



Cyngor **Abertawe**  
**Swansea** Council

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## CITY & COUNTY OF SWANSEA

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# LOCAL IMPACT REPORT

Abergelli Power Project

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PINS REFERENCE: EN010069  
CCS EXAMINATION REFERENCE: 20011204  
CCS APPLICATION REFERENCE: 2018/1289/DCO

Planning and City Regeneration  
Civic Centre  
Oystermouth Road  
Swansea  
SA1 3SN

## **City & County of Swansea**

### **Local Impact Report**

#### **Abergelli Power Plant**

## **1. Terms of Reference**

### *Introduction*

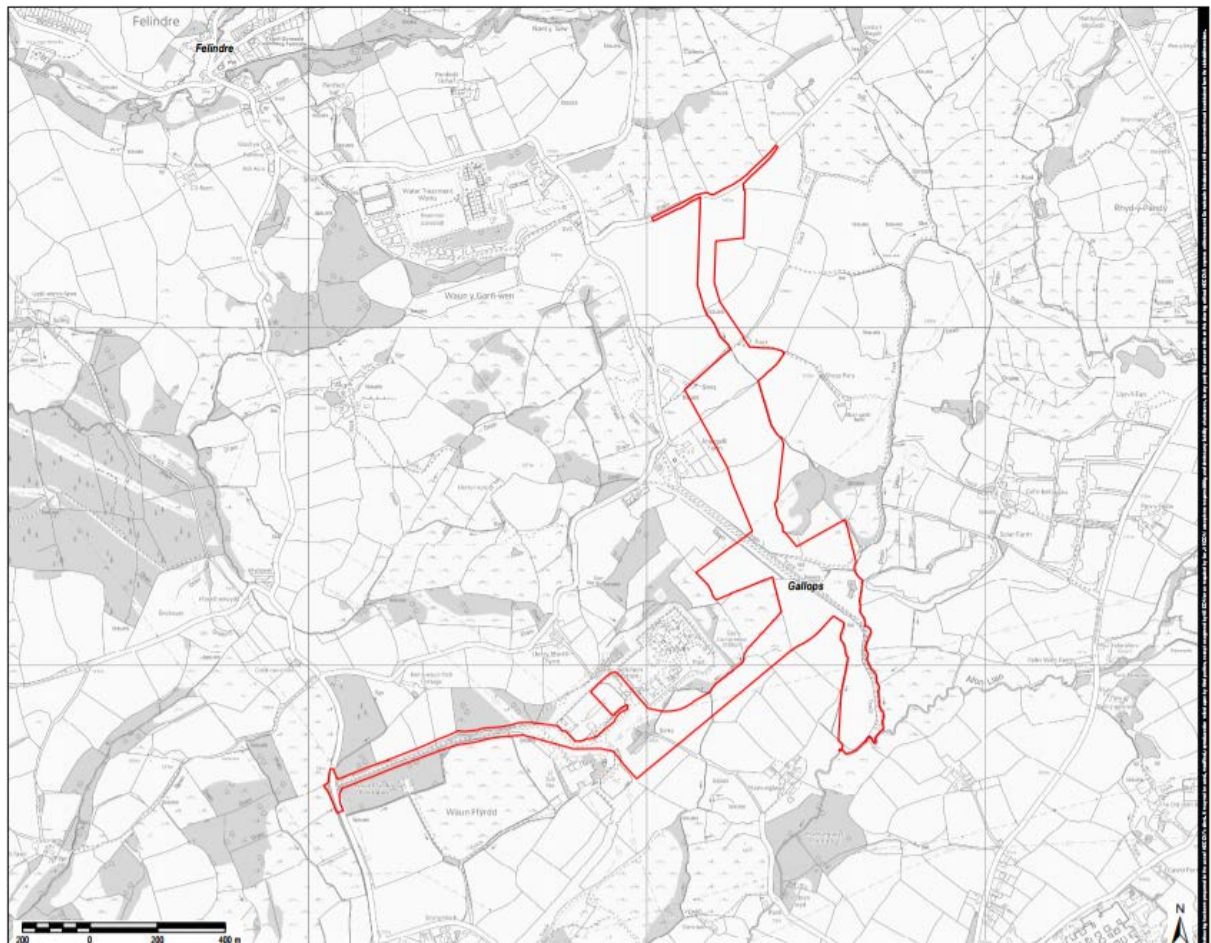
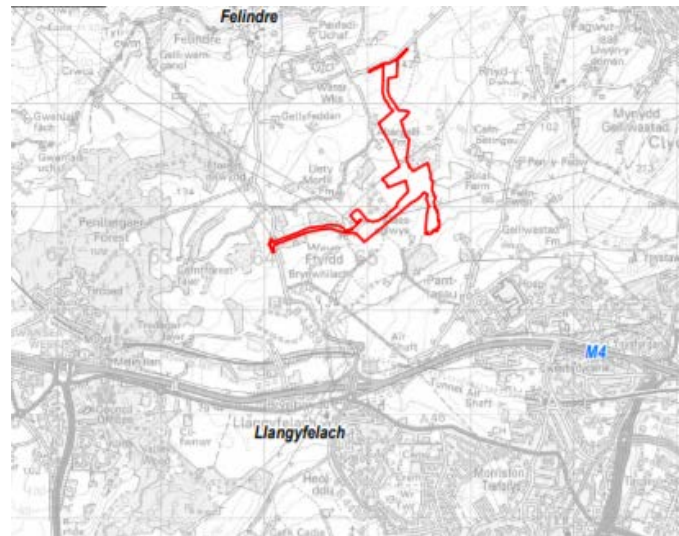
- 1.1. This report comprises the Local Impact Report (LIR) of the City & County of Swansea and has been prepared in accordance with s60(3) of the Planning Act 2008 (as amended) and the Planning Inspectorate's Advice Note One, Local Impact Reports (April 2012).
- 1.2 The Local Impact Report has been prepared to incorporate the topic areas suggested in the Advice Note, the subject areas in the Environmental Statement, and the obligations and proposed requirements submitted with the application for DCO.

## **2.0 Purpose and Structure of the LIR**

- 2.1 The purpose of the LIR is to provide details of the likely impact of the proposed development on the administrative area of the City & County of Swansea (CCS).
- 2.2 The LIR in the first instance considers the principle of the development before working through the topic issues identified in the Environmental Statement by:
  1. Identifying relevant development plan policy and supplementary guidance;
  2. Identifying relevant local issues where appropriate;
  3. Providing a commentary on the adequacy of the application.
- 2.3 The LIR also includes commentary on the adequacy of the draft Development Consent Order (DCO), including the draft Heads of Terms for a Section 106 Obligation and the requirements. Where it has been logical to do so, these comments have been made under the relevant topic area. In other cases it has been specifically addressed under the DCO section of the report.
- 2.4 The LIR addresses some of the Examining Authority's (ExA's) first written questions, but where it does so, that is made clear in the local authority's separate response to those questions. The LIR also includes some commentary from the first Issue Specific Hearing session held on 10<sup>th</sup> December where the context has changed from the DCO submission or to advise how comments have been considered further.

### 3.0 The Site and its Surroundings

3.1 The red line boundary of the project, encompassing all the elements proposed and the maximum extent of land over which powers are sought, is shown below.



3.2 The land at Abergelli Farm consists of grazing fields for sheep and is divided by hedgerows and is generally flat in a slightly undulating landscape. The site is located within the open countryside and lies approximately 1.5km north west of Morrison Hospital. The western extent of the project site encompasses National Grid's Swansea North electrical substation and Felindre Gas Compressor Station.

- 3.3 The whole of the site is located within the administrative area of the City & County of Swansea. Abergelli Farm is located 2km south east of Felindre, 2.4km north of Llangyfelach and to the north of Junction 46 of the M4 and would be accessed via this junction. The overall farm is approximately 97Ha and is currently used for sheep grazing and horse training/ breeding and there is a planning history associated with these uses. The application site is currently accessed via a network of farm tracks that lead to the B4489 to the south and an unnamed road to the north which leads to Felindre and Rhyd y Pandy.
- 3.4 There are no residential dwellings located within the boundary of the project site. Most of the site is improved grassland but there are areas of marshy grassland in the south eastern part of the Generating Equipment Site. There are parts of a Site of Importance for Nature Conservation (SINC) within the Project Site (Llety Morfil SINC). A block of broadleaved woodland, classed as Ancient Woodland is located in the western portion of the site, surrounding the substation.
- 3.5 The Generating Equipment Site is located primarily within fields used for grazing, bounded by a mixture of drainage ditches, fencing and poor quality hedgerows with gaps in them. The Generating Equipment Site and the Laydown Area are both crossed by a soft surface horse training track known as 'the gallops' which runs diagonally north-west to south-east. Other features of the area include public footpaths, bridleways and tracks located in and around the Project Site, linking it to the wider area.
- 3.6 The wider surrounding area is generally rural in character although there is a large amount of utilities' infrastructure in the vicinity e.g. gas and water pipelines, electricity pylons and substations, a gas compressor station and a water treatment plant. A large water main also crosses the site. Further afield lies the former Felindre Tin Plate works site which is identified as a Strategic Business Park. Several solar farms have been proposed in the surrounding area with several completed and operational (Cefn Betingau Phase 1, Abergelli Solar Farm, Gelliwern Isaf Solar Park and Brynwhilach Solar Farm), one farm under construction (at Abergelli Farm) and one farm with permission at Llettyr Morfil Farm, adjacent to the entrance to the site.
- 3.7 The site is primarily contained within a wider farm land area and, whilst having public footpaths running near/ through it, the main vehicular and other public vantage points are located away from the application site and, in the most part, are separated from the site by fields. There is mature vegetation along the boundaries of the fields and along the outer boundaries of the site.
- 3.8 The closest residential dwellings to the Generating Equipment Site are:
- Abergelli Farmhouse approximately 620 m to the north;
  - Llwynhelig approximately 590 m to the south east;
  - Felin Wen Farm approximately 830 m to the east;
  - Lletty Morfil Farm approximately 740 m to the west;
  - Cefn betingau approximately 650 m to the north east; and
  - Maes-eglwys approximately 440 m to the south

#### **4.0 Description of Development**

- 4.1 The Project is a gas-fired 'peaking' plant which is designed to operate when there is a surge in demand for electricity (e.g. where there is a sudden demand in power required by consumers or a sudden drop in power being generated by plants that suffer a breakdown). Peaking plants also help to 'balance out' the grid at times of peak electricity demand and at times when other technologies, such as wind and solar farms, cannot generate electricity due to their reliance on weather conditions and intermittent operation.
- 4.2 The Project Site is approximately 30 ha in area, and is situated on open agricultural land located approximately 2 km north of Junction 46 of the M4 within the administrative boundary of the City and County of Swansea Council.
- 4.3 The Project will involve the combustion of gas to generate electricity. In the gas turbine, air is compressed and natural gas is injected. The fuel would then burn in the combustion chamber producing hot, high pressure gasses. This gas expands across the blades of the gas turbine which drives the electrical generators to produce electricity. The exhaust silencer would reduce noise pollution from this process. The waste gasses and heat produced from this process would be released into the atmosphere via the stack (chimney) but there would be no visible plume due to the high temperature. The stack would be equipped with equipment which would reduce the emissions released.
- 4.4 There are three key components to the Project:
- 1) A new Power Generation Plant, in the form of an Open Cycle Gas Turbine. It will have an electrical output of up to 299 MW.

The Power Generation Plant will include:

- Generating Equipment including one Gas Turbine Generator with one exhaust gas flue stack (between 35m and 45m in height); and
- Balance of Plant (BOP), which is all infrastructure required to support the Gas Turbine Generator (together referred to as the 'Generating Equipment') which are located within the 'Generating Equipment Site';
- An Access Road to the Project Site from the B4489 which lies to the west, formed by upgrading an existing access road between the B4489 junction and the Swansea North Substation (the Substation) and constructing a new section of access road from the Substation to the Generating Equipment Site; and
- A temporary construction compound for the storage of materials, plant and equipment as well as containing site accommodation and welfare facilities, temporary car parking and temporary fencing (the Laydown Area). A small area within the Laydown Area will be retained permanently (the Maintenance Compound).
- Ecological Mitigation Area - area for potential reptile translocation and ecological enhancement. Location and area to be confirmed in

discussion with NRW and CCS and likely to be commensurate with the extent of mitigation required and within the Project Site Boundary.

- Permanent parking and drainage to include: a site foul, oily water and surface water drainage system.

2) The Gas Connection will be in the form of a new above ground installation (AGI) and underground gas connection (the Gas Pipeline). This is to bring natural gas to the Generating Equipment from the National Gas Transmission System. A new access would be created from Rhydypany Road to access the AGI.

3) The Electrical Connection will be an underground electrical cable to export power from the Generating Equipment to the National Grid Electricity Transmission System (NETS).

4.5 The proposed application for a Development Consent Order (DCO) will seek consent for all works required for construction, use, operation and maintenance of the Power Generation Plant (including the Access Road and the Laydown Area/Maintenance Compound, which are integral to the NSIP). The Gas Connection and Electrical Connection are considered to be Associated Development within the meaning of the Planning Act 2008.

4.6 The application has been submitted with an Environmental Statement, a draft Development Consent Order and various supporting documents/ plans and strategies.

4.7 The main plans include:

- Indicative Site Layout
- Works plan
- Rights of way, Streets and Access Plan
- A Hedgerow Plan
- Indicative Gas and Electrical Connection plan.

4.8 The key strategies submitted with the application include:

- Outline Construction Environmental Management Plan (which includes a mitigation summary table as an appendix);
- Outline Surface Water Management Plan;
- Outline Construction Traffic Management Plan;
- Construction Staff Travel Plan
- Landscape and Ecology Mitigation Strategy
- An Outline Drainage Strategy is also included as a separate appendix to the Flood Consequences Assessment.

4.9 As the Project is a generating station in Wales below 350 MW, development consent cannot be granted for Associated Development (gas and electricity connections) in the DCO. However, the Gas Connection and the Electrical Connection have been considered and assessed in the Environmental Statement to provide full information on the effects of the Project as a whole.

- 4.10 The 'Rochdale Envelope' approach has been adopted for this proposal. The 'Rochdale Envelope' approach is employed where the nature of the proposed development means that some details of the whole project have not been confirmed (for instance the precise dimensions of structures) when the application is submitted, and flexibility is sought to address uncertainty. A series of parameters have been included within the application for the various items of equipment and the Environmental Statement has been based on the worst case scenario. For example, in visual terms (as with most other effects), the worst case scenario would be a stack height of 45m (the upper limit) as this would be more prominent than a smaller stack. However, for air quality, the stack height has been assumed at 35m (the lower limit) as emissions have better dispersion with a higher stack.
- 4.11 Planning applications have been received for the gas and electrical connections (references 2018/2020/FUL and 2018/2021/FUL) and are currently under consideration. The applications were screened and were not considered EIA development in isolation. The information submitted with the applications has been dis-aggregated from the wider proposal and supporting documents so that they are stand-alone applications (albeit unnecessary without the generating equipment itself).
- 4.12 It is currently envisaged that these will be reported to Planning Committee in December 2018.

## **5.0 Relevant Planning History**

- 5.1 Due to the nature of the extent of the "red edge" application site, the planning history listed below includes applications that are not necessarily of direct relevance to the area where the Power Generating Equipment site are proposed, however have been included for completeness.
- 5.2 Abergelli Farm has previously been subject to a series of planning applications for mineral extraction, inert landfill and other commercial activities. An application for the proposed tipping of inert waste for agricultural land reclamation was approved on a temporary basis in March 1994 (Ref: 93/0231). Approximately 150,000 tonnes of waste comprised of soils with brick, concrete and stone were deposited at the site but operations at the site were suspended without reaching full restoration contours.
- 5.3 It is not considered that the Project would have an impact on this permission.
- 5.4 Swansea City Waste Disposal Company Ltd gained planning permission for 'excavation and removal of inert material from landfill site and restoration' at Abergelli Farm in February 2003 (Ref: 2002/0312). Some of the filled material (approximately 30,000 tonnes) was removed so that it could be used as capping material at the Tir John Landfill site in Swansea which was leased to the applicant. This consent was subsequently extended to allow the excavation and removal of inert material until 31<sup>st</sup> December 2010 (Ref: 2007/0907).

- 5.5 This permission has now ceased so there would be no impact.
- 5.6 In May 2003, planning permission was granted for the change of use of land at Abergelli Farm from agricultural use to a horse racing training facility ground (Ref: 2003/0561). Planning permission was subsequently granted for the construction of a stable block in August 2004 (Ref: 2004/0415) and for the constructions of two detached dwellings to provide horse trainer and stable hand accommodation (Ref: 2004/0329). The project site at Abergelli Farm currently comprises fields and farmland used for sheep and horse grazing as well as horse training and breeding.
- 5.7 Given the siting of the apparatus across 'the gallops' and the incorporation of 'the teardrop' mitigation area to the south of the Generating Equipment, it is considered that the proposals would have an adverse impact on the horse training facility. However this is considered to have a local impact and the landowner is likely to be aware of this and the impact on their business. Whilst two dwellings were approved to provide accommodation for a stable hand and horse-trainer, the S106 agreement provided that they could also be used for persons employed in agriculture within the vicinity so the impact is considered to be neutral on this permission.
- 5.8 Abergelli Glas Ltd gained planning permission for a 10MW solar farm at Abergelli Farm, adjacent to the north east of the project site in May 2013 (Ref: 2013/0135). This consent has since been the subject of a Non-Material Amendment application to reduce the number of buildings, solar panels, height of the fence, height of framework and omit the met mast (Ref: 2014/1313/NMA). This development has commenced.
- 5.9 Providing the protective provisions are included within the DCO for Abergelli Solar Limited (who will have the opportunity to comment on the draft DCO themselves), it is considered that the proposals would have a neutral impact on the solar farm.
- 5.10 In August 2008, National Grid Electricity Transmission PLC gained planning permission for the construction of a new 400kV electricity substation at a site approximately 1km to the south-west of the Project Site, at Heol Llangyfelach in Felindre (Ref: 2007/2733). Subsequently the proposals were modified and planning permission was granted for the amended scheme in November 2008 (Ref: 2008/1685). In association with the 400kV electricity substation, planning permission was granted for an overhead electricity line diversion in April 2008 (Ref: 2007/2827) and the construction of an amenity building in July 2010 (Ref: 2010/0539).
- 5.11 The impact is considered to be neutral on this apparatus subject to protective provisions.
- 5.12 Outline planning permission was granted in October 2006 for a strategic business park at Felindre (Ref: 2006/0773) which has been varied by further planning permissions (Refs: 2009/1520 and 2011/1143) and use of Felindre business park for the regional car sharing scheme (SWWITCH2share), park and ride schemes on match



days to the Liberty football stadium; and for car parking for the Driver and Vehicle Licensing Agency (DVLA) site in Longview Road, Morriston (consecutive temporary planning permissions, references 2007/2513, 2009/1585, 2011/1311, 2014/0913 and 2016/1720). DPD (a parcel distribution company) have submitted an application for a new distribution centre on plots 7b, 8 and 9 within the business park which is currently being considered (ref: 2018/2238/FUL). At the present time, it is considered likely that the application would be reported to the December Planning Committee.

- 5.13 The business park is intended to be a high tech, high quality business park for B1 and B2 uses although the site is currently vacant despite being advertised over several years. Whilst the stack and apparatus may be visible from the surrounding area, these are situated within an area of significant utility apparatus and it is not considered that a well-designed proposal would have a significant adverse impact on the business park. The impact is considered to be neutral given the current state of the park. The current interest in the site would appear to support this assertion and it is anticipated that the proposal could act as a catalyst for the development of the remainder of the site.
- 5.14 In addition, several renewable energy projects have been granted consent in the surrounding area including the installation of 16 wind turbines (maximum height to blade tip of 127 metres with a hub height of 80 metres), with a maximum generating capacity of 48MW, associated tracks and ancillary infrastructure at Mynydd y Gwair (Ref: 2013/1221) which was approved in March 2014. The installation of four 5 kW wind turbines 20.7 m to tip and associated infrastructure was approved at Tyle Coch Mawr (Ref: 2013/0795) in November 2013.
- 5.15 The proposal is considered to have a neutral impact on these permissions with the former in the construction phase and the latter unimplemented at the current time.
- 5.16 As noted above, four solar parks within the vicinity of the site are operational and another solar farm has planning permission but has yet to be implemented (ref: 2015/1529).
- 5.17 The proposal is considered to have a neutral impact on these permissions.
- 5.18 Outline planning permission (Ref: 2008/0154) for the proposed development of 18 hole championship and 9 hole par 3 golf courses at the Royal Fern Golf Resort, golf club house including health facilities, sauna, swimming pool, gymnasium, golf school and academy, 80 golfing lodges, approximately 135 housing plots, green keepers flat, associated infrastructure, car parking and landscaping was approved in July 2009. The applicant subsequently submitted an application in order to extend the time to submit reserved matters (Ref: 2012/0721) which is still awaiting the signing of a S106 legal agreement. However, given the time that has lapsed since the resolution, it is likely that the Environmental information submitted with this application would need to be refreshed.

- 5.19 Given the current status of the application, it is considered that the impact on this proposal is likely to be neutral but is unlikely to be a determinative factor in whether the permission is issued.
- 5.20 The Local Planning Authority are also currently considering applications for residential-led development within the vicinity that could result in a cumulative impact with this development.
- 5.21 Firstly, an outline application has been submitted, with all matters reserved apart from Strategic Access junctions) for a residential led mixed use development at Llangyfelach Road, Swansea, to be developed in phases, including up to 1950 dwellings, link road, local centre provision of a primary school, community facilities, Public Open Space including facilities for children, and areas of landscaping (including sustainable drainage systems), outdoor sports provision including playing pitches, associated services, infrastructure and engineering works including new vehicular access, improvements to the existing highway network, new roads, footpaths / cycleways, and ancillary works. The application was submitted in September 2017 and is currently pending determination. The application would be referred to Welsh Ministers if the Council are minded to approve prior to the adoption of the LDP (but not if the LDP is adopted). Given the scale of the site, it is considered reasonable to assume that construction activities would be taking place at the same time as construction activities at the Project Site (assuming that both schemes receive a positive determination).
- 5.22 Whilst this scheme does not have permission at the current time, the Generating Equipment would not be overly prominent from the site and would be viewed in the context of other utility infrastructure within the vicinity. Given the scale of the site, it is considered reasonable to assume that construction activities could be taking place at the same time as construction activities at the Project Site (assuming that both schemes receive a positive determination) but the impact of the proposal in the long term is considered to be neutral.
- 5.23 Secondly, an outline application has been received with all matters reserved for a mixed-use development at Felindre, Swansea comprising residential development (up to 800 dwellings, including affordable housing), primary school, local centre (village hall (Class D1) and retail space (Class A1) with flats above), recreational facilities including sports pavilion (Class D2), open space, improvements to existing road bridges, habitat enhancement and management, and all associated building and engineering operations and landscaping. This application was submitted in July 2018 and is under consideration. Again, the application would be referred to Welsh Ministers if the Council are minded to approve prior to the adoption of the LDP. This site would utilise the same route from J46 as the main access for the site and construction activities are anticipated at a similar time to the Project Site construction activities.
- 5.24 This large residential site is located in close proximity to the proposal. Given the high sensitivity of the residential use and the proximity to the site, there will be views of the Generating Equipment which could impact the visual amenity of future residents to a degree. However, as

noted above, there is already significant utility apparatus in the area (with two substations, a gas compressor station and various pylons within the vicinity) and within the current context, it is considered that any impact is likely to be minor adverse at worst, predominantly from a visual perspective. Future residents would be aware in any event and the landowner is considered best placed to comment on the anticipated impacts. The operational phase of the Project would not impact on the mixed-use site due the limited number of vehicles involved.

- 5.25 Thirdly, on land to the North of Garden Village a hybrid planning application was submitted (with all matters reserved apart from strategic access) for residential-led mixed use development, to be developed in phases, including approximately 750 residential units; provision of 1 No. Primary school; circa 280m<sup>2</sup> - 370m<sup>2</sup> flexible A1-A3 / D1 floorspace; open space including parks; natural and semi natural green space; amenity green spaces; facilities for children and young people; outdoor sports provision including playing pitches; associated services, infrastructure and engineering works including new vehicular accesses, improvement works to the existing highway network, new roads, footpaths/cycleways; landscaping works (including sustainable drainage systems), ecological mitigation works and ancillary works. This application was submitted in July 2016 and was reported to Planning Committee with a recommendation for approval in May 2018. The application has been referred to the Welsh Ministers who have not called in the application and it is currently awaiting the signing of the S106 agreement before the decision is issued.
- 5.26 The impact on this proposal is considered to be neutral.
- 5.27 It should also be noted that another residential-led, mixed use Strategic Site is proposed in close proximity to the site at Clasemont Road (Strategic Site E) for 600 dwellings. No application has been submitted on this site to date and the Local Planning Authority has no indication for the timescale of this submission at the current time. This site would be accessed from J46 in terms of construction traffic.
- 5.28 Similar to the Felindre Strategic Site, the proposal could have a minor adverse impact on the residential development given the sensitive nature of the site but no application has been submitted to date and the M4, other utility infrastructure and Morriston Hospital are in closer proximity to reduce any perceived impact. In addition, the apparatus is likely to be in situ when any dwellings within the site are first occupied.
- 5.29 Finally, a full application has been approved for the construction of 80 no. residential units with associated access and landscaping at the Former Civic Centre, Penllergaer, accessed off the A48 between junctions 46 and 47 of the M4. This site is currently being constructed but is likely to be nearing completion by the time that the Project is commences.
- 5.30 Whilst the development is for a residential use which is considered to have a high sensitivity to change, the application site is well screened and the Project is therefore considered to have a neutral effect.

## **6.0 Statutory Development Plan**

- 6.1 The City and County of Swansea UDP was 'time expired' on the 31st December 2016. The UDP however remains the extant development plan for the City and County of Swansea Council and, under the provisions of the Planning and Compulsory Purchase Act 2004 (as amended); planning decisions must be made in accordance with the UDP unless material considerations indicate otherwise. Given the time expired nature of the UDP, such material considerations include circumstances where new national planning guidance or policy is at variance with or contradicts UDP policy and, in certain cases, where new robust evidence submitted undermines the basis upon which UDP policy was originally formulated. The UDP therefore continues to be the basis for consistent and sound planning decisions, however given its time expired status, planning applications would be assessed on an individual basis to ascertain whether the circumstances justify a departure from the extant plan.
- 6.2 The current adopted development plan for the City & County of Swansea is therefore the Unitary Development Plan (UDP), which was adopted in November 2008.
- 6.3 The City and County of Swansea Local Development Plan (LDP) was submitted for public examination in August 2017. In the case of Swansea's emerging LDP, the Plan is plainly at a very advanced stage. Whilst certainty regarding LDP content can only be achieved once the Inspector(s) publishes the binding report, PPW does not suggest that weight can only be placed on the Plan at this stage. In considering what weight should be given to the specific policies in the emerging LDP for particular proposals, the decision maker must carefully consider the underlying evidence and background that applies to the particular policies that are relevant to consideration of that scheme. Any objections made to the policies are also pertinent considerations.
- 6.4 It is significant therefore that the programmed hearings for the Examination of the Swansea Local Development Plan (LDP) were concluded in September 2018 and that the consultation on the resulting 'Matters Arising Changes' (MACs) to the Deposit will conclude in mid-December 2018. On the basis of this timetable, the Examination Inspectors have confirmed to the Council their intention to submit the Inspectors Report on the LDP in early January 2019. The Swansea LDP is therefore clearly at such an advanced stage in the process, and there is now a degree of certainty as to large parts of the Plan's content. Given this, where appropriate significant material weight can therefore be applied to relevant LDP policies.
- 6.5 On this basis, and given that the DCO application is likely to be considered during a period that straddles the adoption period of the LDP (assuming that it is found to be sound), both policy contexts are given.
- 6.6 However, at the current time, the UDP is the extant development plan (for statutory purposes) whilst significant weight should be afforded to the emerging Local Development Plan as it has been endorsed by Members and is at an advanced stage (but still subject to change).

## ASSESSMENT OF IMPACTS AND ADEQUACY OF RESPONSE

### 7.0 Principle of Development

#### City & County of Swansea Unitary Development Plan (UDP)

- 7.1 The Unitary Development Plan's Spatial Strategy, set out in Part 1 of the Plan, is firmly based on sustainable planning principles. The plan seeks to restrict the outward spread of the urban periphery and to protect and enhance urban green space and the surrounding rural environment.
- 7.2 The spatial strategy is summarised in the Spatial Strategy Map provided and amplified with site specific detail in the Proposals Map. Felindre is identified as a large employment centre on the Spatial Strategy Map that borders the open countryside. It effectively determines the sustainable settlement strategy for the UDP. In the high quality rural environments of Gower and Mawr Uplands, the policy emphasis is placed on conservation, enhancement and countryside management with rural and appropriate special interest tourism encouraged to contribute to environmental conservation. Conservation and management of the Burry Inlet and Loughor Estuary is also needed to restrain development and safeguard the area, which is of internationally recognised wildlife importance.
- 7.3 The UDP seeks to identify the enabling infrastructure, developments and safeguards needed to implement national planning policy guidance contained in PPW, the various TANs supplementing that document as well as the Swansea Bay Area Actions of the Wales Spatial Plan and other relevant guidance.
- 7.4 The overall vision for the Council's UDP is to adopt a sustainable approach to the development of a prosperous region focused on a cosmopolitan and multi-cultural City and County, which capitalises on its waterfront location. The strategy is based on the conservation of the best the County has, whilst making effective provision for the promotion of employment, good housing, shopping, leisure, tourism, community and education facilities in a safe, accessible, innovatively designed, healthy, ecologically rich and visually attractive environment.
- 7.5 This vision is seen to demonstrate the Council's commitment to the promotion of sustainable development which is to be pursued through goals based on sustainable principles of environmental protection, economic growth, social progress, safeguarding of resources and improved accessibility, each of which forms the basis for the topic policies in the second part of the Plan.
- 7.6 Within this context, Goal 1 seeks to sustain a healthy, visually attractive, ecologically and historically rich environment. Objectives of Goal 1 include:
- To upgrade the visual environment and image of the area;
  - To protect and enhance valued natural heritage and species;
  - To avoid significant adverse environmental impacts from new development;

- To promote resource efficient buildings and layouts in all new development.
- 7.7 Goal 2 is to help promote the sustainable growth of the local and regional economy. The objectives of Goal 2 include:
- To ensure the availability of a high quality and diverse portfolio of sites and premises to meet the needs of economic growth sectors.
- 7.8 Goal 4 is to make more efficient and sustainable use of the area's resources. The objectives for Goal 4 include;
- To encourage the provision of state of the art utility and telecommunications infrastructure whilst minimising adverse effects on the environment, communities and health.
- 7.9 Arising from the Vision and Goals, the UDP sets out 15 Strategic Policies. The following Strategic Policies are relevant to this application:
- 7.10 Policy SP1 and SP3 are concerned with creating a quality environment with Policy SP1 stating that sustainable development will be pursued as an integral principle of the planning and development process and that development proposals designed to a high quality and standard, which enhance townscape, landscape and sense of place will be favoured. Policy SP3 states that the natural, built and cultural heritage of the County will be protected and enhanced to protect from materially harmful development. Policy SP2 states that the countryside will be protected and conserved, with green wedges shaping the urban form and safeguarding the distinctive interplay of town and country. Village character will be protected.
- 7.11 Policy SP11 relates to the efficient use of resources and that the upgrading of infrastructure provision and the generation of energy from renewable resources to meet the needs of existing and new development will be favoured, provided the environmental impact is kept to a minimum.
- 7.12 Policy SP12 states that development that makes efficient use of resources and energy will be encouraged.
- 7.13 It is the Strategic Policies which provide the link to the topic specific policies contained within the second part of the UDP.
- 7.14 Part 2 UDP Policy R11 relates to renewable energy resources, including ancillary infrastructure and buildings, but as this application is not for a renewable energy infrastructure, this policy is not directly applicable to the application and no weight would be afforded to it.
- 7.15 The Project Site is located within the open countryside on land identified as "Coal" and "Sand and Aggregates", where UDP Policies R2 and R4 respectively apply.
- 7.16 Policy R2 states that development proposals that would affect the working of known potential resources will have to be accompanied by a

full assessment of the potential resource and the impact of the proposal in terms of sterilising the resource.

7.17 Similarly, Policy R4 states that development proposals that would affect the working of known potential mineral resources will have to be accompanied by a full assessment of the potential mineral resource and the impact of the proposal in terms of sterilising the resource.

7.18 The Welsh Government (WG) has undertaken an appraisal of land based sand and gravel resources in South Wales (South Wales Sand and Gravel: Appraisal of Land-based extraction in South East Wales, 2000, Symonds). The study identified a number of potential mineral resource areas within the County, although significant further research needs to be undertaken to assess the viability of these resources. WG requires that the resource must be safeguarded against sterilisation by other forms of development and these areas are largely identified on the Proposals Map. However those parts of the known resource underlying areas that have already been developed as part of the urban form are not shown. The areas identified are for information purposes only and do not indicate areas within which mineral development will necessarily be acceptable in land use planning terms.

7.19 Part 2 UDP Policy EV21 relates to rural development and the preamble states that one of the objectives of these policies is protect the countryside from development that would cause material harm, particularly where the undeveloped coastline or other areas of high landscape quality are concerned.

7.20 Policy EV21 states that non-residential development in the countryside will only be permitted where it can be demonstrated that:

- i. It is beneficial for the rural economy or rural employment, or
- ii. It meets the overriding social or economic needs of the local community, or
- iii. It is an appropriate development associated with farm diversification, sustainable tourism and recreation, or nature conservation and does not adversely affect the viability of an established farm unit, or
- iv. It provides an acceptable economic use for previously developed land or existing building(s) in accordance with Policy EC12 [which concerns the conversion and re-use of existing rural buildings], or
- v. It is essential for communications, telecommunications, other forms of utility service provision, minerals or renewable energy generation.

7.21 Policy EV22 states that the countryside will be conserved and enhanced for the sake of its natural heritage, natural resources, historic and cultural, environment and agricultural and recreational value through the control of development and practical management and improvement measures. The preamble to this policy states that countryside is defined as all that land within the County that lies outside built-up settlements and which is not allocated for development.

- 7.22 The Project Site is also located to the south of a Hazardous Installation Consultation Zone and approximately 200 m to the north of a Notified High Pressure Mains Buffer where UDP Policy EV41 applies. Policy EV41 states that development of land in the vicinity of existing hazardous installations will not be permitted if there would be a significant risk to life or health.
- 7.23 UDP Policy EV2 (criterion xiv) requires developers to identify the location of any hazardous installations in the area and development that would be at risk from, or prejudice the operational use of, hazardous installations.
- 7.24 Under health and safety legislation, certain sites and pipelines are designated as notifiable installations and the development of land in their vicinity is subject to planning controls aimed at keeping the hazardous installations adequately separated from housing and other land uses with which they might be incompatible from a safety viewpoint. In determining whether or not to grant permission for a new hazardous installation or for a development on land in the vicinity of a hazardous installation, the Council will take advice from the Health and Safety Executive and other statutory consultees.
- 7.25 Policy EC13 states that development that would result in the loss of the best and most versatile agricultural land will not normally be permitted, unless there is an overriding need and:
- i. Previously developed land is unavailable, and either
  - ii. Lower grade land is unavailable, or
  - iii. Lower grade land is of a higher environmental value.

*City & County of Swansea Emerging Local Development Plan (LDP)*

- 7.26 Like the UDP, the Local Development Plan seeks to plan for growth in a sustainable manner. Its policies and proposals will enable the delivery of sustainable development, and ensure that social, economic, environmental and cultural well-being goals are all suitably balanced in the decision making process so that the right development occurs in the right place. The Plan has been prepared with full consideration of the Council's duties to work towards Wales' seven shared well-being goals and to contribute to sustainable development and management of natural resources.
- 7.27 The LDP vision is that the County will be a desirable place to live, work and visit that:
- Capitalises on the distinctive relationship between its vibrant urban areas and outstanding rural and coastal environments
  - Supports a competitive and prosperous economy that acts as a focal point for the wider Swansea Bay City Region
  - Has sustainable, distinct communities, in both urban and rural locations, that benefit from sufficient good quality accommodation, supporting infrastructure, community facilities and opportunities for recreation



- Is a thriving City Centre destination that offers excellent shopping facilities and supporting leisure and business opportunities, capitalising on its proximity to the waterfront.
- Celebrates and conserves its unique natural heritage and cultural and historic environments.

7.28 The LDP vision will be delivered through a series of strategic objectives relating to “Enhancing Communities, Facilities & Infrastructure”, “Delivering Economic Growth and Prosperity”, and “Fostering a High Quality Environment”. Of the objectives set out in Figure 4, those relevant to the Project are set out below:

- Ensure that communities have a mix of uses and facilities;
- Facilitate the provision of appropriate infrastructure to support communities and businesses;
- Encourage appropriate development of low carbon and renewable energy resources and energy infrastructure;
- Support the safeguarding and sustainable use of natural resources where appropriate;
- Support development that positions Swansea as an economically competitive place and an economic driver for the City Region;
- Facilitate growth and diversification of the local economy and an increase in high value, skilled employment;
- Promote and enhance a diverse and sustainable rural economy;
- Promote a sustainable development strategy that avoids significant adverse environmental impacts and respects environmental assets;
- Maintain and enhance green infrastructure networks;
- Support measures to minimise the causes and consequences of climate change; and
- Promote good design that is locally distinct, sustainable, innovative and sensitive to location.

7.29 The policies and proposals should be read in combination, and the Plan considered as a whole. Policies are supported by reasoned justifications that explain their purpose and set out how they are intended to be implemented. Strategic Policies are those that relate to overarching themes of the Plan.

7.30 Area Wide Policies are generally of a generic nature (not place specific), and include topic-based policies that set out criteria against which planning applications will be considered.

7.31 Emerging Policy PS 1 refers to sustainable places and states that in order to deliver sustainable places and strategically manage the spatial growth of the County, the delivery of new homes, jobs, infrastructure and community facilities must comply with the Plan’s sustainable settlement strategy, which requires:

- i. Development to be directed to the most sustainable locations within the defined settlement boundaries of the urban area and Key Villages;
- ii. New homes and jobs to be delivered in a manner consistent with growth forecasts and the Plan’s Sustainable Housing and Employment Strategies;

- iii. The safeguarding and protection of the character and openness of the Green Belt and Green Wedges; and
- iv. Development in the countryside to be limited to exceptional circumstances.

7.32 The Strategic Policy emphasises that the Plan's settlement boundaries are a key mechanism for helping to manage future growth by defining the area within which development would normally be permitted, subject to material planning considerations. Outside the defined settlement limit, development is strictly controlled, and will generally only be supported in exceptional circumstances, in accordance with Plan policies, and/or if a countryside location is deemed essential given the nature of the proposal, in line with National Planning Policy and Guidance.

7.33 Emerging Policy ER 1 requires that development proposals take into account the following principles to mitigate against the effects of climate change, adapt to its impacts, and to ensure resilience:

- i. Reduce carbon emissions;
- ii. Protect and increase carbon sinks;
- iii. Adapt to the implications of climate change at both a strategic and detailed design level;
- iv. Promote energy and resource efficiency and increase the supply of renewable and low carbon energy;
- v. Avoid unnecessary flood risk by assessing the implications of development proposals within areas susceptible to flooding and preventing development that unacceptably increases risk, and
- vi. Maintain ecological resilience.

7.34 The amplification states that a core function of the Plan is to ensure that all development in the County is sustainable, taking full account of the implications of reducing resource use and addressing climate change.

7.35 Emerging Policy EU 1 support proposals for renewable or low carbon energy development will be permitted subject to the following criteria:

...

iii. All renewable or low carbon energy development proposals will be required to demonstrate that:

- a) The siting, design, layout, type of installation and materials used do not have a significant adverse effect on the characteristics and features of the proposed location;
- b) The development would not result in unacceptable loss of public amenity or public accessibility to the area;
- c) The development would not result in significant adverse effects on natural heritage or historic environment, or visual amenity either individually or cumulatively;
- d) There would be no significant adverse effect on the Gower AONB;
- e) There would be no significant adverse impact on water quality and quantity;
- f) The development would not result in the permanent sterilisation of minerals resources;

- g) The development would not compromise the transport network;
- h) The development would not interfere with aircraft operations or telecommunications;
- i) There would be no loss of carbon sinks, or that on-site loss can be adequately mitigated; and
- j) The satisfactory removal of infrastructure and remediation and/or restoration of the natural environment, would be undertaken in accordance with an aftercare scheme to be agreed with the Council prior to the development being carried out.”

- 7.36 The amplification of this policy clarifies that all onshore energy projects over 50MW are determined by UK Government based on the National Policy Statements. However, it goes on to state that cumulative visual impacts concern the degree to which proposed renewable energy development will become a feature in particular views and the impact this has upon the people experiencing those views. Similarly, any ancillary works should be sensitively and carefully sited, designed, and limited to locations where proposals would not have a significant cumulative effect. Such developments should be sympathetic to the characteristics of the local landform, contours and existing landscape features.
- 7.37 Provision should be made for the removal of temporary structures, plant and equipment from the site once construction works are completed. When the installation has come to the end of its operational life, all structures, plant, equipment and associated infrastructure should be removed within six months (or a pre-negotiated period) after decommissioning and the land restored to an acceptable standard as agreed prior to consent being granted. Access to open spaces within the County must be maintained, and where possible improved.
- 7.38 Renewable energy installations that unduly restrict access must propose sufficient mitigation measures or facilitate the opening up of other areas for public amenity. The Policy highlights that proposals will be required to ensure that they do not give rise to problems of highway safety or have a detrimental effect on the highway network as a result of construction and maintenance traffic.
- 7.39 Peat rich soils act as important carbon stores and proposals which are likely to have an impact on peat soils will be required to conduct a site specific risk assessment to be considered as part of the planning application.
- 7.40 National Planning Policy and Guidance makes clear that development proposals should not conflict with areas of safeguarded coal resource. Any developments should be of a temporary nature and site restoration should not prohibit future mineral development.
- 7.41 Emerging Policy CV 2 sets a presumption against development in the countryside to ensure the integrity of the countryside, except where it is for, inter alia, “necessary infrastructure provision”. Development in the countryside is required to ensure that the integrity of the countryside is conserved and enhanced.

- 7.42 CCS has also produced Supplementary Planning Guidance (SPG) to support the implementation of adopted UDP planning policies. The Planning Obligations SPG (Ref. 2.45), published by CCS in March 2010, is an SPG document of potential relevance to the Project. The Planning Obligations SPG identifies the types of obligations developers may be expected to contribute towards, the likely amounts of these obligations, and the procedures involved when entering into obligations.

### Commentary

- 7.43 As stated in the Local Impact Report Guidance Note, there is no need for the LPA to undertake an assessment of compliance with National Policy Statements. This commentary relates to extant, emerging and national policy only where relevant to the principle of development and site-specific issues.
- 7.46 Whilst it is noted that the UK government recognises the vital role that fossil fuel power stations play in providing electricity supplies, and that “they will continue to play an important role in our energy mix as the UK makes the transition to a low carbon economy” (paragraph 3.3.25 of NPS En-1), there are no UDP policies that are supportive of the principle of the development as the proposal is for a natural gas fired power station and is not a renewable energy source.
- 7.47 The site is located within the countryside within the UDP. Policy EV21 provides for occasions where non-residential development will be permitted in the countryside. This is supported by Policy EV22 which seeks to protect the countryside for its own sake. Given the limited employment that would be generated during the operation and the nature of the employment during the construction phase, it is not considered that the proposal would comply with criterion (i) of Policy EV21. It is not an appropriate farm diversification development (which is qualified in the amplification) so it would not comply with Criterion (iii) and it is not previously developed land (criterion iv). It is not considered to be essential for communications, telecommunications, other form of utility service provision, minerals or renewable energy generation. Whilst the proposal has support at national level, this policy specifically references renewable energy generation (not just energy generation). Given the widely acknowledged benefits of renewable energy generation, it is not considered that a less climate friendly form of development would have a less stringent test than this and it is not considered to fall within the utility service provision term. Further to this, the project in this location is not considered to be *essential* for that reason so it would not comply with Criterion (iv).
- 7.48 The applicant maintains that the project would meet the overriding social or economic needs of the local community but this is not considered to be the case. The development may benefit the local community in terms of energy security (as it would the wider population) but it not considered that the proposal would meet their overriding social/ economic needs. The location of the development is understood in terms of the proximity to the gas and electrical connections and the site selection process appears to be thorough and well thought out. Whilst these would be material considerations if the

application were to be considered against local policies, it is not considered sufficient justification to state that the proposal meets the needs of the local community. The electricity generated would serve the National Grid and would not just benefit the local community in this regard. The economic and social needs of the community would not be lacking if this proposal did not proceed.

- 7.49 Policy EV41 is not considered to be applicable as the site is located outside of the notification zone and the proposal is not considered to have a significant effect in terms of public health or safety.
- 7.50 Whilst the proposals would again be located within the countryside in the Emerging LDP, and policy CV2 is restrictive in nature unless the proposals, inter-alia, are for necessary infrastructure provision with further non-site specific policies covering these circumstances. Policy CV 2 goes on to state that “countryside development must be of a sustainable form with prudent management of natural resources and respect for the cultural heritage of the area.”
- 7.51 Policy EU 1 is a general policy that relates to Renewable and Low Carbon Energy developments, however as the gas-fired power station would use fossil fuels and would not have a carbon capture and storage system included, it is not considered that the proposal would meet this definition, and this policy is not applicable. There are no other relevant policies so a judgement would have to be made on whether the proposal was considered to be ‘necessary’ infrastructure development. This is considered to be less stringent test than the ‘essential’ test in the extant UDP. No further clarification is provided in the amplification so it is considered necessary to cross-reference with national policy on this issue.
- 7.52 It is clear that at a UK level, there is general support for this type of development in the National Policy Statements but these are separate considerations in the assessment of the Local Impact Report. Planning Policy Wales (9<sup>th</sup> Edition) states that adequate and efficient infrastructure (including electricity and gas) is crucial for the economic, social and environmental sustainability of all parts of Wales. At the same time, infrastructure that is poorly designed or badly located can exacerbate the problems rather than solving them. Paragraph 12.1.6 states that “the capacity of existing infrastructure and the need for additional facilities should be taken into account in the...consideration of planning applications.” Paragraph 12.8.6 states that “the Welsh Government’s aim is to secure an appropriate mix of energy provision for Wales which maximises benefits to our economy and communities, whilst minimising potential environmental and social impacts. This forms part of the Welsh Government’s aim to secure the strongest economic development policies to underpin growth and prosperity in Wales recognising the importance of clean energy and the efficient use of natural resources, both as an economic driver and a commitment to sustainable development.” Therefore, subject to meeting the other criteria in the emerging LDP (in terms of its social, economic and cultural impact on the environment which are considered further below), the development could be considered to be necessary in this location given the significant level of energy it could produce and the

role it has to play in supporting a move to a low carbon economy in the short-medium term.

### Conclusion

- 7.53 In terms of the current UDP policy the proposals are considered to be contrary to policy in principle with regards to Policies EV 21 and EV22 as a fossil-fuel powered energy generating station on greenfield land and this is the extant development plan at the current time for the reasons set out above.
- 7.54 In terms of the Emerging LDP policy (which is to be afforded less weight at the current time), the proposals could be considered necessary infrastructure development if they comply with the remaining policies of the Emerging LDP.
- 7.55 Within this context, the positive, negative and neutral impacts of the proposal are considered further below in light of current and emerging policy.

## **8.0 Design and Layout**

### City & County of Swansea Unitary Development Plan

- 8.1 Design and siting and location Policies EV1 and EV2 are set out above.
- 8.2 Emerging Policy PS 2 refers to Placemaking and Place Management and states that development must enhance the quality of places and spaces, and respond positively to aspects of local context and character that contribute towards a sense of place. The design, layout and orientation of proposed buildings, and the spaces between them, must provide for an attractive, legible and safe environment, and ensure that no significant adverse impacts would be caused to people's amenity.

Depending on the nature, scale and siting of the proposal, development must also:

- i. Have regard to important elements of local heritage, culture, landscape, townscape, views and vistas;
- iv. Integrate effectively with the County's network of multi-functional open spaces and enhance the County's green infrastructure network
- ix. Provide appropriate parking and circulation areas...
- xi. Maximise opportunities for sustainable construction, resource efficiency and contributions towards increased renewable or low carbon energy generation;
- xiii. Avoid unacceptable juxtaposition and/or conflict between residential and non-residential uses;
- xiv. Ensure no significant adverse impact on natural heritage and built heritage assets;
- xv. Ensure resilience is not undermined and does not result in significant risk to human health, well-being or quality of life.

- 8.3 Ensuring proposals exhibit high quality, sustainable design credentials that respond to local context will be consistently pursued in the interests of elevating the County into a new era of prosperity, desirability and distinctiveness. Design encompasses matters of layout, scale, form, massing, height, density, colour, materials and specific detailing that will vary considerably between development proposals. Poor design not only detracts from the character and appearance of an area, but can harm neighbours' quality of life.

Adequacy of the Application/DCO

- 8.4 In addition to the single Gas Turbine Generator at the Generating Equipment Site, the following plant and buildings will be present:
- Raw / Fire Water Tank: The fire water storage tank would be designed to comply with the relevant fire regulations and would be installed together with fire pumps, hose reels, fire hydrants and portable extinguishers;
  - Demineralised Water Tank: Required to store demineralised water for the Generating Equipment (used for e.g. blade washing);
  - Control Room / office / workshop Building: Required in order to monitor the plant operation and house plant controls;
  - Gatehouse: Needed to provide security and maintain a log of site attendance, deliveries etc.;
  - Transformer Compound: Required to connect the electrical infrastructure from the Generating Equipment to transformers before export to the Substation which is part of the NETS. This would also include a generator step-up transformer, unit and other transformers, an overhead line gantry and associated equipment;
  - Natural Gas Receiving Station: Required to ensure that gas coming from the National Gas Transmission System feeds into the Generating Equipment Site at the right flow and pressure conditions. This would include a compression station, emergency generator, Joule-Thompson boilers and auxiliary control cabinets;
  - Fin-Fan Coolers to provide cooling to the Generating Equipment;
  - Telemetry apparatus including electrical cabinets; and
  - Emergency Generator: A small diesel fired generator to provide power for the safe shutdown of the Gas Turbine Generator and running of essential security systems in emergency situations
- 8.5 The key components and their parameters are listed in the table below:

Building or Structure	Maximum Height (m)	Minimum Height (m)	Maximum Length (m)	Maximum Width (m)
Gas Turbine Generator (including gas turbine, generator, air inlet filter house, air inlet duct, exhaust diffuser, and auxiliaries such as lube oil system, air dryers, fuel gas filter package, instrument air system, compressor washing) (Work No 1A)	27	-	50	40
Exhaust gas emission flue stack (Work No 1A)	45	35	-	12
Control room/office/workshop (Work No 1B)	7	-	45	25
Emergency Generator (Work No 1B)	6	-	13	5
Gas receiving station (including compression station, emergency generator, Joule-Thompson boilers and other auxiliary control cabinets) (Work No 1C)	10	-	70	50
Gatehouse (Work No 1E)	4.5	-	9	8
Demineralised water tank (Work No 1B)	7	-	7	7

8.6 The Planning Statement submitted with the application states that the design and layout of an OCGT is primarily informed by its operational requirements and this is accepted by the Local Authority.

8.7 A limited range of site layouts were examined before culminating in the final design, taking into account the following constraints which were established through engagement and consultation as well as the technical studies supporting the ES:

- Avoidance of utilities such as the 1.68 m cast iron water main and the decommissioned Oil Pipeline (which bisect the site under the Gallops), and the National Gas Transmission System;
- Avoidance of landfill to north;
- Avoidance of higher topography to the north west which would be more visible in key views;
- Avoidance of woodland to the east;
- Avoidance of solar farms to the north, south, east and west; and



- Avoidance of field boundaries, ancient woodland and mature trees as far as reasonably possible (being wildlife/ heritage features).

8.8 The final layout of the Project Site has also been determined by the following main factors in relation to each of the components:

- **Generating Equipment:**  
The Gas Turbine Generator and stack require the largest area of land-take as compared to the other components of the Generating Equipment. It is also best practice for the layout of the Generating Equipment Site to make the Generating Equipment easily accessible by the operators and maintenance staff from the control and administration building. These were key considerations which influenced the siting of the Generating Equipment Site. However, the subsequent identification of a water main, which crosses the Generating Equipment Site and Laydown Area from northwest to southeast, and discussions with Welsh Water, have influenced where the Generating Equipment will be located within the Generating Equipment Site. The Generating Equipment is therefore positioned to the north of the Water Main.
- **Access to the Generating Equipment Site:**  
Two options were initially considered, comprising an access option from the north via the Rhydy-pandy Road (Option 1) and an access option from the west via the B4489 (Option 2). Access Option 2 was the option taken forward in the 2018 PEIR at the time of Phase 2 statutory consultation and is referred to elsewhere in the ES as the access road. The main reasons for this choice included that the majority of the public consulted during 2014 supported Access Option 2 in preference to Access Option 1, as it would result in a lower adverse impact on traffic by using a shorter, more direct route and would avoid the roads leading to Morrision Hospital. This option would also minimise the amount of construction required, as part of the access is existing.
- **Access from the Substation to the Generating Equipment Site:**  
Within the 2018 PEIR, two options (Option A and Option B) were considered for the purpose built new section of access road from the Substation to the Generating Equipment Site. The key advantage to Option A was its complete avoidance of the Ancient Woodland area adjacent to the Substation and Felindre Gas Compressor Station. Option B performed better in terms of impacts to National Grid's current and future planned operations, sustainability in relation to materials to be excavated and removed, and Project cost. However, consultation feedback in response to the 2018 PEIR highlighted the importance of avoiding the Ancient Woodland. Therefore, in response to consultation feedback, APL undertook to realign the route of the new section of Access Road associated with Option B. Option B was modified to curve further south and avoid the area of Ancient Woodland.

8.9 A gas connection feasibility study was undertaken in March 2014 to define and evaluate the options available for connecting the Generating Equipment to a suitable source of fuel gas. This identified Feeder 28 of the National Gas Transmission System or a nearby Local Transmission

System pipeline as possible connection points. Investigations to identify specific route corridor options to the National Gas Transmission System or Local Transmission System pipelines within a predetermined gas connection Opportunity Area were carried out, considering in particular the length, the number of crossings required, environmental effects and cost. Four principal potential connection route options were explored further leading to the identification of a single preferred route for the gas connection. Due regard was paid to relevant factors including environmental, planning, safety, engineering and constructability in selecting the preferred route. Route 2b was chosen as the preferred route for the gas connection and is therefore the route which has been fully assessed in the ES. Although not the shortest route, it has lower risks and avoids ecologically significant habitats, such as rough pasture and deciduous woodland.

8.10 A grid connection assessment was undertaken for the Project in March 2014 in order to define and evaluate the options available for connecting the Generating Equipment to the NETS for the export of electricity. The Project will connect into a Gas Insulated Switchgear (GIS) generator bay within the Substation. The Applicant received an offer of a Bilateral Connection Agreement and Construction Agreement from National Grid Electricity Transmission plc (NGET) on 23rd February 2018 (the Connection Agreement) to connect the Generating Equipment to the NETS. Both underground cables and overhead lines were initially considered. However, underground cables were selected as the preferred option in order to minimise visual impact. In the 2014 PEIR, it was noted that the cable would be installed beneath the road. It has now been decided that the cable will be laid alongside the road for ease of maintenance. The Electrical Connection Opportunity Area, to the south west of the Generating Equipment Site, is the area within which the route for the electrical connection has been identified. In July 2014, the chosen route was identified during a site walkover of the Electrical Connection Opportunity Area. A limited number of route corridor options for the electrical connection were considered, as the most appropriate option i.e. the shortest, most direct route from the Generating Equipment Site to the Substation, requiring the least amount of land take and avoiding any statutory designated sites or valued habitats, was available. This negated the need to assess any less favourable options

8.11 The Local Authority are satisfied that the siting (whilst on greenfield land) has sought to demonstrate good design having regard to a number of constraints in the immediate vicinity as referred to above. Whilst the site will be visible within the immediate locality, the proposals are considered to, namely:

- Avoid utilities such as the 1.68 m cast iron water main and the decommissioned Oil Pipeline (which bisect the site under the Gallops), and the National Gas Transmission System;
- Avoid landfill to north;
- Avoid higher topography to the north west which would be more visible in key views;
- Avoid woodland to the east;
- Avoid solar farms to the north, south, east and west; and
- Avoid field boundaries, ancient woodland and mature trees as far as reasonably possible (being wildlife/ heritage features).

- 8.12 In addition, in accordance with paragraph 4.5.3 of NPS EN-1, and as far as is reasonably practical, the Power Generation Plant will use materials which can be disposed of sustainably (e.g. easily re-usable or recyclable) when the plant has reached the end of its life but primarily have been selected for their durability and safety across a 25-year lifespan. The technology chosen, OCGT, has an inherently low requirement for processed water.
- 8.13 The Design Principles Statement draws together the findings of the various documents as they relate to design, and establish firm and deliverable commitments to good design to guide the detailed design. These commitments would be secured by a requirement in the draft DCO to the effect that implementation is undertaken substantially in compliance with the Design Principles Statement.
- 8.14 APL has undertaken suitable studies of the local habitats, accesses, heritage features and landscape to enable the design to respond to place. Suitable setbacks and replacement/reinforcement and new planting is proposed to integrate the Project into its local ecological and landscape context and provide mitigation for habitat loss. Impacts on the drainage regime of the local area will be minimised through the provision of ponds and other natural and semi natural features providing ecological mitigation.
- 8.15 The authorised works on the Works Plans are designed to achieve an appropriate balance between the likely operational requirements (and thus a deliverable energy generation project) and minimising visual effects. The Design Principles document also assists in achieving this balance. The design has also sought to use the site layout in the most efficient way, by locating plant items in close proximity to connections (e.g. gas and electrical infrastructure) and by locating the Power Generation Plant so that it benefits from the maximum screening effects of the local topography. APL registered for a Design Review in October 2014 which was duly convened in December 2014 and attended also by the Local Authority. The Consultation Report sets out the feedback provided by DCfW.

### Conclusion

- 8.16 Overall, it is considered that the site context has been comprehensively appraised as explained within the application and set out above and the proposal is generally compliant with the site specific design aims of the UDP and emerging LDP policies. It is difficult to assess overall compliance with the UDP / emerging LDP policies referenced (EV1, EV2 and PS2) above as they also include various other topics considered below and some of the criteria are less important given its nature, scale and siting. Requirement 2 subsections (4) and (5) ensure that the Council would have further consideration of the detailed design of the proposal and ensure it complies with the Design Principles document which is welcomed.

## **9.0 Air Quality**

### City and County of Swansea Adopted Unitary Development Plan

- 9.1 Policy EV40 states that development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution.
- 9.2 Pollution may cause significant damage to human health, quality of life, residential amenity, and the natural and historic environment. This policy seeks to ensure that developments that would result in significantly high levels of noise, light or air pollution are appropriately located away from residential areas, other sensitive developments and areas of landscape, natural environment and heritage importance. The policy also seeks to ensure that incompatible development and land uses are not located close to existing sources of potential pollution. The adverse effects of pollution are an important consideration when determining planning applications. When assessing new development proposals the Council will seek to minimise the impact of pollution of all kinds, and where possible planning conditions will be used to minimise environmental harm. The Council will look to the statutory environmental agencies to use their anti-pollution legislative powers to monitor and enforce against discharges, noise, etc. Planning permission will not be granted for development that would cause significant harm to air quality by virtue of emissions from the development itself.

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- 9.3 Emerging LDP Policy PS2(xv) requires developers to ensure resilience is not undermined and a proposal does not result in significant risk to human health, well-being or quality of life.
- 9.4 Emerging Policy SI 1 relates to health and well-being and states that health inequalities will be reduced and healthy lifestyles encouraged by ensuring that development proposals...do not result in significant risk to life, human health or well-being, particularly in respect of air, noise, light, water or land pollution.
- 9.5 Emerging Policy RP 1 seeks to prevent development that would result in a “significant risk to: life; human health and well-being; property; controlled waters; or the natural and historic environment,” particularly in respect of: “air, noise or light pollution; flood risk; water resources; land contamination; land instability or subsidence; mineral resources; and sustainable waste management.”
- 9.6 Emerging Policy RP 2 requires that, “where development could lead to exposure to a source of air, noise or light pollution, it must be demonstrated that appropriate mitigation measures will be implemented and incorporated into the design of the development.”
- 9.7 To the south west and south east respectively, the Project Site is located within proximity of a Strategic Development Area for 850 dwellings and a strategic business park (Emerging Policy SD 1(G)) and safeguarded land at Morriston Hospital (Emerging Policy SI 4).

- 9.8 Emerging Policy SD G seeks to allocate a new sustainable settlement at land north-west of M4 J46 at Llangyfelach, to the south-west of the Project Site, for “comprehensive mixed use development of up to 850 homes during the Plan period, incorporating a mix of low-medium and high density residential, a new district centre with commercial units, primary school, a mix of public realm, open space and play provision, new community buildings, and a strategic business park.” An outline planning application is currently being considered by the Local Planning Authority for this proposal (Ref; 2018/1618/OUT).
- 9.9 Emerging Policy SI 4 safeguards land adjacent to Morriston Hospital, to the south-east of the Project Site, for future development, restricted to healthcare related uses associated with Morriston Hospital. Proposals are required to be “delivered alongside appropriate new and enhanced highway infrastructure that will significantly improve the existing substandard road access leading to the site”. A new access road is proposed as part of this proposal (Strategic Transport Strategy Table 9.2) to resolve road capacity issues from the roundabout immediately north of M4 J46.

#### Local Issues

- 9.10 The main pollutant of concern for CCS is nitrogen dioxide (NO<sub>2</sub>). There are two standards/objectives set within the Air Quality (Amendment) (Wales) Regulations 2002 (the EU Limit Values mirror these standards):
- The hourly NO<sub>2</sub> concentration shall not exceed 200ug/m<sup>3</sup> on more than 18 occasions in any one calendar year;
  - The NO<sub>2</sub> annual mean shall not exceed 40ug/m<sup>3</sup>.
- 9.11 CCS declared parts of the lower Swansea Valley an AQMA in 2001, for exceedance of annual mean NO<sub>2</sub> objective. The originally declared AQMA was amended in 2010 due to further exceedance of NO<sub>2</sub> objective occurring within the Sketty and Fforestfach areas.

#### Adequacy of Application/DCO

- 9.12 CCS made comments on the PEIR with regards to table 6.7 (stack properties and emission parameters) and queried why a stack diameter of 7.00m was used for modelling purposes given that the maximum diameter of the stack indicated in table 3.3 is 12.00m. CCS were unclear whether this discrepancy would alter the modelling results and sought clarification on this issue but it does not appear to have been covered in table 6.6 (summary of comments).
- 9.13 The assessment of the emissions from the Generating Equipment has been undertaken using the latest version of the Atmospheric Dispersion Modelling System. Notwithstanding the comments above, the modelling has been discussed extensively with CCS Pollution Control team and has considered model inputs, meteorological data, terrain, surface roughness, building downwash effects, modelled domain, ecological receptors, oxides of nitrogen to nitrogen oxide conversion, acid and nitrogen deposition, specialised model treatments, realistic worst case scenario for assessment of stack emissions, impacts during start up and shut down and demolition and construction phase fugitive emissions of particulate matter.

- 9.14 The assessment concludes that air quality effects during construction of all 3 elements (Power Generation Plant, gas connection and the electrical connection) would be negligible and not significant on residential properties or ecological receptors once the embedded mitigation (the Construction Environment Management Plan) is included.
- 9.15 During operation, the assessment of air quality effects on all 3 elements would remain negligible and non significant with a minimum stack height of 35m and no additional mitigation is proposed. Emissions from the stack will be monitored by Continuous Emission Monitoring System (CEMS) which will be required to obtain an environmental permit to operate. NRW will issue and monitor the permit.
- 9.16 The decommissioning phase will involve the demolition of the buildings on the Generating Equipment Site and removal or hardstanding and restoration of the site. There is no construction associated with the restoration phase but there would be >50,000m<sup>3</sup> of material to be demolished, due to the amount of concrete used on site. Notwithstanding this, the assessment would remain negligible and not significant providing the construction phase embedded mitigation already proposed, as set out in the Outline CEMP, is included within the Decommissioning Strategy. This would need to be secured within Requirement 27.
- 9.17 No cumulative impacts are considered likely.
- 9.18 CCS would advise that in principle a point source from this type of operation should not cause any additional issue as long as the chimney height is correctly designed. The modelling reports so far seem adequate. Swansea does have a nitrogen dioxide compliance problem in the county, but it is primarily generated by ground-level vehicle sources, not industrial point sources.
- 9.19 The embedded mitigation indicated in the ES would be secured by requirements 17 and 27 and these are covered in more detail later on in the LIR to ensure they are fit for purpose.

### Conclusion

- 9.20 In terms of air quality, the proposals are considered to be compliant with Policies EV1 and the emerging LDP policies referenced.

## **10.0 Noise and Vibration**

### City and County of Swansea Adopted Unitary Development Plan

- 10.1 Again, Policy EV40 states that development proposals will not be permitted that would cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution. The amplification of this policy is outlined in the preceding section.

- 10.2 UDP Policy EV1(iii) requires new development to not result in a significant detrimental impact on local amenity in terms of...disturbance.

City and County of Swansea Emerging Local Development Plan

- 10.3 Emerging LDP Policies PS2(xv), SI1, RP1 and RP2 are again applicable as in the preceding chapter to ensure that noise pollution does not have a significant impact or mitigation is incorporated to ensure the health and well-being of residents is not compromised. These policies are set out in full above.

Adequacy of Application/DCO

- 10.4 The assessment has identified six noise-sensitive receptors (NSRs) that are residential properties located between 500m and 875m from the project site and has considered construction noise (annoyance to humans and effects on buildings). A number of embedded mitigation measures have been identified through the iterative EIA process and have been incorporated into the design and construction planning of the Project. As these mitigation measures have been embedded into the design, are legal requirements or are standard practices that will be implemented, the assessment of likely significant effects assumes that they are in place.
- 10.5 During operation, monitoring is considered appropriate in order to track the success of delivery of proposed mitigation. Ideally this monitoring would be based on regular or fixed measurements close to the Project Site Boundary to give consistency by minimising the impact of weather and extraneous sources. The measured levels at these locations must be calibrated against the levels at the receptors as part of the plant commissioning sound test procedure. Any change in Project Site Boundary levels can then be related directly to changes at the receptors. This would be secured by Requirement 25.
- 10.6 The predicted indicative construction noise for the power generation plant at all six NSRs is considered to be negligible and not significant. The construction of the gas connection is considered to be negligible for NSRs 1-5 and minor for NSR6 which would all be negligible and not significant. Construction of the electrical connection is considered to be negligible and not significant at all 6 NSRs.
- 10.7 It may be necessary for some project critical construction activities, such as concrete pours, to take place continuously over day, evening and night periods during peak construction times of the Project, although the exact nature of the works is unknown. During the night time period, the magnitude of impacts would be low/ very low at all NSRs apart from NSR6 during gas connection works when the magnitude of impacts is high adverse and at NSR5 during the electrical substation and connections works. Therefore there is the potential for major/moderate adverse (significant) effects to occur at NSR5 and NSR6 during the evening/ night time periods if the same intensity of working as for the daytime is assumed. Therefore, restrictions on construction hours are included as embedded mitigation as requirements of the DCO (Requirement 23). If construction activities

outside these restricted hours cannot be avoided, these events will be planned, managed and mitigated appropriately through the CEMP, so as not to exceed the SOAEL threshold values and reduce levels towards the LOAEL (or less) where practical. Provided the SOAEL threshold values are not exceeded, or are only exceeded for brief and planned periods, construction activities outside of normal working hours can be considered as having a minor adverse effect or less, and therefore not significant.

- 10.8 It is not possible at this stage to evaluate what the vibration levels produced might be. The vibration limits based on the values in Table 7-11 will be included as part of the CEMP. As the construction of the Project is within the control of the Applicant, any identified issues can be effectively managed by the Applicant and their contractor(s).
- 10.9 It is considered that the impacts associated with demolition would be similar to those impacts associated with construction noise and vibration and these would therefore be negligible.
- 10.10 In terms of operation, during the day the values in Table 7-21 produce very low impact magnitudes at all four NSRs for which representative data could be obtained. This would result in a negligible significance of effect which would therefore be considered to be not significant. Examination of the locations of the proposed power plant, receptors and significant baseline sound sources indicates that the daytime conclusion of a very low impact would also apply to NSR2 and NSR3, for which baseline data could not be obtained. The impact is considered to be minor adverse at night as a worst case scenario.
- 10.11 The ambient sound level at NSR1 after inclusion of the Generation Equipment produces a medium impact magnitude and a moderate significance of effect due to the high pre-existing ambient levels at that location. However the addition of the Generating Equipment sound causes the ambient level at NSR1 to increase by only 1 dB. Such an increase would not be considered to be significant therefore the impact of the scheme on the sound environment is Negligible.
- 10.12 No cumulative impacts are considered likely.
- 10.13 CCS are satisfied with the documentation supplied so far that issues of routine noise from the operation and noise/ vibration from the construction phase have been addressed and could be controlled by Requirement 23 in terms of construction and Requirement 25 in terms of operation. In any event, CCS would normally reserve the right to use our powers under the Control of Pollution act 1974 to deal with any noise enforcement issue if it was urgently required.
- 10.14 However, CCS does not agree with rating levels set out in column A of Table 3 of Requirement 25. The  $dBL_{AR's}$  stated are higher than those set out in table 7-21 of the ES which had already included a +3dB correction; the  $dBL_{AR's}$  put forward would place the NSR's in a Classification of effects 'minor' (Table 7-14) The increase in difference stated could allow for an increase in noise to be permitted and given the context of the area lead to the creation of significant disturbance to



the neighbouring land uses. Requirement 25 should therefore be amended to reflect this.

- 10.15 CCS are also concerned about the inclusion of start-up and shut down periods of half an hour each side of the working day. The whole point of restricting hours of operation is to provide a level of protection from the effects of the construction activity to local residents. By allowing a start-up and shut down period, the DCO is allowing an early start and later finish. These should be included within the working day as permitted – between 8am and 6pm.

### Conclusion

- 10.15 Provided the Requirements are firstly amended, and secondly adhered to during construction and operation, the proposals are considered to be compliant with both UDP policy EV40 and the LDP policies referenced above.

## **11.0 Ecology**

### City and County of Swansea Adopted Unitary Development Plan

- 11.1 UDP Policy EV2 (criteria iv and v) requires new development to take into account and where possible retain site features including...trees and hedgerows and where appropriate to undertake an assessment of the species and habitats on site (along with the implementation of any mitigation measures).
- 11.2 Policy EV28 states that within locally designated areas the natural heritage will be preserved and enhanced wherever possible. Development that would significantly adversely affect the special interest of Local Nature Reserves will not be permitted unless the need for the development is of such significance that it outweighs the importance of the designation. Development that would significantly adversely affect SINC's or RIGs, or which would not provide for appropriate compensatory or mitigation measures will not be permitted, unless it can be demonstrated to meet appropriate social or economic needs where the benefits in such terms would outweigh the harm to the feature concerned. Where development is permitted which would damage the nature conservation value of the site, such damage will be kept to a minimum, and appropriate mitigation or compensatory measures sought.
- 11.3 The amplification to this policy states that when assessing the merits of proposals affecting locally designated areas, matters to be taken into account are:
- (i) Contribution to the local community and economy,
  - (ii) Proposed mitigation measures,
  - (iii) The need to be located at the designated site, and
  - (iv) The suitability of alternative sites.
- 11.4 Policy EV30 states that encouragement will be given to the protection and improved management of woodlands, trees and hedgerows which

are important for their visual amenity, historic environment, natural heritage and/or recreation value. Priority will be given to:

- (i) protecting the remaining areas of ancient semi natural woodland and planted ancient woodland sites;
- (ii) promoting new planting with species appropriate to the location...; and
- (iii) ensuring that protection of amenity interests is achieved where management involves commercial felling and replanting.

11.5 The amplification of this policy states that Ancient Woodland and Planted Ancient Woodland sites are semi-natural habitats which are irreplaceable and should be afforded a high level of protection. Where new planting is proposed, the emphasis should be on new broad-leaved species native to the area, although it is recognised that in some locations conifers can form effective parts of mixed species planting.

*City and County of Swansea Emerging Local Development Plan*

11.6 Emerging Policy ER 2 requires that development to maintain or enhance the County's multi-functional green infrastructure network.

11.7 Emerging Policy ER 6 states that development will not be permitted that would result in a likely significant adverse effect to sites of international or national nature conservation importance". In addition, "development that would affect locally designated sites of nature conservation importance should maintain or enhance the nature conservation interest of the site.

11.8 Emerging Policy ER 8 states that development proposals that would have a significant adverse effect on the continued viability of habitats and species will only be permitted where:

- (i) The need for development outweighs the nature conservation importance of the site;
- (ii) The developer demonstrates that there is no satisfactory alternative location for the development which avoids nature conservation impacts;
- (iii) Effective mitigation measures are provided by the developer; and
- (iv) Any unavoidable harm is minimised by effective mitigation to ensure that there is no reduction in the overall nature conservation value of the area."

11.9 Emerging Policy ER 9 states that development proposals will be expected to maintain, protect and enhance ecological networks and features of importance for biodiversity...Development proposals that could result in a significant adverse effect on the connectivity of ecological networks and features of importance for biodiversity will only be permitted where:

- (i) The need for the development outweighs the nature conservation value of the site;

- (ii) It can be demonstrated that there is no satisfactory alternative location for the development;
- (iii) A connected element of the natural resource is retained as part of the design of the development; and
- (iv) Compensatory provision will be made of comparable ecological value to that lost as a result of the development.

11.10 Emerging Policy ER 10 states that development will not be permitted that would cause significant adverse effect to geological or geomorphological Sites of Special Scientific Interest (SSSIs). Development that would affect regionally important geological or geomorphological sites (RIGs) should maintain the geological or geomorphological interests of the site.

11.11 Emerging Policy ER 11 states that development that would adversely affect trees, woodlands and hedgerows of public amenity, natural/cultural heritage value, or that provide important ecosystem services will not normally be permitted.

#### Adequacy of Application/DCO

11.12 Three internationally designated sites were identified within 10km of the site boundary (Crymlyn Bog SAC and Ramsar; Carmarthen Bay SAC and Burry Inlet SPA and Ramsar) and one nationally designated site within 2km (Nant y Crimp SSSI). 12 non-statutory designations are located within 2km of the site.

11.13 Various surveys have been undertaken including a Phase 1 habitat survey, NVC survey, invasive plant survey and various protected species surveys.

11.14 Discharges into Afon Llan or any other watercourses linking to the Afon Llan will be controlled via various measures as outlined in the embedded mitigation. The embedded mitigation covers drainage and following best practice and guidelines, controlling pollution, storage of potential pollutants, and precautionary measures will help to limit the likelihood and effects of pollution incidents and/or runoff. Discharges will not perceptively increase the flow of the Afon Llan. There are considered to be no effects on statutory designated sites with regards to water discharges due to the site preparation works and embedded mitigation measures, in addition to the large dispersal distance within the Afon Llan from the Project Site to the designated sites. There are considered to be no effects associated with transport-related emissions generated during construction and therefore no additional mitigation is required. This is agreed.

11.15 The embedded mitigation within the CEMP will control movement of people, vehicles and machinery on to and around the Project Site during the construction phase and to help prevent the degradation and destruction associated with increased foot traffic, trampling and/or tracking over of retained non-statutory designated site habitat. The embedded mitigation with regards to following good practice and guidelines, controlling pollution, storage of potential pollutants, and precautionary measures will help to limit the likelihood and effects of pollution incidents and/or runoff; and the embedded mitigation with

regards to measures for controlling dust will help to limit the likelihood of increases of nutrient inputs non-statutory designated site habitats. CCS considers that further details should be included within the CEMP to cover biodiversity impacts and it is recommended that Requirement 17 is amended accordingly. This should include a risk assessment of potentially damaging construction activities, identify biodiversity protection zones, timings etc. Full details are included below in Section 20.

- 11.16 During the construction of the Power Generation Plant there will be a permanent loss of 0.43 ha (representing 1.2% of total Lletty-Morfil SINC area – 36 ha) of Lletty-Morfil SINC comprising 0.26 ha of broadleaved semi-natural woodland and 0.17 ha of marshy grassland. The SINC is considered to be of medium sensitivity with the extent of habitat loss being a medium magnitude, therefore resulting in a moderate effect. This is considered to be significant. CCS agree with this assessment. During construction of the gas connection there will be a temporary loss of 0.36 m<sup>2</sup> (<0.01%) of Lletty Morfil SINC comprising broad-leafed semi-natural woodland which is considered to be negligible.
- 11.17 During the construction of the Power Generation Plant there will be a permanent loss of 0.79 ha of broadleaved semi-natural woodland and a permanent loss of 0.02 ha of broadleaved plantation woodland. Due to the small area and isolated nature of the habitats to be removed habitat loss is afforded low magnitude resulting in a minor effect. This is agreed.
- 11.18 During the construction of the Power Generation Plant there will be a permanent loss of approximately 530m of the row of trees habitat and a temporary loss of 40m for laydown areas. During the construction of the gas connection there will be a temporary loss of approximately 350m of the row of trees habitat. During the construction of the electrical connection there will be a temporary loss of approximately 15m of the row of trees habitat. Loss of this habitat type will reduce connectivity across the Project Site and to the wider landscape. Although there is an abundance of this habitat type within the Project Site Boundary and wider landscape the loss of this habitat may have a long term effect on species utilising the habitat. As such this habitat loss for each element is afforded high magnitude resulting in a moderate effect for each element. Loss of the row of tree habitat is therefore a significant effect and will require additional mitigation for each element. This is agreed.
- 11.19 During the construction of the Power Generation Plant there will be a permanent loss of 0.65 ha and a temporary loss of 0.15 ha for laydown areas of semi-improved neutral grassland, a temporary loss of 1.02 ha of semi-improved neutral grassland during the construction of the gas connection and a temporary loss of 0.07 ha of semi-improved neutral grassland for the electrical connection. The ES advises that there is an abundance of this habitat type within the Project Site Boundary and wider landscape. Habitat loss is afforded medium magnitude resulting in a minor effect. Loss of semi-improved neutral grassland is therefore not a significant effect and therefore no additional mitigation is required.

- 11.20 During the construction of the Power Generation Plant there will be a permanent loss of 1.45 ha and a temporary loss of 1.94 ha for laydown areas of marshy grassland. There is an abundance of this habitat type within the Project Site Boundary and wider landscape. Habitat loss is afforded medium magnitude resulting in a moderate effect. Loss of marshy grassland is therefore a significant effect and will require additional mitigation. The loss during construction of the electrical and gas connections are negligible.
- 11.21 The Power Generation Plant component of the Project will require the removal of standing water – Pond 16 and Pond 22. Pond 16 is temporal and Pond 22 holds water year round. The construction of the gas connection may require the removal of Pond 23. Pond 23 holds water year round. Pond 23 is on the edge of the Project Site Boundary and it may be possible that construction works can avoid the pond. Although there is an abundance of this habitat type within the Project Site Boundary and wider landscape, the loss of this habitat may have a long term effect on species utilising the habitat. Habitat loss is afforded medium magnitude resulting in a moderate effect. Loss of standing water is therefore a significant effect and will require additional mitigation, however it is not clear whether the mitigation would include the loss of Pond 23 if it cannot be avoided and how this mitigation would be incorporated. The attenuation ponds should not be viewed as ecological mitigation.
- 11.22 CCS raised concerns as pond 22 was found to contain palmate newts, frogs and toads and no method statement had been provided. However, it is understood that an Updated Outline LEMS will be submitted by APL that covers this issue. The new ponds must be created in advance of disturbance or removal of the existing ponds. This work will require supervision/undertaking by an Ecological Clerk of Works/Ecologist. CCS are also unclear on the overall sizes of the existing ponds in order to comment effectively on the mitigation proposed.
- 11.23 During the construction of the Power Generation Plant there will be a permanent loss of approximately 140 m of species-poor hedgerow habitat and a temporary loss of approximately 180 m of hedgerow habitat during the gas connection construction. Loss of this habitat type will reduce connectivity across the Project Site and to the wider landscape. Although there is an abundance of this habitat type within the Project Site Boundary and wider landscape the loss of this habitat may have a long term effect on species utilising the habitat. As such this habitat loss is afforded medium magnitude resulting in a moderate effect. Loss of the hedgerow habitat is therefore a significant effect and will require additional mitigation. CCS agree with this assessment.
- 11.24 Habitat removal has the potential to impact common amphibians due to the permanent and temporary reduction in suitable habitat, including permanent loss of suitable breeding habitat (standing water). Loss of habitat is therefore a significant effect and will require additional mitigation, as is the potential for common amphibians to be injured or killed through removal of habitats during construction. This will require additional mitigation. This is agreed.

- 11.25 The permanent removal of habitats has the potential to impact reptiles due to the loss of breeding, sheltering and foraging habitat. The loss of this habitat may have a long term effect on reptile species utilising the habitat. Loss of reptile habitat is considered to have a moderate impact and therefore a significant effect and will require additional mitigation which is agreed.
- 11.26 CCS considers that the mitigation for reptiles should include finger- tip searches for species and re-location to suitable site/mitigation area, together with any rubble or log piles from the development site. Any litter/rubble/log piles located in the construction areas should be re-located to suitable reptile habitat areas to be agreed with CCS.
- 11.27 There is the potential for new roosts to be formed in trees previously identified as having potential to support roosting bats, but not confirmed as roosts during any of the surveys; there is the potential for new roosts to be disturbed, or bats to be injured or killed during construction. Disturbance, injury or killing is afforded high magnitude, resulting in a major effect, and is considered a significant effect requiring further mitigation. CCS agree with this and consider that bat boxes should be located around the site.
- 11.28 The Power Generation Plant requires the permanent removal of habitat with the potential to support foraging and commuting bats (broadleaved semi-natural woodland, hedgerows, mature trees lines semi-improved grassland and marshy grassland). Without mitigation, this will sever the connectivity to habitats either side of the access road, resulting in fragmentation of retained areas. This will impact on bats using the existing features in the landscape to commute and forage between these two areas. There is an abundance of foraging habitat within the wider landscape, and as such loss of small amounts of foraging habitat is afforded low magnitude; due to the high value of the receptor (bats) this is considered a significant effect (moderate adverse) requiring mitigation. Severance of connectivity and fragmentation is afforded medium magnitude resulting in a moderate effect; this is considered a significant effect requiring mitigation which is agreed by CCS.
- 11.29 The Power Generation Plant is close to an area with potential for supporting water vole burrows (Watercourse 45). Although no recently occupied burrows were identified during the survey, it is possible that prior to construction new burrows are created in this area. There is the potential for this to cause disturbance of, harm or kill individual water voles during construction within 10 m of Watercourse 45. Disturbance, injury or killing are afforded high magnitude, resulting in a moderate effect; and is therefore considered a significant effect and will require additional mitigation.
- 11.30 The Power Generation Plant is shown to be near areas deemed suitable for supporting otters (Watercourses 9, 11, 12, 41 and 45 and Watercourses 27, 28 and 29, respectively). Although no recent activity was identified during the survey, it is possible that prior to construction new holts/couches are created or activity is present in this area. There is the potential to cause disturbance of otters during construction within 100m of Watercourses 9, 11 12, 41 and 45 and Watercourses 27, 28 and 29. There is the potential to harm or kill individual otters during

construction within 10 m of Watercourses 9, 11 12, 41 and 45 and Watercourses 27, 28 and 29. Additionally, night time illumination in the vicinity of Watercourses 9, 11 12, 41 and 45 and Watercourses 27, 28 and 29 has the potential to cause disturbance of otters. Disturbance, injury or killing are afforded high magnitude, resulting in a moderate effect, and as such are considered significant effects and will require further mitigation. The gas and electrical connections will also require further mitigation. These conclusions are agreed but CCS have concerns with regards to the mitigation proposed.

- 11.31 In 8.5.100 of the ES, detail is given of otter distribution around the development site. It states that it can be concluded that otters are still active in the locality. As such it is likely that otters use the suitable watercourses within the otter survey area and Project Site Boundary for occasional foraging, commuting, resting and holt creation; although no evidence of holts was identified during the survey. In view of this, suitable mitigation would be an artificial otter holt to be located near the Afon Lliw (typical cost of £360 - £500), at a site to be agreed with the CCS Ecologist. These require minimum maintenance. This has not been included in the Updated LEMP.
- 11.32 Currently no construction works impede on badger setts. However, it is possible that prior to construction new setts are created within 30 m of the construction areas. Any works, in particular heavy machinery and ground breaking works, that takes place within 30 m of an active badger sett has the potential to cause a collapse of a sett and disturb, harm or kill a badger. Injury or killing are afforded high magnitude, resulting in a moderate effect, and as such are considered significant effects and will require further mitigation.
- 11.33 The excavation of open trenches to facilitate the gas connection may obstruct badgers from commuting across the Project Site and badgers may become trapped in open trenches or excavations. Trapping is afforded high magnitude, resulting in a moderate effect, and is considered a significant effect. As such it will require further mitigation.
- 11.34 During the operation of the Project, the impact on protected species is considered to be negligible or low when embedded mitigation is incorporated such as a sensitive lighting strategy. This would be secured by Requirement 26.
- 11.35 Throughout the construction mitigation section areas of replacement habitats are referred to within the Outline LEMP and Strategy presented in Figure 3.6 and Appendix 3.4. Indicative areas based on the Project layout presented Figure 3.2. The overall totals are as follows and that the same areas are referred to more than once:
- 1.07 ha of woodland/scrub;
  - 2.50 ha of grassland (acid grassland/marshy grassland mosaic);
  - 900 m of hedgerow; and,
  - Two wildlife ponds and 180 m<sup>2</sup> of attenuation pond
  - Reptile trapping and translocation
  - Pre-construction check for badger setts
  - Introduction of badger and otter gates
  - Sensitive lighting

- Ongoing management/ maintenance of the LEMP

- 11.36 In addition to the above, the Council considers that pre-construction checks are also required for water vole (burrows and activity within 100m of watercourse), otter (holts, couches and activity within 100m of watercourses), bats (check trees and hedgerows prior to removal), badger setts and activity where construction is present within 30 m of suitable habitats. Further to this, the attenuation ponds should not be considered as ecological mitigation as they aren't suitably connected to surrounding habitats.
- 11.37 The temporarily lost/removed habitats (ie. marshy grassland, broadleaved rows of trees, semi-improved neutral grassland, dense continuous scrub etc.) must all be re-instated once construction works are complete. To compensate for this loss, an additional 10% of habitat is required to be re-instated.
- 11.38 Monitoring will be undertaken for any species with newly created compensatory habitats for at least five years following establishment; for example, artificial badger setts, the reptile receptor site and bat boxes to assess their effectiveness and inform any ongoing management. Management of newly created habitats will continue for the operational lifetime of the Project. Details of monitoring and management are contained within the Outline Landscape and Ecology Mitigation Strategy. It is not clear how the results of this monitoring or indeed of the habitat/species management will be reported back to CCS and amendments are suggested to Requirement 9 – the Ecological Management Plan.
- 11.39 CCS consider that monitoring is vitally important. A report/ strategy describing the results of the monitoring shall be submitted to the LPA at intervals to be agreed throughout the lifetime of the project, up to decommissioning. The report shall also set out (where the results from the monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with LPA and be implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details. In summary, monitoring should include a robust feedback mechanism to change, or add new mitigation if effects are greater than predicted. Suggested wording is included in Section 20 of the Local Impact Report. Survey and monitoring data should also be submitted to the local biodiversity records centre (Sewbrec).
- 11.40 The purpose of the Strategy shall be to ensure the long-term functionality of populations of protected species eg bats, badger etc within and in the immediate vicinity of the development site. The content of the Strategy shall include the following:
- a) Aims and objectives of monitoring to match the stated purpose.
  - b) Identification of adequate baseline conditions prior to the start of development.



- c) Appropriate success criteria, thresholds, triggers and targets against which the effectiveness of the various conservation measures being monitored can be judged.
- d) Methods for data gathering and analysis
- e) Location of monitoring,
- f) Timing and duration of monitoring
- g) Responsible persons and lines of communication
- h) Review, publication of results and outcomes at periods to be agreed with the Authority.

The report shall also set out (where the results from the monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with LPA (in consultation with NRW) and be implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

- 11.41 The ES considered that after taking mitigation into effect, the ecological impact of the proposals are considered to be not significant. However, CCS cannot agree to this without ongoing monitoring and a detailed mitigation strategy and future management plans. It is unclear how any failure in the mitigation will be identified and a review mechanism should be included into the management plan to enable it to be responsive and adapted to suit circumstances on site.
- 11.42 The ES considers that there is no potential for cumulative impacts on ecological receptors as a result of operation of the Project in combination with the identified other schemes as all residual effects were considered not to be significant. This is agreed.
- 11.43 CCS do not accept the justification for the amount of ponds and would request at least 6 new ponds to be provided – some larger and deeper to accommodate European eel and other species, and some smaller and shallower to attract amphibians, invertebrates etc. In line with legislation, there should be biodiversity gain and enhancement measures provided and the provision of 2 small ponds does not meet this.
- 11.44 In addition, CCS accepts the clarification on why European eels were not deemed to be present, although there are records from near the site. The swift tower requested was deemed not necessary in this instance. However, there are other options for mitigation and biodiversity enhancement for the species, in the form of swift boxes to be installed on the infrastructure or elsewhere on site (as per page 43 of ES Appendix - Volume F Ecology Part I). Section 6 under Part 1 of the Environment (Wales) Act 2016 introduced an enhanced duty (the S6 duty) for public authorities in the exercise of functions in relation to Wales. The S6 duty requires that public authorities must seek to maintain and enhance biodiversity so far as consistent with the proper exercise of their functions and in so doing promote the resilience of ecosystems. Paragraph 2.1 of TAN 5: Nature Conservation and Planning (2009), states that projects should produce a net benefit for nature conservation (at the developments site and its vicinity).
- 11.45 This is supported in national planning policy as listed below. Planning Policy Wales (9<sup>th</sup> Edition) states at paragraph 5.2.8 that “the planning

system has an important part to play in meeting biodiversity objectives by promoting approaches to development which create new opportunities to enhance biodiversity, prevent biodiversity losses, or compensate for losses where damage is unavoidable.” Paragraph 5.5.3 states that “in some cases it will be necessary to refuse planning permission on conservation grounds. However, local planning authorities must always consider whether environmental issues could be adequately addressed by modifying the development proposal or by attaching appropriate planning conditions or obligations.” Para 5.5.1 states that “...in the interests of achieving sustainable development it is important to balance conservation objectives with the wider economic needs of local businesses and communities. Where development does occur it is important to ensure that all reasonable steps are taken to safeguard or enhance the environmental quality of land.”

- 11.46 The Environmental Statement incorporates inherent mitigation integral to the design of the scheme. It has taken into consideration the effects of the impact and identifies measures required to mitigate adverse impact. Ecological features and further biodiversity enhancement measures have been identified in the landscape design. These should seek to deliver a net ecological gain rather than simply being designed to only achieve damage limitation and/or like for like replacement. Mitigation measures have been discussed between the applicant and Swansea Council and some are still under discussion. CCS will continue to liaise with the applicant to progress these issues.
- 11.47 The Outline Landscaping and Ecology Mitigation Strategy illustrates the mitigation that has been incorporated into the landscape design. However, detail is lacking regarding the Ecological Mitigation Area in terms of how exactly it will be enhanced to mitigate for the loss of a variety of habitats and ensure that the quality of mitigation is appropriated. Apart from ponds and embedded landscape planting, it is unclear what other newly created habitats will be provided in mitigation. In 4.3.1 of the LEMS habitat enhancement measures will apparently provide valuable habitats for a very wide range of species from invertebrates to mammals. There is no detail of exactly how this will be achieved, nor how this will be managed or monitored.
- 11.48 CCS considers that the Outline LEMS should be updated to include the following:
- a) Aims and objectives of management.
  - b) Prescriptions for management options.
  - c) Details of the body or organisation responsible for implementation of the plan.
  - d) Reporting and implementation of remedial measures.
- The management plan should include prescriptions for all species and habitats of local or national importance identified as being present or possibly present on the site to include; native trees, hedgerows, ponds, bats, brown hare, hedgehog, badger, etc.
- 11.49 In the ES, there is mention of artificial badger setts being created, although no details are given of the location of these or any methodology.

- 11.50 Pre-construction checks are required for water vole (burrows and activity within 100m of watercourse), otter (holts, couches and activity within 100m of watercourses), bats (check trees and hedgerows prior to removal), badger setts and activity where construction is present within 30m of suitable habitats. The timing of these prior to site works needs to be specified to ensure they are fit for purpose.
- 11.51 An updated INNS survey (Invasive Species Assessment – ISA) is required to be undertaken to accurately assess INNS and extents within the Project Site boundary, prior to the implementation of control measures and production of a site specific Invasive Non Native Species Protocol.
- 11.52 The development site is within the larger meta-population area for marsh fritillary (butterfly). Suitable mitigation is included for the temporary and permanent loss of marshy grassland habitat that will occur as a result of the development. Remaining areas of marshy grassland should be managed for marsh fritillaries.
- 11.53 Further detail is required in terms of hedgerows and trees. Proposed species should be of locally native provenance and additional detail should be included in terms of proposed stocking density, height of trees to be planted, whether rabbit guards or mulch mats would be utilised and protection measures from grazing animals from the outset.
- 11.54 Any works should be undertaken at a time of year when vulnerable species are least likely to be present. The timing of works should also minimise the risk of disturbance to protected and other species.
- 11.55 Finally, no comprehensive survey of the sites' green infrastructure provision has been provided. Whilst the scheme involves an ecological mitigation area in the southern part of the site, this is focussed on mitigating for impacts on ecology and biodiversity and gives little consideration of other ecosystem services such as those relating to air quality, landscape, noise abatement amongst others. In addition, it is not considered that the measures proposed would result in an overall enhancement in biodiversity and appropriate management measures need to be agreed. In order to be effective, management measures should be in place prior to the commencement of development.

### Conclusion

- 11.56 The Environmental Statement incorporates inherent mitigation integral to the design of the scheme and states that it has taken into consideration the effects of the impact and identifies measures required to mitigate adverse impact.
- 11.57 CCS considers that further information is required in order to adequately assess the mitigation measures and have requested additional information in an updated LEMS, which includes both mitigation measures and biodiversity enhancement measures. CCS maintain that these should seek to deliver a net ecological gain rather than simply being designed to only achieve damage limitation and/or like for like replacement. Mitigation measures have been discussed

between the applicant and CCS and further discussion is expected on this.

- 11.58 The Outline Landscaping and Ecology Mitigation Strategy seeks to illustrate the mitigation that has been incorporated into the landscape design. However, detail is lacking regarding the Ecological Mitigation Area in terms of how exactly it will be enhanced to mitigate for the loss of a variety of habitats. Apart from ponds and embedded landscape planting, it is unclear what other newly created habitats will be provided in mitigation. In 4.3.1 of the LEMS habitat enhancement measures will apparently provide valuable habitats for a very wide range of species from invertebrates to mammals. There is no detail of exactly how this will be achieved, nor how this will be managed or monitored. In the ES, there is mention of artificial badger setts being created, although no details are given of the location of these or any methodology.
- 11.59 Recent discussions have confirmed that the gallops use in the 'teardrop' mitigation area would cease and further detail around permitted grazing regimes will be incorporated into an Updated Outline LEMS. This is welcomed and CCS will continue to liaise with APL in this regard to ensure that Outline LEMS is suitably detailed and fit for purpose.
- 11.60 However, at the current time, the Council considers that additional mitigation/ enhancement measures and clarification will be required to ensure that the scheme is acceptable in terms of its ecological impact.
- 11.61 CCS are also of the opinion that amendments are required to the Requirements themselves and these are suggested below in Section 20.

## **12.0 Water Quality and Resources and Flood Risk**

### *City and County of Swansea Adopted Unitary Development Plan*

- 12.1 Policy EV2 (Criterion ix) states that new development must have regard to the physical character and topography of the site and its surroundings by meeting a range of criteria including, determining whether the proposal would be at risk from flooding, increase flood risk off-site, or create additional water run-off, development for infrastructure and services.
- 12.2 Policy EV33 states that planning permission will only be granted where development can be served by the public mains sewer or, where this system is inadequate, satisfactory improvements can be provided prior to the development becoming operational. In exceptional circumstances where connection to the main sewer is not feasible, consideration will be given to the use of private drainage systems, provided the criteria set out in Circular 10/99 are met. Private foul drainage systems will only be permitted within sewered areas where justified as a temporary expedient measure pending planned improvements to the mains system.
- 12.3 The amplification clarifies that WO Circular 10/99 provides advice on the exercise of planning controls over the use of non-mains sewerage

in new development particularly with regard to the use of septic tanks. Annex A of the circular sets out the factors which should be taken into account when considering the suitability of any proposals, such as likely effects on the environment, amenity and public health. Planning applications for new development must be accompanied by a full assessment, as the responsibility for demonstrating that a development can be effectively served by a sewerage disposal system rests primarily with the developer. Following advice from statutory consultees and other bodies, if the Council deems the proposed sewerage disposal system unsatisfactory then planning permission will be refused. Potentially adverse effects on designated sites will be taken into account through compliance with the Habitats Regulations. Private sewage treatment plants require regular maintenance at frequent intervals in order to produce effluents that meet their discharge conditions. Failure to reach the required standard can result in a significant environmental impact. Where appropriate, developers will be required to enter into a Section 106 Agreement to ensure that adequate arrangements are made for wastewater management and future maintenance.

- 12.4 Policy EV34 states that development proposals that may impact upon the water environment will only be permitted where it can be demonstrated that they would not pose a significant risk to the quality and or quantity of controlled waters. Initiatives that lead to improvements in the quality of surface water will be approved subject to satisfactory ecological and visual safeguards.
- 12.5 Policy EV35 states that development that would have an adverse impact on the water environment due to:
- (i) Additional surface water run off leading to a significant risk of flooding on site or an increase in flood risk elsewhere, and/or
  - (ii) A reduction in the quality of surface water run-off, will only be permitted where it can be demonstrated that appropriate alleviating measures can be implemented.
- 12.6 Sustainable drainage systems (SuDS) will be encouraged wherever they would be effective and practicable, so as to ensure that development does not increase run off, and potentially damage important landscape features and protected species and habitats. Where SuDS are not provided then any conventional drainage system utilised must improve the status quo.
- 12.7 The amplification states that SuDS can be implemented at all scales of development and developers should consider their incorporation early in the development process. Their use may allow development to proceed that would otherwise be refused because of an increase in flood risk caused by run-off. Developers may be required to demonstrate that they have examined the SuDS option, providing the Council with details and options. If it is demonstrated that SuDS could work on a site, and subject to the appropriate agreements being in place with regard to adoption, then the Council will require SuDS to be implemented. Planning conditions or Section 106 Agreements will be used to ensure SuDS implementation and long-term maintenance and renewal.

- 12.8 Policy EV36 states that new development, where considered appropriate within flood risk areas, will only be permitted where developers can demonstrate to the satisfaction of the Council that its location is justified and the consequences associated with flooding are acceptable.

*City and County of Swansea Emerging Local Development Plan*

- 12.9 Emerging Policy RP 3 states that “development that compromises the quality of the water environment, or does not comply with good water resource management, will not be permitted. Development proposals must make efficient use of water resources and, where appropriate, contribute towards improvements to water quality.”
- 12.10 Emerging Policy RP 4 states that development will not be permitted in areas at risk of flooding, unless it can be demonstrated that “the development can be justified in line with national guidance and is supported by a technical assessment that verifies that the new development is designed to alleviate the threat and consequences of flooding”.

*Adequacy of Application/DCO*

- 12.11 The Lle Geo-Portal Development Advice Map (DAM) determines that a relatively small area in the Project Site, south of the Generating Equipment lies within DAM Zone C2 (areas of the floodplain without significant defence infrastructure). Small areas along the eastern edge of the Project Site Boundary, east and south of the Generating Equipment Site lie within DAM Zone B (areas known to have flooded in the past). The remainder of the Project Site is outside the DAM Zones and considered to be at very low risk of flooding i.e. DAM Zone A.
- 12.12 The impact of the development on increased pollution and sediment load as a result of the proposal is considered to be negligible, the impact on dewatering discharges is minor adverse (not significant), and negligible for sediment filled and turbid surface water resulting from dust and debris. The same conclusions are reached for the gas and electrical connections.
- 12.13 Decommissioning effects are considered to be similar to construction effects in terms of magnitude.
- 12.14 The impact of flooding as a result of the generating equipment site, electrical connection and gas connection are also considered to be negligible.
- 12.15 Impacts during the operation are also considered to be minor or negligible.
- 12.16 It is considered that no additional mitigation is required, to supplement the identified embedded mitigation effects. The implemented embedded mitigation should result in minor or less significant risks from the operation of the Project. The Council agree with this.

- 12.17 The Council raised concerns in the Relevant Representation about the level of information that had been submitted and whilst the report is a little lacking in detail on some elements, these can be covered by the appropriate requirement. Maintenance procedures during operation would rest with the developer.
- 12.18 Several on site streams will be altered to enable the development and its access. Detailed plans will be needed showing the diversionary routes, gradients, cross sections, any retaining structures and crossings supported by appropriate levels of assessment to demonstrate that the changes will not affect third party land or the development itself. Requirements 6 and 7 are considered sufficient to control these elements.

### Conclusion

- 12.19 The Council does not consider that the development raises any significant flooding or drainage issues that cannot be mitigated and the proposals are therefore considered to comply with UDP policies EV2, EV33, EV34 and EV35 and emerging LDP policies in this regard.

## **13.0 Geology, Ground Conditions and Hydrogeology**

### City and County of Swansea Adopted Unitary Development Plan

- 13.1 UDP Policy EV2(criterion xv) requires new development to identify and fully address issues of land contamination and land instability.
- 13.2 Policy EV38 states that development proposals on land where there is a risk from contamination or landfill gas will not be permitted unless it can be demonstrated that measures can be taken to satisfactorily overcome any danger to life, health, property, controlled waters, or the natural and historic environment.
- 13.3 The amplification of this policy clarifies that planning applications on sites that the Council has reason to believe are contaminated must be accompanied by a site investigation report containing a risk assessment and proposed remedial measures. Consideration of the acceptability of remedial measures will include the impact they have on controlled waters and the natural and historic environment. The Council, in consultation with the EA, will need to be satisfied that actual or potential contamination can be overcome before planning permission can be granted.
- 13.4 Policy R2 states that development proposals that would affect the working of known potential resources will have to be accompanied by a full assessment of the potential resource and the impact of the proposal in terms of sterilising the resource. The site is located on land identified as a 'coal resource' on the UDP proposals map.
- 13.5 Policy R4 states that development proposals that would affect the working of known potential mineral resources will have to be accompanied by a full assessment of the potential mineral resource and the impact of the proposal in terms of sterilising the resource. A

section of land within the gas connection is located on land identified as a 'coal and aggregates' resources on the UDP proposals map.

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- 13.6 Emerging Policy RP 5 states that development proposals on land where there is a risk from contamination or landfill gas will not be permitted unless it can be demonstrated that measures can be taken to satisfactorily overcome any significant risk to life, human health, property, controlled waters, or the natural and historic environment.
- 13.7 Emerging Policy RP 6 states that development which would create, affect or might be affected by unstable or potentially unstable land will not be permitted where there would be a significant direct risk to life, human health, property, buildings and structures, or the natural heritage on the site or in its vicinity.
- 13.8 The Project Site is located on land identified as safeguarded "Coal Resources" and "Sand and Gravel" resource, where emerging LDP Policy RP 12 applies. Emerging Policy RP 12 states that "development within mineral safeguarding areas that would permanently sterilise identified resources of aggregates and coal will only be permitted where it can be demonstrated that:
- i. The extraction of the mineral is impracticable, uneconomic or environmentally unacceptable;
  - ii. The mineral has already been extracted or can be extracted satisfactorily prior to the development taking place;
  - iii. The scale and location of the development would have no significant impact on the potential working of the resource; or
  - iv. There is an overriding need for the development."

Adequacy of Application/DCO

- 13.9 There is high potential for the ground beneath the structures to become unstable from previous mining activities, ground workings, and compressible ground (in particular the peat deposits where directly impacted). The sensitivity of the receptor is considered to be high as these effects can lead to loss or damage to plant and structures. A comprehensive ground investigation will be undertaken prior to construction (as per DCO Requirement 14) which will inform the foundation design and any remediation required to be undertaken as standard and as required as part of the embedded mitigation for the Project. Once the embedded mitigation has been taken into account, the magnitude of effect is considered to be negligible. This approach is considered to be standard practice on development sites and the Council has raised no issues with this approach.
- 13.10 Piling is anticipated to be the realistic worst case scenario required as part of the construction works. There is potential for the quality of the groundwater present in the Secondary A superficial and bedrock aquifers to be impacted by the piling process producing additional pollutant migration pathways for contaminated shallow groundwater or surface waters to impact deeper aquifer groundwater. The sensitivity of the groundwater is assessed as high due to the Secondary Aquifer



designation and the presence of water abstractions and private water supplies. Once the embedded mitigation such as pollution control measures have been taken into account, the magnitude of effect is considered to be negligible.

- 13.11 The construction workers are considered to have high sensitivity as construction groundworks will be required and as such the workforce may be in direct contact with soil and groundwater. Contamination within soils (the presence of which is to be confirmed during the ground investigation) has the potential to affect the health of construction workers adversely. Any ground disturbance has the potential to cause temporary, moderate adverse effect to health arising from oral, inhalation or dermal contact with potential contaminants including potential sheep dips, use of fertilisers, ground gas/landfill gas/mine gas or mine water during construction. However once embedded mitigation measures detailed in the CEMP are taken into account, the magnitude of this effect is assessed as negligible.
- 13.12 Effects on controlled waters, structures and human health have been assessed as minor adverse significance. The significance of effect is not considered to be significant.
- 13.13 Minor impacts which are not considered to be significant are expected during the operation of the Project.
- 13.14 The applicant maintains that if mine workings are stabilised as part of the pre-construction works, the land will be returned to a better than baseline condition which will enable future development. However, it should be noted that the site is currently greenfield, and if restored at a later date, should be returned to its greenfield state so whilst there may be a beneficial impact, it would be minor.
- 13.15 The applicant also maintains that the Power Generation Plant will be returned to a pre-construction condition. The potential mineral reserves underlying the Power Generation Plant that may have been sterilised during the construction and operation phases of the Project may become available again.
- 13.16 Policies R2 and R4 of the UDP are site specific policies, and require assessment of coal, sand and gravel extraction and no assessment of the mineral resources located within the site have been submitted. It is acknowledged that the resources would be sterilised to a degree within the Environmental Statement in the short term and possibly the long term with the gas connection left in situ. The applicant considers this to be a short term issue as the Project would be decommissioned at the end of its useful lifespan (25 years) and the resources would thereafter be capable of being extracted. The applicant goes on to state that there are understood to be no current/ imminent prospects for resource extraction in any event.
- 13.17 Whilst this may be the case, the UDP requires a full assessment of the potential mineral resources and the impact of the proposal on sterilising the mineral resource. It is appreciated that surveys would be undertaken as a requirement of the consent to inform the decommissioning strategy but given the open timescales currently

proposed, and with no mechanism to ensure the plant closes and is decommissioned, it would have to be assessed that any resources would be sterilised permanently at the current time, and it is not known how important the potential resource is. The proposals would therefore be contrary to policies R2 and R4 unless a time limit was placed in the Order requiring it to cease operation after 25 years which would reduce the impact on the resource to a degree. It would have to be concluded that the proposals would have an adverse impact of unknown magnitude at the current time.

13.18 The emerging LDP has different wording in terms of the policy requirements for safeguarded “Coal Resources” and “Sand and Gravel” resource, where emerging LDP Policy RP 12 applies. Emerging Policy RP 12 states that “development within mineral safeguarding areas that would permanently sterilise identified resources of aggregates and coal will only be permitted where it can be demonstrated that:

- i. The extraction of the mineral is impracticable, uneconomic or environmentally unacceptable;
- ii. The mineral has already been extracted or can be extracted satisfactorily prior to the development taking place;
- iii. The scale and location of the development would have no significant impact on the potential working of the resource; or
- iv. There is an overriding need for the development.”

13.19 At the local level, the proposal would not comply with criteria (i), (ii) or (iii) as this has not been demonstrated at the current time. The policy goes on to state that developments of a temporary nature will only be permitted where it can be demonstrated that the proposal will be implemented and the site restored within a timescale that the mineral is likely to be needed. As has been noted above, there is limited scope to suggest that the proposals are temporary in nature as there is no mechanism to require it to cease.

13.20 It could be considered that there is an overriding need for the development in the context of the Emerging LDP (as is noted in the National Policy Statements) but less weight would be afforded to this emerging policy than to the extant UDP which the proposal is considered to be contrary to. It is also more difficult to make this assessment without having an appreciation of the quality/ quantity of the resource which will be impacted upon.

13.21 There are areas of peat identified across the region with one deposit shown to be located within or close to the Power Generation Plant. The peat deposits are characterised as being of Low sensitivity due to their limited spatial extent (pockets located north east of the Generating Equipment Site and to the north west of Abergelli Farm). The interaction of the Project with the peat is likely to be minimal. The volume of peat affected will be determined through the completion of the peat survey and ground investigation and therefore cannot be currently assessed as the thickness of the unit is unknown but likely to be variable. The area of mapped peat within the Project Site is ~2.3 ha compared to the total area of the mapped deposit of ~7.4 ha that extends beyond the Project Site Boundary. The magnitude of the

impact is therefore considered to be low and the significance of the effects is therefore minor which is not significant.

### Conclusion

13.22 A Site Investigation, Mineral Resources Survey and Peat Management Plan are proposed as requirements within the draft DCO (14 and 16) and would be sufficient to ensure that these issues are investigated further and remediated if required. The proposals are therefore considered acceptable in terms of land stability and peat management in both the UDP and emerging LDP context.

13.23 However, whilst Requirement 15 seeks to consider the impact on Minerals that could be taken into account in the decommissioning strategy, no assessment has been undertaken to consider compliance with policies R2 and R4 of the UDP. The proposals are therefore contrary to the extant development plan in this regard.

13.24 Unlike the assessment within the UDP, the proposals could be compliant with Emerging Policy RP 12 if there is considered to be an overriding need for the development, but this needs to be considered with the scheme as a whole.

## **14.0 Landscape and Visual Effects**

### City & County of Swansea Unitary Development Plan

14.1 Policy EV1 sets out the Council's commitment to achieving high standards of design and layout in all new developments. To achieve this, the policy requires proposals to meet a number of criteria, which include:

- Being appropriate to its local context in terms of scale, height, massing, elevational treatment, materials and detailing, layout, form, mix and density;
- Not resulting in a significant detrimental impact on local amenity in terms of visual impact, loss of light or privacy, disturbance and traffic movements
- Incorporate a good standard of landscape design
- Sensitively relate to existing development patterns and seek to protect natural heritage, the historic and cultural environment not only on-site, but in terms of potential impact on neighbouring areas of importance
- Promote resource efficient and adaptable buildings and layouts using sustainable design and construction techniques, including the re-use and recycling of construction and demolition waste on site, and energy and water efficiency measures
- Provide a safe environment by addressing issues of security.

14.2 Policy EV2 deals with siting and location of new development and gives preference to the use of previously developed land over greenfield sites, having regard to the physical character and topography of the site and its surroundings by meeting criteria, which include the following:

- i. Avoiding locations that would have a significant adverse impact on prominent buildings, landscapes, open spaces and the general including loss of visual amenity,
- ii. Effectively integrating with the landscape, seascape or coastline by utilising topography to integrate into the contours of the site and avoiding conspicuous locations on prominent skylines and ridges,
- iii. Retaining important views into and out of the site,
- iv. Taking into account and where possible retaining site features including existing buildings, topography, landscape, archaeological and water features, trees and hedgerows, and, where appropriate:
- v. Undertaking, at the earliest opportunity, an assessment of species and habitats on site and, where planning permission is granted, implementing any necessary mitigation measures,
- vi. Avoiding detrimental effects on the historic environment,
- vii. Locating near transport nodes to encourage an integrated transport system,
- viii. Not prejudicing the viability and function of any agricultural land adjoining the site,
- ix. Determining whether the proposal would be at risk from flooding, increase flood risk off-site, or create additional water run-off, development for infrastructure and services,
- x. Having due regard to the implications of the development for infrastructure and services,
- xi. Integrating with existing community facilities,
- xii. Utilising landscape and topography to maximise energy efficiency,
- xiii. Having full regard to existing adjacent developments and the possible impact of environmental pollution from those developments, as well as the creation of any environmental pollution to the detriment of neighbouring occupiers (including light, air and noise),
- xiv. Identifying the location of any hazardous installations in the area and development that would be at risk from, or prejudice the operational use of, hazardous installations,
- xv. Identifying and fully addressing issues of contamination and land instability.

14.3 Criterion (i) of Emerging Policy PS 2 requires regard to be had to important elements of local heritage, culture, landscape, townscape, views and vistas.

14.4 Emerging Policy ER 5 states that development will not be permitted that would have a significant adverse effect on the character and quality of the landscape and setting of the County and goes on to outline 3 Special Landscape Areas. However, the site is not located within a designated Special Landscape Area under this policy.

14.5 Criterion iii. a) of emerging Policy EU1 requires the siting, design, layout, type of installation and materials used to not have a significant adverse effect on the characteristics and features of the proposed location although this is not considered strictly applicable as the site is not for a low-carbon development.

14.5 To the north, the Project Site is located within proximity of a Landscape Protection Area, where Policy ER5 applies, and a Strategic Search Area, where Policy EU1 applies. Emerging Policy ER 5 states that

“development will not be permitted that would have a significant adverse effect on the character and quality of the landscape and setting of the County”. Within Special Landscape Areas, including the Mawr Uplands to the north of the Project Site, priority will be given to protecting, managing and enhancing the character and quality of the area.

#### Adequacy of the application

- 14.6 The structure of the section covers policy context, assessment method, baseline conditions including the assessment of the value of the landscape character areas, the project site and the surrounding environment, this includes potential individual and cumulative impacts of the project during construction and site preparation (covered in section -3.7) and during the plant’s operation (covered in section -3.3) after mitigating planting has become established.
- 14.7 A Landscape and Ecology Mitigation Plan has been illustrated in figures 3.6 and 3.4. This is logical and clear. The text is well written and considered comprehensively.
- 14.8 The study area of 15km radius is reasonable as is the detailed study of a 5km surrounding the project site. The detailed study of eight important areas is agreed.

#### Method and guidance used

- 14.9 The LVIA sets out an assessment method which is generally understandable. Guidance references and imagery from salient and agreed viewpoints are explained, noted and are helpful.
- 14.10 In terms of the use of LANDMAP, the assessment takes the approach of using the five LANDMAP aspects to inform the derivation of landscape character areas. This is a sensible approach.
- 14.11 The overall emphasis of the descriptions is centred primarily on the surrounding landscape environment and an area 5km around the site parameter.
- 14.12 In respect of the calibration of effects, Table 11.2 (Magnitude of visual effects) indicates that medium impact is defined as the development being visually prominent.
- 14.13 The SLVIA separates out the significance of change from the nature of that change i.e. whether it is beneficial, neutral or adverse. This is in line with good practice guidance. Only adverse significant changes are important in the decision-making process.
- 14.14 In terms of the significance of visual effects, the calibration of these are defined and explained in Appendix 11.2, Assessment Of Landscape Effects.
- 14.15 The viewpoints have been agreed and the photomontages are generally of good quality.

### Effects on landscape character – Key Local Issues

14.16 The comments on the individual effects of the Project on the key landscape character areas are set out in 11.2 of Abergelli Power Plant and Aecom Consultant's Report. In terms of the impacts on landscape character, the levels of significance are agreed. It is not agreed whether the effects are generally either beneficial or neutral.

### Landscape Assessment

14.17 For Rhyd Y Pandy & Penllergaer Forest (Visual and Sensory Aspect areas). Assessed as having a moderate adverse & significant landscape effect. However in combination with other proposed developments, the introduction of construction plant and lighting associated with the Project into this cumulative picture would result in a partial change to some of the landscape characteristics although it would not be sufficient to diminish the overall integrity of the landscape. Assessment agreed.

14.18 For North of Gorseinon & Swansea, East of Penllergaer, Waun Y Garn Wen (Landscape Aspect area) assessed as having a moderate adverse and significant landscape effect - during construction only. Assessment agreed.

14.19 For H27 Gower Supraboscus Agricultural (Historic Landscape Aspect area) there will be a minor adverse, not significant change. Assessment agreed.

14.20 For Penllergaer (Geological Aspect area) there will be a minor adverse, not significant change and a low magnitude of effect. Assessment agreed.

14.21 For The Mawr (Cultural Landscape Aspect area) there will be a minor adverse, not significant change. Assessment agreed.

### Within 5km Study Area Site Experiencing Theoretical Visibility As Shown on Fig.11.9

14.22 For Rhyd Y Pandy (Visual and Sensory Aspect areas). Not considered in cumulative assessment as residual Project effects are not significant. Minor adverse, not significant, assessment agreed.

14.23 For Penllergaer Forest - negligible effect, not significant. Assessment agreed.

14.24 For Mynydd Gelliwasted – during construction assessed as having a minor adverse effect, during operation as having a negligible effect. Assessment agreed.

14.25 For Pentwyn Mawr – during construction and operation assessed as having a negligible effect. Assessment agreed.

14.26 For North Clydach – not considered in cumulative assessment a residual Project effects are not significant. Assessment agreed.

### Landscape Character at Project Site Level

- 14.27 For Rhyd Y Pandy & Penllergaer Forest (Visual & Sensory Aspect area), North of Gorseinon and Swansea, East of Penllergaer and Waun Y Garn Wen (Landscape Habitats Aspect area) - during construction assessed as having a temporary adverse effect but the magnitude of change to key site characteristics would result in a moderate adverse, significant effect on landscape character. Assessment agreed.
- 14.28 Assessment agreed that there will be a moderate adverse, significant effect on the Historic Landscape Aspect Area of H27 Gower Suprboscus Agricultural and a moderate adverse, significant effect on the Geological landscape Aspect Area of Penllergaer & The Mawr's Cultural Landscape Aspect Area.
- 14.29 Assessment agreed that there will be a not significant effect on Penllergaer Forest during construction and during operation.

### View Points

- 14.30 The Level of effect/significance of visual effect is shown in Appendix 11.3. The resulting assessment of changes on the immediate site and surrounding landscape from these chosen and approved viewpoints is also agreed.
- 14.31 The Cumulative effects are agreed as not being major or adverse overall. The proposal would not conflict with the current UDP or the new land use categories outlined for this area in the emerging LDP.

### Conclusion

- 14.32 The proposed development would have a significant impact on the local landscape character during construction and operation arising from the loss of fields, extensive ground re-profiling and would be a noticeable alteration in the landscape, more apparent as a result of its solid mass. It is appreciated that the development has been sited as far as practicable to reduce its impact (within the site) and there is other energy infrastructure in the surroundings.
- 14.33 CCS considers that the scheme would not have a significant adverse effect on the character and quality of the wider landscape. However, there would be a moderate adverse effect on the local landscape character of the project site itself and views from surrounding footpaths/ properties.

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

### City and County of Swansea Adopted Unitary Development Plan

- 15.1 UDP Policy EV3 states that proposals for new development...will be required to:
- (i) Provide access and facilities for all,
  - (ii) Provide satisfactory parking in accordance with Council adopted design standards,

- (iii) Contribute to a high quality public realm by improving pedestrian linkages with adjoining spaces and attractions,
- (iv) Be accessible to pedestrians, cyclists and users of public transport.

- 15.2 Policy AS2 states that new developments should be designed to allow for the safe, efficient and non-intrusive movement of vehicles. In addition, the means of access to new developments should be designed to ensure that impacts on the natural, historic and built environment and local communities are minimised.
- 15.3 Policy AS3 states that development that adversely affects the safety, enjoyment and convenient use of a Public Right of Way (PROW) will only be permitted where an acceptable alternative route is identified.
- 15.4 The Council is committed to its statutory duty to protect PROW (as recorded on the definitive map and statement) for public access and recreational purposes. If diversion of a PROW is necessary to allow development to take place, an alternative route must be identified and incorporated into the planning application. The grant of planning permission does not provide consent to alter a PROW. It must be diverted or stopped up by order and a separate application must be made to the Council for any alteration. A diversion order must be confirmed before the development takes place. Where necessary, planning conditions will be used to ensure that development does not commence before arrangements have been made to provide an adequate alternative route.
- 15.5 Policy AS6 states that parking provision to serve development will be assessed against adopted maximum parking standards to ensure that proposed schemes provide appropriate levels of parking for private cars and service vehicles. Account will also need to be taken of the need to provide facilities for the parking of motorcycles and cycles.
- 15.6 Policy AS10 requires new developments to incorporate appropriate traffic management measures to mitigate against significant adverse impacts that would otherwise be caused by traffic movements.
- 15.7 Policy EV12 states that the character of lanes and public paths that contribute to the amenity, natural and historic qualities of an area will be protected...In rural areas the design of any necessary works should be appropriate to the character of the area and should not detract from the landscape or suburbanise the area.

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- 15.8 Emerging Policy T1 requires that “development must be supported by appropriate transport measures and infrastructure”. Development that would have an unacceptable impact on the safe and efficient operation of the transport network will not be permitted.
- 15.9 Emerging Policy T5 sets out a series of design principles for transport infrastructure, including ensuring that the design of development, inter alia:



- Allows for the safe, efficient and effective movement of vehicles, inclusive of service vehicles;
  - Does not give rise to any significant adverse effect on the natural heritage, and the historic and cultural environment is preserved and enhanced; and
  - Maintains the character of rural lanes and public paths;
- 15.10 Emerging Policy T6 states that proposals must be served by appropriate parking provision, in accordance with maximum parking standards, and consider the requirements for cycles, cars, motorcycles and service vehicles.
- 15.11 Emerging Policy T7 requires that acceptable alternative routes are identified and provided where development “significantly adversely affects the character, safety, enjoyment and convenient use of a Public Right of Way (PROW).”
- 15.12 Policy IO1 (Supporting Infrastructure) states that “development must be supported by appropriate infrastructure, facilities and other requirements considered necessary as part of the proposal” and “where there is a deficiency in provision or capacity that arrangements are in place to support the development with new or improved infrastructure, facilities or other measures.”
- 15.13 Policy CV2 (Development in the Countryside) states that there is a presumption against development in the countryside, except where it is for necessary infrastructure provision.

*Adequacy of the Application/DCO*

- 15.14 Access to the Project Site will be from the B4489 approximately 1.7 km from M4 Junction 46. Traffic will utilise the access road to the Substation and Felindre Gas Compressor Station and then along a new section of access road which would be a permanent feature of the Project and would run across agricultural land to the Generating Equipment Site.
- 15.15 An access point will also be created at the northern extent of the Project Site for the AGI. In travel terms, the AGI access is located a further 2 km north along the B4489 from the main access, then 1.6 km east along Rhyd-y-Pandy Road. Rhyd-y-Pandy Road also serves the Felindre Water Treatment Works.
- 15.16 The traffic generated by the Project during the construction period has been quantified using contractor estimates of the resources required and refined using calculations based on available information. Construction traffic will be associated with both the construction staff working on the Project Site (travelling in cars and vans) and the delivery of materials (by HGVs). There will also be a requirement for abnormal deliveries; these will be very few in number and managed outside of normal working hours. The construction period is anticipated to be approximately 22 months (2020-2022).
- 15.17 There are two peaks, one associated with construction staff and one associated with the delivery of materials. These will occur at different

times in the construction period. In this assessment the two peaks have been assessed together, i.e. compounded to ensure a robust worst case assessment in the event of any changes to the construction programme. Traffic generated from all elements of the proposal (gas connection, electrical connection and power generating equipment) have been added together to provide for a worst-case scenario.

- 15.18 The Transport Statement assesses the impact of construction, operation and decommissioning traffic. For a base year of 2017, and construction years of 2020 and 2022, with 2020 representing the peak construction period. Base traffic counts were undertaken in 2014. These have been factored using the Temprow database (National Trip End Model) to provide a base year of 2017 and background growth for 2020 and 2022. The factors used have been verified and are correct.
- 15.19 In terms of traffic movements during construction, a total of 85 vehicles (14 HGVs) are expected in the am peak (07.45-08.45hrs). The same 85 are expected to leave in the PM peak (16.30-17.30hrs). A total of 197 vehicle (62 HGVs) arrivals are expected over a 24 hour period with the same number of vehicles leaving giving a total of 394 vehicles.
- 15.20 Estimates of construction traffic have been made based on information from contractors, these assumptions are thought to provide a very robust estimate. Construction staff will arrive and depart during the peak hours, with HGV deliveries / pickups throughout the day. There will be the requirement for some abnormal load movements, these will be dealt with by Swansea Council abnormal load procedures. The Swansea North substation required several abnormal loads and the site is accessible.
- 15.21 In respect of PRoW, Footpath L35B passes through the Project Site perpendicular to the route of the Gas Connection, connecting to Rhyd-y-Pandy Road in the vicinity of the AGI Access. Footpaths LC34 and LC117 cross the access road. Footpath LC34 crosses the access road at a point approximately 350 m from the B4489. This would be affected by works to widen the access road. Footpath LC117 routes adjacent to the perimeter of the Felindre Gas Compressor Station and would be affected by the construction of the new section of access road to serve the Project Site, crossing at a point approximately 1.3 km from the access road.
- 15.22 The ES states that the proposed management of the PRoW is set out in the CTMP, which states that where possible, connectivity will be maintained by the use of temporary diversions and working methods to allow the PROWs to remain open for the majority of the construction period. Potential measures include fencing to ensure separation between movements along the PROW and construction activities (for PROW within the Project Site), and signage/management of movements where PROW cross construction traffic routes.
- 15.23 There is no recent usage data for these footpaths and therefore their sensitivity has been assessed as high to ensure a robust assessment using a worst case. The magnitude of impact is anticipated to low, as all users should still be able to make a pedestrian movement, but there

will be some hindrance in doing so (e.g. due to short term closures/diversions). The significance of effect will therefore be moderate adverse, which is significant, albeit temporary. This level of effect is considered to apply to the individual Project components and the full Project.

- 15.24 Notwithstanding this, CCS is unclear at the present time about the full measures proposed to PROW. The ES states (12.7.36) that the proposed management of the PROW is set out in the CTMP and will be developed further in consultation with the PROW Officer at the CCS. Para 3.6.1 of the Outline Construction Management Plan states that it is not proposed to permanently divert any PROWs within the site, yet Para 3.9.2 of the same document refers to permanent diversion and then suggest that Stopping Up or Temporary Diversions may be included. Requirement 21 makes no reference to PROW in its current construction and further clarification is required on what is / isn't included in the DCO itself and how CCS will have the opportunity consider the PROW proposals at a later stage.
- 15.25 The assessment looks at pedestrian routes around the application site, and the effect of increased traffic movements, which are thought to be low. This due in the main to the lack of any pedestrian facilities and identifiable desire lines. This results in an IEA assessment outcome of negligible or very minor adverse effect. The Council agrees with the assessment.
- 15.26 The traffic generation of the Project during the operational phase is expected to be minimal. The Project will employ up to 15 permanent staff working on a shift pattern. This will likely generate 30 movements per day (two movements per staff member). A demineralised water trailer and diesel fuel tanker will visit the Project Site periodically. Maintenance periods will occur annually. During these periods, there may be up to 40 additional staff on-site for a period of one month. Based on a vehicle occupancy level of 1.6, this will equate to an additional 50 movements per day (25 arrivals during the AM peak hour, 25 departures during the PM peak hour); this is well within the peak traffic generation forecast for staff during the construction phase.
- 15.27 Overall, when assessed against the same receptors as construction and assuming the same sensitivity of each receptor, the significance of the effect of operation is anticipated to be negligible, which is not significant.
- 15.28 Overall, the impact of the Project during the decommissioning phase is expected to be lesser in nature to the construction phase as many aspects are to be left in situ. As a result, no further assessment of the decommissioning phase has been undertaken.
- 15.29 CCS previously requested that consideration was given to strategic sites that were being promoted in the emerging LDP and were likely to come forward within similar timescales, including the strategic site at Felindre which is proposed for 850 dwellings plus a 2.5 form entry school. The ES (para 12.10.6) states that it is unlikely that the Project and Sites SD, E and G will impact upon each other in the near future. The guidance defines committed development as a development which

is consented or allocated and where there is a reasonable amount of certainty that it will come forward in the next three years (including proposals in an Emerging Development Plan). The Examination of the Swansea Local Development Plan has now finished and the Council are awaiting the Inspectors Report (expected in January) and is likely to be formally adopted in the first quarter of 2019.

15.30 Whilst this is the case currently, it should be pointed out that the UDP is 'time expired' and the Council do not have a current 5 year land supply resulting in increasing pressure to submit applications pre-LDP adoption (to meet delivery targets). As has been highlighted to the applicant, planning applications for strategic sites have been submitted already (prior to the submission of the DCO) and the application at Felindre was anticipated at/ around the same time as the DCO application. This application has subsequently been submitted. Indeed, the application is similar in scale as indicated in the strategic site and may also be constructed during the same period utilising the same access to Junction 46. The applicants claim that there was insufficient information available is inaccurate. It is appreciated that the site is not a formal allocation at the time of submission but as noted in Para 10.12.5, there is a reasonable degree of certainty that it would progress within the next 3 years given the application submission and delivery agreements that have formed part of the LDP process. Added to this, the consultants working on this scheme have themselves been preparing the application for a strategic site in advance of the LDP for similar sized development (850 dwellings and a 2.5 form entry school) that is currently out to Pre-Application Consultation and will be submitted prior to the adoption of the LDP.

15.31 Notwithstanding the above, the Council's Highways Officer does not consider there to be a significant degree of overlap between the construction periods of the two projects and has advised that the impact on all legs is minor and temporary in nature, construction traffic can be accommodated within existing infrastructure without having a significant impact in conjunction with other developments. The traffic assessment is concerned with vehicle delay at junctions and links in the vicinity, M4 junction 46 and the A48 / Pant Lasau Road have been assessed using the junctions 9 package. Analysis takes into account other potential development sites in the area, although it is likely that these will not have been progressed by the peak construction year of 2020. The model inputs have been checked and there are some issues with the model itself, it must be noted however that the discrepancies within the model will have the effect of over estimation of existing traffic queues.

15.32 Overall, the Project will have a moderate adverse effect during the construction phase and this is restricted to the three PRoW; these effects will be temporary. The Council will have input into the temporary diversions via Requirement 21, subject to amendments.

### Conclusion

15.33 In terms of the impact on the highways network, it is accepted that there would be a short term minor adverse effect during the construction period. However, the proposals include embedded

mitigation and the level of traffic generation during operation is likely to be low. The Council are satisfied with the locations of the access road and the traffic generation and the proposals are considered compliant with Policies EV3, AS2, AS6, AS10 and EV12 of the UDP and compliant with the Emerging policies referenced above.

- 15.34 It is noted that there would be a significant adverse impact on the PROWs in the short term but this is proposed to be mitigated in part through Requirement 21 and with the provision of a financial contribution to temporarily divert/ improve the surrounding footpath network. Whilst the final sum is still being negotiated, with these provisions secured, the proposal is considered to comply with Policy AS3 of the UDP and emerging policy T7.

## **16.0 Historic Environment**

### *City and County of Swansea Adopted Unitary Development Plan*

- 16.1 UDP Policy EV1(criterion v) requires new development to sensitively relate to existing development patterns and seek to protect natural heritage, the historic and cultural environment, not only on-site, but in terms of potential impact on neighbouring areas of importance.

UDP Policy EV1(criterion xi) requires new development to have regard to the desirability of preserving the setting of any listed building.

UDP Policy EV2(criterion vi) requires new development to avoid detrimental effects on the historic environment.

- 16.2 UDP Policy EV6 seeks to protect, preserve and enhance Scheduled Ancient Monuments and their settings, and also unscheduled archaeological sites and monuments. Where proposals affect sites and areas of archaeological potential, applicants will be required to provide the following information with planning applications:

- An assessment or evaluation of the archaeological or historic importance of the site or structure,
- The likely impact of development on the archaeological site, and
- The measures proposed to preserve, enhance and record features of archaeological interest.

### *City and County of Swansea Emerging Local Development Plan*

- 16.3 Emerging LDP Policy PS2(criteria i and xiv) requires new development to have due regard to important elements of local heritage and culture and ensure no significant adverse impact on natural heritage and built heritage assets.

- 16.4 Emerging LDP Policy HC1 states that the County's distinctive historic and cultural environment will be preserved or enhanced by:

- (i) Requiring high quality design standards in all development proposals to respond positively to local character and distinctiveness;

(ii) Identifying and safeguarding heritage assets, sites and their settings...

16.5 Emerging LDP Policy HC2 states that the County's buildings and features of historic importance will be preserved or enhanced through the following measures:...

(vi) Ensuring that development does not have a significant adverse effect upon historic assets of special local interest.

*Impacts and Adequacy of Application/DCO*

16.6 The ES states that construction of the Power Generation Plant, gas connection and electrical connection will not have a physical impact on any known historic asset. The Gas Pipeline will cross the line of historic boundary AB03, necessitating the removal of a portion of this feature for the width of the pipe easement. However, only a small percentage of this feature is affected – and this was substantially altered when the preceding Oil Pipeline was installed, with little of the original historic fabric remaining.

16.7 As described above, a number of archaeological interventions have been carried out within the 1 km Study Area, and one within the Project Site. The findings of these suggest that there is some potential for the discovery of buried archaeological remains. However, given the sporadic and isolated nature of these recorded features, and their likely character, there is a low probability of encountering buried archaeological remains of high value during the construction works.

16.8 Impacts upon below-ground archaeological remains will only arise if significant ground disturbance is anticipated during the operational phase of the Project. As no such activity is envisaged, there will be no further impact upon below ground archaeological remains once the Project is operational.

16.9 In terms of settings of historic assets, of the two conservation areas within the 5 km Study Area, only one lies within the ZTV for the Project: Llansamlet Conservation Area (CA027). The ZTV suggests that the stack of the Power Generation Plant will be visible from some of the northerly parts of the conservation area. However, the landscape between the Project Site and the conservation area has been extensively developed, including the Swansea Enterprise Park and the M4 motorway. Thus, despite bringing about a minor change to north-eastward views from the conservation area, neither its setting, nor those of the listed buildings within it, will be adversely affected by the Power Generation Plant. There is no effect on the conservation area. The Council would clarify that the Llansamlet Conservation Area was designated due to the historic interest rather than architectural interest. This CA has undergone significant recent change with the redevelopment of Lon Las school and there are no designed views or townscape aspects that relate to the Abergelli proposals.

16.20 Of the three Registered Historic Parks and Gardens within the 5 km Study Area, only one lies within the ZTV for the Project: Penllergaer Park and Garden (GM054). The Project is theoretically visible from within a small area of this registered park. However, the park and its

constituent elements are well screened by woodland on its northern and eastern margins in the main. Based on the LVIA which highlights the intervening landform and development, it is considered that Penllergaer HPG is unlikely to be affected as landform will limit/ block intervisibility. As such, the park's setting will not be adversely affected by the Power Generation Plant.

- 16.21 A number of Scheduled Monuments and listed buildings fall within the ZTV for the Project, and their settings are therefore potentially subject to change. However, the Council cannot directly comment on the setting on the impact on these as CADW would be the relevant body to comment and CADW have not been consulted by the Authority as the Authority are only a consultee in this process.
- 16.22 The ZTV also demonstrates that certain key monuments will not be in the viewshed of the Project. These include several prehistoric monuments for which the visual environment is particularly important: the ring cairns on Tor Clawydd (SM GM353) and Craig Fawr (SM GM380); Garn Goch round barrow (SM GM199); and the Pant-y-Ffa round cairn (SM GM201). The Environmental Statement states that these assets will be unaffected by the Project. Within the settlement of Penllergaer there are four listed buildings from which the Project Site will be visible. These relate to Bryn-rhos Farm, are located within a single cluster 3.6 km south-west of the Project Site, and are all Grade II-listed (LB26496-99). This group of buildings was listed as a little-altered 19th -century estate farm group. As such, the primary focus of their setting is their functional inter-relationship with each other and adjoining buildings. The setting of this asset group will be unaffected by the Power Generation Plant and there will be no impact upon this group of farm buildings according to the Environmental Statement.
- 16.23 The decommissioning of the Project will not require the disturbance of previously undisturbed ground or the demolition of any standing historic asset. As a consequence, there will be no physical effect on archaeology or cultural heritage during the decommissioning phase.
- 16.24 To the north of the Project Site (2.9 km) is Scheduled Monument GM202 (Mynydd Pysgodlyn Round Barrow). As a Neolithic/Bronze Age funerary and ritual monument, its topographic setting and visual interrelationships with contemporary sites are deemed significant elements of its setting. The Project will be visible from this location, but the views from, and including, this monument will not be significantly changed. As demonstrated by LVA Viewpoint 5, the Power Generation Plant will be an extremely minor element of the viewshed, in which a substantial quantity of modern development is already present. An important attribute of the setting of this type of upland prehistoric monument is its sense of isolation. While the Project will be visible, marginally adding to the massing of modern elements to the south, the extent of additional change is very small and the intervening distance means that this sense of remoteness is maintained. No historic sightlines or visual connections with other monuments will be affected. The magnitude of effect is therefore considered to be no more than negligible. On an asset of high value, this results in a significance of effect of minor adverse, and therefore not significant

- 16.25 Glamorgan Gwent Archaeological Trust, in its role as the professionally retained archaeological advisors to CCS has confirmed that Chapter 13: Historic Environment addresses the historic environment issues for both designated and non-designated historic assets. Aecom undertook the preparation of this work, which updates the 2014 Chapter, and meets current professional standards. Whilst there have been slight changes to the proposal itself, and to the legislation and policy relevant to the historic environment, in summary this has not changed the original conclusions regarding the impact of the proposal on the historic environment. Non-designated historic assets within a 1km study area have been addressed, as have designated historic assets (Scheduled Monuments; Listed Buildings; Registered Parks and Gardens) within a 5km study area. The assessment concludes that the construction and operation of the power plant and the construction of the gas connection, and the electricity connection will not have a direct impact on any known historic assets.
- 16.26 The assessment also notes that previous archaeological fieldwork undertaken within the study area suggest there is some potential for archaeological features to be present. Mitigatory measures identified are in line with other archaeological projects in the area, and with current professional standards. As noted in Paragraphs 13.8.8 to 13.8.10 of the ES, this will be that an archaeological watching brief will be undertaken on areas of construction groundworks subject to significant disturbance, with suitable contingency arrangements for provision of time and resourcing to ensure appropriate excavation, recording, sampling, and post-excavation analysis and publication if necessary, if significant archaeological features are encountered.
- 16.27 GGAT therefore recommend that a condition should be attached to any consent to ensure appropriate mitigation. Any consent granted should include a condition requiring the applicant to submit a written scheme of investigation for the implementation of a programme of archaeological work; in accordance with the Standard and Guidance of the Chartered Institute for Archaeologists.
- 16.28 GGAT envisage that this programme of work would be an archaeological watching brief during any ground disturbing work, identifying contingency arrangements as detailed in the ES Chapter 13. The written scheme will ensure that a targeted programme of work can be facilitated, with detailed contingency arrangements including the provision of sufficient time and resources to ensure that all archaeological features that are identified are properly excavated, recorded and analysed. It should include provision for any sampling that may prove necessary, post-excavation recording and analysis, and reporting including possible publication of the results. Whilst GGAT have recommended that the Requirement is worded as pre the model condition in Circular 016/2014, this condition is considered to be flawed and revised wording to Requirement 13 is suggested in the Draft DCO section below. This Requirement seeks to cover the further archaeological work.
- 16.29 GGAT also recommend that a note should be attached to any consent explaining that:



A detailed report on the archaeological work, as required by the condition, shall be submitted to and approved in writing by the Local Planning Authority within six months of the completion of the archaeological fieldwork. The archaeological work must be undertaken to the appropriate Standard and Guidance set by Chartered Institute for Archaeologists (CIfA) ([www.archaeologists.net/codes/cifa](http://www.archaeologists.net/codes/cifa)) and it is recommended that it is carried out either by a CIfA Registered Organisation ([www.archaeologists.net/ro](http://www.archaeologists.net/ro)) or an accredited MCIfA level Member. This will ensure that an archaeologist with the appropriate level of experience and understanding undertakes all archaeological work.

### Conclusion

- 16.30 Subject to the necessary Requirement being included within any DCO, and subject to any CADW comments that are submitted directly to the Examining Authority, the proposal is considered to comply with UDP policies EV1, EV2 and EV6 and the emerging LDP policies referred to above.

## **17.0 Socio-Economics**

### City and County of Swansea Adopted Unitary Development Plan

- 17.1 Policy EC1 allocates 190 ha of employment land at Felindre Strategic Business Park, located approximately 1.5 km to the south-west of the Project Site, in order to meet the growth needs of the local economy.

### City and County of Swansea Emerging Local Development Plan

- 17.2 Emerging Policy TR1 relates to tourism, recreation and leisure development and states that development proposals that would have an unacceptable adverse impact on features and areas of tourism interest and their settings, or that would result in the unjustified loss of tourism facilities or heritage assets, will not be permitted.
- 17.3 Emerging Policy PS4 seeks to address opportunities for the creation of up to 14,700 additional jobs over the Plan period.
- 17.4 Emerging Policy IO2 requires developers to maximise added benefits from the development in relation to the creation of training and job opportunities.

### Adequacy of the Application/DCO

- 17.5 Two indoor attractions, the Leisure Centre Swansea, Wales' biggest indoor water park, and the National Waterfront Museum are situated c.8 km from the Project site in Swansea. However, these projects are outside the defined tourism study area which excludes tourism receptors to the south of the M4 due to the physical separation that the motorway creates. The Council would suggest that the study area should have come further south and beyond the M4 boundary. That way the applicant would have had direct evidence from those consulted as to whether no impact would have been the case, rather than making the assumption there wouldn't be any impact.

- 17.6 There are a limited number of tourist attractions within the tourism study area, with most of the tourist attractions being located in the city of Swansea, outside the study area.
- 17.7 The scope of the Tourism Business Survey is very limited as it is based on only 17 business replies the majority of which are some distance away in Brynorch (12 miles via road and the other side of A4067). Obviously Felindre businesses are likely to suffer more effect and impact than businesses located away in Brynorch, therefore they should consider giving greater weighting to their (Felindre business) responses. It's not clear whether businesses such as Lliw Reservoir Cafe and Fishery and Shepherds Country Inn, which are in the immediate area, have been surveyed. Also there's no breakdown of the existing business base sectors – only for the responses received. Penllergaer Woods and Morryston businesses have been discounted as they are south of the M4, yet the applicant feel it is appropriate to consider surveying businesses in Brynorch.
- 17.8 The Council would also state that the timing of the survey was undertaken (November and December) during a traditionally very quiet time of the year for accommodation and visitors, although this may not be the case for pubs and restaurants. Whilst the response rate is good, the sample is small when you consider what it could have been had the geographic area been wider. Looking at the responses, only a 1/3 of the study area is in Swansea. The Council also consider that too many of the responses focus on the food and beverage sector and the overall sample is considered to be narrow.
- 17.9 Notwithstanding the above comments on the survey, it is appreciated that the comments of the Council appear to have been sought in 2014 on the approach and methodology of the business survey but it is unclear whether a response was submitted. In light of this, the applicant has assumed that the survey is sufficient and the overall outcome is not questioned by the Council. The Paintball Activity Centre may experience visual impacts during construction of the Project site and gas connection. No significant noise or air quality impacts are anticipated. The Paintball and Laser Tag Centre is located in a heavily wooded area and, as such, visual impact is likely to be reduced. Effects on the National Cycle Route 43 will be minor adverse and also not significant. These assessments are accepted by the Council.
- 17.10 The construction period is estimated to last 22 months from 2020-2022. The number of construction workers on site per month ranges from 25 to 122 during the peak construction period. Project construction would support 92 temporary construction job years, equivalent to nine permanent construction jobs. Gross value added (GVA) is a measure of the value of goods and services produced in an area, industry or sector of an economy. Annual construction GVA per head in Wales is £76,725. The construction phase could therefore deliver up to £7.1 million GVA to the wider economy.
- 17.11 The Project programme indicates the estimated number of construction staff on site on a monthly basis during the construction programme. The construction programme indicates that 122 workers would be on

site at the peak of the construction period. 100% of construction workers could be accommodated each month within a 10 km radius of the Project. A worst-case scenario involving 100% of workers requiring accommodation could be easily accommodated without causing any shortages or pressures. The demand for construction labour arising from the Project's development would not therefore result in any pressure on labour market capacity (i.e. requiring more than 15% of existing capacity). The operational phase of the Project would provide an estimated 10 FTE direct jobs. Each of the Project's gross 10 FTE jobs will be highly skilled positions that offer permanent employment opportunities for 25 years. The net effect, taking account of the leakage, displacement, and multiplier effects shown above, would be 6.0 additional regional FTE jobs and 5.5 national FTE jobs.

17.12 The construction period for the Project is estimated to last 22 months from 2020- 2022. The number of construction workers onsite per month ranges from 25 to 122 during the peak construction period. In terms of community infrastructure capacity, the construction jobs for the Project will be temporary and therefore it is reasonable to assume that the majority of workers will not move their families for this relatively short period of time.

17.13 No cumulative impacts are anticipated.

#### Conclusion

17.14 The overall effects of the Socio-Economic chapter are accepted notwithstanding concerns about the limited nature of the original survey methodology.

### **18.0 Other Effects Considered**

#### City and County of Swansea Adopted Unitary Development Plan

18.1 UDP Policy EV2(criterion x) requires new development to have due regard to the implications of the development for infrastructure and services.

18.2 Policy R16 states that proposals for major new developments will be required to incorporate adequate and effective waste management facilities.

#### City and County of Swansea Emerging Local Development Plan

18.3 Emerging Policy RP 7 supports the development of sustainable waste management facilities in appropriate rural locations. Supporting paragraph 2.14.48 notes that preferred areas for new waste management facilities include the former Tip site at Felindre, within proximity of the Project Site. The site at Felindre is identified specifically for the potential to accommodate a Combined Heat and Power (CHP) Facility which could provide heat or power for adjacent proposed developments.

18.4 Emerging Policy RP 9 requires development to incorporate, as appropriate, "adequate and effective provision for the storage, recycling

and other sustainable management of waste, and allow for appropriate access arrangements for recycling and refuse collection vehicles and personnel.”

*Adequacy of the Application/DCO*

- 18.5 The applicant has also considered impacts of the development on waste, public health, climate change, aviation, health and safety and major accidents or disasters.
- 18.6 The amount of excavated material associated with the new section of Access Road is approximately 19,000m<sup>3</sup> and will be confirmed when further detailed cut and fill calculations are undertaken. It is expected, however, that the excavated material will be stored within the Laydown Area prior to use elsewhere on site or disposal in accordance with the Outline Site Waste Management Plan (SWMP).
- 18.7 The laying of the Electrical and Gas Connections will involve the excavation of a trench or drilling, temporary placement of the excavated soil and then backfilling with soil. The Gas Connection will require the construction of the AGI. No surplus waste materials are expected to arise from this activity if excavated material is reused onsite, which is normal practice. In the event that material is not suitable for re-use on-site it will be managed in accordance with the Outline SWMP.
- 18.8 During operation of the Power Generation Plant, a small amount of waste will arise. This generated waste will include waste which is both hazardous and non-hazardous in nature. Appropriate treatment facilities exist locally, as discussed above.
- 18.9 Only small quantities of potentially hazardous waste from the above list will be stored on the Generating Equipment Site at any time (final types and volumes have not yet been confirmed). Such substances will be held in secured containers under appropriate waste management legislation.
- 18.10 A range of waste types are likely to arise during decommissioning and will include materials such as structural steel, metal cladding, and block and concrete waste, all of which will be suitable for recovery and reuse or recycling. Redundant generating equipment will include the turbine, ducting and pipework, generator and associated machinery and controls. These will be composed primarily of recyclable metals and other materials suitable for specialist commercial recycling and could also involve re-use of equipment elsewhere. It is not predicted that significant quantities of residual waste requiring disposal will arise during decommissioning.
- 18.11 In terms of public health, in its response to the Scoping Report (letter dated 23rd 15.3.1 July 2014), Public Health England (PHE) identified the local population as a sensitive receptor. In their S42 response dated 2nd January 2018, PHE noted that the PEIR was in line with current guidance and good practice. Many of the topics have been covered above (such as air quality, noise and contamination. The effects to Public Health including those effects from Electro Magnetic

Fields, Air Quality, Pollution and Noise are therefore all considered not significant.

- 18.12 APL engaged with the Civil Aviation Authority (CAA), Ministry of Defence (MoD), Abertawe Bro Morgannwg University Health Board (which uses air ambulance services in relation to Morriston Hospital) and CCS between June and November 2014, and again between January and March 2018, to seek views on the likelihood of the Project affecting aviation assets and infrastructure. In particular, their views were sought on the effect of construction of a stack at the Project Site of up to 40 metres (m) in 2014 and up to 45 m in 2018 (the anticipated maximum height at the time of Phase 1 and Phase 2 consultation respectively).
- 18.13 The MoD replied on 17th September 2014 to confirm that the Project falls outside of any safeguarding areas and therefore it has no objection to the Project. For completeness, the MoD were once again consulted during the Phase 2 consultation though the Project remained outside of safeguarding areas. The CAA identified the potential to affect civil aviation in regard to the height of the stack with particular reference to Swansea Airport. As part of the EIA the safeguarding zone mapping held by CCS has been consulted and the Project falls outside these zones. As a result it is concluded that the Project will not affect civil aviation activity. Abertawe Bro Morgannwg University Health Board confirmed in an email dated 23rd February 2015 that the stack will be just over 1.5 kilometres (km) away. As such they will not affect the (Bond Air Services) operations in and out of Swansea Morriston Hospital.
- 18.14 The site manager will have the day to day responsibility for maintaining Health and Safety throughout the construction period. They will produce a risk assessment and method statement detailing how they will minimise the risk.
- 18.15 In the event of an issue with the Generating Equipment, alarms would signal any instance of abnormal operation. These alarms would not be audible externally. The plant would be shut down immediately in such instances and, if required, additional engineering staff would attend the Project Site. The Generating Equipment would not start up again until the issue had been resolved. Alarms would only be audible outside where there was an event affecting personnel safety such as a fire alarm.
- 18.16 Due to fencing, and distance from residential areas, engineering and industrial accidents are limited to on-site workers. Existing legal protection for construction workers is considered to be sufficient to minimise any risk from major events to a reasonable level. Legislation in force to ensure the protection of workers in the workplace includes:
- Health and Safety at Work etc. Act 1974 (HSWA);
  - The Management of Health and Safety at Work Regulations 1999;
  - The Workplace (Health, Safety and Welfare) Regulations 1992;
  - The Control of Substances Hazardous to Health Regulations 2002;
  - and
  - Construction (Design and Management) (CDM) 2015 Regulations.

- 18.17 Given the nature of natural gas there is an inherent risk of both fire and gas leak and explosion associated with the Project from its supply and use. The Project has been designed to comply with industry safety standards and to meet legislative requirements for safe operation.
- 18.18 The Project is in close proximity to other third party infrastructure features namely the Substation, Felindre Gas Compressor Station, Water Main, overhead lines, oil pipeline, along with other utilities such as the National Gas Transmission System. Mitigation has been embedded via the design of the Project by implementing appropriate minimum distances and having due regard to the required standoff distances between the Project and these infrastructure features. It is anticipated that potential major accidents and disasters resulting from third party infrastructure would be unlikely as the appropriate operational safety procedures relative to that installation would be implemented on a day to day basis, is regularly maintained and is closely monitored. In addition, the standoff distances from and to the Project would also take account of any effects from third party infrastructure on the Project. The Project is also being closed to the public and not in close proximity to residential areas/centres of population.

### Conclusion

- 18.19 The findings referred to above are accepted by the Council.

## **19.0 Residual and Cumulative Impacts**

- 19.1 These issues have been covered above individually under the topics headings where relevant and it is not considered necessary to reiterate the issues here further.

## **20.0 Development Consent Order, Obligations and Requirements**

- 20.1 The comments below refer to the Draft Development Consent Order (DCO) May 2018 (Document Reference: 3.1). The comments are made in the order in which the DCO is set out and do not repeat those comments given above where the adequacy of the DCO is considered under the relevant topic heading. Where comments are not made on a particular Requirement, the Council do not have any comments to make on their appropriateness or structure.

### **Part 1**

#### *Definition of maintain*

- 20.2 The Local Planning Authority has significant concerns with regards to the extent of the current definition of maintain as was pointed out to the Examining Authority at the first Issue Specific Hearing session. Firstly, the definition includes the terms “remove”, “reconstruct” and “replace and improve”, which when read together with the whole of the definition, and the DCO, causes some concern. The definition goes on to state that any this includes any part of, but not the whole of the authorised development...

- 20.3 The authorised development is fully laid out in Schedule 1 and comprises all of the works required, listed into separate work Nos. The current definition allows for a whole range of works providing that the *whole of the authorised development* [my emphasis] isn't removed, reconstructed, replaced etc. The current wording suggests that they could reconstruct the whole of the generating equipment site like for like providing that they don't change the access as an example (Work No. 2). Alternately, they could replace and improve individual elements within the definition and have the same effect.
- 20.4 As the Authority has indicated in the Relevant Representation, a decommissioning strategy will be required in order to consider the safe removal of the generating equipment and apparatus at a later date. As the current definition also includes the word "remove", the developer could remove items as part of this definition provided it is not the 'whole' rendering the decommissioning strategy somewhat superfluous if they removed all of the generating equipment under the definition of maintenance for example. There would be no controls over this as required in Requirement 27 of the Order, provided the whole of the project is not removed. Buildings could therefore be removed without the requisite surveys and the effects/ mitigation assessed in the Environmental Statement could be bypassed.
- 20.5 In addition, allowing various parts to be reconstructed at various points (providing it is not the whole) would enable the plant to operate indefinitely providing it doesn't give rise to any materially new or different environmental effects from those assessed in the environmental statement.
- 20.6 During the Hearing, the applicant suggested that it was a fundamental principle of planning permission that planning permission could only be implemented once. Similarly, the maintenance elements were suitably covered in the ES and the definition states that the proposals would have to be in accordance with this. However, whilst the Authority would agree that an individual "planning permission" can only be implemented once, the current proposal is inherently different. Firstly, this is not a normal planning permission, but a Development Consent Order. As such, it is a new piece of legislation that would (on current drafting) contain within it a wide-ranging definition of maintain that potentially causes the problems identified above (which a normal planning permission would not). It would also be difficult to argue that the replacement of the whole stack, for example, is likely to give rise to any materially new effects from those assessed in the ES and there is little in the ES that specifically refers to the maintenance intended. It is not considered that the end of this definition provides any certainty in terms of reconstruction.
- 20.7 Whilst this wording may have been used elsewhere in a substantially similar manner, it does not mean that they have conferred significantly greater scope / power than was intended. It should be clarified that the Council has no objections to routine repair/ maintenance as would normally be allowed / permitted but has concerns over the current terminology used and consider that the definition should be tightened further with the omission of the terms "remove" and "reconstruct". The remaining terminology would appear to be sufficient to enable the

apparatus to be suitably maintained as intended in the Council's opinion.

### Commencement of Development

- 20.8 In general, the Council has no comments to make with regards to the terminology used, however, would wish to point out that the definition provides for the erection of temporary means of enclosure as outside of the scope of the commencement of development which is at odds with Requirement 5 which requires permanent and temporary fencing to be agreed prior to the commencement of each work No. If they are expressly included from the definition of the commencement of development, the applicant could install temporary fencing rendering Requirement 5, in so far as temporary fencing is concerned, as somewhat superfluous.
- 20.9 It is suggested that this is removed from the definition of commencement of development.

### *Article 2(3) – approximate distances*

- 20.10 Article 2(3) states that all distances used in the order are approximate but this is inconsistent with the parameters used in Requirement 2 Table 2 as these have been assessed in the Environmental Statement. It would be useful to clarify that this Article does not include the parameters identified in this table.

### **Part 2**

#### Article 7

- 20.11 The Council would also wish Article 7 amended to ensure it its notified of any change in development and operator, given the responsibilities of the Authority included within the DCO.

### **Part 3**

#### *Article 8 – Power to alter layout etc of streets*

- 20.12 Article 8(2)(a) would allow the undertaker to *alter the level or increase the width of any kerb, footway, cycle track or verge...* The Council considers that this would provide significant scope to change levels etc that could have resultant impacts on drainage, ecology etc which haven't been considered as part of the proposals to date. Whilst consent of the Street Authority would be required, it wouldn't necessarily mean that these issues were considered as part of the consent process as the street authority is not likely to concern themselves with these issues.
- 20.13 In addition, Article 8(3) should be amended to delete the word "reasonable". Any works should be to the absolute satisfaction of the Street Authority.
- 20.14 Article 9 (street works) should include a requirement to reinstate/make good any work undertaken.



## **Part 7**

### *Article 42 – Procedure in relation to Certain Approvals*

- 20.15 The Council welcomes clarification that any consent/ agreement/ approval required in relation to certain works may be given subject to conditions (Article 42(2)). It is important that there is provision for this and earlier concerns by the Council have been addressed by the applicant in this regard.
- 20.16 However, concerns are raised that Article 42(4) provides for a deemed approval after an 8 week period if the authority has not notified the undertaker of its disapproval and the grounds of disapproval. It is not considered that a default approval should be granted in this instance. There are a complete array of circumstances that may result in this deadline not being achieved and a more considered and transparent approach would be to provide for an appeal procedure if the application has not been determined after 8 weeks (similar to a planning appeal). This would provide the applicant with appropriate recourse in the event of not getting approval within the time limit but they may wish to wait until a determination rather than have an application refused and then have to resubmit again.
- 20.17 In any event, Article 42(6) should be amended to include a requirement to clarify precisely what provision/ article that consent is being sought under (to ensure that the request is forwarded on and considered by the relevant person), and provision should also be included for an email address of the contact to be advised of any decision given the current default position of approval if no-one is notified. It should also be clarified that the person submitting the request is also the person who shall be notified of the decision for the avoidance of any doubt.

### ***Schedule 1 – Work Nos.***

- 20.18 At the current time, the Council has not been provided with any details of either the temporary Bailey's bridge or the permanent bridge that is required over the utility apparatus between the generating site and the electrical substation. It is not to say that this causes any concern in terms of its impact visually or otherwise, but details have not been submitted so have not been considered to date. It is suggested that either details or the parameters of the bridge be included in any subsequent DCO revision.

### ***Schedule 2 – Requirements***

#### *Requirement 3 – Provision and Maintenance of Landscaping*

- 20.19 CCS are concerned that this Requirement does not include Work No. 4 which is a significant part of the Landscaping and Ecological Mitigation. There is therefore no ongoing provision for the management, monitoring and maintenance of this landscape area.
- 20.20 In addition, there is currently no provision to secure the ongoing management, monitoring and maintenance of the landscaping. Ongoing monitoring should be undertaken every 5 years for the lifetime of the development and this should be built into the Requirement itself. It

is understood that the applicant proposes to do this which is welcomed. However, a review mechanism to ensure that the management can be amended if it is not having the desired results should also be built into this review.

20.21 Requirement 3(4) refers to replanting within a 5 year period of any plants that die or become seriously damaged or diseased should be replaced with a specimen of the same size and species as that originally approved, *unless otherwise approved* in writing... As noted later on with regards to Requirement 27, the Conditions Circular is clear that tailpieces should not be used in general. However, in this instance it is considered reasonable to provide such a mechanism to consider why a tree/ shrub is failing in that location as there would be little point in replacing with another such tree/ shrub if that is going to subsequently fail for the same reason. This provision would enable small changes to be agreed to reflect the circumstances on site and ensure that the landscaping scheme has the best overall chance of success.

#### *Requirement 6 – Surface and Foul Water Drainage*

20.22 Requirement 6 provides for the SW and foul drainage arrangements to be in place for work Nos. 1, 2 and 3 prior to the commencement of these elements. Comments on the drainage strategy itself have been provided above but this requirement makes no on-going provision for the future management and maintenance of these systems and there is no provision built in for this. The Council would suggest that this is amended to include provision for ongoing maintenance and a maintenance plan is submitted as well as part of this requirement.

20.23 It was originally queried whether Work No. 5 should also be included but the applicant has advised that this is covered in the SW Management Plan required by Requirement 7. What is clear in this document is that this refers solely to SW management during construction and no account has been taken for ongoing management of the systems during operation.

#### *Requirement 8 – Pre-Construction Ecological Constraints Survey*

20.24 As currently drafted, the Council considers that there is no effective mechanism in this requirement (when read in isolation) to ensure that the work Nos. progress in a timely manner following the survey. It is widely accepted that ecological surveys are considered fit for purpose for a 2 year period and there is no implementation timetable to ensure that works progress within sufficient timescale after the surveys have been submitted to ensure that the works are undertaken in a timely manner. The applicant has advised that Requirement 9 provides for the relevant timeframes but it would be more straightforward to amend this requirement to provide for an implementation timetable.

20.25 The Council acknowledge that whilst not explicitly stated in Schedule 12 in the Draft DCO, it is acknowledged in the wording of the appeal scenario that the Council could issue any consent subject to conditions which could provide a timeframe but it is considered more appropriate

to enable the applicant to suggest the timescales for implementation to be considered in conjunction with NRW and CCS.

20.26 Finally, it is queried whether this requirement needs to relate to all work numbers or just work numbers 3, 4 and 5. Work No. 5 refers to the ground works associated with work numbers 1 and 2. Therefore it is likely that once these areas have been surveyed and mitigated for (if required), it is unlikely that they would need to be surveyed following the ground works and prior to the construction of the various work numbers outlined in Works 1A-F and 2.

20.27 The Council has suggested this to the applicant as reducing the amount of requirements to discharge is in everyone's interest providing that the relevant requirements still cover what they are intended to. If this isn't amended, the applicant would still have the opportunity to cover Work Nos. 1, 2 and 5 in one submission to discharge the requirement but if they are not needed, they should be removed for clarity.

#### *Requirement 9 – Ecological Management Plan*

20.28 There is currently no provision to secure the ongoing management, monitoring and maintenance of the ecological management plan. Ongoing monitoring should be undertaken every 5 years for the lifetime of the development and this should be built into the Requirement itself. However, a review mechanism to ensure that the management can be amended if it is not having the desired results should also be built into this review.

#### *Requirement 10 – Invasive Species Survey and Remediation*

20.29 The Council has no comments with regards to this requirement, save to query whether the requirement could be amended to cover work Nos. 3, 4 and 5. Again, assuming Work no. 5 covers all areas included within Work Nos. 1 and 2, there should be no requirement for further invasive species survey and remediation once it has been achieved for the development platform contained within Work No. 5.

#### *Requirement 11 – Bat Method Statement*

20.30 As noted above for Requirement 8, there is no specific implementation timetable referenced either in the requirement itself or in Appendix C of the Outline Landscape and Ecological Mitigation Plan. This should be clearly specified to ensure that everyone is clear that surveys should be undertaken with a prescribed period from works to areas surveyed.

20.31 Once again, it is queried whether this Requirement just needs to refer to Work Nos. 3, 4 and 5 for similar reasons as referenced above.

#### *Requirement 13 – Archaeology*

20.32 It is queried whether this Requirement just needs to refer to Work Nos. 3 and 5 for similar reasons as referenced above.

20.33 In terms of the wording itself, Requirement 13(3) is considered imprecise as it is not overly clear who would be classed as a suitably qualified person or body. It is recommended that 13(1) is amended to include details of who will be undertaking/ supervising the works. GGAT have advised the qualification of the person that they consider would be acceptable and it may be in interest of the applicant to include within the Requirement for clarity. A suitably qualified person or body is considered to be an RO or MCI(A) accredited within the Chartered Institute for Archaeologists.

20.34 Requirement 13(5) requires re-drafting in the Council's opinion in the event that archaeological assets are discovered as there are no timescales included within this section to indicate when the interpretive report must be agreed (and in what form) with the Local Authority or when the subsequent report shall be submitted. Provision for this could be included within the written scheme (13(1)) along with a timeframe in the event that these are found.

#### *Requirement 14 – Site Investigation*

20.35 It is queried whether this Requirement just needs to refer to Work No. 5 for similar reasons as referenced above.

#### *Requirement 15 – Mineral Resources Survey*

20.36 It is queried whether this Requirement just needs to refer to Work No. 5 for similar reasons as referenced above. In any event, the submission of a survey after Consent has been granted may help inform a decommissioning strategy, but as CCS has stated, it is not known when this will happen and the surrounding landscape may have changed significantly so the need for this requirement is of limited value.

#### *Requirement 16 – Peat Management Plan*

20.37 It is queried whether this Requirement just needs to refer to Work No. 5 for similar reasons as referenced above.

#### *Requirement 17 – Construction Environment Management Plan*

20.38 CCS would suggest that the scope of the CEMP is expanded to include 'biodiversity management measures' in the Requirement, listed in 17(1).

20.39 In addition to the above amendment, it is suggested that the Outline CEMP is amended to include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of biodiversity protection zones.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features.

- e) The times during construction when specialist ecologists need to be present on the site to oversee works.
- f) Responsible lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works.
- h) Use of protective fences, exclusion barriers and warning signs.

20.40 The Outline CEMP should also cross-reference Requirement 10 in terms of the protocols to be agreed so these are understood by all site contractors.

20.41 The Council note that out of hours working is proposed in the ES and in Requirement 23(2). Whilst on a scheme of this nature, it is expected that there may be occasions when this is required, it is considered important to include full details of out of hours working procedures within the CEMP so that the procedures for notifying neighbours and the timescales for doing this are agreed prior to the commencement of development.

20.42 It is understood that the applicant proposes to amend this requirement to take out Work No. 5. This is considered further below.

#### *Requirements 18, 19 and 20 – Dust, Pollution prevention and Waste Management Plans*

20.43 The Council previously queried whether these Requirements were strictly necessary given that they appear to be included within Requirement 18 and raised concerns about duplication of work inconsistencies between what may be agreed in the CEMP and what may be agreed within the plans required for these Requirements. Which would take precedence for example if issues arose.

20.44 It was explained at the hearing by the applicant that there are drafting errors in these Requirements as they are only intended to relate to Work No. 5 (not the whole of the development). It was explained that from experience, that Requirement 17 is onerous for the earthworks and is an attempt to split up this requirement.

20.45 The Council does not have any significant concerns with regards to this approach but would suggest that a complaints procedure is incorporated to ensure that any issues arising are dealt with consistently and promptly to rectify issues.

#### *Requirement 21 – Construction Traffic Management Plan*

20.46 CCS can see no real provision within this Management Plan/ Requirement for the management of PROWs during the construction of the development. Reference is given within the Outline CTMP to discussions with CCS on PROW but there is no specific mechanism for this aspect to be agreed with the Authority. This Requirement should be amended to include this explicitly.

#### *Requirement 23 – Construction Hours*

20.47 CCS do not agree with the rating levels set out in Column A of Table 3 in Requirement 25 for both daytime and night time noise as these are

above the levels assessed in the Environmental Statement. These should be reduced to those indicated in Table 7-21 of the Environmental Statement. The difference suggested could lead to significant disturbance for neighbouring properties.

- 20.48 The Council considers that requirement 23(3) should be deleted as this extends the working day by an hour at time when noise and disturbance to nearby residential properties is considered unacceptable. The proposed operational hours of 8am to 6pm are considered to be of sufficient length and sufficiently reasonable for the operation. The Council has previous issues with start-up and shut down periods due to excessive noise on site.
- 20.49 Whilst the applicant has suggested a definition of these activities and has suggested what they would entail, it is still considered extremely generous in terms of people arriving on site to get ready at the start and end of the day in terms of putting personal protective equipment on. It is suggested that this sub-section is removed in its entirety, but failing that, is reduced to a 10 minute window either side of the working day. It should also be noted that machinery could be operated within the definition of the shut down period which results in a noise nuisance to residents.

#### *Requirement 27 – Decommissioning Strategy*

- 20.50 The Council would suggest that the tailpiece (unless otherwise agreed in writing) is removed from this requirement as it has been found to be imprecise and The Use of Planning Conditions in Development Management Circular (016/2014) states in 3.37 that they should not be used. The Court of Appeal has objected to the use of such ‘tailpieces’ as “wholly uncertain” and unlawful. What planning permissions are intended to permit should be clear from what has been granted and what the conditions say and so the above term should not therefore be used.
- 20.51 Given what is stated in the Environmental Statement about the effects of decommissioning being similar to the effects of construction (which are mitigated with the embedded mitigation in the Outline CEMP), it is considered that the decommissioning strategy itself also needs to cover the same topics for the assessment in the Environmental Statement to be accepted and secured. These concerns have been relayed to the applicant who is considering revised terminology.
- 20.52 The current wording provides for a scheme to be submitted to and approved in writing by the Local Planning Authority within 24 months of the Order land ceasing to be used for the purposes of electricity generation. However, the applicant can’t necessarily control this as the final stage is outside of their control. This should be revised to provide for a time scale for submission for the written approval and a second trigger point for implementation of the approved scheme following the written approval of the Local Planning Authority.
- 20.53 Requirement 27(2) states that the site shall be decommissioned subject to obtaining the necessary consents...which the Council has concerns about as there is no requirement for the applicant to seek to

obtain said consents. If they don't seek to obtain these necessary consent, they wouldn't be in breach of the requirement. In this scenario, any enforcement sanctions would be redundant. In any event, it is not considered that the enforcement regime is sufficiently robust to ensure the demolition of this project given the current anticipated demolition cost of circa £2,000,000 (which is discussed further in the bond section below).

20.54 The Council would suggest that an indicative schedule of what these necessary consents are if the building was to be decommissioned in the current climate should be provided to gain a better understanding of these and the likelihood of obtaining these within a reasonable timeframe. It is understood from the Issue Specific Hearing that the Environmental Permit may have dual control over this aspect but this has not been fully clarified to date or what the suspension of the permit would mean in terms of decommissioning. Finally, it is also unclear what would happen in the event of the company entering liquidation which is why the Council have suggested a bond is introduced to ensure the Project is decommissioned.

*Schedule 6 – Temporary prohibition or restriction of the use of streets (Article 11)*

20.55 The Council would query whether this section is intended to be updated to reflect the inclusion of Work No. 5 as some of the streets are proposed to be closed for the construction of Work Nos. 1, 2 and 3 (such as the Gallops, Public Footpath LC117, the private access road from the B4489 to the compressor station and Public Footpath LC34). It is considered likely that these would be required to be stopped up for Work No. 5 as well.

*Schedule 12 – Procedure for Discharge of Requirements (Article 42)*

20.56 The Council are firmly of the belief that as stated above, under Article 42(4), the default position should be a right of appeal against non-determination after 8 weeks if no decision has been provided by that stage, not a default approval as stated in Article 1(2) of Schedule 12. The Council would stress that this requirement is more important in this context given the large amount of detail that is still outstanding and needs to be considered to discharge the various Requirements.

20.57 The current wording provides that if the Council don't agree to a request for consent, agreement or approval, it is automatically conferred after 8 weeks unless it is refused or an extension is agreed.

20.58 The Council would maintain that it is imperative that a right of appeal against non-determination is conferred if agreement has not been reached within 8 weeks which the applicant could utilise otherwise it may lead to refusals late on and unnecessary appeals if extensions can't be agreed in writing within the relevant timeframe. The applicant would have the right of appeal if a decision has not been given after this time but may wish to wait until a determination rather than have an application refused and then have to resubmit again. The Council would also be open to a mechanism to enable dual jurisdiction following the 8 week period whereby the applicant can appeal a

decision and the Council have 4 weeks to determine or the application would have been deemed refused.

- 20.59 As noted above, there will be significant time pressures on the Council when looking to discharge the requirements even if a funding stream is guaranteed. The revised approach suggested by the Council would ensure that sufficient scrutiny is provided of a decision and there is transparency in the decision making process.
- 20.60 The applicant has contended that they require a degree of certainty given the importance of the project, but it is also considered appropriate that there is scrutiny and transparency prior to a decision being made. The applicant maintains that if a requirement is refused, they can consider whether to appeal or resubmit. However, the proposed amendment would also allow the applicant to consider whether they wish to appeal the decision (as per their request) but would reduce the requirement for a further submission if agreement is reached at week 9 for example. This is an even simpler approach than resubmission and would reduce overall end-to-end times in the event that agreement was not reached within an 8 week timeframe. It would also avoid / reduce the need for appeals and associated costs for both parties.
- 20.61 It is also considered that there could be issues with the relevant EIA Regulations and the submission of "Subsequent Applications" as the Environmental information will not have been considered if the default position is to approve the application (and may be contrary to Regulation 3 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009)) in any event. The applicant contended at the Issue Specific Hearing that there was provision for consideration of the Environmental Information in Article 1, however, if a decision is made by default (for whatever reason), then the environmental information would not have been considered in the decision making process.
- 20.62 In these circumstances, it is considered more appropriate for a default position to be that the applicant has a right of appeal for non-determination if the Council has not determined the application within the required timeframes. It is considered that a degree of scrutiny would still be required should an application/ applications go beyond the prescribed limit without agreeing an extension of time. Third parties could be unfairly impacted upon as a result of this and the relevant decision maker would also ensure the environmental information was considered in accordance with the relevant EIA Regs. This approach is further endorsed by the fact that the appointed appeal body themselves would wish to review the environmental information (Screen the application) irrespective of the applicants or Council's view in an appeal situation highlighting the importance of this analysis.
- 20.63 This approach would also ensure that the Environmental information was considered as per the requirements of the EIA Regulations which a default approval would not. A default approval would be contrary to Regulation 3(3) of the Infrastructure Planning EIA Regs 2009. The Council consider the default approval approach could be unlawful in any event and open to legal challenge.



- 20.64 In regard to Article 2(2), the Council considers that the 14 day period to request further information should be increased to 28. It is understood that the applicant is willing to amend this arrangement which is helpful.
- 20.65 To set out the reasoning behind this, the Council are required to consult (and would in any event) with various parties in order to discharge various requirements. At the current time, it is not clear whether these would be discharged individually (and in part) or as a whole. It is clear from the various requirements that there could be a considerable amount of work that is required to discharge requirements from various bodies. If it is assumed that an application is received and checked (which takes a few days), consultees will be given 21 days to respond which requires additional time to request additional information. 28 days is considered an appropriate timescale to request further information.
- 20.66 Finally, whilst it is suggested implicitly that the Council can approve the discharge of Requirements subject to a condition, it would be useful to have this power stated directly and unequivocally as it is in Article 42(2) which precludes Requirements when read together with Article 42(1).

## **21.0 Issues that the Council consider should be included within the DCO**

### Time limit for the Duration of the Consent

- 21.1 The Project has a design life of 25 years and this is stated throughout the Environmental Statement and several management plans are written to last for the duration of the Project based on this design life. In addition, the project has been designed for this design life, for example in terms of the attenuation requirements for surface water discharge which may not be adequately sized to cope with longer durations if the power station is still in operation in 75 years time for example. The Council are therefore of the opinion that there should be a requirement limiting the lifetime of this Order for 25 years as has been assessed in the Environmental Statement.
- 21.2 NPS-EN1, Para 5.9.16 states that the IPC should consider whether any adverse impact is temporary (in regard to landscape impact but this is used as an example), such as during construction, and/or whether any adverse impact on the landscape will be capable of being reversed in a timescale that the IPC considers reasonable. The Environmental Statement has been set out on the basis that the alterations are reversible, but no time limit has been set for this despite an assertion that there would have a design life of 25 years. A degree of certainty should be provided within the Order itself
- 21.3 The Environmental Statement is misleading if no mechanism is put in place to limit the duration of the Project in that it refers throughout to the 25 year lifetime. If a limit is not included in the DCO, then it could still be operational permanently, even more likely given the current definition of the term "maintain" set out in Article 2 of the Order. The impacts have been assessed in the main as non-permanent and any reasonable reader would consider this to be the lifetime of the plant.

Without this time limit, it is considered that the environmental considerations have been misrepresented and the assessment reached inaccurate.

- 21.4 The Council also considers that provision should be made within the DCO itself for charging for the discharge or partial discharge of Requirements. Each request for partial or full discharge should be submitted along with a covering letter explaining exactly what is being sought at any time and a payment should be received for each partial/full discharge of each Requirement. The applicant appears to be willing to accede to this request which is welcomed and will ensure that there is funding in place for this work.
- 21.5 Some requirements may be discharged for individual phases whereas some may be partially discharged up to 5 times for each work No. and it will be for the applicant to consider how best they submit these requests. Obviously, each request will result in work for the Council which is why each should be funded individually. If the applicant wants to submit information for all work Nos. to save cost, that is at their discretion. As noted above, the Council has also suggested reducing the number of individual requirements for discharge there are in order to save time/ money for all parties.

#### Provision of a Bond for Decommissioning

- 21.6 As noted above, the Council has concerns about the requirement to decommission the Project at the current time based on the wording used in Requirement 27. It is unclear what mechanisms are in place to ensure that the applicant applies for the relevant permissions and whether there is any reason why these are likely to be withheld. A separate concern is raised in terms of the applicant going into administration.
- 21.7 The Council are firmly of the belief that a bond should be provided to cover the full cost of decommissioning, repayable upon completion of this element, to ensure that there is funding available to dismantle/ decommission the project in the future. There have been various instances (for example in mining) whereby restoration works have not been undertaken as a company has entered liquidation and the Council do not consider that the public purse should have to pick up the cost of any decommissioning works.
- 21.8 The full cost of restoration does not need to be put on deposit at the outset, but it should build up commensurate with the programme of activity.
- 21.9 The applicant states that there is no policy in National Policy Statements, PPW or at local level to support the provision of a bond, however, in terms of Welsh policy, there is no reference to Development Consent Orders in either PPW or the Unitary Development Plan (or LDP which started in 2008 at the same time as the Planning Act introduced this legislation). The Emerging LDP acknowledges that NSIPs are outside of the scope of the LDP and doesn't refer to provision for this.

- 21.10 It is clear in the Minerals section of Planning Policy Wales that financial guarantees are required as there have been legacy problems with this kind of infrastructure. It is also apparent that the requirement for these bonds was not foreseen at the outset and would not have been required when these were originally granted consent, but are in the current climate.
- 21.11 Given that the new consent regime introduced under the 2008 Planning Act is relatively new, it is highly unlikely that any issues on other projects will have been faced to date. To be truly sustainable, it is imperative that the Project is decommissioned at the end of its lifespan to avoid blight on the landscape and ensure the land can be used again productively in the future (as well as reducing long term reliance on the use of fossil fuels). This matter is both important and relevant to the determination of this Development Consent Order. The provision of a bond would meet the relevant tests of a condition or a Planning Obligation.
- 21.12 APL have commented that there is no policy requirement to provide a bond and similarly, there are enforcement powers in place should the decommissioning requirement be breached. In terms of the policy element, it is clear that the proposals are intended to be a short-medium term solution to aid a move towards a low carbon future. APL themselves consider that a decommissioning strategy is required on this basis (notwithstanding comments on a time limit on the permission). Whilst APL consider that the decommissioning strategy itself is enforceable, as noted above, this is subject to them obtaining the relevant permissions (at the current time).
- 21.13 The inference being that if they can't obtain the relevant permission's, they won't be able to decommission the project. In this event, they wouldn't have even breached the Requirement given the current wording. The Council would like to clarify that the application for the Mynydd y Gwair Windfarm (referenced in the applicants cumulative assessment – 16 wind turbines to a height of 127m Ref: 2012/1221) provides for a bond for decommissioning following similar concerns and the cost of decommissioning was considered to be significantly less than this scheme.
- 21.14 In any event, APL refer to Section 161(1)(b) of the 2008 Planning Act which refers to enforcement of requirements. At the current time, the criminal sanction is only a fine, and the Council understands that this fine is currently limited at £50,000 (subject to the SoS's discretion). APL have previously indicated that the cost of the demolition would be circa £2,000,000 (this cost assumes that the pipeline is capped and left in situ, the cable left in situ, and the Generating Equipment Site taken back to ground level and land re-seeded) and on this basis, the financial penalties for enforcement are not considered satisfactory to require the Project to be decommissioned in a timely manner. APL have suggested previously that the materials that would be salvaged are thought to cover the cost of demolition, however this cannot be verified and with no timescale for demolition, it is not clear what condition the parts would be in, let alone their value at the time. Due to the actual costs of demolition indicated above, direct action would not be an option either as the Council would not recoup this money

afterwards given the limited land value. The Council also has concerns about the situation if APL went into administration in terms of seeking to secure funding for the demolition over and above enforcement powers.

21.15 It is clear at the current time that public bodies are facing ongoing cuts and have been for a considerable period of time. These cuts are likely to continue at least in the short term putting even more pressure on Council budgets. Within this context, it is considered appropriate to require a fully refundable bond that would build up over its lifetime that would only be used in the event of the applicant not decommissioning the Project itself at the end of its lifespan. The bond would be repayable at the end of the projects lifetime if not required.

21.16 In light of the concerns above about decommissioning, the Council do not consider it to be unreasonable to require the applicant to burden any risk associated with the project rather than the public purse. This could be included within the S106 Agreement.

## **22.0 S106 Agreement**

22.1 At the current time, the draft S106 agreement relates to the following:

- Education scheme
- Local Employment Scheme
- Public Right of Way Improvements

22.2 Discussions have been held with representatives of Drax Power in terms of what the Education scheme could comprise. Early discussions have been positive in this regard and the Education Scheme has the potential to provide significant opportunities for a variety of pupils of all ages within Swansea. The development of a gas fired power station to support the transition to a low carbon environment has the potential to create a wide subject area of study for pupils from 3-18 in full time education and is to be welcomed and commended. Further discussions will be required to ensure that the potential benefits are captured and further detail is provided in the S106 agreement so that the benefits of the scheme are clear. This would have a positive impact in terms of local education.

22.3 Similarly, discussions have been held with the Council's Beyond Bricks and Mortar scheme to identify what local employment opportunities can be provided as part of the project. Whilst it is appreciated that certain elements are going to be specialist work, the Council would seek to maximise opportunities for local residents to gain employment/experience on site. At the present time, the Council has concerns in terms of the wording of the excluded contracts that would be outside the scope of this program, but further discussion is anticipated to resolve this issue. Providing an acceptable scheme is provided, this would have a positive impact on the local residents, albeit the impact may be limited given the short construction duration.

22.4 As noted in Section 15.23, the Project will have a moderate adverse effect during the construction phase and this is restricted to the three PRoW; albeit these effects will be temporary. The PROW officer has requested financial provision is put in place to improve the various

PROW to offset the temporary adverse impact on them. Discussions are still ongoing in this regard but the PROW officer has identified a range of measures that could be used to improve the situation to offset the short term impact.

- 22.5 Finally, the Council considers (as per the Relevant Representation) that on-going finance arrangements should be made for the monitoring and enforcement of the project going forward as well as the discharge of Requirements. This could be included within the S106 agreement to provide for an annual sum to be used to undertake monitoring during the construction period.