

**SNOWDONIA NATIONAL PARK AUTHORITY**

**STATEMENT OF CASE**

**THE MID WALES (POWYS) CONJOINED WIND FARMS PUBLIC  
INQUIRY**

**ELECTRICITY ACT 1989**

**TOWN AND COUNTRY PLANNING ACT 1990**

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

**APPLICATION BY RWE NPOWER RENEWABLES LIMITED DATED 11  
DECEMBER 2008 FOR CONSENT TO CONSTRUCT AND OPERATE A  
130-250MW WIND TURBINE GENERATING STATION IN POWYS, MID  
WALES (“CARNEDD WEN”)**

**APPLICATION BY RES UK & IRELAND LIMITED DATED 27 MARCH  
2009 FOR CONSENT TO CONSTRUCT AND OPERATE A 100 MW  
WIND TURBINE GENERATING STATION IN POWYS, MID-WALES  
(“LLANBRYNMAIR”)**

# **Snowdonia National Park Authority First Statement of Case: First Session – Planning and Energy Policy**

## **Introduction**

**1.1** This Statement of Case outlines the Snowdonia National Park Authority's (SNPA) policy objections to the Carnedd Wen and Llanbrynmair windfarm proposals (hereinafter referred to as the 'Carnedd Wen application' and 'Llanbrynmair application' respectively and collectively as 'the Applications'). The proposed developments lie on land to the north of Llanbrynmair Powys identified as being within Strategic Search Area B in Technical Advice Note 8: Planning for Renewable Energy 2005.

**1.2** The Carnedd Wen application by RWE Npower Renewables Limited comprises a proposal to construct and operate 50 wind turbines each having a maximum height to blade tip of 137 meters and a maximum installed capacity of 250MW. Additional infrastructure includes two 90 meter anemometry masts, six borrow pits, new access tracks, substation buildings and underground cable connections. The application site boundary is approximately 200 metres from the Snowdonia National Park boundary with the location of the nearest proposed turbine being 2.7 kilometres from the boundary.

**1.4** The Llanbrynmair application by RES UK & Ireland Limited involves a proposal for the construction and operation of 30 turbines, each to a maximum height of 126.5 metres to blade tip. Additional works include crane pads, anemometer masts, construction compounds, 27.7 kilometres (km) of new and upgraded access roads, electricity cable circuits and substation, borrow pits and control buildings. The proposed development would be contiguous with Carnedd Wen, lying immediately to the south and east with nearest turbine being located 5.5km from the park boundary.

## **The Background context**

**1.5** The Access to the Countryside Act 1949 (as amended by the Environment Act 1995 ('the Act')) provides for the establishment of National Parks, being designated areas of natural beauty affording opportunities for open air recreation.

**1.6** Section 64 of the Act provides for the establishment of National Park Authorities, whose functions are set out in s61, being to conserve and enhance the natural beauty, wildlife and cultural heritage of the National Park and to promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public.

**1.7** The Snowdonia National Park Authority was established in 1996 pursuant to the National Park Authorities (Wales) Order 1995. The National Park Management Plan 2011 and the Eryri Local Development Plan 2007-2022 (ELDP) list those special qualities which makes the area unique. The SNPA aims to protect these special qualities from inappropriate development. Furthermore, the SNPA has identified certain areas whose natural beauty is particularly important to conserve.

**1.8** These areas of national beauty include mountains, moors and heaths which have “open” character and are free from development, and where the vegetation is predominantly semi-natural. The said areas broadly correspond with internationally important nature conservation designations such as Special Areas of Conservation (SAC) and Special Protection Areas (SPA) and also to open access areas defined in the Countryside and Rights of Way Act 2000 and are prevalent throughout the National Park. The said areas are delineated in the ‘Proposals Maps’ within the EDLP and include the uplands fringing the south-eastern corner of the National Park contiguous with the boundaries of SSA B. The SNPA will submit that such areas should be free from the effects of urbanization and industrialization. The proposed development at Carnedd Wen lies within close proximity to the SNPA boundary having a potentially significant impact on the aforementioned defined areas along with the wider landscape of the National Park.

**1.9** Section 62 of the Environment Act places a duty on relevant agencies (that being Minister of the Crown, public bodies; statutory undertakers or any person holding public office) to have regard to National Park purposes in carrying out their activities, whether those activities lie within or outside the National Parks.

**1.10** Under Section 62(2) of the Act the SNPA is required to foster the economic and social well-being of local communities within the National Park. However in situations presenting a potential conflict between this requirement and the wider duty of conserving and enhancing the natural beauty, wildlife and cultural heritage, the latter should be given greater weight by the SNPA. This provision places the Sandford Principle on a statutory footing.

**1.11** The SNPA maintains its objection to the proposal in terms of the harm to visual amenity and landscape character value and the likely significant impact on the Park's special qualities. The SNPA will provide evidence in relation to the effect of the proposed developments on the National Park landscape and its impact on panoramic views from elevated hills and uplands both internally and externally along with its effect on the lower ground areas adjacent to the Park. The SNPA will also consider the cumulative effect resulting from the proposed contiguous Llanbrynmair application. It is the SNPA's contention that the windfarm proposals because of their large scale, proximity to the National Park boundary and cumulative effects with other windfarm proposals in the vicinity, would have unacceptable adverse direct and indirect impacts not only on its landscapes and setting, but also its special qualities and as such would be contrary to national and local planning policy and also the statutory duty placed on it and others in the Environment Act 1995.

### **The Legislative context**

**1.12** The Applications are made under s36 of the Electricity Act 1989. The Authority will refer to the duty under s39 and Schedule 9 of the said Act to have regard to the preservation of Amenity

**1.13** The SNPA will additionally refer to the following legislation in support of its case including but not limited to the following:

National Parks and Access to the Countryside Act 1949

Environment Act 1995

Wildlife and Access to the Countryside Act 1981

Wildlife and Access to the Countryside (Amendment) Act 1985

National Park Authorities (Wales) Order 1995

Countryside and Rights of Way Act 2000

### **The Policy Context**

**1.14** The SNPA will submit that the proposed development will adversely affect the integrity and quality of the landscape within the National Park and is contrary to national and local policy. The SNPA intends to rely upon planning policy documents in support of its case which include but are not limited to those listed below.

### **Planning Policy Wales (5<sup>th</sup> ed. November 2012) (PPW)**

**1.15** This sets out the Welsh Government's land use planning policies and is accompanied by a series of Technical Advice Notes ('TAN's'). With regard to National Parks, natural heritage and landscape the relevant policies are set out in Chapter 5 - Conserving and Improving Natural Heritage and the Coast.

**1.16** Paragraph 5.1.5 of PPW encourages the CCW (now Natural Resources Wales - NRW) to work across local authority boundaries and to provide advice on landscape and nature conservation. The SNPA has liaised with and sought the advice of NRW who also object to the Carnedd Wen proposal upon the basis of the potential adverse impacts on the landscape character and visual amenity of the Snowdonia National Park.

**1.17** Paragraphs 5.3.4 to 5.3.7 re-iterate the statutory purposes enshrined in the Environment Act 1995 and in particular in paragraph 5.3.7 to those activities which “lie within or outside designated areas”

### **Technical Advice Note 8**

**1.18** TAN 8 deals with renewable energy and details those factors which need to be taken into consideration when developing renewable energy projects. It designates seven Strategic Search Areas. Large areas of Wales were excluded from consideration as SSAs by features that militate against larger wind power developments. It recognised that large wind power proposals within a National Park or designated Areas of Outstanding Natural Beauty (AONB) would be contrary to well established planning policy and, as a result, SSAs have not been considered for these areas.

**1.19** The SNPA, in its response to consultation on the draft versions of TAN 8 expressed its concern to the designation of SSAs A, B and D upon the basis that they were too close to the boundary of the National Park and that there was the potential for the turbines to be positioned within a few miles of the designated area. The SNPA maintains these concerns.

**1.20** Subsequent to the publication of TAN 8 the height and output of individual wind turbines has increased substantially, having a potentially wider effect on landscape character and visual impact.

**1.21** It is also noted, as confirmed by Natural Resources Wales in their Final Planning Statement of Case (CON-003-SOC-1), that the current, revised, output capacity for SSA B (430MW), as set out in John Griffiths’ letter of November 2011 can be reached, if not exceeded, even in the event that the Carnedd Wen proposal does not proceed. The SNPA will submit that priority should be given to alternative proposals which do not as significantly affect the landscape and visual amenity aspects of the National Park.

## **The Eryri Local Development Plan 2007 – 2011 and Snowdonia National Park Management Plan 2009**

**1.22** This was adopted in July 2011 and is the current development plan for the Snowdonia National Park. This, along with the Snowdonia National Park Management Plan (Adopted 2009), ensures that development affecting the National Park is in accordance with the Authority's statutory purposes. The Authority will submit that the said documents are material considerations in the determination of the Applications.

**1.23** The ELDP's overriding objective is to protect and enhance the natural, cultural and historic environment of the National Park. Strategic Policy D: Natural Environment, seeks to protect the National Park from inappropriate development. It provides for the basis for the SNPA to seek to influence inappropriate development falling outside of the Park boundaries.

**1.24** The ELDP encourages the utilisation of natural resources within the Park to develop small scale energy power generation meeting local need and without harming the special qualities of the Park area. Whilst the SNPA supports the principle of renewable energy production and carbon emission reduction, it considers that large scale developments within the park are incompatible with the National Park designation and contrary to the SNPA's statutory conservation and enhancement duties

**1.25** Policy 2: Development and Landscape provides that development having an unacceptable impact on the landscape will be resisted in areas of natural beauty and the SNPA considers that panoramas affecting the setting of the National Park can be from viewpoints within or outside the Park boundary.

**1.26** Policy 3: Energy is generally supportive of small scale energy proposals. However in the preceding paragraphs reference is made to the potential harmful visual and landscape effects from large scale windfarm proposals close to the Park boundary.

## **Powys Unitary Development Plan 2001-2016**

**1.27** This is the current development plan and sets out the land use planning policies for Powys. The SNPA will refer to Policy ENV2 – Safeguarding the Landscape which states that in considering development proposals account will need to be taken of the special qualities or reasons for designation of the Snowdonia National Park and the landscape character and amenity implications of such proposals in this context.

### **Other Documents:**

**1.28** The SNPA will refer to other documents in support of its case which includes but is not limited to the following:

Overarching National Policy Statement for Energy (EN-1), Department of Energy and Climate Change, July 2011;

Countryside Council for Wales '*Revised Statement of Natural Beauty*' 2006

### **Cases**

*Jarrett & ORS v Secretary of State for Communities and Local Government* EWHC 3642 [2012]

*Enertag (UK) Ltd v Secretary of State for Communities and Local Government* EWHC 679 [2009]

*Tegni Cymru CYF v The Welsh Ministers & ANR* EWCA Civ1635 (2010)

Appeal/ Application Decisions

Department of Trade and Industry Decision dated 2 March 2006 on Application by Chalmerston Wind Power Ltd to construct and operate a wind turbine generating station on land at Whinash, Tebay, Cumbria

Planning Inspectorate Appeal Decision APP/X118/A/08/2083682 dated 29 January 2010 relating to an appeal made by Airtricity (UK) Ltd against the decision of North Devon District Council

Planning Inspectorate Appeal Decision APP/Y1138/A/08/2084526 dated 29 January 2010 relating to an appeal made by Coronation Power Ltd against Mid-Devon District Council

### **Witnesses**

**1.29** The SNPA will present witness evidence, Mr Iwan Evans M.R.T.P.I. (Interim Head of Planning Policy) at the SNPA will be called to provide evidence in relation to matters relating to Planning Policy. The SNPA will also call upon a witness (identity to be confirmed) in relation to landscape and visual impact.

### **Conclusion**

**1.30** The SNPA reserves the right to comment on further issues should additional information or evidence be forthcoming or presented during the course of the Inquiry.