



# The Planning Inspectorate

## AUTHORISATION UNDER SECTION 53 OF THE PLANNING ACT 2008

LAND TO THE NORTH AND WEST OF [REDACTED]. TO THE SOUTH OF THE RIVER CLYWEDOG, NORTH OF THE B5130 AT TALWRN AND NORTH EAST OF THE MAELOR GAS WORKS

PURSUANT TO A REQUEST RECEIVED ON 2 APRIL 2013 BY THE PLANNING INSPECTORATE

1. For the purposes of this Authorisation, the following words have the following meanings:

'Act'	the Planning Act 2008 (as amended)
'Applicant'	Wrexham Power Limited (Company Registration number 06762265) whose registered office is Sir Stanley Clarke House, 7 Ridgeway, Quinton Business Park, Birmingham, West Midlands B32 1AF
'Authorisation date'	the date of this Authorisation
'Authorisation period'	the period from the Authorisation date to the Expiry date (both dates inclusive)
'Authorised Persons'	The Applicant and any persons authorised by the Applicant
'Conditions'	the conditions set out in Annex 1 of this Authorisation
'Expiry date'	27 June 2014, or (if earlier) the date of submission of an application for development consent for the Project pursuant to s37 of the Act
'Land'	Land to the north and west of [REDACTED]. To the south of the River Clywedog, north of the B5130 at Talwrn and north east of the Maelor gas works shown for identification purposes coloured green on the plan attached to this Authorisation
'Landowner'	[REDACTED] of [REDACTED], [REDACTED],
'The Occupiers'	means the Landowner, their successors in title, and any such other person as may be notified to the Applicant as being in occupation of the Land or any part thereof, including [REDACTED]
'The Project'	the proposed Wrexham Energy Centre

2. In exercise of the power conferred on the Secretary of State for Communities and Local Government ('the Secretary of State') by Section 53(1) of the Act the Secretary of State authorises the Authorised Persons to enter onto the Land for the following purposes:
  - a. surveying and taking levels of it; and
  - b. in order to facilitate compliance with the provisions mentioned in Section 53(1A) of the Act.
3. This Authorisation is granted for the Authorisation period.
4. This Authorisation is given subject to compliance with the Conditions which are necessary to ensure that the Occupiers' legitimate interests are protected

Reasons for the decision are attached.



**Mark Southgate**  
**Director of Major Applications and Plans**  
**For and on behalf of the Secretary of State for Communities and**  
**Local Government**

**28 June 2013**

## **AUTHORISATION UNDER SECTION 53 OF THE PLANNING ACT 2008**

### **AUTHORISATION REQUEST IN RELATION TO THE LAND PURSUANT TO A REQUEST MADE ON 2 APRIL 2013 BY THE APPLICANT**

#### **REASONS FOR THE DECISION**

In accordance with the Planning Inspectorate's Advice Note 5: 'Section 53 – Rights of Entry' (dated April 2012) ('Advice Note 5'), the Applicant notified the Occupiers in letters dated 2 April 2013 that a Section 53 authorisation request had been made to the Planning Inspectorate. The final date for a response from the Occupiers to the Planning Inspectorate was 24 April 2013. The Occupiers' representative responded to the Planning Inspectorate on 18 April 2013 by letter requesting extra time to respond. The Planning Inspectorate agreed by letter to extend the deadline for response to 8 May 2013. Following the receipt of the Occupiers' response, the Planning Inspectorate requested further information and comments on draft conditions from the Applicant and the Occupiers. The responses were received on the 7 and 10 June 2013 respectively.

The information provided by the Applicant demonstrates that the Applicant has sought to agree access to the Land with the Occupiers between 14 January 2013 and 19 March 2013. The Applicant received written consent for access from the Occupiers on 24 January 2013 but this was subsequently withdrawn on 7 March 2013. The Applicant attempted to contact the Occupiers separately in letters dated 19 March 2013 and 20 March 2013 but no response was received.

The Occupiers' objections to granting access appear to relate mainly to the nature of the project rather than specific concerns about any potential impacts resulting from the surveys.

Entry to land is now needed to enable the Applicant to complete its environmental surveys at the right time of year as part of its preparation of their application to support the draft Development Consent Order. Allowing further time for further correspondence and negotiation would risk substantially delaying the Project.

Having regard to Advice Note 5 and to the Department for Communities and Local Government Guidance (The Infrastructure Planning (Fees) Regulations 2010: Guidance (June 2013), which expects applicants to "act reasonably" the Secretary of State concludes that the Applicant has acted reasonably in attempting to gain access and that the Occupiers have unreasonably refused access.

The Secretary of State is satisfied on the basis of the information provided and available that he may authorise the service of a notice under Section 53(1) and Section 53(3A) of the Act, and that this Authorisation is justified and proportionate in the wider public interest in this particular instance.



**Mark Southgate**  
**Director of Major Applications and Plans**  
**For and on behalf of the Secretary of State for Communities and**  
**Local Government**

**28 June 2013**



## THE SCHEDULE OF CONDITIONS

### 1. Interpretation

In these Conditions the following words and expressions shall unless otherwise stated have the following meanings:

"Applicant"	Wrexham Power Limited (Company Registration number 06762265) whose registered office is Sir Stanley Clarke House, 7 Ridgeway, Quinton Business Park, Birmingham, West Midlands B32 1AF
"Application"	the application pursuant to section 53 of the Planning Act 2008 (as amended) made by the Applicant in respect of the Land in a letter dated 2 April 2013 to the Planning Inspectorate
"Authorisation"	the authorisation granted by the Secretary of State pursuant to the Application
"Authorised Persons"	the Applicant and any persons authorised by the Applicant to carry out the Surveys
"Surveys"	means Non-intrusive surveys of the Land including, but not limited to, non-intrusive environmental surveys, archaeological surveys or engineering surveys
"Non-intrusive surveys"	walkover surveys excluding any works to search and bore and including the taking of measurements and levels by non-intrusive equipment and methods and the taking of photographic records
"Land"	Land to the north and west of [REDACTED] [REDACTED] To the south of the River Clywedog, north of the B5130 at Talwrn and north east of the Maelor gas works shown for identification purposes coloured green on the plan attached to this Authorisation.
"Landowner"	[REDACTED]
"Occupiers"	means the Landowner, their successors in title, and any such other person as may be notified to the Applicant as being in occupation of the Land or any part thereof, including [REDACTED]
"Working day"	any day from Monday to Friday (inclusive) which is not Christmas Day, Good Friday or a statutory Bank Holiday
"Working hours"	the hours between 7.00am and 7.00pm of any Working day

- 2 In these Conditions unless the context otherwise requires:
  - a. any gender includes any other gender;
  - b. the singular includes the plural and vice versa;
  - c. references to persons include natural persons, firms, companies, corporations and their successors in title;
  - d. the headings are for convenience only and do not affect interpretation; and
  - e. any reference to a statutory provision includes any modifications, re-enactment or extension to it and any subordinate legislation from time to time.

### **General**

- 3 Entry onto the Land is authorised only:
  - a. for the Authorised surveys; and
  - b. for the purposes of surveying and taking levels of the Land or to facilitate compliance with the Environmental Impact Assessment Directive<sup>1</sup>, the Habitats Directive<sup>2</sup> or any European Union instrument which replaces all or any part of these Directives; and
  - c. on Working days; and
  - d. during Working hours (unless for the purpose of carrying out surveys for the presence of Great Crested Newts or bats).
- 4 No Authorised Person shall enter the Land otherwise than in accordance with the Authorisation and these Conditions.
- 5 The Authorised Persons' right of entry onto the Land pursuant to the Authorisation shall immediately cease if any Authorised Person is in breach of the Authorisation or any of these Conditions.
- 6 These Conditions subject to which the Authorisation is given are in addition to the provisions of section 53 of the Planning Act 2008 (as amended) and if there is any conflict between the Conditions and the section 53 provisions the latter shall prevail.
- 7 The Occupiers retain control, possession and management of the Land and no Authorised Person has the right to exclude the Occupiers from the Land.
- 8 Entry onto the Land is authorised only:
  - a. provided the activities undertaken in connection with the Survey(s) will not constitute an offence in themselves; and
  - b. subject to all necessary consents (if any) in relation to carrying out the Survey(s) having first been obtained.

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1 Council Directive 85/337/EEC of 27 June 1985 on the assessment of the effects of certain public and private projects on the environment, as amended from time to time.

2 Council Directive 92/43/EC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora, as amended from time to time.

## **Carrying out the Survey(s)**

- 9 In carrying out the Survey(s) the Authorised Person shall:
- a. cause as little damage as is possible and upon completion of the final Surveys, or if earlier on the expiry of the Authorisation, shall make good any damage caused to the reasonable satisfaction of the Occupiers and remove any apparatus or equipment taken on to the Land by the Authorised Person in connection with the Surveys on completion of the same;
  - b. not do any act, matter or thing which would or might constitute a breach of any law (including without limitation common law), statute, regulation, rule, order, byelaw or notice, or which would or might vitiate in whole or in part any insurance effected by or on behalf of the Occupiers in respect of the Land from time to time;
  - c. provide details at least 48 hours prior to the Survey of the names and contact details for all persons undertaking the Surveys;
  - d. provide at least 48 hours prior to the Survey full details of the areas to be Surveyed, the nature and timing of said Surveys together with access routes;
  - e. at all times take all measures as are reasonably necessary to maintain the same level of security in respect of the Land which would exist but for the undertaking of the Survey(s) to include leaving all gates as found;
  - f. not cause any nuisance, disturbance, annoyance, inconvenience or unreasonable interference to the Occupiers or to adjoining and/or neighbouring property and/or to the owners, occupiers or users of such adjoining or neighbouring property;
  - g. prepare a pre-entry photographic record of condition and provide a copy to the Occupiers;
  - h. not display any signs or notices at the Land other than those required pursuant to statute;
  - i. not interfere with the existing use of the land other than to the extent reasonably necessary to carry out the Survey(s);
  - j. contact the Occupiers when leaving the Property; and
  - k. observe the Occupiers' reasonable health and safety policies and site rules previously notified to the Authorised Person in writing.

## **Insurance**

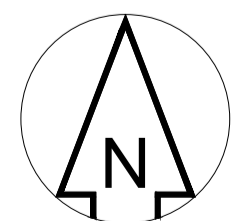
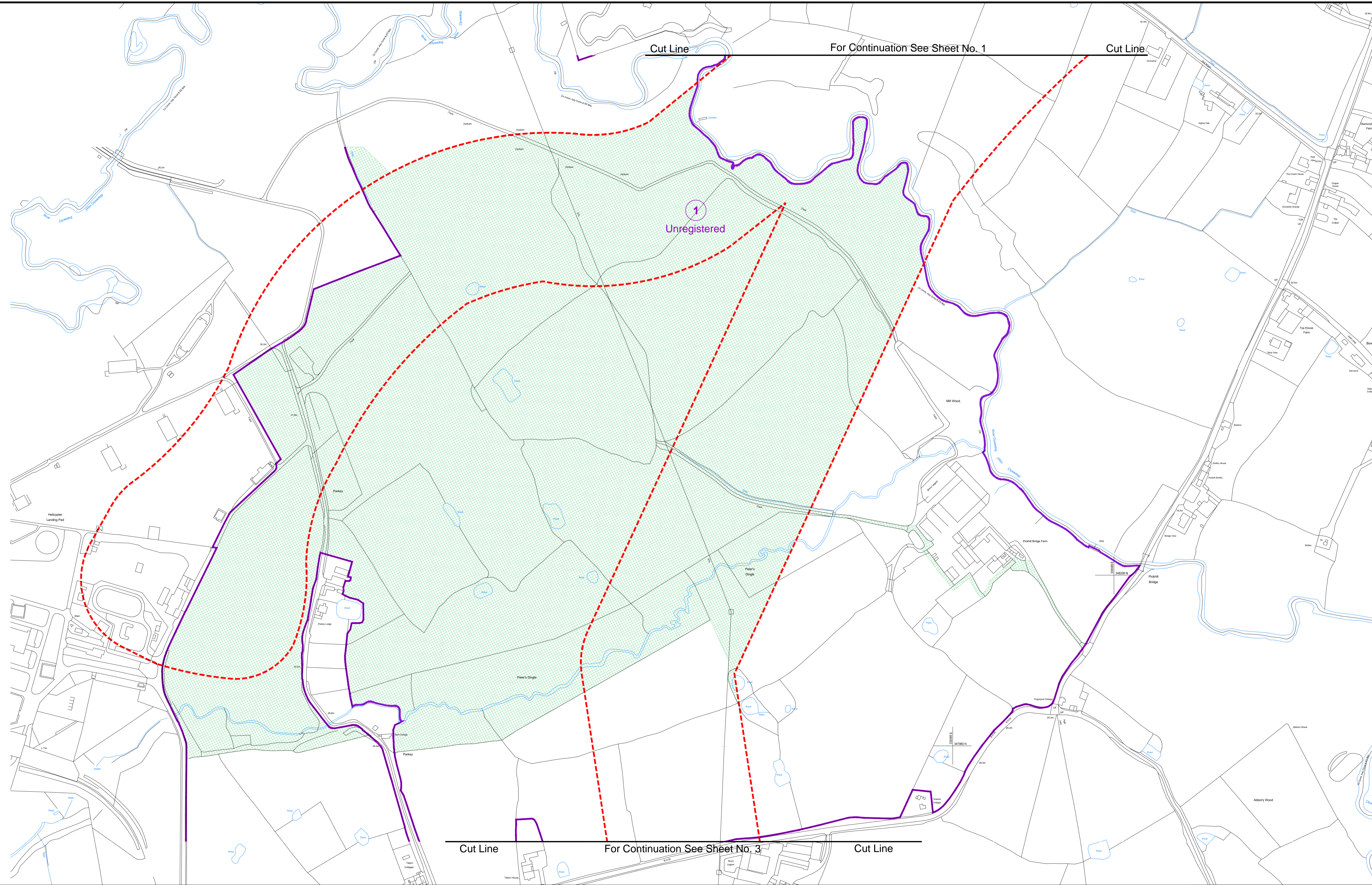
- 10 The Applicant shall:
- a. subject to provision of written evidence of such requirements, pay on demand the reasonable and proper cost of any additional insurance premiums payable by the Occupiers which may have become payable as a result of the Authorisation; and
  - b. ensure that those who work on its behalf hold suitable and adequate insurance in respect of public and third party liability and provide proof of said insurance to the Occupiers prior to carrying out the Surveys.

## THE PLAN IDENTIFYING THE LAND





# Wrexham Energy Centre



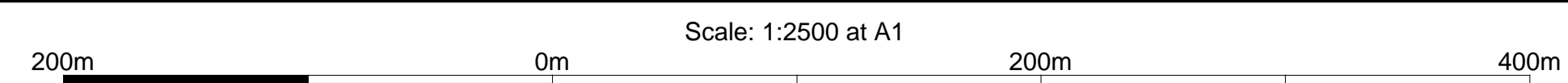
TITLE:

Parcel 1, as shown on Sheets 2 and 3 of Plan A

Date: 02/04/2013







Ref: J:\12-13\CGD12\_63 Wrexham Energy Centre\Dep Plans

Plan No: Dep Plans



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KEY:

-  The extent of the proposed Power Island
-  Land under the control of the Applicant (Wrexham Power Limited)
-  The extent of land ownership boundaries
-  Land over which rights of entry are sought
-  The extent of the route corridors (illustrative only and subject to consultation) within which the proposed gas/electricity connections may be located
-  Parcel Number

