DATED May 2013

Electricity Act 1989

The Electricity Generating Stations and Overhead Lines (Inquiries Procedure) (England and Wales) Rules 2007

STATEMENT OF COMMON GROUND ON PLANNING AND ENERGY POLICY BETWEEN:

VATTENFALL, in connection with an application dated 30 November 2007 for consent to construct and operate a 59.5MW Wind Turbine Generating Station in Powys, Mid-Wales ('Llanbadarn Fynydd')

FFERM WYNT LLAITHDDU CYF in connection with an application dated 7 May 2008 for consent to construct and operate a 66.7MW Wind Turbine Generating Station in Powys, Mid-Wales ('Llaithddu')

CELTPOWER LIMITED in connection with an application dated 9 May 2008 for consent to construct and operate a 126MW Wind Turbine Generating Station in Powys, Mid-Wales ('Llandinam')

RES UK & IRELAND LIMITED in connection with an application dated 27 March 2009 for consent to construct and operate a 100 MW Wind Turbine Generating Station in Powys, Mid-Wales ('Llanbrynmair')

RWE NPOWER RENEWABLES LIMITED in connection with an application dated 11 December 2008 for consent to construct and operate a 150MW Wind Turbine Generating Station in Powys, Mid-Wales ('Carnedd Wen')

SP MANWEB PLC in connection with an application dated 2 December 2009 to install and keep installed a 132kV overhead electric line connection from Llandinam Wind Farm to Welshpool Substation in Powys, Mid-Wales

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Contents

1. INTRODUCTION

1.1 The is a statement of common ground between Vattenfall, Fferm Wynt Llaithddu Cyf, Celtpower Limited, RES UK & Ireland Limited, RWE npower renewables Limited and SP Manweb plc concerning applications made to the Department of Energy and Climate Change (DECC) for consent under sections 36 and 37 of the Electricity Act 1989 a total of five wind farms and an overhead electric line connection in Powys.

1.2 The applications are as follows:

- Application by VATTENFALL dated 30 November 2007 for consent to construct and operate a 59.5MW Wind Turbine Generating Station in Powys, Mid-Wales ('Llanbadarn Fynydd')
- Application by FFERM WYNT LLAITHDDU CYF in connection with an application dated 7 May 2008 for consent to construct and operate a 66.7MW Wind Turbine Generating Station in Powys, Mid-Wales ('Llaithddu')
- Application by CELTPOWER LIMITED in connection with an application dated 9 May 2008 for consent to construct and operate a 126MW Wind Turbine Generating Station in Powys, Mid-Wales ('Llandinam')
- Application by RES UK & IRELAND LIMITED in connection with an application dated 27 March 2009 for consent to construct and operate a 100 MW Wind Turbine Generating Station in Powys, Mid-Wales ('Llanbrynmair')
- Application by RWE NPOWER RENEWABLES LIMITED in connection with an application dated 11 December 2008 for consent to construct and operate a 150MW Wind Turbine Generating Station in Powys, Mid-Wales ('Carnedd Wen')
- Application by SP MANWEB PLC in connection with an application dated 2 December 2009 to install and keep installed a 132kV overhead electric line connection from Llandinam Wind Farm to Welshpool Substation in Powys, Mid-Wales

1.3 The Secretary of State for Energy and Climate Change has given notice that a combined public inquiry will be held under Section 62(3) and Schedule 8 of the Electricity Act 1989 into the above-mentioned applications. The published programme for the public inquiry includes an opening session on the topics of 'planning and energy policy (interpretation and

application)'. Whereas this statement of common ground will be of relevance throughout the public inquiry, the statement has been agreed by the parties to promote the efficient consideration of these topics in the opening session. In so doing, it responds to the following matters that the Secretary of State has specified as being relevant to his consideration of the proposed developments:

> ***SoS Matter 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;*
>
> ***SoS Matter 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.*
>
> ***SoS Matter 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).*

1.4 This statement of common ground does not respond to the following matters that the Secretary of State has specified as being relevant to his consideration of the proposed overhead electric line development from Llandinam to Welshpool, as these will be dealt with by SP Manweb plc during Session 3 of the public inquiry:

> ***SoS Matter 1****: the extent to which SP Manweb's proposal including any alternatives considered 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);*
>
> ***SoS Matter 2****: the extent to which the proposed development is consistent with the objectives of the Government's 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*
>
> ***SoS Matter 3****: the extent to which the proposed development is consistent with the policies relating to electricity networks infrastructure and also the generation of renewable energy contained within the relevant National Policy Statements for Energy Infrastructure, Overarching National Policy Statement for Energy (EN-1) July 2011, National Policy Statement for Electricity Networks Infrastructure (EN-5) July 2011 and National Policy Statement for Renewable Energy Infrastructure (EN-3) July 2011*

1.6 For the avoidance of doubt, each developer will supplement this statement of common ground with its own project-specific evidence on these matters during the public inquiry.

1.6 Whilst SP Manweb plc ("SPM") is a signatory to this Statement of Common Ground, this is in order to indicate that it is content with the approach taken by the wind farm developers with regard to their interpretation of planning and energy policy relevant to their proposed

development, in the context of those schemes. SPM made clear in the pre-inquiry meeting and in subsequent correspondence that it intends to address the networks policy that applies to electricity lines, which differs in material respects from that applying to generating stations, during Session 3 of the public inquiry.

1.7 SPM noted in its correspondence with the Planning Inspectorate on this matter that the planning and energy policy heard between 4 and 7 June 2013 will not include networks policy specific to the overhead line and, as such, SPM does not intend to submit a Proof of Evidence in advance of 4 June 2013. The Planning Inspectorate agreed this approach in a letter dated 10 April 2013 which stated *'[a]s they are different in some material respects from the policy relating to onshore wind energy generation, the policies specific to electricity lines can be most efficiently and effectively dealt with in detail during Inquiry Session 3*'.

2. PLANNING ACT 2008 AND NATIONAL POLICY STATEMENTS

2.1 The Planning Act 2008 introduced a new process for consenting nationally significant infrastructure projects (NSIPs). Under the terms of the Planning Act 2008, electricity generating stations proposed onshore with a capacity in excess of 50MW and electric lines with a nominal voltage of not less than 132 kilovolts (kV) constitute NSIPs. Following amendments introduced by the Localism Act 2011, responsibility for processing development consent applications for NSIPs passed to the Planning Inspectorate (PINS), which examines applications and make recommendations to the Secretary of State for Energy and Climate Change for decisions on energy applications.

2.2 Under the terms of the Planning Act 2008, the primary policy basis for decision-making is a series of National Policy Statements (NPSs), which are approved by Parliament. Section 104 of the 2008 Act requires that the Secretary of State responsible for determining major infrastructure applications should have regard to an NPS, where there is an NPS(s) that has effect in relation to the development proposed. Six energy NPSs were presented to Parliament in July 2011, including:

- Overarching National Policy Statement for Energy (EN-1)
- National Policy Statement for Renewable Energy Infrastructure (EN-3)
- National Policy Statement for Electricity Networks Infrastructure (EN-5).

2.3 As para. 1.1.2 of EN-1 explains, section 104 of the 2008 Act requires applications for energy infrastructure to be determined in accordance with the relevant NPSs unless the Secretary of State is satisfied that to do so would:

- *'lead to the UK being in breach of its international obligations;*
- *be in breach of any statutory duty that applies to the decision maker;*
- *be unlawful;*
- *result in adverse impacts from the development outweighing the benefits; or*

- *be contrary to regulations about how its decisions are to be taken'.*

2.4 Section 104(7) of the 2008 Act requires the Secretary of State to assess whether *'the adverse impact of the proposed development would outweigh its benefits'*.

2.5 Paragraph 1.5.1 of EN-1 and 1.5.1 of EN-3 both affirm the applicability of NPSs to applications for onshore wind energy projects of over 50 MW in Wales. Paragraph 1.5.1 of EN5 affirms the applicability of NPSs to applications for electric lines of not less than 132 kV in Wales.

2.6 Had the 2008 Act been in effect at the time when the wind farm and overhead electric line proposals being considered at the conjoined Mid-Wales public inquiry were submitted, the projects would have qualified as NSIPs and the six developers' applications would have been submitted for approval under the new consenting regime as opposed to s.36 and s.37 of the Electricity Act 1989.

2.7 Paragraphs 1.2.1 and 1.2.3 of EN-1 state:

1.2.1 . . . In England and Wales this NPS is likely to be a material consideration in decision making on applications that fall under the Town and Country Planning Act 1990 (as amended). Whether, and to what extent, this NPS is a material consideration will be judged on a case by case basis . . .

1.2.3 Further information on the relationship between NPSs and the town and country planning system, as well as information on the role of NPSs is set out in paragraphs 13 to 19 of the Annex to the letter to Chief Planning Officers issued by the Department for Communities and Local Government (CLG) on 9 November 2009.

2.8 In the corresponding letter to Chief Planning Officers issued by the Department for Communities and Local Government on 9 November 2009, paragraphs 16 and 17 of Annex A state that:

16. In cases where development plans have not yet been updated to take account of a particular NPS, the NPS is likely to be a material consideration which the LPA (and the Secretary of State on appeal or call-in) will have to take into account when determining planning applications. Whether or not the NPS is a material consideration in this or any other circumstance and the weight to be applied to it by the decision-maker will have to be determined on a case by case basis.

17. NPSs may specifically set out policies which will need to be taken into account by

decision-makers other than the IPC. The Ports NPS, for example, has set out the Government's policies for all types of ports infrastructure – both above and below the thresholds set out in the Planning Act. LPAs and other decision-makers should therefore take account of those policies when determining applications for consent for below-threshold infrastructure applications made under the town and country planning regime. The policies in a draft NPS may also be relevant to planning applications for below-threshold infrastructure or any appeals made under the Town and Country Planning Act.

2.9 The Secretary of State considered the weight to be attached to NPSs in the context of a s36/s90 deemed planning permission as part of his October 2012 decision on an application for consent to construct and operate an energy from waste-fuelled generating station at land formerly occupied by the Lostock Power Station, Lostock, Northwich, Cheshire. In particular, paragraph 7.15 of the decision letter states that:

'Having given careful consideration to all relevant matters, the Secretary of State considers that the Inspector for Lostock reached different conclusions to the Inspector for Middlewich and the Secretary of State CLG principally because, unlike the Middlewich application, the Lostock application, although made under section 36, is for a proposed development that would be a nationally significant infrastructure project (NSIP) as defined in Section 15(2) of the Planning Act 2008, i.e. an onshore electricity generating project with an output capacity in excess of 50MW. The Secretary of State therefore considers it was appropriate that the Lostock Inspector, in considering the matters before her and in making her recommendation to the Secretary of State, gave substantial weight to the Overarching NPS (EN-1) and the NPS on Renewable Energy Infrastructure (EN-3), which were designated by Parliament in July 2011 under the Planning Act and which represent the most recent expression of Government policy on the national need and urgency for such infrastructure. The Inspector concluded that the proposal would be in accordance not only with EN-1 and EN-3, but also with a number of relevant regional and local policies as set out in the Regional Spatial Strategy and the CRWLP, and would "comply with national policies on energy mix and maintaining a secure reliable and flexible supply of electricity as the UK makes the transition to a low carbon economy, and achieving climate change goals" (see section 16.12 of the Inspector's report)'.

2.10 As such, substantial weight must be attached to NPSs in the current context, as they form the primary and most up-to-date expression of UK policy with respect to generation infrastructure in excess of 50MW capacity and electricity transmission lines of at least 132 kV.

National Policy Statement EN1: Overarching National Policy Statement for Energy - 2011

2.11 EN1 reaffirms the essential role of renewable energy development in securing greenhouse gas emissions reductions. Part 2 of EN1, which sets out government policy on energy and energy infrastructure development, includes the following relevant provisions:

- *'We are committed to meeting our legally binding target to cut greenhouse gas emissions by at least 80% by 2050, compared to 1990 levels'* (para. 2.2.1);

- *'To help incentivise investment and bolster the EU-wide carbon price, the Government supports a move across the EU from a 20% to a 30% emissions reduction target by 2020'* (para.2.2.14);

- *'In the UK, we intend to go beyond the EU ETS and ensure that developers deliver the required levels of investment in low carbon generation to decarbonise the way in which we produce electricity and reinforce our security of supply, whilst retaining efficiency and competitiveness'* (para.2.2.15).

2.12 Part 3 of EN-1 explains the need for new nationally significant energy infrastructure projects. Section 3.1 sets out the strategic framework for decision-making by the Infrastructure Planning Commission (IPC – now replaced by the Planning Inspectorate reporting to the Secretary of State):

3.1.1 The UK needs all the types of energy infrastructure covered by this NPS in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions.

3.1.2 It is for industry to propose new energy infrastructure projects within the strategic framework set by Government. The Government does not consider it appropriate for planning policy to set targets for or limits on different technologies.

3.1.3 The IPC should therefore assess all applications for development consent for the types of infrastructure covered by the energy NPSs on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in this Part.

3.1.4 The IPC should give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for development consent under the Planning Act 2008.

2.13 Under the heading *'The need for more electricity capacity to support an increased supply from renewables'*, EN1 highlights the government's commitment to increasing *'dramatically'* the amount of renewable generation capacity, and that, in the short to medium term, *'much of this new capacity is likely to be onshore and offshore wind'* (para. 3.3.10). Paras. 3.3.15 emphasises the *'urgent need'* for new and particularly low carbon energy NSIPs.

2.14 Section 3.4 of EN1 concerns *'The role of renewable electricity generation'*. It confirms that:

- *'The UK has committed to sourcing 15% of its total energy (across the sectors of*

transport, electricity and heat) from renewable sources by 2020 and new projects need to continue to come forward urgently to ensure that we meet this target. Projections suggest that by 2020 about 30% or more of our electricity generation – both centralised and small-scale – could come from renewable sources, compared to 6.7% in 2009' (para. 3.4.1);

- *'Large scale deployment of renewables will help the UK to tackle climate change, reducing the UK's emissions of carbon dioxide by over 750 million tonnes by 2030. It will also deliver up to half a million jobs by 2020 in the renewables sector'* (para. 3.4.2);

- *'onshore wind is the most well-established and currently the most economically viable source of renewable electricity available for future large-scale deployment in the UK'* (para. 3.4.3, first bullet-point).

2.15 EN1 para. 3.4.5 is directly relevant in the current context:

The urgency of need for new renewable electricity generation

3.4.5 Paragraph 3.4.1 above sets out the UK commitments to sourcing 15% of energy from renewable sources by 2020. To hit this target, and to largely decarbonise the power sector by 2030, it is necessary to bring forward new renewable electricity generating projects as soon as possible. The need for new renewable electricity generation projects is therefore urgent.

2.16 In other words, any residual harm arising from the proposed wind farms needs to be weighed against the acknowledged urgent national need to deliver new renewable energy generation capacity.

2.17 This was acknowledged in para. 39.5 of the planning officer's report to Powys County Council's Cabinet on 13 March 2012 (Appendix 1b report) in respect of the Carnedd Wen wind farm project, which advised that:

If the development contributes to meeting the energy need and is in accordance (with) the NPS EN-1 then consent should be given. The Overarching Energy Policy NPS-EN1 must be read in conjunction with the technology specific NPS (in this case, EN-3) relevant to wind energy infrastructure development in England and Wales, and, is likely to be a material consideration in decision making on applications that are determined under the Town and Country Planning Act 1990 (as amended) or Section 36 of the Electricity Act (DECC applications). In the event of a conflict with existing planning policy, the NPS will be followed.

2.18 Section 3.7 of EN-1 addresses the need for new electricity network infrastructure. According to para. 3.7.1, '*Much of the new electricity infrastructure that is needed will be located in places where there is no existing network infrastructure. This is likely to be the case for many wind farms, or where there may be technical reasons why existing network infrastructure is*

not suitable for connecting the new generation infrastructure'.

2.19 Para. 3.7.3 of EN-1 states that *'It is important to note that new electricity network infrastructure projects, which will add to the reliability of the national energy supply, provide crucial national benefits, which are shared by all users of the system'*.

2.20 Paras. 3.7.4 to 3.7.8 of EN1 have regard to the work of the Electricity networks Strategy Group (ENSG), an industry group chaired jointly by the Government and industry regulator Ofgem. According to para. 3.7.6 of EN-1:

Under the scenarios considered by the ENSG significant potential increases in generation and changes in direction of net electricity flows to 2020 were considered likely to be . . .

- *from South West England and South Wales eastwards to centres of demand in the Midlands and South East England, with up to 2-3 GW of wind along with 3.3 GW of new nuclear; and*
- *from the North West and North Wales, to accommodate some 5-7 GW of wind, along with 3.3 GW of nuclear.*

2.21 Para. 3.7.7 of EN-1 continues:

As the full report makes clear, these kinds of flows of power cannot be accommodated by the existing network. Accordingly, new lines will have to be built, and the location of renewable energy sources and designated sites for new nuclear power stations makes it inevitable that a significant proportion of those new lines will have to cross areas where there is little or no transmission infrastructure at present, or which it may be claimed should be protected from such intrusions. The urgency of need for new generating capacity means that the need for new transmission infrastructure that is required to connect that capacity will be similar.

2.22 According to para.3.7.10 of EN-1,

there is an urgent need for new electricity transmission and distribution infrastructure (and in particular for new lines of 132 kV and above) to be provided. The IPC should consider that the need for any given proposed new connection or reinforcement has been demonstrated if it represents an efficient and economical means of connecting a new generating station to the transmission or distribution network, or reinforcing the network to ensure that it is sufficiently resilient and has sufficient capacity (in the light of any performance standards set by Ofgem) to supply current or anticipated future levels of demand. However, in most cases, there will be more than one technological approach by which it is possible to make such a connection or reinforce the network (for example, by overhead line or underground cable) and the costs and benefits of these alternatives should be properly considered as set out in EN-5 (in particular section 2.8) before any overhead line proposal is consented' (original

parenthesis).

National Policy Statement EN3: National Policy Statement for Renewable Energy Infrastructure - 2011

2.23 EN3 was also approved by Parliament in July 2011, and supplements the policies in EN1 (above). Its principal purpose is to provide assessment and technology-specific information on renewable energy infrastructure.

2.24 Section 2.7 addresses onshore wind. EN-3 para. 2.2.1 explains the relevance of Welsh renewables polices in respect of NSIP development in Wales (references to the IPC are now applicable to PINS):

2.2.1 Policy set out in existing planning guidance in England, and where a proposal is located in Wales in planning policy and advice issued by the Welsh Assembly Government relevant to renewables, will provide important information to applicants of nationally significant energy infrastructure projects (energy NSIPs). The IPC should have regard to these policies and expect applicants to have taken them into account when working up their proposals. Applicants should explain in their applications to the IPC how their proposals fit with the guidance and support its targets or, alternatively, why they depart from them. Whether an application conforms to the guidance or the targets will not, in itself, be a reason for approving or rejecting the application.

2.25 Section 2.7 of EN3 provides technology-specific information and assessment guidance on onshore wind energy projects. It opens with the statement that *'onshore wind farms are the most established large scale source of renewable energy in the UK. Onshore wind farms will continue to play an important role in meeting renewable energy targets'* (para.2.7.1).

National Policy Statement EN5: National Policy Statement for Electricity Networks Infrastructure - 2011

2.26 EN5 was also approved by Parliament in July 2011, and supplements the policies in EN1 (above). Its principal purpose is to provide assessment and technology-specific information on electricity networks infrastructure. EN-5 is relevant to the current application by SP Manweb plc.

2.27 Para 1.1.1 of EN-5 states that:

The new electricity generating infrastructure that the UK needs to move to a low carbon economy while maintaining security of supply will be heavily dependent on the availability of

a fit for purpose and robust electricity network. That network will need to be able to support a more complex system of supply and demand than currently and cope with generation occurring in more diverse locations.

2.28 Para 2.2.1of EN-5 explains the role of electricity network companies including SP Manweb plc:

In the market-based GB system, electricity network companies are regulated monopolies which must respond to demand from generators and consumers of electricity by developing and maintaining economical and efficient networks whilst having regard to various non-financial considerations. It is for electricity network companies, responding to actual and anticipated changes in the patterns of supply and demand within the framework of regulation of new investment administered by Ofgem, to decide what applications for new electricity networks infrastructure to bring forward and the Government does not seek to direct applicants to particular sites or routes for electricity networks infrastructure.

2.29 According to para. 2.2.2 of EN-5:

The general location of electricity network projects is often determined by the location, or anticipated location, of a particular generating station and the existing network infrastructure taking electricity to centres of energy use. This gives a locationally specific beginning and end to a line. On other occasions the requirement for a line may not be directly associated with a specific power station but rather the result of the need for more strategic reinforcement of the network. In neither circumstance is it necessarily the case that the connection between the beginning and end points should be via the most direct route (indeed this may be practically impossible), as the applicant will need to take a number of factors, including engineering and environmental aspects, into account.

2.30 Para. 2.2.6 of EN-5 advises that:

As well as having duties under section 9 of the Electricity Act 1989, (in relation to developing and maintaining an economical and efficient network), developers will be influenced by Schedule 9 to the Electricity Act 1989, which places a duty on all transmission and distribution licence holders, in formulating proposals for new electricity networks infrastructure, to "have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and … do what [they] reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects." Depending on the location of the proposed development, statutory duties under section 85 of the Countryside and Rights of Way Act 2000 and section 11A of the National Parks and Access to the Countryside Act 1949 may be relevant.

2.31 Section 2.3. of EN5 explains the 'general assessment principles' for electricity networks as

follows:

2.3.1 EN-1 explains in Section 4.9 that the Planning Act aims to create a holistic planning regime so that the cumulative effects of different elements of the same project can be considered together. Therefore the Government envisages that, wherever reasonably possible, applications for new generating stations and related infrastructure should be contained in a single application to the IPC.

2.3.2 However, particularly for generating stations and the related electricity networks, this may not always be possible or represent the most efficient approach to the delivery of new infrastructure. This could be, for example, because of the differing lengths of time needed to prepare the applications for submission to the IPC, or because a network application relates to multiple generation projects or because the works involved are strategic reinforcements required for a number of reasons. It may also be relevant that the networks application and a related generating station application are likely to come from two different legal entities, or be subject to different commercial and regulatory frameworks . . .

2.3.3 Where an electricity networks infrastructure project is submitted to the IPC without an accompanying application for a generating station, the IPC should have regard to the matters specified in paragraph 4.9.3 of EN-1, as well as the need for the proposed infrastructure (as set out in Part 3 of EN-1). Circumstances in which the IPC considers it appropriate to consider a networks application separately from related proposals may include where, although the proposed generating station has yet to be consented, there is clear evidence of demand in that:

- *the project is wholly or substantially supported by connection agreements or contractual arrangements to provide connection; or*
- *the project is based on reasonably anticipated future requirements.*

This might be because it is located in an area where there is likely to be either significant increased generation or a significant increase in load on the existing network. An example of how this could be demonstrated is Round 39 for offshore wind farms where site licensing arrangements will give a clear indication of the areas within which future applications for consent will be received.

2.3.4 If the IPC believes it needs to probe further then factors it may wish to consider include whether the project would make a significant contribution to the promotion of renewable energy, the achievement of climate change objectives, the maintenance of an appropriate level of security of electricity supply or whether it helps achieve other energy policy objectives.

2.3.5 The IPC should also take into account that National Grid, as the owner of the electricity transmission system in England and Wales, as well as Distribution Network Operators (DNOs), are required under section 9 of the Electricity Act 198910 to bring forward efficient and economical proposals in terms of network design, taking into account current and reasonably anticipated future generation demand. National Grid is also required to facilitate competition in the supply and generation of electricity and so has a statutory duty to provide a connection whenever or wherever one is required.

3. INTERNATIONAL OBLIGATIONS

3.1 In 1988, the United Nations General Assembly adopted a resolution on the '*protection of the global climate for present and future generations of mankind*' to address the effect that industrial society's emissions of greenhouse gases are having on the atmosphere and global climate. A series of major international agreements followed.

1992 United Nations Framework Convention on Climate Change

3.2 This convention acknowledged the need to protect the global climate. It was negotiated by an Intergovernmental Negotiating Committee (INC) and was opened for signature at the 'Earth Summit' that met in Rio de Janeiro in June 1992, coming into force in March 1994. The UK is a signatory. The convention recognised that human-induced changes to the atmosphere are affecting the climate and it set out to ensure that atmospheric concentrations of greenhouse gases are stabilised at a safe level.

1997 Kyoto Protocol on Climate Change

3.3 The Kyoto Protocol set internationally agreed and binding targets for reducing emissions of greenhouse gases up to 2012. The treaty came into effect on 16 February 2005. The Kyoto targets must be seen as only a start, as it has been estimated that a 60-70% cut in greenhouse gas emissions will probably be required to stabilise CO_2 levels in the atmosphere.

3.4 Through the Kyoto Protocol, the UK has a legally binding target to reduce emissions of greenhouse gases by 12.5% below 1990 levels in the period 2008-2012. In furtherance of this, the UK government set a domestic goal to reduce emissions to 20% below 1990 levels by 2010.

2009 Copenhagen Accord

3.5 The Copenhagen Accord was agreed following a conference of the signatories to the United Nations Framework Convention on Climate Change (UNFCCC) in December 2009. The Accord sets a range of objectives concerning greenhouse gas emissions and climate change,

reinforcing the need to contain these through international co-operation in the field of sustainable economic and social development.

3.6 As a party to the Copenhagen Accord, the United Kingdom agreed a range of proclamations and objectives, including the following:

- climate change is *'one of the greatest challenges of our time'*, and must be combated *'urgently'*;
- the ultimate objective is to stabilise greenhouse gas concentrations in the atmosphere *'at a level that would prevent dangerous anthropogenic interference with the climate system'*;
- any increase in global temperature should be below two degrees Celsius;
- *'deep cuts'* in greenhouse gas emissions are required;
- emissions should peak *'as soon as possible'*;
- lower emissions are *'indispensable to sustainable development'*.

3.7 The Copenhagen Accord was not legally binding and does not supersede the Kyoto Protocol.

United Nations Climate Change Conference, Durban, 2011

3.8 The Durban conference considered how to cut emissions to limit global temperature rise to below two degrees to avoid dangerous climate change. Over 120 countries formed a coalition behind the EU's proposal of a 'road map' to a global legally binding agreement, to be put in place by 2015, to curb emissions. The talks resulted in a decision to adopt the second commitment period of the Kyoto Protocol, to be agreed this year. The conference also agreed to establish a green climate fund to assist poorer countries to make the transition to a low carbon economy.

United Nations Climate Change Conference, Doha, 2012

3.9 Although marked by international disagreement and indecision, the conference agreed to extend the life of the Kyoto Protocol until 2020 and reiterated its commitment to the 2011

Durban Platform, meaning that a successor to the Protocol is set to be developed by 2015 and implemented by 2020. The conference agreed also to adopt the concept of 'loss and damage', effectively an acknowledgement that richer nations could be financially responsible to other nations for their failure to reduce carbon emissions.

International obligations: conclusion

3.10 Whereas a comprehensive international agreement on the specific actions required to tackle climate change has still to be achieved, there is wide acknowledgement of the nature and extent of the threat that climate change poses. The proposed wind farms are consistent with the resulting international commitments to which the UK is a leading signatory.

3.11 The United Kingdom and other European Union member states have entered into various commitments to deliver reductions in greenhouse gas emissions. These commitments are being fulfilled through EU and UK law and policy on greenhouse gas emissions reductions, carbon trading initiatives and measures to incentivise energy generation from renewable and low carbon sources.

4. EUROPEAN OBLIGATIONS

4.1 The European Union is playing an active role in coordinating the member states' response to climate change. In March 2007 the leaders of the EU member states set three climate change objectives for 2020, known as the '20-20-20' targets and comprising:

- a 20% reduction in EU greenhouse gas emissions from 1990 levels;
- raising the share of EU energy consumption produced from renewable resources to 20%;
- a 20% improvement in the EU's energy efficiency.

Specific EU provisions to achieve the 20-20-20 targets are summarised below.

The EU Emissions Trading Scheme

4.2 The EU Emissions Trading Scheme (EU ETS) forms the cornerstone of UK action to reduce greenhouse gas emissions from the power sector. Since 2005, the EU ETS has set a cap on emissions from the large industrial sectors such as electricity generation and heavy industry and from Phase III (2013-2020) this cap will reduce at an annual rate of 1.74%. It is expected to deliver reductions from these sectors of 21% on 2005 levels by 2020, underpinning the transition to low carbon electricity generation.

Directive 2009/28/EC on the promotion of the use of energy from renewable sources

4.3 This Directive amended and repealed the 2001 Renewables Directive (2001/77/EC). It is part of a package of energy and climate change legislation that provides a legislative framework for Community targets for greenhouse gas emission savings. The Directive encourages energy efficiency, energy consumption from renewable sources, the improvement of energy supply and the economic stimulation of a dynamic sector in which Europe is setting an example. It thus establishes a common framework for the production and promotion of energy from renewable sources.

4.4 Each Member State has a target calculated according to the share of energy from renewable sources in its gross final consumption for 2020. The Directive requires EU Member States to establish national action plans which set the share of energy from renewable sources

consumed in transport, as well as in the production of electricity and heating, for 2020. The UK's response, the *National Renewable Energy Action Plan for the United Kingdom* (NREAP), is reviewed later in this statement of common ground.

4.5 The 2009 Renewable Energy Directive sets a target for the UK to achieve 15% of its total energy consumption, including transport, from renewable sources by 2020. In 2011, 3.8% of total UK energy consumption (again, including transport), was met from renewable sources (source: DECC *Annual Energy Statement 2012*, para. 2:20). Wind energy projects such as those before the current public inquiry would make a significant contribution to the fulfilment of the UK's obligations.

Decision No 406/2009/EC of the European Parliament and of the Council of 23 April 2009 on the effort of Member States to reduce their greenhouse gas emissions to meet the Community's greenhouse gas emission reduction commitments up to 2020

4.6 This Decision established annual binding greenhouse gas emission targets for EU member states for the period 2013–20, covering all sectors except international shipping, aviation and installations subject to the EU Emissions Trading Scheme. The Decision covers emissions of all six gases included in the Kyoto Protocol - carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulphur hexafluoride.

4.7 Member states shall reduce greenhouse gas emissions between 2013 and 2020 according to a linear trajectory, with binding annual targets following a straight line between a defined starting point in 2013 and end point in 2020. Each member state will contribute to this effort according to its relative wealth (GDP/capita), with national emission reduction targets ranging from minus 20% for the richest member states to plus 20% for poorer ones in 2020 compared with 2005 levels.

4.8 Under this decision, the UK must achieve a 16% reduction in greenhouse gas emissions by 2020, compared to 2005 emissions levels. Attainment of this ambitious target will require concerted action across the energy, transport, farming and construction sectors, and lends further weight and urgency to the need to develop alternatives to fossil fuels in power generation. In these terms, the benefit of the current wind farm proposals is clear.

European obligations: conclusion

4.9 The European Union is playing a proactive role in incentivising greenhouse gas emissions reductions and promoting the use of renewable energy. In both cases, ambitious targets have been agreed for the UK and other member states.

5. UK LAW AND POLICY

5.1 It is agreed that the following policy provisions are relevant in the current context:

- Electricity Act 1989
- The Renewables Obligation;
- Climate Change Act 2008;
- The UK Renewable Energy Strategy 2009;
- The UK Low Carbon Transition Plan 2009;
- The Coalition Government's energy statements
- The National Renewable Energy Action Plan for the United Kingdom;
- The Carbon Plan: delivering our low carbon future - 2011
- UK Renewable Energy Roadmap – 2011;
- The Promotion of the Use of Energy from Renewable Sources Regulations - 2011;
- UK Renewable Energy Roadmap Update – 2012;
- The Energy Bill and Electricity Market Reform – 2013.

Electricity Act 1989

5.2 According to Section 9 of the Electricity Act 1989, it is the duty of an electricity distributor such as SP Manweb plc:

a). 'To develop and maintain an efficient, coordinated and economical system of electricity distribution;

b). To facilitate competition in the supply and generation of electricity . . . '.

5.3 According to Section 16 of the Electricity At 1989, and electricity distributor such as SP Manweb plc is under a duty –

a). To make a connection between a distribution system of his and any premises, when required to do so by –

i). The owner or occupier of the premises, or
ii). An authorised supplier acting with the consent of the owner or occupier of the premises . . . '.

5.4 Schedule 9 to the Electricity Act 1989 deals with preservation of amenity in England and Wales. It is agreed that sub-paragraphs 1 and 2 are relevant to the Applicants and the decision maker in this case. Sub-paragraphs 1 and 2 of Paragraph 1 states:

1). 'In formulating any relevant proposals, a licence holder or a person authorised by exemption to generate, transmit, distribute or supply electricity –

a). shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and
b). shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

2). In considering any relevant proposals for which his consent is required under section 36 or 37 of this Act, the Secretary of State shall have regard to –

a). the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and
b). the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of that sub-paragraph.'

The Renewables Obligation

5.5 The Renewables Obligation mechanism (RO) is creating significant demand for renewable energy generation and the market has reacted by bringing forward proposals for new renewable energy generation capacity. Licensed electricity suppliers are subject to the RO. Such suppliers are incentivised to source a specific and annually increasing percentage of the electricity that they supply from renewable sources.

5.6 The RO started at 3% in 2002 and is increased each year. The target for 2008-09 was 9.1%, rising to 15.4% in 2015. The RO is expected to reach 20% by 2020. At present the UK is behind its RO target: the RO for 2010-2012 was 10.4% and renewable generation amounted to only 6.8% in 2010 (Source: DECC website *National renewables statistics* https://restats.decc.gov.uk/cms/national-renewables-statistics#key).

5.7 In this regard there is a need case distinct from overall government targets. Licensed suppliers have a legal obligation that must be fulfilled, otherwise penalties will be applied. Therefore, there is justification and a need for the development related to government

policy but arising out of a separate legal obligation that seeks to bring about the policy change of increasing the proportion of electricity to be supplied from renewable sources. This can properly be regarded as a material consideration in the current context.

5.8 In 2012 the government published an Energy Bill that, amongst other things, proposes reforms to the UK electricity market that would replace the Renewable Obligation with a new 'contracts for difference' system. The implications of the Bill are considered in paras. 5.57-5.58 below.

Climate Change Act 2008

5.9 The Climate Change Act 2008 created a new legal framework for the UK to reduce, through domestic and international action, greenhouse gas emissions to at least 80% below 1990 levels by 2050. The UK government is required to set five-year carbon budgets, which place binding limits on greenhouse gas emissions and define the trajectory towards the 2050 target.

5.10 Following advice received in December 2008 from the independent Committee on Climate Change, the UK government announced the level of the first three carbon budgets (2008-2012, 2013-2017, and 2018-2022) and published its response to the Committee on Climate Change's advice alongside the Budget on 22 April 2009**.** The levels of the first three carbon budgets were approved by Parliament in May 2009, and are now set in law. The fourth carbon budget (2023 -2027) became law at the end of June 2011. It requires greenhouse gas emissions to be reduced by at least 50% in the fourth budget period, relative to 1990 levels. The current wind farm proposals would make a significant contribution to the objectives of the Climate Change Act 2008 and in the context of Wales it is especially important to deliver at least the stated capacities from the Strategic Search Areas (SSAs) since it is to these areas that the Welsh Government has directed all strategic wind farm developments (i.e. over 25MW).

UK Renewable Energy Strategy (2009)

5.11 The UK Renewable Energy Strategy (UKRES) states that the UK needs to increase the use of renewable electricity substantially. The document sets out the means by which the UK can meet the legally binding target of 15% of energy consumption from renewable sources by

2020. This will mean a very substantial increase in the share of renewables in a decade, underlining the need for the UK to enable the early implementation of projects such as those under consideration in the current public inquiry.

5.12 The UKRES contains a 'lead scenario', which suggests that more than 30% of electricity should be generated from renewables in the UK by 2020, a considerable increase from approximately 6.8% in 2010. The majority of this is expected to come from onshore and offshore wind power.

5.13 An important element of the new strategy is an EU requirement that there will be reporting steps every two years in which the achievement of delivery against the trajectory set for the 2020 target has to be tested and reported to the EU.

5.14 Under the EU's Renewable Energy Directive, the UK has interim targets to achieve the following shares for renewables in the overall energy market:

- 4% in 2011 – 2012;
- 5.4% in 2013 – 2014;
- 7.5% in 2015 – 2016;
- 10.2% in 2017- 2018.

5.15 After 2017-2018, the share of renewable energy in the overall energy market will need to increase by a further 4.8% to meet the 15% target set for 2020.

5.16 The UKRES refers explicitly to economic and employment opportunities. The aspiration is for the UK to be at the forefront of global competition in the low carbon economy. The UK government estimates that the Strategy will deliver a range of benefits including:

- putting the UK on a path towards decarbonising the production of energy, alongside nuclear generation and carbon capture and storage;

- contributing to the security of energy supplies in the UK through reducing demand for fossil fuels of around 10% and gas imports by between 20-30% against forecast use in 2020;

- bringing significant business opportunities and enable the UK to restructure into a low carbon economy, providing around £100 billion of investment opportunities and contribute to the creation of up to 0.5 million more jobs in the UK renewable energy sector.

5.17 The UKRES describes these economic benefits as '*a huge opportunity*' (UKRES, para. 1.8). The contribution low carbon energy sector economic growth and employment are relevant '*not only as part of our short term economic recovery but also through sustainable growth over the decades to come*' (UKRES, para. 1.8). Para. 1.9 predicts that up to half a million jobs might be generated in the UK renewables industry, and that 'the current economic difficulties make this even more important . . .'.

5.18 The strategy is also expected to deliver significant environmental benefits, in particular by contributing to global action against climate change. It recognises that there will also be some pressures on the local environments and natural heritage from new infrastructure provision.

5.19 The document makes it clear that the UKRES is an integral part of the UK's Low Carbon Transition Plan.

UK Low Carbon Transition Plan (2009)

5.20 The UK Low Carbon Transition Plan (LCTP) was published by the UK government as a White Paper at the same time as the UKRES in July 2009. The plan seeks to deliver greenhouse gas emissions reductions of 18% on 2008 levels by 2020 and over a third of a reduction on 1990 levels, and emphasises in this context that the UK will need to drive major changes to the way energy is used and supplied.

5.21 The Transition Plan seeks to ensure that the UK will secure 40% of its electricity from low carbon sources by 2020, with approximately 30% of UK electricity generated from renewable sources in the same timescale, by increasing substantially the requirement for electricity suppliers to generate renewable electricity.

5.22 The White Paper explains that the UK Government has put in place the world's first legally binding target to cut emissions by 80% by 2050 and it has set five-year 'carbon budgets' to 2022 to 'keep the UK on track' and provide a clear pathway for reducing emissions in the future (LCTP, page 6). The White Paper sets out for the first time how these budgets will be met.

5.23 The White Paper explains that carbon budgets are a limit on the total quantity of greenhouse gas emissions over a five-year period. They are intended to reflect the fact that the UK's overall contribution to reducing global greenhouse gas emissions is determined by emissions into the atmosphere over time, not by meeting specific targets in specific years. The carbon budgets will provide an opportunity for scrutiny by reporting each year on progress and will ensure that the policy framework for the UK is guided by an evidence base.

5.24 In terms of carbon savings to 2020, the UK government announced the first three budgets, covering the periods 2008-12, 2013-17 and 2018-22 in April 2009. It highlighted that these carbon budgets will be challenging. The final budget period centred on 2020 requires a 34% cut of greenhouse gas emissions on 1990 levels.

5.25 Overall, the White Paper sets out the specific proposals and policies for meeting the UK's carbon budgets. The White Paper also makes the point that the introduction of carbon budgets introduces a new imperative: they are legally binding and must be met.

The Coalition Government's Energy Statements

5.26 All of the national law and policy reviewed thus far in this section were introduced by the previous Labour government. Following the general election in 2010, the Conservative–Liberal Democrat coalition administration published a document entitled *Our Programme for Government* which stated with regard to energy and climate change:

'The Government believes that climate change is one of the gravest threats we face, and that urgent action at home and abroad is required. We need to use a wide range of levers to cut carbon emissions, decarbonise the economy and support the creation of new green jobs and technologies…..we will seek to increase the target for energy from renewable sources, subject to the advice of the Climate Change Committee'.

5.27 In July 2010, the new government published its first *Annual Energy Statement* and a report entitled *2050 Pathways Analysis*. In the Energy Statement, Chapter 2 addresses 'low carbon energy', stating (page 8):

'There are two important reasons why the UK needs to wean itself off such a high carbon energy mix: to reduce greenhouse gas emissions, and to improve the security, availability and affordability of energy through diversification'.

5.28 The Energy Statement also stated that:

'The over-riding imperative is to enable the low carbon revolution in electricity generation to take place without jeopardising the reliability, security or cost of our power supply' (p.11);

'This Government is committed to being the greenest Government ever, which includes a firm commitment to renewable energy' (p 15).

5.29 In November 2012, the Energy and Climate Change Secretary delivered the government's third *Annual Energy Statement* to Parliament. He confirmed that:

- ***on rebuilding our energy infrastructure –*** *'Now is the right time to invest in the UK's ageing energy infrastructure and to replace it with a diverse low carbon, efficient, energy mix. Around a fifth of power stations operating in 2011 have to close over this decade, and investment is needed if we are to maintain the secure energy supplies that are critical to our economy and our way of life ....'*(para. 1.3);

- ***on energy security –*** *'Over the coming decades, the energy system faces additional challenges, including: the need to decarbonise; the fact that around a fifth of our 2011 generating capacity has to close over this decade; and declining domestic fossil fuel production in the context of rising energy demand'* (para. 2.2);

- ***on electricity infrastructure -*** *'Electricity demand is likely to increase significantly over time due to the electrification of heat and transport. Recent DECC analysis shows that electricity demand is likely to increase by between 30% and 100% by 2050. We aim to set the framework through which technologies can compete to deliver secure and low carbon electricity supplies. We therefore need to maintain secure and affordable supplies of gas, oil and coal in the near term, and over time increasingly focus on how a mix of low carbon generation technologies can help us ensure secure and affordable electricity while ensuring that there is sufficient reliable capacity on the system to keep the lights on'* (para. 2.4);

- **on renewable energy – '***Increasing the amount of renewable energy deployed in the UK will diversify our energy supply and improve our energy security by reducing our exposure to fossil price fluctuations. This will help to protect consumers against the price spikes in oil and gas prices that we have seen in the past. An increasing supply*

of renewable energy is also critical to keeping us on a low carbon pathway, helping to meet our legally binding carbon targets and our EU legal commitment to source 15% of our energy from renewable sources by 2020' (para. 2.16) *. . . 'The rate of renewable energy deployment and generation increased significantly in 2011. Renewable energy increased from 3.2% to 3.8% of energy consumption, which is in line with meeting the first interim target on our path towards the 2020 target (4% over the average of 2011 and 2012). In particular renewable electricity capacity increased by 33% to 12.3 GW (excluding co-firing) in 2011'* (para. 2.20);

- ***On climate change –*** *'The UK Government also continues to press the EU to show international leadership in moving to a low carbon economy, and take an active role in influencing other major emitters . . . A move to a 30% emissions reduction target for 2020 remains a UK priority, and a number of member states have joined us over the last year in pushing for this increase in ambition. The UK will continue to work across the EU, to ensure greater ambition by 2020 and beyond'* (para. 4.5).

5.30 It is evident that the government's commitment to reducing greenhouse gas emissions whist maintaining energy security remain firm, and that new renewable and low carbon electricity generation and associated grid connection infrastructure needs to come forward if there is to be a prospect that the stated targets can be met.

National Renewable Energy Action Plan for the United Kingdom (2010)

5.31 In response to Article 4 of **EU Directive 2009/28/EC on the promotion of the use of energy from renewable sources, the UK** government has published a *National Renewable Energy Action Plan for the United Kingdom*. The document summarises the mechanisms that the UK has put in place to promote the development of renewable energy resources. On page 4 it is noted that:

'The UK needs to radically increase its use of renewable energy. The UK has been blessed with a wealth of energy resources . . . As we look forward, we need to ensure that we also make the most of our renewable resources to provide a secure base for the UK's future energy needs'.

5.32 This Action Plan also makes reference (page 4) to the independent UK Committee on Climate Change and that *'it will review the renewables target and provide advice on increasing the level of ambition'.*

5.33 The Committee on Climate Change responded by letter[1] to the Secretary of State for Energy

[1] Letter from Lord Turner, Chairman of the Committee on Climate Change to the Rt. Hon Chris Huhne MP the Secretary of State for Energy and Climate Change, 9 September 2010

on 9 September 2010, and with regard to the renewable energy ambition for 2020 stated:

'The envisaged contribution from renewable electricity (to account for around 30% of total generation by 2020, compared with 6.6% in 2009) is appropriate in the context of the need to substantially decarbonise the power sector by 2020, on the path to meeting the economy wide target to reduce 2050 emissions by 80% relative to 1990 levels. Investment now in a broad range of renewables technologies, but predominantly onshore and offshore wind, will directly contribute to required decarbonisation…it could also provide economic opportunities for UK based firms'.

5.34 The letter added (page 2) that meeting the 2020 renewable energy target would require a step change in the rate of progress and that:

'Our forward indicators for renewable electricity generation set out key actions that would deliver the 2020 target. A ramping-up in the pace of investment is required (around 1 GW of wind generation was added to the system in 2009, compared to over 3 GW required annually by the end of the decade'.

5.35 The letter adds that a failure to address key risks would limit the scope for investment and would imply a reduced share of renewable electricity in 2020. Such risks would include the need to *'reduce the planning application period for new renewable projects and increase the planning approval rate'*.

The Promotion of the Use of Energy from Renewable Sources Regulations (2011)

5.36 Regulation 3 states that 'It is the duty of the Secretary of State to ensure that the renewable share in 2020 is at least 15%'

The Carbon Plan: delivering our low carbon future – December 2011

5.37 The Carbon Plan was presented to Parliament pursuant to obligations under sections 12 and 14 of the Climate Change Act 2008 to set out an indicative annual range for the net UK carbon account and to report on proposals and policies for meeting carbon targets.

5.38 Para. 1.1 of the Carbon Plan affirms that the UK, in common with other countries, faces two great risks over the coming decades:

First, if we are not able to constrain global greenhouse gas emissions, the world faces the prospect of dangerous climate change, which will have unprecedented impacts on global

security and prosperity.

Second, the UK faces challenges to its energy security as our current generation of power stations closes and we must ensure supplies of energy which are resilient to volatile fossil fuel prices.

5.39 According to para. 1.2:

Climate change is one of the greatest threats facing the world today. There is an overwhelming scientific consensus that climate change is happening, and that it is primarily the result of human activity. There is now almost 40% more carbon dioxide in the atmosphere than there was before the industrial revolution, the highest level seen in at least the last 800,000 years. As a consequence, global average temperatures continue to rise. 2000–09 was the warmest decade on record, and 2010 matched 2005 and 1998 as the equal warmest year.

5.40 Para. 1.5 summarises the challenges to UK energy security, noting that, by 2020, the UK could be importing nearly 50% of its oil and 55% or more of its gas. At a time of rising global demand for energy and continued geopolitical instability, the Plan highlights the residual risks to the UK of high and volatile energy prices and physical disruptions to energy supply.

5.41 The Plan sets a vision for energy use as a whole, including energy demand in the transport sector and energy efficiency in buildings. With respect to electricity generation, para. 1.14 sets the following vision:

Low carbon power generation: *The power sector currently accounts for 27% of UK emissions. As heating, transport and industry become increasingly electrified, the amount of electricity we need to generate is very likely to increase from today, and it will need to be almost entirely carbon-free. By 2050, the three sources of UK electricity are likely to be renewables (in particular onshore and offshore wind farms); coal, biomass or gas-fired power stations fitted with CCS technology; and nuclear power. The grid will need to be larger, stronger and smarter to reflect the quantity, geography and intermittency of power generation. We will also need to ensure the security of the fossil fuel resources required to make the low carbon transition.*

5.42 The Plan thus affirms both the long-term importance of onshore wind to electricity generation in the UK and the expectation that the electricity transmission network will need to adapt accordingly.

5.43 In response to the inherent uncertainties of forecasting the national energy mix forty years ahead, the Carbon Plan examines four plausible scenarios for what the UK might look like in 2050 and to seek to draw lessons from the similarities and differences between those

scenarios. These comprise a core cost-optimising model called MARKAL, which was produced as part of the Department of Energy and Climate Change's analysis to support the setting of the fourth carbon budget, and three other scenarios:

- *Higher renewables, more energy efficiency;*
- *Higher carbon capture and storage (CCS), more bioenergy;*
- *Higher nuclear, less energy efficiency.*

5.44 Examination of the commonalities and differences between the four scenarios has helped the UK government to understand which technologies and efforts now might be considered 'safe bets' in the face of future uncertainty, and to identify the points in time between now and 2050 when choices between technologies will need to be made if the UK is to keep different possible futures open. The Government's approach in the Carbon Plan and in the first four carbon budgets has been to support the 'safe bets'. Table 1 on page 19 of the Carbon Plan presents a comparison of these scenarios. With respect to electricity generation specifically, the scenarios are as follows:

Table CG-1: Comparison of Carbon Plan scenarios for UK energy supply in 2050 and the current contribution of renewable energy in the UK

(All figures in 2050)	**Measure**	**Core MARKAL**	**Renewables; more energy efficiency**	**CCS; more bioenergy**	**Nuclear; less energy efficiency**
Energy saving per capita, 2007–50		50%	54%	43%	31%
Electricity demand increase, 2007–50		38%	39%	29%	60%
Electricity generation	Nuclear	33 GW	16 GW	20 GW	75 GW
	CCS	28 GW	13 GW	40 GW	2 GW
	Renewables *	45 GW	106 GW	36 GW	22 GW
Total UK R.E. capacity in 2013 (source: DECC Restats, April 2013)		12.42 GW	-	-	-
Onshore wind capacity in 2013 (source: DECC Restats, April 2013)		5.75 GW	-	-	-
2013 R.E. capacity as a percentage of 2050 scenarios for renewables		27.6	11.7	34.5	56.5

* *The 2050 futures do not assume that existing renewables generation is repowered at the end of its lifetime. The 2050 Calculator assumes that wind turbines have a lifetime of 20 years.*

Source: DECC Restats, - consulted 26 April 2013:
https://restats.decc.gov.uk/app/pub/repd/index/tab/status/
https://restats.decc.gov.uk/app/pub/repd/index/tab/overview/

5.45 As Table CG-1 shows, the four scenarios envisage contributions from renewable energy sources in the range of 22-106 GW. These figures compare with current UK energy generation capacity from renewable energy, which stood at 12.42 GW in April 2013, according to the DECC-*Restats* website. Table CG-1 expresses current capacity as a percentage of the 2050 scenarios for renewable energy, and reveals that current capacity accounts for 11.4 - 56.5% of the totals. Under any scenario, there is thus much to do if renewable energy is to fulfil expectations. This is underlined by the fact that CCS technology has yet to be demonstrated and deployed at a commercial scale in the UK. Unless these doubts are addressed, the government will be obliged to opt for the 'higher renewables, more energy efficiency' scenario if statutory carbon reduction targets are to be met.

5.46 Part 2 of the Carbon Plan includes (from page 69) a section entitled *Secure, low carbon electricity* which examines how the power generation sector can be decarbonised whilst simultaneously gearing up for an increase in electricity demand of 30%-60% by 2050. According to paras 2.167-2.168:

2.167 The Government is committed to dramatically increasing the amount of renewable electricity generation in the UK. Meeting the 2020 renewables target is likely to require renewables to provide over 30% of electricity generation in 2020. Making use of some of the best wind and marine resources in Europe will help to lower emissions and the demand for fossil fuels.

2.168 Looking out to the fourth carbon budget period and beyond, the Government agrees with the conclusions of the Committee on Climate Change's (CCC's) Renewable Energy Review that renewable electricity has the potential to provide over 40% of power generation by 2030 (see chart 26). However, delivering this will require costs to be significantly reduced (in the offshore wind and marine energy sectors).

5.47 According to para. 2.170, *'the Government's immediate focus for renewables is on delivery'*.

5.48 The Carbon Plan also considers the potential of woodlands and soils to sequester carbon. According to a footnote on page 86, '*UK soils hold around 10 billion tonnes of carbon, half of which is in peat habitats. This is more than in all the trees in the forests of Europe (excluding Russia), and equivalent to more than 50 times the UK's current annual greenhouse gas emissions'.* (Source: Defra (2009) Safeguarding Our Soils: A strategy for England). Paras. 2.183 and 2.200 of the Carbon Plan acknowledge the particular importance of peat soils in carbon sequestration.

UK Renewable Energy Roadmap – July 2011 *and*
UK Renewable Energy Roadmap Update – December 2012

5.49 In the same month that the National Policy Statements for Energy were approved, DECC published the *UK Renewable Energy Roadmap*. The report identified recent trends in renewables deployment in the UK and the pipeline of projects that could come forward before 2020, as well as the barriers that need to be overcome to enable these projects to be delivered successfully and cost effectively. On 27 December 2012 DECC published *UK Renewable Energy Roadmap Update*, with the endorsement of the First Minister of Wales amongst others.

5.50 The *2012 Update* makes clear that the government's concern to reduce greenhouse gas emissions and bring forward renewable energy development extend beyond the 2020 targets identified thus far in this evidence:

1.3 Whilst the Renewable Energy Roadmap focuses on reaching our 2020 targets, it is clear that renewables will have a pivotal role to play in the UK energy mix in the decades beyond. The Climate Change Act requires the UK to reduce greenhouse gas (GHG) emissions by at least 80% below 1990 levels by 2050. In the interim, our legislated Carbon Budgets require cuts in emissions to keep us on track to meet this.

1.4 Recent DECC analysis shows that electricity demand is likely to increase by between 30% and 100% by 2050. This is because heating, transport and industrial processes will need to increasingly be electrified. DECC modelling estimates that under a range of scenarios (with average emission intensity at 100gCO_2/kWh) renewable electricity could deliver a total capacity of up to 72GW by 2030 depending upon build rates and costs.

5.51 According to para. 2.5:

It remains true, as stated in the Overarching National Policy Statement for Energy, that there is an urgent need for new large-scale renewable energy projects to ensure that we meet the 2020 target and wider decarbonisation ambitions.

5.52 Para. 2.10 of the *2012 Update* examines the expected contribution of onshore wind in the round:

2.10 Last year's Roadmap suggested that we could see up to around 13GW of onshore wind capacity by 2020. Since last year we have had an increase of 1.3GW in operational capacity (between January 2011 and end of June 2012) and the onshore wind pipeline holds an additional 6.1GW of projects awaiting or under construction as well as 7GW awaiting planning approval. The current pipeline is likely to have the potential to provide the

appropriate quantity of deployment to fulfil our ambition outlined last year. However, we cannot be certain how much of the capacity in the pipeline projects will go forward as not everything in the pipeline will be consented and not everything consented will be built.

5.53 The general need to bring forward projects in 'the pipeline' is thus clear. The 2012 Update returns to this theme in paras. 2.32-2.33:

2.32 We expect significant attrition at the planning stage, and also at the preconstruction stage, due to a number of factors including project delays or extra costs associated with radar interference. These may not have been captured in the historical attrition rates.

2.33 While we cannot be certain which projects will go forward, the current pipeline is likely to represent the appropriate quantity of deployment to fulfil the central estimated range in the 2011 Renewable Energy Roadmap for onshore wind deployment (around 10-13GW capacity).

5.54 There is thus considerable uncertainty over the question of whether relevant 2020 targets will be met and it would be unsafe to claim that any part of the UK has 'done its bit' in fulfilling renewable energy targets for 2020. In any event, the 2020 targets are only waymarks on the road to a more thorough decarbonisation of the UK economy, as confirmed by para. 1.3 of the *2011 Roadmap* document:

Our ambition extends beyond 2020. Recent independent advice from the Committee on Climate Change (CCC) has made clear the long term role for renewable energy. The CCC concluded that there is scope for the penetration of renewable energy to reach 30 - 45% of all energy consumed in the UK by 2030 . . .

5.55 Figure 4 on page 17 of the *2011 Roadmap* identifies the cost ranges for the principal renewable energy technologies in 2010. This shows onshore wind energy projects to be amongst the very cheapest sources of renewable electricity, with a range of £75-127 per MWh. The table serves as a warning against reliance on other renewable energy technologies available in Wales. Offshore wind has a range of £149-191 per MWh, solar PV £202-380 per MWh and marine resources (wave and tidal) are unpriced, having not yet reached commercialisation. All of these technologies will have an important role to play, but reliance on these other technologies at the expense of onshore wind would impose burdens on electricity consumers and the UK and Welsh economy alike.

5.56 The *UK Renewable Energy Roadmap* and *2012 Update* thus highlight that significant uncertainties remain about the delivery of additional renewable energy generation capacity. In forecasting that relevant targets are likely to be met, the government places substantial

reliance on the 'pipeline' of wind energy projects currently in the planning process – of which the five wind farm projects before this public inquiry form a significant part. If the targets are to be met, the pipeline must deliver. Furthermore, it is important to acknowledge that the 2020 targets are only a milestone on the road to a much more thorough decarbonisation of energy supply in the UK.

The Energy Bill and Electricity Market Reform

5.57 On 29 November 2012 the Secretary of State for Energy and Climate Change confirmed the Introduction of the Energy Bill to the House of Commons alongside the Annual Energy Statement. The Bill aims to provide a legislative framework for delivering secure, affordable and low carbon energy and includes provisions on electricity market reform (EMR). It proposes measures to attract the £110 billion investment that is needed to replace current generating capacity and upgrade the grid by 2020, and to cope with a rising demand for electricity.

5.58 Amongst other things, EMR includes provisions for 'Contracts for Difference' - long-term contracts to provide stable and predictable incentives for companies to invest in low-carbon generation. Transitional arrangements also proposed for investments made under the current Renewables Obligation scheme, so as to maintain market confidence and avoid a hiatus in renewable energy development and the reduction in greenhouse gas emissions. These reforms are likely to have been introduced before the wind farms before this public inquiry come into operation. Whereas the reformed electricity market will function in a different manner to existing arrangements, the obligations to achieve security of energy supply and the decarbonisation of the electricity generation sector will remain undiminished.

UK law and policy: conclusions

5.59 In setting the legal and strategic context for renewable energy development, international, European and UK law and policy is consistent and unambiguous: there is an urgent and essential need to reduce the greenhouse gas emissions that are contributing to climate change; electricity generation employing fossil fuels is recognised as a leading source of greenhouse gas emissions, and there is thus a clear requirement to bring forward renewable

energy generation capacity. These obligations are legally binding on the UK. If they are to be met without imposing excessive costs upon electricity consumers and the economy as a whole, priority should be given to the development of the most cost-effective renewable energy technologies. If energy security is to be enhanced at the same time, then indigenous resources should be favoured. Onshore wind meets all of these criteria.

5.60 As the review of the UK Renewable Energy Roadmap and Update showed, there is only a prospect that the UK can meet its immediate carbon reduction and renewable energy targets if projects in the planning pipeline are consented and implemented. Furthermore, 2020 targets do not represent the limit or cap on what is required. The five wind farm proposals before the current public inquiry represent, individually and collectively, a significant component of the identified pipeline.

6. ENERGY AND CLIMATE CHANGE POLICY IN WALES

6.1 The Welsh Government's energy and climate change policy is a material consideration in the current context. It sets carbon reduction and renewable energy targets and helps to define how these targets should be met on the ground.

6.2 The Welsh Government has been active in setting priorities for reducing greenhouse gas emissions, developing the nation's renewable energy resources and decarbonising the economy more widely. It has also made an explicit connection between sustainable energy initiatives and the wider regeneration of the Welsh economy.

6.3 It is agreed that the following statutes, reports and strategies, are relevant in the current context.

- *The Government of Wales Act 2006*
- *Renewable Energy Route Map for Wales – February 2008*
- *One Wales: One Planet – the sustainable development scheme of the Welsh Government – May 2009*
- *A Low Carbon Revolution: the Welsh Assembly Government Energy Policy Statement – March 2010*
- *Economic Revival: a new direction – July 2010*
- *Climate Change Strategy for Wales – October 2010*
- *Energy Wales: a low carbon transition – March 2012*

The Government of Wales Act 2006 and One Wales: One Planet – the sustainable development scheme of the Welsh Government – May 2009

6.4 The Government of Wales Act 2006 is the Welsh Government's founding statute. Section 79 of the Act requires Welsh Ministers to make a scheme setting out how they propose, in the exercise of their functions, to promote sustainable development. The Welsh Government is one of the few administrations in the world to have a statutory obligation in relation to sustainable development.

6.5 In May 2009 the Welsh Government published *One Wales: One Planet – the sustainable development scheme of the Welsh Government*. Chapter 2 sets out the Welsh Government's vision of a sustainable Wales. An overarching aim of the scheme is to reduce Wales' ecological footprint to the global average availability of resources - 1.88 global hectares per person. On page 17 the implications of this for energy production and use are described:

To achieve this goal over a generation, we will need to reduce by at least two thirds the total resources we currently use to sustain our lifestyles. To reduce this we must:

- *radically reduce by 80-90% our use of carbon-based energy, resulting in a similar reduction in our greenhouse gas emissions. This reflects the latest estimates for action needed to address damaging climate change. It would support our commitment to make annual 3% reductions in greenhouse gas emissions in areas of devolved competence; and our ambitions to make all new buildings zero carbon buildings; and to move to producing as much electricity from renewable sources by 2025 as we consume . . .*

6.6 Chapter 4: *Sustainable Resource Use* responds to the statutory obligation in the Climate Change Act 2008 to reduce greenhouse gases by at least 80% by 2050. It identifies various measures within the Welsh Government's jurisdiction that would assist the fulfilment of this obligation, and advises on page 37 that:

We will free up planning controls over domestic and commercial micro generation projects and update the planning policy framework against which strategic proposals are assessed. We will provide a toolkit for local authorities to help them to identify opportunities to maximise the potential for renewable and low and zero carbon development. Once our overarching energy strategy has been published, we will revise Technical Advice Note 8 Renewable Energy, revising upwards the targets for renewable energy supplied by a range of sources.

6.7 Chapter 5: *Sustaining the Environment* concludes with the following specific action:

ACTION 9: Following a review of Axis II of the Rural Development Plan for Wales, we will set in place a structure of support for environmentally sustainable land management, including support for land-based carbon management through best practice management of soils, and management for water quantity and quality, biodiversity, woodland, landscape, heritage and access.

6.8 The proposed wind farms are consistent with the Welsh Government's sustainable development obligations. They would make a significant contribution to the reduction of greenhouse gas emissions.

Renewable Energy Route Map for Wales – February 2008

6.9 This document was published by the Welsh Government to provide a basis for public consultation on energy and climate change policy in Wales. Section 7 considers the future potential of wind energy in Wales. According to para. 7.1, 'Wind energy is the most readily available commercial renewable technology and Wales' weather and geography means we

are well placed to use it'. Para. 7.4 summarises the strategic search area approach to identifying wind farm sites in TAN8 Planning for Renewable Energy, and observes that these sites represent *'the most appropriate locations for larger scale wind-farms in Wales- outside of brown field sites. These strategic search areas constitute a few percent of the land mass of Wales'.*

6.10 Para 7.16 of the 2008 *Route Map* affirms the Welsh Government's commitment to *'review TAN 8, revising upwards the old targets for renewables - drawn from a range of sources- following the publication of the Assembly Government's energy strategy . . .'.*

A Low Carbon Revolution: the Welsh Assembly Government
Energy Policy Statement – March 2010

6.11 The Welsh Government's general ambitions for low carbon energy are summarised on pp.5-6 of this document as follows:

***First**, we will maximise energy savings and energy efficiency in order to make producing the majority of the energy we need from low carbon sources more feasible and less costly.*

***Second**, our energy needs in a modern society will remain considerable, and must be met securely from low carbon sources. We will move to resilient low carbon energy production via indigenous (and thus secure) renewables, on both a centralised and localised basis.*

***Third**, we will ensure that this transition to low carbon maximises the economic renewal opportunities for practical jobs and skills, strengthens and engages our research and development sectors, promotes personal and community engagement and helps to tackle deprivation and improve quality of life.*

*Based on Wales' natural advantages in areas such as wind and marine renewable resources, our **aim** will be to renewably generate up to twice as much electricity annually by 2025 as we use today and by 2050, at the latest, be in a position where almost all of our local energy needs, whether for heat, electrical power or vehicle transport, can be met by low carbon electricity production.*

6.12 Section 1.1 of the report makes reference to the Welsh Government's Climate Change Strategy and highlights *'the huge challenges the planet faces in avoiding catastrophic climate change'* (p.6). The report proceeds to identify the following objectives for onshore wind (pp. 14-15):

Our aim is: to have 4.5 kWh/d/p (kilowatt hours per day per person) *of installed onshore wind generation capacity by 2015/2017. We will do this by:*

- *optimising the use of the existing strategic search areas set out in Technical Advice Note (TAN) 8 on Planning for Renewable Energy and keeping the TAN under review in the light of progress towards these targets;*
- *ensuring that wind farms fully deliver wider community benefits, through our Forestry Commission-based schemes and through the planning system;*
- *addressing any transportation concerns associated with larger wind turbines;*
- *working closely with the grid company and the regulator to ensure that new grid connections are provided sensitively, including seeking that connections should run underground where they would otherwise impact on protected landscapes;*
- *promoting further use of brownfield or local sites for smaller-scale projects appropriate to their locations;*
- *supporting local authorities in dealing with applications.*

6.13 Appendix I of the report tabulates Wales' sustainable energy potential to 2020-2025, and suggests that onshore wind could account for 2 GW capacity and 5 TW/hr of electricity generation in Wales by 2015-17.

Economic Revival: a new direction – July 2010

6.14 This report was published by the Welsh Government in July 2010 with the intention of setting a vision for the economic revival of Wales. Chapter Two of the report identifies challenges and opportunities facing the Welsh economy. Two of the wider challenges bearing on the government's approach to economic revival are identified as follows (p.5):

- *The need to respond to climate change by improving resource productivity and decarbonising energy supply*
- *Pressure on land for multiple purposes – food production, housing and economic development, landscape, nature conservation and biodiversity, water management and energy*

6.15 Sustainable development is identified as the 'central organising principle' of the Welsh Government's policies and programmes (p.8). Chapter three is entitled 'investing in high quality and sustainable infrastructure'. In the introduction on page 9, it is stated *inter alia* that *'for economic renewal we need to ... integrate the way we plan and deliver our investment in infrastructure ...* (and) *move towards a low-waste, less resource intensive, low-carbon economy'*.

6.16 The investment strategy for energy and energy efficiency is identified on pp.12-13 of the report, with cross-references to the Wales Energy Strategy *A Low Carbon Revolution* (see above). On page 13 (second bullet) under the heading 'Supporting economic revival through

existing activities', it is predicted that *'there will be significant investment across Wales in new energy plant and in transmission facilities to link new developments to the grid'* The decisions before the current pubic inquiry will have an important bearing on the scale of this hoped-for investment.

6.17 Chapter six: *Encouraging innovation* identifies the 'low carbon economy (including climate change mitigation and adaptation)' as one of four priority areas for the development and commercialisation of knowledge in Wales (p. 31). Chapter seven: *Targeting the business support we offer* identifies energy and environment as one of six sectors for targeted government intervention. On p.38 it is asserted that:

As the cradle of the industrial revolution, Wales led the world in coal and steel; now it is well placed to take a leading role in low carbon and sustainable energy sources such as wind, tide, hydro-electric and biomass. With abundant natural resources and businesses that can exploit the opportunity, this is a sector with strong growth potential across low carbon energy, energy efficiency, energy storage and infrastructure, pollution control, environmental management, research and consultancy . . .

Climate Change Strategy for Wales – Welsh Government, October 2010

6.18 This strategy identifies the wide range of measures that the Welsh Government proposes to reduce greenhouse gas emissions and mitigate and adapt to climate change. It sets an annual 3% target for carbon dioxide emissions reductions in areas of the Welsh Government's devolved competence. Although energy policy currently lies outside of the devolved administration's jurisdiction, Chapter 6: *Cross-cutting themes* includes the following statement on page 46:

Energy generation

Although energy generation is not included in the 3% target, we have included energy consumption by end-user. This means that promoting low carbon energy generation has an important role in meeting the 3% target, and achievements in this area will be taken into account in the annual progress report to the National Assembly for Wales. ***Maximising*** *the amount of renewable energy produced in Wales will also make a significant contribution to delivering a 40% reduction in total emissions by 2020 and towards the UK Carbon Budgets.*

Low Carbon Revolution - Wales' Energy Policy Statement, published in 2010, sets out the Assembly Government's ambitions for low carbon electricity in Wales. It explains our aim to renewably generate up to twice as much electricity annually by 2025 as we generate today and by 2050, at the latest, be in a position where almost all of our local energy needs can be met by low carbon electricity production.

Our approach will be to reduce energy consumption and improve energy efficiency first and maximise renewable and low carbon energy generation at small and large scale across Wales. This will include a major role for marine renewable technology.

6.19 The *Climate Change Strategy for Wales* thus reiterates the commitment of *One Wales: One Planet* (see paras. 6.4-6.8 above) to maximise renewable energy and low carbon energy generation. Similarly, Chapter 7: *Reducing greenhouse gas emissions* commits the Welsh Government, *inter alia*, to *'working with private and public sector partners to enable the development of larger scale renewable energy generation'* (page 49). The strategy thus recognises explicitly that larger scale projects, exemplified by wind farm proposals coming forward in the TAN8 Strategic Search Areas, should form an essential part of Wales' response to the threat of climate change.

Energy Wales: a low carbon transition – March 2012

6.20 This report identifies a list of the actions that the Welsh Government intends to take to promote the decarbonisation of the energy sector in Wales and the desired economic benefits. The report includes a section entitled *Focusing on the energy projects of greatest potential benefit*, within which there is sub-section entitled *Delivering Renewable Energy*. This includes the following summary of the current contribution of the renewable energy sector in Wales and the Welsh Government's future aspirations:

Where we are now

Supporting around 13,000 jobs in Wales in 2009/10, the renewable sector has increased considerably with renewable generation increasing by 58% between 2004 and 2010. For example, biomass contributed £279 million and solar £338 million in sales in 2009/2010.10

In Wales, 62% of renewable generation stems from sources such as wind and solar with a further 25% coming from thermal renewable generation and 13% from hydro generation. Current operational wind farms have a capacity of 562MW. Significant developments such as Gwynt y Môr, due to come on stream next year, will see capacity increase by 576MW from offshore, with a further 263MW from onshore developments.

Where we want to be

Making the best use of commercially proven renewable energy sources – such as onshore and offshore wind, solar, bio-energy and hydro – we want to facilitate appropriate deployment to deliver against our low carbon objectives, contribute to wider UK and EU aims and realise the significant wealth-generating opportunities Wales has.

We want to ensure that following best practice engagement of our communities, the appropriate technology is deployed at the appropriate sites in a way that delivers for business, benefits communities and supports the long term prosperity of Wales. In so doing we expect to achieve an energy mix across energy sectors and different scales – with greater

contributions from micro and community scale developments alongside developments at a larger scale.

6.21 The report proceeds to identify a series of supporting government actions.

Energy and climate change policy in Wales: conclusions

6.22 The Welsh Government has a statutory duty in relation to sustainable development. Welsh energy policy recognises the potential threats that uncontained climate change poses to local communities. It acknowledges the urgent need to reduce greenhouse gas emissions and that the development of Wales's abundant renewable energy resources is one of the principal ways in which this can be done. Notably, there are commitments to maximise energy generation from renewable and low carbon sources, and to allow large renewable energy projects to come forward. Onshore wind is identified as one of the principal renewable energy technologies that must be deployed to this end.

6.23 Climate change policy promotes the sustainable management of soils to ensure carbon retention. There is also a clear recognition of the connections that are being fostered between renewable energy development and Wales' R&D, steel, engineering and education sectors, and the platform this provides for the development of exportable products and skills in keeping with the Welsh Government's economic aspirations.

7. PLANNING POLICY IN WALES

7.1 National planning policy is set out in *Planning Policy Wales* (fifth edition, November 2012), and is supplemented by government circulars, ministerial policy clarification letters and a series of Technical Advice Notes, including TAN8: *Planning for Renewable Energy* (July 2005).

7.2 The strategic framework for Wales is provided by the Wales Spatial Plan *People, Places, Futures*, which was published in 2004 and updated in 2008. The plan integrates the spatial aspects of wider national strategies, including those for economic development and the environment.

People, Places, Futures – the Wales Spatial Plan 2008 update

7.3 Section 60 of the Planning and Compulsory Purchase Act 2004 placed a duty on the National Assembly for Wales to prepare a spatial plan. The Government of Wales Act 2006 requires the Welsh Ministers to agree the plan and keep under review. Section 62 of the 2004 Act states that local planning authorities, in preparing a local development plan (LDP), must have regard to the Wales Spatial Plan. However, the Wales Spatial Plan is not part of the statutory development plan framework.

7.4 Chapters 9-14 of the Wales Spatial Plan address a series of policy themes, including *Valuing our Environment* (chapter 12). The chapter opens with the following statement (page 28, paras. 12.2- 12.3, our emphasis added):

Climate change

12.2 Climate change is an urgent and compelling issue which will have a fundamental impact on our communities and working environments, our way of life, and our health and wellbeing. ***We must act now*** *to protect our communities from the unavoidable consequences. For example, most of Wales' population lives close to either rivers or the sea. Current and future changes in rainfall patterns and sea levels require us to have engaged people in flood risk issues. There will also be climate change consequences for land use, water resources, biodiversity and wildlife. All our communities – both living and working environments – need to be addressing these adaptation issues.*

12.3 Equally, we need to act now to minimise the contribution that we will make to future climate change, through rethinking where and how we live, work and move around, reducing the energy and other resources that we require.

7.5 Chapter 12 concludes (page 31) with a sequence of maps showing the predicted changes in annual average daily temperatures across Wales under a 'high-emissions' scenario and a 'low-emissions' scenario.

7.6 Chapters 15-20 of the Wales Spatial Plan comprise a series of area strategies for different regions of Wales. The current wind farm and grid connection proposals each lay in the Central Wales strategy area, which is addressed in chapter 15. According to para. 15.15:

A significant challenge for the Area is its ability to play not only a local but also a national role in responding and adapting to the impact of climate change. The challenges are to use and enhance the range of the environmental infrastructure within Central Wales to enable the area to have ***a crucial role*** *in reducing the risks associated with increased flooding from rivers, sea and heavy rainfall; maintain water resources during periods of shortage; develop renewable energy technologies; and use the ecosystems and biodiversity of the area as a realistic means of conserving and managing Wales' important landscapes in terms of carbon capture* (my emphasis).

7.7 Para. 15.30 outlines some of the economic and education benefits of this strategy.

The environmental and cultural assets of the Area offer the opportunity to develop specialist indigenous business clusters centred around carbon sink technologies, alternative renewable energy technologies, new natural products, creative industries and the existing skills and expertise in the earth, land, environment and marine sciences, maximising the opportunities through the higher education sector . . .

7.8 Under the heading *Valuing our Environment*, para. 15.45 states that following 'key priorities' have been identified for the area:

- *Adapting and responding to climate change both in terms of challenges and opportunities for the Area (flood risk, carbon capture / offset, coastal erosion, renewable energy);*
- *Achieving sustainable use of our resources, including waste, water, soils, minerals, aggregates and land for food production;*
- *Conserving and enhancing our ecosystems and increasing the resilience of biodiversity / natural environment to the impacts of climate change;*
- *Improving the local environment, including the built environment, and access to the coast and countryside, and prioritising the development of brownfield sites;*
- *Promoting environmental education and skills development in the area to maximise the emerging environmental opportunities and technologies.*

7.9 It is agreed that the Wales Spatial Plan accords a high priority to tackling climate change, generally and in the Central Wales strategy area specifically. The need to 'act now' is clearly

acknowledged (para. 12.2), and in these terms, the Central Wales strategy area is expected to play 'a crucial role' (para. 15.15). The proposed wind farm developments are consistent with these priorities.

Planning Policy Wales: edition 5 – November 2012

7.10 Planning Policy Wales (PPW) sets out the land use planning policies of the Welsh Government, and should be taken into account in the preparation of development plans. PPW *'may also be material to decisions on individual planning applications'* (PPW, para. 1.1.4).

7.11 As well as providing guidance on development plans, planning decisions, and sustainability, PPW offers advice on individual planning topics including the conservation of natural heritage and historic environment, transport, tourism and infrastructure. This thematic guidance will be considered in the inquiry evidence presented by the individual developers and the local planning authority. This section of the statement of common ground addresses PPW's strategic aims and its provisions for climate change and energy development.

7.12 In Section 1.4 *The context for planning in Wales*, PPW affirms the important role that the planning system will play in tackling climate change and reducing greenhouse gas emissions.

> *1.4.4 The Welsh Government is required to make a contribution to the International, EU and UK targets for greenhouse gas emission reduction. The Climate Change Act 2008 provides the statutory framework for the reduction of greenhouse gas emissions in the UK. At the core of the Act is a requirement for the UK to reduce net UK greenhouse gas emissions by 80 per cent by 2050 - and CO2 emissions by at least 34 per cent by 2020 - against a 1990 baseline. The planning system will play an important role in tackling climate change and reducing greenhouse gas emissions (see Section 4.5).*

7.13 PPW chapter four *Planning for sustainability* takes as its starting point the government's duty under s.79 of the Government of Wales Act 2006 to publish a scheme setting out how sustainable development will be promoted in the exercise of its functions (see paras. 6.4-6.8 above). Section 4.3 identifies a series of sustainability principles underpinning PPW, including the following relevant provisions:

- *taking a **long term** perspective to safeguard the interests of future generations, whilst at the same time meeting needs of people today;*
- *respect for **environmental limits**, so that resources are not irrecoverably depleted or the*

environment irreversibly damaged. This means, for example, mitigating climate change, protecting and enhancing biodiversity, minimising harmful emissions, and promoting sustainable use of natural resources;

- *tackling **climate change** by reducing the greenhouse gas emissions that cause climate change and ensuring that places are resilient to the consequences of climate change;*
- *applying the **precautionary principle**. Cost-effective measures to prevent possibly serious environmental damage should not be postponed just because of scientific uncertainty about how serious the risk is;*
- *using **scientific knowledge to aid decision-making**, and trying to work out in advance what knowledge will be needed so that appropriate research can be undertaken . . .* (original emphases).

7.14 Para. 4.4.3 sets out a series of 19 sustainability objectives (bulleted in PPW but numbered here for ease of reference), and states that planning policies, decisions and proposals should, *inter alia* –

iii). Support the need to tackle the causes of climate change by moving towards a low carbon economy. This includes facilitating development that reduces emissions of greenhouse gases in a sustainable manner, provides for renewable and low carbon energy sources at all scales and facilitates low and zero carbon developments (Sections 4.7, 4.11 and Chapter 12)

vi). Play an appropriate role in securing the provision of infrastructure to form the physical basis for sustainable communities (including water supplies, sewerage and associated waste water treatment facilities, waste management facilities, energy supplies and distribution networks and telecommunications), while ensuring proper assessment of their sustainability impacts (Chapter 12) . . .

ix). Maximise the use of renewable resources, including sustainable materials (recycled and renewable materials and those with a lower embodied energy). Where it is judged necessary to use non-renewable resources they should be used as efficiently as possible. The use of renewable resources and of sustainably produced materials from local sources should be encouraged and recycling and re-use levels arising from demolition and construction maximised and waste minimised (4.11.5 and 4.11.10).

xviii). Promote a low carbon economy and social enterprises (Section 7.4) . . .

7.15 The current wind farm proposals are consistent with these objectives of PPW.

7.16 Section 4.5 *Planning for climate change* states that 'tackling climate change is a fundamental part of delivering sustainable development . . .' and that the Welsh Government's commitment to action on climate change *'is based on a scientific imperative to act and act urgently to reduce greenhouse gas emissions . . .*' (para. 4.5.1). According to para. 4.5.2, the Welsh Government is committed to achieving at least a 40% reduction in all greenhouse gas

emissions in Wales by 2020 against a 1990 baseline. Para. 4.5.3 notes that the economic imperative to act was set out in the Stern Review and by the UK Committee on Climate Change. Para. 4.5.4 summarises the changes to the climate in Wales predicted by the UK Climate Impacts Programme. Each of these points is relevant in assessing the strategic case for wind farm development.

7.17 Section 4.6 sets out the Welsh Government's priorities for rural areas of Wales. According to para. 4.6.3, these include securing 'an attractive, ecologically rich and accessible countryside in which the environment and biodiversity are conserved and enhanced'. Para. 4.6.4 adds that *'. . . central to this is ensuring that the countryside is resilient to the impacts of climate change and plays a role in reducing the causes of climate change through the protection of carbon sinks and as a sustainable energy source'.*

7.18 In section 12.8, PPW sets out specific provisions for renewable and low carbon energy. UK and Welsh policy, targets and obligations for increasing the use of renewable energy resources are summarised (paras. 12.8.1-2), and figure 12.1 (PPW page 167) summarises Wales' sustainable renewable energy potential to 2020/2025. The table, which is taken unchanged from *A Low Carbon Revolution 2010* (see paras. 6.11-6.13 above) indicates that 0.7 GW of onshore wind capacity is either operational or consented, and that this could rise to 2 GW by 2015/2017. Overall data for renewable energy in Wales are cited as 2 GW operational or consented, and a total 22.5GW capacity installed by 2020/2025. However, of the latter, 12.5 GW is accounted for by tidal range and tidal stream and wave technologies, which are currently contributing nothing to Wales' energy needs.

7.19 All renewable energy technologies have a role to play in meeting relevant targets. However, it is agreed that it is unlikely that wave and tidal technologies will provide the 12.5 GW of generation capacity anticipated in PPW table 12.1 by 2020/2025, whereas onshore wind offers a mature technology with lower generation costs. It is agreed also that also wind energy will account for a greater proportion of Wales' renewable energy mix in 2020/2025 than PPW table 12.1 would suggest. This conclusion is consistent with PPW para. 12.8.12, which acknowledges the abundance and relative commercial viability of onshore wind energy in Wales.

7.20 According to PPW para. 12.8.5:

Local planning authorities, particularly those containing Strategic Search Areas (SSAs), should take the Welsh Government's imperative for renewable energy into account when they are consulted on applications for large scale onshore wind power projects considered by the National Infrastructure Directorate within the Planning Inspectorate.

7.21 This repeats guidance offered in para. 12.8.5 of *Planning Policy Wales edition 4*, which was current at the time when Powys County Council determined its position in respect of the development that is the subject of the current public inquiry.

7.22 According to para. 12.8.13, 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'.*

7.23 For development within SSAs, para. 12.8.14 makes the following provisions:

. . . Within the SSAs, whilst cumulative impact can be a material consideration, it must be balanced against the need to meet the Welsh Government's renewable energy aspirations and the conclusions reached fully justified in any decisions taken. Developers will need to be sensitive to local circumstances, including siting in relation to local landform, proximity to dwellings and other planning considerations. The development of large wind farms or other large scale renewable and low carbon energy schemes will not generally be appropriate in internationally or nationally designated areas and sites.

7.24 PPW table 12.3 defines onshore wind energy projects of over 25 MW as being projects of strategic scale for planning purposes. Para. 12.8.15 advises that renewable energy projects require different policy and development management considerations depending their type, location and scale. The development proposals before the current public inquiry thus require a strategic decision-making approach that gives full weight to the array of international, European, UK and Welsh policy concerning the need to bring forward renewable energy projects as a means of reducing greenhouse gas emissions and enhancing energy security. The proposals should be viewed in the context of a decision-making approach to identifying large-scale wind energy developments across the whole of Wales that had identified seven areas that are intended to deliver more than three quarters of Wales' renewable energy contribution from onshore wind by 2017.

7.25 This concern is highlighted also by PPW section 12.10, which provides guidance for local planning authorities on development management for renewable and low carbon energy

projects. Para. 12.10.1 identifies a list of matters that should be taken into account in determining applications for such projects, the first two of which are:

- *the contribution a proposal will play in meeting identified national, UK and European targets and potential for renewable energy, including the contribution to cutting greenhouse gas emissions;*
- *the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development;*

7.26 This list has been carried forward unchanged from PPW edition 4.

Planning Policy Wales Technical Advice Note 8: Planning for Renewable Energy (July 2005)

7.27 TAN8 provides technical advice to supplement the policy set out in Planning Policy Wales. Para. 1.1 affirms that TAN8 will also be relevant to the authorisation of electricity generation schemes by the UK Government under section 36 of the Electricity Act 1989.

7.28 According to TAN8 para. 2.2, onshore wind power offers the greatest potential for an increase in the generation of electricity from renewable energy in the short to medium term. In order to try to meet the target for onshore wind production the Welsh Government commissioned extensive technical work from consultant Arup, which led to the conclusion that, for efficiency and environmental reasons amongst others, large scale onshore wind farms (defined as those over 25 MW capacity) should be concentrated into defined Strategic Search Areas (SSAs).

7.29 For each of the SSAs there are indicative targets of installed capacity to be built and grid-connected by 2010, outlined in Table 1 (TAN8 page 5), compiled on the basis that the majority of technically feasible land for wind turbines in each area is utilised. Table 1 indicates that SSAs might be capable of accommodating up to approximately 1,120 MW of additional capacity. SSA area B Carno North has an indicative capacity of 290MW, and SSA area C Newtown South has an indicative capacity of 70 MW. Para. 2.5 explains that *'. . . the installed capacity targets are intended to assist the planning process and are not to be seen as the definitive capacity for the areas. There may be practical, technical and/or environmental reasons why the capacity may be more or less than that indicated'.*

7.30 Para. 2.7 affirms that large areas of Wales were excluded from the SSAs in recognition of various constraints to wind energy development. Para 2.9 sets out the essential common characteristics that distinguish SSAs:

- *extensive areas with a good wind resource (typically in excess of 7 metres per second);*
- *upland areas (typically over 300m above ordnance datum) which contain a dominant landform that is flat (plateau) rather than a series of ridges;*
- *generally sparsely populated;*
- *dominated by conifer plantation and/or improved/impoverished moorland;*
- *has a general absence of nature conservation or historic landscape designations;*
- *of sufficient area to accommodate developments over 25MW, to achieve at least 70MW installed capacity and to meet the target capacity;*
- *largely unaffected by broadcast transmission, radar, MoD Mid Wales Tactical Training Area (TTA) and other constraints.*

7.31 TAN8 para. 2.10 identifies some of the local issues raised by wind farm development in SSAs that might be addressed in policy prepared by local planning authorities. Tan 8 para 2.14 states that *'There will also be opportunities to repower and/or extend existing wind farms which may be located outside SSAs and these should be encouraged provided that the environmental and landscape impacts are acceptable'.*

7.32 Annex B addresses the community benefits arising out of wind farm development in Wales.

7.33 Annex C part 2 of TAN8 provides a description of wind energy technology. Para. 2.13 of this section considers electricity grid capacity in Wales:

'There is currently very restricted capacity for further wind-power developments in North and Mid Wales (Scottish Power/Manweb network) and the re-enforcement of the network through the construction of new high voltage distribution and transmission lines is vital to the realisation of any significant additional generating capacity as well as providing a stronger, more reliable network for electricity users in the western mid Wales area. The Assembly Government strongly supports the principle of this scheme . . .'

7.34 In July 2011 the Welsh Government's Minister for Environment and Sustainable Development wrote to all Welsh local planning authorities to clarify what he considers to be the maximum installed capacity to be for each SSA. The letter explained that a study by wind energy consultant Garrad Hassan identifies a maximum capacity of almost 1,700 MW for all seven SSAs. With a further 300 MW of wind energy generation anticipated from wind energy developments under 25 MW, the total onshore wind capacity would equate to the 2 GW aspiration set out in *A low Carbon Revolution* for 2020-2025 (see paras. 6.11-6.13

above). Garrad Hassan identified a maximum capacity of 430 MW for SSA area B Carno North, and 98 MW for SSA area C Newtown South.

7.35 The parties to this Statement of Common Ground do not all agree with the approach on targets being taken by the Welsh Government and this will be dealt with in the relevant statements of case to be submitted by the parties.

7.36 In the light of the Minister's letter of July 2011, a summary of the position that has been reached in each of the SSAs forms appendix I to this statement of common ground.

8. ENERGY POLICIES OF THE POWYS UNITARY DEVELOPMENT PLAN 2010

8.1 As indicated by the third of the Secretary of State's matters to be considered at the public inquiry, the statutory development plan is a consideration that should be taken into account in the current context. For current purposes the development plan is the Powys Unitary Development Plan, adopted on 1 March 2010.

8.2 The Powys Unitary Development Plan supersedes all development plans that were previously in place. The plan is intended to *'guide development during the plan period until mid-2016. It provides a policy framework for positive forward planning, proposals and allocations for future developments and the basis on which consistent development control decisions can be made'* (UDP para. 1.4.1).

8.3 It is agreed that s.38(6) of the Planning and Compulsory Planning Act 2004, which requires that -

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise

- is not engaged in decisions on whether to grant consent under the Electricity Act 1989.

8.4 This has been confirmed in various decisions on s.36 and s.37 projects and was considered by the High Court in January 2012 in the case of *R (ex parte Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Energy and Climate Change*. In this case it was held that a 'direction' that planning permission shall be deemed to be granted does not constitute a 'determination' under the Planning Acts. The judge stated that *'as a matter of construction I consider that it is a direction that such determination is not required'*. As such, there was no duty upon the Secretary of State to comply with s.38(6) of the Planning and Compulsory Planning Act 2004.

8.5 Chapter 12 of the Powys UDP sets out the County Council's energy planning policies. Three policies are relevant in the current context – policy E3: *wind power*, policy E4: *removal of redundant wind turbines* and policy E5: *off-site works*.

8.6 UDP para. 12.9.1 opens the section on wind energy with the observation that *'wind turbines are now a significant part of the electricity production scene in Powys and are a feature of the landscape, predominantly in the north of Powys ...'*. Para 12.9.1 continues -

' ... The Council believes that experience to date suggests that a criteria based policy on its own does not represent a particularly good basis for future decision making. It is considered to be desirable for the Council to be more pro-active in steering the wind power developments to areas where they would be most acceptable. It is clearly recognised that international, European and national (UK and Welsh) policies and imperatives dictate that there is an obligation to promote renewable energy developments where they are environmentally acceptable'.

8.7 The UDP thus acknowledges the weight of international, European, UK and Welsh policy and the *imperative* to promote the use of renewable energy.

8.8 UDP policy E3: wind power states that:

APPLICATIONS FOR WIND FARMS INCLUDING EXTENSIONS TO EXISTING SITES AND INDIVIDUAL WIND TURBINE GENERATORS WILL BE APPROVED WHERE:

1. *THEY DO NOT UNACCEPTABLY ADVERSELY AFFECT THE ENVIRONMENTAL AND LANDSCAPE QUALITY OF POWYS, EITHER ON AN INDIVIDUAL BASIS OR IN COMBINATION WITH OTHER PROPOSED OR EXISTING SIMILAR DEVELOPMENTS. WHERE THE CUMULATIVE IMPACT OF PROPOSALS IN COMBINATION WITH OTHER APPROVED OR EXISTING WINDFARMS WOULD BE SIGNIFICANTLY DETRIMENTAL TO OVERALL ENVIRONMENTAL QUALITY THEY WILL BE REFUSED.*

2. *THEY DO NOT UNACCEPTABLY ADVERSELY AFFECT WILDLIFE HABITATS OR SPECIES THAT ARE OF INTERNATIONAL, NATIONAL OR LOCAL IMPORTANCE IN ACCORDANCE WITH POLICIES ENV3-7.*

3. *THEY DO NOT UNACCEPTABLY ADVERSELY AFFECT THE OCCUPANTS OR USERS OF SENSITIVE PROPERTIES (USUALLY DWELLINGS) OR THEIR AMENITIES BY REASON OF NOISE, VIBRATION, SHADOW FLICKER OR REFLECTED LIGHT.*

4. *THEY DO NOT UNACCEPTABLY IMPACT UPON ANY BUILDINGS OR FEATURES OF CONSERVATION OR ARCHAEOLOGICAL INTEREST.*

5. *THEY DO NOT UNACCEPTABLY ADVERSELY AFFECT THE ENJOYMENT AND SAFE USE OF HIGHWAYS AND THE PUBLIC RIGHTS OF WAY NETWORK, ESPECIALLY BRIDLEWAYS (INCLUDING DURING THE CONSTRUCTION PHASE).*

6. *THEY WOULD BE CAPABLE OF BEING SERVED BY AN ACCEPTABLE MEANS OF HIGHWAY ACCESS AND ANY NEW OR IMPROVED ROADS AND ACCESSES REQUIRED WOULD NOT HAVE UNACCEPTABLE ENVIRONMENTAL IMPACTS.*

7. *APPLICANTS ARE ABLE TO DEMONSTRATE THROUGH LAND MANAGEMENT SCHEMES THAT THERE WOULD BE ADEQUATE MITIGATION OR COMPENSATION FOR ANY ADVERSE IMPACT ON ENVIRONMENTAL QUALITY, WILDLIFE HABITATS OR HERITAGE FEATURES.*

8. *ANY ANCILLARY STRUCTURES OR BUILDINGS ARE SO SITED AND DESIGNED (INCLUDING THE USE*

OF LOCALLY APPROPRIATE CONSTRUCTION MATERIALS) SO AS TO ADEQUATELY BLEND INTO THEIR SETTING.

8.9 Two other UDP energy policies are relevant in the current context. UDP para. 12.9.4 states that *'one of the advantages that wind-power developments hold over most of the other electricity generation technologies is the ease with which turbines and their towers are removed and the site re-instated'*. UDP policy E4: *removal of redundant wind turbines* thus proposes that planning conditions should be imposed requiring the removal of wind turbine generators, related infrastructure and ancillary equipment and the restoration of the land once electricity generation has ceased. All of the wind farm developers that are signatories to this statement of common ground are receptive to such a planning condition for their respective proposals.

8.10 UDP policy E5: *off-site works* states that *'planning obligations or other appropriate legally binding agreements will be sought to ensure the implementation of offsite works where these are necessary in order to facilitate wind turbine development proposals or to ameliorate their impact'*. Where applicable to their projects, the wind farm developers support the implementation of the strategic Transport Management Plan that has been approved by the Welsh Government.

8.11 Policy DC12*: overhead lines and pipelines* will be addressed in session 3 of the public inquiry.

Signed Date 2013

For and on behalf of Vattenfall

Signed Date 2013

For and on behalf of Fferm Wynt Llaithddu Cyf

Signed Date 2013

For and on behalf of Celtpower Limited

Signed Date 2013

For and on behalf of RES UK & Ireland Limited

Signed Date 2013

For and on behalf of RWE npower renewables Limited

Signed Date 2013

For and on behalf of SP Manweb plc