

Application by Western Power Distribution (South Wales) plc for Brechfa Forest Connection

The Examining Authority's first round of written questions and requests for information

Issued on 13 October 2015

The following table sets out the Examining Authority's (ExA) first round of written questions and requests for information.

Questions are set out using an issues-based framework derived from the initial assessment of principle issues provided as Annex C to the letter of 3 September 2015. Additional sets of questions are added to the framework of principle issues to address the assessment of the application.

References to documentation in these questions relate to those in the examination library which will be updated throughout the examination and published: <http://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN020016/0.%20Project%20Management/Examination%20Library.pdf>

Column 2 of the table indicates **which persons questions are directed at**. The ExA would be grateful if all bodies named could answer all questions directed to them, providing either a substantive response, or indicating that the question is not relevant to them for a reason. The direction of questions in this way does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a **unique reference number** which combines an issue number and a question number. These numbers run sequentially on from those set out in the first round of written questions for ease of reference.

When you are answering a question, please start your answer by quoting the unique reference number.

If you are answering a few questions, answers in a letter will suffice. If you are answering several questions, it will assist the ExA if you use a table based on this one. An editable version of this table in Microsoft Word is available upon request from the case team, if you wish to request a word version please email k brechfaconnection@pins.gsi.gov.uk

CA

Compulsory Acquisition and Other Land Matters

In answering the questions below, all parties are reminded that the application for Compulsory Acquisition will be tested against the statutory tests established in the Planning Act 2008 (PA2008) at s.122 and 123.

The Examining Authority has established that one of the conditions set out in s.123 (2) to (4) is met – namely that the application for the order included a request for compulsory acquisition of the land to be authorised. The Examining Authority is required to establish that the land is required for the development to which the development consent relates and that it is required to facilitate, or is incidental to, that development. The Examining Authority is required to establish that there is a compelling case in the public interest for the land to be acquired compulsorily.

The revised Department for Communities and Local Government guidance on *Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land*, issued in September 2013¹ sets out requirements on the applicant in respect of compulsory acquisition.

These include, but are not restricted to advice that:

The applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored. The applicant will also need to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate. (para. 8) and that:

The applicant must have a clear idea of how they intend to use the land which it is proposed to acquire. They should also be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition

¹(<https://www.gov.uk/government/publications/planning-act-2008-procedures-for-the-compulsory-acquisition-of-land>)

	<p><i>becoming available. (para. 9) and that:</i></p> <p><i>applicants will need to be able to demonstrate that: any potential risks or impediments to implementation of the scheme have been properly managed; [and] they have taken account of any other physical and legal matters pertaining to the application, including the programming of any necessary infrastructure accommodation works and the need to obtain any operational and other consents which may apply to the type of development for which they seek development consent. (para. 19)</i></p> <p>Parties are also reminded that the applicant, Western Power Distribution (hereafter WPD) has stated that the land identified to be subject to compulsory acquisition that is required for the Project is no more than is reasonably required (para. 11.2 of the <i>Statement of Reasons</i> Doc. APP-139), that all reasonable alternatives to compulsory acquisition have been explored (para. 11.5 of the <i>Statement of Reasons</i> Doc APP-139).</p>	
<p>Statement of Reasons [APP-139] August 2015</p>		
CA01	Applicant	Where in the Statement of Reasons [APP-139], does it explicitly detail why the land identified by WPD for the Project is the only land available for those purposes?
CA02		<p>Paragraph 3.1 [APP-139] states that temporary rights are sought for construction and maintenance. Category 4 in the Book of Reference [APP-141], however, seems to indicate other reasons e.g. surveys/monitoring. Is the Applicant intending to provide for Category 4 rights in paragraph 3.33 i.e. Article 18: <i>Authority to survey and investigate the land</i>, of the draft Development Consent Order (DCO) [APP-039]?</p> <p>Further, on what basis does the Applicant think it can compulsorily acquire temporary rights as opposed to permanent rights?</p>
CA03		<p>Paragraph 3.12 [APP-139] uses the phrase “extinguished”?</p> <p>a) Is that what the Applicant intended?</p> <p>b) Is it, as explained in paragraph 3.13, intended to apply only to rights of WPD themselves?</p> <p>The Applicant needs to ensure that no other person’s rights are inadvertently extinguished i.e. Article 25: <i>Extinguishment of private rights and restrictive covenants relating to apparatus</i></p>

		<i>removed from land subject to temporary possession, of the DCO, [APP-039].</i>
CA04		<p>The Statement of Reasons [APP-139], para 7.18 states that '<i>there is a compelling case that the compulsory acquisition of rights outweighs the interference with private rights</i>'. Para 7.19 also relates to the need for there to be a compelling case in the public interest for land to be acquired compulsorily.</p> <ul style="list-style-type: none"> a) What assessment, if any, has been made of the effect upon individual affected persons and their private loss that would result from the exercise of compulsory powers in each case? b) What is the reasoning behind the assertion that there would be relatively limited interference with private rights in most cases? c) What regard has been had to the provisions of Article 1 of the First Protocol and Article 8 to the European Convention on Human Rights?
CA05		<p>In the light of the relevant DCLG guidance², paragraph 8:</p> <ul style="list-style-type: none"> a) How can the ExA be assured that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored? b) Set out in summary form, with document references where appropriate, what assessment/comparison has been made of the alternatives to the proposed acquisition of land or interests therein in each case.

² The revised Department for Communities and Local Government guidance on *Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land*, issued in September 2013² sets out requirements on the applicant in respect of compulsory acquisition.

CA06		What account has been taken of responses to pre-application consultation ³ (both in relation to statutory and non-statutory consultation) in considering whether there are reasonable alternatives to compulsory acquisition? Where are these referenced in the Statement of Reasons [APP-139] and/or Consultation Report [APP-044 to 048]?
CA07		In paragraphs 7.24 and 7.25 of the Statement of Reasons [APP-139], can the Applicant justify why they think they should have compulsory acquisition powers even if they have completed a voluntary agreement?
CA08		<p>Paragraph 10.5 of the Statement of Reasons [APP-139] refers to a letter in Appendix 1 from the Crown Estates representatives. This is not sufficient to satisfy s135 PA 2008; the Applicant will need to receive consent from the relevant Crown authority (or authorities) for all relevant s135 purposes.</p> <p>Can the applicant when responding to this question, provide a list of ALL those authorities from whom you require consent.</p> <p>Can the applicant provide a list of ALL those authorities from whom they require consent.</p>
CA09	Applicant	<p>Paragraph 10.6 of the Statement of Reasons [APP-139] states that Natural Resources Wales (NRW) have confirmed their consent in Appendix 2. This is not sufficient to satisfy s135(2) PA2008 as it neither states which provisions of the proposed DCO it relates to nor does it include any confirmation from the Welsh Government that NRW is authorised to provide any s135 PA2008 consent(s) that may be required from the Welsh Ministers in relation to the application.</p> <p>In paragraph 10.6, why has the Applicant referred to s135 (2), but <u>not</u> s135.</p> <p>Why, given that s135(1) PA2008 requires consent from the appropriate Crown authority to the acquisition of a third party interest in Crown land and given that s159(3) PA2008 provides that</p>

³ See Relevant Representations of Dr Michael Woods, N Woods, Robert Jones, Alan Pentmore, Diane Reader, Matthew Davies and BR and Y Kilkelly

		acquiring a right over land includes acquiring it by the creation of a new right, does the Applicant not consider any s135(1) consents to be required?
CA10		In paragraph 10.7 of the Statement of Reasons [APP-139], why is the Applicant citing s132 PA 2008 if they have stated that there is no land of any category covered by s132 in paragraph 10.12?
CA11		At what stage/how far progressed is any application under the Town and Country Planning Act 1990 (TCPA) for works for which the Applicant seeks compulsory acquisition in the DCO, but for which they do not seek development consent – (see paragraph 2.20 of the Explanatory Memorandum)? Is there any likely impediment to obtaining permission to carry out those works? Can the Applicant point to where they have dealt with this and the existence of a compelling case in the public interest for it, in the Statement of Reasons [APP-139]?
CA12		Paragraph 11 of the Department for Communities and Local Government (DCLG) guidance on Planning Act 2008: <i>Guidance related to procedures for the compulsory acquisition of land</i> , requires that the land identified to be subject to compulsory acquisition that is required for the Project is to be no more than is reasonably necessary for that purpose. Can the Applicant detail the justification of the dimensions of the order land for the numbered works 1, 2 and 3 in the DCO [APP-039]?
Funding Statement Doc Ref. [APP-042]		
CA13	Applicant	Can the applicant provide a detailed organogram of the group of companies of which Western Power Distribution (WPD) (South Wales) plc forms a part, detailing its corporate ownership?
CA14		Can the applicant provide a copy of the latest audited company accounts for WPD (South Wales) plc?
CA15		Paragraph 1.4.2 states that the project is fully funded by RWE, the developer of the wind farm that the project which will connect to the grid.

		<p>Paragraph 2.1.8, says funding has been secured through a mechanism agreed with RWE, which it says is set out in section 3 of the Funding Statement. The ExA remains to be persuaded that section 3 really does set out the mechanism the applicant has agreed with RWE, other than paragraph 3.1.1 saying that commercially confidential terms have been agreed to cover "consenting and construction".</p> <p>The Funding Statement in paragraph 3.2.7, refers to the RIIO – ED1 price control arrangement for District Network Operator's which began on 1 April 2015.</p> <p>Can the Applicant explain how it is anticipated that the reliability of revenue income will be secured by the new RIIO model?</p>
CA16		<p>The land acquisition costs and estimated costs of compensation are not separately identified. In paragraph 4.1.6 [APP-042], it is stated that "<i>is estimated at £1.1 million</i>" but with no further detail of how this has been calculated or by whom (e.g. any compulsory acquisition compensation valuation expert).</p> <p>Paragraph 5.1.4 says the Applicant is satisfied the estimated £1.1 million will be funded by RWE, but gives no detail of what the contractual commitment (or any financial limit to it) of RWE is.</p> <ul style="list-style-type: none"> a) What are the discrete estimated costs of acquisition and compensation? b) If costs increase is there a contingency fund? c) What is the evidence to support those estimates and the level of contractual commitment of RWE to fund them?
CA17		<p>The applicant has not proposed to follow an approach similar to those adopted in some other Nationally Significant Infrastructure Projects (NSIP) , to ensure by way of a binding unilateral undertaking that compulsory acquisition powers are not exercised unless:</p> <ul style="list-style-type: none"> i. the applicant has satisfied the Local Planning Authority (LPA) it already has funds, ii. an appropriate security (in a form acceptable to the LPA) has been put in place, or iii. has satisfied the LPA that no such funding arrangements are needed.

		<p>What security is being proposed by the applicant to ensure that these costs can be met in the event that the DCO application is approved?</p> <p>Does the Applicant propose to include a DCO provision relating to such controls and/or security?</p>
Book of Reference Doc Ref. [APP-141]		
CA18	Applicant and to all affected parties	<p>Can the Applicant provide a jointly agreed statement between the applicant and each affected party as to the progress made in, and current position of, negotiations on reaching any agreement (as mentioned in paragraphs 8.2 to 8.6 of the Statement of Reasons,[APP-139]) on the acquisition of land, rights or easements, as applicable.</p> <p>In each case, can the Applicant state whether or not all reasonable alternatives to compulsory acquisition have been explored, and, if so, why have those alternatives been rejected?</p>
CA19	Applicant	<p>The Applicant is requested to provide a separate schedule (referenced to in Schedule 2, Part 4 Crown Land Plans in the Draft DCO [APP-039]) of Crown interests identifying in each case which Crown Body is involved. Each interest should be referenced by plot numbers.</p> <p>The Applicant should also set out against each plot (as identified in Part 4 of the Book of Reference (BoR) [APP-141]) and interest what steps have been taken to obtain the appropriate Crown authority consent in principle or otherwise and how the Applicant intends to comply with s135 of PA 2008?</p>
CA20		<p>The Applicant is requested to provide schedules of statutory undertakers' interests (s127) and apparatus (s138) of PA 2008 identifying in each case which undertaker is involved (as detailed in paragraph 10.13 of Statement of Reasons [APP-139]). Each interest should be referenced by plot numbers.</p> <p>In addition, the applicant should set out against each plot and interest what steps have been taken to obtain the appropriate undertaker consent or agreement in principle or otherwise and how the applicant intends to satisfy s127 and s138 of PA 2008?</p>

CA21		Why are some pages of the BoR numbered, but others are not?
Part 1 of Book of Reference		
CA22	Applicant	<p><u>Definition of "Class 1":</u></p> <p>In "(b)" – interfere with <u>which</u> "rights sought by the undertaker"?</p> <p>In "(c)" – what "<u>adjoining land</u>"? And do the "<u>purposes</u>" need to be defined in greater detail?</p> <p>In "(e)" – Why is this needed? What <u>specific</u> "access route" is referred to? And "to exercise" <u>which</u> of "the rights"?</p> <p>Why does "Class 1" automatically invoke application of Classes 2, 3 and 4 (in column 3) as well?</p>
CA23		<p><u>Definition of "Class 2":</u></p> <p>Why does column 1 say "rights of access" when column 2 is more than access?</p> <p>In "(a)" – why is the phrase "remain on the land at all times" ⁴ used if only access is required?</p> <p>In "(c)" and "(d)" – "ancillary" to what exactly? Does it refer to all of what the Applicant lists above it, or only part?</p>
CA24		<p><u>Definition of "Class 3":</u></p> <p>In "(e)" - "ancillary" to what exactly? Is it all of what the applicant lists above it or only part?</p> <p>The whole of Class 3 is expressed as "temporary". Why does the applicant believe it should be part of DCO article 20(1) and 20(3) (Compulsory acquisition of rights in, under or over land)?</p>

⁴ ExA emphasis

CA25		<p><u>Definition of "Class 4":</u></p> <p>In "(c)" - "ancillary" to what exactly? Is it all of what the Applicant lists above, it or only part?</p> <p>The whole of Class 4 is expressed as "temporary". Why does the applicant believe it should be part of DCO article 20(1) and 20(3) (Compulsory acquisition of rights in, under or over land)?</p>
CA26		<p><u>Definition of "Class 5":</u></p> <p>The Applicant has added a new Class 5, which is stated as a replacement to the previous Class 3(d). However, it appears to include other rights/purposes additional to those in previous 3(d).</p> <p>a) Why would Class 3 still need to include 3(b) re ""temporary buildings" and;</p> <p>b) Why would it still need to include what is now 3(d) [previously 3(e)]?</p> <p>The whole of Class 5 is expressed as "temporary".</p> <p>c) Why does the Applicant believe it should be part of actual <u>CA</u> DCO Article 20(1) and 20(3)?</p>
The main Part 1 Table identifying plots, owners, etc.		
CA27	Applicant	<p>Whilst the revised BoR [APP-141], has now specified, against individual plots, that where Class 1 is sought, they also seek Classes 2, 3 and 4 e.g. A/LP/PS/1(A5-A11), it has not identified any plot where only some of the sub-classifications of a particular Class are sought. The Applicant appears to be seeking all elements of any stated Class for individual plots.</p> <p>Can the Applicant justify this approach (i.e. that there are no plots for which only some of the sub-classifications are necessary) on a plot by plot basis?</p>
CA28		<p>In column 3 where it states "land at Penyback" e.g. A/LP/PS/1 (A9-A26), the applicant does not give the rest of address (e.g. as per the owners' address in the column next to it). Why?</p>

	<p>In column 4, why, regardless of the category of right listed to be acquired, is it always the whole (all sub paragraphs) of that class of right? Is the whole of each plot needed or only specific sub-categories/sub-paragraphs?</p> <p>In column 5, if 2 owners (ExA assume joint owners) are listed, why does it not always say "both of" before the owners' address to avoid any ambiguity? (in some cases it does e.g. (ALP/PS/5 and ALP/PS/6 Michael Anthony Doyle and Rose Doyle, in others it does not – e.g. Carwyn Richards and Roy Thomas of Penyback.....").</p>
CA29	<p>How does the Applicant intend to deal with compulsory acquisition of rights over all interests in Crown land plots <u>except</u> the Crown's interests, as BoR descriptions of the land in each plot do not say e.g. "all interests in [then description of plot land] except any interest held by or for the benefit of the Crown"?</p>
CA30	<p>Can the Applicant consider whether references to the 'Department for Transport', 'the Secretary of State for Wales' and 'the National Assembly for Wales' are in need of updating, since the coming into force of the Government of Wales Act 2006?</p>
CA31	<p>The Applicant has listed Department for Transport e.g. B/LP/PS/1 (B45), and Secretary of State for Wales e.g. B/LP/PS/1 (B50) as having interests.</p> <p>Why are they (and the relevant plots) not also listed in Part 4 as Crown interests?</p>
CA32	<p>The Applicant should consider whether references to a numbered "section" of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, in headings to parts of the BoR, ought to be to a numbered "regulation":</p> <ol style="list-style-type: none"> i. The heading to Part 4 has not been amended as suggested in the Section 51 advice provided by the Planning Inspectorate on [7 July 2015]; ii. There now seems to be a rogue 'Part 5' heading in to Part 4; and iii. In Part 5, the Applicant has amended one reference in the heading to the correct regulation, but above it there's still an incorrect reference to a "section" and to "7(e)" (instead of the correct regulation 7(1)(e)).

		Can the Applicant amend these?
CA33		<p><u>Part 2 BoR</u></p> <p>The Applicant states there are no category 3 persons at all (paragraphs 3.35 and 3.36 of the Statement of Reasons [APP-139]. Is this correct?</p> <p>The Applicant makes no mention in the table headings of the third limb of category 3 persons (i.e. s.57 (6) (c) PA 2008 which refers to s152 (3) PA 2008). Please can the Applicant explain why?</p>
CA34		<p>In the heading, should "section 7(c)" be "regulation 7(c)"?</p> <p>In column 3 where it states "land at Penyback" e.g. A/LP/PS/1 (A9-A23), the Applicant does not give the rest of address (e.g. as per the owners' address in the column next to it). Why?</p> <p>In column 4 –</p> <ul style="list-style-type: none"> a) Why are some plots blank (rather than e.g. none"?) b) Why is William Gerwyn Rees (and some others listed in column 4) of an "unknown address"? – do they have any last known address? c) Why does the Applicant use "unspecified" landowners for some plots? This is different to "unknown" owners. d) In Plot B6 (and others) the Applicant refers to Secretary of State for Wales. Has the Applicant considered statutory transfers that may have vested land in e.g. the Welsh Ministers? e) Plot B45 (and others) the applicant refers to Dept. for Transport. Has the applicant considered statutory transfers that may have vested land in e.g. the Welsh Ministers?

		f) Plot C108 (and others) they say NRW has rights. Does the applicant mean land rights or e.g. as a statutory body managing land under some agreement?
CA35		<p>Part 4 BoR</p> <p>In the heading, should "section" be "regulation".</p> <p>a) Why does the applicant list "National Assembly for Wales"?</p> <p>b) Was there not a statutory transfer of property from that body to the Welsh Ministers in 2007 by virtue of the Government of Wales Act 2006?</p>
CA36		<p>Part 5 BoR</p> <p>In the heading, "section" should be "regulation".</p> <p>Why is there a non-prescribed schedule of statutory undertakers and like bodies at the end of the BoR, contrary to paragraph 9 of Annex D of DCLGs guidance on Planning Act 2008: <i>Guidance related to procedures for the compulsory acquisition of land</i>?</p>
DLV	Design, Landscape and Visibility	<p>Overarching National Policy Statement for Energy (EN-1) sets out the matters to be included in the Applicant's landscape assessment. It also sets out factors to which the ExA should give regard when judging the impact of a project on landscape. National Policy Statement for Electricity Networks Infrastructure (EN-5) provides further details including reference to the Holford Rules relating to the assessment and mitigation of landscape and visual impact. The Applicant's Environmental Statement (ES) refers to methodology as set out in Guidelines to Landscape and Visual Impact Assessment 3 (GLVIA3).</p> <p>EN-1 requires the ExA to satisfy itself that the Applicant has taken into account both functionality (including fitness for purpose and sustainability) and aesthetics including its contribution to the area in which it would be</p>

	<p>located as far as possible.</p> <p>EN-5 states that proposals for electricity networks infrastructure should demonstrate good design in their approach to mitigating the potential adverse impacts which can be associated with overhead lines.</p> <p>EN-1 requires the ExA to consider whether the project has been designed carefully taking account of environmental effects on the landscape and siting, operational and other constraints, to minimise harm to the landscape including by reasonable mitigation (EN-1 para 5.9.17).</p> <p>EN-1 requires the ExA to judge whether the visual effects on sensitive receptors outweigh the benefits of the project. EN-1 states that the assessment should include visibility and conspicuousness during construction and operation on views and visual amenity (EN-1 paras 5.9.7 and 5.9.18).</p>	
DLV01	Applicant	<p>In respect of the study area for the historic environment assessment (ES Chapter 11 [APP-066]), paragraph 11.4.6 of the ES states</p> <p><i>'The assessment considered changes to the settings of designated assets (statutory or non-statutory) within a study area extending 3km from the works boundary. This is the maximum distance at which the proposed infrastructure could result in significant visual effects (see Volume 6.2, Chapter 9: Landscape and Visual Assessment).'</i></p> <p>It is also noted that Figure 9.3 [APP-076] shows the Zone of Theoretical Visibility (ZTV) within 3km, whilst Figure 9.4 [APP-076] presents the baseline for visual receptors within 1km.</p> <p>Can the applicant explain the differences between the study areas for the historic environment assessment (3km) and the LVIA (1km) (as presented in ES Chapter 9 [APP-064]), particularly as ES Chapter 11 [APP-066] acknowledges that 3km is the maximum distance at which significant visual effects could arise?</p>
DLV02		<p>It is noted that Appendix 9.5 [APP-091] states that <i>'The location of each residential receptor is shown on Figure 1 within this appendix'</i>; however, no Figure 1 has been provided within the appendix.</p>

		<p>Could the applicant provide Figure 1 that is currently missing from Appendix 9.5 [APP-091] to the ES, to show the numbered location of residential receptors (R) (G) (S) and (H) assessed in ES Appendix 9.5?</p> <p>Could the applicant also provide an updated Figure(s) to include information on other receptors that are currently missing from ES Figure 9.4 [APP-076] (i.e. road users (R) assessed in ES Appendix 9.7 [APP-093] and cycle routes (CR) assessed in ES Appendix 9.8 [APP-094]?</p>
DLV03		<p>An assessment of the degree of visual change for each of the 28 representative viewpoints is provided in ES Appendix 9.4 [APP-090]. This assessment does not, however, confirm the significance of the visual effect at each viewpoint because <i>'each location may be associated with various categories of visual receptor (of varying visual susceptibility) and the varying significance of the visual effect on these different categories of visual receptor is assessed in subsequent Appendices 9.5 to 9.8.'</i></p> <p>Could the applicant clarify the range of significance for the visual receptors at each viewpoint?</p>
DLV04	Applicant and Carmarthenshire County Council (CCC)	<p>The draft s106 Agreement [APP-123] does not confirm who would be responsible for implementing and maintaining the landscape and ecological enhancement measures.</p> <p>How does the Applicant intend to ensure that the enhancement measures are implemented and successfully established and maintained?</p>
DLC05	NRW	<p>Could NRW expand on the comments made in their relevant representation:</p> <p><i>"I. An issue is that there are no unacceptable residual landscape or visual effects identified on any part of the registered Historic Landscape and locally designated Special Landscape area of the Towy Valley</i></p> <p><i>II. ES needs to consider the use of undergrounding cables where cumulative landscape or visual effects predicted."</i></p>
DLV06	Applicant	Paragraph 9.4.1 and 9.4.37 of ES Chapter 9 [APP-064] mentions "experienced professional

		<p>judgement”.</p> <p>Can the Applicant provide detailed CVs of the LVIA team who undertook this work?</p>
DLV07	CCC and NRW	Do CCC and NRW agree with the observation by the Applicant in paragraph 9.5.33 of ES Chapter 9 [APP-064] that ZTV “considerably overstates the extent of actual visibility”?
DLV08	Applicant	<p>Para. 9.5.59 of ES Chapter 9 [APP-064] and Table 2.1 of ES Chapter 2 [APP-057] states specific sections of the overhead existing assets may need to be placed underground.</p> <p>Is any of this undergrounding encompassed within Schedule 1, Work No 1(viii) and Work No 3 (viii) of the DCO (Doc. Ref. APP-039)?</p> <p>Has this undergrounding being assessed in the LVIA i.e. will it reduce “converging wirescape”?</p>
DLV09		<p>Paragraph 9.7.35 of ES Chapter 9 [APP-064] summarises the visual receptors which may experience significant (moderate) adverse operational visual effects. Paragraph 9.7.38 of the ES [APP-064] confirms that <i>“The proposed routeing has been reviewed in each case to ensure that no further reductions [to] the visual effects identified are practicable. No locations along the route have been identified as requiring the introduction of screen planting.”</i></p> <p>Can the Applicant confirm whether these conclusions and the need for any screen planting or any other landscape mitigation has been discussed with the occupiers of the residential receptors, where significant (moderate) effects may arise?</p>
DLV10		<p>Can the Applicant advise if their use of:</p> <ul style="list-style-type: none"> • significant (moderate) adverse landscape effects (ES Chapter 9 [APP-064] , Table 9.4 pgs. 98/99, pLCA10 Llanpumsaint Hills west of Rhydargeau- 19 poles over 2.3Km); and • significant (moderate) operational visual effects on residential, footpath and other recreational receptors at paragraph 9.7.35 of ES Chapter 9 [APP-064]

		Is this significant in terms of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (EIA Regulations)?
DLV11		Can the Applicant provide justification for the steps in the process used to assess receptor sensitivity and magnitude of change which has been undertaken for the visual assessment (Paragraph 9.7.29 of ES Chapter 9 [APP-064])?
DLV12		Can the Applicant detail what, if any, consideration was given to further mitigation of the area (Table 9.4 pLCA10 of ES Chapter 9 [APP-064]) that has been assessed as having residual significant (moderate) adverse effects on landscape? In particular, was any further consideration given to mitigation for any parts of pLCA10 area that are assessed as having greater moderate adverse effects? Was undergrounding considered as a form of mitigation for any of this area?
DLV13		Table 9.1 of ES Chapter 9 [APP-064] details the seven Holford Rules. Can the applicant expand column 2, to provide actual discrete examples on the route, of where the rules have been clearly deployed?
DLV14	CCC and NRW	Are CCC and NRW content with the: <ul style="list-style-type: none"> • representative viewpoints; and • Visualisations of the proposed development as set out by the Applicant in the ES [APP-064]?
DLV15	Applicant	Para 9.7.38 of ES Chapter 9 [APP-064] mentions "a relatively small number of receptors". Can the Applicant provide a table confirming which receptors, for the avoidance of doubt?
DLV16		Paragraph 9.9.7 of ES Chapter 9 [APP-064] confirms that no replacement tree planting is proposed as part of the scheme as no locations have been identified where it is considered

		<p>appropriate. However, the reference in paragraph 9.9.7 to 'replacement' tree planting within a 3km radius of the site indicates that there are potential locations where replacement tree planting can be provided.</p> <p>Can the Applicant explain where within the 3km radius of the site trees are proposed for removal and could be feasibly replaced. Please explain why replacement tree planting is not proposed as a mitigation measure and secured within the DCO?</p>
DLV17		<p>In paragraph 9.11.22 of ES Chapter 9 [APP-064], bullet point 3 mentions a "threshold".</p> <p>Can the Applicant explain what this threshold is?</p>
DLV18	CCC and NRW	<p>Are CCC and NRW satisfied with the adequacy of provisions relating to the control of design? Should these be required to be discharged by the relevant planning authority? This question specifically relates to:</p> <ul style="list-style-type: none"> • DCO Requirement 3. ("Compliance with approved details"); • DCO Requirement 4. ("Restrictions on Limits of Deviation"); • DCO Requirement 20 ("Construction Environmental Management Plan"). <p>If not what further details are required in the DCO or elsewhere to secure appropriate control?</p>
DLV19	Applicant	<p>In the Strategic Optioneering Report [APP-122] the Applicant explores six options. Can the Applicant provide a comparative tabulation of all six options on a single table with compliance/deliverability, environmental and costs compared for each of the six options?</p>
DLV20		<p>In the Strategic Optioneering Report [APP-122] the Applicant asserts at paragraph 1.1.10 that undergrounding the whole route was discounted on economic grounds. Can the Applicant provide the evidential bases for this conclusion i.e. are there independent third party verifications of cost assumptions?</p>
DLV21		<p>In the Strategic Optioneering Report [APP-122] the Applicant at paragraph 9.1.6 states</p>

		<p>undergrounding costs circa £986,000/Km. How was this figure established?</p> <p>The Applicant should endeavour to provide independent third party verifications of any cost assumptions?</p>
DLV22		<p>A number of Relevant Representations advocate the placing of cables underground. The Applicant is requested to justify, and explain the application as made, in the light of the alternatives raised by the Relevant Representations, why an underground cable solution has been rejected for all, or additional parts, of the proposed route?</p>
DLV23	CCC	<p>CCC in its Relevant Representation says it intends to provide further comments and assessment of the proposal's impact upon landscape character and visual amenity. This will include assessment of the southern slopes of the Tywi valley where the grid connection crosses a Special Landscape Area (SLA) and Registered Landscape of Outstanding Historic Interest (RLOHI) and the proposal's cumulative impacts with existing high voltage electricity lines in the southern corridor. Assessment of the ES' conclusions on the visual impact upon residential occupiers and other receptors will also be undertaken.</p> <p>What is the current status of this assessment?</p>
DLV24	Applicant	<p>Can the Applicant provide copies of the National Grid and Cigre guidelines referenced at para 9.2.4 of ES Chapter 9 [APP-064]?</p>

DCO	<p>The Development Consent Order In a number of the following questions, reference is made to the Infrastructure Planning (Model Provisions) (England and Wales) Order 2009. These may be found at http://www.legislation.gov.uk/ukxi/2009/2265/contents/made</p> <p>The following questions are directed at the applicant, unless otherwise noted, but other parties may comment where appropriate.</p> <table border="1" data-bbox="398 517 1966 884"> <tr> <th colspan="4">Abbreviations used</th> </tr> <tr> <td>PA 2008</td> <td><i>The Planning Act 2008</i></td> <td>MP</td> <td><i>Model Provision (in the MP Order)</i></td> </tr> <tr> <td>A</td> <td><i>Article</i></td> <td>MP Order</td> <td><i>the former Infrastructure Planning (Model Provisions)(England and Wales) Order 2009</i></td> </tr> <tr> <td>DCO</td> <td><i>Proposed DCO (Document 3.1)</i></td> <td>NPS</td> <td><i>National Policy Statement</i></td> </tr> <tr> <td>EM</td> <td><i>Explanatory Memorandum (Document 3.2)</i></td> <td>R</td> <td><i>Requirement</i></td> </tr> <tr> <td>ES</td> <td><i>Environmental Statement</i></td> <td>SI</td> <td><i>Statutory Instrument</i></td> </tr> <tr> <td>LIR</td> <td><i>Local Impact Report</i></td> <td>SoS</td> <td><i>Secretary of State</i></td> </tr> </table>		Abbreviations used				PA 2008	<i>The Planning Act 2008</i>	MP	<i>Model Provision (in the MP Order)</i>	A	<i>Article</i>	MP Order	<i>the former Infrastructure Planning (Model Provisions)(England and Wales) Order 2009</i>	DCO	<i>Proposed DCO (Document 3.1)</i>	NPS	<i>National Policy Statement</i>	EM	<i>Explanatory Memorandum (Document 3.2)</i>	R	<i>Requirement</i>	ES	<i>Environmental Statement</i>	SI	<i>Statutory Instrument</i>	LIR	<i>Local Impact Report</i>	SoS	<i>Secretary of State</i>
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DCO01	Applicant	Can the Applicant maintain a list of all plans and other documents that will require SoS certification ⁵ (including plan/document references), to be updated throughout the examination process (with version numbers), and supplied to the ExA before the close of the examination?																												
DCO02		<p>The DCO is proposed to be an Statutory Instrument (SI) and so should follow the statutory drafting conventions.</p> <p>Can the Applicant confirm that the DCO (and any subsequent revisions) are (and will be) in the</p>																												

⁵ Article 34

		form required by the Statutory Instrument template (see Planning Inspectorate Advice Note 13 and 15 ⁶) and validated as such using the current SI template, including footnotes to statutory references as necessary?
DCO03		The Applicant is requested to provide an Annex bringing together all mitigation needs (from the ES and all application and supporting documentation) and where and how these are to be secured in requirements or through other binding and enforceable mechanisms. This should be fully cross-referenced and should be in a form that is capable of tracking and updating throughout the examination. Can the applicant confirm that it will do so?
DCO04		Can the Applicant confirm that any subsequent versions of the DCO submitted to the examination: <ul style="list-style-type: none"> • will be supplied in both .pdf and Word formats, the latter showing any changes from the previous version by way of tracked changes (with changes shown in a different colour), with a separate commentary document briefly outlining the reason for the change? • will be supported by a report of the outcome of validating that version of the DCO through the publishing section of the legislation.gov.uk website?
DCO05		Article 2(1): <i>Interpretation</i> Can the Applicant amend the relevant definitions in Article 2(1) to refer to the relevant Part of Schedule 2 in which the relevant plans are listed? Why does the definition for Construction Traffic Management Plan (CTMP) refers to Schedule 2

⁶ [Advice note thirteen: Preparation of a draft order granting development consent and explanatory memorandum](#) Republished April 2012 (version 2)

		but there doesn't seem to be a CTMP, crown land plans etc. in schedule 2 of the DCO?
DCO06		Article 2(1) defines "environmental document" saying this means environmental statement. Why has the Applicant not defined environmental statement as that submitted under regulation 5(2)(a) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009?
DCO07		<p>Articles 2(1): <i>Interpretation</i>, definition of "maintain".</p> <p>a) Do any of the other activities mentioned in the definition such as "remove" require any further definition?</p> <p>b) If reconstruct, replace, reconductor or relay of the authorised development during operation have been assessed, where is this recorded in the Environmental Statement (ES)?</p> <p>c) Can the applicant provide a detailed justification for each element of the definition of 'maintain'?</p>
DCO08		<p>Article 2(1): <i>Interpretation</i>,</p> <p>This article defines the relevant planning authority as Carmarthenshire County Borough Council. Is Borough correct?</p>
DCO09		<p>Article 2(2): <i>Interpretation</i></p> <p>Should "required" be "acquired"?</p>
DCO10	NRW and Applicant	<p>With regard to Article 16: <i>Discharge of Water</i>, are NRW content with its provisions?</p> <p>16(9)(a) refers to the Environment Agency. Is this correct?</p> <p>16(9)(b) refers to the EP Regulations 2010. Is the Water Resources Act 1991 more appropriate?</p>

DCO11	Applicant	<p>Article 18(7): <i>Authority to survey and investigate the land</i></p> <p>Does the Applicant mean to cross refer to article 28 or to article 29?</p>
DCO12		<p>Article 20(1) and 20(3): <i>Compulsory acquisition of rights in, under or over land</i> – Why are these not restricted to BoR Class 1 and 2 rights only (i.e. permanent rights)?</p>
DCO13		<p>Article 20: <i>Compulsory acquisition of rights in, under or over land</i></p> <p>The Applicant is requested to provide justification for the scope of this provision and further details in the light of the Planning Inspectorate’s Advice Note 15: <i>Drafting Development Consent Orders</i>, paragraph 26, on restrictive covenants?</p>
DCO14		<p>Article 25: <i>Extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession</i></p> <p>Why has the Applicant not inserted a maximum allowable period of temporary possession?</p>
DCO15	<p>British Telecom (BT), National Grid Gas (NGG), National Grid Electrical Transmissions (NGET), Dwr Cymru Cyfyngedig (DCC), Welsh Water Utilities (WWU)</p>	<p>Article 25: <i>Extinguishment of private rights and restrictive covenants relating to apparatus removed from land subject to temporary possession</i></p> <p>What are the views of the relevant statutory undertakers in relation to this Article, and whether any re-drafting is necessary?</p>

DCO16	Applicant	<p>Articles 28: <i>Temporary use of land by the undertaker</i>, and 29: <i>Temporary use of land for maintaining the authorised development</i></p> <p>Why has the Applicant not included the addition of a provision to remove <u>all</u> works from temporarily occupied land if no permanent right to keep it there is acquired by compulsory acquisition over that land?</p>
DCO18	BT, NGG, NGET, DCC, WWU	<p>Article 30: <i>Statutory undertakers</i></p> <p>The relevant statutory undertakers are requested to set out their views as to whether or not the s127 and s138 PA 2008 tests would be met or to confirm whether they withdraw any of their representations relevant to those sections?</p>
DCO19	CCC	<p>Article 33: <i>Felling or lopping of trees and removal of hedgerows</i></p> <p>This provides wide powers in relation to the felling and lopping or the cutting back of the roots of trees and removal of hedgerows. Would the relevant requirement (Requirement 5) set out in Schedule 3 provide sufficient protection for important hedgerows?</p>
DCO20	Applicant	<p>Article 34: <i>Certification of plans</i> – refers to “(h) <i>environmental features plans</i>”.</p> <p>Does the Applicant intend to provide a definition of these in Article 2(1): <i>Interpretations</i>, and reference it in any operative provision in the DCO?</p>
DCO21		<p>Article 34: <i>Certification of plans</i>,</p> <p>This article makes reference to “(q) <i>any other plans or documents referred to in this Order.</i>”</p> <p>Having regard to the Planning Inspectorate’s Advice Note 15, para 11, the Applicant is requested to consider whether it is appropriate to include this form of wording in Article 34?</p>

DCO22		<p>Schedule 1: <i>Authorised development</i></p> <p>Paragraph 2.5.8 of ES Chapter 2 [APP-057] refers to a fibre optic cable. Should this be referred to in Schedule 1?</p>
DCO23		<p>Schedule 2: <i>Plans</i></p> <p>Is it only Article 3 that should appear in the heading?</p> <p>Are there any plans referred to in this Schedule but not defined elsewhere or not referred to in any operative DCO provisions?</p>
Schedule 3 - Requirements		
DCO24	Applicant	<p>Requirement 4(1): <i>Restrictions on the limits of deviation</i></p> <p>Could the applicant explain what is proposed for pole 203 and clarify why it is not restricted by the limits of deviation specified in this requirement?</p>
DCO25	NRW	<p>Requirement 7: <i>HDD drill depths and construction periods</i></p> <p>Could NRW confirm whether they are content with this requirement?</p> <p>If not, could NRW provide further comment/suggested amendment?</p>
DCO26	CCC	<p>Requirements 8: <i>Highways accesses</i>, 9: <i>Public rights of way</i>, 10: <i>Fencing and other means of enclosure</i>; and 12: <i>Archaeology</i></p> <p>Could CCC confirm whether they are content with these requirements?</p> <p>If not, could CCC provide further comment/suggested amendment?</p>

DCO27	NRW	<p>Requirement 14: <i>Habitat management plan</i></p> <p>Are NRW satisfied with its content?</p> <p>If not, could NRW provide further comment/suggested amendment?</p>
DCO28	CCC	<p>Requirements 15: <i>Trees to be affected</i>, 17: <i>Construction traffic management plan</i>, and 19: <i>Construction Hours</i></p> <p>Are CCC satisfied with their content?</p> <p>If not, could CCC provide further comment/suggested amendment.</p>
DCO29	Applicant	<p>Requirement 18: Temporary bridge</p> <p>Could the Applicant confirm the type, number and location of proposed temporary bridges, as specified in the draft DCO and also described in the Construction Management Strategy Document. The Applicant should explain whether the DCO would be intended to allow for more than one temporary bridge and also confirm whether (and if so where) the use of temporary bridges has been assessed in the ES?</p> <p>Why is no temporary bridge specifically mentioned in Schedule 1 works or in the ES Chapter 2 [APP-057]?</p>
DCO30	NRW	<p>The Applicant's Habitats Regulations Assessment (HRA) No Significant Effects Report (NSER) [APP-053] specifies a number of mitigation measures with regards to otters to conclude no likely significant effects. These include:</p> <ul style="list-style-type: none"> • Works to take place in daylight hours (Requirement 19 of draft DCO) • Lighting to be directional and away from watercourses (Requirement 16 of draft DCO) <p>Could NRW confirm whether they are content with the current wording of the draft DCO Requirements 16 and 19, particularly in relation to avoiding effects on otters?</p>

DCO31	Applicant, CCC and NRW	<p>Requirement 20: <i>Construction Environmental Management Plan (CEMP)</i></p> <p>The ExA notes that draft versions of the CEMP [APP-127] and associated plans have been provided to CCC, NRW and others for comment; however, the DCO does not specify that the final versions of the CEMP and CTMP are to be approved by the relevant planning authority. Nor do the plans such as the CEMP, Frac-out Contingency Plan or Habitat Management Plan specify that approval should be sought from the relevant planning authority in consultation with NRW and others (as appropriate). Could the applicant confirm whether it intends to seek the approval of the relevant planning authority (in this case CCC), in consultation with NRW and/or others (as appropriate), prior to the implementation of the CEMP and Frac-out Contingency Plan.</p> <p>If this is the case, could the Applicant amend the wording of relevant draft DCO requirements to include for these approvals?</p>
DCO32	Applicant	<p>Requirement 23: <i>Frac-out contingency plan</i></p> <p>Where is "frac-out" defined in the DCO?</p> <p>Why is a Frac-out contingency plan not explicitly listed in Article 34?</p>
DCO33		<p>Schedule 9: <i>Protective Provisions</i></p> <p>What is the current status of all Protective Provisions negotiations?</p>
Explanatory Memorandum Doc Ref. APP-140		
DCO34	Applicant and Welsh Government	<p>Paragraphs 2.8 to 2.21⁷ details the Applicant's arguments on why Works No. 2 is integral development.</p> <p>a) Can the Applicant elaborate on its "serious concerns" test and conclusions detailed in</p>

⁷ As do paragraphs 1.4.3 and 2.2.27 of the Planning Statement [APP-120]

		<p>paragraph 2.12?</p> <p>b) In paragraph 2.21, what is the current status of the Section 37 consent application?</p> <p>c) In paragraph 2.20, can the applicant provide greater detail on the extent of the proposed undergrounding of existing apparatus?</p> <p>d) Was the first iteration of the proposed route of the electric line(s) entirely overhead?</p>
DCO35	Applicant	<p>Paragraph 9.10 - Can the applicant explain how it regards Article 20(8) and 20(9) to satisfy the provisions of s135(1) and 135(2) PA 2008 requiring consent in advance of relevant provisions being included in a DCO?</p> <p>What is being done to obtain the requisite consents of the appropriate Crown authorities in relation to Crown Land?</p> <p>In view of the provisions of s135(1) and s135 (2) of PA2008, could the applicant clarify when it is anticipated that these consents will be forthcoming?</p>
EIA	<p>Environment Impact Assessment</p> <p>The adequacy of the assessment of its potential impacts</p> <p>The Brechfa Forest Connection Project EIA takes place within the context of the requirements of Directive 85/337/EEC as amended by Directive 97/11/EC (the EIA Directive) and the UK Regulations (IP EIA Regulations 2009) that transpose those Directives into UK law.</p> <p>The Regulations establish the minimum information to be supplied by the applicant within an ES, as well as information that the ExA can request as being reasonably justified given the circumstances of the case.</p> <p>Part 2 of Schedule 4 represents the minimum requirements for an ES under the IP EIA Regulations and this is reinforced by Regulation 3(2), which sets out the core duty of the decision maker in making a decision on EIA</p>	

	<p>Development. Regulation 3(2) of the IP EIA Regulation states:</p> <p><i>"the decision-maker must not make an order granting development consent unless it has first taken the environmental information into consideration, and it must state in its decision that it has done so."</i></p> <p>The UK courts have placed a great deal of emphasis on the important role of mitigation in EIA and its reporting in the ES for consideration by the ExA and stakeholders. As a result any review of an ES must take particular note of the proposed mitigation measures reported in an ES and the measures that will be used to secure and implement those measures.</p>	
EIA01	Applicant	Will all the existing assets detailed in Table 2.1 of ES Chapter 2 [APP-057] be undergrounded?
EIA02		Could the Applicant provide a clear demonstration of where the offsite works, which do not form part of the DCO works (including the New Lodge substation, the compound at the Carmarthen Show Ground, and diversion of existing assets), have been assessed in the ES or provide a clear statement of cumulative effects between the proposed development and these offsite works?
EIA03		<p>Concrete foundations are not required for the wooden poles and normally up to 2.7m of the wooden poles would be placed into the ground braced with a wooden baulk. Modified foundations may be required 'on a site by site basis' (paragraph 2.5.19 of ES Chapter 2 [APP-057]) (two are currently identified) and could comprise coarse granular material (crushed stone) instead of earth backfill (paragraph 2.5.19). However, Table Requirement 6 (Schedule 3) of the DCO [APP-039] identifies that the 'underground sections' of pole locations 171 and 172 will be placed within a concrete sleeve, which is not acknowledged in ES Chapter 2.</p> <p>Figures 2.8 – 2.16 of the ES [APP-076] do not include any detail of the proposed foundations, instead each figure is annotated with 'Main foundation components omitted', and 'foundation depth as specified on WPD pole schedule'. Table 1 of Requirement 3, (Schedule 3) of the draft DCO [APP-039] describes the pole height of each location, but not the depth of foundations (as implied on Figures 2.8 – 2.16) (paragraph 2.5.18 of ES Chapter 2 [APP-057] refers to 'up to 2.7m buried underground').</p> <p>Can the applicant confirm the depth of the foundations for the poles and how this would be</p>

		secured in the DCO, given that a limit to the depth of the foundations has not been specified in the DCO?
EIA04		<p>At paragraph 3.5.4 of ES Chapter 3 [APP-058] the Applicant states costs for UGC were found to be 2.78 and 3.77 times more expensive than an overhead line (OHL).</p> <p>Can the Applicant provide the evidential basis for this?</p>
EIA05		Was the route still primarily an OHL when the preferred corridor was announced in December 2013 (paragraph 4.5.9 of ES Chapter 4 [APP-059])?
EIA06		<p>Paragraph 6.2.16 of ES Chapter 6 [APP-059] provides a useful distinction between the types of mitigation that are involved:</p> <ul style="list-style-type: none"> • measures incorporated into the evolving design of the Proposed Development (e.g. environmental treatments or 'embedded' design elements) • standard measures (e.g. best practice construction management to control dust emissions); and • measures proposed in outline which may require further development and formal agreement to ensure their implementation '(e.g. off-site planting to provide visual screening to nearby residential dwellings)'. <p>a) What 'further development' is the Applicant considering and how these have been taken into account as part of the impact assessment and how they intend these to be secured through the DCO?</p> <p>b) Could the Applicant clarify what is meant by measures which may require 'further development'. An example of off-site planting to provide visual screening is given in paragraph 6.2.16 of ES Chapter 6 [APP-061], although the landscape and visual assessment (ES Chapter 9 [APP-064]) makes no reference to mitigation beyond that embedded into the design.</p> <p>c) Could the Applicant clarify the details of what is to be provided and the locations?</p>

		<p>d) How have these measures been taken into account as part of the impact assessment and how would they be secured through the DCO?</p>
EIA07		<p>The ExA notes the Applicant's consideration of a 'worse-case' scenario, as described in ES Chapter 6 [APP-061]; however, paragraph 6.4.4 of the chapter refers to subsequent modifications to the project during the later design phases.</p> <p>Could the Applicant comment on how the ES has assessed the worse-case if it is also acknowledging subsequent changes in the future?</p>
EIA08		<p>Other than paragraph 7.2.8 of ES Chapter 7 [APP-062], Appendix 7.3 [APP-085], and Paragraph 13.5.70 of ES Chapter 13 [APP-068]), where else in the ES is climate change explicitly addressed?</p> <p>Paragraph 13.5.70 of ES Chapter 13 [APP-068] describes the projected climate change impacts in 2050 (increases in precipitation, river flows and sea level). It is not clear how these have been applied in the assessment. Paragraph 13.5.6 of the chapter states that the section explains 'how it has been accounted for in the assessment process', but it does not appear to be the case at paragraph 13.5.70, which simply states the parameters of projected changes by the 2050s relative to the recent past, without confirming how they are accounted for in the assessment or how these projections relate to the operational life of the proposed development.</p> <p>Could the Applicant clarify?</p>
EIA09	NRW, CCC and Applicant	<p>ES Chapter 10 [APP-065] states that extensive consultation has been undertaken with NRW and CCC as part of the EIA scoping phase (Section 10.3). Table 10.1 summarises the information and advice received during the scoping process with regard to ecology. Paragraph 10.4.5 states that Table 10.3 is a full list of agreed Phase 2 ecological surveys. The evidence of agreement (such as correspondences) has not been provided.</p> <p>Could NRW and CCC confirm whether they agree with the scope of the ecological surveys, including survey methodologies, and whether they are appropriate to inform the EIA in respect</p>

		of ecology?
EIA10	NRW and CCC	<p>ES Chapter 10 [APP-065] states at paragraph 10.4.11 that sufficient surveys have been undertaken to inform the ecological impact assessment. It is noted that reptiles have been considered and assessed in the ES, although no detailed surveys for reptiles have been undertaken (paragraph 10.5.69).</p> <p>Could NRW and CCC comment on the approach the Applicant has undertaken to the assessment of reptile populations. Are they satisfied that impacts on reptiles are correctly predicted and the mitigation proposed is appropriate?</p>
EIA11	Applicant	<p>ES Chapter 10 [APP-065] does not specifically state what level of significance is considered to be significant, such that it requires mitigation (in line with the EIA Regulations). It is also not clear from the assessment which (if any) of the residual effects are deemed to be significant or not, despite the methodology stating in paragraph 10.4.9 that 'The final step is to assess whether impacts are ecologically significant or not.'</p> <p>With reference to paragraph 10.4.9 of ES Chapter 10 [APP-065], could the Applicant confirm what level of impact in the ecological impact assessment is considered to be significant in respect of the EIA Regulations?</p> <p>Could the Applicant also confirm whether the residual impacts stated to be 'significant at the site level' are considered to be significant or not in terms of the EIA Regulations? Is 'significant at the site level' considered to be significant and not able to be mitigated further?</p> <p>Should the Applicant propose changes to the impact assessment methodology in response to these queries, please could the amendments be set out and clearly explained.</p>
EIA12		<p>Paragraphs 10.4.7 and 10.4.8 of ES Chapter 10 [APP-065] set out the approach to characterising impacts in terms of temporal scope and probability of occurring. A Zone of Influence (ZoI) for the proposed development has not been specifically described, but a buffer of 2km (widened to 5km for bats) has been applied to the desk-based assessment and as such has been assumed to be the spatial scope applied for the ecological impact assessment by the Applicant.</p>

		<p>Could the Applicant further explain the spatial scope of the ecological impact assessment? It would appear a 2km buffer zone has been applied to the desk-based assessment (widened to 5km for bat species); however, it is unclear whether this has been applied across the assessment. Please could the Applicant clarify?</p>
EIA13	Applicant and RWE Innogy	<p>ES Chapter 10 [APP-065] relies on a coordinated mitigation strategy between the Applicant and RWE Innogy UK Ltd to conclude no significant cumulative effects as a result of habitat loss on habitats and species in Brechfa Forest. Could the Applicant and RWE Innogy UK Ltd comment on the progress of discussions regarding the mitigation strategy?</p> <p>Could the Applicant clarify what specific mitigation measures are proposed and comment on how they intend to secure these mitigation measures?</p> <p>The Applicant should also confirm the predicted significance of cumulative impacts associated with habitat loss in Brechfa Forest, as a result of the proposed development and Brechfa West Wind Farm, prior to mitigation, in the event that the combined mitigation measures cannot be secured or relied upon for the ES.</p>
EIA14	NRW and CCC	<p>Table 10.1 and Table 19.1 of ES Chapter 10 [APP-065] indicate that consultations were held with CCC with regard to other projects and plans that should be considered for cumulative effects.</p> <p>Could NRW and CCC confirm whether all relevant projects and plans have been considered for cumulative effects on ecology with the proposed development in the Applicant's ES?</p>
EIA15	Applicant	<p>Paragraph 10.5.75 of ES Chapter 10 [APP-065] states that pole locations in sensitive habitats (such as the bog at Rhydargaeau and the pingo complex at Alltwalis) have been carefully sited and limits of deviation have been restricted in these sensitive areas. Measures described include use of temporary protective surfacing, hand-stringing of the OHL wire using lightweight pilot wires, and bog-mats.</p> <p>The CEMP [APP-127] does not imply a lateral restriction of the works in these areas. It is noted</p>

		<p>that Figure 4 to the CEMP shows the bog and pingo areas, including access routes to the poles, which may imply that the works would be limited to accessing the pole using these side tracks and retreating the same way.</p> <p>Could the Applicant explain how works would be limited in sensitive areas, such as the bog at Rhydargaeau, through the DCO and the Works Plans?</p>
EIA16		<p>Schedule 11 of the draft DCO [APP-039] also allows for the removal of eight important hedgerows. The draft DCO does not make specific mention to the maximum width of hedgerows to be removed or the height to which they would be maintained.</p> <p>How will the Applicant ensure the mitigation measures to minimise the width of hedgerow removal would be secured through the DCO?</p>
EIA17	Applicant and NRW	<p>Could the Applicant and NRW provide an update on any discussion that has taken place in relation to protected species licensing?</p> <p>Could NRW provide comment on the Applicant's dormouse method statement, do NRW have any concerns?</p>
EIA18	NRW and CCC	<p>In respect of ecology and related issues, NRW commented in their RR that: <i>We require a scheme to secure the mitigation for bats, dormice and otters as set out in the ES (and appendices).</i></p> <p><i>We support the intent to produce & implement a robust and comprehensive Construction Environmental Management Plan to protect ground waters particularly in relation to the Horizontal Directional Drilling (HDD) under the Towy River.</i></p> <p><i>We support the developer's approach in the ES in respect of the proposed HDD of the pipeline a minimum of 5 metres below the river bed level of the River Towy and programmed outside the migration/spawning periods.</i></p> <p><i>We require confirmation that the developers will undertake and complete all works to protect woodland & hedgerows and undertake any replacement schemes for planting as required.</i></p>

		<p>In respect of ecology, CCC commented:</p> <p><i>The project will result in the loss of habitat features such as trees, hedgerows and sections of woodland which could also have an impact upon species of biodiversity interest. For example the impact upon and mitigation proposed for dormice at the southern end of Section A. The Council will provide further representations on the extent of impacts and appropriateness of the mitigation and monitoring proposed in the Habitat Management Plan and Construction Environmental Management Plan (CEMP).</i></p> <p>Could NRW and CCC confirm whether they agree with the approach and results of the ecological impact assessment?</p> <p>Where there are areas of disagreements/concerns? Could NRW and CCC expand on these concerns if so?</p>
EIA19	Applicant	<p>Can the Applicant confirm the Water Framework Directive (WFD) status of affected ground waterbodies, any relevant environmental objectives relating to those waterbodies (as set out in the relevant River Basin Management Plan), and whether the scheme has potential to impact on the status of any affected waterbodies?</p>
EIA20		<p>Can the applicant provide a Conceptual Site Model of the River Towy Horizontal Direction Drilling (HDD) based on paragraphs 12.5.10 – 12.5.17 of ES Chapter 12 [APP-067]?</p> <p>Is the siltstone (para. 12.5.17 of ES Chapter 12 [APP-067]) fractured? Will the HDD travel through fractured rock?</p>
EIA21		<p>Section 12.11 of ES Chapter 12 [APP-067] considers cumulative effects. The scope of cumulative effects is limited to those projects having overlapping development footprints (paragraph 12.11.4). This is considered to be inappropriate for sterilising effects on minerals safeguarding areas (MSA), where the presence of more than one development within the same MSA could increase sterilisation regardless of whether the footprints overlap.</p> <p>Can the Applicant confirm whether any other developments occur within the same minerals</p>

		<p>safeguarding areas but outside the development footprint that have potential to result in a cumulative effect in terms of sterilisation of mineral resources?</p>
EIA22		<p>Could the Applicant provide a figure / set of figures to include the waterbodies listed in table 1 of Appendix 13.1 [APP-109]?</p> <p>The figure(s) should clearly label all relevant waterbodies and distinguish between those that are and are not classified under the WFD.</p>
EIA23	Applicant and NRW	<p>Table 13.1 of ES Chapter 13 [APP-068] states that the water features have been highlighted in Appendix 13.1 [APP-109] in response to comments made in paragraph 3.78 of the Secretary of State's Scoping Opinion. Paragraphs 13.2.9 to 13.2.15 of ES Chapter 13 [APP-068] describe the requirements of the Applicant and the decision maker in respect of WFD, as specified in NPS EN-1. Water quality receptor sensitivity (Table 13.2 of ES Chapter 13 [APP-068]) includes WFD criteria in determining importance of resource (i.e. Good WFD status = high sensitivity; Poor WFD = low sensitivity); however, no separate assessment or statement of the project's compliance with WFD has been included with the application. It is noted that Table 13.1 of ES Chapter 13 [APP-068] states that an agreement has been reached between the Applicant and NRW that <i>'there will be no requirement for a Water Framework Directive Assessment to be undertaken.'</i></p> <p>Could the Applicant and NRW provide a more reasoned justification for the stated agreement between the parties at Table 13.1 of ES Chapter 13 [APP-068] that <i>'there will be no requirement for a Water Framework Directive Assessment to be undertaken'</i>, noting Section 5.15 of NPS EN-1 and paragraph 5.15.6 of NPS EN-1. Could the applicant provide a statement with regard to the project's compliance with the Water Framework Directive?</p>
EIA24		<p>Paragraph 13.6.4 of ES Chapter 13 [APP-068], concludes that a negligible impact on flood zone C2 areas as no works are proposed <i>'in or within 8m of the channels'</i>. Requirement 5 of the draft DCO [APP-039] does not strictly exclude construction works <u>relating to</u> the siting of the OHL poles from taking place within 7m of the watercourse and paragraph 5.3.3 of the CEMP [APP-127] states that the 7m buffer between working areas and water courses will be maintained <i>'where possible'</i>. It is therefore not clear from ES Chapter 13 as to what has been assessed in</p>

		<p>terms of the works adjacent to watercourses, as the DCO does not seem to limit works and the CEMP implies some flexibility.</p> <p>Could the Applicant clarify this point?</p>
EIA25		<p>The issue of potential leaching of pole treatment⁸ materials at locations other than poles 171/172 does not seem to have been considered as part of the construction or operational assessment (for example at other pole locations adjacent to surface water features / receptors). At paragraph 13.6.33 of ES Chapter 13 [APP-068], the Applicant states that '<i>Due to the relative scale of the poles, any leaching of materials would be small and therefore the magnitude of the impact would be considered low</i>', but does not consider other highly sensitive locations to which the need for anti-leaching measures may be required (particularly Protected Areas under the WFD, such as River Gwili, Nant Pibwr, Nant Crychiau, River Pib and others listed in Appendix 13.1 [APP-109]).</p> <p>Could the Applicant and NRW comment on the need for any further anti-leaching measures elsewhere?</p>
EIA26		<p>a) Could the Applicant provide further information regarding the measures to be included in the Frac-out Contingency Plan.</p> <p>b) Could NRW comment on the Applicant's intention to produce a Frac-out Contingency Plan prior to construction?</p> <p>c) Is NRW content with the mitigation measures proposed in relation to potential Frac-out in the absence of a draft Frac-out Contingency Plan?</p>
EIA27		<p>The Flood Consequences Assessment [APP-051] refers to a '<i>Flood Risk Management strategy</i>' (at paragraphs 8.3.4, 11.5.8) and a Flood Evacuation Plan (at paragraphs 8.4.1, 8.5, and 11.4.3), which would be developed prior to the commencement of construction.</p>

⁸ Raised by Alan Rentmore in his RR.

		Could the Applicant comment on how these additional strategy and plans are to be secured as part of the DCO and agreed by the relevant stakeholders?
EIA28	Applicant	A decommissioning plan is identified at paragraph 13.9.10 of ES Chapter 13 [APP-068], which is to <i>'be agreed with the local planning authority'</i> . This plan is not secured through the DCO and also not mentioned in ES Chapter 2 [APP-057]. Could the Applicant expand on the decommissioning plan identified in ES Chapter 13? How will this plan be secured and what will it comprise?
EIA29		Can the Applicant provide a copy of the guidance referenced at paragraph 17.4.3 of ES Chapter 17 [APP-072]?
EIA30		Could the Applicant update Tables 20.1 and 20.2 of ES Chapter 20 [APP-075] to include an additional column to specify how each of the proposed measures would be secured (for example, include reference to the relevant Requirement in the draft DCO), for ease of reference?
HA	Habitats, Ecology and Nature Conservation	
HA01	Applicant	Can the Applicant confirm that the project is not connected with or necessary to the management for nature conservation of any of the European Sites considered within their HRA NSER [APP-053]?
HA02	NRW	Does NRW believe that all the relevant European sites and features have been included in the Applicant's HRA NSER [APP-053]?
HA03		In the absence of a detailed project description included in the HRA NSER [APP-053], could the Applicant clarify the description of the project on which the Habitats Regulations Assessment has been undertaken and confirm whether this corresponds to ES Chapter 2 [APP-057] and the draft DCO [APP-039]?

HA04	Applicant	<p>It is noted that ES Chapter 2 [APP-057] does not include reference to a temporary bridge, which has been included at Requirement 18 of the draft DCO [APP-039].</p> <p>Could the Applicant clarify whether a temporary bridge (or bridges) is proposed for the development and if so, clarify any effects the temporary bridge(s) would have on European sites?</p>
HA05	NRW	<p>Could NRW confirm whether they are satisfied with the level of detail currently provided in the HRA NSER [APP-053], as supported by the CEMP [APP-127], such that a conclusion of no likely significant effects on the two SACs (Afon Twyi/River Towy SAC and the Bae Caerfyrddin ac Aberoedd/Carmarthen Bay and Estuaries SAC) could be reached?</p>
HA06	NRW and CCC	<p>Could NRW and CCC comment on the Applicant's approach to the Frac-Out Contingency Plan to be produced by the contractor prior to construction?</p> <p>Could NRW and CCC confirm whether they require sight of this plan now to satisfy themselves that there would no significant effect on the Afon Twyi/River Towy SAC and the Bae Caerfyrddin ac Aberoedd/Carmarthen Bay and Estuaries SAC?</p>
HA07	Applicant and NRW	<p>Could the Applicant and NRW comment on any permits that may be required for the works to proceed in proximity to the Afon Tywi/River Towy and other watercourses?</p>
HA08	NRW	<p>To avoid disturbance to qualifying fish features of the two SACs, a restriction to the HDD works has been included in the draft DCO, so that it will not occur between April and June inclusive (Requirement 7(2) of the draft DCO [APP-039]). The Applicant states that this has been agreed with NRW. The record of this agreement is in an RSK typed meeting note contained in Annex A, rather than as correspondence from NRW.</p> <p>Could NRW confirm whether they are satisfied with the proposed timing restriction of the HDD works between the period April to June, inclusive, to avoid potential effects on fish species?</p>
HA09	Applicant and NRW	<p>Reference to pre-construction surveys for otters is included in ES Chapter 10 [APP-065], ES Chapter 20 [APP-075], the HRA NSER [APP-053], and in the CEMP [APP-127]. There are</p>

		<p>conflicting statements between ES Chapters 10 and 20 and the HRA NSER and CEMP with regard to pre-construction otter surveys. The ES Chapters specify that pre-construction surveys would only be undertaken <i>'if works not started within 2 years of surveys'</i>.</p> <p>The CEMP and HRA NSER do not imply that such a caveat would apply to the need for pre-construction surveys. The HRA NSER states that <i>'the requirement to carry out these surveys will be secured via a written requirement within the DCO. Works will not be able to commence until this requirement has been 'discharged by the LPA.'</i> No specific requirement has been included in the draft DCO in relation to otters and pre-construction surveys.</p> <p>Could the Applicant provide clarification on the pre-construction surveys proposed and confirm whether the intention is to undertake pre-construction surveys regardless of any time delay between the original otter surveys and construction of the proposed development?</p> <p>Could NRW also provide comment regarding pre-construction otter (and other species) surveys?</p>
HA10	NRW	<p>Could NRW comment on whether they agree with the Applicant's conclusion of no likely significant effects on the Afon Tywi/River Towy SAC and Bae Caerfyrddin ac Aberoedd/Carmarthen Bay and Estuaries SAC.</p> <p>If there are any areas of concern with regard to the Applicant's HRA NSER [APP-053] please could you expand on your concerns?</p>
HA11	Applicant	<p>The HRA NSER [APP-053] states that the otter survey locations and results of the surveys are presented on Figure 2 to the HRA NSER; however, there does not appear to be a Figure 2 provided with the report.</p> <p>Could the Applicant provide Figure 2 to the NSER as it appears to be missing?</p>
HA12		<p>Paragraphs 1.3.29 to 1.3.32 of the HRA NSER [APP-053] refer to water monitoring along the route. Will this be secured by a DCO requirement?</p>

HA13	NRW and CCC	<p>Correspondence from NRW dated 16 April 2015 and included as Annex A to the HRA NSER [APP-053], indicates that in-combination effects have been the subject of ongoing discussions between the applicant and NRW. NRW previously insisted that all projects hydrologically linked to the SACs should be considered in the assessment, including those beyond a 2km buffer being considered by the Applicant.</p> <p>CCC provided a similar response dated 20 March 2015. The HRA NSER [APP-053] does not include reference to a 2km buffer for the consideration of in-combination projects. Further correspondence with NRW (dated 23 April 2015) and CCC (dated 10 April 2015), as included in Annex A to the NSER, state that NRW and CCC are happy with the list of projects considered in the Applicant's in-combination assessment.</p> <p>Could NRW and CCC comment on whether they are satisfied with the Applicant's in-combination assessment of the proposed development on the Afon Tywi/River Towy SAC and Bae Caerfyrddin ac Aberoedd/Carmarthen Bay and Estuaries SAC?</p> <p>If there are any outstanding concerns with regards to the in-combination assessment, please could you expand on these in your response?</p>
OM	Other Matters	
DCO Documents Errata 8.10 – APP-147		
OM01	Applicant	In light of the number of 'corrections' proposed by the DCO Documents Errata [APP-147] to the Environmental Statement, HRA NSER, and associated documents (including Flood Consequence Assessment and Transport Assessment), could the Applicant explain whether these 'corrections' alter the assessment conclusions presented in the reports?
OM02		<p>Can the Applicant submit a table providing a chronological listing of all updated documents (including the plans) – structured by the main examination topic areas. The table should set out clearly all application documents and if/ when they have been superseded and by what. This table will be an important document:</p> <p>a) for the SoS in terms of having the necessary information to make a decision and, b) if consent is granted, for the discharging authorities.</p>

		This table should be updated (if required) at each deadline.
OM03	Applicant	Can the Applicant provide the evidence that both the OHL and UGC will conform with the International Commission on Non-Ionising Radiation Protection (ICNIRP) guidelines ⁹ ?

⁹ <http://www.icnirp.org/en/publications/index.html>