



Committee and Date  
North Planning Committee  
31<sup>st</sup> January 2017

Item  
**8**  
Public

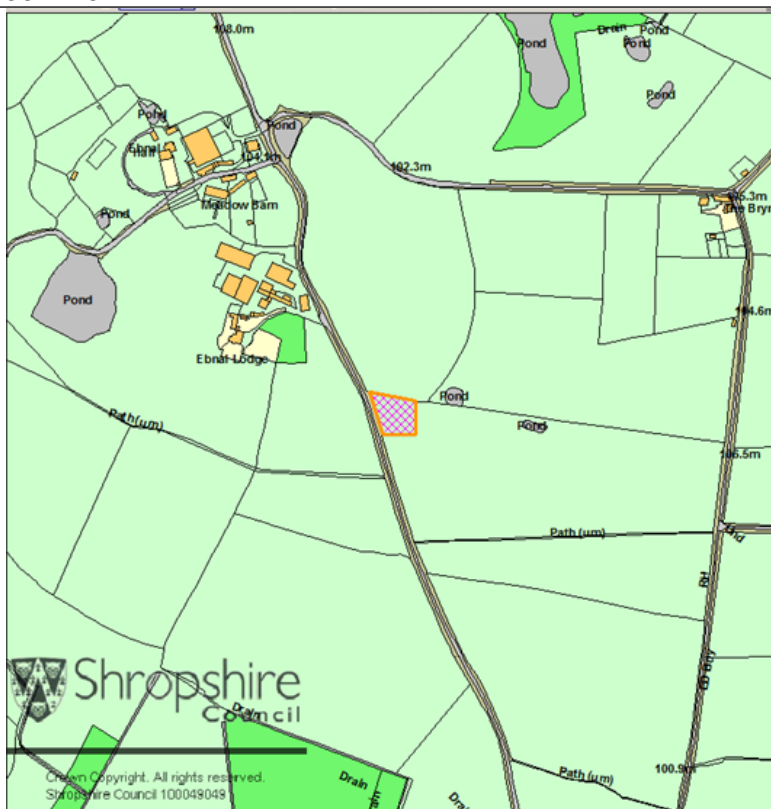
## Development Management Report

Responsible Officer: Tim Rogers  
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### Summary of Application

<b>Application Number:</b> 16/05607/FUL	<b>Parish:</b>	Selattyn And Gobowen
<b>Proposal:</b> Temporary siting of telecom mast to support recently approved solar farm		
<b>Site Address:</b> Proposed Solar Farm At Rhosygradfa Gobowen Shropshire		
<b>Applicant:</b> Elgin Energy Esco Ltd		
<b>Case Officer:</b> Kelvin Hall	<b>email:</b> <a href="mailto:planningdmc@shropshire.gov.uk">planningdmc@shropshire.gov.uk</a>	

**Grid Ref:** 332047 - 334123



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**Recommendation:- Grant Permission subject to the conditions set out in Appendix 1.**

## REPORT

### 1.0 THE PROPOSAL

1.1 This application seeks planning permission for the installation of a temporary mast at the recently approved solar farm at Rhosygadfa. The mast is required to provide a data connection from the on-site substation to the electricity company's substation, pending the installation of a fibre connection to the site by BT. The mast would be 20 metres high and 0.85 metres in diameter. It would be of lattice construction and sit on a below-ground concrete platform.

1.2 The application as originally submitted stated that permission was being sought for a temporary period of 3 years. The application has now been amended to state that the mast would be removed by no later than 12<sup>th</sup> October 2017.

### 2.0 SITE LOCATION/DESCRIPTION

2.1 The permitted solar farm covers an area of approximately 13 hectares, on agricultural land approximately 1km to the east of Gobowen. The mast would be located within the boundary of the solar farm, adjacent to the approved substation at the north western corner of the site close to the site entrance. Surrounding land is generally in agricultural use. There are public rights of way in the vicinity approximately 70 metres to the south, 150 metres to the south and 290 metres to the north.

2.2 The nearest residential properties to the mast site are Ebnal Lodge (the landowner) approximately 215 metres to the north-west, and properties at Ebnal Hall, approximately 330 metres to the north-west. The nearest Listed Buildings are Ebnal Hall (the property itself being 415 metres away) and Ebnal Lodge; both Grade II Listed buildings.

### 3.0 REASON FOR COMMITTEE DETERMINATION OF APPLICATION

3.1 The views of the Parish Council are contrary to the Officer recommendation. One of the Local Members, Councillor Robert Macey, has requested that the application is determined by Planning Committee. The Planning Manager in consultation with the Committee chairman and Local Member has agreed that the Parish Council has raised material planning issues and that a decision by Planning Committee is appropriate.

### 4.0 COMMUNITY REPRESENTATIONS

#### 4.1 Consultee Comments

4.1.1 **Selattyn and Gobowen Parish Council** Objects. The proposed mast would be detrimental to the landscape and the Parish Council object on the grounds that this will have a significant visual impact on what is meant to be a low profile development.

Alternative solution - The Parish Council propose that you investigate connecting up to other nearby cabinets and sources of fibre optic broadband

- 4.1.2 **Whittington Parish Council** (adjacent parish) No comments received.
- 4.1.3 **SC Ecologist** No comments. Ecological requirements have already been covered in the original application for the solar farm.
- 4.1.4 **SC Conservation** No response received at the time of writing this report.
- 4.1.5 **Councillor David Lloyd MBE (Shropshire Councillor for Gobowen, Selattyn and Weston Rhyn)** Objects.

An extended period for comment following delayed notification to Selattyn and Gobowen Parish Council and local elected members is welcome. This has also enabled the promoters to address a well attended public meeting.

I wish to object to the erection of a communication mast which will be an intrusive and unacceptable feature above a low profile operation in open countryside for which consent was granted only after plans for high fencing and security cameras were dropped.

Experience following a premature start of work on site has further demonstrated the need to keep construction traffic out of the network of narrow country lanes in the locality.

- 4.1.6 **Councillor Robert Macey (Shropshire Councillor for Gobowen, Selattyn and Weston Rhyn)** Objects.

I am concerned that this application for a substantial mast, sited in open countryside, will have considerable visual impact not just on its immediate locality but surrounding communities.

I note the application is for a fixed period of three years and is tied to another application which has already been subject to a great deal of public debate and had to revise its visual impact in regard to site features including CCTV, fencing and hedgerows.

The temporary nature of the application indicates it is reliant upon other more permanent solutions. If these permanent solutions have been agreed I would have expected more certainty around the date and arrangements of when this permanent solution would be in place.

The extension of the consultation period as raised previously and subsequent public meeting are appreciated.

## 4.2 **Public Comments**

- 4.2.1 The application has been advertised by site notice. Eight objections have been received, summarised as follows:

- Visual impact of mast; will be seen from surrounding England and Welsh hills and as far away as Rodney's Pillar; mast will tower above the trees; will look like a pylon with large discs attached
- Area used for low level helicopter training flights as well as access to the

hospital

- Viability of project is a commercial decision and not relevant to planning
- Proposal is 'planning creep'; site is turning into large scale industrial use
- developer must have known it would need good internet access and that it was not available
- Unlikely that BT will ever provide good internet links in the area; mast will be required for many years to come, more than the proposed 3 years; no legal commitment that BT provide a suitable connection within a specific timeframe; no evidence that a satellite broadband option is not reliable enough;
- Underground fibre optics connection should be considered
- Adverse impact on local birdlife
- Applicant is unaware that there is no solar farm in the area
- Concern over timing of submission of application over Christmas period
- Health implications to residents from mast, including learning problems; trouble concentrating; behavioural disorders such as Attention Deficit Disorder (ADD); extremely high and extremely low Blood Pressure - and swapping between the two; medicines stop working as well, so prescriptions have to increase; heart rhythms get upset, as does the immune system; sudden Heart Attacks and Strokes happening in younger and younger people; more Brain diseases such as Alzheimer's, Parkinson's, Motor Neurone Disease and Epilepsy; more Cancers, Leukaemia and Brain Tumours; more and worse Headaches and Migraines; more and worse sleeping disorders; constantly being tired, getting sleepless and being sleepy during the day; anxiousness; ringing in the ears (Tinnitus); increased infections, colds, allergies and viruses; pains in their nerves and bodies for no apparent cause.

## 5.0 THE MAIN ISSUES

- Principle of development
- Siting, scale and design and impact on landscape character
- Local amenity and other considerations
- Historic environment considerations
- Ecological considerations

## 6.0 OFFICER APPRAISAL

### 6.1 Principle of development

6.1.1 Planning permission for the solar farm on agricultural land at Rhosygadfa was granted in December 2015 (ref. 15/03975/FUL). In addition to the solar pv panels the permission allows for the installation of a primary substation and a number of inverter substations at the site. The applicant has advised that it is planned to commission the solar farm by 31<sup>st</sup> March 2017, as after this date there is a fall in the support provided to such schemes which would render the project unviable. Some preliminary construction works associated with the installation of the primary substation commenced in December 2016

6.1.2 The current application states that the site requires an internet connection to allow real time data to be transferred from the on-site substation to the electricity company's (SPEN) substation. This is required to allow SPEN to shut down the solar farm in the event of a fault level issue. BT will be providing a fibre connection to the site for this purpose, and have confirmed that they intend that this will be completed by no later than 30<sup>th</sup> June 2017. As it is not expected that the fibre

connection would be installed prior to the planned commissioning date of the solar farm the applicant has investigated alternative temporary options for providing an internet connection. The applicant has advised that the feasibility of providing a satellite broadband connection has been investigated but that SPEN has advised that this is not reliable enough. The proposed mast would provide a line of site to the SPEN substation at Ifton and would ensure that there is a satisfactory internet connection to enable the solar farm to operate pending the completion of the fibre connection by BT.

6.1.3 The environmental benefits of the solar farm were set out in the Committee report relating to that application. In summary the facility would allow the generation of 5MW of renewable energy for export to the National Grid, and contribute to a reduction in carbon emissions which is one of the core planning principles of the National Planning Policy Framework and is also supported by local planning policies. It has been estimated that this 5MW output is equivalent to the annual electricity requirements of approximately 1,500 typical households.

6.1.4 Based upon the information provided in the application Officers accept that, in order to meet the planned commissioning date, the installation of a temporary mast is the only viable option for providing the necessary broadband connection. As such, it is considered that the proposal to provide essential support for the permitted solar farm in this way is acceptable in principle.

## 6.2 **Siting, scale and design and impact on landscape character**

6.2.1 Core Strategy policy CS6 seeks to ensure that development is appropriate in scale and design taking into account local context and character, having regard to landscape character assessments and ecological strategies where appropriate. Policy CS17 also seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets.

6.2.2 Officers consider that the siting of the mast at the site entrance and at the lower part of the site is appropriate. The height of the mast is dictated by the need to provide a line of sight to the SPEN substation. It would be partly screened by trees in the vicinity of the site, including adjacent to the solar farm. Nevertheless given its height it would be visible in the landscape from some public viewpoints including public footpaths and public highways. The applicant has now been amended such that permission is now sought to retain the mast for up to seven months rather than the three years as originally proposed. Officers have sought further evidence from the applicant that this time period for removal is realistic. In response the applicant has provided a letter from BT who have confirmed that they are looking at completing the fibre connection by no later than 30<sup>th</sup> June 2017. The applicant has also submitted a statement to confirm that the mast would be decommissioned no later than 12<sup>th</sup> October 2017 regardless of whether the fibre connection has been installed. It is considered that this provides satisfactory reassurance that the mast will not be retained for longer than the proposed October date. A condition can be imposed to require that the mast is removed once the fibre connection is available, or at the latest by the requested date of 12<sup>th</sup> October 2017. The concerns raised by local residents regarding the visual impact of the proposed mast are noted, and Officers acknowledge that the mast would have some adverse impact on landscape character in the area. However this impact would be for a

temporary period only and Officers do not consider that a refusal on landscape grounds would be justified.

### 6.3 **Local amenity and other considerations**

6.3.1 Core Strategy Policy CS6 seeks to safeguard residential and local amenity. The NPPF states that, in determining planning applications for telecommunications development, planning authorities should not determine health safeguards if the proposal meets International Commission guidelines for public exposure. Confirmation on this has been requested from the applicant.

6.3.2 The concerns raised by some local residents over potential conflict between the mast and low flying helicopters are noted. There is no requirement to consult the CAA or other bodies in relation to this proposal. The applicant has confirmed that they have not identified any airfields or aerodromes within a 3km radius of the proposed mast. The mast would not be significantly higher than some adjacent trees in the area and it is not anticipated that it would present a safety hazard to aircraft.

6.3.3 In relation to the concerns that have been raised regarding the potential impact upon health, the NPPF states that local planning authorities should not determine health safeguards if the proposal meets International Commission guidelines for public exposures. The applicant has confirmed that the mast would conform to these.

### 6.4 **Historic environment issues**

6.4.1 Core Strategy Policy CS17 requires that developments protect and enhance the diversity, high quality and local character of Shropshire's historic environment. SAMDev Plan Policy MD13 requires that heritage assets are conserved, sympathetically enhanced and restored by ensuring that the social or economic benefits of a development can be demonstrated to clearly outweigh any adverse effects on the significance of a heritage asset, or its setting. Paragraph 134 of the NPPF requires that, where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal. In addition, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission which affects the setting of a Listed Building, the local planning authority shall have special regard to the desirability of preserving the setting.

6.4.2 The mast is likely to be visible from the two listed buildings to the north-west, Ebnal Hall and Ebnal Lodge and has some impact on their setting. Members will be updated on any comments that are received by the Council's Historic Conservation team. However the Case Officer considers that any harm to the setting of these assets would be less than substantial given the short timeframe that the mast would be in place, and that the public benefits of the proposal, in supporting the solar farm, would outweigh this limited, short-term harm.

### 6.5 **Ecological considerations**

6.5.1 Core Strategy Policy CS17 seeks to protect and enhance the diversity, high quality and local character of Shropshire's natural environment and to ensure no adverse impacts upon visual amenity, heritage and ecological assets. The Council's

Ecologist has raised no issues in respect of the proposed mast. Local concern that the proposal would affect birds are noted but there is no evidence that the mast would adversely affect wildlife.

## 7.0 **CONCLUSION**

7.1 The permitted solar farm at Rhosygadfa is required to have an internet connection between the site and the network operator's off-site substation. A fibre connection is scheduled to be provided by BT over the coming months however this will not be completed in advance of the planned commissioning date of the solar farm at the end of March 2017. The proposed temporary mast would provide a suitable connection until this fibre connection is available, which is anticipated to be by summer 2017. Due to its height the proposed mast would have some impact on the landscape character of the area and on the setting of nearby heritage assets. However Officers consider that such impacts would not be unacceptable when considering the short-term nature of the proposal and the environmental benefits of the solar farm for which permission has already been granted. The proposal does not raise any other significant land-use impacts and as such Officers consider that the proposal can be accepted in relation to Development Plan and national planning policies and recommend that planning permission is granted for a temporary period subject to the conditions as set out in Appendix 1.

## 8. **Risk Assessment and Opportunities Appraisal**

### 8.1 Risk Management

There are two principal risks associated with this recommendation as follows:

- As with any planning decision the applicant has a right of appeal if they disagree with the decision and/or the imposition of conditions. Costs can be awarded irrespective of the mechanism for hearing the appeal - written representations, a hearing or inquiry.
- The decision is challenged by way of a Judicial Review by a third party. The courts become involved when there is a misinterpretation or misapplication of policy or some breach of the rules of procedure or the principles of natural justice. However their role is to review the way the authorities reach decisions, rather than to make a decision on the planning issues themselves, although they will interfere where the decision is so unreasonable as to be irrational or perverse. Therefore they are concerned with the legality of the decision, not its planning merits. A challenge by way of Judicial Review must be a) promptly and b) in any event not later than six weeks after the grounds to make the claim first arose.

Both of these risks need to be balanced against the risk of not proceeding to determine the application. In this scenario there is also a right of appeal against non-determination for application for which costs can also be awarded.

### 8.2 Human Rights

Article 8 give the right to respect for private and family life and First Protocol Article 1 allows for the peaceful enjoyment of possessions. These have to be balanced

against the rights and freedoms of others and the orderly development of the County in the interests of the Community.

First Protocol Article 1 requires that the desires of landowners must be balanced against the impact on residents.

This legislation has been taken into account in arriving at the above recommendation.

### 8.3 Equalities

The concern of planning law is to regulate the use of land in the interests of the public at large, rather than those of any particular group. Equality will be one of a number of 'relevant considerations' that need to be weighed in planning committee members' minds under section 70(2) of the Town and Country Planning Act 1970.

## 9. Financial Implications

There are likely financial implications of the decision and/or imposition of conditions if challenged by a planning appeal or judicial review. The costs of defending any decision will be met by the authority and will vary dependant on the scale and nature of the proposal. Local financial considerations are capable of being taken into account when determining this planning application – in so far as they are material to the application. The weight given to this issue is a matter for the decision maker.

## 10. Background

### Relevant Planning Policies

Central Government Guidance:  
National Planning Policy Framework

Core Strategy and Saved Policies:  
CS6 - Sustainable Design and Development Principles  
CS17 - Environmental Networks  
MD13 - Historic Environment

### RELEVANT PLANNING HISTORY:

16/05607/FUL Temporary siting of telecom mast to support recently approved solar farm PDE  
14/03946/FUL Construction of a solar farm comprising the installation of (circa) 40,000 ground mounted solar panels; 8 inverters; electricity substation; 2.4m high security fencing (revised description) REFUSE 13th July 2015

15/03975/FUL Construction of a solar farm to include solar panel arrays, substation inverters, a primary substation, and perimeter stock fencing GRANT 23rd December 2015

16/03944/DIS Discharge of condition 4 (archaeology) for the construction of a solar farm to include solar panel arrays, substation inverters, a primary substation, and perimeter stock fencing relating to 15/03975/FUL DISAPP 11th October 2016



16/05352/DIS Discharge of Conditions 3 (Construction Management scheme) and 6 (External Materials) of Planning permission 15/03975/FUL PCO

16/05355/AMP Proposed non material amendment pursuant to 15/03975/FUL - Construction of a solar farm to include solar panel arrays, substation inverters, a primary substation, and perimeter stock fencing PCO

Appeal

16/02380/REF Construction of a solar farm comprising the installation of (circa) 40,000 ground mounted solar panels; 8 inverters; electricity substation; 2.4m high security fencing (revised description) DISMIS 6th June 2016

11. Additional Information

[View details online:](#)

List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)
Cabinet Member (Portfolio Holder) Cllr M. Price
Local Member  Cllr David Lloyd MBE Cllr Robert Macey
Appendices APPENDIX 1 - Conditions

## **APPENDIX 1 - Conditions**

### **STANDARD CONDITION(S)**

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91(1) of the Town and Country Planning Act, 1990 (As amended).

2. The development shall be carried out strictly in accordance with the approved plans and drawings.

Reason: For the avoidance of doubt and to ensure that the development is carried out in accordance with the approved plans and details.

3. The mast and associated concrete pad hereby approved shall be removed from the site within two weeks of the solar farm being connected to the internet by means of fibre connection, or, if sooner, by 12th October 2017. The site shall be reinstated to its former condition within four weeks of the removal of the mast.

Reason: To ensure that the mast is removed from the site as early as possible in order to minimise the impact on landscape character and the setting of heritage assets.

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