



Department for
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To:
RES UK & Ireland Limited
Innogy Renewables UK Limited

Your Ref:
Our Ref:
Date: 20 June 2018

Cc:
Natural Resources Wales

Dear Sir/Madam,

**ELECTRICITY ACT 1989: RE-DETERMINATION BY THE SECRETARY OF STATE FOR BUSINESS,
ENERGY AND INDUSTRIAL STRATEGY OF THE LLANBRYMAIR & CARNEDD WEN WIND
FARM PLANNING APPLICATIONS**

**THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (ENGLAND AND
WALES) REGULATIONS 2000 (“The 2000 Regulations”)**

**THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017 (“The Habitats
Regulations”)**

1. Thank you for your two representations dated 29 March 2018 enclosing further information to inform the Secretary of State’s Habitats Regulations Assessment (“HRA”) required in respect of RES’ proposed Llanbrynmair Wind Farm and Innogy’s proposed Carnedd Wen Wind Farm.
2. The Secretary of State has carefully considered the information provided by RES and Innogy and considers that it constitutes ‘further environmental information’ that now requires publication in accordance with Regulation 14 of the 2000 Regulations¹. For completeness, it is suggested that the further environmental information is also published with the Secretary of State’s letter dated 16 February 2018 requesting the information to inform the HRA.
3. In considering the above, it is also noted that the information includes a BSG Ecology ‘Confidential’ Bird Survey Report. It is not clear if the reason for that classification is, for

¹ Although the Regulations have been updated, transitional provisions apply in the Electricity Works (Environmental Impact Assessment) (England and Wales) Regulations 2017 to section 36 applications received before 16 May 2017, which must be dealt with as if the Regulations have not been revoked.

example, because it is needed to protect species/their sites or because it is simply information you have paid for and therefore do not wish to share. Unless it is for the former and unless there are good reasons for not doing so, the Secretary of State considers the further environmental information should be published. If not, you will appreciate it cannot be taken into account in informing the HRA. Your clarification on the reasons for the 'Confidential' classification is therefore required no later than 4 July 2018.

4. Upon reviewing the further environmental information provided, the Secretary of State has also identified some specific questions he intends raising with Natural Resources Wales ("NRW") in due course.

5. The Secretary of State's specific questions to NRW are set out below:

(1) RES and Innogy have stated that Red Kite is no longer listed as a qualifying feature of the Berwyn SPA. Can NRW confirm this?

(2) RES and Innogy have provided a summary of ornithological survey work undertaken at the proposed development sites, which includes the observed on-site movements of merlin, hen harrier and peregrine. While the observed movements differ between species, all three have been shown to occur in both proposed development locations. Information on the foraging ranges of these species has also been provided by RES.

An assessment of whether Llanbrynmair and Carnedd Wen are likely to have a significant effect on the Berwyn SPA qualifying feature populations is first a question of connectivity (i.e. foraging range). During tracking studies carried out in 2006 and 2007, SPA birds were not observed to use the Carnedd Wen site, which lies between the Berwyn SPA and Llanbrynmair². However, NRW has previously advised that this tracking evidence was insufficient to demonstrate the absence of connectivity and questioned whether survey data would ever be able to confirm this. Furthermore, NRW has previously taken the position that Carnedd Wen birds are likely to be part of a single, larger Welsh metapopulation, within which there is interchange with the Berwyn SPA³. This appears to imply that if an individual merlin, hen harrier or peregrine is observed to use the Carnedd Wen site, there is a possibility that it would use or interchange into the habitats within the Berwyn SPA. As there is interchange throughout the Welsh metapopulation, the same logic could extend to those individuals observed in Llanbrynmair.

In view of the potential for metapopulation interchange, the presence of all three species in both proposed development sites, and the breeding foraging ranges of each

² Carnedd Wen Environmental Statement 2008 (core document ref AD/RWE/003-009)

³ Carnedd Wen Supplementary Environmental Information September 2011 Vol 1-Vol 4 (core document ref AD/RWE/015 - 18)

species, NRW is requested to advise, with justification, if either project is likely to have a significant effect on the Berwyn SPA, either alone or in combination with other plans and projects. If a likely significant effect cannot be excluded NRW are requested to advise on any additional or new meaningful assessment requirements (such as collision risk modelling) to inform the Secretary of State's Appropriate Assessment.

- (3) For Llanbrynmair and Carnedd Wen, can NRW provide what it considers to be the complete list of projects that should be included in an in-combination HRA for the Berwyn SPA.
6. To avoid two separate/overlapping rounds of consultation in respect of the HRA and the 2000 Regulations, the Secretary of State requests that RES and Innogy first notify the Department once the further environmental information has been published and with the latest date for representations to be made (i.e. not less than four weeks after the notice is last published). The Secretary of State then proposes formally writing to NRW and also copying the letter to all other interested parties of the publication of the further environmental information at that stage. NRW and any other interested party will also be invited to offer any other comments it may have on the information RES and Innogy have provided. The consultation letters and further environmental information will also be available for interested parties to view on the GOV.UK website at: <https://www.gov.uk/guidance/consents-and-planning-applications-for-national-energy-infrastructure-projects> .
7. All representations received to this consultation on the further environmental information, will be handled in accordance with BEIS' General Data Protection Regulation handling policy, which is annexed to this letter.
8. This letter is without prejudice to the Secretary of State's decisions whether or not to grant consent for the Llanbrynmair and Carnedd Wen wind farm projects currently being re-determined, and nothing in this letter is to be taken to imply what those decisions might be.

Yours faithfully

Gareth Leigh
Head of Energy Infrastructure Planning

Personal data

The following is to explain your rights and give you the information you are be entitled to under the Data Protection Act 2018.

Note that this section only refers to your personal data (your name, address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Department for Business, Energy and Industrial Strategy (BEIS) is the data controller. The Data Protection Officer can be contacted at GDPR@beis.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

The Data Protection Act 2018 states that, as a government department, BEIS may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

3. With whom we will be sharing your personal data

Your personal data will not be shared with others outside of BEIS. However, anonymised data (i.e. representations with all personal data removed) will be published on the GOV.UK website at: <https://www.gov.uk/guidance/consents-and-planning-applications-for-national-energy-infrastructure-projects> .

4. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for three years from the date the applications (that is subject to this consultation) have been determined by the Secretary of State. It is necessary to retain your data for accountability purposes in the event that the Secretary of State's decisions on the applications are judicially reviewed or infringed, in such instance it may be retained longer until the end of any such actions.

5. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you;
- b. to ask us to stop using your data, but keep it on record;
- c. to have all or some of your data deleted or corrected; and
- d. to lodge a complaint with the independent Information Commissioner's Office (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. Your personal data will not be sent overseas.

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system.

9. You have the right to withdraw your consent at any time where BEIS is relying on consent to process your personal data.