

By email

IPC Reference Number: EN010008

23 March 2012

Dear Sir/Madam,

APPLICATION FOR THE PROPOSED BRECHFA FOREST WEST WIND FARM

Notice of decisions about examination procedure made following the Preliminary Meeting - Planning Act 2008 (PA 2008) and the Infrastructure Planning (Examination Procedure) Rules 2010 (the Examination Rules)

This letter is to inform you about the procedural decisions that I have made following the Preliminary Meeting¹ held at St. Peter's Civic Hall, Carmarthen, on 13 March 2012. It also provides information regarding the examination timetable and the written questions that I am asking the parties to this examination. This letter is being sent to all Interested Parties (whether or not they attended the Preliminary Meeting).

1. Procedure decisions and timetable

I am very grateful for all the contributions made at the Preliminary Meeting, and have considered them carefully. A copy of the formal procedural decision made and the timetable that I have determined as the Examining Authority is enclosed with this letter at Annex A².

In response to points raised at the Preliminary Meeting your attention is drawn to the following in particular:

- Additional time has been given for the completion of
 - Written Representations (including summaries of any Written Representations of more than 1500 words)³;
 - Local Impact Reports (LIR) from relevant local authorities⁴;
 - Responses to the Examining Authority's written questions⁵ including those on the draft Development Consent Order;
 - Comments on Relevant Representations; and
 - Statements of Common Ground⁶.
- A revised Development Consent Order is requested from the applicant in accordance with the timetable.
- Other deadlines have been adjusted accordingly.

¹ PA 2008 s89 and Rule 9 of the Examination Rules

² Rule 8(2) and Rule 9

³ Rule 8(1)(a) and Rule 10(1) and (2)

⁴ Rule 8(1)(j)

⁵ Rule 8 (1)(b)

⁶ Rule 8(1)(e)

- The order and scheduling of hearings has been amended to take into account detailed submissions received at the Preliminary Meeting.
- Additional time has been given for Interested Parties to notify me of their wish to speak at any hearing.

A recording of the proceedings at the Preliminary Meeting has been published on the Infrastructure Planning Commission website. A note of the meeting will also be made available for inspection on the web-site and at the venues listed in Annex B by 2 April 2012⁷.

2. Written Representations

I invite all Interested Parties to submit written representations and evidence regarding any matters concerning the application, and representations already submitted by other parties, in accordance with the enclosed timetable. Written representations may include, but need not be limited to, responses to my written questions. Please note though that if you are submitting a written representation you must identify those parts of the application with which you agree and those parts with which you do not agree, giving reasons⁸. Any written representations must be received by the IPC by 25th April 2012.

For the avoidance of doubt, representations can deal with any relevant matter, not just the matters set out in my initial assessment of Principal Issues, nor only the matters raised by Interested Parties at the Preliminary Meeting.

Please send your representations to Brechfawest@infrastructure.gsi.gov.uk or to the address at the top of this letter quoting reference **EN010008**, and your unique reference.

3. Written Questions - General

I have decided that it will be necessary to ask a number of written questions and to receive further information regarding matters that I consider relevant to the application. These written questions are set out in Annex C. **Responses must be received by 25th April 2012.**

4. Development Consent Order

As part of my report to the Secretary of State, I must supply a draft Development Consent Order in the event that he decides to grant consent. This is regardless of my eventual recommendation regarding this application after closure of the examination. Therefore, in addition to the written questions set out at Annex C, written questions on the draft DCO are included at Annex D.

The Applicant is asked to answer all questions other than those directed to Carmarthenshire County Council and to provide a revised draft DCO showing any drafting changes tracked against the draft submitted with the application.

⁷ In accordance with Rule 7(2) the note of the proceedings must also be made available to anyone who is not an Interested Party but who attended the Preliminary Meeting. The note of meeting will be available on our website and at the venues listed in Annex B from 2nd April 2012.

⁸ Rule 10(4)

Carmarthenshire County Council is also asked to address a limited number of questions in Annex D. Any Interested Party is welcome to comment on any of the questions.

Responses by the applicant, the County Council and any other Interested Party should be returned to the IPC by 25th April as required by the procedural timetable.

If Interested Parties, including Carmarthenshire County Council, wish to suggest specific drafting changes to the draft DCO as part of their written representations, or as part of their responses to my questions or as part of their comments on the applicant's responses to my questions, they should provide such changes in a separate document entitled "Development Consent Order - Suggested Drafting Changes". Interested Parties including Carmarthenshire County Council are asked not to submit a tracked version of the entire draft DCO.

5. Principal Issues

The purpose of my assessment of Principal Issues was to assist in developing the lines of enquiry, which will evolve during the examination. The Issues may also guide Interested Parties in structuring their representations, and it would be helpful if they are structured in line with the Principal Issues identified, with other issues shown separately where you believe these to be material. All representations received will be considered in the examination.

6. Methods of Examination

The examination will primarily take the form of consideration of written representations about the application, including all written evidence to be received as set out in the attached timetable.

Annex A identifies 21-23 June as reserved dates for Issue-specific Hearings. No decision on what, if any, such hearings will be held has yet been taken. On the information currently available it appears it may assist my examination if hearings were to be held on issues relating to local access, noise and to the draft DCO and S106 agreement. If hearings on these or other issues are required you will be informed in accordance with the timetable. If any Issue-specific hearings are to be held I will provide in due course an indication of the matters that I wish to cover in such hearings.

A number of Interested Parties have indicated in their Relevant Representations form a wish to attend an Open-floor Hearing, and a date has been set for this in the timetable (11 July 2012).

Interested Parties are invited to provide formal confirmation of the hearings at which they wish to speak by the deadline indicated in the timetable. Please send your confirmation to Brechfawest@infrastructure.gsi.gov.uk or to the address at the top of this letter quoting reference **EN010008**, and your unique reference. All hearings will be held in public and anyone will be able to attend to observe proceedings if they wish to do so. Only registered Interested Parties and anyone else with specific approval from the Examining Authority will be permitted to speak.

7. Availability and inspection of representations and documents

Following receipt of the various responses identified in the timetable the IPC will make these available to all Interested Parties and to anyone who asks to inspect and take copies of them. The IPC will, at each stage of the examination set out in the timetable and as soon as practicable, make these available by publishing them on its website and providing an opportunity for inspection⁹ at the locations set out in Annex B.

8. Changes to the timetable

As indicated at the Preliminary Meeting, changes to the timetable may be required from time to time. If the timetable set out in Annex A needs to be changed for any reason I will write to you and inform you of the changes. You will be notified if the date, time or place of any hearing has changed, except in the event of an adjournment¹⁰. You may also find it helpful to track any developments in the examination process on the IPC website in case changes have to be made at short notice and/or there is a delay in correspondence reaching you.

9. Deadlines for receipt of documents and requests for hearings

It is important to note that if written representations, responses to Relevant Representations and to written questions, Local Impact Reports, further information or requests for hearings are not received by the dates specified in the timetable, I may disregard them¹¹. I also draw your attention to the possibility of the award of costs against Interested Parties who behave unreasonably. For information, the IPC's Costs Policy is available on the IPC website. The Planning Inspectorate will have a costs policy that will apply on the abolition of the IPC.

10. Accompanied Site Visit

At the Preliminary Meeting I indicated that I would welcome suggestions from Interested Parties relating to the itinerary for my site visit. Could any such suggestions please be provided by 25 May 2012. The itinerary will be for me to determine.

11. Further information

Information regarding the integration of the IPC into the Planning Inspectorate is also enclosed with this letter.

Interested Parties will continue to receive notifications from the IPC (the Planning Inspectorate after 1 April 2012) about the examination throughout the process.

If you have any queries please write to the Case Leader (Simone Wilding) at the address on the front of this letter) or email: Brechfawest@infrastructure.gsi.gov.uk

⁹ Rule 21

¹⁰ Rule 13(4)

¹¹ Rule 10(8) Rule 13(2)

Yours faithfully,

A handwritten signature in black ink, appearing to read 'B Macey', with a long horizontal flourish extending to the right.

Bob Macey
Commissioner - Examining Authority

The IPC gives advice about applying for an order granting development consent or making representations about an application (or a proposed application). The IPC takes care to ensure that the advice we provide is accurate. This communication does not however constitute legal advice upon which you can rely and you should note that IPC lawyers are not covered by the compulsory professional indemnity insurance scheme. You should obtain your own legal advice and professional advice as required.

We are required by law to publish on our website a record of the advice we provide and to record on our website the name of the person or organisation who asked for the advice. We will however protect the privacy of any other personal information which you choose to share with us and we will not hold the information any longer than is necessary.

Before sending information to the IPC, please consider our Openness Policy, which can be viewed on our website or a copy will be provided free of charge on request

Annex A

Planning Act 2008 (PA 2008) and the Infrastructure Planning (Examination Procedure) Rules 2010

Procedural Decision regarding an application for the proposed Brechfa Forest West Wind Farm, Carmarthen

IPC Reference Number: EN010008

Following the Preliminary Meeting held on 13 March 2012, the Examining authority has made the Procedural Decision set out below:

Timetable for Examination of the Application set on 23 March 2012

Item	Matters	Due Dates
1	Preliminary Meeting and start day of the Examination	13 th March 2012
2	Deadline for receipt by the Examining Authority (ExA) of: <ul style="list-style-type: none"><input type="checkbox"/> Written Representations (including summaries of any Written Representations of more than 1500 words)¹²<input type="checkbox"/> Local Impact Report (LIR) from relevant local authorities¹³<input type="checkbox"/> Responses to the ExA's Written Questions¹⁴<input type="checkbox"/> Comments on Relevant Representations¹⁵<input type="checkbox"/> Applicant's revised draft Development Consent Order with accompanying note responding to the issues raised.<input type="checkbox"/> Statements of Common Ground¹⁶ including those set out in the schedule of questions at Annex C.	25 April 2012

¹² Rule 8(1)(a) and Rule 10(1) and (2)

¹³ Rule 8(1)(j)

¹⁴ Rule 8 (1)(b) – see Annex C to this procedural decision letter

¹⁵ Rule 8(1)(c)(i) and (d)(i) and Rule 3(2)(b)

3	<p>Notification by Examining Authority of date time and place for:</p> <p><input type="checkbox"/> Open-floor Hearing¹⁷</p> <p><input type="checkbox"/> Issue-specific hearing(s)¹⁸ if required</p> <p><input type="checkbox"/> Accompanied site visit¹⁹</p>	11 May 2012
4	<p>Deadline for receipt by the Examining Authority of</p> <p><input type="checkbox"/> Any written comments regarding:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Written Representations²⁰ <input type="checkbox"/> Local Impact Reports²¹ <input type="checkbox"/> Responses to the ExA's written questions²² <input type="checkbox"/> Comments on Relevant Representations²³ <input type="checkbox"/> Statements of Common Ground²⁴ <input type="checkbox"/> The Applicant's revised draft Development Consent Order and accompanying note responding to the issues raised. <p><input type="checkbox"/> Notification by Interested Parties of wish to be heard at an Open-floor Hearing²⁵</p> <p><input type="checkbox"/> Notification by Interested Parties of wish to make oral representations at any Issue-specific hearings²⁶</p> <p><input type="checkbox"/> Itinerary suggestions for the accompanied site visit</p>	25 May 2012
5	Examining Authority's site inspection in the company of Interested Parties ²⁷ .	14 June 2012

¹⁶ Rule 8(1)(e)

¹⁷ S93 PA 2008 and Rule 13(3)(a)

¹⁸ S91 PA 2008, Rule 13(3)(a) and Rule 8(1)(h)

¹⁹ Rule 16(3)

²⁰ Rule 8(1)(c)(i) and (d)(i) and Rule 3(2)(b)

²¹ Rule 8(b)(j)

²² Rule 8(c)(ii) and (d)(ii)

²³ Rule 8(1)(c) and (d)

²⁴ Rule 8(b)(k)

²⁵ S93(1)PA 2008 Rule 8(1)(f) and Rule 13(1)

²⁶ S91 PA 2008 and Rule 8(1)(k)

6	Reserve dates for accompanied site visit should weather conditions on 14 June prevent a meaningful site inspection to take place or more time may be necessary.	15 and 18 June 2012
7	Reserve dates for any Issue-specific Hearings if required	19, 20 and 21 June 2012
8	Deadline for receipt by the Examining Authority of: <input type="checkbox"/> Written summaries of any case put at Issue-specific Hearings held on 19-21 June. ²⁸	28 June 2012
9	Open Floor Hearings ²⁹ (venue to be confirmed)	11 July 2012
10	Reserve date for any additional hearing(s) required (venue to be confirmed)	12 July 2012
11	Deadline for receipt by the Examining Authority of: <input type="checkbox"/> Written summaries of any case put at the Hearing(s) on 12 July. ³⁰	19 July 2012
12	Deadline by which the Examining Authority will issue for comment: <input type="checkbox"/> Examining Authority's final draft Development Consent Order ³¹	26 July 2012
13	Deadline for receipt by the Examining Authority of: <input type="checkbox"/> Any written comments on the final draft Development Consent Order that any Interested Party wishes to make ³² .	9 August 2012
The Examining authority is under a duty to complete the examination of the application by the end of the period of 6 months beginning with the day after		

²⁷ Rule 16(3)

²⁸ Rule 8(1)(k)

²⁹ Rule 13(3)(a)

³⁰ Rule 8(1)(k)

³¹ Rules 17 and 8(1)(k)

³² Rules 17 and 8(1)(k)

the start day (s98 PA 2008). **This means that the examination must be closed by 14th September at the latest, but may close earlier at the ExA's discretion.**

Annex B

Notification to all Interested Parties of the availability of representations and documents for inspection in accordance with Rule 21

Following receipt of any written representations, responses to questions, comments or any other documents or information about the application, the IPC will, as soon as practicable, make these available by publishing them on its website and providing an opportunity for inspection and copying.

On the IPC's website at www.independent.gov.uk/infrastructure following the links: *Projects — Wales – Brechfa Forest West Wind Farm.*

For inspection and copying at:

- Carmarthenshire County Council
3 Spilman Street
Carmarthen
SA31 1LE

Copying Charges: 10p per A4 sheet (black and white); 20p per A4 sheet (colour); 20p per A3 sheet (black and white); 40p per A3 sheet (colour).

Opening Hours: 9.00am to 5.00pm Monday to Friday

- Carmarthen Library
St. Peter's Street
Carmarthen
SA31 1LN

Copying Charges: 15p per A4 sheet (black and white); 65p per A4 sheet (colour); 65p per A3 sheet (black and white); £1 per A3 sheet (colour).

Opening Hours: Monday to Wednesday and Friday 9.30am to 7.00pm; Thursday and Saturday 9.30am to 5.00pm

- Llandeilo Library
Crescent Road
Llandeilo
SA19 6HN

Copying Charges: 15p per A4 sheet (black and white); 64p per A3 sheet (black and white).

Opening Hours: Tuesdays and Fridays 10.00am to 12 noon, 1.30pm to 4.30pm, 5:00pm to 7:00pm; Wednesdays 1.30pm to 5.30pm; Saturdays 10.00am to 12noon

- The Old School Community Centre
Llansawel Road
Llanybydder
SA40 9RN

Copying Charges: 10p per A4 sheet (black and white); Due to constrained facilities only small amounts of photo copying can be undertaken.

Opening Hours: 9.00am to 4.00pm Monday to Friday

- Gwyddgrug Post Office
Delfan Stores
Gwyddgrug
Pencader
SA39 9AX

Please note there are no copying facilities at the Gwyddgrug Post Office

Opening Hours: Monday, Tuesday, Thursday and Friday 9.00am to 3.00pm;
Wednesday and Saturday 9.00am to 12noon

- Infrastructure Planning Commission
Temple Quay House
Bristol
BS1 6PN

Copying Charges: 10p per A4 sheet (black and white) other sizes at additional cost.

Opening Hours: 10.00am to 4.00pm Monday to Friday

(Copying charges quoted are indicative costs as at March 2011.)

Annex C

Planning Act 2008 - Examination into Development Consent Order application for Proposed Brechfa Forest West Wind Farm, Carmarthen

Examining Authority's Written Questions

IPC Reference Number: EN010008

The examination of a Development Consent Order application under the Planning Act 2008 is primarily a written procedure. These written questions explore the Principal Issues identified in the Rule 6 letter issued before the Preliminary Meeting. The note that follows the question in brackets indicates the party/ies to which the question is primarily directed, but it is open to other parties to contribute regarding that question if they wish to do so.

ACCESS

Transport to the Site

In its Relevant Representation Carmarthenshire County Council noted that the conclusions and assessment of Chapter 9 of the Environment Statement require further evidence with the cumulative impact needing to be considered on a wider scale.

Q1: Could Carmarthenshire County Council please clarify what they see as deficiencies in the evidence provided by the applicant, why they are judged significant and what changes would meet their concerns?

Q2: Does the applicant agree with the need identified by the Welsh Government for further swept path analyses and dummy runs to be undertaken, and if not why not? What progress has been made, if any, in this area?

Q3: The Welsh Government evidence suggests that not all structures are able to take the weight of the proposed deliveries to the site? How does the applicant propose to address this?

More generally the draft DCO (requirement 6) identifies a (Construction) Traffic Management Plan will be produced in accordance with Welsh Government guidance. Despite this a significant number of specific issues have been identified by Carmarthenshire County Council and particularly the Welsh Government as needing to be addressed.

Q4: Could the applicant please take the lead in producing a SOCG on transport to the site, identifying areas of agreement and disagreement with Carmarthenshire County Council and the Welsh Government, including on the Transport Management Plan. It is quite appropriate for this to embrace the above specific questions.

Local access from the A485

The assessment of the proposed access from the A485 is distributed throughout the Environmental Statement, with not all issues identified in the Relevant Representations (eg concerns about the impact on an existing s106 agreement) being addressed.

Q5: Could the applicant please bring together as a free-standing analysis the environmental assessment of the proposed access from the A485 to the site and how it is proposed any consequences are mitigated?

This should address the issue of the existing s106 agreement identified in a number of Relevant Representations (eg from the Countryside Council for Wales) relating to the Alltwalis windfarm, and include an assessment of consequences and proposed mitigation if appropriate. The assessment should also address the specific concerns of the Countryside Council for Wales, notably relating to hedgerow and species loss and to landscape and ecological mitigation.

Q6: Could Carmarthenshire County Council please set out its planning objections to the proposed access from the A485? This should focus on the proposed access track and not the existence of alleged alternatives (see next question).

Q7: Could the applicant please provide details of the consideration given to the potentially alternative access track via the Alltwalis Windfarm. Carmarthenshire County Council may wish to comment on this.

It is understood that a Statement of Common Ground is being prepared which will cover the issue of local access to the site. The above questions should be addressed specifically.

AMENITY & TOURISM

The Environmental Statement includes various assessments of the nature and scale of tourism employment in Carmarthenshire, with some information drawn from interest groups. Carmarthenshire County Council has noted that tourism plays an important role in the local economy.

Q8: Does Carmarthenshire County Council have any information to support its view that tourism plays an important role in the local economy in the Brechfa Forest region, either of a direct kind (eg employment, spend) or an indirect kind such as marketing activity and/or information on tourism facilities. If so could they please provide this?

Q9: Does the applicant accept that the use of an all Scotland economic multiplier based (presumably) on some 5m people is of minimal value in assessing the likely multiplier impact in the smaller locality around the proposed development?

ECOLOGY

Habitats Regulatory Assessment

The Countryside Council for Wales (CCW) has noted that it does not in principle disagree with the applicants' conclusion that a full appropriate assessment will not be required,

while highlighting the need for further information on water quality and potential cumulative effects. The applicant has advised that it will look to provide a statement of common ground with CCW to take forward this issue.

Q10: A Statement of Common Ground is requested from the applicant and CCW identifying issues on which they agree and disagree. This should supplement the HRA Screening Report submitted with the application, assessing the issues of potential concern identified by CCW, to help enable the Examining Authority reach a judgement, beyond reasonable doubt, as to whether there is no significant effect on the relevant European sites. The statement should make clear the extent, if any, to which any conclusions are dependent on adequate mitigation and/or monitoring. CCW is asked to ensure that its potential concerns are incorporated in the statement.

Ecology: General – Habitats Management Plan (HMP)

Q11: Could the applicant please provide a statement of common ground, with Carmarthenshire County Council and the Countryside Council for Wales, on progress with the HMP, identifying issues agreed and outstanding? It is important that the plan is clear on commitments and how they will be delivered.

Ecology: Non Avian

Feature 2 of the Habitats Management Plan concerns the restoration of Plantation on Ancient Woodland Site (PAWS) habitat, with some mitigation off-site.

Q12: Could the applicant please clarify, perhaps in conjunction with Forestry Commission Wales, how this mitigation is to be secured to guarantee delivery.

Ecology: Avian

The Environmental Statement identifies risks to nightjars with the main mitigation requirement to ensure the creation of appropriate habitats available away from turbines, and states that commitments to mitigation are in the HMP. The HMP at times focuses on habitats that **may** provide opportunities both as a result of the development and as part of FCW's normal forestry operations.

Q13: Does the applicant intend to ensure that adequate mitigatory habitat will be provided, and that there will be clear commitment(s) to this? If so how. The views of CCW in particular are also sought on this issue, and a SOCG may be an appropriate way forward.

The Countryside Council for Wales has indicated the need for bat monitoring to extend beyond 5 years.

Q14: What specific proposals do the CCW have, and why, and how would they propose these be reflected, perhaps in the Habitats Management plan?

Ecology: Licensing

A number of potential licensing requirements arise in relation to felling. The Countryside Council for Wales has noted in its Relevant Representation that the destruction of nest

sites for development purposes is not a licensable activity under the Wildlife and Countryside Act unless overriding public interest has been demonstrated. The applicant (ES 13.298) has noted that a European Protected Species assessment will be completed to determine whether a licence is required with regard to bats. **If** such a licence is required then the applicant is reminded that they will need to provide evidence that will allow the Examining Authority to determine that the derogation tests in the Habitats Regulations can be met:

- That there is no satisfactory alternative;
- That the favourable conservation status of the species will be maintained;
- That the licence is required for a specified purpose, which is likely to involve an assessment that it is required for imperative reasons of overriding public interest

Q15: Has the applicant discussed with CCW whether a licence is likely to be required, and if so whether it is likely to be provided? If a licence is likely to be required the applicant will need to provide the evidence above to enable the Examining Authority to satisfy itself that the above tests can be met.

Q16: Can CCW please advise the Examining Authority on the likelihood of licence(s) being required and, if so, the likelihood of them being granted.

Other potential consents are required from the Environment Agency under the Land Drainage Act 1991 and Water Resources Act 1991.

Q17. Has the applicant sought a view from the Environment Agency on the likelihood of these consents being given. The Environment Agency is also asked to comment.

GRID CONNECTION

Carmarthenshire County Council (CCC) and the Countryside Council for Wales (CCW) have raised issues in relation to the grid connection, and queried the adequacy of the assessment given the requirements of the Environmental Impact Assessment Directive.

Q18: Could CCC and CCW please explain why they judge the assessment to be inadequate and also set out what additional analysis they judge to be necessary and why?

Does either CCW or CCC consider that there are obvious reasons why the indicative grid connection route identified in the Environmental Statement (Appendix 3.3) may be refused permission? This analysis should include consideration of the Directive and domestic transposing legislation, and might be informed by relevant guidance (eg the European Commission (1999) *Guidelines for the Assessment of Indirect and Cumulative Impacts as well as Impact Interactions*).

It should be noted that the relevant UK legislation is contained within *The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009* and not *The Town and Country (EIA) (England and Wales) Regulations 1999* as suggested in a *Relevant Representation*.)

HYDROLOGY

The Environmental Statement notes the need for baseline monitoring of water quality prior to and during construction.

Q19: How does the applicant propose to give effect to this need in the Habitats Management Plan and/or the Development Consent Order?

The Environment Agency's Relevant Representation is pertinent to this question.

The Environment Agency has indicated in its Relevant Representation that with appropriate mitigation measures secured through the DCO it is satisfied with the developer's approach to surface water management and with measures to manage water quality subject to appropriate monitoring being included in the DCO.

Q20: Does Carmarthenshire County Council have any views on the adequacy of the proposed management, monitoring and mitigation measures in relation to its responsibilities for the quality of private water supplies?

LANDSCAPE AND VISUAL IMPACT

Carmarthenshire County Council has registered a concern about the proposed height of the turbines, particularly in relation to the adjacent Alltwallis turbines, while the applicant has noted that the proposed scheme has been designed to be as compatible as possible with the existing Alltwallis windfarm.

Q21: Could the applicant please provide evidence of the consideration given to potentially different sizes of turbines, with tip and hub heights more consistent with those at other existing and proposed developments, particularly the existing adjacent windfarm at Alltwallis. The applicant may wish to address other consequences of such alternatives for the proposed development.

Any such evidence that the applicant has considered in the form of, eg, zones of theoretical visibility, alternative photomontages of selected key viewpoints such as viewpoints 1,2,4,8,9,10,11,15 might provide helpful evidence.

Q22: How has the layout of the turbines at Brechfa Forest West been determined so as to mitigate the cumulative impacts with Alltwallis?

NOISE

In its Relevant Representation Carmarthenshire County Council have registered a number of concerns in relation to noise, on which proposed limits are included in the draft Development Consent Order (DCO).

Q23: Does Carmarthenshire County Council have any concerns about the methodology adopted by the applicant in identifying noise limits set out in Chapter 16 of the Environmental Statement, and if so what are these and why, bearing in mind policy and guidance on good practice?

Q24: What changes would Carmarthenshire County Council seek to include in the DCO to address its concerns, explaining its reasons?

Q25: Are there any other issues Carmarthenshire County Council would wish to raise?

Q26: Would the applicant explain why turbines 17, 18 &19 were not resited to meet noise concerns from residents in Gwyddgrug?

POLICY FRAMEWORK

Carmarthenshire County Council has raised in its Relevant Representation the issue of the cumulative impact of Brechfa Forest West with other actual and proposed development noting concerns about environmental capacity and planning guidance.

Q27: Could the County Council provide an assessment of the environmental receptors that it believes are most threatened by the cumulative impact of the proposed developments, taking into account both national (UK) policy for renewables and local and Welsh planning guidance? The applicant and RES may also wish to respond to this question.

SAFETY

A significant proportion of interested parties have identified safety issues to users of the forest, and also the increased risk of fire.

Q28: Could the applicant please provide an assessment of these risks and how it is proposed to mitigate any such risks?

OTHER ISSUES

S106

The Examining Authority has had no sight of any documentation relating to a s106 agreement with Carmarthenshire County Council, although it is understood an agreement, and a related statement of common ground, is in preparation. It should be noted that any such agreement will need to be concluded before the examination closes if it is to be taken into consideration by the Examining Authority.

Q29: Could the applicant please provide, in association with Carmarthenshire County Council, a statement of common ground on s106 considerations, together with a draft of the proposed s106 agreement?

Carmarthenshire County Council noted in its Relevant Representation that the applicant is expected to provide financial contributions to community and local economy funds.

Q30: Can the applicant please confirm this, or otherwise, and if such funds are planned and provide relevant details, focusing in particular on their role in mitigating the impact of the proposed development and enhancement opportunities?

Annex D

Written Questions on the Draft DCO

Proposed Brechfa Forest West Wind Farm, Carmarthen IPC Reference Number: EN010008

This document sets out the initial questions that the Examining Authority has on the draft DCO submitted with the application seeking development consent submitted on 4 November 2011.

The Applicant is asked to answer all questions other than those directed to Carmarthenshire County Council and to provide a revised draft DCO showing any drafting changes tracked against the draft submitted with the application.

Questions to Carmarthenshire County Council are included in Section 7. Any Interested Party is welcome to comment on any of the questions.

Responses by the applicant, the County Council and any other Interested Party should be returned to the IPC by 25th April as required by the procedural timetable.

As noted section 4 of the letter, if Interested Parties, including Carmarthenshire County Council, wish to suggest specific drafting changes to the draft DCO as part of their Written Representations, or as part of their responses to my questions or as part of their comments on the applicant's responses to my questions, they should provide such changes in a separate document entitled "Development Consent Order - Suggested Drafting Changes". That document should clearly indicate, in relation to each change suggested, the article or paragraph being referred to, the suggested change and the reasons for that change. Interested Parties are asked not to submit a tracked version of the entire draft DCO.

The document is structured as below:

1. Definition and scope of the project
2. General questions on requirements
3. Prescribed consents
4. Other comments on specific articles/requirements
5. Other issues
6. Other Interested Party Comments
7. Other Changes to the draft DCO
8. Questions to Carmarthenshire County Council

1. Definition and scope of the project

- a) Number of turbines: Work No.1 (Schedule 1, Part 1) refers to "up to" 28 turbines, whereas the application form refers simply to 28 turbines. The Environmental Statement (ES) and s48 notice also refer simply to a 28 turbine proposal. Could the applicant please clarify and provide revised wording if appropriate.
- b) Size of turbines: Work No 1 (Schedule 1, Part 1) refers to rotating turbines having a blade height of "up to 145 metres". The ES contains a number of assessments based on a specified hub height (eg noise) and a minimum blade height above the tree

canopy (eg para 13.338). These assessments do not appear to have been given effect in the draft DC which appears to permit a potentially different hub height and minimum clearance above the tree canopy. Could the applicant please clarify and provide revised wording if appropriate?

- c) Capacity: The description of the project in Schedule 1 refers to “indicative output capacity” whereas the application form refers to “installed capacity”. Could the applicant please clarify this and provide any revised wording if appropriate?
- d) “Other” development/works: Is it necessary to include a definition of “ancillary works” rather than just identifying the relevant works as “authorised development”? If so, can the applicant please identify what works it considers are encompassed by the term “ancillary works” and why these cannot be included in the “authorised development”.
- e) Maintenance. Does “, and from time to time,” serve any useful purpose in Article 5?
- f) Locations of works: It is noted that the grid references in Work No. 1 are not identical to those in subsequent works. It is assumed that this reflects the plans for hard standing around the turbines with access tracks to/from the hard-standing. A confirmation or clarification is sought, with revised text if appropriate.

2. General questions on requirements

- a) Relationship to the Environmental Statement (ES): Several requirements refer to schemes needing to adhere to “principles” in the ES. Some do not. Some are more specific eg referring to the principles in the Habitats Management Plan (HMP) and some (Access Management Plan, Construction Traffic Management Plan) refer to principles in the ES and also set out criteria in the requirements. The surface water drainage system (not defined as a scheme) includes no reference to the ES. As a general comment it is not clear to the Examining Authority what the relevant “principles” are and thus whether this provides sufficient clarity for those engaged in developing and agreeing schemes; the term itself appears to have no prominence throughout the ES.

Could the applicant please address the concern of the Examining Authority that there should be clarity around this issue?

- b) Procedure(s) for approval of schemes: The draft requirements set out many schemes that require approval, with each addressed individually and not always fully consistently (eg approval in writing is normally a requirement. It is assumed it always should be). It appears to the Examining Authority that there could be benefit in including a standalone general provision dealing with approval of the various schemes. The purpose of that provision would be to standardise how these schemes are dealt with, ensuring consistency and facilitating consideration. Such a provision could potentially deal with
 - I. When schemes are to be submitted (almost all are before commencement);
 - II. How schemes are submitted (some say "written" scheme, others don't, but presumably all should be in writing);

- III. Who approves schemes (almost all are the same body or bodies - the relevant local planning authority);
- IV. Any procedure for review of schemes (taking account of comments above)

Could the applicant please consider this issue, amending the draft as appropriate?

- c) Alterations to approved details: Several requirements have a “tailpiece” which purports to enable the LPA to subsequently approve variations to plans or changes to schemes that have been agreed. The applicant is asked to consider whether it would be more appropriate for alterations to be dealt by way of the statutory non-material amendments procedure in the Act.

3. Prescribed consents

The draft DCO contains provisions that appear to encompass the subject matter of prescribed consents under s150 of the Planning Act 2008 / the Infrastructure Planning (Miscellaneous Prescribed Provisions) Regulations 2010. The Examining Authority would welcome an update about progress on obtaining agreement to the inclusion of provisions dealing with:

- Operation of a generating station (Art 7);
- Temporary stopping up of streets (Art 11); and
- Removal of hedgerows (Art 15).

4. Other questions on specific articles/requirements

Some of the substantive issues that arise on other articles and requirements are below. The absence of reference to an article/requirement should not be taken to mean that there are no issues arising under that provision.

- a. Art 7 (1) – the Explanatory Memorandum (EM) states that this is “required” to satisfy s140. Section 140 appears to be a discretionary power rather than a requirement. Could the applicant please clarify?
- b. Art 10 – Street works – The EM states that model provision 13 is not necessary because “the matters that need to be agreed and are relevant to the application can be agreed with the street authority.” Is the applicant satisfied that the street authority has the necessary statutory powers to enter into an agreement and that the model provision may be set aside? Will the envisaged agreement be produced to be considered as part of this examination?
- c. Art 12 – Discharges of water. Could the applicant please clarify what discharges are expected to fall within this clause, who the relevant “persons” under Art 12(8) are or might be, and whether they have approved (or commented on) the proposed 28 day deemed consent period?

- d. Art 15 – Hedgerows works –Arts 15(3), 15(4) and 15(7) appear to encompass the necessary hedgerows works. Is this right, and if so could the applicant please clarify whether Part 2 of Schedule 1 is necessary?
- e. Requirement 1 – “the development” should presumably be “the authorised development”?
- f. Requirement 4 – there seems an inconsistency of timing in relation to seeking approval for decommissioning and removing the equipment – potentially both on the same day. How will the LPA know that a turbine has not provided electricity to the grid at any time during a 12 month period? Could the applicant please clarify these issues and provide revised wording if appropriate.
- g. Requirement 21 – refers to both a “programme of archaeological work” and a “scheme of investigation”. Is the latter part of the former?
- h. Requirement 24 - is it necessary to include a requirement to consult with the Local Planning Authority for a scheme which requires the approval of that Authority.
- i. Requirement 25 - the heading suggests the consent of the Ministry of Defence is required while the detailed text requires consultation with the Ministry and approval by the LPA.
- j. Requirements 26-29, and part 4: Schedule of Noise Guidance Notes - The applicant has chosen to include noise limits in “Guidance Notes”. If there is a need for separate guidance notes then it would seem these should be based around issues such as the methods/techniques of measurements rather than incorporating the statutory limits. Could the applicant please consider this issue, amending the draft as appropriate?

5. Other issues

- a. Compulsory purchase provisions: The draft DCO appears to contain some reference to compulsory purchase provisions. This includes the defined term “the 1965 Act” and Art 2(2) which refers to “rights to land”. Can these sensibly and safely be removed?
- b. Protective provisions: The draft DCO does not contain any protective provisions for statutory undertakers. Can the applicant confirm none are required?
- c. Modern drafting: As a statutory instrument, if the Order is made DECC will need it to contain drafting that is appropriate for a contemporary statutory instrument. For example, current practice seeks to avoid language such as “hereby” and “said noise complaint” and contain lower case defined terms (both requirements and main part of DCO). Can the applicant please consider and amend as appropriate please.
- d. Welsh Assembly. Is the term “Welsh Assembly” (R6) correct? This is not the legal or commonly-used term for either the executive or legislative branch and is normally avoided as ambiguous.

- e. Construction Traffic Management Plan. Art 6 refers to a Construction Traffic Management Plan but uses TMP as the acronym. Please clarify.
- f. Terminology: The terms “relevant planning authority” (art 2) and “Local Planning Authority” (requirements) might helpfully be made consistent. Should the references to the Commission in Requirements 26 and 30 be to the Local Planning Authority. In addition please make any necessary changes to references to the Commission to take account of the abolition of the IPC in April 2012.

6. Comments by Interested Persons

A number of the relevant representations refer to perceived deficiencies in the DCO, notably those from the Countryside Council for Wales and the Environment Agency. Could the applicant please consider these and amend the DCO if appropriate?

7. Other Changes to the draft DCO

Please can the applicant provide here any explanation of any other changes made to the draft DCO other than in response to the questions above?

8. Questions to Carmarthenshire County Council

- a. Requirements: Does Carmarthenshire County Council have any views on the requirements for which they would have responsibilities, both in general or in response to specific requirements?
- b. Scope of Development: In its Relevant Representation the County Council noted that the Explanatory Memorandum stated that all of the works identified in the application for development consent were “integral” to the development, and asked that this issue be considered as part of the examination. Does Carmarthenshire County Council wish to offer any comments to inform this consideration over and above those in their Relevant Representation?

Transition to National Infrastructure Directorate

The current role of the Planning Inspectorate

The main role of the Planning Inspectorate is to process planning and enforcement appeals and hold examinations into local plans and community infrastructure levy charging schedules. The Inspectorate also deals with a wide variety of other planning related casework including listed building consent appeals, advertisement appeals, and reporting on planning applications called in for decisions by the Department for Communities and Local Government (DCLG), and in Wales, the Welsh Government. Other casework progressed by the Planning Inspectorate concerns compulsory purchase orders, rights of way and cases arising from the Environmental Protection and Water Acts and the Transport and Works, Act and other Highways Legislation. In addition, the Inspectorate processes applications for awards of costs which may arise from any of these.

The current role of the Infrastructure Planning Commission

The Infrastructure Planning Commission (IPC) is the independent public body that examines applications for development consent to build nationally significant infrastructure projects. These are the large projects that support the economy and vital public services, including railways, large wind farms, power stations, reservoirs, harbours, airports and sewage treatment works.

The IPC examines applications and currently, where the relevant government national policy statement is designated, makes the decision on whether or not to grant development consent. Where the relevant National Policy Statement has not yet been designated, the IPC currently makes a recommendation to the relevant Secretary of State who makes the decision.

The abolition of the IPC and transfer of its functions

Under the Localism Act, the IPC will be abolished on 1 April 2012 and the Planning Inspectorate will take over its work.

From April 2012, the relevant Secretary of State will be the decision maker on all national infrastructure applications for development consent. At the end of the examination of an application, which will still be completed within a maximum of six months, the Planning Inspectorate will have 3 months to make a recommendation to the relevant Secretary of State who will then have a further 3 months to reach their decision.

Ministers have given assurances that there will be a seamless transfer to the new arrangements and any national infrastructure projects already notified under the Planning Act 2008 will not have to start the process again. The department has made a statement about transitional arrangements and will publish further details soon.

I am an interested party in an existing application – what do I need to do?

If you are already registered as an interested party in any of the projects currently undergoing the IPC process, at the point of transfer to the new arrangements, you need do nothing. Your registration will still be valid. In the weeks which follow the transfer of functions, you may notice a few minor changes but these should not affect your ability to participate in the process or cause any disruption to projects undergoing the 2008 Planning Act process.

You will notice that any letters, documents or procedural decisions issued by the Examining Authority, from April 2012 onwards, will be issued on Planning Inspectorate letterhead instead of on the former IPC letterhead.

The Planning Inspectorate logo looks like this:



You will be asked from 1 April 2012 onwards to respond to the Planning Inspectorate, instead of the IPC, at:

The Planning Inspectorate
National Infrastructure Directorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

How can I keep up to date on national infrastructure in future?

The IPC's website will close at the end of March 2012. It will be replaced by a project portal for national infrastructure planning which will be accessed via the Planning Inspectorate's pages on Planning Portal.

The project portal will look different to the IPC website but it will continue to feature all the existing information about anticipated and live national infrastructure projects, and dedicated project pages for all proposals where an application has been submitted to us. The portal will carry all the current information and advice on the national infrastructure process, including Advice Notes and links to DCLG guidance. The portal will not include any information about the former IPC.

A direct url for the project portal will be advertised on the IPC's existing website homepage and in a range of other project and stakeholder communications throughout

March 2012. A redirect to the new portal will also be put in place from the IPC's current website to minimise any inconvenience to web users.

Information about the Planning Inspectorate's other areas of work will continue to be accessed via the Planning Inspectorate's pages on Planning Portal.

Corporate information about the role of the Planning Inspectorate will continue to be included on the DCLG and Welsh Government sites.

The final edition of the IPC's subscriber stakeholder newsletter will be published in March 2012. Thereafter, national infrastructure planning and project information will be included in the Planning Inspectorate's existing newsletter which is being refreshed to reflect its wider audience and new frequency as a bi-monthly publication.

If you are an existing subscriber to the IPC newsletter you will need to sign up to start receiving the Planning Inspectorate's newsletter in March when content transfers. You can do this at <http://eepurl.com/iGvkvf>.

IPC twitter accounts which provide updates on projects that have been accepted for examination will in future be managed by the Planning Inspectorate. Information on the twitter account name will be available from the relevant project page on the National Infrastructure website.

IPC Advice Notes are currently being reproduced as Planning Inspectorate National Infrastructure Planning Advice Notes and will be available at the new national infrastructure planning portal, as well as from the helpline number from April 2012.