

**SECTION 36 ELECTRICITY ACT 1989 AND SECTION 90 TOWN AND
COUNTRY PLANNING ACT 1990**

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

Application by RWE npower renewables Limited

Carnedd Wen Wind Farm and Habitat Restoration Project

Mid-Wales Wind Farms Conjoined Public Inquiry

OPENING STATEMENT ON BEHALF OF THE APPLICANT

**Marcus Trinick QC
Eversheds LLP
June 2013**

Opening Statement on behalf of RWE npower renewables Limited

Content

The Carnedd Wen Wind Farm and Habitat Restoration Project

The Secretary of State's Matters 1-3

Matters 4-14 in turn

Appendices

- A. R ex parte Samuel Smith Old Brewery (Tadcaster) - v - Secretary of State for Energy and Climate Change (CD/COM/030)
- B. OUTER HOUSE, COURT OF SESSION, [2012] CSOH 98, OPINION OF LORD MALCOLM, Judicial Review of a decision of the Scottish Ministers made on 22 December 2011 granting detailed consent under the Electricity Act 1989, section 36 for an application by Dorenell Limited (UK) for the construction of a wind farm on the Glenfiddich Estate, Morayshire (June, 2012) (CD/VATT/PLA/001)
- C. Burnthouse Farm decision of the Secretary of State and extracts from Inspector's report
- D. Table produced by Mr Cradick on 31 May 2013 attempting to reconcile figures in various tables before the inquiry.
- E. Bundle of correspondence relating to common land

The Carnedd Wen Wind Farm and Habitat Restoration Projection

1. As submitted in 2008 the Applicant (RWE) proposed the construction and operation of a wind farm of up to 250MW, comprising 65 wind turbines and ancillary development. The application included proposals for the felling of 1,742ha of coniferous forest and the re-establishment of managed natural habitats.
2. On 5 March 2013 RWE notified DECC of an amendment to the application so as to propose a maximum installed capacity of 150MW. The development will comprise 50 wind turbines, each with a maximum installed capacity of 3MW. It is proposed that the maximum blade tip height will be 137m and the maximum hub height 90m. The ancillary elements of the development are described in para 1.6 of May 2013 Statement of Case to which Mr Cradick will speak in the hearing session later this week. However, it is of importance to the case for RWE to note that the proposed development continues to propose the felling of coniferous woodland and a substantial programme of habitat improvement RWE now propose the clear felling of 1,409ha of coniferous woodland (rather than 1,742ha). The habitat management and improvement programme has nevertheless been enhanced, comprising 459ha of peatland restoration, the restoration of an SSSI through tree clearance and ditch blocking, the restoration of raised bog, and actions to facilitate the re-establishment of heathland within

the site. This programme will also provide landscape benefits, as noted in more detail in paragraph 15.

3. There is one consent required for Carnedd Wen which is not before you. Within the site there is common land at Ffridd Goch and Esgair Y Naes. RWE is currently exploring with the Welsh Government the approach to take to this issue. Procedures for authorising development on common land are set out in the Commons Act 2006, which is now in force in Wales. However, the common land in this case is unusual in that there are no registered rights of common, for grazing or otherwise. The effect of the land being registered as common is, therefore, simply to confer access rights for the public under the Countryside and Rights of Way Act 2000. I have appended at Appendix E to this opening statement correspondence relating to the commons issue, which explains the current position. I cannot yet say if the required application under the Commons Act 2006 would be made in time to invite the Secretary of State to direct that the matter be placed before you so that in turn you can report to the Welsh Government. I will update you on this as soon as possible.
4. Subject to successful action to connect this and other projects to the grid RWE's Construction Programme is based on the construction start date of Q1 2016, with the first of three phases of the development complete and generating electricity to the grid by Q1 2021. Full generation from the whole scheme is planned for Q1 2022..

Matters 1-3

1. *the extent to which the proposed developments are consistent with the objectives of the Government Policy on the energy mix and maintaining a secure and reliable supply of electricity as the UK makes the transition to a low carbon economy, and achieving climate change goals;*
 2. *the extent to which the proposed developments are consistent with the policies relating to generation of renewable energy contained within the relevant National Policy Statements for Energy Infrastructure: Overarching National Policy Statement for Energy (EN-1) July 2011 and National Policy Statement for Renewable Energy Infrastructure (EN-3) July 2011;*
 3. *the extent to which the proposed developments are consistent with Welsh Government and local policies: including Planning Policy Wales, Edition 4 (2011); Technical Advice Note 8: Planning for Renewable Energy (2005); and Energy Wales: A Low Carbon Transition (2012); and Powys Unitary Development Plan (adopted March 2010);*
5. Consent and planning permission for Carnedd Wen should be issued unless there is something fundamentally wrong with the development. I put matters this way because, as will be amplified in evidence and in closing submissions, it is too easy to express the need for and benefits of renewable energy development as a mantra which does not properly express the urgency of and the need to exploit renewable sources of energy. The recitation of the need case as a mantra can so easily lead in project decisions to an expression of the planning balance which allows negative decisions to be reached in circumstances where the adverse local environmental impacts of a proposed wind farm are no greater, and no less to be expected, than in a case of any commercial wind farm. I make this point noting that Carnedd Wen is a very substantial wind farm, although without making any necessary connection between the scale of what is proposed and the extent of the local environmental effects. As will be said by RWE's witnesses, and in particular the witness addressing landscape and visual effects, the remoteness of

the Carnedd Wen project alone on a large plateau succeeds in minimising visual impacts and impacts on the landscape character of the surrounding area.

6. Now is not the moment to delve into the details of the policy framework referenced in matters 1-3, but a few headlines will serve to set out RWE's stall on the key elements of UK and Welsh law and policy which are so important in the determination of this and the other applications before this inquiry.
7. The UK and Welsh policies referred to in matters 1-3 are founded in the legal obligation on the UK Government to source 15% of all national energy requirements from renewable sources by 2020¹. For reasons explained in the UK's Renewable Energy Strategy 2009, that 15% requirement translates to the need to source around 30% of electricity consumed in the UK from renewable sources by 2020². Under Regulation 3 of the promotion of the use of energy from Renewable Sources Regulations 2011 the Secretary of State is under an obligation to ensure that the renewable share of energy production in 2020 is at least 15%.³
8. The National Policy Statements EN-1 and EN-3 are founded on the legal obligations just rehearsed, and the national policies of Wales also clearly reflect the same law⁴. However, the policies of the Welsh Government noted in matter 3 are but a song part sung. We must also have regard to Welsh Government's statutory obligations, under Section 79 of the Government of Wales Act 2006, to promote sustainable development in the exercise of its functions, to its publication entitled Energy Policy Statement (March 2010), to the Ministerial update of the amounts of onshore energy required from SSAs in comparison with the quantities envisaged in TAN8 2005, and to the numerous expressions of the need for onshore wind as part of the renewables and more general energy mix expressed since 2005.
9. It must be accepted in this inquiry that the strong expressions of support for renewables deployment to be found in the documents just rehearsed (and in other documents which are canvassed in Mr Cradick's Statement of Case are meant to stimulate the urgent deployment of renewable energy in Wales as well as in the rest of the UK, and are meant to be taken seriously. In particular I note that National Policy Statements EN-1 and EN-3 were issued by the UK Government after parliamentary scrutiny. They bear the imprimatur of the UK Parliament, are expressed to have primacy in the event of conflict with other planning policy, and should carry very significant weight in this inquiry.
10. To the extent that you perceive that the more local policies of Powys County Council (PCC) (referred to in matter 3) fail to properly reflect the clearest of UK and Welsh energy and planning policy support for the developments before this inquiry I invite you, with the authority of the advice in the National Policy Statements, to give the greater weight to those national policies.
11. At this stage I want to insert a brief note about the legal status of the development plan, a topic covered by Mr Cradick in his Statement of Case⁵. The status of the development plan in Section 36 cases has now, after some debate, been clarified in decisions of High Court and the Court of Session (the decisions

¹ European Directive 2009/28/EC on the promotion of the use of energy from renewable sources (CD/COM/021)

² UK Renewable Energy Strategy 2009 (CD/COM/004)

³ The promotion of the use of energy from Renewable Sources Regulations 2011 (CD/COM/037)

⁴ See generally section 6 of the Developers Statement of Common Ground May 2013

⁵ Paragraphs 1.16 – 1.18

are appendices A and B to this statement). Mr Cradick summarises very well the decisions of both Courts in his Statement of Case and therefore I don't need to rehearse them here. In essence Section 38(6) of the Planning and Compulsory Purchase Act 2004 is not engaged in these inquiries. That is of course not to say that the relevant provisions of the development plans are not a material consideration to which appropriate weight should be given on the evidence and when the provisions of the plan are evaluated against other advice.

12. Matter 3 refers to TAN8. This is the document that established the SSA within which the Carnedd Wen site sits. Table 2 attached to the Statement of Common Ground submitted on behalf of the six developers describes the performance achieved to date in reaching the TAN8 capacity targets, as updated by Minister Griffiths in his 7 July 2011 letter⁶. I would associate myself with the comment of Mr Stewart in the RES Statement of Case to the effect that performance towards achieving TAN8 targets has been disappointing. As can be seen from Appendix D, for Area B it remains the case that only 15.6MW has become operational since the issue of TAN8 in 2005, against an expectation that 290MW would be installed by 2010, and only a further 28MW has been granted planning permission since 2005, although it must be noted that the TAN8 targets are for installed capacity. The TAN8 figure has now been raised by Minister Griffiths to 430MW, and the size of the challenge by 2020 is very obvious. It may be that under the Town and Country Planning Act 1990 there are other projects in the planning system within Area B (see again Appendix D), but it is the position of RWE that the contributions of Carnedd Wen and Llanbrynmair are urgently needed if the expectations of the Welsh Government for Area B are to be achieved.
13. In summary in relation to Matters 1-3 the evidence from RWE will show that the proposed Carnedd Wen Wind Farm and Habitat Restoration Project is consistent with the objectives of the policy documents set out by the Secretary of State for consideration, and indeed a whole raft of other energy policy and national planning policy documents which are addressed in Mr Cradick's statement prepared for the hearing session later this week.

Matter 4

4. *the individual and combined landscape and visual impact of the proposed developments taking into account the proximity to Snowdonia National Park (Strategic Search Area B); and cumulative impact with other wind farms in the Powys area which have already been granted planning permission or where planning permission has been applied for;*
14. This opening comment applies to each of matters 4-14. The statement is made on the basis of the information before the inquiry to date. Specifically there are no submitted proofs. For this reason I will keep what I say at a high level.
15. For RWE Mr Jeff Stevenson will say that the impact of Carnedd Wen on the interests of the Snowdonia National Park will be the principal focus for evidence on landscape and visual effects, against the background that the wind farm will inevitably give rise to a number of significant effects on landscape and visual receptors in the area. In opening I wish to add to these now the following:
 - (a) Impacts on the interests of the National Park can only be indirect since no part of the Carnedd Wen development is within the Park. This is an important point in terms of the approach to be taken to landscape character effects and to

⁶ ALL-011B tab 9

the Special Qualities of the National Park which, RWE will say, are substantially or wholly to be found within the Park.

- (b) Both the Planning Officer of PCC and the Council's landscape consultant found that Carnedd Wen would be acceptable in landscape and visual terms, and in terms of the landscape policy framework applicable within Powys. These findings took into account impacts on the National Park.
- (c) The design of the wind farm has been a matter given the greatest attention by RWE, in discussions with PCC and NRW. A substantial number of scheme layout iterations have led to the 50 turbine layout before you, based on the clear principles of avoiding so far as possible, and then minimising and mitigating significant adverse effects. I do not believe, from the statements submitted so far, that any party takes issue with the content and layout of the proposed wind farm, as opposed to its location in relation to the National Park.
- (d) Whilst there may be significant effects on the visual amenity of residents in the area it appears to be common ground with all parties that none of the visual effects are, or are even on the cusp of, impacts on the visual component of the residential amenity of occupants of neighbouring houses. I refer in this context to the decision of the Secretary of State DCLG in the Burnthouse Farm appeal (Appendix C).

Paragraph 10 of the decision letter articulates a test of whether or not impacts on the visual component of residential amenity might arise, and it is with regard to that test that I have stated the position in relation to Carnedd Wen.

- (e) A particular feature of the Carnedd Wen proposal is a habitat restoration and management plan which indeed forms part of the title of the project. Although it is quite normal for the promoters of wind farms to offer habitat management, the proposed habitat restoration scheme for Carnedd Wen is in a different category altogether. I have already outlined the elements of the plan which, from the perspective of the landscape and the visual amenity of the area, will produce a marked improvement in the environmental capital of the area during, at and beyond the end of the life of the wind farm. The landscape will be left in a demonstrably better condition and quality, and it will have a higher value than today, when Carnedd Wen is seen as bland, afforested, enclosed upland. RWE's witness will note that through the habitat restoration programme the landscape setting of the National Park will be demonstrably improved. I will leave it to the evidence to demonstrate the timeframe for the achievement of the objectives of the habitat management scheme.

16. In summary Mr Stevenson will say that the proposed development is located in a landscape which has clear capacity to accommodate a development of this type and scale, and that the effects on the landscape character and the visual amenity of the area are not remotely such that you might determine that there is something fundamentally wrong with what is proposed (see paragraph 5 above).

Matter 5

5. *the individual and combined impact of construction traffic on the surrounding locality, including transportation access routes and traffic management, taking into account the cumulative impact with other wind farms in the Powys area which have already been granted planning permission or where planning permission has been applied for;*
17. I now turn to address impacts arising from construction traffic. On this issue Carnedd Wen differs from the other projects before you. It takes its access directly from the trunk road network and shares all of its proposed route for the delivery of abnormal indivisible loads (AILs) with at least one other scheme.
18. The access to the site itself has been approved by the Welsh Government as the appropriate highway authority, and RWE does not believe that there are any site specific issues on transport matters arising from the Carnedd Wen development that need concern you. The issues that merit further consideration are those which exist in common with other developers, namely the transportation of AILs to the site, and more generally the cumulative impact of non-AIL construction traffic on the highway network.
19. Dealing first with AILs RWE has funded, in collaboration with other developers, the production of a Strategic Traffic Management Plan (STMP) to assess potential route options and to present a co-ordinated approach to AIL movements which can be applied to any development within SSA B and SSA C. The aim of the STMP is to ensure the safe and efficient movement of AILs whilst minimising delays to local communities and the travelling public. Chapters 1 to 3 of the STMP apply to Carnedd Wen, and have been approved by Welsh Government, the Highways Agency, West Mercia Police, Cheshire Police, and Shropshire Council (Highways).
20. In due course, Mr Stuart Atkinson will present evidence to explain the route proposed by the STMP, the measures contained within it to ensure the safe movement of AILs whilst minimising delays to the public, and to demonstrate that an effective mechanism is in place to manage the movement of AILs to the area irrespective of the number of developments consented as a result of this inquiry or at any future point. It is currently intended to secure the measures outlined within the STMP by means of planning conditions and Section 106 Agreements, as Mr. Atkinson will explain more fully in his evidence.
21. With regard to non-AIL traffic, RWE is currently liaising with the other developers and will very shortly be submitting further environmental information to demonstrate that any issues arising from non-AIL traffic can be satisfactorily addressed, subject to suitable controls to be incorporated within a construction traffic management plan and secured by condition in the same way as may be expected for any other onshore wind project.
22. In summary, RWE will demonstrate through Mr. Atkinson's evidence that it has carried out a robust assessment of transport issues as required by National

Policy Statement (EN-3 paragraphs 2.7.75 to 2.7.77) so that you can be satisfied that AILs can be transported safely in a way that minimises inconvenience to other road users. Any environmental effects alone or as a result of other construction traffic are acceptable, subject to the imposition of suitable conditions and/or completion of a Section 106 Agreement.

Matters 6 and 9

6. *the individual and combined impact of noise generated during construction and from the operation of the proposed developments taking into account the cumulative impact with other wind farms in the Powys area which have already been granted planning permission or where planning permission has been applied for;*
 9. *the potential impact of the proposed developments on human health;*
23. I doubt that noise evidence will occupy much time in the Area B session so far as Carnedd Wen, or Carnedd Wen and Llanbrynmair cumulatively, are concerned. With regard to Carnedd Wen alone there is no dispute with PCC in relation to the adequacy of the assessment of construction, noise or the acceptability of construction noise effects.
 24. As to operational noise there is a significant level of agreement between RWE and the Environmental Health Officer of PCC on the constituent elements of the noise assessment. However, there does remain for discussion detail of noise limits, and specifically noise limits as apportioned between Carnedd Wen and Llanbrynmair. There is no difficulty as between RWE and RES in this respect, but there is a need to continue discussions with the Environmental Health Officer so as to achieve what I hope will be full agreement. I do not wish to give more detail of what needs to be agreed in this statement.
 25. With regard to Matter 9 there is no current anticipation of a requirement for oral evidence.

Matter 7

7. *the individual and cumulative impact of the proposed developments on biodiversity, including the ecological functioning of European Protected Sites (e.g. the River Wye Special Area for Conservation (SAC), Berwyn Special Protection Area (SPA) and South Clwyd Mountains SAC); impacts on European Protected Species under the Conservation of Habitats and Species Regulations 2010 (as amended) "(the Habitats Regulations)"; and the likely effectiveness of proposed mitigation measures;*
26. Evidence relating to the ecological implications of RWE's proposals will be provided by Mr Stewart Lowther, who will demonstrate that there is no likelihood that the proposals will affect any EU Natura 2000 sites or European Protected Species. He will also show that, through the implementation of a planned felling programme, there would be no negative impact on any of the national interests for which the Corsydd Llanbrynmair / Llanbrynmair Moors SSSI was designated.
 27. He will provide in his evidence a "reading guide" to the ecological information that has been submitted in support of the Project, summarising the key findings of the various studies that have been undertaken. He will show that these have been proportionate and appropriate for the purpose of the inquiry, allowing the

conclusion to be drawn that any negative effects on biodiversity would be insignificant.

28. Through reference to work he has undertaken in collaboration with Dr Mills, Dr Edwards, Mr Piper and Mr Houtmeyers, and to the botanical surveys that have been carried out within the application area, he will show that there exists a sufficient understanding of the likely extent of remnant pre-afforestation peatland habitats to have enabled the project to have been designed in such a way as to reduce impacts on these resources to an acceptable minimum.
29. Mr Lowther will describe the objectives and means of implementation of RWE's Habitat Restoration and Management Plan, which forms an integral part of the Carnedd Wen application, and which focuses on the restoration of blanket bog and heathland habitats. He will highlight the scale of this project, which he estimates would be the largest privately-funded biodiversity restoration project to be undertaken in Wales, and one which would benefit nature conservation significantly at a national level.
30. Finally, he will address the potential for there to be cumulative ecological effects arising from Carnedd Wen in combination with all other current wind farm proposals in the SSA, concluding that these would not be significant.

Matter 8

8. *the individual and combined social and economic impact of the proposed developments, including on tourism;*

31. For the objection by PCC it may be noted that the objection to Carnedd Wen based on impacts on tourism "and other economic factors" was not recommended by the Planning Officer who, in his report to Committee,⁷ noted that the development would have net economic benefits. In saying this he drew on research carried out for RWE by Regeneris ('Carnedd Wen: Assessment Socio-economic Benefits')⁸. It may also be noted that, on the basis of the outline Statement of Case submitted by the National Park Authority, its evidence will not address tourism or the wider economy.
32. Mr Cradick will demonstrate the net benefits of the proposed development to the local and to the national economy. He will draw to your attention the fact that the wind farm represents a £200m investment, of which an estimated £31m will be spent with local suppliers during construction a further £76m during construction in the rest of Wales. During the seven year construction period 50 full time equivalent jobs will be created, and during operation there will be 24 full time equivalent jobs. In addition, although not material to your considerations, RWE will in accordance with its usual practice establish a very substantial community benefit fund. Mr Cradick will, acknowledging the issue of materiality, nevertheless draw your attention to the performance of RWE in establishing community benefit funds elsewhere in Wales.

Matter 10

10. *the impact of the proposed developments on cultural heritage;*

⁷ Carnedd Wen – Planning Officer Report to Committee (Core Document reference to be given at a later date)

⁸ Regeneris ('Carnedd Wen: Assessment Socio-economic Benefits') (Core Document reference to be given at a later date)

33. It seems clear that cultural heritage will not be a matter for any extended debate in relation to Carnedd Wen. The wind farm would have no effect on the heritage significance of Scheduled Monuments, Listed Buildings, Registered Parks and Gardens or Conservation Areas. Neither PCC nor CADW have objected to the proposal on cultural heritage grounds.

Matter 11

11. *the individual and combined impact of the proposed developments on aviation;*

34. It is clear that no oral evidence will be required in relation to aviation issues. No aviation stakeholder has objected to Carnedd Wen, and no issues of lighting turbines arises since the MoD has confirmed that the aircraft warning lights it advises as necessary may be installed as infra-red lights, invisible to the eye.

Matter 12

12. *the impact of the proposed developments on hydrology and hydrogeology, to include impacts on sensitive water features (streams, ponds, wetlands); impacts on private water supplies; fisheries and watercourses; and impacts on groundwater; and the likely effectiveness of proposed mitigation measures;*

35. Evidence relating to hydrological implications of the proposed development will be presented by Dr Alan Edwards, who has worked in close collaboration with Dr Mills (Peat), Mr Lowther (Ecology), Mr Piper (Forestry) and Mr Houtmeyers (Construction).
36. He will demonstrate that sufficient information has been provided to document and assess the hydrological and hydro-geological effects of the development, with particular reference to the peat and bog habitats. Evidence relating to the likely effectiveness of the proposed mitigation measures will also be provided and precautionary methods of assessment, mitigation design and management have been followed, as well as this type of construction for provisions for monitoring the mitigation carried out.
37. In addition Dr Edwards will demonstrate that, with appropriate site procedures and mitigation measures, there would be no significant effect on any sensitive water features, watercourses, private water supplies or groundwater. This includes a consideration of peat habitats and the Llyn Gwyddior & Llyn Coch-hwyad freshwater lakes as well as the forest felling and habitat restoration aspects of the development.
38. He will also demonstrate that the proposed hydrological measures are appropriate to additionally promote the proposed restoration of water-related habitats such as blanket bog.
39. The assessment by Dr Edwards takes into account the large-scale commercial forestry that is present across the majority of the development site and considers the current associated impacts of this forestry on the site's natural hydrological regime, both in terms of water quantity and quality.
40. Finally, Dr Edwards will address the potential for cumulative hydrological effects on the Pen Llŷn a'r Sarnau Area of Special Area of Conservation (SAC) arising

from Carnedd Wen in combination with other wind farm developments and large-scale forestry projects. He will conclude that neither the proposed forest felling nor the proposed wind farm development or habitat restoration proposals associated with the Development would affect the qualifying interests of Pen Llŷn a'r Sarnau SAC.

Matter 13

13. the impact of the proposed developments on peat;

41. Evidence on the impact of the proposed development on the peat resource within the site will be given by Dr Andy Mills. He will demonstrate that adequate environmental information has been provided to enable a proper assessment of the impacts of the wind farm and of the Habitat Restoration Project.
42. RWE's understanding of peat deposits at Carnedd Wen is based on a site-wide peat model which describes variations in peat depths. This model was originally published within the 2008 ES⁹ and amplified within the 2011 SEI,¹⁰ and it will be further amplified in the 2013 SEI which is about to be published. The 2013 version of the peat model, based on significant further site investigation, will show the average peat depths in areas of wind farm infrastructure, and across the site generally, is less than previously calculated. In particular the work resulting in the 2013 peat model involved considerable further exploration of peat depths within currently forested areas.
43. The Peat Management Plan, which will be published with the 2013 SEI, will demonstrate that 99.5% of the volume of peat estimated to require excavation during construction can be used within the site during and immediately following the construction programme. The remaining 0.5% can also be contained within the site through additional restoration of forest drains.
44. The work carried out by RWE has also addressed peat stability, and this will be reported in the 2013 SEI. The assessment demonstrates that the majority of the site has a low susceptibility to landslip in its post-felling state. Impacts on peat stability can be satisfactorily addressed.
45. In summary the impacts of the proposed development on the peat resource of the site can be satisfactorily managed. As recorded in relation to matter 12 I should emphasise that there has been extensive co-operation between Dr Mills, Dr Edwards (hydrology), Mr Lowther (ecology), Mr Piper (who addresses forestry issues) and Mr Houtmeyers (who will address construction issues). The solutions presented for the issues that arise in relation to each of these topics have been properly co-ordinated, so that the Construction Method Statement which will be before the inquiry presents an holistic approach to each of these inter-related topics.

Matter 14

- 14. the potential for the proposed developments to be connected to the electricity grid network (DECC document 'The consenting process for onshore generating stations above 50MW in England and Wales: a guidance note on Section 36 of the Electricity Act 1989 refers');*

⁹ AD/RWE/004

¹⁰ AD/RWE/015

46. With respect to grid connection RWE commissioned its own landscape and environmental studies of grid connection route corridor options between Carnedd Wen and the National Grid's envisaged location for an electricity substation at Cefn Coch (ES 2008). These studies concluded that several route options were feasible. RWE selected one route for its own purposes. SPEN has more recently selected one of the other feasible route corridors, informed by its own landscape and environmental studies, in order to provide connections for other wind farms in addition to Carnedd Wen (including Llanbrynmair). As will be demonstrated in evidence, the potential for the Carnedd Wen wind farm to be connected to the electricity grid network is thus clear.
47. SPEN's and National Grid's final proposals will each be the subject of further public consultation. RWE will demonstrate that it has undertaken sufficient analysis to confirm that environmentally feasible grid connection options are available for the Carnedd Wen wind farm.
48. The grid connection proposals promoted by SPEN and National Grid will constitute EIA development and required consent, whether under the 1990 Act or under the Planning Act 2008. It is fully anticipated that, prior to consideration of grid issues early next year, environmental information will have been produced to underpin the lawfulness of a decision to grant consent and deem planning permission. This point will no doubt be revisited later in the inquiry.

Final Remarks

49. In opening I will if I may leave you with a thought briefly expressed earlier. Throughout the inquiry I ask you to have one matter uppermost in your mind. Developments of the scale proposed will have adverse local environmental impacts. Some of these impacts will be significant, in the argot of the EIA Regulations. RWE's witnesses will say that such impacts have been minimised so far as reasonably practicable. None of the impacts, whether on the National Park, on the transport system, on ecology, peat, hydrology and forestry, or on any other environmental receptor, should deter you from recommending that consent and deemed planning permission should be granted. None of the impacts demonstrate that there is something about the Carnedd Wen scheme which is so out of the ordinary or fundamentally wrong that subsequent development should not proceed in spite of the strength of the policy support and the legal obligation to which I have drawn attention. In the view of RWE there are no obstacles to grant the consent and deemed planning permission for the Carnedd Wen wind farm and Habitat Restoration Project.

Marcus Trinick QC

Eversheds LLP

June 2013