

BRIEFING NOTE : PETITION : HALT MAJOR DEVELOPMENT ON THE GWENT LEVELS

Dear Committee Members,

Thank you very much for considering our petition. We would be grateful if you could read this briefing note in conjunction with the FAQ provided.

The Gwent Levels is a beautiful mosaic of habitats that nurture a rich diversity of wildlife throughout the year. It is designated at the UK for its importance to nature conservation, and is a registered historic landscape. The distinctive, familiar but increasingly rare sound of cuckoo calling heralds the fact that spring is in full swing, while the reeds and scrub house the elusive Cetti's Warbler, its wonderful call piercing the air. In summer, wildflowers carpet the meadows, and the air is full of insects as they feed on the nectar-rich flowers. As autumn approaches, it is the best time to see a brilliant flash of colour as kingfishers dart along the waterways. Flocks of teal and shoveler make the ponds their winter home. Throughout the year, the waterways known as reens are frequented by water voles (one of the UK's fastest declining mammals) and otters. All this is threatened by a huge wave of damaging development proposals, including industrial, office and solar development

We wish to make a positive contribution to your consideration of this urgent issue, which represents an existential threat to the Gwent Levels, their wildlife and communities. For this reason, we supply some suggested minor amendments to the Welsh town and country planning system which would go a very long way towards establishing a de facto moratorium on major development on the SSSI.

Given the gravity of the situation and the wider implications for wildlife across the whole of Wales, we respectfully request that you :-

1. Initiate a short scrutiny session into this matter, either under the auspices of the Petitions Committee, or under another Committee of the Senedd, and

2. Request that the Minister immediately releases the documents referred to below (the guidance on Chapter 6 of Planning Policy Wales, and the Welsh Government's post-construction monitoring study)

Background:

SSSIs are the jewels in Wales' nature conservation crown. Only 12% of Wales' land and coastal areas are covered by SSSIs, and we consider it obvious that they should be sacrosanct from major development, as they are UK-nationally designated nature conservation sites.

It is very important to note at the outset that moratoria are not new to our planning system. To our knowledge, there are already at least two de facto moratoria in our system - unconventional gas (fracking) and waste to energy development. These have been in place for several years now, and have been completely successful.

Secondly, the spatial restriction of certain development types is also firmly established in our planning system. TAN 8, although controversial, established a set of strategic search areas (SSAs) on a Wales-wide scale and thereby constituted a spatially-expressed moratorium outside those areas. Welsh Government data shows that, counterintuitively, this resulted in a greater deployment of onshore wind in Wales, to the degree that at one point, Wales' onshore wind generational capacity exceeded that of England, in spite of the latter having approximately seven times the land surface of the former.

Thus, our proposals do not seek to frustrate the Welsh Government's Net Zero targets, and would in fact be a significant contribution towards them.

It is quite possible that in addition to the following suggestions, there are further means of achieving the desired aim, which might include for example a study of the way in which the existing moratoria work, and we are open to any proposals from any quarter to this effect.

Our Proposals:

Please note that :-

- The following suggestions are set out in order of preference and ease of quick achievability, given the immediate threat which the Gwent Levels face.
- More than one of the suggestions would need to be implemented in order to fully protect the Gwent levels from damaging development.

1. Welsh Government Guidance on the New Chapter 6 of Planning Policy Wales in Relation to SSSIs:

The new Chapter 6 of Planning Policy Wales is very laudable in its attempts to considerably strengthen the degree of protection given to SSSIs by the planning system. The new policy states that development proposals in an SSSI are not acceptable in principle, would only take place in "wholly exceptional circumstances" and subject to further restrictive criteria.

Guidance on how "wholly exceptional circumstances" should be defined, evidenced and measured by decision-makers, and on the further restrictive criteria is promised by the Welsh Government, but unfortunately, due to understandable pressures of work, this has not materialised. This means that it is open to a very wide range of interpretations, and this vacuum is what developers, lawyers are exploiting in planning cases on the Gwent Levels SSSI.

Clear and unequivocal guidance is urgently needed, in the very near future. This guidance should take the form of a set of clear, stepwise criteria, rigorously and carefully set out, each of which a developer would have to comply with before moving on to the next one and finally on to obtaining planning permission. We can provide suggestions as to what should be in the guidance.

2. The Urgent Release of the Welsh Government's Post-Construction Monitoring Study:

In response to the widespread concerns about the failure of "mitigation" and "compensation" measures to remove damaging impacts resulting from development on the SSSI, the Welsh Government initiated a study looking at actually-constructed developments on or near the SSSI. The final results of this study have not yet been released, but we know that it does confirm our worst fears - that there is a catastrophic and systemic failure of "mitigation" and "compensation".

It is essential that this study is immediately released by the Welsh Government as a matter of urgency, because it is proof, from the Welsh Government itself, that the approach used so far - "mitigation" and "compensation", do not and cannot work on the Gwent Levels SSSI.

3. Future Wales:

Future Wales is our national strategic development plan. It includes a number of policies and provisions, which, if amended, could control renewable energy development in the SSSI. It is very important to note that these amendments will, in any event, need to be introduced to bring Future Wales into conformity with the new Chapter 3 of Planning Policy Wales with regard to SSSI protection, so this proposal is neither new nor controversial.

3.1 Policy 18 of Future Wales 2021:

Criterion 4 of Policy 18 of Future Wales 2021 states that there must be :-

“no unacceptable adverse impacts on SSSIs” (emphasis added)

This wording is a significant weakening qualifier, and provides a loophole to developers seeking to develop large scale renewable energy developments on the Gwent Levels SSSI. It is weak because it begs the questions of how to measure unacceptability in the context of SSSIs, and to whom does the damaging proposal have to be acceptable?

Simply changing this criterion to ***“..will not be appropriate in SSSIs”*** would remove that loophole, and establish clearly that SSSI development will not take place. The wording we suggest here is drawn directly from TAN 8, which was wholly successful in precluding onshore wind development in SSSIs, so this is a practical and workable step, for which a precedent already exists.

Please note that similar wording was indeed present in the 2020 version of Future Wales, which stated at criterion 3 that there should be :-

“No adverse impacts on nationally-designated sites” (ie SSSIs)

This wording disappeared from the 2021 version of Future Wales, thus this would be merely a matter of reinserting pre-existing policy.

3.2 Future Wales: Preferred Areas for Renewable Energy:

Policy 10 of the 2019 version of Future Wales established the concept of Pre-Assessed Areas (originally called Preferred Areas) (PAs) for solar and onshore wind. Like the old TAN 8 Strategic Search Areas (SSAs) (see above), these areas are zones established throughout Wales where there is a general presumption in favour of wind and solar development applications, and conversely a higher bar for development proposals outside those areas. In the formulation of these Pre-Assessed Areas, SSSIs were “sieved out” for wind and solar and therefore the Gwent Levels were therefore not in any Pre-Assessed Area. However, between the 2019 and 2020 versions, solar was removed from the Pre-Assessed Areas, leaving them applicable to onshore wind only. This resulted in a wholly uncontrolled, “scatter gun” approach to large solar energy development throughout Wales, with projects appearing many kilometres from any Pre-assessed Area, in locations which could not possibly have been in the minds of plan-formulators at the time of the formulation of Future Wales.

Simply reinstating solar as an energy type covered by the Pre-Assessed Areas, and raising the bar for areas outside Pre-Assessed Areas would be a very effective way of controlling solar development on the Gwent Levels SSSI. Again, it is important to learn from the TAN 8 experience that this would have no negative impact on Wales’ total solar resource - indeed, it is quite possible that it would speed up the deployment of solar in Wales, as it would reduce the potential for costly and confrontational public inquiries, and/ or the threat of legal challenges.

4. Local Development Plans:

Local development plans (LDPs) are statutory plans, which every local authority in Wales must produce and adopt. At present, there are several development sites suggested for allocation in various of the three LDPs covering the Gwent Levels, in the form of candidate sites. Some of these have already gained at least partial approval by the local authorities concerned.

A simple way of controlling such development on the Gwent Levels SSSI not involving solar but being captured by LDPs would be for the Welsh Government to commit to exercising its power of veto over any LDP on the Gwent Levels which proposes to allocate a site in the SSSI. Welsh Government and the Minister could make it clear in its regular correspondence with the three local authorities over LDP formulation that it will require, through its legal powers, the removal of proposed allocations in SSSIs.

5. Extremely Large Scale Solar Farm Applications:

We are now starting to be threatened by solar farm proposals which are so big that they are even larger than the "Developments of National Significance" development size set out in Future Wales, which is itself very large indeed. They therefore fall into the category of UK-Nationally Significant Infrastructure Projects (NSIPs). It seems unfair and counterintuitive to us that such enormous projects are not decided upon by our Minister appointed by our First Minister, both of whom are elected representatives in our Senedd. Indeed, it creates an incentive for developers to submit enormous schemes in the hope of obtaining a better hearing in London than in Cardiff, the 1000 acre Llanwern Future Energy project being an example of this.

A simple remedy would be for the threshold for solar energy development size to be raised above that level, in the forthcoming infrastructure Bill, thus ensuring that it is captured by our system in Wales, although we recognise that that would involve discussion with the UK government.

We would be very interested to hear your views on this briefing note. Please do not hesitate to contact us if you require more information, or wish to discuss the content in more detail.

Many thanks,

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