and a farm shop

Impacts of the Proposed Development on the existing agricultural production are covered in the Planning Statement, as well as the document entitled Agricultural Considerations and dated May 2023.

The Agricultural Considerations explain that most of the Application site is occupied by Business A, Penyfodau Fawr and the eastern fields are occupied by Business B and let annually for grazing.

In terms of impacts of the Proposed Development on this existing use, paragraph 2.43 of the Planning Statement provides as follows:

"The applicant has advised that as part of the contractual arrangement with the landowners, the tenant farmer would surrender land within the application site in exchange for replacement agricultural assets (The applicant understands that these include alternative fields land of the same and better quality, property and outbuildings owned by the same Estate landlord). The tenant farmer already took occupation of these nearby replacement fields in March 2022. The developer and Estate landlord intend to continue agricultural use within the site by way of sheep grazing during the operational lifetime of the development".

Agricultural Considerations further explain that, whilst the farm enterprises as they are currently operated will need to change, they will not be lost, and agricultural use of the land can continue (paragraphs 6.4 – 6.11):

"There are open areas within the development where grazing by cattle could take place.

Under the panels, grazing by sheep will be possible and forms a good way to manage the grassland. Sheep grazing between and beneath panels is a feasible agricultural use [...].

Sheep grazing will involve similar amounts of labour to cattle grazing, and the economics (whilst variable, as is common with all agricultural enterprises) are not dissimilar. Therefore there are no significant economic impacts.

The farm shop sells products mostly not produced on the farm, based on observations and the Facebook advertising. The conversion of beef grazing land to mostly sheep grazing land will not affect the potential for a farm shop to operate from another location and still sell imported dairy produce, vegetables, fruit cakes, meat products, juices, Christmas trees etc.

It is recognised that the farm would not be able to grow so many pumpkins as were grown in 2022.

However agricultural use of the land can continue. The shop could relocate. There are no other significant economic or severance impacts.

The eastern land is let on short-term grazing agreements, and there will be no significant effect on any farm business as a consequence."

Loss of ancient rights of way

The Planning Statement confirms that no PROWs will be lost as a result of the Proposed Development. As provided in paragraph 2.46 of the Planning Statement:

"The consultation layout incorporates and protects the 'used-line' of the Public Rights of Way traversing the application site. For the final submission and in consultation with the Local Planning Authority, the layout will be amended to also incorporate the definitive line where this deviates from the 'used-line'."

Impacts on birds

Impacts on birds are considered in detail in the Ecological Appraisal, which forms part of the Application documents pack. Paragraph 4.5.2 which deals with habitat creation and enhancement explains that

potential impacts include the loss or alteration of grassland habitat beneath the solar arrays, particularly within the footprint of the SINCs, and the loss of open habitat for ground-nesting birds. However, it further provides that the enhancement measures carried out within the large mitigation field and farmland bird mitigation area will mitigate these impacts, as will the proposed sympathetic grassland management within and around the solar arrays.

Paragraph 4.5.2 of the Ecological Appraisal further provides as follows, in terms of the habitat retention, creation and enhancement measures, which form part of the Proposed Development:

"Habitat retention, creation and enhancement measures, which form part of the Proposed Development, are designed to increase the extent and quality of habitat on key corridors within and through the Application site. Planting of native hedge, tree and scrub, and creation of wild bird cover plots will aim to extend the habitat mosaic and enhance habitat value for a range of species including bats and farmland bird species."

Paragraph 4.5.3 lists additional habitat features, which will be provided and reads as follows:

"A minimum of 20 bat boxes and 20 bird boxes will be installed on retained mature trees across the site to provide new roosting and nesting opportunities for these species. Bird boxes will be suitable for a range of woodland bird species."

In conclusion, the Ecological Enhancement provides:

"The proposed extensive green infrastructure works designed across the majority of the site will result in habitat retention and management, including restoration of priority habitat associated with the SINCs. This will enhance retained commuting/foraging habitat for badgers, bats, birds, dormice and reptiles, and provide enhancement measures for new roosting/nesting opportunities for bats and birds. The areas of infrastructure associated with the solar arrays will cause some loss of low quality habitats of value to foraging badgers, bats, birds and reptiles".

Therefore, whilst the Proposed Development will have some impact on ground nesting birds, these are outweighed by the extensive biodiversity enhancements, which are proposed by the Applicant, as part of the Proposed Development.

The Proposed Development's impact to local farming, wild life and the community

Impact of the Proposed Development on local farming and wildlife is considered in detail above. As to any impacts on the community, these are considered in the Economic Benefits Statement (submitted as part of the Application documents pack), which highlights a number of economic benefits that will be created by the Proposed Development. These include:

- Jobs – the Proposed Development will create jobs in Swansea and support the area's growth by providing new labour market opportunities.
- Supporting a post-Covid-19 recovery.
- Construction phase employment – the Proposed Development could support up to 163 temporary jobs, both direct jobs on-site and the wider supply chain, during the nine-month construction period (and similar levels of employment during decommissioning of the project).
- Contribution of construction phase to economic output - The gross value added (**GVA**) generated by jobs supported during the construction phase could be up to £6.2 million.
- Operational benefits - the Proposed Development will support up to five full-time equivalent (**FTE**) jobs in Swansea and the wider economy once it is operational. The GVA associated with the five FTEs is estimated to be £5.55millions (present value) over 40-year operational life span. Business rates generated by the solar project element of the Proposed Development could be in the region of £150,000 per annum.
- Supporting economic development objectives – the Proposed Development will support the Welsh Government's pledge to become net zero and the COP27 aim of reducing carbon emissions and increase generation of clean energy. At the regional scale, it will support South

West Wales regional economic objectives in respect of investment in renewable energy and generating benefits across the wider economy and society.

- Public attitudes towards renewable energy – a report from BEIS found that public support for renewable energy was at 85% in Spring 2022. This increased to 87% public support when asked about solar energy projects.

In addition to the above, the Applicant is also exploring the option of providing an element of shared community ownership of part of the Proposed Development. Community Energy Wales has been commissioned to discuss local interest to develop shared community ownership with entities such as Gower Power Co-Op CIC.

As part of the community benefits the Applicant is also looking to enter into a legal agreement to provide funds to the local planning authority to upgrade the local PROW infrastructure.

Conclusion

The above illustrates that the Petitions Grounds are false and have no basis in fact. They completely ignore information that has been shared with the interested parties, as well as the members of public. The Petition Grounds are also potentially defamatory to the Applicant and its Application, as they incorrectly set out context of the Proposed Development.

The publication of the Petition is likely to cause serious harm to the Applicant's reputation in the industry, which may also result in serious financial loss. This is notwithstanding whether the Applicant's Application is refused, as suggested in the Petition.

The Welsh Government should not have allowed the Petition to be published and the Applicant respectfully requests that it is rejected and held void as soon as reasonably possible to prevent any further damage to the Applicant and/or the Application.

Should the Welsh Government require any further information in relation to the above, they should not hesitate to get in touch with either ourselves or the Applicant.

Yours faithfully

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