

Statement of Common Ground: Birds – 2nd draft

1. This is a statement of common ground arrived at for the Mid-Wales Wind Farm Inquiry between CeltPower Ltd (CPL), Natural Resources Wales (NRW) and Powys County Council (PCC). This statement refers to information presented in Chapter 7 of the Original ES, and the subsequent 2011 SEI, and 2013 SEI for the repowering of the Llandinam wind farm (referred to below as "the Development").
2. CPL, NRW and PCC agree that:
 - the assessment methodology was appropriate and baseline survey results for birds as described by the original ES, 2011 SEI and 2013 SEI are not questioned;
 - leaving aside the issue of impact on curlew (which is dealt with below in this statement of common ground), neither NRW nor PCC have raised any concerns about impact of the Development on any other ornithological interest and that the Development will not have any significant adverse effect on such ornithological interests, either alone or in combination with other schemes, subject to the implementation of a breeding birds protection plan (BBPP) and post-construction monitoring programme;
 - the Development will not cause any significant adverse effect on breeding curlew through collision with rotating turbine blades;
 - in 2008 there were a recorded five breeding curlew territories within the current application boundary. The approximate centres of these territories lie within 625 m of existing turbine locations and within 610 m of proposed turbine locations, and three of the territories include several existing turbines that have been operational for about 20 years;
 - surveys carried out in 2012 (CPL-ORN-016) and 2013 (CPL-ORN-017) indicated that there was one occupied breeding territory within the environs of the existing and proposed turbines, at the extreme southern edge of the existing wind farm.
3. CPL, NRW and PCC further agree the following facts.
4. In the original ES and the 2011 SEI CPL considered that curlews are unlikely to be displaced (i.e. potentially lost to the population) by being disturbed during decommissioning, construction and operation of the proposed application. CPL's position was therefore that displacement effects would not be significant, and no mitigation was proposed, although enhancement for curlew in the form of a habitat management plan (HMP), to be agreed at a later date, was outlined.
5. In response to the original ES and the 2011 SEI, the Countryside Council for Wales (now NRW) indicated it had a concern that curlews would be displaced during decommissioning, construction and operation of the Development, that these impacts would be significant, and that no mitigation was proposed by the applicant to avoid these impacts.
6. In the 2013 SEI, CPL re-assessed the possibility of curlew displacement during all phases of the proposed re-powering development. The 2013 SEI concluded that it was unlikely that curlew would be displaced.

7. The 2013 SEI found that, regardless of the interpretation of the literature on the subject of a displacement effect during decommissioning of existing turbines or construction of new turbines, it would, in any event, be possible to mitigate any such potential effect; it proposed that the breeding bird protection plan (BBPP) for the Development should include curlew during decommissioning and construction, and a revised proposed BBPP was provided with the 2013 SEI. Discussions have continued and the latest version is the BBPP submitted to the inquiry dated 4 August 2013 (CPL-ORN-015A).
8. Having considered the further information supplied in the 2013 SEI and subsequent communication between the parties, CPL, NRW and PCC agree:
 - That regardless of the dispute over whether curlews will or will not be displaced by re-powering the existing wind farm with fewer turbines, and whether beneficial measures that are part of the re-powering proposal (the BBPP and HMP) are considered as mitigation or enhancement, any possibility of displacement can be reasonably counterbalanced by a satisfactory BBPP and HMP to be agreed as part of the conditions; and
 - A draft HMP was proposed in the 2011 SEI and 2013 SEI for the purpose of further mitigating any displacement effect and enhancing the application site's suitability for curlew. A more detailed draft HMP dated 25 July 2013 is before the inquiry (CPL-ECO-013). It does not identify the exact land to be managed. However, it does specify the size of the area to be managed (30 ha - a management area equivalent to the nesting requirements of several curlews), the habitat types to be managed, and the principles of management.
9. All parties therefore agree that PCC's and NRW's objections on ornithological grounds can be resolved by attaching conditions to the deemed planning consent.
10. The only remaining areas of dispute are on the terms of the BBPP (as described for breeding curlews: CPL-ORN-015A) and HMP, limited to the following points:
 - Whether (A) specific areas for management must be identified in a draft HMP in advance of the inquiry (NRW's position), or (B) whether areas for management under the HMP may be determined subsequently subject to approval under a condition precedent as proposed in the CPL's table of draft conditions (CPL-SOCG-005B, proposed condition 23) in accordance with principles set out in the draft HMP dated 25 July 2013 (CPL-ECO-013: CPL's position);
 - Whether the no-decommissioning/construction zones provided for by the BBPP dated 4 August 2013 (CPL-ORN-015A) should extend to (A) 800 m (NRW's position) or (B) 500 m (CPL's position, and as stated in CPL-ORN-015A);
 - What specified activities may be carried out in territory B on plan LLA_9 (CPL-ORN-015B) accompanying the BBPP may take place in the breeding season, whether (A) only vehicular traffic may pass through (NRW's position) or (B) activities critical to maintaining development elsewhere on the site may take place, including development and use of a laydown area, substation, construction compound and borrow pit (CPL's position).

Agreed/shared core documents

Original ES, 2011 SEI, and 2013 SEI

Etc.

draft