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28 July 2016

Dear Mr Edwards

**PLANNING ACT 2008  
APPLICATION FOR THE PROPOSED NORTH WALES WIND FARMS  
CONNECTION**

1. I am directed by the Secretary of State for Business, Energy & Industrial Strategy (“the Secretary of State”) to advise you that consideration has been given to:
  - (a) the Report dated 28 April 2016 of the Examining Authority (“the ExA”) namely Lillian Harrison, John Lloyd-Jones and Jo Dowling, who conducted an examination (“the Examination”) into the application (“the Application”) submitted to the Planning Inspectorate on 20 March 2015 by SP Manweb Plc (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (as amended) for the North Wales Wind Farms Connection (“the Development”); and
  - (b) representations received by the Secretary of State and not withdrawn in respect of the Application.
2. The Application, as applied for, is a Nationally Significant Infrastructure Project under section 14(1)(b) and section 16 of the Planning Act 2008 (as amended) (“the Act”), as the Development is for the installation of a new 132 kilovolt (“kV”) electric line above ground wholly in Wales and is approximately 17.4km long. The Application was accepted for Examination

on 17 April 2015. The Preliminary Meeting was held on 28 July 2015 and the Examination was completed on 28 January 2016.

3. The Examination was conducted on the basis of written evidence submitted to the ExA, site visits and a number of Issue Specific Hearings (“ISH”) on the following:

- principles of development (including assessment approach, costs and policy), construction impacts and decommissioning (29 September 2015);
- landscape and visual impact; heritage impacts and biodiversity (30 September 2015);
- land use, land take and land management impacts; other operational impacts including electric and magnetic fields and noise; socio-economic impacts and environmental monitoring and mitigation plans (1 October 2015);
- draft Development Consent Order (“DCO”) (2 October 2015);
- principles of development (including costs and policy) and environmental issues including (but not limited to) landscape and visual impacts and land use and land management matters relating to option B, and any outstanding matters regarding option A on the principles of development and environmental issues (8 December 2015);
- draft DCOs for both option B and any remaining matters in relation to option A (10 December 2015); and
- compulsory acquisition hearings (24 September 2015 to 25 September 2015), with the proposed provision for rights and the imposition of restrictions over additional land in relation to option B and the imposition of restrictions over land in relation to option A (9 December 2015).

4. The Secretary of State notes that the Applicant submitted to the ExA proposed changes to the Development for the alignment of a number of the wooden poles on 16 September 2015, in response to requests from affected landowners for changes to pole locations. The ExA issued a Procedural Decision on 6 October 2015 to accept, what is thereafter referred to as, “Option B” into the Examination, which was then considered alongside the original Application, referred to during the Examination as “Option A”. This is considered further below.

5. The Order, as applied for, would grant development consent for:

- installation of a 132kV overhead line of approximately 17.4 km;
- temporary construction compound and temporary storage or 'laydown areas' along the route;
- access points for pedestrians and vehicles along the route;
- landscape and ecological measures to restore trees, hedgerows and other vegetation that would be removed during construction;

- landscaping to mitigate any adverse effects resulting from the maintenance and operation of the line; and
  - other works such as site preparation and clearance, earthworks, alteration of existing services, vegetation removal/planting and minor street works.
6. The Development would provide a new 17.4km 132kV overhead electricity distribution connection, comprising of conductors supported by double wooden poles, between the North Wales Wind Farms collector substation near Clocaenog Forest to the existing National Grid Bodelwyddan substation at St Asaph. The Development would be located within the administrative boundaries of Conwy County Borough Council (“CCBC”) and Denbighshire County Council (“DCC”).
7. Published alongside this letter is a copy of the ExA’s Report of Findings and Conclusions and Recommendation to the Secretary of State (“the ExA’s Report”). The ExA’s findings and conclusions are set out in the ExA’s Report, with the Summary of Conclusions and Recommendations in chapter 10.

### **Summary of the ExA’s Recommendation**

8. The ExA recommended that the Order be made as set out in Appendix E of the Report subject to:
- whether the Applicant has secured the lease with the Welsh Ministers (or their agents, Natural Resources Wales (“NRW”)), for the Crown land at the southern end of the Order limits (plots 1, 1A, 1B, 3, 3A); and whether the lease would enable the Applicant to have sufficient rights as are needed in relation to this Crown land;
  - whether the Applicant has secured a legal agreement with the Crown Estate Commissioners (or their agents, Wardell Armstrong), in respect of land plots within the Order limits which contain Her Majesty’s mineral interests, which are managed by the Crown Estate Commissioners; and
  - whether the Crown Estate Commissioners remain satisfied with the slightly modified wording of the draft Article on Crown rights (Article 20 in the ExA’s Recommended DCO).
9. The Secretary of State’s consideration of each of these issues is set out below.

### **Summary of the Secretary of State’s Decision**

10. **The Secretary of State has decided under section 114 of the Act to make, with modifications, an Order granting development consent for the Option B route proposal in the Application.** This letter is the Statement of Reasons for the Secretary of State’s decision for the purposes of section 116(1)(a) of the Act and the notice and statement required by

Regulation 23(2)(c) and (d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) (“EIA Regulations”).

11. The Secretary of State has had regard to the National Policy Statements referred to in paragraphs 19 and 20 below, the Local Impact Reports (“LIRs”) submitted by CCBC and DCC and to the relevant local plans as well as to the environmental information defined in Regulation 2(1) of the EIA Regulations, the Infrastructure Planning (Decisions) Regulations 2010 (as amended) and to all other matters which the Secretary of State considers to be important and relevant to his decision as required by section 104 of the Act.

### **Secretary of State’s consideration**

12. The Secretary of State has considered the ExA’s Report and all other material considerations. The Secretary of State’s consideration of the ExA’s Report is set out in the following paragraphs. All numbered references, unless otherwise stated, are to paragraphs of the Report (specified in the form, ER X.XX.XX).

13. The Secretary of State notes that the issues identified by the ExA for particular consideration were as follows;

- Biodiversity, ecology and geological conservation;
- Landscape and visual impacts;
- Good design;
- Historic environment;
- Flood risk and hydrology;
- Climate change mitigation and adaptation;
- Land use and management;
- Socio-economic impacts (including tourism);
- Construction and decommissioning impacts;
- Health and safety (including common law and statutory nuisance);
- Civil and military aviation and defence interests;
- Consideration of Option A and Option B;
- Compulsory Acquisition; and
- Content of the recommended DCO.

14. The Secretary of State has had regard to the ExA’s analysis of the above issues. The Secretary of State agrees with the findings, conclusions and recommendations of the ExA as set out in the Report, and the reasons for the Secretary of State’s decision are those given by the ExA. In particular, the Secretary of State agrees with and adopts the recommendations of the ExA in respect to matters not given detailed consideration below.

## **Need for the Development**

15. The Secretary of State notes that the Applicant is the Distribution Network Operator for North and Mid Wales, Merseyside, Cheshire and part of Shropshire, and is obliged to make an offer of a connection in response to a valid application under the terms of its Distribution Licence. The ExA noted that the purpose of the Development is to facilitate the connection of four wind farms, collectively referred to as the “North Wales Wind Farms”, to the distribution network [ER 4.2.1], all of which are within the Welsh Government’s (“WG”) Technical Advice Note 8 (planning for renewable energy) (“TAN8”) Strategic Search Area A (Clocaenog Forest):

- Clocaenog Forest Wind Farm - The DCO for the construction and operation of the Clocaenog Forest Wind Farm was granted by the Secretary of State on 12 September 2014;
- Brenig Wind Farm - Planning permission was granted by DCC for the construction and operation of the Brenig Wind farm on 6 April 2009. Permission was granted on 16 May 2016 for a revision to the Brenig Wind Farm planning consent following a planning appeal;
- Nant Bach Wind Farm – Planning permission was granted by CCBC on 3 May 2011; and
- Derwydd Bach Wind Farm – Planning permission was granted by DCC on 15 July 2015.

16. The Secretary of States notes that during the Examination, the Applicant informed the ExA that the developers of the Nant Bach Wind Farm and Derwydd Bach Wind Farm had terminated their connection agreements with the Applicant, as they would not be proceeding with these wind farms [ER 2.4.13, 2.4.16 and 4.2.6]. However, the Secretary of State notes that the Applicant is still required to develop and deliver the connection for the Clocaenog Forest Wind Farm and Brenig Wind Farm to meet the contractual connection date of June 2017 [ER 4.2.8]. The ExA has concluded that the Applicant’s need case was reliable and robust [ER 4.2.10]. The Secretary of State agrees with this conclusion whilst separately noting that Contracts for Difference have been awarded to both Clocaenog Forest Wind Farm and Brenig Wind Farm on 26 February 2015.

17. Planning permission for the proposed North Wales Wind Farms collector substation near Clocaenog Forest, where the overhead line would begin, was granted on 1 June 2016. To facilitate the Development, modifications to the layout and infrastructure at the existing St Asaph substation and the installation of a 2.6km underground cable from the terminal point of the proposed overhead line in a field to the south of Trebanog, Groesffordd Marli (located approximately 1.8km from St Asaph substation), to St Asaph substation, are required. The works required for the underground cable from the terminal point of the proposed overhead line at Groesffordd Marli, to the

existing St Asaph substation do not form part of the Application and would be authorised through permitted development rights under the Town and Country Planning (General Permitted Development) Order 1995 [ER 2.4.21 and 2.4.22]. The Secretary of State notes that in a signed Statement of Common Ground between the Applicant and DCC, it was agreed that the works within the perimeter of St Asaph substation and the installation of an underground cable to connect the substation to the terminal point of the line would be permitted development [ER 2.4.24].

18. The ExA set out that the Applicant's position is that the implementation of the Development is important to facilitate renewable energy production to achieve the UK target of 15 percent of energy from renewables by 2020 [ER 4.2.1].
19. The Overarching National Policy Statement ("NPS") for Energy, EN-1, states that it is critical that the UK continues to have secure and reliable supplies of electricity as it makes the transition to a low carbon economy. Section 3.7 in EN-1 specifically deals with the need for new electricity network infrastructure and highlights that particularly for wind farms much of the new energy infrastructure that is needed would be located in places where there is no existing network infrastructure and may be in areas that should be protected from such intrusions. The NPS for Electricity Networks Infrastructure, EN-5, sets out the need for electricity network infrastructure, recognising the urgent need for new electricity distribution infrastructure, in particular for new lines of 132kV and above, to be provided. The ExA also noted that the WG's TAN8 highlights the need for reinforcement of the electricity network in north and mid Wales through the construction of new high voltage distribution and transmission lines to enable significant additional generating capacity as well as providing a stronger more reliable network [ER 4.2.11].
20. The Secretary of State has had regard to the comments of the ExA set out in Chapter 4 and Chapter 10 of the Report, and in particular the conclusions set out regarding the need for the Development following the termination of the connection agreements between the Applicant and the developers of the Nant Bach Wind Farm and the Derwydd Back Wind Farms. The Secretary of State considers that in the absence of any adverse effects which are unacceptable in planning terms, making the Order would be consistent with energy NPS EN-1, and EN-5 which set out a national need for development of new nationally significant electricity network infrastructure of the type proposed by the Applicant. Accordingly, the Secretary of State is satisfied that the need for the Development has been established.

### **Consideration of route Option A and Option B**

21. The Secretary of States notes that the Applicant submitted proposed changes to the alignment of a number of the wooden poles on 16

September 2015, referred to during the Examination as “Option B”, in response to requests from affected landowners for changes to pole locations. The Secretary of State notes that Option B did not affect any new landowners or tenants, when compared to Option A, but some of the plots and the description of the land differed to those in the Option A Book of Reference, as the Option B route was not identical to the Option A route [ER 8.3.5].

22. The ExA concluded that it was satisfied that the changes that were requested would not result in a materially different project from that which was consulted upon and submitted for the Examination, and issued a Procedural Decision on 6 October 2015 to accept Option B into the Examination. Thereafter, Option B was considered alongside Option A (the original Application) during the Examination, both as a whole and as potential alternatives to the individual sections of alignment [ER 5.15.2]. However, the ExA notes that there was no interest in a hybrid solution consisting of part of Option A with the remainder of Option B, or vice versa, and having considered that there is no difference in impacts that would arise from a hybrid solution compared to Option A or B, the ExA concluded that further consideration of a hybrid solution was not required [ER 5.15.3]. The Secretary of State agrees with the ExA’s conclusion that further consideration of a hybrid solution is not required.
23. The Secretary of State notes that the changes to the specific location of the Order land/Order limits in a few locations within Option B results in a slightly greater land take when compared to the land within the Option A Order limits, so that the total area of the Order limits are as follows [ER 5.7.31]: Option A (899,238m<sup>2</sup>); and Option B (900,663m<sup>2</sup>). However, The Secretary of State notes that the ExA did not consider the net increase of land within the Order limits for Option B (1,425m<sup>2</sup>) to be significant [ER 5.7.32].
24. The Secretary of State notes that the interested parties did not raise any issues in respect of Option B that had not been raised in respect of Option A [ER 5.15.8] and that the ExA concluded that Option B is preferable to Option A. The ExA concluded that Option B provides significant benefits to the farming community and others, over Option A, as it would include mitigation to reduce impacts on farming operations for numerous landowners and tenant farmers [ER 5.7.100]. The ExA also concluded that there are no significant dis-benefits to the environment or other receptors in choosing Option B over Option A.
25. The Secretary of State notes the ExA’s conclusion and reasons for recommending Option B and agrees with the ExA that Option B is preferable to Option A on the basis that it includes mitigation, in the form of the changes in pole locations, to reduce impacts on farming operations and should therefore be granted consent.

## **Consideration of alternatives including undergrounding**

26. Following the close of the Examination, the Secretary of State received representations from David Jones MP/AS for Clwyd West/Gorllewin Clwyd and Mr Dyfrig Hughes regarding the consideration of alternatives. These representations included consideration of the Trident single wooden pole system as an alternative to the double wooden pole system and the comparative cost of installing an undergrounding cable for the Development instead of the overhead line proposed, including decommissioning costs. The Secretary of State's consideration of these alternatives is set out below.

### **Alternatives to the double wooden pole system**

27. The Secretary of State notes that interested parties raised during the Examination consideration of a Trident single wooden pole system as an alternative to the double wooden pole system proposed by the Applicant for the Development [ER 4.5.84 - 4.5.98 and 5.3.16 - 5.3.26]. The Secretary of State notes that the Applicant explained to the ExA that an earthing system is required to mitigate against electric shock at the substation and in the surrounding areas, and that the only approved solution for providing the safety earth on a wooden pole is via the heavy duty wooden pole construction proposed, as a single pole cannot be used for the earth wire, which would have to be placed underground [ER 4.5.84 - 4.5.89]. The Secretary of State notes the ExA's conclusions and reasons for recommending that a single pole system would not be possible for the entire length of the development and that a hybrid solution of a double wood pole for areas which have a high rise of earth potential and where topography is over 150m, combined with a single wood pole for lower areas, would not be justified [ER 4.5.97 and 5.3.27], and agrees with the ExA that the double wood pole system should be granted consent.

### **Consideration of full undergrounding**

28. During the Examination, the ExA considered the comparative costs of underground and overground connection solutions from Clocaenog Forest to St Asaph, including representations made to the ExA which raised the issue of the decommissioning costs of the overhead line [ER 4.5.69]. The Secretary of State notes that the ExA considered the information provided by the Applicant in relation to comparative costs between overhead and underground connection options to contain sufficient detail which is realistic and credible, having considered the representations made by other interested parties regarding comparative costs [ER 4.5.93]. The Secretary of State notes that the Applicant concluded that the summary ratio is estimated to be in the range of 1.94 to 2.43 so that the value of lifetime costs for the underground option was seen by the Applicant to be approximately twice that of the overhead line [ER 4.5.44]. The ExA identified that for a 25 year connection this would equate to approximately an additional £16.6m [ER 4.5.93].

29. In relation to landscape and visual impacts, the Secretary of State notes that the ExA concluded that the Applicant's approach to the Holford Rules and consideration of alternatives is proportionate [ER 4.5.95 and 5.2.109]. When considering the requirements under EN-5, the Secretary of State notes that the ExA concluded that whilst serious concerns had been raised by interested parties regarding landscape and visual impacts, the balance of benefits of the underground alternative would not clearly outweigh the extra economic costs. The Secretary of State acknowledges that serious concerns were raised about the landscape and visual impact of the overhead line, in particular on the two locations identified by CCBC, and notes that the ExA has concluded that the underground route would be technically feasible and deliverable. However, the Secretary of State agrees with the ExA that he is not satisfied that the benefits of undergrounding the connection would clearly outweigh the extra economic impacts and therefore granting consent for the overhead line would be consistent with EN-5.

#### Consideration of partial undergrounding

30. The Secretary of State notes that CCBC had made representations to the ExA requesting that two parts of the Development are undergrounded, namely at the crossing under the A543 due to views towards the Elwy and Aled Valleys Special Landscape Areas and at the area around Berain (a cluster of two Grade II\* and two Grade II listed buildings in a farmstead) [ER 4.5.47 and 4.5.55]. In response, the Applicant had stated the view that the impacts of the Development at the two locations identified by CCBC would not trigger the need for undergrounding of the electric line, as the landscape and visual impact tests in EN-5 of serious concern, and the historic environment tests in EN-1 of substantial harm had not been met [ER 4.5.57]. The Secretary of State's consideration of the landscape and visual impacts tests in EN-5 of serious concern and the historic environment tests in EN-1 of substantial harm, are set out below.

31. The Secretary of State has had regard to the comments of the ExA set out in Chapter 4.5 and Chapter 10 of the Report, and in particular the conclusions set out regarding the consideration of alternative route options and undergrounding. The Secretary of State notes the ExA's conclusions and reasons for recommending that there are no policy or legal requirements that consent be refused for the Development (Option A or Option B) in favour of another alternative (partial or full undergrounding) and agrees with the ExA that the Development, including the overhead line, should therefore be granted consent.

#### Consideration of decommissioning of the Development

32. The North Wales Wind Farms, which the Development would connect to the electricity network, have requirements or conditions that limit the individual wind farms to a life of 25 years [ER 9.11.40]. During the Examination, interested parties raised concerns about the potential impacts if the

overhead line were to remain in place in perpetuity and the need to decommission the Development at the end of the operational life of the North Wales Wind Farms to which it would connect [ER 5.14.5 and 9.11.41]. The ExA concluded that a decommissioning requirement would address the concerns raised regarding the impacts of the Development if it were to be retained in perpetuity and recommended the inclusion in the Order of a requirement to decommission the Development (Requirement 17), limiting the lifetime of the Development to 30 years from the date the Order is made (Requirement 19) [5.14.10].

33. The Secretary of State agrees with the ExA that given the construction of the wind farms would not be controlled by the Applicant, to limit the life of the Development to 25 years from when the Order is made would be unreasonable. The Secretary of State notes the Applicant's willingness to accept a time limit for the Development to be decommissioned [ER 9.11.42], and agrees with the ExA's rationale for reaching its conclusion providing a justifiable basis for the timeframe of 30 years [ER 9.11.44]. The Secretary of State agrees with the ExA that limiting the lifetime of the Development to 30 years from the date of the Order, rather than that date of commencement as proposed by the Applicant, is reasonable to give the local community and affected persons certainty over the duration of the Development, whilst giving the Applicant a development buffer of 5 years over and above the consented lifetime of the wind farms.

### **Biodiversity, ecology and geological conservation**

34. The Secretary of State notes that the ExA considered a number of issues under the above heading, including:
- a) Habitats Regulations Assessment ("HRA")
35. Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) ("the Habitats Regulations") requires the Secretary of State to consider whether the Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on a European site as defined in the Habitats Regulations. If likely significant effects cannot be ruled out, then he must undertake an Appropriate Assessment addressing the implications for the European Site in view of its conservation objectives. In light of any such assessment, he may grant development consent only if it has been ascertained that the project will not, either on its own or in combination with other plans and projects, adversely affect the integrity of such a site, unless there are no feasible alternatives or imperative reasons of overriding public interest apply.
36. The Secretary of State notes that there are no statutorily designated sites within or adjacent to the Application site. The Applicant did not consider that there was any potential for the Development to have a likely significant effect on any European site and their qualifying features, either alone or in-

combination with other plans or projects [ER 6.3.2]. Two sites, raised by Natural Resources Wales (“NRW”) and the WG respectively, were given further consideration by the ExA, these were the Elwy Valley Woods SAC and the Dyfi Estuary SPA. However, NRW subsequently confirmed that they agreed with the Applicant that there would not be a likely significant effect on the Elwy Valles Woods SAC as a result of the Development [ER 6.3.3].

37. The WG initially raised concerns in respect of the Dyfi Estuary SPA and its overwintering Greenland White Fronted Geese population. The Secretary of States notes that the migration route of the Greenland White Fronted Geese is uncertain and therefore there is a possibility of collision with the overhead lines or poles of this Application. However, the Secretary of State refers to the advice of NRW that they do not consider that likely significant effects will occur on the Dyfi Estuary SPA due to the distance from the SPA to the application site; the high altitude at which Greenland White Fronted Geese would therefore be flying; the lack of any evidence of birds from any Greenland White Fronted Geese population roosting in the area around the application site and the low likelihood of collision risk. The Secretary of State has reviewed the letter dated the 27 January 2016 by the WG, which the Secretary of States notes was submitted to the ExA for consideration during the Examination [ER 6.3.14], that stated ‘we do not consider that the project is likely to have a significant effect on the Dyfi Estuary SPA and we consider that the proposed development would be unlikely to have significant effects on European sites alone or in combination with other plans and projects’.
38. Following the close of the Examination, the Secretary of State received an email from Ms Sheila Harman on 2 June 2016, who explained that her understanding is that no HRA was considered for the in combination effects of Brenig Wind Farm and Clocaenog Forest Wind Farm and noted that NRW has raised the issue in relation to the grid connection and Clocaenog during the Examination. However, the Applicant confirmed on 3 June 2016 to the Secretary of State that an HRA was not required for the Brenig Wind Farm planning application and the HRA submitted with the Clocaenog Wind Farm DCO application was taken into account in the Application for the Development. The Applicant also noted that both NRW and the WG had confirmed to the ExA during the Examination that they had concluded that the Development would not have a likely significant effect on any European sites.
39. The Secretary of State agrees with the ExA that there is sufficient evidence to conclude that the Development is not likely to have a significant effect on any European site or their features, either alone or in combination with any other plans or projects. The Secretary of State therefore concludes that an Appropriate Assessment is not required.

b) Effects on other protected Sites and Species

40. The Secretary of State has regard to the advice of NRW that protected species licences will likely be required for dormice and may be required for great crested newt, otters, bats and badgers [ER 5.1.87] and that 'it is not unlikely that any necessary protected species licences will be granted' [ER 5.1.89]. The Secretary of State agrees with the ExA that there would not be any undue impediments to NRW granting protected species licenses.
41. The Secretary of State notes that there are no Sites of Special Scientific Interest ("SSSIs") within the order limits [ER 5.1.18] and agrees with the ExA that the Development would not impact upon any SSSIs [ER 5.1.93].
42. The Secretary of State notes that six local wildlife sites would be significantly impacted by the Development, resulting in the loss of approximately 1.1ha of ancient woodland and 0.05 ha of deciduous woodland. The Secretary of State agrees with the ExA's conclusion that the need for the Development is sufficient to justify this loss. The Secretary of State is satisfied with the mitigation for this loss which is secured in the ExA's recommended DCO [ER 5.1.97].
43. Following the close of the Examination, Mr Dewi Parry emailed the Secretary of State on 5 July 2016 regarding the potential effects of the proposed overhead line on ancient trees situated in parkland, in particular the 'Four Sisters'. Representations were made to the ExA during the Examination regarding the remaining two trees of the 'Four Sisters' located in Eriviat Hall parkland [ER 5.1.82]. The Secretary of State notes that the ExA identified that 110 mature trees would be lost as a result of the Development, including the remaining two veteran trees of the 'Four Sisters', which the ExA noted would be locally significant [ER 5.1.104]. However, the ExA concluded that overall the number of trees that would be lost would be relatively small given the tree-dominated landscape and that mitigation includes the planting of replacement trees, albeit it would take a very long time for the trees to mature to the size of the mature/veteran trees that would be lost [ER 5.1.104]. The Secretary of State has considered the ExA's consideration of the effects of the Development on the remaining trees of the 'Four Sisters' and agrees with the ExA's conclusion that the loss of these trees would be locally significant, but concludes that the need for, and benefits of, the Development in that location clearly outweigh the loss.

**Best and Most Versatile land**

44. The Secretary of State notes that concerns were raised during the Examination by an interested party regarding the inclusion of Best and Most Versatile ("BMV") within the proposed Order [ER 5.7.35]. The Applicant confirmed to the ExA that the Environmental Statement should state that it has been assumed that all of the land affected by the Development is Grade 3a and therefore BMV land [ER 5.7.39], in accordance with Planning Policy

Wales (“PPW”), which sets out the land use planning policies of the WG. PPW states that the BMV land should be considered as a finite resource for the future and that land in grades 1, 2 and 3a should only be developed if there is an overriding need for the development and either previously developed land, or land in lower agricultural grades is unavailable, or lower agricultural grade land has an environmental value recognised by a landscape, wildlife, historic or archaeological designation which outweighs the agricultural conditions (paragraph 4.10.1, PPW Edition 8).

45. The WG had advised that it is for the ExA to be satisfied that in principle the Development conforms with PPW (Edition 7). Whilst PPW Edition 7 was replaced by PPW Edition 8 in January 2016, the ExA noted that the wording regarding the use of BMV had not changed between the two editions of PPW [ER 5.7.36]. The Secretary of State notes that the ExA accepted the importance of conserving BMV land as a finite resource for future generations, and that 2.5ha of BMV would be affected by the Development [ER 5.7.79]. However, the ExA has recommended that whilst the loss of 2.5ha of BMV would be contrary to Welsh policy in PPW 8, it would not be a permanent loss, as the route of the Development would be restored, when the Development is decommissioned 30 years after the Order is made, as required by Requirement 17 (Decommissioning) and Requirement 19 (Expiry of development consent) [ER 5.7.80 and 5.7.82]. The Secretary of State has considered the ExA’s recommendation and reasons and agrees that the loss of 2.5ha of BMV, whilst contrary to Welsh policy in PPW 8, would not be a permanent loss due to the decommissioning of the Development, as secured through the Order, and that the need for the Development is sufficient to outweigh the PPW 8 policy constraint in relation to BMV.

### **Landscape and visual impacts**

46. The Secretary of State notes that the Development would be located outside the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty, and Snowdonia National Park [ER 5.2.26] and that concern was not raised about potential effects of the Development on these designated landscapes. The Secretary of State notes that the ExA did not identify any potential adverse effects on designated landscapes and the Secretary of State agrees with this conclusion.
47. The Secretary of State notes that concerns were raised by a significant number of interested parties regarding the visual impact of the Development in relation to their residential properties [ER 5.2.65]. The Secretary of State notes that while the ExA agreed with the Applicant’s assessment of moderate effects and therefore significant visual impacts on residential properties, the ExA concluded that the occupiers of these properties would not be likely to have the visual amenity affected to the point where they become unattractive and therefore unsatisfactory places to live [ER 5.2.95]. The Secretary of State agrees with the ExA’s conclusion.

48. The Secretary of State has had regard to the comments of the ExA set out in Chapter 5.2 and Chapter 10 of the Report, and in particular the conclusions set out regarding the consideration of “serious concerns” in relation to landscape and visual impact and the tests in EN-5. The Secretary of State notes the ExA’s conclusion that moderate (and therefore significant) adverse effects would arise in relation to landscape and visual impact from the Development [ER 5.2.102], and agrees with this conclusion. However, the Secretary of State agrees with the ExA’s conclusion that the adverse landscape and visual impact effects would not lead to a level of harm which is sufficient to outweigh the need for the Development [ER 5.2.102] and is not satisfied that the benefits of undergrounding the connection would clearly outweigh the extra economic impacts. The Secretary of State agrees with the ExA’s conclusion that the requirements of EN-1 and EN-5 have been met and agrees with the ExA’s recommendation that there are no reasons on landscape and visual impact grounds not to make the Order.

### **Historic Environment**

49. The Secretary of State notes that concerns were raised by interested parties regarding the effect of the Development on the setting of Plas Newydd, Eriviat Hall parkland, and Berain throughout the Examination [ER 5.4.22].

50. The Secretary of State notes that the ExA agreed with the Applicant that the impact of the Development on Plas Newydd should be considered neutral or moderate/slight and therefore not significant [ER 5.4.105]. The Secretary of State has considered the ExA’s reasons and recommendation and agrees with this conclusion.

51. The Secretary of State notes that Eriviat Hall is not a listed building and the parkland is not a Registered Park or Garden [ER 5.4.48]. However, the Secretary of State notes that the ExA’s reasoning and conclusions in relation to Eriviat Hall parkland are formed on the basis that it is a candidate for inclusion in the register in the future, following advice from Cadw [ER 5.4.49 and 5.4.112]. The Secretary of State notes that the ExA agreed with the Applicant that the impact of the Development would locally alter the character and appearance of the location between poles 112 and 123. However, this change would be slight and therefore the effect would not be significant. On this basis, the ExA concluded that when applying the tests in EN-1, in relation to balancing the need for development with harm to heritage assets, in view of its proposed location, height, scale and materials that would be used, the double wood pole line would not cause substantial harm or loss to Eriviat Hall parkland [ER 5.4.115]. The Secretary of State has considered the ExA’s reasons and recommendation and agrees with this conclusion.

52. The Secretary of State notes that Berain is a cluster of two Grade II\* and two Grade II listed buildings in a farmstead and that CCBC expressed concern

throughout the Examination that the Development would have a significant major impact on the setting of Berain [ER 5.4.54 and 5.4.72] and contended that there was an overriding case for undergrounding [ER 5.4.54 and 5.4.63]. The Secretary of State notes that whilst Cadw had advised the ExA that it was likely that the Development would have a harmful visual impact on the setting of the listed buildings at Berain [ER 5.2.60 and 5.4.67], this view had been informed based on limited photographic and written evidence, rather than a site visit [ER 5.4.68]. The Secretary of State notes that the ExA agreed with the Applicant that the impact of the Development on the setting of Berain would be moderate and therefore significant, but notes that changes and the presence of man-made features are considerably greater within the vicinity of Berain compared to its wider setting [ER 5.4.118]. On this basis, the ExA concluded that when applying the tests in EN-1, in relation to balancing the need for development with harm to heritage assets, the double wood pole line would not cause substantial harm or loss to the listed buildings at Berain [ER 5.4.128]. The Secretary of State has considered the ExA's reasons and recommendation and agrees that the Development would not lead to a substantial harm.

53. The Secretary of State notes that the ExA concluded that the concerns about the longevity of the Development and the long term impacts upon heritage assets were addressed by the Applicant providing a requirement for the expiry of the development consent (Requirement 19 in the Order), so that the consent expires 30 years after the date that the Order is made [ER 5.4.103].

### **Compulsory Acquisition ("CA")**

54. The Secretary of State notes that the ExA considered whether the evidence provided during the Examination justified the grant of CA powers sought by the Applicant having regard to the statutory and other requirements and representations made by affected parties. The Secretary of State has considered the CA powers sought in respect of all of the Order land in relation to the creation and acquisition of new rights and the imposition of restrictions over land. The rights sought are for the purposes of constructing, installing, operating, maintaining and decommissioning the Development. The Secretary of State notes that the Applicant explained to the ExA during the Examination that it is not seeking CA powers over both sets of Land Plans for Option A and Option B, rather it would be over one or the other, depending on which was considered acceptable to the Secretary of State [ER 8.4.6]. The ExA's detailed consideration of CA matters is set out in ER section 8.
55. The Secretary of State notes that the Applicant has sought to acquire rights by voluntary agreement in parallel to seeking to compulsorily acquire rights in land through the DCO. The Secretary of State notes that progress was being made on negotiating voluntary agreements and heads of terms for easements outside the CA process with a number of landowners and

agricultural tenants [ER 8.10.10]. Notwithstanding progressing negotiations regarding voluntary agreements, the Applicant is still seeking to compulsorily acquire rights in land and restrictions in land through the Order to ensure it can deliver its statutory and contractual duties without potential delay if for any reason the voluntary acquisition of rights in land is unsuccessful [ER 8.10.11].

56. The Secretary of State notes that the Applicant has also applied separately under the Electricity Act 1989 for the grant of a number of necessary wayleaves to permit the diversion of a number of lower voltage lines in North Wales to allow the construction of the new 132kV line. The Applicant has confirmed there is no effect on the necessary wayleaves sought by the different route options.

#### Adequacy of Funding

57. The Secretary of State notes that the ExA is satisfied that the sum of money proposed by the Applicant to cover all CA land liabilities for Option A (£1.7m), has been reviewed and agreed by a competent independent advisor and that the same would be sufficient for Option B [ER 8.11.2]. The Secretary of State also notes that during the Examination no evidence was submitted to the ExA which identified that the sum of money proposed by the Applicant to cover all CA liabilities was insufficient [ER 8.11.3].

58. The Secretary of State notes that the Development would be funded through the connection agreements between the Applicant and RWE Innogy UK in respect of Clocaenog Wind Farm and Brenig Wind Ltd in respect of Brenig Wind Farm, who would now share the costs alone under their connection agreement [ER 8.11.9] by way of 'milestone' payments. The Applicant confirmed to the ExA that it would not start construction of the 132kV line until it was in receipt of the necessary milestone payments relating to construction, which would include the liabilities for CA [ER 8.11.7].

59. The Secretary of State notes that the ExA is satisfied that the Applicant has demonstrated that adequate funding is likely to be available from the remaining wind farm developers to enable the CA of rights over land in the statutory period following the Order being made, for either Option A or Option B [ER 8.11.11]. The Secretary of State notes that the ExA's recommended DCO (provided at Appendix E of the ExA's Report) has modified Article 22 to require that the Applicant provides the required funding for the CA liabilities through a guarantee or bond (or similar mechanism) in order to give certainty to the affected persons that CA liabilities would be secured and ring-fenced to fund the CA liabilities at the due time [ER 8.11.10]. The Secretary of State is satisfied that the CA liabilities of the Development can be adequately funded by the Applicant.

### Section 135 (Crown Land)

60. The Secretary of State notes that rights over Crown land are sought at various locations along the route of the Development. The relevant Crown Authorities responsible for these land interests are:
- The Crown Estate Commissioners; and
  - The Welsh Ministers.
61. Section 135 of the Act provides for the protection of interests in Crown land held for the time being otherwise than by or on behalf of the Crown. Section 135(2) of PA 2008 requires consent from a relevant Crown Authority for inclusion of any provision applying in relation to Crown Land.
62. The Welsh Ministers are the appropriate Crown Authority in relation to interests in plots 1, 1A, 1B, 3 and 3A for both Option A and Option B. During the Examination the WG confirmed that NRW is authorised to provide consent on behalf of the Welsh Ministers in relation to authorising the CA of interests in Crown Land for the Development [ER 8.12.15]. Following the close of the Examination, NRW confirmed on 5 July 2016, on behalf of the Welsh Ministers, that in respect of the Development, consent had been given under section 135 of the Act in relation to the inclusion in the Order of interests in plots 1, 1A, 1B, 3 and 3A. NRW confirmed that this consent is not conditional on the inclusion of the “Crown Rights” Article in the Order, should the Secretary of State wish to grant development consent for the Development. The Secretary of State is satisfied that NRW, on behalf of the Welsh Ministers, has provided consent under s.135 of the Act in relation to the inclusion of interests in plots 1, 1A, 1B, 3 and 3A in the Order.
63. The Crown Estate Commissioners are the appropriate Crown Authority for certain mineral and mining interests in respect of Plots 1, 1A, 1B, 2, 2A, 3, 3A, 4, 4A, 5, 5A, 6, 6A, 7, 7A, 8, 8A, 8B, 9, 9A, 9B, 10, 10A, 11, 11A, 12, 12A, 13, 13A, 13B, 14, 14A, 19, 19A, 19B, 19C, 21A and 21B for Option A and Option B. Similarly, in relation to Option B, The Crown Estate Commissioners are also the appropriate Crown Authority in respect to the additional Plot 5B [ER 8.12.20]. The Secretary of State notes that during the Examination the Crown Estate Commissioners provided consent pursuant to section 135 of the Act to the Applicant on 9 December 2015 in respect of both option A and option B. However, this consent was conditional on the draft DCO remaining materially the same and the inclusion of the “Crown Rights” Article in the Order [ER 8.12.21].
64. Following the close of Examination, the Applicant confirmed on 3 June 2016 to the Secretary of State that a formal agreement between the Applicant and the Crown Estate Commissioners has been drafted and was in the final stages of completion with regards to the Crown Estate Commissioner’s interest in Plots 1, 1A, 1B, 2, 2A, 3, 3A, 4, 4A, 5, 5A, 6, 6A, 7, 7A, 8, 8A, 8B, 9, 9A, 9B, 10, 10A, 11, 11A, 12, 12A, 13, 13A, 13B, 14, 14A, 19, 19A, 19B,

19C, 21A and 21B (Options A and B) and Plot 5B (in addition for Option B). That agreement was concluded on 25 July 2016. On 27 July 2016, the Crown Estate Commissioners confirmed that with the inclusion of new Article 19 and as drafted, then there was no need for consent from the Crown Estate under section 135 for the compulsory purchase of the rights as set out in the book of reference over the plots specified in their letter of 27 July 2016. The Secretary of State has, therefore, included those plots and the compulsory purchase of rights not held by the Crown within the development consent order.

#### Special Category Land including Sections 131 and 132

65. The Secretary of State notes that there is no Special Category Land affected by the Development.

#### Section 127 and Section 138

66. Section 127(2) of the Act provides that an Order may include provisions authorising the compulsory acquisition of statutory undertaker's land and section 138(4) provides that an Order may include provisions for the extinguishment of the relevant right or removal of the relevant apparatus. The Secretary of State notes that at the close of the Examination there were no outstanding representations in relation to statutory undertaker land and agrees with the ExA's conclusion that section 127 of the Act is not engaged [ER 8.20.1].

67. The Secretary of State notes that the ExA is satisfied that section 138 of the Act applies as relevant rights would be extinguished or relevant apparatus belonging to statutory undertakers and/or electronic communication code operators would be removed from the Development [ER 8.18.15]. The Secretary of State notes that for the purposes of section 138 of the Act, the ExA considers the following are relevant:

- NRW as a statutory undertaker;
- Dwr Cymru Welsh Water ("DCWW") as a statutory undertaker; and
- British Telecommunications PLC ("BT") as an operator of electronic communications code networks.

68. The Secretary of State notes that BT confirmed that it was in agreement with the protective provisions included in the draft Order "For the Protection of Operators of Electronic Communications Code Networks" [ER 8.12.30]. As these protective provisions are included at Schedule 9, Part 1 in the Order, and the Secretary of State notes that the BT did not specifically object to the CA of rights in relation to their land interests [ER 8.12.13], the Secretary of State is satisfied that there are no outstanding issues with regards to the BT land interests.

69. The Secretary of State considers that the requirements in section 138(4) of the Act in relation to the extinguishment of rights and the removal of apparatus, of statutory undertakers, namely NRW and DCWW, and operators of electronic communications code networks, namely BT, have been met in respect of Article 29 in the Order.

#### Other Objections

70. The Secretary of State notes that there were a number of objections to the CA powers sought by the Applicant that remained unresolved at the close of the Examination from individuals and businesses. The grounds for objection include concerns around impact on the right to quiet enjoyment of the property, property values, health and safety, maintenance costs arising from roadside planting of trees, the position of specific pylons in relation to concerns regarding access to property, including highway safety, and the impact on businesses ability to operate, including agricultural operations, and that the Development should be placed underground. The Secretary of State has had regard to the objections and the ExA's analysis of the issues and is satisfied with the modifications made by the ExA in response to some of these objections, including the preference for route Option B [ER 8.12.143], and that there are no matters raised that would preclude the grant of the CA powers sought.

#### CA of Rights and Imposition of Restrictions for Land at the North of the Development

71. The Secretary of State notes that the ExA has recommended that CA powers are included within the Order for the acquisition of necessary land rights and the imposition of restrictions, required for the installation of the underground cable from the terminal point to the highway at Groesfford Marli, to enable connection of the 132kV line into the existing St Asaph substation [ER 8.13.1 and 8.13.8]. Whilst the underground cable does not form part of the Development for which consent is sought, the Secretary of State notes that Plots 110, 111 and 111A included within the Order limits, are located in the northern section of the Development beyond the terminal poles and are required for the installation of the underground cable. The Secretary of State may only make an order granting development if he is satisfied that the conditions in subsection (2) and (3) of section 122 of the Act have been met, which requires that the Secretary of State is satisfied that the CA powers would be required to facilitate or are incidental to the development to which the development consent relates to. The ExA concluded that Plots 110, 111 and 111A would be required to facilitate the Development and that the CA of rights and the imposition of restrictions over this land would be necessary to enable the Development to be delivered [ER 8.13.6]. The Secretary of State has considered the ExA's analysis of this issue and is satisfied that the tests in sections 122(2) and 122(3) of the Act have been met.

72. The Secretary of State also notes that the ExA has recommended that CA powers are included within the Order for the acquisition of necessary land rights required for access to land for the purpose of landscaping and construction and temporary use of the land [ER 8.13.2 and 8.13.8]. Plots 108B, 111B, 108C and 111C are located north of the terminal poles but would be required to provide access for landscaping, construction and temporary use of the land (108B and 111B) and landscaping only (108C and 111C). The ExA concluded that Plots 108B, 111B, 108C and 111C would be required for access and landscaping and so these plots are required as part of the Development [ER 8.13.7]. The Secretary of State has considered the ExA's analysis of this issue and is satisfied that the tests in sections 122(2) and 122(3) of the Act have been met. The Secretary of State has concluded that there is a compelling case in the public interest for the grant of CA powers in relation to those plots identified in paragraphs 71 and 72.

#### Temporary possession powers

73. The Secretary of State notes that the ExA's recommended DCO (Appendix E in the ExA's Report) includes at Articles 27 and 28 powers for the temporary use of land to carry out the Development and for maintaining and decommissioning the Development, Schedule 8 of the ExA's recommended Order identifies the land of which temporary possession may be taken. However, the Secretary of State notes that concerns were raised during the Examination regarding whether it was necessary for temporary works to be included in the powers of the CA of rights [ER 8.15.4]. The ExA concluded that the temporary rights referred to in the Applicant's Statement of Reasons accompanying the Applicant's final draft Orders submitted during the Examination, are not CA powers and accordingly the tests under sections 122 and 123 of the Act are not applicable [ER 8.15.6].

74. The Secretary of State notes that the ExA considered that the temporary possession powers that are being sought by the Applicant should be granted, as the ExA was satisfied that there are adequate compensation provisions in place in Articles 27 and 28 in the ExA's recommended DCO, secured through the ExA's changes to Article 22 in the recommended DCO, which require the Applicant to provide a guarantee or alternative form of security [ER 8.15.7]. The Secretary of State has considered the ExA's analysis of this issue and agrees with the ExA's reasons and recommendation that the temporary possession powers sought are granted.

#### Addendums to the Book of Reference

75. Following the close of the Examination, the Applicant provided to the Secretary of State on 30 June 2016 an Addendum to the Book of Reference for Option A Version 5 (Document Reference 4.3 Option A v5); and an Addendum to the Book of Reference Option B Version 3 (Document Reference 4.3 Option B v3). The Secretary of State notes that no additional plots have been included within the Order land and the Applicant is not

seeking any additional interests in the Order land. Having considered the amendments identified within the Addendums to the Book of Reference for both Option A and B, the Secretary of State considers that these amendments are clarifications to existing interests and do not affect additional land.

### CA Powers – Conclusion

76. The Secretary of State is satisfied with the ExA's analysis of the issues relating to CA and notes the ExA's conclusion that the CA and temporary possession powers sought by the Applicant, are necessary to enable the Development to proceed; that the land to be taken is reasonable, necessary and proportionate; that there is a compelling case in the public interest for the land to be acquired compulsorily; and that the financial provision to provide compensation for CA is adequate to meet the expected liabilities.
77. The Secretary of State is satisfied that the requirements in sections 122 and 123 of the Planning Act 2008 and all other requirements for granting CA have been met. The Secretary of State agrees with the ExA's conclusions that the proposed interference with individuals' rights as a result of the grant of CA powers would be necessary, proportionate and justified in the public interest [ER 8.14.1 - 8.14.5 and 8.20.7].

### **Representations received after the close of the ExA's Examination of the Application**

78. On 23 May 2016 the Secretary of State consulted various parties to seek clarification on a number of issues. A copy of the Secretary of State's consultation letter and related responses from the Applicant, NRW, CCBC and Ms Sheila Harman are published alongside this letter. The Secretary of State also received correspondence from David Jones MP/AS for Clwyd West/Gorllewin Clwyd, Dr James Davies MP for Vale of Clwyd, the Applicant, the WG, NRW, the Crown Estate Commissioners, Mr Dyfrig Hughes and Mr Dewi Parry. This correspondence is also published alongside this letter. The Secretary of State's consideration of those responses and further representations has been included in his consideration as set out in this letter.

### **General Considerations**

#### Equality Act 2010

79. The Equality Act 2010 includes a public sector equality duty. This requires a public authority, in the exercise of its functions, to have due regard to the need to (a) eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act; (b) advance equality of opportunity between persons who share a relevant protected characteristic (e.g. age; gender; gender reassignment; disability; marriage and civil

partnerships<sup>1</sup>; pregnancy and maternity; religion and belief; and race) and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

80. The Secretary of State has had due regard to the public sector equality duty in s149 of the Equality Act 2010, including having considered the ExA's findings and conclusions, and agrees with the ExA's for the reasons given by the ExA.

#### Human Rights Act 1998

81. The Secretary of State has considered the potential infringement of human rights in relation to the European Convention on Human Rights, by the Development and compulsory purchase powers.

82. The Secretary of State has considered the effect of the Development on the property rights of individuals and businesses. In particular, the Secretary of State has considered whether the interference with the rights protected under Article 8, and Article 1 of Protocol 1, of the European Convention on Human Rights is necessary and proportionate.

83. The Secretary of State notes that the ExA had regard to the impact upon the occupants of the various residential properties, farms, and businesses along the proposed route. The ExA noted the concerns with regards to the perceived impact upon their private and family life and the potential interference with the peaceful enjoyment of their land and property.

84. The ExA considered that the interference anticipated would be in accordance with the law and would be necessary in the interests of the economic well-being of the country and that the relevant planning objectives could not be adequately achieved by means which would interfere less with the rights of individuals or businesses. The ExA accepted that there would be some interference with property and private and family life for certain residents but noted the grant of development consent need not result in the loss of any individual's home. The ExA concluded, having given consideration to the mitigation secured in the Order in each instance, the degree of interference with the rights of individuals would be necessary in the public interest and would be proportionate [ER 8.14.1 - 8.14.5 and 8.20.7]. The Secretary of State agrees that the ExA's rationale for reaching its conclusion and that this provides a justifiable basis for taking the view that the grant of development consent, including the grant of CA of rights and temporary possession, would not violate any human rights as enacted into UK law by the Human Rights Act 1998.

85. In relation to the interference with the carrying on with an economic activity, the Secretary of State, similarly, has considered the rights protected, such

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<sup>1</sup> In respect of the first statutory objective (eliminating unlawful discrimination etc.) only

as the property rights where land is being taken or otherwise interfered with, and has reached the conclusion that any interference is necessary given the importance in the national interest of the project proposed and that the interference is proportionate, in not going further than the Secretary of State considers necessary to achieve delivery of the Development.

#### Section 6(1) of the Environment (Wales) Act 2016

86. The Secretary of State, in accordance with the duty in section to seek to maintain and enhance biodiversity in, and in so doing promote the resilience of ecosystems, so far as consistent with the proper exercise of those functions. In particular, in accordance with section 6(4)(a), regard should be had to the United Nations Environmental Programme Convention on Biological Diversity of 1992. The Secretary of State is of the view that the Report considers biodiversity in accordance with this duty.

#### **Secretary of State's conclusions and decision**

87. For the reasons set out in this letter, the Secretary of State considers that there is a compelling case for granting Development consent. Given the policy as set out in the relevant National Policy Statements referred above, the Secretary of State considers that the case is not outweighed by potential adverse local impacts of the Development, as mitigated by the proposed terms of the Order, and that granting consent would be consistent with EN-1 and EN-5.

88. The Secretary of State has also considered the Applicant's request for powers to compulsory acquire rights over land which form part of the Application, and for the reasons set out above, has granted powers of compulsory acquisition. The Secretary of State has also considered the Applicant's request for temporary possession powers over land which forms part of the Application, and for the reasons set out above, has granted temporary possession powers.

89. The Secretary of State considers that the Development will have no likely significant effects on European Designated Sites either alone or in combination with other plans and projects.

90. The Secretary of State has therefore decided to accept the ExA's recommendation in paragraph 10.2.1 of the Report to make the Order granting development consent (based on Option B) and to impose the requirements recommended by the ExA, but subject to the modifications described below. In reaching this decision, the Secretary of State has had regard to all other matters which the Secretary of State considers important and relevant to the decision as required by section 104 of the Act. The Secretary of State also confirms for the purposes of regulation 3(2) of the EIA Regulations that the environmental information as defined in regulation 2(1) of those Regulations has been taken into consideration.

## **Modifications to the Order**

91. The Secretary of state has amended the Order to take into account statutory practice for the drafting of orders and to make necessary minor and consequential changes to clarify the Order. In particular:

- Amendment to the definition of “the book of reference” in Article 2(1), “the book of reference” means the book of reference Option B (version 2) (as amended by the addendums to the Book of Reference Option B versions 2 and 3), and as certified by the Secretary of State as the book of reference under Article 36, following the Applicant providing an Addendum to the Book of Reference (Option B, Version 3) on 30 June 2016;
- Amendment of the “Crown Rights” Article (Article 20 in the ExA’s Recommended DCO provided at Appendix E of the ExA’s Report), now Article 35 in the Order, to limit the extent of the article such that it only affects matters not including compulsory purchase;
- Inclusion of an additional article, Article 19, on Crown land, defining the land and interests which can be subject to compulsory acquisition;
- Insertion of a new requirement (Requirement 18) for a Decommissioning Environmental Management Plan (‘DEMP’) in the Order, following confirmation from the Applicant on 3 June 2016 that the Applicant, DCC and CCBC, are in agreement that a DEMP should be required. CCBC also confirmed on 31 May 2016 that a DEMP is required;
- Removal of Requirement 18 (connection to the wind farms) in the ExA’s Recommended DCO (Appendix E to the ExA’s Report), following confirmation that the collector substation at Clocaenog Forest was granted planning permission on 1 June 2016; and
- Amendment to Table 11 in Schedule 12 (Documents to be certified), following the amendment to the definition of “the book of reference” in Article 2(1), following the Applicant providing an Addendum to the Book of Reference (Option B, Version 3) on 30 June 2016, and also to Table 16 to include the letter provided by the Crown Estate Commissioners of 27 July 2016 as a document to be certified.

## **Publicity for decision**

92. The Secretary of State’s decision on this Application is being publicised as required by section 116 of the Act and regulation 23 of the EIA Regulations.

Yours sincerely,

Giles Scott  
Head of Energy Infrastructure Planning and Coal Liabilities

## **ANNEX**

### **LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS**

Under section 118(1) of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The North Wales Wind Farms Connection Order as made is being published on the date of this letter on the Planning Inspectorate website at the following address:

<https://infrastructure.planninginspectorate.gov.uk/projects/wales/north-wales-wind-farms-connection/>

**These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655)**