



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

tel: 0303 444 5000

e mail:

enquiries@infrastructure.gsi.gov.uk

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The Planning Act 2008

Brechfa Forest West Wind Farm

Examining Authority's Report of Findings and Conclusions

and

**Recommendation to the
Secretary of State for Energy and Climate Change**

Bob Macey

Examining Authority

File Ref EN010008

- The application, dated 26 October 2011, was made under section 37 of the Planning Act 2008 and was received in full by The Infrastructure Planning Commission on 4 November 2011.
- The applicant is RWE Npower Renewables Limited.
- The application was accepted for examination on 30 November 2011.
- The examination of the application began on 13 March 2012 and was completed on 13 September 2012.
- The development proposed comprises the construction and operation of 28 wind turbine generators of up to 145 metres in height and other infrastructure integral to the construction and/or operation of the wind farm. The wind farm will have an installed capacity of between 56 and 84 megawatts.

Summary of Recommendation:

The Examining Authority recommends the Secretary of State for Energy and Climate Change to make the Development Consent Order in the form attached at Appendix F.

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ORDER

1 INTRODUCTION

- 1.1 On 16 February 2012 the chair of the former Infrastructure Planning Commission, Sir Michael Pitt, appointed me, Bob Macey, as the Single Commissioner Examining Authority (ExA) to examine the application¹.
- 1.2 This document sets out, in accordance with s83(1) of the Planning Act 2008 (PA 2008) as amended by the Localism Act 2011, my findings and conclusions and my recommendation as to the decision to be made on the application.
- 1.3 The proposed development for which consent is required under s31 of PA 2008 comprises a generating station with a capacity of more than 50 megawatts (MW). It is within Wales and comprises a nationally significant infrastructure project (NSIP) as defined by s14 and s15 of PA 2008.
- 1.4 The application is Environmental Impact Assessment (EIA) development as defined by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009. It was accompanied by an environmental statement (ES) which in my view, as the ExA, met the definition given in Regulation 2(1) of these Regulations. Additional environmental information was received during the course of the examination in the form of responses from the applicant and interested parties, and these have been considered and taken into consideration where necessary in my findings and conclusions. In reaching my

¹ The Infrastructure Planning Commission was abolished on 1 April 2012. The Infrastructure Planning (Transitional Provisions) Direction 2012 makes provision for anything done by the Commission, in relation to an application or proposed application prior to 1 April 2012, to be treated as if it had been done by the Secretary of State, where the Commission had previously been notified under section 46 of the Planning Act 2008 for that proposal.

recommendation the environmental information, as defined in Regulation 2(1) (including the ES and any other information on the environmental effects of the development), has been taken into consideration in accordance with Regulation 3(2) of these Regulations.

Procedure Followed

- 1.5 The accepted application was advertised by the applicant and 254 relevant representations were received (RREP1 to RREP254).
- 1.6 I held a Preliminary Meeting on 13 March 2012 at which the applicant and all interested parties were able to make representations to me about how the application should be examined. My procedural decisions under Rule 8 of the Infrastructure Planning (Examination Procedure) Rules 2010 (the Rules) were issued by letter (in English and Welsh) to all interested parties on 23 March 2012. This letter (PD10, PD11²) set out the decisions I made under rule 8 about how the application would be examined. The examination proceeded largely in line with this.
- 1.7 I carried out an inspection of the proposed access track in the company of interested parties on 14 August 2012. A number of unaccompanied site visits were also undertaken, particularly in relation to the assessment of landscape and visual impact.
- 1.8 As set out in the timetable for the examination, and as a result of requests made, I held the following hearings at the Canolfan Waunifor Centre (CWC), Maesycrugiau, Nr Pencader and Brechfa Church Hall (BCH), St.Teilo, Brechfa:

² These are references to examination documents listed in Appendix D.

- Issue-specific hearing on the specific issue of noise on 20 June 2012 (CWC).
 - Issue-specific hearing on the specific issue of transport and local access on 21 June 2012 (CWC).
 - Issue-specific hearing on the specific issue of ecology on 21 June 2012 (CWC).
 - Open-floor hearings on 11 July 2012 (BCH and CWC).
 - Issue-specific hearing on the draft Development Consent Order (DCO) (including requirements) and planning obligations under section 106 of the Town and Country Planning Act on 12 July (CWC).
- 1.9 Local impact reports (LIR) were received from Swansea City Council and Carmarthenshire County Council (CCC).
- 1.10 I issued an initial round of written questions following the Preliminary Meeting. Further questions and requests for further information or written comment were issued throughout the examination under Rule 17 of the Rules, together with an updated timetable (PD12/13, PD20/21, PD24/25, PD26/27, PD28/29, PD31/32). In response to these requests, and following hearings and site visits, a further 264 representations were received (REP1 to REP 264). The main events of the examination and procedural decisions taken during the examination are listed in detail in Appendix A.

Other Consents

- 1.11 In addition to the consent required under PA 2008 (which is the subject of this recommendation), the proposal is subject to the need for the following consents and permits:
- Electricity Act 1989 – Generating licence under section 6.
 - Road Traffic Regulation Act 1984 – Temporary restriction of Public Rights of Way under an order for the regulation of traffic.
 - Land Drainage Act 1991 - Construction or alteration of culverts.
 - Water Resources Act 1991 – Abstraction and/or discharge of water.
 - Town and Country Planning Act 1990 - Planning permission for the construction of a bridge across the Afon Pib to facilitate the temporary diversion of footpath 13/77.
- 1.12 At the time the examination was completed, on 13 September 2012, these consents were not in place. During the examination consideration has been given as to whether a European protected species licence might be required from the Welsh Government. The applicant is of the view that it will not. The issue is discussed in section 4.B(IV) below.
- 1.13 A number of provisions in the draft DCO are the subject matter of prescribed consents under section 150 of the PA 2008. The statement of common ground between the applicant and Carmarthenshire County Council (CCC) records the Council's consent to the inclusion of provisions in the DCO relating to the operation of a generating station, the temporary stopping up of streets and the removal of hedgerows (REP257 APP).

Undertakings

- 1.14 During the course of the examination, the applicant, RWE Npower Ltd, and CCC were negotiating an agreement under s106 of the Town and Country Planning Act 1990. This was not concluded.
- 1.15 A unilateral undertaking, dated 30 August 2012, entered into by the Welsh Government³ (the landowner) in favour of Carmarthenshire County Council was provided by the applicant (REP221 APP). Following some largely technical queries (PD31, PD32) a further undertaking was entered into on 12 September 2012 (REP244 APP) covering similar ground to the first. These undertakings are conditional on development consent being granted, and would become binding on the applicant if it exercises its option agreement with the Welsh Government to take a lease on the main part of the site. The commitments cover:
- The development of a scheme to remediate interference with television reception, if any.
 - The restoration of habitat within a previously identified Plantation on Ancient Woodland Site (PAWS), with the restoration of the Llanllawdog PAWS falling within the remit of the habitat management plan (HMP) but overlapping the site boundary.
 - Footpath and bridge provision outside the site boundary, as identified in the access management plan, with this to provide temporary diversion during construction and longer-term enhancement during the operation of the wind farm.

³ Formally the relevant powers are vested in, and the undertakings were executed by, the Welsh Ministers. Throughout this report the term Welsh Government is used.

- 1.16 In addition the applicant has agreed to a compensatory planting scheme, via a joint commitment with the landowner (paras 4.199-200).

Structure of the Report

- 1.17 Section 2 sets out the main features of the proposed development and the local area. Section 3 summarises the policy context applicable to it. Sections 4 and 5 contain my findings and conclusions in respect of each of the main considerations and on the development merits. Section 6 considers issues and representations made concerning the content of the proposed Order (including requirements). Section 7 sets out my overall conclusion that the Order should be made.
- 1.18 The main examination events, and the main procedural decisions I have taken, are listed in Appendix A. Appendix B contains a list of those who attended hearings. Appendix C provides a list of the abbreviations used in this report. Appendix D lists the documents submitted by the applicant and others in connection with the examination, with the references used subsequently in this report. Appendix E comprises a report on the implications for European sites. Appendix F provides the draft of the DCO that I recommend to the Secretary of State. For the avoidance of any doubt, I have duly considered and taken into account all representations properly made before coming to my recommendation.

2 THE APPLICATION

The Site and Local Area

- 2.1 The proposed works are located in Brechfa Forest in Carmarthenshire, South Wales. The site is some 10km north east of Carmarthen, on a ridge of land forming the south western tail of the Cambrian Mountains. The application site comprises an area of approximately 1041 hectares in the western part of Brechfa Forest, and lies between the Cothi Valley (located to the south east) and the Teifi Valley (located to the north west). The elevation of the site ranges from 260 metres AOD in the south west to 358 metres AOD in the north east.

The Proposal

- 2.2 The application was made for the construction and operation of 28 wind turbine generators of up to 145 metres in height. In addition to the 28 turbines, the application includes the construction of ca. 9.1km of new access tracks and the upgrading of 12.7km of existing tracks; the construction of an onsite substation, hardstanding areas, external transformers, underground cabling and one permanent wind monitoring mast; two temporary construction compounds and the working of one new borrow pit. The wind farm will have an installed capacity of between 56 and 84 megawatts.
- 2.3 The application contains a statement confirming that Western Power Distribution will be responsible for the grid connection (APP1, APP108). It provided an offer of a grid connection to the applicant in May 2011. Connection to the grid is expected to be the subject of a separate application for a development consent

order. The issue of the grid connection is considered in section 4.E(IV) below (para 4.154 et seq).

- 2.4 The application did not seek compulsory acquisition powers.
- 2.5 Much of the land required for the project is owned by the Welsh Government (WG) and managed on its behalf by Forestry Commission Wales (FCW). Under the provisions of s227 of PA 2008 it is Crown land for the purposes of s135 of PA 2008. The consent of the WG is therefore required to the inclusion of provisions in the Order which relate to Crown land (APP4). The applicant will be seeking this consent through FCW. The applicant has noted that, as an option agreement has already been concluded with the WG (APP62), there is no reason to suggest consent shall not be forthcoming. I have noted above that during the examination unilateral undertakings were executed by the WG.

Changes

- 2.6 The only changes to the application advanced by the applicant during the examination period have been changes made to the draft DCO documentation in response to points that I have raised or have been raised by other parties. None of the changes are of such significance as to alter the substance of the proposal. I consider the proposal remains within the parameters of the environmental impact assessment and consultation undertaken during the pre-application stage and submitted within the application documents.
- 2.7 Concerns have been raised about the accuracy of some of the plans produced by the applicant. The applicant has confirmed

that all plans produced with the application are accurate. The issue is discussed further in para 4.90.

Designated and Protected Sites

- 2.8 The ES and the Habitats Regulations Assessment (HRA) Screening Report (APP45, APP107, APP113) have not identified any significant impacts on any European or Ramsar sites. I have considered the evidence from the applicant and other parties. I have concluded that a significant impact is not likely and that it is not necessary for the competent authority to undertake an appropriate assessment (section 4.B(I), para 4.37 et seq).
- 2.9 I have undertaken an assessment of the impact of the authorised development on European protected species (EPS)(para 4.64 et seq). While not in a position to confirm whether a licence would be needed or granted, I have concluded that there are no EPS licensing issues that weigh significantly against making a DCO.
- 2.10 No significant impacts on historic sites were identified (APP49 & APP50).

3 POLICY AND LEGAL CONTEXT

Planning Act 2008 (PA 2008)

3.1 The examination was undertaken in accordance with section 104 of the PA 2008 where a relevant national policy statement (NPS) had effect at the time of the examination. The relevant NPSs are:

- EN-1 Overarching Energy (NPS EN-1).
- EN-3 Renewable Energy Infrastructure (NPS EN-3).

3.2 This recommendation is therefore made under s83(1)(b) for the Secretary of State to determine under section 104 of the PA 2008. In this instance the Secretary of State must have regard to:

- Any national policy statement which has effect in relation to development of the description to which the application relates.
- Any local impact report.
- Any matters prescribed in relation to development of the description to which the application relates.
- Any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.

Welsh Planning Context

3.3 The Welsh Government's (WG) energy policy and aspirations are set out in "A Low Carbon Revolution" which identifies Wales' sustainable renewable energy potential to 2020/2025. This

document sets out *inter alia* the WG's expectation that onshore wind in Wales will contribute 2 gigawatts of capacity over the lifespan of the document. During the examination the WG published "Energy Wales: A Low Carbon Transition", taking forward its commitment to a low carbon economy.

- 3.4 *Planning Policy Wales* (PPW) has been revised in the context of WG's energy policy and sets out the WG's land use planning policies. It is supplemented by a series of Technical Advice Notes (TANs). Procedural advice is given in circulars and policy clarification letters. PPW, the TANS, circulars and policy clarification letters comprise Welsh planning policy. At the time of the Brechfa Forest West Wind Farm (BFWWF) examination the extant version of PPW was edition 4 published in February 2011.
- 3.5 In November 2012 the WG published a 5th edition of Planning Policy Wales. A parallel document produced by the WG ("Summary of Changes", WG16181) identified the main changes in the 5th edition. No such policy changes were identified relating to renewables and low carbon energy.
- 3.6 PPW includes the promotion of "*the generation and use of energy from renewable and low carbon energy sources at all scales*" (PPW 2011, para. 12.1.4) amongst the WG's land use aims and objectives. PPW also highlights the need to ensure that national and international statutory obligations are complied with and "*mitigation measures are required for potential detrimental effects on local communities (...)*" (PPW 2011, para. 12.8.10).
- 3.7 TAN 8 Planning for Renewable Energy was issued by the WG in July 2005. TAN 8 identifies 7 Strategic Search Areas (SSAs) within Wales which have been assessed and considered suitable

for the location of large-scale onshore wind power developments. TAN8 adopted a strategic all-Wales approach to the location of onshore wind farms, with the SSAs selected on the basis of efficiency and environmental considerations. For each of the SSAs indicative targets of installed capacity (in MW) have been set out based on the assumption that the majority of technically feasible land for wind turbines in each area is utilised.

- 3.8 SSA G (Brechfa Forest) is located in Carmarthenshire and includes the location of the proposed development (see REP260, Appendix 4.1 and 4.2. for details). Its indicative capacity target is listed as 90MW. However, the commentary below Table 1 of TAN8 states that this figure represents a 1/3 reduction on the maximum capacity identified by Garrad Hassan as reviewed by Arup in its 2005 report.
- 3.9 In July 2011 the WG wrote to all Welsh local planning authorities clarifying what it considers to be the maximum installed capacity for each SSA, and listing SSA G at 132 MW (REP260, Appendix 13.1). In a written statement in June 2011 the WG also indicated that *"in a number of the SSAs developer interest has now greatly exceeded those indicative figures"* and that it *"believes this level of development is unacceptable in view of its wider impacts on the local area"* (REP260, Appendix 13.2).

Local Planning Context

- 3.10 The relevant local plan is the Carmarthenshire Unitary Development Plan (CUDP) which was formally adopted on 19th July 2006. CCC's Local Impact Report (LIR) (REP260, para 12.5) lists over 30 policies from the CUDP as relevant. These policies cover renewable energy, sustainable development, biodiversity,

noise, transport, access and transportation, cultural heritage, land drainage and public access. Further details of each policy have been provided in Appendix 12.1 to the LIR.

- 3.11 CCC is currently preparing the local development plan (LDP) for Carmarthenshire which is intended to replace the UDP. At the time CCC produced its LIR the LDP was on deposit, and had reached the stage of pre-submission to the WG: the Deposit Local Development Plan (2006 - 2021). As set out in the LIR (REP260 para 12.7) CCC expect to submit the LDP to the WG during autumn 2012 for an assessment of its soundness, with a view to adoption in summer 2013.
- 3.12 The deposit LDP policies relevant to the proposed development are similar to those in the extant UDP. However, policy RE1 additionally proposes that large-scale wind power proposals should be located a minimum of 1500m away from the nearest residential property (REP260, para 12.8).
- 3.13 CCC also adopted Supplementary Planning Guidance (SPG): Major Wind Farm Development in the Brechfa Forest Area in July 2008 (REP260, Appendix 12.2). It advises on the interpretation and application of policy in the UDP, providing information and advice on developments in Brechfa Forest. It was originally intended to apply until December 2010, but is considered to be still relevant by CCC (REP260, para 12.30).

4 MAIN FINDINGS AND CONCLUSIONS

- 4.1 My findings and conclusions on the main matters raised both by interested parties and myself are set out in this section of the report. I have had regard to the representations made, to the legal responsibilities on me as the Examining Authority, the policy context set by the relevant national policy statements, and the local impact reports (LIR), particularly that submitted by Carmarthenshire County Council (CCC). I have also had regard to the unilateral undertakings submitted by the applicant on behalf of the landowner.
- 4.2 A wide range of issues have been assessed in the applicant's ES and raised separately by interested parties. While I have considered all issues I have not reported on issues where little or no evidence was provided which was pertinent to the examination. I have separated the issues I report on into two categories, main issues and other. This categorisation relates to the extent to which I have concluded that the issues raised needed to be considered during the examination, and no wider significance as to relative importance should be attached. No significance should be attached to the sequence in which issues are addressed below.
- 4.3 This section is structured as follows:
- A. Landscape and Visual Impact (LVI)
 - B. Ecology
 - C. Access Track
 - D. Noise
 - E. Other Issues

- 4.4 The proposed Brechfa Forest West Wind Farm (BFWWF) is close to the existing Alltwalis Wind Farm, and there are planning applications for 2 other wind farms, Bryn Llewelyn and Brechfa Forest East, in the local area. These are for determination by CCC. I have therefore also given consideration to relevant cumulative impacts; these are of particular significance in the assessment of LVI and of noise⁴.

A. LANDSCAPE & VISUAL IMPACT (LVI)

Introduction

- 4.5 Significant concerns were raised by members of the local community about the LVI of the wind farm with regard to its adverse affects on local amenity and individual properties. Tourism interest groups were particularly concerned about the impact on the perceived nature of the area to potential visitors and a consequential adverse impact on tourism numbers. (Tourism is discussed in section 4.E(VII)). CCC raised a number of issues in relation to the applicant's assessment which influenced my examination, as did the Countryside Council for Wales (CCW). In each case these related more to points of detail, in relation to methodology and conclusions, than to fundamental disagreement with either the applicant's assessment or with the principles followed by the applicant in seeking a visually acceptable design (APP28, para 15.131).

⁴ On 20 November 2012 CCC rejected the application for the Bryn Llewelyn Wind Farm. No account has been taken of this in the report below which considers, where appropriate, Bryn Llewelyn to be a potential wind farm.

- 4.6 This section of the report focuses on LVI issues relating to the main wind turbines, and not to the local access track which is considered in section 4.C below.

Policy

- 4.7 The National Policy Statement *Overarching National Policy Statement for Energy* (NPS EN-1) notes that where a local development plan has policies based on a landscape assessment these should be paid particular attention. It further notes that “*local landscape designations should not be used in themselves to refuse consent, as this may unduly restrict acceptable development*” (5.9.14). The *National Policy Statement for Renewable Energy Infrastructure* (NPS EN-3) notes that modern commercial onshore wind turbines will always have “*significant landscape and visual effects*”, and that mitigation may not be feasible because of the adverse impact of mitigation on electricity output.
- 4.8 The Welsh Government’s *Technical Advice Note 8: Planning for Renewable Energy* (TAN8) (paras 3.7 et seq) notes that:
- “*Within (and immediately adjacent to) the SSAs the implicit objective is to accept landscape change i.e. a significant change in landscape character from wind turbine development*” (Annex D, para 8.4).
- 4.9 TAN8, as supplemented, also suggests maximum output limits for wind farm development in each of the SSAs. This raises issues beyond LVI and is discussed in Section E.
- 4.10 Carmarthenshire Unitary Development Plan (CUDP), adopted in 2006, is the major relevant local planning document. Policy UT5 seeks to promote renewable energy subject to consideration of

adverse impacts. Policy UT6 sets out the criteria that proposals for wind energy will be expected to meet. "Supplementary Planning Guidance for Major Wind Farm Development in the Brechfa Forest Area" (REP260 LA, Appendix 12.2) was produced by CCC following the then Welsh Assembly Government's identification of Brechfa Forest as a SSA. It has been noted above that a deposit Local Development Plan proposes that large-scale wind turbines should be located a minimum of 1500m from residential properties.

Main Findings from the Environmental Statement

4.11 LVI is assessed in considerable detail in the applicant's ES. The main results of this (APP28, paras 15.248 et seq) identify:

- Significant impacts on the site and landscape features, including pasture, hedgerows and tree lines.
- Major significant impacts on the landscape character of the site, and of the wider Cambrian Mountains area up to 2-3 kilometres from the site.
- A major significant impact on the landscape character of the Brechfa Forest visual and sensory aspect area, with a moderate significant impact on the visual and sensory character of Mynydd Llanllwni and Mynyddstyfflau.
- No prejudice to the values or integrity of the Pembrokeshire Coast or Brecon Beacons' National Parks.
- Moderately significant impacts on views from communities, including from parts of the closest villages, notably Alltwalis and Gwyddgrug.

- Significant impacts on a number of properties, both long-term and (for some) during construction.
- A major significant impact on views for users of the open access land at Mynydd Llanllwni, a Special Landscape Area.
- Significant cumulative impacts on visual and sensory character of landscapes close to the site, from certain viewpoints and some residential properties (APP28, paras 15.258-260).

Assessment

- 4.12 My assessment of LVI issues was informed by the responses from the local community, including representative groups, and from CCC and CCW. Local community concerns primarily related to the impact on local and residential amenity and on tourism. CCC's LIR (REP260 LA) reinforced some of the issues identified by the local community.
- 4.13 The applicant's assessment identifies the detailed methodological process they followed in assessing LVI issues (APP28, ch15), including the:
- Derivation of the baseline.
 - Consultation with 3rd parties, including agreeing viewpoints.
 - Methodology for establishing zones of theoretical visibility, wireframes and photomontages.
 - Assessment of the magnitude of change for landscape resources and from residential and non-residential viewpoints.

- 4.14 CCW largely agrees with the methodology and conclusions of the LVI assessment in the ES, as reflected in the statement of common ground (SOCG) with the applicant (REP68 APP). CCW raises some caveats on methodological detail and consider there to be some understating of the impact from some viewpoints and also of landscape character. Overall CCW considers the impacts to be acceptable within an SSA where it is accepted that there will be landscape change (REP5 OSC).
- 4.15 There is a significant measure of agreement between the applicant and CCC about the methodology in the ES. The SOCG between the applicant and CCC notes that (REP257 APP):
- The photomontages accord with best practice and are fit for purpose.
 - The 31 viewpoints analysed in the ES represent a fair and reasonable range of locations from which to assess impacts.
 - The residential visual impact assessment is fit for purpose, providing a thorough assessment of impacts on residential amenity.
 - The cumulative LVI assessment accords with best practice and is fit for purpose.
- 4.16 There are some disagreements about the assessment of individual landscapes or viewpoints. The differences in part reflect a preference by CCC for a slightly different approach to assessing impact (discussed below). In overall terms the SOCG records that *"both parties agree with the pattern of significant impacts (those that are moderate or greater) from viewpoints as presented in the ES"* (REP257 APP, para 18.17).

4.17 CCC's LIR (REP260 LA) addresses the LVI in some detail. Issues it raises include:

- Concerns about turbine height.
- That the ES understates the significance of two of the assessments of landscape impact.
- That the ES understates the visual impact from a number of viewpoints.
- That the ES understates the visual impact on residential amenity in some instances.

4.18 CCC's concerns about the apparent understatement of impact from some viewpoints flow in part from a difference of view on the assessment methodology in the ES. In the ES, and this is in line with good practice and not disputed, individual viewpoints are assessed for sensitivity, typically reflecting the number of people experiencing a view and/or its sensitivity such as a viewpoint within a national park. Viewpoints are also assessed for magnitude of change derived from a consideration of the extent of the change in the view. From these 2 judgements an overall assessment of significance of impact is reached, with this categorised as negligible, minor, moderate or major based on further professional judgement (APP28, para 15.52). CCC has suggested that this use of professional judgement, at the final stage of assessing the significance of impact, dilutes the transparency of the process. CCC, therefore, suggests that the use of interim levels of significance would be a more transparent method of reaching a judgement on significance of impact (REP260 LA, para 5.1.4).

4.19 Table 4.1 demonstrates the issue, but for simplicity only considers medium and high assessments of sensitivity of

receptor and magnitude of change. For a viewpoint assessed as having a high magnitude of change, but with the receptor assessed as of medium sensitivity, the applicant assesses the impact to be either moderate or major, with this conclusion reflecting a further professional judgement. CCC has suggested that there should be an interim measure of impact shown as moderate/major, removing the input of further professional judgement.

Table 4.1. Impact Significance: Difference of Approach

Sensitivity of Receptor	Magnitude of Change	
	Medium	High
Medium	RWE: Moderate CCC: Moderate	RWE: Moderate or Major CCC: Moderate/Major
High	RWE: Moderate or Major CCC: Moderate/Major	RWE: Major CCC: Major

- 4.20 CCC raised a similar issue in relation to assessments of landscape impact, and of viewpoints from residential properties, where the methodological issues are similar. The SOCG with the applicant recorded CCC's agreement that "*the residential visual amenity assessment is fit for purpose and provides a thorough assessment of impacts*" (REP257 APP).
- 4.21 CCC also provided its own judgement of significance of impact based on these finer gradations, together with some brief pen-picture style comments on each of the viewpoints (REP261 LA, appendix 5.3). I found this a useful complement to the applicant's analysis in the ES as discussed below.

- 4.22 The analysis in the ES (APP28, ch15 and appendices) and the comments by CCC (LIR) are clearly set out. Given this clarity, and the degree of agreement about methodology, I decided that an issue-specific hearing on LVI would serve little purpose. Thus my method of examination was to assess the ES, LIR, written representations and to view the impacts from selected viewpoints. I also asked a written question of the applicant relating to a concern of CCC about the height of the proposed turbines, both absolutely and in relation to the Alltwalis Wind Farm (REP260 LA). Other interested parties (IPs) were invited to respond.
- 4.23 My visits to viewpoints were unaccompanied and the sites selected were based on the analysis in the ES. Suggestions from CCC (REP70 LA), Grwp Blaengwen (REP77 NSO) and the Brechfa Forest Energy Action Group (REP91 MOP) also informed my selection of viewpoints. CCC's representation included suggestions for viewpoints which may be experienced by the general public, both visitors and the local community, as well as identifying residences where the impact on amenity was likely to be most adverse.
- 4.24 I visited all viewpoints within 5 km of the site identified in the ES (viewpoints 1 to 10). I also visited, on the advice of CCC, viewpoint 11, Craig-y-biswal, Pen llwyn-uchel. This was particularly relevant to considering potential cumulative impacts. It is close to the proposed Bryn Llewelyn Wind Farm, but with other proposed wind farms, including BFWWF, visible. I also took in viewing points as close as possible to various properties, viz Waldron, Bryngolau, Salach and Ffynon Las/Blue Well, all identified within the ES. In an earlier visit, prior to the issue-specific hearings on noise and the local access track, I had taken

in viewing points adjacent to Coedlannau Fawr and Gellifen, and close to Lan Farm and Coedlannau Fach. From the A485 I had viewed (primarily) the setting of the proposed access track from in front of Veindre Parc, Veindre Farm (which is further back from the road), White Hart and Llynwalter.

- 4.25 My consideration from these viewpoints was facilitated by the photomontages and wireframes provided in the ES for most of the locations, the assessments in the ES (APP28) together with the "pen picture" assessments of CCC. The value of the photomontages and wireframes in helping me reach a conclusion on the adequacy of the assessment in the ES was enhanced by the existence of the Alltwalis Wind Farm. This could be seen in whole or part from many viewpoints, providing a firmer basis for assessing the impact of the number and prominence of the proposed additional turbines.
- 4.26 The first viewpoint identified in the ES, Mynydd Llanfihangel-rhos-y-corn cairn summit, illustrates why I consider the applicant's approach and that of CCC to assessing significance to be complementary rather than necessarily in conflict. This viewpoint, some 1.5km from the nearest proposed turbine, is on open moor land within a Special Landscape Area. The applicant has identified this as having medium sensitivity to change (mainly reflecting an assessment of the number of people – receptors - who will view it) but with a high magnitude of change. CCC agrees with the assessment of magnitude of change and has not challenged the sensitivity to change in its pen picture. Applying CCC's methodology mechanistically would have led to a judgement that the impact was major/moderate. And yet both the applicant and CCC assess the impact as major, adverse long-term, the only viewpoint either the applicant or CCC has

identified as having this level of impact. Having visited and viewed from this location I cannot conceive that any other judgement would be appropriate. But nonetheless I have found CCC's analysis, together with their individual pen pictures, helpful in assessing the viewpoints.

- 4.27 In considering the views, I took note of CCC's concerns that the height of the turbines was disproportionate, in both absolute terms and in relation to the smaller turbines at the adjacent Alltwalis Wind Farm. CCC's LIR (REP260 LA, Table 5.1 et seq) compared the height of the blade tips of the Alltwalis turbines and those of BFWWF, noting that all save one of the proposed turbines at BFWWF was higher than those at Alltwalis, reflecting both topography and differences in turbine size. The Alltwalis turbines are 110.5m high to blade tip compared to BFWWF turbines which would be 145m high. This mainly reflects differences in hub height, with the Alltwalis hubs some 70m above ground and those at BFWWF 100m above ground. The turbine blades at the two sites are of similar length: 41m at Alltwalis compared to 45m at BFWWF.
- 4.28 In considering this issue, it should be noted that the Alltwalis Wind Farm is on open ground while the BFWWF would sit within a forested area. In response to a question from me the applicant has justified the need for greater turbine height in forests in order to minimise tree loss and to counter the effects of turbulence, which can impact on electricity output and increase the likelihood of turbine failure. The applicant provided supporting technical evidence (REP68 APP, response to Q21). As noted above (para 4.7), NPS EN-3 notes that mitigation of wind farm impact via a reduction in scale may not be feasible because

of the adverse impact on output. In the light of this I consider the applicant's justification to be sound.

- 4.29 In addition, my consideration from the viewpoints I visited did not suggest that the variation in turbine height between the two wind farms was of great significance. Neither of the 2 sites is on level ground, with CCC's assessment showing that the Alltwalis wind turbines vary in height by some 35m, a not insignificant variation against a turbine height of 110.5m. I also note there is no regular pattern to the location of the individual turbines at either Alltwalis or as proposed at BFWWF. In assessing impact I consider that in general it was the proximity of individual proposed turbines to particular viewpoints that had the greater impact on visual amenity, with the variation between the proposed BFWWF turbines and those at Alltwalis less significant. In the light of this, and the applicant's assessment of the need for turbines to be at the proposed height, I attach little weight to this issue raised by CCC.
- 4.30 More generally my programme of site visits, supported by the applicant's written documentation, has enabled me to reach a judgement on the adequacy of the ES in assessing the LVI of the proposed development. CCC's judgements and pen pictures were particularly helpful as were, at a more general level, those of CCW. There is undoubtedly room for differences of view about details of the assessment methodology and the impact of the proposed turbines. But these differences are in general at the margin, and within the realms of reasonable professional interpretation. They do not undermine the nature of overall assessment set out in the ES, as the statutory bodies recognise, with the main impacts set out in para 4.11.

- 4.31 In conclusion on LVI, I note the development of BFWWF would bring significant change to the local landscape and to visual impact. This is common ground between the applicant and those who have made representations. The effects will be greater should Bryn Llewelyn and Brechfa Forest East be constructed. In considering this impact there are 2 considerations to which I attach significant weight:
- The policy advice set out in NPS EN-3 which identifies the need for wind farms, and which is discussed in more detail in section 5. This recognises that wind farms will always have significant landscape effects.
 - The WG's TAN8 which identifies Brechfa Forest as an SSA, and thus as an area appropriate for the development of wind farms, with a recognition that significant change to landscape character is acceptable within such areas.
- 4.32 Against the background of the policy requirements for renewable energy, the acceptance of landscape change as a consequence of wind farm development and the identification of Brechfa Forest as an area appropriate for such change, I conclude that the significant landscape and visual impacts are acceptable and recommend accordingly.

B. ECOLOGY

Introduction

- 4.33 The applicant's ES considered the impacts on a wide range of non-avian and ornithological receptors. With the mitigation measures proposed in the ES, few adverse impacts of

significance were identified. This has been challenged by CCC and CCW in a number of areas. My examination has focused on these issues and on statutory requirements relating to the Habitats Directive⁵ and The Conservation of Habitats and Species Regulations 2010 (habitats regulations⁶) as amended.

4.34 The issues that I address in this section are:

- I. The implications for sites designated under EU directives.
- II. Monitoring of bats.
- III. The impact on nightjars.
- IV. European protected species (EPS) licensing.
- V. The habitat management plan.

4.35 There are additional ecological issues that arise in relation to the access track which I will discuss in Section C. There is in general less agreement between the applicant and some of the statutory bodies on ecological issues than on the assessment of LVI.

4.36 The policy advice in NPS EN-1 notes as a general principle the desirability of avoiding significant harm to biodiversity, and provides guidance on the weight to be given to any harm that might be caused to designated sites, with a hierarchy reflecting international, national, regional and local designations.

I. Implications for European Sites

4.37 NPS EN-1 (para 4.3.1) notes that prior to a DCO being made consideration must be given as to whether the project could have a significant effect on a European site designated under the habitats regulations. Such a process of Habitats Regulation

⁵ Council Directive 92/43/EEC of 21 May 1992 on the Conservation of Natural Habitats and of Wild Fauna and Flora

⁶ SI 2010/490

Assessment can involve multiple stages. The first stage, comprising an initial screening test, is to determine whether there would be likely to be a significant impact on the site. The approach is precautionary. If it cannot be shown, beyond reasonable scientific doubt, that there is no likely significant impact a further full detailed assessment, an appropriate assessment (AA), is required. This would seek to ascertain whether or not the project, alone or in combination with other projects, could impact adversely on the integrity of the site. The competent authority, in the case of this application the Secretary of State for Energy and Climate Change (SoS), needs to be provided with such information as may be required to determine the likelihood of a significant adverse impact.

- 4.38 The applicant submitted a Habitats Regulations Assessment Screening Report with its application (APP107). This considered the potential impacts of the project, including relevant mitigation measures. The report concluded that it is highly unlikely that the BFWWF, either alone or in combination with other projects, would have a significant impact on any designated sites, and that an appropriate assessment is not required.
- 4.39 The applicant's Screening Report identified 2 Special Areas of Conservation (SAC) which might potentially be affected by the development:
- The Afon Teifi SAC, some 1.7km northwest of the site.
 - The Afon Tywi SAC, some 9.1km south of the site.
- 4.40 No other sites have been identified as potentially affected, and no other sites have been identified as being of concern by any of

the statutory consultees and interested parties, including CCW as the statutory nature conservation body (SNCB).

- 4.41 The BFWWF site is situated within the catchment of both of the areas of river designated as SACs. In an early representation CCW highlighted that, while not necessarily disagreeing with the conclusion of the Screening Report, it had concerns relating to potential water chemistry impacts. CCW noted that additional mitigation measures may be necessary to avoid a likely significant effect and thus the need for an AA. The main risks identified were associated with the construction phase. Environment Agency Wales (EAW) separately identified the construction phase as the main risk to both surface and ground water quality. It noted that the draft construction method statement (CMS) submitted with the ES set out adequate pollution prevention measures, and its implementation would address their concerns. EAW did, however, suggest that water quality be monitored before and during construction and that this be secured by a requirement in the DCO. The principle of this was acceptable to the applicant and to CCW. The draft DCO requires that the CMS includes measures for the protection of water bodies, a monitoring programme before and during construction and details of remedial action to be taken should monitoring identify adverse impacts on water bodies (R9(2)(g)). The drafting of this evolved during the examination and has been welcomed by CCW (REP178 OSC). The CMS would need to be approved by CCC.
- 4.42 The felling of trees is not authorised development under the PA 2008. In the draft DCO all felling activity is subject to relevant forestry guidance (Requirement 18). EAW has noted that these guidelines are the most appropriate pollution prevention

guidance for felling, and CCW has confirmed it is satisfied that the guidance addresses its concerns in relation to water quality (REP178 OSC). I consider this requirement to be sufficient to cover felling operations to ensure that such activity does not compromise the integrity of the 2 SACs.

- 4.43 I have considered information relating to the Habitats Regulations Assessment provided by the applicant and interested parties. The evidence is assessed in more detail in Appendix E, Report on the Implications for European Sites. Taking account of the evidence in the ES, the enhancement of mitigation measures developed during the examination, the agreement of the main statutory bodies, particularly CCW, and the detailed assessment at Appendix E, I conclude that it has been shown, beyond reasonable scientific doubt, that there is not likely to be a significant effect on the Afon Teifi and Afon Tywi SACs. I consider that the Secretary of State may conclude that there is no need for an AA.

II. Monitoring of Bats

- 4.44 The issue separating the applicant and CCW relates to the nature and duration of monitoring necessary to verify the predicted impact on the population of bats. The applicant had initially proposed bat monitoring in years 1,3 and 5 with no necessary requirement for casualty surveys. Monitoring beyond year 5 would continue should the evidence suggest it is necessary. CCW has proposed monitoring in years 1, 2, 5, 10 & 15, and that the monitoring should include casualty surveys. During the examination the applicant agreed to replace the year 3 monitoring with monitoring in year 2, in line with Bat Conservation Trust (BCT) guidance. The outstanding

disagreement relates to the need for casualty surveys and for monitoring beyond 5 years.

- 4.45 I consider separately in section B(IV) the issue of European protected species licensing in relation to bats.

Policy

- 4.46 All British bats are listed in Annex 4 of the EU Habitats' Directive, and the Wildlife & Countryside Act 1981 provides strict protection to bats and their roosts. NPS EN-3 notes that knowledge of the impact of wind farms on bats is more limited than in respect of some species of birds. In considering monitoring it records that the (then) IPC should "*seek to validate the results of the EIA and any collision risk modelling by requiring, where reasonable, relevant monitoring during the construction and operational phases of onshore wind farms*".

Environmental Statement

- 4.47 Surveys reported in the ES identified the existence of 9 confirmed bat species within the site, with no roosts identified; it is judged unlikely that a significant number of roosts is present, and there is no evidence to suggest the site is located along important migration routes (APP20, para13.130). The main potential impact relates to the operation of the wind farm, with individual bat species identified as at high, medium or low risk of collision and/or barotrauma. For low and medium risk species the assessed impact is negligible. For high risk species the assessed impact is minor negative before mitigation and negligible after mitigation. The main proposed mitigation is a monitoring programme, with subsequent action (such as turbine

management) to be undertaken should the monitoring programme justify the need.

Assessment

- 4.48 Each of the parties has cited BCT guidance in support of their position, at least in part. I have used this guidance (REP192, Annex 3, BCT Bat Surveys: Good Practice Guidelines, 2nd ed, 2012, section 10.8), along with the guidance in NPS EN-3 to inform my consideration. The core BCT advice notes:

"While we await the results of current research the effort and techniques appropriate for post-construction monitoring of wind turbine sites should be assessed on a site-by-site basis. The aims of post-construction monitoring surveys should be to assess changes in activity patterns and to provide information on the efficacy of any mitigation schemes. Surveys should be carried out in the first two years of wind turbine operation, but effects of habitat modification and off-site enhancements on bat activity may require monitoring over a longer period. Where more severe impacts have been identified or predicted, data collection may need to continue for longer to assess the effectiveness of any mitigation proposed, and it may be necessary to quantify fatality rates by searching for dead bats under turbines."

- 4.49 The applicant proposes that no casualty surveys need to be undertaken on the basis of the assessment in the ES, though acknowledges this may subsequently be necessary if the evidence from post-construction activity surveys suggests that there is an impact which needs further investigation. CCW has highlighted the uncertainty of assessing impacts, particularly

casualty impacts, on the basis of activity surveys alone (REP198 OSC). I consider each of these approaches has merit, with the applicant's view given support by the guidance from the BCT. However, the NPS EN-3 extract above highlights the limited information available on bats, and suggests that there is a need to validate the EIA assessment of "collision risk modelling" where reasonable. Given this, I attach rather more weight to the need for casualty-risk monitoring to form part of the post-construction monitoring regime, and conclude that it should.

- 4.50 The applicant has also proposed no surveys beyond year 5 unless the evidence from the surveys in previous years justifies this. This is seen as sufficient given the low risk to bats as assessed in the ES. The BCT guidance is cited in support of this, with the applicant proposing to exceed the BCT guidance for 2-year monitoring with a further survey in year 5. CCW has noted that the assessment of risk posed to bats must be qualified by a level of uncertainty, and separately cited NPS EN-3 in support of its argument that monitoring should be built in until year 15, albeit this could be relaxed if the monitoring evidence justified it.
- 4.51 I do not share CCW's interpretation of NPS EN-3. This comes close to suggesting such monitoring should always be required. If that were the policy intent then NPS EN-3 would have said so. The more appropriate interpretation of the guidance is to focus on what is reasonable. In the light of the BCT guidance, and the assessment of likely impact in the ES, I consider that the applicant's proposals to limit required monitoring to 5 years, with mitigation and monitoring to continue thereafter should it be necessary, to be sufficient in the case of this project.

- 4.52 I note that the issue of bat monitoring is not afforded material consideration in the draft habitat management plan (HMP) submitted with the ES. I have therefore proposed strengthening Requirement 15 in the DCO. This now gives effect to my conclusions that bat monitoring should include mortality surveys, be required up to year 5, and that any subsequent monitoring and/or mitigation will depend on the results of the monitoring activity.

III. Nightjars

- 4.53 Concern has been expressed by both CCC and CCW that the development, without adequate mitigation, could impact on the local nightjar population that has been identified in Brechfa Forest. The main area of disagreement identified during the examination relates to the potential displacement or disturbance impacts as a result of turbine noise. Specifically the issue relates to the potential masking of nightjar churring, a means of attracting mates, and whether subsequent breeding activity is likely to be affected. The assessment of this issue has been limited by the level of scientific evidence available, and there has been some debate over the need for, and adequacy of, mitigation.

Policy

- 4.54 Nightjars are an Annex 1 species protected under the EU Birds' Directive, and thus of high nature conservation importance.

Environmental Statement (ES)

- 4.55 The ES includes an estimate of some 11-17 pairs of nightjars in the proposed BFWWF site based on 2009 data, an estimated 4-

6% of the Welsh population, or some 0.2 to 0.4% of the UK population (APP22, ES 14.62). This is assessed as of moderate importance at the Wales level and of negligible significance at the UK level. This assessment has not been disputed.

4.56 Characteristics of nightjars particularly relevant to assessing potential impact are that:

- They show no nest fidelity, moving nests between years reflecting the structure of the forest and the availability of preferred habitat.
- The availability of suitable habitat changes as forests mature and are managed, with nightjar favouring young (below 15 year old) forest areas.
- Male nightjars attract mates via a churring noise, particularly at dawn and dusk in the months of May to July.

4.57 The ES records that little is known either about nightjars in upland forest habitats or about the more specific issue of whether the impact of wind turbine noise will displace nightjars. This has not been disputed.

4.58 The main elements of the applicant's assessment, as set out in the ES and in response to questions (APP22; REP68 APP, answer to Q13 and Appendix 7) are that:

- Without the development the area of habitat suitable for nightjars in BFW will decrease as a result of forest change and management.
- The proposed wind farm will increase this habitat loss. On the basis of precautionary assumptions this loss is substantial, at some 35% in the peak year of maximum loss though lower in

other years. A key precautionary assumption is that disturbance impacts within 500m of the turbines have been assumed to result in a total loss of suitable habitat within this area.

- Nevertheless, following the proposed development there will remain within the site sufficient habitat to maintain the existing population of nightjars, with evidence cited in support.
- Some potentially suitable habitat also exists outside the site within the wider forest. Also some 90ha of suitable habitat will be created as a result of replanting of young trees following initial felling. Neither is likely to be a significant mitigating factor.
- It is not known whether the masking of calls will cause nightjars to move (ie they will not breed where they cannot be heard) or if noise may have other effects on breeding. Based on evidence of sound power output and octave frequency of both nightjar calls and turbine noise, the applicant's assessment assumes that wind turbine noise may mask the churring sounds of nightjars at certain wind speeds, potentially impacting on mating success (APP22, para 14.98 et seq).
- When masking does occur it is assumed that some 40% of nightjars within the site could be affected, some 1.6-2.6% of the Welsh population or up to 0.15% of the UK population.
- A 47m radius around turbines to be kept free of trees will reduce this risk. While the purpose of this is to ensure the efficient working of turbines, it also reduces the attractiveness of this area to nightjars, thus reducing the risk

of noise adversely impacting on mating success (APP17, para 12.45; APP22, para 14.86).

- Monitoring of nightjars within the forest would take place to assess whether noise from the turbines is having an adverse impact. If the evidence identifies such an impact then further mitigation in the form of feathering the wind turbines to mitigate the noise effects should take place.
- The impact of habitat modification, loss and displacement on the nightjar population in Wales is assessed as negligible. The assessed impact for the masking effect of turbine noise is negligible to minor.

4.59 CCW (REP106 OSC) and CCC (REP104 LA) have sought to have additional suitable habitat provided for nightjars, preferably outside the site. They have observed that monitoring of the impact of noise prior to remediation is a reactive approach rather than a proactive or precautionary approach. As is common with habitat provision, it is not certain that such provision would be used by displaced nightjars, and thus may not mitigate the impact of noise, if any.

4.60 The issue here is that a judgement is required with little robust evidence. The applicant has drawn attention to potentially relevant views from Natural England (NE) and the Royal Society for the Protection of Birds (RSPB) in commenting on an application for the Alaska Wind Farm in Dorset (REP192 APP, Annexes 5-7). NE and the RSPB appeared to consider that the displacement impacts of noise were not likely to arise further than 100m from the turbines. From this the applicant has suggested that the probability of a significant number of nightjars nesting within 47-100 metres of turbines, and thus

potentially impacted by noise, is “very low” (REP192 APP, p12). I note that this is not empirical evidence based on findings, but evidence drawn from judgements of other parties in a different context.

- 4.61 In conclusion on nightjars it seems clear that there is some risk that turbine noise will adversely impact on the mating of nightjars. While the extent of that risk is unknown, the assessment in the environmental statement that the impact on the Welsh population is negligible to minor seems reasonable. The existence of alternative habitat may well reduce this risk further. Such habitat exists within the BFWWF site and the case for creating additional habitat of uncertain value is not persuasive given the assessed level of risk. The measures described in the ES to address noise disturbance are intended to ensure that the relatively minor impacts predicted in the ES are not exceeded. The draft DCO includes a requirement to monitor, and if necessary mitigate, the impact of the development on the population of nightjars (Requirement 15(2)(f)). I consider this to be both appropriate and sufficient given the uncertainty of any adverse impact, and the likely limited extent should such an impact arise. The details of, eg, trigger points for feathering turbines is an issue most appropriately addressed in the context of the habitat management plan (HMP) and may require adjustment on the basis of experience.
- 4.62 During the examination (July 25th), the Department for the Environment Food and Rural Affairs produced amendments to the Habitats Regulations to strengthen measures to maintain wild bird populations. I invited comments (PD24) from relevant interested parties. Responses included comments from the applicant, CCC and CCW (REP192 APP, REP193 LA, REP198

OSC). Having considered the revised Regulations and responses from parties I believe the conclusions I have reached above are consistent with the obligation to preserve, maintain and re-establish sufficient diversity and area of habitat for nightjars. The mitigation measures proposed, and the strengthening of the DCO, will be sufficient to maintain the population of nightjars, their eggs, nests and habitats at a level which corresponds to ecological and scientific requirements.

- 4.63 I do attach particular significance to the need for robust monitoring of the impact of turbine noise on the breeding of nightjars. This will both inform the need for any mitigation and provide improved evidence to inform the generic issue of the impact of turbine noise on nightjars. The need for this is covered in Requirement 15.

IV. European Protected Species (EPS) Licensing

- 4.64 Concern has been expressed by CCW that the proposed development may have an adverse impact on certain species protected under the Habitats Directive. Its particular concerns relate to the adequacy of survey work, and the assessment of habitat suitability, undertaken by the applicant with respect to dormice and bats.
- 4.65 Both dormice and bats are identified in Annex IV of the EU Habitats Directive as species that it is an offence to "disturb", with disturb including damaging or destroying a breeding site or resting place of such an animal. A licence can be granted for such an activity subject to certain derogation tests which I consider below. The licensing authority is the Welsh Government (WG), with CCW having an advisory role. The applicant believes

that a licence will not be necessary on the basis of the assessment reported in the ES.

- 4.66 The making of a DCO will not override the requirement for a licence. Case law has established that it is not sufficient for a planning decision to meet the obligations of the Habitats Directive by simply including the need for a licence in the requirements that form part of the determination. I have thus sought to examine the issues with relevant interested parties, via both oral and written examination, to ensure that I have had regard to the requirements of the Habitats Directive. While this has narrowed the differences between the applicant and CCW it has not removed them.
- 4.67 During oral examination it was clarified that CCW's concerns related to the survey work undertaken, and conclusions drawn, in relation to habitat affected by the construction of the proposed access track rather than to the survey work in the forest in which the turbines would be located.

Dormice

- 4.68 The habitat in the vicinity of the access track was assessed by the applicant to be of low suitability for dormice and thus, unlike in some parts of the site, no transect surveys were undertaken in the vicinity of the access track. CCW does not share the applicant's view on the suitability of the habitat for dormice (REP106 OSC). CCW has queried the timing of the applicant's survey and noted the existence of double-fenced hedgerows developed with support from the WG's Tir Gofal agri-environment scheme, though the particular hedgerows are no longer being supported under the scheme. These CCW has identified as

potentially important connectivity corridors for dormice, which the access track would breach. Such connectivity is potentially important as dormice are reluctant to cross open spaces. This is supported by evidence submitted by the applicant (English Nature, *The Dormouse Conservation Handbook*, 2nd edition), (REP192 APP, Annex 4). Given its view on the potential of the habitat to support dormice, CCW believes the habitat assessment needs to be supplemented by a transect survey.

- 4.69 Despite exploring these issues through the examination there remains a difference in professional judgement about both the adequacy of the survey work conducted and the suitability of the habitat for dormice. As the statutory nature conservation body I attach significant weight to CCW's advice in the absence of clear alternative evidence. If a licence is sought WG will attach weight to CCW's assessment, and it appears likely that the survey information could be deemed inadequate. The applicant is firmly of the view that no licence will be required.
- 4.70 CCW did acknowledge that the pre-construction survey work which the applicant plans to undertake, and which includes surveys for nests (REP103 APP), could be taken forward in a manner which would meet their concerns. While confirming their view that reliance on pre-construction survey work did not accord with best-practice, CCW proposed an addition to the DCO to address their concerns (REP138 OSC):

"A comprehensive survey report which details the timing and methods of surveys undertaken".

- 4.71 Such a requirement (now part of Requirement 16) was included in the draft DCO I circulated following the DCO hearing (PD20).

CCW subsequently suggested (REP178 OSC), in apparent contradiction of its earlier advice, that this provision be removed as the work should be undertaken prior to consent being granted, so that the impact on the species could be assessed and, if necessary, a view reached on whether the derogation tests could be met. I discuss this below after considering the derogation tests.

Bats

- 4.72 Greater progress was made during the examination in clarifying the assessment undertaken of bats. (I shared some of CCW's uncertainty about the presentation of the analysis undertaken by the applicant.) The applicant addressed CCW's concerns, notably during the issue-specific hearing on ecology, by clarifying the methodology undertaken and answering specific questions (REP103 APP, REP106 OSC, REC6).
- 4.73 The applicant confirmed that the track had been assessed for potential bat habitats in line with guidance from the BCT, and that there was no direct evidence of bat activity. The applicant's expert advisor confirmed that trees were assessed for bat potential, and that only 2 trees were assessed as having high bat-roost potential. These were not on the line of the track and would not be felled during construction. Should subsequent evidence emerge of bats using these trees then there would be potential for night working to have an adverse impact as a result of disturbance. This can be addressed via an appropriate provision in the CMS (requirement 9) to be approved by CCC. Having discussed and considered this during the hearing CCW acknowledged its concerns in relation to survey work were reduced, while reiterating the need for pre-construction surveys.

4.74 Subsequently, and following the accompanied visit to the proposed access track, CCW raised queries over trees which might be pruned and/or roots affected (REP 198), highlighting its concerns about lack of clarity in the ES. I consider that this was satisfactorily addressed in the hearing, with the applicant subsequently providing appropriate clarification that all trees had been assessed in accordance with BCT guidance (REP103 APP). Notwithstanding this, and as confirmed during the examination, the applicant is committed to pre-construction survey work as identified in its ES. As noted above with respect to dormice, the draft DCO has been modified to require a scheme for mitigation of adverse impacts on EPS with this to include further survey work (Requirement 16).

Derogation Tests

4.75 While the applicant does not anticipate the need to seek a licence, it also argues that should a licence be required the relevant derogation tests would be met. I have considered these issues, while not seeking to duplicate a process that would be needed for consideration of such a licence. The 3 likely tests are:

- That there is **no satisfactory alternative**. The applicant focussed, in the main (REC6), on issues relating to alternative routes for the proposed access tracks, which minimised hedgerow removal by crossing them at 90 degrees where practicable. Any other alignment would increase hedgerow and ecological loss. The possibility of an alternative access route via the Alltwalis Wind Farm access track was not seen as an alternative as the applicant had not been able to reach agreement with the landowner to obtain access to the Alltwalis track and conduct surveys.

- To ensure that **activity is not detrimental to the favourable conservation status of the species**. CCW was not able to offer a view on this issue, and neither it nor the applicant had any robust evidence. The applicant noted that, given the relatively poor habitat, if dormice are present the numbers are likely to be low in absolute terms. This is supported by the English Nature Handbook submitted by the applicant which notes even the best habitat may not support more than about 4 adult males per hectare. The applicant has noted that the area of field boundary that will be lost is less than 0.1ha (REP103 APP). I note that the relevance of this is reduced as the impact on connectivity is a key issue in CCW's concerns and as endorsed in the English Nature Handbook. Nevertheless, while not conclusive, there do seem grounds for concluding that any adverse impact on dormice is likely to be small, and thus not likely to be detrimental to the favourable conservation status of the species.
- Whether the project is necessary for **Imperative Reasons of Overriding Public Interest (IROPI)**. The applicant noted that NPS EN-1 provided evidence of the importance of the project. Given that this is would be a decision of the WG then its policy is relevant. The new energy policy for Wales published in 2012, Energy Wales: A Low Carbon Transition, suggests WG may well consider that the project meets the IROPI test, although evidence has not been submitted on this.

- 4.76 Following the issue-specific hearing I asked the WG if it had any views on the likelihood of the derogation tests being met and a licence granted. Their response noted (REP194 OSC):

"Whilst there may be a strong case to meet the derogation tests of alternatives and overriding public interest, consideration of those tests cannot begin until sufficient survey work has been done to scope out the scale and pattern of activity of the populations of protected species in support of the test regarding conservation status of the species. The quality of any socio-economic argument justifying the project cannot override inadequacy of survey and nature conservation provisions."

Conclusion on EPS Issues

- 4.77 It is not for me to reach a conclusion and advise the Secretary of State as to whether a licence would be required or would be issued. This will be a decision for the WG in the event of an application being necessary and forthcoming. Nevertheless, having considered the issues I note:

- There is no evidence that a licence will be required.
- There is a need for further survey work, and this raises the possibility that this will identify the need for a licence. That possibility is increased to the extent that the survey work so far undertaken is inadequate.
- The draft DCO has been strengthened to include provisions which will provide improved evidence to inform the issue of whether an EPS licence is required.

- The consideration of the derogation tests above is not conclusive, but does not rule out the prospect of a licence being granted should one be required.

4.78 On the basis of the evidence and assessment above, I conclude that there are no EPS licensing issues that arise that weigh significantly against making a development consent order. The making of such an order would be without prejudice to any decision that the WG might need to make should a license be required.

Habitat Management Plan (HMP)

- 4.79 The ES included a draft of a HMP (APP13) which requires the approval of CCC. There is agreement, as evidenced in the SOCGs, between the applicant and, respectively, CCC and CCW that the HMP is an appropriate means to secure mitigation of ecological impacts (REP257 APP, REP68 APP). It is also agreed that the draft needs further development, a view I share. The initial draft of the DCO proposed by the applicant identified no specific requirements other than by reference to the draft HMP (APP3).
- 4.80 The current draft of the HMP does not address some of the ecological issues considered above. The draft DCO has been strengthened to give effect to issues discussed during the examination such as nightjar and bat monitoring, with mitigation as necessary. CCW has also registered concern that the applicant has given no undertaking to commit a particular level of resources to fund the HMP, and during the examination I proposed an additional requirement that the HMP identify the resources required to implement ecological measures. That

remains in the draft DCO at Appendix F. The draft HMP includes provision for an Advisory Committee to include members “such as” CCW and EAW. This is not specifically covered in the draft DCO. But I note that Requirement 15(2)(h) requires that the final HMP must deal with matters set out in the draft HMP attached to the ES, and that this requires the approval of CCC. I see no need for a more specific provision in the DCO.

- 4.81 With these enhancements to the DCO I conclude that the proposed HMP, which would require the approval of CCC, would be an appropriate vehicle for ensuring adequate mitigation of adverse ecological impacts.

C. LOCAL ACCESS TRACK

Introduction

- 4.82 The proposed local access track has generated much controversy both among the local community and statutory bodies. The concerns identified have been reinforced by a widespread belief that an alternative access exists which would have fewer adverse consequences.
- 4.83 The proposed access track would run from a new junction from the A485 south of Gwyddgrug, and would involve a new track to the edge of Brechfa Forest. Some 150 metres to the south of the proposed access from the A485 is a track which has been built to service the adjacent Alltwalis Wind Farm. This runs broadly parallel to the proposed new access to the site, ending shortly before the edge of Brechfa Forest. The use of this existing track is seen as capable of reducing both the nuisance which local

residents would be subjected to during the construction phase, and also the adverse ecological and landscape consequences associated with the proposed new track.

Policy

- 4.84 The main policy considerations relate to the LVI, ecology and nuisance, and to possible effects on private water supplies. Policy in relation to LVI and ecology has been considered above; the main nuisance considerations (eg dust, vibration) would arise during the construction phase, with both the building of the track and the delivery of components posing risks. NPS EN-1 (para 5.6.3) notes that the aim should be to keep the impacts to a minimum and at a level that is acceptable.

Environmental Statement

- 4.85 The assessment of the proposed access is addressed throughout the ES. At my request the applicant brought together in one document the assessment within the ES as it relates to the proposed access track (REP68 APP, answer to question 5, inc appendix 3). This is not primarily new information, but comprises principally relevant extracts from the ES, with some linking text and a limited amount of additional information.
- 4.86 The proposed track, some 2km in length, crosses agricultural land, and rises from an elevation of just under 200m AOD at its junction with the A485 to just under 350m AOD at the forest boundary. The track and hard shoulders would generally be some 7m wide, and potentially wider at bends and at the bellmouth access to the A485. The track, including the shoulders, would be surfaced with crushed stone (APP10, para 3.36). The assessment in the ES assumes, on a precautionary basis for assessing

habitat loss, a corridor for the track some 17m wide (APP20, Table 13.1).

- 4.87 The key habitats identified as likely to be affected are a variety of grasslands, broad-leaved and coniferous woodland and hedgerows with trees and tree lines. The ES identifies a loss of 130m of hedgerow, 143m of tree line and 40.75ha of other habitat. No statutory sites are affected by the proposed access. The applicant's main mitigation proposals involve the planting of some 1,400m of tree line and species-rich hedgerow. The applicant considers the benefits of the proposed mitigation would outweigh the habitat loss arising from the proposals.

Concerns Relating to the Access Track

- 4.88 Given the quantity and nature of concerns about the proposed access track, which increased rather than diminished through the examination period, I comment briefly on a wide range of issues that emerged from written and oral representations, including representations submitted following an accompanied site visit. (This visit consisted of a walk along the length of the track from the A485 to the edge of the forest.) I then draw conclusions on these concerns before considering the issue of alternatives.
- 4.89 In my first round of written questions I asked CCC to set out the planning objections they had to the proposed track, with a request that they focus on the track and not the issue of alternatives. (A separate question was asked on alternatives.) CCC's response (REP2 LA, response to question 6) identified the following issues, on each of which I comment:
- There would be an adverse landscape and habitat impact at the junction with the A485 with the removal of "105

(minimum)” of trees and hedgerow, with a stark interruption to the highway boundary which is characterised by natural vegetation. While the applicant’s mitigation proposals, including the planting of specimen trees, would provide some mitigation, increasing through time, I agree this would be an adverse impact.

- There would be an adverse impact on the residential amenity of 3 properties located within some 50m of the site entrance, on the opposite side of the A485. This issue is a significant concern to the local residents who will be directly affected. There is provision in the draft DCO to manage dust via the CMS, but I do not doubt that there would be adverse consequences both from the construction of the track and the movement of very large vehicles, particularly for the 3 closest properties.
- The access track would cross farmland subject to an agreement under s106 of the Town and Country Planning Act 1990, and to a related HMP, agreed as part of the approval of the adjacent Alltwalis Wind Farm. This issue has also been highlighted by a number of residents and by CCW who have registered concerns about the loss of acid grassland habitat that the Alltwalis HMP was designed to secure. While it appears that there is no legal impediment to the construction of the track (REP105 LA), there would be a loss of some 5% of the relevant parcel of habitat identified in the Alltwalis HMP (REP103 APP). I do not consider that evidence has been provided to support a conclusion that this impact has a significant effect on the integrity of the Alltwalis HMP.

- The applicant has not agreed the detailed design of the track with the local highway authority. I note the A485 is a principal road identified as being suitable to carry HGVs. I further note that it has not been suggested that a junction cannot satisfactorily be located at this point. My own inspection has suggested no significant difficulties that could not adequately be managed via the CMS that will need to be approved by CCC.

4.90 A range of other issues has been identified, with both CCC and CCW suggesting that the ES understates the adverse consequences on ecology and habitat which they see as closely linked. These other issues, on which I also comment, include:

- The risk to private water supplies, raised both in general by members of the community and in particular by the owner of Lan Farm (REP67 MOP), whose water is provided from a well some 25m from the line of the proposed access track. In terms of water management I note that EAW is satisfied with the applicant's proposals generally in relation to water management, and also with the pollution prevention measures detailed in the CMS to manage surface and ground water integrity (REP7 OSC), recognising that the detail will be for the CMS. CCC has responsibilities for protecting private water supplies. In response to a question, CCC noted that the applicant's monitoring proposals seem sensible and provide a "*good baseline*" indication of whether the development causes any problems. CCC did enquire about the frequency of testing proposed by the applicant (REP2 LA). I consider this detail can be addressed in the CMS. Requirement 9 provides for a CMS that will set out pollution control and prevention measures, as well as proposals for the management of

ground and surface water including *"mitigation to protect private water supplies"*. While risk cannot entirely be avoided, as the CMS requires the approval of CCC, which has relevant responsibilities, I consider the safeguards to be acceptable.

- A concern that the proposed works would impinge on neighbouring farmland not in the ownership or control of the applicant. A local map (not part of the suite of plans provided with the application) relating to the access track and potential hedgerow loss gave substance to these concerns. The applicant accepted this map was erroneous and it has been revised (REP133 APP). In relation to the plans submitted with the application, the applicant has separately confirmed that *"...the application does not propose any works upon, over or under, or involve the removal of vegetation, from any third party land whatsoever and the submitted plans are accurate"* (REP174 APP). I note that Article 15(6) in the draft DCO specifically requires the consent of the owner of any land for felling or lopping trees or removal of hedgerows.
- The applicant's assessment that the line of the track has been degraded along much of its length has proved controversial with residents and statutory bodies, particularly CCC. I observed significant churning along some limited stretches during the site visit. CCC has advised that it is taking enforcement action to reinstate the land which it considers to be in breach of conditions in the s106 agreement for the Alltwalis Wind Farm (REP223 LA). Nevertheless, discounting this length of the track, there remains evidence that some of the proposed route is relatively degraded compared to the rest of the surrounding habitat.

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- CCW has challenged the overall assessment of hedgerows as species poor, highlighting that affected hedgerows have been developed under the WG's Tir Gofal agri-environment scheme and protected by double-fencing (REP106 OSC, REP199 OSC). I saw the hedgerows during the site access visit and I concur with CCW's view that the assessment of their quality has been understated, particularly at lower altitudes.
 - CCW has also noted that fields crossed by the track have been subject to management restrictions via the WG's Tir Gofal scheme, and noted that the quality of grassland has been understated by the applicant. The site investigation provided some evidence in support of CCW's view that in places the applicant's assessment of the fields as "*improved*" under-stated the existing environmental quality of the pasture. CCW's ecologist identified species consistent with an assessment of semi-improved, bordering on unimproved (REP199 OSC). However, I also note that the applicant's access-specific environmental assessment records that, while the habitat is predominantly improved grassland, it also acknowledges a wider variety of habitats of environmental value, including small areas of "*marshy grassland, semi-improved grassland, dry heath/acid grassland mosaic.*" (REP68 APP, Appendix 3 to questions, chapter 13).
 - CCC and CCW have challenged the likely effectiveness of the applicant's proposed mitigation of providing hedgerow alongside the track at some of the higher altitudes (REP106 OSC). The applicant's response noted that hedgerows within similar settings and elevations exist within the wider landscape. During the site visit it became apparent that the quality of hedgerows deteriorated visibly at higher elevations.

I consider that this provides support to the concerns of CCC and CCW about the speed and extent of potential mitigation at such higher altitudes.

- CCW have suggested that mitigation would be improved if the hedge banks affected by the widening were translocated and incorporated into the new hedges to be developed alongside the track (REP199). I note that the applicant has considered this and concluded that the duration of construction would require a lengthy period between removal and final replanting (REP120 MOP). I consider this assessment plausible, and note it has not been challenged.
- There are concerns from the local community and statutory bodies, notably CCC (REP105 LA), that the LVI of the track would be significant. The effectiveness of the proposed mitigation, primarily the provision of tree line and hedgerow, would be less effective at higher altitudes, with some need for cut and fill activity with associated scarring of the landscape. Moreover, there will be associated management challenges in dealing with, eg, the effects of water running off the track. CCC has suggested a landscape plan relating to the access track is needed as part of the CMS. I find this suggestion persuasive and have supplemented the requirements in relation to the CMS (requirement 9(2)(I)).
- The loss of wetland at the junction with the A485, and subsequent issues in managing surface water flows during and following track construction. This was evident during the site visit, and construction of the track would compromise the quality of, or perhaps remove, this small area of wetland.

Assessment

4.91 As indicated above, in respect of a number of matters I share the views of CCW and CCC that the adverse consequences of the construction of the track have been somewhat under-estimated, and the impact of the mitigation over-estimated. I do not conclude that this undermines the adequacy of the ES which is required to assess the **main** effects the development is likely to have on the environment. I also share CCC's and CCW's view that there is a strong link between the ecological and landscape impacts. In reaching an overall view on the impact of the track I consider and also attach significant weight to the following:

- While adverse impacts cannot be avoided, particularly for those who live close to the junction with the A485, the CMS should enable such impacts to be kept to an acceptable level during the construction phase.
- No designated ecological sites would be affected by the proposed development.
- In the main the track follows field boundaries, at times along land degraded through apparent use as an informal agricultural track. The impact on the surrounding habitat is not in general likely to be significant as its integrity will not be significantly compromised, although there are areas where there will be greater construction and management challenges.
- On water management, I note that EAW (see section 4.E(III) on flooding) agrees in principle with the applicant's approach to surface water management, which is secured both by Requirement 28 and in connection to the proposed access

track by a specific requirement within the CMS (Requirement 9(2)(k)).

- No nationally or locally designated landscapes would be affected by the access track. Given the concerns about landscape impact the draft DCO has been strengthened to require a landscape plan (Requirement 9(2)(l)).
- While the visual impact from a number of viewpoints and properties would be adverse, the main visual impact will arise from the addition of 28 turbines. The impact of the access track would be relatively minor in comparison.
- The proposed mitigation could offset some of these adverse consequences with the potential for environmental benefit, albeit not necessarily in the form of like-for-like mitigation. The HMP offers opportunities to ensure that the effectiveness of this mitigation is maximised. There are opportunities for hedgerow to be developed significantly in excess of that to be lost (notwithstanding the risk to effectiveness at higher elevations), to develop small copses at hedgerow boundaries and to plant seed appropriate to the locality alongside the track.

4.92 Set against the need for renewable energy as set out in NPS EN-1 (which is discussed more fully in section 5), and the mitigation measures proposed, I conclude that the access track does not have adverse planning consequences that weigh significantly in my recommendation.

Remediation

4.93 The applicant has proposed that no remediation of the access track take place following the completion of the project, with the track remaining for agricultural use. Remediation would be

limited to the bell-mouth opening from the A485, with no need for a wide access sweep for agricultural vehicles. Local residents (REP203 NS0) and CCC (REP175 LA) have noted that the track width (7 metres, para 4.86) is in excess of what would be needed for agricultural purposes, and I note no significant case has been made for agricultural use. As such, I conclude it would be appropriate to remediate the track and have amended Requirement 5 to address this. Should there be a need for agricultural use this could be applied for at the appropriate juncture.

Alternatives

- 4.94 Many of the representations on the proposed access track focused wholly or in part on the perceived availability of less damaging alternatives, particularly the adjacent track which services the Alltwalis Wind Farm. I have considered the representations and heard evidence at an issue-specific hearing. I have also walked (unaccompanied) the length of the footpath which runs parallel to the track accessing the Alltwalis Wind Farm. The applicant gave some consideration to this potential alternative, but abandoned the option following a failure to agree access and commercial terms with the landowner (REP68 APP, answer to Q7).
- 4.95 I have no rigorous assessment to inform me, nor an application to consider, in relation to an alternative access. Relevant issues in relation to the use of the Alltwalis track have been set out cogently by CCC who have highlighted the existence of appropriate planning permission and highway agreements, with little likelihood of significant alteration to the structure of the track being needed; relatively minor landscape and biodiversity

impacts; and a more sustainable alternative with fewer materials required (particularly crushed stone) and fewer transport movements (REP260 LA, appendix 5.2 and section 12).

- 4.96 No application has been submitted for an alternative access track and my locus in examining issues relating to alternatives is circumscribed. The applicant has argued that the environmental consequences of the proposed access are acceptable, and the application should be determined on the merits of the proposal and not on the merits of potential alternatives, citing case law (REP68 APP, answer to Q7). There is other case law that I have considered, but it is only in exceptional circumstances that alternatives will be material to the decision-making process (R(on the application of Scott) v North Warwickshire, BC2001). If there are clear planning objections to a proposal then it is more likely that it would be relevant to consider whether the objections could be overcome by an alternative (Langley Park School for Girls v Bromley LBC). In view of the conclusion I have reached on the planning merits of the proposed access track, I conclude that the existence of an apparently less damaging alternative is not a consideration that can be material to my recommendation.

D: NOISE

Introduction

- 4.97 This has been an issue of particular concern to members of the local community and the principal focus of Grwp Blaengwen. The concerns have been fuelled by local experience since the adjacent Alltwalis Wind Farm started operating in 2009, with

complaints about both the volume and the nature of noise. Members of the local community have recorded issues including loss of amenity, loss of sleep and associated health problems.

Policy

- 4.98 The key policy guidance is set out in NPS EN-3. This requires (2.7.25) applicants for wind farms to assess the impact of noise in line with guidance set out in "The Assessment and Rating of Noise from Wind Farms (ETSU-R-97)". The noise levels recommended within ETSU-R-97 are determined by a combination of absolute noise limits and limits which relate to levels of background noise, with background noise normally increasing with wind speed. The UK Government has confirmed in NPS EN-3 that it is satisfied that, on the basis of subsequent scientific evidence, ETSU-R-97 remains a sound basis for planning decisions.
- 4.99 The policy guidance in NPS EN-3 notes (para 2.7.58):
- "Where the correct methodology has been followed and a wind farm is shown to comply with ETSU-R-97 recommended noise limits, the IPC may conclude that it will give little or no weight to adverse noise impacts from the operation of the wind turbines."*
- 4.100 The WG's TAN8 also endorses the principles of ETSU-R-97 for assessing wind farm noise.
- 4.101 The Carmarthenshire Unitary Development Plan (CUDP) was adopted in 2006, with much of the preparation predating TAN8. This and other relevant local planning issues are discussed in para 3.10 et seq.

4.102 While policy endorses ETSU-R-97 for assessing wind farm noise there have been claims and counter-claims as to the interpretation of ETSU-R-97. The key policy issues from ETSU-R-97 that I consider relevant to the examination are that:

- Wind farm noise levels up to 35-40dB during quiet day-time periods, and 43 dB at night (11pm to 7am), are deemed to offer a reasonable degree of protection against noise nuisance without unreasonably restricting the development of wind farms.
- These limits may be increased to 5dB above background noise levels, with background noise likely to increase with wind speed in most locations.
- There are various technical adjustments (eg tonal penalties, different limits for properties with a financial interest). These are relevant to BFWWF but have not featured significantly in the examination.
- These limits take account of a degree of amplitude modulation, sometimes referred to as blade swish.
- These limits represent the maximum cumulative noise level from for all wind farms which may affect a receptor location, normally an individual property.

4.103 ETSU-R-97 is less specific on methodological processes, and practice has varied. The Government has commissioned a review of good/best practice guidance from the Institute of Acoustics following an earlier review by the Hayes McKenzie Partnership (Analysis of how Noise Impacts are Considered in the Determination of Wind Farm Planning Applications, 2011, REP1 APP, docs B5 & B6). ETSU-R-97 endorses the use of regression

analysis for determining a best-fit curve through representative data to identify background noise at different wind speeds. But ETSU-R-97 has little to say on the detail of the methodology to be followed other than noting that background noise levels should be assessed over a sufficient period of time to allow “a reliable assessment of the prevailing background levels to be performed” (p. 85).

Environmental Statement (ES)

- 4.104 The ES sets out the broad methodology followed by the applicant in assessing noise impacts in line with ETSU-R-97 (APP41). Individual properties (receptor locations) have been identified and agreed with CCC. Measurements of background noise and estimates of turbine noise have been undertaken at these locations for a variety of wind speeds. Cumulative effects, particularly in relation to the Alltwalis and Bryn Llewelyn wind farms have been assessed. In the case of Bryn Llewelyn, an agreement has been reached with the developer, RES UK and Ireland Ltd (RES), apportioning the available wind noise “budget” – the maximum noise permitted by ETSU-R-97. This has been done to ensure that, cumulatively, the two wind farms would not exceed the absolute or relative (to background) noise limits endorsed by ETSU-R-97. For some properties, the applicant has drawn on the data produced by the applicant for Bryn Llewelyn. It has also assessed the noise output from the Alltwalis turbines (discussed below). This analysis of background and turbine noise suggests that BFWWF could operate within the limits set out within ETSU-R-97.
- 4.105 CCC, in the SOCG with the applicant (REP258 APP), confirmed that (while raising a number of issues) it was content with the

methodology as being in line with ETSU-R-97. CCC highlighted concerns about the nature of the cumulative impact because some properties would be exposed to noise more frequently as a result of an increase in the number of wind farms. This issue was raised in the issue-specific hearing (REP104 LA) and is discussed further below.

Community Concerns

4.106 Community concerns, with a significant number of written representations, were considered at the issue-specific hearing on noise (REC3) and during the hearing on the draft DCO. They largely reflect the experience of the local community since the adjacent Alltwalis Wind Farm was opened in late 2009, and are to a large extent centred in and around Gwyddgrug, with the concerns including:

- That ETSU-R-97 does not provide adequate protection.
- The unacceptable intrusion of noise into a quiet rural environment.
- Adverse health effects, primarily as a result of disruption to sleep.
- The loss of amenity in and around homes and gardens.
- The difficulty that CCC have in monitoring and assessing the concerns of the community, with a perception that CCC lack the resources and expertise to respond in a timely and effective manner.

4.107 From the evidence provided at the hearing, and while personal experience varies, the main noise concern relates to a perceived “swishing” effect as wind passes through the blades. In addition some residents report a constant background hum relatively independent of weather or wind conditions. The evidence from

residents suggests that the concerns arise most frequently when the wind is from the south-east, and when the weather is damp. Mist, drizzle or light rain are seen as particularly associated with adverse noise conditions. At relatively high wind speeds background noise is more likely to predominate, with the turbines less likely to be heard. While one resident provided me with a log reflecting sleep disturbance (REP122 MOP) I have no robust evidence as to how often the main adverse impacts reported by the community arise.

- 4.108 My personal visits to the area provide no significant evidence. Wind conditions were generally light or from the prevailing south-west. During the accompanied site visit along the proposed access track the turbines were audible, but the wind was light and I was in relatively close proximity to the turbines, which were turning gently. The level of noise was not intrusive, but given the circumstances I do not attach significant weight to this.
- 4.109 CCC reported its experience in monitoring complaints, which started shortly after the Alltwalis Wind Farm opened. Acoustic consultants were appointed to monitor noise levels at a number of properties, and while these were found to be within authorised limits there were tonal characteristics to the noise that required remedial works. Following this the number of complaints fell but did not cease, and CCC investigated whether the evidence constituted a statutory nuisance. CCC concluded there was insufficient evidence to support the existence or likely occurrence of a statutory nuisance. CCC is of the view that its investigation was thorough and well resourced (REP105 LA).

4.110 I asked the applicant what account it had taken of evidence of problems in relation to Alltwalis given the potential for similar topographical conditions in disseminating noise. It had sought information from CCC, but at the time CCC was investigating complaints and felt it was not appropriate to release the information (REC4; APP117, p214). The applicant has noted that problems with Alltwalis should not be assumed to be replicated at BFWWF; the evidence showed the project could meet relevant standards and thus accord with policy.

Day-Time Limit

4.111 ETSU-R-97 proposes a day-time limit of between 35 and 40dB when the level of background noise does not justify a higher limit. The applicant has proposed that a 40dB limit is appropriate, based primarily on the scale of output and the fact that the proposed turbines are located in an SSA, an area identified as appropriate for wind farm development (APP42, 16.21). I note that 40dB is the day-time limit approved by CCC for the adjacent Alltwalis Wind Farm. This has not arisen as a significant issue in the examination. Given the location within an SSA I am persuaded by the applicant's reasoning.

Distance of Properties from Turbines

4.112 The CLDP is intended to replace the UDP, and the deposit CLDP proposes that turbines should be located a minimum of 1500m away from the nearest residential property. I have noted above that this will need to be confirmed by the WG. While the examination was in progress the WG confirmed that advice in TAN8 remained relevant, with 500m considered a normal minimum separation distance to avoid unacceptable impact:

"The Welsh Government believes that a rigid minimum separation distance could unnecessarily hinder the development of renewable energy projects in Wales. We have taken the consistent view that the issue of separation distances between residential premises and wind turbines is best determined locally on a case-by-case basis, taking on board locally sensitive issues such as topography, local wind speeds and directions as well as the important considerations of visual and cumulative impacts."
(Welsh Government's Written Response to the Petitions Committee Report on Control of Noise from Wind Turbines, July 2012 (REP133 APP).

- 4.113 Given the current status of the deposit CLDP, and in the light of the WG's policy on this issue, I attach little weight to the separation distances proposed in the deposit CLDP.
- 4.114 There is particular opposition within and around the community of Gwyddgrug to the siting of 3 particular turbines, numbers 17, 18 and 23, with the concerns primarily reflecting their proximity to properties. I have probed in this area, questioning the applicant as to why these had not been resited to meet noise concerns as requested. The applicant's response has identified that the siting of turbines had developed iteratively, taking account of ETSU-R-97 limits. It does not consider a concern with proximity to properties to be an appropriate substitute for an assessment of the noise impact. The applicant also noted that this issue had been discussed with CCC during the consultation stage. CCC has expressed initial concerns about the siting of these turbines, reflecting representations from local members, but in discussions subsequently the applicant records that CCC clarified that there were no specific noise reasons for moving the turbines (REP1 APP, response to Q26; APP117 p217). While I

understand the concerns of the community there is no evidence of a likely adverse noise impact to support a conclusion that they be resited or excluded from the development.

Amplitude Modulation (AM)

- 4.115 Grwp Blaengwen has proposed that an additional requirement be added to the DCO to address the issue of excess amplitude modulation. They suggest this would mitigate at least some of the effects of the blade-swish type noise that has been of concern to local residents (REP111 MOP). Its proposed requirement is based on a condition applied to the proposed Den Brooke Wind Farm (REP146 NSO).
- 4.116 The applicant has addressed statutory nuisance in a statement submitted with the application (APP105, APP106). The explanatory memorandum to the draft DCO submitted with the application records that the applicant and CCC agree that it is not practicable to draft a requirement that could address AM (APP4). It also records CCC's concern that, without any specific provision relating to AM, there may be little incentive for an operator to seek to resolve an issue with AM should it arise. To address the concerns of CCC the applicant included in the draft DCO a provision which would have the effect of removing the protection which exists within s158 of PA 2008 in respect of statutory nuisance arising from noise from the operation of the wind farm (Article 9). This approach has been agreed by CCC. (There is further discussion of the drafting of this provision in section 6.)
- 4.117 This issue has been further addressed in representations and was considered at the issue-specific hearing on noise. There is

considerable controversy both as to the frequency of occurrence of AM and as to how it might be monitored and controlled. Government sponsored research by the University of Salford (Research into Aerodynamic Modulation of Wind Turbine Noise, 2007, REP1 APP, sections B10, B11) suggests its occurrence is relatively infrequent, though that is of little comfort to those who might be affected.

4.118 The expert advice, from the applicant's and CCC's representatives, was that there are no planning conditions that purport to address AM that are fit for purpose, and no condition can be written that would satisfactorily address the issue (REP105 LA). Grwp Blaengwen was not able to present a convincing argument to the contrary. No evidence has been made available of a wind farm that has proceeded with a Den Brooke-type condition. RES, the applicant for Den Brooke, is also the applicant for the Bryn Llewelyn Wind Farm, and attended the hearing as an interested party. RES noted that the Den Brooke Wind Farm has not been constructed, and that the proposed condition is not tried and tested. RES will be seeking to submit an application to vary the proposed condition relating to AM at Den Brooke (REP108 NSO).

4.119 The alternative of managing issues of excess AM, should it arise, via statutory nuisance procedures rather than a specific requirement is not ideal. Nevertheless, in the absence of evidence that BFWWF would generate excess AM, or that the proposed condition would adequately address the perceived nuisance, my conclusion is that procedures under statutory nuisance provide a more appropriate way of addressing the issue than the requirement proposed by Grwp Blaengwen.

Background Noise

- 4.120 The assessment of background noise affects the permissible level of turbine noise at individual properties, and it is thus important that the approach to assessing this is robust. I have probed this area, challenging the applicant's and CCC's assessment that the process was robust and in line with good practice. I should register here that the applicant and CCC each provided expert witnesses with strong credentials. Mr Matthew Cand of Hoare Lea Acoustics supported the applicant, and is a member of the IoA working group referred to above. Mr Richard Perkins of Parsons Brinkerhof Ltd supported CCC, and is the Chair of that working group.
- 4.121 My main concern about the background noise assessment has been with the adequacy of the data available, and whether the best-fit curves are robust at higher wind speeds in excess of some 8 or 9 metres per second (m/s). I probed this during the issue-specific hearing, in seeking comments on the DCO and also following the publication of a discussion paper from the IoA working group which discussed the need for an adequate set of data points. While this paper has no formal status, nor does there appear to be any formal guidance.
- 4.122 My concerns in this area have been satisfied by the responses received both on the general issue and in response to the IoA discussion paper (REP223 APP). In particular I note:
- The crucial wind speeds for turbine noise are up to 8m/s. I have no reservations about the quantity of data up to this level, with the charts in Appendix 16.5 of the ES demonstrating this (APP40).

- Above this level, background noise increasingly predominates, with some support offered by the testimony of the local community who noted that at the highest wind speeds it was the noise associated with the wind that was dominant
- That background noise normally increases with wind speed is well documented, and the techniques used for deriving regression equations accord with industry good-practice.

4.123 Thus my conclusion on this issue is that the background noise assessment is fit for purpose as an input into assessing noise limits at individual properties.

Cumulative Assessment

4.124 The noise impact of BFWWF needs to be considered alongside other existing and proposed wind farms. The adjacent Alltwalis Wind Farm has been operational since 2009, and there are two relevant planning applications for determination by CCC: Bryn Llewelyn proposed by RES and Brechfa Forest East proposed by the applicant. Policy, as set out in ETSU-R-97 guidance, is that the wind farm limits should apply to the totality of noise produced by wind farms at a receptor location.

4.125 The ES, supplemented by further evidence from the applicant in response to a call for written representations (REP1, Written rep final S16; REP1, Written Rep Appendix 3), sets out the evidence base, and concluded that the various wind farms could all operate within the ETSU-R-97 determined limits. The assumptions used are conservative, assuming affected properties are downwind of all relevant wind farms at the same time. The main considerations arise in relation to Bryn Llewelyn and

Alltwalis, as Brechfa Forest East is further away and the cumulative noise issues less significant.

- 4.126 In relation to the proposed Bryn Llewelyn Wind Farm the applicant and RES have apportioned out the relevant ETSU-R-97 limits so that the individual limits for each wind farm will ensure that the ETSU-R-97 "budget" of wind noise is not breached. This has been criticised by Grwp Blaengwen as not having been scientifically calculated (REP228 NSO). I see nothing exceptional in two companies negotiating on an issue of this nature within the overall permissible noise "budget", based on an assessment of noise immissions at receptor locations.
- 4.127 CCC has raised concerns about properties which will experience noise more frequently as a result of an increase in the number of wind farms. Affected properties will be downwind of a wind farm generating noise more frequently than if only one wind farm were able to affect the relevant properties. CCC has suggested significant weight should be given to this issue in relation to a number of properties potentially impacted by both BFWWF and Bryn Llewelyn, citing a decision from a separate inquiry (Gorsedd Bran, REP260 LA, s6 and appendix; REP105 LA). CCC acknowledges that the relevant properties are not likely to be subject to noise levels in excess of ETSU-R-97 limits. However, CCC suggests that the impact of increased exposure is not in accord with local policy designed to protect amenity, regardless of whether there is compliance with ETSU-R-97 limits.
- 4.128 I do not attach significant weight to this; the key test of acceptability is whether noise levels are excessive. I note that within SSAs in particular it is an inevitable consequence that some properties will be affected for longer periods as more wind

farms are developed. I also attach weight to the policy in NPS EN-3, which post-dates the Gorsedd Bran decision, and confirms the status of ETSU-R-97.

Cumulative Limits

- 4.129 An issue which arose late in the examination relates to an apparent incompatibility between the limits set for the Alltwalis Wind Farm and those proposed for BFWWF. This was highlighted by Grwp Blaengwen in response to issues relating to the IoA discussion document (REP228 NSO, REP236 MOP). The issue can be set out simply: in approving the Alltwalis Wind Farm in 2006 (at the time known as the Blaengwen Wind Farm) CCC approved noise limits set at the maximum permitted under ETSU-R-97, rather than setting limits based on the noise output expected of the turbines or on the basis of best available technology. If the Alltwalis Wind Farm were to generate noise up to its maximum permitted level then there would be no headroom, within the limits of ETSU-R-97, for another wind farm to operate⁷.
- 4.130 The approach to the limits set by CCC does not seem untypical of the practice adopted by many authorities when setting limits (and indeed underlies the approach taken by the applicant to BFWWF). It is not evident to me that setting limits at the ETSU-R-97 maxima rather than in line with best available technology is required by ETSU-R-97. It also does not sit comfortably alongside a policy of encouraging wind farm development and (in a Welsh context) of concentrating such development within identified SSAs.

⁷ Technically this is an oversimplification. Grwp Blaengwen have pointed out, drawing on the IoA discussion paper, that a windfarm consented some 10dB below would not lead to a cumulative breach of limits.

4.131 In response, and following a further question, the applicant noted at the end of the examination:

"The situation is not uncommon and a practical approach is generally adopted whereby the available headroom between consented noise limits for already operational wind farms and the actual noise level of those wind farms is taken into account when assessing cumulative impacts. This is the approach adopted in the ES for Brechfa West" (REP245 APP).

4.132 While it seems unlikely the situation has not arisen before no evidence to support the assertion that this is not uncommon was provided, and I attach no weight to the statement.

4.133 The approach in the BFWWF ES to assessing noise from the Alltwalis Wind Farm was firstly to assess the turbine noise expected from the Alltwalis Wind Farm. This then enables an estimate to be made of the headroom, within the ETSU-R-97 derived maximum, to determine the additional noise that could be created at receptor locations from the BFWWF without breaching ETSU-R-97 limits. This then forms the basis for setting limits for BFWWF.

4.134 The assessment of the turbine noise from the Alltwalis wind farm was based on the maximum noise emission values that the manufacturer of the Alltwalis turbines guarantees will not be exceeded. The applicant describes this as a precautionary approach. Grwp Blaengwen has argued that this assessment should have been based on the noise output assumed in the ES for the Alltwalis Wind Farm (REP228 NSO). On this basis Grwp Blaengwen argue that the combined impacts of Alltwalis and BFWWF exceed those permissible under ETSU-R-97. I can see no

grounds for such an argument; replacing a figure derived from the known installed turbines with a previous forecast from the Alltwalis ES has no obvious merit if the purpose is to estimate the actual impact on affected properties.

4.135 Separately the applicant has noted that the predicted noise at receptor locations assumes that the wind from each wind farm is blowing toward the receptor location at the same time. This in practice will not be the case and is again seen as a precautionary assumption. The detailed analysis is set out in the applicant's first written representation, which supplements the ES (REP1 Written rep final S16; REP1 Appendix 3).

4.136 The robustness of the applicant's methodology has been confirmed by CCC in the SOCG (REP258 APP):

"The assessments shown in the ES compared the predicted cumulative noise emission levels with the noise limits derived for each location. These comparisons show that compliance with the derived total noise limits can be achieved at all locations based on the data used. Following the consideration of the potential cumulative impacts reduced noise limits (following consideration of the overall cumulative impacts referred to in paragraph 19.1), which should apply to the Brechfa Forest [West] Windfarm in isolation, were derived following consultation with the Council and are included in the requirements of the draft DCO."

4.137 In terms of noise impact I conclude that the applicant has demonstrated that the noise limits proposed for the wind farm are compatible with the cumulative limits set by ETSU-R-97, taking account of other existing and planned wind farms. The applicant has adopted precautionary assumptions that make it

improbable that, in combination with other wind farms, the ETSU-R-97 limits would be breached.

4.138 I have given consideration to constructing a requirement that would require BFWWF to reduce noise emissions if the Alltwalis Wind Farm exceeded the noise levels included by the applicant in its calculations. The construction of such a requirement is not straightforward, with potential difficulties of enforceability. It is questionable whether such a requirement would meet the tests which are applicable to planning conditions (Circular 11/95: *Use of Conditions in Planning Permissions*). Such a requirement may well be unreasonable as it imposes a requirement dependant on an event outside the control of the applicant. It is also questionable whether such a requirement would be relevant to the development rather than to the general locality in which the development is located. Having considered this, and in the light of the evidence above that BFWWF in combination with Alltwalis is not likely to breach the ETSU-R-97 limits, I propose no such requirement.

E OTHER ISSUES

i. Scope of Proposed Works

4.139 The proposed authorised project is described in Schedule 1 Part 1 of the draft DCO. It includes provision for an access track, a borrow pit and an electricity sub-station.

4.140 CCC noted in its relevant representation that in Wales consent cannot be given within the DCO for works which are associated development (RREP2 LA). While the legislation is a little more

complex than this, CCC's interpretation in respect of this project, an onshore electricity generating station, appears sound. CCC referred to guidance issued by the Department for Communities and Local Government (DCLG) (*Guidance on Associated Development, Applications to the Infrastructure Planning Commission, DCLG, September, 2009*). This included as examples of associated development some work items included within the applicant's schedule of works for which development consent is sought. CCC requested that I consider whether the application included elements of work that should be considered to be associated development, and thus not be included within the DCO.

- 4.141 I asked CCC whether they wished to offer any comments to inform this consideration. CCC raised the issue of the proposed site access, but offered no assessment as to whether this, or other elements of the proposed development, might be more properly identified as associated development, rather than seen as integral to the project (REP2 LA).
- 4.142 Examples included in Annex A of DCLG's guidance, which are of potential relevance to this application, include vehicular access arrangements and sub-stations. In assessing this I have also given consideration to the borrow pit which might, in appropriate circumstances, be properly identified as associated.
- 4.143 I note a number of points on this issue before addressing the substance:
- The DCLG guidance is not directly applicable to this project; a DCO consenting an electricity generating station in Wales cannot include associated development.

- Nevertheless, some of the analysis in the guidance is relevant.
- The list of examples in the guidance is clearly identified as types of development which “*may qualify as associated development*”, with the list acknowledged to be neither exhaustive nor prescriptive.
- The guidance advises that development should not be treated as associated development if it is an integral part of the NSIP.

4.144 Given that this is an electricity generating station in Wales the key consideration is whether the individual elements of work can properly be seen as integral to the development of this project.

4.145 The applicant addressed this issue directly in the explanatory memorandum to the draft DCO, submitted as part of the initial application (APP4, paras 2.12 et seq). This argued that all works items for which consent is sought are integral to the development. I find the arguments convincing. In particular, I note the consideration of the definition of a generating station in the explanatory memorandum, and that none of the works identified have a purpose other than the construction and/or operation of the wind farm. The sub-station sits within the site boundary and is required for the production of electricity. The borrow pit is also within the site boundary, and has no wider function than providing material for the construction of the wind farm. The access track is required to connect the main site to the highway network for construction, maintenance and in due course removal.

4.146 I conclude that each of the elements identified in the draft DCO forms an integral part of the proposed development.

ii. Flicker

- 4.147 Concerns about potential shadow flicker were raised by a number of members of the local community, with some drawing on their experience of the adjacent Alltwalis Wind Farm (REP203 NSO). NPS EN-3 (2.7.64) records evidence that there is unlikely to be a significant impact from shadow flicker at distances greater than 10 rotor diameters from a turbine. The ES contains an assessment of shadow flicker and identifies only two properties within 900 metres of any of the proposed turbines, which have a maximum turbine diameter of 90 metres. Not all properties within 900 metres would necessarily be subject to flicker, with this dependant on factors such as location in relation to the sun, the location of trees and landscape features. The conclusion of the ES is that no properties are likely to be affected. Should final decisions on micro-siting of turbines lead to properties being affected then the ES acknowledges the need for re-assessment.
- 4.148 The SOCG between the applicant and CCC records the Council's agreement with the methodology for assessing flicker, and that the draft DCO, which requires a scheme to be approved by CCC, provides for appropriate mitigation should unacceptable shadow flicker occur. The applicant had proposed that this be limited to properties within 10 rotor diameters of any turbine. The adequacy of this limit has been challenged by a number of residents. Grwp Blaengwen has noted that the impact is not necessarily limited to properties within 10 diameters of turbines with local conditions a potential factor (REP144 NSO). This seems a reasonable interpretation of the evidence on which NPS EN-3 has drawn, and the draft DCO I circulated removed the limit. The applicant did not comment and the draft proposed for

the Secretary of State includes no limit based on turbine diameter (Requirement 24).

iii. Flooding

- 4.149 There have been concerns from some members of the public and voluntary organisations that the proposed development would increase flood risk, either in general or at specific locations. The ES identifies areas assessed as having a greater than 1% chance of flood risk, generally upstream or downstream of crossings of watercourses. The flood risks consequent on tree felling and construction works are assessed and mitigation measures identified. The impact, after the various mitigation measures are applied, is assessed as negligible at all identified receptor locations within the ES (APP53).
- 4.150 Concerns have been expressed by the Brechfa Forest Energy Action Group that the precise detail of some of the mitigation measures have not been identified in the ES (eg size and siting of check dams) and that this constitutes a significant error (REP107 MOP). The ES does not necessarily identify the precise location of such mitigation measures but sets out the relevant principles for the provision of mitigation. It further notes that the sustainable drainage measures will be designed when the detailed design of the wind farm is undertaken, and to appropriate sustainable drainage system standards agreed with Environment Agency Wales (EAW) and the Forestry Commission Wales (FCW). This approach is consistent with the application which does not identify the precise location of turbines, but provides for flexibility in relation to micro-siting. This is itself consistent with policy as set out in NPS EN-3 (para 2.7.23).

- 4.151 The EAW has noted that it agrees in principle with the applicant's approach to surface water management, but that no authorised development should start until surface water management details have been agreed with the relevant planning authority (REP7 OSC). This is secured by Requirement 28 in the draft DCO. The CMS also addresses surface water management issues (Requirement 9(2)(n)).
- 4.152 CCC is the lead local flood authority. It would need to give consent to proposals to improve or alter existing culverts which are likely to affect the flow within a watercourse. It would also have the role of approving the CMS. In its SOCG with the applicant CCC agreed that, subject to securing the mitigation measures in the ES, there would be no unacceptable impacts on hydrology (REP257 APP).
- 4.153 Given the evidence on the acceptability of the applicant's approach to surface water management, and the requirements included in the DCO, I attach little weight to concerns raised in relation to flooding or surface water management.

iv. Grid Connection

- 4.154 The proposed wind farm contains no connection to the electricity grid. This was a matter of concern to members of the local community, voluntary organisations and some statutory bodies. I note that NPS EN-1 (section 4.9) states that it will not always be possible for applications for new generating stations and related infrastructure to be considered together where different entities and regulatory frameworks apply. If an application only seeks consent for the generating station, as in this case, then the applicant accepts the implicit risk that the application for the

necessary grid connection may be turned down. This does not mean that consideration of a grid connection is not relevant to my examination.

- 4.155 Regulation 6 of the *Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009* requires that an application for construction of a generating station be accompanied by "a statement of who will be responsible for designing and building the connection to the electricity grid." Such a statement was provided by the applicant (APP1, APP108). This identifies that Western Power Distribution (WPD), the relevant distribution network operator in Carmarthenshire, would be responsible for designing and building the connection to the grid. It confirms that an offer for grid connection has been provided by WPD and accepted by the applicant in May 2011. The proposed connection would provide a link from the on-site sub-station (which forms part of this application for development consent and for which the applicant would be responsible) to Swansea North Sub-station, located to the north of Junction 46 of the M4 motorway.
- 4.156 NPS EN-1 (para 4.9.3) notes that the applicant must provide sufficient information to comply with the EIA Directive, including the indirect, cumulative and secondary effects, and that this should encompass information on grid connection. It also identifies that the (then) IPC "*must be satisfied that there are no obvious reasons why the necessary approvals for the other element are likely to be refused*".
- 4.157 The applicant's assessment is set out in Appendix 3.3 of the ES (APP47). This comprises a combination of desk-based research and a high level GIS analysis, and assesses the potential impact,

and prospects for mitigation, on a range of ecological, landscape & visual and historic environment receptors. A number of topics were scoped out of the study on the basis that significant environmental impacts are unlikely with appropriate controls such as good practice construction measures (APP47). The assessment is based on "*the proposed indicative route*" provided by WPD and is acknowledged by the applicant to be "*very much a high level view prior to any survey or wayleave work*". The ES concludes that, while there are sensitivities which will require further consideration by WPD in terms of routing and mitigation, there are "*no obvious constraints or showstoppers to the proposed connection*".

- 4.158 CCC and (particularly) CCW have challenged both the adequacy of the ES as it relates to the grid connection, and also the conclusion reached by the applicant. I consider that these issues are related, but will address each in turn.
- 4.159 CCW and CCC have argued that the EIA Regulations require the applicant to carry out an assessment of the grid connection to the same level of detail as the main project for which development consent is sought, and that an assessment of alternative route options should have been undertaken (REP5 OSC, REP73 OSC). This is a view the applicant does not share. I too do not share the view of CCC and CCW. I consider that both the UK transposing regulations and EU guidance envisage rather more judgement as to what is appropriate and reasonable in the circumstances of the case than CCC and CCW acknowledge, with NPS EN-1 setting a policy context consistent with a more flexible interpretation:

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 require that the ES should consider direct, indirect, secondary and cumulative effects of any proposed development (Schedule 4). Regulation 2 states:

"Such of the information....as is reasonably required to assess the environmental effects of the development and of any associated development, and which the applicant can.....reasonably be required to comply."

4.160 EU guidance also envisages a more flexible interpretation of the EIA Directive. *Guidelines for the Assessment of Indirect and Cumulative Impacts as well as Impact Iterations*, (European Commission 1999, S5.2.6) recognise that in practice sufficient information to reach a judgement on indirect and cumulative impacts may not always be available:

"Information on ancillary development associated with the project, which may be controlled by another developer, should be obtained where possible at the scoping stage. This information will enable potential indirect and cumulative impacts and impact interactions arising from that development to be considered as early as possible in the Environmental Assessment. If insufficient information is available to allow an assessment, this should be reported in the Environmental Statement to ensure that it is considered as part of the decision making process."

4.161 Power supply connections are identified in this EU guidance as one of the examples where such an issue might arise.

4.162 Against these considerations I conclude that the nature of the assessment carried out by the applicant summarised above, and

reported in Appendix 3.3 of the ES, is reasonable and sufficient to meet the requirements of the EIA regulations. This assessment formed part of my overall conclusion on the adequacy of the EIA recorded in paragraph 1.4.

- 4.163 NPS EN-1 sets the relevant test for the decision maker in assessing the adequacy of the assessment of the grid connection. The need is to be "*satisfied that there are no obvious reasons why the necessary approval for the other elements are likely to be refused*". This test is consistent with the view that the EIA Regulations do not require that the grid connection be assessed to the same level of detail as the application for the generating station.
- 4.164 Turning now to the environmental concerns raised in relation to the proposed grid connection. The applicant's assessment recognises that there are environmental sensitivities that will require consideration by WPD, both in terms of routing and mitigation. In particular the proposed route crosses the Afon Tywi SAC and could adversely affect the Crugiau Round Barrows Scheduled Ancient Monument. For each of these the ES concludes that potential adverse impacts may be avoided by detailed scheme design and/or mitigation.
- 4.165 Given the concerns raised by CCC and (particularly) CCW in their representations I asked CCW via a written question (QA3, PD13/14) whether they considered there to be any obvious reasons why the proposed grid connection is likely to be refused, and if so why? CCC's main concern was with landscape consequences, and as this was covered in CCW's response to the written question I will consider briefly each of the 4 reasons

identified by CCW (REP73 OSC). In each case CCW sets out its concerns within the context of NPS EN-1:

- **Heritage assets:** CCW identified potentially affected heritage assets, with NPS EN-1 cited in support: "*Loss affecting any heritage asset or development should require clear and convincing justification*" (5.8.14). I note that the NPS also makes clear that such harm should be weighed against the public benefit of the project (5.8.15).
- **Landscape:** CCW states that the applicant has failed to design the route carefully and has taken insufficient account of the sensitivity of the landscape, noting these are requirements for consideration in NPS EN-1. I note that the corridor crosses no area with national level landscape designations, and that NPS EN-1 makes it clear that "*local landscape designations should not be used in themselves to refuse consent, as this may unduly restrict acceptable development*" (5.9.14).
- **Ancient Woodland:** CCW highlights that the proposed route would sever three to five areas of semi to natural ancient woodland, and note that NPS EN-1 states that development consent should not be granted "*unless the benefits (including need) of the development in that location outweigh the loss of woodland habitat*". I note CCW's recognition of the need to assess the loss against the benefits.
- **Protected Species:** CCW notes that that they are unable to determine the impact of the proposed grid on species and habitats due to the limited nature of surveys undertaken, with the applicant not having demonstrated that the route connection has been designed to avoid detriment. The

conclusion I draw from this is that it is not possible to conclude that there are no obvious reasons why the grid connection is likely to be refused, which is the test set out in NPS EN-1.

- 4.166 My conclusion on these issues is that CCW's expectations are based on the requirements that would have been appropriate had the application included the grid connection. It does not. I share CCW's view that the information is insufficient for either a full assessment of the grid connection or to reach a judgement upon it. There are environmental issues that will require fuller examination before a conclusion can be reached on the acceptability of the corridor. Such an examination will also need to consider the potential to minimise the impact on potential receptors through design and/or construction.
- 4.167 Taking account of the guidance in NPS EN-1, and the applicant's assessment as set out in the ES, including the potential for mitigation, I conclude that there are no obvious reasons why an application for a grid connection within this corridor is likely to be refused. This is not a finding that the route is acceptable; at this stage I am neither able nor required to reach such a finding, and I reach no wider conclusion on this issue.
- 4.168 I also note that the issue of the grid connection was addressed in the SOCGs between the applicant and CCC and between the applicant and CCW:
- The SOCG with CCC notes the disagreement over the adequacy of the grid connection, but notes that "*the Council is not aware of any absolute barrier to a grid connection...being consented*" (REP257 APP, para 3.5).

- The SOCG with CCW notes there is *"no known obvious reason why a grid connection would not be possible. CCW also considers that the route currently identified would result in unacceptable environmental harm"* (REP69 APP, Appendix p.22).

v. TAN8 Capacity Limits

- 4.169 TAN8 identified Brechfa Forest as an area deemed suitable for large-scale wind farms. TAN8 also identified indicative capacity targets for each SSA, with these intended to assist the planning process and not to be seen as the definitive capacity for the area. In July 2011 the WG's Minister for Environment and Sustainable Development wrote to local authorities in Wales. This identified the maximum capacity of Brechfa Forest as 132MW (REP260 LA, appendix 13).
- 4.170 The maximum capacity of the Alltwalis wind farm is 23 MW and the maximum proposed capacity of BFWWF is 84MW. The maximum capacity of the proposed Bryn Llewelyn Wind Farm is 48MW and that at Brechfa Forest East 36MW (REP260 LA, appendix 4.2). If all proposed wind farms were constructed to their maximum capacity, then the capacity limits proposed by the WG would be exceeded.
- 4.171 The key issues relevant to my consideration are:
- There can be no guarantee that the proposed wind farms will be consented and built.
 - In the case of BFWWF there is a thorough environmental assessment (the ES) which considers the impact of the proposal for BFWWF, and includes consideration of other actual and potential wind farms.

- While TAN8 is a relevant material consideration the main policy considerations are the national policy statements (NPS EN-1 and NPS EN-3) which identify the need for additional capacity.

4.172 I conclude that TAN8, as modified by the WG in 2011, does not provide grounds for rejecting the proposal for BFWWF.

vi. Socio-economic considerations

4.173 The main socio-economic concerns raised by the local community, a number of representative organisations and CCC related to the potential adverse impact of the proposed development on tourism. These concerns are increased by the perceived cumulative impact of this development with others being proposed, notably Bryn Llewelyn and Brechfa Forest East.

4.174 NPS EN-1 requires that I consider relevant socio-economic impacts which may include employment and tourism. It also notes that I may conclude that limited weight shall be given to assertions of socio-economic impact that are not supported by evidence.

4.175 BFWWF would generate significant employment during the 22 months construction period, with the ES identifying some 150 directly employed. During the operational period it is suggested some four to five full-time equivalent (FTE) employees will be required for maintenance and repair. Local multiplier effects will also arise, particularly during the construction period.

4.176 CCC noted the importance of tourism to the local economy and has estimated (REP2 LA) that tourism revenue is worth some £20m within 15km of the site, or 7% of the total within

Carmarthenshire. It estimates that employment in tourism in Carmarthenshire accounts for some 6,269 FTE employees. Applying the same ratio would suggest some 400-500 FTE employees in tourism within 15 km of the site.

4.177 CCC has noted that the area is marketed for its landscape and tranquility, with the proposed turbines seen as undermining this branding (REC10). It considers that the proposed development will have a negative impact upon tourism in the area (REP2 LA). CCC also expressed concern in its LIR (REP260 LA) that the applicant has provided insufficient detail on the nature of the tourism industry in the area, and compares this with the more detailed tourism impact assessment undertaken for the Bryn Llewelyn Wind Farm (REP260 LA, appendix 9.1).

4.178 Other evidence I have considered in relation to tourism includes:

- Evidence in the ES, subsequently supplemented by the applicant, which identifies a number of attitudinal surveys in relation to wind farms and wider studies of broad geographic areas eg Scotland. While perhaps relevant to assessing the potential impact on Wales as a whole, I consider that such evidence is of less obvious value at the local level given the opportunities for displacement of tourism activity.
- The concerns of local tourism operators and associations. This issue was prominent in early written representations from non-statutory organisations such as Brechfa Forest Energy Action Group, Teifi Valley Tourism Association, GALAR, and the Brechfa Forest and Llanllwni Mountain Tourism Association (REP74-9 NSO). There were suggestions that areas of Scotland, with a significant number of wind farms, have experienced a loss of tourists compared to other parts

of Scotland. The issue also featured prominently in the open-floor hearings.

- Survey based evidence provided by Carmarthenshire Tourism Association. This attempted to assess potential impact based on a survey of expectations of micro businesses, and sought to quantify the effects on, eg, tourism expenditure and property values as expected by a sample of businesses (REP154 NSO).

4.179 I consider none of the evidence to be compelling; it is the case (also demonstrated in the tourism impact assessment carried out for Bryn Llewelyn) that there is little evidence of wind farms having an adverse impact on tourism numbers. Expectations among tourism businesses not based on evidence are not a robust basis for assessing actual impacts. In reaching this conclusion I also note that there appears to be no robust evidence to support assertions that wind farms have no adverse impact on tourism numbers in the local areas affected by turbines, with little evidence of before and after studies having been undertaken.

4.180 Given the small scale of the full-time employment effect of the construction and operation of the wind farm, and the uncertain nature of any impact on tourism numbers and spend, I conclude, in line with NPS EN-1, that I can attach little weight to this issue given the identified need for energy infrastructure.

vii. Access and Recreation

4.181 Both CCC and CCW have expressed concerns about the implications for access, and the adequacy of the proposed mitigation measures as a result of restrictions on access.

Carmarthenshire Riders have also expressed concerns about the impact on horse riding.

- 4.182 NPS EN-1 notes (5.10.24) that rights of way and other rights of access are important recreational facilities and that applicants should take appropriate mitigation measures to address adverse effects on access or rights of way.
- 4.183 The entirety of Brechfa Forest (not just the proposed development site) is designated as “dedicated land” under the Countryside and Rights of Way (CROW) Act 2000. This provides access for recreational use to pedestrians. In addition, FCW permits access to horse riders and cyclists for quiet and informal enjoyment. The applicant proposes that the wind farm site within Brechfa Forest (defined by the wind farm “red line boundary”) would be subject to formal closure (under the CROW Act) during the construction phase, and the permissive rights to horse riders and cyclists would be similarly temporarily withdrawn. Following construction, access rights and permissions would revert to the present position.
- 4.184 Some public rights of way would be closed, with diversions provided, during the construction phase and all would be restored for use following construction. One of the diversions would involve the creation of an alternative track outside the site of the development which would be retained throughout the life of the development, and is included in the applicant’s unilateral undertakings, with the detail in the draft access management plan attached to the ES (APP15).
- 4.185 CCC has expressed reservations about the extent of the applicant’s assessment of the use of Brechfa Forest, with a focus

on interest groups but not more informal use by others (REP260 LA, section 10). It and CCW have also suggested that additional mitigation should be provided, both inside and outside the site boundary.

4.186 Carmarthenshire Riders' concerns have focussed on the loss of open space for horse riding in Carmarthenshire, with the closure of the site during the construction period (REP76 NSO, REP148 NSO). Evidence it provides suggests there are relatively few bridleways in Carmarthenshire compared to other parts of Wales. Carmarthenshire Riders also note that the applicant has not complied with British Horse Society (BHS) guidance on the distance between some of the turbines and access tracks which would exist post-construction. There are concerns that this reduction in access would increase horse riding on roads, increasing the likelihood of accidents. I note that there is much of Brechfa Forest that will remain open throughout the period of construction (see data below) and that BHS guidance notes that evidence on the ability of horses to adjust to turbines is mixed.

4.187 I note the undoubted loss of access to users that would occur during the construction period, and that subsequently the existence of the turbines would be likely to impact on some visitors' enjoyment of Brechfa Forest. But I also note:

- The closure of the footpaths would account for 5.6 kilometres of PROW within the BFWWF site, rising to 9.2 kilometres if paths at Brechfa Forest East were simultaneously closed. This combined figure is less than 20% of the available PROWs within Brechfa Forest, with over 80% of PROWs within Brechfa Forest available for use during the construction period (APP15).

- Some 9.6 hectares of open-access land within the BFWWF site would be subject to closure during construction, with a further 4.7 hectares closed should Brechfa Forest East be constructed at the same time. In this case over 70% of the 52.7ha of open-access land within Brechfa Forest would remain open throughout the construction period.
- The commitment for prior-to-works inspection of existing paths and restoration to equivalent or improved standard following construction, secured through Requirement 17.
- The commitment to provide additional permissive routes following the construction of tracks within the site, secured through Requirement 17.
- The provision of a new waymarked walk within the Forest, with a new crossing of the Afon Pib, to be maintained for the life of the wind farm. This is secured via the unilateral undertakings.
- Support for the provision of improved signs for users throughout the site.

4.188 The DCO includes a requirement for an access management plan to be approved by the relevant planning authority. CCC has requested that the commitments relating to mitigation be included within the DCO to which the applicant has agreed, with the requirements significantly expanded to accommodate this. On the basis of this evidence of loss and mitigation, I can attach little weight to the loss of access to the site in considering the case against the development.

vii. Transport

- 4.189 NPS EN-3 (2.7.78) sets out the relevant policy background and requires that the decision taker, taking into account the views of the relevant local highway authority, be satisfied that abnormal loads can be safely transported in a way which minimises inconvenience, and that the environmental effects of this and other construction traffic, after mitigation, are acceptable.
- 4.190 In line with advice from CCC I have travelled the local road on a number of occasions, as both a driver and a passenger, noting and viewing in particular the proposed access off the A485 south of Gwyddgrug.
- 4.191 The key issues relate to construction traffic, with little operational traffic post-construction. The ES envisaged that the turbines would travel from Cardiff Docks via (mainly) trunk roads, particularly the M4 and A48 to Carmarthen, though no decisions have been taken on the port of entry. They would then follow the A40 (trunk road) briefly before joining the A485 which is the responsibility of CCC. The A485 is classed as a principal road, and is expected to carry large volumes of traffic and be suitable for heavy goods vehicles.
- 4.192 It became apparent during the examination that the main turbine blades may not be imported via Cardiff, with a final decision to be taken at the necessary time. The blades for the adjacent Alltwalis Wind Farm, though shorter by 4metres, were imported via Swansea, travelling primarily on trunk roads before joining the M4 and thereafter following the route outlined above. The ES identifies a number of inevitable road management issues relating to the transport of large indivisible loads. These would

be managed within a construction transport management plan (CTMP) to be approved by the relevant planning authority (Requirement 8).

- 4.193 In its local impact report CCC highlighted a number of issues, including concerns about safety issues relating to the need for a new junction on the A485 and the adequacy of a test run to enable CCC fully to assess the impact on local roads (REP260 LA). More generally, aside from these two issues, CCC agreed with the applicant in the SOCG that subject to securing the mitigation measures in the ES:

"There will be no unacceptable impacts on access, traffic and transportation, and the draft DCO secures delivery of those mitigation measures through the Construction Transport Management Plan (REP258 APP)."

- 4.194 The WG is responsible for trunk roads and, while raising a range of assessment and operational issues that need to be considered, it agrees that there are in principle no issues that cannot be addressed within the CTMP (REC9, 1hour 24 mins). The draft DCO has been amended to meet a concern of the WG's about the need for trial runs and to ensure that they are consulted by CCC before the CTMP is approved (Requirement 8(1)(b)) .

- 4.195 A number of concerns have been raised by members of the local community, most notably in relation to potential damage to roads, disruption to traffic, particularly along the A485, and risks to emergency transport needs. The issue of damage is addressed in the draft DCO (Requirement 8(1)(j)). While there would inevitably be disruption, it is a function of the CTMP to provide a mechanism to manage and minimise this, and also to manage the needs of the emergency services. The adequacy of the test

run, a concern of CCC, also falls coherently within the suite of pre-delivery assessment issues to be addressed within the CTMP.

- 4.196 CCC also felt that insufficient information had been provided on the local access and the junction with the A485 for it to assess safety considerations adequately. I accept that the level of detail will need to be improved, but no evidence has been offered to support the contention that the safety issues that arise with the local access cannot be satisfactorily mitigated. The Council was concerned that leaving this to be dealt with in the CMS would weaken their hand in dealing with the applicant when it came to agreeing the detail. This applies to all issues that fall to be agreed within the CMS and no major planning or road safety issues were advanced to suggest this issue could not be similarly managed.
- 4.197 CCC has highlighted concerns about the potential cumulative impact on the road network given the existence of other applications for wind farms within the local area, notably Bryn Llewellyn and Brechfa Forest East, each of which would increase the pressures on the A485 should they be approved. If such a situation should arise this can be managed by CCC via appropriate conditions, akin to the requirements proposed for BFWWF, in approving other applications. This would enable the Council to manage the pressure.
- 4.198 In summary, the roads along which turbines would be transported are motorway, trunk and principal roads. While turbines constitute abnormal indivisible loads which require specific management for their delivery, and there will be associated disruption and delays, the expectation is that such roads can cope with such loads. The main issues relate to the

assessment, planning and management of the necessary trials and delivery. The requirement for a CTMP to be approved by CCC is an appropriate vehicle for addressing these concerns and is included in the requirements. No issues of planning significance have arisen in relation to traffic or transport that weigh significantly in my consideration.

Viii Compensatory Planting

- 4.199 The applicant has advised that it has agreed with the landowner, the Welsh Government (WG), to contribute to the financing of a compensatory planting scheme. This is a joint commitment with the landowner to support a restocking scheme outside the site boundary, but within Wales, and with the planting to adhere to the WG's "Woodlands for Wales" strategy (REP221 APP).
- 4.200 This is seen by the applicant as an enhancement measure and not mitigation. The issue has not featured significantly in the examination. It does not feature in either the DCO or the UU and I give no weight to this commitment in reaching my conclusions.

5 THE CASE FOR DEVELOPMENT

Planning Act 2008 (PA 2008)

- 5.1 PA 2008 requires that in taking a decision regard must be had to any national policy statements, local impact reports or other relevant matters (s104). It also states that the application must be decided in accordance with any relevant national policy statement (s104(3)) unless a number of other factors are of greater significance, including legal and/or international obligations. The key test for my consideration is to assess whether “*the adverse impact of the proposed development would outweigh its benefits*” (s104(7)).

National Policy Statements

- 5.2 The relevant national policy statements published by the Government in July 2011 are Overarching National Policy Statement for Energy (NPS EN-1) and National Policy Statement for Renewable Energy Infrastructure (NPS EN-3). NPS EN-3 contains specific policy guidance relating to onshore wind (section 2.6).
- 5.3 The introduction to Part 3 of NPS EN-1 sets out the strategic framework for decision taking by the then IPC:
- The UK needs all the types of energy infrastructure covered by NPS EN-1 in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions.
 - It is for industry to propose new energy infrastructure projects within the strategic framework set by Government.

The Government does not consider it appropriate for planning policy to set targets or limits on different technologies.

- The IPC should therefore assess all applications for development consent for the types of energy infrastructure covered by the NPSs on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them within NPS EN-3.
- The IPC should give substantial weight to the contribution which projects would make toward satisfying this need when considering applications for development consent under the PA 2008.

5.4 This framework is amplified on in the NPS EN-1 and I note in particular:

- Paragraph 3.3.10 which records the Government's commitment to increasing dramatically the amount of renewable generation capacity, and notes that in the short to medium term *"much of this new capacity is likely to be onshore and offshore wind"*.
- Paragraph 3.3.15 which records *"an urgent need for new (and particularly low carbon) energy Nationally Significant Infrastructure Projects to be brought forward as soon as possible"*.
- Paragraph 3.3.4 which records that *"onshore wind is the most well-established and currently the most economically viable"*

source of renewable energy available for future large-scale deployment in the UK”.

- 5.5 NPS EN-3, together with NPS EN-1, is identified as *“the primary decision-making policy document...on nationally significant onshore renewable energy infrastructure projects in England and Wales”* (1.5.1). NPS EN-3 also notes that the number of turbines necessary for onshore wind farms with a capacity of 50MW or more *“will inevitably have some visual and/or noise impacts, particularly if sited in rural areas”*.

Local Impact Report (LIR)

- 5.6 The wide-ranging LIR from CCC has been a valuable input into my examination and I have had regard to it in both assessing issues and considering the draft Development Consent Order. I have also had regard to the LIR from the City and County of Swansea, and a written representation submitted by Ceredigion County Council.

Assessment

- 5.7 My assessment of the main impacts associated with the proposed development is set out in section 4, Main Findings and Conclusions. I now give consideration to these alongside the guidance in the policy statements, and with particular attention to the requirement in s104(7) PA 2008 to consider whether *“the adverse impact of the proposed development would outweigh its benefits”*.
- 5.8 There are adverse landscape and visual impacts (LVI), both from the proposed development itself and in cumulation with other existing or proposed developments. There would be significant

landscape change with BFWWF alone adding 28 turbines, with a (blade tip) height of 145m, visible significantly above the forest tree line. If other developments are approved, notably at Bryn Llewelyn and Brechfa Forest East, the overall impact would constitute a significant change to the landscape, with turbines comprising a dominant feature from a range of viewpoints.

- 5.9 NPS EN-3 notes that there will "*always be significant landscape and visual impacts*" (2.7.48) from the construction and operation of wind farms, and the scope for mitigation is limited. The development is within an area (Strategic Search Area) that the Welsh Government has designated as appropriate for wind farm development, following a strategic search at the all-Wales level, with sites selected on the basis of environmental and efficiency considerations. Against this policy background and strategic assessment, I consider that these adverse LVI consequences are acceptable given the desirability of, and pressing need for, this type of infrastructure as set out in Government policy statements. It is the strength of the policy need that underlies this conclusion.
- 5.10 Noise has been an area of significant controversy during the examination, though with significant areas of agreement between the applicant and CCC, which is the main public body with an interest in, and responsibilities for, noise.
- 5.11 In relation to noise levels, I am satisfied that the applicant has demonstrated that the proposed wind farm is able to comply with ETSU-R-97. NPS EN-3 records that I may conclude that I will give little or no weight to adverse noise impacts when it has been demonstrated a wind farm can comply with ETSU-R-97 (2.7.58).

- 5.12 Nevertheless it is clear that there are concerns within the local community about noise disturbance from the adjacent Alltwalis Wind Farm, despite apparent compliance with ETSU-R-97 limits. These concerns are consistent with the phenomenon of amplitude modulation. The main scientific evidence suggests this is a relatively infrequent occurrence. It is also the case that the scientific understanding of, and the ability to monitor, such modulation is little understood. Having considered the issue I cannot endorse a condition directed at amplitude modulation for reasons set out in section 4. The DCO does, however, include a provision that exposes the applicant to statutory nuisance action should a nuisance arise from amplitude modulation.
- 5.13 Given the strength of the policy commitment, including the pressing need for such development, the evidence that the proposed wind farm would comply with ETSU-R-97, and the approach to addressing amplitude modulation in the DCO, I conclude that the noise concerns identified provide insufficient grounds for recommending that the development is not approved.
- 5.14 A range of ecological issues have been considered during the examination and reported on above. A number of these, notably the potential impact on European sites and European protected species, raise issues of compliance with international obligations. A number of additional safeguards have been built into the DCO to help address the relevant concerns. My conclusion is that there are no outstanding ecological issues of sufficient significance to provide grounds for not recommending that the development is approved.

- 5.15 The local access track has been an issue of significant controversy, with concerns fuelled by the existence of a perceived alternative in close proximity. While there is concern over the environmental consequences of the track, I have noted that the track crosses no designated ecological sites. In addition, while there are adverse LVIs, these are not significant when compared to the overall LVI of the windfarm. The track would cross no nationally designated landscapes. Significant mitigation is also proposed.
- 5.16 There is evidence for the view that there exists a less damaging alternative. However, given my conclusion on the planning merits of the proposed access track, the existence of an apparently less damaging alternative is not something that can be material to my recommendation.
- 5.17 I have also considered a range of other issues in section 4.E. In no case have I found any compelling evidence that would suggest that the development should not proceed.

Conclusion on the Case for Development

- 5.18 NPS EN-1 (para 4.1.2) advises that, "*the IPC should start with a presumption in favour of granting consent to applications for energy NSIPs*". This is subject to the provisions of PA 2008 (para 5.1).
- 5.19 In reaching my conclusions and recommendations on the case for the proposed development I have had regard to the NPSs, the LIRs submitted by local authorities, and other matters I have considered to be important and relevant. I have considered whether my examination and assessment could lead to the UK Government being in breach of its international obligations and

other issues identified in PA 2008. I believe my examination, assessment and conclusions to be in accord with these duties. In considering whether the benefits outweigh the adverse effects I have sought to mitigate those effects via provisions in the draft DCO. On the basis of the assessment above, and the proposed mitigation in the DCO, I am satisfied that the benefits of the project would outweigh its adverse impacts

- 5.20 I recommend that the Secretary of State give development consent to the proposed BFWWF.

6 THE PROPOSED DEVELOPMENT CONSENT ORDER (DCO), REQUIREMENTS AND THE UNILATERAL UNDERTAKING (UU)

Introduction

- 6.1 The proposed DCO is attached at Appendix F. An initial draft and explanatory memorandum was submitted with the application (APP3, APP4). Following questions and comments from myself and comments from interested parties (IPs) a further two drafts were prepared by the applicant. The latter of these drafts was discussed at an issue-specific hearing (REP 127-132 APP). Many new comments were introduced by IPs at this hearing and set out in representations following the hearing (REP133-73). Representations were also made at relevant issue-specific hearings. I issued a draft DCO (the ExA draft) for comment on 26 July 2012 (PD20, PD21) and have considered responses received (REP174-191).
- 6.2 Comments below mainly address changes made to the ExA draft. They do not repeat the detail of issues addressed in the discussion of main findings though do provide a signpost to where the issue is addressed. I have not commented on minor drafting amendments.

The Development Consent Order

- 6.3 I will comment below on specific issues in the draft DCO. There are a number of general issues that I will address first.
- 6.4 The initial draft DCO was predicated on the assumption that felling comprised authorised development under the PA 2008. During the examination it has been clarified that it does not. Forestry good practice designed to protect the environment is

included within guidance. The issue is discussed in relation to European sites in paras 4.42 et seq. The need to follow such guidance is incorporated in the draft DCO which identifies the relevant extant guidance (Requirement 18). There had been some argument from IPs, including statutory bodies, that forestry should be brought within the parameters of other requirements (eg that felling must not commence before the CMS has been approved or before the HMP has been approved). The draft DCO does not follow this approach; it would subject felling to unnecessary duplication with potential for inconsistency, and the project to unnecessary delay should it proceed. The one exception relates to the survey requirements in relation to European protected species (EPS) (Requirement 16) where the impact of felling is central to the considerations raised during the examination.

- 6.5 The Statement of Common Ground (SOCG) between the applicant and CCC addressed the issue of relevant consents being included in the DCO relating to the operation of a generating station (Article 7), the temporary stopping up of streets (Article 11) and the removal of hedgerows (Article 15) noting that (REP258 APP):

"...the Council consents to the inclusion of provisions within the draft DCO relating to the operation of a generating station, the temporary stopping up of streets, and the removal of hedgerows, which are the matter of prescribed consents under section 150 of the Planning Act 2008/the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010".

- 6.6 The Welsh Government intends, by Order, to provide for the transfer of the functions of the CCW, and the Welsh devolved

functions of the Environment Agency and of the Forestry Commissioners to a new body, Natural Resources Wales, in April 2013. If a DCO is made after that date references to those bodies within the draft DCO may need to be amended.

- 6.7 I now comment on individual issues within the draft DCO.
- 6.8 A **preamble** has been added to the ExA draft immediately before Article 1 outlining the statutory process. This follows closely the model adopted in other DCOs issued under the PA 2008.
- 6.9 **Article 3(3)** from the ExA draft has been removed following a concern of the applicant that it was unnecessary (duplicating Requirement 4) and created an unnecessarily cumbersome process should the applicant seek a variation.
- 6.10 **Article 7(1)** has been amended to exclude references to transmission which does not form part of the authorised project (Schedule 1 of the DCO). The applicant's explanatory memorandum to their initial draft DCO (APP4) provides a convincing explanation as to why all works are relevant to the generation of electricity (para 4.139 et seq). I note that transmission does not fall within sections 14 and 15 of PA 2008. I also note (discussed below) that the applicant's UUs exclude the obligations being binding on undertakers or parties whose interests in the site relate to transmission of electricity.
- 6.11 **Article 9** has been included by the applicant to address the concerns of CCC about amplitude modulation (para 4.115 et seq). There is agreement between the applicant and the Council around the principle and intent, but some concern and uncertainty around the precise need for and interpretation to be attached to Articles 9(1) to 9(3), an issue I raised in the DCO

hearing and on which subsequent comments were received. Grwp Blaengwen in response noted they only benefited the applicant and favour their removal from the DCO (REP182 NSO). The applicant acknowledges a degree of uncertainty around their legal effects given what they perceive to be a lack of clarity around the scope of s158 of the PA 2008, and thus of the consequences of removal (REP174 APP).

- 6.12 Having considered further it appears that the effect of Articles 9(1) to 9(3) is to provide a degree of defence for the applicant against statutory nuisance action in relation to construction or maintenance activities if the applicant's actions comply with the requirements of the DCO. They do not appear to restrict the scope for statutory nuisance action in relation to the operation of the site. This is the purpose of the provision, which has been introduced as a potential means of addressing amplitude modulation, and I thus consider Article 9 to be reasonable.
- 6.13 **Article 15(3)** has been redrafted for consistency with 15(1). Similar changes are made in Requirement 15.
- 6.14 **Requirement 5** deals with restoration. The amendments proposed at Appendix F give effect to my consideration in para 4.93. The change includes deleting the specific provision for the bellmouth access in the ExA draft as this is covered by the proposed redrafting.
- 6.15 Also in relation to Requirement 5 the applicant has suggested (REP174 APP) that, while it is content with the proposed text (which I had amended in the ExA draft), there should be some indication of the time period within which the applicant must comply with the approved scheme. It has suggested at least 12

months following approval. I consider the suggestion reasonable and have expanded the requirement in line with the applicant's suggestion.

- 6.16 **Requirement 6** addresses the process of turbine removal if a turbine should cease to generate electricity. CCC has suggested that the period of not generating electricity which would start the removal process is excessive, and should be reduced from 12 to 6 months (REP175 LA). On balance I believe that the 12 months proposed by the applicant is not excessive.
- 6.17 **Requirement 7:** The need for, and drafting of, this Requirement has been the subject of some discussion, with concerns from both Grwp Blaengwen and CCC that the drafting was unclear, and I raised a concern about the drafting in issuing the ExA draft. The requirement was introduced by the applicant following a request by the Environment Agency who had expressed concerns about potential impact on watercourses. The proposed redraft is in line with the applicant's explanation of intent in response to the ExA draft (REP174 APP).
- 6.18 **Requirement 8:** At the DCO hearing the WG suggested a wide range of additional items for inclusion in the schedule of issues to be identified in the DCO in relation to the construction traffic management plan (CTMP). I considered these to be already covered and did not include them in the ExA draft. In responding the WG suggested that the need for trial runs was not adequately covered. I find this persuasive and have added Requirement 8(1)(b). Following the DCO hearing the applicant noted it would be more appropriate for "dry runs" to be required in advance of deliveries rather than prior to the commencement of the development. No compelling reason was offered. As such

runs seem to form part of the background evidence for the development of a CTMP, I have not incorporated this suggestion from the applicant in the DCO.

- 6.19 The WG has also requested that in approving the CTMP (Requirement 8) CCC should do so in consultation with the WG (Transport) (REP177 OSC). While it is arguable as to whether this is necessary, as there could be a duty on CCC to consult without such a provision, I have added the suggestion to the draft DCO, with similar additions made to Requirements 11 and 12.
- 6.20 **Requirement 9** provides for a construction method statement and incorporates a significant range of elements for approval by CCC. The draft at Appendix F has an additional Requirement, 9(2)(l), giving effect to my conclusion at paragraph 4.90.
- 6.21 **Requirements 15 & 16** have been significantly restructured from the Requirements 15 and 15A included in the ExA draft in response to comments primarily from the applicant (REP174 APP), CCC (REP175 LA) and CCW (REP178 OSC). The issues addressed are largely unchanged. Requirements 15(2)(e) and 15(2)(f) import language from Article 15 ("*reasonably believes it to be necessary to do so*") which strengthens the provision in relation to bat and nightjar mitigation should that be necessary.
- 6.22 I have included the requirement for bat monitoring within the suite of requirements relating to the HMP (Requirement 15) and not in Requirement 16 relating to European protected species (EPS). While bats are an EPS the monitoring requirements and potential need for mitigatory measures and/or further monitoring

seem to sit more coherently within the monitoring and management issues that relate to the HMP.

- 6.23 **Requirements 20 and 21** have been restructured to clarify the intent.
- 6.24 **Requirement 27** has had “or felling” removed in line with the principle outlined at para 6.4 above, and following a representation from FCW.
- 6.25 **Requirement 31** is included to meet an international information obligation, and has been added since the ExA draft.
- 6.26 **Requirement 32** includes the noise limits. These limits are those proposed by the applicant prior to the DCO hearing (REP127 APP) and not those included in the ExA draft. The issues are discussed in Section 4.D above.
- 6.27 **Requirement 34** was added to the ExA draft to meet a concern of CCC that it needed an explicit power to require the shutting down of turbines to investigate noise complaints. CCC has subsequently commented (REP175 LA) that the requirement needs to address when the turbines may be switched back on. As the purpose of the requirement is set out (“*to assess compliance*”) I see no need for further clarification. CCC did not elaborate on their concerns and how they may need to be addressed.
- 6.28 CCC has also suggested a need for routine post-construction noise monitoring unrelated to complaints. The only evidence submitted on this issue has been from RES UK and Ireland Ltd (RES) who provided evidence based on their experience of such a condition. No breaches of the conditions had arisen and the

condition had been relaxed by the local planning authority. RES also noted the inconvenience of such monitoring for affected local residents (REP72 OSC). The inconvenience of such noise monitoring has been highlighted by a number of Gwyddgrug residents. The issues raised have not been addressed by CCC and I have not proposed such a requirement.

- 6.29 On **Schedule 2a of the guidance notes** CCC has highlighted an information asymmetry (REP175 LA), and requested that it be amended so that it may initially only need to specify the times to which the complaint relates, with the applicant then to provide information on wind speed and direction and on power generation. Requirement 36 seems to meet this need and I propose no amendment to the guidance note.

Unilateral Undertakings

- 6.30 The main part of the site, on which it is planned to locate the turbines, is owned by the Welsh Government and managed on their behalf by Forestry Commission Wales. The applicant has taken the lead in seeking to negotiate an agreement under s106 of the Town and Country Planning Act 1990 ("s106") between the Welsh Government and CCC, but no agreement has been reached. CCC has refused to agree an undertaking that did not contain a commitment or reference to provide financial support for the discharge of requirements, post consent monitoring and enforcement (REP237 LA). It has cited in support of its argument a previous development consented under PA 2008, unrelated to the present location or parties, where the applicant agreed a degree of financial support. I do not doubt a burden that will fall on CCC, a relatively small unitary authority, particularly in having to address many of the requirements which may prove time

consuming and resource intensive, with potential for delay. However, this issue of how the relevant planning authority will resource its responsibilities raises no planning issues.

- 6.31 Following this failure to agree the applicant forwarded a unilateral undertaking dated 30 August 2012, executed by the Welsh Government (WG)⁸ (REP221 APP). It forwarded a further undertaking executed by WG, following comments and questions from me as Examining Authority, dated 12 September 2012 (REP244 APP). These undertakings are given pursuant to s106 and are conditional on development consent being granted. They would become binding on the applicant (as a person deriving title from the Welsh Government) if the applicant exercises its option agreement with the Welsh Government to take a lease of the main part of the site.
- 6.32 Clause 2.7 of the undertakings excludes various statutory undertakers or other persons from being bound by the undertaking, but these exclusions do not relate to the generation of electricity, the subject of the application and draft DCO. Article 8 of the DCO sets out provisions should the applicant as the undertaker wish to transfer the benefit of the provisions of the Order. There appears to be no barrier to the Secretary of State requiring the transferee to give an undertaking to CCC before giving consent to a transfer should the Secretary of State so wish.
- 6.33 The matters which are the subject of the applicant's commitments in the undertakings are set out in para 1.15.

⁸ Formally this was executed by the Welsh Ministers. See footnote 3.

6.34 In addition to the undertakings the applicant has advised that it has agreed to a compensatory planting scheme (para 4.199) (REP221 APP) via a joint commitment with the landowner, to finance the provision of new mixed woodland equivalent to the net loss of trees as a result of the application. This commitment is not binding as it is neither embedded in the draft DCO nor the UU.

7 THE RECOMMENDATION

- 7.1 The Secretary of State for Energy and Climate Change, for the reasons set out in the above report of my findings and conclusions, is recommended to make the Brechfa Forest West Wind Farm Order as proposed in Appendix F.

APPENDIX A – THE EXAMINATION

The table below lists the main 'events' occurring during the examination and the main procedural decisions taken by the Examining Authority.

Date	Examination Event
13 March 2012	Preliminary Meeting
23 March 2012	Notification by ExA of procedural decision including confirmation of the examination timetable and first written questions from the ExA under Rule 8 of the Infrastructure Planning (Examination Procedure) Rules 2010
1 April 2012	Functions of the IPC are transferred to The Planning Inspectorate (National Infrastructure Directorate) as a result of the amendments to the Planning Act 2008 made by the Localism Act 2011
25 April 2012	Deadline for receipt by the ExA of: <ul style="list-style-type: none"> • Written Representations • Local Impact Reports (LIR) • Responses to the ExA's written questions • Comments on Relevant Representations • Applicant's revised draft Development Consent Order with accompanying note responding to the issues raised. • Statements of Common Ground including those set out in the schedule of questions
10 May 2012	Notification by ExA of: <ul style="list-style-type: none"> • Revision to Examination Timetable under Rule 8 (3) • Further details of likely hearings • Examining Authority's Requests for Further Information and Written Comments under Rule 17
25 May 2012	Deadline for receipt of any interested party comments regarding:

- Written Representations
- Local Impact Reports
- Responses to the ExA's written questions
- Comments on Relevant Representations
- Statements of Common Ground
- The applicant's revised draft Development Consent Order and accompanying note responding to the issues raised

In addition:

- Notification by Interested Parties of wish to be heard at an Open-floor Hearing
- Notification by Interested Parties of wish to make oral representations at any Issue-specific hearings
- Itinerary suggestions for the accompanied site visit

28 May 2012

Notice of hearings under Rule 13

1 June 2012

Notification of:

- Decision on Accompanied Site Inspection under Rule 16
- Revision to Examination Timetable under Rule 8 (3)

8 June 2012

Deadline by which interested parties wishing to attend any of the issue-specific and/or open-floor hearings should inform the ExA of:

- which hearing(s) they wish to attend
- which hearing(s) they wish to speak at, and on what matter(s).

18 June 2012	Notification of: <ul style="list-style-type: none">• Hearing under Rule 13• Request for further information from the applicant under Rule 17• Revised Timetable under Rule 8• Revised List of Public Display Locations for Application and Examination Documents under Rule 21
20 June 2012	Issue Specific Hearing: Noise
21 June (am)	Issue Specific Hearing: Transport & Local Access
21 June (pm)	Issue Specific Hearing: Ecology
28 June 2012	Deadline for receipt by the Examining Authority of: <ul style="list-style-type: none">• Written summaries of any case put at Issue-specific Hearings held on 20-21 June.
3 July 2012	Deadline for the applicant to provide to the ExA: <ul style="list-style-type: none">• Revised draft DCO• Latest draft(s) of any S106 obligations (or any completed S106 deed), together with a note addressing the latest changes made and progress towards agreement on S106 matters generally
11 July 2012 19 July 2012	Open Floor Hearing Deadline for receipt by the Examining Authority of: <ul style="list-style-type: none">• Written summaries of any case put at the Hearings

25 July 2012	<p>Notice by ExA of:</p> <ul style="list-style-type: none"> • Examining Authority’s Draft DCO • S106 obligation(s) • Responses to summaries and representations • Request for further information – Rule 17 • Accompanied Site Visit – Rule 16 • Revised Timetable – Rule 8
26 July 2012	<p>Deadline by which the Examining Authority will issue for comment:</p> <ul style="list-style-type: none"> • Examining Authority’s final draft Development Consent Order
1 August 2012	<p>Notification of amendment to the timetable under Rule 23</p>
9 August 2012	<p>Deadline for receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> • Any written comments on the draft Development Consent Order. <p>Deadline for receipt by the Examining Authority of:</p> <ul style="list-style-type: none"> • Any written comments on the draft Development Consent Order. • Any responses to the questions contained in annex B of the notification of 25 July
14 August 2012	<p>Examining Authority’s site inspection in the company of Interested Parties</p>
17 August 2012	<p>Request for Further Information under Rule 17 - Closing date for responses: 31 August 2012</p>

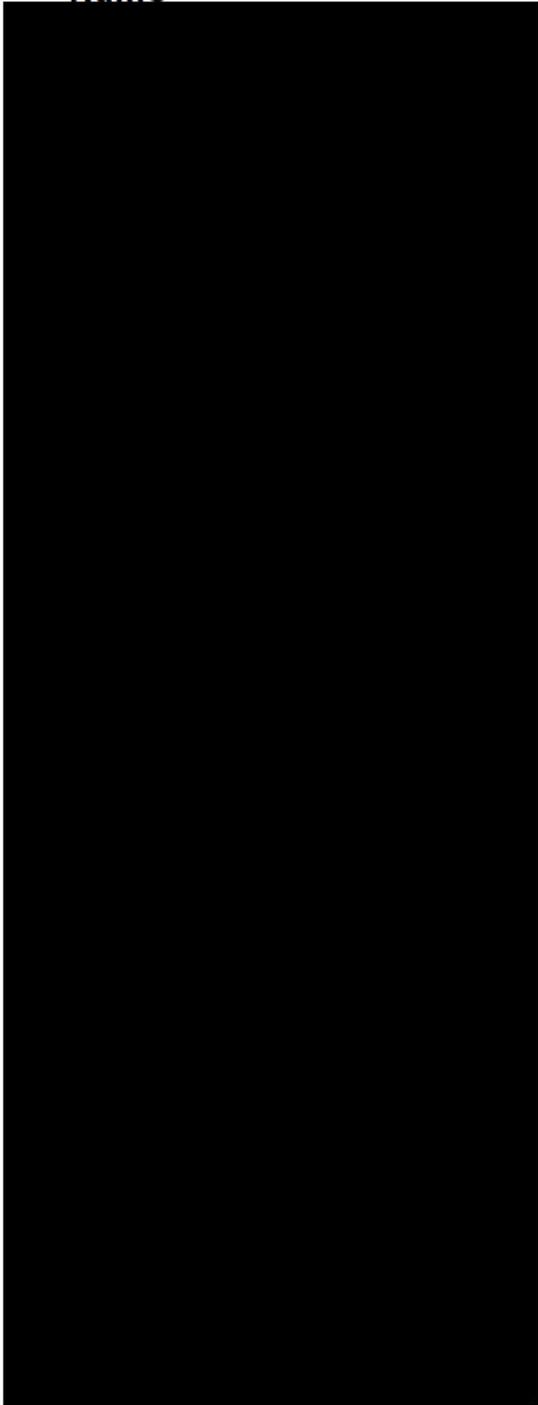
- 20 August 2012 Deadline for receipt by the Examining Authority of:
- Completed S106 obligation(s)
 - Any written comments on summaries and any written material submitted by Interested Parties for the deadlines of 28 June 2012 and 19 July 2012; (deadline was originally 9 August, but was amended under Rule 23 by way of the ExA's letter of 1 August 2012)
 - Responses to Rule 17 questions set out in the ExA's letter of 9 August 2012
- 31 August 2012 Deadline for receipt of:
- Responses to Rule 17 questions set out in the ExA's letter of 17 August 2012
- 31 August 2012
5 September 2012 Notification of request for further Information under Rule 17 – Closing date for responses 12 September 2012
- 7 September 2012 Deadline for receipt of:
- Responses to the Rule 17 questions set out in the ExA's letter of 31 August 2012
- 12 September 2012 Deadline for receipt by the ExA of:
- Responses to Rule 17 questions set out in the ExA's letter of 5 September 2012
- 13 September 2012 Close of the examination at 17:00

APPENDIX B – LIST OF ATTENDEES AT HEARINGS

20 June 2012 – Issue-Specific Hearing on NOISE

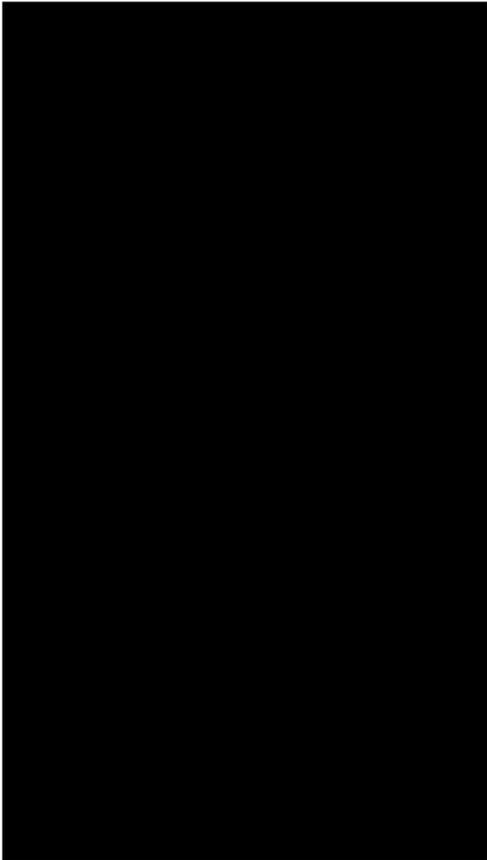
Name

Organisation



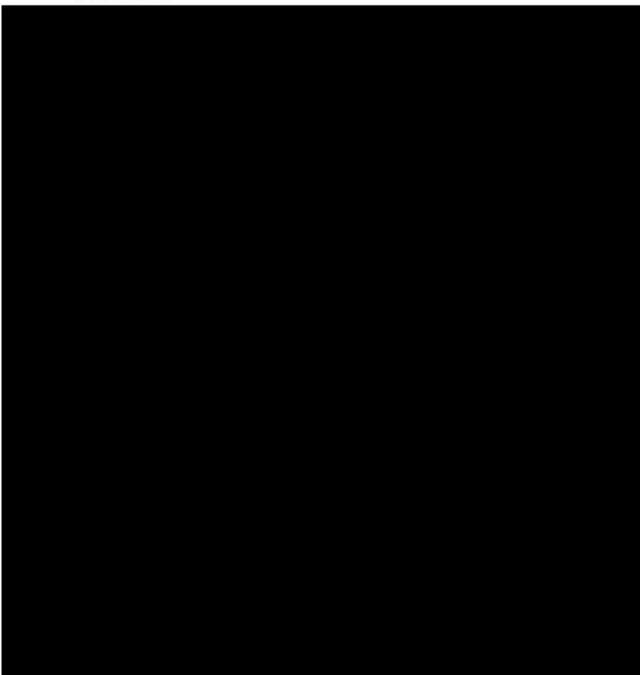
Eversheds, for RWE
Eversheds, for RWE
(Acoustics expert for RWE)
RWE
RWE
Eversheds, for RWE
Eversheds, for RWE
RES
RES
RES
Carmarthenshire County
Council (CCC)
Noise Advisor to CCC
CCC
CCC
Teifi Valley Tourism Association
Grwp Blaengwen
Grwp Blaengwen
Grwp Blaengwen

Mynydd Llansadwrn Action
Group
Local Councillor
Representing: Brechfa Forest
Energy Action Group,
Llanfihangel Rhos Y Corn
Parochial Church Council,
Llanfihangel Rhos Y Corn and
Brechfa Community Association



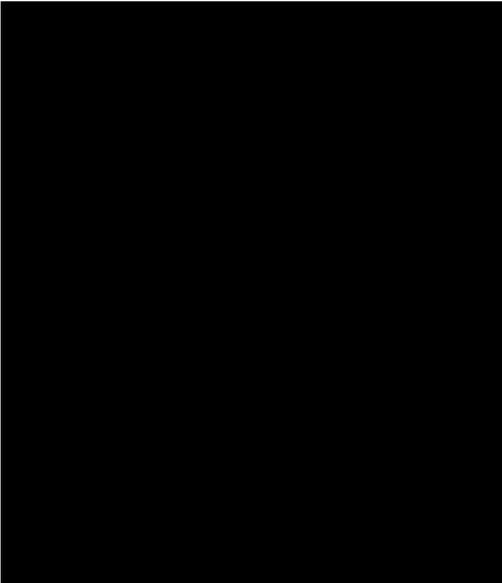
21 June 2012 – Issue-Specific Hearing on ECOLOGY

Name



Organisation

Eversheds, for RWE
Eversheds, for RWE
RWE
RWE
Eversheds, for RWE
Eversheds, for RWE
SSE Renewables
Carmarthenshire County
Council (CCC)
CCC
CCC
CCC
CCC
Countryside Council for Wales
(CCW)
CCW



CCW

CCW

CCW

CCW

CCW

CCW

Teifi Valley Tourism
Association

Teifi Valley Tourism
Association

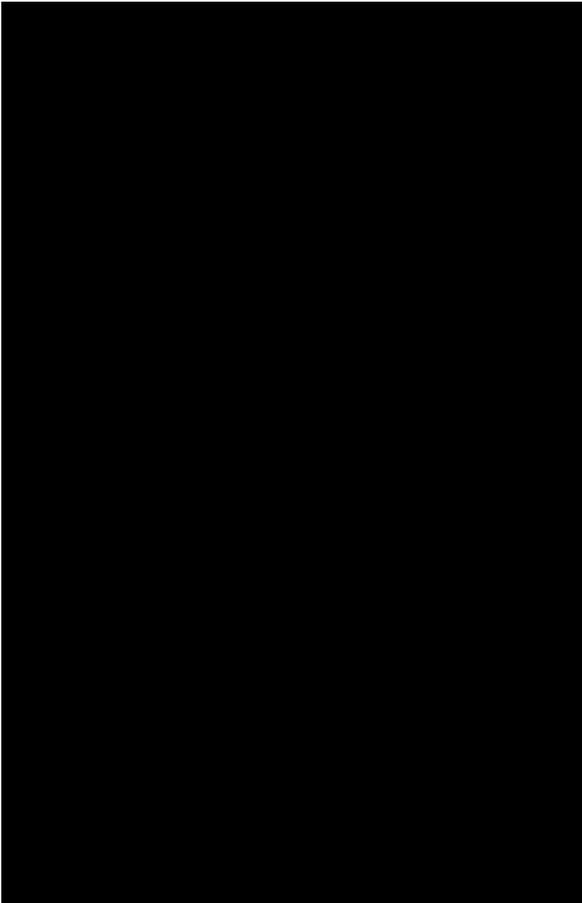
Local Councillor

Representing: Brechfa Forest
Energy Action Group,
Llanfihangel Rhos Y Corn
Parochial Church Council,
Llanfihangel Rhos Y Corn and
Brechfa Community
Association

The Forestry Commission
(Wales)

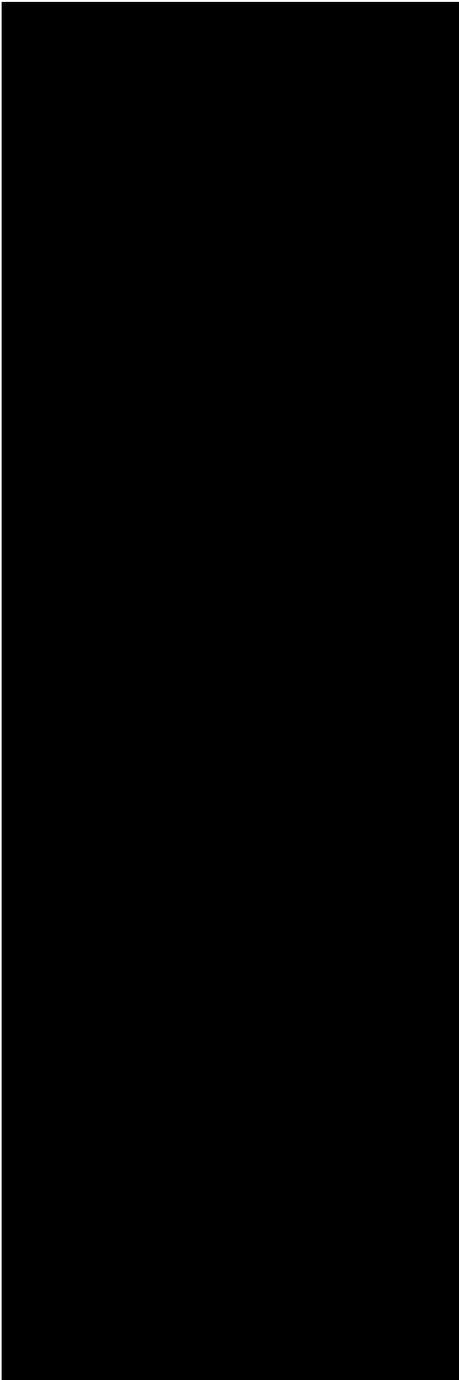
Forestry Commission

Mynydd Llansadwrn Action
Group



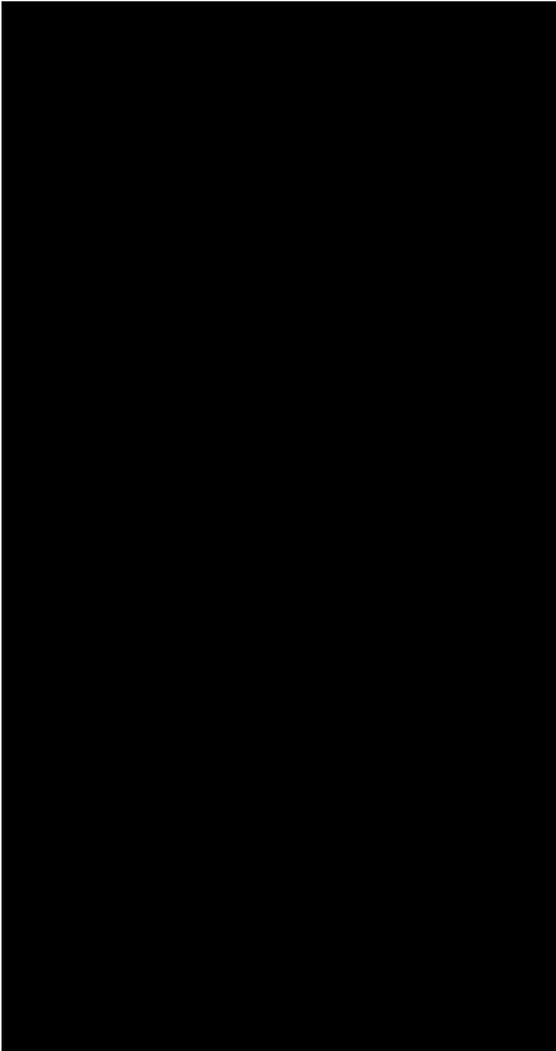
21 June 2012 – Issue-Specific Hearing on Transport and Local Access

Name



Organisation

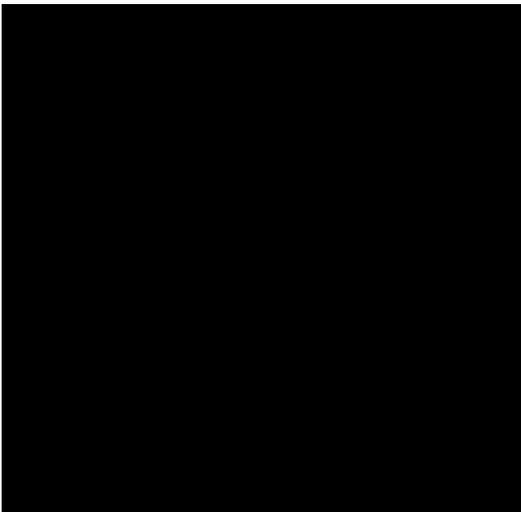
Eversheds, for RWE
Eversheds, for RWE
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Eversheds, for RWE
Eversheds, for RWE
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RWE
Welsh Government
Welsh Government
Welsh Government
Carmarthenshire County Council (CCC)
CCC
CCC
CCC
CCC
Countryside Council for Wales (CCW)
CCW
CCW
CCW
CCW
CCW
CCW
CCW
CCW
Environment Agency
Local Councillor
Representing: Brechfa Forest Energy Action Group, Llanfihangel Rhos Y Corn Parochial Church Council, Llanfihangel Rhos Y Corn and Brechfa Community Association



Teifi Valley Tourism
Association
Teifi Valley Tourism
Association
Grwp Blaengwen

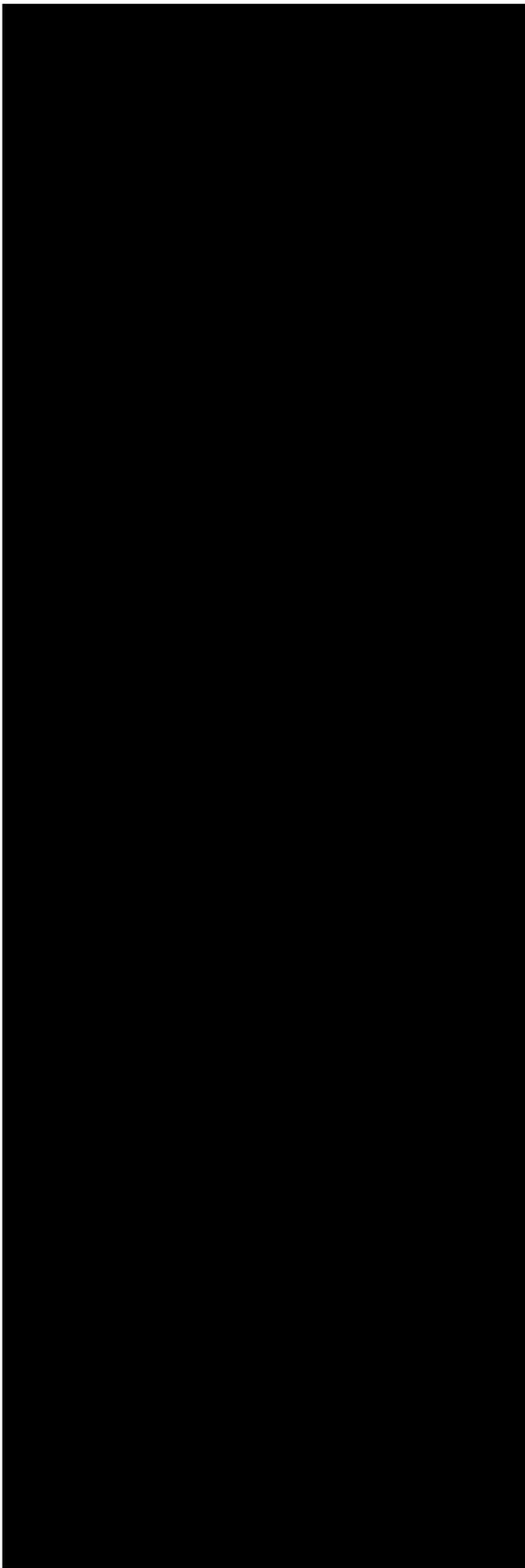
11 July 2012 – Open-floor Hearing Brechfa Church Hall 10:00

Name



Organisation

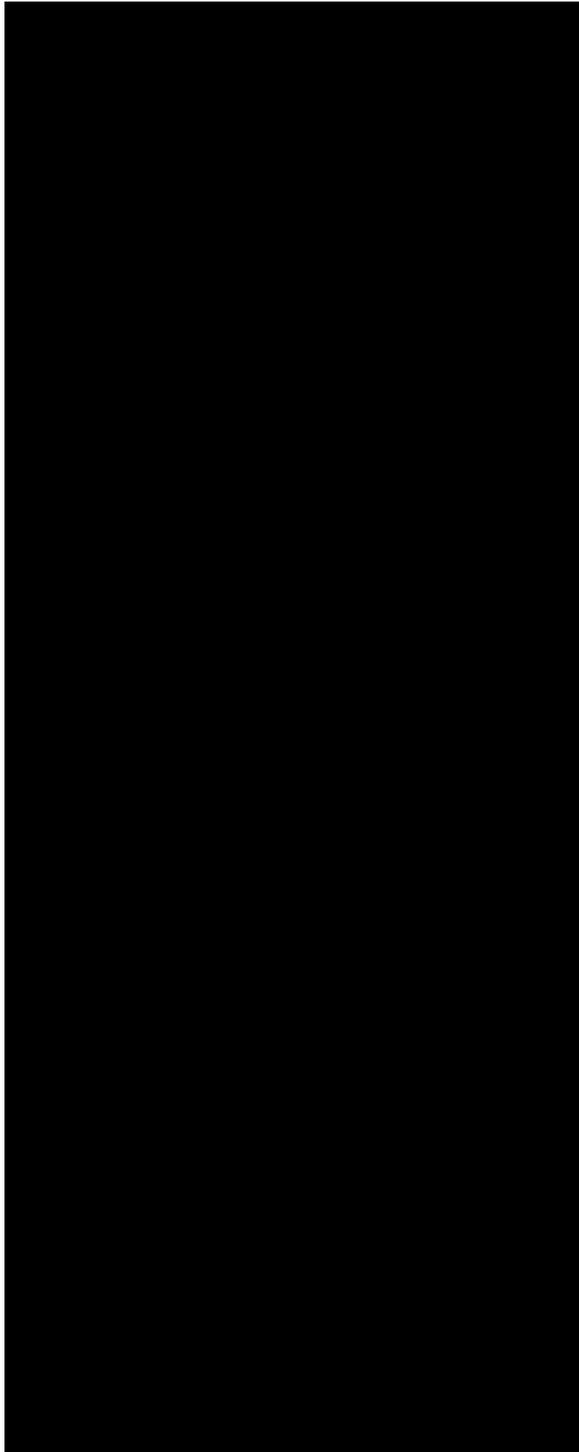
RWE
RWE
Eversheds, for RWE
Eversheds, for RWE
Burgess Salmon
SSE Renewables
RES
Carmarthenshire County Council
Countryside Council for Wales
3G Communications Ltd
Representing: Brechfa Forest
Energy Action Group, Llanfihangel



Rhos Y Corn Parochial Church
Council, Llanfihangel Rhos Y Corn
and Brechfa Community
Association
Local Councillor
Teifi Valley Tourism Association
Teifi Valley Tourism Association
Mynydd Llansadwrn Action Group
Grwp Blaengwen
Grwp Blaengwen
Carmarthenshire Riders

11 July 2012– Open-floor Hearing Canolfan Waunifor Centre 14:00

Name



Organisation

RWE
RWE
RWE
RES
Teifi Valley Tourism Association
Grwp Blaengwen
Grwp Blaengwen
Carmarthenshire Riders
Carmarthenshire Tourist
Association (CTA)
Consultant to CTA
Member of CTA
Representing: Brechfa Forest
Energy Action Group,
Llanfihangel Rhos Y Corn
Parochial Church Council,
Llanfihangel Rhos Y Corn and
Brechfa Community Association
Grwp Blaengwen

12 July 2012 – Issue-Specific Hearing on the draft DCO and s106 Undertakings

Name

Organisation

RWE
RWE
Welsh Government
Carmarthenshire County Council (CCC)
CCC
CCC
CCC
CCC
Countryside Council for Wales
Teifi Valley Tourism Association
Powys County Council
Powys County Council
Forestry Commission
The Forestry Commission (Wales)
Police Authority
Western Power Distribution
Western Power Distribution
Western Power Distribution
3G Communications Ltd

Representing: Brechfa Forest Energy Action Group, Llanfihangel Rhos Y Corn Parochial Church Council, Llanfihangel Rhos Y Corn and Brechfa Community Association

Grwp Blaengwen
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APPENDIX C – ABBREVIATIONS

AA	Appropriate Assessment
AM	Amplitude Modulation
AOD	Above Ordnance Datum
BCH	Brechfa Church Hall
BCT	Bat Conservation Trust
BFWWF	Brechfa Forest West Wind Farm
CCC	Carmarthenshire County Council
CCW	Countryside Council for Wales
CLDP	Carmarthenshire Local Development Plan
CMS	Construction Method Statement
CTMP	Construction Transport Management Plan
CUDP	Carmarthenshire Unitary Development Plan
CWC	Canolfan Waunifor Centre
DCLG	Department for Communities and Local Government
DECC	Department of Energy and Climate Change
DCO	Development Consent Order
EA	Environment Agency
EIA	Environmental Impact Assessment
EAW	Environment Agency Wales
EPS	European Protected Species
ES	Environmental Statement
ETSU (as in ETSU-R-97)	Energy Technology Support Unit - The Assessment and Rating of Noise from Windfarms
EU	European Union
ExA	Examining authority
FCW	Forestry Commission Wales
GIS	geographical information system
ha	Hectare
HGV	Heavy Goods Vehicles
HMP	Habitat Management Plan
HRA	Habitats Regulations Assessment
IoA	Institute of Acoustics
IP	Interested Party

IPC	Infrastructure Planning Commission
IROPI	Imperative Reasons of Overriding Public Interest
ISH	Issue Specific Hearing
km	Kilometres
LIR	Local Impact Report
LVI	Landscape and Visual Impact
m	Metres
NAS EN -1	Overarching National Policy Statement for Energy
NAS EN -3	National Policy Statement for Renewable Energy Infrastructure
NE	Natural England
NPS	National Policy Statement
NSIP	Nationally Significant Infrastructure Project
PA'08	Planning Act 2008
PROW	Public Right Of Way
RES	RES UK & Ireland LTD
RSPB	Royal Society for the Protection of Birds
RWE	RWE NPower Renewables Ltd (the applicant)
s	Section (as in Planning Act)
SAC	Special Area of Conservation
SAM	Scheduled Ancient Monument
SOCG	Statement of Common Ground
SPA	Special Protection Area
SSA	Strategic Search Area
SSSI	Site of Special Scientific Interest
TAN	Technical Advice Note (Welsh Government)
UDP	Unitary Development Plan
WG	Welsh Government
WPD	Western Power Distribution

APPENDIX D - EXAMINATION DOCUMENTS

Category & Title Doc Ref.

APPLICATION DOCUMENTS

APP1	<u>11.10.06 BFW.AppDoc10.Grid FINAL.pdf</u>
APP2	<u>11.10.26 BFW.AppDoc1.AppForm FINAL.pdf</u>
APP3	<u>11.10.26 BFW.AppDoc3.DCO FINAL.pdf</u>
APP4	<u>11.10.27 BFW.AppDoc4.ExpMemo FINAL.pdf</u>
APP5	<u>11.10.25 BFW.PLAN08.SUBSTATION title pages FINAL.pdf</u>
APP6	<u>11.10.25 BFW.PLAN09.CONTROL title pages FINAL.pdf</u>
APP7	<u>11.10.26 BFW.PLAN08.SUBSTATION FINAL.pdf</u>
APP8	<u>11.10.26 BFW.PLAN09.CONTROL FINAL.pdf</u>
APP9	<u>Chapter 1 to Chapter 4 Figures.pdf</u>
APP10	<u>Chapter 1 to Chapter 6.pdf</u>
APP11	<u>Chapter 10 Telecomms and Aviation.pdf</u>
APP12	<u>Chapter 10 Telecoms and Aviation Figures.pdf</u>
APP13	<u>Chapter 11 Access Rec and Socio-Econ Figures.pdf</u>
APP14	<u>Chapter 11 Access Recreation and Socio-economics.pdf</u>
APP15	<u>Chapter 11 Appendices.pdf</u>
APP16	<u>Chapter 12 Land Use and Forestry Figures.pdf</u>
APP17	<u>Chapter 12 Land Use and Forestry.pdf</u>
APP18	<u>Chapter 13 Appendices.pdf</u>
APP19	<u>Chapter 13 Non Avian Ecology Figures.pdf</u>
APP20	<u>Chapter 13 Non Avian Ecology.pdf</u>
APP21	<u>Chapter 14 Appendices.pdf</u>
APP22	<u>Chapter 14 Ornithology.pdf</u>
APP23	<u>Chapter 15 Appendices 15.1 to 15.6.pdf</u>
APP24	<u>Chapter 15 Appendices 15.10 to 15.11.pdf</u>
APP25	<u>Chapter 15 Appendices 15.7.pdf</u>
APP26	<u>Chapter 15 Appendices 15.8.pdf</u>

APP27	<u>Chapter 15 Appendices 15.9.pdf</u>
APP28	<u>Chapter 15 Landscape and Visual.pdf</u>
APP29	<u>Chapter 15 LVIA Figures 15.1 to 15.8.pdf</u>
APP30	<u>Chapter 15 LVIA Figures 15.13 to 15.20.pdf</u>
APP31	<u>Chapter 15 LVIA Figures 15.21 to 15.24.pdf</u>
APP32	<u>Chapter 15 LVIA Figures 15.25 to 15.28.pdf</u>
APP33	<u>Chapter 15 LVIA Figures 15.29 to 15.34.pdf</u>
APP34	<u>Chapter 15 LVIA Figures 15.35 to 15.40.pdf</u>
APP35	<u>Chapter 15 LVIA Figures 15.41 to 15.46.pdf</u>
APP36	<u>Chapter 15 LVIA Figures 15.47 to 15.51.pdf</u>
APP37	<u>Chapter 15 LVIA Figures 15.52 to 15.57.pdf</u>
APP38	<u>Chapter 15 LVIA Figures 15.58 to 15.62.pdf</u>
APP39	<u>Chapter 15 LVIA Figures 15.9 to 15.12.pdf</u>
APP40	<u>Chapter 16 Appendices.pdf</u>
APP41	<u>Chapter 16 Noise and Vibration Figures.pdf</u>
APP42	<u>Chapter 16 Noise and Vibration.pdf</u>
APP43	<u>Chapter 17 Shadow Flicker Figures.pdf</u>
APP44	<u>Chapter 17 Shadow Flicker.pdf</u>
APP45	<u>Chapter 18 Summary.pdf</u>
APP46	<u>Chapter 2 Appendices.pdf</u>
APP47	<u>Chapter 3 Appendices.pdf</u>
APP48	<u>Chapter 5 Appendices.pdf</u>
APP49	<u>Chapter 7 Historic Environment Figures.pdf</u>
APP50	<u>Chapter 7 Historic Environment.pdf</u>
APP51	<u>Chapter 8 Appendices.pdf</u>
APP52	<u>Chapter 8 Geology Soils and Hydrology Figures.pdf</u>
APP53	<u>Chapter 8 Geology Soils and Hydrology.pdf</u>
APP54	<u>Chapter 9 Access Traffic and Transportation Figures.pdf</u>
APP55	<u>Chapter 9 Access Traffic and Transportation.pdf</u>
APP56	<u>Chapter 9 Appendices.pdf</u>
APP57	<u>Non Technical Summary English.pdf</u>
APP58	<u>Non Technical Summary Welsh.pdf</u>

APP59	<u>11 11 04 Brechfa Forest West covering letter.pdf</u>
APP60	<u>11.10.07 BFW.AppDoc14.S48 FINAL.pdf</u>
APP61	<u>11.10.07 BFW.AppDoc15.Scoping FINAL.pdf</u>
APP62	<u>11.10.17 BFW.AppDoc17.Option FINAL.pdf</u>
APP63	<u>11.10.24 BFW.AppDoc5.BoR FINAL.pdf</u>
APP64	<u>Brechfa Forest West Application Index.xls</u>
APP65	<u>11.10.25 BFW.PLAN01.LANDPLAN title pages FINAL.pdf</u>
APP66	<u>11.10.25 BFW.PLAN02.WORKSPLAN title pages FINAL.pdf</u>
APP67	<u>11.10.25 BFW.PLAN04.ACCESS title pages FINAL.pdf</u>
APP68	<u>11.10.25 BFW.PLAN05.FELLING title pages FINAL.pdf</u>
APP69	<u>11.10.25 BFW.PLAN06.CROWNLAND title pages FINAL.pdf</u>
APP70	<u>BFW PLAN01 LANDPLAN 01.pdf</u>
APP71	<u>BFW PLAN01 LANDPLAN 02.pdf</u>
APP72	<u>BFW PLAN01 LANDPLAN 03.pdf</u>
APP73	<u>BFW PLAN01 LANDPLAN 04.pdf</u>
APP74	<u>BFW PLAN01 LANDPLAN 05.pdf</u>
APP75	<u>BFW PLAN01 LANDPLAN 06.pdf</u>
APP76	<u>BFW PLAN01 LANDPLAN KEY.pdf</u>
APP77	<u>BFW PLAN02 WORKSPLAN 01.pdf</u>
APP78	<u>BFW PLAN02 WORKSPLAN 02.pdf</u>
APP79	<u>BFW PLAN02 WORKSPLAN 03.pdf</u>
APP80	<u>BFW PLAN02 WORKSPLAN 04.pdf</u>
APP81	<u>BFW PLAN02 WORKSPLAN 05.pdf</u>
APP82	<u>BFW PLAN02 WORKSPLAN KEY.pdf</u>
APP83	<u>BFW PLAN04 ACCESS 01.pdf</u>
APP84	<u>BFW PLAN04 ACCESS 02.pdf</u>
APP85	<u>BFW PLAN04 ACCESS 03.pdf</u>
APP86	<u>BFW PLAN04 ACCESS 04.pdf</u>
APP87	<u>BFW PLAN04 ACCESS 05.pdf</u>
APP88	<u>BFW PLAN04 ACCESS 06.pdf</u>
APP89	<u>BFW PLAN04 ACCESS KEY.pdf</u>
APP90	<u>BFW PLAN05 FELLING 01.pdf</u>

APP91	<u>BFW PLAN05 FELLING 02.pdf</u>
APP92	<u>BFW PLAN05 FELLING 03.pdf</u>
APP93	<u>BFW PLAN05 FELLING 04.pdf</u>
APP94	<u>BFW PLAN05 FELLING 05.pdf</u>
APP95	<u>BFW PLAN05 FELLING KEY.pdf</u>
APP96	<u>BFW PLAN06 CROWNLAND 01.pdf</u>
APP97	<u>BFW PLAN06 CROWNLAND 02.pdf</u>
APP98	<u>BFW PLAN06 CROWNLAND 03.pdf</u>
APP99	<u>BFW PLAN06 CROWNLAND 04.pdf</u>
APP100	<u>BFW PLAN06 CROWNLAND 05.pdf</u>
APP101	<u>BFW PLAN06 CROWNLAND 06.pdf</u>
APP102	<u>BFW PLAN06 CROWNLAND KEY.pdf</u>
APP103	<u>11.10.06 BFW.AppDoc11.D and A FINAL.pdf</u>
APP104	<u>11.10.06 BFW.AppDoc16.Health FINAL.pdf</u>
APP105	<u>11.10.10 BFW.AppDoc6.StatNuis FINAL.pdf</u>
APP106	<u>11.10.12 BFW.AppDoc6.StatNuis Summary FINAL.pdf</u>
APP107	<u>11.10.12 BFW.AppDoc7.EuroSites Summary FINAL.pdf</u>
APP108	<u>11.10.13 BFW.AppDoc10.Grid Summary FINAL.pdf</u>
APP109	<u>11.10.13 BFW.AppDoc11.D and A Summary FINAL.pdf</u>
APP110	<u>11.10.13 BFW.AppDoc16.Health Summary FINAL.pdf</u>
APP111	<u>11.10.14 BFW.AppDoc12.Consultation Summary FINAL.pdf</u>
App112	<u>11.10.24 BFW.AppDoc13.Planning Summary FINAL.pdf</u>
APP113	<u>11.10.25 BFW.AppDoc7.EuroSites FINAL.pdf</u>
APP114	<u>11.10.26 BFW.AppDoc10.Grid Crynodeb CYMRAEG.pdf</u>
APP115	<u>11.10.26 BFW.AppDoc11.DA Crynodeb CYMRAEG.pdf</u>
APP116	<u>11.10.26 BFW.AppDoc12.Consultation Crynodeb CYMRAEG.pdf</u>
APP117	<u>11.10.26 BFW.AppDoc12.Consultation FINAL.pdf</u>
APP118	<u>11.10.26 BFW.AppDoc13.Planning Crynodeb CYMRAEG.pdf</u>
APP119	<u>11.10.26 BFW.AppDoc13.Planning FINAL.pdf</u>
APP120	<u>11.10.26 BFW.AppDoc16.Health Crynodeb CYMRAEG.pdf</u>
APP121	<u>11.10.26 BFW.AppDoc6.StatNuis Crynodeb CYMRAEG.pdf</u>
APP122	<u>11.10.26 BFW.AppDoc7.EuroSites Crynodeb CYMRAEG.pdf</u>

RELEVANT REPRESENTATIONS

Local Authorities

RREP1 LA	<u>Carmarthenshire County Council representing LLanllawddog</u>
RREP2 LA	<u>Carmarthenshire County Council</u>
RREP3 LA	<u>Pembrokeshire Coast National Park Authority</u>
RREP4 LA	<u>Brecon Beacons National Park Authority</u>

Other Statutory Consultees

RREP5 OSC	<u>Ministry of Defence</u>
RREP6 OSC	<u>Llanfynydd Community Council</u>
RREP7 OSC	<u>Community Council of Llanpumsaint</u>
RREP8 OSC	<u>Welsh Government</u>
RREP9 OSC	<u>Llaingyfre Cottages</u>
RREP10 OSC	<u>Environment Agency Wales</u>
RREP11 OSC	<u>LLanllawddog Community Council</u>
RREP12 OSC	<u>Countryside Council for Wales (CCW)</u>
RREP13 OSC	<u>Dyfed-Powys Police Authority</u>

Non Statutory Organisations

RREP14 NSO	<u>SSE Renewables (Rep1)</u>
RREP15 NSO	<u>SSE Renewables (Rep2)</u>
RREP16 NSO	<u>Statkraft Wind UK Ltd</u>
RREP17 NSO	<u>Dinefwr Green Group</u>
RREP18 NSO	<u>Design Commission for Wales</u>
RREP19 NSO	<u>Teifi Valley Tourism Association</u>
RREP20 NSO	<u>Grwp Blaengwen</u>
RREP21 NSO	<u>CA Blackwell (Contracts) Limited</u>
RREP22 NSO	<u>Galar Community Association</u>
RREP23 NSO	<u>Norwood Gardens</u>
RREP24 NSO	<u>Mabey Bridge Ltd</u>
RREP25 NSO	<u>Carmarthen Friends of the Earth</u>
RREP26 NSO	<u>Save Mynydd Llanllwni</u>
RREP27 NSO	<u>Plaid Cymru</u>

RREP28 NSO	<u>Gilfach Wen Barn</u>
RREP29 NSO	<u>Mynydd Llansadwrn Action Group</u>
RREP30 NSO	<u>Carmarthenshire Riders</u>
RREP31 NSO	<u>Brechfa Forest and Llanllwni Mountain Tourism Cluster Association</u>
RREP32 NSO	<u>Spencer Environmental Care Associates Ltd.</u>
RREP33 NSO	<u>South&West Wales Endurance GB</u>
RREP34 NSO	<u>Ramblers Dinefwr Group</u>
RREP35 NSO	<u>Carmarthenshire Association of Voluntary Services</u>
RREP36 NSO	<u>Dinefwr Ramblers</u>
RREP37 NSO	<u>CPRW (Carmarthenshire Branch)</u>
RREP38 NSO	<u>Cwmiar Farm Holiday Cottages</u>
RREP39 NSO	<u>Brechfa Forest WF Community Liason Group</u>
RREP40 NSO	<u>RES UK & Ireland Ltd</u>
RREP41 NSO	<u>Carmarthenshire Tourist Association</u>
RREP42 NSO	<u>Brechfa Forest Energy Action Group</u>
RREP43 NSO	<u>All Wales Energy Group</u>
RREP44 NSO	<u>Health Protection Agency</u>
RREP45 NSO	<u>Llanfihangel Rhos y Corn St Michael's Parochial Church Council</u>
RREP46 NSO	<u>Brechfa Community Association</u>
RREP47 NSO	<u>LLANFIHANGEL RHOS-Y-CORN COMMUNITY COUNCIL</u>
RREP48 NSO	<u>Siramik</u>

Members of Public

RREP49 MoP	<u>A Evans</u>
RREP50 MoP	<u>A Evans</u>
RREP51 MoP	<u>Andrew John Mason</u>
RREP52 MoP	<u>Aneurin Davies</u>
RREP53 MoP	<u>Angel Brain</u>
RREP54 MoP	<u>Ann Evans</u>
RREP55 MoP	<u>Ann West</u>
RREP56 MoP	<u>Arwyn George</u>
RREP57 MoP	<u>B Halvard</u>
RREP58 MoP	<u>B S Crafword</u>

RREP59 MoP	<u>B.R. Kilkelly</u>
RREP60 MoP	<u>Barbara Jane Stewart</u>
RREP61 MoP	<u>Ben Morris</u>
RREP62 MoP	<u>Bernadine Blackwell</u>
RREP63 MoP	<u>Brian Faux</u>
RREP64 MoP	<u>Brian Smethurst</u>
RREP65 MoP	<u>Bryan Dugdale</u>
RREP66 MoP	<u>C Harrison</u>
RREP67 MoP	<u>C.Rankin</u>
RREP68 MoP	<u>Carol Ann Tofts</u>
RREP69 MoP	<u>Carol Barclay</u>
RREP70 MoP	<u>Caroline Evans</u>
RREP71 MoP	<u>Carolyn Gough</u>
RREP72 MoP	<u>Carolyn Smethurst</u>
RREP73 MoP	<u>Caryl Harris</u>
RREP74 MoP	<u>Carys Jones</u>
RREP75 MoP	<u>Chris Doughty</u>
RREP76 MoP	<u>Chris Stephens</u>
RREP77 MoP	<u>Christine Williams</u>
RREP78 MoP	<u>Christopher Prudden</u>
RREP79 MoP	<u>Claire Dugdale</u>
RREP80 MoP	<u>Cllr John Mansel Charles</u>
RREP81 MoP	<u>Cllr Linda Evans</u>
RREP82 MoP	<u>D Bannister</u>
RREP83 MoP	<u>D Emery</u>
RREP84 MoP	<u>D F Wormald</u>
RREP85 MoP	<u>Daphne Bursell</u>
RREP86 MoP	<u>Dave Tyler</u>
RREP87 MoP	<u>David Foster</u>
RREP88 MoP	<u>David Groom</u>
RREP89 MoP	<u>David Hallett</u>
RREP90 MoP	<u>David Hughes</u>

RREP91 MoP	<u>David Jones</u>
RREP92 MoP	<u>David Thorley</u>
RREP93 MoP	<u>Deb Justice</u>
RREP94 MoP	<u>Del Brown</u>
RREP95 MoP	<u>Diana G Dorrell</u>
RREP96 MoP	<u>Dillwyn Davies</u>
RREP97 MoP	<u>Dilwyn Green</u>
RREP98 MoP	<u>Dr Christopher Clews</u>
RREP99 MoP	<u>Dr Peter Cottee</u>
RREP100 MoP	<u>Dr. Gamal Hamza</u>
RREP101 MoP	<u>E Griffiths</u>
RREP102 MoP	<u>E.J.Razzell</u>
RREP103 MoP	<u>Edgar William Jones</u>
RREP104 MoP	<u>Edward James Marynicz</u>
RREP105 MoP	<u>Eirlys Davies</u>
RREP106 MoP	<u>Elgan James</u>
RREP107 MoP	<u>Elgan James Davies</u>
RREP108 MoP	<u>Elinor Hobbs</u>
RREP109 MoP	<u>Elizabeth Olwen Davies</u>
RREP110 MoP	<u>Fay Sharpley</u>
RREP111 MoP	<u>Frances Woodley</u>
RREP112 MoP	<u>Geoffrey Charles Duthie</u>
RREP113 MoP	<u>Geoffrey Weller</u>
RREP114 MoP	<u>Gerald Webb</u>
RREP115 MoP	<u>Gill Dart</u>
RREP116 MoP	<u>Gillian Foulkes</u>
RREP117 MoP	<u>Glyn Jones</u>
RREP118 MoP	<u>Glynis Mitchell</u>
RREP119 MoP	<u>Graham Law</u>
RREP120 MoP	<u>Gus Hellier</u>
RREP121 MoP	<u>Gwynn Cavan Jones</u>
RREP122 MoP	<u>Heather Hogg</u>

RREP123 MoP	<u>Henry B Williams</u>
RREP124 MoP	<u>Hilary Madeley</u>
RREP125 MoP	<u>Hilary Wilson</u>
RREP126 MoP	<u>Howard Dare</u>
RREP127 MoP	<u>Huw Jones</u>
RREP128 MoP	<u>Ian Goddard</u>
RREP129 MoP	<u>Irene Prudden</u>
RREP130 MoP	<u>J Armstrong</u>
RREP131 MoP	<u>J D Harris</u>
RREP132 MoP	<u>J Harris</u>
RREP133 MoP	<u>J Harrison</u>
RREP134 MoP	<u>J Lloyd Thomas</u>
RREP135 MoP	<u>J Oven</u>
RREP136 MoP	<u>Jan Young</u>
RREP137 MoP	<u>Janet Marchant</u>
RREP138 MoP	<u>Jenny Hare</u>
RREP139 MoP	<u>Jenny Keal</u>
RREP140 MoP	<u>Jillie Gardiner</u>
RREP141 MoP	<u>Joelle Hoggan</u>
RREP142 MoP	<u>Johanna Jackson</u>
RREP143 MoP	<u>John Broughton</u>
RREP144 MoP	<u>John Evans</u>
RREP145 MoP	<u>John Finney</u>
RREP146 MoP	<u>John Hewer</u>
RREP147 MoP	<u>John R Davies</u>
RREP148 MoP	<u>John Schofield</u>
RREP149 MoP	<u>John Thomas</u>
RREP150 MoP	<u>Josette Gresty</u>
RREP151 MoP	<u>K Diffey</u>
RREP152 MoP	<u>Karen Burch</u>
RREP153 MoP	<u>Karen Roden</u>
RREP154 MoP	<u>Kathryn Turpin</u>

RREP155 MoP	<u>Kay Hamza</u>
RREP156 MoP	<u>Keith Morgon</u>
RREP157 MoP	<u>L Bradley</u>
RREP158 MoP	<u>L R Morris</u>
RREP159 MoP	<u>Laura Davey</u>
RREP160 MoP	<u>Laura Hewer</u>
RREP161 MoP	<u>Lisette Chesshire</u>
RREP162 MoP	<u>Louise Guidery</u>
RREP163 MoP	<u>Louise Povey</u>
RREP164 MoP	<u>Lynette Davies</u>
RREP165 MoP	<u>M Boudin</u>
RREP166 MoP	<u>M L Flanders</u>
RREP167 MoP	<u>Malcom Evans</u>
RREP168 MoP	<u>Margaret Cule</u>
RREP169 MoP	<u>Mark Davies</u>
RREP170 MoP	<u>Mark Evans</u>
RREP171 MoP	<u>Marna Jones</u>
RREP172 MoP	<u>Mary Evans</u>
RREP173 MoP	<u>Meinir Davies</u>
RREP174 MoP	<u>Michael Braby</u>
RREP175 MoP	<u>Michael Brennan</u>
RREP176 MoP	<u>Michael John Richardson</u>
RREP177 MoP	<u>Michael William Harrington</u>
RREP178 MoP	<u>Mr Bennett</u>
RREP179 MoP	<u>Mr C Blower</u>
RREP180 MoP	<u>Neil K Grant</u>
RREP181 MoP	<u>Neil Upton</u>
RREP182 MoP	<u>Nigel Brown</u>
RREP183 MoP	<u>Nigel Bullock</u>
RREP184 MoP	<u>Nikki Mulvey</u>
RREP185 MoP	<u>Norma Jones</u>
RREP186 MoP	<u>Norma Oven</u>

RREP187 MoP	<u>Pamela Durgan</u>
RREP188 MoP	<u>Patricia Jones</u>
RREP189 MoP	<u>Patricia Langley</u>
RREP190 MoP	<u>Patricia Shepherd Foster</u>
RREP191 MoP	<u>Paul Brown</u>
RREP192 MoP	<u>Paul Hobbs</u>
RREP193 MoP	<u>Paul Sear</u>
RREP194 MoP	<u>Penelope Vingoe</u>
RREP195 MoP	<u>Peter Cule</u>
RREP196 MoP	<u>Peter Foulkes</u>
RREP197 MoP	<u>Peter Langley</u>
RREP198 MoP	<u>Peter Tofts</u>
RREP199 MoP	<u>Philip Bettley</u>
RREP200 MoP	<u>Philip Brachi</u>
RREP201 MoP	<u>Phillip Adams</u>
RREP202 MoP	<u>R Halvard</u>
RREP203 MoP	<u>R Hewett</u>
RREP204 MoP	<u>Rachael Madeley-Davies</u>
RREP205 MoP	<u>Raymond Mitchell</u>
RREP206 MoP	<u>Rebeca Lewis on behalf of Jonathan Edwards MP</u>
RREP207 MoP	<u>Rebeca Lewis on behalf of Rhodri Glyn Thomas AM</u>
RREP208 MoP	<u>Rebecca Bigglestone</u>
RREP209 MoP	<u>Rhodri Thomas</u>
RREP210 MoP	<u>Rhoslyn Andrew-Betts</u>
RREP211 MoP	<u>Richard Bonfield</u>
RREP212 MoP	<u>Richard Noyce</u>
RREP213 MoP	<u>Robert Bazalgette</u>
RREP214 MoP	<u>Robert Francis Jones</u>
RREP215 MoP	<u>Robin Davies</u>
RREP216 MoP	<u>Roger Durgan</u>
RREP217 MoP	<u>Roger Fisher</u>
RREP218 MoP	<u>Rosemary Elizabeth Richardson</u>

RREP219 MoP	<u>Rosemary Harrison</u>
RREP220 MoP	<u>Roy Davies</u>
RREP221 MoP	<u>RS Morgon</u>
RREP222 MoP	<u>Ruth Talbot</u>
RREP223 MoP	<u>S Underwood-Hewett</u>
RREP224 MoP	<u>Sally Ballamy</u>
RREP225 MoP	<u>Sally Pilkington</u>
RREP226 MoP	<u>Sarah Eyles</u>
RREP227 MoP	<u>Sarah Hewer</u>
RREP228 MoP	<u>Sarah M Corser</u>
RREP229 MoP	<u>Stella Thomas</u>
RREP230 MoP	<u>Stephanie Hickish</u>
RREP231 MoP	<u>Stephen Galloway</u>
RREP232 MoP	<u>Steve Bloom</u>
RREP233 MoP	<u>Steve Dube</u>
RREP234 MoP	<u>Steve Dube on behalf of Carole Smith</u>
RREP235 MoP	<u>Steve Hack</u>
RREP236 MoP	<u>Steve Southam</u>
RREP237 MoP	<u>Steve Wood</u>
RREP238 MoP	<u>Suzanna Van Eeghen</u>
RREP239 MoP	<u>Suzette Morgon</u>
RREP240 MoP	<u>Sydney Gough</u>
RREP241 MoP	<u>T E Davies</u>
RREP242 MoP	<u>T Harries</u>
RREP243 MoP	<u>T Westcott</u>
RREP244 MoP	<u>Terence Neil</u>
RREP245 MoP	<u>Tim Hancox</u>
RREP246 MoP	<u>Tina Hawkins</u>
RREP247 MoP	<u>Tina Reid</u>
RREP248 MoP	<u>Trevor Marshall</u>
RREP249 MoP	<u>V Diffey</u>
RREP250 MoP	<u>Vivienne Kincaid</u>

RREP251 MoP [Wayne Carrow](#)
 RREP252 MoP [William Bradley](#)
 RREP253 MoP [Wyck Gerson Lohman](#)
 RREP254 MoP [Wynn Rowlands](#)

PRELIMINARY MEETING

PM1 APP [120308 EN010008 Email by Bethan Thomas - RWE setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM2 LA [120229 EN010008 info received from CCC in advance of PM.pdf](#)

PM3 LA [120224 EN010008 Email by Richard Jones - Carmarthenshire County Council setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM4 OSC [120305 EN10008 Email by Mr Cox - RES UK and Ireland Ltd \(RES\) setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM5 OSC [120228 EN010008 Email by Mrs Janet Dube - Grwp Blaengwen setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM6 OSC [120305 EN010008 Email by Jillina Gardiner - Brechfa Forest and Llanllwni Mountain Tourism Cluster Association setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM7 MoP [120228 EN010008 Email by Steve Dube setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM8 MoP [120304 EN010008 Email by C Harrison setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM9 MoP [120304 EN010008 Email by Jennifer Harrison setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM10 MoP [120303 EN010008 Email by Mr B Dugdale setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM11 MoP [120305 EN010008 Email by James Shepherd Foster setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM12 MoP [120303 EN010008 Email by Mrs C Dugdale setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM13 MoP [120307 EN010008 Email by Mrs Rhosylyn Andrews-Betts setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

PM14 MoP [120224 EN010008 Email by Mr Robert Francis Jones setting out the matters on which they wish to speak at the Preliminary Meeting.pdf](#)

WRITTEN REPRESENTATIONS, INCLUDING RESPONSES TO THE EXA'S WRITTEN QUESTIONS, FOR RECEIPT BY THE EXA BY 25 APRIL 2012

REP1 App	<u>120426 RWE Written Reps (inc Revised Draft DCO and Draft S106 Agreement).zip</u>
REP2 LA	<u>120425 EN010008 Representation from Carmarthenshire CC</u>
REP3 LA	<u>120423 EN010008 Email with attachment from Ceredigion CC</u>
REP4 OSC	<u>120424 EN010008 Representation from the Civil Aviation Authority</u>
REP5 OSC	<u>120425 EN010008 Email plus docs from Countryside Council for Wales</u>
REP6 OSC	<u>120419 EN010008 Letter from Richard Siddons of the Forestry Commission Wales.pdf</u>
REP7 OSC	<u>120423 EN010008 Environment Agency Wales' Response.msg</u>
REP8 NSO	<u>120426 RES Covering Letter and Cumulative Report.zip</u>
REP9 NSO	<u>120426 RES ES Planning Statement - ISSUE.pdf</u>
REP10 NSO	<u>120426 RES ES Vol 1 Non-Technical Summary.zip</u>
REP11 NSO	<u>120426 RES ES Vol 2 Written Statement.zip</u>
REP12 NSO	<u>120426 RES ES Vol 3 Figures 1 - 6 (inc Preface).zip</u>
REP13 NSO	<u>120426 RES ES Vol 3 Figures 7 - 13.zip</u>
REP14 NSO	<u>120426 RES Supplementary Environmental Information.zip</u>
REP15 NSO	<u>120424 EN010008 Email from Brechfa Forest West Comm Liason Group</u>
REP16 NSO	<u>120423 EN010008 Email from GALAR CVG</u>
REP17 NSO	<u>120419 EN010008 Representation from J Dube on behalf of Grwp Blaengwen</u>
REP18 NSO	<u>12042 EN010008 Email from Teifi Valley Tourism Association</u>
REP19 NSO	<u>120425 EN010008 Email from Llanfihangel Rhos y Corn and Brechfa Community Association</u>
REP20 NSO	<u>120425 EN010008 Email from LLANFIHANGEL RHOS Y CORN PAROCHIAL CHURCH COUNCIL</u>
REP21 NSO	<u>120425 EN010008 Email from Llanllawddog Community Council</u>
REP22 NSO	<u>120425 EN010008 Email from Brechfa Forest Energy Action Group</u>
REP23 NSO	<u>120425 EN010008 Representation from Carmarthenshire Riders</u>
REP24 NSO	<u>120425 EN010008 Representation from Brechfa Forest and Llanllwni Mountain Tourism Cluster Association</u>
REP25 MoP	<u>120424 EN010008 Representation from Linda Evans</u>
REP26 MoP	<u>120425 EN010008 Representation from Del Brown</u>
REP27 MoP	<u>120425 EN010008 Representation from Mr & Mrs A B Dugdale</u>
REP28 MoP	<u>120425 EN010008 Representation from the Langleys</u>
REP29 MoP	<u>120425 EN010008 Letter from Meinir Davies</u>

REP30 MoP	<u>120425 EN010008 Email from CAROLINE EVANS</u>
REP31 MoP	<u>120425 EN010008 2nd email from Jillina Gardiner</u>
REP33 MoP	<u>120425 EN010008 Email from Carys Jones.msg</u>
REP33 MoP	<u>120425 EN010008 Email from Jillina Gardiner</u>
REP34 MoP	<u>120425 EN010008 Email from Sydney Gough</u>
REP35 MoP	<u>120407 EN010008 Chris Doughty WR</u>
REP36 MoP	<u>120416 EN010008 Letter w. attachments from Mrs EO Davies</u>
REP37 MoP	<u>120417 EN0010008 Letter from Robert Francis Jones</u>
REP38 MoP	<u>120418 EN010008 Representation from S Dube</u>
REP39 MoP	<u>120420 EN010008 Letter from EJ Davies</u>
REP40 MoP	<u>120420 EN010008 Letter from Mr & Mrs Hewer</u>
REP41 MoP	<u>120421 EN010008 Email from Mr and Mrs NT Bennett</u>
REP42 MoP	<u>120422 EN010008 Email with attachment from Lisette Chesshire</u>
REP43 MoP	<u>120422 EN010008 Email with attachment from Ted Marynicz</u>
REP44 MoP	<u>120423 EN010008 Email from Elinor Hobbs</u>
REP45 MoP	<u>120423 EN010008 Letter from Jennifer Harrison</u>
REP46 MoP	<u>120423 EN010008 Letter from Norma Jones</u>
REP47 MoP	<u>120423 EN010008 Representation from Sarah Eyles</u>
REP48 MoP	<u>120423 EN010008 Representation from C Harrison</u>
REP49 MoP	<u>120424 EN010008 Email from Gus Hellier</u>
REP50 MoP	<u>120424 EN010008 Email from Kay Hamza</u>
REP51 MoP	<u>120424 EN010008 Letter from A Davies</u>
REP52 MoP	<u>120424 EN010008 Letter from A Evans</u>
REP53 MoP	<u>120424 EN010008 Letter from C Prudden</u>
REP54 MoP	<u>120424 EN010008 Letter from Huw Jones</u>
REP55 MoP	<u>120424 EN010008 Letter from J Evans</u>
REP56 MoP	<u>120424 EN010008 Letter from JHM & CL Harris</u>
REP57 MoP	<u>120424 EN010008 Letter from John Thomas</u>
REP58 MoP	<u>120424 EN010008 Letter from Lynette Morris</u>
REP59 MoP	<u>120424 EN010008 Letter from Malcolm Evans</u>
REP60 MoP	<u>120424 EN010008 Letter from Mark Evans</u>
REP61 MoP	<u>120424 EN010008 Letter from Mary V Evans</u>

REP62 MoP	120424 EN010008 Letter from Mrs Ann Evans
REP63 MoP	120424 EN010008 Letter from R Hewett
REP64 MoP	120424 EN010008 Letter from S Underwood-Hewett
REP65 MoP	120424 EN010008 Letter from Stella Thomas
REP66 MoP	120424 EN010008 Letter from T Marshall
REP67 MoP	120424 EN010008 Letter from TMF Neil

WRITTEN COMMENTS REGARDING WRITTEN REPRESENTATIONS, RESPONSES TO THE EXA'S WRITTEN QUESTIONS, COMMENTS ON RELEVANT REPRESENTATIONS, STATEMENTS OF COMMON GROUND, THE APPLICANT'S REVISED DRAFT DCO AND ACCOMPANYING NOTE RESPONDING TO THE ISSUES RAISED, FOR RECEIPT BY THE EXA – BY 25 MAY 2012

REP68 APP	120426 EN010008 ExA Questions and Responses
REP69 APP	120525 EN010008 Response from RWE Npower Renewables
REP70 LA	120525 EN010008 Response from Carmarthenshire County Council
REP71 OSC	120516 EN010008 Response from Richard Siddons - Forestry Commission Wales
REP72 OSC	120525 EN010008 Response from Burges Salmon OBO RES UK & Ireland Limited (RES)
REP73 OSC	120525 EN010008 Response from Countryside Council for Wales
REP74 NSO	120525 EN010008 Response from Caroline Evans - Llanfihangel Rhos y Corn and Brechfa Community Association.pdf
REP75 NSO	120525 EN010008 Response from Caroline Evans - Llanfihangel Rhos Y Corn Parochial Church Council
REP76 NSO	120525 EN010008 Response from J Gardiner - Brechfa Forest on the Committee of Carmarthenshire Riders.pdf
REP77 NSO	120525 EN010008 Response from Janet Dubé - Grwp Blaengwen
REP78 NSO	120525 EN010008 Response from Teifi Valley Tourism Association
REP79 NSO	120528 EN010008 Response from J Gardiner - Brechfa Forest and Llanllwni Mountain Tourism Cluster Association.pdf
REP80 MoP	120522 EN010008 Response from Roger Hewitt
REP81 MoP	120523 EN010008 Response from Elgan & Elizabeth Davies
REP82 MoP	120523 EN010008 Response from J & C Harrison
REP83 MoP	120523 EN010008 Response from Maggie Bennett
REP84 MoP	120523 EN010008 Response from Robert Jones
REP85 MoP	120524 EN010008 Response from A & M Davies
REP86 MoP	120524 EN010008 Response from Gamal & Kay Hamza
REP87 MoP	120524 EN010008 Response from J & C Harris

REP88 MoP	120524 EN010008 Response from J & V Evans.pdf
REP89 MoP	120524 EN010008 Response from Norma Jones.pdf
REP90 MoP	120524 EN010008 Response from TMJ Evans.pdf
REP91 MoP	120525 EN010008 Response from Caroline Evans
REP92 MoP	120525 EN010008 Response from J & C Harris.pdf
REP93 MoP	120525 EN010008 Response from Jillie Gardiner
REP94 MoP	120525 EN010008 Response from Linda Evans
REP95 MoP	120525 EN010008 Response from Mr & Mrs Dugdale
REP96 MoP	120525 EN010008 Response from S & J Thomas.pdf
REP97 MoP	120525 EN010008 Response from Sydney Gough
REP98 MoP	120525 EN010008 Response from T Marshall.pdf
REP99 MoP	120525 EN010008 Response from Ted Marynicz
REP100 MoP	120525 EN010008 Responses from Rhoslyn Andrews-Betts
REP101 MoP	120528 EN010008 Response from Jenny Hare
REP102 MoP	F120531 EN010008 Response from Mrs C Dugdale

WRITTEN SUMMARIES OF ANY CASE PUT AT ISSUE-SPECIFIC HEARINGS HELD ON 19-21 JUNE, FOR RECEIPT BY EXA BY 28 JUNE 2012

REP103 APP	120628 RWE.pdf
REP104 LA	120628 R E Jones on behalf of Carmarthenshire County Council.pdf
REP105 LA	120702 Carmarthenshire County Council.pdf
REP106 OSC	120628 N Phillips on behalf of Countryside Council for Wales.pdf
REP107 NSO	120622 C Evans on behalf of Brechfa Forest Energy Action Group.pdf
REP108 NSO	120628 RES UK&Ireland.pdf
REP109 MoP	120627 J Harris.pdf
REP110 MoP	120627 M Davies.pdf
REP111 MoP	120627 S Dube.pdf
REP112 MoP	120628 C Dugdale.pdf
REP113 MoP	120628 E Griffiths.pdf
REP114 MoP	120628 EN010008 EO Davies.pdf
REP115 MoP	120628 EN010008 MV Evans.pdf
REP116 MoP	120628 EN010008 N Jones.pdf

REP117 MoP [120628 EN010008 S&J Thomas.pdf](#)
 REP118 MoP [120628 EN010008 T Marshall.pdf](#)
 REP119 MoP [120628 EN010008 TMJ Evans.pdf](#)
 REP120 MoP [120628 J&C Harrison.pdf](#)
 REP121 MoP [120628 JP Hewer.pdf](#)
 REP122 MoP [120628 L Morris.pdf](#)
 REP123 MoP [120628 R Jones.pdf](#)
 REP124 MoP [120627 G Hamza.pdf](#)
 REP125 MoP [120628 T Neil.pdf](#)
 REP126 MoP [120710 EN010008 Ted Marynicz](#)

DEADLINE FOR APPLICANT TO SUBMIT : A REVISED DRAFT DCO, A TRACK CHANGED VERSION, AN EXPLANATORY NOTE, & THE LATEST DRAFT OF S106 OBLIGATIONS WITH EXPLANATORY NOTE BY 3 JULY 2012

REP127 APP [120703 Eversheds on behalf of RWE Npower clean draft DCO.pdf](#)
[120703 Eversheds on behalf of RWE Npower draft DCO with track changes.pdf](#)
 REP128 APP
 REP129 APP [120703 Eversheds on behalf of RWE Npower Draft s106 agreement.pdf](#)
 REP130 APP [120703 Eversheds on behalf of RWE Npower Report on s106 agreement.pdf](#)
[120703 Eversheds on behalf of RWE Npower Response to ExA's request of 18 June.pdf](#)
 REP131 APP
 REP132 APP [120703 Eversheds on behalf of RWE Npower s106 Plan.pdf](#)

WRITTEN SUMMARIES OF ANY CASE PUT AT THE HEARING(S) ON 12 JULY, FOR RECEIPT BY EXA BY 19 JULY 2012

REP133 APP [120719 EN010008 RWE's case summaries and other documents.pdf](#)
 REP134 LA [120719 EN010008 Carmarthenshire County Council](#)
 REP135 LA [Tina Douglas on behalf of Carmarthenshire County Council.pdf](#)
 REP136 OSC [120719 EN010008 Claudia Currie on behalf of the Welsh Government](#)
 REP137OSC [David Watkins on behalf of Environment Agency.pdf](#)
 REP138 OSC [Dr David Worrall on behalf of Countryside Council for Wales \(CCW\).pdf](#)
 REP139 OSC [Claudia Currie on behalf of Welsh Government.pdf](#)
 REP140 OSC [Neal Henley on behalf of Civil Aviation Authority.pdf](#)
 REP141 NSO [120709 EN010008 Nick Betty on behalf of Envoy Online](#)

REP142 NSO	<u>120719 EN010008 Caroline Evans on behalf of Brechfa Forest Energy Action Group</u>
REP143 NSO	<u>120719 EN010008 Steve Dube on behalf of Grwp Blaengwen</u>
REP144 NSO	<u>Grwp Blaengwen..pdf</u>
REP145 NSO	<u>Grwp Blaengwen.pdf</u>
REP146 NSO	<u>Peter Jennings on behalf of Grwp Blaengwen.pdf</u>
REP147 NSO	<u>Janet Dube on behalf of Grwp Blaengwen.pdf</u>
REP148 NSO	<u>Jillie Gardiner on behalf of Carmarthenshire Riders.pdf</u>
REP149 NSO	<u>Jillina Gardiner on behalf of Brechfa Forest and Llanllwni Mountain Tourism Cluster Association.pdf</u>
REP150 NSO	<u>Kay Hamza.pdf</u>
REP151 NSO	<u>Brechfa Forest Energy Action Group.pdf</u>
REP152 NSO	<u>Grwp Blaengwen.pdf</u>
REP153 NSO	<u>Lisette Chesshire - Teifi Valley Tourism Association.pdf</u>
REP154 NSO	<u>Mr G Reid on behalf of Carmarthenshire Tourist Association.pdf</u>
REP155 MoP	<u>120713 EN010008 Robert Jones</u>
REP156 MoP	<u>120717 EN010008 J Hewer, L Hewer & S Hewer</u>
REP157 MoP	<u>120718 EN010008 EJ Razell</u>
REP158 MoP	<u>120718 EN010008 Jenny Hare</u>
REP159 MoP	<u>120719 EN010008 Jennifer Harrison</u>
REP160 MoP	<u>Claire Dugdale.pdf</u>
REP161 MoP	<u>J and C Harris.pdf</u>
REP162 MoP	<u>Kay Hamza.pdf</u>
REP163 MoP	<u>Lynette Morris.pdf</u>
REP164 MoP	<u>M. Davies.pdf</u>
REP165 MoP	<u>Mrs J & Mr C Harrison.pdf</u>
REP166 MoP	<u>Mrs R Andrews-Betts.pdf</u>
REP167 MoP	<u>E Griffiths.pdf</u>
REP168 MoP	<u>A Davies.pdf</u>
REP169 MoP	<u>J E & M V Evans.pdf</u>
REP170 MoP	<u>M and A Evans.pdf</u>
REP171 MoP	<u>Mr & Mrs E Davies.pdf</u>
REP172 MoP	<u>Norma Jones.pdf</u>

REP173 MoP [Ted Marynicz.pdf](#)

**WRITTEN COMMENTS ON THE FINAL DRAFT DEVELOPMENT
CONSENT ORDER THAT ANY INTERESTED PARTY WISHES TO MAKE,
FOR RECEIPT BY EXA BY 9 AUGUST 2012**

REP174 APP [Alexander Blake on behalf of RWE Npower.pdf](#)

REP175 LA [Richard Jones on behalf of Carmarthenshire County Council.pdf](#)

REP176 OSC [Claire Streather on behalf of The Coal Authority.pdf](#)

REP177 OSC [Claudia Currie on behalf of Welsh Government.pdf](#)

REP178 OSC [Huw Williams on behalf of Countryside Council for Wales \(CCW\).pdf](#)

REP179 OSC [Stephen Buckley and Richard Siddons on behalf of Forestry Commission Wales \(FCW\).pdf](#)

REP180 NSO [Caroline Evans on behalf of Brechfa Forest Energy Action Group.pdf](#)

REP181 NSO [Cathryn Tracey of Burges Salmon on behalf of RES UK & Ireland Limited.pdf](#)

REP182 NSO [Janet Dubé on behalf of Grwp Blaengwen.pdf](#)

REP183 NSO [Jillie Gardiner on behalf of Carmarthenshire Riders.pdf](#)

REP184 MoP [Aneurin and Meinir Davies.pdf](#)

REP185 MoP [C & J Harrison.pdf](#)

REP186 MoP [Claire & Bryan Dugdale.pdf](#)

REP187 MoP [J & V Evans.pdf](#)

REP188 MoP [Lynette Morris.pdf](#)

REP189 MoP [T Marshall.pdf](#)

REP190 MoP [J Hewer, L Hewer and S Hewer.pdf](#)

REP191 MoP [Letter from Jonathan Edwards MP](#)

**RESPONSES TO THE EXA'S REQUEST FOR FURTHER INFORMATION
ON AMENDMENTS TO THE HABITATS REGULATIONS, FOR RECEIPT
BY EXA
BY 20TH AUGUST**

REP192 APP [Bethan Thomas on behalf of RWE Npower.pdf](#)

REP193 LA [Richard Jones on behalf of Carmarthenshire County Council \(2\).pdf](#)

REP194 OSC [Chris Worker on behalf of Welsh Government.pdf](#)

REP195 OSC [David Watkins on behalf of the Environment Agency.pdf](#)

REP196 OSC [Richard Siddons on behalf of the Forestry Commission Wales \(FCW\).pdf](#)

REP197 OSC [Stephen Buckley on behalf of Forestry Commission Wales \(FCW\).pdf](#)

REP198 OSC [Huw Williams on behalf of the Countryside Council for Wales \(CCW\) \(2\).pdf](#)

REP199 OSC	Huw Williams on behalf of the Countryside Council for Wales (CCW) (3).pdf
REP200 OSC	Stephen Buckley on behalf of the Forestry Commission Wales (FCW) (2).pdf
REP201 NSO	Lisette Chesshire on behalf of Teifi Valley Tourism Association.pdf
REP202 NSO	Marc Linden and John James on behalf of Llanegwad Community Council.pdf
REP203 NSO	Ted Marynicz on behalf of Grwp Blaengwen.pdf
REP204 NSO	Marc Linden and John James on behalf of Llanegwad Community Council (2).pdf
REP205 MoP	Aneurin Davies.pdf
REP206 MoP	C & J Harrison (2).pdf
REP207 MoP	Claire Dugdale (2).pdf
REP208 MoP	Claire Dugdale.pdf
REP209 MoP	J and V Evans (2)
REP210 MoP	Jillie Gardiner.pdf
REP211 MoP	John, Laura and Sarah Hewer.pdf
REP212 MoP	Jonathan Edwards MP and Rhodri Glyn Thomas AM on behalf of Carmarthen East and Dinefwr.pdf
REP213 MoP	Lynette Morris (2).pdf
REP214 MoP	Mr & Mrs Davies (2).pdf
REP215 MoP	Mr & Mrs Davies.pdf
REP216 MoP	Mr & Mrs Harris.pdf
REP217 MoP	Mr & Mrs Hewett.pdf
REP218 MoP	Norma Jones.pdf
REP219 MoP	Robert F Jones.pdf
REP220 MoP	T Marshall (2)

RESPONSES TO THE EXA'S REQUEST FOR FURTHER INFORMATION ON NOISE LIMITS, FOR RECEIPT BY EXA BY 31 AUGUST

REP221 APP	120830 EN0100018 Signed s106 UnilateralUndertaking
REP222 APP	Alexander Blake on behalf of RWE Npower (2).pdf
REP223 LA	Richard Jones on behalf of Carmarthenshire County Council (CCC) (3).pdf
REP224 OSC	Chris Davies on behalf of the Mid and West Wales Fire and Rescue Service.pdf
REP225 OSC	David Watkins on behalf of the Environment Agency (2).pdf
REP226 OSC	Stephen Buckley on behalf of the Forestry Commission Wales (FCW) (3).pdf
REP227 NSO	P Shepherd on Behalf of GALAR Ecology Volunteer Group.pdf

REP228 NSO	Stephen Dubé on behalf of Grwp Blaengwen.pdf
REP229 MoP	Aneurin and Meinir Davies (2).pdf
REP230 MoP	J and V Evans (3).pdf
REP231 MoP	J Harrison.pdf
REP232 MoP	James Harris.pdf
REP233 MoP	Lynette Morris (3).pdf
REP234 MoP	Robert F Jones (2).pdf
REP235 MoP	T Marshall (3).pdf
REP236 MoP	Ted Marynicz.pdf

**WRITTEN REPRESENTATIONS AND RESPONSES TO THE EXA'S
REQUEST FOR FURTHER COMMENTS ON THE APPLICANT'S
UNILATERAL UNDERTAKING UNDER SECTION 106, FOR RECEIPT BY
THE EXA
BY 7 SEPTEMBER**

REP237 LA	Richard Jones on behalf of Carmarthenshire County Council (CCC) (5).pdf
REP238 OSC	Louise Edwards on behalf of the Environment Agency.pdf
REP239 OSC	Huw Williams on behalf of the Countryside Council for Wales (CCW) (4).pdf
REP240 MoP	Jillie Gardiner (2).pdf
REP241 MoP	Hilary Madeley.pdf
REP242 MoP	Claire Dugdale (3).pdf
REP243 MoP	Angel Brain.pdf

**WRITTEN REPRESENTATIONS AND RESPONSES TO THE EXA'S
REQUEST FOR FURTHER COMMENTS ON THE RESPONSES TO THE
ABOVE REQUESTS REGARDING HABITATS REGULATIONS AND NOISE
LIMITS, FOR RECEIPT BY EXA BY 12 SEPTEMBER**

REP244 APP	Lucinda Jackson on behalf of RWE Npower.pdf
REP245 LA	Richard Jones on behalf of Carmarthenshire County Council (CCC) (4).pdf
REP246 OSC	David Watkins on behalf of the Environment Agency (3).pdf
REP247 NSO	Ted Marynicz on behalf of Grwp Blaengwen (2).pdf
REP248 NSO	Janet Dubé on behalf of Grwp Blaengwen (2).pdf
REP249 MoP	Norma Jones (2).pdf
REP250 MoP	John, Laura and Sarah Hewer (2).pdf
REP251 MoP	Jillie Gardiner (3).pdf
REP252 MoP	Claire Dugdale (4).pdf

REP253 MoP [Carolyn Smethurst.pdf](#)
 REP254 MoP [C & J Harrison \(3\).pdf](#)
 REP255 MoP [Aneurin and Meinir Davies \(3\).pdf](#)

LOCAL IMPACT REPORT & STATEMENTS OF COMMON GROUND

REP256 APP [120425 EN010008 RWE'S statement on emerging SOCG re habitats management, ornithology etc](#)
 REP257 APP [120425 EN010008 Statement of Common Ground between RWE & Carmarthenshire CC](#)
 REP258 LA [120405 EN010008 Swansea LIR](#)
 REP259 LA [120425 EN010008 CCW's statement on emerging SOCG re habitats management, ornithology etc.](#)
 REP260 LA [120426 EN010008 Carmarthenshire CC LIR inc Appendices.zip](#)

ADEQUACY OF CONSULTATION REPRESENTATIONS

REP261 LA [111112 EN010008 Ceredigion County Council - Adequacy of Consultation Representation.pdf](#)
 REP262 LA [111114 EN010008 City & County of Swansea - Adequacy of Consultation Representation.pdf](#)
 REP263 LA [111114 EN010008 Neath & Port Talbot County Borough Council - Adequacy of Consultation Representation .pdf](#)
 REP264 LA [111115 EN010008 Carmarthenshire County Council - Adequacy of Consultation Representation.pdf](#)

RECORDINGS

REC1 [Brechfa Forest West Meeting 13th March.mp3](#)
 REC2 [Issue Specific Hearing on Noise - 1st session.mp3](#)
 REC3 [Issue Specific Hearing on Noise - 2nd session.mp3](#)
 REC4 [Issue Specific Hearing on Noise - 3rd session.mp3](#)
 REC5 [Issue Specific Hearing on Noise - 4th session.mp3](#)
 REC6 [Issue Specific Hearing on Ecology - 1st session.mp3](#)
 REC7 [Issue Specific Hearing on Ecology - 2nd session.mp3](#)
 REC8 [Issue Specific Hearing on Transport and local access - 1st session.mp3](#)
 REC9 [Issue Specific Hearing on Transport and local access - 2nd session.mp3](#)
 REC10 [Audio recording of Open-floor hearing at Waunifor Centre, 11 July 2012, 2pm.mp3](#)
 REC11 [Audio recording of Open-floor hearing at Brechfa Church Hall, 11 July 2012, 10am.mp3](#)
 REC12 [Audio recording of Issue Specific Hearing on draft Development Consent](#)

	<u>Order and S106 Undertakings at Conolfan Waunifor Centre 12 July 2012 Part 1.mp3</u>
REC13	<u>Audio recording of Issue Specific Hearing on draft Development Consent Order and S106 Undertakings at Conolfan Waunifor Centre 12 July 2012 Part 2.mp3</u>
REC14	<u>Audio recording of Issue Specific Hearing on draft Development Consent Order and S106 Undertakings at Conolfan Waunifor Centre 12 July 2012 Part 3.mp3</u>
REC15	<u>Audio recording of Issue Specific Hearing on draft Development Consent Order and S106 Undertakings at Conolfan Waunifor Centre 12 July 2012 Part 4.mp3</u>
	PROJECT DOCUMENTS
PD1	<u>Brechfa Screening Matrix</u>
PD2	<u>Examining Authority's draft Development Consent Order 26 July 2012 (with track changes).pdf</u>
PD3	<u>Examining Authority's draft Development Consent Order 26 July 2012 (without track changes).pdf</u>
PD4	<u>111020 En010008 s55 Checklist.pdf</u>
PD5	<u>120131 EN010008 Certificate of compliance with s56 of the Planning Act 2008 & Reg.13 of the Infrastructure Planning Impact Assessment Regulations 2009.pdf</u>
	Procedural Decisions
PD6	<u>111128 EN010008 Acceptance letter.pdf</u>
PD7	<u>111128 EN010008 Acceptance letter Welsh.pdf</u>
PD8	<u>120216 EN010004 Rule 4 & 6 Welsh (email).pdf</u>
PD9	<u>120216 EN010008 Rule 4 and Rule 6 English.pdf</u>
PD10	<u>120323 EN010008 Final Rule 8 (Welsh) with Transition Flyer</u>
PD11	<u>120323 EN010008 Final Rule 8 with Transition Flyer</u>
PD12	<u>120503 EN010008 Revised Timetable & Rule 17 Welsh.doc</u>
PD13	<u>120510 EN010008 Revised timetable & rule 17.doc</u>
PD14	<u>120525 EN010008 R13 Welsh.pdf</u>
PD15	<u>120528 EN010008 R13.pdf</u>
PD16	<u>120601 EN010008 R16.pdf</u>
PD17	<u>120601 EN010008 R16 Welsh.pdf</u>
PD18	<u>120615 EN010008 R13(2).doc</u>
PD19	<u>120615 EN010008 R13(2) Welsh.doc</u>
PD20	<u>120725 EN010008 R17[2], draft DCO & revised timetable FINAL.pdf</u>

PD21	<u>120725 EN010008 R17[2], draft DCO & revised timetable FINAL Welsh.pdf</u>
PD22	<u>120801 EN010008 R23 English.doc</u>
PD23	<u>120801 EN010008 R23 Welsh.doc</u>
PD24	<u>120808 EN010008 R17(3) Q English.doc</u>
PD25	<u>120809 EN010008 R173 Q Welsh.doc</u>
PD26	<u>120817 EN010008 R17(4) English</u>
PD27	<u>120817 EN010008 R17(4) Welsh</u>
PD28	<u>120905 EN010008 Request for Further Information Rule 17 - Closing date 12 September 2012 (Welsh).doc</u>
PD29	<u>120905 EN010008 Request for Further Information Rule 17 - Closing date 12 September 2012.doc</u>
PD30	<u>12.05.28 Brechfa Forest West notice of hearings.pdf</u>
PD31	<u>120831 EN010008 S106ObligationLetter English[1].pdf</u>
PD32	<u>120831 EN010008 S106ObligationLetter Welsh[1].pdf</u>
PD33	<u>120320 EN010008 Brechfa Forest West Preliminary Meeting Notes.doc</u>
PD34	<u>120320 EN010008 Brechfa Forest West Preliminary Meeting Notes Welsh.pdf</u>

Notices of Hearings and Hearing Agendas

PD35	<u>120620 EN010008 ISH Agenda - Noise.pdf</u>
PD36	<u>120703 EN010008 OFH Agenda - 11-07-12-pm- Waunifor. doc</u>
PD37	<u>120703 EN010008 OFH Agenda - 11-07-12-am- Brechfa. doc</u>
PD38	<u>120703 EN010008 ISH Agenda - DCO.pdf</u>
PD39	<u>120621 EN010008 ISH Agenda - Ecology.pdf</u>
PD40	<u>120621 EN010008 ISH Agenda - Transport & local access.pdf</u>
PD41	<u>12 06 19 Notice of issue specific hearing 12th July Bilingual.pdf</u>
PD42	<u>12.05.28 Brechfa Forest West notice of hearings.pdf</u>

Close of Examination

PD42	<u>120913 EN010008 s99 close of examination (Welsh).doc</u>
PD43	<u>120913 EN010008 s99 close of examination.doc</u>

CORRESPONDENCE

CORR1	<u>120313 EN010008 Query raised at the Preliminary Meeting.pdf</u>
CORR2	<u>Letter from Janet Dube concerning relevant representation process</u>
CORR3	<u>120106 MP Letter to Mr Jonathan Edwards.pdf</u>

- CORR4 [Acknowledgement to Brechfa Feedback forms.pdf](#)
- CORR5 [120627 EN010008 letter to J.Edwards MP.pdf](#)
- CORR6 [111209 EN010008 letter to JEdwards MP.pdf](#)
- CORR7 [120607 EN01008 Letter from Jonathan Edwards MP.pdf](#)

ADDITIONAL SUBMISSIONS

- AS1 [120820 Joyce Watson AM – submitted for 20 August deadline](#)

OUTREACH MATERIAL

- OR1 [Outreach meeting note](#)
- OR2 [111202 EN010008 IPC registration and relevant representation form \(SAMPLE\).pdf](#)
- OR3 [111206 EN010008 Brechfa outreach poster - Welsh.pdf](#)
- OR4 [111206 EN010008 Brechfa outreach poster.pdf](#)
- OR5 [111207 EN010008 How to make a relevant representation Brechfa flyer.pdf](#)
- OR6 [How to make a relevant representation Brechfa flyer WELSH \(OG\).pdf](#)
- OR7 [Presentation - How to make a relevant representation](#)

**APPENDIX E – REPORT ON THE IMPLICATIONS FOR EUROPEAN
SITES**

**REPORT on the IMPLICATIONS
for EUROPEAN SITES
Proposed Brechfa Forest West
Wind Farm**

November 2012

Introduction

The Secretary of State is a competent authority (CA) for the purposes of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (The Habitats Directive) and The Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations) for applications submitted under the Planning Act regime (as amended).

This report – the Report on the Implications for European Sites - compiles, documents and signposts information received during the examination of the Development Consent Order (DCO) application for the proposed Brechfa Forest West Wind Farm (BFWWF) project ('the project'). This report is an Examining Authority (ExA) report which has been prepared with the support of the Planning Inspectorate Secretariat.

The report comprises a series of screening matrices for each of the European (Natura 2000) sites that might potentially be affected by the project. These matrices collate evidence on whether the project is likely to have significant effects on the key features of each European site, drawing on the information received within the submission documents and during the examination from Statements of Common Ground (SOCG), written representations, responses to questions raised by the ExA, examination responses, and hearings.

The report should be read in conjunction with the applicant's Habitats Regulations Assessment Screening Report (APP113) ('the HRA report'), and other application documents where referenced in this report.

This report has not been consulted upon as part of the examination for BFWWF. However, the ExA has sought the views of prescribed consultees and interested parties on HRA related issues, including the assessment contained within the applicant's HRA screening report, through ExA's questions, at the issue specific hearing on ecology held on 21 June 2012¹ and in examining the draft DCO.

¹ The competent authority is only required to consult the appropriate nature conservation body under regulation 61(3) of the Conservation of Habitats and Species Regulations 2010, where an appropriate assessment is required.

Identification of European Sites

Section 2.2 of the applicant's HRA report states that sites within 10 km of BFWWF were identified for the purpose of screening. The list of sites for inclusion within the screening assessment is set out in the applicant's HRA report and comprises the Afon Teifi and Afon Tywi Special Areas of Conservation (SACs).

The report indicates that the search area was selected on the basis that it *"was considered to cover the potential direct and indirect impacts on European sites associated with the construction and operation of the scheme"*. The HRA report states that *"consideration was given to potential pathways for off-site impacts, such as hydrology"*, although the likely geographical extent of impacts is not specified within the report.

Extracts from the applicant's Consultation Report (APP117) state that in the Countryside Council for Wales' (CCW) scoping response it was advised that *"consideration must be given to ensuring that any potential damage to the European designated sites i.e. Afon Teifi SAC and Afon Tywi SAC is prevented"*. In comments received from CCW in their initial and detailed written representations, and at hearings during the examination of BFWWF, CCW have not identified any further sites for consideration in the Habitats Regulations Screening assessment.

A description of each of the European sites considered within the screening assessment and their qualifying features are provided in Table 2.1 of the HRA report. Figure 2.1 of the report shows the two European sites and their geographical relationship with the proposed development site. The PINS Secretariat independently obtained the citation sheets for the Afon Teifi and Afon Tywi Special Areas of Conservation (SACs).

Potential Impacts

Table 3.1 of the applicant's HRA report identifies the potential ecological impacts associated with the proposed BFWWF. These are summarised below.

Table 1. Potential impacts associated with the Brechfa Forest West Wind Farm (as identified in Table 3.1 of the applicant's HRA report)

Potential impacts associated with the BFWWF identified from submission information
<ul style="list-style-type: none"> • physical loss by removal/ destruction
<ul style="list-style-type: none"> • physical damage by smothering (e.g. dust deposition) • physical damage by sedimentation / silting • physical damage by erosion / trampling • physical damage by fragmentation / severance / barrier and edge effects
<ul style="list-style-type: none"> • non-physical disturbance by noise, vibration and lighting • non-physical disturbance by human presence
<ul style="list-style-type: none"> • hydrology by flooding / storm water / water flow • hydrology by changes in ground water levels and stability
<ul style="list-style-type: none"> • toxic contamination by air pollution • toxic contamination by water pollution • toxic contamination by soil contamination
<ul style="list-style-type: none"> • non-toxic contamination by nutrient enrichment • non-toxic contamination by sedimentation / silting
<ul style="list-style-type: none"> • biological disturbance by introduction of fish / invasive aquatic plants/ disease • biological disturbance by persecution / disturbance by people

The applicant's HRA report does not provide a detailed assessment of each of the potential impacts identified above for the European sites identified, explaining that many of the potential impacts are considered highly unlikely to occur. This is due either to the distance of the proposed wind farm from the European sites or to the site sensitivities, as detailed in Table 2.1 of the applicant's HRA report, being unlikely to be affected by the development. The Planning Inspectorate (PINS) has considered those impacts that were excluded from the applicant's detailed assessment (Table 2). It has concluded that there is no evidence to call into question the conclusion of no significant effect in respect of these potential impacts.

Table 2. Potential impacts identified with BFWWF, the majority of which the applicant's HRA report has concluded are highly unlikely to occur and has therefore not assessed in detail within the HRA screening report (see paragraph 4.4 of the HRA report);

Potential Impact	Secretariat Comment
<ul style="list-style-type: none"> • physical loss by removal/ destruction 	<p>The proposed development is not anticipated to result in any physical loss by removal/ destruction within the European sites, and at this stage, there is no evidence to suggest that the conclusion of no significant effect is not appropriate.</p>
<ul style="list-style-type: none"> • physical damage by smothering (e.g. dust deposition) • physical damage by erosion / trampling • physical damage by fragmentation / severance / barrier and edge effects 	<p>The main source of dust is likely to be from construction activities which are located a considerable distance from the European sites and will be temporary in nature.</p> <p>The proposed development is not anticipated to give rise to an increased level of activity within or immediately adjacent to the European sites, causing no physical damage through trampling.</p> <p>The proposed development will not occur within the European sites and so fragmentation and severance within the European sites is not anticipated. Consideration has been given in the applicant's HRA report to potential disruption of habitat that is important for bullhead breeding and for salmon spawning/development of fry and parr. No reference to potential impacts on the movement of qualifying fish species has been identified within the HRA report. However section 13.278 of the ES (APP20) states that "<i>installation of new or extended culverts may constrain the migration of fish, although the risk of this is limited as all culverts scheduled for works occur close to/at the head of relatively small tributaries.</i>"</p> <p>Fragmentation and severance impacts on otter outside of the European sites are considered below at paragraph C in the footnotes for Matrix 1.</p>

	<p>Some consideration has been given to the need to minimise erosion (Section 4.11 of the HRA report and within Chapter 8: Geology, Soils and Hydrology of the ES (APP53)).</p> <p>Physical damage by erosion could affect water flows. The ES includes an assessment of impacts resulting in changes from drainage patterns and surface water flows. The assessment does not identify any impact on the Afon Teifi or the Afon Tywi. The ES concludes that in relation to runoff rates and changes to flooding patterns, residual impacts are of minor or negligible significance, and that there would be no increase in peak runoff and flood levels as a result of the presence of the scheme.</p> <p>The potential for erosion exists as a result of tree felling and secondary effects of sedimentation. These are considered below at paragraph B in the footnotes for Matrix 1.</p>
<ul style="list-style-type: none"> • non-physical disturbance by noise, vibration and lighting • non-physical disturbance by human presence 	<p>The proposed development is located at a distance from the European sites and neither noise impacts, lighting impacts, nor an increase in human activity are anticipated at the European sites. The vulnerabilities and sensitivities of the SAC are unlikely to be affected by this particular type of impact.</p>
<ul style="list-style-type: none"> • hydrology by flooding / storm water / water flow • hydrology by changes in ground water levels and stability 	<p>The ES includes an assessment of impacts resulting in changes from drainage patterns and surface water flows. The assessment does not identify any impact on the Afon Teifi or the Afon Talog, which receives flows from the site, and subsequently joins the Afon Teifi.</p> <p>Dewatering will be needed during construction of turbine foundations. No assessment of the impact of dewatering and changes in hydrogeology has been identified in the HRA report. However the</p>

	<p>ES states at section 8.190 that <i>“groundwater is generally restricted to shallow depths above unweathered bedrock. Flow contributions to streams come mainly from surface runoff and saturated soils or sub-soils, or possibly in some places from a thin upper layer of weathered bedrock. There is no regional aquifer in which the groundwater flow pattern to major springs or other discharges could be disrupted”</i>. Given the nature of groundwater at the site, and the distance to the European sites, any water requirements for the proposed development are unlikely to affect groundwater levels to an extent that they would impact upon either of the European sites identified.</p>
<ul style="list-style-type: none"> • toxic contamination by air pollution • toxic contamination by soil contamination 	<p>The proposed development is located some distance from the European sites. Emissions to air are likely to be limited to construction activities and transport during construction, and the use of hazardous or polluting substances during construction and operation is limited.</p> <p>Potential impacts resulting from pollution of tributaries that eventually flow into the SAC are considered below at paragraph B in the footnotes of Matrix 1.</p>
<ul style="list-style-type: none"> • non-toxic contamination by nutrient enrichment 	<p>No major cause of nutrient enrichment has been identified through this review. Given the distance between BFWWF and the European sites, there is no evidence to suggest that the conclusion of no significant effect is not appropriate.</p>
<ul style="list-style-type: none"> • biological disturbance by introduction of fish / invasive aquatic plants / disease • biological disturbance by persecution / disturbance by people 	<p>No evidence that the proposed development would result in the introduction of fish species or invasive aquatic plants has been identified.</p> <p>The scheme is not expected to give rise to any disturbance by persecution / disturbance by people.</p>

Screening Matrices

This section of the report comprises a series of screening matrices for the European (Natura 2000) sites that might potentially be affected by the project. The matrices provided below collate evidence on whether the project is likely to have significant effects on the key features of each European site.

The European sites included within the applicant's assessment are:

- Afon Teifi SAC
- Afon Tywi SAC

The evidence presented in the matrices relates to the potential impacts from BFWWF, as identified by the applicant's HRA report, that could affect the Afon Teifi and Afon Tywi SACs. Potential impacts are identified in Table 3 below and, where appropriate and for ease of presentation, impacts identified in the applicant's HRA report have been grouped together. Table 3 signposts where these impacts are addressed in the screening matrices presented below.

Information on European site features has been obtained from the applicant's HRA report. PINS has also referred to the JNCC website² and the relevant Natura 2000 standard data forms. The relevant Natura 2000 standard data forms identify a number of Annex I habitats and Annex II species which have not been specifically referred to in the applicant's HRA assessment. However, these are not identified as either:

- a primary reason for selection of this site; or
- a qualifying feature, but not a primary reason for selection of this site.

²<http://jncc.defra.gov.uk/ProtectedSites/SACselection/sac.asp?EUCode=UK0013010>
and
<http://jncc.defra.gov.uk/ProtectedSites/SACselection/sac.asp?EUCode=UK0012670>

Table 3. Impacts considered within the screening and effects on integrity matrices

Designation	Impacts in submission information	Presented in screening Matrices as
SAC (Both the Afon Teifi and Afon Tywi unless otherwise specified)	<ul style="list-style-type: none"> physical loss by removal/ destruction 	<ul style="list-style-type: none"> damage and creation of barriers within habitats in the Wind Farm site used by species associated with the SACs, particularly otter
	<ul style="list-style-type: none"> physical damage by sedimentation / silting physical damage by fragmentation / severance / barrier and edge effects 	<ul style="list-style-type: none"> impacts on water quality (sediment load and pollution); damage and creation of barriers within habitats in the Wind Farm site used by species associated with the SACs, particularly otter
	<ul style="list-style-type: none"> toxic contamination by water pollution 	<ul style="list-style-type: none"> impacts on water chemistry (including acidification following felling);
	<ul style="list-style-type: none"> toxic contamination by air pollution³ 	<ul style="list-style-type: none"> air quality effects associated with an increase in traffic during construction, with resultant impacts on water quality
	<ul style="list-style-type: none"> non-toxic contamination by sedimentation / silting 	<ul style="list-style-type: none"> impacts on water quality (sediment load and pollution);

A heading for in-combination effects has also been added to the screening matrices. The following projects have been included in the in-combination assessment carried out by the applicant on the basis that these schemes would be expected to result in similar impacts: Alltwalis Wind Farm (operational) – 10 turbines; Brechfa Forest East Wind Farm (proposed) – 12 turbines; Bryn Llywelyn Wind Farm (proposed) – 21 turbines.

Matrix Key:

- ✓ = Likely significant effect/adverse effect on integrity **cannot** be excluded
 ✗ = Likely significant effect/adverse effect on integrity **can** be excluded

C= construction
 O = operation
 D = decommissioning

³ Only identified as having a potential effect on the Afon Tywi SAC

Matrix 1: Afon Teifi SAC

Afon Teifi SAC		Distance to wind farm: c.1.75km north															
European site features		Likely Effects of BFWWF (phase of development)															
		impacts on water chemistry (including acidification following felling);				impacts on water quality (sediment load and pollution);				damage and creation of barriers within habitats in the Wind Farm site used by species associated with the SAC, particularly otter				in-combination impacts			
		C	O	D	C	C	O	D	C	C	O	D	C	O	D		
Annex I habitats that are a primary reason for selection of this site:																	
<ul style="list-style-type: none"> Watercourses of plain to montane levels with the <i>Ranunculus fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation 		X ^a	X ^d	X ^e	X ^b	X ^b	X ^b	X ^b	X ^c	X ^c	X ^c	X ^c	X ^c	X ^f	X ^f	X ^f	X ^f
Annex II species that are a primary reason for selection of this site:		X ^a	X ^d	X ^e	X ^b	X ^b	X ^b	X ^b	X ^c	X ^c	X ^c	X ^c	X ^c	X ^f	X ^f	X ^f	X ^f
<ul style="list-style-type: none"> Brook lamprey, River lamprey, Atlantic salmon, Bullhead, European otter, Floating water-plantain. 		X ^a	X ^d	X ^e	X ^b	X ^b	X ^b	X ^b	X ^c	X ^c	X ^c	X ^c	X ^c	X ^f	X ^f	X ^f	X ^f
Annex I habitats present as a qualifying feature, but not a primary reason for site selection:		X ^a	X ^d	X ^e	X ^b	X ^b	X ^b	X ^b	X ^c	X ^c	X ^c	X ^c	X ^c	X ^f	X ^f	X ^f	X ^f
<ul style="list-style-type: none"> Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or of the Isoëto-Nanojuncetea 		X ^a	X ^d	X ^e	X ^b	X ^b	X ^b	X ^b	X ^c	X ^c	X ^c	X ^c	X ^c	X ^f	X ^f	X ^f	X ^f
Annex II species present as a qualifying feature, but not a primary reason for site selection: Sea lamprey		X ^a	X ^d	X ^e	X ^b	X ^b	X ^b	X ^b	X ^c	X ^c	X ^c	X ^c	X ^c	X ^f	X ^f	X ^f	X ^f

Evidence supporting conclusions

a. The ES and the HRA report identify a number of watercourses which either drain areas of the proposed development site, or originate very close to the site boundary, and which feed into the Afon Cothi, the Afon Gwili or the Afon Talog, rivers which are themselves tributaries to the Afon Teifi or the Afon Tywi which are the European sites under consideration. The confluence of the Afon Cothi with the Afon Tywi is located c.10.6km south of the site, whilst the confluence of the Afon Gwili with the Afon Tywi is located at Carmarthen c.11.1km to the southwest of the site. The Afon Talog joins the Afon Teifi, and although the HRA report does not specify a distance to the confluence it states that the Afon Teifi SAC is located c.1.7km from the site.

The applicant's HRA report states that *"acidification of the watercourse may occur during felling as a result of increased nitrate released, and is of particular concern in relation to salmonid species (Davis, 200312). The effects are predicted to be relatively long lasting, being likely to remain within affected watercourse(s) for two to three years"*. No quantifiable prediction of nitrate increase is included within the HRA report.

The HRA report states that *"acidification that may result from felling proposed to facilitate the scheme, over and above that of on-going commercial forestry, is relatively limited"*, and therefore *"acidification as a result of the Brechfa Forest West Wind Farm and associated felling works is not therefore considered likely to detrimentally affect fish species"*. In the draft DCO all felling activity (Requirement 18) is subject to relevant forestry guidance. Environment Agency Wales (EAW) have noted that these guidelines are the most appropriate pollution prevention guidance for felling and CCW have confirmed that they are satisfied that the guidance addresses concerns in relation to water quality.

The HRA report also states that *"Aquatic macrophyte communities associated with the SAC downstream of the site are also susceptible to changes in water chemistry. However, potential impacts are likely to be minimal given the distance of the SAC from the site"*. The applicant concludes that *"the impact of changing water chemistry, and specifically acidification, on the Afon Teifi SAC as a result of the scheme is considered to be negligible"*.

In its written representation (submitted 25th May, 2012) (REP73 OSC), CCW states that it *"has some reservations over the exact nature of potential water quality impacts given that a degree of uncertainty was acknowledged by the applicant in the original Habitats Regulation Assessment (HRA) screening report; primarily associated with 'in combination' effects with wider forestry operations and the level of uncertainty over changes in water chemistry that might result (particularly related to acidity)"*. CCW considered that this was a precautionary approach and could either be clarified at the detailed design phase or by the provision of additional mitigation measures to ensure any water quality impacts were effectively avoided or cancelled.

The CCW representation goes on to state that “even though there still remains a degree of uncertainty over the exact nature of potential water chemistry impacts resulting from the proposals, providing the applicant agrees to include the requirements and additional clauses identified by the EAW in their written representations of the 25 April 2012, then there should be no requirement for an appropriate assessment”.

At the issue specific hearing (21 June 2012) the ExA posed the question to CCW: if the mitigation measures from EAW are included in the requirements of the DCO, is it CCW’s judgement that the proposed wind farm is not likely to have a significant effect on the two SACs and an appropriate assessment is not required? The ExA also clarified that it can be assumed that if a recommendation for approval were to be put to the SoS, it would be on the basis that the relevant requirements proposed by EA would be attached to the DCO. The applicant has indicated that it is content with the requirements proposed by EAW. In response CCW confirmed that, assuming that EAW’s requirements are included in the DCO, the decision would be based on those requirements and nothing would proceed without those requirements, in which case the test of likely significance could conclude no significant effect, and there would be no need for appropriate assessment. EAW confirmed that the applicant’s construction method statement (CMS) is sound, and reiterated a proposal to incorporate water quality monitoring in the CMS. The applicant subsequently reiterated the position that there is sufficient certainty that the project will not result in a likely significant effect subject to the mitigation measures outlined by EAW being attached to the consent, and that they are content with the measures proposed by EAW. The mitigation measures identified by EAW, as developed during the Examination, are incorporated into requirement 9.2(g)(v) of the draft DCO at Annex F.

The draft DCO has been strengthened to reflect these considerations and CCW has welcomed the amendments made to address its concerns in relation to the forestry felling and Habitats Regulations Assessment, and confirmed all concerns in relation to this issue have been addressed by the modified requirements (REP178 OSC).

- b. Potential impacts on water quality could result in potential adverse effects on aquatic habitats and species.

Section 13.219 of the ES (APP20) states that “No formal fisheries survey was requested by statutory consultees during scoping, although scoping responses from CCW, EAW and Carmarthenshire County Council (CCC) highlighted the need to consider fish species including those forming qualifying species of the Afon Teifi and Afon Tywi SACs, such as the shads”.

A desk study of impacts on fisheries was undertaken by the applicant, and section 13.221 of the ES states that “the larger watercourses within the study area, including the Afon Marlais and Afon Pib, provide habitats suitable for supporting salmonids and bullhead”. However “the smaller upland streams within the catchment which extend into the site are unlikely to provide suitable habitats for salmonids and bullheads given the typically small size, steep gradients

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and absence of key habitat features". The HRA report considers "migratory and mobile species which may use tributaries of the SAC which are closer to, or within, the Brechfa Forest West Wind Farm" (see sections 4.6-9 of the HRA report).

Paragraph 4.10 of the HRA report states that "potential impacts on aquatic receptors as a result of changes in water quality are likely to be comparatively short in duration, for example, as occurs under current baseline conditions following prolonged rainfall. The magnitude of impact may initially be high, particularly given the intense periods of rainfall that occur at Brechfa Forest which may increase the likelihood of pollution (as a result of accidental spillage of fuel or concrete) or silt-laden run-off entering watercourses. Water environments can readily transport accidental pollution or siltation event(s), although dilution would be likely prior to reaching [the European site] downstream".

Mitigation to avoid impacts is summarised at paragraph 4.11 of the HRA report and further detail is provided within the Environmental Statement Chapters 8 and 13. The HRA report states at section 4.12 that construction mitigation measures will be detailed in the CMS), which will be delivered through Requirement 9 in the draft DCO. The HRA report goes on to state that "following mitigation, the level of suspended solids is not anticipated to exceed that set out in the EU Freshwater Fisheries Directive. Silt loads are not anticipated to settle on the watercourse bed, such that they may smother gravel and coarse substrates which are important for bullhead breeding and for salmon spawning/development of fry and parr". Paragraph 4.13 indicates that the prescribed "mitigation measures are well-established and there is high confidence in the success in avoiding significant effects on watercourses and the Afon Teifi SAC", and that "the significance of any residual impacts following mitigation is therefore considered to be negligible".

c. Damage to habitats or creation of barriers within the proposed development site could affect qualifying species for the European sites under consideration. This has been identified as a particular concern in relation to otter.

The ES includes the findings of otter surveys at the proposed development site and states that "holts and potential holts were recorded on three watercourses in and around the site (the Afon Marlais, Nant Alltwalis and Afon Pib) the closest of which was located 115m from proposed wind farm infrastructure. Given the ranging behaviour of the species, otter is also likely to utilise other watercourses within the site".

The applicant's HRA report indicates that "impacts on otter habitat outside of the SAC have the potential to affect the otter populations within the SAC, through for example impacts on recruitment (juvenile otter dispersing in to the SAC) or breeding success of otters resident within the SAC but which range outside the SAC". It goes on to state that "potential impacts on otter as a result of the Brechfa Forest West Wind Farm include: disturbance of holts, potential holts and lie-ups; restriction of otter movement through culverting of watercourses; increased road casualties as a

result of construction vehicles". Although the HRA report considers both the breeding success of otter which range outside the SAC, and recruitment of otter to the SAC from outside the site, it does not indicate the range of breeding otter or the area that is likely to serve the European site (see Sections 4.14 -18 of the HRA report). Nonetheless, Paragraph 4.16 sets out the mitigation measures proposed to address the potential impacts. Where there is a need for culvert extension or replacement the applicant will ensure continuation of the watercourse bed and will design to allow passage of otter. Paragraph 4.18 states that "given the well-established nature of these mitigation measures, there is high confidence that the residual impact on otters will be of negligible significance", and "significant effects on the otter population within the SAC are therefore considered highly unlikely".

The ES includes an assessment of potential disturbance impact on otter, and paragraphs 13.267-268 of the ES state that "there are no potential holts or shelters close to the scheme footprint, that may be subject to disturbance as a result of works", and on the basis of predicted noise levels, "potential disturbance on the shelter as a result of construction is predicted to be low". Mitigation measures to avoid or reduce potential impacts on otter are outlined in the ES at paragraphs 13.305-307 (APP20), and the residual impact during construction on riparian mammals as assessed in the ES is negligible.

- d. The applicant's HRA report does not explicitly assess impacts during operation. However, the main risk identified in respect of impacts on water chemistry is likely to relate to the construction period.
- e. The applicant's HRA report does not explicitly assess impacts during demolition. However, the main risk identified in respect of impacts on water chemistry is likely to relate to the construction period.
- f. The applicant's HRA report identifies the following impacts associated with other developments:
 - the potential for downstream hydrological impacts on the Afon Teifi and Afon Tywi SACs identified in the Environmental Statement for Brechfa Forest East Wind Farm. Specifically this related to changes in water chemistry as a result of acidification following forestry felling, and changes in water quality due to potential pollution events and siltation. However, proposed mitigation measures have reduced residual impacts to negligible significance.
 - the potential for increased pollution risk and sediment loading of the Afon Teifi and Afon Tywi SACs identified in the Environmental Statement for the Bryn Llywelyn Wind Farm. Again, however, given implementation of best practice mitigation measures the residual impact on the SACs was considered to be of negligible significance.

The applicant's HRA report concludes that "following implementation of well-established mitigation measures, significant effects on the Afon Teifi and Afon Tywi SACs are highly unlikely with regard to changes in water chemistry, water quality, and off-site impacts on otter habitats (decreased quality and obstruction) associated with the BFWWF.

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As a result in-combination effects are not expected. In addition, negligible impacts have been predicted on these receptors within the Brechfa Forest East Wind Farm and Bryn Llywelyn Wind Farms' Environmental Statements". It goes on to state that "cumulative assessments of air pollution as a result of the Brechfa Forest West Wind Farm have identified relatively minor increases in air pollution, and therefore significant effects on the SACs are considered unlikely".

Matrix 2: Afon Tywi SAC

The applicant's HRA report states that for the Afon Tywi SAC, "the nature of the effects and mitigation measures proposed are as detailed above for the Afon Teifi SAC" and that "in addition, there is the potential for air quality effects on the Afon Tywi SAC". Therefore where relevant, footnote references to evidence are the same as those presented in Matrix 1 for the Afon Teifi, but are supplemented where evidence relates to the potential air quality effects on the Afon Tywi SAC.

Afon Tywi SAC		Distance to wind farm: c9.1km													
European site features	Likely Effects of BFWWF (phase of development)														
	impacts on water chemistry (including acidification following felling)			impacts on water quality (sediment load and pollution)			damage and creation of barriers within the habitats within the Wind Farm site used by species associated with the SAC, particularly otter.			Air quality effects associated with an increase in traffic during construction, with resultant impacts on water quality			in-combination impacts		
	C	O	D	C	O	D	C	O	D	C	O	D	C	O	D
Annex II species that are a primary reason for selection of this site:															
• Twaite shad	x ^a	x ^d	x ^e	x ^b	x ^b	x ^b	x ^c	x ^c	x ^c	x ^c	x ^c	x ^c	x ^g	N/A	N/A
• European otter															
Annex I habitats and Annex II species present as qualifying features, but not primary reasons for site selection: Allis shad, Sea lamprey, Brook lamprey, River Lamprey, Bullhead	x ^a	x ^d	x ^e	x ^b	x ^b	x ^b	x ^c	x ^c	x ^c	x ^c	x ^c	x ^c	x ^g	N/A	N/A

Evidence supporting conclusions

g - The applicant's HRA report states that "the area of the SAC in close vicinity to the access route is restricted to a relatively short section (approximately 2km) where the A40 crosses over and is located adjacent to the SAC. The majority of the proposed access route is not in the vicinity of the SAC; the increase in vehicle movements on the A485 is relatively low (the section of the access route from the A48/40 near the SAC), with a predicted increase in traffic of 1.9% on weekdays and 1.6% on Saturdays. This is a worst case estimate based on peak construction vehicle movements and at other times during the construction period vehicle movements will be lower; the predicted increase in air pollution is also low. The cumulative increase in NO₂ levels as a result of predicted traffic levels for the Brechfa Forest West, Brechfa Forest East and Bryn Llywelyn Wind Farms is predicted to remain below a national annual mean objective of 40 µg.m⁻³. No significant cumulative effects are therefore predicted". It goes on to state that "air pollution has not been identified to date as impacting the conservation status of the SACs in the CCW Management Plans".

h - The applicant's HRA report has not explicitly considered potential in-combination effects with the grid connection. Appendix 3.3 of the ES (Grid connection assessment) (APP47) has considered potential effects on European sites in relation to the grid connection, identifying 4 SACs within the study area for the indicative grid connection route, including the Afon Twyi SAC which crosses the route. The assessment concludes that the footprint of the overhead line (OHL) will be relatively limited and it may be possible to avoid potential impacts through scheme design, for example through locating poles supporting the OHL so as to achieve a clear span of sensitive habitats, such as the Afon Twyi. It is also likely that good working practices may also assist in reducing any potential adverse effect. Taking into account the conclusion in the HRA report and the ES that impacts from BFWWF on the SAC are likely to be negligible, the fact that the grid connection route is at this stage only indicative and that there is likely to be the potential to mitigate effects through route alignment, design and construction management measures, there is no evidence at this stage to suggest that the conclusion of no significant effect is not appropriate.

APPENDIX E – POST EXAMINATION DRAFT DCO

STATUTORY INSTRUMENTS

201[X] No. []

INFRASTRUCTURE PLANNING

The Brechfa Forest West Wind Farm Order 201[X]

<i>Made</i>	201[X]
<i>Laid before Parliament</i>	201[X]
<i>Coming into force</i>	201[X]

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An application has been made to the Infrastructure Planning Commission in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009(a) for an Order under sections 37, 114, 115 and 120 of the Planning Act 2008(b) (“the 2008 Act”).

The application was examined by an Examining Authority (appointed by the Chair of the Infrastructure Planning Commission) in accordance with Chapter 4 of Part 6 of the 2008 Act, and the Infrastructure Planning (Examination Procedure) Rules 2010(c).

The Examining Authority, having considered the representations made and not withdrawn and the application together with accompanying documents, in accordance with section 83 of the 2008 Act, has submitted a report to the Secretary of State.

The Secretary of State, having considered the representations made and not withdrawn, and the report of the Examining Authority, has decided to make an Order granting development consent for the development described in the application and consent for ancillary works with modifications which in the opinion of the Secretary of State do not make any substantial change to the proposals comprised in the application.

The Secretary of State, in exercise of the powers conferred by sections 114, 115, and 120 of the 2008 Act, makes the following Order:

Citation and Commencement

1. This Order may be cited as the Brechfa Forest West Wind Farm Order 201X and shall come into force on [●] 201[X].

Interpretation

2.—(1) In this Order—

“the 1961 Act” means the Land Compensation Act 1961(d);

“the 1980 Act” means the Highways Act 1980(e);

“the 1984 Act” means the Road Traffic Regulation Act 1984(f);

“the 1990 Act” means the Town and Country Planning Act 1990(a);

(a) S.I. 2009/2264

(b) 2008 c.29 as amended by the Localism Act 2011 (c.20)

(c) S.I. 2010/103

(d) 1961 c.33. Section 2(2) was amended by section 193 of, and paragraph 5 of Schedule 33 to, the Local Government, Planning and Land Act 1980 (c.65). There are other amendments to the 1961 Act which are not relevant to this Order.

(e) 1980 c.66. Section 1(1) was amended by section 21(2) of the New Roads and Street Works Act 1991 (c.22); sections 1(2), 1(3) and 1(4) were amended by section 8 of, and paragraph (1) of Schedule 4 to, the Local Government Act 1985 (c.51); section 1(2A) was inserted, and section 1(3) was amended, by section 259 (1), (2) and (3) of the Greater London Authority Act 1999 (c.29); sections 1(3A) and 1(5) were inserted by section 22(1) of, and paragraph 1 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 36(2) was amended by section 4(1) of, and paragraphs 47(a) and (b) of Schedule 2 to, the Housing (Consequential Provisions) Act 1985 (c.7 1), by S.I. 2006/1177, by section 4 of, and paragraph 45(3) of Schedule 2 to, the Planning (Consequential Provisions) Act 1990 (c.11), by section 64(1) (2) and (3) of the Transport and Works Act (c.42) and by section 57 of, and paragraph 5 of Part 1 of Schedule 6 to, the Countryside and Rights of Way Act 2000 (c.37); section 36(3A) was inserted by section 64(4) of the Transport and Works Act 1992 and was amended by S.I. 2006/1177; section 36(6) was amended by section 8 of, and paragraph 7 of Schedule 4 to, the Local Government Act 1985 (c.51); and section 36(7) was inserted by section 22(1) of, and paragraph 4 of Schedule 7 to, the Local Government (Wales) Act 1994 (c.19). Section 329 was amended by section 112(4) of, and Schedule 18 to, the Electricity Act 1989 (c.29) and by section 190(3) of, and Part 1 of Schedule 27 to, the Water Act 1989 (c.15). There are other amendments to the 1980 Act which are not relevant to this Order.

(f) 1984 c.27.

- “the 1991 Act” means the New Roads and Street Works Act 1991**(b)**;
- “the 2008 Act” means the Planning Act 2008**(c)**;
- “ancillary works” means the works described in Part 2 of Schedule 1 which are not development within the meaning of section 32 of the 2008 Act;
- “authorised development” means the development described in Part 1 of Schedule 1 (authorised project) and any other development authorised by this Order, which is development within the meaning of section 32 of the 2008 Act;
- “the authorised project” means the authorised development and the ancillary works authorised by this Order;
- “the book of reference” means the book of reference certified by the Secretary of State as the book of reference for the purposes of this Order;
- “building” includes any structure or erection or any part of a building, structure or erection;
- “carriageway” has the same meaning as in the 1980 Act;
- “the Environment Agency” means the Environment Agency or any successor to its functions for the area in which the authorised development is located;
- “first export date” means the date the authorised development first exports electricity on a commercial basis;
- “the footpath plan” means the plan entitled “New Access and Temporary Diversion of Public Rights of Way Plan” as submitted with the application (BFW/PLAN04/ACCESS);
- “highway” has the same meaning as in the 1980 Act;
- “the land plan” means the plan certified as the land plan by the Secretary of State for the purposes of this Order;
- “the limits of deviation” means the limits of deviation referred to in article 6;
- “maintain” includes inspect, repair, adjust, remove, reconstruct and replace, and “maintenance” shall be construed accordingly;
- “Order limits” means the order limits shown on the works plan;
- “owner”, in relation to land, has the same meaning as in section 7 of the Acquisition of Land Act 1981**(d)**;
- “requirement” means a requirement set out in Part 3 of Schedule 1 (requirements);
- “relevant planning authority” means Carmarthenshire County Council or any successors to its function as local planning authority for the area in which the authorised development is located;
- “street” means a street within the meaning of section 48 of the 1991 Act, together with land on the verge of a street or between two carriageways, and includes part of a street;
- “street authority”, in relation to a street, has the same meaning as in Part 3 of the 1991 Act;
- “undertaker” means RWE npower renewables Limited (company number 2550622) whose registered office is at Auckland House, Lydiard Fields, Great Western Way, Swindon, Wiltshire SN5 8ZT;
- “watercourse” includes all rivers, streams, ditches, drains, canals, cuts, culverts, dykes, sluices, sewers and passages through which water flows except a public sewer or drain; and

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- (a) 1990 c.8. Section 2060) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the Planning Act 2008 (c.29) (date in force to be appointed see section 241(3), (4)(a), (c) of the 2008 Act). There are other amendments to the 1990 Act which are not relevant to this Order.
- (b) 1991 c.22. Section 48(3A) was inserted by section 124 of the Local Transport Act 2008 (c.26). Sections 79(4), 80(4), and 83(4) were amended by section 40 of, and Schedule 1 to, the Traffic Management Act 2004 (c.18).
- (c) 2008 c.29.
- (d) 1981 c.67. Section 7 was amended by section 70 of, and paragraph 9 of Schedule 15 to, the Planning and Compensation Act 1991 (c.34). There are other amendments to the 1981 Act which are not relevant to this Order.

“the works plan” means the plan certified as the works plan by the Secretary of State for the purposes of this Order and references in this Order to Work Nos. shall be a reference to the works described in Schedule 1 and shown on the works plan.

(2) All distances, directions and lengths referred to in this Order are approximate and distances between points on a work comprised in the authorised project shall be taken to be measured along that work.

(3) References in this Order to a numbered Work are references to a Work numbered in Part 1 of Schedule 1.

Development consent etc. granted by the Order

3.—(1) Subject to the provisions of this Order and to the requirements in Part 3 of Schedule 1 (requirements) to this Order the undertaker is granted—

- (a) development consent for the authorised development; and
- (b) consent for the ancillary works,

to be carried out within the Order limits.

(2) Subject to article 6 (power to deviate) the authorised development may only be constructed in the lines or situations shown on the works plan.

Procedure in relation to approvals etc under requirements

4.—(1) Where an application is made to the relevant planning authority for any consent, agreement or approval required by a requirement, the following provisions apply as if the requirement was a condition imposed on the grant of planning permission—

- (a) sections 78 and 79 of the 1990 Act (right of appeal in relation to planning decisions);
- (b) any orders, rules or regulations which make provision in relation to a consent, agreement or approval of a local planning authority required by a condition imposed on the grant of planning permission.

(2) For the purposes of paragraph (1), a provision applies in so far as it relates to an application for such a consent, agreement or approval, or the grant or refusal of such an application, or a failure to give notice of a decision on such an application.

(3) For the purposes of the application of section 262 of the 1990 Act (meaning of “statutory undertaker”) to appeals pursuant to this article, the undertaker is deemed to be a holder of a licence under section 6 of the Electricity Act 1989.

Maintenance of authorised project

5. The undertaker may at any time, and from time to time, maintain Work Nos. 1 to 6, except to the extent that this Order, or an agreement made under this Order, provides otherwise and subject to the requirements in Part 3 of Schedule 1.

Power to deviate

6.—(1) In constructing or maintaining the authorised development comprising Work Nos. 1 to 9 in Schedule 1, the undertaker may deviate laterally from the lines or situations shown on the works plans to the extent of the limits of deviation shown on those plans.

(2) Without prejudice to paragraph (1), in constructing and maintaining Work No. 2 the undertaker may deviate from the points of commencement and termination for each of the cable routes specified in the first column of the Table comprised within the description of Work No. 2 and may within the limits of deviation construct and maintain those cable routes between the commencement and termination points so varied from the Ordnance Survey National Grid Reference points set out in the second and third columns of the Table.

Operation of generating station

- 7.—(1) The undertaker is authorised to operate the generating station comprised in the authorised development.
- (2) This article does not relieve the undertaker of any obligation to obtain any permit or licence or any other obligation under any other legislation that may be required to authorise the operation of a generating station.

Benefit of Order

- 8.—(1) The provisions of this Order conferring powers on the undertaker shall have effect solely for the benefit of the undertaker.
- (2) The undertaker may, with the consent of the Secretary of State—
- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; or
 - (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed.
- (3) Where an agreement has been made in accordance with paragraph (2) references in this Order to the undertaker, except in paragraph (4), shall include references to the transferee or the lessee.
- (4) The exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (2) shall be subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

Nuisance

- 9.—(1) Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(a) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) of section 79(1) of that Act (noise emitted from premises so as to be prejudicial to health or a nuisance) no order shall be made, and no fine may be imposed, under section 82(2) of that Act if the condition set out in paragraph (2) has been satisfied.
- (2) The condition to be satisfied for the purposes of paragraph (1) is that the defendant shows that the nuisance relates to premises used by the undertaker for the purposes of or in connection with the construction of the authorised project and that the nuisance is attributable to the carrying out of the authorised project in accordance with a notice served under section 60 (control of noise on construction site), or a consent given under section 61 (prior consent for work on construction site) or 65 (noise exceeding registered level), of the Control of Pollution Act 1974(b).
- (3) Section 61(9) (consent for work on construction site to include a statement that it does not of itself constitute a defence to proceedings under section 82 of the Environmental Protection Act 1990) of the Control of Pollution Act 1974 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), shall not apply where the consent relates to the use of premises by the undertaker for the purposes of or in connection with the construction or maintenance of the authorised project.
- (4) Nothing in this Order or section 158 of the 2008 Act (nuisance: statutory authority) or any rule of law having similar effect confers on the undertaker any defence in respect of any nuisance arising from noise attributable to the operation of the authorised project.

(a) 1990 c.43. There are amendments to this Act which are not relevant to this Order.

(b) 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to this Order.

Street works

10.—(1) The undertaker may, for the purposes of the authorised development, enter on so much of the street specified in Schedule 2 (street subject to street works) as is within the Order limits and may—

- (a) break up or open the street, or any sewer, drain or tunnel under it;
- (b) place apparatus in the street;
- (c) maintain apparatus in the street or change its position; and
- (d) execute any works required for or incidental to any works referred to in sub-paragraphs (a), (b) and (c).

(2) In this article “apparatus” has the same meaning as in Part 3 of the 1991 Act.

Temporary stopping up of streets

11.—(1) The undertaker, during and for the purposes of carrying out the authorised project, may temporarily stop up, alter or divert any street and may for any reasonable time—

- (a) divert the traffic from the street; and
- (b) subject to paragraph (2), prevent all persons from passing along the street.

(2) The undertaker shall provide reasonable access at all times for pedestrians going to or from premises abutting a street affected by the temporary stopping up, alteration or diversion of a street under this article if there would otherwise be no such access.

(3) Without prejudice to the generality of paragraph (1), the undertaker may temporarily stop up, alter or divert the streets specified in columns (1) and (2) of Schedule 3 (streets to be temporarily stopped up) to the extent specified, by reference to the letters and numbers shown on the footpath plan, in column (3) of that Schedule.

(4) The undertaker shall not temporarily stop up, alter or divert any street under paragraph (1) without the consent of the street authority.

(5) Any person who suffers loss by the suspension of any private right of way under this article shall be entitled to compensation to be determined, in case of dispute, under Part 1 of the 1961 Act.

(6) This article does not relieve the undertaker of any obligation to obtain an order under the 1984 Act.

Discharge of water

12.—(1) The undertaker may use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out or maintenance of the authorised project and for that purpose may lay down, take up and alter pipes and may, on any land within the Order limits, make openings into, and connections with, the watercourse, public sewer or drain.

(2) Any dispute arising from the making of connections to or the use of a public sewer or drain by the undertaker pursuant to paragraph (1) shall be determined as if it were a dispute under section 106 of the Water Industry Act 1991(a) (right to communicate with public sewers).

(3) The undertaker shall not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose, but shall not be unreasonably withheld.

(4) The undertaker shall not make any opening into any public sewer or drain except—

(a) 1991 c.56. Section 106 was amended by sections 36(2) and 99 of the Water Act 2003 (c.37). There are other amendments to this section which are not relevant to this Order.

- (a) in accordance with plans approved by the person to whom the sewer or drain belongs, but such approval shall not be unreasonably withheld; and
 - (b) where that person has been given the opportunity to supervise the making of the opening.
- (5) The undertaker shall not, in carrying out or maintaining works pursuant to this article, damage or interfere with the bed or banks of any watercourse forming part of a main river.
- (6) The undertaker shall take such steps as are reasonably practicable to secure that any water discharged into a watercourse or public sewer or drain pursuant to this article is as free as may be practicable from gravel, soil or other solid substance, oil or matter in suspension.
- (7) This article does not authorise anything prohibited by the Environmental Permitting (England and Wales) Regulations 2010(a).
- (8) If a person who receives an application for consent under paragraph (3) or approval under paragraph (4)(a) fails to respond to the undertaker within 28 days of receiving an application for consent under paragraph (3) or approval under paragraph 4(a) that person shall be deemed to have granted consent or given approval, as the case may be.
- (9) In this article—
- (a) “public sewer or drain” means a sewer or drain which belongs to the Environment Agency, an internal drainage board, local authority or a sewerage undertaker; and
 - (b) other expressions, excluding watercourse, used both in this article and in the Water Resources Act 1991(b) have the same meaning as in that Act.
- (10) This article does not relieve the undertaker of any obligation to obtain from the Environment Agency any permit or licence or any other obligation under any other legislation that may be required to authorise anything done under this article.

Application of landlord and tenant law

13.—(1) This article applies to—

- (a) any agreement for leasing to any person the whole or any part of the authorised project or the right to operate the same; and
- (b) any agreement entered into by the undertaker with any person for the construction, maintenance, use or operation of the authorised project, or any part of it,

so far as any such agreement relates to the terms on which any land which is the subject of a lease granted by or under that agreement is to be provided for that person’s use.

(2) No enactment or rule of law regulating the rights and obligations of landlords and tenants shall prejudice the operation of any agreement to which this article applies.

(3) Accordingly, no such enactment or rule of law shall apply in relation to the rights and obligations of the parties to any lease granted by or under any such agreement so as to—

- (a) exclude or in any respect modify any of the rights and obligations of those parties under the terms of the lease, whether with respect to the termination of the tenancy or any other matter;
- (b) confer or impose on any such party any right or obligation arising out of or connected with anything done or omitted on or in relation to land which is the subject of the lease, in addition to any such right or obligation provided for by the terms of the lease; or
- (c) restrict the enforcement (whether by action for damages or otherwise) by any party to the lease of any obligation of any other party under the lease.

(a) S.I. 2010/675.

(b) 1991 c.57.

Operational land for purposes of the 1990 Act

14. Development consent granted by this Order shall be treated as specific planning permission for the purposes of section 264(3)(a) of the 1990 Act (cases in which land is to be treated as operational land for the purposes of that Act).

Felling or lopping of trees etc

15.—(1) The undertaker may fell or lop any tree or shrub within or encroaching upon the Order limits, or cut back its roots, if it reasonably believes it to be necessary to do so to prevent the tree or shrub—

- (a) from obstructing or interfering with the construction, maintenance or operation of the authorised project or any apparatus used in connection with the authorised project; or
- (b) from constituting a danger to passengers or other persons using the authorised project.

(2) In carrying out any activity authorised by paragraph (1), the undertaker shall not cause unnecessary damage to any tree or shrub and shall pay compensation to any person for any loss or damage arising from such activity.

(3) The undertaker may remove any hedgerows within the Order limits if it reasonably believes it to be necessary to do so for the purposes of the carrying out of the authorised development.

(4) The power conferred by paragraph (3) shall remove any obligation upon the undertaker to secure any consent to remove those hedgerows under the Hedgerows Regulations 1997(a).

(5) Any dispute as to a person's entitlement to compensation under paragraph (2), or as to the amount of compensation, shall be determined under Part 1 of the 1961 Act.

(6) The exercise of any power under paragraphs (1) and (3) shall be exercised with the consent of the owner of the land concerned.

(7) In this article "hedgerow" has the same meaning as in the Hedgerow Regulations 1997.

Removal of human remains

16.—(1) In this article "the specified land" means the land within the limits of deviation.

(2) Before the undertaker carries out any development or works which will or may disturb any human remains in the specified land it shall remove those human remains from the specified land, or cause them to be removed, in accordance with the following provisions of this article.

(3) Before any such remains are removed from the specified land the undertaker shall give notice of the intended removal, describing the specified land and stating the general effect of the following provisions of this article, by—

- (a) publishing a notice once in each of two successive weeks in a newspaper circulating in the area of the authorised project; and
- (b) displaying a notice in a conspicuous place on or near to the specified land.

(4) As soon as reasonably practicable after the first publication of a notice under paragraph (3) the undertaker shall send a copy of the notice to Carmarthenshire County Council.

(5) At any time within 56 days after the first publication of a notice under paragraph (3) any person who is a personal representative or relative of any deceased person whose remains are interred in the specified land may give notice in writing to the undertaker of that person's intention to undertake the removal of the remains.

(6) Where a person has given notice under paragraph (5), and the remains in question can be identified, that person may cause such remains to be—

- (a) removed and re-interred in any burial ground or cemetery in which burials may legally take place; or

(a) S.I. 1997/1160.

(b) removed to, and cremated in, any crematorium,

and that person shall, as soon as reasonably practicable after such re-interment or cremation, provide to the undertaker a certificate for the purpose of enabling compliance with paragraph (11).

(7) If the undertaker is not satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be, or that the remains in question can be identified, the question shall be determined on the application of either party in a summary manner by the county court, and the court may make an order specifying who shall remove the remains and as to the payment of the costs of the application.

(8) The undertaker shall pay the reasonable expenses of removing and re-interring or cremating the remains of any deceased person under this article.

(9) If—

- (a) within the period of 56 days referred to in paragraph (5) no notice under that paragraph has been given to the undertaker in respect of any remains in the specified land; or
- (b) such notice is given and no application is made under paragraph (7) within 56 days after the giving of the notice but the person who gave the notice fails to remove the remains within a further period of 56 days; or
- (c) within 56 days after any order is made by the county court under paragraph (7) any person, other than the undertaker, specified in the order fails to remove the remains; or
- (d) it is determined that the remains to which any such notice relates cannot be identified,

subject to paragraph (10) the undertaker shall remove the remains and cause them to be re-interred in such burial ground or cemetery in which burials may legally take place as the undertaker thinks suitable for the purpose; and, so far as possible, remains from individual graves shall be re-interred in individual containers which shall be identifiable by a record prepared with reference to the original position of burial of the remains that they contain.

(10) If the undertaker is satisfied that any person giving notice under paragraph (5) is the personal representative or relative as that person claims to be and that the remains in question can be identified, but that person does not remove the remains, the undertaker shall comply with any reasonable request that person may make in relation to the removal and re-interment or cremation of the remains.

(11) On the re-interment or cremation of any remains under this article—

- (a) a certificate of re-interment or cremation shall be sent by the undertaker to the Registrar General by the undertaker giving the date of re-interment or cremation and identifying the place from which the remains were removed and the place in which they were re-interred or cremated; and
- (b) a copy of the certificate of re-interment or cremation and the record mentioned in paragraph (9) shall be sent by the undertaker to Carmarthenshire County Council mentioned in paragraph (4).

(12) The removal of the remains of any deceased person under this article shall be carried out in accordance with any directions which may be given by the Secretary of State.

(13) Any jurisdiction or function conferred on the county court by this article may be exercised by the district judge of the court.

(14) Section 25 of the Burial Act 1857^(a) (bodies not to be removed from burial grounds, save under faculty, without licence of Secretary of State) shall not apply to a removal carried out in accordance with this article.

(a) 1857 c.81. There are amendments to this Act which are not relevant to this Order.

Service of notices

17.—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8) by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978(a) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address, and otherwise—

- (a) in the case of the secretary or clerk of a body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.

(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having any interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by name or by the description of “owner”, or as the case may be “occupier”, of the land (describing it); and
- (b) either leaving it in the hands of a person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the obligation shall be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) the notice or document is in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within 7 days of receipt that the recipient requires a paper copy of all or part of that notice or other document the sender shall provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of electronic communication given by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person shall give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date shall not be less than 7 days after the date on which the notice is given.

(a) 1978 c.30.

(9) This article does not exclude the employment of any method of service not expressly provided for by it

(10) In this article “legible in all material respects” means that the information contained in the notice or document is available to that person to no lesser extent that it would be if served, given or supplied by means of a notice or document in printed form.

Certification of plans etc

18.—(1) The undertaker shall, as soon as practicable after the making of this Order, submit to the Secretary of State copies of documents and plans submitted with the application—

- (a) the book of reference (BFW/AppDoc/BoR);
- (b) the land plan (BFW/PLAN01/LANDPLAN);
- (c) the works plan (BFW/PLAN02/WORKSPLAN);
- (d) the footpath plan (BFW/PLAN04/ACCESS); and
- (e) any other plans or documents referred to in this Order,

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified shall be admissible in any proceedings as evidence of the contents of the document of which it is a copy.

Arbitration

19. Any difference under any provision of this Order, unless otherwise provided for, shall be referred to and settled by a single arbitrator to be agreed between the parties or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

SCHEDULES

SCHEDULE 1

AUTHORISED PROJECT

PART 1

AUTHORISED DEVELOPMENT

In the County of Carmarthenshire

A wind energy electricity generating station with an installed capacity of between 56-84MW comprising a nationally significant infrastructure project as defined in sections 14 and 15 of the 2008 Act consisting of-

Work No. 1 - up to 28 wind turbines each sited on concrete foundations incorporating hardstanding for cranes and fitted with rotating blades having a height to blade tip of up to 145

metres and including external transformers located at the base of the turbine and situated at the following locations—

Wind Turbine Number	Grid Reference	
	Easting	Northing
W1	246753	231322
W2	247319	231337
W3	247049	232133
W4	247347	231780
W5	247865	231357
W6	248004	231019
W7	248209	230683
W8	247780	232510
W9	247885	232140
W10	247986	231773
W11	248456	231506
W12	248684	231065
W13	248261	233094
W14	248524	232673
W15	248695	232320
W16	249110	231992
W17	248322	234134
W18	248210	233713
W19	248638	233537
W20	248899	233213
W21	249096	232723
W22	249331	232414
W23	248909	234382
W24	249274	234198
W25	249460	233566
W26	249424	233163
W27	249734	232835
W28	249974	233494

Work No. 2 - A series of cables buried beneath the surface of the ground and connecting the wind turbines comprising Work No. 1 as follows-

Cable route number	Commencement point	Termination point
1	Substation	W10
	W10	W5
	W5	W6
	W6	W7
	W7	W11
	W11	W12
2	Substation	W9
	W9	W8
	W8	W3
	W3	W4

	W4	W2
	W2	W1
3	Substation	W14
	W14	W20
	W20	W19
	W19	W13
	W13	W18
	W18	W17
	W17	W23
	W23	W24
4	Substation	W27
	W27	W22
	W22	W21
	W21	W26
	W26	W25
	W25	W28
	W28	W15
	W15	W16

Work No. 3 - A series of access tracks between the wind turbines comprising Work No. 1 as follows -

Access Track number	Commencement Point		Termination Point	
	Easting	Northing	Easting	Northing
WR1	248223	233165	247747	233541
WR2	248476	233572	248224	233166
WR3	248390	233647	248475	233571
WR4	248419	233839	248390	233647
WR5	248299	233924	248419	233839
WR6	248299	233924	248219	233989
WR7	248419	233838	248797	234082
WR8	248797	234080	248928	234285
WR9	248929	234286	248987	234357
WR10	248476	233571	248567	233473
WR11	248568	233473	248709	233140
WR12	248709	233140	248833	233087
WR13	248833	233087	248964	232993
WR14	248964	232994	249105	233299
WR15	249106	233301	249400	233650
WR16	249400	233650	249697	233767
WR17	248963	232993	249175	232794
WR18	249175	232794	249337	232694
WR19	249337	232694	249492	232669
WR20	249490	232667	249670	232624
WR21	248964	232994	248702	232400
WR22	248801	232306	248999	232093
WR23	248708	233140	248517	232786
WR24	248510	232826	247875	232337
WR25	247875	232337	247817	232228

WR26	247817	232228	247612	232078
WR27	247612	232078	247554	232213
WR28	247554	232213	247350	232247
WR29	247612	232078	247779	231971
WR30	247778	231971	247491	231690
WR31	247491	231690	247371	231445
WR32	247371	231444	247148	231409
WR33	247149	231409	247093	231456
WR34	247094	231455	247020	231495
WR35	247817	232228	247828	232214
WR36	247829	232214	247873	231910
WR37	247876	231668	247872	231910
WR38	247692	231407	247878	231669
WR39	248103	230952	248120	230732
WR40	248077	231657	248266	231613
WR41	248377	231291	248442	231170
WR42	248442	231170	248796	231181
WT1	246738	231342	246545	231212
WT2	247021	231494	246738	231342
WT3	247371	231445	247319	231337
WT4	247348	232246	247048	232133
WT5	247347	231780	247503	231703
WT6	247692	231407	247878	231378
WT7	247878	231378	248025	231032
WT8	248025	231032	248103	230952
WT9	248121	230731	248208	230684
WT10	247780	232510	247896	232352
WT11	247829	232214	247885	232140
WT12	247878	231870	248076	231657
WT13	248265	231613	248395	231478
WT14	248456	231506	248394	231478
WT15	248362	231486	248377	231290
WT16	248441	231169	248685	231062
WT17	247748	233540	247494	233689
WT18	248260	233095	248188	233146
WT19	248517	232786	248524	232673
WT20	248695	232320	248702	232401
WT21	248725	232371	248801	232306
WT22	249110	231992	248999	232093
WT23	248390	233646	248210	233713
WT24	248553	233489	248638	233537
WT25	248813	233099	248898	233212
WT26	249162	232808	249096	232724
WT27	249466	232674	249330	232414
WT28	249670	232624	249733	232835
WT29	248219	233989	248323	234134
WT30	249423	233165	249096	233284

WT31	249382	233642	249460	233566
WT32	249683	233767	249974	233493
WT33	248940	234306	248909	234382
WT34	248989	234357	249276	234197
WT35	248796	231181	248837	231141
WT36	247495	233690	245999	234868
WT37	246754	231354	246753	231322
WT38	247864	231357	247857	231391
WT39	248003	231019	248012	231053
WT40	247986	231774	247987	231803

In constructing Work No.3 the undertaker may improve any track already in existence along the line of the work shown on the works plan.

Work No. 4 - A construction, maintenance and emergency site access road commencing at a point at SN 46026 34898 and terminating at a point at SN 47482 33690. In constructing Work No. 4, the undertaker may form and lay out a means of access from the A485 within the limits of deviation for Work No. 4.

Work No. 5 - An onsite electricity substation comprising an enclosed area of hardstanding of approximately 4080 square metres located at Ordnance Survey National Grid Reference Point SN 48809 31110 and including a control building to house switch gear and control equipment.

Work No. 6 - A meteorological mast for the purpose of monitoring and recording wind speed and direction as well as air temperature, having a height of approximately 100 metres and sited on an area of hardstanding of approximately 1000 square metres located at Ordnance Survey National Grid Reference Point SN 46544 31212.

Work No. 7 - A temporary civil construction compound comprising an enclosed area of hardstanding of approximately 2,500 square metres located at Ordnance Survey National Grid Reference Point SN 48089 33104 and including a temporary office and staff welfare building together with an area for the storage of materials for use in the construction of the authorised development.

Work No. 8 - A borrow pit for the extraction of stone to be used in the construction of the authorised development, having an area of approximately 10,000 square metres and a depth of 6 metres located at Ordnance Survey National Grid Reference Point SN 47929 32499.

Work No. 9 - A temporary electrical compound comprising an enclosed area of hardstanding of approximately 2,500 square metres located adjacent to the onsite electricity substation forming Work No. 5 at Ordnance Survey National Grid Reference Point SN 48868 31107.

In Work No. 1, references to the locations of a wind turbine are references to the centre point of that turbine.

PART 2

ANCILLARY WORKS

Removal of hedgerows

1. Removal of approximately 137 metres of hedgerow within the Order limits along field boundaries between the A485 at Veindre Parc and Mynydd Rhos Wen the majority of which is located at the site entrance at the A485 at Ordnance Survey National Grid Reference Point SN 46026 34898.

PART 3

REQUIREMENTS

Definitions

1. —(1) In this Part of this Schedule:

“abnormal indivisible load” has the same meaning as in the Road Vehicles (Authorisation of Special Types) (General) Order 2003;

“commencement”, in relation to the authorised development, means the date on which the authorised development begins by the carrying out of a material operation as defined in section 155 of the 2008 Act and “commence” and “commenced” shall be construed accordingly;

“environmental statement” means the document certified as the environmental statement by the Secretary of State for the purposes of the Order and submitted with the application;

“European protected species” means a species listed in Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2010;

“felling” means any felling or lopping undertaken pursuant to article 15 of this Order;

“Forestry Commission Wales” means the person exercising the Welsh devolved functions of the Forestry Commissioners;

“Guidance Notes” means the guidance notes in Part 4 of this Schedule;

“site” means land within the Order limits;

“Welsh devolved function” has the meaning given by section 36 of the Public Bodies Act 2011 a; and

“wind turbines” means the wind turbines forming part of Work No.1 and “wind turbine” shall be construed accordingly.

(2) References to Forestry Commission Wales and the Countryside Council for Wales include any successors to their statutory functions.

Submission and approval of details

2. Where under any requirement details or a scheme or plan are to be submitted for the approval of the relevant planning authority then unless the requirement provides otherwise:

- (a) those details or scheme or plan and that approval must be in writing;
- (b) the details, scheme or plan must be implemented as approved;
- (c) the approved details, scheme or plan shall be taken to include any amendments that may subsequently be approved in writing by the relevant planning authority, provided that no amendments may be approved by the relevant planning authority where such amendments may give rise to any materially different environmental effects to those assessed in the environmental statement.

Time limits

3. The authorised development must be commenced within 5 years of the date of this Order.

Expiry of development consent

4. —(1) The development consent granted by this Order shall expire 25 years after the first export date.

(2) Confirmation of the first export date shall be provided by the undertaker to the relevant planning authority within one month of its occurrence.

Decommissioning and site restoration

5.—(1) Not less than 12 months before the expiry of the development consent granted by this Order, a decommissioning and site restoration scheme shall be submitted to the relevant planning authority for its approval.

(2) The decommissioning and site restoration scheme shall include provision for:

- (a) removal of all above-ground elements of the authorised development (with the exception of Work No. 3);
- (b) removal of turbine bases and cabling to one metre below ground level; and
- (c) restoration of the disturbed areas.

(3) Decommissioning and restoration shall be completed in accordance with the approved decommissioning and site restoration scheme within the period set out in the approved scheme.

Failure of turbines

6. If any wind turbine fails to provide electricity to the grid for a continuous period of 12 months the undertaker shall:

- (a) notify the relevant planning authority within one month of the expiry of that 12 month period;
- (b) if so instructed by the relevant planning authority, submit to the relevant planning authority within 2 months of that instruction a detailed scheme setting out how the wind turbine and its associated ancillary equipment, including cabling (but excluding the turbine bases more than one metre below ground level) will be removed from the site and how the disturbed areas will be restored for approval by the relevant planning authority; and
- (c) implement the approved scheme no later than 6 months from its approval unless a longer period is agreed in writing by the relevant planning authority.

Plans

7.—(1) Subject to the power to deviate set out in article 6 of this Order the authorised development shall be carried out in accordance with the relevant plans certified in accordance with Article 18 of this Order.

(2) No part of the authorised development shall be carried out within 50m of a watercourse unless shown on those plans as within 50metres of a watercourse or approved by the relevant planning authority.

Construction traffic management plan

8.—(1) No authorised development shall commence until a construction traffic management plan has been submitted to and approved by the relevant planning authority in consultation with the Department for Transport of the Welsh Government. The construction traffic management plan shall include—

- (a) construction vehicle routing plans;
- (b) evidence of trial runs demonstrating the suitability of the route from point of entry onto the highway network to the site for all abnormal indivisible loads;
- (c) site access plans;
- (d) proposals for the management of junctions to and crossings of highways and other public rights of way;
- (e) proposals for the scheduling and timing of movements of delivery vehicles including details of abnormal indivisible loads;

- (f) details of escorts for abnormal indivisible loads;
 - (g) proposals for temporary warning signs and banksman and escort details;
 - (h) proposals for assessing the existing condition of affected highways;
 - (i) details of any temporary or permanent improvements to highways; and
 - (j) proposals for the making good of any incidental damage to highways by construction traffic associated with the authorised project including street furniture, structures, drainage features, highway verge and carriageway surfaces.
- (2) The construction traffic management plan shall be implemented as approved.
- (3) Before any wind turbine is removed or replaced a revised construction traffic management plan, dealing with that removal or replacement, shall be submitted to and approved by the relevant planning authority.

Construction method statement

9.—(1) No authorised development shall commence until a construction method statement has been submitted to and approved by the relevant planning authority.

- (2) The construction method statement shall include details of —
- (a) the mitigation measures to be implemented to avoid harm to protected species and minimise damage to Local Biodiversity Action Plan habitats;
 - (b) the timing of construction works, including the timing of vegetation removal to avoid the potential for effects on reptiles and nesting birds;
 - (c) the wheel washing facilities, including siting;
 - (d) the timing of works and methods of working for cable trenches, foundation works and erection of the wind turbines;
 - (e) the timing of works and construction of the substation/ control buildings and anemometry mast;
 - (f) the cleaning of site accesses, site tracks and the adjacent public highway and the sheeting of all heavy goods vehicles taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway;
 - (g) the pollution control and prevention measures to be implemented including —
 - (i) sediment control,
 - (ii) the bunding of fuel, oil and chemical storage areas,
 - (iii) sewage disposal,
 - (iv) measures for the protection of water courses and ground water and soils and,
 - (v) a programme for monitoring water bodies before and during the authorised project, including details of the action to be taken if monitoring indicates adverse effects on water bodies;
 - (h) the disposal of surplus materials;
 - (i) the management of construction noise (including identification of access routes, locations of materials lay-down areas, details of equipment to be employed, operations to be carried out, mitigation measures and a scheme for the monitoring of noise);
 - (j) the handling, storage and re-use on site of soil;
 - (k) the design and construction methods of Work No. 4 and access tracks including drainage provisions, and the pollution prevention measures to be implemented to ensure there are no polluting discharges from tracks and disturbed areas including provision to ensure that no polluting discharge from the access tracks and disturbed areas enters any watercourse;
 - (l) the landscaping of Work No. 4, the access track from the A485;
 - (m) the nature, type and quantity of materials to be imported on site for backfilling operations or construction of access tracks;

- (n) the management of ground and surface water (including mitigation to protect private water supplies);
- (o) the management of dust;
- (p) the proposed temporary site compounds for storage of materials, machinery and parking within the sites clear of the highway, including the siting of the temporary buildings and all means of enclosure, oil/ fuel and chemical storage and any proposals for temporary lighting, and details of proposals for restoration of the sites of the temporary compounds and works within 12 months of the first export date;
- (q) the design and construction of any culverts;
- (r) the method of borrow pit working including means of extraction, handling, storage and re-use of soil, drainage control and restoration;
- (s) the restoration of the site which will be temporarily used for construction;
- (t) the access arrangements for the Alltwalis Wind Farm Habitat Management Plan Steering Group; and
- (u) any other measures set out in Appendix 3.1 of the environmental statement.

(3) Before any wind turbine is removed or replaced a revised construction method statement, dealing with that removal or replacement, shall be submitted to and approved by the relevant planning authority.

(4) The construction method statement shall be implemented as approved.

Highways

10. No wind turbine parts shall be delivered to the site before detailed plans and drawings in respect of Work No. 4 have been submitted to and approved by the relevant planning authority and such works have been constructed in accordance with the plans and drawings so approved.

11. No authorised development shall commence until details of temporary or permanent improvements to the public highway have been submitted to and approved by the relevant planning authority in consultation with the Department for Transport of the Welsh Government. The improvement works shall be implemented in accordance with the approved details.

12. No authorised development shall commence until details of the reinstatement of the public highway and its associated street furniture following completion of the construction of the authorised development have been submitted to and approved by the relevant planning authority in consultation with the Department for Transport of the Welsh Government. The reinstatement works shall be implemented in accordance with the approved details.

Construction hours

13. The hours of work during the construction phase of the authorised development and any traffic movements into and out of the site associated with the construction or maintenance of the authorised development shall be 0700 to 1900 hours on Mondays to Fridays and 0800 to 1300 hours on Saturdays other than as allowed for under requirement 14. No work shall take place outside these hours, or on public holidays, unless otherwise previously agreed by the relevant planning authority.

14. Notwithstanding the provisions of requirement 13, delivery of turbine and crane components may take place outside the times specified in requirement 13 subject to such deliveries first being approved by the relevant planning authority.

Habitat management plan

15. —(1) No authorised development shall commence until a habitat management plan has been submitted to and approved by the relevant planning authority.

- (2) The habitat management plan shall include measures to:
- (a) re-establish non-coniferous habitats;
 - (b) enhance habitat within previously identified plantation on ancient woodland sites identified in the environmental statement;
 - (c) control Japanese knotweed strands identified within the site boundary;
 - (d) mitigate the potential adverse impacts of the development upon bryophyte species;
 - (e) monitor the impact on bats in years 1,2 and 5, with such monitoring to include mortality surveys. If, following consideration of the monitoring results the relevant planning authority reasonably believes it to be necessary to do so, further monitor and/or mitigate the impact of the authorised development on bats;
 - (f) monitor and if, following consideration of the monitoring results the relevant planning authority reasonably believes it to be necessary to do so, mitigate the impact of the authorised development on the population of nightjars;
 - (g) mitigate the impact of the access track from the A485 (work No. 4); and
 - (h) deal with any other matters set out in Appendix 13.10 of the environmental statement.
- (3) The habitat management plan shall identify the resources needed to carry out the relevant activities.
- (4) The habitat management plan shall be implemented as approved.

European protected species

16.—(1) No part of the authorised project shall commence until a scheme for the mitigation of potential adverse impacts on any European protected species has been approved by the relevant planning authority.

- (2) The scheme shall include:
- (a) a comprehensive survey report which details the methods and timings of surveys to be undertaken;
 - (b) details of mitigation measures to be provided appropriate for the species present, including a timetable of when the mitigation will be in place;
 - (c) a method statement for the works detailing the methods, timing, and phasing of works, which seeks to minimise the impacts on any European protected species present, in line with best-practice guidelines; and
 - (d) proposals for monitoring before, during and post-construction which shall include mechanisms to initiate and direct any remedial works required. The applicant shall undertake remedial works, as directed by the relevant planning authority in consultation with the Countryside Council for Wales.
- (3) The scheme shall be implemented as approved..

Access management plan

17.—(1) No authorised development shall commence until an access management plan has been submitted to and approved by the relevant planning authority.

- (2) The access management plan shall include—
- (a) details of the temporary re-routing of public rights of way during construction of the authorised development;
 - (b) details of the provision of signage and other information alerting the public to construction works;
 - (c) details of any fencing or barriers to be provided during the construction period;

- (d) details as to how public rights of way, paths and roads will be inspected prior to and monitored during the construction period;
 - (e) a commitment to return all public rights of way, paths and roads to the same condition as they were, or better, once the construction period has ceased;
 - (f) details as to how any paths found to be impassable during surveying will be cleared;
 - (g) details of temporary alternative routes for any public rights of way that need to be diverted;
 - (h) provision for an additional bridge crossing;
 - (i) details of funds for improved signage/orientation;
 - (j) details of a new way-marked route;
 - (k) details of a communications campaign linked with the end of the construction period;
 - (l) details of an active management plan for crossing points for public rights of way; and
 - (m) details of permissive routes to be provided within the public access management areas.
- (3) The access management plan shall be implemented as approved.

Felling

- 18.**—(1) All felling shall be undertaken in accordance with the relevant guidance specified in paragraph (2) and Forestry Commission Wales best practice (as amended from time to time).
- (2) The relevant guidance is—
- (a) The UK Forestry Standard;
 - (b) UKFS Guidelines – Forests & Water (2011);
 - (c) UKFS Guidelines – Forests & Soil (2011);
 - (d) UKFS Guidelines – Forests & Biodiversity (2011); and
 - (e) UKFS Guidelines – Forests & Historic Environment (2011).

Appearance

19. The wind turbines shall not be erected until details of their external appearance and colour and surface finish and the design and appearance of the associated external transformer / switchgear units (if any) have been submitted to and approved by the relevant planning authority. The authorised development shall be completed in accordance with the approved details.

20. Notwithstanding any design or colour approved by the relevant planning authority pursuant to requirement 19, all wind turbines shall be of a three bladed configuration and shall be of a semi-matt finish.

21. —(1) No wind turbines shall display any name, sign, symbol or logo on any external surface unless such name, sign, symbol or logo has been previously approved in writing by the relevant planning authority.

(2) Paragraph (1) of this requirement shall not apply to any name, sign, symbol or logo required by law or for health and safety reasons.

22. All wind turbines' blades shall rotate in the same direction. The wind turbines shall not be illuminated, save for a sensor-operated access light.

23. Before construction of Work No.5, details of the external design, appearance and finish of the substation, any associated hard standing areas and the electrical compound shall be submitted to the relevant planning authority. The authorised development shall be completed as approved..

Shadow flicker

24. The authorised development shall not commence until a scheme for the avoidance of any shadow flicker effect at any dwelling which lawfully existed or had planning permission at the date of this Order has been submitted to and approved by the relevant planning authority. The scheme shall be implemented as approved.

TV interference

25. No authorised development shall commence until a scheme has been submitted to and approved by the relevant planning authority providing for the investigation of and remediation of any interference with television reception at any dwelling which lawfully existed or had planning permission at the date of this Order. The scheme shall be implemented as approved.

Archaeology

26.—(1) No authorised development shall commence until a scheme of archaeological investigation has been submitted to and approved by the relevant planning authority.

(2) The scheme of archaeological investigation shall incorporate:

- (a) a walkover survey before commencement of the authorised development;
- (b) trial trenches at the sites of wind turbines W13, W17, W18, W19 and W23; and
- (c) a watching brief during construction to record both established archeological remains and any remains subsequently identified as present.

(3) The scheme of archaeological investigation shall be implemented as approved.

Ecological clerk of works

27.—(1) No authorised development shall commence until an ecological clerk of works has been appointed in consultation with the relevant planning authority.

(2) The ecological clerk of works shall be a suitably qualified environmental professional and shall be retained throughout the duration of civil construction works on site to advise on minimizing ecological effects of the construction activities.

Surface water drainage

28.—(1) No authorised development shall commence until details of the surface water drainage system (including means of pollution control) have been submitted to and approved by the relevant planning authority.

(2) The surface water drainage system shall be constructed in accordance with the approved details.

Accumulation and deposits

29.—(1) No authorised development shall commence until a written scheme for the management of any accumulations and deposits has been submitted to and approved by the relevant planning authority.

(2) The approved scheme for the management of accumulations and deposits shall be implemented before and maintained during the construction, operation and decommissioning of the authorised development.

Infra-red aviation lighting

30. No wind turbine shall be erected until, after consultation with the Ministry of Defence, details of the installation of infra-red aviation warning lights have been submitted to and

approved by the relevant planning authority. The lights shall be installed in accordance with the approved details and maintained until the wind turbines are decommissioned in accordance with requirements.

Defence Geographic Centre

31. No wind turbine shall be erected before information on the accurate location of the wind turbines has been provided to the Defence Geographic Centre of the Ministry of Defence.

Noise

32. The level of noise immissions from the combined effects of the wind turbines (including the application of any tonal penalty) when calculated in accordance with the Guidance Notes shall not exceed the values set out in Tables 1(a) and 1(b) below. Noise limits for dwellings which lawfully existed or had planning permission at the date of this Order and which are not listed in Table 1 shall be those of the physically closest location listed in Tables 1(a) and 1(b) below, unless otherwise agreed with the relevant planning authority. The coordinate locations to be used in determining the location of each of the dwellings listed in Tables 1(a) and 1(b) shall be those listed in Table 2.

Table 1(a): The $L_{A90,10\text{min}}$ dB Noise Level Between 23:00 and 07:00 hours
Between 23:00 and 07:00 - Noise level dB $L_{A90, 10\text{-minute}}$

Location	Standardised wind speed at 10 metre height (m/s)											
	1	2	3	4	5	6	7	8	9	10	11	12
Lan-Clyn-Adda	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.9	43.3	43.3	43.3
Bryngwili	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.1	47.7	47.7
Cwm Llydan Ganol	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.1	47.7	47.7
Cwmllydan Isaf	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.1	47.7	47.7
Tyllwyd	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	45.1	47.7	47.7
Cwmere	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	46.3	46.3	46.3
Ystrad	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Gilfach Meredydd	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Cae'r-blaidd	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.3	44.6	44.6	44.6
Ffynnon-Las	39.0	39.0	39.0	39.0	39.0	39.0	39.1	39.5	45.0	50.3	50.3	50.3
Blaen-nant-gwyn	37.1	37.1	37.1	37.1	37.1	37.0	37.4	39.8	44.0	45.7	45.6	45.6
Blaen-Gwyddgrug	41.0	41.0	41.0	41.0	41.0	41.0	41.0	41.0	41.9	43.6	44.0	44.0
Gellifelen	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0
Pen Llwydcoed	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0
Salach	40.8	40.8	40.8	40.8	40.8	40.8	40.9	41.1	46.7	52.3	52.3	52.3
Hafod	38.9	38.9	38.9	38.9	38.9	38.8	39.1	39.2	39.0	41.1	44.3	47.6
Tirlan	37.2	37.2	37.2	37.2	37.2	37.1	37.5	37.6	37.4	39.2	42.5	45.8
Cwmyronnen Uchaf	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.9	46.3	46.3	46.3
Llwynteg	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.9	43.3	43.3	43.3
Lan Farm	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0
Blaengwen Farm	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0
Foel-y-ddafad-ddu	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.9	42.6	43.0	43.0
Coedlannau Fawr	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0
Lan-ddu	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.9	42.6	43.0	43.0
Clyn Mawr	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Cerbynau	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0	43.0
Bryngolau	42.0	42.0	42.0	42.0	42.0	42.0	42.0	42.1	42.9	44.3	44.8	44.8

Table 1(b): $L_{A90,10min}$ dB Noise Level at all other times (Between 07:00 and 23:00) - Noise level dB $L_{A90, 10-minute}$

Location	Standardised wind speed at 10 metre height (m/s)											
	1	2	3	4	5	6	7	8	9	10	11	12
Lan-Clyn-Adda	37.0	37.0	37.0	37.0	37.0	37.0	37.8	40.0	42.6	44.8	44.8	44.8
Bryngwili	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	42.1	45.2	45.2	45.2
Cwm Llydan Ganol	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	42.1	45.2	45.2	45.2
Cwmllydan Isaf	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	42.1	45.2	45.2	45.2
Tyllwyd	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	42.1	45.2	45.2	45.2
Cwmere	40.0	40.0	40.0	40.0	40.0	40.0	40.8	43.0	45.6	47.8	47.8	47.8
Ystrad	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0
Gilfach Meredydd	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0
Cae'r-blaidd	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.1	44.9	49.1	49.1	49.1
Ffynnon-Las	36.0	36.0	36.0	36.0	36.0	36.0	36.6	41.0	45.7	49.2	49.2	49.2
Blaen-nant-gwyn	34.1	34.1	34.1	34.1	34.1	35.1	37.7	40.6	43.6	45.3	45.2	45.2
Blaen-Gwyddgrug	38.0	38.0	38.0	38.0	38.0	38.0	38.8	41.9	45.0	46.6	46.6	46.6
Gellifelen	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0
Pen Llwydcoed	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0
Salach	37.8	37.8	37.8	37.8	37.8	37.8	38.4	42.6	47.4	51.2	51.2	51.2
Hafod	35.9	35.9	35.9	35.9	35.9	35.8	36.1	37.6	40.7	42.5	44.2	44.9
Tirlan	34.2	34.2	34.2	34.2	34.2	34.1	34.5	36.0	39.1	40.7	42.4	43.0
Cwmyronnen Uchaf	40.0	40.0	40.0	40.0	40.0	40.0	40.8	43.0	45.6	47.8	47.8	47.8
Llwynteg	37.0	37.0	37.0	37.0	37.0	37.0	37.8	40.0	42.6	44.8	44.8	44.8
Lan Farm	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0
Blaengwen Farm	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0
Foel-y-ddafad-ddu	37.0	37.0	37.0	37.0	37.0	37.0	37.8	40.9	44.0	45.6	45.6	45.6
Coedlannau Fawr	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0	37.0
Lan-ddu	37.0	37.0	37.0	37.0	37.0	37.0	37.8	40.9	44.0	45.6	45.6	45.6
Clyn Mawr	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0
Cerbynau	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0	40.0
Bryngolau	39.0	39.0	39.0	39.0	39.0	39.0	39.9	42.9	46.0	47.3	47.3	47.3

Table 2: Coordinate locations of the properties listed in Table 1

ID	Property	Easting	Northing
1	Lan-Clyn-Adda	245784	231373
2	Bryngwili	246048	229746
3	Cwm Llydan Ganol	247197	229299
4	Cwmllydan Isaf	247614	229553
5	Tyllwyd	248641	229516
6	Cwmere	245956	230398
7	Ystrad	249709	229817
8	Gilfach Meredydd	251113	232339
9	Cae'r-blaidd	251814	233437
10	Ffynnon-Las	250624	234627
11	Blaen-nant-gwyn	249241	235725
12	Blaen-Gwyddgrug	248357	235095
13	Gellifelen	247258	234424
14	Pen Llwydcoed	245672	232726
15	Salach	250594	234413
16	Hafod	251467	234527
17	Tirlan	251545	234742
18	Cwmyronnen Uchaf	246860	230486
19	Llwynteg	245365	231766
20	Lan Farm	246703	234713
21	Blaengwen Farm	246044	233876
22	Foel-y-ddafad-ddu	247835	235416
23	Coedlannau Fawr	247034	234825
24	Lan-ddu	247586	235215
25	Clyn Mawr	249920	230554
26	Cerbynau	249953	230245
27	Bryngolau	248711	235140

Note to Table 2: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

33. Within 21 days from the receipt of a written request from the relevant planning authority and following a complaint to the relevant planning authority from the occupant of a dwelling which lawfully existed or had planning permission at the date of this Order, the undertaker shall, at its own expense, employ an independent consultant approved by the relevant planning authority to assess the level of noise immissions from the authorised development at the complainant's property following the procedures described in the Guidance Notes.

34. The undertaker shall, if directed by the relevant planning authority, switch off any of the wind turbines in order to assess compliance with the noise limits.

35. The undertaker shall provide to the relevant planning authority the independent consultant's assessment and conclusions regarding the noise complaint, including all calculations, audio recordings and the raw data upon which those assessments and conclusions are based. Such information shall be provided within 3 months of the date of the written request of the relevant planning authority unless otherwise extended in writing by the relevant planning authority.

36. The undertaker shall continuously log wind speed wind direction at the site and power generation relating to authorised development. The undertaker shall provide all logged data to the relevant planning authority at its written request and in accordance with the Guidance Notes within 28 days of such request. All data shall be retained until the commencement of a decommission and site restoration scheme under Requirement 5.

Community liaison

37. —(1) No authorised development shall commence until a community liaison scheme has been submitted to and approved by the relevant planning authority.

(2) The community liaison scheme shall include:

- (a) details of how the undertaker will liaise with the local community to ensure residents are informed of how the construction, operation and decommissioning of the authorised development are progressing;
- (b) a mechanism for dealing with complaints from the local community during the construction, operation and decommissioning of the development; and
- (c) a nominated representative of the undertaker who will have the lead role in liaising with local residents and the relevant planning authority.

(3) The undertaker shall comply with the approved community liaison scheme throughout the construction, operation and decommissioning of the authorised development.

PART 4

NOISE GUIDANCE NOTES

These notes form part of requirements 32 – 36. They further explain these requirements and specify the methods to be employed in the assessment of complaints about noise emissions from the authorised development.

Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

- (a) Values of the $L_{A90,10min}$ noise statistic shall be measured at the complainant's property using a sound level meter of EN 60651/BS EN 60804 Type 1, or EN 61672 Class 1 quality (or the replacement thereof) set to measure using a fast time A-weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This shall be calibrated in accordance with the procedure specified in BS 4142:1997 (or its replacement). These measurements shall be made in such a way that the requirements of Note 3 shall also be satisfied.
- (b) The microphone should be mounted at 1.2 - 1.5 m above ground level, fitted with a two layer windshield (or suitable alternative approved in writing by the relevant planning authority), and placed outside the complainant's dwelling. Measurements should be made in "free-field" conditions. To achieve this, the microphone should be placed at least 3.5m away from the building facade or any reflecting surface except the ground at a location that shall be approved in writing by the relevant planning authority.
- (c) The $L_{A90,10min}$ measurements shall be synchronised with measurements of the 10-minute arithmetic mean average wind speed and with operational data, including power generation information for each wind turbine, from the turbine control systems of the authorised development.
- (d) The undertaker shall continuously log arithmetic mean wind speed and arithmetic mean wind direction data in 10 minute periods from the hub height anemometer located on the site permanent mast unless otherwise requested by the relevant planning authority to enable compliance with the requirements to be evaluated. The mean wind speed data shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10m height wind speed data which is correlated with the noise measurements of Note 2(a) in the manner described in Note 2(c).

Note 2

- (a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b). Such measurements shall provide valid data points for the range of wind speeds, wind directions, times of day and power generation requested by the relevant planning authority. In specifying such conditions the relevant planning authority shall have regard to those conditions which were most likely to have prevailed during times when the complainant alleges there was disturbance due to noise. At its request the undertaker shall provide within 28 days of the completion of the measurements all of the data collected under requirement 35 to the relevant planning authority.
- (b) Valid data points are those that remain after all periods of rainfall have been excluded. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Note 1(c) and is situated in the vicinity of the sound level meter.
- (c) A least squares, "best fit" curve of a maximum 2nd order polynomial or otherwise as may be agreed with the relevant planning authority shall be fitted between the standardised mean wind speed (as defined in Note 1 paragraph (d)) plotted against the measured $L_{A90,10min}$ noise level. The noise level at each integer speed shall be derived from this best-fit curve.

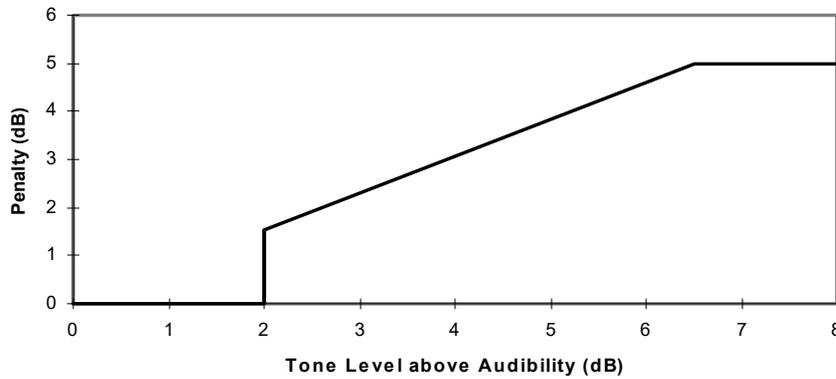
Note 3

Where, in the opinion of the relevant planning authority, noise immissions at the location or locations where assessment measurements are being undertaken contain a tonal component, the following rating procedure shall be used—

- (a) For each 10-minute interval for which $L_{A90,10min}$ data have been obtained as provided for in Note 1, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods shall be regularly spaced at 10-minute intervals provided that uninterrupted clean data are available. Where clean data are not

available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from standard procedure as described in Section 2.1 on pages 104 – 109 of ETSU-R-97 shall be reported.

- (b) For each of the 2-minute samples the margin above or below the audibility criterion of the tone level difference, ΔL_{tm} (Delta L_{tm}), shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104-109 of ETSU-R-97.
- (c) The margin above audibility shall be plotted against wind speed for each of the 2-minute samples. For samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.
- (d) A linear regression shall then be performed to establish the margin above audibility at the assessed wind speed for each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic average shall be used.
- (e) The tonal penalty shall be derived from the margin above audibility of the tone according to the figure below. The rating level at each wind speed shall be calculated as the arithmetic sum of the authorised development noise level, as determined from the best-fit curve described in Note 2, and the penalty for tonal noise.



Note 4

If the authorised development noise level (including the application of any tonal penalty as per Note 3) is above the limit set out in the requirements, measurements of the influence of background noise shall be made to determine whether or not there is a breach of requirement. This may be achieved by repeating the steps in Note 1 & 2 with all of the wind turbines switched off in order to determine the background noise, L_3 , at the assessed wind speed. The wind turbine noise at this wind speed, L_1 , is then calculated as follows, where L_2 is the measured authorised development noise level at the assessed wind speed with turbines running but without the addition of any tonal penalty—

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

The authorised development noise level is re-calculated by adding the tonal penalty (if any) to the authorised development noise.

SCHEDULE 2
STREET SUBJECT TO STREET WORKS

Article 10

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Street subject to street works</i>
County of Carmarthenshire	That part of the A485 within the Order limits.

SCHEDULE 3
STREETS TO BE TEMPORARILY STOPPED UP

Article 11

<i>(1)</i> <i>Area</i>	<i>(2)</i> <i>Footpath to be stopped up</i>	<i>(3)</i> <i>Extent of stopping up</i>	<i>(4)</i> <i>New footpath to be substituted</i>
County of Carmarthenshire	13/92	Between points T1, T2, T3, T4 and T5.	Between points T1, T6, T7 and T5.
County of Carmarthenshire	13/90	Between points T8, T9 and T10.	Between points T8, T11 and T12.
County of Carmarthenshire	13/77	Between points T14, T10 and T13.	Between points T14, T15, T16, T17, T18, T19, T20, T21, T22, T23, T24 and T25.

STATUTORY INSTRUMENTS

201[X] No. []

INFRASTRUCTURE PLANNING

The Brechfa Forest West Wind Farm Order 201[X]

<i>Made</i> - - - -	201[X]
<i>Laid before Parliament</i>	201[X]
<i>Coming into force</i> - -	201[X]