

NATURAL RESOURCES WALES
AMENDED STATEMENT OF CASE
DECC REFERENCE: " LLANBRYNMAIR"

ELECTRICITY ACT 1989 (SECTIONS 36, 37, 62(3) & SCHEDULE 8)

TOWN AND COUNTRY PLANNING ACT 1990 (SECTION 90)
AND

THE ELECTRICITY GENERATING STATIONS AND OVERHEAD LINES (INQUIRIES
PROCEDURE((ENGLAND AND WALES) RULES 2007

APPLICATION BY RES UK & IRELAND LIMITED, DATED 27 MARCH 2009 FOR CONSENT UNDER
SECTION 36 OF THE ELECTRICITY ACT 1989 TO CONSTRUCT AND OPERATE A 100MW WIND
TURBINE GENERATING STATION IN POWYS, MID WALES ("LLANBRYNMAIR")

Natural Resources Wales

Amended Statement of Case

1 Background to the Application

1.1 The application seeks consent for the construction and operation of 30 turbines, each to a maximum height to blade tip of 126.5 metres (m). Additional infrastructure includes crane pads, two anemometer masts, six construction compounds, 27.7 kilometres (km) of new and upgraded roads, cable circuits, an electricity substation, seven borrow pits and two control buildings. In addition the application includes the felling of areas of commercial forestry and modifications to approximately 12km of public road to enable the passage of abnormal load deliveries.

1.2 The site is located within Strategic Search Area (SSA) B (Carno North), as identified by Technical Advice Note (TAN) 8, and is contiguous with the proposed Carnedd Wen windfarm which is seeking permission to construct 50 turbines, each with a maximum height to blade tip of 137m. A number of other planning applications for windfarms are in the vicinity of the site and will be determined under the Town and Country Planning Act (1990), or by the Secretary of State for Energy and Climate Change following applications to the National Infrastructure Planning Unit of the Planning Inspectorate. There are also a number of operational and consented windfarms in the vicinity of the site including the Cemmaes, Tir Gwynt windfarm, Carno 1 and Carno 2 windfarms.

Connection of the windfarm to the electricity supply network would require a separate consent, with a future application likely to be made by Scottish Power Energy Networks (SPEN) to the National Infrastructure Planning Unit of the Planning Inspectorate. The application includes information on a potential corridor for this connection.

The windfarm would be operational for 25 years, at the end of which it would be decommissioned.

1.3 The former Countryside Council for Wales (CCW) originally objected to this proposal in a letter sent as a consultation response to the Department of Energy and Climate Change on 11 November 2010. Since the submission of

the application the project has been amended, including the removal of 13 turbines. The former CCW formally objected to the proposal and the subsequent revisions in a letter sent as a consultation response to DECC on 12 October 2012. The objection letter was attached to the former CCW's original statement of case submitted in January 2013.

2 **Natural Resources Wales**

2.1 Natural Resources Wales was established in April 2013 and brings together the work of the Countryside Council for Wales, Environment Agency Wales and Forestry Commission Wales, as well as some functions of Welsh Government. It is the statutory adviser to the UK and Welsh Governments on sustaining and enhancing the natural resources of Wales. Our purpose is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.

2.2 Natural Resources Wales's functions are set out in the Natural Resources Body for Wales (Functions) Order 2012 and include the requirement to exercise its functions so as to:

- Promote nature conservation and enhancement of natural beauty and amenity, and
- Promote the provision and improvement of opportunities for access to and enjoyment of the countryside and open spaces; open air recreation; and the study, understanding and enjoyment of the natural environment.

Our advice and comments to the Inspectors and the PI are therefore provided in the context of the above remit.

2.3 Natural Resources Wales fully supports the government's energy policy and its targets for renewable electricity production, and to minimise environmental harm, the strategic approach to the location of windfarms as embodied in the strategic search areas (SSAs) set out in Planning Policy Wales (PPW) (version 5, November 2012) and TAN 8 Planning for Renewable Energy July 2005. We fully endorse the recognition in the National Policy Statements for Energy (NPS) and PPW that energy provision should seek to avoid or minimise the impact on the environment, and should not compromise international and national statutory obligations for designated

areas, species and habitats.

2.4 This Statement of Case updates the SoC submitted by the former CCW in January 2013, and will cover the impacts of the proposed development on the following:

- landscape and visual amenity arising from the proposed electricity substation, on-site access tracks and the proposed 132kV grid connection to the preferred National Grid 400kV substation site near Cefn Coch;
- landscape and visual amenity of the off-site works to the minor public road which is proposed to form the access route from the trunk road to the windfarm entrances;
- peatlands including peatland habitats and areas of peat soils;
- birds;
- dormouse.

3 The Case for Natural Resources Wales

Natural Resources Wales will produce evidence on the following issues:

3.1 Landscape and Visual Amenity

3.1.1 Natural Resources Wales considers that the assessment of the impacts of the on-site substation and on-site access roads is deficient. Mitigation works for the substation site are proposed which are substantially reliant upon the successful implementation of a planting scheme with associated earthworks. Insufficient details are provided in the SEI (August 2013) of how these features will be achieved in relation to the Llanbrynmair substation design, when taking into account the nearby proposed Carnedd Wen on-site substation within the existing forested area to the south. There is insufficient information in the SEI as to the landscape and visual effects of the routeing of the single 132kV line grid connection from this locality to the preferred Cefn Coch hub-station site.

3.1.2 An approximate 6.3km section of the Glyndŵr's Way National Trail is located within the site boundary, with 2.5km of this being along a section of minor road scheduled to undergo major highways works as a corollary to

this development. Additionally, a 2.5km section of the National Trail is also located within the adjacent Carnedd Wen windfarm. Trail users will therefore walk a cumulative 8-9km section of the National Trail within the boundaries of these two wind farm sites, which will have negative impacts on the amenity value they should reasonably expect to enjoy along a National Trail. The SEI acknowledges that a section of around 15km of the route will experience significant visual effects. Natural Resources Wales will argue that the applicant has not given sufficient consideration to the impacts upon users of Glyndŵr's Way when proposing the locations of borrow pits, access road routes and turbine locations.

3.1.3 Although within the SSA, the location of a substation and its associated power line infrastructure in an open and wild moorland landscape will have potentially serious landscape and visual implications, including impacts upon the users of the adjacent section of Glyndŵr's Way National Trail. Natural Resources Wales notes that Scottish Power Energy Networks (SPEN) proposes a shared 132kV grid connection from the substations at these two wind farms to the preferred National Grid 400kV substation site near Cefn Coch. This will necessitate a grid connection between the two substations. Neither scheme appears to have given any serious consideration to ensuring that the landscape treatment at the locations of their respective substations are co-ordinated, so that landscape and visual impacts can be minimised and the proliferation of overhead lines is minimised. Natural Resources Wales will argue that there are avoidable landscape and visual impacts arising from the installation of the infrastructure required to serve two contiguous wind farms, including the use of shared on-site access roads. These impacts have not been adequately assessed in the ES or the subsequent SEIs. The ES has not considered alternative options and has not adequately considered the impacts of the option of shared road access with Carnedd Wen.

3.1.4 The off-site highways works identified to facilitate the Llanbrynmair windfarm are substantial in extent and will require major modifications to a 12km section of minor road which will be sufficient to bring about a change of character. Approximately half of this length is outside the SSA boundary. The SEI (2013) accepts that around 6kms of this road will experience significant landscape and visual effects, some of which will persist into the

operational phase. Natural Resources Wales will argue that, although the SEI submitted by the applicant in August 2013 has revised the assessment, there is still insufficient evidence to substantiate the applicant's previous contention that the likely landscape impacts of the road amendments are minor and insignificant. The applicant has still not considered in the SEI the option of sharing access roads with the adjacent Carnedd Wen windfarm to minimise landscape and visual impacts.

3.2 Peatlands

- 3.2.1 Natural Resources Wales welcomes the additional work presented in the SEI 2013. Nevertheless, we have remaining concerns about the overlap between infrastructure and deep peat and peatland habitats. We consider that the scheme does not currently demonstrate that impacts on peat and peatland habitat have been minimised and mitigated.
- 3.2.2 Natural Resources Wales considers that the drainage assessment underestimates the potential impacts on deep peat and peatland habitats. Further, we consider that the assessment using the carbon calculator of peat carbon gains resulting from habitat restoration does not represent adequate mitigation/compensation for losses due to disturbance to peat. Further discussion/clarification is required from the applicant to understand how the assessment has been completed.
- 3.2.3 It is Natural Resource Wales's view that residual impacts on peat should be commensurately mitigated by means of a Habitat Management Plan which includes peatland restoration. We have reviewed the further information in the SEI 2013 and we will be seeking further information from the applicant to demonstrate that the proposed HMP would provide sufficient mitigation.
- 3.2.4 Although discussions between the applicant and Natural Resources Wales are continuing, Natural Resources Wales considers that it has not been demonstrated that the development has minimised disruption to peat and peatland habitats, and that the carbon balance savings of the scheme have not been maximised. Should further discussions with the applicant not resolve our concerns, we will provide evidence to support the need for sufficient mitigation to address the impact of the proposals on deep peat and peatland habitats.

3.3 Curlew

3.3.1 Curlew are a species of principle importance for the conservation of biological diversity in Wales under Section 42 of the Natural Environment and Rural Communities (NERC) Act 2006, because of their rapid decline in recent years. Breeding curlew are sensitive to the disturbance associated with construction and the operational stage of windfarms.

3.3.2 Natural Resources Wales has reviewed the SEI 2013 and considers there is a lack of mitigation in the applicant's proposals to avoid impacts on breeding curlew during construction and the operational phase of the windfarm. It is our intention to meet with the applicants to seek to resolve this matter. Should no agreement be reached, we will provide evidence on the lack of mitigation to address the impact of the proposals on curlew.

3.4 Dormouse

3.4.1 In August 2013 the applicant submitted SEI and concluded there would not be a significant impact on dormouse, a European Protected Species, in the vicinity of the off-site road amendments. The applicant considers that the habitat is not suitable to support dormouse and no surveys are necessary. However, no justification has been provided as to how this conclusion has been reached and why the habitat is unsuitable to support dormice. The applicant proposes to remove vegetation as part of the associated road widening works which has the potential to support dormice. To ensure compliance with the requirements of the EU Habitats Directive, and associated Conservation of Habitats and Species Regulations 2010 and to ensure that there is enough information available for the Inspector and Secretary of State to reach a decision on the scheme whilst ensuring that there will be no detriment to the favourable conservation status (FCS) of a European Protected Species, Natural Resources Wales, consider that justification is required to demonstrate that the habitat to be removed is not suitable to support the species. Without such justification, we consider that suitable survey should be undertaken to demonstrate that the proposals will result in no detriment to the maintenance of the FCS of the species.

3.4.2 It is our intention to continue discussions with the applicant and to work

towards resolving this issue. If adequate justification is not provided however or adequate information to enable the Inspector/Secretary of State to understand all of the impacts of the scheme, then Natural Resources Wales will make the case that due to a lack of survey data it is not possible to demonstrate that the works will not result in any detriment to the maintenance of the favourable conservation status of dormouse.

3.5 Grid Connection

3.5.1 .Natural Resources Wales considers that the proposed 132kV grid connection for the Llanbrynmair windfarm has the potential to have significant environmental impacts cumulatively with other grid connections and windfarms.

3.5.2 Our understanding is that the cumulative impacts with the wider grid connections for the Mid Wales SSAs will be considered in Session 4 and we will provide an updated position at this time. In the SEI 2013 the applicant has stated that further information will be submitted in September 2013 on the 132kV Llanbrynmair grid connection. We will comment further once this has been provided.

4 Planning conditions

In our letter of objection dated 12th October 2012, the former CCW recommended a number of planning conditions be attached to any consent the Minister is minded to grant for the proposed scheme. We recommend that these be imposed to secure mitigation measures for additional natural heritage matters on which Natural Resources Wales has not objected.

5 Conclusion

We reserve the right to comment on any other issues within Natural Resources Wales's remit should new or additional information be forthcoming prior to or during the inquiry, in particular in relation to any additional environmental information to be submitted by the applicant following this Statement.

Annex 1: List of indicative core documents

Natural Resources Wales may make reference in its evidence to the following legislation, policy and other documents. This list may be added to as inquiry preparation progresses:

Legislation

- Conservation of Habitats and Species Regulations 2010 (as amended)
- Electricity Works (Environmental Impact assessment) (England and Wales) Regulations 2000 (as amended)

National Policy Statements

- Overarching National Policy Statement for Energy (EN-1), Department of Energy and Climate Change, July 2011;
- National Policy Statement for Renewable Energy Infrastructure (EN-3), Department of Energy and Climate Change, July 2011;
- National Policy Statement for Electricity Networks Infrastructure (EN-5), Department of Energy and Climate Change, July 2011;

National Strategies, Policy and Guidance

- *Energy Wales: A Low Carbon Transition*; Welsh Government, (2012).
- *A Low Carbon Revolution - The Welsh Assembly Government Energy Policy Statement*. Welsh Assembly Government. (2010).
- The following sections of **Planning Policy Wales** (Edition 5, November 2012) may be referred to:
 - Chapter 4 - Planning for Sustainability;
 - Chapter 5 - Conserving and Improving Natural Heritage and the Coast;
 - Chapter 12 - Infrastructure and Services
- Technical Advice Note (TAN) 5: Nature Conservation and Planning; 2009;
- Technical Advice Note (TAN) 8: Planning for Renewable Energy; 2005.

Local Policy and guidance

- Snowdonia National Park Local Development Plan; Adopted, July 2011;

- Snowdonia National Park Management Plan, 2010-2015;
- Powys Unitary Development Plan, Adopted, March 2010
- *Our Partnership with Nature: A Local Biodiversity Action Plan for Powys.* Powys Biodiversity Partnership. (2002).

Supporting strategies, guidance and reports that Natural Resources Wales may refer to include:

- *The LANDMAP Information System - LANDMAP Methodology*, Countryside Council for Wales 2011 (and later);
- *Written Statement - Planning For Renewable Energy in Wales*, June 2011;
- *Letter to planning authorities from Minister for Environment and Sustainable Development*, John Griffiths, July 2011;
- *Guidelines for Landscape and Visual Impact Assessment*; The Landscape Institute and Institute of Environmental Management and Assessment; 2nd Edition, 2002; and 3rd Edition, 2013 (in preparation);
- *Assessing the Cumulative Impact of Onshore Wind Energy Developments*, Scottish Natural Heritage; March 2012.
- *Siting and Designing Windfarms in the Landscape*; Version 1, December 2009; Scottish Natural Heritage.
- *Wales Tranquil Areas Map* (2009), Report by Land Use Consultants for CCW.
- *Topic Paper 6: Techniques and Criteria for Judging Capacity and Sensitivity* (SNH and the Countryside Agency 2006);
- *Powys Landscape Character Assessment*. CCW and Powys County Council;
- *Landscape Character Assessment Guidance for England and Scotland* (2002) (2013 in preparation)
- Relevant appeal statements relating to the impact of windfarms on National Parks, landscape, peat, ecology and European Protected Species;

- *Guidelines for the Assessment of Indirect and Cumulative Impacts as well as Impact Interactions; European Commission, May 1999;*
- *The consenting process for onshore generating stations above 50MW in England and Wales. A guidance note on Section 36 of the Electricity Act 1989 (BERR, 2007).*
- ARUP. (2006). *TAN 8 Annex D Study of Strategic Study Areas B (Carno North) and C (Newtown South);*
- Garrad Hassan. (2005). *Energy Assessment of TAN 8 Wind Energy Strategic Search Areas;*
- *A Position Statement on Peat Conservation in Wales. CCW, 2010.*
- *Assessing the Impact of Windfarms on Peatlands in Wales, CCW Guidance Note, January 2010;*
- Carbon Implications of Windfarms Located on Peatlands - update of the Scottish Government Carbon Calculator Tool. Scottish Government, Edinburgh. Smith, J.U. et al., 2011.
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- Calculating potential carbon losses and savings from windfarms on Scottish peatlands: technical note - Version 2.0.1, Scottish Government, 2011
- Forestry Civil Engineering and Scottish Natural Heritage, (2010) *Floating roads on peat.*
- JNCC (1994) *Guidelines for the selection of biological SSSIs.* Joint Nature Conservation Committee.
- JNCC (1994) *Common standards monitoring guidance for upland habitats.*
- Lindsey R. (2010) *Peatlands and carbon: A critical synthesis to inform policy development in oceanic peat conservation and restoration in the context of climate change.* Report to RSPB and others.

- Nayak, D.R., Miller, D., Nolan, A., Smith, P., and Smith, J. (2008, 2010) *Calculating carbon savings from wind farms on Scottish peat lands - a new approach.*
- Rodwell, J.S. (1991) *British Plant Communities Volume 2, Mires and Heaths.* Cambridge University Press, Cambridge.
- Scottish Renewables and Scottish Environment Protection Agency (2012) *Developments on peatlands: Guidance on the assessment of peat volumes, reuse of excavated peat and the minimisations of waste.*
- Scottish Renewables, Scottish Natural Heritage, Forestry Commission, Scottish Environment Protection Agency (2012) *Good practice during windfarm construction.*
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- Forestry guidelines
- Baird, A.J. (2012). *Critical review of widths of drainage influence associated with artificial drains in blanket bog, with particular reference to the 2011 update of the Scottish Government Carbon Calculator Tool.* Countryside Council for Wales Contract Science Report, CCW, Bangor.
- Low, R. & Baird, A. (2013) *Assessment of hydrological impacts resulting from drainage, access trackways and related windfarm infrastructure on blanket bog and upland soligenous mires.* (In preparation)
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- Johnstone, I., Dyda, J. & Lindley, P. (2007). The population status and hatching success of Curlews *Numenius arquata* in Wales in 2006. *Welsh Birds* 5: pp 78-87.
- Langston, R.H.W. & Pullan, J.D. (2002). Windfarms and birds: an analysis of the effects of windfarms on birds, and guidance on environmental assessment criteria and site selection issues. *Birdlife International report to the Bern Convention*. Convention on the Conservation of European Wildlife and Natural habitats, Strasbourg, France.
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- *Natural Environment and Rural Communities Act 2006*. Chapter 16.

- Pearce-Higgins, J.W., Stephen, L., Douse, A., & Langston, R.H.W. (2012). Greater impacts of wind farms on bird populations during construction than subsequent operation: results of a multi-site and multi-species analysis. *Journal of Applied Ecology* 49, pp 386-394.
- Pearce-Higgins, J.W., Stephen, L., Langston, R.H.W., Bainbridge, I.P & Bullman, R. (2009). The distribution of breeding birds around upland wind farms. *Journal of Applied Ecology* 46: pp 1323-1331.
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- Scottish Natural Heritage Guidance. (2005, revised 2010). *Survey methods for use in assessing the impacts of onshore windfarms on bird communities*.
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- The assessment of the impacts of windfarms and grid lines on natural heritage is currently being advanced and CCW expects that new information will be published during the life time of the inquiry. In these circumstances we reserve the right to refer to this information and we will make it available to other parties as soon as we become aware of it.