

## Procedural Decision

### Planning Act 2008

#### Application to make a change to the Brechfa Forest Connection Project

Ref: EN020016

Date: 1 March 2016

#### 1. BACKGROUND

- 1.1 On 24 February 2016, the Applicant submitted a change request in the form of an Option B to the project. This option includes the addition of two further spans of above ground electrical connection to be undergrounded adjoining the River Towy. These documents have been published on the project webpage: <http://infrastructure.planninginspectorate.gov.uk/projects/Wales/Brechfa-Forest-Connection/>
- 1.2 In its request, the Applicant states that the changes have arisen through representations by Carmarthenshire County Council and Natural Resources Wales since submission of the application [EV-018 to EV-022]. The option does not change the order limits in any way.
- 1.3 A Statement of Common Ground (SoCG) between the Applicant and Carmarthenshire County Council covering both the versions of Development Consent Order (DCO) 3.1E (Option A and Option B) will be submitted as soon as it is signed.
- 1.4 The full list of documents submitted is as follows:

Document	Examination Library Ref
Proposed Change letter to PINs 24 Feb 2016	CR-001
BFC Vol 09.28 Statement of Applicant	CR-002
BFC Vol 09.29 Addendum to the Environmental Statement	CR-003
BFC Vol 09.29.1 Addendum to the Environmental Statement - Figures Parts 1	CR-004
BFC Vol 09.29.2 Addendum to the Environmental Statement - Figures Parts 2	CR-005
BFC Vol 09.29.3 Addendum to the Environmental Statement - Figures Parts 3	CR-006
BFC Vol 09.29.4 Addendum to the Environmental Statement - Figures Parts 4	CR-007
BFC Vol 09.29.5 Addendum to the Environmental Statement - Figures Parts 5	CR-008
BFC Vol 09.29.6 Addendum to the Environmental Statement	CR-009

- Figures Parts 6	
BFC Vol 09.30 HRA NSER Screening of Alternative Undergrounding Option in the Towy Valley	CR-010
BFC Vol 09.31 Draft Development Consent Order	CR-011
BFC Vol 09.31 Draft Development Consent Order (Tracked Change)	CR-012
BFC Vol 09.32 Draft Explanatory Memorandum	CR-013
BFC Vol 09.33 Statement of Reasons	CR-014
BFC Vol 09.33 Statement of Reasons (Tracked Change)	CR-015
BFC Vol 09.34 Alternative Undergrounding Option in the Towy Valley Works Plans Section A – Llandyfaelog to Llangunnor	CR-016
BFC Vol 09.34 Alternative Undergrounding Option in the Towy Valley Works Plans Section B – Llangunnor to Peniel	CR-017
BFC Vol 09.35 Diagram illustrating change – OHL to UCG	CR-018
BFC Vol 09.36 CTMP Appendix – PROW strategy revised	CR-019
BFC Vol 09.37 132kV Overhead Line Work no.1 Profiles	CR-020
BFC Vol 09.38 Consultation Statement and appendices	CR-021
BFC Vol 09.39 Trees and Hedges with the Potential to be Affected Plans Section A – Llandyfaelog to Llangunnor	CR-022
BFC Vol 09.39 Trees and Hedges with the Potential to be Affected Plans Section B –Llangunnor to Peniel	CR-023
BFC Vol 09.40 Master Landowner Communication Table	CR-024
BFC Vol 09.41 Copies of Redacted Correspondence between BJP and Bruton Knowles	CR-025
BFC Vol 9.42 Commentary of changes to DCO Vol 03.1E	CR-026

## **2. THE CHANGE**

- 2.1 The Applicant requests that the Examining Authority (ExA) consider an additional length of undergrounding south of the River Towy as an alternative to the scheme as submitted. Presently it is proposed to have an overhead line (OHL) strung between poles 84 to 86. The alternative is to extend the total length of the connection to be undergrounded by approximately 260m from the point at which it presently transitions to OHL (pole 86). The alternative would remove the requirement for poles 85 and 86 with the position of pole 84 amended.
- 2.2 The Applicant maintains that it does not deem that these changes are required to mitigate any impacts from the project, nor does it provide any improvement and as such, wishes to continue to promote the original DCO as its preferred option.
- 2.3 The Applicant considers that should such an amendment be made it would not be a material change (paragraph 1.1.4 of Statement of Applicant [CR-001]).

### **Compulsory Acquisition**

- 2.4 The Applicant believes that no additional land is required to accommodate the alternative and that no change to the Classes within the Book of Reference is necessary, the land remains within Class 1 (Statement of Reasons (SoR) [CR-013]).

### **Habitat Regulations Assessment**

- 2.5 The Applicant has also screened the change for its potential to give rise to significant effects upon the Afon Tywi SAC. The results of the screening exercise are contained within the Habitats Regulation Assessment No Significant Effects Report Screening of Alternative [CR-009].

### **Consultation**

- 2.6 The Applicant, as requested through procedural decision [PD-015], has carried out consultation on this option and has submitted this information alongside an Environment Statement Addendum, alternative DCO, revised SoR, land plans and works plans. No objections to the alternative have been received following consultation (Consultation Statement and appendices [CR-050]).

## **3. PROCEDURAL DECISION**

- 3.1 In considering this request, the ExA has read and had regard to Guidance for the Examination of Applications<sup>1</sup> for Development Consent (para 109 to 115) and Advice Note 16<sup>2</sup>.
- 3.2 It is the view of the ExA that it does not consider the change to be so material that it constitutes a materially different project because:
- The option does not change the order limits in any way. No additional land is required to accommodate the alternative and that no change to the Classes within the Book of Reference is necessary, the land remains within Class 1;
  - Having reviewed the submitted Environmental Report (Addendum to the Environmental Statement [CR-002- CR-008] against the original Environmental Statement [, the ExA is satisfied that the environmental effects of the proposed change lie within the envelope of the original Environmental Statement;
  - No objections to the alternative have been received following the Applicant's consultation; and
  - The Applicant has screened the change for its potential to give rise to significant effects upon the Afon Tywi SAC. The results of the

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<sup>1</sup> Guidance for the examination of applications for development consent. DCLG March 2015

<sup>2</sup> How to request a change which may be material issued by the Planning Inspectorate in July 2015 having particular regard to para 2.1 and para 2.3.

screening exercise are contained within CR-009. NRW concur with findings of no significant effects [EV-027 to EV-030].

3.3 In considering this proposed material change to the application and in making its procedural decision about whether and how to examine the changed application, the ExA believes it has acted reasonably and fairly, in accordance with the principles of natural justice because:

- The application (as changed) is still of a sufficient standard for examination;
- Sufficient consultation on the changed application has been undertaken by the Applicant [CR-020] and can also be undertaken by the ExA to allow for the examination to be completed within the statutory timetable of 6 months and
- All other procedural requirements for the examination can still be met.

#### **4. CONCLUSION**

The ExA have considered all the information submitted and have concluded that the option is able to be examined and is accepted into the examination. The alternative proposed in Option B will be considered alongside the original application version of the project. Option B will be considered both as a whole and as a potential alternative to this section of the alignment.

Interested Parties are therefore invited to provide comment on these documents by **Deadline 6, 17 March 2016**.

**Martin Broderick**  
**Examining Authority**