



Department for
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Dear Sirs,

ELECTRICITY ACT 1989

TOWN AND COUNTRY PLANNING ACT 1990

REDETERMINATION OF AN APPLICATION FOR CONSENT FOR A WIND TURBINE GENERATING STATION AT LAND IN POWYS, MID-WALES (LLANBRYNMAIR)

1. The Application

- 1.1. I am directed by the Secretary of State for Business, Energy and Industrial Strategy (the "Secretary of State") to refer to the application dated 27 March 2009 ("the Application") on behalf of RES UK & Ireland Limited ("the Applicant") for consent under section 36 ("section 36 consent") of the Electricity Act 1989 ("the 1989 Act") to construct and operate a wind turbine generating station of up to 90MW maximum installed capacity and associated infrastructure on land between the villages of Llanbrynmair and Llanerfyl, Powys, Wales ("the Development"), and for a direction under section 90(2) of the Town and Country Planning Act 1990 that planning permission for the Development be deemed to be granted.
- 1.2. The Application was published in accordance with the Electricity (Applications for Consent) Regulations 1990 ("the 1990 Regulations") and served on the relevant persons.
- 1.3. In accordance with the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2000¹ ("the EIA Regulations") an Environmental Statement was submitted with the Application. This was supplemented by additional information in the form of supplementary environmental information in August 2013, October 2013, December 2013 and February 2014. These documents are collectively referred to in this letter as the "Environmental Statement". The Environmental Statement describes the Development and gives an analysis of its environmental

¹ Replaced by the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 ("the 2017 Regulations").

effects. In accordance with the EIA Regulations the Environmental Statement was advertised and placed in the public domain to give people an opportunity to comment on it. In August 2012 the site boundary was amended to incorporate land required in connection with access route improvement works along the Llanerfyl to Talerddig road. In February 2014 the site boundary was further amended to address Powys County Council's suggested shared access route with the then proposed Carnedd Wen wind farm.

2. Public Inquiry

- 2.1. Following an objection to the Application from Powys County Council, the relevant planning authority, the Secretary of State was obliged to cause a public inquiry to be held under Schedule 8 to the 1989 Act into the Application.
- 2.2. Powys County Council also objected to four other wind turbine generating station applications made to the Secretary of State between 2007 and 2009 under section 36 of the 1989 Act: namely the wind farms known as "Carnedd Wen", "Llanbadarn Fynydd", "Llaithddu", "Llandinam Repowering"; and a proposal under section 37 of the 1989 Act to install and keep installed a 132kV overhead electric line connection from the proposed Llandinam Repowering scheme to Welshpool Substation ("Llandinam 132kV line") in Powys, Mid-Wales. The Secretary of State was therefore compelled to hold a public inquiry under Schedule 8 to the 1989 Act into those applications also, and took the view that the proximity and possible cumulative impact of the proposals made it sensible to use the power conferred by section 62(3) of the 1989 Act to hold a conjoined public inquiry ("the Inquiry") into all six applications.
- 2.3. The Secretary of State appointed Mr A D Poulter ("the Inspector") to preside over the Inquiry to be conducted under the Electricity Generating Stations and Overhead Lines (Inquiries Procedure) Rules 2007 ("the Inquiries Procedure Rules").
- 2.4. When the Inquiry was announced the Secretary of State issued a Statement of Matters that he considered likely to be relevant to his consideration of the proposed developments at the Inquiry. Those matters are set out in paragraph 12 of the Report of the Inquiry ("the Report").
- 2.5. An introductory meeting was held by the Inspector on 28 November 2012 and a pre-Inquiry meeting was held on 18 and 25 February 2013. The Inquiry commenced on 4 June 2013 and concluded on 30 May 2014. The Inspector submitted his Report to the Secretary of State on 8 December 2014. A copy of the Report and annexes is published alongside this decision letter.
- 2.6. On 7 September 2015, the Secretary of State refused² consent for the Application and all of the other applications referred to above, apart from the Llandinam Repowering application. Following a judicial review challenge to the decision by the Applicant, the Secretary of State consented in December 2015 to the decision in relation to the Application being quashed. Similarly, following a judicial review

² <https://www.gov.uk/government/publications/lilanbrynmair-and-carnedd-wen-wind-farm-applications-redetermination>

challenge by the applicant of the proposed Carnedd Wen wind farm, the Secretary of State also consented to that decision being quashed. The Secretary of State was therefore required to re-determine both Llanbrynmair and Carnedd Wen applications. Given the sites are adjacent to each other in a large area of upland plateau near Talerddig, Foel/Llangadfan and the Nant yr Eira Valley, and the Inspector has considered both proposals together in his report, the Secretary of State decided therefore that the re-determination of the applications and required update to the environmental information should be undertaken together and as an in-combination Habitats Regulation Assessment.

- 2.7. On 6 July 2016 the Secretary of State issued a Statement of Matters inviting comments on a number of questions including the landscape and visual impacts in relation to the proposed Llanbrynmair and Carnedd Wen wind farms, both individually and cumulatively, as well as proposed ecological mitigation, restoration and remediation measures and removal of individual wind turbines from the proposed developments, and the adequacy of the environmental information. A further round of consultation, seeking comments on the representations received was started on 20 September 2016. On 16 February 2018 the Secretary of State wrote to the applicants of the Llanbrynmair and Carnedd Wen wind farms requesting further information to inform the Habitats Regulations Assessment. Responses were received in March 2018, and further information sought from the applicants and Natural Resources Wales on 20 June 2018. On 6 September 2018 the Secretary of State wrote to Natural Resources Wales and other parties inviting comments on this information, and a number of parties responded. On 19 December 2018 the Secretary of State wrote to the applicants and Powys County Council requesting further information as a result of Natural Resources Wales' response, which was subsequently received. All consultation documents and responses received have been published at:
<https://www.gov.uk/government/publications/llanbrynmair-and-carnedd-wen-wind-farm-applications-redetermination>
- 2.8. On 5 February 2020 the applicant of the Carnedd Wen wind farm wrote to the Secretary of State formally withdrawing its application for that project. As consultation by the Secretary of State included requests for information for the re-determination of both applications the information relating to both is reported where relevant for comprehensibility of the consultation process and for the re-determination of the Development only. Matters relating to the Carnedd Wen wind farm only are not considered further in this letter.
- 2.9. Welsh translations of all the key decision documents referred to in this letter are also, or will shortly be, published at
<https://www.gov.uk/government/publications/llanbrynmair-and-carnedd-wen-wind-farm-applications-redetermination>, or are available on request.

Mae cyfieithiad Cymraeg o bob dogfen benderfynu allweddol y cyfeirir ati yn y llythyr hwn wedi'i gyhoeddi, neu i'w gyhoeddi'n fuan, yn
<https://www.gov.uk/government/publications/llanbrynmair-and-carnedd-wen-wind-farm-applications-redetermination>, neu maent ar gael drwy wneud cais.

3. Re-determination Procedure of the Secretary of State's Decision

- 3.1. Pursuant to rule 23 of the Inquiries Procedure Rules³, the Secretary of State issued to all Interested Parties on 6 July 2016 a Statement of Matters⁴ of the issues that were likely to be relevant to the Secretary of State's decisions on both applications. The matters relevant to redetermination of the Development were:
- i) *the individual landscape and visual impact of the proposed Llanbrynmair Development;*
 - ii) ...
 - iii) *the combined landscape and visual impact of both the proposed Llanbrynmair and Carnedd Wen Developments;*
 - iv) *the cumulative impact of the proposed Llanbrynmair Development with other wind farms in the Powys area which have already been granted planning permission or where planning permission has been applied for (excluding the proposed Carnedd Wen Development);*
 - v) ...
 - vi) *the combined cumulative impact of the proposed Llanbrynmair and Carnedd Wen Developments with other wind farms in the Powys area which have already been granted planning permission or where planning permission has been applied for;*
 - vii) *the extent to which proposed ecological mitigation, restoration or remediation measures and removal of individual wind turbines ... would offset any adverse landscape and visual impacts (whether individual, combined or cumulative) of the proposed Developments;*
 - viii) *the adequacy of the environmental information produced in support of the applications for the Developments and whether further or updated environmental information is now necessary; and*
 - ix) *any other matters arising since 7 September 2015 which interested parties consider are material to the Secretary of State's re-determination of the applications.*
- 3.2. In accordance with rule 23(1)(b) of the Inquiries Procedure Rules, the Secretary of State also offered Interested Parties the opportunity to request that the Inquiry be re-opened.
- 3.3. The representations received were published on the GOV.UK website and a further opportunity given on 20 September 2016 for Interested Parties to make

³ <http://legislation.data.gov.uk/ksi/2007/841/made/data.htm?wrap=true>

⁴ <https://www.gov.uk/guidance/consents-and-planning-applications-for-national-energy-infrastructure-projects>

representations on the representations received. All representations received by the Secretary of State under rule 23 of the Inquiries Procedure Rules are published at:

<https://www.gov.uk/government/publications/lilanbrynmair-and-carnedd-wen-wind-farm-applications-redetermination>

The Secretary of State decided that there was no need for the Inquiry to be re-opened.

4. Summary of the Inspector's Recommendation

- 4.1. The Inspector's recommendation is that section 36 consent and deemed planning permission should be granted for the wind turbines and associated infrastructure but not for the Abnormal Indivisible Load route subject to conditions (paragraphs 675 and 676). In this letter conditions to the deemed planning permission are referred to as "planning conditions".

5. Secretary of State's consideration of the Inspector's Report and other relevant factors

- 5.1. Government guidance on the consenting process for onshore generating stations above 50MW in England and Wales was published in October 2007⁵.
- 5.2. Paragraph 4.1 of the Guidance provides as follows:

"In reaching his decision, the Secretary of State must take account of relevant factors. These factors can vary from case to case but include Government Policy (both energy and other Government policies); planning considerations (including national, regional and local plans and guidance); environmental issues; local issues and the views of the relevant planning authorities and local people; Government statutory advisers; the applicant's arguments in favour of the proposal; and any other relevant representations received on the proposal. Each case is considered on its individual merits".

- 5.3. Paragraph 4.2 sets out various criteria against which applications will be assessed. Paragraph 4.5 sets out that the Secretary of State will also consider the inspector's report from any public inquiry.
- 5.4. The Secretary of State has carefully considered the Report and all other material considerations, including the representations received following the close of the Inquiry and during the re-determination process. The Secretary of State's consideration of the Report and any other relevant matters is set out in the following paragraphs. All numbered references, unless otherwise stated, are to paragraphs of the Report.
- 5.5. Except as indicated otherwise in this letter, the Secretary of State accepts the full content of the Report as it relates to the Application, including the Inspector's findings

⁵https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/43573/Section_36_guidance.pdf

on matters of fact, conclusions and recommendation (including the reasons for that recommendation).

Representations received following the close of the Inquiry

- 5.6. Following the close of the Inquiry, a number of representations were received by the Secretary of State. The Secretary of State notes that some relate purely to timing of decisions and therefore require no further consideration. The Secretary of State also notes that there was a call for a moratorium on further construction of wind farms until the findings of a Departmental commissioned, independent review by WSP Parsons Brinkerhoff on amplitude modulation (“AM”) noise had been published. This report has now been published and has been taken into account in the Secretary of State’s consideration.
- 5.7. Some representations also made reference to the Conservative Party’s 2015 manifesto commitments (i.e., the manifesto commitment and the provisions of the then proposed Energy Bill (now the Energy Act 2016) to ensure that future decisions on planning consent for onshore wind farms would not be taken by the Secretary of State, and also to reduce subsidies for onshore wind). Although new planning applications for onshore wind will not now be for the Secretary of State, the decision on this Application is required to be taken by him as the application was made prior to the introduction of the Act. Further, reductions in subsidies are not a relevant planning matter.
- 5.8. In so far as representations raising specific matters relating to the Development are concerned, the Secretary of State has reviewed the representations received and considers these largely raise issues raised before or during the Inquiry and, to the extent that they are considered to have already been addressed by the Inspector in his consideration of the Inquiry and subsequent Report, they are not further addressed in this letter. However, in respect of AM noise concerns, the Secretary of State is aware that following publication of WSP Parsons Brinkerhoff’s AM noise report on 25 October 2016⁶, the Welsh Government’s Chief Planner wrote to Welsh local planning authorities on 31 October 2016 encouraging them to consider the report when determining if an AM noise planning condition would be appropriate relating to wind turbine planning applications. In this respect, it is noted that an AM noise planning condition has been recommended by the Inspector, which requires a scheme for the assessment and regulation of excess AM to be approved in writing by Powys County Council. The Secretary of State is satisfied that the concerns raised in relation to AM noise can be adequately addressed by the inclusion of planning condition (55) (which he has amended to include a reference to the Report).

Representations received from Interested Parties under rule 23 of Inquiries Procedure Rules

- 5.9. The Secretary of State notes that over 100 representations were received under rule 23 of the Inquiries Procedure Rules relating to the redetermination of both the

⁶ <https://www.gov.uk/government/publications/review-of-the-evidence-on-the-response-to-amplitude-modulation-from-wind-turbines>

Application and the application for the Carnedd Wen wind farm. They cover a range of issues including: landscape and visual impact (including cumulative impact); construction traffic; tourism jobs; grid connection; need; wind farm intermittency; localism; noise; scheduled ancient monuments; industrialisation; peat; adequacy of environmental information; the Welsh Government's *Technical Advice Note 8: Planning for Renewable Energy* (2005) (TAN 8); enforcement of planning conditions; flood risk; ecology; and the adequacy of the proposed habitats restoration scheme. The Secretary of State does not seek to deal exhaustively with the issues raised in the representations. He considers that in the majority of cases the representations largely present issues raised before or during the Inquiry and, to the extent that they are considered to have already been addressed by the Inspector in his consideration of the Inquiry and subsequent Report, they are only further addressed in this letter where it is considered appropriate. Where the Secretary of State considers new issues are raised, they are referred to in this letter.

- 5.10. In particular, the Secretary of State's Statement of Matters gave Interested Parties the opportunity to make representations on the adequacy of the environmental information produced in support of the Application and whether further or updated environmental information is necessary. Whilst several interested parties made representations or submitted or referred to a number of new scientific articles on the potential effects of onshore wind farms including on bats and birds, the Secretary of State considers they do not raise any new matters which would require further or updated environmental information. In reaching that view, the Secretary of State has attached weight to the fact that Natural Resources Wales did not express the view that further or updated environmental information was required.
- 5.11. The Welsh Government's position remains as previously stated on nature conservation. Whilst the Welsh Government stated that their position in this respect was subject to Natural Resources Wales's response and any further advice provided by Natural Resources Wales to the Welsh Government, in its response Natural Resources Wales merely maintained its previous position. The Welsh Government's position on transport has not changed (i.e., it has no objection in principle, detailing a number of suggested draft planning conditions previously submitted to the Inquiry in February 2014, which were considered by the Inspector).
- 5.12. Further, the Secretary of State notes that the position of Powys County Council remains as set out at the Inquiry.

Need for the Development and Policy relating to Need

- 5.13. The Secretary of State has considered the Inspector's views set out in paragraphs 40-59 of the Report, the conclusions on the Application in paragraphs 649-653 and the representations received under rule 23 of the Inquiries Procedure Rules.
- 5.14. National Policy Statements ("NPSs") EN-1 (Overarching NPS for Energy) and EN-3 (NPS for Renewable Energy Infrastructure) set out a national need for development of new nationally significant electricity generating infrastructure of the type proposed by the Applicant. Paragraph 3.3.15 of EN-1 states: "...In order to secure energy supplies that enable us to meet our obligations for 2050 [i.e., for the UK to cut greenhouse gas emissions by at least 80% compared to 1990 levels], there is an

urgent need for new (and particularly low carbon) energy NSIPs [i.e., nationally significant energy projects] to be brought forward as soon as possible, and certainly in the next 10 to 15 years, given the crucial role of electricity as the UK decarbonises its energy sector". Paragraph 3.4.2 states: "Large scale deployment of renewables will help the UK to tackle climate change ... 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 generating projects is therefore urgent".

- 5.15. On 2 May 2019, the Climate Change Committee recommended that the UK reduce its greenhouse gas emissions to net zero by 2050. This was proposed to deliver on the commitments the UK made by signing the Paris Agreement in 2016. On 26 June 2019 the UK Government announced a new carbon reduction 'net zero' target for 2050 which resulted in an amendment to the Climate Change Act 2008 requiring the UK to reduce net carbon emissions by 2050 from 80% to 100% below the 1990 baseline. The UK's sixth Carbon Budget was enshrined into law on 22 June 2021 and requires a 78% reduction of emissions by 2035 compared to 1990 levels. The Secretary of State considers that these measures have given further impetus to the decarbonisation goals set out in NPS EN-1.
- 5.16. Although the NPSs were designated and laid before Parliament under the Planning Act 2008, the Secretary of State considers that, as the primary expression of UK policy in relation to electricity-generating infrastructure above 50MW in England and Wales, they are a relevant factor to consider when deciding applications under the 1989 Act for such infrastructure and that they should carry substantial weight. The Secretary of State considers that this remains the case notwithstanding that, following recent legislative changes, new applications for infrastructure of the type proposed by the Applicant will no longer be decided under the Planning Act 2008. The Energy White Paper, Powering Our Net Zero Future, was published on 14 December 2020. It announced a review of the suite of energy National Policy Statements but confirmed that the current Nationally Policy Statements were not being suspended in the meantime. The relevant energy Nationally Policy Statements therefore remain the basis of the Secretary of State's consideration of the Application. Onshore wind has been removed from the draft versions of the revised National Policy Statements which are currently being consulted on. However, in the meantime the policy supporting offshore wind within the current National Policy Statements remains in place.
- 5.17. Accordingly, the Secretary of State considers that the need for new renewable energy generating projects such as the Development is established and that granting consent would not be incompatible with the 2035 sixth Carbon Budget target or the 2050 Net Zero target – as specified in The Carbon Budget Order 2021 and The Climate Change Act 2008 (2050 Target Amendment) Order 2019 respectively. For the reasons set out in this letter, he is also satisfied that, with the exception of the proposal to use a route via the Llanerfyl to Talerdigg road to provide access for Abnormal Indivisible Loads ("AILs"), in the absence of any adverse effects which are unacceptable in planning terms, granting consent would be consistent with NPSs EN-1 and EN-3.

- 5.18. On 22 June 2015 the Secretary of State for Energy and Climate Change made an oral statement to Parliament. The Secretary of State said:

“The Electricity Market Reform Delivery Plan projects that we require between 11-13GW of electricity to be provided by onshore wind by 2020 to meet our 2020 renewable electricity generation objective while remaining within the limits of what is affordable. We now have enough onshore wind in the pipeline, including projects that have planning permission, to meet this requirement comfortably. Without action we are very likely to deploy beyond this range. We could end up with more onshore wind projects than we can afford – which would lead to either higher bills for consumers, or other renewable technologies, such as offshore wind, losing out on support...It is therefore appropriate to curtail further subsidised deployment of onshore wind, balancing the interests of onshore developers with those of bill payers.”

- 5.19. Representations received under rule 23 of the Inquiries Procedure Rules (including from the “Alliance” of groups and individuals opposed to the Development and supplementary evidence from Dr Constable) suggest that, in light of this statement, the weight given to the NPSs should be reduced. However, the statement does not preclude further onshore wind development and needs to be considered in the context it was made: it relates to projections in the Electricity Market Reform Delivery Plan about the contribution from onshore wind towards meeting the UK’s 2020 renewable energy targets, the need to manage the costs to consumers and the need to ensure that technologies other than onshore wind do not lose out on support. Further, beyond 2020 the need for a range of renewable energy remains. The Government’s Energy White Paper (December 2020) has set out the Government’s strategy for the transition away from fossil fuels and decarbonising the economy cost-effectively by 2050, including the acceleration of the deployment of clean electricity generation through the 2020s. New renewable energy generation projects such as the Development are likely to play a significant part in delivering this decarbonisation of electricity generation, a goal to which the NPSs refer. The 2019 change to increase the 2050 target of the Climate Change Act 2008 from 80% to 100% has increased the need for such sources. Accordingly, notwithstanding the 22 June 2015 statement and that the Development may have been decommissioned by 2050, the Secretary of State is satisfied that a range of types of new renewable energy generating projects, including onshore wind, are still needed in order to decarbonise the power sector and increase renewable electricity generating capacity as part of the pathway to meeting the UK’s longer-term 2050 targets, which the NPSs also refer to. The Secretary of State is therefore satisfied that the need for new renewable energy generating projects such as the Development remains urgent.
- 5.20. As the Guidance on the consenting process for onshore generating stations above 50MW in England and Wales makes clear, national, regional and local plans and guidance are relevant factors to be taken into account in making any decision. The Secretary of State notes that edition 11 of Planning Policy Wales (“PPW”) was issued in February 2021 and is satisfied that the Development is consistent with Welsh Government policies set out in *Planning Policy Wales* (as supplemented by government circulars, ministerial letters and a series of Technical Advice Notes). TAN 8, Planning for Renewable Energy, (the guidance note in place until February 2021)

identified areas in Wales, known as Strategic Search Areas, considered to be the most appropriate locations for large scale onshore wind farm development. The Development lies in the former Strategic Search Area B (SSA B). A Welsh Government ministerial letter of July 2011 to Chief Planning Officers⁷ provides clarity on the issue of maximum installed capacities for onshore wind within the Strategic Search Areas A to G identified in TAN 8 (i.e., 1666MW) and the 2GW potential capacity for onshore wind estimated in '*A Low Carbon Revolution - The Welsh Assembly Government Energy Policy Statement*', March 2010⁸. The letter considers a capacity of 430MW is appropriate for SSA B. The Welsh Government has replaced the Strategic Search Areas with Pre-Assessed Areas where the Welsh Government has already modelled the likely impact on the landscape and has found them to be capable of accommodating development in an acceptable way. In these areas there is a presumption in favour of large scale wind energy development, subject to other criteria (para 5.9.17 of PPW). The Secretary of State notes that the proposed turbines of the Llanbrynmair wind farm lie within Area 3.

- 5.21. The Secretary of State notes the current position in the former SSA B (and including consideration of information contained in Powys County Council's rule 23 representation) is that other wind farms of 151.55MW installed capacity are either operational or have been granted planning consent to date (including the Carno III 45MW wind farm, which has been approved, but subject to a section 106 agreement and delegation of conditions). The Development would have an installed capacity of up to 90MW. In addition, the application for the Esgair Cwmowen 18-turbine 45MW wind farm has yet to be determined by Powys County Council. However, taken together all consented and undetermined wind farms in the former SSA B would in any event not exceed the maximum capacity of 430MW set for SSA B.
- 5.22. The Secretary of State considers that the Development is also consistent with the Welsh Government's ambition to create a low carbon economy that delivers long-term wealth and benefits to support communities, as set out in *Energy Wales – A Low Carbon Transition* (2012).
- 5.23. In conclusion, it is the Secretary of State's opinion that the need for the Development is a factor that weighs in favour of the grant of consent for the Development, and it is a factor to which the Secretary of State attaches substantial weight.

Abnormal Indivisible Load ("AIL") local access deliveries

- 5.24. The Inspector noted that Powys County Council's key objection was in relation to the proposal to use the northern section of the Llanerfyl to Talerddig road to provide local access to AILs ("the proposed AIL access scheme"), concerns shared by Natural Resources Wales and the Alliance. These concerns included landscape and visual effects, disruption and inconvenience to other road users, effects on wildlife and ecology including trees, hedgerows, dormice, bats, otters and peat.

⁷ <http://gov.wales/docs/desh/publications/110706planningtan8letteren.pdf>

⁸ <http://www.mng.org.uk/gh/resources/100315energystatementen.pdf>

- 5.25. The Secretary of State notes the Inspector's conclusions that the proposed AIL access scheme would result in locally significant adverse landscape and visual effects, some of which would be medium-to long-term whilst others would be permanent. Road works and closures would cause inconvenience and disruption over a substantial period with associated financial and environmental costs. There would be short-to medium-term harm to affected trees and hedgerows, although it is unlikely there would be significant impacts on dormice, bats or otters whilst, in the context of the whole project, impacts on peat deposits would not be significant [Inspector's Report ("IR") 302]. The Inspector concluded that the Development would not be consistent with national, Welsh or local planning policy. In these circumstances, the Inspector considered that the benefits of the Development as a whole would not outweigh the harm and that the proposed AIL access scheme should be rejected [IR 669].
- 5.26. The Secretary of State notes the disadvantages identified with the proposed AIL access scheme and agrees with the Inspector's conclusion that the benefits of the Development as a whole would not outweigh the harm, should it be allowed to proceed on that basis.
- 5.27. The Secretary of State therefore turns his attention to whether it is possible to sever the proposed AIL access scheme from the Development and, having done so, to grant consent for the remainder of the Development. In considering this possibility, the Secretary of State has concluded that he should grant consent for the Development without the proposed AIL access scheme only if he is satisfied that an alternative means of AIL access is feasible. In this respect, he has considered the option of Powys County Council's suggestion that local access for AIL deliveries could be shared with the route originally proposed with the Carnedd Wen wind farm application ("the access scheme"), and has considered the implications of the withdrawal of the Carnedd Wen wind farm application for the ability to adopt this course of action.
- 5.28. The Secretary of State notes that the key conclusions of the Applicant's supplementary environmental information in February 2014 were that the landscape and visual effects of the access scheme would not be greater than the proposed AIL access scheme, and that there would be little vegetation loss and no effects on protected species or historic assets. There would be no significant effect on geology, hydrology or hydrogeology. There are no transport reasons not to use the access scheme, and carbon losses from excavated peat would be decreased. The landscape impacts of the additional tracks between the two proposed wind farms would be very small in the context of both projects. The inconvenience, disruption and associated financial and environmental costs of the proposed AIL access scheme would be avoided along with harm to trees and hedgerows [IR 310/311]. The Secretary of State agrees with the Inspector's conclusion that in environmental terms the access scheme would be "strongly preferable" to the proposed AIL access scheme [IR 312].
- 5.29. As far as the impact of the access scheme on the carrying out of the Development is concerned, the Secretary of State notes that at the end of the Public Inquiry the Applicant considered that, provided agreement about timing and cost could be

reached with the developer of the Carnedd Wen wind farm, the access scheme would not compromise the viability of the Development [IR 670].

- 5.30. In terms of the practicalities of implementing the access scheme, the Inspector acknowledged that the access scheme relied on the Secretary of State granting consent for the proposed Carnedd Wen wind farm and on there being provision for the developer of the Carnedd Wen wind farm to “take the provision of a shared access into account in the development of its [Strategic Traffic Management Plan] and detailed construction and environmental management plans” [IR 672]. The Inspector confirmed that the necessary conditions in respect of this proposal have been discussed.
- 5.31. The Secretary of State notes that the Inspector considered that if the Carnedd Wen wind farm was refused consent, that the Llanbrynmair developer could make an application in respect of the AIL local access for the Development [IR 673]. In any event, the developer for the proposed Carnedd Wen wind farm withdrew its application on 5 February 2020 which has implications for the re-determination of the Llanbrynmair application. On 25 August 2020 the Secretary of State wrote to the Applicant seeking further information in the light of the withdrawal of the Carnedd Wen wind farm, including the proposal to share the AIL route with Carnedd Wen. The letter from the Applicant to the Secretary of State dated 2 September 2020 makes it clear that it supported this as a possible approach in the event that the Secretary of State was not willing to consent the application with its original AIL route. Further information supplied by the Applicant to the Secretary of State on 9 October 2020 indicated that it would be possible for the Llanbrynmair wind farm to seek planning permission for an AIL route that conformed to the original Carnedd Wen wind farm application, and confirming that agreement with the landowners to allow access has either been secured or is being negotiated with agreement subject to the grant of the section 36 consent. On this basis the Secretary of State has no reason to consider that the Development would not be deliverable. However, the Secretary of State has decided it would be appropriate to insert a condition that no development can take place until the Applicant has secured planning permission for a new AIL from the Local Planning Authority to avoid nugatory work and associated unnecessary impacts in the event that the Applicant fails to secure such a route.
- 5.32. As to whether the Secretary of State has the power under the 1989 Act to modify the Application by severing the proposed AIL access scheme from the Development and granting consent for the remainder of the Development, it is clear that the 1989 Act enables an application for section 36 consent to be granted subject to modifications. The Secretary of State does not consider that modifying the Application in this way amounts to a substantial alteration.
- 5.33. Accordingly, the Secretary of State will consider the Application on this basis.

Localism

- 5.34. On 18 June 2015, the Secretary of State for Communities and Local Government issued a Written Ministerial Statement detailing changes to planning policy in England. The statement puts in place requirements that local support should be demonstrated for onshore wind farm applications. Although a number of

representations received under rule 23 of the Inquiries Procedure Rules raise localism as an issue that should be given significant weight in the decision-making process, the Secretary of State notes that this Statement does not have effect in Wales. As such, the Statement is not a factor to which the Secretary of State attaches weight in deciding whether or not to grant consent for the Development.

- 5.35. The Secretary of State nevertheless recognises that, in accordance with Guidance on the consenting process for onshore generating stations above 50MW in England and Wales, the views of the relevant planning authorities and local people are relevant factors to be taken into account, and he has done so in deciding the Application. The Secretary of State notes that the majority of persons who spoke at, or made written representations to the Inquiry or who made representations under rule 23 of the Inquiries Procedure Rules were opposed to the Development, though some support was also expressed.

Landscape and Visual Impacts

- 5.36. The Secretary of State notes the Inspector's conclusions in respect of the harmful effects of the proposed turbines on the landscape and visual qualities of the Nant yr Eira Valley. The Inspector considered the harm would be limited to the operational life of the Development and that there would ultimately be "improvements to the landscape through forestry clearance and moorland restoration" and that the visual impacts of the turbines, through substantial in the case of a number of residential properties, are not unacceptable [IR 666].
- 5.37. In respect of landscape impacts on and from the Snowdonia National Park ("the Park"), the Secretary of State notes the Inspector's consideration of the cumulative and in-combination effects on the landscape, visual amenity and special qualities of the Park in paragraphs 388-395 of his Report, including that, although the Development would be more distant than the Carnedd Wen wind farm, the two wind farms would be read as one scheme [IR 388 and 394]. Whilst the Development and the Carnedd Wen wind farm would together be one of the largest contributors to the views of wind farms in the panorama, the Inspector's view that the magnitude of the visual effect on the perception of natural beauty, tranquillity and solitude would be greatly diminished by distance is also noted [IR 394].
- 5.38. In relation to the impact on view from the Park, paragraph 391 of the Report deals with the long-term benefits that would arise out of the replacement of forestry with natural vegetation. The Secretary of State notes that in respect of the Development the Inspector concluded that the significant adverse effects on the views from the Park would be limited to the south-eastern section and, moreover, would be limited to the operational life of the Development, and that in the long term there would be beneficial effects on the views out from the Park [IR 666]. This is consistent with the Inspector's conclusion that the Development's proposals in this respect would, in terms of the landscape character of the Nant yr Eira Valley, offset the presence of the turbines for the operational life of the Development [IR 385].
- 5.39. The Secretary of State is satisfied that there are no significant direct or indirect effects on the landscape characteristics of the Park. The Secretary of State is also content that the significant adverse effects on views from the Park are limited to the south-

eastern section and would be for the lifetime of the Development only, whilst in the long term there would be beneficial effects on views out from the Park and impacts on the special qualities of the Park would be small, whether assessed individually or in combination with other existing or proposed projects [IR 666].

- 5.40. Having considered the representations put forward by interested parties, including those made under rule 23 of the Inquiries Procedure Rules, on balance the Secretary of State agrees with the Inspector that the harm would be limited to the construction and the operational life of the Development, and the Secretary of State is of the view that in this respect the longer-term benefits of the Development at least balance out its adverse effects. The Secretary of State also notes that the Inspector considered that the greater element of visual harm was considered to arise from the Carnedd Wen wind farm, and consequently considers that the impact of the Llanbrynmair wind farm alone will be reduced. The landscape and visual impact of the Development in the shorter term does not weigh significantly against the grant of consent for the Development.

Biodiversity

- 5.41. The section 36 consent includes requirements for a peat management plan (see planning condition (46)) and a habitat management plan (see planning condition (41)), to be based on draft plans which provide for long-term habitat restoration and management measures designed to enhance the site [IR 323]. The Inspector notes that the Development would bring about roughly 200ha of blanket bog and mire restoration and the removal of about 149ha of forest on previous peat habitats and that the area of land that would be improved in terms of its conservation value and diversity would be considerably more than the area that would be affected by access tracks and infrastructure. The Secretary of State agrees with the Inspector that the Development would provide a net long-term gain in terms of habitats and biodiversity [IR 324]. This is a factor that weighs in favour of the grant of consent for the Development.

Strategic Transport Routes, Construction Traffic Disruption and Inconvenience

- 5.42. The Secretary of State notes that a number of representations received under rule 23 of the Inquiries Procedure Rules raise concerns relating to construction traffic disruption, including cumulative disruption arising out of another wind farm currently under construction in Powys.
- 5.43. The Secretary of State recognises the continued concerns of interested parties in relation to disruption and inconvenience caused by construction traffic, including AILs. He notes that the Inspector has recognised that a considerable amount of work had taken place up to, and during the Inquiry, to develop draft Strategic Transport Management Plans (“STMPs”) for the five wind farms considered at the Inquiry, albeit that a STMP has not yet been finalised for the Development, as the lead-in periods to development are long and may need to take account of changing circumstances and developments [IR 513].
- 5.44. The Inspector was content that the design of necessary off-site works has been developed and their likely environmental effects have been assessed. He considers

the proposed works would improve the capability of the main road network to cater for large vehicles and that there is no indication that permission will not be forthcoming for any off-site works.

- 5.45. The Inspector also notes that the combined effect of all construction traffic is acceptable to the relevant highway authorities and concludes that the road network has the capacity to accept the increase in traffic without unacceptable delays, disruption or increase in risk to highway safety. Management measures, secured by planning conditions, would ensure that construction traffic uses agreed routes, rather than rat runs and short cuts [IR 510].
- 5.46. In relation to AILs, the Secretary of State is aware that a Strategic Traffic Management Plan for Mid-Wales Wind Farms (August 2012) ("the August 2012 STMP") was developed on behalf of Renewable UK Cymru and considered at the Inquiry, which set out the general principles for managing the delivery of turbine components as AILs. The August 2012 STMP also included a common strategic route section for AIL movements south from Ellesmere Port Docks using the M53, A55, A483, A5 and A483 to Welshpool. Section 1 of the August 2012 STMP provides an overview; Section 2 deals with the route from Ellesmere Port to Welshpool; and Section 3 with the route from Welshpool to SSA B (north).
- 5.47. The Inspector acknowledges that the Development would generate a large number of AIL delivery convoys which would pass through local communities, causing daily disruption over a period of months. However, he also recognises that the duration of disruption for any particular community would be limited and that the escorting of convoys by the police (which would be paid for by the developers) would ensure safety and minimise any inconvenience. The Secretary of State notes, for example, that the August 2012 STMP provides that a "maximum of one convoy will pass through Welshpool and a maximum of one convoy will pass through Newtown between 7am and 7pm on any one weekday to limit the impact on local communities" (paragraph 7.2.2, Section 1).
- 5.48. Shropshire Council has made representations as part of the re-determination process about the impact of construction and maintenance traffic, including the impact on communities along the A483, the physical adequacy of the road network and the potential for road closures to accommodate AILs. Shropshire Council also provided a copy of its representation of 25 February 2014 previously provided to the Inquiry, which included concerns about the "unprecedented level of abnormal loads" passing through the settlements Pant and Llanymynech, which are bisected by the A483.
- 5.49. The Secretary of State notes the Inspector's consideration of the concerns raised relating to AIL and construction traffic for the Development [IR 513] and that alterations to the road infrastructure would remain after the completion of the Development and improve the capacity of the main road network for large vehicles. The Inspector's view is that alterations would therefore be of some long-term benefit to matters of public interest [IR 514].
- 5.50. Whilst the Secretary of State accepts there will be some traffic disruption and inconvenience to local people at certain times, he is content they can be mitigated by

the general construction traffic management and AIL traffic management plans for the Development.

- 5.51. Planning condition (33) provides that no construction works shall take place on site until a construction traffic management plan in respect of general construction traffic has been submitted to and approved by Powys County Council following consultation with the relevant highway authorities. In relation to AILs, planning condition (30) provides that no AIL deliveries shall be made until a traffic management plan for AILs has been submitted to and approved by Powys County Council following consultation with the relevant highway authorities. In addition planning condition (30), as amended by the Secretary of State, requires the traffic management plan for AILs to be in general accordance with Sections 1, 2 and 3 of the August 2012 STMP. The Secretary of State considers that including such conditions is an appropriate and effective way of managing traffic concerns, as the approved plans will be able to take into account the work done in relation to traffic issues up to and including the Inquiry. In relation to AILs in particular, the Secretary of State considers that requiring the traffic management plan for AILs to be in general accordance with Sections 1, 2 and 3 of the August 2012 STMP is an appropriate way of dealing with impacts from AILs.
- 5.52. Whilst recognising Shropshire Council's concerns referred to above, the Secretary of State notes that Shropshire Council's Highways Department was consulted on the August 2012 STMP and its Highways Department stated that Shropshire Council, as an adjacent local highway authority, had no objection to the implementation of the August 2012 STMP. In relation to the impact on communities, the Secretary of State considers that these impacts can be mitigated by the inclusion of planning condition (30). For example, as stated above, paragraph 7.2.2 of Section 1 of the August 2012 STMP makes it clear that there will be a maximum of one AIL convoy passing through Welshpool and Newtown per day. This will therefore place a limit on the number of convoys passing through Pant and Llanymynech.
- 5.53. In reaching this view, the Secretary of State notes that the August 2012 STMP recognises that the route following the "A483 from Mile End roundabout [at Oswestry, Shropshire] to Welsh border at Llanymynech" will be over a single carriageway with 7.3 metres of carriageway or less, a "reduced carriageway width". Paragraph 3.2.2 of Section 2 of the August 2012 STMP recognises that "it is likely that oncoming traffic will conflict with the convoys due to the reduced carriageway width. The police escort will keep the convoy moving as much as possible, but a backup network of passing places will be provided as described in chapter 6 of the Overview report".
- 5.54. In conclusion in the Secretary of State's view, the impact of construction traffic (including AILs) is a factor that weighs against the grant of consent for the Development. However, with the mitigation measures to be put in place and the longer-term benefit to the road network secured by planning conditions, it is not a factor to which the Secretary of State attaches significant weight.

Tourism

- 5.55. A number of representations (including those received under rule 23 of the Inquiries Procedure Rules) raise concerns in respect of the impact of the Development on recreational users, including walkers, of Glyndŵr's Way and more generally on

tourism in Powys. The Secretary of State notes these concerns, including that, in relation to Glyndŵr's Way, the Inspector accepted that some walkers would be put off using the section through the Development, even though forestry clearance would improve some views from the trail [IR 317]. The Secretary of State, however, notes the Inspector's conclusion that the Development would not have a significant adverse impact on the overall integrity or use of Glyndŵr's Way [IR 516]. The Inspector also does not identify any significant impacts on other recreational routes or tourism [IR 517, 524]. Whilst the Secretary of State recognises the adverse effect on the relevant section of Glyndŵr's Way, he notes that such an effect will be limited to the operational life of the Development and agrees with the Inspector's conclusion on these matters. Accordingly, whilst the impact of the Development on tourism weighs against the grant of consent, it is not a factor to which the Secretary of State attaches significant weight.

Other Potential Effects

- 5.56. The Secretary of State also agrees with the Inspector that the Development's impacts on hydrology, hydrogeology and peat would be mitigated by the proposed planning conditions. Flood risk would be mitigated by plans to raise the water table. The Secretary of State notes that concerns have been raised relating to the potential impact of the Development on private water supplies. He notes the Inspector's conclusion on the thoroughness of the supplementary environmental information submitted in August 2013 in respect of hydrology and hydrogeology, including consideration of water quality and private water supplies, which was not disputed by Natural Resources Wales or PCC [IR 331]. The impacts on hydrology, hydrogeology and peat are factors that weigh against granting consent for the Development. However, as the impacts would be mitigated, the Secretary of State does not attach significant weight to these factors.
- 5.57. The Secretary of State further agrees that there would be no significant harm to health from noise, vibration or shadow flicker [IR 667].
- 5.58. In respect of cultural heritage, an interested party has made reference to their view that the Secretary of State needs to give considerable extra weight in the planning balance to the Historic Environment (Wales) Act 2016 and the significant impact on sites of heritage value even where the fabric is not actually destroyed.
- 5.59. The Secretary of State notes the Inspector's consideration of cultural heritage [IR 327-329] and conclusion that, although the Development would have a notable visual effect on Fridd Cwm y Fynnon Barrow Cemetery and the Moel Ddolwen Hillfort scheduled ancient monuments, there is no evidence that it would harm the special interest or historic significance of these assets [IR 327]. Similarly, the Inspector is satisfied that the Development would not have a significant effect on the significance of the setting of Abercommon farmhouse or its special historic interest, and that the setting of no other listed building would be significantly affected [IR 328]. Subject to conditions relating to archaeology being included in the consent, the Secretary of State also notes that no objections to the Development have been made by Clwyd-Powys Archaeological Trust, Cadw or PCC [IR 329]. The Secretary of State notes the importance and weight to be given to any harm to a cultural asset and is satisfied that

the impact of the Development on cultural heritage would not be contrary to the aims of the legislation governing historic monuments and the relevant planning policy.

- 5.60. In conclusion, it is the Secretary of State's view that, whilst the impact of the Development on cultural heritage assets weighs against the grant of consent for the Development, the impact would be limited and accords with the policies of Planning Policy Wales (Edition 11, February 2021), and does not provide a justification not to make the order.

Cumulative Impacts and Combined Effects of All Schemes

- 5.61. The Secretary of State notes the Inspector considered a range of issues relating to the cumulative and combined effects of all five proposed wind farms considered at the Inquiry, and taking into account other schemes in the Powys area which have already been granted planning permission or where planning permission has been applied for. The key impacts were: landscape and visual effects; the impacts of construction traffic; construction and operational noise; and impacts on biodiversity, including the ecological functioning of European sites and European protected species. He also considered social and economic effects (including on tourism), human health, cultural heritage, aviation, hydrogeology and impacts on peat, as well as the potential for the wind farms to be connected to the grid network. These impacts were considered within SSA B [IR 378-395] and more widely [IR 498-559]. The Secretary of State agrees with the Inspector's reasoning and conclusions on cumulative impacts and combined effects of all schemes.
- 5.62. The Secretary of State notes that only two new proposals have been identified by Interested Parties in the cumulative baseline since 7 September 2015. The first is Njord Energy's new six-turbine, 15MW wind farm, Bryn Blaen, north of Llangurig. The Secretary of State understands that the project, which was approved on appeal in August 2016, is located outside the former SSA B and a considerable distance from the Development. It is also noted that this conclusion is supported by Powys County Council's landscape witness' proof of evidence of April 2016 for the Bryn Blaen appeal (which identifies only Carno III, Llandinam Repowering and Mynydd y Gwynt as having the potential to lead to significant cumulative effects with the Bryn Blaen wind farm). Furthermore, no other representations received in the re-determination process suggest the Bryn Blaen wind farm would have a cumulative effect with either the Development or the Carnedd Wen wind farm. The Secretary of State does not therefore consider that the Bryn Blaen wind farm will have significant cumulative effects with the Development.
- 5.63. The second was the seven-turbine Hendy wind farm, which was approved on appeal in October 2018. This is outside the Strategic Search Areas and about 35-40 miles from the Development. No representations received in the re-determination process suggest the Hendy wind farm would have a cumulative effect with either the Development. The Secretary of State does not therefore consider that the Hendy wind farm would have any significant cumulative effects with the Development.
- 5.64. Vattenfall has drawn attention to its Mynydd Lluest y Graig proposal within SSA B. However, the Secretary of State notes the project is a combination of Vattenfall's earlier Mynydd Waun Fawr and Rhyd Ddu schemes, which were part of the

cumulative baseline and therefore considered in the evidence to the Inquiry and also in the Inspector's reasoning and conclusions. Furthermore, the Secretary of State is aware that the project has since been withdrawn from the planning system. Similarly, although interested parties have provided updates on the position of other wind farm projects in Powys (for example, drawing attention to the fact that they have since been consented, refused or withdrawn), including the Esgair Cwmowen wind farm which has yet to be determined by Powys County Council, they were all previously included in the cumulative baseline considered at the Inquiry and so do not materially affect the Inspector's reasoning and conclusions.

- 5.65. In the Secretary of State's opinion, the cumulative impacts and combined effects of the Development are factors that weigh against granting consent for the Development. However, the Secretary of State does not attach significant weight to these factors in the planning balance.

Grid Connection

- 5.66. The Secretary of State notes that the Guidance on the consenting process for onshore generating stations above 50MW in England and Wales states that it is best practice for applications for section 36 consents and distribution/transmission companies to engage with one another to ensure that applications for section 36 consents take account of any connection consequences of connection to the Grid. The Guidance also states that ideally connection applications should be submitted within the timeframe for decisions on applications for section 36 consents. A separate application to connect the Development to the Grid has yet to be submitted.
- 5.67. The Secretary of State has considered the Inspector's conclusions on connection of the Development to the Grid [IR 336] in the light of the policy set out in EN-1. The effect of Section 4.9 of EN-1 is that, where an application for a generating station is not made with an application for a grid connection, before granting consent for the generating station, the decision-maker must be satisfied that there is no obvious reason why the connection would not be possible and no obvious reason why the necessary approval for the connection is likely to be refused.
- 5.68. The Applicant's connection agreement with SP Manweb envisages that the grid connection would be via a proposed hub sub-station at Cefn Coch. However, the Inspector indicates that this connection (and the associated 400kV line) is likely to be strongly opposed by Powys County Council and not supported by Welsh Government [IR 336].
- 5.69. The Secretary of State notes that a 'Grid Connection Options Review' was prepared by Mott MacDonald in December 2013 on behalf of the applicants for the four new wind farms considered at the Inquiry and submitted as Appendix 2.1 to the Applicant's supplementary environmental information dated December 2013 [IR 502]. The review considered a range of connection option scenarios, including connection by one or two 132kV circuits from SSA B to Legacy, near Oswestry, about 70km from SSA B. It highlights technical issues concerning voltage regulation and greater power loss during 132kV transmission and considers that a 400/132kV hub at Cefn Coch would also allow connection of future wind generation without need for further long 132kV circuits. The review concludes that, on balance, if all five wind farms considered at

the Inquiry are to be connected, the alternative of the 440/132kV hub is preferable. However, whilst noting the long distances involved with the proposed 132kV connections, the review also considers that technical issues concerning voltage regulation at 132kV can probably be satisfactorily managed.

- 5.70. The Inspector concluded that there is no technical reason why the Development could not be connected to the National Grid Transmission System at 132kV [IR 336]. His view is that up to 320MW could be exported from SSA B via twin 132kV wooden pole lines to connect to the National Grid Transmission System at Legacy, which would be more than sufficient to meet the needs of the Development [IR 505].
- 5.71. In relation to the question of whether there is any obvious reason why the necessary approval for the connection is likely to be refused, the Secretary of State notes that Powys County Council accepts that parallel twin 132kV overhead line grid connections from the Development to Legacy "could be acceptable in landscape and visual terms, both in their own right and cumulatively, subject to appropriate detailed design and mitigation, including the consideration of undergrounding and alternative designs such as parallel twin trident poles, to reasonably minimise the landscape and visual effects". [IR 336 and IR Annex 9, paragraph 860]. The Inspector's conclusion is that the high level assessment of landscape and visual impacts indicate that such a solution could potentially be environmentally acceptable [IR 505].
- 5.72. One interested party (Shropshire North Against Pylons) in a representation made as part of the re-determination process states that it is "by no means certain that any application for any 132kV line would succeed", pointing to the Secretary of State's refusal on 7 September 2015 of the Llandinam to Welshpool 132kV line that was considered at the Inquiry. But EN-1 does not require decision-makers to be satisfied that a connection would be granted; rather, it merely requires decision-makers to be satisfied that there is no obvious reason why consent for a connection is likely to be refused.
- 5.73. As the Secretary of State's decision letter of 7 September 2015 for the Llandinam to Welshpool 132kV line records, the reason for its refusal was that the Secretary of State considered there would have been major adverse landscape and visual effects were the Llandinam 132kV line to have been consented as proposed, and that substantial harm may have been caused to cultural heritage assets. One of the alternative routes could have resulted in significantly less harm overall to cultural heritage assets and in visual impact terms, and thereby achieved a greater degree of compliance with Welsh Government and Powys Unitary Development Plan policies. On this basis, the Secretary of State considered that the applicant in that case had not had sufficient regard to its statutory duties under Schedule 9 to the 1989 Act in bringing forward the route applied for. Further, the Secretary of State did not consider it appropriate to require undergrounding in whole or in part for the route proposed given the option of a viable alternative with less environmental and visual impact.
- 5.74. Any application to connect the Development to the Grid will need to be considered on its own merits and be acceptable in planning and environmental terms. As the Secretary of State's decision to refuse the Llandinam to Welshpool 132kV line related to the route chosen in that particular case, this does not mean that other 132kV line

applications in Powys would be refused. As stated above, the decision letter in that case records that there was an alternative viable route.

- 5.75. In the circumstances, the Secretary of State is satisfied there are no obvious technical, planning or environmental reasons identified why a 132kV grid connection would not be possible. Further, the Secretary of State is not aware of any reason why the Applicant would not be granted approval to connect to the National Grid Transmission System at Legacy. Accordingly, in the Secretary of State's opinion, the test in Section 4.9 of EN-1 is met.
- 5.76. Some Interested Parties have argued that the Development and grid connection are part of the same project in terms of the Environmental Impact Assessment ("the EIA") and needed to be considered together as a single project at the Inquiry. However, the Secretary of State does not consider that the Development and any grid connection are part of the same project. The Secretary of State recognises that the Development will require a grid connection and that there is an obvious operational and functional link between the Development and any grid connection. The Secretary of State also recognises that it is unlikely that the Applicant will pursue the Development unless it is sufficiently confident that it will have a grid connection. However, the legislative scheme envisages separate applications for generating stations and for grid connections (under sections 36 and 37 of the 1989 Act respectively), and an application for a generating station may lawfully be granted without there also being a consent (or even an application) for grid connection. (In this respect, the Secretary of State also notes that electricity production installations and the transmission of electrical energy by overhead cables are listed as separate categories of projects in Schedule 2 to the Electricity Works (Environmental Impact Assessment) Regulations 2000 (the "EIA Regulations").) In the present case, no application for a grid connection has been submitted, and the fact that there is no information about, for example, the precise route of any grid connection means that it would not at this stage be possible to conduct any meaningful assessment of the environmental impact of a grid connection. The precise nature of any grid connection will not materially affect the nature of the Development or its environmental effects, and the absence of an application for a grid connection has not prevented the Development itself being properly assessed.
- 5.77. Further, NPS EN-5 (NPS for Electricity Networks Infrastructure) states that "National Grid, as the owner of the electricity transmission system in England and Wales, as well as Distribution Network Operators, are required under section 9 of the [1989 Act] 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" (paragraph 2.3.5). In this respect, the Secretary of State notes that the court has recognised that it is legitimate for different linked development proposals to be brought forward at different times, provided that a developer has not "sliced up" what is in reality one project into a series of smaller projects so as to avoid the requirements of the EIA Regulations. The Secretary of State is satisfied that this is not the case here. As indicated above, any grid connection application made in due course (whether at 132kV or 400kV) will need to be considered on its merits and be

acceptable in planning and environmental terms. This will include the need to comply with the requirements of the EIA Regulations, if the connection requires assessment in accordance with those Regulations.

- 5.78. Other interested parties point to an alleged failure to comply with paragraph 4.9.3 of EN-1 which requires, in the case of separate applications, the provision of “sufficient information to comply with the EIA Regulations including the indirect, secondary and cumulative effects, which will encompass information on grid connections”. However, the Secretary of State’s view is that there is at present insufficient detail about the connection to enable its effects to be considered as part of the cumulative effects. The Secretary of State is aware that the individual and in-combination impacts of the grid connection will be fully assessed on the application for planning consent when it is clear which connection project will be applied for, if the connection requires assessment in accordance with the EIA Regulations. In that way, the EIA Regulations will be complied with.

Planning Policies

- 5.79. The Secretary of State has considered the policies set out in EN-1, EN-3, and relevant Welsh Government planning policies. The *Powys Unitary Development Plan* (adopted 2010), in place at the time of the Inquiry, has been replaced by the Powys Local Development Plan 2011-2026, but the Secretary of State is satisfied that there have been no material changes to local policies that affect his consideration of the proposal. For the reasons set out above and in the Report, the Secretary of State is satisfied that the Development would be acceptable with the exception of the proposed AIL access scheme [IR 650, 652, 653 and 669].

6. Finding and Conclusions in relation to Habitats Regulations

- 6.1. Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended) (“the Habitats Regulations”) requires the Secretary of State to consider whether the Development would be likely to have a significant effect on a National Network Site as defined in the Habitats Regulations. If such an effect cannot be excluded at the screening stage, then the Secretary of State must undertake an Appropriate Assessment (“AA”) addressing the implications for the National Network Site in view of its conservation objectives. The AA should take into account the impacts of the proposed project alone and also in combination with other plans and projects. In light of any such assessment, the Secretary of State may grant consent only if it has been ascertained that the Development will not, either on its own or in combination with other projects, adversely affect the integrity of such a site, unless there are no feasible alternatives and imperative reasons of overriding public interest apply.
- 6.2. The Secretary of State has undertaken a Habitats Regulations Assessment which considers whether the Development is likely to have a significant effect on a National Network site, either alone or in combination with other plans and projects. During the screening stage, the Secretary of State identified one National Network Site (the Berwyn Special Protection Area (SPA)) for which significant effects could not be excluded and an AA was undertaken to assess likely significant effects of the Development on the conservation objectives of this site.

- 6.3. The AA concluded that that the Development would have no likely significant effect on the qualifying species of Berwyn SPA (hen harrier, peregrine, red kite and merlin). On this basis, the Secretary of State is satisfied that the Development, alone and in-combination, would not have an adverse effect on the conservation objectives of Berwyn SPA.
- 6.4. A copy of the Secretary of State's Habitats Regulations Assessment for the Development, which has been prepared on the basis of the Report and advice from Natural Resources Wales, is available at
<https://www.gov.uk/government/publications/lilanbrynmair-and-carnedd-wen-wind-farm-applications-redetermination>.

7. Environment (Wales) Act 2016

- 7.1. The Secretary of State, in accordance with section 6 of the Environment (Wales) Act 2016, must seek to maintain and enhance biodiversity and in doing so promote the resilience of ecosystems so far as consistent with the proper exercise of functions under the 1989 Act. The Secretary of State is of the view that the Report sufficiently considers the impact of the Development on biodiversity, including trees and the ecological functioning of protected sites and impacts on protected species and ecosystem resilience. The Secretary of State has also included planning conditions that: minimise the effects on wildlife, habitats and peat during on-site tree felling and vegetation clearance; ensure a satisfactory level of environmental protection; protect and manage habitats and species; provide for the restoration of habitats; and ensure environmental data and information gathered is properly recorded, and conserve nature. In granting the consent the Secretary of State is therefore satisfied that he has complied with the duty under section 6 of the Environment (Wales) Act 2016.

8. Schedule 9 to the Electricity Act 1989

- 8.1. In accordance with paragraph 1 of Schedule 9 to the 1989 Act, in considering the Application, including the Environmental Statement, the representations received from consultees and other interested parties, the Report and all other relevant information, the Secretary of State has had 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. He considers the Applicant has complied with its duty to do what it 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. Measures taken by the Secretary of State include the refusal of the proposed AIL access scheme via the Llanerfyl to Talerddig road and the inclusion of planning conditions to secure habitat restoration and management measures designed to enhance the site for the benefit of particular species of flora and fauna.

9. Equality Act 2010

- 9.1. The Equality Act 2010 requires public authorities to have due regard in the exercise of their functions to the need to:

- (a) eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Act;
 - (b) advance equality of opportunity between people who share a protected characteristic and those who do not; and
 - (c) foster good relations between people who share a protected characteristic and those who do not.
- 9.2. In having due regard to these matters, the Secretary of State has considered the potential impacts of granting or refusing the Application in the context of the public sector equality duty and has concluded that a decision either way would not be likely to result in any significant differential impacts on people sharing any of the protected characteristics.
- 9.3. The Secretary of State does not, therefore, consider that either the grant or refusal of the Application is likely to result in a material impact on any unlawful discrimination, harassment or victimisation; on equality of opportunity; or on relations between those who share a protected characteristic and those who do not.

10. Human Rights Act 1998

- 10.1. The Secretary of State considers that granting the Application would not unlawfully interfere with any rights protected under the Human Rights Act 1998 and would not therefore be unlawful under section 6(1) of that Act.

11. Secretary of State's Consideration of the Conditions of the Consent and the Planning Conditions

- 11.1. The Secretary of State has carefully considered the draft section 36 consent at Annex D to the Report including the conditions to the section 36 consent ("consent conditions") and the planning conditions. The Secretary of State agrees that, subject to some minor amendments listed below, the planning conditions are suitable for inclusion in a direction under section 90(2) of the Town and Country Planning Act 1990.

Section 36 consent

- 11.2. Consent condition 2 – this condition has been amended to remove reference to access via the previously proposed shared route with Carnedd Wen wind farm.
- 11.3. Consent condition 4(A) has been amended to remove the Local Planning Authority's power to make unspecified minor changes to the consent. The Secretary of State considers that, if it is necessary for the consent to be amended, this should be subject to an application under section 36C of the 1989 Act.
- 11.4. Consent conditions 4(C) – this condition has been added so that development (including tree felling and site clearance) may not commence until permission from the local authority in relation to a suitable access route for AILs to the site has been obtained.

Planning conditions

- 11.5. The Secretary of State has removed the Inspector's draft condition which would have required the Secretary of State's approval before the consent could be transferred to another party. The Secretary of State does not consider this is necessary.
- 11.6. Planning conditions (1), (25), (31), (33) and 38 – these conditions have been amended to remove references to the proposed shared access with Carnedd Wen wind farm.
- 11.7. Planning condition (2) – this condition has been amended to make it clear that, where the Local Planning Authority has the power to approve plans as part of the planning conditions, approval must not be given if this would give rise to any materially different environmental effects from those assessed in the Environmental Statement.
- 11.8. Planning conditions (7), (8), (13), (37), (38), (39), (41), (43), (44) – these conditions, which relate to decommissioning, micrositing, peat management, construction environmental management, habitats management and protected birds and species, have been amended to require consultation with Natural Resources Wales before plans are approved by the Local Planning Authority.
- 11.9. Planning condition (18) – this condition, which provides that all wind turbines must be of a standard 3-blade horizontal axis design, and the blades of all wind turbines must rotate in the same direction, has been included in the interests of visual amenity.
- 11.10. Planning conditions (25), (26), (27) (28), (30), (31), (33), (34) and (35) – these conditions, which relate to highway works, the management of traffic and AILs, have been amended to require consultation with relevant highway authorities before plans and works are approved by the Local Planning Authority.
- 11.11. Planning conditions (26) and (27) – these conditions have been amended to make clear that tree-felling and site clearance are not permitted until improvements to the A470 Talerddig junction and works to be carried out on the highway from that junction to the entrance to the Development have been carried out. This reflects paragraph 657 of the Report.
- 11.12. Planning condition (30) – this condition has been amended so that the traffic management plan for AIL deliveries must be in general accordance with Sections 1, 2 and 3 of the Strategic Traffic Management Plan for Mid-Wales Wind Farms (August 2012).
- 11.13. Planning condition (32) – this condition has been amended to require the Applicant to survey the sections of the Llanerfyl to Talerddig road that are to be used by construction traffic in connection with the scheme for damage remediation which that condition requires. This reflects paragraph 660 of the Report.
- 11.14. Planning condition (54) – this condition has been amended so that the Applicant is required to use its reasonable endeavours to implement the training and employment management plan.

11.15. Planning condition (55) – this condition has been amended to include a reference to WSP Parsons Brinkerhoff's AM noise report dated 25 October 2016.

11.16. In addition to the above, the Secretary of State has made other minor changes to the recommended section 36 consent which do not materially alter its effect including changes in the interests of clarity and consistency and to ensure that the consent has the intended effect.

12. Decision on Reopening the Public Inquiry

12.1. Rule 23 of the Inquiries Procedure Rules placed a requirement on the Secretary of State to offer the opportunity for interested parties to make representations asking for the re-opening of the Inquiry. The Secretary of State may, as he thinks fit, cause the Inquiry to be re-opened (whether by the same or a different inspector). The Secretary of State notes from the representations received that, with very few exceptions, there is no desire to re-open the Inquiry. Furthermore, the Secretary of State does not believe there are sufficient reasons to use his discretion to do so, as he considers that he has sufficient information on which to take a decision.

13. Secretary of State's Conclusion and Decision on the Application

13.1. In reaching his decision on the Application, the Secretary of State has considered all relevant factors, including the following:

- a. the views of the Inspector, the Applicant, Powys County Council, Interested Parties and others, the views of statutory consultees under the Habitats Regulations, the EIA Regulations, and the 1990 Regulations and representations made after the Inquiry and as part of the redetermination process;
- b. the “environmental information” within the meaning of the EIA Regulations. The Secretary of State considers that adequate environmental information that has been provided for him to assess the impact of the Development;
- c. the Secretary of State’s policies on the need for and development of new electricity generating infrastructure, and specifically wind turbine generating stations, as set out in EN-1 and EN-3 laid before Parliament and designated on 19th July 2011 under the Planning Act 2008 and the reasons given for those policies in the NPSs, and as explained in paragraph 5.16 above these remain in effect whilst the review, announced in the Energy White Paper, Powering Our Net Zero Future, is conducted;
- d. the energy and climate change policies of Welsh Government, as set out in *Planning Policy Wales* (Edition 11, February 2021) and supplemented by government circulars, ministerial letters and Technical Advice Notes and also the relevant local planning policy for the Development;
- e. the procedural requirements for the Application, which the Secretary of State considers have been properly followed;
- f. 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.

- 13.2. The Secretary of State has carefully considered the matters set out above and all other material considerations and, for the reasons given in this letter, has decided that consent for the Development should be granted, excluding the proposed AIL access scheme via the road from Llanerfyl to Talerddig for which consent is not being granted.
- 13.3. In reaching his decision, the Secretary of State has attached substantial weight to the urgent need for new (and particularly low carbon) generating infrastructure of the capacity of the Development. The Secretary of State considers that the amendment of the target in the Climate Change Act 2008 on 26 June 2019 increases the weight that should be attached.
- 13.4. Whilst recognising the adverse effects of the Development in terms of landscape and visual impact and tourism, the Secretary of State notes that the harm would be limited to the operational life of the Development, and he considers that the benefits of the Development in terms of landscape and visual impact arising from forestry clearance and moorland restoration at least balance out its adverse effects in the longer term. Further, the Development would provide a net long-term gain in terms of habitats and biodiversity.
- 13.5. Whilst accepting there will be disruption and inconvenience from construction traffic (including AILs) during the construction and maintenance of the Development, the Secretary of State is satisfied that they can be minimised to an acceptable level by the traffic management plans to be secured by planning conditions.
- 13.6. The Secretary of State is also satisfied that the Development's impacts on hydrology, hydrogeology and peat would be mitigated by the planning conditions and be acceptable. Flood risk would be mitigated by plans to raise the water table. Impacts on cultural heritage assets would be acceptable. There would be no significant harm to health from noise, vibration and shadow flicker. The Secretary of State is satisfied that concerns relating to AM noise can be adequately addressed by inclusion of a planning condition. His conclusion is that, on balance, the benefits of the Development outweigh its adverse impacts.
- 13.7. In reaching his decision, the Secretary of State has considered the impacts of the Development alone and cumulatively and in combination with other relevant projects.
- 13.8. The Secretary of State believes the planning conditions will ensure that the Development proceeds in a form and manner that is acceptable in planning policy and environmental terms, and therefore he has decided to issue a section 90(2) direction that planning permission be deemed to be granted subject to the planning conditions.
- 13.9. I accordingly enclose the Secretary of State's consent under section 36 of the 1989 Act and a direction under section 90(2) of the Town and Country Planning Act 1990, which has also been published at

<https://www.gov.uk/government/publications/lilanbrynmair-and-carnedd-wen-wind-farm-applications-redetermination>

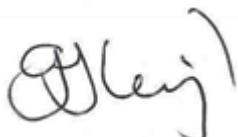
In deciding what material to publish in Welsh, the Secretary of State has taken into consideration his duties under the Welsh Language Act 1993 and the Department's Welsh language scheme, which is available at:

<https://www.gov.uk/government/organisations/department-for-business-energy-and-industrial-strategy/about/welsh-language-scheme>

14. Challenging the Decision

- 14.1. The validity of the Secretary of State's decision may be challenged by making an application to the High Court for permission to seek a judicial review. Such an application must be made promptly and in any event within three months. Parties seeking further information as to how to proceed, including time limits, should seek independent legal advice from a solicitor, or alternatively may contact the Administrative Court at the Royal Courts of Justice, Strand, London WC2 2LL (General Enquiries 020 7947 6025/6655).

Yours faithfully,



Gareth Leigh

Head, Energy Infrastructure Planning