

MID WALES (POWYS) CONJOINED PUBLIC INQUIRY

LLANBRYNMAIR WIND FARM

OPENING STATEMENT ON BEHALF OF RES UK & IRELAND LTD

1. The application is made by RES UK & Ireland Ltd (“RES”) one of the world’s leading independent renewable energy project developers with operations across Europe, and worldwide.
2. As a respected British company with over 30 years experience of planning, building and operating renewable energy projects, RES has been an established presence at the forefront of wind energy development since the 1970s and has developed and/or built more than 7.5 GW of wind energy capacity worldwide. This includes projects in the UK, Ireland, France, Scandinavia, and the United States, with a large additional portfolio currently in development. In the UK alone, RES currently has more than 1 GW of wind energy projects either constructed, under construction or consented. In 2013 RES was awarded for the second time, the Queen’s Award for Enterprise, this year for International Trade, following recognition in 2005 under the “Sustainable Development” category.
3. In March 2009 RES applied for consent under section 36 Electricity Act 1989 for a wind energy development of up to 43 turbines on land between the villages of Llanbrynmair and Llanerfyl in Powys. In addition to the wind turbines the proposal would provide for the associated infrastructure including on site tracks, underground cabling, crane hardstandings, a communications mast, a permanent 80 metre high free standing lattice wind monitoring mast, electrical transformers, electrical connection works, a substation and control building. As a result of representations made

subsequent to the application the proposal has been amended so that it comprises 30 turbines and various amendments have been made to the associated infrastructure¹.

4. The proposed wind turbines would comprise a conventional design of three blades and a tapered tubular tower. The overall height to blade tip would not exceed 126.5 metres (415 feet). The ultimate choice of turbine would be subject to a competitive tendering process within the parameters set out. A number of turbines currently on the market would meet all of the relevant criteria for the proposal (including for example noise specifications). The installed capacity of the turbines will depend upon the final turbine choice but can be expected to be with the range of 2 MW to 3 MW which would mean that the proposal would have a total installed capacity of between 60 MW to 90 MW.
5. The application site is centred on grid reference E294500 N306500. It covers an area of just over 1700 ha (4200 acres) and consists of small to medium sized fields primarily used for grazing sheep and cattle with some fields being cultivated for vegetable crops².
6. The proposal has been subject to extensive environmental appraisal. The original Environmental Statement was produced in 2008 and as a result of issues raised there have been 5 sets of Supplementary Environmental Information³. As explained at the Pre-Inquiry Meeting further Supplementary Environmental Information is to be provided as a result of further issues raised.
7. As the application is made under the Electricity Act 1989 it is important to have regard to the desirability of preserving natural beauty, conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or

¹ See Section 2 Powys Cabinet Report 25/9/12

² See ES p1 and Section 1 Powys Cabinet Report 25/9/12

³ A summary is set out in Section 3 Powys Cabinet Report 25/9/12

archaeological interest and what if any mitigation is proposed for any such effects in accordance with the duties provided under the Act⁴.

8. This Opening Statement is unusually prepared a considerable time before the details of the application are to be considered at the inquiry and before the evidence has been prepared and exchanged. It is therefore difficult to be certain as to the main issues which will be considered at the inquiry, but this Opening will briefly address the matters raised in the Outline Statement of Case prepared by Powys CC⁵ which provides some guide as to what are currently seen to be the major issues for consideration.
9. The proposal must be viewed against the pressing need to address climate change and improve the country's security of energy supply. There is widespread national and international recognition of the problems arising from climate change, the need to reduce carbon dioxide emissions and provide more electricity from renewable sources. The EU Climate and Energy package (formally agreed April 2009) commits the EU to achieving a reduction in EU greenhouse gas emissions of 20% by 2020 compared to 1990 levels and included a binding renewable target of 20%. The UK's share of this target is to deliver 15% renewable energy by 2020 which compares with a figure of 3.8% in 2011⁶. Under EU Decision 406/2009/EC the UK has a binding target of a 16% reduction in greenhouse gas emissions by 2020 compared to 2005 emissions levels. Not surprisingly, the UK Renewable Energy Strategy (UK RES) states that the UK needs to increase radically its use of renewable energy⁷.
10. As part of this drive towards reducing greenhouse gas emissions and increasing renewable energy production licensed electricity suppliers are subject to legally binding Renewables Obligations (RO). The RO started at 3% in 2002 and increases annually. The target for 2008-9 was 9.1% rising to 15.4% in 2010, but the UK is behind these targets with only 6.8% in 2010. Quite apart from government targets there is therefore a need for additional

⁴ See section 38 and Schedule 9 – SOCG – Policy – 001 para 5.4 – RES Opening Session SOC para 1.3

⁵ OBJ-002-OSOC -2

⁶ See SOCG – Policy – 001 4.1 – 4.5

⁷ SOCG – Policy – 001 5.11

sources of renewable energy to enable the electricity suppliers to fulfil their legal obligations⁸. Further legal requirements are imposed by the Climate Change Act 2008⁹.

11. The importance of achieving these aims and the difficulties in achieving them have been reiterated on numerous occasions by the coalition government; for example in the Energy Statements¹⁰, the National Renewable Energy Action Plan for the UK¹¹, the Carbon Plan¹² and the UK Renewable Energy Roadmap and Updates¹³.
12. Although the primary driver of legislation and policy in this area is undoubtedly the importance of tackling climate change and ensuring security of energy supply it is also important to remember that there are significant economic and employment benefits associated with the development of renewable energy as is recognised for example in the UK Renewable Energy Strategy¹⁴.
13. The Secretary of State's policy on these matters is set out in the National Policy Statements (NPSs). These NPSs were presented to Parliament. The NPSs were prepared under the provisions of the Planning Act 2008 and apply directly to NSIP applications determined under the Planning Act 2008. The current proposals are the equivalent of NSIP applications but fall to be determined under the earlier provisions of the Electricity Act 1989 on account of the dates of the applications. Although the NPSs do not apply directly to the applications in the manner that they do to applications under the Planning Act 2008, they clearly form the up to date policy basis for determination of projects of this nature and scale and substantial weight should be attached to them¹⁵ as the Secretary of State has recognised and confirmed¹⁶.

⁸ SOCG – Policy – 001 5.5 – 5.7

⁹ SOCG – Policy – 001 5.9 – 5.10

¹⁰ SOCG – Policy – 001 5.26 – 5.30

¹¹ SOCG – Policy – 001 5.31 – 5.35

¹² SOCG – Policy – 001 5.37 – 5.48

¹³ SOCG – Policy – 001 5.49 – 5.56

¹⁴ SOCG – Policy – 001 – 5.16

¹⁵ RES Opening Session SOC para 1.6 and see for example NPS EN1 paras 1.1.1, 1.2.1, 1.4.1 and 1.5.1 and NPS EN3 paras 1.1.1, 1.2.1, 1.2.3

¹⁶ SOCG – Policy 001 2.9

14. The NPSs recognise and seek to address the national imperative to deliver further renewable electricity generation. For example they provide –

- i) *"...The need for new renewable electricity generation projects is therefore urgent" (NPS EN 1 at 3.4.5);*
- ii) *"As part of the UK's need to diversify and decarbonise electricity generation, the Government is committed to increasing dramatically the amount of renewable generation capacity...In the short to medium term, much of this new capacity is likely to be onshore and offshore wind..." (NPS EN 1 at 3.3.10);*
- iii) *"...it will not be possible to develop the necessary amounts of such infrastructure without some significant residual adverse impacts" (NPS EN 1 at 3.2.3).*

In the context of a proposal of this nature and scale the NPSs make it plain that the need for the development is a given and is not open to challenge or discussion¹⁷.

15. The need to address these matters must be considered with a proper recognition of the vital role that energy in general and electricity in particular plays in maintaining our current way of life and living standards –

"Energy underpins almost every aspect of our way of life. It enables us to heat and light our homes; to produce and transport food; to travel to work around the country and the world. Our businesses and jobs rely on the use of energy. Energy is essential for the critical services we rely on – from hospitals to traffic lights and cash machines. It is difficult to overestimate the extent to which our quality of life is dependent on adequate energy supplies." (NPS – EN1 para 3.2.1)

16. The Government considers it essential that there should be a step change in the provision of renewable energy and clearly envisages that the new NPSs

¹⁷ RES Opening Session SOC para 1.3(2nd)

will produce this step change¹⁸. Whilst addressing climate change is a very important element of the drive towards the provision of increased renewable energy it is not the only driver. Equally important are the promotion of energy security and also the very significant economic development and employment generation arising from such development¹⁹. The Government seeks large scale deployment of renewables to meet these aims (including large scale schemes such as the current proposals). These aims of improving energy security and promoting economic development are all the more important given the current state of the economy.

17. The Powys CC officer's report correctly categorised the position when advising that if development contributes to meeting the energy need and is in accordance with NPS EN1 consent should be given²⁰. It must further be recognised that development on the scale required to meet the energy needs identified and to satisfy the Government's policy will inevitably have impacts. Indeed NPS EN1 advises that it will not be possible to develop the necessary amounts of infrastructure without some significant residual impacts²¹. The mere identification of impacts does not establish any conflict with policy. Even in the event the proposal is found to give rise to any residual harm this needs to be weighed against the acknowledged urgent national need to deliver new renewable energy generation capacity²².

18. The need for increased production of renewable energy is also recognised in the Welsh Government's energy and climate change policies. The Welsh Government is under a statutory obligation to promote sustainable development²³ and it has recognised the need radically to reduce use of carbon-based energy²⁴ and to revise upwards targets for renewable energy²⁵. The Welsh Government's Energy Policy Statement in 2010 evinced an aim to have 4.5 kWh/d/p of installed wind generation capacity by 2015/17 which was to be achieved inter alia by "*optimising the use of the existing strategic*

¹⁸ NPS EN1 para 1.7.2 1st bullet point

¹⁹ NPS EN1 para 3.4.2

²⁰ SOCG – Policy – 001 para 2.17

²¹ NPS EN1 para 3.2.3

²² SOCG – Policy – 001 para 2.16

²³ SOCG – Policy – 001 para 6.4

²⁴ SOCG – Policy – 001 para 6.5

²⁵ SOCG – Policy – 001 paras 6.6 and 6.10

search areas set out in Technical Advice Note (TAN 8)” and providing sensitively designed new grid connections²⁶. The contribution of renewable energy development to the economic revival of Wales is recognised in the Welsh Government report *Economic Revival: a new direction* published in July 2010²⁷. These aims are reiterated in the more recent Welsh Government document *Energy Wales: a low carbon transition*²⁸.

19. The urgent importance of addressing climate change and providing for greater renewable energy production is also recognised in planning policy in Wales. The Wales Spatial Plan update 2008 for instance recognises the need to act now and the crucial role that Central Wales has in delivering the necessary renewable energy capacity²⁹. The land use planning policies of the Welsh Government are set out in Planning Policy Wales (PPW) which states that tackling climate change is a fundamental part of delivering sustainable development based on a scientific imperative to act urgently to reduce greenhouse gas emissions³⁰. Section 12.8 of PPW sets out specific provisions for renewable and low carbon energy. The section provides for a rise from 0.7 GW of onshore wind capacity to 2GW by 2015/17³¹. It is furthermore important to note that of the 22.5 GW renewable energy sought in this section 12.5 GW is accounted for by tidal and wave technologies which are unlikely to be forthcoming in the required timescales; this places even more importance upon the provision of onshore wind energy which offers a mature and proven technology which can be delivered in the necessary timescales³².

20. PPW paragraph 12.8.5 provides that local planning authorities, particularly those containing SSAs should take the Welsh Governments *imperative* for renewable energy into account when consulted on applications such as the current proposals. Paragraph 12.8.13 explains that the SSAs are “*areas in Wales which, on the basis of substantial empirical research, are considered to be the most appropriate locations for large scale wind farm development*”

²⁶ SOCG – Policy – 001 para 6.12

²⁷ SOCG – Policy – 001 paras 6.14 – 6.17

²⁸ SOCG – Policy – 001 paras 6.20 - 6.21

²⁹ SOCG – Policy – 001 paras 7.4, 7.6 and 7.9

³⁰ SOCG – Policy – 001 para 7.16

³¹ SOCG – Policy – 001 para 7.18

³² SOCG – Policy – 001 paras 7.18 – 7.19

whilst paragraph 12.8.14 explains that whilst cumulative impacts within SSAs can be a material consideration, it must be balanced against the need to meet the Welsh Government's renewable energy aspirations. The policy approach taken in Wales has been to identify 7 SSAs that are intended to deliver more than three-quarters of Wales' renewable energy contribution from onshore wind by 2017³³.

21. Technical advice to supplement PPW is provided by TAN 8 which is stated to be relevant to determination of applications under the Electricity Act 1989³⁴. This flowed from extensive technical work undertaken by consultants on behalf of the Welsh Government which led to the conclusion that for efficiency and environmental reasons large scale onshore wind farms should be concentrated in defined SSAs³⁵. Each SSA has an indicative target for installed capacity to be built and connected by 2010. These figures are advanced in order to assist the planning process but are not to be seen as the definitive capacity for the areas³⁶. The TAN recognises that the construction of new high voltage distribution and transmission lines will be vital to the realisation of the Welsh Government's approach³⁷
22. The technical work underpinning the production of TAN 8 had identified a capacity of 1666 MW throughout the 7 SSAs but given that the target for 2010 was an additional 800MW from these areas this was reduced by one-third in TAN 8 to a total of 1120 MW to provide a degree of flexibility at local level³⁸. Against these figures the delivery to date can only be described as very disappointing with only some 110.45 MW consented and implemented by 2010³⁹.
23. The position with respect to SSA capacities has now changed since the 2010 target date has passed, with the Energy Minister confirming in a letter in 2011 that the capacity should be taken as that set out in the technical work namely

³³ SOCG – Policy – 001 para 7.24

³⁴ SOCG – Policy – 001 para 7.27

³⁵ SOCG – Policy – 001 para 7.28

³⁶ SOCG – Policy – 001 para 7.29

³⁷ SOCG – Policy – 001 para 7.33

³⁸ RES Opening Session SOC para 2.4

³⁹ RES Opening Session SOC paras 2.5-2.6

1666 MW for the 7 SSAs and in the case of SSA B 430 MW⁴⁰. The current position is that only about half of the identified capacity (842 MW) has been consented throughout the SSAs and only 300 MW of that has been constructed (less than one-fifth of the capacity or just over one-quarter of the originally identified TAN 8 figure)⁴¹. It is also clear that the major under-performance has arisen in areas B, C and D. In area B only 100 MW of the identified 430 MW has to date been consented⁴². Given the imperatives identified above it is critical that development be brought forward within area B without any further delay⁴³.

24. The Llanbrynmair proposal falls within SSA B. As such consideration of the proposal must take place not only against the background of the established need for and importance of proposals of this nature but also the prior identification of this area as a suitable and critical location for directing this form of development⁴⁴. Further impetus is provided by the failure to date to deliver the much needed levels of wind energy development within SSA B.
25. Although much work was undertaken in preparing TAN 8 Powys CC then commissioned ARUP to undertake refinement studies of the SSA. An initial refinement exercise was undertaken in 2006. This resulted in a radical change to the extent of SSA B but it is significant that all of the current proposal for Llanbrynmair fell within this reduced area⁴⁵. This refinement exercise was subsequently reviewed in 2008. As a result of the review exercise the proposed areas were revised such that all of the Llanbrynmair proposal fell within it (including those turbines which no longer form part of the application)⁴⁶. Thus it can be seen that within SSA B the most appropriate areas for development have been considered on 2 occasions by consultants on behalf of Powys CC who have concluded that the area of the Llanbrynmair proposal comes within the most suitable locations for this form of development. Furthermore it is important to remember that these reviews

⁴⁰ RES Opening Session SOC para 2.8

⁴¹ RES Opening Session SOC paras 2.9 – 2.10

⁴² RES Opening Session SOC paras 2.9 – 2.11

⁴³ RES Opening Session SOC para 2.11

⁴⁴ RES Opening Session SOC para 1.4(2nd)

⁴⁵ RES Opening Session SOC paras 5.2 and 5.3

⁴⁶ RES Opening Session SOC para 5.4

were undertaken at a time when the lower figures for the capacity of SSA B were being used⁴⁷.

26. On any view this proposal must be considered against a background of this area having been repeatedly identified as suitable for this form of development and the critical need for this area to contribute towards the pressing need for further renewable energy development.
27. As the application is made under the Electricity Act the provisions of section 38 Planning and Compulsory Purchase Act 2004 do not apply⁴⁸, however, the development plan is a relevant consideration to take into account. In this case the development plan is the Powys UDP adopted on 1st March 2010⁴⁹. The UDP acknowledges the weight of international, European, UK and Welsh policy and the imperative to promote the use of renewable energy⁵⁰ and considers it to be desirable for the Council to be more pro-active in steering wind power developments to areas that would be most acceptable⁵¹. In this context the repeated identification of the area within which Llanbrynmair is located as a suitable location for this form of development is particularly significant. UDP policy E3 sets out a number of criteria to be considered in assessing applications for wind farms. Whilst it will be appropriate to consider the issues raised by this policy they are to a large extent matters which would be considered in any event.
28. The scale of wind turbines is such that they must inevitably have some landscape and visual impact wherever they are located and such impacts always figure large in any consideration of wind farm proposals. Views differ as to whether such impacts are generally positive or negative, but given the inevitability of such impacts the clear national and local policy support for this form of development means that a degree of impact must be acceptable. In this case the starting point for consideration of those impacts is that this is an area repeatedly identified as an area to which such development is directed.

⁴⁷ RES Opening Session SOC paras 5.2 – 5.4

⁴⁸ See *R (Samuel Smith Old Brewery (Tadcaster)) v SSECC* [2012] EWHC 46 (Admin) [2012] 2 All ER 849

⁴⁹ SOCG – Policy – 001 para 8.1

⁵⁰ SOCG – Policy – 001 para 8.7

⁵¹ SOCG – Policy – 001 para 8.6 – UDP para 12.9.1

29. The application site forms part of an area of gently undulating plateau of generally subdued topography. It is located within a unit of the Plateau with Forest Landscape Character Type (LCT). This LCT is characterised by a large scale landscape with simple land form. The land cover of the LCT is intensively modified by grazing and conifer plantations which affect the visual character of the LCT by restricting outward views and introducing linear foci within the landscape. The application site is about 5 km from the southern boundary of Snowdonia National Park.
30. Extensive work has been done to reduce the impacts inevitably associated with the development of a wind farm. This has included careful consideration of siting, reduction in the number of proposed turbines, and substantial mitigation proposals.
31. In common with any windfarm the proposal can be anticipated to have a significant impact upon the application site and immediately adjacent area. It will also have a relatively limited number of visual impacts. This will include impacts arising from highway works to provide access to the site. However, as could be expected from the repeated identification of this area as an area to which such development should be directed the proposal is capable of being appropriately assimilated into the landscape and would not give rise to impacts of a nature to warrant refusal.
32. A thorough assessment has been undertaken of any potential cultural heritage impacts arising from the proposal and careful consideration has been given to any appropriate steps to mitigate any such impacts. The evidence will demonstrate that the proposal will not adversely affect the setting of any listed buildings bearing in mind that visual change is not an adverse effect in its own right and that there will be no adverse impact to cultural heritage interests which could found a proper reason for refusing this proposal.
33. Careful consideration has been given in the design and layout of the proposal to any potential impacts upon peat and hydrology and considerable information has been provided in the ES and subsequent SEIs. The proposal has adequately minimised loss of peat and peat impacts consistent with other constraints and the need to provide a viable proposal to meet the important

policy needs already identified. The proposal avoids impacts upon the better areas of peat habitat. In addition significant mitigations are proposed for peat including reuse of disturbed peat and enhanced habitat management for peat bog restoration. The mitigation measures proposed would more than compensate for any impact on peat arising from the proposed development.

34. The application site does not lie within any protected nature conservation sites but careful consideration has been given to sites in the vicinity of the application site. The only international site which requires consideration is the Berwyn SPA which is of particular interest for its breeding populations of harrier, merlin and peregrine and which is also a SAC with its main interest being its blanket bog habitat. There are also a number of SSSI that have been considered. A range of detailed studies have been undertaken with respect to ecological and particularly ornithological interests associated with the wind farm proposal.
35. With respect to ornithological interest the species of particular importance have been curlew, black grouse, hen harrier, red kite, and barn owl. The risks associated with development of the site have been assessed in accordance with accepted good practice and these assessments have revealed that there is no likely significant collision risk and no likely significant disturbance risk to any species that could be possibly linked to the Berwyn SPA and no adverse effect on the integrity of the SPA. There would also be no significant effects on any bird population in EIA terms. The evidence will establish that the proposal would not result in any significant ornithological impacts.
36. The proposal will involve bringing substantial construction traffic into a relatively remote rural area and this has inevitably required careful consideration of the highway implications of the proposal. In addition to addressing any highway and traffic issues arising from the development this has also included consideration of any impacts associated with highway improvements to accommodate the development. The identification of the various SSA inevitably contemplates highway impacts and works of the nature proposed. The evidence will establish that the highway implications of the proposal have been satisfactorily addressed and accommodated.

37. There are a number of other issues about which the Secretary of State has asked to be advised and doubtless other matters which can be expected to be raised by third parties. However, this proposal does not give rise to any unacceptable impacts. Indeed for its scale it gives rise to remarkably little impact. Such impacts as arise can be properly addressed by conditions. The proposal is an important step in addressing the pressing needs of climate change and energy security. In so far as it is concluded that the proposal has any adverse impacts they are clearly outweighed by the benefits of this proposal.
38. In all the circumstances, therefore, we will be inviting you to recommend to the Secretary of State to grant consent for the scheme, subject to appropriate conditions.

VINCENT FRASER QC

4th June 2013
Kings Chambers,
36, Young Street,
Manchester M3 3FT