

Abergelli Power Project

Areas of Agreement between Abergelli Power
Limited with Natural Resources Wales

Statement of Common Ground

Abergelli Power Limited

30 November 2018

Quality information

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1. Introduction

1.1 Purpose of this Statement of Common Ground

1.1.1 This Statement of Common Ground (SoCG) has been prepared by Abergelli Power Limited (APL) and National Resources Wales (NRW)

1.1.2 For the purpose of this SoCG, APL and NRW are jointly referred to as "the Parties."

1.1.3 APL has applied to the Secretary of State under the Planning Act 2008 for a Development Consent Order (DCO) to construct, operate and maintain an Open Cycle Gas Turbine (OCGT) peaking power generating station, fuelled by natural gas of up to 299 Megawatts (MW).

1.1.4 The Power Generation Plant comprises the following elements:

- Generating Equipment including one Gas Turbine Generator with one exhaust gas flue stack and Balance of Plant (BOP) (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;
- 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 ecological enhancement within the Project Site Boundary; and
- Permanent parking and drainage to include: a site foul, oily water and surface water drainage system.

1.1.5 Preparation of this SoCG has been informed by discussions between the Parties. The purpose of the SoCG is to set out the areas of agreement and disagreement between the two Parties about the DCO Application (the Application).

1.1.6 It is intended that this SoCG will provide information to facilitate a smooth and efficient examination process.

1.2 The Application

1.2.1 The Application was submitted on 25th May 2018 and accepted by the Secretary of State on 21st June 2018. The Application was accompanied by an Environmental Statement (ES).

1.2.2 It is agreed that the ES forms the full and complete Environmental Statement for the purposes of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the EIA Regulations) and it is further agreed that the ES contains sufficient environmental information to enable the Secretary of State to make his determination.

1.2.3 It is understood that the Project falls under the EIA Regulations 2009 and not the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regulations 2017), in accordance with the transitional arrangements at regulation 37 of the EIA Regulations 2017.

1.3 The Examination

1.3.1 The examination (the Examination) of the Application is to be held pursuant to Chapter 4 of the Planning Act 2008 (the Act) and the Infrastructure Planning (Examination Procedure) Rules 2010 (the EP Rules).

1.3.2 Pursuant to s61 of the Act, the Secretary of State determined that the Applicant was to be handled by a single appointed person (the Examining Authority). The Secretary of State has appointed Martin Broderick to lead the Examination on his behalf. The procedure to be followed during the Examination into the Application is governed by the Act and the EP Rules.

1.3.3 A Preliminary Meeting, pursuant to Rule 7 of the EP Rules, was held on 10th October 2018 at the Village Hotel, Swansea. Following the Preliminary Meeting, the Examining Authority set the timetable and procedure for the Examination.

1.3.4 The deadline for submission of this SoCG is Deadline 2 on Friday 30th November 2018.

1.4 Structure of this SoCG

1.4.1 Overall, this SoCG is intended to give a clear position of the state and extent of agreement between the Parties at the date on which this SoCG is signed and submitted to the Secretary of State.

1.4.2 The following provides:

- Section 2: A brief background of the Project and Policy;
- Section 3: Matters of Specific Agreement; and
- Section 4: Any Unresolved Matters.

2. Project Background

2.1 Project Description

- 2.1.1 APL proposes to construct and operate an Open Cycle Gas Turbine (“OCGT”) peaking power generating station (the “Power Generation Plant”) of up to 299 Megawatts (“MW”) and new connections to the gas and electricity networks on land at Abergelli Farm, Swansea, Wales (the “Project”). The Application seeks consent for the construction, operation and maintenance of the Power Generation Plant (the “authorised development”). In addition, the Application seeks to authorise the acquisition of land and rights over land, and the extinguishment or suspension of, or interference with, interests in or rights over land in order to facilitate the construction and operation of the Project.
- 2.1.2 The authorised development comprises an onshore electricity generating station in Wales with a capacity of over 50MW and therefore it constitutes a nationally significant infrastructure project (“NSIP”) under section 15(2) of the Planning Act 2008. Accordingly, it requires development consent under section 31 of the Planning Act 2008.
- 2.1.3 The Gas Connection and Electrical Connection comprise development associated with the NSIP (“associated development”) which cannot be granted development consent pursuant to section 115 of the Planning Act 2008. Accordingly, APL will apply for planning permission under the Town and Country Planning Act 1990 (“TCPA 1990”) for consent to develop the Gas Connection and Electrical Connection.
- 2.1.4 The Power Generation Plant, Gas Connection, and Electrical Connection, together with all access requirements are referred to as the “Project”. The Generating Equipment, Laydown Area, Access Road, Ecological Mitigation Area and permanent parking and drainage are together known as the “Power Generation Plant”.
- 2.1.5 The land upon which the Project would be developed, or which would be required in order to facilitate the development of the Project, is referred to as the “Project Site”. The Project Site is approximately 35 ha in area.

2.2 Planning Policy

- 2.2.1 The DCO Application seeks consent for all works required for construction, use, operation and maintenance of the Power Generation Plant (including the Access Road and the Laydown Area, which are integral to the NSIP).
- 2.2.2 Under Section 31 of the PA 2008, a DCO is required for development that is or forms part of a NSIP and therefore it is necessary that an application for a DCO is submitted to the Secretary of State (SoS).
- 2.2.3 A DCO for a NSIP may be granted only if an application is made under Section 37 of the PA 2008 to the SoS. Section 37 of the PA 2008 (and associated legislation) also governs the content of an application for a DCO, including requirements for certain accompanying documents.

- 2.2.4 These requirements are specified, in particular, in the Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2014 (as amended) (the “APFP Regulations”). The APFP Regulations require that an application for a DCO, where applicable, must be accompanied by an ES and any associated scoping or screening opinions or directions.
- 2.2.5 A screening opinion was not sought for the Project, however a Scoping Opinion, dated 1st August 2014, (Document Reference 6.2, ES Appendix 4.2) was sought from the SoS. A notice of the intention to submit an application for Development Consent (Regulation 6 Notification), including an Environmental Statement, was submitted to PINS on 8th October 2014.

3. Matters of Specific Agreement

3.1.1 NRW has no objection to the principle of the Abergelli Power Project. APL and NRW have worked together to ensure the inclusion in the DCO application of a number of suitable environmental measures.

3.1.2 Specific agreements are outlined in Table 3-1 below.

Table 3-1: Matters of Specific Agreement

ID	Statement on which APL seeks agreement	APL	NRW
Environmental Statement			
A. General			
3.A.1	The ES compromises Document Reference 6.1, 6.2 and 6.3 of the Application. The Parties are AGREED on all matters in relation to the adequacy and conclusions of the ES and in particular are AGREED on those matters set out below.	Please see comments below	Please see our comments on each point below.
B. Regulation and Policy Background			
3.B.1	<p>The Policy Framework information is set out in Chapter 2 of the ES.</p> <p>The Planning Act 2008 (the "Act") provides that an application must be decided in accordance with any relevant national policy statement (NPS) unless certain exceptions set out in section 104 of the Act apply. NPSs EN-1, EN-2, EN-4 and EN-5 are relevant for the purposes of the Development.</p> <p>The parties AGREE that the range of UK, Wales and local policy designations and evidence as set out in Chapter 2 of the ES (Document Reference 6.1) has been appropriately stated.</p>	Agreed	
C. Approach to Environmental Impact Assessment			

ID	Statement on which APL seeks agreement	APL	NRW
3.C.1	<p>The methodology for the environmental impact assessment is set out in Chapter 4 of the ES, which describes the approach taken for all topics (except to the extent described in the methodology section in each topic chapter).</p> <p>Both Parties AGREE that the approach of identifying and assessing a realistic worst case scenario from within the Project parameters outlined in Chapter 3 is reasonable and appropriate and that the scenario assessed for each topic chapter cited below is appropriate.</p>		Agreed
D. Air Quality			
3.D.1	<p>The Air Quality assessment is contained in Chapter 6 of the ES.</p> <p><i>Methodology / Data Collection / Baseline</i></p> <p>Both Parties AGREE on the methodology used to undertake the Air Quality assessment as detailed in Chapter 6 of the ES, including the suitability and availability of weather data for the locality and approach/assumptions to modelling.</p>	Agree	We are in agreement with this from a planning perspective. Our comments are not in relation to the EPR Permit application.
3.D.2	<p><i>Assessment</i></p> <p>Both Parties AGREE that an adequate assessment of Air Quality effects have been undertaken.</p>	Agree	As above
3.D.3	<p><i>Mitigation</i></p> <p>NRW agree that any residual effects can be appropriately mitigated with the implementation of the CEMP.</p>	Agree	As above
3.D.4	<p><i>Cumulative</i></p> <p>Both Parties AGREE that all reasonably foreseeable relevant schemes (inter-cumulative effects) and also potential intra-cumulative effects have been included</p>	Agree	As above

ID	Statement on which APL seeks agreement	APL	NRW
	in the assessment of cumulative impacts within the ES, and that the cumulative effects of these have been adequately considered.		
E. Noise and Vibration			
3.E.1	<p>The Noise and Vibration assessment is contained in Chapter 7 of the ES.</p> <p><i>Methodology / Data Collection / Baseline</i></p> <p>Both Parties AGREE on the methodology used to undertake the Noise and Vibration assessment as detailed in Chapter 7 of the ES, including the use of background monitoring data and approach/assumptions to modelling.</p>	Noted	Comments on noise and vibration will be dealt with under the EPR permit.
3.E.2	<p><i>Assessment</i></p> <p>Both Parties AGREE that an adequate assessment of Noise and Vibration effects have been undertaken.</p>	Noted	Comments on noise and vibration will be dealt with under the EPR permit.
3.E.3	<p><i>Mitigation</i></p> <p>NRW agree that any residual effects can be appropriately mitigated with the implementation of the CEMP.</p>	Noted	Comments on noise and vibration will be dealt with under the EPR permit.
3.E.4	<p><i>Cumulative</i></p> <p>Both Parties AGREE that all reasonably foreseeable relevant schemes (inter-cumulative effects) and also potential intra-cumulative effects have been included in the assessment of cumulative impacts within the ES, and that the cumulative effects of these have been adequately considered.</p>	Noted	Comments on noise and vibration will be dealt with under the EPR permit.
F. Ecology			
3.F.1	Ecology information is contained within Chapter 8 of the ES.	Agreed	

ID	Statement on which APL seeks agreement	APL	NRW
	<p><i>Methodology / Data Collection / Baseline</i></p> <p>Information regarding the assessment methodology for the ecological impact assessment is contained in Section 8.4 of the ES and information on the baseline is contained in Section 8.5 of the ES (Document Reference 6.1) and Appendices 8.1 to 8.19 (Document Reference 6.2).</p> <p>Both Parties AGREE that the ecological receptors identified and discussed in Section 8.4 of the ES have been selected appropriately.</p>		
3.F.2	<p><i>Methodology / Data Collection / Baseline</i></p> <p>Both Parties AGREE that the appropriate scope of desk study research and field surveys discussed in Section 8.4 have been undertaken in respect of statutory designated species and habitats with the potential to be affected by the Project.</p>	Agree	We have now had the opportunity to review the Bat Activity and Roost Confirmation Survey and agree with this point.
3.F.3	<p><i>Methodology / Data Collection / Baseline</i></p> <p>Both Parties AGREE that the Ecological Impact Assessment within the ES has been produced in accordance with the Institute for Ecology and Environmental Management ("IEEM") "Guidelines for Ecological Impact Assessment" (2016).</p>	Agreed	
3.F.4	<p><i>Assessment (Habitats)</i></p> <p>Information regarding the effects of the Project on habitats is contained in Sections 8.7.24 to 8.7.61 of the ES for construction and Sections 8.7.127 to 8.7.141 for operation.</p> <p>Both Parties AGREE that the effects have been assessed appropriately.</p>	<p>Agree</p> <p>Updates will be made in a consistent manner between the DCO deadlines and the</p>	<p>Agree, pending further information on the Landscape and Ecology Mitigation Strategy (LEMS) which will need to be amended to consider our</p>

ID	Statement on which APL seeks agreement	APL	NRW
		<p>responses to the TCPA applications. The Applicant anticipates that the LEMS will be finalised and agreed during the examination phase</p>	<p>comments on habitat management proposals/pre-construction checks for otters and water voles on site. The LEMS also needs to address our comments regarding further detail on how the watercourses will be crossed, as part of the access road proposals.</p>
<p>3.F.5</p>	<p><i>Assessment (Protected Species)</i> Information regarding the effects of the Project on protected species is contained in Sections 8.7.62 to 8.7.126 of the ES for construction and 8.7.142 to 8.7.183 for operation. Both Parties AGREE that the effects have been assessed appropriately</p>	<p>As above</p>	<p>Comments as above in relation to LEMS amendments.</p>
<p>3.F.6</p>	<p><i>Mitigation</i> Information regarding embedded ecological mitigation measures is discussed within Section 3.11.35 of the ES, and additional mitigation as outlined in Section 8.8.4.</p>	<p>Agree</p>	<p>Agree. Comments as above in relation to LEMS amendments.</p>

ID	Statement on which APL seeks agreement	APL	NRW
	<p>Both Parties AGREE that significant effects on the species, habitats and supporting features outlined in Table 8.14 and 8.15 in Chapter 8: Ecology are unlikely to occur due to the implementation of:</p> <ul style="list-style-type: none"> • Landscape and Ecology Mitigation Strategy (ES Appendix 3.4); and • Lighting Strategy (ES Appendix 3.5). <p>Specific mitigation for species/habitats are outlined below:</p>		
3.F.7	<p><i>Mitigation – Reptiles</i> Both parties AGREE to the mitigation methods provided in Appendix A of the LEMS.</p>	Noted	This does not fall under NRW's remit. We refer you to the Local Planning Authority (LPA) for comments on this matter.
3.F.8	<p><i>Mitigation - Breeding Birds</i> Both parties AGREE to the mitigation methods provided in Appendix B of the LEMS.</p>	Agreed	
3.F.9	<p><i>Mitigation – Bats</i> Both parties AGREE to the mitigation methods provided in Appendix C of the LEMS.</p>	Agreed	
3.F.10	<p><i>Mitigation - Water Vole and Otter</i> Both parties AGREE to the mitigation methods provided in Appendix D of the LEMS.</p>	Agree	Pending further information regarding habitat management and watercourse crossing

ID	Statement on which APL seeks agreement	APL	NRW
			<p>proposals as above.</p> <p>Appendix D makes reference to Figure 1. Can you clarify if this should be Figure 1.1?</p>
3.F.11	<p><i>Mitigation</i> – [REDACTED]</p> <p>Both parties AGREE to the mitigation methods provided in Appendix E of the LEMS.</p>	Noted	<p>Comments on mitigation does not fall under NRW’s remit. We refer you to the Local Planning Authority (LPA) for comments on this matter. NRW licensing department are however responsible for issuing any [REDACTED] licences required.</p>
3.F.12	<p><i>Mitigation</i> - Invasive Species</p> <p>Both parties AGREE to the mitigation methods provided in Appendix F of the LEMS.</p>	Noted	<p>This does not fall under NRW’s remit. We refer you to the Local Planning Authority</p>

ID	Statement on which APL seeks agreement	APL	NRW
			(LPA) for comments on this matter.
3.F.13	<p><i>Mitigation - Hedgerows</i></p> <p>Both parties AGREE to the mitigation methods provided in Appendix G of the LEMS.</p>	Agreed	Agreed
3.F.14	<p><i>Mitigation - Habitats</i></p> <p>Both Parties AGREE that the mitigation measures are appropriate and should ensure the protection of habitats during and post-construction as set out in Table 8.14 and 8.15 of ES Chapter 8: Ecology and the Mitigation Register (Contained within the CEMP, Document Reference 6.2 ES Appendix 3.1).</p>	Agree	Agree in principle but refer you to our habitat management and watercourse crossing comments above.
3.F.15	<p><i>Cumulative Effects</i></p> <p>Information regarding the ecological cumulative impact assessment is contained in Chapter 8: Ecology Section 8.11 of the ES, and the No Significant Effects Report (Document Reference 5.5).</p> <p>Both Parties AGREE that all reasonably foreseeable relevant schemes (inter-cumulative effects) and also potential intra-cumulative effects have been included in the assessment of cumulative impacts within these documents, and that the cumulative effects of these have been adequately considered.</p>	Agreed	Agreed
G. Water Quality and Resources			
3.G.1	<p>The Water Quality and Resources assessment is contained in Chapter 9 of the ES.</p> <p><i>Methodology / Data Collection / Baseline</i></p>	Agreed	Agreed

ID	Statement on which APL seeks agreement	APL	NRW
	<p>Information regarding the baseline is contained in Section 9.5 and the assessment methodology for the water quality, water resources and flood risk impact assessment is contained in Section 9.4 of the ES. This is supported by a Flood Consequence Assessment (FCA) and Water Framework Directive Screening Assessment (WFD) provided within ES Appendices 9.1 to 9.2 (Document Reference 6.2).</p> <p>Both Parties AGREE that the assessment methodology for the Water Quality and Resources assessment is appropriate.</p>		
3.G.2.	<p><i>Assessment</i></p> <p>Both Parties AGREE that an adequate assessment of Water Quality and Resources has been undertaken.</p> <p>Both Parties AGREE with the outcome provided in the FCA and WFD (ES Appendices 9.1 and 9.2).</p>		Agreed
3.G.3	<p><i>Mitigation</i></p> <p>Both Parties AGREE that the implementation of the Drainage Strategy and Surface Water Management Plan as secured by Requirement 7 is an appropriate way of securing the necessary mitigation.</p>	Agree	Agree for Surface Water Management Plan (Requirement 7), however should this also refer to Requirement 6 (Drainage Strategy).
3.F.4	<p><i>Cumulative Effects</i></p> <p>Both Parties AGREE that all reasonably foreseeable relevant schemes (inter-cumulative effects) and also potential intra-cumulative effects have been included</p>		Agreed

ID	Statement on which APL seeks agreement	APL	NRW
	in the assessment of cumulative impacts within the ES, and that the cumulative effects of these have been adequately considered.		
H. Geology, Ground Conditions, and Hydrogeology			
3.H.1	<p>The Geology, Ground Conditions, and Hydrogeology assessment is contained in Chapter 10 of the ES.</p> <p><i>Methodology / Data Collection / Baseline</i></p> <p>The assessment methodology for the Geology, Ground Conditions, and Hydrogeology assessment is contained in Section 10.4 and information on the baseline is contained in Section 10.5 of the ES.</p> <p>Both Parties AGREE that the assessment methodology for the Geology, Ground Conditions, and Hydrogeology assessment is appropriate.</p>		Agreed
3.H.2	<p><i>Assessment</i></p> <p>Both Parties AGREE that an adequate assessment of Geology, Ground Conditions, and Hydrogeology has been undertaken.</p>		Agreed
3.H.3	<p><i>Mitigation</i></p> <p>Both Parties AGREE that the implementation of the Site Investigation to ascertain the presence of historical contamination and geotechnical conditions, as secured by Requirement 14, is an appropriate way of securing the necessary mitigation.</p>		Agreed
3.H.4	<p><i>Cumulative Effects</i></p> <p>Both Parties AGREE that all reasonably foreseeable relevant schemes (inter-cumulative effects) and also potential intra-cumulative effects have been included in the assessment of cumulative impacts within these documents, and that the cumulative effects of these have been adequately considered.</p>		Agreed
I. Landscape and Visual Effects			

ID	Statement on which APL seeks agreement	APL	NRW
3.I.1	<p>The Landscape and Visual Assessment is contained in Chapter 11 of the ES supported by ES Appendix 11 (Document Reference 6.1).</p> <p><i>Methodology / Data Collection / Baseline</i></p> <p>Information regarding the assessment methodology for the Landscape and Visual impact assessment is contained in Section 11.4 of the ES and information on the baseline is contained in Section 11.5 of the ES.</p> <p>Both Parties AGREE that the assessment methodology for the landscape and visual assessment is appropriate.</p>	Agreed	
3.I.2	<p><i>Assessment</i></p> <p>Both Parties AGREE that an adequate assessment of Landscape and Visual effects has been undertaken.</p>	Agreed	
3.I.3	<p><i>Mitigation</i></p> <p>Both Parties AGREE that the outline Landscape and Ecology Mitigation Strategy (Document Reference 6.2, ES Appendix 3.4) is an appropriate way of agreeing the site landscape proposals including new planting to help screen the Project and reinstatement of existing vegetation. This outline Strategy has been submitted as part of the DCO Application, and the final Strategy will need to be approved by CCS before implementation.</p>	Agree	Agree. We would like to input into the final strategy prior to agreement.
3.I.4	<p><i>Cumulative Effects</i></p> <p>Both Parties AGREE that all reasonably foreseeable relevant schemes (inter-cumulative effects) and also potential intra-cumulative effects have been included in the assessment of cumulative impacts within the ES, and that the cumulative effects of these have been adequately considered.</p>	Agreed	
J. Construction Environmental Management Plan			

ID	Statement on which APL seeks agreement	APL	NRW
3.N.1	As outlined in Document Reference 6.2, ES Appendix 3.1 Construction Environmental Management Plan (CEMP), both parties AGREE that APL has sufficiently outlined the mitigation measures to be undertaken during the construction phase to minimise and manage any potential impact on the surrounding environment from construction activities. These include dust, waste, water, emergency response, pollution and noise management. Both Parties AGREE that this approach is appropriate for addressing environmental management during construction. The final CEMP will be agreed in consultation with CCS and substantially in accordance with the outline CEMP, as secured via DCO Requirement 17.		Agreed
K. Conclusions			
3.O.1	Both Parties AGREE that the Requirements detailed in Schedule 2 of the Draft DCO are necessary to deliver the agreed mitigation in respect of landscape, ecology, land potentially affected by contamination, water resources, flood risk, noise, air quality and environmental management.		Agreed
The Conclusions of the NSER/HRA			
L. Introductions			
3.P.1	The No Significant Effects Report (NSER) is Document Reference 5.5 of the Application. The Parties are AGREED on those matters set out below:		As below
M. HRA Screening Assessment			
3.Q.1	The HRA screening assessment is contained within Section 1.2 and 1.3 of the NSER report. Information regarding in combination impact is provided in Section 1.5 of the NSER report. Both Parties AGREE that adequate and sufficient consideration for potential effects on following statutory designated sites have been undertaken.		Agreed

ID	Statement on which APL seeks agreement	APL	NRW
3.Q.2	Both Parties AGREE that the Project would not have a likely significant effect alone or in-combination.		Agreed
N. Conclusions			
3.R.1	It is agreed that the results of the ecological and water resources assessment within the ES and No Significant Effects Report indicate that the Project will not give rise to adverse effects on the integrity of any European site alone or in combination with other schemes.		Agreed
Environmental Permit			
	The Parties are AGREED on those matters set out below:		Our comments are made in relation to the planning application. The permit is currently under determination, and we would not comment on the EPR permit application under this SoCG.

4. Matters Unresolved

Our outstanding comments stated above are provided in detail under our previous response to:

- NRW Relevant Representation to the Planning Inspectorate (dated 2 August 2018)
- NRW Written Representation to the Planning Inspectorate (dated 9 November 2018)

5. Confirmation of Agreement

Signed for and on behalf of Abergelli Power Limited

Signed 

Name: *Kirstin Gardner*

Position: *Abergelli Power Project Manager*

Date: *30th November 2018*

Signed for and on Behalf of Natural Resources Wales

Signed: 

Name: Hannah Roberts

Position: Development Planning Advisor

Date: 30 November 2018

