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## Abergelli Power Project

### Planning Statement Addendum

On behalf of **Abergelli Power Ltd**



Project Ref: 40336/001i2 | Rev: B | Date: January 2019

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This report has been prepared by Peter Brett Associates LLP ('PBA') on behalf of its client to whom this report is addressed ('Client') in connection with the project described in this report and takes into account the Client's particular instructions and requirements. This report was prepared in accordance with the professional services appointment under which PBA was appointed by its Client. This report is not intended for and should not be relied on by any third party (i.e. parties other than the Client). PBA accepts no duty or responsibility (including in negligence) to any party other than the Client and disclaims all liability of any nature whatsoever to any such party in respect of this report.

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# 1 Executive Summary

## 1.1 Introduction

- 1.1.1 This Planning Statement Addendum has been prepared by Peter Brett Associates (PBA) to support an application ('the Application') under section 31 of the Planning Act 2008 for a Development Consent Order (DCO) for powers to construct, operate and maintain the Power Generation Plant forming part of the proposed Abergelli Power Project ('the Project').
- 1.1.2 The Application for the Project was submitted to the Planning Inspectorate on 25<sup>th</sup> May 2018. This Application included all required documents as prescribed by the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, including a Planning Statement submitted under Regulation 5(2)(q). The purpose of the Planning Statement was to explain how the Project complies with relevant National Policy Statements (NPS) and other relevant legislative and policy considerations. This Planning Statement Addendum identifies relevant changes to applicable policy considerations since May 2018 and explains how the Project complies with these new or revised policy considerations.
- 1.1.3 Following submission, the Application was accepted for Examination by the Planning Inspectorate on 21<sup>st</sup> June 2018 and an independent Examination of the Application commenced on 10<sup>th</sup> October 2018. In accordance with the Planning Act 2008, the Abergelli DCO Examination is expected to conclude in Spring 2019.

## 1.2 Purpose

- 1.2.1 The purpose of this Planning Statement Addendum is to identify any relevant changes in applicable policy considerations since the submission of the Application in May 2018 and to provide an updated assessment of the Project against any such new or revised considerations. This Planning Statement Addendum therefore only addresses the implications of and provides an assessment of the compliance of the Project with:
- **Planning Policy Wales (PPW) – 10<sup>th</sup> Edition**, published by the Welsh Assembly Government on 4<sup>th</sup> December 2018. This now forms the national planning policy applicable in Wales and the previous PPW – 9<sup>th</sup> Edition (November 2016) is now revoked. In addition, the previous Draft PPW – 10<sup>th</sup> Edition (February 2018) no longer has status;
  - **The City and County of Swansea (CCS) Local Development Plan (LDP)**, for which a suite of proposed Matters Arising Changes (MACs) and Inspectors Matters Arising Changes (IMACs) to the LDP Deposit Document (2017) were published in November 2018 and subject to consultation until December 2018. On 17<sup>th</sup> December 2018, CCS published a letter to the Examination Inspector setting out proposed additional changes which CCS deem necessary to ensure the conformity of the emerging LDP with PPW – 10<sup>th</sup> Edition.
- 1.2.2 For the reasons detailed in **Section 3**, the Applicant considers that PPW – 10<sup>th</sup> Edition and the emerging CCS LDP should be treated as relevant and important policy considerations by the Examining Authority and the Secretary of State.
- 1.2.3 This Planning Statement Addendum must be read in conjunction with the previously submitted Planning Statement, except in respect of the information and assessments previously submitted regarding PPW and the emerging CCS LDP. Where the content of relevant policy considerations (e.g. National Policy Statements) are unchanged since May 2018, the assessment provided within the submitted Planning Statement remains valid and is not repeated in this document.

### 1.3 Overview of the Site, Project and Application

- 1.3.1 The characteristics of the site, the Project and the Application remain unchanged from those detailed within the Planning Statement. In summary, the Project comprises the proposed construction, operation and maintenance of an Open Cycle Gas Turbine (OCGT) peaking power generating station and new connections to the gas and electricity networks on land adjacent to the Felindre Gas Compressor Station at Abergelli Farm, Felindre, Swansea, SA5 7NN ('the site').
- 1.3.2 The Project is classified as a Nationally Significant Infrastructure Project (NSIP) under Section 15 of the Planning Act 2008 as the proposed Power Generation Plant would exceed 50MWe. The Application which this Planning Statement Addendum supports relates only to the authorised development, the compulsory purchase of land required to facilitate development of the Project and the granting of related powers necessary to construct, operate and decommission the Project. On 6<sup>th</sup> December 2018, CCS as the relevant Local Planning Authority granted planning permission (2018/2020/FUL and 2018/2021/FUL) under the Town and Country Planning Act 1990 for the Gas and Electrical Connections forming part of the Project.
- 1.3.3 The terms of the Application as submitted to the Planning Inspectorate on 25<sup>th</sup> May 2018 remain unchanged, except where information has already been provided through the Examination process to clarify certain aspects of the Application (e.g. the wording of specific DCO Requirements stated in Schedule 2 of the Draft DCO). For the avoidance of doubt, this Planning Statement Addendum has been prepared solely in response to relevant policy changes at the Welsh national and local levels; no design changes are proposed at this stage which might necessitate further assessment of likely significant environmental effects or the compliance of the Project with other relevant legislative and policy considerations.

### 1.4 Need for and Benefits of the Project

- 1.4.1 As detailed previously in Section 4 of the Planning Statement, the Project responds to the established need for new energy generation, including gas fired generating stations and gas fired peaking plants, to contribute to the UK's energy mix and ensure energy system resilience. The needs case and benefits of the Project remain unchanged since the submission of the Application in May 2018.

### 1.5 Updated Planning Assessment

- 1.5.1 The Application for the Project must be determined in accordance with Section 104 of the Planning Act 2008, which affords primacy to relevant National Policy Statements (NPS) in decision making. There have been no changes to applicable NPS since the submission of the Application. The assessment of the compliance of the Project with applicable NPS, as set out in Section 6.2 of the Planning Statement, therefore remains valid.
- 1.5.2 The planning assessment provided in **Section 4** demonstrates that, with the exceptions of PPW – 10<sup>th</sup> Edition at paragraph 6.3.4 and Policy ER 5 within the emerging CCS LDP (regarding the avoidance of adverse or significant adverse impacts on landscape character), the Project accords with all other relevant provisions and policies within PPW – 10<sup>th</sup> Edition and the emerging CCS LDP (as modified) when each document is read as a whole. Furthermore, only very limited weight should be afforded to the non-accordance of the Project with PPW – 10<sup>th</sup> Edition at paragraph 6.3.4 and Policy ER 5 within the emerging CCS LDP, as these requirements are inconsistent with NPS EN-1.
- 1.5.3 In summary, read in conjunction with the conclusions of the Planning Statement, this Planning Statement Addendum demonstrates that the Project continues to accord with all relevant policy considerations which should be afforded considerable weight in decision making. As such, the Application for a DCO for the Project should be granted by the Secretary of State.

## 2 Introduction

### 2.1 Introduction

- 2.1.1 This Planning Statement Addendum has been prepared by Peter Brett Associates (PBA) on behalf of Abergelli Power Ltd (APL) ('the Applicant') to support an application ('the Application') under section 31 of the Planning Act 2008 for a Development Consent Order (DCO) for powers to construct, operate and maintain the Power Generation Plant forming part of the proposed Abergelli Power Project ('the Project').
- 2.1.2 The DCO Application for the Project was formally submitted to the Planning Inspectorate on 28<sup>th</sup> May 2018. Following submission, the Application was accepted for Examination by the Planning Inspectorate on 21<sup>st</sup> June 2018 and an independent Examination of the Application commenced on 10<sup>th</sup> October 2018.

### 2.2 Purpose of the Report

- 2.2.1 The Application as submitted to the Planning Inspectorate on 28<sup>th</sup> May 2018 included all required documents prescribed by the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, including a Planning Statement ('the Planning Statement') submitted under Regulation 5(2)(q). The purpose of the Planning Statement was to explain how the Project complies with relevant National Policy Statements (NPS) and other relevant legislative and policy considerations.
- 2.2.2 Since the submission of the Application there have been a limited number of changes to relevant Welsh national and local policy considerations. The Applicant considers that these policy changes are relevant to the Examination and should be taken account of in the preparation of the DCO Examination Report and Recommendations by the Examining Authority and the subsequent determination of the DCO application by the Secretary of State (SoS).
- 2.2.3 The purpose of this Planning Statement Addendum is therefore to identify any relevant changes in applicable policy considerations since the submission of the Application in May 2018 and to provide an updated assessment of the Project against any such new or revised considerations. This Planning Statement Addendum must be read in conjunction with the Planning Statement previously submitted. Where relevant policy considerations (e.g. National Policy Statements) remain unchanged from May 2018, the assessment within the submitted Planning Statement remains valid and is not repeated in this document.

### 2.3 Overview of the Site and the Project

- 2.3.1 The characteristics of the site and the Project remain unchanged since the submission of the DCO Application in May 2018. As detailed within Section 3 of the Planning Statement, the Project comprises the proposed construction, operation and maintenance of an Open Cycle Gas Turbine (OCGT) peaking power generating station and new connections to the gas and electricity networks ('the Gas Connection' and 'the Electrical Connection' respectively) on land adjacent to the Felindre Gas Compressor Station at Abergelli Farm, Felindre, Swansea, SA5 7NN ('the site').

### 2.4 Overview of the DCO Application

- 2.4.1 The Project is classified as a Nationally Significant Infrastructure Project (NSIP) under Section 15 of the Planning Act 2008 as the proposed Power Generation Plant would exceed 50MWe. The Application which this Planning Statement Addendum supports relates only to: the authorised development, the compulsory purchase of land required to facilitate development of the Project, and the granting of related powers as necessary to construct, operate and decommission the Project in accordance with the Draft DCO. On 6<sup>th</sup> December 2018, CCS as

the relevant Local Planning Authority granted planning permission (2018/2020/FUL and 2018/2021/FUL) under the Town and Country Planning Act 1990 for the Gas and Electrical Connections elements of the Project.

- 2.4.2 The terms of the Application as submitted to the Planning Inspectorate on 25<sup>th</sup> May 2018 remain unchanged, except where information has already been provided through the Examination process to clarify certain aspects of the Application (e.g. the wording of some DCO Requirements in Schedule 2 of the Draft DCO has been clarified). For the avoidance of doubt, this Planning Statement Addendum has been prepared solely in response to relevant policy changes at Welsh national and local levels; no design changes are proposed at this stage which might necessitate further assessment of likely environmental effects or the compliance of the Project with relevant legislative and policy considerations.

## 2.5 Overview of Relevant Changes to Policy Considerations

- 2.5.1 Section 5 of the Planning Statement provided a factual overview of the planning policy framework applicable to the determination of the Application for the authorised development. In accordance with Section 104 of the Planning Act 2008, this focused on identifying relevant provisions within applicable National Policy Statements (NPS). The planning policy framework set out in Section 5 of the Planning Statement also identified the relevance of other policy considerations including Welsh national and local planning policies.
- 2.5.2 There have been no changes to applicable NPS since the submission of the Application and the assessment of the compliance of the Project with such NPS, as set out in Section 6.2 of the Planning Statement, remains valid. The only relevant changes to applicable policy considerations are:
- **Planning Policy Wales (PPW) – 10<sup>th</sup> Edition**, published by the Welsh Assembly Government on 4<sup>th</sup> December 2018. This now forms the national planning policy applicable in Wales and the previous PPW – 9<sup>th</sup> Edition (November 2016) is now revoked. In addition, the previous Draft PPW – 10<sup>th</sup> Edition (February 2018) no longer has status; and,
  - **The City and County of Swansea (CCS) Local Development Plan (LDP)**, for which a suite of proposed Matters Arising Changes (MACs) and Inspectors Matters Arising Changes (IMACs) to the LDP Deposit Document (2017) were published in November 2018 and subject to consultation until December 2018. On 17<sup>th</sup> December 2018, CCS published a letter to the Examination Inspector setting out proposed additional changes which CCS deem necessary to ensure the conformity of the emerging LDP with PPW – 10<sup>th</sup> Edition.
- 2.5.3 A factual overview of these relevant policy changes is provided in **Section 3**, with an assessment of the accordance of the Project with relevant provisions in PPW – 10<sup>th</sup> Edition and relevant policies within the emerging CCS LDP (as modified) presented in **Section 4**.



## 3 Changes in Relevant Policy Considerations

### 3.1 Introduction

3.1.1 This section provides a factual overview of relevant changes to relevant policy considerations which have occurred since the submission of the Application in May 2018.

### 3.2 Overview of Relevant Policy Changes

3.2.1 There have been no changes to applicable NPS since the submission of the Application and the assessment of the compliance of the Project with such NPS, as set out in Section 6.2 of the Planning Statement, therefore remains valid. The only relevant changes to applicable policy considerations are:

- **Planning Policy Wales (PPW) – 10<sup>th</sup> Edition**, published by the Welsh Assembly Government on 4<sup>th</sup> December 2018. This now forms the national planning policy applicable in Wales and the previous PPW – 9<sup>th</sup> Edition (November 2016) is now revoked. In addition, the previous Draft PPW – 10<sup>th</sup> Edition (February 2018) no longer has status; and,
- **The City and County of Swansea (CCS) Local Development Plan (LDP)**, for which a suite of proposed Matters Arising Changes (MACs) and Inspectors Matters Arising Changes (IMACs) to the LDP Deposit Document (2017) were published in November 2018 and subject to consultation until December 2018. On 17<sup>th</sup> December 2018, CCS published a letter to the Examination Inspector setting out proposed additional changes which CCS deem necessary to ensure the conformity of the emerging LDP with PPW – 10<sup>th</sup> Edition.

3.2.2 The Applicant considers that these policy changes above are relevant to the Examination and should be taken account of in the preparation of the DCO Examination Report and Recommendations by the Examining Authority and the subsequent determination of the DCO application by the Secretary of State (SoS). A factual overview of these policy changes is provided below to identify new or revised substantive policy requirements within PPW – 10<sup>th</sup> Edition and the emerging CCS LDP which are now applicable to the Project and to consider what weight should now be attached to these policy considerations by the Examining Authority and the SoS. An assessment of the compliance of the Project with Planning Policy Wales (PPW) – 10<sup>th</sup> Edition and the emerging CCS LDP is provided separately in **Section 4**.

### 3.3 Planning Policy Wales – 10<sup>th</sup> Edition

3.3.1 Planning Policy Wales (PPW) – 10<sup>th</sup> Edition was published in its final form by the Welsh Assembly Government on 5<sup>th</sup> December 2018. This now forms the national planning policy applicable in Wales and the previous PPW – 9<sup>th</sup> Edition (November 2016) is now revoked. In addition, the previous Draft PPW – 10<sup>th</sup> Edition (February 2018) no longer has status.

#### Relevance

3.3.2 An assessment of the accordancy of the Project with relevant and applicable provisions within PPW – 10<sup>th</sup> Edition is provided in **Section 4.3**. Prior to considering this assessment, it is first important to note that PPW – 10<sup>th</sup> Edition has introduced only a limited number of relevant substantive new or revised national policy requirements compared with the previous PPW – 9<sup>th</sup> Edition (November 2016) and the Draft PPW – 10<sup>th</sup> Edition (February 2018).

#### Substantive Changes

3.3.3 Relevant substantive policy changes within PPW – 10<sup>th</sup> Edition compared with previous versions of the document are:

- PPW – 10<sup>th</sup> Edition is structured around the four cross-cutting chapters<sup>1</sup> designed to align Welsh national planning policy with the Well-being of Future Generations (Wales) Act 2015. Combined with the statement at paragraph 1.9 that PPW – 10<sup>th</sup> Edition should be read as a whole, and the inclusion of provisions regarding the same issue (e.g. health and air quality) in multiple sections, it is difficult to directly compare relevant provisions in PPW – 10<sup>th</sup> Edition with previous versions of the document on a topic by topic basis. The assessment provided in **Section 4.3** is therefore framed around the four cross-cutting thematic chapters within PPW-10<sup>th</sup> Edition but within this, relevant provisions regarding specific topics (e.g. health, environmental and amenity protection) are considered together to minimise duplication;
- PPW - 10<sup>th</sup> Edition places greater emphasis on embedding placemaking in all aspects of planning to deliver sustainable development and sets out a stronger focus on social, economic, environmental and cultural wellbeing in line with the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016. Paragraph 2.8 states that “*planning policies, proposals and decisions must seek to promote sustainable development and support the well-being of people and communities across Wales*”. Similarly, paragraph 2.17 requires development proposals to “*seek to deliver development that address the national sustainable placemaking outcomes*”;
- Pages 24 – 25 of PPW – 10<sup>th</sup> Edition (under paragraph 2.22) make clear that social, economic, environmental and cultural wellbeing considerations and benefits from development must be taken account of in decision making and weighed up to achieve a balanced outcome. The following economic and environmental considerations, which are defined on page 25 and thereafter embedded within subject specific policy provisions, are all directly or indirectly relevant to the need for and predicted benefits and impacts of the Project:

*“Economic Considerations*

- *the numbers and types of long term jobs expected to be created or retained;*
- *whether, and how far, the development will help redress economic disadvantage or support regeneration priorities, for example by enhancing local employment opportunities or upgrading the environment;*
- *the contribution the development would make to achieving wider strategies, for example the growth or regeneration of certain areas;*
- *the contribution this economic activity will have to wider policy goals; and*
- *how the proposal would support the achievement of a more prosperous, low carbon, innovative and resource efficient Wales”.*

*Environmental Considerations*

- *will important features of the natural and built environment be protected and enhanced;*
- *are the environmental impacts of development on health and amenity limited to acceptable levels and the resilience of ecosystems improved;*
- *is environmental protection for people and natural resources, property and infrastructure maximised and environmental risks prevented or appropriately managed;*

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<sup>1</sup> Aside from Chapter 1 – Introduction and Chapter 2 – Placemaking, the four thematic chapters of PPW – 10<sup>th</sup> Edition are: Chapter 3 - Strategic and Spatial Choices, Chapter 4 – Active and Social Places, Chapter 5 – Productive and Enterprising Places and Chapter 6 – Distinctive and Natural Places.

- *will high standards of restoration, remediation, decommissioning and beneficial after uses be achieved;*
- *will the depletion of non-renewable resources be minimised, waste prevented and the efficient and most appropriate use of materials made and re-use and recycling promoted;*
- *will the causes and impacts of climate change be fully taken into account through location, design, build, operation, decommissioning and restoration; and*
- *does it support decarbonisation and the transition to a low carbon economy”.*
- PPW- 10<sup>th</sup> Edition expands upon previous transport guidance and introduces new active travel provisions which require development proposals to be “*integrated with active travel networks and contribute to their expansion and improvement*” (paragraph 4.1.32);
- Section 5.7 of PPW – 10<sup>th</sup> Edition outlines Welsh renewable energy targets not previously referenced in PPW – 9<sup>th</sup> Edition and sets out a new energy hierarchy that prioritises energy reduction, re-use and generation from renewable and low carbon sources. Paragraph 5.7.34 sets out a policy expectation that energy related development proposals should demonstrate their accordance with this hierarchy and in doing so should contribute to climate change mitigation;
- Building upon the energy hierarchy, paragraphs 5.9.16 – 5.9.17 sets out revised policy requirements for the consideration of renewable and low carbon energy development proposals, with greater emphasis now afforded to climate change mitigation. Paragraph 5.9.24 sets out an expectation that energy-related developments should be decommissioned and sites remediated as soon as their use ceases;
- In line with the Welsh and UK Government’s policy of ending coal powered energy generation, paragraph 5.10.17 states that planning authorities are no longer required to safeguard primary coal resources;
- Section 6.4 of PPW – 10<sup>th</sup> Edition provides more detailed guidance to support the protection and enhancement of biodiversity, geodiversity and heritage interests. In particular, paragraphs 6.4.15 – 6.4.26 set out more detailed policy requirements regarding the treatment of environmental designations in planning decisions, including a new requirement for Ancient Woodland to be “*afforded protection from development which would result in their loss or deterioration unless there are significant and clearly defined public benefits*” (paragraph 6.4.26).
- Section 6.6.17 of PPW – 10<sup>th</sup> Edition sets out an expectation that sustainable urban drainage systems (SUDS) will be incorporated into all development proposals where relevant, although the statutory requirement under Schedule 3 of the Flood and Water Management Act 2010 for authorised SUDS to now be included in construction works of 100m<sup>2</sup> or greater is not applicable in this case as the Application was submitted prior to 7<sup>th</sup> January 2019.

### **Non-Substantive Changes**

- 3.3.4 Other relevant changes between PPW - 10<sup>th</sup> Edition and previous versions of the document, but which do not themselves alter substantive policy requirements, are:
- Provisions regarding sustainable development previously set out in Chapter 4 of PPW – 9<sup>th</sup> Edition are now provided on pages 9-10 and Chapter 2 - Placemaking of PPW – 10<sup>th</sup> Edition;

- Provisions regarding economic development and the consideration of economic benefits in decision making previously set out in Chapter 7 of PPW – 9<sup>th</sup> Edition are now largely focused in Chapter 2 - Placemaking of PPW – 10<sup>th</sup> Edition (under paragraph 2.22 as listed above). Planning for economic growth is also addressed within Chapter 4 – Productive and Enterprising Places of PPW – 10<sup>th</sup> Edition;
- Provisions regarding the protection and importance of the Welsh Language are set out in paragraphs 3.25 – 3.29 of PPW – 10<sup>th</sup> Edition. This section of the document stresses the importance of the Welsh Language for all aspects of life and relates to the greater emphasis now afforded to social, economic, cultural and environmental wellbeing within PPW – 10<sup>th</sup> Edition;
- Provisions regarding transport planning previously set out in Chapter 8 of PPW – 10<sup>th</sup> Edition are now focused in Chapter 4 - Active and Social Places;
- Provisions regarding energy infrastructure development previously set out in Chapter 12 of PPW – 9<sup>th</sup> Edition are now largely focused in Chapter 4 – Productive and Enterprising Places, in particular Section 5.7 – Energy, within PPW – 10<sup>th</sup> Edition;
- Provisions regarding minerals extraction previously set out in Chapter 14 - Minerals of PPW – 9<sup>th</sup> Edition are now set out within Chapter 5, Section 5.14 – Minerals within PPW – 10<sup>th</sup> Edition;
- Provisions regarding the conservation of heritage, biodiversity and geodiversity previously set out in Chapter 5 of PPW – 9<sup>th</sup> Edition are now largely focused in Chapter 6 – Distinctive and Natural Places of PPW – 10<sup>th</sup> Edition;
- Provisions regarding flood risk and the water environment previously set out in Chapter 13 - Minimising and Managing Environmental Risks and Pollution of PPW – 9<sup>th</sup> Edition are now set out in Section 6.6 – Water and Flood Risk within PPW – 10<sup>th</sup> Edition;
- Provisions regarding air quality, noise and amenity previously set out in Chapter 13 - Minimising and Managing Environmental Risks and Pollution of PPW – 9<sup>th</sup> Edition are now largely set out in Section 6.7 – Air Quality and Soundscape within PPW – 10<sup>th</sup> Edition. However, related provisions regarding the safeguarding of health, environmental and amenity protection are also detailed in paragraphs 3.21 – 3.23.

## Weight

- 3.3.5 Section 5.3 of the Planning Statement identified relevant provisions within PPW – 9<sup>th</sup> Edition and Draft PPW – 10<sup>th</sup> Edition, with an assessment of how the Project accords with these (and all other relevant policy considerations) then provided in Section 6.3. In relation to the weight to be afforded in decision making, paragraph 5.3.1 of the Planning Statement noted under the Planning Act (2008) consenting regime for NSIPs, PPW is both relevant and important. It is therefore considered that whilst relevant NPS must be afforded primary in decision making in accordance with section 104 of the Planning Act (2008), in determining the Application the Secretary of State should also give considerable weight to PPW – 10<sup>th</sup> Edition as the current and up to date national planning policy for Wales. As PPW – 9<sup>th</sup> Edition has been revoked and Draft PPW – 10<sup>th</sup> Edition no longer has status, these documents now carry no weight in decision making.

## 3.4 Emerging City and County of Swansea (CCS) Local Development Plan (LDP) – Matters Arising Changes, Inspectors Matters Arising Changes and PPW10 Updates

- 3.4.1 The Planning Statement considered the evolution of the emerging Swansea LDP up to the preparation of LDP Deposit Documents (2016), referred to as ‘the Draft LDP’. Relevant proposed policies were identified in paragraphs 5.4.33 – 5.4.79 of the Planning Statement, with

an assessment of the accordance of the Project with those policies then provided in paragraphs 6.4.14 – 6.4.37.

## Relevance

- 3.4.2 CCS commenced work to prepare a new LDP for their administrative area in September 2009, with the plan intended to cover the period 2010 – 2025. The LDP Deposit Document was published for consultation in July 2016, following which CCS submitted the LDP Deposit Document to the Welsh Assembly Government to undergo a formal LDP Examination in July 2017 (i.e. prior to the submission of the Application for the Project).
- 3.4.3 Examination Hearing in respect of the emerging Swansea LDP commenced in February 2018 and in November 2018 a suite of proposed Matters Arising Changes (MACs) and Inspectors Matters Arising Changes (IMACs), representing proposed modifications resulting from the Examination, were consulted on until December 2018. On 17<sup>th</sup> December 2018, CCS published a letter to the Examination Inspector setting out proposed additional changes which CCS deem necessary to ensure the conformity of the emerging LDP with PPW – 10<sup>th</sup> Edition.
- 3.4.4 An updated assessment of the accordance of the Project with all relevant and applicable policies within the emerging CCS LDP (as modified) is provided in **Section 4.4**. For the avoidance of doubt, only substantive new or revised policy criteria are identified in this section, rather than all LDP policies and constituent criteria of relevance to the Project. Relevant policies were previously identified in Section 5.4 of the Planning Statement and where these remain unchanged by the CCS LDP Examination there is no need to restate them. However, **Section 4.4** of this Planning Statement provides a brief updated assessment of the accordance of the Project with the emerging CCS LDP as modified and as read as a whole, i.e. taking account of both relevant original LDP policies and those with new or revised relevant policy criteria.
- 3.4.5 Prior to considering this assessment, it is first important to note that modifications during the CCS LDP Examination have resulted in only a very limited number of substantive changes to relevant policies. These substantive policy changes are:
- **RP 12 Safeguarding Minerals** – In line with PPW – 10<sup>th</sup> Edition, this policy now focuses on safeguarding aggregate resources only. All previous references to the safeguarding of coal areas have been removed;
  - **RP 14 Mineral Buffer Zones** - the policy now requires the avoidance of likely significant adverse effects from “*other*” (i.e. non-mineral) development within mineral buffer zones and the adoption of appropriate mitigation measures to prevent exposure to existing sources of environmental impact;
  - **CV 2 Development in the Countryside** - this policy now includes the “*enhancement of infrastructure networks*” and a type of “*necessary infrastructure provision*” in the countryside;
  - **PS 1: Sustainable Places** – this policy now seeks to safeguard the character and openness of the countryside and notes that “*inappropriate development*” will be resisted;
  - **PS 2: Placemaking and Place Management** – this policy now additionally requires development proposals, depending on their nature, scale and siting, to “*have regard to the implications for infrastructure and services*”;
  - **IO 1: Supporting Infrastructure** – this policy now additionally requires applicants to demonstrate sufficient infrastructure capacity to support development proposals;
  - **HC 2: Preservation or Enhancement of Buildings and Features** – of relevance to the Project, the policy has been modified to confirm the need for the protection of locally important heritage assets to be taken account of in decision making. The application of



relevant individual new criteria to the Project is considered further within the updated planning assessment provided in **Section 4.4**;

- **ER 2: Strategic Green Infrastructure Network** - whilst the requirements of this policy remain substantively unchanged, it now supports a broader interpretation of the protection, maintenance and enhancement of green infrastructure assets;
- **ER 5: Landscape Protection** – This policy now requires the provision of landscaping schemes, enhancement schemes and associated mitigation where development could result in significant landscape impacts;
- **ER 6: Designated Sites of Importance for Nature Conservation** - This policy now affords greater importance to protecting sites of ecological importance, with the aim of enhancing biodiversity and ecosystem resilience. The application of relevant individual new criteria to the Project is considered further within the updated planning assessment provided in **Section 4.4**;
- **ER 8: Habitats and Species** – This policy now longer includes a specific criterion requiring effective mitigation measures to be provided to address significant adverse effects on protected habitats and species, as these mitigation requirements are covered elsewhere including in Policy ER 6. The policy also now focuses on protecting the “*resilience*” of protected habitats and species rather than their “*continued viability*”;
- **ER 9: Ecological Networks and Features of Importance for Biodiversity** - this policy now requires development proposals likely to result in an adverse effect on the connectivity of ecological networks to demonstrate the acceptability of the proposal (with reference to specified criteria as discussed further in **Section 4.4**). Associated modifications to supporting text now clarify that “*landscape features of value to flora and fauna*” fall within the scope of this policy;
- **ER 11: Trees and Development** – this policy now includes a presumption that development in close proximity to Ancient Woodland and Ancient and Veteran Trees “*will not normally be permitted*”. The policy also now requires appropriate arboricultural assessment information and suitable compensatory planting to be provided where trees are lost to development;
- **EU 1: Renewable and Low Carbon Energy Developments** – this policy now requires proposals for all types of renewable and low carbon energy development to i) comply with all other relevant LDP policies, ii) avoid specific adverse effects on locational characteristics, features, public amenity or established infrastructure, and iii) incorporate appropriate mitigation measures including provision for restoration and after care of the site.
- **RP 2: Air, Noise or Light Pollution** - this policy has been recast to now include revised criteria regarding the protection of air quality and the implementation of appropriate air, noise and light pollution measures in development proposals. The application of relevant individual criteria to the Project is considered further within the updated planning assessment provided in **Section 4.4**; and,
- **RP 4: Avoidance of Flood Risk** – this policy now includes an additional test that development proposals will not be permitted “*where the proposal does not incorporate environmentally sympathetic flood risk mitigation measures, such as Sustainable Drainage Systems (SuDS), unless it can be demonstrated that such measures are not feasible*”.

3.4.6 In addition to these substantive changes, other proposed modifications have introduced minor amendments to the structure of some policies and clarified the implementation of individual policy criteria. However, such minor modifications do not alter the substantive nature of the LDP policy requirements previously considered in Sections 5.4 and 6.4 of the Planning Statement.

## Weight

- 3.4.7 The Examination of the emerging CCS LDP has advanced to the point that MACs and IMACs have been identified and the LDP Examination Report is expected to be published in early February 2019, with the final LDP to be adopted shortly thereafter. It is therefore considered that the emerging LDP now carries significantly more weight than previously afforded in the Planning Statement (which stated that “*some weight*” should be given to it) and it should now be considered as an important and relevant consideration in the determination of the DCO Application. In particular, the updates proposed by CCS to the Examination Inspector on 17<sup>th</sup> December 2018 to align with PPW – 10<sup>th</sup> Edition confirm that the emerging CCS LDP should now be considered as both an up to date LDP document and one prepared in general conformity with current Welsh national planning policy. It is therefore considered that, in determining the Application, the Secretary of State should afford considerable weight to the accordance of the Project with relevant policies within the emerging CCS LDP.
- 3.4.8 Conversely, the age of the adopted CCS Unitary Development Plan (2008) means this document now has only limited conformity with current Welsh national planning policy as set out in PPW – 10<sup>th</sup> Edition. Therefore, whilst the adopted CCS Unitary Development Plan remains a relevant document until such time as it is formally superseded upon the adoption of the finalised CCS LDP, only limited weight should now be afforded to it. In consequence, whilst the assessment provided in Section 6 of the Planning Statement indicates that the Project may not accord in full with a limited number of adopted UDP policies, the accordance of the Project with all relevant and up to date policies within the emerging CCS LDP (as demonstrated below in **Section 4.4**) now weighs heavily in favour of the Application being granted by the Secretary of State.

## 4 Planning Assessment

### 4.1 Introduction

- 4.1.1 This section provides an assessment of the Project against relevant policy considerations which have changed since the submission of the Application in May 2018, namely PPW – 10<sup>th</sup> Edition and the emerging CCS LDP as modified. The assessment set out below must be read in conjunction with the planning assessment previously provided in Section 6 of the Planning Statement. Where relevant policy considerations (e.g. National Policy Statements) remain unchanged from May 2018, the assessment within Section 6 of the Planning Statement remains valid and is not repeated below.

### 4.2 National Policy Statements

- 4.2.1 The Application for the Project must be determined in accordance with Section 104 of the Planning Act 2008. There have been no changes to applicable NPS since the submission of the Application. The assessment of the compliance of the Project with applicable NPS, as set out in Section 6.2 of the Planning Statement, therefore remains valid.

### 4.3 Planning Policy Wales – 10<sup>th</sup> Edition

#### Overview

- 4.3.1 Published by the Welsh Assembly Government on 4<sup>th</sup> December 2018, Planning Policy Wales (PPW) – 10<sup>th</sup> Edition now forms the national planning policy applicable in Wales. The document has a strong focus on enhancing social, economic, environmental and cultural wellbeing in line with the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016.

#### Placemaking and Sustainable Development

- 4.3.2 PPW - 10<sup>th</sup> Edition places greater emphasis than previous versions on embedding placemaking in all aspects of planning to deliver sustainable development. Paragraph 2.8 requires development proposals and planning decisions to seek to “*promote sustainable development and support the well-being of people and communities across Wales*”. In doing so, proposals should maximise their social, economic, cultural and environmental benefits whilst adverse impacts must be considered in line with the Sustainable Development Principle set out in section 5 of the Wellbeing of Future Generations Act (Wales) 2015. This defines sustainable development in accordance with the internationally recognised Brundtland definition<sup>2</sup>. PPW10 therefore requires that for development proposals with both potential benefits and adverse impacts:
- The **need** for the development should be identified. This has been fully considered in Section 4 of the Planning Statement and is established in NPS EN-1.; and,
  - The **sustainability** of the development should be examined by considering relevant social, economic, environmental and cultural considerations and weighing up all potential benefits and impacts. The sustainability of the Project is considered below with reference to all relevant substantive provisions set out within PPW – 10<sup>th</sup> Edition. Of note, the high level social, environmental, economic and cultural considerations listed within PPW – 10<sup>th</sup>

<sup>2</sup> Section 5 of the Well-being of Future Generations (Wales) Act 2015 requires public bodies to “*act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs*”. The same section also requires public bodies to take account of “*the importance of balancing short term needs with the need to safeguard the ability to meet long term needs, especially where things done to meet short term needs may have detrimental long term effect*”.



Edition under paragraph 2.22 are captured in more depth within relevant subject-specific policy provisions, such that a separate assessment of the Project's accordance with these high-level considerations is not required.

- 4.3.3 Read together with the assessment previously provided in Section 6 of the Planning Statement, the updated assessment provided below demonstrates that the Project fully accords with, and should benefit from, the Sustainable Development Principle set out in section 5 of the Wellbeing of Future Generations Act (Wales) 2015, associated policy provisions detailed in PPW – 10<sup>th</sup> Edition at paragraph 2.8, and relevant social, environmental, economic and cultural considerations identified under paragraph 2.22. This is an important finding which weighs heavily in favour of the Project and should be afforded considerable weight by the Secretary of State in the determination of the Application.
- 4.3.4 Provisions of greatest relevance to the Project are detailed in sections 5.7 – Energy and 5.8 – Renewable and Low Carbon Energy of PPW – 10<sup>th</sup> Edition. More widely, Figure 5 of PPW – 10<sup>th</sup> Edition identifies four cross-cutting themes which align with the Welsh Assembly Government's five Planning Principles, and these themes are used to structure PPW – 10<sup>th</sup> Edition. An assessment of the accordance of the Project with relevant provisions under each theme is provided below. However, as provisions regarding some topics (e.g. health, environmental and amenity protection) are set out in multiple parts of PPW – 10<sup>th</sup> Edition rather than under a single heading, where necessary these are considered together to minimise duplication. The topic-based subheadings adopted below have therefore been developed for the purposes of this assessment and are not taken directly from PPW – 10<sup>th</sup> Edition.
- 4.3.5 The assessment provided in **Section 4.3** is therefore framed around the four cross-cutting thematic chapters within PPW-10<sup>th</sup> Edition but within this, relevant provisions regarding specific topics (e.g. health, environmental and amenity protection) are considered together to minimise duplication

### Strategic and Spatial Choices

- 4.3.6 This thematic chapter sets out relevant policy requirements relating to good design and placemaking, infrastructure provision, health, environmental & amenity protection, and use of agricultural land.

### Good Design and Placemaking

- 4.3.7 PPW – 10<sup>th</sup> Edition introduces the concept of 'Good Design' and sets out an expectation at paragraph 3.7 that requires development proposals to “*seek to maximise energy efficiency and the efficient use of other resources (including land), maximise sustainable movement, minimise the use of non-renewable resources, encourage decarbonisation and prevent the generation of waste and pollution*”. In relation to placemaking in rural areas, paragraph 3.34 states that the multifaceted values of the countryside should be conserved and where possible enhanced, whilst acknowledging the importance of balancing this with meeting socio-economic needs.
- 4.3.8 The Project fully accords with relevant 'Good Design' principles whilst remaining functional and durable for its lifespan and being safe, accessible and of sustainable construction. The Applicant has sought to employ Good Design at all stages of the Project's development and studies of the local habitats, accesses, heritage assets and landscape features have been undertaken to allow the design to respond to place. As explained further within the Design Principles Statement (Examination Library Reference APP-048), Landscape and Ecology Management Plan (LEMP) (ES Figure 3.6, Examination Library Reference APP-021) and the Outline Landscape and Ecology Management Mitigation Strategy ( ) (revised version as submitted at Deadline 4), the Project incorporates new planting and the provision of ponds and other natural features to integrate the Project into its local ecological and landscape context.
- 4.3.9 The previously submitted ES (Examination Library Reference APP-042) demonstrates that the Project has been designed to incorporate embedded mitigation to minimise likely adverse

impacts as far as reasonably possible. This includes measures set out in the Outline CEMP (Revision 2) (revised version as submitted at Deadline 4), Outline CTMP (ES Appendix 3.3, Examination Library Reference APP-036), LEMP (ES Figure 3.6, Examination Library Reference APP-021) and the LEMS (revised version as submitted at Deadline 4). Whilst the ES concludes that the Project would result in a limited number of adverse environmental effects, these would be minimised through mitigation measures with the implementation of the outline CEMP (Revision 2) (revised version as submitted at Deadline 4) and the Outline CTMP (ES Appendix 3.3, Examination Library Reference APP-036).

- 4.3.10 In summary, the Project demonstrates high-quality design and incorporates appropriate mitigation to minimise potential environmental impacts. This is recognised within the Local Impact Report submitted by CCS (CCS Reference 20011204) and the Statement of Common Ground agreed between CCS and the Applicant (Examination Library Reference REP1-003) confirms that the design is appropriate. The Project therefore directly accords with relevant provisions within PPW – 10<sup>th</sup> Edition regarding Good Design and placemaking.

### Infrastructure Provision

- 4.3.11 PPW – 10<sup>th</sup> Edition at paragraph 3.57 recognises the importance of providing adequate and efficient infrastructure, including electricity and gas infrastructure, to meet identified needs. Building on this, paragraph 3.59 requires development to be “*located so that it can be well serviced by existing or planned infrastructure*” and states that infrastructure proposals should “*support decarbonisation*”.
- 4.3.12 The need for the Project and its role in supporting decarbonisation has already been established (refer to Section 4 of the Planning Statement). As a gas peaking plant, the Project would contribute materially to the immediate need for flexible, reliable, peak load power generation and facilitate the transition to a low carbon economy by helping to support the grid at times when intermittent renewable sources cannot generate sufficient electricity. In relation to planned infrastructure, planning permission has already been granted for the new Gas and Electrical Connections forming part of the project (planning permissions 2018/2020/FUL and 2018/2021/FUL), with these planning determinations already having taken account of the emerging CCS LDP as a relevant material consideration. In accordance with PPW – 10<sup>th</sup> Edition at paragraphs 3.57 and 3.59, the Project would therefore support decarbonisation and make use of planned utilities infrastructure provision.

### Health, Environmental and Amenity Protection

- 4.3.13 Relevant provisions regarding health, environmental and amenity protection are detailed within PPW – 10<sup>th</sup> Edition at paragraphs 3.19 – 3.24. Related provisions regarding the protection and enhancement of air and soundscape quality are set out in Section 6.7 – Air Quality and Soundscape. For the purposes of this assessment it is convenient to deal with these provisions together.
- 4.3.14 PPW – 10<sup>th</sup> Edition at paragraph 3.21 states that the planning system should “*consider the impacts of new development on existing communities and maximise health protection and well-being and safeguard amenity*”. The document further states at paragraph 3.23 that “*exposure to airborne pollution should be kept as low as reasonably practicable*”. Linked to this, paragraph 6.7.6 (within Chapter 6 – Distinctive and Natural places) requires development proposals to:
- “*Address any implication arising as a result of its association with, or location within, air quality management areas, noise action planning priority areas or areas where there are sensitive receptors;*
  - *Not create areas of poor air quality or inappropriate soundscape; and,*
  - *Seek to incorporate (mitigation) measures which reduce overall exposure to air and noise pollution and create appropriate soundscapes”.*

4.3.15 The Project incorporates appropriate mitigation to avoid unacceptable adverse impacts on human health and amenity and to minimise exposure as a result of the Project to air and noise pollution. An assessment of the likely effects on air quality is provided in Chapter 6 of the ES, with an assessment of likely noise and vibration effects provided in Chapter 7. These assessments conclude that with the adoption of proposed embedded and further mitigation:

- Likely residual air quality effects would be Negligible and not significant in the context of the EIA Regulations. and,
- Likely residual noise effects on noise would be Negligible or, in one case, Minor Adverse in relation to assessed noise sensitive receptors. In all cases the likely noise effects would not be significant in the context of the EIA Regulations

4.3.16 These assessments and the wider submitted ES demonstrate that likely impacts of the Project on health protection, amenity and wellbeing have been fully considered, and that adverse air quality impacts have been minimised through careful siting and design. With reference to relevant provisions detailed in PPW – 10<sup>th</sup> Edition at paragraphs 3.21, 3.23 and 6.7.6, it can therefore be concluded that the Project incorporates appropriate mitigation to safeguard health and amenity and would not create inappropriate soundscapes or areas of poor air quality. On this basis the Project accords with relevant provisions within PPW – 10<sup>th</sup> Edition regarding health, environmental and amenity protection, including in relation to air and soundscape quality.

#### **Agricultural Land**

4.3.17 PPW – 10<sup>th</sup> Edition at paragraph 3.56 states that planning decisions should afford “*considerable weight*” to protecting agricultural land of grades 1, 2 and 3a of the Agricultural Land Classification owing to its “*special importance*”. In relation to the protection of agricultural land, the Project accords with PPW – 10<sup>th</sup> as the site contains class 5 and 3b land which is not high grade agricultural land.

#### **Active and Social Places**

4.3.18 Relevant policy requirements relating to transport and active travel at provided in this thematic chapter within section 4.1 – Transport. The remainder of Chapter 4 – Active and Social Places within PPW – 10<sup>th</sup> Edition is not considered to contain provisions of relevance to the Project.

#### **Transport**

4.3.19 PPW – 10<sup>th</sup> Edition at paragraph 4.1.10 requires development proposals to “*seek to maximise accessibility by walking, cycling and public transport, by prioritising the provision of appropriate on-site infrastructure and, where necessary, mitigating transport impacts through the provision of off-site measures*”. More widely, requirements for the preparation of Transport Assessments to support applications for certain development proposals are set out at paragraphs 4.1.56 – 4.1.57.

4.3.20 In accordance with section 5.13 of NPS EN-1, a Transport Assessment has been carried out for the Project and an assessment of likely significant traffic and transport effects is provided in Chapter 12 of the ES. This takes account of proposed mitigation as detailed in the submitted Outline CTMP (ES Appendix 3.3, Examination Library Reference APP-036) and concludes that impacts on traffic during both construction and operation would be limited. The majority of assessed transport links are only likely to experience Minor adverse effects (not significant in the context of the EIA Regulations) during peak hours. On this basis it can be concluded that the Project accords with relevant requirements within PPW – 10<sup>th</sup> Edition regarding the assessment and mitigation of transport impacts from development.

#### **Active Travel**

- 4.3.21 PPW – 10<sup>th</sup> Edition at paragraph 4.1.32 states that development proposals should be “*integrated with active travel networks and contribute to their expansion and improvement*”, potentially including through financial contributions. Linked to this, paragraphs 4.1.36 – 4.1.37 refers to the Active Travel (Wales) Act 2013 and requires proposals for new or upgraded active travel routes to comply with standards set out in associated statutory Design Guidance (2014).
- 4.3.22 Footpaths LC34 and LC117 cross the Access Road whilst Footpath LC35B passes through the northern part of the site. The assessment provided in Chapter 12 of the ES concludes that these parts of the PROW network would experience temporary moderate adverse and significant effects during the construction phase of the Project owing to access restrictions. However, these effects are temporary and would be minimised through implementation of appropriate mitigation set out within the Outline CTMP (ES Appendix 3.3, Examination Library Reference APP-036), with funding for long term PROW improvements also provided by the Applicant and are proposed to be secured in the s106 agreement.
- 4.3.23 Following the completion of works, the affected PROWs will, as appropriate, be reinstated to their preconstruction condition upon completion of works (where any damage is attributable to contractors working on behalf of the Applicant) or (in the case of Footpath LC35A) permanently diverted. In accordance with the expectation in PPW – 10<sup>th</sup> Edition at paragraph 4.1.32, the Applicant proposes to provide two financial contributions through the Section 106 (s106) Agreement to be used by CCS to implement permanent footpath improvements to PROW in the vicinity of the Project. In accordance with PPW – 10<sup>th</sup> Edition at paragraphs 4.1.36 – 4.1.37, any path improvements delivered through funding provided by the Applicant would take account of the Active Travel (Wales) Act 2013 and associated statutory Design Guidance.
- 4.3.24 In summary, whilst the Project would result in temporary disruption to the existing PROW network during construction, appropriate mitigation measures have been defined and in the longer term the Project would contribute to the expansion and improvement of the network. On this basis the Project accords with relevant provisions within PPW – 10<sup>th</sup> Edition regarding transport and access.

### Productive and Enterprising Places

- 4.3.25 This thematic chapter sets out relevant policy requirements relating to climate change mitigation and energy infrastructure (Section 5.7), the decommissioning of energy developments (paragraph 5.9.24) and minerals (Section 5.14). The remainder of Chapter 5 – Productive and Enterprising Places within PPW – 10<sup>th</sup> Edition is not considered to contain provisions of relevance to the Project.

### Climate Change and Energy Infrastructure

- 4.3.26 PPW – 10<sup>th</sup> Edition notes at paragraph 5.7.2 that the Environment (Wales) Act 2016 has introduced a legally binding target of achieving at least an 80% reduction in greenhouse gas emissions by 2050, and paragraph 5.7.16 states that the Welsh Assembly Government has set a target for Wales to generate 70% of its electricity consumption from renewable energy by 2030. To achieve these targets:
- Figure 9 within PPW – 10<sup>th</sup> Edition sets out a new energy hierarchy which prioritises energy reduction, re-use and generation from renewable and low carbon sources. Paragraph 5.7.34 then sets out a policy expectation that energy related development proposals should demonstrate their accordance with this energy hierarchy and in doing so should contribute to climate change mitigation; and,
  - Paragraph 5.7.7 call for “*an appropriate mix of energy provision, which maximises benefits to our economy and communities whilst minimising potential environmental and social impacts*”. Specifically in relation to decarbonisation of the energy system, paragraph 5.9.15 requires the determination of applications for renewable and low carbon energy development proposals to take account of their contribution to energy and climate change

mitigation targets and to reducing greenhouse gas emissions, as well as wider socio-economic and environmental benefits.

- 4.3.27 The need for and benefits of the Project are set out in full within Section 4 of the Planning Statement and remain unchanged from the time of Application submission. As a gas peaking plant, the Project accords with the energy hierarchy set out in Figure 9 of PPW – 10<sup>th</sup> Edition as it would contribute to the urgent need for flexible and reliable low carbon peak load power generation. In doing so, the Project would help to facilitate the transition to a low carbon economy and the deployment of greater renewable energy capacity by helping using a relatively low carbon fuel source (gas) to support the grid at times when intermittent renewable sources cannot generate sufficient electricity. Importantly, as a peaking plant the Project would be used to balance energy supply and demand for short term periods rather than competing with energy generation from renewable sources. On this basis, the Project accords with the energy hierarchy in Figure 5 and relevant energy policy provisions detailed in PPW – 10<sup>th</sup> Edition at paragraphs 5.7.34, 5.9.15 and 5.7.7.

### Decommissioning

- 4.3.28 PPW – 10<sup>th</sup> at paragraph 5.9.24 requires energy related development proposals to be “*decommissioned and sites remediated as soon as their use ceases*”, with planning conditions or legal agreements used to secure this. This aligns with the identification of the ‘polluter pays’ principle as a key Planning Principle within Figure 3 of PPW – 10<sup>th</sup> Edition. However, the document does not require financial bonds or other decommissioning funding to be secured by planning authorities upfront except in respect of minerals development proposals, where footnote 97 only states that financial bonds should be provided in respect of coal sites. Minerals and energy development policy provisions within PPW – 10<sup>th</sup> Edition are separate and there is therefore no basis within PPW – 10<sup>th</sup> Edition to require the Applicant to provide a financial bond or other decommissioning fund for the Project.
- 4.3.29 In accordance with PPW – 10<sup>th</sup> at paragraph 5.9.24, Draft DCO (Document Reference 3.1) includes a requirement (see Requirement 28 in Schedule 2 of the draft DCO submitted at Deadline 4) that decommissioning will be undertaken and governed by a Decommissioning Strategy and timetable which will be submitted to CCS for approval and subsequently implemented. The Draft DCO was amended at Deadline 1 of the Examination to include additional clarificatory wording in Requirement 27 (now Requirement 28) to ensure the Decommissioning Strategy Requirement would be triggered by the substantial removal of the generating station..
- 4.3.30 In summary, DCO Requirement 28 provides a firm legal commitment from the Applicant that the generating equipment will be decommissioned (including any necessary remediation) within 24 months of its use as an electricity generating plant ceasing or upon the removal of Work numbered 1D (if sooner). Further controls in relation to remediation of the site exist via the environmental permit. The Applicant therefore considers that DCO Requirement 28 is adequate to ensure that decommissioning of the Project occurs in an appropriate and timely manner and meets the policy tests set out in PPW – 10<sup>th</sup> Edition at paragraph 5.9.24. No further legal agreements or financial mechanisms are considered to be necessary.

### Minerals

- 4.3.31 In line with the Welsh and UK Government’s policy of ending coal powered generation, paragraph 5.10.17 states that planning authorities are no longer required to safeguard primary coal resources. However, paragraph 5.14.9 continues to support the safeguarding of other areas for minerals resources to protect such areas from “*other types of permanent development which would either sterilise them or hinder extraction, or which may hinder extraction in the future*”. To facilitate minerals extraction within safeguarded areas, PPW – 10<sup>th</sup> Edition at paragraph 5.14.44 supports the use of buffer zones to provide “*areas of protection around permitted and proposed mineral workings where new development which would be sensitive to adverse impact...*”. This paragraph however confirms that developments which are less sensitive to mineral operations, “*including industry*,” may be acceptable within the buffer zone



on a case by case basis". No other provisions regarding minerals planning and developments within PPW – 10<sup>th</sup> Edition are of relevance to the Project.

- 4.3.32 Whilst the majority of the site is located within an area safeguarded for “Coal” and “Sand and Aggregates” within the adopted CCS Unitary Development Plan (2008), this plan substantially pre-dates PPW-10<sup>th</sup> Edition and is not aligned with current national policy regarding coal extraction. Therefore, minerals safeguarding at the site should now only be considered to apply in respect of potential sand and aggregate extraction. Furthermore, the previously submitted Indicative Site Layout Plan (Document 2.6) shows that only a section of the Project’s access route along an existing road would be within a minerals buffer zone proposed within the emerging CCS LDP, such that no sensitive development is proposed within any buffer zone.
- 4.3.33 As stated previously within the Planning Statement and discussed at the 1<sup>st</sup> DCO Issue Specific Hearing, there are no current, imminent or realistic prospects of these resources being extracted within the period that the Project would be constructed, operated and decommissioned. In particular, any potential minerals extraction would be impeded by other existing infrastructure within the site and substantial highway improvements would be required to facilitate any such extraction.
- 4.3.34 As the DCO requires decommissioning of the generating equipment after it ceases to generate electricity, and given that works within the minerals buffer zone would be limited to the provision of an access route, the Project would not result in the permanent sterilisation of minerals resources. Combined with the absence of current proposals for minerals extraction and the impediment to any future extraction presented by the transport network, the Project accords with relevant provisions within PPW – 10<sup>th</sup> Edition regarding minerals planning.

### Distinctive and Natural Places

- 4.3.35 This thematic chapter sets out relevant policy requirements relating to the protection and enhancement of the historic environment, green infrastructure, ecology, landscapes and visual amenity. This chapter also provides relevant provisions regarding water and flood risk. The remainder of Chapter 6 – Distinctive and Natural Places within PPW – 10<sup>th</sup> Edition is not considered to contain provisions of relevance to the Project.

### The Historic Environment

- 4.3.36 PPW – 10<sup>th</sup> Edition at paragraph 6.1.5 states that the planning system “*must take into account the Welsh Government’s objectives to protect, conserve, promote and enhance the historic environmental as a resource for general well-being of present and future generations*”. Following this, specific policy requirements are set out in relation to different types of heritage assets and designations. Of relevance to the site and the 5km Study Area considered within Chapter 13 – Historic Environment of the Abergelli ES (2018):
- In accordance with the Planning (Listed Buildings and Conservation Areas) Act 1990, paragraphs 6.1.10 and 6.1.14 set out a general presumption in favour of the preservation or enhancement of listed buildings, conservation areas and their setting. Special regard must be had to the desirability of preserving listed buildings, their setting and features;
  - Paragraph 6.1.18 requires planning authorities to value, protect, conserve and enhance the special interest of registered Historic Parks and Gardens in Wales;
  - Paragraph 6.1.24 sets out a presumption in favour of in-situ preservation of nationally important archaeological assets and requires the avoidance of direct adverse impacts on Scheduled Monuments.
- 4.3.37 The site and surrounding area contain very few heritage assets which could be impacted by the Project. The assessment of likely significant effects on the historic environment provided in Chapter 13 of the ES concludes that the potential for unknown archaeological remains, and

associated disturbance during construction, is considered to be low across the site. Owing to slight visibility from one Scheduled Ancient Monument (Mynydd Pysodlyn Round Barrow) a Minor Adverse effect (not significant in the context of the EIA Regulations) is predicted on the setting of this receptor during the operational phase. The Project would therefore support the protection of the historic environment and accord with associated provisions set out in Section 6.1 of PPW – 10<sup>th</sup> Edition.

### Green Infrastructure

- 4.3.38 PPW – 10<sup>th</sup> Edition at paragraphs 6.2.1 – 6.2.3 identifies the importance of multifunctional green infrastructure and paragraph 6.2.4 then states that “the planning system should protect and enhance green infrastructure assets and networks because of these multi-functional roles”. This paragraph also notes the need to take account of “*the multiple benefits that resilient ecosystems and green infrastructure offer to society*”.
- 4.3.39 The technical assessments presented within the ES demonstrate that the construction and operation of the Project is not considered likely to result in any residual adverse effects which would be significant in the context of the EIA Regulations. This has been achieved through careful siting and design to minimise effects on sensitive receptors, including green infrastructure assets. In particular:
- As detailed in Chapter 8 - Ecology of the ES, a residual minor adverse effect is predicted in relation to the loss of and disturbance to habitats within the site during construction, although this would be compensated for through the provision of replacement woodland/scrub planting in appropriate locations (as secured through the Draft DCO);
  - A Flood Consequences Assessment has been undertaken for the Project in accordance with paragraph 5.7.4 of NPS EN-1, with this concluding that the Project has been designed to address flood risks and is considered to have a low or negligible impact on flooding in the wider area;
  - Chapter 14 – Socio-economics of the ES also concludes that the construction and operational phases of the Project would result in beneficial but not significant employment effects and presents an opportunity to develop the skills of the local workforce and increase the value of the construction industry, especially given the identified importance of this industry to baseline employment conditions within the assessed Study Area.
- 4.3.40 Drawing this evidence together, whilst the design characteristics of the Project limit its ability to directly enhance green infrastructure, it is clear from the assessments provided in support of the Application that the Project would appropriately support the maintenance of green infrastructure ecosystem services and would appropriately protect green infrastructure assets. The Project therefore accords with relevant provisions within PPW – 10<sup>th</sup> Edition regarding green infrastructure.

### Biodiversity and Ecological Networks

- 4.3.41 Section 6.4 within PPW – 10<sup>th</sup> Edition references the statutory Biodiversity and Resilience of Ecosystems Duty introduced by the Environment (Wales) Act 2016 and at paragraph 6.4.3 confirms the need for development proposals to consider the need to:
- “*support the conservation of biodiversity, in particular the conservation of wildlife and habitats;*
  - *ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats;*
  - *ensure statutorily and non-statutorily designated sites are properly protected and managed;*

- *safeguard protected and priority species and existing biodiversity assets from impacts which directly affect their nature conservation”.*
- 4.3.42 Building on these high-level policy requirements, paragraph 6.4.5 explains that statutory Biodiversity and Resilience of Ecosystems Duty introduced by the Environment (Wales) Act 2016 means that “*development should not cause any significant loss of habitats or populations of species, locally or nationally and must provide a net benefit for biodiversity*”.
- 4.3.43 Section 6.4 also sets out a hierarchy of designated sites, identifies specific policy requirements for these and outlines a mitigation hierarchy which should be adopted. Of relevance to the site and the Study Areas considered in Chapter 8 – Ecology of the ES:
- In accordance with statutory requirements, paragraph 6.4.17 sets out a presumption against development likely to damage a SSSI. Paragraph 6.4.18 further requires development proposals to avoid adverse effects on the integrity of European Sites and proposed European Sites;
  - Paragraph 6.4.20 requires appropriate protection to be afforded to locally designated wildlife sites in recognition of their contribution to habitat and ecological networks;
  - In accordance with statutory requirements, paragraph 6.4.22 requires development proposals to avoid unacceptable disturbance or harm to protected habitats and species;
  - Paragraph 6.4.24 requires development proposals to “*protect trees, hedgerows, groups of trees and areas of woodland where they have ecological value, contribute to the character or amenity of a particular locality, or perform a beneficial and identified green infrastructure function*”. Following from this, paragraph 6.4.26 requires Ancient Woodland and semi-natural woodlands and individual ancient, veteran and heritage trees all to be “*afforded protection from development which would result in their loss or deterioration unless there are significant and clearly defined public benefits*”.
- 4.3.44 The submitted No Significant Effects Report (Examination Library Reference APP-066) confirms that the Project would not result in ‘Likely Significant Effects’ on the qualifying features of any current or proposed European Site. In addition, the assessment of likely significant ecological effects provided in Chapter 8 of the ES concludes that, with the adoption of proposed mitigation, the Project would not result in any residual significant adverse effects on designated sites or other sensitive ecological receptors. On this basis, the Project accords with relevant provisions within PPW – 10<sup>th</sup> Edition regarding the biodiversity conservation and the protection of ecological interests and designated sites.
- 4.3.45 The Project would result in the loss of a very small area of Ancient Woodland and broadleaved seminatural woodland to the consented Electrical Connection. However, as detailed previously within the Applicant’s Deadline 2 response to Loxley Solicitors’ written representation for Edwards/Redisplay/Watkins (Examination Library Reference REP2-002), in full accordance with NPS EN-1 (paragraph 5.3.14) the Applicant has carefully designed the proposed access route to minimise impacts on Ancient Woodland. Furthermore, the established national need for and benefits of the Project (refer to Section 4 of the Planning Statement) are considered to constitute significant and clearly defined public benefits in accordance with PPW – 10<sup>th</sup> Edition at paragraph 6.4.24. Taking account of these benefits, the small proportion of Ancient Woodland that would be lost, proposed compensatory planting and the fact that the Electrical Connection has already been granted planning permission (2018/2021/FUL), the impact of the Project on trees and woodland is considered to be acceptable.

### **Landscape and Visual**

- 4.3.46 In accordance with statutory requirements, PPW – 10<sup>th</sup> Edition at paragraphs 6.3.5 and 6.3.7 requires “*great weight*” to be given to the statutory purpose of National Parks and to conserving and enhancing the natural beauty of Areas of Outstanding Natural Beauty (AONBs). Paragraph



- 6.3.12 defines Special Landscape Areas (SLA) as local non-statutory designations but does not specify national policy for these.
- 4.3.47 The assessment of likely significant landscape and visual effects provided in Chapter 11 of the ES confirms that the Project would not result in likely significant adverse landscape or visual effects upon the Gower AONB. Additionally, SLAs were scoped out from detailed assessment as separation distances mean no significant adverse effects on these local designations are likely, and the Zone of Theoretical Visibility (ZTV) map provided in the ES confirmed that there would be no theoretical visibility of the Project from the Brecon Beacons National Park. On this basis the project accords with relevant provisions within PPW – 10<sup>th</sup> Edition regarding the protection of landscape designations.
- 4.3.48 In relation to landscape character, PPW – 10<sup>th</sup> Edition at paragraph 6.3.4 advises that “*where adverse effects on landscape character cannot be avoided, it will be necessary to refuse planning permission*”. However, this is misaligned with NPS EN-1, which at paragraph 5.9.8 acknowledges that “*virtually all nationally significant energy infrastructure projects (NSIPs) will have effects on the landscape*”. NPS EN-1 therefore requires such projects to “*minimise harm to the landscape, providing reasonable mitigation where possible and appropriate*” rather than to avoid adverse landscape effects completely, which would be an unrealistic expectation for major infrastructure proposals. As relevant NPS have primacy in the determination of the DCO Application, whilst it is noted in **Section 3.3** above that PPW – 10<sup>th</sup> Edition should be treated as an important and relevant consideration by the Secretary of State, in this instance it is considered that only very limited weight should be afforded to PPW – 10<sup>th</sup> Edition at paragraph 6.3.4 in the determination of the Application. Instead, in accordance with the Planning Act 2008 the Secretary of State should determine the application in accordance with the requirement set out in NPS EN-1 at paragraph 5.9.8 and should therefore consider the steps taken by the Applicant to minimise landscape harm through careful siting, design and proposed mitigation measures.
- 4.3.49 The assessment provided in Chapter 11 of the ES concludes that the construction or operational phases of the Project (and thus also the decommissioning phase) would be likely to result in a limited number of residual Moderate or Major Adverse effects on local landscape character and five viewpoints. These effects would be significant in the context of the EIA Regulations, but limited to the immediate Project Site area and not the wider landscape as the extensive tracts of woodland, hedgerows and localised variations in topography would substantially limit the effects on the surrounding landscape and its setting, with no significant change resulting to the overall character of the landscape.
- 4.3.50 The predicted adverse landscape and visual effects are therefore considered to be acceptable in environmental terms owing to their localised and limited extent and when balanced against the important national energy and socio-economic benefits of the Project. Of note, the Statement of Common Ground agreed between CCS and the Applicant confirms that CCS agree that the Applicant has taken all reasonable steps in relation to sensitively siting and the design of the Project. The predicted limited adverse landscape and visual impacts are also considered to be acceptable in the context of the requirement in NPS EN-1 to minimise landscape harm and incorporate reasonable landscape mitigation where possible. Taking account of the identified tension between PPW – 10<sup>th</sup> Edition and NPS EN-1, the Project is considered to accord with all relevant and reasonable policy provisions regarding the protection of landscape character and visual amenity.

#### **Water and Flood Risk**

- 4.3.51 PPW – 10<sup>th</sup> Edition at paragraph 6.6.8 requires development proposals to be located “*with sustainable provision of water services in mind*” and to minimise adverse impacts on water resources and the water environment. In relation to flood risk, PPW – 10<sup>th</sup> Edition at paragraph 6.6.25 states that “*should reduce, and must not increase, flood risk arising from river and/or coastal flooding on and off the development site itself*”.

- 4.3.52 An assessment of likely effects from the Project on water quality and water resources is provided in Chapter 9 of the ES. Taking account of all proposed mitigation and enhancement measures, the assessment concludes that the construction and operational (thus also decommissioning) phases of the Project are likely to result in at most Negligible effects on water quality, which would be not significant in the context of the EIA Regulations.
- 4.3.53 The Site is greater than 1 ha in area and therefore a Flood Consequences Assessment (ES Appendix 9.1, Examination Library Reference APP-040) has been undertaken and submitted as part of the Application. The FCA has been prepared in accordance with TAN15: Development and Flood Risk and identifies: sources of potential flooding, the risk of flooding to the site, the potential impacts of flooding to the Project and third parties, and possible measures which could reduce flood consequences to acceptable levels. The FCA concludes that whilst the Project is classified as “highly vulnerable” to flooding, as the site is in a rural location, minor changes in flood routes and flood levels as a result of the Project would not have any significant impacts on third parties. The Project is considered to have a low or negligible impact on flooding in the wider area and no likely significant adverse impacts on flood risk have been identified.
- 4.3.54 In summary, the Project incorporates appropriate pollution prevention measures and drainage arrangements, with no likely significant adverse effects on the water environment or flood risk impacts considered likely. The Project therefore accords with relevant provisions within PPW – 10<sup>th</sup> Edition regarding water and flooding.

## 4.4 Emerging Swansea Local Development Plan

### Overview

- 4.4.1 The CCS LDP Examination has now reached its final stages and the associated LDP Examination Report is expected to be published in early 2019 before the conclusion of the Abergelli DCO Examination. Once the LDP Examination Report is published, CCS must proceed to adopt the CCS LDP (with all modifications recommended by the Examination Inspector) within 8 weeks.
- 4.4.2 This section provides an assessment of the compliance of the Project with relevant proposed policies within the emerging CCS LDP, taking account of all relevant proposed modifications and updates detailed in **Section 3.4**. As noted in **Section 3.4**, modifications during the CCS LDP Examination have resulted in only a very limited number of substantive changes to relevant LDP policies, as most modifications seek only to clarify policy wording without setting out substantive new or revised policy requirements. The updated planning assessment presented below therefore focuses on assessment of the Project with relevant CCS LDP policies as modified, without unnecessarily reproducing detailed assessment information previously set out in Section 6.4 of the Planning Statement.

### Site Specific Policies

- 4.4.3 Policy PS 1 as modified seeks to safeguard the character and openness of the countryside and notes that “*inappropriate development*” will be resisted. Related to this, Policy CV 2 as modified provides support for “*necessary infrastructure provision*” and the “*enhancement of infrastructure networks*” in the countryside. Policy PS 2 as modified sets out sustainability related criteria to require the consideration of placemaking in all development proposals. In addition to original sustainability criteria which mirror relevant LDP subject policies and associated provisions within PPW – 10<sup>th</sup> Edition, Policy PS 2 as modified also now requires development proposals, depending on their nature, scale and siting, to “*have regard to the implications for infrastructure and services*”;
- 4.4.4 As noted in Section 4 of the Planning Statement, the need for the Project (including Gas and Electrical Connections) is clear and therefore it can be considered as “*necessary infrastructure provision*” on a brownfield site within the countryside, in accordance with Policies PS 1, PS 2 and CV 2. The accordance of the Project with Policy PS 2 is further demonstrated by the fact

that it would be serviced by new Gas and Electrical Connections which were granted planning permission by CCS on 6<sup>th</sup> December 2018 (2018/2020/FUL and 2018/2021/FUL).

- 4.4.5 In relation to minerals planning, whilst the majority of the site is located within an area safeguarded for “Coal” and “Sand and Aggregates” within the adopted CCS Unitary Development Plan (2008), this plan substantially pre-dates PPW - 10<sup>th</sup> Edition and is not aligned with current national policy regarding coal extraction. Therefore, minerals safeguarding at the site should now only be considered to apply in respect of potential sand and aggregate extraction, as provisions within the adopted UDP (2008) regarding the safeguarding of coal resources are now out of date and inconsistent with national planning policy (PPW – 10<sup>th</sup> Edition) so should be afforded no weight. Furthermore, the previously submitted Indicative Site Layout Plan (Document 2.6) shows that only a section of the Project’s access route along an existing road would be within a minerals buffer zone proposed within the emerging CCS LDP, such that no sensitive development is proposed within any buffer zone.
- 4.4.6 Policies RP12 and RP14 as modified seek to prevent the permanent sterilisation of aggregate mineral resources and conflicts between minerals and other development in mineral buffer zones. Policy RP14 requires the avoidance of likely significant adverse effects from “*other*” (i.e. non-mineral) development within mineral buffer zones. There are no other relevant criteria within these policies.
- 4.4.7 As detailed in **Section 4.3** above in relation to provisions within PPW – 10<sup>th</sup> Edition relating to minerals, the Project would only occupy the site for a temporary period and there are no current, imminent or realistic prospects of mineral resources being extracted at the within this period. The Project would therefore not result in the permanent sterilization of mineral resources. Only a small section of an existing access road lies within a Mineral Buffer Zone and no major construction works are likely to result in significant adverse environmental effects or adverse impacts on the potential future extraction of minerals resources in this area. On this basis, the Project demonstrably accords with Policies RP12 and 14 as modified.

### Policies for Developments in the Surrounding Area

- 4.4.8 Policies SD (1G), A, C and E as modified allocate housing sites within a new Strategic Development Area approximately 1.4 km south west of the site. The only policy change in respect of these allocations is that their capacities have been reduced, meaning that fewer population receptors have the potential to be affected by the Project. In terms of potential cumulative impacts, Policy SI 4 is also relevant as the Site is within the proximity of safeguarded land at Morriston Hospital.
- 4.4.9 The likely cumulative effects associated with the Project and other developments have been assessed as part of the EIA, with the findings presented in the ES, including in respect of the proposed Strategic Development Area and site allocations noted above. Chapter 17 of the ES concludes that likely cumulative effects arising from the Project in combination with other relevant developments (identified prior to the submission of the Application in May 2018) would only be Minor Adverse and therefore not significant in the context of the EIA Regulations. This conclusion remains unaffected by the modifications to policies SD (1G), A, C and E as modified. However, the reductions in the capacities of housing sites allocated under these policies does mean that cumulative effect conclusions presented in Chapter 17 of the ES represent ‘worst-case effects’, with the potential for cumulative effects to now likely be less than previously predicted.
- 4.4.10 In addition, no significant adverse effects are also considered likely to impact each of the housing allocations from the Project. On this basis, the Project would not conflict with Policies SD (1G), A, C and E and Policy SI 4.

### Environmental and Amenity Policies

#### Amenity Protection

- 4.4.11 Policies SI 1 and RP 1 as modified remains substantively unchanged from the time of the submission of the Application. Policy SI 1 requires development to avoid likely significant adverse effects in respect of air, noise, light, water or land pollution, Policy RP 1 similarly requires development to avoid significant risks to human health and well-being, property; amenity, controlled waters and the natural and historic environment. Where development could lead to exposure to a source of air, noise or light pollution, Policy RP 2 as modified is only of relevance as it now explicitly requires appropriate mitigation measures to be incorporated into the development.
- 4.4.12 The Project incorporates appropriate mitigation to protect environmental quality and avoid unacceptable adverse impacts on human health and amenity, including the minimisation of exposure as a result of the Project to air and noise pollution. In particular, the assessments of the likely effects on air quality, noise, the water environment and ground conditions provided in Chapters 6, 7, 9 and 10 of the ES conclude that all likely effects during construction and operation in respect of air, noise, light, water or land pollution would be Negligible or Minor and not significant in the context of the EIA Regulations. On this basis, the Project accords with relevant policies within the emerging CCS LDP regarding amenity protection, including policies RP 1 and RP 2.

### Ecology

- 4.4.13 Relevant policy requirements regarding the protection and enhancement of ecological interests are set out in policies ER1, 2, 6, 8, 9 and 11 as modified. The limited number of substantive modifications to relevant criteria within these policies are outlined above in **Section 3.4**. Owing to the limited extent of these changes, the assessment of the accordance of the Project with policies ER1, 2, 6, 8, 9 and 11 previously set out in Section 6.4 of the Planning Statement is considered to remain valid and does not need to be repeated in full. Taking account of relevant modifications, read together these policies now require development proposals to:
- Incorporate appropriate climate change mitigation and adaptation measures;
  - Protect and enhance green infrastructure;
  - Avoid likely significant adverse effects on sites designated at international or national levels for reasons of nature conservation importance;
  - Avoid likely significant adverse effects on the continued resilience of habitats and species and minimise harm through incorporating appropriate mitigation into the proposal;
  - Avoid likely significant adverse effects on the connectivity of ecological networks and features of importance for biodiversity; and,
  - Afford “*appropriate protection*” to Ancient Woodland and Ancient and Veteran Trees. In particular, development in close proximity to these assets “*will not normally be permitted*” (Policy ER 11), appropriate arboricultural assessment information should be provided and suitable compensatory planting will be required where trees are lost to development.
- 4.4.14 As detailed in **Section 4.3** above in relation to provisions within PPW – 10<sup>th</sup> Edition relating to the protection of ecological interests, the Project would not result in any Likely Significant Effects on European Sites or any residual likely significant adverse effects on designated sites or other sensitive ecological receptors, taking into account all proposed ecological mitigation measures. The Project would also support the maintenance of green infrastructure ecosystem services and help to maintain the multi-functional green infrastructure network. On this basis, the Project demonstrably accords with policies ER1, 2, 6, 8 and 9 as modified within the emerging CCS LDP.
- 4.4.15 Policy ER 11 as modified does not impose a blanket restriction on development affecting Ancient Woodland but rather sets out criteria which should “*normally*” be followed. As detailed

previously within the Applicant's Deadline 2 response to Loxley Solicitors written representation for Edwards/Redisplay/Watkins (Examination Library Reference REP2-002.), in full accordance with NPS EN-1 (paragraph 5.3.14) the Applicant has carefully designed the proposed access route to minimise impacts on Ancient Woodland. Whilst the Project would result in the loss of a small area of Ancient Woodland and broadleaved seminatural woodland, this is considered to be acceptable in this case considering the established national need for and benefits of the Project (refer to Section 4 of the Planning Statement), the small proportion of Ancient Woodland that would be lost, proposed compensatory planting and the fact that the Electrical Connection where Ancient Woodland would be lost has already been granted planning permission (2018/2021/FUL). On this basis, the impact of the Project on trees and woodland is considered to be acceptable and the Project is considered to accord with Policy ER11 within the emerging CCS LDP.

### Ground Conditions

- 4.4.16 Policies RP5 and RP6 remains substantively unchanged from the time of the submission of the Application. As modified, these policies require development proposals to appropriately address any risks arising from contamination, landfill gas and land instability.
- 4.4.17 In relation to potential contamination and landfill gas exposure, the assessment of likely effects of the Project on ground conditions provided in Chapter 10 of the ES concludes that with the adoption of proposed mitigation measures, potential effects in respect of contamination and landfill gas are considered to be negligible and therefore not significant. This demonstrates that the Project appropriately addresses potential risks arising from contamination, landfill gas and land instability. On this basis the Project accords with relevant policies within the emerging CCS LDP regarding ground conditions, including policies RP 5 and RP 6.

### Hydrology and Flood Risk

- 4.4.18 Policy RP 4 as modified requires development not to increase flood risk arising from river and/or coastal flooding and to *"incorporate environmentally sympathetic flood risk mitigation measures, such as Sustainable Drainage Systems (SuDS), unless it can be demonstrated that such measures are not feasible"*. However, the new policy requirement regarding SUDS provision is misaligned with PPW – 10<sup>th</sup> Edition, which notes that the statutory requirement for authorised SUDS to be included in all construction works of 100m<sup>2</sup> or greater (i.e. including during their operational phase) is not applicable to applications lodged before 7<sup>th</sup> January 2019, such as is the case for this Project. Therefore, whilst **Section 3.4** above notes that the emerging CCS LDP should be afforded considerable weight by the Secretary of State, in this instance it is considered that no weight should be afforded to the specific requirement within Policy RP 4 as modified for developments to incorporate *"environmentally sympathetic flood risk mitigation measures"* (regardless of their flood risk implications) when determining the Application, as there is no basis in statute or national policy to require the Project to incorporate SUDS during its operational phase.
- 4.4.19 As stated within Chapter 3 of the ES, the construction phase of the Project will adopt an adequate surface water drainage system designed in line with the principles of SuDS Manual – Ciria C753 (2015). Furthermore, the assessment of likely effects on the water environment provided in Chapter 9 of the ES concludes that proposed operational drainage arrangements and mitigation measures to protect water quality are adequate, with no residual likely significant adverse effects on the water environment or residual flood risk impacts considered likely. On this basis it can be concluded that the Project incorporates appropriate pollution prevent measures and drainage arrangements and that it accords with Policy RP 4 as modified insofar as the policy is relevant and applicable to the Project.

### Landscape and Visual

- 4.4.20 Policy ER 5 as modified requires development proposals to avoid likely significant adverse effects *"on the character and quality of the landscape of the County"*. However, as detailed in **Section 3.3** above in relation to the weight to be afforded to PPW – 10<sup>th</sup> Edition at paragraph



6.3.4 (concerning the protection of landscape character), the key applicable test regarding landscape and visual impacts is instead set out within NPS EN-1 at paragraph 5.9.8. This requires NSIPs to “*minimise harm to the landscape, providing reasonable mitigation where possible and appropriate*” rather than to avoid adverse landscape effects completely, which would be an unrealistic for major infrastructure proposals.

- 4.4.21 In the context of NPS EN-1, the requirement stated in Policy ER 5 of the emerging CCS LDP must be read as requiring the overall character and quality of the landscape within the CCS area to be appropriately protected, rather than requiring the avoidance of any individual significant adverse landscape character effects. As such, whilst it is noted in **Section 3.4** above that the emerging CCS LDP should be afforded considerable weight by the Secretary of State, in this instance it is considered that only limited weight should be afforded to the specific requirement set out in Policy ER 5 as modified to avoid significant adverse landscape character effects, as the more realistic test in NPS EN-1 at paragraph 5.9.8 should instead prevail.
- 4.4.22 As detailed in **Section 4.3** above in relation to provisions within PPW – 10<sup>th</sup> Edition relating to the protection of landscapes and visual amenity, whilst the Project is likely to result in a small number of residual significant adverse landscape effects, much of the site would be screened by vegetation and local topography such that the predicted effects would be localised rather than affecting wider landscape character. Therefore, as outlined in Appendix 11.2, Table 1 of the ES, the overall character, scale and pattern of the landscape within the 5km study area would remain largely unchanged. The extensive tracts of woodland, hedgerows and localised variations in landform would substantially limit the indirect effects on the surrounding landscape and its setting with little change resulting to the overall character of the landscape. Furthermore, the Project is located within a landscape which contains a number of features which are not dissimilar in nature to the Project including the Felindre Gas Compressor Station, substations and numerous pylons and associated overhead lines, all of which are existing, prominent vertical structures within the landscape which detract from the existing character and quality.
- 4.4.23 In summary, owing to the existing context of the site and the localised extent of predicted adverse landscape and visual effects from the Project, these are considered to be acceptable when balanced against the important national energy and socio-economic benefits of the Project. Taking account of the identified tension between Policy ER 5 as modified and NPS EN-1, the Project is considered to accord with all relevant and reasonable policy provisions regarding the protection of landscape character and visual amenity.

#### **Transport and Access**

- 4.4.24 With the exception of Policy IO 1, which as modified now requires applicants to demonstrate sufficient infrastructure capacity to support development proposals, there have been no substantive changes to relevant policies relating to transport and access. Policy T 1 as modified requires development proposals to be “*supported by appropriate transport measures and infrastructure*”, to provide safe and efficient access, and to “*safeguard, enhance and expand the active travel network*”. Policy T 5 as modified sets out a series of design principles for transport infrastructure, including ensuring that proposals allow for “*safe, efficient and effective movement of vehicles*”. Policy T 7 – Public Rights of Way and Recreational Routes as modified requires any development proposal which “*significantly adversely affects the character, safety, enjoyment and convenient use of a Public Right of Way (PROW)*” to identify and provide an “acceptable alternative route”. The policy also sets out an expectation that development proposals will provide linkages and extensions to the existing PROW network where appropriate.
- 4.4.25 As detailed in **Section 4.3** above in relation to provisions within PPW – 10<sup>th</sup> Edition relating to the transport and access, the residual traffic and transport effects of the Project are anticipated to be negligible or minor adverse, with the exception of moderate effects which are therefore significant upon PROW during construction. However, these effects are temporary and will be minimised through implementation of the Outline CTMP, with funding for PROW improvements also provided by the Applicant. On this basis the Project accords with relevant policies within

the emerging CCS LDP regarding the transport and access, including policies IO 1, T 1, T 5 and T 7.

### Historic Environment

- 4.4.26 Policy HC 2 remains substantively unchanged. The only relevant modification confirms the need for the protection of locally important heritage assets to be taken account of in decision making. As modified, Policy HC 2 requires development proposals to preserve, protect and enhance buildings and features of historic importance.
- 4.4.27 As detailed in **Section 4.3** above in relation to provisions within PPW – 10<sup>th</sup> Edition relating to the protection of the historic environment, the site and surrounding area contain very few heritage assets and no residual significant adverse effects on the historic environment are predicted. The siting and design of the Project therefore provides appropriate protection for heritage assets and the Project accords with relevant policies within the emerging CCS LDP regarding the protection of the historic environment, including policy HC 2.

### Socio-economics

- 4.4.28 Policy PS 4 sets out a sustainable employment strategy for the County and as modified now identifies a requirement for “a *minimum of 19 hectares of employment land*” within the CCS area. Policy IO 2 remains substantively unchanged and requires developers to “*maximise added benefits from the development in relation to the creation of training and job opportunities.*”
- 4.4.29 The assessment of likely socio-economic effects provided in Chapter 14 of the ES concludes that the Project will generate several beneficial socio-economic impacts including employment and additional activity in key economic sectors including construction, whilst not resulting in any significant adverse effects on tourism or recreational receptors. On this basis the Project continues to accord with policies within the emerging CCS LDP regarding economic development including policies PS 4 and IO 2.

### Energy Infrastructure

- 4.4.30 Policy EU 1 as modified has been recast to now require proposals for all types of renewable and low carbon energy development to i) comply with all other relevant LDP policies, ii) avoid specific adverse effects on locational characteristics, features, public amenity or established infrastructure, and iii) incorporate appropriate mitigation measures including provision for restoration and after care of the site. Subject to compliance with these criteria, Policy EU 1 as modified continues to provide support for renewable and low carbon energy generating development proposals.
- 4.4.31 As detailed in **Section 4.3** in relation to provisions within PPW – 10<sup>th</sup> Edition relating to energy infrastructure development, the need for the Project has been established (refer to Section 4 of the Planning Statement) and the Project fully accords with relevant ‘Good Design’ principles whilst remaining functional and durable for its lifespan and being safe, accessible and of sustainable construction. Taking account of all proposed mitigation measures, the Project has been designed to minimise environmental and amenity effects. Read together, the original planning assessment provided in Section 6 of the Planning Statement and the updated planning assessment provided above demonstrates that the limited number of predicted adverse environmental effects which cannot be avoided are considered to be acceptable and that the Project accords with all other relevant policies (as modified) within the emerging CCS LDP. On this basis, the Project also accords with policies within the emerging CCS LDP regarding energy infrastructure development, including Policy EU 1.

## 4.5 Summary

- 4.5.1 The planning assessment provided in this section demonstrates that, with the exceptions of PPW – 10<sup>th</sup> Edition at paragraph 6.3.4 and Policy ER 5 within the emerging CCS LDP (regarding

the avoidance of adverse or significant adverse impacts on landscape character), the Project accords with all other relevant provisions and policies within PPW – 10<sup>th</sup> Edition and the emerging CCS LDP (as modified) when each document is read as a whole. As detailed above in **paragraphs 4.3.46 – 4.3.50** and **paragraphs 4.4.20 – 4.4.22** respectively, the single provision in PPW – 10<sup>th</sup> Edition and the only criterion within Policy ER 5 that the Project does not specifically accord with should only be afforded very limited weight, as those requirements are inconsistent with NPS EN-1 (paragraph 5.9.8), which under section 104 of the Planning Act 2008 must be afforded primacy in the determination of the Application by the Secretary of State.



## 5 Conclusion

### 5.1 Summary

- 5.1.1 This Planning Statement Addendum has been prepared by Peter Brett Associates, (PBA) to support an application ('the Application') under section 31 of the Planning Act 2008 for a Development Consent Order (DCO) for powers to construct, operate and maintain the Power Generation Plant forming part of the proposed Abergelli Power Project ('the Project').
- 5.1.2 This Planning Statement Addendum has identified relevant changes in applicable policy considerations since the submission of the Application in May 2018, namely PPW – 10<sup>th</sup> Edition and modifications to the emerging CCS LDP. For the reasons detailed in **Section 3**, the Applicant considers that PPW – 10<sup>th</sup> Edition and the emerging CCS LDP should be treated as relevant and important policy considerations by the Examining Authority and the Secretary of State. However, for the reasons detailed in **Section 4**, it is considered that only very limited weight should be afforded to specific requirements set out within PPW – 10<sup>th</sup> Edition at paragraph 6.3.4 and in Policy ER 5 of the emerging CCS LDP, owing to the inconsistency of these provisions with applicable National Policy Statements (in particular NPS EN-1) which have primacy in the determination of the Application.
- 5.1.3 The planning assessment provided in **Section 4** demonstrates that with the exceptions of PPW – 10<sup>th</sup> Edition at paragraph 6.3.4 and Policy ER 5 within the emerging CCS LDP, which should only be afforded very limited weight in decision making, the Project accords with all other relevant provisions and policies within PPW – 10<sup>th</sup> Edition and the emerging CCS LDP (as modified) when each document is read as a whole. This important conclusion weighs heavily in favour of the Project.
- 5.1.4 In summary, read in conjunction with the conclusions of the previously submitted Planning Statement, this Planning Statement Addendum demonstrates that the Project continues to accord with all relevant policy considerations which should be afforded considerable weight in decision making. As such, the Application for a DCO for the Project should be granted by the Secretary of State.