

**ABERGELLI Power Limited**



**The Applicant's Response to Relevant Representations**

**Deadline 1 – 9<sup>th</sup> November 2018**



## Document Control Sheet

**Project Name:** Abergelli Power Limited

**Project Ref:** EN010069

**Report Title:** The Applicant's Response to Relevant Representations

**Date:** 9 November 2018

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# 1 SUMMARY

- 1.1.1 The Applicant, Abergelli Power Limited, is applying to the Secretary of State (SoS) under the Planning Act 2008 (PA 2008) for development consent to construct, operate and maintain an Open Cycle Gas Turbine (OCGT) gas fired peaking power generating station, fuelled by natural gas with a rated electrical output of up to 299 Megawatts (MW).
- 1.1.2 The Development Consent Order (DCO) Application for the Abergelli Power Project (the Project) was submitted by the Applicant to the SoS in May 2018. It was formally accepted to progress to examination in June 2018. Following acceptance, the Applicant consulted on the accepted Application pursuant to Section 56 of the PA 2008. The consultation period ran from 3<sup>rd</sup> July 2018 to 2<sup>nd</sup> August 2018. In response to the consultation period, a total of 26 Relevant Representations (RRs) have been made.
- 1.1.3 The 26 RRs received during the consultation period are from the following groups:
- 2 local planning authorities (Rep 008, Rep 022);
  - 3 community councils (Rep 004, Rep 019, Rep 021);
  - 7 members of the public/businesses (Rep 001, Rep 003, Rep 005, Rep 015, Rep 016, Rep 017, Rep 020);
  - 13 prescribed consultees (Rep 002, Rep 006, Rep 009, Rep 010, Rep 011, Rep 012, Rep 013, Rep 014, Rep 018, Rep 023, Rep 024, Rep 025, Rep 026); and
  - 1 other organisation (Rep 007).
- 1.1.4 The Applicant notes that Public Health England has chosen not to register its interest in the Project (Rep 009).
- 1.1.5 This document sets out the Applicant's response to each of the RRs. This document has been prepared in order to assist both Interested Parties and the Examining Authority by clarifying the position of the Applicant in relation to the points raised in the RRs.

## 2 REP-001 David Edwards

### Summary of Relevant Representation

- 2.1.1 The respondent cites an example from previous industry experience as an engineer working on the construction of a local gas-fired power plant in which the level of noise was unexpectedly significant once the plant was commissioned. Significant modifications were implemented to mitigate the impact of noise on the surrounding area. This was on a project approximately 20 years ago. The respondent identifies that the number of exhaust gas flue stacks used by the Power Generation Plant has reduced from five stacks to one stack (proposed previously by the Applicant in 2014) and expresses concern over the increased noise levels associated with this single stack. The respondent sends this example for information.

### Applicant's Comments

- 2.1.2 The Applicant confirms that the Power Generation Plant is now made up of only one Gas Turbine Generator with one exhaust gas flue stack, rather than up to five. The stack height is now a maximum of 45 m, instead of 40 m.
- 2.1.3 A desk based study and baseline noise monitoring was undertaken in 2014 and repeated in 2018 to establish baseline sound levels at these receptors. The study incorporates the nearest representative Noise Sensitive Receptors (NSRs) in all directions (all residential dwellings), and locations for noise monitoring have been agreed with CCS and NRW.
- 2.1.4 The detailed assessments and modelling undertaken conclude that there are no significant effects during the construction and operational phases of the Project.
- 2.1.5 Furthermore, and in respect of noise and vibration during operation of the Power Generation Plant, embedded mitigation has been incorporated into the design, including the installation of silencers within the exhaust stack to control discharge noise, which will be tuned to attenuate low frequencies from the Gas Turbine Generator exhausts. Requirement 25 of the Draft Development Consent Order (APP-014), "Control of noise during operational phase" will impose maximum noise limits at NSRs which are not to be exceeded during operation of the Project.
- 2.1.6 Finally, an Environmental Permit will be required to operate the plant, issued and regulated by Natural Resources Wales (NRW). The Environmental Permit will have controls in relation to emissions to air, noise emissions, and discharges to water. If the noise limits contained within the Environmental Permit are exceeded, then NRW must be notified and if the noise limits are exceeded on a regular basis then NRW may order the site to cease operation.
- 2.1.7 NRW issued a draft Environmental Permit for the Project on 22<sup>nd</sup> October 2018 which the Applicant is currently reviewing.

## **3 REP-002 NATS LTD**

### **Summary of Relevant Representation**

- 3.1.1 The respondent states that the Project is over 40 km away from any NATS infrastructure and as such, the respondent anticipates no impact and has no comments to make on the application.

### **Applicant's Comments**

- 3.1.2 The Applicant notes the relevant representation from NATS LTD and welcomes confirmation that NATS anticipates no impact on its infrastructure.

## 4 REP-003 Paul Northcote

### Summary of Relevant Representation

- 4.1.1 The respondent expresses concern that the local area will be adversely affected by pollution and contamination from the gases emitted from the Power Generation Plant.

### Applicant's Comments

- 4.1.2 The Applicant notes the comment made by Paul Northcote and provides a response below.
- 4.1.3 A full air quality impact assessment has been undertaken and is presented in Chapter 6 of the Environmental Statement (APP-042) which demonstrates that the Project will not give rise to significant air quality effects on human health or designated ecological sites. As part of the air quality impact assessment, the Project's stack height has been determined so as to maximise dispersion of pollutants to ensure that local impacts are minimised as far as practicable.
- 4.1.4 Therefore, the Project will achieve the most stringent emission limits that are applicable throughout Europe and, in practice, will operate at below these emission limits to ensure that any fluctuation in operations does not lead to an exceedance of the limit.
- 4.1.5 An Environmental Permit will be required to operate the plant, issued and regulated by Natural Resources Wales (NRW). The Environmental Permit will have controls in relation to emissions to air, noise emissions, and discharges to water. If the emission limits in relation to air are exceeded, then NRW must be notified and if the limits are exceeded on a regular basis then NRW may order the site to cease operation.
- 4.1.6 NRW issued a draft Environmental Permit for the Project on 22<sup>nd</sup> October 2018 which the Applicant is currently reviewing.

## 5 REP-004 Mawr Ward

### Summary of Relevant Representation

- 5.1.1 The respondent asks several questions about the environmental impact of the Project, namely noise and air pollution and construction traffic and the impact these aspects may have on the town of Felindre and the nearby residents of Rhyd Y Pandy. The respondent asks whether the Project will impact land/property values and further questions whether the community will benefit from the Project.

### Applicant's Comments

- 5.1.2 The Applicant notes comments made by Mawr Ward and has responded to each in turn.

### Air and Noise Emissions

- 5.1.3 The effects on public health of impacts to air quality and noise have been assessed and the findings conclude there will be no significant effects. Full air quality and noise impact assessments have been undertaken and the findings are presented in Chapters 6 and 7 of the Environmental Statement (APP-042) respectively.

### Construction Traffic

- 5.1.4 A transport assessment has been undertaken and identifies effects to the highway network, road safety and accessibility (Chapter 11 of the ES, APP-042). Significant effects have been predicted during the construction and decommissioning phase from the Project, although these would be temporary. An Outline Construction Environment Management Plan (CEMP) (ES Appendix 3.1, APP-036) and Outline Construction Traffic Management Plan (CTMP) (ES Appendix 3.3a, APP-036) have been prepared. These are strategic documents that set out best practice methods to minimise environmental impacts during construction and the management of material movements and interactions with the surrounding road network during the various stages of the construction process. An Outline Construction Staff Travel Plan (CSTP) (ES Appendix 3.3b, APP-036) has also been prepared to outline the management of staff movements during the various stages of the construction process. These preliminary documents will be finalised and adopted by the Contractor for implementation on site, once the content has been agreed with City and County of Swansea Council.

### Land and Property Value

- 5.1.5 In response to concerns raised regarding house prices and land value, the Applicant is not aware of any evidence which would suggest that the construction of the Project is likely to lead of general depression of property prices in the vicinity. A loss of value to private property is not a matter which the EIA Regulations require to be considered in an EIA.
- 5.1.6 The Applicant recognises that there are certain neighbours of the project who may be entitled to make claims for compensation (Category 3 persons). The Applicant has sought to assist potentially affected parties by providing a short explanation of the circumstances in which parties may be entitled to claim compensation due to impacts from the Project. Whilst the Applicant cannot provide legal advice to potentially affected parties on their circumstances, it has sought to assist the community by providing information on the types of claim which may be available.

### Community Benefits

- 5.1.7 The socio-economic assessment in Chapter 14 of the Environmental Statement (APP-042) estimates that the operational phase of the Project will create 10 full time equivalent (FTE)

direct jobs. Each of the 10 FTE jobs will be highly skilled positions that offer permanent employment opportunities for 25 years. With regards to the Project construction phase, the baseline assessment shows construction and manufacturing employment accounts for almost a fifth of all jobs in the study area. The study area's concentration of skilled manual workers is also higher than the national average. The Project will also present an opportunity to develop the skills of the local workforce and increase the value of the construction industry.

- 5.1.8 The Applicant will support the local community to access these employment opportunities by working with the CCS Education Team to produce an Education Scheme which will be a series of planned school visits within Swansea to explain the Project. The Applicant will work together with the CCS Beyond Bricks and Mortar Team to establish the Local Employment Scheme, which will be a set of initiatives aimed at unemployed and economically inactive people in Swansea. The scheme shall include targets for the recruitment, employment and training of unemployed people and the Applicant shall interview and, if appropriate, recruit suitably qualified applicants as part of the scheme, as well as working with local training providers and apprentice schemes. The delivery of the Education Scheme and the Local Employment Scheme will be secured by a section 106 (s106) planning obligation.
- 5.1.9 In addition, the s106 Agreement will provide funding to secure improvements to the network of footpaths and bridleways in the area immediately surrounding the Abergelli Power Project Site in order to mitigate construction traffic impacts. These improvements are permanent, providing a lasting benefit to neighbouring communities.

## 6 REP-005 Mr Peter Rasbridge

### Summary of Relevant Representation

- 6.1.1 The respondent wishes to discuss the site location of the Project, noise and air pollution and the general environmental impact on the area.

### Applicant's Comments

- 6.1.2 The Applicant acknowledges the comments from Mr Peter Rasbridge and has responded to each in turn. Consultation between the Applicant and the respondent is ongoing, as the respondent is a person whose land interest is potentially affected by the Project.

### Site Location

- 6.1.3 The site has been chosen following an extensive search by the project team and the suitability of the site is a combination of:
- close proximity to a suitable electrical connection point;
  - close proximity to a suitable gas connection point;
  - the Project site does not include any nationally important environmental designations;
  - land available is of an adequate size to accommodate the Power Generation Plant, Gas Connection and Electrical Connection;
  - Project Site is largely situated on poor quality agricultural land (improved grassland classified as Grade 4 agricultural land);
  - close proximity to similar industrial developments including the Felindre Gas Compressor Station and Substation;
  - surrounding network is within an area of net electricity import; and
  - close proximity to a well-developed road network to the Project Site.
- 6.1.4 Chapter 5 Alternatives Considered of the Environmental Statement (ES) (APP-042) sets out further details on project site selection.

### General Environmental Impact on the Area

- 6.1.5 The Applicant has carried out a thorough environmental impact assessment of the Project, and information is set out in the ES (APP-042).

### Noise

- 6.1.6 In response to comments on noise, the potential effects of noise emissions resulting from the Project are detailed in Chapter 7 Noise and Vibration of the ES (APP-042). The detailed assessments and modelling undertaken conclude that there are no significant effects during the construction and operational phases of the Project.

## Air Quality

- 6.1.7 The potential effects on air quality are assessed in Chapter 6 of the ES (APP-042) and no significant impacts are anticipated during the construction/decommissioning and operational phases of the Project.

## **7 REP-006 Osborne Clare LLP on behalf of Western Power Distribution (South Wales) PLC**

### **Summary of Relevant Representation**

- 7.1.1 The respondent states that Western Power Distribution (South Wales) Plc is the distribution network operator for the area in which the proposed development is situated and has apparatus which may be affected by the proposed development.
- 7.1.2 The respondent notes that discussions are ongoing with the Applicant in relation to the form of protective provisions proposed to be included in the draft DCO and that it is anticipated that agreement can be reached.

### **Applicant's Comments**

- 7.1.3 The Applicant notes the comments from Western Power Distribution (South Wales) Plc ("WPD") and confirms that discussions are continuing to progress in relation to appropriate protective provisions for the benefit of WPD.
- 7.1.4 As set out in Table 3 of the Statement of Reasons (APP-010), the Applicant considers that the rights can be acquired without serious detriment to the carrying on of WPD's undertaking. The protective provisions in the draft DCO ensure that WPD's apparatus will be protected and access maintained during construction. The protective provisions also ensure that (if it is necessary to remove apparatus) no rights will be extinguished without WPD's agreement and no apparatus will be removed until alternative apparatus has been constructed.
- 7.1.5 Discussions with WPD in relation to the draft protective provisions are ongoing, and the Applicant anticipates that it will be possible to reach agreement with WPD on the terms of the protective provisions and any other commercial terms prior to the end of the Examination. The Applicant will update the Examining Authority at the earliest opportunity once terms are agreed.

## 8 REP-007 Swansea Friends of the Earth

### 8.1 Summary of Relevant Representation

1. The respondent's comments cover three key areas:
  - 1.1. Need for the Development
  - 1.2. Alternative Technologies; and
  - 1.3. Site Selection.

### 8.2 Applicant's Comments

2. The Applicant notes the response from Swansea Friends of the Earth and has responded to each of the respondent's key topics in turn.

#### Need for the Development

3. There is a considerable national need for need for new energy infrastructure projects, acknowledged at all levels of Government policy, and particularly set out in NPS EN-1 Part 3. Paragraph 3.1.3 confirms that the Secretary of State should assess all applications for development consent for the types of infrastructure covered by the NPS on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in Part 3. The policy is clear that it is not Government's intention to dictate which types of infrastructure will come forward, and that "it is for industry to propose new energy infrastructure projects within the strategic framework set by Government. The Government does not consider it appropriate for planning policy to set targets for or limits on different technologies". The Secretary of State should therefore assess the proposed development on the basis set out in NPS EN-1, which is that there is an urgent need for new energy generation of all types, including gas generation.

#### Alternative Technologies

4. The Applicant notes the respondent's comments regarding potential alternative technologies to be considered. Section 5.3 of the Environmental Statement (ES) (APP-042) considers and discounts other types of plant such as Combined Cycle Gas Turbine (CCGT) plant; Reciprocating Gas Engines (RGE) plant and Combined Heat and Power (CHP) Plant. Further information regarding the use of CHP at the Project is provided in a separate report and can be found as ES Appendix 5.1 (APP-037).

#### Site Selection

5. In relation to the comment regarding the suitability of the proposed Abergelli Power site, the Applicant can confirm that the site has been chosen following an extensive search by the project team and the suitability of the site is a combination of:
  - close proximity to a suitable electrical connection point;
  - close proximity to a suitable gas connection point;
  - the Project site does not include any nationally important environmental designations;

- land available is of an adequate size to accommodate the Power Generation Plant, Gas Connection and Electrical Connection;
  - Project Site is largely situated on poor quality agricultural land (improved grassland classified as Grade 4 agricultural land);
  - close proximity to similar industrial developments including the Felindre Gas Compressor Station and Substation;
  - surrounding network is within an area of net electricity import; and
  - close proximity to a well-developed road network to the Project Site.
- 5.1. Chapter 5 of the ES (APP-042) Section 5.2 Project Site Selection further sets out the process behind the site selection, including a summary of the key factors as to why the Project Site is considered suitable for the proposed development.

## **9 REP-008 Neath Port Talbot County Borough Council**

### **Summary of Relevant Representation**

- 9.1.1 The respondent is of the opinion that Project will not impact significantly upon highway safety, air quality or biodiversity and therefore offers no comment or objection. Unless a material change in the proposals is made, the respondent does not wish to attend any examinations.

### **Applicant's Comments**

- 9.1.2 The Applicant notes Neath Port Talbot County Borough Council's statement and welcomes confirmation that no objections have been made.

## 10 REP-009 Public Health England

### Summary of Relevant Representation

- 10.1.1 The respondent is satisfied that on the basis of the submitted documentation and suggested control and mitigation measures, the development is unlikely to present a significant risk to public health. The respondent further adds that it does not wish to register an interest in the application on this occasion.

### Applicant's Comments

- 10.1.2 The Applicant acknowledges the statement from Public Health England (PHE) and welcomes the comment that the development is unlikely to present a significant risk to public health.

## 11 REP-010 BNP Paribas Real Estate on behalf of Royal Mail Group Limited

### Summary of Relevant Representation

11.1.1 The respondent states that it is highly sensitive to any traffic changes in the capacity of Junction 46 of the M4 Motorway and raises concern about the adverse effects of increased traffic during the construction and operational phase of the Project. The respondent requests that:

- The Development Consent Order (DCO) includes a requirement for Royal Mail to be pre-consulted by the Applicant on proposed road closures, diversions, alternative access arrangements, working hours, and the content of the final Construction Traffic Management Plan (CTMP); and
- The DCO includes a requirement for the final CTMP includes provision for a mechanism to inform major road users about works affecting the local network with particular regard to Royal Mail's distribution facilities in the vicinity of the DCO application site.

### Applicant's Comments

11.1.2 The Applicant acknowledges these comments and provides a response below.

11.1.3 Environmental Statement (ES) Chapter 12 Traffic (APP-042) considers the impacts of traffic generated by the Project. The assessment confirms that there will be some temporary adverse effects in relation to increased HGV movements during the construction period. An Outline CTMP (ES Appendix 3.3a, APP-036) provides measures to manage construction traffic and minimise adverse impacts.

11.1.4 The Outline CTMP (ES Appendix 3.3a, APP-036) section "Local Services" (para 3.3.9) includes the commitment that during the construction period the contractor and haulage company will make all reasonable efforts to work with local service providers, including Royal Mail, to ensure that disruption caused by Abnormal Indivisible Load (AIL) deliveries is avoided.

11.1.5 The CTMP is secured via Requirement 21 of the draft Development Consent Order (APP-014) "Construction Traffic Management Plan". The DCO, through Requirement 21 and the CTMP, therefore secures consultation with Royal Mail, as sought by them.

11.1.6 The traffic and transport assessment concludes that there will be no adverse effects during operation of the Project

## 12 REP-011 Loxley Solicitors on behalf of Loxley Solicitors on behalf of Mr Michael Edwards

### Summary of Relevant Representation

12.1.1 The respondent states that he objects to the making of the Order.

12.1.2 The respondent contends that:

- a. the Applicant has not demonstrated that the land is required to secure the objectives of the Scheme set out in the Order
- b. The Applicant has not demonstrated that it will be able to implement the scheme and in particular whether the Access Road and Electrical Connection can be constructed in the locations shown;
- c. The proposed use of compulsory powers to acquire rights (including restrictions) and the acquisition of temporary rights will render such land unusable for the purposes for which the owner currently uses it and such interference will be permanent. The respondent states that such interference is not justified.
- d. The existing use is more important than the proposed use, particularly when options are available which would not require the land to be acquired at all;
- e. The disruption whilst the proposed works are carried out and the exercise of those permanent rights over the respondent's land will have a permanent detrimental impact on the respondent's use of their property;
- f. The Applicant has sought to acquire excessive rights in land over and above what is reasonably necessary;
- g. The Applicant has failed to consider all reasonable alternatives to compulsory acquisition including:
  - i. alternative options for the Access Road;
  - ii. alternative options for the Electrical Connection;
- h. The justification for the Access Route is flawed and there are alternative routes which would cause less disturbance, not require as much land to be compulsorily acquired and would result in less severe environmental impact and the Applicant has failed to consider the environmental impacts of alternative route options; and
- i. There is no compelling case in the public interest.

### Applicant's Comments

12.1.3 The Applicant notes the comments of the respondent in the Relevant Representation and notes that the respondent intends to expand on the representation in due course.

12.1.4 The Applicant is confident that the Access Road and the Electrical Connection can be implemented in the locations and within the areas shown (where relevant) on the Works Plans and Land Plans (Document Refs. APP-053 and APP-057 respectively). A planning application for the Electrical Connection has been submitted to the City and County of Swansea for the Electrical Connection and is expected to be determined by the end of 2018. Whilst the detailed design of the Access Road has not yet been completed, the Applicant and its

professional design team have no doubt that it will be possible to implement the development within the parameters shown on the Works Plans and assessed within the Environmental Statement (APP-042). The dimensions of the Access Road applied for have been determined having regard to the construction methods for the Access Road and for the Power Generation Plant, taking into account the size of the Abnormal Indivisible Loads which will need to use the Access Road to reach the Power Generation Site. The Electrical Connection has been designed taking into account the likely technique for installation of the cable and the need to be able to access the cable for maintenance and repair. The design is considered to be robust and implementable.

- 12.1.5 The Statement of Reasons (Section 6.6) (APP-010) and Chapter 5 of the Environmental Statement (APP-042) set out the alternatives considered by the Applicant, including both the alternatives considered for the Access Route and the Electrical Connection
- 12.1.6 The Applicant undertook a detailed and multi-phase public consultation in relation to its proposals, including two statutory consultations which were accompanied by detailed Preliminary Environmental Information Reports setting out the likely impacts of the development being consulted upon and outlining alternatives considered at each stage. The respondent was sent copies of the section 42 consultation materials on 8<sup>th</sup> October 2014 and 9<sup>th</sup> January 2018.
- 12.1.7 The final decision on the alignment of the new section of Access Road was taken following the conclusion of public consultation and having regard to all comments received, including those from statutory bodies such as Natural Resources Wales and CCS, and in particular was amended to avoid impacts on ancient woodland.
- 12.1.8 The relevant representation contains no information as to any other alternative routes for either the Access Road or the Electrical Connection that the Applicant can provide any comments on.
- 12.1.9 The Applicant was first made aware that the respondent wished to raise the question of alternative routes for an access to the Power Generation Site via email on 24<sup>th</sup> August 2018. The respondent then discussed a number of alternative routes during a meeting on 24<sup>th</sup> September 2018 in the form of a verbal description. No specific proposal for an alternative route has to date been advanced by the respondent that the Applicant can properly consider or assess. The respondent did not respond to the statutory consultation in 2014 or in 2017/2018 with any suggestion of alternative routes nor to raise any issues with the routes being consulted on by the Applicant. Similarly, the respondent did not respond to the consultation carried out in August 2018 prior to submission of the Electrical Connection planning application.
- 12.1.10 There is no requirement for an Applicant to provide environmental information on every alternative suggested by an interested party. The Applicant has complied with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 to provide information on the "*main alternatives studied by the applicant and an indication of the main reasons for the applicant's choice, taking into account the environmental effects*".
- 12.1.11 The existing use of the land is predominantly for grazing. The final position of the new section of Access Road will have a permanent impact on the landowner's use. The owner has been invited to specify accommodation works, such as crossing points or other features, which would enable ongoing use of severed land and where ongoing use may be feasible for the owner.
- 12.1.12 The Applicant considers that the national need for new gas generating stations which is established in NPS EN-1 is not outweighed by the respondent's existing use of the land.

- 12.1.13 The Applicant has set out in detail in its Statement of Reasons (APP-010) why the land is required for the delivery of the authorised development and development that is required for or incidental to it (see Section 6.2).
- 12.1.14 The Applicant has sought to minimise the impact of the compulsory acquisition powers included in the Draft DCO (APP-014) by seeking to acquire new rights where freehold ownership is not required, and by taking temporary possession of land rather than permanent acquisition of land or rights where the land is only required on a temporary basis to facilitate construction or maintenance of the works.
- 12.1.15 The Applicant has explained why it considers there is a compelling case in the public interest for the grant of the land acquisition powers sought in section [7] of the Statement of Reasons (APP-010).

## 13 REP-012 Loxley Solicitors on behalf of Redisplay Limited

### Summary of Relevant Representation

13.1.1 The respondent states that it objects to the making of the Order.

13.1.2 The respondent contends that:

- a. the Applicant has not demonstrated that the land is required to secure the objectives of the Scheme set out in the Order
- b. The Applicant has not demonstrated that it will be able to implement the scheme and in particular whether the Access Road and Electrical Connection can be constructed in the locations shown;
- c. The proposed use of compulsory powers to acquire rights (including restrictions) and the acquisition of temporary rights will render such land unusable for the purposes for which the owner currently uses it and such interference will be permanent. The respondent states that such interference is not justified.
- d. The existing use is more important than the proposed use, particularly when options are available which would not require the land to be acquired at all;
- e. The disruption whilst the proposed works are carried out and the exercise of those permanent rights over the respondent's land will have a permanent detrimental impact on the respondent's use of their property;
- f. The Applicant has sought to acquire excessive rights in land over and above what is reasonably necessary;
- g. The Applicant has failed to consider all reasonable alternatives to compulsory acquisition including:
  - i. alternative options for the Access Road;
  - ii. alternative options for the Electrical Connection;
- h. The justification for the Access Route is flawed and there are alternative routes which would cause less disturbance, not require as much land to be compulsorily acquired and would result in less severe environmental impact and the Applicant has failed to consider the environmental impacts of alternative route options; and
- i. There is no compelling case in the public interest.

### Applicant's Comments

13.1.3 The Applicant notes the comments of the respondent in the Relevant Representation and notes that the respondent intends to expand on the representation in due course.

13.1.4 The Applicant is confident that the Access Road and the Electrical Connection can be implemented in the locations and within the areas shown (where relevant) on the Works Plans and Land Plans (Document Refs. APP-053 and APP-057 respectively). A planning application for the Electrical Connection has been submitted to the City and County of Swansea for the Electrical Connection and is expected to be determined by the end of 2018. Whilst the detailed design of the Access Road has not yet been completed, the Applicant and its

professional design team have no doubt that it will be possible to implement the development within the parameters shown on the Works Plans and assessed within the Environmental Statement (APP-042). The dimensions of the Access Road applied for have been determined having regard to the construction methods for the Access Road and for the Power Generation Plant, taking into account the size of the Abnormal Indivisible Loads which will need to use the Access Road to reach the Power Generation Site. The Electrical Connection has been designed taking into account the likely technique for installation of the cable and the need to be able to access the cable for maintenance and repair. The design is considered to be robust and implementable.

- 13.1.5 The Statement of Reasons (Section 6.6) (APP-010) and Chapter 5 of the Environmental Statement (APP-042) set out the alternatives considered by the Applicant, including both the alternatives considered for the Access Route and the Electrical Connection
- 13.1.6 The Applicant undertook a detailed and multi-phase public consultation in relation to its proposals, including two statutory consultations which were accompanied by detailed Preliminary Environmental Information Reports setting out the likely impacts of the development being consulted upon and outlining alternatives considered at each stage. The respondent was sent copies of the section 42 consultation materials on 8<sup>th</sup> October 2014 and 9<sup>th</sup> January 2018.
- 13.1.7 The final decision on the alignment of the new section of Access Road was taken following the conclusion of public consultation and having regard to all comments received, including those from statutory bodies such as Natural Resources Wales and CCS, and in particular was amended to avoid impacts on ancient woodland.
- 13.1.8 The relevant representation contains no information as to any other alternative routes for either the Access Road or the Electrical Connection that the Applicant can provide any comments on.
- 13.1.9 The Applicant was first made aware that the respondent wished to raise the question of alternative routes for an access to the Power Generation Site via email on 24<sup>th</sup> August 2018. The respondent then discussed a number of alternative routes during a meeting on 24<sup>th</sup> September 2018 in the form of a verbal description. No specific proposal for an alternative route has to date been advanced by the respondent that the Applicant can properly consider or assess. The respondent did not respond to the statutory consultation in 2014 or in 2017/2018 with any suggestion of alternative routes nor to raise any issues with the routes being consulted on by the Applicant. Similarly, the respondent did not respond to the consultation carried out in August 2018 prior to submission of the Electrical Connection planning application.
- 13.1.10 There is no requirement for an Applicant to provide environmental information on every alternative suggested by an interested party. The Applicant has complied with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 to provide information on the "*main alternatives studied by the applicant and an indication of the main reasons for the applicant's choice, taking into account the environmental effects*".
- 13.1.11 The existing use of the land is for paintballing. The paintballing activities are run by a separate entity called Team Force. The rights sought by the Applicant are intended to facilitate works for the reinforcement/improvement and maintenance of the existing access road for the National Grid facility.
- 13.1.12 The Applicant considers that the national need for new gas generating stations which is established in NPS EN-1 is not outweighed by the respondent's existing use of the land.

- 13.1.13 The Applicant has set out in detail in its Statement of Reasons (APP-010) why the land is required for the delivery of the authorised development and development that is required for or incidental to it (see Section 6.2).
- 13.1.14 The Applicant has sought to minimise the impact of the compulsory acquisition powers included in the Draft DCO (APP-014) by seeking to acquire new rights where freehold ownership is not required, and by taking temporary possession of land rather than permanent acquisition of land or rights where the land is only required on a temporary basis to facilitate construction or maintenance of the works.
- 13.1.15 The Applicant has explained why it considers there is a compelling case in the public interest for the grant of the land acquisition powers sought in section [7] of the Statement of Reasons (APP-010).

## 14 REP-013 Wales & West Utilities

### Summary of Relevant Representation

- 14.1.1 The respondent has local transmission pipelines in close proximity to the Project and has concerns over construction traffic entering the site and crossing over their assets. The respondent wishes to be kept informed about the Project.

### Applicant's Comments

- 14.1.2 The Applicant acknowledges the comments from Wales & West Utilities and provides a response below confirms that discussions are continuing to progress in relation to appropriate protective provisions for the benefit of Wales and West Utilities.
- 14.1.3 As set out in Table 3 of the Statement of Reasons (APP-010), the Applicant considers that the rights can be acquired without serious detriment to the carrying on Wales and West Utilities' undertaking. The protective provisions in the draft DCO ensure that Wales and West Utilities' apparatus will be protected and access maintained during construction. The protective provisions also ensure that (if it is necessary to remove apparatus) no rights will be extinguished without Wales and West Utilities' agreement and no apparatus will be removed until alternative apparatus has been constructed.
- 14.1.4 Discussions with Wales and West Utilities in relation to the draft protective provisions are ongoing, and the Applicant anticipates that it will be possible to reach agreement with Wales and West Utilities on the terms of the protective provisions and any other commercial terms prior to the end of the Examination. The Applicant will update the Examining Authority at the earliest opportunity once terms are agreed.

## 15 REP-014 Loxley Solicitors on behalf of Wynne Watkins

### Summary of Relevant Representation

- 15.1.1 The respondent states that he objects to the making of the Order.
- 15.1.2 The respondent contends that:
- a. the Applicant has not demonstrated that the land is required to secure the objectives of the Scheme set out in the Order
  - b. The Applicant has not demonstrated that it will be able to implement the scheme and in particular whether the Access Road and Electrical Connection can be constructed in the locations shown;
  - c. The proposed use of compulsory powers to acquire rights (including restrictions) and the acquisition of temporary rights will render such land unusable for the purposes for which the owner currently uses it and such interference will be permanent. The respondent states that such interference is not justified.
  - d. The existing use is more important than the proposed use, particularly when options are available which would not require the land to be acquired at all;
  - e. The disruption whilst the proposed works are carried out and the exercise of those permanent rights over the respondent's land will have a permanent detrimental impact on the respondent's use of their property;
  - f. The Applicant has sought to acquire excessive rights in land over and above what is reasonably necessary;
  - g. The Applicant has failed to consider all reasonable alternatives to compulsory acquisition including:
    - i. alternative options for the Access Road;
    - ii. alternative options for the Electrical Connection;
  - h. The justification for the Access Route is flawed and there are alternative routes which would cause less disturbance, not require as much land to be compulsorily acquired and would result in less severe environmental impact and the Applicant has failed to consider the environmental impacts of alternative route options; and
  - i. There is no compelling case in the public interest.

### Applicant's Comments

- 15.1.3 The Applicant notes the comments of the respondent in the Relevant Representation and notes that the respondent intends to expand on the representation in due course.
- 15.1.4 The Applicant also notes that Mr Wynne Watkins is also the beneficial owner of Redisplay Limited and is one of two directors of the company (the other being Carol Watkins). Redisplay Limited is also an interested party, with reference REP-012. The substance of the representation made on behalf of Mr Wynne Watkins is identical to that raised on behalf of Redisplay Limited. The Applicant therefore also refers to the response to REP-012 above.

- 15.1.5 The Applicant is confident that the Access Road and the Electrical Connection can be implemented in the locations and within the areas shown (where relevant) on the Works Plans and Land Plans (Document Refs. APP-053 and APP-057 respectively). A planning application for the Electrical Connection has been submitted to the City and County of Swansea for the Electrical Connection and is expected to be determined by the end of 2018. Whilst the detailed design of the Access Road has not yet been completed, the Applicant and its professional design team have no doubt that it will be possible to implement the development within the parameters shown on the Works Plans and assessed within the Environmental Statement (APP-042). The dimensions of the Access Road applied for have been determined having regard to the construction methods for the Access Road and for the Power Generation Plant, taking into account the size of the Abnormal Indivisible Loads which will need to use the Access Road to reach the Power Generation Site. The Electrical Connection has been designed taking into account the likely technique for installation of the cable and the need to be able to access the cable for maintenance and repair. The design is considered to be robust and implementable.
- 15.1.6 The Statement of Reasons (Section 6.6) (APP-010) and Chapter 5 of the Environmental Statement (APP-042) set out the alternatives considered by the Applicant, including both the alternatives considered for the Access Route and the Electrical Connection
- 15.1.7 The Applicant undertook a detailed and multi-phase public consultation in relation to its proposals, including two statutory consultations which were accompanied by detailed Preliminary Environmental Information Reports setting out the likely impacts of the development being consulted upon and outlining alternatives considered at each stage. The respondent was sent copies of the section 42 consultation materials on 8<sup>th</sup> October 2014 and 9<sup>th</sup> January 2018.
- 15.1.8 The final decision on the alignment of the new section of Access Road was taken following the conclusion of public consultation and having regard to all comments received, including those from statutory bodies such as Natural Resources Wales and CCS, and in particular was amended to avoid impacts on ancient woodland.
- 15.1.9 The relevant representation contains no information as to any other alternative routes for either the Access Road or the Electrical Connection that the Applicant can provide any comments on.
- 15.1.10 The Applicant was first made aware that the respondent wished to raise the question of alternative routes for an access to the Power Generation Site via email on 24<sup>th</sup> August 2018. The respondent then discussed a number of alternative routes during a meeting on 24<sup>th</sup> September 2018 in the form of a verbal description. No specific proposal for an alternative route has to date been advanced by the respondent that the Applicant can properly consider or assess. The respondent did not respond to the statutory consultation in 2014 or in 2017/2018 with any suggestion of alternative routes nor to raise any issues with the routes being consulted on by the Applicant. Similarly, the respondent did not respond to the consultation carried out in August 2018 prior to submission of the Electrical Connection planning application.
- 15.1.11 There is no requirement for an Applicant to provide environmental information on every alternative suggested by an interested party. The Applicant has complied with the requirements of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 to provide information on the "*main alternatives studied by the applicant and an indication of the main reasons for the applicant's choice, taking into account the environmental effects*".
- 15.1.12 The existing use of the land is predominantly for grazing. The final position of the new section of Access Road will have a permanent impact on the landowner's use. The owner has been invited to specify accommodation works, such as crossing points or other features, which would enable ongoing use of severed land and where ongoing use may be feasible for the owner.

- 15.1.13 The Applicant considers that the national need for new gas generating stations which is established in NPS EN-1 is not outweighed by the respondent's existing use of the land.
- 15.1.14 The Applicant has set out in detail in its Statement of Reasons (APP-010) why the land is required for the delivery of the authorised development and development that is required for or incidental to it (see Section 6.2).
- 15.1.15 The Applicant has sought to minimise the impact of the compulsory acquisition powers included in the Draft DCO (APP-014) by seeking to acquire new rights where freehold ownership is not required, and by taking temporary possession of land rather than permanent acquisition of land or rights where the land is only required on a temporary basis to facilitate construction or maintenance of the works.
- 15.1.16 The Applicant has explained why it considers there is a compelling case in the public interest for the grant of the land acquisition powers sought in section [7] of the Statement of Reasons (APP-010).

## 16 REP-015 Kirsty Dando-Thomas

### Summary of Relevant Representation

- 16.1.1 The respondent expresses concern relating to the effects the Project will have on human health and local habitats. A further issue is regarding the adverse impact the Project is perceived to have on the value of the respondent's and neighbouring property.

### Applicant's Comments

- 16.1.2 The Applicant acknowledges comments made by Kirsty Dando-Thomas and has provided responses to each in turn.

### Human Health

- 16.1.3 The effects on public health of impacts to air quality, noise, groundwater and land contamination have been assessed and the findings conclude there will be no significant effects. Please refer to the relevant topic chapters of the Environmental Statement (ES) (APP-042).
- 16.1.4 The effects on public health of impacts to air quality, noise and vibration, water quality and ground contamination are summarised in section 15.3 (Chapter 15 Other Effects Considered) of the ES (APP-042).

### Ecology

- 16.1.5 The potential effects on ecology are set out in ES Chapter 8 Ecology (APP-042). A full ecological assessment has been undertaken and the findings are presented in Chapter 8, which concludes that no residual significant effects due to the embedded mitigation inherent within the design, and additional mitigation, where required.

### Property Value

- 16.1.6 In response to concerns raised regarding house prices and land value, the Applicant is not aware of any evidence which would suggest that the construction of the Project is likely to lead of general depression of property prices in the vicinity. A loss of value to private property is therefore not a matter which the EIA Regulations require to be considered in an EIA.
- 16.1.7 The Abergelli Power Planning Statement (Document Reference 10.1.0) indicates that although the area surrounding the Project Site is predominately rural, it is also characterised by a substantial amount of utilities and energy infrastructure including the existing National Grid substation, a gas compressor station and solar developments.
- 16.1.8 The Applicant recognises that there are certain neighbours of the project who may be entitled to make claims for compensation (Category 3 persons). The Applicant has sought to assist potentially affected parties by providing a short explanation of circumstances in which parties may be entitled to claim compensation due to impacts from the Project. Whilst the Applicant cannot provide legal advice to potentially affected parties on their circumstances, it has sought to assist the community as far as possible by providing information on the types of claim which may be available.

## 17 REP-016 Mr Mark Adams

### Summary of Relevant Representation

- 17.1.1 The respondent expresses concerns regarding the perceived loss of value to his property and the suitability of the proposed access roads in relation to traffic. Further issues are raised including the impact of noise, dust, vibration and the loss of green space.

### Applicant's Comments

- 17.1.2 The Applicant notes the comments made by Mr Mark Adams and has responded to each in turn below.

### Property Value

- 17.1.3 In response to concerns raised regarding house prices and land value, the Applicant is not aware of any evidence which would suggest that the construction of the Project is likely to lead of general depression of property prices in the vicinity. A loss of value to private property is therefore not a matter which the EIA Regulations require to be considered in an EIA.
- 17.1.4 The Applicant recognises that there are certain neighbours of the project who may be entitled to make claims for compensation (Category 3 persons). The Applicant has sought to assist potentially affected parties by providing a short explanation of circumstances in which parties may be entitled to claim compensation due to impacts from the Project. Whilst the Applicant cannot provide legal advice to potentially affected parties on their circumstances, it has sought to assist the community as far as possible by providing information on the types of claim which may be available.

### Traffic and Transport

- 17.1.5 In response to the comment on traffic, a full traffic and transport assessment has been undertaken and is presented in Chapter 12 of the Environmental Statement (ES) (APP-042) as well as the Traffic Survey (Appendix 12.1 of the ES, APP-030). Although some significant effects have been predicted during the construction phase of the Project, these effects would be temporary. No significant effects have been identified during the operation of any components of the Project.

### Noise, Vibration and Dust Emissions

- 17.1.6 In response to comments on noise, the potential effects of noise emissions resulting from the Project are detailed in Chapter 7 Noise and Vibration of the ES (APP-042). The detailed assessments and modelling undertaken conclude that there are no significant effects during the construction and operational phases of the Project.
- 17.1.7 A Construction Environment Management Plan (CEMP) will be prepared and implemented during construction to mitigate any adverse environmental effects, including dust, noise and vibration. Please refer to the outline CEMP (Appendix 3.1 of the ES, APP-036) which sets out a proposed dust monitoring plan and standard good practice measures for reducing dust and emissions from vehicles.
- 17.1.8 Furthermore, Natural Resources Wales (NRW) issued a draft Environmental Permit for the Project on 22<sup>nd</sup> October 2018 which the Applicant is currently reviewing. An Environmental Permit will be required to operate the plant, issued and regulated by NRW which controls noise and air emissions, and discharges to water. If limits for these emissions are exceeded, then NRW must be notified and if limits are exceeded on a regular basis then NRW may order the site to cease operation

## Loss of Habitat

- 17.1.9 A small area of habitat will be lost temporarily during the construction phase and permanently during the operational phase of the Project. An area has been allocated within the Project Site Boundary as mitigation for any habitat loss from permanent land take resulting from the construction and operation of the Project. The Landscape and Ecology Mitigation Plan (ES Figures 3.6a – 3.6e, Document Reference 6.3) indicates which areas of habitat will be subject to temporary or permanent loss, as well as areas for habitat reinstatement and enhancement.

## 18 REP-017 Mrs Alyson Adams

### Summary of Relevant Representation

- 18.1.1 The respondent lives near to the Project and has concerns about loss of value to her property. Disruption, noise, dust, vibrations and water supply are also raised as concerns.

### Applicant's Comments

- 18.1.2 The Applicant acknowledges the comments made by Mrs Alyson Adams.

### Property Value

- 18.1.3 In response to concerns raised regarding house prices and land value, the Applicant is not aware of any evidence which would suggest that the construction of the Project is likely to lead of general depression of property prices in the vicinity. A loss of value to private property is not a matter which the EIA Regulations require to be considered in an EIA.
- 18.1.4 The Applicant recognises that there are certain neighbours of the project who may be entitled to make claims for compensation (Category 3 persons). The Applicant has sought to assist potentially affected parties by providing a short explanation of the circumstances in which parties may be entitled to claim compensation due to impacts from the Project. Whilst the Applicant cannot provide legal advice to potentially affected parties on their circumstances, it has sought to assist the community by providing information on the types of claim which may be available.

### Noise, Vibration, Dust Emission and Water Supply

- 18.1.5 The effects on public health of impacts to air quality, noise, vibration and land/groundwater contamination have been assessed and the findings conclude there will be no significant effects. Please refer to the following topic chapters of the Environmental Statement: Chapter 6 Air Quality, Chapter 7 Noise & Vibration, Chapter 9 Water Quality, Resources and Flood Risk and Chapter 10 Geology, Ground Conditions and Hydrogeology (APP-042). The effects on public health are also summarised in section 15.3 of Chapter 15 Other Effects Considered.
- 18.1.6 An Outline Construction Environment Management Plan (CEMP) (Appendix 3.1, APP-036) has been prepared which is a strategic document that set out best practice methods to minimise environmental impacts during construction, including the areas of concern highlighted by the respondent above. The following topics are covered in the Outline CEMP:
- Community liaison;
  - Complaints procedures;
  - Nuisance management including measures to avoid or minimise the impacts of Construction activities (covering dust, noise, vibration and lighting);
  - Dust management measures;
  - Site waste and materials management measures;
  - Pollution control measures;
  - Security measures and use of artificial lighting;

- Protocol in the event that unexpected contaminated land is identified during ground investigation or construction; and
- Environmental training requirements.

18.1.7 Prior to construction, the CEMP will be finalised and submitted to the City and County of Swansea Council for approval (in consultation with Natural Resources Wales) as secured via requirement 17 of the Development Consent Order.

18.1.8 Furthermore, Natural Resources Wales (NRW) issued a draft Environmental Permit for the Project on 22<sup>nd</sup> October 2018 which the Applicant is currently reviewing. An Environmental Permit will be required to operate the plant, issued and regulated by NRW which controls noise and air emissions, and discharges to water. If limits for these emissions are exceeded, then NRW must be notified and if limits are exceeded on a regular basis then NRW may order the site to cease operation.

## 19 REP-018 Osborne Clark LLP on behalf of Abergelli Solar Limited

### Summary of Relevant Representation

19.1.1 The respondent states that Abergelli Solar Limited is the owner and operator of Abergelli Solar Farm and has land and apparatus within the Order Land. The respondent notes that negotiations are ongoing in relation to the draft protective provisions proposed to be included in the draft DCO and that it is anticipated that agreement can be reached.

### Applicant's Comments

19.1.2 The Applicant notes the comments from Abergelli Solar Limited ("ASL") and confirms that discussions are continuing to progress in relation to appropriate protective provisions for the benefit of ASL.

19.1.3 As set out in Table 3 of the Statement of Reasons (APP-010), the Applicant considers that the rights can be acquired without serious detriment to the carrying on ASL's undertaking. The protective provisions in the draft DCO ensure that ASL's apparatus will be protected and access maintained during construction. The protective provisions also ensure that (if it is necessary to remove apparatus) no rights will be extinguished without ASL's agreement and no apparatus will be removed until alternative apparatus has been constructed.

19.1.4 Discussions with ASL in relation to the draft protective provisions are ongoing, and the Applicant anticipates that it will be possible to reach agreement with ASL on the terms of the protective provisions and any other commercial terms prior to the end of the Examination. The Applicant will update the Examining Authority at the earliest opportunity once terms are agreed.

## 20 REP-019 Betws Community Council

### Summary of Relevant Representation

20.1.1 The respondent wishes to be kept informed of the examination process and states that any representations made will be in the interest of the community of Betws.

### Applicant's Comments

20.1.2 The Applicant acknowledges the comment above and welcomes any representations by Betws Community Council.

## 21 REP-020 Claire Thatcher

### Summary of Relevant Representation

- 21.1.1 The respondent has a number of concerns regarding the environmental impacts of the project, particularly from the effects of visual impact on the rural area, noise, local flooding and water quality. There are also concerns that the Project is inappropriate in the context of the surrounding area. Lastly, the respondent states that the Project will have no benefit for the local community.

### Applicant's Comments

- 21.1.2 The Applicant acknowledges these comments from Claire Thatcher and provides a response below.

### Visual Impact

- 21.1.3 A detailed assessment has been undertaken of the potential landscape and visual impacts of the Project (Environmental Statement (ES) Chapter 11, APP-042). Significant adverse visual effects are limited to five of the eighteen viewpoints considered by the assessment, where the embedded mitigation would not be sufficient to reduce these significant adverse effects. For those views where the upper parts of the Power Generation Plant and stack are visible in the middle distance, the Project stack and buildings will be seen in the context of the existing network of pylons and transmission lines, as well as the tall structures present at the Felindre Gas Compressor Station and Substation. Therefore, any significant residual visual effects will be localised and not extensive.

### Noise

- 21.1.4 The potential effects of noise emissions resulting from the Project are detailed in ES Chapter 7 Noise and Vibration (APP-042). The detailed assessments and modelling undertaken conclude that there are no significant effects during the construction and operational phases of the Project.

### Water Quality and Flooding

- 21.1.5 An assessment of the likely significant effects on water quality, water resources and flood risk has been undertaken. No part of the Generating Equipment Site is located within a flood risk zone, as designated by Natural Resources Wales. However, a small area on the periphery of the Generating Equipment Site's eastern boundary is within Zone B (previous evidence of historical flooding). The Outline Drainage Strategy (Appendix E of ES Appendix 9.1, APP-040) and an Outline Surface Water Management Plan (Appendix 3.2, APP-036) for the Project has been designed in order to mitigate any likely significant effects to surface water quality and flood risk. No residual significant effects have been identified for each component of the Project, or the Project as whole due to the embedded mitigation inherent within the design. Furthermore, as stated in the Statement of Common Ground between the Applicant and Natural Resources Wales (NRW) submitted to the Examination at Deadline 1, NRW agree the outcomes provided in the Flood Consequences Assessment (FCA) and Water Framework Directive (WFD) (ES Appendix 9.1 and 9.2 respectively, APP-040).
- 21.1.6 Regarding water quality, mitigation measures have been embedded within the design of the Project to safeguard the surface water and groundwater during the construction phase. Embedded mitigation measures are discussed in Chapter 3 (Section 3.11) of the ES (APP-042), set out within the Outline Construction Environment Management Plan (CEMP) (ES Appendix 3.1, APP-036) and detailed in the Outline Surface Water Management Plan (ES

Appendix 3.2, APP-036) and Outline Drainage Strategy (Appendix E of ES Appendix 9.1, APP-040).

### **Community Benefits**

- 21.1.7 The socio-economic assessment in Chapter 14 of the ES (APP-042) estimates that the operational phase of the Project will create 10 full time equivalent (FTE) direct jobs. Each of the 10 FTE jobs will be highly skilled positions that offer permanent employment opportunities for 25 years. With regards to the Project construction phase, the baseline assessment shows construction and manufacturing employment accounts for almost a fifth of all jobs in the study area. The study area's concentration of skilled manual workers is also higher than the national average. The Project will also present an opportunity to develop the skills of the local workforce and increase the value of the construction industry.
- 21.1.8 The Applicant will support the local community to access these employment opportunities by working with the CCS Education Team to produce an Education Scheme which will be a series of planned school visits within Swansea to explain about the project. The Applicant will work together with the CCS Beyond Bricks and Mortar Team to establish the Local Employment Scheme, which will be a set of initiatives aimed at unemployed and economically inactive people in Swansea. The scheme shall include targets for the recruitment, employment and training of unemployed people and the Applicant shall interview and, if appropriate, recruit suitably qualified applicants as part of the scheme as well as working with local training providers and apprentice schemes. The delivery of the Education Scheme and the Local Employment Scheme will be secured by a section 106 (s106) planning obligation.
- 21.1.9 In addition, the s106 Agreement will provide funding to secure improvements to the network of footpaths and bridleways in the area immediately surrounding the Abergelli Power Project Site in order to mitigate construction traffic impacts. These improvements will endure beyond the construction period of the project providing a lasting benefit to neighbouring communities.

## 22 REP-021 Llangyfelach Community Council

### Summary of Relevant Representation

22.1.1 The respondent has expressed concern in several separate areas including:

- Visual impact of the Project on the local area, particularly the height and diameter of the stack;
- Atmospheric emissions;
- Alternative technologies to be considered including the recycling of the hot gases generated to provide energy to nearby future developments; and
- The adverse impact that the Project would have on the marketability of future local commercial and residential development

### Applicant's Comments

22.1.2 The Applicant notes the comments made by Llangyfelach Community Council and has responded to each in turn.

### Emissions to Air

22.1.3 In response to concerns regarding the Emission Limit Values for emissions to air the Applicant notes that the proposed plant is a natural gas fired open cycle gas turbine (OCGT) unit from which the only emission of concern for local air quality are nitrogen dioxide (NO<sub>2</sub>, which is the oxidised version of oxides of nitrogen (NO<sub>x</sub>)) and carbon monoxide (CO). While it is true that new plants operating for less than 1,500 hours per year on a rolling average over a 5 year period have less stringent emission limits, or Derogation, for sulphur dioxide (SO<sub>2</sub>) set out in the European Communities Industrial Emission Directive (IED)<sup>1</sup> the derogation for NO<sub>x</sub> only applies to gas turbines which were granted a permit before 27 November 2002 or for which a permit had been applied for after this time but the plant itself was operational no later than 27 November 2003, which is not the case for the proposed plant. As such, the emission limit set out in IED for gas turbines greater than 50 MW (the proposed plant is up to 299 MW) is 50 Nm<sup>3</sup>/hour irrespective of if it operates for less than 1,500 hours per year and this is the emission limit which has been included within the air quality assessment. The only exception is for gas turbines which are for emergency use only and operated for less than 500 hours per year. Therefore, in response to the respondent's comments and as a point of clarification, the 1,500 hours derogation does not apply to the proposed plant.

22.1.4 Furthermore, it should be noted that the gas turbine unit that has been selected has a manufacturer's guaranteed emission limit that achieves those set out within IED and does not require any additional abatement equipment. Emission levels are continually monitored and regulated by the Environmental Permit issued by NRW. In the event that emission limits are exceeded then NRW would take enforcement action to shut down the plant. Therefore, increased pollutant concentrations at local receptor locations would not occur.

22.1.5 With regards to the respondent's comments on potential air quality effects on nearby receptors, the Applicant notes that the air quality assessment has been undertaken based on a conservative assumption that the unit will operate for 2,250 hours per year with the maximum annual NO<sub>x</sub> concentration predicted from 5 years of meteorological data presented within the assessment. This concentration has been predicted by assuming that the proposed OCGT unit operates at its maximum allowable emission rate (50 Nm<sup>3</sup>/hour) for all hours of the

<sup>1</sup> [<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32010L0075>]

year (8,760 hours or 8,784 in leap years) and then factoring the annual concentration based on the maximum operating hours (2,250). This approach ensures that the effects of meteorological data variations are taken into account when predicting the annual concentration.

- 22.1.6 The air quality assessment has also presented the 99.79<sup>th</sup> percentile 1 hour NO<sub>2</sub> and 8-hour rolling CO concentrations which have been predicted by the model assuming that the plant were to run at all hours of the year for the 5 years of meteorological data. This was to ensure that the worst-case short-term concentration that could result from the proposed plant operation at its emission limits was assessed. The assessment included receptors, which are representative of the major residential areas within the local area (see ES Figure 3.6, Document Reference 6.3. These include two receptors (Modelled Receptors 27 and 28) which are representative of the closest boundary of the proposed 850 dwellings on the land identified by the Swansea Local Development Plan, Morriston Hospital (Modelled Receptor 18), Llangyfelach (Modelled Receptors 21 & 22), Morriston (Modelled Receptor 19 & 20), Felindre (Modelled Receptor 27), Bryntywod (Modelled Receptor 22) plus other receptors representative of isolated homesteads closer to the site boundary. A full list of the modelled receptors is in Table 6-29 in Chapter 6 of the ES (APP-042) and the location of each of the modelled receptors is illustrated in Figure 6.3 (Document Reference 6.3)
- 22.1.7 The assessment has, therefore, demonstrated that the proposed OCGT plant will not have any detrimental impacts on air quality at the modelled receptors based on the maximum NO<sub>x</sub> emission rate that is allowable for this type of plant, which includes those areas identified as being of concern by the respondent, Llangyfelach Community Council. In addition, the assessment included a grid of receptors covering a 20 km by 20 km area around the proposed OCGT stack location) which was used to generate a contour map of both annual and short-term NO<sub>2</sub> concentrations (based on the maximum of the 5 years of modelled results as a worst-case) to demonstrate that other areas not represented within the modelling by specific receptors will also not be negatively impacted by the proposed plant. The air quality assessment has therefore shown that based on the emission limits that apply to this type of plant there will be no significant effects on air quality within the local area.

### Environmental Permit

- 22.1.8 In response to the respondent's comments in relation to the requirement for additional permits, the Applicant can confirm that the Environmental Permit is being twin tracked with the DCO Application. NRW issued a draft Environmental Permit to the Applicant on 22<sup>nd</sup> October 2018, which the Applicant is currently reviewing.

### Alternative Technologies

- 22.1.9 The Applicant notes the respondent's comments regarding potential alternative technologies to be considered. Section 5.3 of the Environmental Statement (ES) (APP-042) considers and discounts other types of plant such as Combined Cycle Gas Turbine (CCGT) plant; Reciprocating Gas Engines (RGE) plant and Combined Heat and Power (CHP) Plant. Further information regarding the use of CHP at the Project is provided in a separate report and can be found as ES Appendix 5.1 (APP-037).
- 22.1.10 There is a considerable national need for need for new energy infrastructure projects, acknowledged at all levels of Government policy, and particularly set out in NPS EN-1 Part 3. Paragraph 3.1.3 confirms that the Secretary of State should assess all applications for development consent for the types of infrastructure covered by the NPS on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in Part 3. The policy is clear that it is not Government's intention to dictate which types of infrastructure will come forward, and that "*it is for industry to propose new energy infrastructure projects within the strategic framework set by Government. The Government does not consider it appropriate for planning policy to set targets for or limits on different technologies*". The Secretary of State

should therefore assess the proposed development on the basis set out in NPS EN-1, which is that there is an urgent need for new energy generation of all types, including gas generation.

### **Cumulative Assessment**

22.1.11 The Applicant can confirm that the Environmental Impact Assessment (EIA) considers the potential effects of the Project on the Strategic Development Area<sup>2</sup> indicated by the respondent. Table 4-6 of the ES (APP-042) lists the cumulative developments considered within the EIA as agreed with the City and County of Swansea Council (CCS). The Felindre Site, as well as other sites within the Draft Swansea Local Development Plan were assessed as part of the DCO Application using the information available at the time of writing.

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<sup>2</sup> Strategic Development Areas (SDAs) are allocations of large development areas made within the Swansea Draft Local Development Plan.

## 23 REP-022 City and County of Swansea Council

### Summary of Relevant Representation

- 23.1.1 The respondent, the City and County of Swansea Council (CCS), notes that in relation to the topics of Air Quality, and Noise and Vibration, they are satisfied with the information supplied in the DCO Application documentation.
- 23.1.2 The respondent then provides additional comment on the following topics:
- a. Ecology;
  - b. Water Quality and Resources;
  - c. Landscape and Visual Effects;
  - d. Traffic, Transport and Access;
  - e. Historic Environment;
  - f. Socio-economics;
  - g. Draft Development Consent Order and Requirements; and
  - h. The Section 106 Agreement Heads of Terms

### Applicant's Comments

- 23.1.3 The Applicant notes the respondent's comments and responds to the topics in turn below.

#### Ecology

##### *Ponds and Aquatic Habitat*

- 23.1.4 In response to queries regarding the consideration of European Eel in the ecological assessment, the Applicant can clarify for the Council that the aquatic habitats on site which are likely to be affected by the proposals are limited to small ditches with steep straight sides, with little or no vegetation in the channel and with very little water year-round, that occasionally-frequently dry up. The ditches are featureless with no or very little refuge for eels and are therefore considered unsuitable or a poor- quality habitat for this species.
- 23.1.5 In relation to the Council's comments on ponds to be removed by the Project, and associated mitigation, the Applicant notes that:
- Pond 22 is approximately 1 m x 2 m, and less than 0.5 m deep. Pond 22 currently supports palmate newts and is likely to support other amphibians including frogs and toads, as well as a range of generalist aquatic invertebrates.
  - Pond 16 is temporary, comprises a woody vegetated island in the middle, holds very shallow water (<0.5m deep) totalling on average around 4 m<sup>2</sup> surface water area. Pond 16 was dry during the Phase 1 Habitat survey; however it is likely to have species including (but not limited to): snails (Gastropoda), diving beetles (Dytiscidae), water beetles (Hydrophilidae), dragonflies and caddisflies.

23.1.6 As part of the proposed ecological mitigation for the Project, two new ponds will be created within the Wet Meadow and Acid Grassland of the Ecological Mitigation Area. The ponds will be at least 2 m x 2 m, and have shallow sides to allow animals to enter/exit the pond freely and should taper to a depth of at least 0.5 m in the centre which is suitable to attract amphibians. A pond depth from 0.5 – 1 m is ideal for amphibians as it ensures the pond will dry out at least one year in about 5 or 6 to stop fish colonising. Deeper ponds don't very often dry out, which can lead to fish and wildfowl colonising ponds at which point they become unsuitable for amphibians. It is proposed that the ponds will be planted with some native plant species as this will give native amphibians and invertebrates the best chance of colonising the pond.

23.1.7 The creation of the two ponds for wildlife as described above, compensates for the loss of the ponds within the Project Site, and is proportionate to the habitat loss due to the Project.

*Hedgerow*

23.1.8 The Applicant notes comments about the consideration of “boring” under hedgerow rather removing hedgerow by using open cut trench techniques to install the Gas Pipeline. The ES (Documents Reference 6.1) has assessed the worst case approach, which would be the removal of hedgerow, and no significant effects were identified.



23.1.9 The Applicant confirms that pre-construction  surveys will be carried out, as set-out in the Landscape and Ecology Mitigation Strategy (ES Appendix 3.4, APP-036).

*Swifts*

23.1.10 The Applicant acknowledges the Council's response regarding the provision of Swift Towers for biodiversity gain. However, to clarify, it should be noted that swifts were recorded at the Project Site on only one occasion (17<sup>th</sup> May 2018) hawking insects across marshy grassland. This was in response to weather conditions in the evening with light winds and heavy cloud making conditions for hunting close to the ground ideal. Swifts arrive back from migration in early May and given the lack of breeding records from the Project Site and immediate surrounds, combined with a lack of other records during survey work, means this group were almost certainly passing through on migration only. Therefore, no mitigation is required for swift as there are no direct effects (assessed to be Negligible). The placement of a swift tower to provide breeding habitat therefore is not required in order to mitigate for the effects from the Project on breeding swift which are absent from the Project Site.

*Reptile Habitat*

23.1.11 The Applicant confirms that the Ecological Mitigation Area will include a matrix of semi-improved grassland and marshy grassland with reptile and amphibian hibernacula, as shown on Figures 3.6a-3.6e (Document Reference 6.3 Part I), which support the Landscape and Ecology Mitigation Strategy (ES Appendix 3.4, APP-036).

*Pennywort*

23.1.12 In response to the Council's recommendations regarding the removal of pennywort, the Applicant confirms that there is one pond (Pond 16) recorded as supporting floating pennywort in 2014. The pond is under the footprint of the proposed Power Generation Plant, (as shown in Figure 1 of ES Appendix 8.4 (APP-041)) and is not hydrologically connected to any other waterbodies or watercourses. As such, the pond can be infilled with inert soil and then built on. No material will be removed from the pond.

*Brown Hares*

23.1.13 In relation to the Council's comments on consideration of mitigation for brown hare, the Applicant notes that the removal of grassland, broadleaved woodland and scrub habitats during construction of the Power Generation Plant and Gas Connection are unlikely to significantly impact local brown hare populations due to the abundance of this habitat type within the Project Site Boundary and the wider landscape.

- Loss of habitat is afforded Low magnitude, resulting in a Negligible effect, and as such is **not considered a significant effect** and will not require further mitigation.
- All construction work has the potential to disturb, injure or kill breeding, sheltering and foraging brown hares. Disturbance, injury or killing are afforded Medium magnitude, resulting in a Minor effect, and as such **are not considered significant effects** and will not require further mitigation.

23.1.14 Notwithstanding the above, the mitigation proposed for Protected Species (such as restricted working hours, lighting, speed limits etc.) will also help mitigate any potential (albeit not significant) impacts on brown hare. An area of land approximately 3 ha in size within the Project Site boundary has been identified as suitable for habitat enhancement (the Ecological Mitigation Area) and will mitigate for the loss of habitats including a proportion of Lletty-Morfil SINC, as well as providing valuable habitats for a range of species including brown hare.

#### *Impacts on Woodland Hydrology*

23.1.15 The Project has the potential to lead to minor groundwater displacement to nearby woodlands due to the construction of the Generating Equipment Site. The current ground conditions are already relatively boggy, with an existing wet woodland, which over the last year has been observed to vary between being very wet and very dry. The changes in the groundwater displacement are considered to be minor, and along with the existing dynamic environment there is not expected to be any significant effects on woodland due to the Project.

#### *Tree Removal around the Generating Equipment Site*

23.1.16 The Applicant confirms that the parameters provided in the works plans (Document Reference 2.3) represent a worst case scenario. As such, the space required for a firebreak or security clearance around the Generating Equipment Site when operational, is included within the footprint of the Generating Equipment Site illustrated in the works plans (Document Reference 2.3), and therefore no additional removal of trees is required.

#### *Arboricultural Report*

23.1.17 The Applicant confirms that an Arboricultural Report is provided in ES as Appendix 8.12 (APP-038).

## **Water Quality and Resources**

#### *PEIR Comments*

23.1.18 The Applicant previously responded to comments from the CCS Drainage Team on the 16<sup>th</sup> March 2018. The Applicant's response to the Council's comments on Water Quality and Drainage (as recorded in the Consultation Report Appendix 11.C, Document Reference 5.2 Volume E) is given below

23.1.19 *"The ES has been updated to clarify that the operational life of the Power Station is 25 years only. From previous correspondence with CCS (18/10/2017) and this consultation response it is understood that the assessment undertaken using the 20% climate change allowances is acceptable for an operational life of 25 years. It is therefore considered there are no requirements to update the climate change allowance for this application.*

23.1.20 *Plans of the proposed surface water drainage network are detailed in the DCO application in compliance with runoff capacity requirements set out in the Drainage Strategy ([Appendix E of] ES Appendix 9.1 of Document Reference 6.2) and secured by 'Surface and foul water drainage' requirement in Schedule 2 of the DCO to be submitted with the APL DCO Application.*

23.1.21 *An assessment for the requirement of trash screens will be carried out for access road crossings during the detailed design phase of the project, and a written surface and foul water drainage plan will be submitted to and approved by CCS as secured by the 'Surface and foul water drainage', requirement.”.*

#### *Watercourse Crossings*

23.1.22 The Applicant notes the Council's comments on the requirement for detailed plans for watercourse crossings showing the diversionary routes, gradients, cross sections, any retaining structures and crossings, to be supported by appropriate levels of assessment to demonstrate that the changes will not affect third party land or the development itself. The Applicant confirms that details of the proposed watercourse crossings will be included in an Updated Drainage Strategy, to be submitted to the Examination at Deadline 1.

23.1.23 Furthermore, detailed plans of crossing, routes, gradient etc. will be submitted to the Council for approval at the detailed design, as secured through Schedule 2 of the DCO Requirements, 'Surface and foul water drainage' (requirement 6).

#### *Run-off Rate Calculations*

23.1.24 The Applicant confirms that the run off rate calculations have been updated using the FEH2013 rainfall parameters and the attenuation storage requirements for the Project Site within the updated Drainage Strategy, Appendix E of the FCA 9.1. For clarity, the updated Drainage Strategy will be submitted at Deadline 1.

### **Landscape and Visual Effects**

23.1.25 Comments noted.

### **Traffic, Transport and Access**

23.1.26 The Applicant notes the Public Rights of Way (PROW) Officer's suggestions regarding improvements that could be undertaken to the network in the vicinity of the Project. The Applicant is working with the Council to deliver PROW improvements via the s106 agreement.

### **Historic Environment**

23.1.27 The Applicant confirms that, as identified in Chapter 13 Historic Environment of the ES (APP-042) and secured by the "Archaeology" requirement in Schedule 2 of the DCO, prior to commencement of work a written scheme of investigation for the areas of archaeological interest must be approved by CCS. a detailed watching brief will be produced as secured through Schedule 2 of the DCO Requirements, 'Archaeology'.

### **Socio-economics**

23.1.28 Comments noted.

### **Other Issues**

23.1.29 Comments noted.

## Draft DCO and Requirements

- 23.1.30 Article 42(4) – the Applicant agrees that the effect of this article is, in relation to approvals other than those pursuant to requirements, to provide a period of 8 weeks in which a decision must be issued by the approving body, and if no such decision is given then the application is deemed to be approved. This is a common provision in development consent orders that have been granted, and the Applicant has incorporated the safeguard in article 42(6), requiring each application to be accompanied by a statement setting out the provisions and effect of article 42(4).
- 23.1.31 The Applicant considers that it is reasonable for it to have the certainty of a specific determination period for all applications that it may submit pursuant to the DCO, and to provide for a deemed approval where no decision is made within 8 weeks. These provisions ensure that the Project – of national significance – can proceed on a reasonable timescale.
- 23.1.32 If an approving body considers that it is unable to issue an approval within the 8 week period, it is open to that body to refuse the application. The Applicant would then need to decide whether to re-submit the application (amended to take account of the comments of the approving body) or to use the power to submit an appeal (through article 42(5) incorporating the procedure in Schedule 12 paragraph 3). In the event that the Applicant and approving body were close to agreement, which would have enabled consent to be granted, it is likely that the Applicant would choose to re-submit the application (which is likely to be a simpler process than an appeal) and doing so would re-start an 8 week determination period.
- 23.1.33 Work No. 3 - temporary Bailey Bridge – Please see the Applicant's response in relation to the need for a temporary Bailey Bridge in the Written Summary of Oral Submissions for Issue Specific Hearing 1, submitted by the Applicant at Deadline 1.
- 23.1.34 Requirements 17 – 20 - – Updated drafting for requirements 17 – 20 is included in the draft DCO submitted by the Applicant at Deadline 1. Please also see the Applicant's response in the Written Summary of Oral Submissions for Issue Specific Hearing 1, submitted by the Applicant at Deadline 1.
- 23.1.35 Requirement 27 has also been updated in response to concerns raised by CCS on the interaction between the definition of "maintain" and the operation of Article 27. An additional trigger has been proposed by the Applicant in the revised draft DCO submitted by the Applicant at Deadline 1. Please also see below more generally in relation to the treatment of decommissioning in the DCO.

## Draft DCO – Decommissioning

- 23.1.36 The Applicant has proposed the inclusion of Requirement 27 in the Draft DCO (Document Reference 3.1). This requirement ensures that within 2 years of the plant ceasing to be used to generate power, the undertaker must submit a scheme for decommissioning the above ground elements of Work No. 1D to the relevant planning authority. Following discussion at Issue Specific Hearing 1 (please see the Applicant's written summary of oral submissions submitted at Deadline 1), the wording of Requirement 27 has also been updated to include a further trigger to require the submission of a decommissioning strategy if the undertaker removes key apparatus forming part of Work No. 1D, such that further use of the land for energy generation is unlikely. This wording has been introduced to address the concern raised by CCS in relation to the interaction between the wording of Requirement 27 and the definition of "maintain". The additional trigger is intended to avoid the definition of "maintain" being misused to circumvent the decommissioning strategy. The wording of the requirement also requires an implementation timetable to be submitted and approved in writing. Sub-paragraph 2 provides an enforceable requirement to implement the approved scheme, subject to obtaining the necessary consents.

23.1.37 This requirement provides an enforceable and precise mechanism to secure an appropriate decommissioning scheme and timetable for implementation that the relevant planning authority (CCS) would be able to enforce should there be any default by the undertaker. In particular, enforcement options open to the planning authority would include the threat of criminal sanctions for breach of the DCO, should the undertaker fail to put forward a decommissioning strategy, or to implement the strategy once approved.

23.1.38 This wording follows closely the wording of the decommissioning requirements for similar OCGT and CCGT generating stations consented by the Secretary of State in the following DCOs:

- a. The Hirwaun Power Station Order 2015 (Requirement 17);
- b. The Progress Power (Gas Fired Power Station) Order 2015 (Requirement 21);
- c. The Wrexham Gas Fired Generating Station Order 2017 (Requirement 17); and
- d. The Meaford Gas Fired Generating Station Order 2016 (Requirement 21).

23.1.39 There is therefore precedent for the approach taken by the applicant to be found in recently consented DCOs for energy projects of a similar nature.

23.1.40 The provisions of the DCO cannot be transferred to another undertaker without the consent of the Secretary of State (save in circumstances where the transfer is to another licence holder under the Electricity Act or the Gas Act). The Secretary of State (and CCS) can therefore be confident that the obligations to decommission will always sit with an undertaker approved by the Secretary of State directly or suitably regulated by Ofgem as a licence holder.

23.1.41 Furthermore, the environmental permit regime also ensures that an environmental permit cannot be surrendered unless Natural Resources Wales is satisfied that the facility has been returned to a 'satisfactory state'. NRW has published guidance in relation to the conditions for surrender of an environmental permit. The DCO regime should not seek to duplicate other regulatory controls.

23.1.42 The Applicant has noted feedback from CCS seeking more detail in relation to the content of the decommissioning strategy, so as to ensure that similar levels of information are provided at decommissioning as are included in the requirement for a CEMP for construction. APL has proposed revised drafting for the requirement to provide clarity that the scope of the decommissioning strategy will include at least those same areas for information as are included in the requirement for a CEMP. The revised wording reads as follows:

*Decommissioning strategy*

*27.—(1) Unless otherwise agreed with the relevant planning authority, a scheme for the demolition and removal of all parts of numbered work 1 situated above ground along with a proposed implementation timetable for decommissioning works must be submitted and approved in writing by the relevant planning authority by no later than*

*a) twenty four months of the Order land ceasing to be used for the purposes of electricity generation (either actively generating electricity or being available to generate electricity on a standby basis) or*

*b) if sooner upon the undertaker having removed key apparatus forming part of Work No 1D from the site, such that further use of the land for energy generation is unlikely.*

*(2) The decommissioning strategy must include the following:*

*(a) community liaison;*

- (b) complaints procedures;*
- (c) nuisance management including measures to avoid or minimise the impacts of decommissioning works (covering dust, noise, vibration and lighting);*
- (d) dust management measures;*
- (e) site waste and materials management measures;*
- (f) pollution control measures;*
- (g) security measures and use of artificial lighting; and*
- (h) a list of additional consents required for decommissioning activities and a programme for the intended submission of relevant consent applications.*

*(3) Subject to obtaining the necessary consents, the demolition and removal of numbered work 1 must be implemented in accordance with the approved scheme.*

23.1.43 APL does not consider that it is necessary to provide a bond or other financial security for future decommissioning costs. As noted above, requirement 27 provides a clear and enforceable mechanism to secure the carrying out of the necessary decommissioning works.

23.1.44 Where the government has considered that it is necessary for future decommissioning costs to be secured, regimes have been put in place. Examples can be found in relation to decommissioning for nuclear generating stations, and for offshore renewable installations. There is no equivalent international treaty obligation or UK legislation in place to mandate the provision of financial security for decommissioning of onshore gas fired power stations.

23.1.45 There is also no policy requirement for decommissioning bonds to be offered by applicants. Neither NPS EN-1 nor NPS EN-2 requires an applicant to provide financial security for decommissioning costs for energy projects of this nature. APL has fully complied with the NPS policy requirements that the likely impacts of decommissioning must be properly assessed as part of the application documentation. APL has considered decommissioning impacts in its Environmental Statement.

23.1.46 There is no other UK Government or Welsh Government policy in relation to the provision of financial security for decommissioning gas fired generating stations. PPW does not include any relevant policy on financial security for decommissioning and remediation. The adopted CCS local plan and the emerging development plan do not contain any policies which would require APL to offer a decommissioning bond.

23.1.47 We are not aware of any development consent orders granted for generating stations or electricity transmission projects which have required financial security to be put in place for the costs of decommissioning the development.

### **Draft DCO – Discharge of Requirements**

23.1.48 Provision for charging fees for discharge of requirements – the Applicant has agreed with the Council that the Draft DCO (Document Reference 3.1) should include provision for the payment of a fee in relation to applications to the Council for the discharge of requirements (in Schedule 2 to the Draft DCO), and that those fees should reflect the fees payable under the legislation relating to fees payable for the discharge of conditions attached to a planning permission.

23.1.49 Schedule 12 – the Applicant has agreed to amend the periods (in paragraph 2(2) and 2(3)) to 28 days as requested by the Council. These are the periods in which the Council can seek further information in relation to an application to discharge a requirement.

### **S106 Heads of Terms**

23.1.50 The Applicant has been continuing to discuss the terms of the proposed Section 106 Agreement with the Council, including the education scheme, Beyond Bricks and Mortar scheme and local footpath improvements. The Applicant and the Council have agreed the principles in relation to these matters and are working towards agreeing the wording of the Section 106 Agreement. A work in progress draft of the agreement has been submitted as Appendix 9 of the Applicant's Written Summary of the Oral Case put at the Issue Specific Hearing on the DCO. The Applicant and the Council have agreed that obligations relating to swift towers are not required nor necessary to make to mitigate the impacts of the Project.

## 24 REP-023 Dwr Cymru Welsh Water

### Summary of Relevant Representation

- 24.1.1 The respondent, Dwr Cymru Cyfyngedig (Welsh Water) ("DCC") is a statutory undertaker and owns, operates and maintains water main assets which are proposed to be crossed by the proposed development.
- 24.1.2 DCC will continue to engage with the Applicant in discussions in relation to impacts on water quality and agreement a statement of common ground. DCC raised specific concerns in relation to:
- a. impact on Lower Lliw Reservoir;
  - b. Felindre Water Treatment works;
  - c. Water Quality and Resources;
  - d. the structural integrity of DCC assets and apparatus;
  - e. statutory rights of access to DCC's watermains and associated apparatus;
  - f. DCC's ability to fulfil its statutory obligations; and
  - g. DCC's land and associated rights.

### Applicant's Comments

- 24.1.3 The Applicant notes the comments from DCC.
- 24.1.4 The Applicant confirms that discussions are ongoing with regards to DCC's assets, which include the Lower Lliw Reservoir and the Felindre Water Treatment Works. The Environmental Statement (APP-042) assesses effects on water quality in Chapter 9: Water Quality and Resources and Flood Risk, and no significant effects were predicted on nearby receptors. DCC's assets were not selected as receptors as both are up-catchment and at a considerable distance from the Project Site. No significant water quality effects are therefore predicted on DCC's assets.
- 24.1.5 The Applicant confirms that discussions are continuing to progress in relation to appropriate protective provisions for the benefit of DCC.
- 24.1.6 Technical discussions are ongoing with DCC in relation to the crossing design with a view to ensuring that the structural integrity of DCC assets and apparatus are maintained during the construction and operation of the proposed development. A meeting was held on 3 October 2018 to discuss the design of the access road and the design of a solution for crossing the DCC owned water main.
- 24.1.7 As set out in Table 3 of the Statement of Reasons (APP-010), the Applicant considers that the rights can be acquired without serious detriment to the carrying on of DCC's undertaking. The protective provisions in the draft DCO ensure that DCC's apparatus will be protected and access maintained during construction. The protective provisions also ensure that (if it is necessary to remove apparatus) no rights will be extinguished without DCC's agreement and no apparatus will be removed until alternative apparatus has been constructed.
- 24.1.8 Discussions with DCC in relation to the draft protective provisions are ongoing, and the Applicant anticipates that it will be possible to reach agreement with DCC on the terms of the

protective provisions and any other commercial terms prior to the end of the Examination. The Applicant will update the Examining Authority at the earliest opportunity once terms are agreed.

- 24.1.9 A statement of common ground is also being prepared between the Applicant and DCC and the current working draft has been submitted for the Examining Authority's reference at Deadline 1.

## 25 REP-024 National Grid

### Summary of Relevant Representation

25.1.1 The respondents (National Grid Electricity Transmission Plc and National Grid Gas Plc) note that they require protective provisions to be included in the DCO for the protection of their assets and to ensure access to their assets. The respondents note that they are liaising with the Applicant in relation to the form of protective provisions.

### Applicant's Comments

25.1.2 The Applicant notes the comments from National Grid Electricity Transmission plc ("NGET") and National Grid Gas Plc ("NGG") and confirms that discussions are continuing to progress in relation to appropriate protective provisions for the benefit of NGET and NGG.

25.1.3 As set out in Table 3 of the Statement of Reasons (APP-010), the Applicant considers that the rights can be acquired without serious detriment to the carrying on NGET or NGG's undertakings. The protective provisions in the draft DCO ensure that NGET and NGG's apparatus will be protected and access maintained during construction. The protective provisions also ensure that (if it is necessary to remove apparatus) no rights will be extinguished without NGET or NGG's agreement and no apparatus will be removed until alternative apparatus has been constructed.

25.1.4 Discussions with NGET and NGG in relation to the draft protective provisions are ongoing, and the Applicant anticipates that it will be possible to reach agreement with NGET and NGG on the terms of the protective provisions and any other commercial terms prior to the end of the Examination. The Applicant will update the Examining Authority at the earliest opportunity once terms are agreed.

## 26 REP-025 Natural Resources Wales

### Summary of Relevant Representation

- 26.1.1 The respondent (Natural Resources Wales) makes comments within their Relevant Representation about the content of the DCO application documents, as well as in relation to the Environmental Permit for the application.
- 26.1.2 NRW confirm within their Relevant Representation that an application for an Environmental Permit for the Project has been twin tracked with the DCO application. At the point of drafting the Relevant Representation NRW were processing the Environmental Permit application for the Project.
- 26.1.3 In relation to the DCO Application for the Project, NRW confirm that extensive and thorough pre-application consultation with the Applicant has resulted in improvements to the proposed development, and a comprehensive ES submission.
- 26.1.4 The respondent also makes more detailed comments on the following topics:
- a. Bats
  - b. Water Vole and Otter
  - c. Access road
  - d. Lighting Plan, Lighting Strategy and LEMP

### Applicant's Comments

- 26.1.5 The Applicant notes the respondent's comments and has expanded further below on the topics of Ecology, the Access Road and Lighting.

### Ecology

- 26.1.6 The Applicant can confirm that the confirmatory Bat Survey Report was provided to NRW for information on 9<sup>th</sup> August 2018. The results were found to be similar to those presented in the May 2018 report. The conclusions and recommendations presented in the ES therefore remain valid.
- 26.1.7 The Applicant notes NRW's comments on the approach to water vole and otter mitigation and confirms that the method statement for Water Vole and Otter will be updated to provide details of potential displacement and mitigation. An updated version of the Landscape and Ecology Mitigation Strategy will be submitted to the Examination for Deadline 1 accordingly.

### Access Road

- 26.1.8 The Applicant welcomes NRW's comment that Applicant has rerouted the access road to avoid the of destruction of Ancient Semi Natural Woodland habitat, as a result of NRW's suggestions during statutory consultation.

### Lighting Plan, Lighting Strategy and LEMP

- 26.1.9 The Applicant confirms that the principle of "dark corridors" around the Generating Equipment Site is described in the Landscape and Ecology Mitigation Plan (ES Appendix 3.4, APP-036), the Outline Landscape and Ecology Mitigation Strategy (ES Appendix 3.4, APP-036), the Outline Construction and Environmental Management Plan (ES Appendix 3.1, APP-036), and

also in the Design Principles Statement (APP-048). The Outline Lighting Strategy (ES Appendix 3.5, APP-036) further describes the intention to maintain a “dark site” and minimise the level of light spill as far as reasonably practicable. These principles are secured via DCO requirements 2, 3, 9, 17 and 26. Note that updates made to the Outline Construction and Environmental Management Plan and the Landscape and Ecology Mitigation Strategy for Deadline 1 do not affect measures relating to lighting.

- 26.1.10 A lighting plan including final details of light locations and specifications for the construction and operational phases, as well as emergency lighting, will be produced for the discussion and approval at the detailed design stage. Requirement 17 (CEMP) requires that details of artificial lighting to be used in construction are included as part of the CEMP and approved by CCS prior to construction of each relevant work. Requirement 26 requires the approval of a lighting plan during operation.

## 27 REP-026 The Coal Authority

### Summary of Relevant Representation

27.1.1 The respondent supports the inclusion of the Draft Development Consent Order (DCO) requirement 14. "*Site Investigation*" which relates to addressing the risks posed to the Project by historical coal mining activities and land stability issues. Draft DCO requirement 15. "*Mineral Resources Survey*" is also supported by the respondent

### Applicant's Comments

27.1.2 The Applicant notes the comments made by The Coal Authority and welcomes its support of the inclusion of Draft DCO requirements 14. and 15.

## 28 Ferelith Smith, Robert Smith, Malcolm Smith and Claire Cooke

### Summary of Representation

- 28.1.1 The Applicant notes that an objection dated 30 October 2018 was submitted to the Planning Inspectorate on behalf of Ferelith Smith, Robert Smith, Malcolm Smith and Claire Cook, and whilst it is not a relevant representation as such, the Applicant is treating it in the same way and therefore providing a response to the matters raised.
- 28.1.2 The respondent objects to the powers of compulsory acquisition sought by the Applicant due to an adverse affect from the Project on the proposed solar development on the respondent's property, and states that the Order Land includes land required for solar panels. The respondent seeks assurances that the Order Land will not extend to any part of the land over which there is planning permission for solar panels and that any work undertaken as part of the Project will not adversely affect the solar panel planning permission.
- 28.1.3 The respondent provided a copy of the solar panel planning permission and an associated layout plan.

### Applicant's Comments

- 28.1.4 The respondent owns land known as 'land adjoining Lletty'r Morfil Farm, Felindre', situated in the area to the north of the existing Access Road - this is mainly outside the Order Land and overlaps with it in part such that the respondent has interests in Plots 19 and 20 (as per the Book of Reference, APP-011).
- 28.1.5 The Applicant agrees with the respondent that the rights sought over Plot 20 are restricted to access for the purposes of making good the existing road, to facilitate the removal of a limited number of specific trees identified immediately to the side of the existing road surface and to enable the lopping and cutting of trees and hedges. These works are required to enable the reinforcement or repair of the existing road surface and the removal of obstructing foliage, should these be required along the Access Road to facilitate the movement of large construction loads.
- 28.1.6 The Applicant has produced a drawing (number J0008302-18-10, attached at Appendix 1) showing an overlay of the respondent's solar farm development layout with the Applicant's Order Land (as shown on the Land Plans, APP-057). This overlay plan plainly illustrates that the boundary of the Order Land extends into the wooded area at the south side of the respondent's freehold land and does not overlap with areas proposed to be used for solar panels.
- 28.1.7 There is a small area of overlap where the solar farm development red line boundary crosses Plot 20 and continues into Plot 19 – the Applicant believes this to be an access road for the solar farm. The freehold owner of Plot 19 has not provided the Applicant with any information in relation to such rights. The Applicant confirms that it will liaise with the respondent, as part of its construction site management in order to allow the use by the respondent of Plots 19 / 20, for the solar farm access road.
- 28.1.8 The extent of the overlap between the Applicant's Order Land and the solar farm development was discussed by the Applicant's land agent and the respondent's land agent at a meeting on 24<sup>th</sup> October 2018, comparing the Applicant's Land Plans (APP-057) and plans from the respondent's solar farm development planning application. Following the meeting, the Applicant's land agent emailed the respondent's land agent, including the overlay plan as an attachment on 6<sup>th</sup> November 2018.

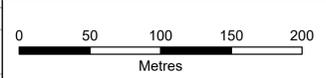
28.1.9 The appeal decision (granting the solar farm planning permission) refers to the existence of a heavily wooded area to the south of the respondent's land (see paragraph 7). The rights sought by the Applicant within this area (to the north of the Access Road) are limited to only a small part of it and will not have any impact on the screening benefit of the woodland in respect of the solar farm development.

Appendix 1

Drawing number J0008302-18-10

Overlay Plan of the Solar Farm Development with  
the Applicant's Order Land

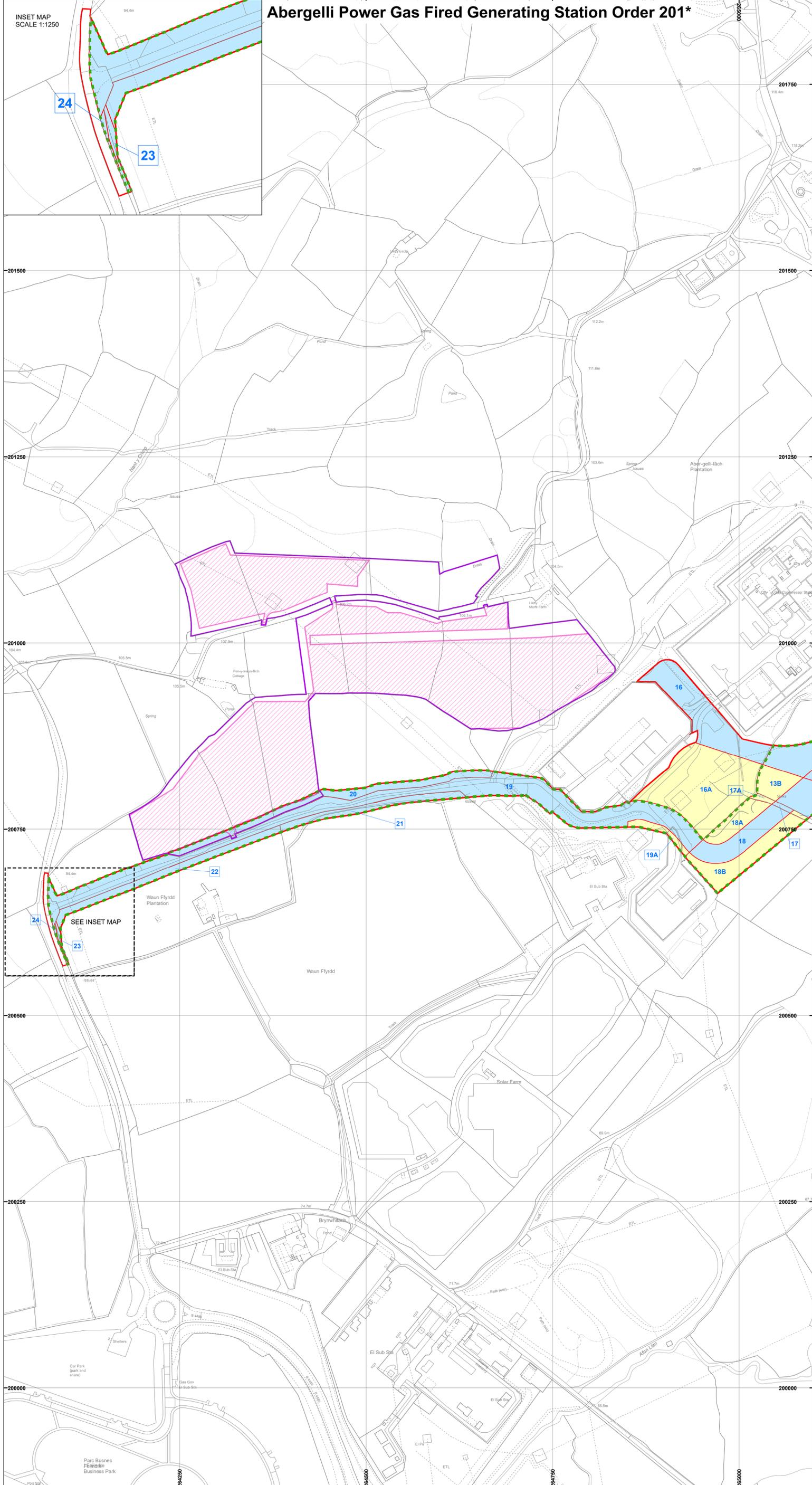
# Abergelli Power Gas Fired Generating Station Order 201\*



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**Legend:**

- Order Land
- Order Limits
- Order Land - Freehold to be compulsorily acquired and in relation to which it is proposed to extinguish easements, servitudes and other private rights
- Order Land - Rights (including restrictions) to be compulsorily acquired and new rights to be created (including to be imposed) and in relation to which it is proposed to suspend or extinguish easements, servitudes and other private rights
- Order Land - Temporary use of land and in relation to which it is proposed to temporarily suspend easements, servitudes and other private rights
- Area under KS SPV 46 Ltd Control
- Construction Area



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<p>Title: <b>KS SPV 46 Ltd Solar Park Project</b> <b>APL Land Plan Overlaid</b></p>		
Scale: 1:2500 @A1	Date: 17 October 2018	
Dwg no: <b>J0008302-18-10</b>	Revision	
Drawn by:	Checked by:	Approved by:
RBC	RM	RM