



Room 3D
Temple Quay House
2 The Square
Bristol, BS1 6PN

Customer Services: 0303 444 5000
e-mail: wrexhamenergy@pins.gsi.gov.uk

As Addressed

Your Ref:

Our Ref: EN010055

Date: 24 June 2016

Dear Sir/Madam

**Planning Act 2008 (as amended) – Section 88 and the Infrastructure
Planning (Examination Procedure) Rules 2010 (as amended) – Rule 6 and 13**

**Application by Wrexham Power Limited for an Order Granting Development
Consent for the Wrexham Energy Centre**

**Notice of Preliminary Meeting, Issue Specific Hearing on the draft
Development Consent Order (DCO), draft examination timetable and other
matters**

The Secretary of State has appointed me to act as the Examining Authority (ExA) to carry out an examination of the above proposal by **Wrexham Power Limited** (see Notice of Appointment: <http://bit.ly/28RAQgm>).

This letter is an invitation to the Preliminary Meeting to discuss the examination procedure and is also the formal notification of an Issue Specific Hearing (ISH) on the draft DCO. Both meetings are to be held on **Tuesday 19 July 2016**. Please take the time to read this letter and all of its annexes as they contain important information that will assist you to participate in the examination.

The PM and ISH hearing on the draft DCO will be held at: **Redwither Tower, First Avenue, Redwither Business Park, Wrexham Industrial Estate, Wrexham LL13 9XT**. The venue is accessible by bus and there is a free car park nearby.

Meeting	Date and time
Preliminary meeting	Tuesday 19 July 2016 9.30 am arrival 10.00 am start
Issue Specific Hearing on the draft DCO	Tuesday 19 July 2016 1.30 pm arrival 2.00 pm start

I would like to thank those of you who submitted relevant representations. These representations have assisted me when preparing my proposals regarding how to examine this application.

Preliminary Meeting

The purpose of the Preliminary Meeting is to enable views to be put to me about the way in which the application is to be examined. It is important to appreciate that this meeting deals only with procedure, and not the merits of the application. The merits of the application will only be considered once the examination starts, after the Preliminary Meeting has closed.

The Planning Inspectorate will send you a copy of my procedural decision as to how the application is to be examined as soon as practicable after the meeting.

I wish to run a fair, efficient and effective meeting so that all relevant views can be heard. As such, I strongly encourage groups of individuals who have similar views on the procedure to choose one representative to speak for the group.

The agenda for the meeting is in **Annex A**. This has been set following my initial assessment of the principal issues arising on the proposal. That assessment is set out in **Annex B**. As a result of this assessment I wish to hear at the meeting from the Applicant, interested parties, statutory parties and local authorities where they consider changes may be needed to the draft timetable set out in **Annex C**.

Up to date information about the project and the examination can be obtained from the National Infrastructure Planning website:

<http://infrastructure.planninginspectorate.gov.uk/projects/wales/wrexham-energy-centre/>

This is the web address from which I will make copies of all future communications and examination documents available to the public.

Further information is given in Advice Note 8.4, which is available on the National Infrastructure Planning website (<http://bit.ly/28Rkzw2>).

Attending the Preliminary Meeting

If you wish to attend the Preliminary Meeting please write, email or telephone the Planning Inspectorate, using the address and contact details set out at the front of this letter marking correspondence for the attention of Tracey Williams, Case Manager. We need to receive your confirmation **by Monday 11 July 2016**.

It will help the management of the meeting and benefit everyone if you also:

- Tell us whether you wish to speak at the meeting and on which agenda items, listing points you wish to make; and
- Inform us if you wish to speak in Welsh at the meeting; and
- Notify us of any special needs you may have (eg disabled access, hearing induction loop etc).

The Preliminary Meeting provides a useful introduction to the examination process. I will use it to make procedural decisions that will affect everyone participating in the examination. The meeting provides you with an opportunity to have your say about procedural issues before these decisions are finalised. If you intend to play an active part in the examination or you have questions about procedure it is useful to attend the meeting. However, please note that you are not required to attend the Preliminary Meeting in order to participate in the examination.

If you are an interested party you will still be able to make written representations and participate in any hearings that are arranged. Should you no longer wish to be an interested party and do not wish to be involved in the examination process, you can notify the case manager of this in writing.

After the Preliminary Meeting

Shortly after the Preliminary Meeting you will be sent a letter setting out the timetable for the examination. The audio recording and a note of the meeting will also be published on the project page of the National Infrastructure Planning website.

Interested parties have the right to request an open floor hearing and those persons affected by any request for compulsory acquisition or temporary possession of their land or rights may request a compulsory acquisition hearing. Any other issue specific hearings are at the discretion of the ExA and will be arranged if I feel that consideration of oral representations would ensure an issue is adequately considered. My examination will comprise of written representations about the proposal and any oral representations made at the hearings, in addition to consideration of the project documents, policy and legal positions, site inspections and any other matters I consider to be relevant and important.

All relevant and important matters will be taken into account when I make a recommendation to the Secretary of State for Energy and Climate Change, who will take the final decision in this case.

Procedural decisions made by the ExA under sections 89(3) and 93(1) of the Planning Act 2008

I have made some preliminary procedural decisions. These include:

- the setting of deadlines for the agreement and submission of Statements of Common Ground (SoCG);
- the formal acceptance of revised application documents;
- the decision to hold an issue specific hearing on the draft DCO on Tuesday 19 July 2016 at 2.00 pm;
- the acceptance of an additional submission received from a party other than the applicant prior to the Preliminary Meeting.

These procedural decisions are all set out in full at **Annex E**.

Issue Specific Hearing on the Draft DCO

I have decided to hold an Issue Specific Hearing on the draft DCO directly after the Preliminary Meeting, because my initial assessment of principal issues (**Annex B**) identified that there are a number of technical and legal drafting matters arising from

the submitted draft DCO that require to be explored with the applicant and certain interested parties. **Annex F** provides formal notice for this hearing. **Annex G** provides the hearing Agenda. **Annex H** provides a schedule of issues and questions that will be addressed in the hearing.

The Agenda (**Annex G**) identifies the interested parties that I have invited to speak at the hearing. The hearing will be held in public and all interested parties are welcome to observe. I have only invited the applicant and interested parties who have public authority or consenting body functions referred to in the draft DCO to speak. The draft timetable proposes several further opportunities for other interested parties to become involved in the examination of the draft DCO, through written representations, responding to questions and at further hearings. This first hearing will be confined to technical and legal drafting matters. It will not address the planning merits of the application or the impacts due to temporary possession or compulsory acquisition of land on affected persons.

I have formed no view about whether the DCO should be granted. Any views or positions expressed at this hearing will be without prejudice to my consideration of planning merits and related matters at later stages in the examination.

The documents required by hearing participants are the submitted draft DCO and explanatory memorandum (available from the National Infrastructure Planning website) and **Annexes G & H** to this letter.

Persons speaking at the hearing are asked to confirm their attendance with the Case Manager. We need to receive your confirmation **by Monday 11 July 2016**. It will help the management of the hearing if you:

- Tell us on which agenda items you wish to speak and list the points you wish to make;
- Inform us if you wish to speak in Welsh; and
- Notify us of any special needs you may have.

Your status in the examination

This letter has been sent to you because you (or the body you represent) fall within one of the categories in s88(3) of the Planning Act 2008 (PA 2008).

If you have made a "relevant representation", have a legal interest in the land affected by the proposal or are a relevant local authority, you have a formal status as an interested party in the examination process.

Interested parties will receive notifications from the Planning Inspectorate about the examination throughout the process and may make written and oral submissions regarding the proposal.

If you are a prescribed consultee (i.e. body specified in the relevant regulations supporting the PA 2008) but have not made a relevant representation (reference number beginning with WEC-SP) you will not automatically be an interested party. However, following the Preliminary Meeting, you will have a further opportunity to notify the Planning Inspectorate that you wish to be treated as an interested party.

If you are not sure whether you are an interested party, please contact the Case Manager using the details at the top of this letter. Information regarding the formal status of interested parties and how you can get involved in the process is set out in the Planning Inspectorate Advice Note 8 on the National Infrastructure Planning website (<http://bit.ly/28RunRY>).

Welsh language/iaith Gymraeg

The Planning Inspectorate welcomes contributions in both Welsh and English. Welsh to English translation facilities will be available at the Preliminary Meeting and the Issue Specific Hearing on the draft DCO, but please let us know in advance if you intend to make use of these.

Please let us know if you wish to receive future correspondence in Welsh.

Os hoffech gwneud cyfraniadau drwy gyfrwng y Gymraeg yn ystod y Cyfarfod Rhagarweiniol neu'r Gwrandawriad Mater Penodol, dylech nodi hyn ynghyd a'ch cadarnhad i fod yn bresennol neu i siarad yn y cyfarfod

Cysylltwch â ni os ydych yn dymuno derbyn gohebiaeth yn y dyfodol yn y Gymraeg.

Award of costs

I draw your attention to the possibility of the award of costs against interested parties who behave unreasonably. You should be aware of the relevant costs guidance that applies to National Infrastructure Projects. The "Awards of costs; examinations of applications for development consent orders" is available on the National Infrastructure Planning website (<http://bit.ly/28PP0Qe>).

Management of Information

The Planning Inspectorate has a commitment to transparency. Therefore, all information submitted as part of this examination (if accepted) and any record of advice which has been provided, is recorded on the Planning Inspectorate website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information is protected in accordance with the Planning Inspectorate's Information Charter.

I look forward to working with all parties in the examination of this application.

Yours faithfully

Rynd Smith

Rynd Smith
Examining Authority

Annexes

- A** Agenda for the Preliminary Meeting
- B** Initial assessment of principal issues
- C** Draft timetable for examination of the application
- D** Availability of examination documents
- E** Procedural decisions made by the Examining Authority
- F** Notification of Issue Specific Hearing on the draft DCO
- G** Agenda for the Issue Specific Hearing on the draft DCO
- H** Schedule of issues and questions for the Issue Specific Hearing on the draft DCO

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.

Agenda for the Preliminary Meeting

Date:	Tuesday 19 July 2016
Seating available from:	9.30am
Meeting Start Time:	10.00am
Venue:	Redwither Tower, First Avenue, Redwither Business Park, Wrexham Industrial Estate, Wrexham, Wales, LL13 9XT

Welcome and introductions
Examining Authority's remarks about the examination process <ul style="list-style-type: none"> • Legislation before the UK Parliament - the Wales Bill • Post-submission changes to the application documents
Initial assessment of principal issues – see Annex B
Draft timetable for the examination – see Annex C
Deadlines for submission of: <ul style="list-style-type: none"> • Statements of Common Ground • Comments on Relevant Representations • All Written Representations • Local Impact Reports • Responses to ExA's written questions • Notifications relating to hearings
Break (if needed)
Hearings and accompanied site inspections: <ul style="list-style-type: none"> • Date of accompanied site inspections • Date of procedure and matters and issues for issue specific hearing on the Development Consent Order on 19 July 2016 – see Annex E & F • Date(s) reserved and arrangements for open floor hearings • Date(s) reserved and arrangement for other issue specific hearings • Date(s) reserved and arrangements for compulsory acquisition hearings
Any other business
Close of Preliminary Meeting

Please note: Please be available from the start and throughout the meeting. The ExA will conclude the meeting as soon as all relevant contributions have been made. If there are any additional matters to be dealt with or submissions take a considerable amount of time the ExA may change the order of the agenda items.

Initial assessment of principal issues

This is the **initial** assessment of the principal issues arising from consideration by the Examining Authority of the application documents and relevant representations received. It is not a comprehensive or exclusive list of all relevant matters; regard will be had to all important and relevant matters in reaching a recommendation after the examination is concluded. The identified principal issues are listed in alphabetical order and should not be taken to imply an order of importance.

The policy and consenting requirements and documents associated with the Planning Act 2008 (as amended) are an integral part of the examination and are therefore not necessarily set out as separate principal issues. In addition, it should be noted that a number of these principal issues set out below have an interrelationship and overlap and these will be reflected in the examination.

The identified principal issues are set out under headings organised in alphabetical order. They include, but are not limited to:

1. Air Quality and Emissions

- Adequacy of baseline assessment.
- Operational effects of the Wrexham Energy Centre.
- Adequacy of proposed monitoring.

2. Biodiversity, Ecology and Natural Environment

- Adequacy of baseline assessment.
- Adequacy of proposed monitoring.
- Loss of or change to the ecological value of terrestrial and aquatic habitats and their species, including impacts on the ecological value, quality and capacity of land, waterways and water bodies.
- Implications for European/international sites and their qualifying features.
- Implications for statutorily and local protected sites.
- Impacts on specific fauna and flora species and their habitats (including European protected species).
- Timing of works and potential seasonal effects.
- Mitigation.

3. Combined Heat and Power (CHP) Readiness

- Capability of implementing CHP at the Wrexham Energy Centre.

4. Compulsory Acquisition and /or Temporary Possession

- The need for the land proposed to be subject to compulsory acquisition and / or temporary possession.
 - For works provided for in the draft DCO
 - For works not provided for in the draft DCO and subject to separate consent processes (associated development)
- Effects on statutory undertakers.
- Provisions for replacement land.
- Adequacy and security of funding for compensation.

5. Draft Development Consent Order (DCO)

- The structure of the DCO.

- The appropriateness of proposed provisions.
- Relationships with other consents.

6. Debris and Waste

- Management of waste, debris and potential chemical pollutants.

7. Gas and Electricity Connections

- Proposed alignments and facilities.
- Compliance with Electro Magnetic Field (EMF) regulatory policy and guidelines.
- Effects on the local community and environmental receptors.

8. Historic Environment

- Effects on the historic built environment.
- Archaeological effects.

9. Landscape and Visual

- Construction impacts.
- Impacts of the proposed development in operation.
- Impacts of the gas and electricity connections.
- Landscape and visual mitigation.

10. Noise and Vibration

- Construction, maintenance and decommissioning noise and vibration.
- Operational noise and vibration effects.

11. Option Development

- The development and assessment of alternatives to and options for the development of the Wrexham Energy Centre including:
 - the approach to site selection and justification;
 - other sites; and
 - other routes for gas and electricity connections.

12. Other Strategic Projects and Proposals

- The effects of the Wrexham Energy Centre on other known major projects nearby (including on the Wrexham Industrial Estate taken as a whole).
- In-combination effects with other major projects and proposals.
- The effects of other major projects and proposals on the Wrexham Energy Centre.

13. Risk and Hazard Management

- Sources of risk and hazard arising from the Wrexham Energy Centre and the gas connection.
- Mitigation and management of risks and hazards.

14. Socio-Economic Effects

- Economic and employment effects, in construction, operation and decommissioning.
- Effects on surrounding communities, including but not limited to production, businesses and people employed on the Wrexham Industrial Estate, on agriculture, on nearby residents and tourism.

15. Statutory undertakers

- Effects of the project on statutory undertakers in terms of:
 - taking land;
 - effects on access to operational land and equipment; and
 - effects on rights to access or pass over land or installations for operational purposes.
- The need for and content of protective provisions.

16. Transportation and Traffic

- Means and effects of transporting construction materials and personnel to site.
- Construction effects on the road network.
- Constriction effects on the use and integrity of the Public Right of Way (PROW) network.
- Operational effects.

17. Water Environment

- Response to potential risk of flooding and overland flow.

Draft timetable for examination of the application

The Examining Authority (ExA) 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 the close of the preliminary meeting.

My examination of the application primarily takes the form of the consideration of written submissions. The ExA will also consider any oral representations made at the hearings.

Item	Matters	Due Dates
1	Preliminary Meeting	10.00 am Tuesday 19 July 2016
2	Issue-specific Hearing: Project definition and the development consent order (DCO)	2.00 pm Tuesday 19 July 2016
3	Issue by ExA of: <ul style="list-style-type: none"> • Examination timetable • ExA's first written questions 	Tuesday 2 August 2016
4	<p>Deadline 1</p> <p>Deadline for receipt by ExA of:</p> <ul style="list-style-type: none"> • Summaries of all relevant representations (RR) submitted by 23 December 2015 exceeding 1500 words • Comments by the applicant and any other interested parties on RRs • Written representations (WRs) by all interested parties <p><i>All parties must submit their full written case and supporting evidence at this stage, as any representations to be heard at a hearing need to be based on RRs or WRs</i></p> <ul style="list-style-type: none"> • Summaries of all WRs exceeding 1500 words • Responses to ExA's first written questions • Local Impact Reports (LIR) from local authorities • Statements of Common Ground (SoCG) requested by ExA • Notification by statutory parties of wish to be considered as an interested party • Notification by persons within certain categories of interests in land of their wish to 	11:59 PM Tuesday 23 August

	<p>become an interested party</p> <ul style="list-style-type: none"> • Notification by interested parties of their wish to speak at an issue specific hearing on the DCO • Notification by affected persons of their wish to speak at a compulsory acquisition hearing • Notification by interested parties of their wish to speak at an open floor hearing • Submissions from interested parties or affected persons recommending locations or items for the itinerary for an accompanied site inspection and reasons for their inclusion • Any further information requested by the ExA for this deadline 	
5	<p>Issue by ExA of notification of date, time and place for further hearings and accompanied site inspections (s) (if required)</p> <p><i>A banner on the Wrexham Energy Centre Project webpage will be updated on this day to detail the arrangements made. If accompanied sites inspections are not required, the banner will note this</i></p>	Tuesday 6 September
6	<p>Deadline 2</p> <p>Deadline for receipt by the ExA of:</p> <ul style="list-style-type: none"> • Comments on WRs and any responses to comments on RRs • Comments on LIR • Comments on responses to ExA's first written questions • Any further information requested by the ExA for this deadline 	11:59 PM Tuesday 20 September
7	<p>Date reserved for:</p> <p>Accompanied site inspection</p>	Tuesday 27 September
8	<p>Date reserved for:</p> <p>Issue Specific Hearing: The DCO (morning)</p> <p><i>Agendas for each hearing will be published on the project page of our website seven calendar days before the hearing is due to take place but will not otherwise be published or circulated. The actual agenda on the day of each hearing is subject to change at the discretion of the ExA.</i></p>	Wednesday 28 September

	Open-floor Hearing (evening)	
9	<p>Date reserved for:</p> <p>Compulsory Acquisition Hearing: Compulsory Acquisition and Temporary Possession Proposals (morning)</p> <p>Issue Specific Hearing: Environmental and Other Issues (afternoon)</p>	Thursday 29 September
10	<p>Deadline 3</p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> • Written summaries of oral submissions put at any hearings held between 27 and 29 September • Comments on any other documents submitted at Deadline 2 • Applicant's revised draft DCO • Any further information requested by the ExA for this deadline 	11:59 PM Thursday 6 October
11	<p>Issue by ExA of:</p> <ul style="list-style-type: none"> • Second written questions (if required) <p><i>A banner on the Wrexham Energy Centre Project webpage will be updated on this day to detail the documents published. If second questions are not required the banner will be updated to note this.</i></p>	Friday 21 October
12	<p>Issue by ExA of notification of date, time and place for any further hearings and accompanied site inspections(s) (if required).</p> <p><i>A banner on the Wrexham Energy Centre Project webpage will be updated on this day to detail the arrangements made. If further hearings and / or accompanied sites inspections are not required, the banner will note this.</i></p>	Monday 31 October
13	<p>Deadline 4</p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> • Responses to ExA's second written questions • Any further information requested by the ExA for this deadline 	11:59 PM Friday 4 November

14	<p>Dates reserved for:</p> <ul style="list-style-type: none"> • Any further hearings (including issue specific, open floor and compulsory acquisition hearings) (if required) • Any further accompanied site inspections (if required) 	22 – 24 November
15	<p>Deadline 5</p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> • Comments on responses to ExA's second written questions • Any further information requested by the ExA for this deadline 	11:59 PM Friday 25 November
16	<p>Deadline 6</p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> • Written summaries of oral submissions put at any hearings held between 22 and 24 November • Comments on any other documents submitted at Deadline 5 • A final preferred draft DCO from the applicant • A final progress summary from the applicant on any commercial agreements or related instruments necessary to support the DCO • Any further information requested by the ExA for this deadline. 	Friday 2 December
17	<p>Publication by the ExA of:</p> <ul style="list-style-type: none"> • Report on Implications for European Sites (RIES) (if required) • ExA consultation draft and/or commentary on the final DCO • Any further requests for information by the ExA (if required) <p><i>A banner on the Wrexham Energy Centre Project webpage will be updated on this day to detail the documents to be published.</i></p>	Monday 12 December
18	<p>Deadline 7</p> <p>Deadline for receipt of:</p>	11:59 PM Wednesday 4 January

	<ul style="list-style-type: none"> • Comments on the ExA's RIES (if required) • Comments on the ExA's consultation draft and/or commentary on the DCO • Any further information requested by the ExA for this deadline 	
19	<p>Deadline 8</p> <p>Deadline for receipt of:</p> <ul style="list-style-type: none"> • Comments on responses to ExA's third written questions • Comments on the responses to the RIES • Any further information requested by the ExA for this deadline 	<p>11:59 PM Thursday 12 January</p>
20	<p>The ExA 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 the close of the Preliminary Meeting.</p>	<p>Thursday 19 January</p>

Publication Dates

All information received will be published on the project website as soon as practicable after the deadline for submissions.

<http://infrastructure.planninginspectorate.gov.uk/projects/wales/wrexham-energy-centre/>

Hearing Agendas

Please note that we will aim to publish a detailed draft agenda for each hearing on the project website at least 5 working days in advance of the hearing date; but the actual agenda on the day of each hearing may be subjected to change at the discretion of the ExA.

Report on the Implications for European Sites (RIES)

Where the applicant has provided a No Significant Effects Report (NSER) or a Habitats Regulations Assessment (HRA) Report with the DCO application, the ExA may decide to issue a RIES during the examination. The RIES is a factual account of the information and evidence provided to the ExA on HRA matters during the examination up to the date of the publication of the RIES, for the purposes of enabling the Secretary of State, as competent authority, to undertake their HRA. It is not the ExA's opinion on HRA matters. Comments on the RIES will be invited by the ExA and any received will be taken into account as part of the ExA's Recommendation to the relevant Secretary of State.

Availability of Examination Documents

All application documents including relevant representations and application documents are available on the National Infrastructure Planning website:

<http://infrastructure.planninginspectorate.gov.uk/projects/wales/wrexham-energy-centre/>

For ease of access, please refer to the Examination Library. This index lists each document that has been submitted to the examination by any party and any documents that have been issued by the Planning Inspectorate. All documents listed have been published to the National Infrastructure's Planning website and a hyperlink is provided to each. The Examination Library contains references to documents from the point the application was submitted and is updated periodically as the examination progresses. A button providing access to the latest version of the Examination Library is provided on the documents tab on the National Infrastructure Planning website.

Documents can also be viewed electronically at the following location close to the application site. Please note that you may need to bring a form of ID to use the computer at this location. If you have difficulty accessing any documentation please contact the Case Team using the contact details provided at the top of this letter.

Electronic Deposit Location:

Library/ Address	Opening Hours
Wrexham Library Rhosddu Road Wrexham LL11 1AU	Monday to Friday 09:30- 18:00 Saturday 09:30-16:00 Sunday - closed
Printing Costs	
Black and White- 20p per A4 Sheet Colour- 40p per A4 Sheet	There are currently no A3 printing facilities however the library does provide A3 photocopying.
Link to Library Location	
http://www.wrexham.gov.uk/english/community/libraries/wrexham_library.htm http://www.wrexham.gov.uk/welsh/community_w/libraries/wrexham_library.htm	

Procedural decisions made by the Examining Authority (ExA)

The ExA has made the following procedural decisions under Section 89(3) of the Planning Act 2008:

1. Statements of Common Ground (SoCG)

In relation to some of the principal issues identified in Annex B, the ExA would be assisted by the preparation of SoCGs between the applicant and certain interested parties. The draft timetable for the examination therefore provides a deadline for submission of SoCGs.

The aim of a SoCG is to agree factual information and to inform the ExA and all other parties by identifying where there is agreement and where the differences lie at an early stage in the examination process. It should provide a focus and save time by identifying matters which are not in dispute or need not be the subject of further evidence. It can also usefully state where and why there may be disagreement about the interpretation and relevance of the information. The reasons for the differences and interpretation of the implications of a difference can then be expanded in the evidence. Unless otherwise stated or agreed, the SoCG should be agreed between the applicant and the other relevant interested party or parties, and submitted by the applicant.

SoCGs are requested to be prepared by:

A: The applicant and Wrexham County Borough Council to include:

- Development Consent Order (DCO)
- Economic and Social impacts
- Environmental Impact Assessment, including issues related to:
 - The adequacy of the assessment of its potential impacts
 - Cumulative effects
 - Noise & Vibration, Construction, operational and decommissioning noise and vibration effects including upon the living conditions of local residents
- Habitats, Ecology and Nature Conservation
- Historic and Archaeological Environment
- Landscape and Visibility
- Transport and Traffic

B: The applicant and Natural Resources Wales (NRW) to include:

- Development Consent Order (DCO)
- Environmental Impact Assessment, including issues related to:
 - The adequacy of the assessment of its potential impacts
 - Cumulative effects
 - Climate Change
 - Flooding
 - Water quality and supply
- Habitats, Ecology and Nature Conservation, including issues related to:
 - Protected sites
 - Protected species

- European sites and features relevant to Habitat Regulations Assessment (HRA)
- The need for and means of securing mitigation actions
-
- Historic and Archaeological Environment
- Landscape and Visibility
- Transport and Traffic

The SoCGs should cover the following topics where relevant:

- Methodology for environmental impact assessment including assessment of cumulative effects
- Data collection methods
- Baseline data
- Data/statistical analysis, approach to modelling and presentation of results (including forecast methodologies)
- Full expression of expert judgements and assumptions
- Identification and sensitivity of relevant features and quantification of potential impact
- Likely effects (direct and indirect) on special interest features of sites designated or notified for any nature conservation purpose
- Feasible and deliverable mitigation and method for securing such mitigation within the DCO

2. Post-submission application documents

Following the acceptance of the application on 13 April 2016, the Applicant had submitted the following revised application documents to the Inspectorate:

- Updated Book of Reference (Clean version) [OD-003], submitted on 10 June 2016;
- Updated Book of Reference (Tracked change version) [OD-004], submitted on 10 June 2016;
- Schedule of changes relating to the Updated Book of Reference [OD-002], submitted on 10 June 2016;
- Revised Grid Connection Statement Revision 1 (Clean Version) [OD-006] submitted on 17 June 2016; and
- Revised Grid Connection Statement Revision 1 (Tracked change version) [OD-007] submitted on 17 June 2016.

These documents have been formally accepted by the ExA into the Examination and have been published on the Wrexham project page of our website.

Interested parties are asked to submit any comments they may have on the above documents as part of their representations to Deadline 1 in the draft timetable which is Tuesday 23 August 2016.

3. Issue Specific Hearing on the draft DCO

I have made a procedural decision to hold an issue specific hearing on the draft DCO on the date of **19 July 2016 at 2.00pm**. This has been scheduled on the same day as the Preliminary Meeting to ensure that interested parties have an early opportunity to discuss the draft DCO in the examination process. The formal notification of this hearing can be found in **Annex F** of this letter. The agenda can be found in **Annex G** of this letter.

4. Additional Submissions received from parties other than the applicant prior to the Preliminary Meeting

Wrexham County Borough Council submitted an initial Local Impact Report [LIR-001] on 31 May 2016. This document has been formally accepted by the ExA into the Examination and has been published on the Wrexham project page of our website.

Provision is nevertheless provided in the draft Examination Timetable for the submission of further Local Impact Reports for Deadline 1 on 23 August 2016. Wrexham County Borough Council may update their initial LIR at this time if they wish.

Notification of Issue Specific Hearing on Project Definition and the Draft DCO

I write to advise you that an Issue Specific Hearing will be held on **Tuesday 19 July 2016** at **Redwither Tower, First Avenue, Redwither Business Park, Wrexham Industrial Estate, Wrexham, Wales, LL13 9XT**. Registration will open at 1.30 pm and the hearing will commence at 2.00pm.

Those interested parties who wish to speak at the hearing should notify Tracey Williams at the postal or email address above by noon Wednesday 9 March 2016.

It would help with the management of the hearing if you can let the case team know by Monday 11 July 2016:

- Whether you wish to speak at the meeting and on which agenda items, listing points you wish to make;
- If you wish to speak in Welsh at the meeting; and
- Of any special needs you may have (e.g. disabled access, hearing loop).

Please ensure that you include your interested party reference number in your correspondence.

An agenda for the issue specific hearing related to draft DCO matters is attached to this letter at **Annex G** and sets out the topics to be discussed.

Agenda for the Issue Specific Hearing on Project Definition and the Draft DCO

Date:	Tuesday 19 July 2016
Seating available from:	1.30pm
Meeting Start Time:	2.00pm
Venue:	Redwither Tower, First Avenue, Redwither Business Park, Wrexham Industrial Estate, Wrexham, Wales, LL13 9XT

List of requested attendees:

- Wrexham Power Ltd (the Applicant)
- Natural Resources Wales
- Wrexham County Borough Council
- Cheshire West and Chester Council
- Shropshire Council
- Any other interested parties with an interest in the drafting of the DCO, seeking protective provisions or any related side agreements

Agenda

1. Introductions

2. Purpose of the hearing

An early hearing on the project definition and the draft DCO is being held to address matters, issues and questions identified by the ExA during its initial assessment of preliminary issues, before its consideration of written representations. The ExA considers that it is necessary to examine these matters, issues and questions orally at the outset of the examination, providing the maximum time for interested parties to respond to them in their own subsequent written representations and for the applicant where necessary to programme actions to address issues raised.

The ExA will examine the draft DCO within the framework of the matters set out below to consider:

- how the draft responds to the project definition and addresses the relationship between the proposed power station and the gas and electricity connections;
- the approach taken in the draft to principal, associated and ancillary development;
- the applicant's response to guidance in PINS Advice Notes, particularly AN13 and AN15;
- the justification for any innovative approaches and changes from established practice;
- the need for changes to other legislative provisions, ensuring that these are clear and are not unduly reductive of other persons' rights;

- whether policy tests for planning conditions relevant to requirements are met;
- the need for protective provisions and the scope for changes to the current draft to respond to negotiations in progress;
- the need for any commercial agreements, planning obligations or equivalent side provisions and progress towards these; and
- the need for Crown, statutory undertaker and any other consents.

In addition to the matters identified in this agenda, the ExA will review detailed issues and questions about individual DCO provisions that it has identified in the attached schedule (**Annex H**). Additional issues and questions arising from interested parties that have not been identified in the schedule will not be discussed at this time: they should be amplified in written representations and will be considered as the examination progresses, in writing or orally as required.

This hearing will examine the in-principle appropriateness of including compulsory acquisition (CA) powers for a gas connection that is not provided for in the draft DCO (on the basis that it is associated development). Beyond that, it will not examine the detailed content of provisions relating to the compulsory acquisition of land or rights or temporary possession of land. Observations on these should be set out in written representations. The draft examination timetable proposes a separate hearing on these topics.

3. The function and structure of the submitted draft DCO

The ExA will ask the applicant about:

- a) the need for any proposed changes to the submitted draft DCO;
- b) the procedural implications of any proposed changes;
- c) the proposed articles;
- d) the proposed project description (Sch 1) and its relationship with the proposed gas and electricity connections;
- e) the proposed requirements (Sch 2);
- f) the need for and progress on protective provisions (Sch 8);
- g) the need for and progress on any planning obligations and or side agreements;
- h) the need for and progress on any other consents; and
- i) progress on Statements of Common Ground relevant to the DCO.

4. Discharge of requirements and conditions, appeals and disputes

The ExA will ask the agencies and Wrexham County Borough Council whether they have any significant concerns in principle with the proposed approaches taken to the discharge of requirements, or for managing appeals or disputes under the draft DCO.

5. Changes to the submitted draft DCO (if any)

The ExA will ask the applicant:

- a) whether there are any proposed changes to the submitted draft DCO;
- b) if so, what the changes are proposed to achieve; and
- c) the procedural implications of any proposed changes.

6. Specific issues and questions bearing on the DCO, raised by the ExA

A schedule of issues and questions is attached to this agenda (see **Annex H**). Questions will be put to the applicant and views will be sought from interested parties present. Where they are relevant to the discussions under matters 3, 4 and 5 above, the questions may be drawn out within those matters. Any remaining questions that have not been addressed there will be examined individually here.

7. Review of issues and actions arising

The ExA will address how any actions placed on the applicant are to be met and consider the approaches to be taken to the examination of the draft DCO and any changes to it, in the light of issues raised in this hearing, in written representations and responses to written questions.

8. Next steps

9. Closure of the hearing

Wrexham Energy Centre Examination

Schedule of ExA issues and questions relating to the draft DCO

The issues and questions set out below expand on the ExA's identification of the draft DCO (Rev 0) as submitted [APP-037] as a matter 5 for examination in the initial assessment of principal issues (Annex B). They will be referred to in the issue-specific hearing on 19 July 2016. They are principally addressed to the applicant but comments from other interested parties are welcome.

If you are providing written responses to any of the issues and questions identified in the table, please preface your response with Matter 5: the draft DCO and with the relevant issue or question number from the table.

A copy of this table is available in word format from the Case Team at the contact details at the head of this letter if that would assist you in responding.

Abbreviations used

PA2008	<i>The Planning Act 2008</i>	LPA	<i>Local planning authority</i>
Art	<i>Article</i>	MP	<i>Model Provision (in the MP Order)</i>
ALA 1981	<i>Acquisition of Land Act 1981</i>	MP Order	<i>The Infrastructure Planning (Model Provisions)(England & Wales) Order 2009</i>
BoR	<i>Book of Reference [APP-037]</i>	NPS	<i>National Policy Statement</i>
CA	<i>Compulsory Acquisition</i>	NSIP	<i>Nationally Significant Infrastructure Project</i>
DCO	<i>Draft DCO [APP-033](Rev 0)</i>	R	<i>Requirement</i>
EM	<i>Explanatory Memorandum [APP-034](Rev 0)</i>	SI	<i>Statutory Instrument</i>
ES	<i>Environmental Statement</i>	SoS	<i>Secretary of State</i>
LIR	<i>Local Impact Report</i>	TP	<i>Temporary Possession</i>

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
1.	General: Order Format and Tracking of Changes		The applicant is asked to confirm that subsequent versions of the DCO submitted after the application version will be: a) supplied in both .pdf and Word formats, the latter showing changes from the previous version in tracked changes, with Word comments outlining the reason for the change; and b) supported by a report validating that version of the DCO obtained from the publishing section of the legislation.gov.uk website?
2.	General: List of Plans / Documents to be Certified		The applicant is asked to prepare and maintain a tabulated list of all plans and other documents that will require to be certified by the SoS under Art 37 (including all plan, drawing and revision or document reference numbers), to be updated throughout the examination process, and supplied to the Examining authority at each relevant deadline and before the close of the examination.
3.	General: Drawing and Revision Numbers		The applicant is asked to ensure that all plans referred to in Art 2 and elsewhere are identified by Drawing and Revision Numbers in subsequent versions of the draft DCO. Where revisions are prepared, these should be reflected in the latest version of the DCO.
4.	General: Document Numbers		The applicant is asked to ensure that all documents referred to in Art 2 and elsewhere are identified by their correct document numbers in subsequent versions of the draft DCO. Where revisions are prepared and document numbers change, these should be reflected in the latest version of the DCO.
5.	General: drafting approach to compensation for CA and TP		A number of articles make provision for " <i>compensation to be determined, in case of dispute, under Part 1 of the 1961 Act</i> ". It is acknowledged that a provision in this form is in the various MPs and is commonplace in DCOs and other Orders. However, Part 1 of the 1961 Act only relates to compensation for compulsory acquisition. In order for there to be certainty that it would apply in other situations (e.g. the temporary use of land under Art 27 , or the felling of trees under Art 33), the applicant is asked if a modification should be included as with the other compensation provisions in Schedule 6 ? If not, why not?

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
6.	General: 'guillotine' provisions		<p>Art 15 provides a 7 day period for the traffic authority to respond to a notice of intention.</p> <p>Art 39 purports to confer deemed consent in defined circumstances, if a consultee or respondent does not respond within 8 weeks (a 'one-way guillotine' provision).</p> <p>Schedule 9 paragraph 1 purports to provide an approach which confers either deemed consent or deemed refusal in defined circumstances, depending on whether the application relates to subject matters that give rise to any materially new or materially different environmental effects in comparison with the authorised development as approved (a 'two-way guillotine' provision).</p> <p>The applicant is asked to:</p> <ol style="list-style-type: none"> a) explain why guillotine provisions are believed to be necessary and set out the objectives that it seeks to deliver through these provisions; b) provide a comparative analysis of these provisions with provisions in similar made Orders; c) explain the conditions in which the guillotine provisions would operate with regard to the following issues: <ul style="list-style-type: none"> • are there any circumstances in which a matter subject to a one-way guillotine could give rise to any materially new or materially different environmental effects in comparison with the authorised development as approved? If there are, should Art 39 contain a two-way guillotine provision? • In relation to the two-way guillotine provision, Schedule 9 paragraph 1 appears to provide that only the applicant can judge whether an application is one to which a deemed refusal would apply. Is there an argument that this judgement is one that should be made by the deciding body, not the applicant? • How would the operation of the guillotine provisions interact with the arbitration provision under Art 40, or the appeals

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
			<p>provisions of Schedule 9 paragraph 3?</p> <p>d) Provide evidence that the guillotine has been discussed with each relevant consultee or respondent, that they are aware of it and have had the opportunity to comment on their ability to comply with it.</p> <p>e) Consider if Art 39 and or Schedule 9 should provide that all applications for consent made under them must be accompanied by a statement, drawing the respondent’s or consultee’s attention to the existence and effects of the guillotine provision?</p> <p>f) Consider whether the operation of the Art 39 and or Schedule 9 guillotine provisions are sufficiently clear and simple when taken together and also justified, relative to the objectives sought. Could they be simplified? Could other provisions deliver equivalent outcomes?</p>
<p>7.</p>	<p>General: drafting approach to integral, associated and ancillary development</p>		<p>The applicant acknowledges in the draft DCO and EM the position arising from PA2008 s115 that a DCO for development in Wales may not provide for ‘associated development’. An application and hence a DCO in Wales can include provision for the principal development and matters that are genuinely integral to it, and for ‘ancillary matters’ (PA2008 s120(3)).</p> <p>Paragraph 3.3 of the EM sets out the applicant’s understanding of what is in its view ‘an integral part of the NSIP’, either as the principal development or as ancillary to it. It refers to paragraphs 4.9-13 of the ExA’s report on the Clocaenog Forest Wind Farm Order 2014 (‘Clocaenog’) as the basis for its approach.</p> <p>There is still some uncertainty about the boundaries between the principal development and associated development, and between the principal development or associated development and ancillary matters. A number of applications have been decided in Wales in addition to Clocaenog:</p> <ul style="list-style-type: none"> • Port Talbot Internal Power Generation Enhancement • Swansea Tidal Lagoon

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
			<ul style="list-style-type: none"> • South Hook Combined Heat and Power Station • Mynydd y Gwynt Wind Farm • Hirwaun Power Station • Brechfa Forest Wind Farm <p>With reference to these decisions and to particular relevant facts in this application, the applicant and other interested parties are requested to consider and address whether the boundaries provided for in this draft DCO are robust. Careful consideration should be given to the identification of all works in Schedule 1. Legal submissions from the applicant are requested on this point.</p>
8.	General: drafting approach to CA related to associated development		<p>An issue related to (7) above is that the draft DCO contains CA powers for a gas connection that is acknowledged by the applicant to be associated development. The physical works for the gas connection have been excluded from the draft DCO and are the subject of a separate application to Wrexham County Borough Council under the Town and Country Planning Act 1990 (as amended).</p> <p>The applicant and other interested parties are requested to consider and address whether the DCO can appropriately and lawfully provide for this element of CA, again with reference to other applications decided in Wales. Legal submissions from the applicant are requested on this point.</p>
9.	Preamble		<p>The applicant is asked to draft the Preamble to the next version of the DCO to reflect that the examination will be carried out by a single appointed person.</p>
10.	Art 2(1)	<p><i>"authorised development" means the development described in Schedule 1 (authorised development) to this Order <u>which is development within the meaning of section 32 of the 2008 Act</u></i></p>	<p>Are the underlined words necessary? Does Schedule 1 include activities which are not development within s32? Should this definition read "<i>.....development (within the meaning of section 32 of the 2008 Act) described in Schedule 1 (authorised development) to this Order</i>"? Given the position in Wales, should the term make clear that it does not extend to include associated development, or should this be dealt with in another way (for example, see (20) below) ?</p>

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
11.	Art 2(1)	<i>"date of final commissioning" means the date on which the authorised development commences operation <u>by generating power on a commercial basis</u></i>	A number of articles refer to periods by reference to this date (e.g. the maintenance period under Art 28). How are the local planning authority and others to ascertain when this takes place?
12.	Art 2(1)	<i>"illustrative foul and surface water drainage plan" means the <u>illustrative foul and surface water drainage plan</u> with document reference number 2.6 and submitted as revision 0 with the application and regulation 5(2)(o) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009</i>	Document 2.6 is actually entitled "Proposed Foul and Surface Water Drainage Strategy". Please confirm the document and title that are intended to be referred to.
13.	Art 2(1)	<i>"illustrative landscape and ecological mitigation master plan" means the illustrative landscape and ecological mitigation master plan with document reference number <u>2.9.1</u> and submitted as revision 0 with the application and regulation 5(2)(o) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009</i>	This should be a reference to Document <u>2.9.7</u> ?
14.	Art 2(1)	<i>"limits of deviation" means, in respect of numbered works 1, 3, 4 and 5 inclusive the outer limits of the corresponding numbered area shown on the works plan</i>	Should this read "...in respect of numbered works <u>1A-1G</u> , 3, 4 and 5 inclusive..."? Notwithstanding Art 2(4), works 1A-1G are individually numbered on the works plan. Separately, the approach taken to the drafting of this definition must read across to the drafting approach taken in Art 3 at (20) below.

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
15.	Art 2(1)	<i>"Order land" means the <u>land required for, or required to facilitate or is incidental to, or affected by, the authorised development shown on the land plans and described in the book of reference</u></i>	<p>This is a complex definition. Presumably it is intended to correspond with the description of what can be compulsorily acquired under Art 18? Is there is an inconsistency with the land plans which refer to the land coloured pink (to be acquired), yellow (subject to temporary use) and blue (subject to new rights) as 'Order land'? The key merely identifies the red edging on the land plans as "Land required for, or affected by, the authorised development". What land is 'required to facilitate' or 'incidental to' the authorised development?</p> <p>There is an argument that it would be simpler and clearer to identify a single perimeter (sometimes referred to in planning applications and Orders as the 'red line' application boundary) to express the Order land. If this is not appropriate, the applicant is invited to consider whether there is any clearer or simpler way of identifying the Order land as distinct from the 'red line'.</p>
16.	Art 2(1)	<i>"undertaker" means Wrexham Power Limited, <u>which is the named undertaker</u>, or any other person who for the time being has the benefit of this Order in accordance with article 7 of this Order</i>	What is the relevance of the underlined phrase, which is not used elsewhere in the draft DCO? Taking account of issues in respect of transfer of benefit (see Art 6 (21) and Art 7 below), it still seems that the underlined phrase is superfluous and could be removed.
17.	Art 2(1)		<p>For the purposes of the limit on generating capacity in Schedule 1, should there be a definition such as in the Hirwaun and Progress DCOs:</p> <p><i>"gross rated electrical output" means the aggregate of the gross electric power as measured at the terminals of each generator comprised in the generating station in accordance with standards agreed with the regulating authority under the Environmental Permitting (England and Wales) Regulations 2010(a);?</i></p>

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
18.	Art 2(2)	<i>(2) References in this Order to rights over land include references to rights to do or to place and maintain anything in, on or under land or in the air-space above its surface and references in this Order to the creation or acquisition of new rights <u>include the imposition of restrictions which interfere with the interests or rights of another and are for the benefit of land which is acquired under this Order or is otherwise comprised in this Order and references in this Order to the imposition of restrictions are references to restrictions over land which interfere with the interests or rights of another and are for the benefit of land over which rights are created and acquired under this Order.</u></i>	There seems to be some duplication in the underlined words in the definition. Can this be made more precise and concise in the next draft?
19.	Art 2(3)	<i>(3) All distances, directions and lengths referred to in this Order are approximate and distancesshown on the works plan and <u>access rights of way plan</u> are to be taken to be measured along that work.</i>	Should this be a reference to the "...access <u>and</u> rights of way plan"?

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
20.	Art 3	<p><i>(2) Subject to paragraph (3), each numbered work must be situated on the <u>corresponding numbered line</u> or within the numbered area shown on the works plan.</i></p> <p><i>(3) In constructing each numbered work, the undertaker may deviate from the <u>corresponding numbered line</u> shown on the works plan or within the corresponding numbered area shown on the works plan up to the limits of deviation.</i></p>	<p>None of the works on the works plan are shown by numbered lines – all are numbered areas?</p> <p>Construction on a precisely defined line can be hard to achieve, once allowances are made for micrositing to address matters such as ground conditions or archaeology.</p> <p>A widely used approach is to specify limits of deviation shown on a plan, or alternatively to say that the Order limits are the limits of deviation. Would it be clearer to remove references to numbered lines? Further, whatever approach is adopted needs to conform to the Art 2(1) definition of the “<i>limits of deviation</i>”, or alternatively that definition may require change (see (14) above).</p> <p>Further to the discussion of associated development at (10) above, is there an alternative argument that provision to the effect that “<i>Nothing in this article authorises any development that is ‘associated development’ within the meaning of s115(2) of the 2008 Act</i>” should be included in this article?</p>
21.	Art 6	<p><i>6. Article 7 (consent to transfer benefit of this Order), the provisions of this Order have effect solely for the benefit of the undertaker.</i></p>	<p>What is intended by this article? Has some wording been omitted or, in contrast with the position in Art 7, is it the applicant’s intention that there should be no transfer of benefit? The Art 2(1) definition of “<i>undertaker</i>” (16) also implies that there may be circumstances in which a person other than the named undertaker might benefit from the Order? An explanation and a revised form of words would assist.</p>
22.	Art 7		<p>This makes detailed provision for transfer of benefit, suggesting the need to revise the drafting of Art 6 (21).</p>

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
23.	Art 8		Should this article be with the other compulsory acquisition articles in Part 5? (It should be noted that whilst some Orders provide for the modification of legislative provisions in a specific article, this task can also be undertaken 'in situ', in an article relevant to the modification sought.) What is the intended relationship between this article and Art 19(3) ?
24.	Art 11(1)	<i>11.—(1) The undertaker may, for the purposes of the authorised development or any other development necessary for the authorised development that takes place within the Order land, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order land and may —</i>	The EM says that this is one of the powers that is required for the gas connection as well as the authorised development. As CA powers for the gas connection land are subject to prior planning approval having been obtained, arguably the same constraint should also be applied to all powers required for the gas connection, as listed in EM para 4.6?
25.	Art 12		Should this article include a provision for compensation for suspension of any private right of way (as with MP 11)?
26.	Art 15		Does this article have a precedent? The general discussion of guillotine provisions at (6) above is relevant to this provision. Which authority is the traffic authority for the Order land and gas connection land? Does the traffic authority have any comment, e.g. as to its ability to respond within 7 days to a notice of intention under this article?

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
27.	Art 16	<i>(6) This article does not authorise the entry into <u>controlled waters of any substance whose entry or discharge into controlled waters</u> is prohibited by regulation 12 of the Environmental Permitting (England and Wales) Regulations 2010</i>	Regulation 12 does not expressly refer to 'controlled waters'. Would the intention of the article be more clearly addressed by recasting Art 16(6) such as "This article does not authorise any groundwater activity or water discharge activity for which an environmental permit would be required under Regulation 12 of the Environmental Permitting (England and Wales) Regulations 2010"
28.	Art 16	<i>(7) In this article— (a) "public sewer or drain" means a sewer or drain which belongs to the Homes and Communities Agency, <u>the Environment Agency</u>, a harbour authority within the meaning of section 57 of the Harbours Act 1964(c) (interpretation), an <u>internal drainage board</u>, a joint planning board, a local authority, a National Park Authority, a sewerage undertaker or an urban development corporation; and</i>	Is this a comprehensive or wholly appropriate list of organisations responsible for sewers and drains in Wales or the Order land? (It does not refer to e.g. NRW and internal drainage districts?)
29.	Art 18	<i>18.—(1) The undertaker may acquire compulsorily so much of the Order land <u>affecting the Order land as is required for the authorised development or to facilitate it, or as is incidental to it.</u></i>	Is the underlined phrase required? If so, why?
30.	Art 18	<i>(2) This article is subject to article 19 (compulsory acquisition of rights etc.), article 23 (acquisition of subsoil or airspace only) and article 27 (temporary use of land for carrying out the authorised development).</i>	Should the article also be subject to Art 32 (Plots GC, OR, SAT and MGAR)? Should the article expressly exclude the acquisition of Crown land (see e.g. Art 16(3) of the Hirwaun DCO) as part of the 'Order land' is Crown land?

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
31.	Art 19	<i>19.—(1) The undertaker may acquire compulsorily the existing rights over land and create and acquire compulsorily the new rights or <u>impose a restriction</u> described in the book of reference and shown on the land plans.</i>	Should the underlined text read "...impose restrictions..."?
32.	Art 19		Should the article expressly exclude the acquisition of rights and covenants over Crown land (see e.g. Art 20(6) of the Hirwaun DCO)?
33.	Art 23	<i>23.—(1) The undertaker may <u>acquire compulsorily so much of, or such rights in, the subsoil of or the airspace over the land referred to paragraph (1) of article 18 (compulsory acquisition of land) and paragraph (1) of article 19 (compulsory acquisition of rights etc) as may be required for any purpose for which that land or rights or restrictions over that land may be created and acquired or imposed under that provision instead of acquiring the whole of the land.</u></i>	As drafted, this reads that the undertaker may compulsorily acquire the airspace "...referred to <u>in paragraph (1)</u> ..."? Is this acquisition necessary for the project to proceed and, if not, could the reference to airspace be removed?
34.	Art 23	<i>(3) Paragraph (2) <u>must</u> not prevent article 24 (acquisition of part of certain properties) from applying where the undertaker acquires a cellar, vault, arch or other construction forming part of a house, building or manufactory.</i>	Should the text read "[p]aragraph (2) does not prevent..."?

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
35.	Art 27	<i>(5) The undertaker must pay compensation to the owners and occupiers of land of which temporary possession is taken under this article for any loss or damage arising from the exercise in relation to the land <u>of the provisions</u> of any power conferred by this article.</i>	Are the underlined words necessary?
36.	Art 27	<i>(9)(b) acquiring any right in <u>the subsoil or of airspace over</u> any part of the Order land identified in part 1 of the book of reference under article 23 (acquisition of subsoil or airspace only) or article 26 (rights under or over streets).</i>	Should the underlined text read "...right in the subsoil <u>of or</u> airspace over..."?
37.	Art 28	<i>(11) In this article "the maintenance period" means the period of 5 years beginning with the <u>date of final commissioning</u>.</i>	How is the date of final commissioning to be ascertained by the relevant planning authority and/or affected persons so that the extent of the maintenance period can be calculated?
38.	Art 29	<i>(a) acquire compulsorily the land belonging to statutory undertakers shown on the land plans <u>within the limits of the land to be acquired and described in the book of reference</u></i>	Should the text shown underlined just refer to the Order land?
39.	Art 29	<i>(b) extinguish or suspend the rights or restrictions of, remove or reposition <u>the apparatus belonging to statutory undertakers shown on the land plans and described in the book of reference;</u> and</i>	The land plans do not show statutory undertakers' apparatus, nor is the apparatus described in the BoR? Generally can this paragraph be clarified as it does not read well?

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
40.	Art 31		<p>Although this article follows MP 32, what is the justification in this application for the limited definition of “public utility undertaker”? (The definition in the Highways Act 1980 refers only to suppliers of gas or hydraulic power, and not, e.g. water or electricity.)</p> <p>Given that limited definition, how can paragraph (1) of the article apply to the removal of public sewers in any event, which is the premise of paragraph (2)?</p>
41.	Art 32		<p>Whilst the purpose of the designatory letters (Plots GC, OR, SAT and MGAR) is understood, could the descriptor for this article be amended to ensure that the reader better appreciates the functional relationship between the relevant plots and the provision, for example to “Plots relevant to the proposed gas connection”? In any instance of dispute, a clearer functional title might assist eg an appointed arbitrator to a clearer understanding of the intention of this provision.</p>
42.	Art 33		<p>EA 1995 s97(8) defines “hedgerow” as including any stretch of hedgerow; should that definition be used directly instead of requiring a cross-reference to the 1995 Act?</p> <p>Consent under the 1997 Hedgerow Regulations is a prescribed consent in Wales under the Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015. Has the local planning authority consented to this provision?</p>
43.	Art 37	<p><i>37.—(1) The undertaker must, as soon as practicable after the making of this Order, submit to the Secretary of State copies of—</i></p> <p><i>(a) the <u>access rights of way plan</u>;</i></p>	<p>Relevant plan / revision and or document reference numbers should either be included in this provision or within the definition of the relevant documents in Art 2(1). Whichever approach is taken, all documents require to be correctly referenced. If Art 2(1) is to be used, are there any documents that would need to be added to and defined in that article?</p> <p>Should the underlined text refer to “...<i>the access and rights of way plan</i>”?</p>

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
44.	Art 38	<i>(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 <u>after reasonable enquiry</u>, the notice may be served by—</i>	Should the requirement be to make <u>diligent inquiry</u> – as in e.g. s57 PA2008?
45.	Art 39	<i>(4) The <u>procedure set out in paragraph 3 of Schedule 9 (procedure for discharge of requirements)</u> has effect in relation to any other consent, agreement or approval required under this Order, including such as may be required pursuant to the protective provisions contained within Schedule 8.</i>	Is paragraph 3 applicable in its entirety? Should it be limited to its application refusals of consent etc? Paragraph 3(1) includes matters such as disputes over further information requests, which relates specifically to matters raised in earlier paragraphs of the Schedule. The discussion of guillotine provisions in (6) above is also relevant to this provision.
46.	Schedule 1	<i>Work 1A(a) one gas turbine building with up to two gas turbines, and one steam turbine building with one steam turbine, each connected to its own generator with a <u>combined rated electrical output of up to 299 MWe</u>;</i>	Why does this not refer to a combined <u>gross</u> rated electrical output as with the Hirwaun and Progress DCOs as made? The descriptions of works in Schedule 1 is relevant to the general discussion of principal, associated and ancillary development in (7) above.
47.	R2(1)		Please include the up to date plan and revision number with each successive revision of the DCO.
48.	R2(2) Table 2	<i>Maximum height (metres) above a site level of <u>approximately 30 metres AOD</u></i>	Can this be more precise? Is the site level consistent over the whole of works 1A-1G? Is there or could there be a topographical survey drawing to which this provision could refer?

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
49.	R5	<i>(3) If required, remediation must be carried out in accordance with the approved scheme unless otherwise agreed in writing by the relevant planning authority.</i>	Should this read "Any required remediation..."?
50.	R8(1)	<i>8.—(1) No authorised development may commence until a written scheme setting out the methodology for <u>a watching brief over areas of archaeological interest</u> has been submitted to and approved by the relevant planning authority</i>	A number of other made Orders refer to a "written scheme of investigation" (or WSI) in this context. Is there an argument for employing this widely used term here? A watching brief is only part of the scheme requirements set out in R8(2) . Should R8(1) refer instead to "...the methodology for the investigation of areas of archaeological interest..." as in MP 6?
51.	R8(3)	<i>(3) Any watching brief carried out under the scheme must be by a suitably qualified person or body.</i>	Should the requirement require that all elements of the scheme should be carried out by a suitably qualified person, e.g. the geophysical survey or any measures taken to protect, record or preserve any significant archaeological remains, and not just the watching brief?
52.	R9(1)	<i>9.—(1) No authorised development may commence until a construction traffic management plan has been submitted to and approved by the relevant planning authority in consultation with the relevant highway authority. The construction traffic management plan must be substantially in accordance with <u>the draft construction traffic management plan in so far as it relates to the relevant numbered work with document reference 6.4.2 set out in appendix 7.5 to volume 4 of the environmental statement</u> and must include the following—</i>	Would this paragraph be clearer if the "draft construction management plan" was defined later in this requirement or in Art 2(1) ?

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
53.	R9(4)	<i>(4) During the operation of the generating station no <u>abnormal indivisible loads</u> may be transported into or out of the site without the prior written approval of the relevant planning authority in consultation the relevant highways authority.</i>	Is the phrase “abnormal indivisible loads” sufficiently precise as to allow enforcement in the event of breach or should it be defined in Art 2(1) ?
54.	R11(3)	<i>(3) Nothing in sub-paragraph (1) precludes a <u>start-up period</u> from 06:30 to 07:00 and a <u>shutdown period</u> from 19:00 to 19:30 on weekdays (excluding public holidays) and start-up period from 06:30 to 07:00 and a shut-down period from 13:00 to 13:30 on Saturdays and public holidays.</i>	What activities are proposed to be acceptable during the start-up and shutdown periods? Should these activities be more specifically identified in this paragraph?
55.	R12(1)	<i>12.—(1) <u>Numbered work 1 must not commence</u> until written details of the surface and foul water drainage system for the operation of the authorised development has been submitted to and approved by the relevant planning authority.</i>	Why is this requirement limited to Numbered work 1, and to drainage for the operation of the development? Other elements of the authorised development may require drainage, and the works need not necessarily be implemented in numerical order?
56.	R13(1)	<i>13.—(1) <u>Prior to the date of final commissioning</u> written details of the control of artificial lighting during maintenance and operation of the authorised development must be submitted to and approved by the relevant planning authority....</i>	Is the approval of the RPA intended to be a condition precedent to the commissioning of the development? Should a more consistent phrasing of such requirements be adopted e.g. “ <i>No generation of electricity on a commercial basis is to take place until details of....have been submitted to and approved by the relevant planning authority</i> ”?

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
57.	R15	<p><i>15.—(1) Save in respect of the approved plans specified in requirement 2(1), being the works plan and access rights of way plan, <u>regarding any other plans, drawings, documents, details, schemes, statements or strategies which require approval by the relevant planning authority pursuant to any requirement (the "Approved Plans, Details or Schemes"), the undertaker may submit to the relevant planning authority for approval any amendments to the Approved Plans, Details or Schemes and following any such approval by the relevant planning authority the Approved Plans, Details or Schemes are to be taken to include the amendments approved pursuant to this sub-paragraph (1).</u></i></p>	<p>Could this requirement be more clearly expressed e.g.:</p> <p>"15. – (1) Subject to paragraph (2), any plans, drawings, documents, details, schemes, statements or strategies which require approval...</p> <p>(2) Paragraph (1) does not apply to the works plan and access rights of way plan.</p> <p>(3) Approval under paragraph (1) must not be given.....</p>
58.	R16(3)		<p>Who determines the appropriate interval for monitoring of the heat use review and or the need for and scope of subsequent reviews? Who determines viability and on what basis? What sanction is available where no scheme or an unsatisfactory scheme is submitted on a subsequent review once the development has been commissioned?</p>
59.	R17		<p>Why is a twenty four month period necessary before submission of details of a decommissioning strategy? Why does the strategy apply to Work No. 1 and not to other works?</p>

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
60.	Sch 6	<i>MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF <u>NEW RIGHTS</u></i>	Should this read "... <u>NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIONS</u> "?
61.	Sch6 para 2(2)(a)	<i>(2) In section 44(1) (compensation for injurious affection), as it applies to compensation for injurious affection under section 7 of the 1965 Act as substituted by paragraph 4— (a) for the words "<u>land is acquired or taken</u>" there is substituted the words "a right or restrictive covenant over land is purchased from or imposed on"; and</i>	As drafted the word 'from' would be duplicated in the section as amended. Should the words " <i>land is acquired or taken</i> " in (a) be amended to read " <i>land is acquired or taken <u>from</u></i> "?
62.	Sch 6 para 5	<i>5. For section 8 of the 1965 Act (provisions as to divided land) there is substituted the following section— "8.—(1) Where in consequence of the service on a person under section 5 of this Act <u>of a notice to treat in respect of a right over land</u> consisting of a house, building or manufactory or of a park or garden belonging to a house ("the relevant land")—</i>	Should para 8(1) as substituted also refer to a notice to treat in respect of a restrictive covenant?
63.	Sch 8		As these provisions are subject to continuing discussions with the statutory undertakers, no queries are raised on them at this stage but may be necessary later in the examination dependent on the progress of those discussions.

Q No.	Part of DCO	Relevant extract from DCO (for ease of reference)	Issue or question
64.	Sch 9		<p>The issues raised at (6) above in relation to guillotine provisions generally are relevant to Schedule 9.</p> <p>Additionally, the views of the RPA and any other approval body under the schedule are sought about the appropriateness of the procedures and time limits set out here.</p>
65.	Sch 9 para 1 (2)	<p><i>1_(2) Subject to <u>sub-paragraph (3)</u> In the event that the relevant authority does not determine</i></p>	<p>Should the underlined text be drafted as follows: "...to <u>sub-paragraph (3) in the</u> "?</p>
66.	Sch 9 para 3(2)	<p><i>3 (2)(b) The Secretary of State must appoint a person <u>within twenty (20) business days</u> after receiving the appeal documentation and must forthwith notify the appeal parties of the identity of the appointed person and the address to which all correspondence for his attention should be sent;</i></p>	<p>The SoS is unlikely to wish to be constrained to a fixed timetable for the appointment of an Inspector. In the made Hirwaun DCO, which contained a similar procedure, the SoS was to appoint "as soon as reasonably practicable". Should the same provision apply in this case? If not, why not?</p>
67.	Sch 9 para 3(2)		<p>In the Hirwaun DCO as made, the approved periods for submissions and counter-submissions were each 26 days. Does the reduction of this period to 'twenty business days' provide sufficient time?</p>
68.	Sch 9 para 4		<p>Is the SoS for Communities and Local Government (with only a limited remit for action in Wales) the appropriate SoS to perform the discharging authority functions required of the SoS by this Schedule, or should they be performed by the SoS otherwise responsible for the Order (Energy and Climate Change) or the Welsh Ministers who are responsible for the determination of appeals under s78 of the Town and Country Planning Act 1990 (as amended)?</p>