

Adroddiad

Ymchwiliad a gynhaliwyd ar 15/10/14
Ymweliad â safle a wnaed ar 22/10/14,
11/11/14 & 12/11/14

**gan Kay Sheffield BA(Hons) DipTP
MRTPI**

Arolygydd a benodir gan Weinidogion Cymru
Dyddiad: 09/01/2015

Report

Inquiry opened on 15/10/14
Site visit made on 22/10/14, 11/11/14 &
12/11/14

by Kay Sheffield BA(Hons) DipTP MRTPI

an Inspector appointed by the Welsh Ministers
Date: 09/01/2015

TOWN AND COUNTRY PLANING ACT 1990

SECTION 78

APPEALS BY RES UK & IRELAND LIMITED

LAND AT GARREG LWYD HILL, BETWEEN FELINDRE AND LLANBADARN FYNYDD,
LLANDRINDOD WELLS, POWYS

AND

LAND BETWEEN NEWTOWN AND GARREG LWYD HILL, POWYS

Cyf ffeil/File ref: APP/T6850/A/13/2209593 & APP/T6850/A/13/2209595

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Abbreviations

Abnormal Indivisible Load	AIL
Amplitude Modulation	AM
Appropriate Assessment	AA
Area of Outstanding Natural Beauty	AONB
British Horse Society	BHS
British Mountaineering Council	BMC
Bryngydfa Wind Farm	BG
Byway Open to All Traffic	BOAT
Castell y Blaidd	CYB
Conservation of Upland Powys Group	CUP
Construction Environment Management Plan	CEMP
Countryside Council for Wales (now Natural Resources Wales)	CCW
Cross Examination	XX
Cwm yr Hob	CYH
Energy Policy Statement	EPS
English Heritage	EH
Environmental Impact Assessment	EIA
Environmental Statement	ES
European Protected Species	EPS
Garrard Hassan	GH
Guidelines for Landscape and Visual Impact Assessment	GLVIA
Habitat Management Plan	HMP
Hirddywel Wind Farm	HL
Interim Development Control Guidance	IDCG
Kerry Community Council	KCC
Llaithddu Wind Farm	LD
Llanbadarn Fynydd Wind Farm	LF
Llandinam Wind Farm	LM
Listed Building	LB
Local Planning Authority	LPA
Mid-Wales Conjoined Inquiry	MWCI
National Policy Statement	NPS
Natural Resources Wales	NRW

Neuadd Goch Wind Farm	NG
Non-Designated Monument of National Importance	ND
Planning Policy Wales	PPW
Powys County Council	PCC
Powys Unitary Development Plan 2010	UDP
Powys Landscape Character Study	PCCLCA
Pre-Inquiry Meeting	PIM
RES UK & Ireland Limited	RES
Scheduled Ancient Monument	SAM
Site of Special Scientific Interest	SSSI
Special Area of Conservation	SAC
Supplementary Environmental Information	SEI
Scottish Natural Heritage	SNH
Statement of Common Ground	SoCG
Supplementary Planning Guidance	SPG
Strategic Transport Management Plan	sTMP
Strategic Search Area	SSA
Technical Advice Note 8: Planning for Renewable Energy	TAN 8
Welsh Government	WG
Western Power Distribution	WPD
Zone of Theoretical Visibility	ZTV

File Ref: APP/T6850/A/13/2209593 – Appeal A

Site address: Garreg Lwyd Hill, between Felindre and Llanbadarn Fynydd, Llandrindod Wells, Powys

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by RES UK & Ireland Limited against the decision of Powys County Council.
- The application Ref P/2008/0785, dated 22 May 2008, was refused by notice dated 12 September 2013.
- The development proposed is the erection of 23 wind turbines, wind monitoring mast, access tracks, crane hard standings, water crossing, control building, substation compound, car park, off site road improvements, temporary compounds, borrow pits, masts and welfare facilities.

Summary of Recommendation: The appeal be allowed in respect of the amended scheme for 17 wind turbines

File Ref: APP/T6850/A/13/2209595 – Appeal B

Site address: Land between Newtown and Garreg Lwyd Hill, Powys

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by RES UK & Ireland Limited against the decision of Powys County Council.
- The application Ref P/2013/0733, dated 18 July 2013, was refused by notice dated 12 September 2013.
- The development proposed is highway upgrades and associated works on third party land between Newtown and the proposed Garreg Lwyd Wind Farm to facilitate deliveries of abnormal indivisible loads and the construction of a new track and upgraded track from Cwm y Berllwyd across the proposed Llanbadarn Fynydd Wind Farm to access the proposed Garreg Lwyd Hill Wind Farm.

Summary of Recommendation: The appeal be allowed

Preamble

1. This report includes descriptions of the sites and their surroundings, the proposed developments, the relevant planning policies, the gist of the representations made, my appraisal and conclusions, and my recommendations. As there is a European designated ecological site in the area, it also includes information to enable assessment of any effects under the Habitats Regulations. Document references are shown in brackets or given in footnotes and in my conclusions the numbers in square brackets indicate the relevant paragraphs of the report. Details of the people who took part in the Inquiry and comprehensive lists of documents are attached at the end of the report. Recommended conditions in the event that Ministers decide to grant planning permission are also attached as annexes.

Procedural and Background Matters

2. I held a Pre-Inquiry Meeting (PIM) on 22 July 2014¹. Prior to the meeting RES put forward a proposal to reduce the number of turbines from 23 to 17 in an attempt to address concerns in respect of Appeal A with regard to the effect of the development on cultural heritage, the visual amenity of receptors using Glyndŵr Way and landscape

¹ Notes of meeting - Document ID 1

character. RES confirmed that Supplementary Environmental Information (SEI) would be submitted.

3. The matter was discussed at the PIM where PCC and others present raised no objection to the appeal being considered on the basis of 17 rather than 23 turbines. The SEI was submitted in accordance with an agreed timetable and the necessary consultation was carried out². The evidence produced for and the focus of the Inquiry was the amended scheme. There was no suggestion to the Inquiry by any party that they were unable to address the amended scheme or that they had been prejudiced in any way by the proposed amendment being considered. Any person or body who might have wished to make representations with respect to the amended scheme has had a full and fair opportunity to make representations.
4. The amended scheme is within the red line area of the original application. The substance of the proposal is the same as that originally applied for, albeit the reduction in the number of turbines and ancillary development would reduce the associated impacts of the development. In the circumstances I recommend that it would be appropriate for Appeal A to be considered in the light of the amended scheme.
5. The Conservation of Upland Powys Group (CUP) was granted Rule 6(6) status in respect of the appeals. CUP (formerly Conservation of Upland Montgomeryshire) is a membership organisation established in 1993 which currently has over 670 members.
6. The application for the wind farm subject of Appeal A was originally accompanied by an Environmental Statement (ES) comprising Volume 1 Non-Technical Summary; Volume 2 Written Statement; and Volume 3 Figures³. This was supplemented by SEI 2013 Volume I Main Document and Volume II Technical Appendices 1-12⁴. The SEI submitted following the reduction of the scheme from 23 to 17 turbines comprised Volume 1 Non-Technical Summary; and Volume 2 Text, Figures and Appendices⁵.
7. The application subject of Appeal A originally included details of the access route. However, the access design was changed following consultation with key consultees and resulted in a new access route application submitted in August 2010. The development of a strategic Transport Management Plan (sTMP) and ongoing consultation resulted in further access design changes which included a new access route application in July 2013. It is this application which is the subject of Appeal B. Further changes were made to the sTMP in late 2013 and early 2014 and the Newtown to Strategic Search Area C (SSA C) section of the strategic route was approved by Welsh Government (WG) in March 2014⁶. The final design included a small number of changes to the 2013 application which were included in a new application⁷ submitted in July 2014. At the time of writing, this application is awaiting determination by the Council and is not addressed in this report.

² ID 3

³ CD 1

⁴ CD 2

⁵ CD 4

⁶ CD 42

⁷ Local Planning Authority Reference: P/2014/0735

8. Initially the access route application was accompanied by an ES which comprised of Volume I Non-Technical Summary; Volume II Main Document; and Volume III Support Appendices to Volume II⁸. These were supplemented in August 2014 by SEI Volume 1 Non-Technical Summary; and Volume 2 Text, Figures and Appendices⁹ which were also submitted as part of the 2014 application. The ES information submitted as part of both appeals has been taken into account in arriving at my recommendations.
9. Prior to the Inquiry commencing National Resources Wales (NRW) withdrew its objections to both appeals¹⁰. Moreover RES, in respect of Appeal B, confirmed that only the Mochdre route option was being promoted. As a consequence the Council withdrew its objections on the grounds of biodiversity with regard to Appeal A and all its outstanding objections to Appeal B before the Inquiry began¹¹.
10. The Inquiry sat for seven days on 15 to 17 October and 21 to 24 October 2014. There was insufficient time to hear closing submissions from the parties during those sitting days and an early date convenient to all involved could not be found to reconvene the Inquiry. Closing submissions were therefore submitted in writing and the Inquiry was closed in writing on 21 November 2014. Accompanied visits were made on 22 October, 11 November and 12 November 2014. I also made unaccompanied visits on 22 July, 14 October, 20 October and 18 November 2014.
11. In respect of Appeal A (the wind farm) planning permission was refused on the basis that the proposal is contrary to the Powys Unitary Development Plan (UDP), Technical Advice Note 8: Planning for Renewable Energy (TAN 8), Planning Policy Wales (PPW) and Overarching National Policy Statement for Energy: EN1 (EN-1), The reasons for refusal set out in the Decision Notice¹² can be summarised as:
 - (a) The development individually and cumulatively with other proposed wind farms (in particular but not limited to Llanbadarn Fynydd, Bryngyda and Neuadd Goch) and proposed grid connections would have an unacceptable impact on the landscape character of the area, including upon the special qualities and setting of the Shropshire Hills Area of Outstanding Natural Beauty (AONB);
 - (b) The development individually and cumulatively with other proposed wind farms (in particular but not limited to Llanbadarn Fynydd, Bryngyda and Neuadd Goch) and proposed grid connections would have an unacceptable visual impact on many Public Rights of Way and other publicly accessible land in the area, including but not limited to Glyndŵr's Way, the Kerry Hill Ridge and Shropshire Way;
 - (c) The development would have an unacceptable adverse individual and cumulative impact on cultural heritage assets; and
 - (d) Insufficient information had been submitted to demonstrate that the development would not have an unacceptable impact on bats.

⁸ CD 3

⁹ CD 5

¹⁰ CD 5a & 5b

¹¹ ID 4

¹² CD 5g

It is this last reason which, in advance of the opening of the Inquiry, the Council indicated it was no longer pursuing.

12. In respect of Appeal B (the access route) planning permission was refused on the basis that the proposal is contrary to the UDP, TAN 8 and PPW. The reasons for refusal set out in the Decision Notice¹³ can be summarised as:
- (a) The development between Kerry Road (A489) and Dolfor (A483) would have an unacceptable adverse impact on the landscape of the area;
 - (b) The development between Kerry Road (A489) and Dolfor (A483) would have an unacceptable adverse visual impact;
 - (c) The development between Kerry Road (A489) and Dolfor (A483) and between the Heol Treowen/ Mochdre Industrial Estate routes and Dolfor would have an unacceptable impact on the safety and free flow of traffic;
 - (d) The development between Kerry Road (A489) and Dolfor (A483) and along the Heol Treowen would have an unacceptable adverse impact on the amenities of the residents of the area; and
 - (e) Insufficient information had been submitted to demonstrate that the development would not have an unacceptable impact on biodiversity
13. Following confirmation by RES that the Mochdre route only was being promoted and the withdrawal by NRW of its concerns with regard to biodiversity, PCC withdrew its objections to Appeal B in advance of the Inquiry. As CUP and local residents maintained their objection to Appeal B consideration of transport matters took the form of a discussion.
14. Statements of Common Ground between RES and PCC were submitted in respect of Planning and Energy (Planning and Energy SoCG)¹⁴, Landscape and Visual Effects (Landscape SoCG)¹⁵, Cultural Heritage (Cultural Heritage SoCG)¹⁶ and Transport (Transport SoCG)¹⁷. The latter is relevant to Appeal B only.
15. Within Powys five major wind farms (above 50MW) submitted under the Electricity Act 1989 were the subject of the Mid-Wales Conjoined Inquiry (MWCI). The Inquiry closed in June 2014 and the Inspector's report is now before the Secretary of State for Energy and Climate Change for a decision. Three of the schemes subject of the MWCI relate to SSA C and are therefore relevant to these appeals:
- (a) Llandinam Repowering scheme (LM), located on the western side of SSA C and consisting of 34 turbines. This scheme replaces the existing Llandinam P&L wind farm which comprises of 102 turbines;
 - (b) Llaithddu (LD) which consists of 27 turbines and is located to the immediate south of LM. This proposal consists of a northern array of 12 turbines and a southern array of 15; and

¹³ CD 5h

¹⁴ ID 8

¹⁵ ID 9

¹⁶ ID 10

¹⁷ ID 11

- (c) Llanbaddarn Fynydd (LF), comprising of 17 turbines and located in the eastern half of SSA C to the immediate west of the wind farm subject of Appeal A.

Other outstanding schemes which at the time of the Inquiry were still under consideration by PCC include:

- (d) Hirddywel (HL)¹⁸, comprising 9 turbines located to the south of LM;
- (e) Neuadd Goch (NG)¹⁹ comprising 9 turbines located in the north eastern part of SSA C and north of LF and the site of Appeal A; and
- (f) Bryngydfa (BG)²⁰ comprising 12 turbines located to the north and south of the site of Appeal A.

These schemes are behind the appeal proposal in the planning process and therefore would not necessarily be relevant in assessing the cumulative effect of the proposed development. However, there is the potential that a decision on the appeals might post-date a decision on these schemes and in that instance a favourable decision could have consequences for the appeals. For this reason I have taken these other schemes into consideration.

The Sites and their Surroundings

16. The wind farm site²¹ lies on Garreg Lwyd Hill approximately 10km south of Newtown and between Felindre to the north east and Llanbadarn Fynydd to the south west. The site covers approximately 440 hectares and predominantly consists of medium-sized fields primarily used for grazing.
17. The site of the wind farm is located within SSA C as defined by TAN 8²². Most of it also falls within the refined areas of search defined, in two stages, by the Arup studies on behalf of the Council²³. Within 5km of the site there are 29 Scheduled Ancient Monuments (SAMs) and 4 Listed Buildings (LBs), none of which lie within the site. Whilst the site does not lie within any national or local designations, the Shropshire Hills AONB lies approximately 3km to the east.
18. As far as possible the proposed access route would utilise the existing highway network between Ellesmere Port and the site of the proposed wind farm. To facilitate deliveries of Abnormal Indivisible Loads (AILs) highway upgrades would be required, together with the construction of some new sections of track across open land.
19. The River Ithon and Esgairdraenllwyn Pastures Sites of Special Scientific Interest (SSSI) are located to the west of the A483. At its closest point the access route would

¹⁸ Application Ref: P/2010/0650

¹⁹ Application Ref: P/2012/0040

²⁰ Application Ref: P/2009/0384

²¹ CD 1 Volume 3 Figure 1.1

²² CD 23

²³ CD 7 Arup (January 2006) TAN 8 Annex D Study of Strategic Search Areas B (Carno North) and C (Newtown South): Final Issue Report for Powys County Council and CD8 Arup (April 2008) Local refinement of TAN 8 Strategic Search Areas B and C: Review Exercise for Powys County Council

be approximately 30m from the boundary of the SSSI. The River Ithon SSSI forms part of the River Wye Special Area of Conservation (SAC).

Planning Policy

20. Insofar as national policy and advice are concerned, the most relevant documents are PPW and TAN 8. Whilst PPW has been updated on several occasions during the course of the applications and the appeals, it is Edition 7²⁴ published in July 2014 to which I have had regard and which was relied on by the parties in their presentation of evidence to the Inquiry.
21. PPW states that the Welsh Government's aim is to secure an appropriate mix of energy provision for Wales whilst avoiding and where possible minimising environmental, social and economic impacts. TAN 8 sets out seven SSAs which are considered suitable for large scale wind farms. It notes that not all of the land within SSAs may be technically, economically and/or environmentally suitable for major wind power proposals. It also states that *"it is a matter for local planning authorities to undertake local refinement within each of the SSAs in order to guide and optimise development within each of the areas. If there is robust evidence that land outside (but close to) the SSA is suitably unconstrained local planning authorities might wish to consider the possibility of development of wind farms in these areas as well"*.²⁵
22. The statutory development plan is the Powys Unitary Development Plan (UDP)²⁶ which was adopted in 2010. The main parties were agreed that Policy E3 is the primary policy against which both appeals should be judged. The policy is generally supportive of proposals for wind farms subject to eight criteria. These include not having an unacceptably adverse effect, either individually or cumulatively, on: the environmental and landscape quality of Powys; wildlife habitats or species; the living conditions of residents; and the enjoyment and safe use of highways and the public rights of way network. The policy also requires that the development should not unacceptably impact on any buildings or features of conservation and archaeological interest. Moreover the development should be capable of being served by an acceptable means of highway access and any new works should not have unacceptable environmental impacts. There should also be adequate mitigation or compensation for any adverse impact on environmental quality, wildlife habitats or heritage features. Finally any ancillary structures or buildings should be sited and designed so as to adequately blend into their settings.
23. Other policies cited in the reasons for refusal specific to renewable energy include SP12 which seeks to approve schemes for renewable energy production providing they meet landscape, environmental, amenity and other requirements set out in the UDP. Also relevant but not relied on in refusing permission are Policies E4 and E5. Policy E4 requires the removal of turbines if they cease to operate for a period of more than six months, while Policy E5 relates to off-site works and states that *'planning obligations or other appropriate legally binding agreements will be sought to ensure the*

²⁴ CD 27a

²⁵ TAN 8 paragraph 2.4

²⁶ CD 19

implementation of off-site works where these are necessary in order to facilitate wind turbine development proposals or to ameliorate their impact’.

24. Policy GP1, relevant to both appeals, provides the general development control context for all development proposals and covers design, access, drainage, services, the effect on amenities, the environment and heritage. For any development to be acceptable the criteria set out in the policy must be met.
25. Policy SP3 seeks to safeguard natural heritage and protect, preserve and, wherever possible, enhance sites and features of historic and built heritage importance. Policies ENV2, ENV3, ENV7 and ENV17 respectively safeguard the landscape; biodiversity and natural habitats; protected species; and ancient monuments and archaeological sites. Although not cited in the reasons for refusal Policy ENV14 seeks to safeguard listed buildings.
26. Also relevant to Appeal B are Policies SP6 and GP4. The former relates to the maintenance and improvement of the transport infrastructure and the latter sets out requirements with regard to access.
27. Although the UDP was not adopted until 2010, it does not address TAN 8 and is recognised by PCC as being out of date on these issues. Between 2006 and 2008 Arup on behalf of PCC undertook refinement work in respect of SSA C which was broadly in line with the methodology set out in TAN 8²⁷. This work formed the basis for a consultation draft Interim Development Control Guidance on Wind Farm Developments (IDCG)²⁸ in 2006 and a second draft published in 2008²⁹. Both documents recognised, subject to local refinement, a presumption in favour of wind farm development within the SSA. Whilst a consultation exercise was carried out, the IDCG was not the subject of a strategic environmental appraisal and therefore was not formally adopted or incorporated into the UDP. Although formally authorised by PCC for use in development control, it was not statutorily adopted and therefore carries limited weight in the determination of the appeals.
28. The Council has published the Powys County Council (2014) Deposit Draft Local Development Plan (LDP)³⁰. The consultation period on the plan ended in September 2014 and it is anticipated that it will be submitted for examination in 2015. Given the early stage at which the plan is in the process towards adoption, I consider that no material weight can be given to the emerging plan in determining the appeals. None of the parties relied on the LDP in evidence.

The Proposals

29. The proposal originally put forward in the planning application submitted in 2008³¹ was for a wind farm of 23 turbines. However, the amended scheme³² reduced this number

²⁷ CD 7 & 8

²⁸ CD 21

²⁹ CD 22

³⁰ CD 20

³¹ CD 1 Volume 2 Section 4.2 and Figures 4.1 and 4.2

³² CD 4 Volume 2 Section 4 and Figures 4.1 and 4.2

to 17 by the omission of turbines T7, T12, T19, T20, T21, and T22. Each of the turbines would be of a conventional design with three blades and a tapered tubular tower. The overall height to blade tip would not exceed 126.5m and a hub height of 80m has been indicated. The model of turbine proposed has not been specified but RES confirmed that there are several on the market which would meet all of the relevant criteria including noise specifications. The installed capacity of the turbines will depend upon the final turbine choice but each is expected to be in the order of 2MW which would equate to a total installed capacity of 34MW.

30. The development would also include associated electricity transformers, access tracks, watercourse crossings, underground cabling, crane hard standings, control buildings and substation compound, public car park, and a permanent free-standing wind monitoring mast. During construction and commissioning a number of temporary works would be required including construction compounds, borrow pits, welfare facilities and six guyed meteorological masts up to 80m high. Although not for consideration as part of the appeals, the amended scheme also included changes to the grid connection which reduced the connection route from 26.7km to 23.5km with some 19.5km being underground. The remaining 4km would consist of three short sections installed overhead on wooden poles, all of which would be outside the appeal site.
31. Following confirmation by RES that only the Mochdre option is now being pursued in respect of Appeal B, the access route from Ellesmere Port to the site comprises three sections³³:
- (a) From Ellesmere Port to Newtown following the Strategic Route. Highway upgrades would be required to this section of the route;
 - (b) From Newtown to Cwm y Berllwyd via the Mochdre Industrial Estate which would require the construction of a short link road; and
 - (c) From Cwm y Berllwyd to the site most of which would be via the route proposed as part of the LF wind farm proposals. An agreement is in place with the developers of the proposed LF wind farm which secures use of this route³⁴. An existing track would be upgraded and the construction of new sections of track across open land would be required. There would also be some additional works to provide access to the appeal site from the LF site.

Other Agreed Matters

32. With regards to Appeal A, RES and PCC are agreed that the main issues in dispute between them are the effect on: the landscape character of the area; visual amenity; cultural heritage assets and noise levels. With regard to Appeal B, RES and PCC are agreed that there are no longer any matters in dispute between them, with the exception of the wording of certain conditions.

³³ CD 3 Volume 2 Section 3 and Figure 3.1

³⁴ ID 11 paragraph 15.

The Case for RES UK & Ireland Limited

33. The case for RES as contained in the closing statement made in writing is set out in full in Annex A to the report. The main points of the case are summarised below.
34. The proposal is an important step in addressing the pressing needs with respect to climate change and energy security; it makes an important contribution towards meeting the UK Government's international commitments and the UK and Welsh Governments' energy policy goals together with helping to address the current failure to make the planned provision for wind energy development in this sub-region.
35. WG seeks to concentrate large scale on shore wind farms within SSAs. Given the location of the proposed wind farm within an SSA the starting point for determination of the appeal is a presumption in favour. The site has consistently fallen within SSA C from the initial broad brush boundary identified in TAN 8 and through the subsequent refinement exercises undertaken by PCC and which fed into the IDCG. The "strategic approach" advocated by PCC to concentrate wind farm development in the western part of SSA C has not been formally approved. At present there are no consented schemes to count towards the identified need and capacity for development in SSA C. Even if assumptions were made with respect to other schemes there would remain need and capacity for this scheme.
36. The scale of wind turbines is such that they must inevitably have some landscape and visual impact wherever they are located and such impacts always figure large in any consideration of wind farm proposals. Given the inevitability of such impacts the clear national and local policy support for this form of development means that a degree of impact must be acceptable. The matter to be decided is therefore whether the scheme has been designed so that any likely significant residual effects can be considered acceptable when weighed in the planning balance.
37. There would be significant adverse individual effects on landscape character up to 5km from the wind farm site within Wales. These impacts would occur within areas that are all within or adjacent to the reviewed refined SSA C boundary where the implicit objective of policy is to accept landscape change from wind farm development. There would also be significant adverse individual effects on landscape character up to 6km from the wind farm within England which includes the far western part of the AONB. However, the type of impact which would occur is an inevitable result of wind farm development in this general locality, which has already been found to be one of the better locations for such development in Wales. There is scope for some impact on the elevated and panoramic views from locations within the AONB and on the perception of tranquillity, but no more than would be inevitable from the identification of the area as suitable for wind farm development. There would not be any other impact upon the special qualities of the AONB and the proposal would not compromise the ability of the AONB to fulfil its statutory purpose or achieve the nationally adopted AONB objectives.
38. There would be significant individual effects on the visual amenity of users of the public rights of way network on and around the site, including Glyndŵr's Way and the Kerry Ridgeway. However, any wind farm within SSA C would have significant effects on the visual amenity of users of these routes and other public land. Moreover, the impact is

as expected from implementing the relevant policies in this area and the cumulative effect would be acceptable whichever combination is considered.

39. The majority of the appeal site is now improved land. The only cohesive set of remains pre-dating the post-Medieval period is the Bronze Age alignment of barrows. Beyond these there is no archaeological or historic landscape in the vicinity in the sense of a relic landscape showing significant and widespread integrity. Careful consideration has been given to the layout of the wind farm to take account of the alignment of the barrows and the reduction in the number of turbines has widened the buffer between the sightlines along the alignment and the edge of the turbine cluster. The visual dominance of the barrows would not be affected by the development nor would it affect the intervisibility between the barrows and the sightlines along the alignment.
40. Although there would be an adverse impact on Castell y Blaidd, the level of harm would not be at an unacceptable level. Proposed mitigation involving the repair of the physical structure and improving information and access would reduce the degree of harm. However, these measures are not required to make the scheme acceptable. There would also be an impact on the setting of the listed buildings (LB) at Cwm yr Hob (CYH). The special interest of these buildings lies in the architectural details which would continue to be appreciated and enjoyed. Any impact or distraction from the turbines would not amount to substantial harm. Works which could be done to the LBs have been identified and whilst these would be of benefit they are not necessary to make the development acceptable.
41. There is no noise objection to the appeal proposal on its own. The objection with respect to the cumulative noise impact of the appeal proposal with LF is theoretical and unreasonable and relies upon the assumption that properties could be downwind of both wind farms at the same time which is not possible. Even if this could occur there would be a technical exceedence of noise limits of 0.4dB which would not be discernable and would not have any material impact on receptors. Moreover, the suggested conditions would ensure noise limits would be within recognised limits and would not be exceeded.
42. With regard to the effect of the development on the living conditions of local residents, there would be comparatively few properties which would have a view of the proposals and in terms of visual impact none would be affected to a degree which would provide a reason for refusal. Other issues raised by residents have been addressed in evidence and has concluded that the proposal would not have any unacceptable impacts upon residential amenity. Whilst it is understandable that individual residents may express concerns, these concerns are not shared by any of the relevant statutory bodies.
43. It has been demonstrated that there is no known evidence that this form of development causes harmful impacts on tourism and there is no reason why that general position should not be applied in this case.
44. There are no outstanding landscaping and visual issues with respect of the access road proposals. Similarly there are no highway related reasons for resisting these appeals. All ecological objections to the scheme were withdrawn prior to the Inquiry. Whilst the question of a need for an appropriate assessment is outstanding, NRW has indicated that, subject to conditions, the matter could be satisfactorily resolved.

45. For its scale the proposal would give rise to remarkably little impact, none of which would be unacceptable. This reflects the fact that it is located in an area repeatedly identified as a location to which this form of development should be directed and concentrated. Such impacts as arise could properly be addressed by condition and they are clearly outweighed by the benefits of the proposal.

The Case for Powys County Council

46. The case for PCC as contained in the closing statement made in writing is set out in full in Annex B to the report. The main points of the case, which focuses on Appeal A, are summarised below. PCC also relies on the legal submission made in opening (ID 7).
47. PCC fully supports WG's energy policy and its targets for renewable energy. To minimise wider environmental harm it supports the strategic approach to the location of wind farms and the capacity of SSAs contained in PPW and TAN 8 and related WG policy statements. The fact that the appeal site lies within an SSA (refined or otherwise) does not lessen the need to select acceptable sites or to mitigate any impacts capable of mitigation. Any decision should be taken in the light of the acknowledged urgent need for nationally significant renewable energy infrastructure and the finite capacities of the areas in which the proposals lie. TAN 8 makes it clear that not all the land within an SSA is expected to be technically, economically or environmentally suitable for major wind power proposals. Moreover the identified capacities allowed local discretion in identifying sites to ensure that the most appropriate and sustainable options were identified.
48. PCC submits that in landscape and visual terms the proposal would have significant and unacceptable effects on the high sensitivity landscape of the eastern edge of Powys and the western borders of the AONB and to the visual amenity of users of national and regional routes and a wide range of public rights of way and Open Access Land within these areas. These effects would go beyond what is anticipated or required by TAN 8 and would cause excessive harm. The proposal would, in the western border areas of the AONB, significantly detract from the AONB's special qualities of scenic and environmental quality, tranquillity, and cultural and opportunities for enjoyment and would undermine the purposes of the AONB.
49. On its own the development would have a significant impact on the setting of a significant number of scheduled monuments and on one non-designated asset of national importance. Cumulatively the development, in association with other similar proposals in the area, would degrade the setting of a large number of designated and non-designated assets, including SAMs and LBs and would also fundamentally change the character of a complex interrelated historic landscape, which is currently subject to little intrusion from modern infrastructure. The scale of degradation is such that for many assets substantial harm would occur to their significance.
50. As explained in the legal submission on heritage made at the outset of the Inquiry, findings of substantial harm require exceptional justification which has not been established in evidence. The submission set out some propositions of law which PCC considered might be relevant to elements of the evidence. The aspects covered included the construction of setting, significance and substantial harm as policy

concepts and included references to relevant case law and recent appeal decisions, most notable of which are *Asfordby*³⁵ and *Barnwell Manor*³⁶.

51. It is clear from the evidence that in relation to landscape, visual and cultural heritage matters, both on an individual and cumulative basis, the proposals would cause severe harm which is not outweighed by the materially relevant benefits to which PCC has given full weight. PCC acknowledges that the fact that individual proposals would give rise to significant adverse impacts in landscape and visual terms or heritage terms is not to be equated with the impacts being unacceptable in the broader sense so as to justify the refusal of consent. There will almost always be significant impacts resulting from the construction and operation of modern onshore wind turbines.
52. However, it is necessary to undertake an overall balance, taking into account where necessary appropriate statutory considerations, so as to establish where the advantage lies in terms of the overall public interest. It simply does not follow from relevant policy that any and all significant landscape impacts are to be accepted even in the context of renewable energy development. Equally, in that consideration, the fact that a proposal is time limited does not mitigate the effects of the development. It simply regulates the period over which they are experienced. No part of Welsh policy indicates that the general populace should tolerate development which is unacceptable simply because it is time limited.
53. The legal starting point for determination remains the development plan and there would be clear conflict with development plan policy if the proposal were to be allowed. In addition there is insufficient evidence to overcome the presumption against the grant of planning permission by virtue of s.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Regard also has to be had to the purposes of conserving and enhancing the natural beauty of the AONB. As is made clear in PPW, the decision making process should favour the preservation of natural beauty and along with national parks, AONBs must be given the highest status of protection from inappropriate developments. The proposal would not conserve or enhance the purposes of the AONB, considerations which militate strongly against the proposal.
54. PCC is concerned over the timing of this appeal in the context of SSA C and strategic decision making. There is an inherent danger of the current planning decision making arrangements, particularly as they relate to wind farm proposals in Wales, where different sized schemes are decided upon by different decision makers and under differing statutory provisions, that the 'bigger picture' might be missed unless the respective decision makers are able to take into account and assess the implications of each other's decisions. The MWCI considered, in a strategic context, three wind farm proposals within SSA C (LM, LD and LF) and heard detailed evidence about the finite environmental capacity of SSA C. The strategic approach pursued by PCC considered that the finite environmental capacity will already have been met by schemes or parts of them which, in combination, Powys supported. The position adopted by PCC both at the MWCI and at this one was the formally agreed and authorised position of PCC.

³⁵ CD 35c

³⁶ CD 6

55. Whilst it is not known when a decision will be reached on the MWCI, the result may be highly material to the decision of the WG on this proposal and to what regard should be paid to Welsh policy. The issue is in part one of timing, but PCC urges that steps are taken to ensure that there is a process instituted which allows consideration between the decision makers of what is being proposed in a strategic way. To do otherwise would endanger the WG policy being adhered to and has the potential of it being ignored. The reality is that the forthcoming MWCI decisions will apply and consider Welsh policy relating to, in particular, SSAs. The capacity limits in Welsh policy and environmental capacities will be fundamental to the decisions and should not be taken in isolation.
56. Nevertheless, the decision maker could properly refuse this proposal given the inherent unacceptability of it and to do anything else at this stage would, in the submission of PCC, be to fall into error.

The case for the Conservation of Upland Powys Group

57. The case for CUP as contained in the closing submission made in writing is set out in full in Annex C to the report. CUP also analysed and provided a summary of reasons for objection from individuals who did not make verbal presentations to the Inquiry. The main points of the case are summarised below.
58. The landscape and the visual amenity derived from it would be significantly affected by the development. For those who value the areas remote, tranquil and wild qualities and far reaching views the wind farm would be visible for some 24km of Glyndŵr's Way. Whilst the area in which the appeal site lies may not be designated, there is no differentiation in terms of the qualities which span the area and those of the AONB. Placing multiple turbines on an upland plateau in an area highly valued, unspoilt and with far reaching panoramas of considerable loveliness and tranquillity renders the scheme unacceptable in the planning balance.
59. Although relatively remote the area does sustain isolated properties whose residents would be seriously affected by various aspects of the development. Residents would experience loss of visual amenity, noise, shadow flicker, possible cumulative effects with other wind farms and the disruption of a protracted construction period. This would cause a dramatic degradation of their living conditions such that several of the properties would become unsatisfactory places to live.
60. Noise and amplitude modulation associated with wind turbines is increasingly recognised as a significant problem. Research and medical advice from many countries increasingly cast serious doubts on the protection offered to residents from noise and its effects on health.
61. The effect of the development on the setting of the SAMs would be severe and requires full consideration in the planning balance. To high sensitivity walkers and riders near the heritage sites the proximity of the turbines would be overbearing. The intervisibility between many of these sites is a crucial aspect of their significance in this important historic landscape. Although the turbines do not intersect the line of intervisibility, their scale and proximity would have a severe effect upon any appreciation of the assets and this vital axis.

62. Tourism is an important source of income to mid Wales. Wind turbine development has the potential to alter the natural environment by changing landscape character thus detracting from the key attraction and deterring existing and potential visitors from accessing the area. Horse riders are important to local tourism and the proposed development would result in local and visiting riders choosing to avoid the area.
63. Alterations to the A483 between Newtown and Llanbadarn Fynydd access would be highly disruptive on this circuitous and relatively dangerous road. There are already many disruptions due to necessary maintenance work and the works required to facilitate the development would add to these. Traffic generated by the development, particularly the movement of AILs, would bring considerable disruption to Newtown and the A483, causing disruption to residents and businesses. The situation would be exacerbated by the proposed construction of the Newtown by-pass scheduled to commence in 2015. The access route through the wind farm site has failed to take account of the amenity needs of the occupiers of Fiddlers Green and Lower Fiddlers Green with regard to noise, dust and private water supplies.
64. Evidence with regard to the effect of the proposal on the natural environment is limited and does not fully demonstrate the effect it would have on the local populations of curlew, bats and other protected mammals.
65. Whilst there may be a need for wind energy and to develop onshore wind capacity, good planning principles must still be applied. This is essential for wind farms where the effect is so dominating, rural landscapes have a limited capacity of absorption and the potential for impact on residents and other socio-economic factors is high.
66. Mid-Wales already has over 270 wind turbines and the development of more would result in more obtrusive siting and extensive new infrastructure. The area has made its contribution to wind in the energy mix and this should be seen as a natural conclusion to development and an opportunity to look at other renewable sources and more sustainable energy conservation in the region before the unspoilt and precious natural beauty of the region is compromised and the important rural tourism sector damaged.
67. The SSAs in TAN 8 were never intended as pre-determined wind farm sites but were "broad brush" search areas where it may be possible to construct large wind farms. They were drawn up without reference to landscape (other than where designated); ecology and biodiversity; national trails and specific cultural heritage assets, or socio-economy. Transport and access issues were also excluded. All these material planning issues were left for later consideration so there is no reason for not giving full and proper consideration to all factors. Moreover as the SSAs were not adopted in the UDP there are only indicative and untested boundaries to them. The nature of wind farms and knowledge of their effectiveness and impact has changed considerably since 2004 as Arup anticipated in their advice that a review should be undertaken within seven years. Furthermore, Powys County Councillors voted unanimously (one abstention) in April 2012 that TAN 8 was no longer fit for purpose and more wind farms should not be considered until it was reviewed. There is thus even less legitimacy for the application of TAN 8 in Powys.

68. In addition Arup and assessors, Garrad Hassan (GH), both indicated independently that all the land within the SSAs would not be suitable for wind farms once all material planning considerations were taken into account. GH found that the areas would be unlikely to achieve even their original capacity targets when such issues were considered. As this was 70 MW for SSA C the argument by RES that the figure of 148MW should be used bears no credibility. In fact the appendices of the report show that for the base case plus noise (i.e. without considering all the other planning issues) for SSA C only some four of the proposed turbines are on land that GH considered suitable.
69. It is clear that the SSAs are not predetermined areas and that it is inappropriate to give any planning weight to their existence. The target capacities that were in the original Tan 8 have been removed and the Ministerial letter only talks of environmental limits. Thus, as required by UK energy policy, there are no technology specific targets to be met in the SSAs. The appeal proposal should therefore be determined against normal planning criteria enshrined in the Powys UDP and including the effect on the qualities of the Shropshire Hills AONB.

The case for Kerry Community Council (KCC)

The material points made by Mr Jones on behalf of Kerry Community Council are:

70. KCC is one of the largest Community Councils in Powys with approximately 1286 households and whilst the wind farm would not be within its geographical area, the transport links pass through it. A survey of local residents was undertaken with regard to MWCI and KCC considered the results to be relevant to the current proposals. Of the 458 (37%) households who responded, 81.3% did not support the five large wind farms proposed and 71.3% were concerned about the effect of construction traffic. The main concerns raised were with regard to effects on health, shadow flicker and the decrease in the water holding capacity of the uplands as well as the significant damage to the landscape.
71. The Kerry Hills are contiguous with the Shropshire Hills AONB. The attraction of the upland area is the long distance views from the public rights of way and the proposed turbines would blight this undisturbed landscape and render it less attractive to tourists. Tourism is important to the area and the development would threaten the livelihood of many.
72. Wind is not constant and it is necessary to rely on other forms of electricity when output levels from the turbines are low. Wind levels would be insufficient to make the proposal viable making it reliant on subsidies. The lack of wind also increases the need for turbines with greater impact on the Welsh landscape. There are large parts of Wales where wind farms cannot be located which results in a disproportionate and unsustainable number in mid-Wales.
73. Significant difficulties are foreseen on the local road network during the construction phase and the consequent effect on local businesses over a number of years with regard to deliveries as well as delays for emergency vehicles. The traffic jams in Newtown already result in vehicles finding alternative routes through the area.

Construction traffic associated with the development would lead to further delays and increased use of minor roads.

The case for the British Horse Society (BHS) – Messrs M Brennan and M Mosse
(Documents ID 31 and ID 32)

Mr Brennan is BHS Access and Bridleway Officer for Mid Powys. The material points he made are:

74. BHS guidance is intended to provide for safe off-road riding for all equestrians. It seeks separation distances of three times the height of the turbines for bridleways and four times the height for national trails. The latter makes additional allowance for riders who are exposed to turbines without previous opportunity for preparation. Within these distances the turbines might be described as appearing dominant and overbearing when viewed from the bridleway.
75. The results of the BHS Wind Turbine Experience Survey, 2012 were published in October 2013. The survey concluded that the impact of turbines was across all horses, even those chosen for their placidity for more vulnerable riders with increased accident risk for some riders. As access to off-road routes is very limited, it is vital that no constraints are added which might prevent safe access by any equestrian. Whilst some equestrians would continue to use routes near turbines in safety, others would avoid the area. There were also risks to equestrian businesses in the area.
76. Turbines of the scale proposed have a blade tip speed of 72m per second which equates to approximately 160mph. Issues of noise, shadows and perceptions about personal safety in the event of turbine failure seem reasonable in such close proximity.

Mr Mosse is BHS Access Officer for North Powys. The material points he made are:

77. BHS has the aim of safe off-road riding and to this end when turbines were generally about 65m to tip a separation distance of 200m was proposed. To reflect the increased size of the turbines this has been amended to three times the height and four times on National Trails. Weight was given to this recommendation in a recent appeal decision³⁷ where the Inspector found that 110m high turbines would dominate a right of way despite another route giving separation of 252m being offered.
78. Whilst it is proposed to alter the route of the BOAT, it is not clear under which legislation this would be sought and whether it would be successfully achieved. An objection to the development is therefore maintained on the grounds of the distance of certain turbines from public routes and the contribution of some to creating a corridor effect which would some stretches less attractive for riders. Turbines to the south of the route present an additional challenge with reports of horses attempting to jump the falling shadow of descending blades. From autumn through to spring the length of shadow at mid-day can be well over three times height.

³⁷ Appeal Ref: APP/T6850/A/13/2198831 Land at Pentre Tump, South-East of Llanfihangel-Nant-Melan, New Radnor, Powys

79. Consideration has not been given to the effect of the development on Enclosure Carriageways, legally constituted public routes dating to a time when the land was enclosed as part of the Beguildy Creig-y-byther award.
80. It is important that rights of way are considered. Riders will be deterred from visiting mid-Wales and as they come to follow routes across the country the creation of a gap in one part of the network would have consequences for accommodation providers in other parts.

The case for Miss M Flanders (CUP/4 page 13 and ID 33)

The material points are:

81. Miss Flanders and her husband, Mr Crawford, have lived at Fiddlers Green (referred to in some of the documents as Upper Fiddlers Green) since 2007. They chose it as their retirement home because of its quiet location within beautiful unspoilt countryside. Miss Flanders also spoke on behalf of her elderly neighbours, Mr and Mrs McCann, at Lower Fiddlers Green who were unable to attend the Inquiry.
82. The boundary of the proposed wind farm adjoins the western boundaries of Fiddlers Green and Lower Fiddlers Green. They are also in close proximity to the proposed wind farms of LF, BG and NG. If all the wind farms get built the properties would be surrounded on three sides by a total of 55 turbines, the nearest of which would be within 870m of Fiddlers Green. Moreover, as Fiddlers Green lies well within the boundary of SSA C, there is the potential for further wind farms on land to the east of the dwellings which would result in turbines on all sides.
83. The main access track would run across the hill to the south west of both properties and could potentially cause problems of noise, dust and pollution both during its construction and subsequent use by high volumes of traffic accessing not only the appeal proposal but also the proposed BG and LF wind farms.
84. There is no mains water supply in the area. Fiddlers Green is reliant on a private supply from a borehole within the grounds to the property which is fed by an underlying aquifer and from a spring on the hill to the west. Lower Fiddlers Green is also reliant on a spring in a similar location. The main access track would cross the route of the supply pipe to Lower Fiddlers Green. There is the potential for contamination or loss of the private water supplies to the dwellings from the access track and furthermore from the borrow pits. The documentation submitted in respect of the development fails to address the effect on the water supply to the properties.
85. At the MWCI it was accepted by the developer of the LF wind farm that construction of the access track would have a detrimental effect on the private water supply to Fiddlers Green. There is also the risk that the ground adjacent to the main access track would become polluted by the very large number of vehicles using it to access not only the appeal proposal but also potentially BG and other wind farms.
86. The Centre for Radiation Chemical and Environmental Hazards has advised that concentrations of radon can increase in boreholes especially those located in rocks with a high uranium or radon content. This area is listed as a high radon area. Increased radon in drinking water could increase the concentration of radon in the air within the

dwellings, with additional exposure from ingesting radon that remains in the drinking water. This is a serious health risk as there is no certainty that the quality of the water supply would be maintained if the development goes ahead. Although a condition of the permission could require the matter to be addressed, it is considered that only a legal agreement would suffice in this instance.

87. Noise from the construction of the main access track and its subsequent use by high volumes of traffic would have a detrimental effect on living conditions. Working hours are potentially between 06:00 and 20:00 on Mondays to Saturdays for 18 months for the proposed development and a total of 3.5 years if all three wind farms go ahead in accordance with the proposed timescales. The evidence indicates that noise levels experienced at Lower Fiddlers Green during the construction period would be in excess of maximum daytime standards, with no allowance being made for the effects of the local topography. There is also the potential for cumulative construction noise as the timetable for the proposed wind farms show overlapping construction periods. As Miss Flanders and Mr Crawford spend much of the daylight hours outside tending their land Miss Flanders considers they would be extremely vulnerable to all noise from traffic and construction works which could make their lives intolerable.
88. A maximum of 21 of the originally proposed 23 turbines would be visible from Fiddlers Green. Although existing conifers would help screen views of the turbines they would be visible and create a dominant feature in the outlook to such an extent that it would be an unattractive place to live. Moreover, the documentation for the proposed LF wind farm states that there would be '*a constant presence accessing and leaving the property*'. If all the proposed wind farms go ahead, residential visual amenity would be completely destroyed.
89. The adopted lane giving access to Fiddlers Green, Lower Fiddlers Green and other properties is a single track no-through road with few passing places. It is currently used by residents and farm traffic. The proposed public car park would be accessed from this lane and PCC has stated that it should be capable of accommodating several horse trailers and vehicles. The provision of the car park would actively encourage visitors to the area and would provide access to the public rights of way which cross the appeal site, including the BOAT. Access to the car park would be past Fiddlers Green and Lower Fiddlers Green resulting in increased volume and traffic noise and problems of security. Whilst at present the BOAT is closed to all motor traffic and horse drawn vehicles, its reopening would permit vehicles to access the site and provide a link to the main access track. This would add to the noise and traffic nuisance already outlined.

The case for Mr B Crawford (CUP/4 page 2 and ID 34)

The material points are:

90. The purchase of Fiddlers Green by Mr Crawford and Miss Flanders was not only for its quiet rural location but also the dark skies as Mr Crawford's main occupation is as an astronomer, not only making practical observations but also designing and building astronomical telescopes. Mr Crawford's main objection to the proposed wind farm is that it would adversely affect his and Miss Flanders health, well-being and right to the peaceful and quiet enjoyment of their home.

91. Mr Crawford considers that reliance cannot be placed on the predicted operational noise levels as they are based on a candidate turbine type and a proxy location has been used for the noise predictions for Fiddlers Green rather than actual background noise measurements. Actual background noise levels were taken in 2011 with regard to the proposed NG wind farm and for the proposed LF wind farm a proxy location was used (Esgairuchaf). For the appeal proposal the proxy location initially used was Blaen-nant-du 2 but this has been changed to Esgairuchaf. Nevertheless, there is a clear disparity between the data which calls into question the estimated noise levels likely to be experienced by residents. Furthermore the cumulative noise levels predicted for Fiddlers Green by RES differ from those given by the developers of the proposed NG wind farm.
92. There is the potential for the operational noise from the wind farm to have a serious detrimental effect on nearby residents. Fiddlers Green was purchased because of the almost complete absence of man-made noise and any increase in noise levels, whether or not they comply with ETSU-R-97 limits would be unacceptable.
93. ETSU-R-97 excludes the measurement of low frequency noise and infrasound and purposefully skews the bias towards the higher audible end of the sound spectrum, completely ignoring the lower frequencies. Although it is considered that the level of low frequency noise produced by wind turbines does not exceed levels from other common sources, such as road traffic noise, in this rural location on a no-through road there is minimal traffic noise. To suggest that low frequency noise should be tolerated is unacceptable.
94. Infrasound is a recognised problem for wind farm developers. Low frequency and infrasound emissions are experienced as a form of vibration transmitted through the ground, penetrating buildings. As many as one in five humans could be adversely affected by these vibrations and it is impossible to know whether one is likely to be affected until one has to live with this phenomenon.
95. In addition to the potential effects of shadow flicker and specular reflection, on occasions the moon will cause nocturnal shadow and flicker effects. The brightness of a full moon illuminating the landscape would make sweeping shadows of the turbine blades clearly visible and together with the rhythmic audible pulsation would greatly increase the potential for residents to suffer an unacceptable level of sleep disturbance.
96. No specific information has been given in respect of on-site lighting either during the construction phase or when the wind farm is operational. Any additional lights in the area, including those of vehicles on the site, would affect the dark skies and interfere with Mr Crawford's scientific astronomical observations.

The case for Mrs M Brock (ID 35)

The material points are:

97. Mrs Brock and her husband run a 4 star tourism business offering bed & breakfast, self-catering and camping accommodation together with livery facilities. Guests use the footpaths, bridleways, permissive routes and long distance trails over areas that would be significantly affected by the wind farm. Moreover Mrs Brock and her guests regularly walk and ride along the BOAT passing through the appeal site. She is

concerned that local routes would become unpleasant, challenging and unsafe and consequently she would be unable to recommend them to her guests.

98. Whilst RES claims there is little tourism in the area Mr and Mrs Brock have spent 17 years developing the business which provides them with their livelihood and supports the local economy and other tourism based businesses. The area is promoted as beautiful, peaceful and quiet by Visit Wales and Tourism Partnership Mid-Wales. Mrs Brock cannot accept that the development would not have a detrimental effect on tourism and her personal livelihood.
99. Disruption during the construction period would make the area unattractive to tourists. Moreover many horses have problems with turbines and whilst some local horses may become desensitised with familiarity, this would not be possible for visiting horses. Mrs Brock fears that the area will become unattractive to riders which would have a severe impact on the business.

The case for Mr R Trueman (ID 36)

The material points are:

100. Mr Trueman restricted his concerns to two issues resulting from a written reply he had received from RES, namely the projected load factor and effect on global climate. In framing his concerns Mr Trueman has had regard to a research study by Stuart Young Consulting for the John Muir Trust and a research study by Dr Gordon Hughes, Professor of Economics at the University of Edinburgh.
101. RES states that the wind farm would operate at a load factor of 36.4%. However, the normalised load factor for UK onshore wind farms decline from an initial peak of 24% to 25% in year one down to 15% by year 10, less than half that claimed to be likely for the scheme. This means that 80% of the total output of any wind farm is likely to be produced within the first ten years. It is very unlikely that any new wind farms will have a life of more than 15 years because by then the load factor will have dropped to 11%. The difference in these figures has implications for the cost in terms of the damage to the local environment. Wind operators would have a strong incentive to decommission plants and replace turbines with newer equipment which sustains local disruption and damage repeatedly.
102. The evidence suggests that the industry does not have the capability to identify, develop and operate new onshore wind farms at a rate to meet government targets and achieve a satisfactory level of performance. The diminishing marginal returns on each new site damages the economy and the nation's competitiveness.
103. In terms of generation of electricity, more than half of the time wind farms produce less than 20% of their supposed capacity and for more than one third of the time they produce less than one tenth. Moreover, the entire UK wind farms only produce more than 30% of its supposed capacity for one third of the time they operate. For the best part of half the time they generate, the power is not needed and is compensated for financially by the Government.
104. With regard to the effect on the global climate, the government announced that if approximately 6700 turbines with over 13,000MW capacity were to be installed it might

reduce the UK's CO₂ emissions by 9.2 million tonnes. The saving represented by the proposed wind farm would be 20,000 tonnes or less than one fifth of that released by one jumbo jet. Annual releases globally are 34,000 million tonnes and rising.

The case for Mr M Halsey (CUP/4 page 31 and ID 37)

The material points are:

105. Mr Halsey and his wife live on a 10 acre smallholding which they have renovated from a semi-derelict farmhouse over the last ten years. The property is located approximately 4km from the proposed wind farm and lies between the proposed LF and NG wind farms.
106. With an estimated 1,000 HGV trips per turbine the trunk and narrow local roads would be subject to an immense increase in traffic. Moreover, AILs being transported on the narrow roads and tracks plus the necessary support vehicles would add to the noise and chaos. Construction activity would add further to the noise levels and shatter the peace of the local area.
107. Operational noise from turbines can be a major problem causing sleepless nights together with the attendant health hazards associated with infrasound and Amplitude Modulation. Moreover, wind farms do not work efficiently and thereby effectively. It is an intermittent form of energy and therefore cannot be relied on.
108. The harm to the local community from the wind farm would be from: traffic congestion and delays, access difficulties, detrimental effect on businesses; air and water pollution; structural damage to roadside homes and businesses; sleeplessness caused by noise pollution; and shadow flicker and its attendant health risks. Some residents are unable to sell their properties because of the blight caused by the proximity to wind farms and have no right to compensation as seen in relation to HS2 and fracking.

The case for Miss M Evans (ID 38)

The material points are:

109. Miss Evans has suffered from unusual noise sensitivity from childhood which affects her health in a variety of ways. Total silence and stillness are important factors in managing her health and Miss Evans is reliant on the complete quiet within her home and garden and the quiet of the hills surrounding her home in which she walks to maintain a level of fitness and her equilibrium.
110. Miss Evans anticipates that from her property she would see most of the proposed turbines. Not only would her daily life be seriously compromised by the noise and vibrations from the wind farm but also by the visual effects of the turning blades in the form of flicker and shadows. The noise sensitivity suffered by Miss Evans extends across a full range of sources many of which come from within her own home. Although these frequently become unbearable to her she can remove herself from them. Miss Evans is concerned that she would be powerless in relation to the proposed wind turbines.

111. Miss Evans also raised concerns regarding radon gas and its propensity to enter any building, cab or enclosure and cause lung cancer. This could not only affect nearby residential properties but also workmen on the site. Miss Evans is reliant on a private water supply from a borehole which she is concerned could become contaminated from a number of sources during construction and operation of the development, including radon gas.

The case for Mrs S Sanford (CUP/4 page 52)

The material points are:

112. Mrs Sandford and her husband have lived at Bryn Mawr Cottage for 14 years. The property is close to the site. Mrs Sandford is concerned that the development would ruin the landscape and her visual amenity, which was one of the reasons they moved to the area. The effect on her daily life would be immeasurable. The cumulative effect of LF, BG and the appeal proposals would mean that a total of 36 turbines would be seen from the property or on the approach to and from it. The appeal proposals alone would render the gardens unusable.

113. Visitors to the area come for the unspoilt countryside. If this is lost the area would be ruined, no-one would want to visit, live or work in the area. The shops, pubs and small family run businesses would close. Farmland would be turned into industrial estates which have no place in the rural uplands.

The case for Mr J Sanford (CUP/4 page 34 and ID 39)

The material points are:

114. The local area would suffer years of disruption during the construction phase as well as suffering the operational effects of the completed wind farm. Development would have a detrimental effect on the living conditions of residents with regard to visual amenity, noise, vibration, shadow flicker and reflected light. The local tourist industry would also be affected as would the local bat population.

115. Traffic generated by the development would affect traffic flow and highway safety to the detriment of local residents

116. The evidence with regard to the visual effects on receptors using Glyndŵr's Way near Bryn Mawr Cottage records their sensitivity as 'high', the magnitude of the impact as 'substantial' and the visual effect as 'major significant'. The effect on Bryn Mawr Cottage is not recorded but would be of a similar magnitude as it is closer to the site than Glyndŵr's Way and is an occupied dwelling.

The case for Mr C Thomas (ID16)

The material points made verbally by Mr Thomas are:

117. Mr Thomas was born at Beguildy and has lived there all his life. He owns land to the south of the appeal site which forms part of the proposed NG wind farm. Mr Thomas was Chair of the Beguildy Community Council in 2008 when the application was considered by it. Since then the school has closed and the public house is due to close whereas the proposed wind farm would put money towards community schemes.

118. The new access from the A483 would blight the landscape and surface water run-off would be excessive. Consideration should be given to upgrading the road from Dolfor to serve the wind farm which would also benefit the local community.
119. Local residents living in close proximity to and at the same altitude as the turbines would be strongly adversely affected by the development. However, there is a need for renewable energy. Whilst the concerns of local residents are accepted, things cannot be left in limbo. Properties for sale are not selling partly due to the lack of jobs. Nevertheless there should be a way of compensating local residents for the blight caused by the proposed wind farms.
120. Mr Thomas also stated that the LANDMAP designation cited in evidence was incorrect. He reported correspondence he had received from NRW regarding LANDMAP and a planned correction to the boundary of Landscape and Sensory Aspect Area VS110 due to be published in early 2015. As part of this review land currently within VS110 would be transferred to VS122.

The case for Mr J Roberts (ID 40)

The material points are:

121. Mr Roberts lives near the south eastern corner of the appeal site and turbine No. 3 would be visible from the house and within approximately 878m of it. The grid connection would also run past the property, along a valley of high visual and sensory value and high cultural landscape importance. The development would intrude into the daily lives of many living in the area.

The case for Mr R Wright (CUP/4 page 55 and ID 41)

The material points are:

122. Mr Wright expressed a need to conserve and protect the mountaineering, climbing and hill walking landscapes of England and Wales for people and nature and to protect areas from development that damages the landscapes character and detracts from their recreational and amenity value.
123. The impact of the proposed wind farm on Glyndŵr's Way is alarming. Visitors are attracted to the area by the unique vistas and remote location. The proposed development would overpower Glyndŵr's Way and other public rights of way. What is very evident is the proximity of the development to the ancient cairns, dykes and tumuli that are our cultural heritage and such an attraction to visitors. Castell y Blaidd is an outstanding landmark and feature to walkers using the trail. Any wind farm would detract from this monument. In other countries the prospect of wind turbines close to national trails would be unthinkable.

Written Representations

124. Letters of representation were submitted to the Inquiry from the Shropshire Hills AONB Partnership (ID 12) and Mrs Minshull (ID 13). Mrs Minshull made no additional points to those already raised.

The material points made by the Shropshire Hills AONB Partnership are as follows:

125. Whilst the number of turbines has been reduced from 23 to 17, this would not reduce the visual impact of the scheme on the AONB to an acceptable level. The Assessment of Landscape and Visual Impacts (LVIA) in the SEI 2014 states that parts of the AONB would be significantly impacted by the development in terms of both views and landscape character in an area of the south-west Clun Forest but goes on to conclude that since only a small part of the AONB is significantly affected, this can be deemed acceptable. This is a spurious line of argument which by implication would afford greater protection for a smaller AONB (in which a greater proportion would be affected). There is no policy or precedent in planning decisions for such an argument, which is unsound.
126. The development would impact negatively on the scenic and environmental quality and tranquillity of the AONB and affect opportunities within it for the enjoyment of the landscape. The LVIA assesses the impacts against the AONB's special qualities individually, with the apparent aim of reducing the assessment of impact overall. The special qualities of the AONB are inter-related and a development need not affect any particular number of qualities to be unacceptable. The integrity and value of the AONB's landscape is made up of the quality of all of the places within it and not just through the attributes generalised across the whole area. This development would undermine the purposes for which the AONB was designated.
127. The significant impacts of the proposal on the AONB are demonstrated by the RES assessment. The policies of the statutory Shropshire Hills Management Plan 2014 – 2019 entitled Valuing the AONB in Planning and Decisions states that "Land within 5km of the AONB boundary is unsuitable for large scale wind farm development"³⁸ Also Section 85 of the Countryside and Rights of Way Act states "have regard to the purposes of conserving and enhancing the natural beauty of an area of outstanding natural beauty".
128. The Planning Inspectorate received representations on the appeals from approximately 22 individuals and organisations in respect of the initial scheme and approximately 32 representations were received as a result of the consultation on the amended scheme. All 22 of the initial representations were against the proposal as were all but three of those submitted in respect of the amended scheme. NRW raised no objection to the revised scheme, subject to appropriate conditions with regard to matters of ecology and biodiversity, Welsh Water offered no comment and Beguildy Community Council considered it had insufficient information to form an opinion. No additional material points to those already reported were raised in the written representations.

Conditions

129. At the Inquiry a discussion was held on suitable conditions that would need to be applied should planning permission be granted for the proposed developments. A set of draft conditions for each appeal was provided for consideration and were discussed at the Inquiry (ID 22). A final set of conditions drafted in line with Circular 016/2014³⁹

³⁸ CD 33b page 39

³⁹ Welsh Government Circular WGC 016/2014 The Use of Planning Conditions for Development Management

and amended to reflect the discussion at the Inquiry was submitted (ID 27). The matters which remain in dispute are set out in the following paragraphs. The condition numbers quoted refer to those in Documents ID 27.

130. Miss Flanders and Mr Crawford submitted a joint list of matters they consider require addressing by condition (ID 23 and ID 24). The matters raised include construction traffic and construction works, protection of private water supplies, public car park, diversion of the BOAT, noise and residential living conditions. These matters have been addressed.

Appeal A

131. In specifying the dimensions of the turbine in condition 1 PCC was of a view that a combined generating capacity of up to 34MW should also be stated. RES is of the opinion that as the final choice of turbine has not yet been made and as models of the dimensions proposed vary in their generating capacity this is a matter which should not be restricted. However, I consider it may be necessary to limit the generating capacity if the total capacity of SSA C is not to be exceeded.
132. A matter not raised by the parties but which I consider needs addressing is that although the height of the turbine to blade tip is specified, the hub height is not. In not doing so the turbines could vary in the size of their component parts in that the hub could be greater and the rotor diameter smaller than suggested by the drawings and vice versa. Consideration of matters relating to noise and shadow flicker in the ES and SEI were based on a hub height of 80m and tip height of 126.5m and installation of a turbine of different dimensions could have implications for the matters raised in the appeal and which have not been considered. Whilst condition 1 requires the submission of details of the turbines, I consider specification of the hub height as well as the blade tip height to be necessary and reasonable.
133. In Condition 5 PCC requires, prior to commencement of the development, a photographic record of the areas of the site which would be disturbed which would provide a basis for the restoration of the site. RES considers that such a record would be unnecessary given the limited area of the site to be developed and the detailed documentation already submitted. Whilst a vast amount of documentation has been submitted, it has been assembled over a number of years and a further period of time will elapse before work would commence. Under these circumstances and given the limited area of the site which would be disturbed I do not consider the condition to be unreasonable.
134. With regard to the actions to be taken in the event of a turbine failing to produce electricity for a prolonged period of time PCC seeks in condition 12 the removal of the turbine and ancillary equipment within 6 months of the deemed cessation date. RES is of the opinion that removal should not be required if the failure to produce electricity is due to compliance with a condition of the permission, such as noise. Moreover RES proposes the submission of a scheme to repair or remove the turbine within 6 months of the cessation date and its implementation within 6 months of approval. If the operation of a turbine is prevented by a condition of the permission it would be unreasonable to require its removal if the reason for its non-operation can be overcome.

135. Whilst the parties are agreed in condition 14 that an allowance for micro-siting of the turbines is required there is disagreement over the required distance with PCC advocating within 50m and RES within 75m of the proposed locations of the turbines. The reason for the increased distance put forward by RES is the potential problems due to ground conditions. However, 50m from any turbine would give a reasonable area within which to re-site a turbine without having consequent effects on other matters at issue in the appeal.
136. Condition 24 requires the submission and approval of a Construction Environment Management Plan (CEMP). The only area of disagreement between the parties was in relation to excavated materials in sub-section (r) of the condition. PCC required the addition of "*Backfill material for the borrow pits shall be of similar permeability to the excavated rock and inert*". RES considered that this could not be achieved. In view of the Council's concerns and lack of detail available about potential materials which might be used to backfill the borrow pits, it would be reasonable and necessary to require agreement of these details as part of the CEMP.
137. In view of the concerns raised by residents with regard to the integrity of private water supplies originating within the appeal site and where there is no possibility of any other water supply the protection of the water quality in watercourses within the site and groundwater beneath it is a necessity. Whilst there was agreement in condition 31b requiring the monitoring of water quality, it was the frequency the monitoring should take place within the construction period which is in dispute. PCC favoured monitoring every three months whereas RES suggested every 6 months. Given the reliance of residents on their private supplies and the importance of the water quality, monitoring every three months and suitable mitigation should the water quality deteriorate would not be unreasonable.
138. There was disagreement between the parties with regard to conditions 35 to 40 which all relate to cultural heritage. RES proposed that none of the turbines should operate until details had been submitted of financial instruments and arrangements which would ensure funds sufficient to cover works to secure the survival of the LBs at Cwm-yr-Hob, repair works to Castell y Blaidd and tree clearance works on the monuments which form part of the Cae Glas Barrow cemetery. However, as discussed in later sections of the report, I do not consider that these works are necessary to make the development acceptable. Moreover, RES does not control the sites in question and there is no definitive evidence that compliance with such conditions would be possible.
139. PCC is of the view that infra-red aviation warning lights would be required. However, RES considers such a condition to be unnecessary as no aviation consultee required such lighting on the grounds that the height of the turbines would be less than 150m.⁴⁰ On this basis such a condition would be unreasonable and unnecessary.
140. With regard to noise, PCC has put forward condition 43a which requires the assessment and regulation of Excess Amplitude Modulation (EAM). RES considers the condition to be unnecessary. Whilst it is not known if EAM will exist, if it does it could

⁴⁰ CD1 Chapter 11.

have an effect on local residents, particularly those with health conditions affected by noise. In this instance to a precautionary approach would be reasonable.

141. The general noise condition 44 is not in dispute, but PCC is of the view that one set of noise limits should be imposed whereas RES considers that a differentiation should be made if LF wind farm goes ahead. Given that the outcome of the MWCI and whether LF wind farm will be permitted is as yet unknown it would be reasonable to differentiate between the two scenarios. However, this may need to be revisited in the event that a decision is made on the LF wind farm in advance of this appeal.

Appeal B

142. PCC seeks in condition 9a remediation of any damage or deterioration of the trunk and local highway network as a result of the development. RES is not in agreement with this condition. Whilst the volume of traffic which would be generated by the development would not be significant in terms of the volume already using the A483, it would be significant in terms of the minor roads. Although only a short section of minor roads would be used in accessing the site, it would not be unreasonable for the developer to be responsible for the damage and deterioration it might cause to the highway network.
143. The parties were agreed over the need for a protected species protection plan but were in dispute over the wording of condition 12 with regard to details of avoidance of otters, bats and dormice. PCC specified details of "Avoidance/mitigation (where necessary)" whereas RES suggested "Avoidance (where possible) and mitigation". In view of the status of these species and the protection afforded them under legislation "avoidance and mitigation where necessary" is required.
144. The parties were generally in agreement over the terms of condition 14 in respect of a CEMP. However, in respect of the requirement in sub-section (k) for the re-instatement of any disturbed ground post construction, RES was of a view that such work should only be where practicable and required by the local planning authority. This wording allows consideration to be given to the options for re-instatement and appears to be a reasonable approach.
145. Under sub-section (o) of the same condition PCC seeks a biosecurity risk assessment to include the containment, control and removal of non-native species on site and measures to prevent the colonisation or introduction of invasive non-native species or diseases. RES on the other hand is of the view that the need for arrangements to prevent the spread of non-native invasive species would be sufficient. Although there is no evidence of non-native invasive species being present within the site, the wording suggested by RES would not ensure they were not introduced.

Conclusions

146. Bearing in mind the submissions and representations reported and having regard to the environmental information and the likely environmental effects of the proposed developments, I have reached the following conclusions. The numbers in square brackets indicate the relevant source paragraphs of the report and those with a letter prefix indicate the relevant annex or document. The cases put to the Inquiry by the parties took account of the reduction of the proposed scale of the wind farm from 23 to

17 turbines. Given my recommendation that it would be appropriate for Appeal A to be considered in the light of the reduced scheme I have assessed the appeal on that basis. [2-4, A5-8]

Main Considerations

147. I consider the main issues with regard to the wind farm appeal to be:

- The policy context and whether the proposal in combination with other developments would exceed the WG capacity limit for the Strategic Search Area;
- The effect of the development on:
 - the landscape character of the area;
 - visual amenity;
 - setting of Scheduled Ancient Monuments and Listed Buildings;
 - noise;
 - health;
 - ecology;
 - tourism; and
 - living conditions of neighbouring residential occupiers with regard to the internal access track, increased traffic on the local highway network, private water supplies and shadow flicker,

148. In respect of the access route appeal, I consider the main issues to be:

- The effect of the development on the free and safe flow of traffic on the public highway; and
- Ecology and the Habitats and Species Regulations 2010

Appeal A

Policy Context and SSA capacity

149. WG is committed to delivering renewable energy as part of its objective of combating climate change and achieving the targets for renewable energy which are reflective of the UK's international obligations. Its aim is to secure an appropriate mix of energy provision which maximises benefits to the economy and communities, whilst minimising potential environmental and social impacts⁴¹. Wind energy is recognised as offering the greatest potential in the short to medium term for delivering renewable energy and is a key part of meeting WG's vision for future renewable electricity production as set out in the Energy Policy Statement (2010) and should be taken into account when determining applications. However WG accepts "*that the introduction of*

⁴¹ PPW 7 Paragraph 12.8.6

*new, often very large structures for onshore wind needs careful consideration to avoid and where possible minimise their impact*⁴². [20, 47, A26-30, B4-5]

150. TAN 8 considers the identified SSAs to be the most appropriate locations for large scale wind development. PPW 7 in paragraph 12.8.13 states that the development of a limited number of large scale (over 25MW) wind energy developments in these areas will be required to contribute significantly to WG's on shore wind energy aspiration for 2GW in total capacity by 2015/17, UK and European renewable energy targets, to mitigate climate change, and deliver energy security.[35, 47, 67, A30, B6-14]
151. The indicative capacity target for SSA C quoted in TAN 8 (Table 1) is 70MW and is stated to represent a one third reduction on the maximum capacities identified by GH as reviewed by Arup in their 2005 report. The GH report considered SSA C to have capacity for 74 turbines producing 148MW but when assumptions as to noise restrictions upon capacity were applied these figures were reduced to 49 turbines with a rated capacity of 98MW, based on 2MW per turbine. The Ministerial letter of July 2011 (the Griffiths letter) expects all decision makers to respect the fact that SSAs have a finite environmental capacity and output should not exceed the maximum levels outlined. For SSA C that maximum level is stated in the letter to be 98MW and it is not my role to challenge the validity of that figure. No mention is made of increasing output in one SSA as a trade-off for other SSAs not achieving their stated maximum or not providing any capacity at all. Nor is any trade-off between other sources of renewable energy suggested. Whether or not the figure would be exceeded in this case is influenced by the following factors: the treatment of turbines outside the SSA boundary; and actual installed capacity. [47, 68, A37-58; B15-25, C11.6-11.7]
152. TAN 8 recognises that the boundaries of the SSAs are at a "broad brush" scale and considers it a matter for local planning authorities to undertake local refinement within each of the SSAs in order to guide and optimise development within them. Neither the Ministerial letter nor TAN 8 gives specific guidance as to what to do with turbines located outside SSA boundaries. On a strict interpretation, it is arguable that, as the finite environmental capacity relates to the defined SSA, any turbines outside the SSA should not be counted. This approach has been supported in other cases⁴³. [47, A37-58, B7, C11.4, C11.6]
153. The refinement work advocated by TAN 8 was undertaken by Arup on behalf of PCC and the 2006 study and 2008 review led to the IDCG. Not only was the boundary to SSA C identified in TAN 8 refined but areas within it were ranked and whilst ensuring that sufficient yield capacity was available it did not cap development levels at the capacities given in TAN 8. All 17 proposed turbines would lie within the original boundary of SSA C established in TAN 8 and also within the 2006 refined boundary. With regard to the 2008 Review, only one of the turbines falls outside of the identified boundary, although it is close to it. In this instance there is no robust evidence that the land on which turbines would be located which is outside of the review boundary of the SSA is not suitable for inclusion as part of the proposed wind farm in terms of its

⁴² PPW 7 Paragraph 12.8.12

⁴³ CD 35b Welsh Ministers Appeal Decision Bryn Llewelyn qA1140739

- proximity to the boundary, topography and landscape character. [35,A63, B26-48, C11.5]
154. With regard to ranking, the 2006 study ranked the area within which the appeal site lies ninth out of fifteen and it was considered in the IDCG to be necessary to meet the capacity target set out in TAN 8. The 2008 Review identified 16 units and within these the area of the appeal site was ranked eighth. In view of the status of the IDCG, limited weight can be attached to it. Nevertheless, it does establish that in refining the broad brush boundaries of SSA C set out in TAN 8 the area in which the appeal site is located was considered acceptable for large scale wind farms. [35, A64-84, B45-48]
155. At present a decision on the schemes subject of the MWCI and decisions on other outstanding schemes are yet to be made and it therefore has to be assumed that any or all of the wind farms could go ahead. Of the proposals subject of the MWCI only part of LF is within SSA C, LM and LD would be wholly outside the boundary as defined in TAN 8. In respect of the other outstanding schemes, HL is completely outside the boundary whereas both NG and BG are within. However, a different picture emerges when the location of the schemes is considered in relation to the 2006 refined and 2008 reviewed boundaries. The turbines at NG would fall outside of the 2006 refined boundary as would the southernmost turbines of BG, and a few associated with LF, LM and LD. Although most of the turbines proposed as part of NG would fall within the 2008 reviewed boundary, the southernmost turbines of BG would remain outside as would some of the turbines at LM. Of all the wind farms under consideration it is only the appeal proposal which has consistently fallen within the boundary of SSA C as it has changed over time. [35, A111, B25]
156. Installed capacity will vary depending on the turbine selected but the generating capacity figure given for the 34 turbines comprising the scheme for LM is 102MW, 71MW greater than the existing wind farm it would replace. The proposed generating capacities of the 27 turbines proposed at LD and 17 at LF are 62.1MW and 59.5MW respectively. The total generating capacity of the schemes subject of the MWCI is therefore in excess of 220MW or 190MW if allowance is made for the current capacity of the existing Llandinam P & L wind farm. The other outstanding schemes have a potential generating capacity of 27 MW at HL from 9 turbines, 27MW at NG and 36MW at BG from 9 and 12 turbines respectively. The appeal proposal would contribute 34MW from 17 turbines of 2MW. [A111, B19, B25, C11.2]
157. None of the identified 98MW capacity for SSA C has been consented. With the number of schemes currently under consideration as part of the MWCI and others still before PCC various scenarios were put forward in evidence with regard to the effect that consent for the schemes would make towards the generating capacity of SSA C. It is quite clear that if all the schemes under consideration were consented the capacity would significantly exceed that identified for SSA C. I have restricted my analysis to the schemes which fall within the boundary of SSA C and whilst the cumulative generating capacity of the proposed wind farm together with LF would fall within the capacity target for SSA C, the addition of either NG or BG would result in its exceedence. [35, A111, A112, B19, B25j]
158. Correspondence from WG with regard to the proposed wind farms being considered by the MWCI (ID 18) stated that WG is extremely concerned that the applications

within SSA C, if approved and taken cumulatively, would result in the maximum capacity for SSA C being exceeded. The letter incorrectly treated LD as being within SSA C. Nevertheless the letter goes on to state that WG could not support applications that, whether individually or cumulatively, would exceed the maximum capacity of a SSA. The letter does not take account of the other schemes, HL, NG and BG which, if allowed, would further increase the generating capacity of SSA C. Whilst the letter does not form WG policy, it gives a clear indication of the expectation that generating capacity within the SSA is not without limits. [A95-99, B23]

159. On its own the indicative generating capacity of the wind farm of 34MW, based on 2MW from each of the 17 turbines, would be within the figures identified for SSA C. PCC has suggested restricting the capacity to 34MW but the final choice of turbine has not yet been made and as models of the dimensions proposed vary in their generating capacity it may be possible that 17 turbines would generate in excess of the estimated 34MW. Although it is anticipated that the turbines would be 2MW a range of 1.8 to 3.5MW has been suggested which would equate to a maximum generating capacity for the scheme of 59MW. This would be within the capacity figure for SSA C and the impact on landscape character and visual amenity would remain the same. It would therefore be unreasonable to limit the capacity of the turbines which, at the time of writing this report, does not exceed the overall generating capacity identified for and available in SSA C. However, it must be remembered that WG is not empowered to give consent for schemes in excess of 50MW. [131, A53]
160. In evidence PCC maintained that it has adopted a strategic approach to the provision of wind farms in SSA C and considers that the finite environmental capacity of SSA C would be met by LM and the northern array of LD. In combination with these two schemes PCC considers it could potentially support the HL scheme. Although this gives a clear indication of the scale of development PCC considers SSA C could support, the generating capacity would exceed the 98MW target set in the Ministerial letter. Moreover, all three of the proposals supported by PCC in the strategic approach lie outside of the TAN 8 boundary of SSA C. Whilst they are predominantly within the refined boundary of 2006 and the reviewed boundary of 2008, these result from the Arup reports that fed into the IDCG which carries limited weight. [35, A85-101, B132-134]
161. Whilst the strategic approach was also adopted by PCC at the MWCI, its status is unclear and it does not appear to have been formally adopted by PCC. Furthermore, if the boundary of SSA C identified in TAN 8 prevails in favour of the refined boundaries in the IDCG, then the capacity of the schemes identified in the strategic approach would make no contribution towards the capacity of SSA C, given their location outside the TAN 8 boundary.
162. In conclusion, the proposal is contained within the boundaries of SSA C as identified in TAN 8 and its potential generating capacity would not exceed the target of 98MW set by WG. However, a favourable decision on the other schemes, particularly LF, NG and BG, could result in the capacity limit for SSA C being exceeded significantly, a situation not supported by WG. In reaching a decision on the appeal regard must therefore be given to any developments consented within SSA C subsequent to this report and the consequences of such consents for WG capacity targets for SSA C.

Landscape Character

163. Within and immediately adjacent to SSAs the implicit stance of TAN 8 is to accept landscape change i.e. a significant change in landscape character from wind turbine development. Nonetheless, TAN 8 also recognises that all of the land within SSAs may not be technically, economically and or environmentally suitable for major wind power proposals. It is necessary to ensure that the development is appropriate for the scale and character of the landscape and there may be a limit on the number or extent of wind farms which can reasonably be accommodated. [36, 47, A120]
164. The appeal site lies outside any national or local designations, the nearest being the Shropshire Hills AONB approximately 3km to the east. Although CUP is of the opinion that the landscape in the immediate vicinity of the appeal site is of a similar quality to the AONB and was proposed to be designated as a Conservation Area by the National Parks Committee in the Hobhouse Report of 1949, it was not designated at that time or subsequently. Whilst the qualities of the area do not abruptly change at the boundary of the AONB, they do alter over distance and this appears to be borne out in the LANDMAP assessment of the area. [A122, C3.2]
165. The site is in LANDMAP visual and sensory aspect area VS122 which is described as *"Upland plateaux and shoulders where areas of intrinsic moorland land cover has been agriculturally improved and converted to grassland, where the large scale regular fields enclosed by fences often look unnatural in association with the remnant semi-natural moorland and wetland vegetation"*. It has an overall evaluation of moderate to low, having been rated low for scenic quality, character and rarity and moderate in respect of its integrity. Wind farm developments are recognised as a major threat to the current integrity and condition of the visual and sensory features of the area. Also identified are functional links with VS111 and VS128. The other LANDMAP overall evaluations relevant to the site include outstanding for the geological landscape aspect, high for the cultural landscape, moderate for the historic landscape and moderate/low for the landscape habitats. [A123, A127, A129]
166. The proposed revision of the boundaries of VS122 by the inclusion of land currently within VS110 has been noted. It affects the area adjoining the southern boundary of the appeal site and although according to the correspondence from NRW this revision is imminent, I do not consider that it would have any major bearing on the case. [120]
167. The openness of the area allows extensive views and whilst LANDMAP records that there are attractive views out of aspect area VS122 towards the Kerry Hills and into smaller valleys, detractive views out are also recorded as being *"up from the valleys to rather bland hills"*. It is noted as being *"unattractive and exposed"* in respect of its perceptual and other sensory properties. VS110 is noted for its attractive views both in and out which are generally attractive long views to surrounding rural areas and seen as skylines from adjacent farmland. Its qualities are noted as attractive, tranquil, exposed, remote, wild and spiritual. VS128 is noted as having few views in and its qualities are recorded as attractive, tranquil, sheltered, settled, and spiritual. Neither VS110 nor VS128, which both have an overall evaluation of high, are recorded as having detractive views in or out and no significant threats to the current integrity and condition of the areas are known. No functional links are recorded in respect of VS110 and those with VS122 are recognised in respect of VS128. [A135]

168. Aspect area VS111 lies to the north of VS128 and further north is VS254. Both of these aspect areas are evaluated as high and they have similar qualities to VS110. Moreover VS111 is recorded as having attractive views in and out to the north and VS254 having broad dramatic views to upland to the south. Neither have detractive views in or out. Functional links are recorded with VS122 in the case of VS111
169. In its assessment of the landscape PCC has considered a wider area than that of LANDMAP VS122 by amalgamating the appeal site and VS122 into a wider area including parts of VS110, VS111, VS128 and VS254. A similar approach was taken by PCC in its Landscape Area Study (PCCLCA) where LANDMAP VS122 and VS110 were merged to form LCA R11. Whilst this is accepted practice in LANDMAP Guidance Note 3, the Note advises that where coarser landscape character areas or types have been derived they may need to be split down into smaller areas to ensure appropriate scale for assessment informed by LANDMAP aspect areas. In instances where no LCAs have been defined and assessors wish to use these as the primary basis for reporting, all five LANDMAP aspects should be used for deriving them. I am not satisfied that the approach taken by PCC fulfils these requirements and I am concerned that it may exaggerate the assessed impact of the appeal proposal. [A130-132, A135-139, B62-63, C3.3]
170. There is a large measure of agreement between RES and PCC in respect of the impact of the development on landscape character, as set out in the Landscape and Visual Effects SoCG. It was agreed that there would be significant adverse effects up to 5km from the wind farm within Wales where much of the effects would occur in areas which are within or adjacent to the boundary of SSA C. In common with any wind farm, the proposal would have a significant impact on the landscape character of the appeal site and its immediate surroundings. However, there is an implicit objective in TAN 8 to accept a significant change in landscape character from wind turbine development within and immediately adjacent to SSAs. Moreover, the area has been rated in LANDMAP as low for scenic quality and character and whilst the proposed development would introduce new vertical man-made structures into a rural and open landscape, the wider area is already characterised by sporadic single turbines and the existing wind farm at Llandinam. Furthermore the turbines would be concentrated in a relatively small part of the site where the undulating topography and blocks of tree planting would provide an element of screening of the lower sections of the turbines and the associated infrastructure. Although the development would cause significant adverse effects to the landscape, it would not be unacceptable in this instance given the limitation of the identified harm to a relatively small area within SSA C. [37, 48, A141-143, B55-56, C3.1, C3.6, C3.12, C3.13]
171. To the east of the wind farm and into England RES considers there would be significant adverse effects on the character of the landscape up to 6km which includes part of the Shropshire Hills AONB. PCC on the other hand considers the effects would be significant up to 7km from the site, although the extent of the effect beyond 5km would be substantially limited by intervening topography and vegetation. [37, 48, A143-144, B60]
172. The AONB Management Plan 2014-2019 is a material consideration in the determination of the appeal. It recognises that proposals for wind farms outside the

AONB, including in Powys, could affect the AONB and that large scale developments close to the AONB that could have a significant effect on it would not be acceptable. It goes on to state that land within 5km of the AONB boundary is unsuitable for large scale wind farm development and should be excluded from any search areas. The boundary of SSA C, whether it be the TAN 8 boundary or the reviewed boundary, is within 5km of the AONB. [A145-148, B65-67 C3.4]

173. However development within relatively close proximity to a nationally dedicated area may not be unsuitable, although as stated in section 5.9.12 of the Overarching National Policy Statement for Energy (EN-1), *"The duty to have regard to the purposes of nationally dedicated areas also applies when considering applications for projects outside the boundaries of these areas which may have impacts within them. The aim should be to avoid compromising the purposes of designation"*. It goes on to state in Section 5.9.13 that *"The fact that a proposed project will be visible from within a designated area should not in itself be a reason for refusing consent"*. [A148]
174. The proximity of the AONB to SSA C was taken into account in TAN 8 and the refinement exercises undertaken on behalf of PCC. Indeed the review excluded areas from the steep eastern slopes as it was considered wind development in this location would dominate the scale of the slopes and be visible from settlements and roads located in the AONB
175. The turbines would be visible in middle distance views from more open and elevated locations within the AONB. RES considers that this would extend approximately 3km into the AONB and affect less than 12 sq km or less than 1.5% of the AONB. PCC considers the effect would extend to up to 12km from the site, approximately double that identified by RES. However, none of the physical or perceptual key characteristics of the landscape within the AONB would be changed. Although there is potential for the development to impact on the elevated and panoramic views from locations within the AONB and on the perception of tranquillity this would be no more than would be expected as a result of the identification of a SSA in relatively close proximity to a dedicated area. On this basis although the development would have an adverse effect on the landscape character, in this instance I do not consider that this would be unacceptable. [37, 48, 125, 127, A143-144, B66-70, C3.11]
176. However, the conclusion I have reached is based on the effect of the wind farm on landscape character in isolation. If other wind farms currently under consideration were to be constructed, the cumulative effect of the appeal proposal and the other possible developments on landscape character would be intensified.
177. Of the schemes under consideration as part of the MWCI only LF would be seen in close proximity to the appeal scheme, the remainder being some distance away and further from the AONB. The significant adverse impact on landscape character which would result from the appeal proposal in isolation would be increased by the proximity of the turbines proposed as part of the LF wind farm but I do not consider that this would tip the balance to render the proposals in combination unacceptable. I also consider that the distance between these schemes and those in the western part of SSA C subject of the MWCI would be sufficient to ensure the impact on landscape character remains at an acceptable level, particularly given that the number of turbines

would be less than at present as part of the Llandinam re-powering scheme. [A152, B71-73, C3.16]

178. The adverse effect on landscape character would be intensified further if the schemes at NG and BG also came to fruition. I consider that the additional number of turbines and the extended area they would cover would result in a significant increase in the adverse effect on landscape character already identified. Accordingly my recommendation is based on the current position that neither of these other schemes is committed. [A152, B71-75, C3.16]
179. I therefore conclude that the proposed wind farm in isolation, whilst causing a significant adverse effect on landscape character would, given its location within SSA C, accord with Policies E3, SP12, ENV2 and GP1 of the UDP, TAN 8 PPW and EN-1. However, there is the potential that the proposal in combination with others currently under consideration would result in a significant adverse effect on landscape character which would be of an unacceptable level. Regard will therefore have to be given to the status of the other schemes under consideration at the time of a decision.
180. In refusing permission PCC also had regard to the effect of the proposed grid connections on landscape character. Whilst this matter is not for consideration as part of the appeal I note that within the appeal site the connection would be underground. On this basis I consider it would have no effect on landscape character. [A155, C3.12]

Visual Amenity

181. There is a large measure of agreement between RES and PCC in respect of the impact of the development on visual amenity, as set out in the Landscape and Visual Effects SoCG. It is agreed that the wind farm would result in some significant long term effects on the visual amenity of people on and around the site and from locations up to 10km from it. Significant effects can be seen as positive or negative depending on individual perceptions regarding the merits of wind energy development. However, the site is predominantly within SSA C and the implicit objective in TAN 8 to accept a significant change in landscape character from wind turbine development within and immediately adjacent to SSAs would suggest that a level of harm to visual amenity would also be expected. [38, 48, A151, B57-60]
182. RES is of the opinion that there would be significant effects on the visual amenity of users of a 12km section of Glyndŵrs Way from Beacon Hill through the site to Llanbadarn Fynydd and on a 4km section of the Kerry Ridgeway eastwards from the Cider House on the B4355. PCC consider that a 12km stretch of Glyndŵr's Way and 5km stretch of the Kerry Ridgeway would be significantly affected whereas CUP considers the significant effect on Glyndŵr's Way would extend to 24km. There would also be significant effects on users of the local highway network, other rights of way in the area and the Open Access land to the south of the site. [38, 48, 58, 75, 123, A151, B57, B60, C3.1, C3.8, C3.11]
183. People currently using the local highways and rights of way for recreation and amenity purposes enjoy the perceptual qualities of a relatively remote and tranquil landscape. The proposed turbines would appear as intrusive man-made features which would result in significant harm to visual amenity and although these effects would be

largely reversible, 25 years is a considerable period of time for the effects to be endured. However, views of the turbines from Glyndŵr's Way and the Kerry Ridgeway as well as from other public rights of way, access land and the network of local roads would vary according to direction and speed of travel and intervening topography. Given their height and position in the landscape, the turbines, either wholly or partially, would be visible over a wide area. The most intense effect on visual amenity would be that experienced by receptors following Glyndŵr's Way through the site in close proximity to the turbines. However, the reduction in the number of turbines has reduced the effect this would have on the visual amenity of receptors. The effect from more distant viewpoints, such as on the Kerry Ridgeway and sections of Glyndŵr's Way south of Llanbadarn Fynydd would be more diluted as whilst a greater number of the turbines might be visible, the effect of their scale and moving blades would be less perceptible in the overall panorama. [75, 97,123, A151, B57, C3.1, C3.8, C3.9, C4.5]

184. With regard to the Shropshire Hills AONB, RES considers that there would be significant effects on the elevated and panoramic views from locations within the AONB up to 10km from the appeal site and on the perception of tranquillity arising from the movement of the rotors in closer views. PCC on the other hand considers that the development would result in significant effects on scenic and environmental quality, tranquillity and cultural opportunities for enjoyment of the AONB up to 12km from the turbines and that these effects would undermine the purposes of the AONB. The concerns of PCC are shared by the Shropshire Hills AONB Partnership and CUP raised issue with the effect on outwards views from the AONB. [37, 48, 58, 125-127, A144, B56-57, C3.4]
185. Panoramic views extend across and beyond the AONB and the proposed turbines would be visible in middle distance views from the more open and elevated locations within the western part of the AONB. The introduction of turbines into this upland setting would alter the views from the western part of the AONB, although the turbines of the existing Llandinam P&L wind farm are visible on the distant skyline. Whilst any discernable movement of the rotor blades could have an effect on tranquillity, this would be dependent on the visibility of such movement due to separation distance and weather conditions. The effect of the development on the scenic quality of the views from the AONB and the associated tranquillity would in turn affect the opportunities for enjoyment of the AONB by receptors. The development would have a significant effect on the AONB however this would be restricted to views from elevated locations up to 12km of the site. Moreover, the development would not compromise the ability of the AONB to fulfil its statutory purpose and on this basis the scheme would not offend the need to afford sufficient protection to the AONB. [A144, A153, B56, C3.9-3.11]
186. Residents of properties in the vicinity of the site expressed concern regarding the effect the wind farm would have on their visual amenity. The ES concluded that of the settlements in the vicinity of the site only the visual amenity of the residents of Felindre would be significantly affected by the wind farm. With regard to the properties scattered across the area, in evidence to the Inquiry RES considered that there would be significant changes in some views from ten properties in the vicinity of the site. Based on the Zone of Theoretical Visibility (ZTV), there would be potential views of between 5 and 9 turbines from Cwm-yr-hob and the property to the east of it, Upper Green and Sign; between 9 and 12 turbines from Bryn Mawr Cottage, Killowent,

Llanrhys and Tan y Bryniau; between 13 and 16 turbines from Lower Green; and all 17 turbines from Hope's Castle Farm and Gatehouse. Further wire frames prepared for the accompanied site visit indicated that there was the potential for up to 16 turbines to be seen from Fiddlers Green. [88, A212, C3.13, C4.1, C4.3, C4.5, SEI 5.6.22, RES/KFH/5]

187. Although the outlook from all of the properties with views towards the turbines would be altered, the effect of the turbines on the visual amenity of residents would differ substantially from property to property. From some not only the number of turbines seen would vary but also the visible part of each turbine would vary between its full height down to just the tip of the rotating blade. The extent to which the turbines would be visible would be dependent not only on the separation distance, intervening topography and vegetation but also on whether the turbines were being viewed from within the property or its grounds. In many cases, the views would be filtered to varying degrees by the local terrain and vegetation. Furthermore the distance of the properties from the turbines and the extent of the effect on outlook would be sufficient to ensure that the turbines would not be overbearing or unduly oppressive. I therefore consider that the effect of the development would not be so severe as to cause an unacceptable level of harm to the visual amenity of residents. [112, 114, 116, 119, 121]
188. There would also be variation in the extent to which the turbines subject of the schemes before the MWCI and part of other schemes also under consideration would be seen in conjunction with those proposed as part of the appeal. Turbines which are part of these other schemes would not feature in the outlook from a number of the properties in the area or would be restricted in some cases to as little as the blade tips. The submitted wire frames indicate that from most properties where the appeal proposal would be seen in conjunction with other schemes, the turbines associated with the latter would be fewer in number and may also appear smaller in scale. Although the cumulative effect would be greater on some properties than others, I am satisfied that the effect on the visual amenity of local residents would not be much greater than from the appeal proposal alone. [RES/KFH/5, A152, B71-75, C3.16, C4.3]
189. In refusing permission PCC also had regard to the effect of the proposed grid connections on visual amenity. Whilst the grid connection is not for consideration as part of the appeal I note that within the appeal site the connection would be underground. On this basis I consider it would have no effect on visual amenity. [A155, C3.12]
190. On balance I consider that although the development would have a significant effect on visual amenity on receptors using the rights of way network in the area, given the location of the site within SSA C the level of harm identified is not sufficient to warrant refusal of the appeal. On this basis I conclude that the development would accord with Policies E3 and SP12 of the UDP, TAN 8, PPW and EN-1.

Cultural Heritage

191. Whilst there are no designated heritage assets within the appeal site boundary, designated sites lie within the surrounding area. The proposal would not have any direct physical effects on any known assets and the potential for significant unknown

buried archaeological material is considered by RES to be low. However, regard has to be had to the effect of the development on the setting of known heritage assets which is defined by Cadw as *"The surroundings in which an historic asset is experienced, its local context, embracing present and past relationships to the adjacent landscape"*⁴⁴.

192. The character of the area has changed over time and although the assets remain in an open rural landscape, the land has been agriculturally improved and enclosed and there is evidence of modern civilisation and development. The landscape is very different from when the assets were constructed and as a consequence their settings have altered over time. The contribution that setting makes to the significance of an asset does not depend on there being public rights or an ability to access or experience that setting. Nevertheless, proper evaluation of the effect of change within the setting of a heritage asset will usually need to consider the implications, if any, for public appreciation of its significance. In assessing the development I have had regard to the evidence given during the Inquiry in respect of the stance taken by PCC on its definition of less than substantial harm and the effect of this on the conclusions it had drawn over impact. [A162-166, A171-2, B90]
193. A rough alignment of Bronze Age barrows has been recognised which stretches in a band from Rhiw Porthnant (SAM RD084) in the north east to Warren Hill (SAM RD105) in the south west. In the intervening landscape other identified barrows include Cwm Rhos Goch Barrow (ND 9), Coventry Round Barrow (SAM RD103), Ty'n y Ddol Hill Barrow (SAM RD252) and Cae Glas Barrow Cemetery (SAM RD104). The distance between the barrows and the nearest turbines varies between approximately 2.5km at Rhiw Porthnant and 0.31km at Coventry Round Barrow. Cae Glas, Ty'n y Ddol and Cwm Rhos Goch would be within 1km of the nearest turbine and Warren Hill would be approximately 1km distant. [39, A177, A181, B83, B93, C5.3]
194. The precise purpose of the barrows is unclear and there are several conjectures as to the reason behind their locations. Although outward views are possible from the barrows, the heritage significance of such isolated upland barrows is dependent on inward views and generally over limited distances. Nevertheless several of the barrows lie relatively close to the boundary of the appeal site and the area within which the turbines would be sited. Consequently the turbines would be visible in inward views and could have a distracting effect due not only to their size but also to the movement of the rotors and the noise this would generate. [A181]
195. The proposed layout of the wind farm has taken account of the siting of these heritage assets and whilst the turbines would be in relatively close proximity to some, the sightline along the alignment of the barrows would be preserved and a buffer would exist between it and the edge of the area in which the turbines would be sited. Nevertheless the turbines would feature in views between the sites and as they would be far greater in vertical scale than the assets the turbines would cause an element of visual intrusion in the setting of the assets. The degree of harm would vary and whilst the effect on most of the assets would be less than substantial, I consider the harmful

⁴⁴ Conservation Principles: (Policies and Guidance) for the Sustainable Management of the Historic Environment in Wales, Cadw 2011

effect would be greater in respect of Coventry Round Barrow and Ty'n y Ddol Hill Barrow. [61, A181-185, B93-97, C5.2-5.4]

196. Coventry Round Barrow is locally prominent in an area of open land and close to a public footpath. The barrow has extensive views in all directions and there is intervisibility with other monuments in the area, including Warren Hill. The nearest turbine would be sited approximately 400m to the east and all the turbines would be visible in views stretching from the north round to the south east. Ty'n y Ddol Hill Barrow lies to the south east of Coventry Barrow but it is not locally prominent due to bracken cover. Although it occupies slightly lower ground than Coventry Barrow its setting is open with views in almost all directions with some intervisibility. The turbines would feature in views from the north west round to the south east, the nearest turbine being within approximately 400m to the east. The development would make notable changes to the current open and rural setting of these barrows and given the overwhelming dominance of the turbines I consider that this would result in substantial harm to the setting of both monuments. [C5.3]
197. Windy Hill Barrow (SAM RD251) is situated approximately 3.2km to the north west of the turbines and all the turbines would be visible to some degree from the barrow. In the proposed layout of the turbines the structures would intercept the sightline between Windy Hill Barrow and the barrows on Warren Hill and Beacon Hill to the south east. The development would alter the currently open and uncluttered rural landscape and consequently affect the setting of the monument and its relationship with other assets. Nevertheless, given the separation distance, I consider that this would only cause moderate harm.
198. The two barrows at Gors Lydan (SAM RD106) lie approximately 2.3km to the south west of the turbines. Their location on the summit of one of the higher peaks in the landscape ensures that they are not only visible from a distance but have commanding views over the surrounding area. Inward views from the north would change the rural context of the setting of these barrows although I consider that the distracting effect of these relatively distant turbines would not cause material harm to their setting.
199. Castell y Blaidd (SAM RD102) is a significant horseshoe shaped bank and ditch earthwork enclosure sited approximately 0.5km west of the appeal site boundary and the nearest turbine. The monument does not stand on the highest topographic point in this rural setting and therefore the main outward views are away from the wind farm to the west and south. Nevertheless, the close proximity of the turbines would have a dominating effect which would have a substantial adverse effect on the setting of Castell y Blaidd. There is evidence of damage to the SAM and RES has proposed a package of works which in addition to repairs would offer access, interpretation and improvement of information and management base. However, this would not offset the harm identified. [40, 138, A186-188, B93-98, C5.5, C5.7]
200. Removal of trees from Cae Glas Barrow cemetery has also been proposed. The harm from the development has been identified as being less than substantial and it is considered that the proposed removal of the trees would do little to alter this conclusion. [138]

201. To the south west of Castell y Blaidd and approximately 0.9km from the nearest turbine lies Castell y Blaidd Medieval Settlement (SAM RD155) which comprises low earthwork remains in an area of grazing. Although there is intervisibility with Castell y Blaidd, any functional relationship between the two is not confirmed. Several of the proposed turbines would be visible from the SAM and would be seen in the context of Castell y Blaidd. Increased distance from the appeal site would reduce the dominance of the turbines in comparison with Castell y Blaidd, but they would be a dominant feature. However, views of the monument from one of the local footpaths or Castell y Blaidd if public access is secured would generally be away from the wind farm and the distracting effect of the turbines would not be as significant. On balance I consider that the proposal would have less than substantial harm on this SAM. [B93, C5.5].
202. Fron Top Deserted Rural Settlement (SAM RD173) lies to the south of Castell y Blaidd Settlement and is similar in that it also comprises of low earthwork remains in an area of grazing, but it is close to a minor road. The turbines at a distance of approximately 1.2km would feature strongly in the views from the monument and would alter the rural character of the area. However, I do not consider that the effect on the setting of the SAM would be overwhelming which leads me to conclude that there would be less than substantial harm. [B93, C5.5]
203. The two LBs at Cwm Yr Hob Farm consist of the former house with attached farm range and a detached barn. Both buildings are Grade II, having been listed in 2004. The LBs are in a state of disrepair and whilst the house has not been occupied since a replacement was built in the late 1960's, the farm buildings are still in use. The house and attached building was listed for its special architectural interest as a traditional farmhouse and cow house retaining early 19th century character and detail, with earlier origins, and, with the barn, as part of a group retaining strong vernacular character. [40, A189, B107]
204. The LBs are situated within a small steep sided valley and are approached from the east along the valley with the hills framed above it. A public footpath passes through the site. There was agreement that the setting of the LBs comprises the agricultural land on the hillsides around the buildings as this land contributes to the heritage significance of the assets, with a visible link between the continuing use of the buildings and the active farm. The nearest turbine would be approximately 0.79km from Cwm Yr Hob and varying amounts of up to seven turbines would be visible from the public footpath to the south of the barn and also from the approach to the buildings from the east and the area to the rear of the house and potentially from within the house itself. However, from the front of the house views of the turbines would be screened by the buildings. [A190, B93]
205. The turbines would alter the rural setting of the LBs and although they would appear prominent in the landscape, their dominance would be lessened by the local topography. RES and PCC are in agreement that whilst the development would alter the setting of the building, less than substantial harm would occur. There is nothing in the evidence to persuade me otherwise. Nevertheless as there would be an impact on a LB it is necessary to give considerable weight to this issue under the statutory duty imposed by Section 66 of the Planning (Listed Buildings & Conservation Areas) Act

1990 and the harm to setting would require special regard in the planning balance. [53, A164, A190-191, B93, B97, B107-109]

206. RES proposed as part of the SEI a package of measures to make the LBs safe through necessary repair and refurbishment and bringing the house back into proper use. These proposals were scaled down during the Inquiry to a level of making the buildings safe. RES consider that the modest harm to the LBs from the proposed development would be outweighed by the benefit brought about by the proposed works to the LBs whereas PCC consider the works would not remove the harm. Whilst the works proposed by RES would make the LBs safe for the duration of the development and therefore would be of some benefit to the LBs, it would not remove or lessen the harm identified to their setting. Moreover, these works would require separate consents and there is no certainty that they could be delivered. [138, A192, B97-98, C5.7]
207. I note the lack of objection from Cadw and the Clwyd Powys Archaeological Trust and I consider that the development would cause less than substantial harm to most of the SAMs and LBs in the immediate vicinity of the appeal site. However, I have identified substantial harm from the appeal proposal to the setting of three SAMs Castell y Blaidd, Coventry Barrow and Ty'n y Ddöll Barrow, such that the development conflicts with Policies E3, SP3, SP12 and ENV17 of the UDP, TAN 8, PPW and EN-1.
208. Given the number of assets and the extent of the harm PCC has suggested it would be appropriate to consider the impacts on the historic environment in the round. PCC contend that the proposed wind farm would not harm individual unrelated assets but would harm related groups of assets, namely an extensive ensemble of interrelated prehistoric barrows and also a smaller group of medieval/early post medieval rural remains around Castell y Blaidd and Fron Top. In support of this stance reference has been made to the recent Asfordby decision where it is stated that "*while the Secretary of State accepts that each of these assets may well suffer from less than substantial harm if considered separately as being the only asset of any significance, he takes the view that, looking at the sum total of the impact on so many and varied assets, the harm caused is arguably greater than the sum of its parts.*" However, the decision goes on the state "*Overall, therefore, and having regard to the need to weigh this against the public benefits of the appeal scheme...the Secretary of State takes the view that, in his overall balancing exercise, the Inspector has placed less weight than appropriate on the harm caused to the significance of these heritage assets*". It is the weight applied by the Inspector to the harm to each of the heritage assets with which the Secretary of State disagreed not the approach taken. [50, A156-160, A163, A 195, B79, B102, B110-118]
209. In refusing planning permission PCC also cited cumulative impact and in evidence had regard to the three other wind farms currently under consideration in the eastern part of SSA C, namely LF, NG and BG. Given the location of these wind farms in relation to the heritage assets scattered throughout the area it is inevitable that the effect from the appeal proposal on the setting of the monuments would be heightened if further turbines were introduced into the landscape. The degree to which this would occur and the monuments affected would depend on the status of the other schemes at the time a decision is reached on the appeal proposal. However, with regard to the

monuments I have identified as being potentially subject to substantial harm any additional effects on their setting would come from LF and BG with NG potentially affecting intervisibility with monuments in the north.

210. Comparison has been made between the sensitivity in cultural heritage terms of the eastern part of SSA C and that of the western part on which the Council's strategic approach is based. Whilst the basis for the comparison appears to be quite crude, any potential difference in the sensitivity between the two areas has no bearing on whether or not the development would be acceptable. [A161, A175, A178, B87]

Noise

211. PCC did not cite noise as a reason for refusing planning permission but it has raised concerns regarding the potential cumulative noise impact should both the appeal proposal and LF wind farm be consented and operational. The cumulative noise impact assessment shows that the proposed wind farm and LF could operate together. However, if the noise conditions agreed at the MWCI were to be imposed on LF wind farm then the suggested noise conditions in respect of the appeal proposal would numerically exceed the upper ETSU-R-97. PCC agrees that the upper ETSU limit is the correct limit to apply in SSA C. [41, 91, A198-202, B121, C4.9]
212. The upper ETSU limit would be exceeded by 0.4 decibels at 7 properties located between the turbines of the appeal proposal and those proposed as part of LF wind farm. Of these properties Garn and Springfield (Blaen-nant-du) would be dominated by noise from the LF wind farm and not the appeal proposal due to their location. The remaining Fiddlers Green and Gwenlas properties together with Cwm-Mawr would only be affected if the properties were subjected to the maximum noise from each wind farm at the same time. However, as the properties would lie in the area between the eastern boundary of LF and the western boundary of the appeal site they would not be downwind of the two wind farms at the same time. As maximum noise would only arise when a property is downwind of the wind farm the properties would not be subject to the maximum permitted noise from each wind farm at the same time. In practice the properties could not be subject to the maximum permitted noise from each wind farm contemporaneously. [A202]
213. ETSU guidance gives indicative noise levels thought to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on wind farm development. PCC is of the opinion that ETSU does not afford a high level of protection and therefore its application should be absolute and that any increase over this tolerance would be unacceptable. [A203, C4.9, C4.10]
214. The Good Practice Guide published by the Institute of Acoustics (IOA) considers that if an existing wind farm has permission to generate levels up to ETSU limits, noise limits at any future neighbouring wind farm would have to be at least 10db lower than the limits set for the existing wind farm to ensure that there is no potential for cumulative noise impacts to breach ETSU limits. This approach could be unduly restrictive and a recent appeal on the grounds that such a condition was too onerous was successful. Nevertheless, if the suggested noise limits for both wind farms were to be added together the result would be an increase of 0.4db. The IOA Guide appears to be accepting an increase of 0.4db above ETSU limits. It also corresponds to the

increase calculated for the cumulative noise from the appeal proposal and the LF wind farm. [92, 93, A204-205]

215. RES considered the controlling property method, an additional approach advocated in the IOA Guide, which produced acceptable results. RES also went on to look at the worst possible noise outcome for each property from each turbine at each wind speed using all the possible turbines currently on the market. When the proposed noise limits for the appeal proposal were applied to the worst case outcome for LF the cumulative noise would be below the ETSU limits in almost all cases. There were only three instances where the resultant levels would be at the ETSU limits, these being Fiddlers Green at wind speeds of 8 and 9 m/s and Gwenlas at 7m/s. The results therefore indicate that there would be no exceedence of the ETSU limits. Moreover the calculations are based on the assumption that the properties would be downwind of both wind farms at the same time, a situation which would not arise. [A202, A207]
216. Noise and amplitude modulation are of concern to local residents and an increase in reported significant problems from existing wind farms was referred to by CUP. Although concern was expressed about the noise measurements and modelling techniques, the evidence confirms that on its own the appeal proposal would not exceed ETSU limits and PCC has raised no objection in this respect. With regard to the cumulative effect, several methods were employed by RES to calculate the effect on the identified properties likely to be affected. Cumulatively the appeal scheme and LF wind farm would exceed ETSU limits by 0.4 dB, an increase which PCC agreed would not be perceptible and constituted only a theoretical potential breach. [83, 87,94, 107, A 209, A213, B121, C4.1, C4.8-4.10]
217. RES has confirmed that the model of turbine has not been finalised and that there are several available which would fit the proposed dimensions which have generating capacities which range from 1.8 and 3.5MW. However, the model selection would have to take account of and adhere to the noise emissions levels set by condition. The unacceptable length of time for residents to obtain satisfactory redress where noise nuisance occurs was raised and some residents felt permanent noise monitoring within dwellings should be a requirement of the development. In view of the evidence with regard to the anticipated noise emissions and the noise levels set by the conditions I consider it would be unreasonable to require the developer to comply with this request. [130, 140, 141, A210, C4.12-4.13]
218. On the evidence before me I conclude that the proposed wind farm in isolation would not exceed ETSU limits and in combination with LF wind farm could exceed that limit by 0.4 dB. The expert witnesses were agreed that this level of increase would not be perceptible and is based on a worst case scenario where the affected properties would have to be downwind of both wind farms at the same time. Proposals for other wind farms, BG and NG, in the vicinity of the appeal scheme could also have implications for cumulative noise levels in SSA C. However, I do not have the necessary evidence to reach a conclusion on this and it would need to be addressed as part of the consideration of those proposals.

Ecology

219. Following the submission of additional information NRW confirmed prior to the Inquiry that it had no ecological objections to the proposed development. PCC also withdrew its objections on these grounds and presented no evidence to the Inquiry on this matter. [9, 11, A216]
220. However, CUP and local residents maintained their objections on the grounds that as a result of developments such as the proposed wind farm the countryside is changing and as a consequence the natural environment and the habitats of the local wildlife will be affected. CUP has made specific reference to the effect the development would have on great crested newts, curlews and bats. Whilst great crested newts and bats are protected species, curlews are listed as being birds that are globally threatened or have undergone a rapid decline in population. [64, 114, C10.1-10.9]
221. The ES and SEI's in assessing the potential ecological effects of the proposed wind farm took account of the presence of all three species on the site and addressed the effect the development would have on them directly and on their habitats. NRW has accepted the contents of the reports and conditions are suggested with regard to the timing and management of the development and monitoring of the works in the interests of the biodiversity of the site. Whilst the biodiversity of the site would be affected by the development, I am satisfied that measures would be in place to ensure that such changes would be within acceptable limits and that there would be no harm in terms of the favourable conservation status of the species concerned and their habitats, in accord with Policies E3, SP12, ENV3 and ENV7 of the UDP.

Tourism

222. The Council made no case with regard to the effect of the development on tourism. However it was a matter raised by CUP and some of the interested parties who gave evidence.
223. The local landscape is an important element in attracting visitors to the area and the ES recognises that the main tourist activities are walking, horse riding and cycling. The public rights of way which exist on the site and in the surrounding areas facilitate access. Glyndŵr's Way passes through the site and views towards the site are available from the Kerry Ridgeway and the Shropshire Hills AONB. There are also areas of Open Access land close to the site. [62, 71, 113, 114, A219]
224. Altering the open, quiet rural landscape to an upland wind farm landscape would significantly alter the experiences of those visiting the area and would potentially have an impact on local businesses reliant on tourism as evidenced by Mrs Brock and the facilities she provides for equestrians on holiday in the area. [62, 97-99, 113, C6.1, C6.5, C6.7, C6.11, C6.13, C6.14, C6.17]
225. The change to the landscape brought about by the wind farm might put people off visiting the area, or indeed local residents may choose not to use the various routes available to them. With regard to equestrians, although any horse, even with an experienced rider, may be unpredictably upset by turbine noise, movement or shadow effects there are many who may not react or can become acclimatised over time. I accept that this may not be an option for occasional visitors and businesses such as that run by Mrs Brock would have to assess whether ways through the wind farm could

still be promoted to guests or indeed used by local riders. As a result less confident riders might be reluctant to ride within certain distances of the turbines, although they would not be precluded from doing so. Turbines T2 and T23 are the closest to Glyndŵr's Way and are confirmed to be more than 200m away, the remainder being significantly further from the route. Whilst it would be against the public interest to permit proposals which would effectively discourage some members of the public from enjoying rights of access, I find no strong evidence that the development would have such an effect on riders or walkers sufficient to put significant numbers off using the rights of way through the appeal site to the detriment of tourism in the area. [62, 75, 77, 108, C6.1, C6.8-6.10, C6.13-6.14]

226. Various reports and surveys assessing the effect of turbines on the tourists have been referred to in evidence. Whilst individuals vary widely in their reaction to wind farms, not all react negatively to them in the landscape and do not change their destination choice on account of the presence of wind farms. There are certain locations which are more sensitive to wind farm development and this is particularly the case where people are visiting for the tranquillity, remoteness and natural scenery such as the area surrounding the appeal site. The potential negative effect on visitor numbers may still be low overall, but in relation to equestrians could be moderate. There is clearly uncertainty around the potential impact on tourism and recreation which might arise from the development. I am aware that in consideration of several wind farm schemes Inspectors considered the proposals would have a detrimental effect on tourism. However, each case must be determined on its merits and in this instance there is insufficient evidence to justify refusal of the appeal on these grounds alone. [C6.3, C6.12, C6.15, C6.16, C6.19, C6.23-6.26]

Effect on living conditions of local residents

(a) Internal access route

227. PCC has raised no material issue with regard to the access track through the site which from the site boundary to the location of the turbines would follow a circuitous route across open farmland, taking advantage of the local topography. This route would be used by all vehicles entering and egressing the site and in doing so would pass within approximately 200m of the residential properties Fiddlers Green and Lower Fiddlers Green. Lower Fiddlers Green has open views towards the appeal site and the route of the access track. Concerns have been raised by the residents with regard to the effect this would have on their living conditions due to noise, dust and pollution both during its construction and subsequent use by high volumes of traffic accessing not only the appeal proposal but also the proposed LF and BG wind farms. [83, 87, A211, C4.1]
228. It is proposed to restrict construction hours within the site to between 07:30 and 19:30 on Mondays to Fridays and between 07:30 and 13:00 on Saturdays. Therefore vehicles associated with the site would be arriving and departing between these hours throughout the construction period. These restrictions would not apply to AILs as there is a need for these to take advantage of quieter times on the roads whenever possible. [130, C8.1]

229. The type and scale of the traffic generated by this scale of development when compared to the traffic currently experienced in the area would be significant and this would inevitable alter the living conditions currently experienced by the occupants of Fiddlers Green and Lower Fiddlers Green. However, the effect would be limited to the construction period only, after which the level of traffic using the access road in association with the operation of the wind farm would be commensurate with current levels in the area. I accept that development of other wind farms potentially using the same access route would have a cumulative effect. Nevertheless, the effect of traffic using the internal access route on the living conditions of the occupants of nearby properties would not be sufficient to warrant dismissing the appeal on these grounds.

(b) Increased traffic on the local highway network

230. In addition to traffic on the internal access road within the appeal site, the proposed development would provide a car park on land to the south of Fiddlers Green and Lower Fiddlers Green, close to the junction of the public highway with the BOAT. This car park would be capable of accommodating several vehicles and horse boxes and would be open to use at all times. The road serving it is a no-through road and continues past the proposed car park to Bryn Mawr Cottage and Hope's Castle Farm. [59, 89, 130, A211, C3.13, C8.1]

231. The status of the BOAT was questioned during the Inquiry and evidence was produced⁴⁵ to indicate that it is currently not open to vehicular traffic including horse drawn vehicles. However this would appear to be a temporary measure due to ground conditions along the route. I am not aware of any application to permanently alter its status. I acknowledge that the provision of the car park would attract people to the area as it would provide easy access to the BOAT and other public rights of way and that the traffic using the lane could increase significantly as few vehicles use it at present. However, there is no evidence that it would attract drivers who would see the potential to access the wind farm and its internal road from the BOAT. Whilst any increase in traffic on the lane would be likely to be noticed by residents living along it, I do not consider that it would be sufficient to harm their living conditions.

(c) Health

232. Concerns were raised by CUP and local residents regarding the potential effect of the wind farm on health by reason of noise, AM and infrasound. Concerns were also raised with regard to the effect of radon gas on health. The effects were described as including a variety of symptoms ranging from a general feeling of discomfort, effect on breathing, chest pains, abdominal pains as well as "wind turbine syndrome" which studies suggest can be experienced up to 15km away. However there is no substantive evidence with regard to the particular effect the proposed wind farm would have on the health of local residents or in respect of radon gas. [59, 60, 70, 86, 94, 109-111, C4.8-4.9]

233. It is clear from the evidence of Miss Evans that her own health problems are directly related to noise and the distress she suffers was evident at times during the Inquiry. It

⁴⁵ ID 15

is also recognised that people can become sensitised to wind turbine developments and the noise they generate. I understand that some residents are concerned about the possible effect of the proposal on their health, including the cumulative effect that may come about from other similar developments under consideration in the area. Nonetheless, I do not consider the evidence to be sufficient to warrant refusal of the appeal on these grounds.

(d) Private water supplies

234. Several properties within the area are reliant on private water supplies and those of Fiddlers Green and Lower Fiddlers Green have been identified as originating within the appeal site. As there is no mains water supply in the area, the occupants of these properties are reliant on the private supplies and the potential for contamination or loss of the supplies to the dwellings is of great concern to them. I recognise their concerns that such a basic requirement may be put at risk by the development.[84, 111]

235. It has been stated in evidence that at the MWCI the developer of the LF wind farm accepted that construction of the access track would have a detrimental effect on the private water supply to Fiddlers Green. There is also the risk that the ground adjacent to the main access track would become polluted by the very large number of vehicles using it to access not only the appeal proposal but also potentially BG and LF wind farms. If all or some of these developments were to go ahead as well as the appeal proposal it may be difficult to assess the source of any contamination. Notwithstanding this I consider the protection of the private water supplies to be a matter which can be achieved by a satisfactorily worded condition. [84, 130, 137, C9.3]

(e) Shadow flicker

236. Shadow flicker caused by both the sun and the moon were identified as a potential problem by local residents which would affect their living conditions. It is generally considered that dwellings located greater than ten times the rotor diameter from a turbine are unlikely to experience shadow flicker. The scale of the turbine proposed would have a maximum rotor diameter of 93m, giving properties within 930m of the nearest turbine the potential to experience shadow flicker. [95, 110, 114, C4.1]

237. Although the ES indicates that 8 dwellings would be within 930m of a turbine, I estimate that the reduction in the number of turbines to 17 would reduce the number of properties with the potential to be affected by shadow flicker to 3. Each property would experience the theoretical potential for flicker for less than 30 minutes per day. Two would experience this in the early mornings during May to July and the third in the afternoons during April, August and September. However, the estimate does not take account of cloud cover, times when the turbines are stationary and when rotors are aligned with the sun and do not cast maximum shadows. All these would reduce the actual amount of shadow flicker experienced by the properties. No evidence was presented by any of the parties that substantiates a possibility of shadow flicker from moonlight; such conditions could in any event coincide with occupied rooms having curtains drawn and/or being lit internally.

238. Although shadow flicker may potentially affect a small number of properties, it is a matter which would be controlled by a condition to regulate the operation of the turbines as necessary. I conclude that shadow flicker would not materially harm the living conditions of nearby occupiers.

(f) Other matters raised by local residents

239. Insofar as residential living conditions are concerned, it is noted in evidence that the appropriate test is whether the turbines would be present in such number, size and proximity that they would represent an unpleasantly overwhelming and unavoidable presence in main views from a house or garden, such that there is every likelihood the property concerned would come to be regarded as an unattractive and thus unsatisfactory (but not uninhabitable) place to live. [88, 109-111, 112, 116, 118, 119, 121, C4.3, C4.5]

240. The turbines would be visible from properties in the area of the appeal site and would affect the outlook from them, whether in respect of the dwelling or its grounds. However, I do not consider that the appeal proposal would represent an unpleasantly overwhelming and unavoidable presence in main views from most of the properties. I do not consider that this would increase significantly if LF wind farm was to be permitted, but the situation may alter if other wind farms in the locality were allowed. However, I am concerned that part of all 17 turbines would be visible from Gatehouse and with the closest turbine being 1.13km away there is the potential for the occupant, Miss Evans, to be affected. Given the health problems reported above, there is the likelihood the property would come to be regarded by her as an unattractive and thus unsatisfactory (but not uninhabitable) place to live.

Planning balance and overall conclusion on Appeal A

241. The proposal would make a contribution towards the UK target of 15% of energy to be derived from renewable resources by 2020 and the WG's aim of having 2GW in total capacity by 2015/17, although it would come towards the end of that target period. The planning system has an important role in delivering the above target and aim with the latter to be achieved by, amongst others, optimising the use of the existing SSAs. Nonetheless TAN 8 recognises that not all the land within the SSAs may be environmentally suitable for major wind power proposals and the Minister's letter of July 2011 confirms that all SSAs have a finite environmental capacity and output should not exceed the maximum levels outlined. In isolation the development would not exceed the target for SSA C, but it may be exceeded if other wind farms under consideration are permitted in advance of a decision on this appeal.

242. A balance needs to be struck between the benefits of generating electricity from renewable onshore wind and the identified impacts of the scheme on the landscape character and visual amenity of the area, the setting of the SAMs and LBs and other matters raised in evidence.

243. Although in respect of landscape character and visual amenity I consider that the development would cause harm, in TAN 8 there is an implicit objective to accept significant change in landscape character. I consider that the degree of change to the landscape, and as a consequence visual amenity, that would be brought about by the

development on its own would be consistent with the aims of TAN 8. However, in combination with other similar developments the balance may be tipped over into unacceptability. I am also satisfied that, subject to conditions, the development would be satisfactory with regard to noise and ecology.

244. I have identified substantial harm from the development to the setting of the SAMs Castell y Blaidd, Coventry Barrow and Ty'n y Ddoll Barrow which would be in conflict with policies of the development plan. Moreover the identification of harm to the settings of the Cwm y Hob LBs is of considerable importance and merits weight in the balancing exercise by reason of Section 66 of the 1990 Act.
245. I have also identified a degree of harm to tourism and although I have concluded that this harm would be insufficient to justify dismissing the appeal, it carries weight against it.
246. With regard to the effect of the development on the living conditions of local residents, I have concluded that the effect of the internal access route on the residents of Fiddlers Green and Lower Fiddlers Green would be limited. The residents of these properties would also be affected by increased traffic on the local highway network although it would not be sufficient to cause harm. Issues of the private water supply to the same properties I am satisfied can be protected by condition and matters raised in relation to the effect of the development on the health of local residents are also not sufficient to justify refusal of the appeal.
247. In terms of shadow flicker only three properties would potentially be affected for less than 30 minutes per day during three months of the year and such effects can be safeguarded via a condition. Although the turbines would feature in the outlook from several properties in the area surrounding the site, I have concluded that the proposed development would not appear unpleasantly overwhelming and an unavoidable presence in main views. However, I am concerned that with the proximity of the development to the Gatehouse and the circumstances regarding the health of the occupant that the property might come to be regarded by her as an unattractive and thus unsatisfactory (but not uninhabitable) place to live. This carries weight against the appeal.
248. However, on balance I conclude that the positive benefits of renewable energy, the location of the site within SSA C and the acceptable level of change to landscape character and visual amenity outweigh the considerable weight against the appeal from the identified harm to the setting of the SAMs and the limited identified harm in the other respects identified above. The evidence persuades me that the balance is in favour of the appeal and that the proposal would therefore accord with Policy E3 as the primary policy against which the appeal needs to be judged. On this basis I conclude that the appeal should be allowed.

Appeal B

Free and safe flow of traffic on the public highway

249. As detailed earlier, the access route subject of Appeal B falls into three sections: from Ellesmere Port to Newtown, from Newtown to Cwm y Berllwyd; and from Cwm y Berllwyd to the site. Whilst PCC withdrew its objections to the access route appeal

prior to the Inquiry commencing, CUP and local residents maintained their objections on the grounds that the improvements required to the highway network and the traffic generated by the development would cause disruption to the free flow of traffic which would have consequences not only for the living conditions of the local population but also for the local economy and tourist industry. RES is of the opinion that there are no reasons for resisting the appeal on highway grounds. [31, 63, 106, 118, A154, A211, C7.1-7.2]

250. The access proposals from Ellesmere Port to Cwm y Berllwyd advanced as part of the appeal follow the route approved by WG as part of the strategic Traffic Management Plan (sTMP). This route, or parts of it, would also be used to serve other wind farm developments in SSA B and SSA C. Localised improvements to facilitate the passage of AILs will be required at various points along the strategic route. The final section, section 6 of the sTMP, was approved by WG in March 2014⁴⁶ and includes a new link road from the Mochdre Industrial Estate to the A483 south west of Newtown. This section would only be used by vehicles transporting AILs and not by the general public. The outline design for a new access off the A483 at Cwm y Berllwyd, which would be shared with the LF wind farm, has also been confirmed by WG⁴⁷ to be satisfactory. [C7.1-7.4]
251. The A483, which passes through Newtown, is a trunk road and carries a heavy volume of traffic. The construction phase of the wind farm, and other wind farms proposed in the area, would result in an increase in the traffic using the A483 and has the potential to add to the congestion already experienced at times along the route, particularly through Newtown. Moreover, the improvement works required to enable the passage of AILs along the strategic route would disrupt the flow of traffic, which could be exacerbated during the construction of the Newtown by-pass, scheduled to commence in 2015. A further consequence of the additional traffic would be increased traffic noise which could be detrimental to the living conditions of residents with properties close to the strategic route. [63, 73, 108, C7.1-7.3, C7.5]
252. It is during the construction phase of the wind farm that the development would generate the greatest number of vehicles using the strategic route and the consequent disruption to the flow of traffic and increase in traffic noise. During the operational phase the number of vehicles visiting the site for maintenance purposes would be few and during the decommissioning stage the numbers would not be as great as during construction. The number of vehicles would vary over the construction period, but it is probable that the greatest disruption would come from the passage of AILs. However, the route which would be followed is one that has been approved by WG as fit for purpose and use of it would be actively managed. The details of the management scheme would be addressed by condition as would the use of the Newtown by-pass if it becomes available for use in preference to the strategic route through the town. [63, 73, C7.5]
253. Local residents contended that the public would not benefit from the road improvements required in order to facilitate the AILs, namely the link from Mochdre

⁴⁶ CD 5 Appendix 3.1a

⁴⁷ CD 43

Industrial Estate to the A483. However, the junction of the new road with the A483 would only allow vehicles to turn towards the south under controlled conditions and would not be suitable for use by the public. Use of the existing highway from Dolfor to the wind farm was put forward as an alternative route as the necessary improvement to the road would be of benefit to local road users. Whilst this might be the case, the practicalities of using this route have not been assessed in any detail and it is not within the remit of the decision maker to consider an alternative to the one proposed. [118]

254. The final 3.4km of the access route from the A483 to the site boundary of Appeal A would follow a route across open farmland proposed as part of the LF wind farm. The use of this route has been secured by agreement with the developers of the LF wind farm and the proposals are acceptable to PCC. The public highway would be utilised for approximately the final 1km of the route. It would require improvement through the strengthening of verges and provision of passing places. The diversion of traffic away from the narrow lanes which form the local highway network once the A483 is left would be to the advantage of local road users as any disruption to traffic flow on these relatively lightly trafficked roads would be restricted to the short section of highway close to the site. The movement of AILs along this section would require the closure of the road for periods of approximately 2-3 minutes. [31]
255. The wind farm both individually and in combination with the development of other wind farms in the area would result in additional traffic using the highway network. However, it is a matter agreed in the Transport SoCG that the traffic impact of construction traffic for the proposed wind farm on its own would not exceed the accepted screening threshold of potential significance. A similar conclusion was reached in respect of the cumulative traffic impact of construction traffic associated with the wind farms subject of the MWCI. The cumulative traffic impact may alter if the construction programme on which the assessment was based changes. Other developments such as the proposed wind farms at NG and BG could also have an impact. [C7.2-7.5]
256. There is therefore the possibility, depending on the number of wind farms constructed, for the increase in traffic to be greater than that estimated at any one time and which could be particularly noticeable on the minor roads in the vicinity of the site. However, it would not be a permanent effect but one which would be limited to the construction period. Although this would be spread over several years, the type and volume of traffic would vary within that time period and any disruption would fluctuate. The traffic flow, and in particular the AILs which would cause most disruption, would be managed and would use a predetermined route, the majority of which would consist of the strategic route approved by WG and the route through LF wind farm.
257. On this basis, I do not consider that overall the disruption to road users caused by the increased traffic and the consequences for the local population, economy and tourist industry as a result of the proposed wind farm would be unacceptable. As such the proposed access route would accord with Policies E3, SP6, SP12, GP1, GP4 of the UDP.

Ecology and the Habitats and Species Regulations 2010

258. Although PCC withdrew its objection to the access route, CUP and local residents continued to raise concerns about the effect of the access route on biodiversity. This issue has been fully explored in the ES and additional information has been provided in the SEI. On the basis of these reports and subject to certain conditions NRW and PCC find the development to be satisfactory. [143-145, A216, C10.1]
259. However, there is one outstanding matter raised by NRW. NRW considers that the ecological issues associated with the scheme concern European Protected Species (EPS) and the species potentially affected include the dormouse, common and soprano pipistrelle bats and otter. The demonstration that there will be no detriment to the maintenance of the favourable conservation status of each of the affected populations of these species is material to the decision and there is therefore a need to consider whether the proposals are compliant with the provisions of the Conservation of Habitats and Species Regulations 2010 (as amended) (the Habitats Regulations). [A217]
260. With regard to the dormouse, subject to the implementation of agreed mitigation and necessary compensatory measures which could be secured through condition, NRW considers that it can be demonstrated that the development would be unlikely to be detrimental to the maintenance of the favourable conservation status of each affected population of the species in this natural range. The mitigation and compensatory measures referred to by NRW are addressed in the conditions put forward for consideration. A derogation licence would also be required. [ID 25]
261. The proposal has the potential to affect the foraging and dispersal of a number of species of bats. However, NRW considers the proposed mitigation to be satisfactory for the purposes of assessing the impact on the conservation status of the species and demonstrating that the proposal would be unlikely to be detrimental to the maintenance of the favourable conservation status of bat populations in their natural range. A derogation licence would be needed. [ID 25]
262. Whilst water voles were not recorded in the surveys undertaken as part of the appeal proposal they were subsequently recorded within 1km of the route as part of survey works for another scheme. In view of this NRW considers that updated surveys should be undertaken prior to work commencing and any necessary mitigation undertaken. This is provided for in the recommended conditions. [ID25]
263. The otter is a feature of the River Wye Special Area of Conservation (SAC). As some of the works are within or adjacent to the catchment of the River Wye, NRW is of the opinion that a Habitats Regulations Assessment (HRA) needs to be undertaken by the competent authority prior to any permission being granted for the scheme. NRW considers that RES has not included detailed mitigation measures as part of its proposals. It is therefore unable to conclude that there will be no likely significant effect on the SAC, alone or in combination with other projects, and an Appropriate Assessment (AA) is required to be undertaken by the competent authority. However, subject to conditions, NRW considers that the competent authority would be able to conclude that the appeal proposal would not adversely affect the integrity of the River Wye SAC. [ID 25]

264. RES considers that the information already provided demonstrates satisfactorily that there will not be any likely significant effects and an AA is therefore not necessary. Moreover, RES does not agree that it would be necessary to impose the conditions proposed by NRW in order to conclude that the appeal proposal would not adversely affect the integrity of the River Wye SAC. [ID 26, A217-218]
265. The possibility that the proposal would have likely significant adverse effects cannot be ruled out without further consideration. As the competent authority it falls on Welsh Ministers to undertake an AA but to assist in that process I have set out below my assessment of the factors that need to be taken into account.
266. The ES in addressing the anticipated impact of the proposed access route on sensitive ecological receptors considered the effect of the proposed route on the River Wye SAC together with the River Ithon and the Esgairdraenllwyn Pastures SSSI. The ES concluded that the development would be unlikely to affect the ecological integrity of the SSSI or the wider River Wye SAC and the impact on designated sites was considered not significant at the national level. Moreover, in respect of otters the ES states that no otter holts or resting places were identified near to the proposed route and no direct impacts on them were anticipated. However, as the species is known to pass through the area a precautionary approach would be adopted prior to construction to ensure that all legal requirements afforded to otters were met through a CEMP. The conclusion was reached that the likely impact relating to otters was deemed to be not significant. The recommended conditions include for the provision of a CEMP.
267. The purpose of the CEMP is to provide a mechanism that would ensure the implementation of any measures that may be required to protect otters (and other protected species) and the habitat of the River Wye SAC. The SAC would not be directly affected by the development and the proposed mitigation would address the protection of protected species such that harm to the local populations would be unlikely. Moreover the CEMP would ensure that the sensitive habitats of the River Wye would be unlikely to be affected, thus maintaining water quality which is vital to the maintenance of the habitat quality of the river on which the otter and other qualifying species rely [ID 25]
268. A decision on whether an AA is necessary should be made on a precautionary basis. Any plan or project not directly connected with or necessary to the management of the site should be subject to an AA of its implications for the site in view of the site's conservation objectives if it cannot be excluded, on the basis of objective information, that it will not have a significant effect on the site, either individually or in combination with other plans or projects. NRW has commented that the submitted information focuses on evaluating EPS and the significance of any impact in terms of their geographical context and does not assess the impacts on EPS with regard to consideration of current status, demonstration of no detriment to maintenance of their favourable conservation status and the tests in Regulation 53(2) of the Habitats Regulations.
269. I am in agreement with NRW that on the submitted information it cannot be concluded that there will be no likely significant effect on the SAC and EPS, alone or in combination with other projects, and an AA is therefore required to be undertaken by the competent authority. However I am also in agreement with NRW that, subject to

conditions, the competent authority would be able to conclude that the appeal proposal would not adversely affect the integrity of the otter population or the River Wye SAC. [ID 25]

Planning balance and overall conclusion on Appeal B

270. I have concluded that overall the disruption to road users caused by the increased traffic and the consequences for the local population, economy and tourist industry as a result of the proposed wind farm would not be unacceptable. Moreover, PCC and NRW have raised no objection with regard to the effect of the development on the ecology and biodiversity of the area and the evidence has not convinced me otherwise.
271. On the matter of the AA, whilst I am of the opinion that one is required, I am of the opinion that the competent authority would be able to conclude that subject to the imposition of appropriate conditions the appeal proposal would not adversely affect the integrity of the populations of otters and other qualifying species or the River Wye SAC. On this basis and subject to the AA being completed, I conclude that the appeal should be allowed.

Other matters

Timing of the decisions

272. As emphasised by PCC the timing of the decisions on the appeals could have consequences for WG policy and on this basis PCC considers a decision should not be made in isolation of the schemes subject of the MWCI. The capacity limits in Welsh policy will be fundamental to all the decisions and as indicated above, the current proposals for wind farms in this area would, in combination, exceed the capacity for SSA C as set out in the Ministerial letter. It is important that in reaching a decision on the appeals regard is had to the consequences which might arise from any developments allowed prior to the decision being made. However, there is no reason to delay a decision in order to await the outcome of the MWCI or other similar proposals in the system. [54, 55, A106-109, B134-137]

Conditions

273. The conditions for each appeal agreed between the parties and discussed at the Inquiry provide an appropriate basis for the set of conditions that would need to be applied if planning permission were granted for the proposed development. I have drafted a revised set of conditions for each appeal in Annex D and E attached to this report and, if Welsh Ministers are minded to allow the appeals and grant planning permission, I consider those conditions would meet the tests prescribed in Circular 016/2014. [129-145]

Recommendations

274. For the reasons given above and having had regard to all matters raised in evidence, I recommend that Appeal A (on the basis of the revised scheme for 17 turbines) and Appeal B both be allowed as follows:

Appeal A: The appeal be allowed and planning permission granted for erection of 17 wind turbines, wind monitoring mast, access tracks, crane hard standings, water

crossing, control building, substation compound, car park, off site road improvements, temporary compounds, borrow pits, masts and welfare facilities subject to the conditions set out in Annex D to this report;

Appeal B: The appeal be allowed and planning permission be granted for highway upgrades and associated works on third party land between Newtown and the proposed Garreg Lwyd Wind Farm to facilitate deliveries of abnormal indivisible loads and the construction of a new track and upgraded track from Cwm y Berllwyd across the proposed Llanbadarn Fynydd Wind Farm to access the proposed Garreg Lwyd Hill Wind Farm subject to the conditions set out in Annex E to this report.

Kay Sheffield

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Mr T Cosgrove, of Counsel Instructed by Jane Foxley, Solicitor to the Council

He called

Mr M Carpenter BA(Hons) Enplan UK Limited
MRTPI

Mr P Rusell-Vick DipLA CMLI Enplan UK Limited

Mr A Croft BA MA Atkins Limited

Mr P Bufton BSc(Hons) Dip ANC Senior Environmental Health Office, Powys
EHORB MCIEH County Council

FOR THE APPELLANT:

Mr V Fraser QC Instructed by Emma O’Gorman of Squire Patton Boggs (UK) LLP

He called

Mr D Stewart MA(Cantab) David Stewart Associates
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Ms K Hawkins BSc(Hons) BLD Hawkins Bell Associates Limited
CMLI

Dr S Colcutt MA(Hons) DEA Oxford Archaeological Associates Limited
DPhil FSA

Dr A McKenzie PhD BSc FIOA Hayes McKenzie Partnership

Mr K Martin BEng CEng MICE Aecom Consulting Engineers

FOR CONSERVATION OF UPLAND POWYS GROUP:

Mr B Kibble BSc(Hons) CEng

Mrs J Kibble BSc(Hons) MA

Dr S Myhill MB BS

Mrs A Davies

INTERESTED PERSONS:

Mr Jones	Kerry Community Council
Mr M Mosse	British Horse Society
Mr M Brennan	British Horse Society
Miss M Flanders	Local Resident
Mrs M Brock	Local Resident
Mr R Trueman	Local Resident
Mr M Halsey	Local Resident
Miss Evans	Local Resident
Mr B Crawford	Local Resident
Mr R Wright	Local Resident
Mrs S Sanford	Local Resident
Mr J Sanford	Local Resident
Mr C Thomas	Local Resident
Mr J Roberts	Local Resident

DOCUMENTS

- ID 1 Notes of Pre-Inquiry meeting, 22 July 2014
- ID 2 Council's notification letter regarding the arrangements for the Inquiry
- ID 3 Council's consultation letter of 18 August 2014 and circulation list regarding the reduction in the number of turbines from 23 to 17.
- ID 4 Letter from Council dated 16 September 2014 regarding withdrawal of reasons for refusal.
- ID 5 Opening Statement of RES
- ID 6 Opening Statement of PCC
- ID 7 Appendix to Opening Statement of PCC – Outline Legal Submissions -Heritage
- ID 8 Statement of Common Ground on Planning and Energy Policy
- ID 9 Statement of Common Ground on Landscape and Visual Effects
- ID 10 Statement of Common Ground on Cultural Heritage
- ID 11 Statement of Common Ground on Transport
- ID 12 Letter of 2 October 2014 from Shropshire Hills AONB Partnership
- ID 13 Letter of 4 October 2014 from Mrs C Minshull
- ID 14 Plan showing position in respect of wind farm developments in Powys at the time of the Inquiry submitted by PCC
- ID 15 Photographic evidence of current status of BOAT submitted by CUP
- ID 16 Letter from NRW of 29 July 2013 and e-mail of 16 October 2014 regarding review of LANDMAP submitted by Mr C Thomas
- ID 17 CPAT Report No. 821: TAN 8 Strategic Search Areas in Powys Historic Landscape Characterisation submitted by PCC
- ID 18 Welsh Government letter of 21 January 2013 to MWCI submitted by RES
- ID 19 Letter of 23 June 2008 from BWEA to PCC in response to consultation on IDCG submitted by RES
- ID 20 Response from BHS of 18 July 2008 in respect of consultation on IDCG submitted by RES
- ID 21 Appeal Decision Notice issued by the Scottish Government on 24 October 2014 submitted by RES.
- ID 22 Draft set of suggested conditions – Appeals A and B
- ID 23 Conditions requested by Miss M Flanders and Mr B Crawford
- ID 24 Submission by Mr B Crawford and Miss M Flanders on draft conditions on noise
- ID 25 NRW letter of 10 September 2014
- ID 26 Note submitted by BSG Ecology on behalf of RES in response to NRW letter of 10 September 2014

DOCUMENTS SUBMITTED BETWEEN THE LAST SITTING DAY AND CLOSE OF THE INQUIRY:

- ID 27 List of conditions agreed between PCC and RES – Appeals A and B
- ID 28 Closing statement on behalf of PCC
- ID 29 Closing statement on behalf of CUP
- ID 30 Closing statement on behalf of RES

EVIDENCE AND APPENDICES FROM INTERESTED PARTIES

- ID 31 British Horse Society- Mr M Brennan
- ID 32 British Horse Society – Mr M Mosse
- ID 33 Miss M Flanders
- ID 34 Mr B Crawford
- ID 35 Mrs M Brock
- ID 36 Mr R Trueman
- ID 37 Mr M Halsey
- ID 38 Miss M Evans
- ID 39 Mr J Sanford
- ID 40 Mr J Roberts
- ID 41 Mr R Wright

PROOFS OF EVIDENCE AND APPENDICES OF RES:

- RES/DIS/1 Summary of written statement of evidence of David Stewart
- RES/DIS/2 Written statement of evidence of David Stewart
- RES/DIS/3 Appendices to written statement evidence of David Stewart (2 volumes)
- RES/DIS/4 Rebuttal statement of David Stewart
- RES/DIS/5 Second rebuttal statement of David Stewart
- RES/KFH/1 Summary of written statement of evidence of Kay Hawkins
- RES/KFH/2 Written statement of evidence of Kay Hawkins
- RES/KFH/3 Appendices to written statement of evidence of Kay Hawkins
- RES/KFH/4 Figures to written statement of evidence of Kay Hawkins
- RES/KFH/5 Wireline views from Fiddlers Green of appeal proposal and of the appeal proposal and Llanbadarn Fynydd wind farm
- RES/SNC/1 Written statement of evidence of Dr S N Collcutt
- RES/SNC/2 Summary of written statement of evidence of Dr S N Collcutt
- RES/SNC/3 Appendices to written statement of evidence of Dr S N Collcutt

- RES/SNC/4 Rebuttal statement of Dr S N Colcutt
- RES/SNC/5 Wireline view of Warren Hill Barrow
- RES/AMcK/1 Written statement of evidence of Dr A R McKenzie
- RES/AMcK/2 Appendices to written statement of evidence of Dr A R McKenzie
- RES/KM/1 Summary of written statement of evidence of Kevin Martin
- RES/KM/2 Written statement of evidence of Kevin Martin

PROOFS OF EVIDENCE AND APPENDICES OF PCC:

- PCC/MC/1 Summary written statement of evidence of Martin Carpenter
- PCC/MC/2 Written statement of evidence of Martin Carpenter
- PCC/MC/3 Appendices to written statement of evidence of Martin Carpenter
- PCC/PR-V/1 Summary written statement of evidence of Philip Russell-Vick
- PCC/PR-V/2 Written statement of evidence of Philip Russell-Vick
- PCC/PR-V/3 Appendices to written statement of evidence of Philip Russell-Vick
- PCC/AC/1 Summary written statement of evidence of Andrew Croft
- PCC/AC/2 Written statement of evidence of Andrew Croft and appendices
- PCC/PB/1 Written statement of evidence of Paul Bufton
- PCC/PB/2 Appendices to written statement of evidence of Paul Bufton

PROOFS OF EVIDENCE AND APPENDICES OF CUP:

- CUP/1 Written statement of evidence
- CUP/1/APP Appendices to written statement of evidence relating to tourism and economy
- CUP/1/APP2 Appendices to written statement of evidence relating wildlife and ecology
- CUP/2 Written statement of evidence on landscape and visual matters
- CUP/3 Written statement of evidence on cultural heritage
- CUP/4 Compendium of personal statements from residents

CORE DOCUMENTS FOR INQUIRY

RES Documents

- CD 1 Garreg Lwyd Wind Farm Environmental Statement 2008: Volume 1 Non-Technical Summary; Volume 2 Written Statement (and Appendices); and Volume 3 Figures.
- CD 2 Garreg Lwyd Wind Farm Supplementary Environmental Information 2013: Volume I Main Document; and Volume II Technical Appendices 1 – 12.
- CD 3 Garreg Lwyd Access Route Environmental Statement 2013, Volume I Non-Technical Summary; Volume II Main Document; and Volume III Support Appendices to Volume II.
- CD 4 Garreg Lwyd Hill Wind Farm 2014 SEI.
- CD 5 Garreg Lwyd Access Route 2014 SEI.
- CD5a NRW response to Garreg Lwyd Access Route 10 September 2014.

CD 5b NRW response to Garreg Lwyd Wind Farm 15 September 2014.

Powys County Council Documents

CD 5c Croft, A. August 2013. Professional opinion on the acceptability of the cultural heritage impacts of the proposed scheme for Garreg Lwyd, Atkins Limited.

CD 5d Garrg Lwyd Wind Farm Committee Report 5 September 2013.

CD5e Croft, A. 2013 Written Statement of Evidence Mid-Wales Conjoined Wind Farms Public Inquiry.

CD5f Closing Submission Mid-Wales Conjoined Wind Farms Public Inquiry (Area C0 and 'General Overview') Pages 4 – 28 Paras 5 -68.

CD 5g Appeal A Decision Notice.

CD 5h Appeal B Decision Notice.

CD 5i Garreg Lwyd Access Route Planning Committee Report dated 5 September 2013.

Case Law

CD 6 Barnwell Manor v East Northamptonshire District Council and English Heritage and the National Trust and the Secretary of State for Communities and Local Government [2014] EWCA Civ 137.

CD 6a The Queen (on the app of The Forge Field Society, Martin Barraud, Robert Rees) v Sevenoaks District Council, West Kent Housing Association, The Right Hon Philip Alerton Viscount L'Isle [2013] EWCH 473 (Admin).

Planning Policy and Guidance

CD 7 Arup (January 2006) TAN 8 Annex D Study of Strategic Search Areas B (Carno North) and C (Newtown South): Final Issue Report for Powys County Council.

CD8 Arup (April 2008) Local Refinement of TAN 8 Strategic Search Areas B and C: Review Exercise for Powys County Council.

CD 9 Arup (July 2010) Research: Strategic Search Area (SSA) Reassessment and Validation for Welsh Assembly Government.

CD 9a Arup (July 2004) Facilitating planning for renewable energy in Wales – Meeting the Target. (Final Report Research Contracts 105/2002 and 269/2003).

CD 9b Arup (June 2005) Facilitating planning for renewable energy in Wales – Meeting the Target. (Review of Final Report Research Contracts 105/2002 and 269/2003).

CD 10 Arup (October 2012) Designing Wind Farms in Wales for the Design Commission for Wales.

CD 11 White Paper Meeting the Energy Challenge 2007 (Chapters 5 and 8).

CD 12 DCLG (2009) Letter to Chief Planning Officers: UK Climate projections 2009.

CD 13 DECC (2009) The UK Renewable Energy Strategy July 2009 (Summary only).

CD 14 DECC (July 2011) Overarching National Policy Statement for Energy (EN-1).

CD 15 DECC (July 2011) National Policy Statement for Energy for Renewable Energy Infrastructure (EN-3).

- CD 16 DECC (2011) UK Renewable Energy Roadmap.
- CD 17 DECC (2012) UK Renewable Energy Roadmap.
- CD 18 DECC (2013) UK Renewable Energy Roadmap Update.
- CD 19 Powys County Council (March 2010) Powys Unitary Development Plan 2001 – 2016 Written Statement.
- CD 20 Powys County Council (2014) Deposit Draft Local Development Plan.
- CD 21 Powys County Council (2006) First Draft Interim Development Control Guidance on Wind Farm Development in Powys.
- CD 22 Powys County Council (May 2008) Second Draft Interim Development Control Guidance on Wind Farm Development in Powys.
- CD 23 Welsh Assembly Government (July 2005) Planning Policy Wales, Technical Advice Note 8: Planning for Renewable Energy (TAN 8).
- CD 24 Welsh Assembly Government Energy Policy Statement March 2010.
- CD 25 Letter from Jon Griffiths AM July 2011 on wind farm developments.
- CD26 Welsh Government – Energy Wales – A Low Carbon Transition 2012.
- CD27 Welsh Assembly Government (February 2014) Planning Policy Wales Edition 6 (PPW6).
- CD 27a Welsh Assembly Government (July 2014) Planning Policy Wales Edition 7 (PPW7).
- CD 28 Planning and the Historic Environment; Archaeology Welsh Office Planning and the Historic Environment: Historic Buildings and Conservation Areas Circulars 60/1996 and 61/1996.
- CD 29 Cadw, Welsh Assembly Government & Countryside Commission for Wales (2007) Guide to Good Practice on using the Register of Landscapes of Historic Interest in Wales in the Planning and Development Process – Revised (2nd) Edition including revisions to the Assessment Process (ASIDOHL2).
- CD 30 Cadw (March 2011) Conservation Principles: (Policies and Guidance) for the Sustainable Management of the Historic Environment in Wales.
- CD 31 National Planning Policy Framework (England) (2012) and the Impact Statement for the National Planning Policy Framework (July 2012).
- CD 32 DCLG (July 2013) Planning Practice for Renewable and Low Carbon Energy.
- CD 33 National Planning Practice Guidance (England) (2014).
- CD 33a Garrad Hassan and Partners (April 2005) Energy Assessment of TAN 8 Wind Energy Strategic Search Areas.
- CD 33b Shropshire Hills AONB Partnership (March 2014) Shropshire Hills Area of Outstanding Natural Beauty Management Plan 2014-2019.

Appeal Decisions

- CD 34 Planning Inspectorate Appeal Decision Wern Ddu, Denbighshire APP/R6930/A/05/1185359.

- CD 35 Planning Inspectorate Appeal Decision APP/Y6930/A/12/2181883.
- CD 35a Planning Inspectorate Inspectors Report and Secretary of State Decision EN010013, The Clocaenog Forest Wind Farm.
- CD 35b Welsh Ministers Appeal Decision Bryn Llewelyn qA1140739.
- CD 35b1 Bryn Llewelyn (Carmarthenshire CC) APP/M6825/A/12/2189697, APP/M6825/X/13/515763 & APP/M6825/X/13/515764.
- CD 35c Ashfordby (Melton BC) APP/Y2430/A/13/2191290.
- CD 35d Burton Agnes (East Riding of Yorkshire) APP/E2001/A/13/2190363.
- CD 35e East Heslerton (Ryedale DC) APP/Y2736/A/13/2201109.
- CD 35f East Moneylaws Farm APP/P2935/A/13/2193153.
- CD 35g Louth Canal (East Lyndsay DC) APP/D2510/A/13/2200887.
- CD 35h Pen y Banc, Haverfordwest APP/N6845/A/13/2209836.
- CD 35i Clocaenog Forest Wind Farm EN010013 (as per CD 35a).

Landscape and Visual Amenity

- CD 36 Landscape Institute and Institute of Environmental Management & Assessment (April 2013) Guidelines for Landscape and Visual Impact Assessment, 3rd Edition.
- CD 37 Natural Resources Wales (May 2013) LANDMAP Guidance Note 3: Guidance for Wales – Using LANDMAP for Landscape and Visual Impact Assessment of Onshore Wind Turbines.
- CD 38 Scottish Natural Heritage (March 2012) Guidance: Assessing the Cumulative Impact of Onshore Wind Energy Developments.

Cultural Heritage

- CD 39 English Heritage (2005) Wind Energy and the Historic Environment.
- CD 40 English Heritage (May 2011) Seeing the History in the View: a method for assessing heritage significance within views.
- CD 41 English Heritage (October 2011) The Setting of Heritage Assets: English Heritage Guidance.

Transport

- CD 42 Letter from Welsh Government dated 13 March 2014 confirming approval of sTMP Section 6.
- CD 43 Welsh Government e-mail of 11 January 2013 confirming approval of trunk road access.
- CD 44 Highway Agency's Water Preferred Policy.
- CD 45 Institute of Environmental Assessment (IEA) Guidelines for the Environmental Assessment of Road Traffic.

ANNEX A

The case for RES UK & Ireland Limited

As contained in the closing submissions to the Inquiry (Document ID30)

Introduction

1. These appeals are made by RES UK & Ireland Ltd ("RES") one of the world's leading independent renewable energy project developers with operations across Europe, and worldwide.
2. As a respected British company with over 30 years experience of planning, building and operating renewable energy projects, RES has been an established presence at the forefront of wind energy development since the 1970s and has developed and/or built more than 7.5 GW of wind energy capacity worldwide. This includes projects in the UK, Ireland, France, Scandinavia, and the United States, with a large additional portfolio currently in development. In the UK alone, RES currently has more than 1 GW of wind energy projects either constructed, under construction or consented. In 2013 RES was awarded for the second time, the Queen's Award for Enterprise, on this occasion for International Trade, following recognition in 2005 under the "Sustainable Development" category.
3. On the 27th May 2008 RES applied for planning permission for the erection of 23 wind turbines and associated infrastructure on land at Garreg Lwyd Hill ("the wind farm application/appeal"). On the 18th July 2013 RES made a further application for highway upgrades and associated works to facilitate access to the proposed wind farm ("the access road application/appeal"). Both applications were refused by Powys CC ("PCC") on the 12th September 2013 and they form the subject of the appeals before this inquiry.
4. With confirmation of the suitability of the proposed Mochdre link as part of the access road application all issues arising with respect to the access road appeal have been resolved to the satisfaction of the public bodies, albeit some residual issues are raised by third parties.
5. For the reasons discussed at the pre-inquiry meeting on the 22nd July 2014 RES propose amending the scheme the subject of the wind farm application/appeal by reducing the number of wind turbines to 17. SEI dealing with the proposed amended scheme was published in August 2014. The evidence produced for the inquiry primarily addresses the amended 17 turbine scheme and it was this scheme that was effectively considered by all parties at the inquiry. There was no suggestion by any party to the inquiry that they were unable to address the amended scheme or that they had been prejudiced in any way by the proposed amendment. Any person or body who might have wished to make representations with respect to the amended scheme has had a full and fair opportunity to make representations upon the amended scheme. The amended scheme is within the red-line area of the original application and the reduction in the number of turbines and resulting reduction in ancillary development inevitably reduces the impacts associated with the development.
6. The issue to consider in determining whether to allow an amendment to the proposal is whether this would result in granting permission for something that in substance was not that for which permission had been applied for and the main criterion in determining this question is whether to allow the amendment would be to deprive those who should have been consulted on the changed development of the opportunity

of such consultation¹. In the circumstances of this case there has been full and widespread consultation on the amended proposal and there can be no suggestion that anybody has been denied the opportunity to make representations on the inevitably reduced impact of the amended proposal. In the circumstances it is appropriate for the amendment to be allowed.

7. Whilst the original full 23 turbine scheme would be acceptable, as the applicant seeks to develop the proposal in accordance with the reduced amended scheme of 17 turbines, and as it was that scheme which was effectively considered at the inquiry, these submissions address the proposal on the basis of that amended scheme.
8. The proposed wind turbines would comprise a conventional design of three blades and a tapered tubular tower. The overall height to blade tip would not exceed 126.5 metres (415 feet). The ultimate choice of turbine would be subject to a competitive tendering process within the parameters set out. A number of turbines currently on the market would meet all of the relevant criteria for the proposal (including for example noise specifications). The installed capacity of the turbines will depend upon the final turbine choice but is expected to be of the order of up to 2 MW which would mean that the proposal would have a total installed capacity of up to 34 MW².
9. The wind farm proposal has been subject to extensive environmental appraisal. The original Environmental Statement was produced in 2008³ with SEI in 2013⁴ and 2014⁵.
10. The access route follows the strategic route from the north which is initially common to proposals in both SSA B and SSA C and follows the same route as that proposed for the wind farm proposal at Llanbadarn Fynydd ("LF") which was one of the Electricity Act proposals considered earlier this year at the conjoined Mid-Wales Inquiry. There are some additional works involved with the access route to provide the necessary access to the appeal site from the LF site.
11. The access route has also been subject to extensive environmental appraisal with an ES published in 2013⁶ and SEI in 2014⁷.

Policy background and overview

UK – national policy

12. The proposal must be viewed against the pressing need to address climate change and improve the country's security of energy supply. There is widespread national and international recognition of the problems arising from climate change, the need to reduce carbon dioxide emissions and provide more electricity from renewable sources. The EU Climate and Energy package (formally agreed April 2009) commits the EU to achieving a reduction in EU greenhouse gas emissions of 20% by 2020 compared to 1990 levels and included a binding renewable target of 20%. The UK's share of this target is to deliver 15% renewable energy by 2020 which compares with a figure of

¹ *Bernard Wheatcroft Ltd v SOSE (1982) 43 P&CR 233*

² KFH/2 5.18 and CD 5d section 2

³ CD 1

⁴ CD 2

⁵ CD 4

⁶ CD 3

⁷ CD 5

3.8% in 2011⁸. Under EU Decision 406/2009/EC the UK has a binding target of a 16% reduction in greenhouse gas emissions by 2020 compared to 2005 emissions levels. Not surprisingly, the UK Renewable Energy Strategy (UK RES) states that the UK needs to increase radically its use of renewable energy⁹.

13. The importance of achieving these aims and the difficulties in achieving them has been reiterated on numerous occasions by the coalition government; for example in the Energy Statements, the National Renewable Energy Action Plan for the UK, the Carbon Plan and the UK Renewable Energy Roadmap and Updates¹⁰.
14. Although the primary driver of legislation and policy in this area is undoubtedly the importance of tackling climate change and ensuring security of energy supply it is also important to remember that there are significant economic and employment benefits associated with the development of renewable energy as is recognised for example in the UK Renewable Energy Strategy¹¹.
15. Important and up to date policy on these matters is set out in the National Policy Statements (NPSs). These NPSs were presented to Parliament. The NPSs were prepared under the provisions of the Planning Act 2008 and apply directly to NSIP applications determined under the Planning Act 2008, however, it is common ground¹² that they are also material to determination of planning applications as indeed the NPS make clear. They clearly form the up to date policy basis for determination of projects of this nature and substantial weight should be attached to them¹³.
16. The NPSs recognise and seek to address the national imperative to deliver further renewable electricity generation. For example they provide –
 - i) *"...The need for new renewable electricity generation projects is therefore urgent"* (NPS EN 1 at 3.4.5);
 - ii) *"As part of the UK's need to diversify and decarbonise electricity generation, the Government is committed to increasing dramatically the amount of renewable generation capacity...In the short to medium term, much of this new capacity is likely to be onshore and offshore wind..."* (NPS EN 1 at 3.3.10);
 - iii) *"...it will not be possible to develop the necessary amounts of such infrastructure without some significant residual adverse impacts"* (NPS EN 1 at 3.2.3)¹⁴.In the context of a proposal of this nature and scale the NPSs make it plain that the need for the development is a given and is not open to challenge or discussion.
17. The need to address these matters must be considered with a proper recognition of the vital role that energy in general and electricity in particular plays in maintaining our current way of life and living standards – *"Energy underpins almost every aspect of our way of life. It enables us to heat and light our homes; to produce and transport food; to travel to work around the country and the world. Our businesses and jobs rely on the use of energy. Energy is essential for the critical services we rely on – from*

⁸ CD 4 vol 2 section 2

⁹ CD 13

¹⁰ RES/DIS/2 paras 2.4 and 3.1-3.3

¹¹ CD 13

¹² SOCG Planning – para 3.6

¹³ NPS EN1 paras 1.1.1, 1.2.1, 1.4.1 and 1.5.1 and NPS EN3 paras 1.1.1, 1.2.1, 1.2.3

¹⁴ CD 14

hospitals to traffic lights and cash machines. It is difficult to overestimate the extent to which our quality of life is dependent on adequate energy supplies.” (NPS – EN1 para 3.2.1)¹⁵

18. The UK Government considers it essential that there should be a step change in the provision of renewable energy and clearly envisages that the NPSs will produce this step change¹⁶. Whilst addressing climate change is a very important element of the drive towards the provision of increased renewable energy it is not the only driver. Equally important are the promotion of energy security and also the very significant economic development and employment generation arising from such development¹⁷. The UK Government seeks large scale deployment of renewables to meet these aims (including schemes such as the current proposals). These aims of improving energy security and promoting economic development are all the more important given the current state of the economy.
19. It must further be recognised that development on the scale required to meet the energy needs identified and to satisfy the UK Government’s policy will inevitably have impacts. Indeed NPS EN1 advises that it will not be possible to develop the necessary amounts of infrastructure without some significant residual impacts¹⁸. The mere identification of impacts does not establish any conflict with policy. Any residual harm which may be found to arise from this proposal needs to be weighed against the acknowledged urgent national need to deliver new renewable energy generation capacity.
20. In short as MC accepted in XX –
- i) Energy production is a matter of vital importance;
 - ii) Tackling climate change is a fundamental part of delivering sustainable development;
 - iii) Climate change is one of the most important challenges facing the world today;
 - iv) UK policy is committed to a dramatic increase in renewable energy¹⁹;
 - v) There is an urgent need to address these issues²⁰ and there are no limits to the amount of additional renewable energy to be produced at the national level²¹.
- Furthermore he agreed (as discussed further below) that these conclusions, objectives and policy are also shared as strongly (possibly more strongly in Wales); for example
- i) Welsh Government and the people of Wales are committed to tackling climate change and resolved to play the fullest possible role in addressing it (as will be seen further below);
 - ii) Welsh Government considers there to be a scientific imperative to act urgently²².
21. Furthermore as MC agreed in XX there is no suggestion in policy either in the UK or more particularly in Wales that the urgency of the need is reducing or that there is any

¹⁵ CD 14

¹⁶ NPS EN1 para 1.7.2 1st bullet point

¹⁷ NPS EN1 para 3.4.2

¹⁸ NPS EN1 para 3.2.3

¹⁹ NPS EN1 3.3.10 and 3.3.11

²⁰ NPS EN1 3.3.15, 3.3.22, 3.4.3 and 3.4.5

²¹ NPS EN1 3.1

²² PPW 4.5.1

reducing need to do more. This is important to keep in mind in the light of the discussion on the ROADMAP below.

22. These general observations on climate change and energy security and the resultant legislative and policy response are always referred to in considering applications for wind energy development and there is a danger that with familiarity their significance can be forgotten. The fact that they take little time in any discussion of matters at inquiries is because there is no issue about them, not because they are of comparatively less importance than issues debated at greater length. As MC agreed in XX these basic policies are fundamental to any consideration of proposals such as these. As he agreed they mean that a different approach has to be taken to determining this form of development to that which applies more generally to development proposals and one must approach such proposals differently.
23. As MC agreed delivery of the necessary wind energy development will inevitably involve a degree of harm which would not be accepted for other forms of development, but given the legislative and policy imperative to supply significant additional development urgently the mere identification of harm arising from a proposal cannot of itself be sufficient to resist the proposal. He stated that there had to be a high level of harm, and that it was necessary to look to see whether the level of harm exceeded that which is implicit in the policy. Put another way he said that this led to there being a presumption in favour of this form of proposal.
24. National policy in this area is clear and unequivocal and falls to be applied, not questioned²³.
25. Whilst considering UK policy it is worth noting the position set out in national policy in England with respect to buffer zones. PPG paragraph 5-008 advises that otherwise acceptable renewable energy developments are not to be ruled out through inflexible rules on buffer zones or separation distances and that other than when dealing with set back distances for safety, distance of itself does not necessarily determine whether the impact of a proposal is unacceptable. Whilst this guidance is not directly applicable to a determination in Wales the reasoning behind it is clearly of importance and applies just as strongly in Wales. This should be kept in mind when considering arguments in favour of buffer zones. It is particularly ironic that suggestions are made that there should be a buffer zone around the Shropshire Hills AONB which is entirely within England when English policy clearly rules out such an approach.

Welsh – national policy

26. The need for increased production of renewable energy has long been recognised in the Welsh Government's energy and climate change policies. The Welsh Government is under a statutory obligation to promote sustainable development²⁴ and it has recognised the need radically to reduce use of carbon-based energy and to revise upwards targets for renewable energy.
27. The Assembly's Economic Development Committee's Final Report on Renewable Energy published in January 2003 identified a benchmark for production of electricity from

²³ RES/DIS/2 para 3.1

²⁴ Section 79 Government of Wales Act 2006

renewable sources of 4TWh per year by 2010²⁵. This was radically altered with the publication of the Welsh Government's Energy Policy Statement in 2010. Whereas the position since 2005 had been that the target for 2020 was set at 7TWh of electricity output from renewable the EPS set out the potential for a new, greatly enhanced figure for 2025 of 22,500MW of installed capacity of renewable, with a potential output of 48TWh, i.e. 12 times the figure for 2010²⁶. Of this 2,000MW was expected to be provided by onshore wind generation capacity by 2015/17 with 4.5 kWh/d/p to come from this source²⁷, which was to be achieved inter alia by "*optimising the use of the existing strategic search areas set out in Technical Advice Note (TAN 8)*" and providing sensitively designed new grid connections²⁸. These aims are reiterated in the more recent Welsh Government document *Energy Wales: a low carbon transition*²⁹.

28. The increased provision made in Welsh policy can be seen as a formal response by the Welsh Government to the UK government's publication of the RES in 2009 with its greatly increased UK national figure³⁰. This increased provision relies critically upon making best use of the SSAs identified in TAN 8 as the EPS makes clear.
29. The urgent importance of addressing climate change and providing for greater renewable energy production is also recognised in planning policy in Wales. The land use planning policies of the Welsh Government set out in Planning Policy Wales (PPW) state that tackling climate change is a fundamental part of delivering sustainable development based on a scientific imperative to act urgently to reduce greenhouse gas emissions³¹. Section 12.8 of PPW sets out specific provisions for renewable and low carbon energy. The section provides for a rise from 0.7 GW of onshore wind capacity to 2GW by 2015/17³². This clearly mirrors and flows from the changes brought about by the EPS³³. It is furthermore important to note that of the 22.5 GW renewable energy sought in this section 12.5 GW is accounted for by tidal and wave technologies which are unlikely to be forthcoming in the required timescales; this places even more importance upon the provision of onshore wind energy which offers a mature and proven technology which can be delivered in the necessary timescales. Renewable energy generation is a key aim to be optimised³⁴.
30. An important part of the Welsh policy response to the need to provide significant additional onshore wind energy generation has been the concentration of large scale proposals (over 25MW) in the SSAs. PPW paragraph 12.8.13 explains that the SSAs are "*areas in Wales which, on the basis of substantial empirical research, are considered to be the most appropriate locations for large scale wind farm development*" whilst paragraph 12.8.14 explains that whilst cumulative impacts within SSAs can be a material consideration, it must be balanced against the need to meet the Welsh Government's renewable energy aspirations. The policy approach taken in Wales has

²⁵ RES/DIS/2 para 3.4.1

²⁶ RES/DIS/2 para 3.4.2

²⁷ RES/DIS/2 para 3.4.2

²⁸ CD 24 section 11

²⁹ CD 26

³⁰ RES/DIS/2 para 3.4.3

³¹ CD 27 para 4.5.1

³² CD 27

³³ RES/DIS/2 para 4.2.3

³⁴ PPW 12.8.8

been to identify 7 SSAs that are intended to deliver some 83% of Wales' renewable energy contribution from onshore wind by 2017³⁵.

31. Technical advice to supplement PPW is provided by TAN 8. This flowed from extensive technical work undertaken by consultants on behalf of the Welsh Government which led to the conclusion that for efficiency and environmental reasons large scale onshore wind farms should be concentrated in defined SSAs³⁶. Each SSA had an indicative target for installed capacity to be built and connected by 2010. These figures were advanced in order to assist the planning process but were not to be seen as the definitive capacity for the areas. TAN 8 advised that the capacity may be more or less than that initiated³⁷. The original figure for area C (within which the appeal proposal lies) was 70 MW.
32. The technical work underpinning the production of TAN 8 had identified a capacity of 1666 MW throughout the 7 SSAs but given that the target for 2010 was an additional 800MW from these areas this was reduced by one third in TAN 8 to a total of 1120 MW to provide a degree of flexibility at local level³⁸. Against these figures the delivery to date can only be described as very disappointing with only some 110.45 MW consented and implemented by 2010. The position is particularly concerning in SSA area C (within which the appeal proposal lies) with no development consented let alone built³⁹.
33. PCC suggests that the identification of the SSAs was the product of "*a high level, broad brush, largely noise assessment driven process*"⁴⁰. This is sadly indicative of PCC's reluctance to accept Welsh Government policy and its resistance to wind farm development despite its repeated assurances that it gives full weight to the importance of tackling climate change. TAN 8 was the result of extensive empirical work. The point is made both in PPW and the Griffiths letter discussed below⁴¹. Furthermore the assessment was not a largely noise driven assessment as PCC wrongly maintains. Consideration of the background ARUP studies⁴² show that very substantial work with respect to landscape and visual impact and other environmental issues went in to identifying the relevant areas. What then took place was that a further assessment was undertaken by Garrard Hassan to identify whether having identified the areas on the basis of these various environmental constraints other constraints such as noise and air traffic control issues might limit the amount of development up to 2010 to below that which Welsh Government was committed to bringing forward. The implication must presumably have been that if there were such constraints it would be necessary to identify further areas. As it was the assessment revealed that even taking into account these additional constraints there was sufficient capacity within the identified areas. This point is discussed further below.

³⁵ RES/DIS/2 para 4.2.3

³⁶ CD 23 para 2.2

³⁷ CD 23 para 2.5

³⁸ RES DIS/2 para 4.3.5

³⁹ SOCG Planning para 3.13 – RES DIS/2 para 4.3.12

⁴⁰ Closing paragraph 7

⁴¹ PPW 12.8.13 – CD 25 p1 3rd para

⁴² CD 9a and 9b

34. Furthermore the reference to the assessment being “broad brush” misquotes TAN 8. What is said to be “broad brush” is the boundary of each SSA⁴³ with the indication that minor local refinements to the boundary might be made. This is again discussed below. This is not suggesting that the assessment itself is broad brush. Furthermore as discussed below PCC has twice undertaken refinements to the area that it considers should fall within the SSA. Whilst these “refinements” go substantially beyond what was allowed for in TAN 8, it is important to keep in mind that on each occasion the appeal site was retained within the boundary of the SSA and on each occasion it was found to be one of the best sites within the SSA. The appeal proposal is the only current proposal which has consistently fallen within the identified SSA in TAN 8 and each “refinement”.
35. PCC’s suggestion that the assessment is “broad brush” and “noise assessment driven” is also surprising and incoherent given the view it then takes with respect to the Griffiths letter which is discussed below. In closing PCC maintains that the Griffiths letter sets out as a matter of policy the environmental limits of the SSAs⁴⁴. If in fact the assessment was merely “broad brush” it could not set out what the environmental limit was as necessarily it would not have sufficient information. Furthermore if it were essentially “noise assessment driven” it could not provide guidance as to the environmental limits. However, in so far as any noise concerns were demonstrated to be unfounded with respect to any particular proposal limits or capacities which were reliant upon noise concerns would be shown not to apply. This is a further example of the inconsistent arguments PCC is driven to in seeking contrary to clear policy guidance to resist wind farm development.
36. It is important to keep in mind also that the examination of the relevant areas in Powys was not limited to the substantial empirical work underpinning TAN 8. In addition to that work PCC itself commissioned substantial work from ARUP on two occasions⁴⁵ – which again was neither noise driven nor broad brush as PCC now wish to contend.

The Griffiths letter

37. With the passing of the original 2010 target date which was under consideration at the time that TAN 8 was originally published, and the increased need and urgency for further onshore wind energy development the position has inevitably changed. The Minister for Environment and Sustainable Development confirmed in a letter in 2011 that the capacity should be taken as that set out in the technical work for TAN 8 namely 1666 MW for the 7 SSAs and in the case of SSA C 98 MW⁴⁶.
38. The current position is that only about half of the identified capacity (897.3 MW) has been consented throughout the SSAs and only 324 MW of that has been constructed (less than one-fifth of the capacity or just over one-quarter of the originally identified

⁴³ CD 23 para 2.4

⁴⁴ Closing paragraph 25(h)

⁴⁵ CD 7 & 8

⁴⁶ CD 25 and RES DIS/2 para 4.3.6

TAN 8 figure)⁴⁷. It is also clear that the major under-performance has arisen in areas B, C and D. In area C none of the identified 98 MW has to date been consented⁴⁸.

39. PCC attaches considerable importance to this letter, but its approach misunderstands both the status and significance of the letter and also what it is really saying. MC stated that his and PCC's case was that the letter imposes a maximum figure for the amount of development to be provided in each SSA. However, he then went on to say that exceeding the figures in the letter would not provide a reason for refusal⁴⁹. He then sought to qualify this further by saying that slavish adherence to the figures would not be reasonable and a slight (unquantified) exceedance would not be a reason for refusal. It is difficult to see how all of MC's answers remained internally consistent and how they matched the position recently taken by PCC at the close of the Mid- Wales inquiry that exceeding the "*capacity indicators*" did not require refusal of an application⁵⁰. The identification of the figures in the letter as merely *capacity indicators* is notable. MC's confusion on the issue is mirrored in PCC's approach both to this proposal and proposals generally in the vicinity of SSA C.
40. In fact when properly understood the Griffiths letter provides no support for PCC's position with respect to this proposal. In so far as the Griffiths letter is relevant it provides positive support for this proposal.
41. At the outset it must be observed that the Griffiths letter does not qualify as government policy. PCC argues in the light of PPW 1.1.4 that the letter set out national planning policy but this paragraph has to be read with PPW 1.1.1 which explains that PPW sets out the land use planning policies of the Welsh Government. It goes on to explain that the land use planning policies are supplemented by a series of TANs and that "*Procedural advice is given in circulars and policy clarification letters*". It can be seen that the role of letters is restricted to "*policy clarification letters*" dealing with "*procedural advice*". When questioned on this matter MC was unsurprisingly unable to identify how the Griffiths letter could be said to be a *policy clarification letter* or to be addressing *procedural advice*. MC was unable to identify the basis upon which this letter amounted to policy in accordance with the clear statement and guidance in PPW.
42. It is particularly notable that the observations in the Griffiths letter have not been taken forward into PPW despite the fact that there have been three revisions of PPW since the letter. Similarly it has not been taken forward in TAN8. In contrast, with the passing of 2010 (the original date considered in TAN8) a letter was sent by Rosemary Thomas explaining what alterations (or redactions) effectively had to be read into TAN8 to take account of the passing of the 2010 date and later policy⁵¹; this letter could be considered to be a "*policy clarification*" letter in a way which it is difficult to read the Griffiths letter. It is difficult to see what policy clarification is said to be provided by the Griffiths letter or how it relates to procedural issues. Furthermore, as noted below, on two occasions within the letter the relevant policy is identified and it is made clear that the letter itself does not form policy⁵².

⁴⁷ RES DIS/2 para 4.3.12

⁴⁸ SOCG Planning para 3.13 – RES DIS/2 para 4.3.12

⁴⁹ MC XX

⁵⁰ RES/DIS/2 para 4.3.16

⁵¹ RES/DIS/2 para 4.5.1 and 4.5.2

⁵² CD 23 p1 para 4 and p2 para 7

43. Whilst the Griffiths letter does not appear to form policy it is nevertheless a document which will be taken into account as DS accepted⁵³. Irrespective of whether one reads the Griffiths letter as policy, it is important that one considers carefully what is being said and what underlies the statement so that it is properly understood and interpreted.
44. The letter commences by reiterating the commitment to promoting all forms of renewable energy with onshore wind as the most viable technology⁵⁴. It explains that the purpose of the SSA approach is to restrict proliferation and to limit development to those areas (the SSAs) which were "*independently and empirically assessed to be the most suitable*"⁵⁵. This is an important observation and when considering the objections raised to this proposal it is important to consider them in the context of the admissions that policy envisages that some harm will inevitably be occasioned in providing the level of onshore wind which is needed but that this proposal is within one of those areas which has been *independently and empirically assessed to be the most suitable*.
45. The letter goes on to state that Welsh Government's planning policies are contained in PPW and TAN8 and that these together with the policy clarification letter on transportation matters of 1st April 2009 "*set the planning policy framework in Wales*"⁵⁶. It can be noted that this recognises the point made above about what amounts to policy and does not seek to suggest that the letter itself amounts to policy. The point is re-emphasised at the bottom of page 2 where it is explained that the key planning policy framework is the adopted development plan and where it is more recent PPW and TAN 8⁵⁷.
46. Set against the background of concentration within the SSAs the letter explains the particular concern which has led to the writing of the letter which is that "*wind farm development should not reach such a scale that it would necessitate other developments that would run counter to the policy positions set out in TAN8, for example on transmission network reinforcement*"⁵⁸. When considering the letter it is important to understand that it was written in response to public concerns about the proposals for new high voltage pylons in Wales arising from the potential scale of all of the potential proposals; this is made clear at the top of the second page of the letter⁵⁹. It is the concern that further development should not give rise to particular transmission infrastructure which is the reason for writing the letter. This is re-emphasised when having referred to the "*maximum capacities*" of the various SSAs the letter goes on to state "*Provided development is limited to the maximum capacities above, we do not believe that there is a need for the large, visually intrusive, high voltage grid network infrastructure and associated sub station of the kind proposed within Mid Wales*"⁶⁰.
47. It is quite plain that the concern being addressed by the Griffiths letter is that the scale of development within SSAs should not be such that would give rise to the need for

⁵³ It was this which DS accepted in XX rather than that it was policy properly so called.

⁵⁴ CD 25 p1 para 1

⁵⁵ CD 25 p1 para 3

⁵⁶ CD 25 p1 para 4

⁵⁷ CD 25 p2 para 7

⁵⁸ CD 25 p1 para 3

⁵⁹ CD 25 p2 para 1

⁶⁰ CD 25 p2 para 4

high voltage grid connections and that in truth the letter does not seek to go further than addressing this issue. Even if it amounted to policy, the letter cannot sensibly be read as imposing some wider form of restraint upon what level of development could or should be permitted within SSAs.

48. The fact that the Griffiths letter is expressing concern with respect to the grid infrastructure consequences of wind farm development is, however, highly significant in the context of this appeal. The appeal proposal has an offer of a grid connection to the south-east which would enable the scheme to be connected almost entirely by underground within existing highway to the south-east at Knighton by 2017. There are two short sections which would involve the use of overhead 66kV lines (more modest in fact than those contemplated as acceptable in the letter). Whilst the grid connection proposal is not before this inquiry, PCC has confirmed that it has no concerns with respect to the grid connection in itself (albeit a nonsensical point is taken with respect to cumulative impact). Even though the grid connection is not before the inquiry, given the nature of the grid connection offer one can conclude that there cannot be any sensible concern with respect to impact arising from connecting this proposal. As the Griffiths letter arose out of a concern with respect to the impact of grid connections for wind farms developed within the SSAs the fact that this proposal has a firm offer which does not give rise to any such concerns and which involves a very modest proposal which makes best use of the existing grid capacity is a very important factor in support of the proposal.
49. A second important point to note from the Griffiths letter is that in so far as it addresses capacity it is, as MC accepted in XX, concerned with capacity **within** the SSAs identified in TAN8. That much is clear from the letter⁶¹. As is discussed further below it is important to keep in mind that the ARUP studies which resulted in the production of TAN8 addressed the capacity within the identified SSAs as set out in TAN8; the studies did not consider what capacity there might be in area beyond those defined SSAs. Furthermore whilst TAN8 identified the scope for considering the possibility of wind farm development in suitably unconstrained land outside but close to the SSA this was expressed as being "as well" as within the SSA rather than in place of as PCC appear to interpret it⁶².
50. This is particularly important in the case of SSA C as of the proposals considered at the Mid-Wales inquiry only part of Llanbadarn Fynydd ("LF") is within SSA C; the other proposals at Llandinam ("LM") and Llaithddu ("LD") are wholly outside SSA C as identified in TAN 8, as MC conceded in XX. Those proposals (including much of LF) are not within areas which were being considered as contributing towards any capacity within TAN 8 and they are not within the areas that the Griffiths letter was considering when addressing the issue of capacity. In such circumstances in so far as the Griffiths letter is interpreted as placing any restrictions upon capacity within SSA C it is clear that those proposals do not take up any of that capacity. Indeed it is clear (as is discussed further below) that the total capacity of proposals within SSA C is well below the figures discussed in TAN 8 and the Griffiths letter.

⁶¹ CD 25 p1 paras 2 and 3 and p2 paras 1 to 3

⁶² CD 23 para 2.5

51. It is furthermore important as DS explained⁶³ to consider just how the capacity figures referred to in the Griffiths letter came to be identified to understand what significance they may have. The letter starts with a consideration of what is said to have been the maximum capacities considered appropriate for the SSAs in TAN 8 in 2005⁶⁴. In fact the figures outlined in TAN 8 in 2005 were not the actual capacities in each SSA but rather indicative figures for each SSA in the period to 2010 to meet the 800MW of additional onshore wind needed by that date⁶⁵. These figures were arrived at by reducing by a third the figures provided by Garrard Hassan ("GH"). The exercise by GH had in turn been directed at ensuring that there was sufficient capacity to meet the 2010 figure rather than any attempt to establish absolute overall levels of capacity as is made clear from the GH report⁶⁶. It is furthermore important to keep in mind as MC agreed in XX that TAN 8 did not state that the figures in 2005 were maximum capacities; it expressly provided that there may be more or less capacity⁶⁷.
52. Consideration of the GH report clearly reveals that what was actually assessed was the number of commercial turbines that each SSA could accommodate and that this was then effectively converted into a capacity figure expressed into MW on the assumption of each turbine providing 2MW. Given that the purpose of the report was to identify whether the identified SSAs were sufficient to be able to meet the 800MW target identified in TAN 8 it is understandable that this conversion should be undertaken.
53. However, it is important to remember at all times that when one is considering issues such as environmental capacity and any other factors which go towards determining whether more or less turbines can be approved it is the actual scale and number of turbines which determines these issues rather than the nominal generating capacity of the turbines, as MC again accepted in XX. The impact of a 125 metre high turbine is the same irrespective of how much power it may generate, which for such a size turbine can easily fall within the range of 1.8-3.5 MW; i.e. depending upon which turbine is selected the installed capacity could be up to twice as great for the same number of turbines and the same level of impact⁶⁸.
54. The second important matter to understand as DS explained is that the original figures prepared for TAN 8 relied upon an assessment of environmental issues by ARUP. That assessment identified SSA C as having capacity for 74 turbines⁶⁹. GH were provided with those figures and considered how they might be impacted upon by certain constraints (in particular noise and air traffic control issues). In the case of SSA C the conclusion was that there was no air traffic control constraint but an assumption was made with respect to restrictions upon capacity which might be imposed as a result of noise constraints. This led GH to reduce the identified capacity of 74 turbines to one of 49 turbines⁷⁰ which was then converted (on the assumption of 2MW turbines) into the 98MW figure seen in the Griffiths letter.

⁶³ RES/DIS/2 4.5

⁶⁴ CD 25 p2 para 2

⁶⁵ RES/DIS/2 para 4.5.2

⁶⁶ CD 33a page ii 1st paragraph in conclusions – and RES/DIS/2 para 4.5.3

⁶⁷ CD 23 para 2.5

⁶⁸ MC XX and RES/DIS/2 para 4.5.3

⁶⁹ CD 33a p16 Base Case

⁷⁰ CD 33a p16

55. It is important to keep in mind that the GH reduction was based upon assumptions rather than any actual noise predictions arising from any real schemes. As the GH figure relied upon assumptions as to noise restrictions upon capacity, MC agreed⁷¹ with DS⁷² that if in fact an assessment demonstrated that there was no noise reason for rejecting a proposal this particular limitation would be removed so that the capacity would actually be as identified in the base case, namely 74 turbines (which could result in between 133.2 to 259 MW – assuming a range of 1.8 to 3.5 MW per machine). It can be seen that when the underlying information is properly understood the identified capacity in the Griffiths letter is considerably greater than the headline figures might appear to suggest.
56. Whether or not the Griffiths letter is interpreted as policy it clearly must be interpreted so as to be consistent with and further Welsh Government policy, which is primarily found in PPW and TAN 8. This policy in turn is intended to be consistent with and to further UK national policy. As UK and Welsh Government policy is to increase the provision of onshore wind energy development to meet the urgent need, and as policy clearly seeks to make best use of the SSAs which have been identified as the most suitable areas for this form of development, it would be wholly contrary to these important policies to interpret the Griffiths letter as imposing some form of arbitrary restriction upon development based upon installed capacity when in fact the assessment related (as it should) to numbers of turbines and/or to restrict the level of provision on assumptions made as to potential noise limitations when the evidence identifies that there is no such restriction. In so far as PCC appears to seek to take this course it is plainly wrong. As DS observes this is not an attack upon policy but merely a reasoned application of the underlying assessments⁷³.
57. Furthermore if as PCC seek to argue the Griffiths letter can be interpreted as providing some assistance in identifying the environmental capacity of the SSA one must again be careful to use the information properly. The Griffiths letter cannot be said to be providing guidance on landscape capacity for example if the issue under consideration in reducing the capacity was a potential noise impact. Similarly if one is concerned with landscape capacity the issue is the number of turbines not their installed capacity so again it is important that the correct figure is identified and considered.
58. In passing it can be observed that PCC does not receive any assistance from the decision letters which have commented upon the Griffiths letter. As MC had to accept⁷⁴
- i) In the Mynydd y Gelli decision (CD35) the inspector herself made the point that the actual installed capacity of a proposal will vary depending upon turbine selection (paragraph 59). The inspector goes on to observe that neither the Griffiths letter nor TAN 8 make it clear whether proposals outside the SSA boundary should be counted towards the “capacity” of an SSA (paragraph 60). The approach taken by the inspector was to look at the actual impact of the proposal before her and assess whether it was acceptable taking into account any cumulative impacts and on that basis she concluded that the proposal was within the environmental capacity of the area irrespective of whether it would result in the figures for installed capacity exceeding those identified in

⁷¹ MC XX

⁷² 72 RES/DIS/2 4.5.4

⁷³ RES/DIS/2 para 4.6.11

⁷⁴ MC XX

the Griffiths letter (paragraph 61). MC agreed that this was the proper approach to take.

ii) The Clocaenog Forest decision (CD35a) merely notes that the proposal would not result in the figures in the Griffiths letter being exceeded (paragraph 3.5) – it does not attach any weight or significance to those figures.

iii) The Bryn Llywellyn decision (CD35b) concludes that whatever method is adopted for calculating the installed capacity in this case the proposals would result in the figures exceeding the relevant figure in the Griffiths letter (paragraph 544), but that this would not in itself justify a refusal of the proposal, it was merely supportive of the conclusion that the inspector had already and separately reached that the environmental capacity of the area would be exceeded (paragraph 545).

It is clear that none of these decisions treat the figures in the Griffiths letter as determinative; the highest (in Bryn Llywellyn) was to see them as supportive of a conclusion which had been reached independently of the letter.

The policy approach in Powys – the development plan

59. In this case the development plan is the Powys UDP adopted on 1st March 2010⁷⁵. The UDP acknowledges the weight of international, European, UK and Welsh policy and the imperative to promote the use of renewable energy and considers it to be desirable for the Council to be more pro-active in steering wind power developments to areas that would be most acceptable⁷⁶. In this context the repeated identification of the area within which the appeal proposal is located as a suitable location for this form of development⁷⁷ is particularly significant. UDP policy E3 sets out a number of criteria to be considered in assessing applications for wind farms.
60. Whilst it will be appropriate to consider the issues raised by this policy they are to a large extent matters which would be considered in any event. A point of particular note is that criteria 1 to 5 set out criteria in terms of unacceptable adverse effects which must be an acceptance that this form of proposal can be expected to result in adverse effects and that this alone would not be a sufficient reason for rejecting a proposal. As MC accepted with respect to national policy there is an acceptance of inevitable harm and the bar is set high; a proposal would only be unacceptable if it resulted in a level of harm that was over and above that which is implicit in the policy. Just as MC stated with respect to national policy providing a presumption in favour of this form of development so too the development plan policy provides for such a presumption.
61. There are, however, some reasons for exercising caution with respect to the UDP. Although the UDP was adopted in 2010 it is clear that in fact it was prepared as long ago as 2004 in advance of TAN 8 which is not addressed in the UDP. This is explained in the subsequent Interim Development Control Guidance ("IDCG" – which is considered below) which was twice prepared by PCC and which was said to be necessary because the UDP was out of date on these issues⁷⁸.

⁷⁵ CD 19

⁷⁶ CD 19 para 12.9.1

⁷⁷ As to which see further below

⁷⁸ CD 21 para 5.1 and CD 22 para 5.4

62. Given it took so long to get the UDP to adoption it is remarkable that steps were not taken to address this issue. Unfortunately the reason may arise from PCC's reluctance to accept the consequences of PPW and TAN 8 despite its repeated assurances that it agrees with them. As was discussed in XX of MC and explained by DS⁷⁹ the earlier versions of the text made it clear that PCC was unhappy with the TAN 8 approach and its consequences and sought an early review. Whilst this is toned down in the eventually adopted version of the document traces can still be found in the supporting text (particularly paragraph 12.9.1 and 12.9.3). Bizarrely this appears to have led PCC to the assertion in the UDP that the very policy it was adopting was not "*a particularly good basis for future decision making*" (see UDP paragraph 12.9.1).

The policy approach in Powys – the ARUP studies and the IDCG

63. Although much work was undertaken in preparing TAN 8 Powys CC then commissioned ARUP to undertake refinement studies of the SSA. An initial refinement exercise was undertaken in 2006⁸⁰. This resulted in a radical proposed change to the extent of SSA C. The proposed refinement appears to go beyond anything envisaged in TAN 8 which was concerned with minor adjustments at the margins of SSAs as DS explains⁸¹. Nevertheless it is significant that all of the current proposal fell within this reduced area.
64. This refinement exercise was subsequently reviewed in 2008⁸², and similar comments apply as to whether the scale of the review goes beyond what was envisaged in TAN 8. As a result of the review exercise the proposed areas were revised such that one of the Garreg Lwyd turbines may fall just outside the refined boundary. However, it is notable that the officers' report records all the turbines (i.e. all of the original 23) as being within the refined area⁸³, and KH explained why the boundary as drawn in this location appears to be in error⁸⁴. Thus it can be seen that within SSA C the most appropriate areas for development have been considered on 2 occasions by consultants on behalf of PCC who have concluded that the area of the appeal proposal comes within the most suitable locations for this form of development. Furthermore it is important to remember that these reviews were undertaken at a time when the lower figures for the capacity of SSA C were being used.
65. The two ARUP studies were considered by and apparently accepted by PCC in formulating and publishing the two IDCG which flowed from the ARUP studies. Although PCC had presumably expended considerable public finances on two occasions in commissioning these studies, and despite the fact that far from expressing dissatisfaction with them it expressly adopted their conclusions, PCC surprisingly now seeks to disparage and downplay those studies. It is therefore useful to consider the details of those studies briefly.

⁷⁹ for example RES/DIS/2 para 5.7

⁸⁰ CD 7

⁸¹ RES/DIS/2 para 4.3.3

⁸² CD 8

⁸³ CD 5d section 1

⁸⁴ KFH/2 paras 5.9 – 5.13

66. The brief for the first ARUP study required the consultants "to undertake a detailed assessment of" SSA C and "map the best locations for wind farm development"⁸⁵ 5. Although it was primarily an objective landscape and visual assessment⁸⁶ it also used "a range of technical and other environmental data to inform its work", as it was required to do in the brief⁸⁷. Contrary to the suggestions now made by PCC this included consideration of, amongst other matters, AONBs, Scheduled Ancient Monuments ("SAM")⁸⁸, national trails and historic landscapes⁸⁹. In order to undertake the necessary assessment in the study the SSA was divided into zones with similar landscape and visual characteristics so as to comprise homogenous landscape units based upon the information in LANDMAP⁹⁰. The brief required ARUP to rank the areas or units in orders of preference for wind farm development⁹¹. The aim was to minimise the potential for changes in landscape character by focusing development onto those parts of the SSA most able to accommodate large scale wind farm development by virtue of their landscape capacity and value and to minimise visual impact upon, inter alia, users of nationally designated landscape and national trails⁹². Whilst the assessment was significantly informed by a desk study it also involved site visits to verify the desk study⁹³.
67. The study identified 15 units or zones within SSA C. The area of the appeal proposal falls within and essentially comprises unit C3 of the units or zones identified in the study. This unit ranked 2nd (out of 15) in terms of landscape capacity for this form of development⁹⁴. It ranked joint 6th in terms of overall visual effects⁹⁵. It should be noted that this took into account impacts upon the AONB to the east – noting that this was the less visited part of the AONB⁹⁶. Overall the unit was ranked 9th within SSA C, and of those units recommended to be carried forward it had the second highest potential installed capacity of 23MW⁹⁷. This assessment must be viewed alongside the later study which assessed the unit on the basis of 35 turbines being provided within the unit⁹⁸. A summary assessment of the unit is set out in Appendix F⁹⁹, which identifies the presence of ancient monuments but concludes that the characteristics of the unit are such that "the landscape sensitivity of the area to a large scale wind farm is considered to be medium-low". The study recommended making adjustments to the boundary of SSA C for the purposes of TAN 8, although, as DS explained, the proposed changes went substantially beyond anything contemplated or authorised by TAN 8¹⁰⁰.

⁸⁵ CD 7 p6 final para

⁸⁶ CD 7 p10 2nd para

⁸⁷ CD 7 p1 4th para and p7

⁸⁸ CD 7 p16 Table 1

⁸⁹ CD 7 p17 Table 2

⁹⁰ CD 7 p2 1st para

⁹¹ CD 7 p7

⁹² CD 7 p11 final paragraph

⁹³ CD 7 p22

⁹⁴ CD 7 p35 Table 5b

⁹⁵ CD 7 p42 Table 7b

⁹⁶ CD 7 p41 section 4.3.1

⁹⁷ CD 48 Table 10c

⁹⁸ for example CD 8 p20 Table 7b

⁹⁹ CD 7 pF5

¹⁰⁰ RES/DIS/2 para 4.3.3

68. The first ARUP study was published in January 2006 and PCC issued its planning response to the study by way of its first IDCG which was issued for consultation between 13th February and 27th March 2006¹⁰¹. The IDCG explained that it was adopted by PCC for development control purposes on the 14th February and was to be treated as a material planning consideration by PCC, Inspectors and Welsh Government in determining planning applications¹⁰². It explained that the document was needed because the draft UDP was not up to date¹⁰³. It accepted the proposed amendments to the TAN 8 boundary proposed by ARUP which in the Case of SSA C it termed the Llanbadarn (LIWFZ) Wind Farm Zone¹⁰⁴. The IDCG accepted the ranking of the zones or units set out in the ARUP study but importantly it advised that within the preferred nine units (which included unit 3, the appeal site) there was to be no order of preference¹⁰⁵. The IDCG advised that subject to local refinement there is a presumption in favour of wind farm development within the SSAs¹⁰⁶. The IDCG and the ARUP study behind it were intended to provide that local refinement¹⁰⁷.
69. A significant point to note is that far from being an exercise simply focussed on refining boundaries, as PCC suggests in closing¹⁰⁸, an important part of the brief for this study was that ARUP were to rank the areas in order of preference, as noted above, and that the site of the appeal site performed well in this ranking exercise.
70. Contrary to the assertions now made on behalf of PCC the consultation exercise on the first IDCG did take place and PCC considered the outcome of the consultation exercise and this resulted in the commissioning of the second ARUP study¹⁰⁹. In addition and again contrary to PCC's position, repeated in closing¹¹⁰, consultation did take place with respect to the first ARUP study as is clearly explained in the second study which makes clear that it was commissioned in part at least following feedback on the first study¹¹¹.
71. The second ARUP study was to comply as far as possible with the guidance in TAN 8, but importantly its outcomes were to be driven by the landscape capacity of the area rather than any preconceived need to meet TAN 8 figures¹¹². The study now identified 16 units. This arose from the division of the previous unit 2; unit 3 remained the same as unit 3C and comprised essentially the appeal site. Unit 3 was ranked 8th overall in terms of visual data on the basis of the unit accommodating 35 turbines¹¹³. This took into account amongst other things impact upon the AONB and National Trails¹¹⁴.

¹⁰¹ CD21

¹⁰² CD 21 para 2.1

¹⁰³ CD 21 para 5.6

¹⁰⁴ CD21 para 6.6

¹⁰⁵ CD 21 para 6.9

¹⁰⁶ CD21 para 6.1

¹⁰⁷ MC XX

¹⁰⁸ Closing paragraph 29

¹⁰⁹ CD 8 p1 section 1.1 and p7 3rd para and CD 22 para 2.2

¹¹⁰ Closing paragraph 27

¹¹¹ CD 8 p1 last para of Overview

¹¹² CD 8 p1 section 1.2

¹¹³ CD 8 p20 Table 7b

¹¹⁴ See CD 8 p20 Table 7b and p28

72. Receipt of the second ARUP study and consideration of the consultation responses on the first IDCG led to PCC approving a second IDCG¹¹⁵ which was authorised by PCC's Board for use in development control with immediate effect on the 22nd April 2008. It was also resolved to undertake further public consultation between 21st May 2008 and 4th July 2008¹¹⁶. Again contrary to PCC's present protestations this consultation exercise was undertaken and DS could provide examples of the consultation responses received by PCC. Although it was recognised that the IDCG would not carry the same weight as development plan policy it was nevertheless to be taken into account by PCC when determining planning applications and by Inspectors and Welsh Government¹¹⁷ and it set out the basis upon which PCC as local planning authority was translating the guidance in TAN 8 in its local context¹¹⁸. It provided the detailed Council guidance for the purpose of development control decisions¹¹⁹. Furthermore the point was reiterated that the UDP remained out of date having failed to respond to TAN 8¹²⁰.
73. The second IDCG again recognised that subject to local refinement there is a presumption in favour of wind farm development within the SSAs¹²¹, and importantly it confirmed that the ARUP studies and the IDCG provided that local refinement¹²² - a point again accepted by MC in XX. The refinement provided by the second ARUP study and the IDCG resulted in further amendments to the boundaries for the purposes of SSA C to an area to be called the Refined Newtown South SSA C¹²³. The IDCG recognised that the scale of wind farm development proposed by the IDCG would have significant impacts and result in significant landscape change but that this was acceptable¹²⁴. It advised and accepted that *"It is likely that the SSAs within Powys will become prime examples of wind farm landscapes with intervisibility from the Dyfnant Forest in the north to Llandiam/Llanbadarn Fynydd in the south. This is an accepted consequence of TAN 8"*¹²⁵.
74. Importantly the appeal site was again within the refined area as noted above.
75. PCC's position with respect to the IDCG and ARUP studies is incoherent. MC records PCC's position being that the IDCG carries no material weight¹²⁶ and he confirmed that this was the approach he had taken¹²⁷. It was also the approach taken by PRV in assessing landscape and visual impact. MC agreed that no material weight was the same as no weight and that this meant that it was being treated as of no significance in the determination of the application¹²⁸. However, at the same time MC, PRV and PCC

¹¹⁵ CD 22 para 2.2

¹¹⁶ CD 22 para 2.2

¹¹⁷ CD 22 para 2.1

¹¹⁸ CD 22 para 4.7

¹¹⁹ CD 22 para 5.5

¹²⁰ CD 22 para 5.4

¹²¹ CD 22 para 6.1

¹²² CD 22 para 6.4 and 6.7

¹²³ CD 22 para 6.6

¹²⁴ CD 22 para 6.7

¹²⁵ CD 22 para 11.1

¹²⁶ Proof para 4.20

¹²⁷ MC XX

¹²⁸ MC XX

seek to attribute weight to the refined TAN 8 boundaries¹²⁹ which can only be derived from the IDCG!

76. This is a remarkable and unreasonable position. The IDCG was clearly authorised by PCC for use in development control purposes¹³⁰. At times PCC, PRV and MC made the point that it had not been adopted. This is a meaningless play on words. The IDCG was never intended to be a development plan document; there is no meaningful distinction to be drawn between authorisation for development control purposes and adoption for those purposes. PCC made it clear that it was to be used both by PCC and on appeal in determining applications for wind energy development even though it would not carry the same weight as a development plan document¹³¹.
77. Importantly the IDCG was intended to offer guidance to assist developers, members of the public and decision makers¹³². The original planning application in this case was made on the 27th May 2008 in reliance upon the second IDCG which had been approved by PCC the previous month and in preparing the application RES relied also upon the first IDCG which had been published in 2006. This is precisely what PCC wished developers to do. There would need to be substantial grounds for departing from that position.
78. It can be noted that the appeal site is one of the few locations which has consistently remained within the area identified for wind farm development, whether it be in TAN 8 or the IDCGs, and it is has consistently ranked highly within them. These were independent assessments undertaken on behalf of public authorities (Welsh Government and PCC) without any particular proposal in mind so no issue can be raised with respect to their objectivity. The repeated identification of the appeal site in such assessments as a suitable location for this form of development and the acceptance by the relevant bodies of those assessments (in TAN 8 and the two IDCGs) is a matter to which great weight should be attributed.
79. Furthermore whilst the IDCG was not a development plan document it is important to recall that PCC considered that it was necessary because the UDP was out of date on this topic long before it was eventually adopted.
80. One can well understand that PCC is now embarrassed by the IDCG given its clear statement that there is a presumption in favour of this proposal, and that it is an accepted consequence of policy that the SSA will become a prime example of a wind farm landscape. The consistent and repeated findings backed up by the substantial work undertaken by ARUP on behalf of PCC that the appeal site is within one of the best areas within the SSA for wind farm development is also very inconvenient for PCC now that it has decided to ignore all the previous advice that it has received. However, none of this provides a proper ground for departing from the IDCG.
81. Importantly the IDCG clearly formed the up to date policy response of PCC at the time of the application for permission. It was founded on substantial work undertaken by ARUP. It was formally adopted or approved by PCC. If PCC is to argue that it no longer

¹²⁹ Proof 4.21

¹³⁰ CD 22 para 2.2

¹³¹ CD 22 para 2.1

¹³² CD 22 1.1

represents PCC's policy or position it is necessary for PCC to be able to show when and by what means the IDCG has been revoked or replaced. PCC is unable to show this because it has not been revoked or replaced. It has not even been reconsidered by PCC. It plainly remains PCC's specific and latest policy response to TAN 8 and with respect to wind farm development. It is a matter of considerable concern that PCC has effectively disregarded its own approved/adopted policy in resisting this proposal.

82. There is furthermore no body of work to explain, still less justify, any abandonment of the IDCG and the conclusions of the ARUP studies with respect to the particular suitability of the general location of the appeal site for this form of development. In this respect it is particularly telling that this application was examined by a further firm of landscape architects on behalf of PCC in 2010. Whilst those consultants raised some issues with respect to the details that had been provided their overall advice was clear and very positive with respect to this application on which they advised –

*"However, based on the information provided, it is clear that the development is located within a relatively degraded landscape dominated by expanses of improved pasture. The appearance of the development is cohesive and relates well to the topography of the site. Whilst it is likely that there will be significant effects upon sensitive areas, both in isolation and cumulatively, particularly to the east and to the southeast as discussed above, in our opinion, these are consistent with the aims of TAN8."*¹³³

That advice provided clear confirmation that the approach taken in the ARUP studies and the IDCG accorded with the aims of TAN8 and that there was no proper basis for resisting this development. There was clearly no basis for reconsidering and abandoning the IDCG.

83. PCC is in any event wholly inconsistent with respect to the IDCG. PCC seeks to attach weight to the refined boundaries identified in the ARUP studies, but, as MC accepted in XX, those studies have no status as such, they are merely studies. The refined boundaries can only have a status (if they should have one at all) as a consequence of their adoption in the IDCG. If, as PCC maintains, the IDCG has no material weight i.e. it should not affect decision making, then likewise the refined boundaries adopted in the IDCG can have no weight. This is a point fundamentally in favour of the appeal proposal, albeit one which PCC failed to recognise.
84. It is of such importance in supporting the proposal because as PCC's map demonstrates the only wind farm proposal that is wholly within the TAN 8 SSA C boundaries is the appeal proposal. If the IDCG falls away and one is left simply with TAN8 then given that after 10 years the appeal proposal is the only proposal to come forward within SSA C there must be a compelling need and case for bringing the appeal proposal forwards as quickly as possible.

Powys CC's "strategic approach"

85. MC and PCC maintain that PCC has *adopted* a strategic approach to the provision of wind farms in SSA C¹³⁴ and that its case relies upon and follows this *strategic*

¹³³ CD 5d p65

¹³⁴ MC paras 1.21 and 7.3

*approach*¹³⁵. To say that PCC's *strategic approach* is a riddle, wrapped in a mystery, inside an enigma¹³⁶ hardly does it justice.

86. At the outset one can note the suggestion that PCC has *adopted* a strategic approach when it repeatedly argued that it had not *adopted* the IDCGs. MC and PCC were asked to identify how and when PCC had *adopted* this approach and the information presented to PCC to enable it to make the decision to adopt this approach. MC could provide no answer and none has been forthcoming from PCC. The reason is simple there is no resolution and PCC has not given any real consideration to adopting a *strategic approach*.
87. The so-called *strategic approach* has no status as such and is simply a grandiose name given to PCC's resistance to this proposal. The best MC could claim is that delegated authority had been given to allow the case to be formulated and presented to this inquiry and also the Mid Wales inquiry. That does not amount to any strategic approach, still less any formal approval of such an approach, and plainly the approach has no status as such. The contrast with the IDCG which arose from independent studies commissioned on behalf of PCC, was subject to consultation, and was formally approved/adopted, could not be plainer. Given PCC's position that no weight should be given to the IDCG it is remarkable that mention should even be made of the *strategic approach*.
88. In so far as any content can be identified MC confirmed that the strategic approach was set out in his Table 2. In summary what is being said is that PCC favours the grant of consent for LM, the northern part of LD and Hirddywel ("HL"). On the basis of the current applications the combined capacities of those three proposals would amount to 156.6MW (made up of – LM 102MW, LD north 27.6MW and HL 27MW). If allowance is made for the fact that LM is a repowering scheme and one looks solely at the net additional capacity provided by the three schemes the figure reduces by the 31MW provided by the existing Llandinam P&L scheme to a figure of 125.6MW.
89. In so far as it is possible to identify any genesis to this "strategic approach" it appears to have arisen out of a need for PCC to identify what its case was to the Mid Wales conjoined inquiry. The need for that inquiry arose under the Electricity Act 1989 because PCC had objected to all of the 5 Electricity Act applications which went before the inquiry. Those objections were made in 2012¹³⁷, and a pre-inquiry meeting was held in February 2013 by which time PCC had served its outline statement of case¹³⁸. As MC agreed, at this point even though PCC had objected to all of the proposals it had not identified its "strategic approach". It is unclear when thereafter the "strategic approach" was identified and on what basis it was identified. In so far as MC and PRV present evidence to support this approach this is an important point to keep in mind.
90. The first point one can note about the "strategic approach" is that whether one takes the figure of 156.6MW or the figure of 125.6MW the resulting figure is considerably higher than the figure of 98MW referred to in the Griffiths letter. As MC had to concede

¹³⁵ MC XX

¹³⁶ BBC radio address Sir Winston Churchill 1st October 1939

¹³⁷ In March 2012 in the case of Carnedd Wen and LF and in September 2012 in the case of the other three

¹³⁸ 21st January 2013

this is the clearest indication possible that PCC does not consider that the figure of 98MW does represent the environmental capacity of the area.

91. The second point to note is that all three of the proposals "supported" by PCC are to the west of and outside SSA C. This is an important point to note. PCC is seeking to argue that proposals within the SSA should be resisted on the basis of this "strategic approach". If PCC's "strategic approach" were to be supported the result would be that no provision would be made within SSA C which is completely contrary to PPW and TAN 8.
92. The "strategic approach" can be seen to be contrary to national planning policy, which would be ground enough for rejecting it. However, the position becomes even clearer when one considers –
- (a) That there has never been any formal approval of this "strategic approach.
 - (b) There is no information in support of the "strategic approach" and PCC has never properly informed itself before pursuing this approach. This inquiry cannot make good those deficiencies and has not made them good.
 - (c) PCC maintains that no weight should be given to the IDCG which must mean that the only boundaries to consider are those set out in TAN 8 – as discussed above one cannot rely upon the ARUP proposals to amend the boundaries if one disregards the IDCG.
 - (d) The ARUP studies (and the subsequent advice of PCC's consultants when considering this application) do not support the "strategic approach" – indeed their repeated identification of the appeal site (and in the case of the consultants the appeal proposal) as suitable clearly contradicts the "strategic approach".
- In the light of those points there cannot be said to be any possible basis for ignoring national policy and adopting a position in such conflict with national policy as that involved with the "strategic approach".
93. Related points to keep in mind with respect to all of the sites in the "strategic approach" being to the west and outside SSA C are –
- i) Even if the provision made by the "strategic approach" schemes could properly be counted as contributing to the figures for SSA C that would not establish in itself that the environmental capacity of SSA C had been reached.
 - ii) Clearly PCC does not consider the environmental capacity is limited at 98MW as a result of the Griffiths letter.
 - iii) Furthermore as discussed above the Griffiths letter was addressing capacity **within** SSA C as were the 2004 ARUP study for TAN 8 and the GH assessment. All of these documents have concluded that there is capacity within the actual physical area which comprises SSA C – this is unaffected by the "strategic approach".
 - iv) Indeed it was clear from TAN 8, ARUP 2004 and GH that it was envisaged that there would be wind turbines spread across the whole of SSA C and not simply concentrated in one part of it – or in this case outside it. In the absence of noise constraints it is clear that there was considered to be capacity for 74 turbines in SSA C.

v) SSA C covers an extensive area and the appeal site in the eastern part of SSA C is some distance from the schemes to the west which are "supported" by PCC.

In order to conclude that the environmental capacity of SSA C had been reached it would be necessary to undertake a proper assessment. There have been no such assessments since the ARUP studies and as we have already seen all of those studies concluded that there was scope for a considerable number of turbines within the physical area identified as SSA C and that the area of the appeal site was found to be one of the best locations for this form of development.

94. A further important point to note is that the "strategic approach" relies critically upon, indeed is centred upon, LM. Of the 156.6MW (125.6MW) LM provides 102MW (71MW)¹³⁹. The LD north and HL schemes are only supported by PCC because they would be seen as extensions of LM and would be read with LM¹⁴⁰. Indeed the southern array of LD is resisted by PCC because it would be separate from LM.
95. However, Welsh Government has already advised how the LM proposal should be considered in its letter of the 21st January 2013 to the Mid Wales inquiry¹⁴¹. It is important to note that the letter was written expressly to advise how the different sites should be assessed in the light of the Griffiths letter. This letter makes it very clear that the LM scheme is a re-powering of an existing development and that it falls outside the SSA. The letter explains that it is to be considered against the Welsh Government policy "*in relation to the re-powering of existing developments which fall outside SSAs*" which should be encouraged provided that the environmental and landscape impacts are acceptable¹⁴². It is clear that in contrast to the approach taken with respect to LD and LF the capacity of the LM scheme is not to count towards the SSA C capacity figures.
96. The approach of Welsh Government follows correctly from the policy and the previous assessment. It is essential to understand that the whole purpose of PPW, TAN 8 and the Griffiths letter was to provide additional capacity over and beyond that which was already in place in 2005. LM P&L was already in place in 2005 and so the figures in TAN 8 (and later documents) for SSA C are all to be read as in addition to any contribution from LM P&L.
97. To an extent this is accepted by PCC when it seeks to look at the net addition from LM (i.e. it reduces the LM figure by the amount already provided by LM P&L), but the netting exercise undertaken by PCC fails to accord with policy and Welsh Government's very clear advice and it ignores the evidence presented by PCC to this inquiry. As DS pointed out PRV's evidence was that the net landscape and visual impact of the LM proposal (involving fewer but larger turbines) was equivalent to the landscape and visual impact of the existing LM P&L wind farm (smaller but many more turbines). Given that the net landscape and visual impact of the LM scheme is the same as the existing, one should plainly be looking for additional provision over and above that provided by either the existing or the proposed LM scheme. PCC's evidence establishes

¹³⁹ Figures in brackets are net taking into provision currently made by the existing LM scheme.

¹⁴⁰ 140 MC and PRV XX

¹⁴¹ DS 1st Rebuttal App 1

¹⁴² P2 5th para

that the position on the ground with respect to LM accords with the policy approach and Welsh Government's assessment.

98. In the light of all the evidence LM should not count towards the SSA C figures. To seek to count LM towards the SSA C figures is contrary to national policy in PPW and TAN 8 (and the advice from Welsh Government) and provides a further example of PCC's complete disregard for Welsh Government's policy.
99. Once one accepts that LM does not count towards the SSA C figures it is then important to consider how LD and HL should be treated. The Welsh Government letter did treat LD as being within SSA C¹⁴³, and on that basis counted LD as contributing towards the SSA C capacity figures. However, for the reasons already discussed the letter was in error on this point (indeed DS candidly accepted that this had misled him). LD is clearly outside SSA C as is HL (which was not addressed in the letter). Furthermore in practice both the northern array of LD and HL would be read on the ground as part of (effectively an extension to) LM – this is recognised by PCC and its witnesses and indeed is the reason why they support those proposals.
100. Welsh Government correctly concluded that LM is to be treated under paragraph 2.14 of TAN 8 as a re-powering of an existing wind farm located outside the SSAs. Paragraph 2.14 provides both for re-powering of and extensions to existing wind farms. As LD north and HL are both outside SSA C and would read as extensions to LM the logical treatment of them is that they should all be read together and treated as extensions to LM. Properly considered under policy they come within paragraph 2.14 of TAN 8 and fall to be considered as extensions to LM; they do not fall to be counted as contributing to the capacity of SSA C. There remains a need to make provision for the capacity identified for SSA C in TAN 8.
101. PCC's evidence ignored this important letter from Welsh Government. MC's explanation for ignoring the letter was that he did not think it was clear. This is an unacceptable excuse. The letter is not unclear (although it is mistaken when it suggests that LD is within SSA C), but if it were unclear PCC has had nearly 2 years to seek clarification from Welsh Government as to what it meant. The failure of PCC to seek any clarification can only suggest either that PCC did not consider the letter to be unclear or that it expected an unhelpful reply.

Need and capacity

102. National policy is clear there is an urgent need for this form of development and any assessment of an application should be made on the basis that the Government has demonstrated the need for the development and its urgency¹⁴⁴. Furthermore policy provides that substantial weight should be given to the contribution that any project makes to meeting this need¹⁴⁵. There is accordingly no requirement to assess need and it would be contrary to policy to seek to argue that the need has in some way become less or that the urgency has reduced.

¹⁴³ P2 6th para

¹⁴⁴ NPS EN1 paras 3.1.3, 3.4.1 and 3.4.5

¹⁴⁵ NPS EN1 para 3.1.4

103. Although policy on this topic is clear PCC at the very least flirts with challenging the need with its misconceived points with respect to the ROADMAP¹⁴⁶ and the even more remarkable approach of looking at potential applications rather than consented projects¹⁴⁷. In closing PCC flits from seeking to argue capacity has been reached or exceeded by assuming that its approach before the Mid Wales inquiry has been accepted to assuming that all proposals before the Mid Wales inquiry have been consented and then even including all schemes in planning (including of course the current appeal proposal)¹⁴⁸. The irony and absurdity of relying on schemes which PCC has refused and even the appeal proposal as demonstrating capacity has been reached and therefore the appeal proposal should be refused appears to have been lost on PCC.
104. Given that the need is a given there is no basis for examining the ROADMAP, but if one considers the ROADMAP this merely serves to reemphasise why the Government's policy remains that there is an urgent need. The ROADMAP is addressed in DS's First Rebuttal to which I would refer for its full details, but in summary –
- i) The ROADMAP examined a range of potential delivery but this was neither a capacity assessment nor a firm prediction of delivery¹⁴⁹.
 - ii) The figures were meant simply to show how the 2020 targets might be met but they do not represent any form of ceiling¹⁵⁰
 - iii) It is important to keep in mind that 2020 is not the end of the road there remains a need to provide beyond that date¹⁵¹
 - iv) Problems with other forms of energy generation may well require even greater provision of onshore wind energy development¹⁵².
 - v) The stark fact is that the amount of extra renewable energy in the last two years up to 2020 (i.e. 2018-2020) has to be greater than the total amount achieved to date (an extra 70TWh in those 2 years compared to 64TWh to date)¹⁵³.
105. If one turns to the more local level the position is stark. As set out above there has been a complete failure to provide any wind farm development to go towards the SSA C figure even though 70MW was required by 2010. In the wider area of PCC the position remains as bad. Some 10 years after TAN 8, PCC has not consented the necessary schemes and has effectively caused considerable delay with its handling of applications and its objections to the Electricity Act applications. It can be observed that this application was made over 6 years ago and the various applications considered at the Mid Wales inquiry were similarly made at around the same time.
106. PCC seeks further delay in the process. It initially sought to delay the hearing of this appeal until after the outcome of the Mid Wales inquiry was known. This request was rejected by Welsh Government. Despite the rejection of this request PCC still

¹⁴⁶ MC 4.24 and 4.25

¹⁴⁷ MC Table 1

¹⁴⁸ Closing paragraphs 19, 25(i) and 25(j)

¹⁴⁹ DS 1st R para 2.3

¹⁵⁰ DS 1st R para 2.7

¹⁵¹ DS 1st R para 2.3

¹⁵² DS 1st R para 2.3-2.7

¹⁵³ DS 1st R para 2.7

essentially seeks delay of the determination in this case until the outcome of the Mid Wales inquiry is known.

107. No coherent explanation is given by PCC as to why Welsh Government should delay its determination of this matter and effectively defer to the decision of DECC on the Mid Wales inquiry (whenever that might be). There is clearly no policy support for such an approach – indeed the delay is contrary to all of the guidance with respect to the urgency of the need. There is also no practical reason on the ground as to why there should be any delay. The proposals before the Mid Wales inquiry are not commitments and they have no greater weight in the planning process than the appeal proposal – none of these proposals have progressed any further in the planning system than the appeal proposal. Clearly if the outcome of the Mid Wales inquiry is known before the final determination of this appeal it can be taken into account, just as the outcome of this appeal can be taken into account by DECC at the Mid Wales inquiry if the appeal should be determined first. There is in fact no reason for expecting the Mid Wales inquiry decision earlier than the decision in this case; indeed it is understood that the Inspector’s report is yet to be received by DECC.
108. PCC has lost the opportunity to influence where development takes places with respect to SSA C by its opposition to all proposals. There is no reason why Welsh Government should likewise lose the opportunity to influence development in this area by deferring to DECC.
109. There is furthermore no practical problem with considering the situation which would arise if any or all of the proposals before the Mid Wales inquiry were to be consented. The evidence has addressed the cumulative impacts of the appeal proposal and the other SSA C schemes and it demonstrates that the appeal proposal remains acceptable even if one takes into account such cumulative impact (it is common ground that no issue arises with respect to schemes in SSA B).
110. At present there are no consented schemes in SSA C and accordingly there is a clear and pressing need for this proposal to help contribute towards the contribution expected from SSA C. There is also clearly capacity for the scheme whatever view one takes as to capacity.
111. Even if the schemes before the Mid Wales inquiry were to be consented the evidence has demonstrated that there would remain need and capacity for this proposal¹⁵⁴ -
- i) For the reasons already discussed LM and LD do not count towards the SSA C figures. The only proposal which could count towards SSA C is LF, albeit 10 of its 17 turbines are outside the area.
 - ii) LF would provide only 59.5 MW which (even assuming this all counts towards the TAN 8 figures) is significantly below the figures even for 2010 in TAN 8.
 - iii) The ARUP study identified capacity for 74 turbines in the area – with LF (assuming they all counted towards this figure) there remains capacity for 57 additional turbines.
 - iv) If one considers PCC’s position according to its “strategic approach” LF would be refused and consent would only be given to LM, LD north and HL. As already discussed

¹⁵⁴ See RES/DIS/2 section 4.6

none of these should count towards the SSA C figures so the position would remain as it is at present.

v) If, contrary to the above position, one were to count LD north and HL but following the Welsh Government letter one disregarded LM – the position would be 27.6MW from LD north plus 27MW from HL a total of 54.6MW leaving a considerable requirement to meet the TAN 8 figures. Furthermore LD north and HL would amount to 21 turbines (LD north 12 and HL 9) leaving capacity for a further 53 turbines.

vi) If contrary to PCC's position all of LD were to be consented it would remain within PCC's control whether or not to consent HL. However, if one were to assume that HL were also to be consented this would still only result in a total of up to 89.1MW installed capacity (62.1MW plus 27MW) and 36 turbines (27 plus 9).

vii) If one returns to consider the proposals before the Mid Wales inquiry if both LF and LD were to be consented in full and were to be counted against the SSA C figures that would result in up to 121.6MW of installed capacity but only 44 turbines. Whilst the installed capacity would have achieved the figures in TAN 8 and the Griffiths letter there would remain capacity for 30 turbines in accordance with the ARUP assessment. As discussed above the real issue is number of turbines rather than installed capacity – indeed given the scale and urgency of the need, achieving a greater installed capacity for the same impact from the same number of turbines is something to be welcomed rather than resisted. Furthermore the consenting of both LF and LD which would take the installed capacity over the TAN 8 and Griffiths letters figures would merely serve to confirm that the environmental capacity is not to be calculated by installed capacity but rather by the impact of the turbines and that the environmental capacity considerably exceeds the figures set out in TAN 8 and the Griffiths letter.

viii) If one were to include LM with all of the other proposals it might be argued that one then exceeds the capacity as this would provide 78 turbines (LM 34, LD 27 and LF 17) and some 223.6 MW (or 193.6MW if one deducted the capacity of the present LM P&L). However, this is a patently false approach for the reasons discussed above. In particular the capacity which was assessed was the capacity in addition to LM – one cannot then include LM within the calculation – furthermore PCC's own evidence is that the impact of LM is the same as the impact of the existing LM P&L. There is accordingly no basis for arguing that any element of LM should count towards the SSA C capacity figure.

112. In summary there are no consented schemes to count towards the identified need and capacity for development in SSA C. Even if one were to make assumptions with respect to consent for other schemes there would remain need and capacity for this scheme. PCC's approach relies upon the flawed argument that one should count LM towards the SSA C need and capacity. This is contrary to policy as already discussed. It is also contrary to the clear advice from Welsh Government and it would be perverse to decide on the basis of PCC's approach.

Starting point for determination of these appeals

113. The evidence establishes that –

i) There is a clear and urgent need for this development.

- ii) The appeal site is within an area which has consistently been identified as one of the best locations for this form of development.
 - iii) The appeal proposal is in fact the only current proposal which falls completely within the area identified in TAN 8 and in the subsequent studies undertaken for PCC.
 - iv) PCC produced the IDCG intending developers should rely upon it, and the IDCG clearly guided development to this location. RES relied upon the IDCG in making this application and pursuing this appeal.
 - v) The IDCG was approved by PCC for development control purposes and this approval has not been revoked. The IDCG is still held out by PCC as its up to date policy. It is for example still present as such on PCC's website.
 - vi) PCC has an extremely poor record in delivering the much needed wind energy development within its area. In truth it has a persistent record of resisting such development.
 - vii) PCC's failures are contributing to a failure to meet Welsh Government's targets for wind energy development and impacting upon Welsh Government's and UK Government's legal obligations.
 - viii) PCC's so-called "strategic approach" has no status and is contrary to policy and Welsh Government guidance.
 - ix) PCC's position of wanting to wait for a decision from DECC is ill-founded.
114. The proposal falls within SSA C. Consequently consideration of the proposal must take place not only against the background of the established need for and importance of proposals of this nature but also the prior identification of this area as a suitable and critical location for this form of development. Further impetus is provided by the failure to date to deliver the much needed levels of wind energy development within SSA C.
115. The statutory starting point for determination of the appeals is the development plan as DS made clear. However, the development plan is of limited assistance given that it is out of date for the reasons already discussed and merely provides criteria (without context) against which to judge the proposal. Interestingly the development plan itself provides that it is not "*a particularly good basis for future decision making*" (see UDP paragraph 12.9.1¹⁵⁵).
116. In truth the starting point for determining these appeals is the location of the development within SSA C and one of the areas repeatedly identified by PCC as the best location for this development. MC belatedly accepted that national policy provided for a presumption in favour of this development¹⁵⁶. However, the matter goes much further than that. PCC's own position remains that set out in the IDCG namely that the location of this development within the SSA as repeatedly confirmed by PCC means that there is a general presumption in favour of the proposal¹⁵⁷. PCC has failed to approach the application in this manner and has failed to appreciate that there is a presumption in favour of the proposal.

¹⁵⁵ CD 19

¹⁵⁶ MC XX and NPS EN1 4.1.2

¹⁵⁷ CD 22 para 6.1 and MC XX

117. Given the imperatives identified above it is critical that development be brought forward within area C without any further delay. Furthermore it is important to note that grid constraints will delay the bringing forward of capacity in some areas. An important benefit of this proposal is that it does not rely upon any grid upgrades and has a connection offer to the existing grid¹⁵⁸.
118. On any view this proposal must be considered against a background of this area having been repeatedly identified as suitable for this form of development and the critical need for this area to contribute towards the pressing need for further renewable energy development. Policy recognises that the scale of development required to meet the relevant policy objectives is such that adverse impacts are inevitable. The consideration of any identified impacts must be viewed against that background and against the position that even though such impacts are inevitable there is a presumption in favour of this form of development in this location.
119. Against that background I turn to consider the main issues which remain in issue which centre upon the landscape and visual impact of the wind farm proposal (individually and cumulatively) and its impact upon cultural heritage assets (individually and cumulatively).

Landscape and visual impact

120. The scale of wind turbines is such that they must inevitably have some landscape and visual impact wherever they are located and such impacts always figure large in any consideration of wind farm proposals¹⁵⁹. Views differ as to whether such impacts are generally positive or negative¹⁶⁰, but given the inevitability of such impacts the clear national and local policy support for this form of development means that a degree of impact must be acceptable. Consequently the decision for the decision-maker is not whether the wind farm appeal proposal would result in significant effects on landscape and/or visual amenity but whether the scheme (including the proposed mitigation and enhancement measures) has been designed so that any likely significant residual adverse effects can be considered acceptable when weighed in the planning balance¹⁶¹. In this case the starting point for consideration of those impacts is that this is an area repeatedly identified as an area to which such development is directed, and where for the reasons already noted it is accepted that impacts must occur and that this is acceptable.
121. In this case the specific measures incorporated into the site selection process and the detailed design of the wind farm appeal proposal have limited the effects of the proposed development on the landscape and visual amenity¹⁶².
122. The appeal site lies outside any national or local landscape designations. The nearest national designation is the Shropshire Hills AONB. The proposed turbines are a

¹⁵⁸ RES/DIS/2 para 4.3.12

¹⁵⁹ KFH/2 para 5.4

¹⁶⁰ KFH/2 para 5.6

¹⁶¹ KFH/2 para 5.5

¹⁶² KFN/2 para 5.8 which summarises the various steps taken

minimum of 3.1 km west of the far western boundary of the AONB¹⁶³. The presence of the AONB was something taken into account in defining the SSA boundaries¹⁶⁴.

123. It is agreed that LANDMAP is the primary tool for the consideration of landscape in Wales¹⁶⁵. The advice with respect to assessment of wind farm proposals is that LANDMAP should be used to inform a thorough understanding of landscape issues¹⁶⁶. The use of LANDMAP is important because LANDMAP involves a uniform assessment over the whole of Wales and it is a published document that was objectively prepared on a consistent basis without any consideration of arguing a particular case for a particular purpose¹⁶⁷.
124. It is similarly agreed that the SSAs were defined using a common assessment for the whole of Wales with the benefit of a proper comparative assessment for the whole of Wales to identify the best areas within Wales to concentrate this form of development¹⁶⁸. In Powys this has been further refined by the ARUP 2006 and ARUP 2008 studies¹⁶⁹. Again this involved a comparative assessment across the study areas (in this case the identified SSA and surrounding area). Powys has also produced its own Landscape Character Assessment ("PCCLCA")¹⁷⁰ which was approved by PCC and is still relied upon by PCC. These documents all provide published information upon which the public has had an opportunity to make comments. The assessments were undertaken by appropriately qualified individuals on an objective basis and with the advantage that they were prepared without having to worry about any specific proposals. This comparative analysis is something which cannot be done at this inquiry. PRV confirmed all of these points and that neither he nor PCC took any issue with those assessments and their conclusions¹⁷¹.
125. When considering PRV's evidence on this matter it is important to note that LANDMAP, the PCCLCA and the ARUP assessments all identified cohesive landscape areas that share distinctive areas¹⁷².
126. PRV suggests that he prefers use of LANDMAP and he agrees that for present purposes it is the Visual and Sensory Aspect Areas ("VSAA") which should be considered¹⁷³. The appeal site is in LANDMAP visual and sensory aspect area VS122. This is an area of moderate value¹⁷⁴ and it is notable that this is a lower value area than much of SSA C¹⁷⁵. This can be seen for example in the cumulative assessments in the 2013 SEI¹⁷⁶. This is reflected in the assessments made on behalf of PCC in 2006¹⁷⁷

¹⁶³ KFH/2 6.4

¹⁶⁴ for example KFH/2 6.33 and 6.38

¹⁶⁵ PRV XX and para 3.1

¹⁶⁶ CD 37 p2 agreed PRV XX

¹⁶⁷ PRV XX

¹⁶⁸ PRV XX

¹⁶⁹ CDs 7 & 8

¹⁷⁰ Relevant extracts are found in PRV App J

¹⁷¹ PRV XX

¹⁷² PRV XX and see for example CD 7 top of p2

¹⁷³ PRV XX

¹⁷⁴ KFH/3 App 2 pA2/11

¹⁷⁵ As conceded by PRV having gone through much of the VSAAAs

¹⁷⁶ CD 2 – consider for example Vol II Figure 3.1C where the Garreg Lwyd turbines and those of LM are identified together with the VSAAAs

and 2008¹⁷⁸ which, as summarised above, consistently ranked the area of the appeal proposal as one of the better areas within SSA C for locating this form of development with a greater capacity to absorb wind turbines than most of the areas within SSA C¹⁷⁹.

127. The LANDMAP data sheet for VS122 describes this area as an "Upland plateaux & shoulders where areas the intrinsic moorland landcover has been agriculturally improved and converted to grassland, where the large scale regular fields enclosed by fences often look unnatural in association with the remnant semi-natural moorland & wetland vegetation"¹⁸⁰. The reference to the fields often looking unnatural is particularly notable. Elements of the more detailed description include that it is large scale and exposed¹⁸¹. The highlighted views (both attractive and detractive) are outward views, which says little for views within the area; the perceptual and other sensory qualities are described as unattractive and exposed whilst the sense of place is said to be weak with no distinctive features¹⁸². In the evaluation matrix scenic quality is identified as low (visually unattractive due to intensive farming); integrity is said to be moderate (intensive farming reduces integrity); character is low (lacking in strong, well defined, well composed elements); whilst rarity is low (fairly typical hill country)¹⁸³. The overall evaluation given is moderate (moderate to low value for reasons given) and the justification for the overall evaluation states – "landscape value has been degraded by intensive farming with conversion of rough grassland/moorland areas to improved grassland fields by drainage, enlargement and reseeding, plus fencing. Not particularly memorable".¹⁸⁴

128. The LANDMAP assessment is one which mirrors that made by two separate sets of consultants instructed by PCC. First ARUP on two occasions in 2006 and 2008¹⁸⁵ and then PCC's original consultants who advised on this planning application¹⁸⁶. It is important to recall that PCC accepted ARUP's findings in both 2006 and 2008, and it has never publicly resiled from this position.

129. As described in LANDMAP the area can properly be categorised as "classic wind farm country". Indeed PRV agreed that if VS122 is considered on its own it is an area of low value and it is an area which would have low susceptibility to wind farm development; his case depends upon his contention that VS122 should be incorporated with wider areas and that this upgrades the value of the area¹⁸⁷.

130. PRV's and PCC's case depends critically upon this upgrading of the area by amalgamating the appeal site and VS122 with this wider area to enhance its value as he accepts that the host area VS122 is of low value and not particularly sensitive to this form of development¹⁸⁸. He agreed that the basis from which he was assessing the

¹⁷⁷ CD 7

¹⁷⁸ CD 8

¹⁷⁹ KFH/2 paras 6.32 – 6.39

¹⁸⁰ KFH/3 A2/10

¹⁸¹ 181 KFH/3 A2/10

¹⁸² KFH/3 A2/11

¹⁸³ KFH/3 A2/12

¹⁸⁴ KFH/3 A/12

¹⁸⁵ PRV XX

¹⁸⁶ CD 5d p65

¹⁸⁷ PRV XX

¹⁸⁸ PRV XX

proposal was that, contrary to all that had been said before, the development is taking in place in a landscape of high sensitivity to this form of development¹⁸⁹ and that landscape character is generally more sensitive to development within the landscape character area than to development outside the unit¹⁹⁰.

131. PRV also conceded that he was not suggesting that anything more could be done, over and above what had already been done in the application, to reduce the landscape and visual impact of wind farm development in this area¹⁹¹. He agreed that there were no grounds for criticising any particular elements of the scheme such as siting or layout of the development¹⁹². He agreed that he could not suggest any more suitable location for development in the eastern part of SSA C. Whilst he claimed that he was not objecting in principle to any wind farm development in the east of SSA C he could not identify any level of development or any location for development that might conceivably be acceptable, or even preferable to the appeal proposal¹⁹³¹⁹³. In truth, even though he denied it, PRV was objecting as a matter of principle to any development in the east of SSA C and if his objections to this proposal were upheld it would not be possible to conceive of any development in the east of SSA C which would be acceptable. PRV's approach and that of PCC at this inquiry is plainly contrary to all of the previous objective assessments made on behalf of public bodies including PCC and it is contrary to PCC's extant approved public approach to the issue in the form of IDCG and the ARUP studies which gave rise to the IDCG and which were accepted by PCC; it is also contrary to the guidance in PPW and TAN 8.
132. Given that PRV's and PCC's case depends essentially upon identifying some larger landscape/visual character area of which the appeal site is said to form part and which is said to be significantly adversely affected by the appeal proposal one could expect this area to be clearly defined. Furthermore as this is not a unit identified by any other party, but is rather one which appears to have been created for the purposes of this appeal, one would expect at the very least a proper detailed assessment to explain the reasons for including the different elements within the boundaries of this area and the reasons for selecting the particular boundaries. There is no such identification of the area or assessment of its characteristics. There is no plan to identify the area; the boundaries are neither clearly defined nor explained. The only information provided at all is the brief description in paragraph 6.3 of PRV's proof which refers to "*this landscape unit (that is between the Ithon and Teme valleys and between the Kerry Hill ridge and southern hills around Beacon Hill)*"¹⁹⁴.
133. PRV's failure to identify the unit he relies upon clearly and his failure to provide any analytical basis for identifying the unit are fundamental flaws in his approach. It also makes it very difficult to examine his arguments in any detail or to assess critically the impact of the proposal upon this wider area. For example the extent of the visibility of the proposal and its impact upon individual VSAs is shown in the figures to the SEI and it is critically assessed in the evidence (as also the cumulative impacts with other

¹⁸⁹ PRV XX and see PRV para 6.7

¹⁹⁰ PRV XX and KH 8.10

¹⁹¹ PRV XX

¹⁹² PRV XX

¹⁹³ RRV XX

¹⁹⁴ PRV para 6.3

proposals). One cannot undertake the same exercise with PRV's vague and essentially unidentified area. Similarly as there is no proper analysis of PRV's new area which for example identifies key characteristics it is not possible to examine the impact of the proposal upon those key characteristics. This could be deliberate on the part of PRV in that it makes it more difficult to address his points), but at the end of the day, given that he is introducing a new landscape unit into the consideration, it is for him to make out his case on this point, and he has singularly failed to do this. This failure arises against a background of NRW and PCC both examining the area to identify suitable landscape units against which to assess development proposals and neither body identifying the area PRV relies upon. Indeed in PCC's case there have been three examinations of the area – once in the PCCLCA and twice by ARUP, and the ARUP assessments were undertaken with this form of development particularly in mind.

134. In so far as PRV provides any information or assessment with respect to his new landscape unit his position is inconsistent and incoherent. For example he initially claims that the unit "*shares similar broad characteristics and a comparable intactness and quality to the adjoining AONB*"¹⁹⁵. This would be categorising the unit as of at least national importance – it is clearly too high an evaluation and if PRV has undertaken his assessment against this baseline he is even more plainly in error. However, two sentences later he states that he considers the value of the landscape to be of regional importance. This assessment does not sit with his claim that it is comparable quality to the AONB.
135. When questioned about what LANDMAP areas fell within his claimed landscape area PRV stated that in addition to VS 122 it included LANDMAP VSAs 110, 111, 128 and 254, although he was unclear as to how much of each of these additional VSAs were within his unit just as he was unclear as to the boundaries of the unit. If one considers those VSAs for one moment a number of points emerge –
- i) There are two other LANDMAP VSAs which LANDMAP suggests may have an association with VS122. They are VS111 and VS128. In the VS122 data sheet under the question "*Does this area have a special or functional link with an adjacent area?*" the answer is given "*Yes (Continuation of Kerry Hills – 111, Form higher parts of valley system – 128)*".¹⁹⁶ From the description provided this appears very much to be a functional geographic link rather than any special link.
 - ii) The conclusion that this is merely a functional link is supported by consideration of what is said in the relevant answers in the data sheets for the VSAs in question. In the case of VS111 the answer is "*Yes (122 – adjacent improved upland, part of same hills)*"¹⁹⁷. In the case of this VSA it appears to be simply the physical functional fact that they are part of the same hills that is being referred to. In the case of VS128 the answer is "*Yes (Adjacent improved upland that encloses valleys – 122)*"¹⁹⁸ – again a reference to a simple functional relationship – this point is reinforced by the fact that attractive views in VS128 are limited to views within the VSA¹⁹⁹

¹⁹⁵ PRV para 6.3

¹⁹⁶ KFH/3 A2/10

¹⁹⁷ KFH/3 A2/4

¹⁹⁸ KFH/3 A2/16

¹⁹⁹ KFH/3 A2/17 and PRV XX

- iii) There is nothing in the LANDMAP assessments suggesting any link between VS122 and the other VSAs which are said to form part of this wider landscape unit.
- iv) It is of note that the PCCLCA did merge LANDMAP VSAs 122 and 110 to form a larger LCA entitled LCA R11 – Beacon Hill. Which it describes as an *"imposing high upland block with several summits, rising to 547 metres AOD, with wide open ridges and crests"*. The description of the visual and sensory characteristics highlights that the area is *"characterised by wild, exposed upland hills, with rounded profiles"* but also that in areas *"the intrinsic moorland landcover has been agriculturally improved to grassland where the large scale, regular fields enclosed by fences often look incongruous in association with the remnant seminatural moorland and wet heathland vegetation"*. In discussing the special qualities one aspect identified is expansive views particularly to the west towards the existing LM P&L wind farm²⁰⁰.
- v) There is no support in the PCCLCA for PRV's larger landscape unit. Indeed the fact that PCC in the PCCLCA considered what LANDMAP areas might be combined to form larger LCAs and limited it to VS110 and VS122 seriously undermines PRV's contentions.
- vi) Furthermore when one considers the characteristics identified in the PCCLCA for LCA R11 there is again no suggestion that it has some form of enhanced value or greater sensitivity with respect to wind farm development. Again the conclusion from this document must be that this is an area inherently suitable for this form of development and especially in those areas such as the appeal site which are identified as incongruous as a result of agricultural improvement.
- vii) The reference to the LCA as a *high upland block with wide open ridges and crests* and the identification of *exposed upland hills, with rounded profiles* is also notable given that PRV claims that what makes existing wind farm development acceptable is the common thread of their occupying high domed ridgeline sites²⁰¹. Again the LCA description confirms the suitability of this area for this form of development.
- viii) Given that the PCCLCA assessment reveals the general suitability of this area for this form of development, it must be appropriate to site the development in those areas such as the appeal site which are highlighted as degraded.
- ix) A further point to draw from the PCCLCA is that it did not consider it appropriate to include either VS111 or VS128 in its larger LCA which further supports the conclusion that the identified link in LANDMAP between VS122 and those other VSAs is purely functional as already considered.
- x) Whilst PCCLCA joined VS122 and VS110 together to form one LCA PRV agreed²⁰² that there was no link between VS110 and adjacent areas (including VS122).
- xi) Turning to VS111, PRV agreed that this area lies to the north of VS122 and that the summary description emphasises the views to the north i.e. away from the appeal site. PRV further agreed that the identified attractive views both in and out are to the north²⁰³.

²⁰⁰ See PRV App J

²⁰¹ PRV para 3.31

²⁰² PRV XX

²⁰³ PRV XX and see KFH/3 A2/5

xii) It is clear from LANDMAP that in so far as special qualities are associated with VS111 they have nothing to do with views to VS122 or the appeal site, indeed they depend upon turning ones back to the appeal site. A further point which emphasises that any link with VS122 is purely functional.

xiii) The fact that the important views from VS111 are to the north also means that the appeal proposal will not impact upon the important views. Indeed it is of note if one considers figure 3.1C of the 2013 SEI²⁰⁴ that the impact of LM in terms of visibility within this VSAA is at least as great upon VS111 as the appeal proposal, and yet PRV maintains that this impact, albeit adverse, is acceptable whereas the impact of the appeal proposal is not²⁰⁵.

xiv) Consideration of the data sheets for VS128²⁰⁶ do not reveal any quality which is reliant upon or affected by VS122 or the appeal site and there is nothing in the information to support PRV's contentions.

xv) Similarly there is nothing in the data sheets for VS254²⁰⁷ which support PRV.

136. PRV's approach in relying upon some larger landscape unit specially designed for this inquiry (albeit neither adequately defined nor assessed) is highly unusual. It is furthermore expressly contrary to the guidance from NRW with respect to this issue as PRV was forced to agree²⁰⁸. *LANDMAP Guidance Note 3: Using LANDMAP for Landscape and Visual Impact Assessment of Onshore Wind Turbines*²⁰⁹ explains that LANDMAP should be used for assessment to inform a thorough understanding of the baseline conditions and this provides for an integrated approach²¹⁰. Section 7²¹¹ addresses the use of LANDMAP areas and explains that some planning authorities have used LANDMAP to produce LCA, as PCC has done. The Note advises that where coarser landscape character areas or types have been derived they may need to be split down into smaller areas to ensure the appropriate scale for assessment informed by LANDMAP aspect areas. It goes on to state "*Where no LCAs have been defined and assessors wish to use these as the primary basis for reporting, all five LANDMAP aspects should be used for deriving them.*" As PRV had to concede his approach conflicted with the guidance in a number of respects –

- i) It used a coarser area rather than splitting down into smaller areas.
- ii) In fact PCC had defined LCAs using the five LANDMAP aspects so there was no basis for defining new LCAs.
- iii) In any event he had failed to use all five LANDMAP aspects (indeed he had not really used any) in identifying his new LCA which of course he had not defined.

²⁰⁴ CD 2 VolI

²⁰⁵ PRV XX

²⁰⁶ KFH/3 A2/16-18

²⁰⁷ KFH/3 A2/31-33

²⁰⁸ PRV XX

²⁰⁹ CD 37

²¹⁰ CD 37 p2 section 1

²¹¹ CD 37 p17

137. PRV's approach of relying upon an unidentified larger and consequently coarser LCA also contradicts his assertion that one should prefer LANDMAP to the PCCLCA given that it is finer grained²¹².
138. PRV's approach is contrary to guidance and good practice. It is furthermore contrary to all the conclusions reached by all others who have assessed the area, including all objective assessments for public bodies. It is not supported by any published sources, indeed it conflicts with the published documents. It is not supported by any clear reasoning or analysis on his part. It clearly should be rejected.
139. As KFH explained, although PRV failed to recognise, the effect of PRV's discredited approach is to upgrade the area and in particular the area within which the wind farm proposal lies. Furthermore as one generally attributes greater impact to the area within which the proposal lies it inevitably exaggerates the impact of the appeal proposal.
140. There is a further inconsistency in PRV's approach and that of PCC. PRV supports the LM proposal. Whilst the inquiry is not the place for any detailed comparative assessment it has to be noted that LM is in an area which is clearly assessed as of higher quality in LANDMAP (as it was also in the ARUP studies). LM falls within VS443²¹³. It is clear from the data sheets²¹⁴ that this is an area of high value with many of the characteristics which might be considered to be sensitive to wind farm development and yet this is supported by PRV and PCC. Interestingly also one of its perceptual and sensory qualities is identified as "*Tranquil (Rhythmic movement of the wind turbines lend a feeling of tranquillity to the area)*". Wind farm development is plainly not considered necessarily to be inconsistent with tranquillity or the area remaining an attractive and highly valued area. PRV's inconsistency on these issues is characteristic of PCC's whole approach and seriously undermines his and its credibility.
141. In common with any wind farm, the proposal can be anticipated to have a significant impact upon the application site and immediately adjacent area. It will also have a relatively limited number of visual impacts. This will include impacts arising from highway works to provide access to the site. However, as could be expected from the repeated identification of this area as an area to which such development should be directed the proposal is capable of being appropriately assimilated into the landscape and would not give rise to impacts of a nature to warrant refusal.
142. There would be significant adverse individual effects on landscape character up to 5 km from the wind farm within Wales. However, this is an inevitable consequence of this form of development²¹⁵. These impacts would occur within areas that are all within or adjacent to the reviewed refined SSA C boundary where the implicit objective of policy is to accept landscape change from wind farm development²¹⁶. There is nothing about the wind farm proposal that is different from that which was anticipated and accepted when TAN 8 was produced and then reviewed on behalf of PCC²¹⁷.

²¹² PRV XX

²¹³ PRV XX and see CD 2 Vol II Figure 3.1C

²¹⁴ KFH/3 A2/34

²¹⁵ KFH/2 10.6 and NPS – EN3 para 2.7.8

²¹⁶ KFH/2 10.7 and TAN 8 8.4 – and PRV XX

²¹⁷ KFH/2 10.8 and PRV XX

143. There would also be significant adverse individual effects on landscape character up to 6 km from the wind farm within England which includes the far western part of the AONB²¹⁸. However, the effects on character would be indirect and arise as a consequence of the turbines being visible in middle distance views from the more open and elevated locations. None of the physical or perceptual key characteristics of the landscape within the AONB would be changed²¹⁹. Mere visibility of a development from an AONB is not a reason for refusing permission; the aim should be to avoid compromising the purposes of designation, as PRV accepted²²⁰. The proximity of the AONB was taken into account in TAN 8 and the ARUP studies and the type of impact which occurs as a result of the proposal is an inevitable result of wind farm development in this general locality which has already been found to be one of the better locations for such development in Wales²²¹.
144. There is the scope for some impact on the elevated and panoramic views from locations within the AONB and on the perception of tranquillity, but again no more than was inevitable as a result of identifying this area as suitable for wind farm development. There would not be any other impact upon the special qualities of the AONB²²² and the proposal would not compromise the ability of the AONB to fulfil its statutory purpose or achieve the four nationally adopted AONB objectives²²³.
145. PCC appear to seek to rely upon the suggestion in the AONB Management Plan²²⁴ that there should be a buffer zone around the AONB. If this is PCC's position it is remarkable and contrary to policy.
146. The AONB Management Plan is not a planning document, it is not even a document produced by a planning authority. The Management Plan was produced by the Shropshire Hills AONB Partnership, although it was subsequently approved by Shropshire Council and Telford & Wrekin Council²²⁵. The Plan correctly notes that AONB designation is not about preventing change (even within the AONB), but managing change in a positive way and securing maximum benefit for the area²²⁶. The Plan defines strategic themes to guide action on the part of the Partnership²²⁷. The Plan is to provide co-ordination, advice and assistance and it sets out how the Partnership will deliver the identified priorities which are focussed on organisations that are part of the AONB Partnership²²⁸. It is as the title suggests a plan with respect to how the AONB Partnership is going to manage its responsibilities with respect to the AONB.
147. The relevant text relied upon by PCC comes within the section headed "*Valuing the AONB in Planning and Decisions – Management Plan Policies*", which is introduced with the explanation that the AONB Partnership will only comment on a small number of

²¹⁸ KFH/2 10.9

²¹⁹ KFH/2 10.11

²²⁰ NPS-EN1 paras 5.9.12/13 and PRV XX

²²¹ KFH/2 10.12

²²² KFH/2 10.18

²²³ KFH/2 10.19

²²⁴ CD 33b

²²⁵ CD 33b p2

²²⁶ CD 33b p2

²²⁷ CD 33b p2

²²⁸ CD 33b p3

more significant applications for planning permission²²⁹. The section is clearly setting out how the Partnership will respond it is not purporting to set out planning policy – and it could not do given that the Partnership is not a planning body and the document is not a planning document.

148. The relevant text provides that "*Land within 5km of the AONB boundary is unsuitable for large scale wind farm development and should be excluded from any Search Areas. (As used by TAN 8, the definition of 'large' scale is developments of 25MW and over)*". In so far as the document purports to dictate what should be in Search Areas, if this is intended to apply in Wales it is presumptuous in the extreme. It is also, given PPW and TAN 8 far too late. It is furthermore contrary to UK and English policy. As already noted the mere fact that development is visible from an AONB is not in itself a reason for refusing such development²³⁰. NPS EN1 clearly distinguishes between development within areas such as AONB and development which is merely visible from such areas²³¹. It is clear that where development is merely visible from within an AONB the approach is to assess the actual impact upon the purposes of designation. PPG also confirms that buffers are not to be applied as noted above.
149. There is no scope for applying buffers around AONBs. Such an approach is contrary to policy and unjustified. The correct approach is to assess the actual impact of the proposal. That has been done and the impact upon the AONB is that which inevitably arises from PPW and TAN 8. It was considered at the time when TAN 8 was produced and when PCC reconsidered the boundaries of SSA C and found to be acceptable. There is nothing in the circumstances of this proposal which gives rise to an unacceptable impact upon the AONB.
150. PRV and PCC's objection with respect to impact on the AONB in this instance can be contrasted with their position with respect to Carnedd Wen at the Mid Wales inquiry. Carnedd Wen is closer to Snowdonia National Park than the appeal proposal is to the AONB with the closest Carnedd Wen turbines being approximately 2.5km from the National Park, which PRV agreed is nearer than the closest turbines to the AONB in the appeal proposal. When XXd on this point PRV's initial position was to dispute that Carnedd Wen was closer because initially he mistakenly considered the case of Llanbrynmair (which was the proposal promoted by RES) which was further away; it was in fact apparent that he had not considered his position with respect to Carnedd Wen. When he considered Carnedd Wen his next claim was that it was not visible from the closest parts of the National Park. This contention was easily shown to be wrong by consideration of the ZVI for Carnedd Wen. When this was pointed out PRV had no explanation for his inconsistent approach. It should furthermore be noted that PRV and PCC did not object to the Carnedd Wen turbines closest to the National Park, even though they objected to other turbines on the basis of their impact upon areas outside the National Park. The inconsistency in approach and the inability to provide any reason for this inconsistency underlines the absence of any sound basis for the objections with respect to the AONB.

²²⁹ CD 33b p36 box

²³⁰ NPS EN1 paras 5.9.12/13

²³¹ NPS EN1 paras 5.9.10-17

151. There would be significant individual effects on the visual amenity of users of the public rights of way network on and around the site. This would include walkers on a 12 km section of Glyndwr's Way and a 5 km section of the Kerry Ridgeway, but not on any of the other long distance footpaths through the area, including the Shropshire Way and the Offa's Dyke Path²³². However, any wind farm proposed in SSA C would have significant effects on the visual amenity of users of Glyndwr's Way and the Kerry Ridgeway, as well as Access Land in the area, so again the impact is what can be expected from implementing the relevant policies in this area²³³.
152. The cumulative impact of the proposals with other proposals has also been considered and is acceptable. That remains the case whichever combination of proposals one considers.
153. PRV makes the point if the appeal proposal and both LM and LD were to be consented this would spread the impact across much of the SSA and that this would go beyond what was anticipated in TAN 8. Much of this has been discussed above and the details are not repeated here. SSA C was identified against the baseline of the existing LM P&L development and it was clearly intended and envisaged that there would be development both in the west in the area of LM and also in the east in the area of the appeal proposal. The analysis of the ARUP studies discussed above demonstrates that development across the whole of this area was anticipated. PRV's evidence on this point further demonstrates how he and PCC have effectively sought to re-write the background policy on this matter.
154. PCC has accepted that there are no outstanding landscape and visual issues with respect to the access road proposals. It also accepts that there is no basis for objecting to the impact of the necessary grid connection on its own, but on PRV's advice a concern is raised with respect to the cumulative impact of the grid connection with other development. This is one of the many surprising elements in PRV's evidence. As noted above the necessary grid connection would entail only two short sections of modest overhead wiring which would run to the south-east of the site. Given the direction and location of this wiring it would be a considerable distance from any other wind farm development and any grid connections associated with such development given that those connections would run to the north and be located some distance to the west. There is no possible scope for a cumulative impact arising from this development's grid connection and any other wind farm development. When PRV was asked to identify his practical concern he was not surprisingly unable to explain what it might be.
155. The wind farm proposal, its grid connection, and the access proposals can be accommodated in this location without undue consequences for landscape character, visual amenity or the integrity of the AONB²³⁴. In the circumstances the landscape and visual impacts are what might inevitably be expected and are acceptable.

Impacts on cultural heritage

²³² 232 KFH/2 10.23

²³³ KFH/2 10.25

²³⁴ KFH/2 11.34

156. A thorough assessment has been undertaken of any potential cultural heritage impacts arising from the proposal and careful consideration has been given to appropriate steps to mitigate any such impacts.
157. At the outset it is important to observe that neither CADW nor the Clwyd- Powys Archaeological Trust ("CPAT") has objected to these proposals on cultural heritage grounds. PCC seeks to argue that CADW and CPAT do not object to proposals and that accordingly no significance should be attached to the absence of any objection from them. This is not in fact correct; where the situation warrants it both CADW and CPAT can and will object to planning applications.
158. CADW did provide a consultation response on the 25th October 2011. It is notable that this response was not referred to in PCC's officer's report on the application²³⁵. It is important to note that this response addressed the original 23 turbine scheme and was essentially addressing the proposal in terms of the cumulative impact of this larger proposal plus the Bryngydfa proposal²³⁶, which also included an overhead connection route which oversailed Castell y Blaidd ("CYB"). It is in this context that CADW concluded –

*"We therefore wish to express our significant reservations about the impact of the proposed wind farm given its current size, turbine plan and position, especially when taking into account the cumulative impact when viewed with the adjacent proposed Bryngydfa wind farm."*²³⁷

It was in the context of the cumulative impact with Bryngydfa with its oversailing connection that CADW expressed reservations about the then size and layout of the proposal. It is clear from the way that this representation is expressed referring to the "current" size and layout of the proposal that CADW was not suggesting that this was an unsuitable location in principle for this form of development or that any development would inevitably have an unacceptable impact upon the proposal. This is an important point to keep in mind when considering PCC's arguments that the eastern part of SSA C or this area is particularly sensitive because of cultural heritage interests.

159. Whilst RES and SC were not made aware of CADW's reservations they have in fact been addressed with the reduction in scale of the proposal as SC explains²³⁸. There are no similar reservations expressed by CADW with respect to the amended proposal.
160. The absence of any objection from CADW and CPAT is not surprising given the long-standing identification of the area as suitable for this form of development. Furthermore one of the factors which had been taken into account in identifying the area was its impact upon cultural heritage, contrary to the assertions by PCC. The consideration occurred during the initial selection of the SSAs as is clear for example from the final ARUP report for WAG²³⁹. The presence of archaeological sites, World

²³⁵ CD 5d and SNC/4 para R1.1

²³⁶ SNC/4 para 1.4

²³⁷ AC App C

²³⁸ SNC/4 R1.8

²³⁹ CD 9a

Heritage Sites and SAMs were for example considered²⁴⁰. They were again considered when ARUP reported for PCC²⁴¹.

161. Given that PCC has previously commissioned advice on determining the most appropriate locations for this form of development which has taken into account cultural heritage issues, it is something of a surprise that it should object now to this proposal on the basis of cultural heritage impacts. It is even more of a surprise that it should do so at the same time as promoting a "strategic approach" which would result in a concentration of development in a location which its own evidence establishes has a significant concentration of heritage assets²⁴². This is a further example of PCC's inconsistent and incoherent approach and the generally obstructive approach it has taken to this particular proposal.
162. It is also apparent that AC and PCC's approach is founded in part at least on inflated views about impact and mistaken understandings with respect to the baseline and the approach to take to assessing and determining these issues.
163. The proper approach to take and methodology to apply in assessing likely development effects, taking into account both legal authority and policy guidance, is addressed in detail in Appendix 7.1 to the 2014 SEI²⁴³. I do not repeat the points made herein but rely upon them. PCC's "Outline Legal Submissions" produced in opening appear to be a response to Appendix 7.1. It is important to appreciate that those submissions go beyond merely legal submissions and include substantial comment on policy. There is nothing in those submissions which casts any proper doubt upon the material set out in Appendix 7.1.
164. A fundamental and disturbing example of AC's exaggeration of impact in this case was demonstrated by the inconsistency between his evidence to this inquiry and his evidence to the Mid Wales inquiry. At the Mid Wales inquiry his evidence with respect to comparing the guidance in circular 60/96 with that in NPS EN1 agreed with that of SC – he stated that the lower boundary of "significant impact" in circular 60/96 was to be found at the same level as the lower boundary of "less than substantial" harm in NPS EN1²⁴⁴. However, in his evidence to this inquiry he sought to suggest that the lower boundary for "less than substantial" harm was lower than the lower boundary for "significant impact"²⁴⁵. This is, as AC agreed in XX, an important and significant shift in approach. One would expect there to be a proper reason for such a change to occur, which would be supported by evidence and a proper consideration of matters. When questioned about this it was clear that there was no proper reason for this change in approach. AC was unable to provide any proper basis for his change in approach, which was hardly surprising given that he appeared to have been ignorant of it until it was pointed out to him.
165. AC's unjustified shift in position with respect to where the lower limits of "less than substantial harm" should be placed is a matter of fundamental importance in assessing

²⁴⁰ CD 9a p27, 42, 57

²⁴¹ CD 7 p16 & 17

²⁴² AC App B Figure 5

²⁴³ CD 4

²⁴⁴ CD 5e para 4.15

²⁴⁵ See proof para 4.24

the opposing contentions in this case. So much of the assessment with respect to impacts upon cultural heritage relies upon judgment (even more so in this case given that all identified impacts are impacts to setting). As so much depends upon expert judgment it is often difficult to identify why there are differences in opinion and to be able to show objectively why one opinion is correct and the other wrong. However, where it can be shown that a witness has changed his base position without thought or justification and that this inevitably results in attributing importance to lesser impacts that should not normally be brought into consideration that provides an important indication that his evidence needs at the very least to be viewed with circumspection and should be rejected where it conflicts with the considered and properly reasoned evidence provided by SC.

166. The XX of AC demonstrated that he had exaggerated impacts by placing the threshold for “less than substantial harm” at too low a level. This was accepted by AC as he conceded that some of the assets he had identified as being impacted upon no longer required to be considered. However, this “on the hoof” exercise is not sufficient to undo the difficulties created by his approach. As AC had placed the lower threshold for “less than substantial harm” too low it must also follow that similarly impacts higher up the scale would also be exaggerated; for example an impact at the notional “midpoint” of the scale would not really be at the midpoint at all but would if he had started from the right position be at some point significantly below the midpoint. As AC had started from the wrong point his conclusions inevitably were wrong and exaggerated. This may well explain all or most of the reason for his disagreement with SC.
167. In considering these issues it important to keep in mind that in this case all impacts are limited to impact upon setting. There is no physical impact upon the heritage assets themselves. This is not to downplay the importance of setting to a heritage asset, but it is important to keep in mind the distinction between the asset itself and its setting and in particular to keep in mind, as AC accepted in XX, that the issue is the contribution that setting makes to the significance of the asset and the harm caused to the significance of the asset. It is important not to fall into the trap of confusing impact upon setting with impact upon the asset and in particular the significance of the asset. At times AC and PCC do not appear to have kept these distinctions in mind.
168. This important point has a number of consequences. First and foremost as already noted a change to setting is not relevant if the change has no impact upon the significance of the heritage asset.
169. Secondly it must be kept in mind that changes to setting are reversible. This is a particularly important point when one considers this form of development given that it is inevitably time-limited. This is a point repeatedly made in policy²⁴⁶, and yet PCC ignores the point and argues, contrary to policy, that it should be disregarded.
170. A further important point is that in interpreting and applying policy one has to be careful to distinguish between the asset itself and its setting. AC fails to appreciate this point when he argues that policy when referring to “preservation in situ” (which is clearly addressing the asset) means that the setting should be preserved in its *current*

²⁴⁶ for example NPS EN3 paras 27.17 and 2.7.43

*form*²⁴⁷. This is clearly wrong and AC had to agree in XX that there is no requirement to preserve setting as it is today and that if there were any such policy, development would become impossible. It is clear that settings will change and that policy does not seek to resist this. Although AC conceded that his approach, stated more than once in his proof, was wrong it must have affected his judgment. There has been no correction of his judgment to accord with his concession in XX that this approach was wrong.

171. AC's approach on this point also fails to take into account that the setting in this area has altered dramatically since the days when the relevant assets were constructed. Whilst the land is largely undeveloped it has been agriculturally improved and enclosed and there is evidence of modern civilisation and development – the landscape is very different to that which was present when the assets were constructed.
172. A further point is that public access to an asset is an important consideration which does affect the possibility of relevant development effects and their impact upon the setting of an asset and one sees this in the guidance.
173. A further example of PCC and AC's attempts to increase the perceived impact is in their handling of the question of "substantial harm". It is clear that this is a high test which will not arise in many cases²⁴⁸. In the context of impact to setting the impact has to be so serious on the significance of the asset that its significance is either vitiated altogether or very much reduced²⁴⁹. AC alleges that there would be substantial harm to a number of heritage assets in this case. It is clear when one considers the nature of the assets and the impact to setting arising from these proposals that this involves a gross over-estimate of harm in this case which further discredits his whole approach.
174. On the issue of substantial harm it is interesting to note how AC seeks to interpret the guidance in PPG on renewable energy and heritage assets in paragraph 5-019 and then seeks to argue not only that it is feasible for a single turbine to cause substantial harm to the significance of an asset but that the guidance does not indicate that this would only occur in exceptional and limited circumstances²⁵⁰. This tellingly discloses the prejudice AC and PCC appear to have to this form of development and the unduly restrictive approach which has been adopted. The PPG clearly has to be read as a whole and it is clear from PPG substantial harm is a high test which will not arise in many cases²⁵¹.
175. An important example of AC and PCC's mistaken view with respect to baseline information is the surprising contention that the eastern part of SSA C is in some respect more sensitive in cultural heritage terms than the western part of SSA C. This appears to be based upon the suggestion that there is a particularly significant assemblage of heritage assets in the east of SSA C in contrast to other locations, and in particular the areas around LM and LD. AC went so far as to argue that effectively a distinction could be drawn between the situation to the east and the west of the A483. This remarkable contention was made without any assessment to support it and runs contrary to the evidence which AC had produced. AC's figure 5 shows that there are in

²⁴⁷ for example proof paras 3.4 and 4.11

²⁴⁸ PPG 18a-017

²⁴⁹ *Bedford BC v SSCLG and Nuon UK Ltd [2013] EWHC 4344(Admin) @ para 25*

²⁵⁰ Proof para 4.18

²⁵¹ PPG 18a-017

fact more designated assets to the west of the A483 than to the east with most of them concentrated in the vicinity of LM and LD²⁵².

176. AC's figure 5 amply supports the assessment and conclusions made by SC in section 6 of his proof. As SC demonstrates, the only cohesive set of remains pre-dating the post-Medieval period are the (probably) Bronze Age features contributing to what he labels the "Bryngydfa Group (alignment) which is discussed below. There is no archaeological or historic landscape in the sense of a "relict landscape"²⁵³.
177. There is no basis for PCC's contention that this is a particularly significant historic landscape. The majority of the appeal site is now improved land. The only cohesive set of remains pre-dating the post-Medieval period are the probably Bronze Age alignment of barrows discussed already. Beyond this there is no archaeological or historic landscape in the vicinity in the sense of a relict landscape showing significant and widespread integrity²⁵⁴. PCC and AC's assessment of the significance of the development in this area proceeds from a false premise and is one example of the general approach taken of exaggerating the impacts in this case.
178. It is remarkable that AC and PCC should have sought to object to the cultural heritage impacts in this area without giving any consideration as to how they compared to the impacts to the west of the SSA where they were encouraging development to take place. It is even more remarkable that they should seek to argue that there was a particularly notable assemblage of assets and/or that the area was particularly sensitive without having undertaken any genuine comparison – indeed AC and PCC claimed that there was not the evidence to undertake such a comparison (apparently forgetting Figure 5).
179. Another example of the erroneous basis upon which AC has assessed this proposal is the suggestion that the landscapes have been retained by the communities that have inhabited them over millennia because of the special meaning they have for them and that this attested by places names. He suggests that the survival of these names and remains enables modern people to engage with and experience and understand the stories of ancient communities²⁵⁵. Sadly this is all poetic fantasy. Not surprisingly AC was unable to identify any of these stories of ancient communities but importantly the whole premise was exposed to be false by his example of the naming of one barrow as Windy Hill. AC had failed to undertake the research which would have revealed that the barrow was simply named after the nearby modern farm, albeit that the name had been corrupted from Windy Hall originally.
180. A similar example was AC's repeated references to "settlement" to give an enhanced impression of the significance of the remains in this area²⁵⁶. In fact as SC explained²⁵⁷ and AC accepted²⁵⁸ there is no evidence of what we would understand as settlement. The finds in this area have been confined to scattered fragments of effectively casual

²⁵² AC App B Figure 5

²⁵³ SNC/1 para 6.9

²⁵⁴ SNC/1 6.9

²⁵⁵ Proof para 5.23

²⁵⁶ for example proof paras 5.7, 5.9, 5.14 and 5.27

²⁵⁷ In chief

²⁵⁸ AC XX

debris which is perfectly normal to find in an area such as this which is less affected by the disturbance arising from modern agricultural methods. The term "settlement" is loosely ascribed to a location where a small number of flints is found for want of a better label – it has no significance as such.

181. It has been recognised that there appears to be an alignment of plausibly Bronze Age barrows in this area (labelled the Bryngydfa Group) and careful consideration has been given to the layout of the wind farm to take this into account even resulting in the removal of turbines to widen the "buffer" between sightlines along this alignment and the edge of the turbine cluster²⁵⁹. The precise purpose of the barrows is unclear and there are a number of plausible conjectures as to the reasoning behind the location of these barrows²⁶⁰. However, what is clear is that the heritage significance of such isolated highland barrows is almost exclusively dependent upon inward views and generally over limited distances in the range of 500-1000 metres²⁶¹. Of considerable relevance to the heritage-significance of the monuments is the fact that no wind turbines would stand in the view to a barrow in any of the zones from which cresting is best observed. The visual dominance of the barrows will not be affected by the development²⁶². Furthermore the development will not affect intervisibility between barrows and in particular the sightlines along the alignment²⁶³.
182. In contrast to SC's detailed and careful assessment of the heritage significance of barrows such as these²⁶⁴, AC's approach is superficial and at times fails to distinguish between the barrow and the landscape feature upon which the barrow is located. However, in XX AC did concede a number of important points – i) That the Bryngydfa group did not have any detailed association with their wider surroundings and that there was no settlement. ii) That the potential for acquisition of information in the future is the primary special interest contributing to the heritage significance of the barrows (and SC explained that this remained the position even if the barrow had been "robbed" of funerary items).iii) That building a barrow required effort and that the aim was for the barrows to be seen which involved inward views.
183. In closing PCC still seeks to attach importance to outward views from barrows, but no evidence has been provided to substantiate this. Furthermore the distance over which inward views were significant was limited. Contrary to the suggestion in PCC's closing²⁶⁵ the evidence that it was inward views over a limited distance that were significant is supported by a substantial volume of research evidence and is not simply derived from the Belgian study as SC explained and made clear. AC did not adduce any evidence to counter this substantial research. It is surprising that PCC makes this point about views as the summary of AC's explanation of the design significance of barrows in the closing is all concerned with inward views²⁶⁶.

²⁵⁹ SNC/1 5.1

²⁶⁰ SNC/ 5.2

²⁶¹ SNC/1 5.5 and 5.7

²⁶² SNC/1 5.3

²⁶³ SNC/1 5.4

²⁶⁴ SNC/3 App A

²⁶⁵ Closing para 89

²⁶⁶ See closing para 86

184. PCC raise issue with a number of other barrows, however, the distance of the proposals from those barrows and the location with respect to inward views to the barrows ensure that no material harm would be caused to any of these barrows as a result of these proposals²⁶⁷. The inconsistency of PCC and AC's approach is further demonstrated by their reliance upon these barrows. In contrast to the position they have adopted with respect to the appeal proposal they have argued that the distance of LM from various barrows means that it does not overly affect the setting of the barrow²⁶⁸.
185. It is notable that PCC makes the point in closing that views of the natural formations on which the barrows were situated are fundamental elements of their setting and significance; and that approaches to them and across the landscape are also of importance to their setting and to understanding their role in the landscape and prehistory. It is said that the generally open, uncluttered landscape in which they sit enables us to appreciate and understand the monuments and the connections between them and the underlying physical landform; and that this too contributes substantially to their setting and significance²⁶⁹. In fact if one steps back and considers the matter rationally, even if they are important these elements would be preserved. It would still be possible to appreciate the monuments and the connections between them and the underlying physical landform.
186. There will be an adverse impact upon the enigmatic Castell y Blaidd ("CYB") ringwork. CYB does not stand on the highest topographic point in the immediate area and it is not particularly obvious what the design principles may have been, a point which bolsters the surmise that the monument is incomplete. The main outward views are away from the wind farm to the west and south since the land rises quite quickly in other directions²⁷⁰. AC's conjectures with respect to CYB managing and controlling the Trefoel Brook Valley²⁷¹ are pure speculation which ignores the presence of the unfortified hill of roughly the same scale as CYB which lies between CYB and the Trefoel Brook Valley.
187. SC has applied a very conservative approach to assessing the impact on CYB²⁷². AC provides no material to support his judgment of a greater impact.
188. Mitigation works are proposed with respect to this monument which would involve repairing the physical structure and improving information and access. These measures would reduce further the degree of harm. However, the level of harm even without these measures is not such as would require these measures to be provided in order to make the proposal acceptable. There is no reason to believe that the measures will not be forthcoming and they are in effect a further benefit arising from the proposal, but there is no need for them as such, and the proposed conditions are sufficient.
189. There will also be an impact upon the setting to the listed building Cwm yr Hob ("CYH"), which was not in particularly good condition when listed in 2004²⁷³. It is again

²⁶⁷ SNC/1 5.7 – 5.9

²⁶⁸ proof 6.53, 6.94 and 6.115

²⁶⁹ Closing paragraph 88

²⁷⁰ CD 4 2014 SEI para 7.7.2

²⁷¹ proof paras 6.5 and 6.16

²⁷² CD 4 2014 SEI para 7.7.2

important not to overstate the impact in this case. The building is listed because of its architectural interest as a traditional farmhouse and cow house retaining early 19th century character and detail, with earlier origins, and, with the barn, as part of a group retaining strong vernacular character²⁷⁴. The special interest of the building is all concerned with the architectural details and the fact that this example of what was a fairly simple and functional vernacular building has survived.

190. There is no suggestion of any designed setting for what was and remains a working farm. However, again taking a careful approach SC has included the agricultural land on the hillsides around the buildings as within the setting and accepted that it retains heritage significance because there is a visible linkage between the continuing use of some of the buildings and the active farm²⁷⁵, but this should not be pushed too far. It is furthermore important to note that any person walking close to the farmhouse would be unaware of the turbines as they would be shielded from view by the building itself as AC accepted²⁷⁶. The elements of the building which led to its listing would consequently be appreciated and enjoyed without any impact from or even distraction from the turbines. The impact would not amount to substantial harm to the listed building²⁷⁷ and it can be noted that even AC with his inflated views as to impact accepts that this is the case.

191. As there is an impact upon a listed building it is necessary to give considerable weight to this issue because of the statutory duty under *section 66 Planning (Listed Buildings & Conservation Areas) Act 1990*; there is a strong presumption against harm to listed buildings. However, it is also important to keep in mind that this remains a presumption and that the presumption can be rebutted by other factors as long as one considers the matter properly and gives proper weight to the interests of the listed building. It is necessary to retain a sense of balance in this case. The provision of renewable energy is a matter of considerable importance which is capable of rebutting the presumption and in the circumstances of this case for all of the reasons considered above very considerable weight should be given to the provision of renewable energy made by this proposal. Furthermore in considering this matter the degree of harm caused to the building remains a proper consideration – in this case the harm is comparatively limited.

192. Works have been identified which could be done to the listed building. However, both parties agree that those works are not necessary, albeit for different reasons. SC explains that the harm to the listed building is modest and in the circumstances the benefits of the proposal clearly outweigh this impact, even taking into account the statutory provisions. PCC on the other hand has adopted the position that works cannot pass the tests for imposition of conditions including the test of necessity because it is said the proposed works would not remove the harm caused by the proposal. As all parties agree that the works are not necessary it would appear inappropriate to impose a condition with respect to them, and certainly permission could not be refused because

²⁷³ CD 4 2014 SEI para 7.6.12

²⁷⁴ Listing details 2014 SEI App 7.4 CD 4

²⁷⁵ CD 4 2014 SEI para 7.6.8

²⁷⁶ AC XX and see CD 4 2014 SEI para 7.6.11

²⁷⁷ SNC/1 5.23

of any concerns with respect to any proposed condition as MC conceded²⁷⁸. Proposals were put forward to PCC to facilitate the provision of these works which would have been a positive benefit flowing from the proposal. However, it has not proved possible to progress them further given PCC's hostility to the prospect of wind farm development. In the circumstances it would not be reasonable to require any greater condition with respect to this matter than that proposed by RES and it can be noted that no further condition is sought by PCC in closing.

193. PCC's assessment with respect to cumulative impact again seeks to bring in proposals such as Bryngydfa and Neuadd Goch which do not have planning permission and are further behind in the planning process. Those other proposals may or may not come forward, but when they do proper consideration will be given to the cumulative impact of those proposals with other proposals including the appeal proposal. There is no reason why this appeal proposal should be prevented by consideration of a cumulative impact which may not ever arise, and which will be separately considered before it is allowed to arise. In any event as SC explained it is the impact of the other proposals which may give rise to cultural heritage impacts rather than the cumulative impact of this proposal with those proposals.
194. PCC's approach to cultural heritage assets has been driven by a number of mistaken assumptions, misinterpretations of policy and exaggerated assessments.
195. PCC also seek to accumulate the individual impacts and argue that the total impact is greater than the sum of the individual parts. There is no policy support for this approach which is clearly wrong as a matter of logic. Furthermore properly understood the Asfordby decision²⁷⁹ does not support PCC's approach. Effectively PCC confuses the point that it is necessary to consider the total impact upon heritage assets²⁸⁰ with the proposition that addition of individual impacts can in some way defy mathematics and logic and produce an outcome which exceeds the sum of the parts.
196. It is interesting, and revealing, that PCC should rely in closing upon UDP policy ENV 17²⁸¹. In fact PCC's witnesses agreed that one should look primarily to the development specific policy E 3. In this respect a contrast can be noted between the approach in E 3 to ecology where the policy cross-refers to policy ENV 3-7²⁸² and its approach to cultural heritage where there is no cross-reference to policy ENV 17²⁸³. This does suggest that PCC is in error in relying upon ENV17 as opposed to considering E 3(4). However, whichever policy one considers it is important to note that each policy talks about "unacceptable" effects or impacts which clearly demonstrates that the policy anticipates that a balancing exercise is involved to consider whether the effect or impact of the proposal on cultural heritage assets is "unacceptable". In truth PCC failed to undertake this balancing exercise as AC and MC both conceded.

Noise

²⁷⁸ MC XX

²⁷⁹ CD 35c

²⁸⁰ The point in Asfordby

²⁸¹ Closing paragraph 105

²⁸² UDP policy E 3(2)

²⁸³ UDP policy E 3(4)

197. PCC's position with respect to noise is remarkable and further demonstrates its failure to follow its own policies and procedures and the obstructive approach it has taken towards this development.
198. It is accepted by PCC that there is no issue with respect to the appeal proposal on its own and that the only concern arises with respect to the "potential" cumulative noise impact arising if both the appeal proposal and that at LF were to be consented and operational²⁸⁴.
199. PCC's public position is that suitable noise conditions should be imposed upon any consented wind farm so as to leave sufficient "headroom" for other wind farm projects to be developed in the area without breaching ETSU limits²⁸⁵. PB confirmed that this remained PCC's position, and clearly it would be contrary to the aims of policy, good planning, and common sense to prevent otherwise acceptable schemes in a SSA²⁸⁶ from coming forward because the noise conditions on another wind farm proposal have effectively sterilised the area. Despite PCC's public position PB now maintains that this is precisely what PCC has done in this case by agreeing to conditions on the LF proposal which if the proposal were to be consented and those conditions were to be imposed would in practice prevent further development in the SSA²⁸⁷. This position is all the more remarkable given that PCC and PB in particular were alerted to the potential issue by RES prior to the agreement of the conditions by PCC with LF. Quite remarkably despite being alerted to this position PB took no action and, contrary to PCC's public position, did not seek to retain headroom for further development; he could provide no reason for this failure²⁸⁸.
200. At the very outset PB conceded that "*you are in the area of theoretical potential breaches*" and that nobody would notice the difference if the conditions proposed by RES were to be imposed²⁸⁹. This is an important concession which effectively removes any reasonable basis for objecting to the appeal proposal on noise grounds. PB and PCC are clearly satisfied that the noise environment arising from the LF proposal would be acceptable. The aim of policy with respect to noise impacts arising from wind energy development is that such impacts should be acceptable²⁹⁰; the mere fact that a proposal may result in the ETSU limits being exceeded is not in itself a reason for refusing permission²⁹¹. As PB and PCC are satisfied with the noise arising from LF and consider this acceptable, it must follow that if one would not notice any difference as a result of the appeal proposal and that this is merely a "*theoretical potential breach*" that the policy and importantly the aims of policy would be met. There could be no reasonable ground for rejecting the condition proposed by RES or for refusing permission on the basis of a noise impact. In the circumstances there is no real need to consider the matter in any further detail, but when one considers the details the

²⁸⁴ PB in chief and XX

²⁸⁵ PB XX, PB 31 and AMcK 3.3

²⁸⁶ An area where such schemes are to be concentrated.

²⁸⁷ PB XX

²⁸⁸ PB XX

²⁸⁹ PB in chief and XX

²⁹⁰ for example PCC UDP E3(3), PPW 13.13.1 and NPS EN3 2.7.69

²⁹¹ NPS EN3 2.7.69

position becomes even clearer in favour of the proposal and the condition proposed by RES.

201. A second important reason why this concern is solely theoretical arises from the fact that the LF proposal does not have consent. Indeed PCC has opposed the LF proposal and if its case were to be accepted by the Secretary of State the proposal would not receive consent. PCC are in the absurd position of arguing that a proposal which it resists and which it says should not be allowed, should nevertheless be treated as if it were a commitment and result in the sterilisation of the area so that further wind farm development would not be allowed. This would be ridiculous even if there were a real problem, when there is no real problem it is even more unreasonable. The Inspector has not reported on the Conjoined Mid-Wales Inquiry and the decision remains some months off at the earliest; if there were a real problem it remains open to PCC to contact the Secretary of State to explain that the noise limits proposed for LF need amendment.
202. PB's concern in this case arises with respect to the limited number of properties that are located between both the appeal site and LF and which are not in any event dominated by the noise environment created by one or other of the proposed wind farms²⁹². As can be seen from figure 9.2 in the 2014 SE these are the Fiddlers Green and Gwenlas properties together with Cwm- Mawr²⁹³. PB agreed that the concern could only arise if the properties were subject to the maximum noise allowed from each wind farm at the same time. However, as PB also agreed the maximum noise would only arise when a property was downwind of the wind farm. As the relevant properties are all to the east of LF but to the west of the appeal proposal it is immediately apparent that they could not be downwind of the two wind farms at the same time and that therefore they could never be subject to the maximum permitted noise from each wind farm at the same time. PB agreed that this meant that in practice the properties could never be subject to the maximum permitted noise from each wind farm contemporaneously and this was one of the reasons why the concern only arose in theory rather than practice. This is a fundamental point and is again sufficient on its own to remove any ground for objection on the basis of cumulative noise impact. When added to the point that LF does not even have consent and may never receive consent the position again becomes all the more nonsensical.
203. PB's concern was that at some wind speeds the LF condition allows the LF turbines to operate up to the maximum ETSU limits with respect to these properties and that in general terms an additional wind farm would make some additional contribution to the noise environment which would result in the noise level increasing over and above the ETSU limit (if one ignored the point that the location of the wind farms means that in practice an exceedance would not occur for the reasons set out above). The way noise conditions are normally calculated involves assessing the proposal in the worst case situation where the receptor is downwind of the wind farm and this approach is applied to both wind farms here even though this could not happen in practice which results in a theoretical exceedance of the ETSU limit.

²⁹² PB XX

²⁹³ PB XX and see PB App 8 – PB agreed that properties such as Garn and Springfield/Blaen-nant-du are not a concern because their proximity to LF means that at all times they would be dominated by any noise from LF

204. The issue of what to do in a situation where a permitted wind farm is already allowed to operate at up to the ETSU limited is discussed in the Institute of Acoustics Good Practice Guide²⁹⁴294. The Guide observes –

"If an existing wind farm has permission to generate levels up to ETSU-R-97 limits, planning permission noise limits at any future neighbouring wind farm would have to be at least 10dB lower than the limits set for the existing wind farm to ensure that there is no potential for cumulative noise impacts to breach ETSU-R-97 limits (except in such cases where a higher fixed limit could be justified)" Such an approach could prevent any further wind farm developments in the locality, and a more detailed analysis can be undertaken on a case by case basis.'

A number of points can be observed arising from this advice, with which PB expressed agreement –

i) The guidance clearly contemplates that one can still have additional wind farm development even though the noise condition for an existing wind farm is already set at ETSU limits – there is no suggestion that this is inevitably a problem, indeed the advice is to investigate matters individually to assess whether there is in practice any real problem.

ii) One approach which is advocated is to impose limits on the new wind farm which are 10dB lower than the limits for the existing wind farm. This is clearly seen as an acceptable approach. However, if the noise from both wind farms were to be added together as a matter of mathematics this would inevitably result in an increase of 0.4dB. Accordingly the Guide is contemplating an increase of 0.4dB and disregarding this as an increase above ETSU limits.

iii) The appeal proposal can operate at levels of 10dB below LF²⁹⁵295 and this would accord with the approach set out. If one ignored the fact that the relevant properties could not be downwind of both proposals at the same time this would result in an increase in levels of 0.4dB which is the inevitable consequence of following this approach.

iv) An increase of 0.4dB would not be discernible. The smallest increase that is normally discernible is 3dB (it is important to remember that this is a logarithmic scale so there is a very significant difference between an increase of 0.4dB and one of 3dB).

v) The guide acknowledges that imposing a limit 10dB below that of the existing wind farm is a very onerous approach which could prevent further development and advocates a more detailed examination to see whether this is necessary.

205. There is a recent example of a Scottish Council following the IOA guide and imposing a limit 10dB below the existing wind farm (East Ayrshire with respect to Sneddon Law near Whitelee²⁹⁶). An appeal was made against this condition because it was so onerous. PB appears to have misunderstood the nature of the appeal because he argued that little weight could be given to the decision prior to the outcome of the

²⁹⁴ CD 48

²⁹⁵ for example RES memo 31st July 2014 Table 5 79

²⁹⁶ AMcK 3.9 and App ARMcK-F

appeal²⁹⁷. Ironically the appeal decision was issued on the closing day of the inquiry and the Reporter concluded that the condition was too onerous. Far from assisting PCC this clearly supports AMcK's evidence. PB was unable to explain why, in the light of the Scottish decision, a condition such as that proposed in this case would not be suitable.

206. Whilst one could impose a condition on the appeal proposal which contained limits 10dB below the LF conditions this would be unduly restrictive and unnecessary²⁹⁸. A more realistic approach advocated in the IOA Guide is to consider the noise level at the most affected property as this effectively "controls" the noise from the wind farm because in order to reach the limits at other properties one would already have to have breached the limit at this "controlling" property. Whilst the approach is clearly set out in the IOA Guide PB sought to argue that it is not appropriate here because the controlling property is not in the same geographical location as other properties²⁹⁹. This is in truth an attack upon the whole concept of the controlling property method even though it is a recognised method. It was notable that the IOA Guide provides a pictorial example of use of the controlling property method³⁰⁰, which was broadly similar to the layout of the relevant properties in this case. The reluctance to accept the controlling property method was a further example of the generally obstructive approach taken by PCC to this proposal.

207. In fact AMcK did not seek to rely upon the controlling property method even though it would provide an acceptable outcome in this case³⁰¹. Instead AMcK adopted a more conservative approach. The approach involved looking at the worst possible noise outcome for each property from each turbine at each windspeed using all possible turbines currently on the market. Where the worst outcome exceeds the noise limit at that windspeed for the LF proposal it has been assumed that the noise limit would be applied. In cases where the worst possible outcome is below the noise limit set at that windspeed for LF it is clear that the noise limit is over generous and that there is no practical proposal which could reach that noise limit; in such cases there is clearly a degree of headroom which can properly be taken into account in setting the limit for the appeal proposal³⁰². The various steps involved in this approach and the resultant noise values obtained are all clearly set out in the 29th September 2014 memo³⁰³. It can be seen that in almost all cases when one applied the proposed noise limits for the appeal proposal and applied them to the worst case outcome for LF the cumulative noise (ignoring the fact that this is a theoretical calculation which assumes the properties are downwind of both wind farms) would be below the ETSU noise limits. There are only three examples where the resultant levels would be at the ETSU limits³⁰⁴. It is clear on the basis of this calculation that there can be no reasonable issue with respect to the noise limits proposed as they do not result in any exceedance of the ETSU limits even if one assumes that the properties could be downwind of both wind farms at the same time.

²⁹⁷ PB 63

²⁹⁸ AMcK 3.10

²⁹⁹ PB 54

³⁰⁰ CD 48 Figure 8 p26

³⁰¹ AMcK 3.12

³⁰² AMcK 3.14 – 3.16

³⁰³ Appendix ARMCK-2E

³⁰⁴ At Higher Fiddlers Green at windspeeds of 8 and 9 m/s and at Cwm-Mawr at 10 m/s – see Table 7

208. Even though AMcK's approach is particularly conservative PB still raised objections to this approach on the grounds that it is theoretically possible that at some time in the future a different turbine might be manufactured which is noisier than any turbines currently on the market. This is a further stark example of PCC's unreasonable obstructive attitude to this proposal. PB accepted that there was no evidence that noisier turbines might be manufactured and he accepted that in fact turbines were becoming less noisy. In the real world given that turbines are becoming quieter a turbine manufacturer would not produce a noisier turbine as it would be at a very significant commercial disadvantage. There is no reasonable basis for resisting AMcK's approach and PB was unable rationally to defend his position.
209. In the circumstances it is clear that there is no noise objection to the appeal proposal on its own. The objection with respect to the cumulative noise impact of the appeal proposal with LF is theoretical and unreasonable. It arises because of a failure by PCC to apply its own policy of seeking to ensure that any consented proposal leaves sufficient headroom for other proposal. The LF proposal has not been consented (indeed it is opposed by PCC) and there is no reason why it should be given any precedence over the appeal proposal; accordingly there remains the opportunity to amend the proposed noise levels for the LF site if cumulative noise impact were genuinely considered to be an issue. However, in reality there is no problem. The claimed issue relies upon making the unreasonable assumption that properties could be downwind of both wind farms at the same time which is not possible. Even then all that would happen is that there would be a technical exceedance of the ETSU limits in some situations by some 0.4dB which would not be discernible and which would not have any material impact upon any receptors. Even then this would not arise with the condition proposed by AMcK which would ensure that the ETSU limit would not be exceeded in any circumstances and that in almost all cases the worst theoretical levels would be comfortably below the ETSU limit.
210. Appropriate conditions can be provided to control noise arising from the appeal proposal. It is agreed that the noise levels set out in the proposed draft condition prepared by RES would achieve the levels identified by AMcK so that there would not be an exceedance of the ETSU limit even were LF to be consented and developed. If LF did not receive consent or was not developed it would be unreasonable to seek to impose restrictions as though it had been developed and in those circumstances the alternative level put forward by RES would be appropriate.

Highways

211. There are no outstanding objections from any statutory body with respect to the highway proposals for this development. A number of points were raised by local people but they were all fully addressed by KM. There are no highway related reasons for resisting either the wind farm application or the access route application.

Residential amenity

212. The visual impact of the proposals on residential amenity was considered in detail by KH. There are comparatively few properties which will have a view of the proposals and

for the reasons set out in KH's evidence no property will be affected to a degree which would provide a reason for refusal of permission³⁰⁵.

213. The issue of noise impacts is considered by AMcK and again these are shown to fall within relevant guidance and they have been shown to be acceptable.

214. There are a range of other issues raised with respect to residential amenity which have been covered by RES's witnesses, in particular KM and DS.

215. The proposal would not have any unacceptable impacts upon residential amenity. Whilst it is understandable that individual residents may express concern it can be noted that these concerns are not shared by any of the statutory bodies who are responsible for addressing these concerns.

Ecology

216. NRW required a considerably greater level of information and survey for the access route proposal than that which was provided for the identical proposals for access to LF and even though NRW had confirmed as recently as May 2014 that it had no outstanding objections to the access to LF. Whilst questions can be raised as to NRW's approach in this case that information has now been provided and NRW confirmed that in the light of that information there are no ecological objections to the proposals before this inquiry³⁰⁶. PCC has also confirmed that it has withdrawn its objections.

217. With the resolution of the ecological issues it was no longer necessary to call ecological evidence before the inquiry, however, there is one outstanding issue which will have to be determined. In its response of the 10th September 2014 NRW suggested with respect to otters that as detailed mitigation measures had not been provided it was not possible to conclude that would be no likely significant effects so an appropriate assessment ("AA") would be required to be undertaken for the purposes of the Habitat Directive³⁰⁷ and the Conservation of Habitats and Species Regulations 2010³⁰⁸. NRW go on to explain that whilst an AA would be necessary it is satisfied that subject to the imposition of appropriate conditions it is satisfied that the AA can conclude that that applications will not adversely affect the integrity of the River Wye SAC so that the requirements of both the Directive and the Regulations will be satisfied.

218. This is ultimately a matter for the decision-maker given the terms of both the Directive and the Regulations. However, given the legal importance of the issue, and to assist the decision-maker a note has been prepared by BSG Ecology on behalf of RES and this was provided prior to the opening of the inquiry, with a further copy provided at the end of the inquiry. As the note explains there is no reason why an AA should be necessary. The information already provided demonstrates satisfactorily that there will not be any likely significant effects. However, if the decision-maker does not agree with these conclusions, the note also sets out how an AA would demonstrate that the integrity of the SAC would not be adversely affected. In the circumstances whichever approach is taken the ultimate conclusion, as NRW recognises, is that the proposal satisfies the requirements of the Directive and the Regulations.

³⁰⁵ KFH/2 paras 9.22 – 9.41 and 10.31 and KFH/3 App 6

³⁰⁶ NRW response of 10th September 2014

³⁰⁷ Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora

³⁰⁸ SI 2010/490

Tourism

219. Concerns are raised by CUP with respect to impacts upon tourism. They have been addressed at length in DS's evidence. He has shown that there is no evidence that this form of development causes harmful impacts upon tourism and no reason why that general position would not apply here.

Planning balance and conclusions

220. The proposal has been extensively tested at this inquiry. The need for the proposal and the benefits flowing from it are clearly established. The proposal is an important step in addressing the pressing needs with respect to climate change and energy security; it makes an important contribution towards meeting the UK Government's international commitments and the UK and Welsh Governments' energy policy goals together with helping to address the chronic failure to make the planned provision for wind energy development in this sub-region.

221. PCC has throughout failed to appreciate that given the location of this proposal within an SSA the starting point for determination of the proposal is a presumption in favour.

222. PCC has consistently sought to downplay the significance of the repeated identification of this area as particularly suitable for this form of development; it has failed to consider the importance of the fact that this is time-limited development which is essentially completely reversible; it has persistently sought to exaggerate the impacts arising from this development; it has adopted a remarkable approach with respect to other proposals seeking to count them towards the provision of renewable energy and cumulative impacts even though it has resisted them.

223. This proposal does not give rise to any unacceptable impacts. Indeed for its scale it gives rise to remarkably little impact. This reflects the fact that it is located in an area repeatedly identified as a location to which this form of development should be directed and concentrated. Such impacts as arise can be properly addressed by conditions and they are clearly outweighed by the benefits of this proposal.

224. In all the circumstances, therefore, we invite you to recommend that the appeals be allowed and consent be granted for the wind farm and access proposals, subject to appropriate conditions.

ANNEX B

The case for Powys County Council

1. These submissions adopt the following structure:
 - (i) Relevant contextual matters
 - (ii) Landscape character and visual matters
 - (iii) Cultural heritage matters
 - (iv) Other considerations
 - (v) Overall balance and approach for the decision maker.
2. The Council ('PCC') relies fully on the matters of context set out and described in the opening statement, so that the focus of submissions is on Appeal A. The legal submissions attached as an appendix to the opening statement are also relied upon at this stage but are not repeated again.

Context

3. There are several important aspects of context for the decision maker in this case.

Policy context

4. Powys fully supports the Welsh Government's (WG) energy policy and its targets for renewable energy reflective of the UK's international obligations. To minimise wider environmental harm it supports the strategic approach to the locations of wind farms and the capacity of SSAs contained in PPW and TAN 8 and related Welsh Government policy statements³⁵⁶.
5. The development plan policy provides the starting point for consideration of this appeal. Beyond that, the most important energy and planning policy context for this appeal is that provided at a Welsh level³⁵⁷ rather than by UK national energy policy.

Approach to strategic search areas in the context of Welsh policy (TAN 8 and PPW)

6. The fact that land lies within an SSA (refined or otherwise) does not lessen the responsibility on applicants either to choose acceptable sites or, having done so, to mitigate those impacts capable of mitigation.
7. Whilst the TAN8 SSA approach has considerable merit, it is important not to lose sight of the fact that the identification of the SSAs was the product of a high level, broad brush, largely noise assessment driven process.
8. Such broadly defined areas were never likely to provide an accurate guide as to what is acceptable or unacceptable in the context of individual schemes within the areas. Their importance lies firstly in identifying broad areas within which strategic provision is likely to be *least harmful* and secondly, in providing a broad measure of the likely cumulative environmental capacity of the areas if the "*least harmful*" objective is to be attained.

³⁵⁶ Including, importantly those in July 2011 by the First Minister and the Minister for the Environment and Sustainability – John Griffiths [CD 25]

³⁵⁷ A point accepted by both planning witnesses

9. This context requires a strategic approach (considering what can reasonably be provided in and around the immediate vicinity of the areas as a whole) to be taken to decision making in light of both the acknowledged urgent need for nationally significant renewable energy infrastructure and the finite environmental capacities of the areas in which the proposals lie.
10. EN-1 (CD14) and En-3 (CD15) National Energy Policy statements are material considerations. Welsh national energy policy and in particular the policy and aspirations set out in PPW³⁵⁸ and TAN 8³⁵⁹, which are the primary policy considerations, are in several respects broadly consistent with these UK Government policy statements.
11. The most recent edition of PPW, which postdates the NPSs, reaffirms the relevance of TAN8³⁶⁰ referring to provision of a 'limited number' of wind farms over 25 MW to contribute to WG policy aspirations. EN-3 paragraph 2.2.1 emphasises the importance of policy as well as advice issued by the WG relating to renewables in the context of NSIPs. It does so in a textual context³⁶¹ which makes it clear that EN-3 has been drafted with Welsh Strategic Search Areas (SSAs) and refinements clearly in mind.
12. The Welsh Government has indicated in TAN8 that the SSA boundaries are at a '*broad brush*' scale³⁶². It is made clear that not all of the land within such areas is expected to be technically, economically or environmentally suitable for major wind power proposals³⁶³. On any view, policy does not indicate that SSAs should be crammed full of wind farms.
13. The prospect of local refinement being undertaken by planning authorities is anticipated by the TAN and in that context reference is made to land outside (but close to) the particular SSA being used for wind farm development if robust evidence exists to suggest the land is suitably unconstrained³⁶⁴.
14. In the context of the broad brush boundaries and in the anticipation of refinement of such areas, TAN 8 provided indicative capacity targets for each SSA³⁶⁵. The capacity levels were to be of application even after a refinement exercise had taken place³⁶⁶. Those indicative targets were derived from evidence based assessments undertaken by Garrad Hassan in 2005³⁶⁷. For SSA C the capacity was 70MW. In policy terms, the identified capacities allowed a local discretion in identifying sites to ensure that the

³⁵⁸ PPW 7th Edition CD 27a

³⁵⁹ July 2005 CD25a

³⁶⁰ PPW 7th edition, CD 27a, para 12.8.13, p.169

³⁶¹ EN-3 -para 2.2.2

³⁶² TAN 8 - CD23, para 2.4

³⁶³ TAN 8 - CD23 para 2.5

³⁶⁴ TAN 8 - CD23 para 2.4

³⁶⁵ Table 1, TAN 8 CD23, p.5. Based on the assumption that the majority of technically feasible land for wind turbines in each area is used.

³⁶⁶ A point accepted by DS in xx.

³⁶⁷ The TAN 8 indicative capacity targets (table 1, 2.5) represent a 1/3rd reduction on the Garrad Hassan work (2005) CD33a

most appropriate and sustainable options were identified. TAN 8 in fact specifically envisages that capacity may be more or less than that indicated in policy.

Griffiths letter

15. In July 2011 the Welsh Government provided clarification on capacity levels in the form of a letter³⁶⁸. Although there was some debate at the inquiry about the status of the 'Griffiths' letter (CD 25) it was conceded by the appellant that it should be treated properly as 'policy'³⁶⁹.
16. It was issued with express reference to the newly issued NPSs (at that stage being considered by Parliament) and, in that context, expected all decision makers to respect the '*finite environmental capacity*' of the SSAs so that output '*should not exceed the maximum levels*'. The maximum level for SSA C was stated to be 98MW³⁷⁰. It is important to note that the current progress towards Welsh and UK energy targets is healthy and that the 2GW Welsh target requires no further or greater MW capacity in SSAs to be achieved³⁷¹. Nor is there any suggestion that there is insufficient land in the SSAs to achieve the identified levels within each.
17. This policy is important contextually for this appeal. The Welsh Government's letter of July 2011 has recently been considered in the Bryn Llywelyn appeal decision by WG.³⁷² The Inspector, with whom the Welsh Ministers agreed, recommended dismissal of RES's appeal in relation to 21 wind turbines at Llanllwni, Carmarthenshire, and in doing so addressed the weight to be afforded to the Welsh Ministers July 2011 letter. The Inspector notes that the July 2011 letter expects all decision makers to respect the fact that SSA's have a finite environmental capacity and output should not exceed the levels identified.³⁷³ He went on:
*"I conclude that the proposal in combination with other developments would exceed WG's capacity limit of 132 MW for SSAG. Whilst that might not of itself justify dismissal of the appeal, it is supportive of the view that the finite environmental capacity of SSA G would be exceeded."*³⁷⁴
18. This approach is consistent with the position taken by PCC at this inquiry as explained by Mr Carpenter in evidence. It is clear that the Welsh Government capacity levels identified provide an important policy check to assist in identifying whether a proposal is environmentally acceptable. The policy is relevant, up to date and requires careful application. It has also been endorsed in the recent September 2014 Clocaenog Forest Decision (CD35i) as Mr Carpenter explained³⁷⁵.
19. This policy presents the appellant with a severe problem in arguing the proposal is acceptable. If all of the wind farms currently in the planning system were to be granted

³⁶⁸ CD 25

³⁶⁹ XX of D Stewart

³⁷⁰ Again derived from the Garrad Hassan work as reviewed.

³⁷¹ See Carpenter evidence at sections 4 esp at 4.24, p.23

³⁷² 6 May 2014 Bryn Llywelyn Decision – Letter, Bryn Llywelyn Decision CD 35b

³⁷³ Inspector's report para. 541 p.134

³⁷⁴ Ibid para. 545 p.135

³⁷⁵ Carpenter proof paragraph 4.31 & para 3.5 of S of S letter and para 3.35 of Examination report.

planning permission, the MW capacity would be some 3.5 times the maximum policy capacity. If the S of S allows - and he may do this in the next few weeks - all the proposed schemes in SSAC that were before the Mid Wales Inquiry - there would be some 223.6 MW³⁷⁶ provided before this proposal is even considered. If the Powys strategic position put before that inquiry is accepted by the S of S the environmental capacity and Welsh policy would have been respected but there would be no room for this proposal in policy or environmental terms in the context of a policy target of 98MW for the whole of SSAC.

20. Faced with this the appellant, through Mr Stewart ('DS') pursued two related arguments. The aim of both was to thwart and/or avoid clear Welsh policy. Both were, with respect, nonsensical.
21. First, it was suggested that the policy approach in the Griffiths letter was without credibility and/or made no sense³⁷⁷. This direct attack on the validity of policy was without basis and should not be entertained. The following points are made in that regard:
- (i) Mr Stewart, it emerged in xx, had in fact tried to pursue exactly the same arguments in the Bryn Llewelyn appeal³⁷⁸. The Inspector, with whom the WG agreed, considered that such arguments as to the validity of policy should not be entertained.
 - (ii) Presumably the WG could have amended PPW or withdrawn the Griffiths letter if it felt there was merit in the DS argument. It has done no such thing. Quite the contrary, it continues to endorse it.
 - (iii) In any event, his arguments - which related to the detail of the Garrad Hassan work³⁷⁹ and the use of it by the Minister - were, as Mr Carpenter explained, without basis in logic. Mr Stewart suggested that the Minister should have opted for 148MW rather than 98 MW for SSAC and that he must have misunderstood the Garrad work by picking 98MW. That is simply wrong. There is no reason to assume that the minister misunderstood at all what he was doing. Indeed, if one looks at the Garrad work he could equally have picked a lower MW figure, especially as the research anticipated that there would be further reductions (below 98MW) needed. Indeed, as Mr Kibble pointed out³⁸⁰ it appears that the areas Garrad were working from at that stage were considerably larger than the SSA areas subsequently adopted³⁸¹.
 - (iv) Nor was the basis of the environmental constraint in policy related solely to grid issues as was suggested in xx. That this is wrong is demonstrated by the Minister using grid simply as an example. Indeed for many of the SSAs (the letter applied to all) grid is simply not an issue at all.
 - (v) Mr Stewart also appeared to suggest that noise matters were not a concern in SSAC - either now or going forward. Again this is simply and obviously wrong. He

³⁷⁶ Even if one reduces this to make allowance for the pre TAN 8 Llandinam contribution - so reducing by 31MW - the total is 192.6 MW as accepted in xx by Stewart.

³⁷⁷ DS proof pages 25 & 69

³⁷⁸ See CD 35b at paragraphs 222-223 & Inspector conclusions at para 541

³⁷⁹ CD33a

³⁸⁰ For C.U.P.

³⁸¹ See CD 9B, plan at B3

even suggested that heritage matters had 'already been taken into account'. Again, wrong as accepted by witness on his own side.

22. The second argument pursued by Mr Stewart was the suggestion that the proposal for Llandinam repowering (the 102MW proposal before the Mid Wales Inquiry) should not count towards the Griffiths 'total' (98 MW) for SSAC³⁸². This appeared to be because the proposal lies outside (albeit adjacent) the exact boundary of the SSA as adopted in TAN8.
23. The following points are made in that regard:
- (i) Despite a suggestion the contrary by DS, PCC had made no concession that this approach was correct at the Mid Wales Inquiry. Quite the contrary – PCC said it was wrong. Nor do they make a concession that DS is now correct. Nor, as Mr Carpenter explained, did DS appear to put this argument before the Mid Wales Inquiry despite being an expert attending the planning sessions.
 - (ii) DS relied upon the implication of the WG letter³⁸³ (dated 21.1.13) as a consultation response to the Mid Wales inquiry. This letter appeared to exclude the Llandinam repowering proposal from contributing to SSA targets. But as Mr Carpenter pointed out that letter was factually confused. It had, for example, assumed Llaithddu was inside the SSA boundary when it was not. In any event, parties had considered it at the Mid Wales inquiry and it was not accepted to represent a concluded position.
 - (iii) Importantly, the WG have not accepted this position having subsequently considered it as an argument in the Bryn Llewelyn appeal. In fact it was another example of DS having run an argument before and having had the WG make it clear that it was an argument without merit. Nevertheless DS has sought to run it again at this appeal. In that earlier recent appeal³⁸⁴ the Inspector, with whom the WG agreed, made it clear that turbines near to SSA boundaries which form part of the physical/visually and environmental impact of an SSA should be counted towards the SSA policy targets³⁸⁵.
 - (iv) Pausing there, to do otherwise would make little sense. As, for example, the landscape and visual witnesses both agreed in evidence, such impacts were often relevant to consideration of landscape/visual capacity assessments within the SSA even if they fell without but nearby the SSA. Accordingly they must as a matter of common sense be relevant to a consideration of the 'finite environmental capacities' to which the 98MW policy target is aimed.
 - (v) Moreover, the whole context of the SSA in TAN 8 as defined ('broad brush' etc.) anticipates that nearby land and wind farms should be considered.
 - (vi) Finally, even when DS applied his own (obviously wrong) argument he was not consistent with it. His evidence included Llaithddu but excluded Llandinam repowering in his various calculations towards the policy targets even though both are just outside the SSA.
24. These two arguments ((i) the Griffiths policy is wrong and should be 148MW and (ii) the schemes adjacent to SSAs should not count towards targets) are then both without

³⁸² See his proof at p.35

³⁸³ CD 25a

³⁸⁴ See at CD 35b, report at para 543

³⁸⁵ At para 543

basis and clearly wrong. DS constructed them – it appears - to enable him to develop a series of mathematical scenarios to suggest that this proposal might accord with policy MW levels³⁸⁶. Without one or both of those arguments being of application, his scenarios do not demonstrate what DS would wish them to do. Indeed, they illustrate how much over provision in environmental and capacity terms might apply if this proposal is allowed. They also implicitly demonstrate how potentially important it is to have regard to the outcomes of the Mid Wales Conjoined Inquiry in the context of this decision. This is a point I return to below.

25. From this context and evidence at the inquiry the following points flow:

- a. It is clear that the SSAs were designed and created for wind farms of over 25MW in scale and in the context of an identified indicative capacity for each broad brush area (including some allowance for refinement and consideration of nearby land) based on environmental considerations and with the intention of allowing local discretion in decision making.
- b. The objective was to secure provision of the best sites for wind farms applying a strategically focussed approach i.e. the most appropriate and sustainable sites having regard to all considerations.
- c. The SSAs are a crude but helpful tool in delineation, and TAN 8 necessarily anticipated some 'refinement' so as to allow the identified capacities to be most sustainably achieved. PPW similarly anticipates refinement in the context of its revised 2GW onshore wind ambition. It is not, nor has it ever been, anticipated by policy that the areas would need to or should accommodate all or any wind farm proposals which the renewable energy industry chooses to propose within them (whether within or beyond the capacity indicators).
- d. The evidence based capacity indicators (TAN 8 and subsequently policy in July 2011 WG) provide a policy guide from the Welsh Government as to what was and is anticipated by way of capacity in these areas - including the areas as refined having regard to the supporting evidence base. Beyond those capacity levels, the prospect of extensive additional wind farms in or adjoining such strategic areas is simply not anticipated in policy, nor importantly does it have a supporting evidence base to demonstrate that exceedances are sound having regard to the purposes of SSA designation.
- e. There is no basis for suggesting that such policy should be ignored or that it is wrong. Indeed the validity of it should not be challenged in the context of an inquiry such as this.
- f. Moreover, the approach as to, for example, landscape change in TAN 8 - which accepts implicitly the likelihood of significant landscape change within or immediately adjacent to the SSAs in the context of such identified capacities – cannot credibly be relied upon in policy terms by applicants who seek, at the very same time, to exceed the indicative limits to which the policy relates.

³⁸⁶ See generally his scenarios at DS proof pages 37, 38

- g. PCC does not argue that either of the sets of capacity indicators (TAN 8 or Welsh Government July 2011) requires the WG necessarily to dismiss any application or combinations of applications which leads to the capacity levels being breached. Each individual application will require assessment in terms of impact in the context of what is currently in the planning system. But equally, it is obvious that the SSAs as originally envisaged (or as subsequently refined) become an increasingly unreliable guide as to what might be acceptable the more the evidence based capacity levels are exceeded.
- h. The capacity indicators are just that. They are not properly to be viewed as being policy 'targets'. Rather they are the considered view of the WG of what the environmental limits of its strategic approach to wind farm provision in Wales are. As such they are important and should be taken into account as envisaged by EN-3 when applicants work up proposals.
- i. The extent of the applications before the about to be decided resulting from Mid Wales inquiry and from this inquiry is far beyond that anticipated by the TAN. Acceptance of such a cumulative impact would need to be, at the very least, preceded by a wholesale review of the SSAs and consideration of other areas in Wales or beyond to ascertain the soundness of the approach. The SSAs and WG policy simply never intended to incorporate the extent of what is now being proposed.
- j. By way of illustration, if one just considers the extent of what is proposed in Area C by the applications which require a decision from this inquiry and the S of S imminently it is clear that, taken alone, they would materially exceed the capacity levels indicated by the Welsh Government. Taken together with other applications in the planning system there is some 375MW proposed as against identified capacity levels of 70MW (TAN 8) and 98MW (Welsh Government July 2011).
- k. There is no basis for suggesting that unless all the proposals are allowed the UK or indeed Welsh targets/aspirations for onshore wind development will not be achieved³⁸⁷. Quite the opposite. Adhering broadly to the Welsh Government (July 2011) levels would comfortably allow the PPW aspiration for onshore wind in Wales to contribute 2 GW of energy in the context of provision to 2020/2025³⁸⁸. There is clearly the ability to achieve in due course the Griffiths 'policy' levels anticipated for SSAC. And, even if there were a prospect of under delivery, any suggested failure to meet such 'targets' would not provide a reason for approving unacceptable schemes in these locations in any event.

Arup work and the IDCG

26. There was considerable discussion during the course of the Inquiry about the relevance of the Arup work undertaken for Powys in 2006 and 2008. This was principally in the context of what use could be made of the body of work in the context of the landscape/visual and heritage issues before this inquiry. The short answer is very little. The following submissions are made:

³⁸⁷ Accepted by DS in xx

³⁸⁸ See the Welsh Energy Policy statement 2010 (CD24) and Energy Statement Wales CD26- there is also an aim to have 2GW by 2015/17. Tan 8 SSAs are expected to accommodate 1, 120MW - increased by Griffiths to circa 1,700 MW with SSAC contributing 98MW.

Arup White 2006³⁸⁹

27. The Arup White Study of 2006 was commissioned by PCC as envisaged by Annex D of TAN 8. It was primarily a landscape and visual assessment exercise seeking to identify, what were termed, 'Preferred Areas' within the Strategic Search Areas B and C (SSAs), supported by a range of other technical and environmental data, such as electrical connection information. The report was not consulted upon.
28. As Mr Russell-Vick ('PRV') explained in his evidence³⁹⁰, LANDMAP Visual and Sensory value data was used as the basis for the landscape character work, from which landscape capacity of the various aspect areas was derived. The methodology employed for this analysis was based upon industry best practice guidance but was apparently essentially a 'simple' conversion of landscape sensitivity, as determined by LANDMAP, into landscape capacity, whereby lower sensitivities became higher capacities and so on. The visual work was based on 3D GIS modelling of zones of visibility with a site visit to the areas to verify the desk study.
29. Ultimately the focus for the study was to determine refined boundaries for the SSAs and to ensure a sufficient yield capacity was available within each SSA as follows:

The results of the relative environmental and landscape performance of the zones or sub-areas of SSA are then brought together in the report within a summary matrix which includes the approximate estimated capacities (in MW) for the respective zones. In bringing the data together in the final summary matrix appropriate weight is given to visual effects. In addition the study has considered the "developable capacity" of the defined zones in terms of the amount of Megawatts (MW) of wind energy that may be possible in each, based upon an average yield of 7.5MW per sq. km (typically around 3-5 modern wind turbines) where the areas are not constrained.

30. The executive Summary of the 2006 report concluded:

The study concludes that a land area is required that is slightly larger than the minimum needed to meet the MW indicative capacity figures stipulated in TAN 8; it is therefore recommended that the refined SSA boundaries encompass zones with an estimated cumulative capacity of 125% of the TAN 8 indicative capacity(s). Note that this does not necessarily endorse the ultimate development of the refined SSA boundary to this extent, simply that the TAN indicative capacity figures should be allocated to a slightly enlarged area to offer a greater degree of spatial flexibility in the planning for onshore wind farms for both the local planning authority and developers. This should ultimately greater facilitate achievement of the Welsh Assembly onshore wind target to 2010 whilst minimising local environmental impacts.

TAN 8 contains an indicative target of installed capacity of 290MW for SSA B, Carno North. Therefore sufficient land is needed within SSA B for 290MW x1.25 i.e. 362 MW approx. The implications of the data gathered for this study are that the five

³⁸⁹ CD7

³⁹⁰ Proof, section 4, page 24 ff.

environmentally lowest ranked zones within and around SSA B need not be developed. For SSA C Newtown South, TAN 8 contains an indicative target of installed capacity of 70MW. Therefore following the same arguments as above, sufficient land is within needed within SSA C for 70MW x1.25 i.e. 87.5 MW approx. The implications of the data are that the six environmentally lowest ranked zones within and around SSA C need not be developed.

It is recommended that the SSA boundaries are therefore modified to remove the environmentally worst performing zones.

31. In essence, the data was derived largely from desk based studies and was not detailed in nature. It is certainly not detailed enough to form a basis for determining the appropriateness or otherwise of a specific proposal such as the one before this inquiry as PRV explained in evidence.
32. As Mr Croft explained in his evidence, there is no basis for suggesting that the 2006 work considered heritage issues in any detail at all, and certainly did not consider issues of setting.

Arup 2008³⁹¹

33. The 2008 review was commissioned by PCC following the Wern Ddu appeal decision. The brief was as follows:

The brief for this study, agreed in dialogue with PCC, was to undertake a new local refinement of the boundary of the nationally published Strategic Search Areas (SSAs) for SSA B (Carno North) and SSA C (Newtown South). The new local refinement exercise was to follow the principles as set out below:

- *It was to comply as far as possible with the guidance contained within TAN 8 Annex D*
- *It was not to serve to 'cap' development levels at the TAN 8 indicative capacities (in MW) for each SSA where the data indicated that greater levels of development might be possible i.e. the outcomes were to be driven by the landscape capacity of the area, within the context of an overall national policy objective to allow landscape change.*

34. The study has more landscape and visual focus than the previous work involving a review of the 2006 boundaries with a 5km 'buffer' to focus the further landscape and visual analysis. The work which was again predominantly desk based included further GIS sieve mapping of 'constraints' "*similar to that undertaken by all wind farm developers when selecting sites*" which, again as with the previous study, identified 'unconstrained' land which could then be tested for its "*suitability in landscape and visual terms*". Again, with the case of the 2006 report, the various zones for analysis were derived from LANDMAP.

³⁹¹ CD 8

35. The computer based visual assessment work involved some assumptions about the sensitivity of receptors and assumed 4 no. 125m high turbines per 1km square **but took no account** of the presence of existing wind farms (unlike the 2006 study). The likely significance of visual effects was calibrated to distance using the 2002 SNH guidance as a basis.
36. Nevertheless, as PRV explained, this study is essentially an exercise in assessing the extent of visibility and is more a study in establishing quantitative effects than qualitative effects. In consequence, areas which are widely visible perform poorly against those that are more contained. So, for example, the high land of the Kerry Ridgeway, Beacon Down and the Waun Ddubarthog ridge (site of the P&L wind farm and poorest performing zone) compares poorly with the more enclosed landscapes east of the Ithon Valley or even the ridge above Bwlch y Sarnau (which benefits from screening from the higher land to the north).
37. The effects on settlements were addressed in a similar way. Zones which were visible from several or many settlements up to 15km away performed worse than those which are more enclosed. No apparent account is taken of the much more substantive qualitative effects that would most likely be experienced by those settlements close by.
38. In as much as this exercise was primarily targeted at refining the 2006 boundaries essentially through extension, not contraction, the additional landscape and visual work undertaken provided a reasonable basis, particularly as the edges of many of the otherwise acceptable zones were ruled out where turbines in these locations would potentially impact substantially on more enclosed adjoining areas.
39. However, it provides no sound basis for assuming that all of the land within the area is similarly suitable for wind farm development. Judgements of this nature must be made on a scheme by scheme and site specific basis.
40. In heritage terms, as Mr Croft explained, the 2008 work mentioned a few heritage matters in a rather random and unexplained way. It left matters to be considered on a site specific basis. As Dr Collcutt confirmed in xx, there was no cultural heritage expert input to the exercise.
41. In truth, there was very limited landscape and visual work and really no substantive heritage work underpinning the identification of the SSAs. It does not begin to compare with the level of detailed assessment necessary to judge the suitability of individual schemes.
42. In particular:
 - a. The refinement work was limited to a relative ranking of suitability of wind farm development in the identified zones on the assumption that all and any effects of change were acceptable (individually and cumulatively) within zones without absolute constraints;
 - b. The zones were defined exclusively by reference to only one LANDMAP aspect area, the visual and sensory whereas current guidance advises the use of all five aspect areas;

- c. In relation to SSAC an inconsistent approach was taken in relation to the existing P&L wind farm as between the 2006 and 2008 studies. In the 2006 work the existing wind farm was logically concluded to increase the capacity of those zones on which its presence had a heavy influence. In the 2008 work, the P&L wind farm was, peculiarly, not treated as part of the baseline, thus presenting an unrealistic assessment of relevant capacity;
 - d. Whilst the ARUP studies used the LANDMAP survey assessments of character and value for the relevant zones, the assessment of sensitivity to wind farm development was based on ARUP's own simplistic approach which was largely judgemental and not always explained. It was principally a desk based assessment;
 - e. Where a defined zone had more than one identified capacity identified by ARUP (due to higher or lower sensitivity at the margins or elsewhere) the report records the landscape sensitivity of the majority of the zone i.e. no allowance is made for local variation;
 - f. Each zone was treated by ARUP as an isolated zone for the purposes of assessing landscape impact and sensitivity; any special or functional relationships between zones identified by LANDMAP or site survey were ignored;
 - g. The visual impact assessment is limited to a crudely weighted quantitative assessment which assesses the relative impact by reference to a weighted grid square analysis of the number of receptors affected. Other than through the crude weighting allowance, the assessment has no qualitative input;
 - h. The acceptability of any specific proposal is deferred to the LVIA process within scheme specific ES's, the issue of thresholds of acceptable change is nowhere addressed and the cumulative effects of development are ignored.
43. The background work is thus very much "*background*" only, in the context of the scheme before this inquiry. It must be approached with caution. To the extent that it is inconsistent with the more detailed heritage. Landscape and visual assessments before this inquiry, it should be given very little weight.
44. Importantly, it should certainly not be relied upon by an expert as a means of supporting a conclusion as to acceptability. I return to that issue below in the context of the landscape and visual evidence.

IDCG³⁹²

45. The status of the IDCG has been raised at the inquiry and it is important that it is seen in its proper context. Between 2006 and 2008 Powys undertook refinement work in relation to SSAs B and C broadly in line with the methodology set out in TAN 8 Annex

³⁹² CD22

D. This work formed the basis for the draft Interim Development Control Guidance (IDCG) published in 2008³⁹³.

46. That IDCG has never been formally adopted. Nor was it incorporated into the 2010 Powys UDP. Indeed, it has never been the subject of strategic environmental appraisal so it could not lawfully be adopted. The consultation processes were started but there is no evidence to suggest they were ever completed. Its utility is limited.
47. In reality it allows for one small crude step of refinement of the SSAC boundaries to make them marginally less fuzzy. For the reasons which these submissions will demonstrate, in comparison with the more detailed site specific assessments of schemes which have been presented to this inquiry, the IDCG itself is entitled to no material weight.
48. Indeed, in the end, even the planning witness for the appellant agreed that it should be afforded '*very limited weight*'³⁹⁴. This is important to note, particularly because it contrasts with the way the case was 'put' in cross examination to the PCC witnesses. It is right that it and the underlying Arup work which precedes it is given very little or no weight. That has been the position of PCC, publicly stated at inquiry, for well over a year and a half now. It makes it very surprising that the appellant, who must have known this before embarking on this appeal, has tried to place weight upon it to support some of their conclusions. To that extent the approach by the appellant at the inquiry was misguided.

Landscape and Visual Matters

Context

49. As PRV explained in his evidence, the highly varied topography of this part of central Wales and the western edge of upland Shropshire is essentially a high upland plateau, the highest parts of which exceed 500m AOD, which has been deeply eroded into a complex series of plateaux and rolling ridges by sharply incised valleys with narrow, twisting valley floors.
50. The contrast between upland moor and forest on the one hand and partially developed valleys on the other, is typical of central Wales/upland Shropshire and gives this landscape its particular and special character.
51. The upland 'block' which forms the context for the appeal site is defined in the north by the comparatively broad Severn Valley and Wye Valley in the west. In the east the landform mass continues across the Welsh-English border into Shropshire to form the basis of the Shropshire Hills AONB. To the south the landform mass continues beyond

³⁹³ CD22

³⁹⁴ DS proof, p.30, 4.4.3

the high ground of Moelfre, Warren Hill and Black Mountain, undulating and diminishing gradually towards the River Aran valley, before rising again to form the Radnor Forest upland.

52. The appeal site is sited on hills immediately east of the watershed between the two catchments of the Teme and Ithon and spans the heads of four of the tributary valleys of the Teme; the proposed turbines being laid out linearly along the intervening high ground, including Bryngydfa at the northern edge, Garreg Lwyd Hill and Llethr Hill centrally with Ty'n-y-ddôl Hill at the southern edge.
53. The immediate landscape context of the appeal site is readily accessible by walkers and equestrians. The principal routes include Glyndŵr's Way, the Kerry Ridgeway and, more distantly within the Shropshire Hills, the Offa's Dyke Path and the Shropshire Way. There are various Byways open to all traffic (BOATs), bridleway, public footpaths and tracks with public access, as well as various country lanes used by walkers and horse riders. In addition, vast areas of higher ground to the south of the appeal site are open access land.
54. Taken together with an overall high/regional landscape value, the high susceptibility of this landscape to the potential effects of this form of development means that the landscape character of these parts of the Powys landscape and the Shropshire Hills AONB are of high sensitivity to large-scale wind energy development.
55. A 'Landscape and Visual Effects' statement of common ground was presented to the inquiry³⁹⁵ by the landscape witnesses. It helpfully provides a large measure of agreement as to impacts (see pages 16-20 especially). There are a range of significant long term effects identified on the character of the site and surrounding areas up to 5km from the turbines which will affect a range of LANDMAP areas.
56. There will be effects on the elevated and panoramic views from the AONB³⁹⁶ which will result in harmful effects on special qualities of the AONB. PRV considers three of the special qualities will be effected – scenic quality, tranquillity and cultural and opportunities for enjoyment and that those effects would clearly and obviously undermine the purposes of the AONB. KH limits her consideration to just 2 of the special qualities, but in truth when one appreciates that 'cultural and opportunities for enjoyment' includes opportunities for enjoyment and wellbeing it is hard to understand why this has been excluded by KH.

³⁹⁵ On day 1 of the inquiry, dated 15.10.14.

³⁹⁶ SoCG p.17, v

57. There will be significant (major/moderate) visual long term effects on the amenity of people on and around the site extending to users on a 12km stretch of Glyndwrs way and from locations up to 10km from the site as well as on a 5km section of the Kerry Ridgeway³⁹⁷.
58. It is of note that both experts (with relatively minor differences) considered that there will be considerable adverse long term effects.
59. PRV provided a through and detailed assessment which demonstrated that there would be a major, significant and unacceptable landscape character effect on the landscape character of this part of the Powys and English landscapes.
60. In particular:
- (i) On the western borders of the Shropshire Hills AONB there would be major changes to the landscape's openness and panoramic views and overall visual appeal and a severe impact on the strong sense of tranquillity, remoteness and wildness. These latter qualities are particularly valued and especially sensitive.
 - (ii) Significant visual effects would extend across substantial tracts of the Powys part of this landscape. Within this area the magnitude of visual effect would depend on the distance and, particularly in this undulating topography, the amount of the wind turbines in the view, but as so much of the area is of a similar or higher elevation as the appeal site the turbines would be commonly seen in those views.
 - (iii) These views would include Dominant and Prominent adverse effects to receptors using Glyndŵr's Way for approximately 10km and around a 1km length of the Kerry Ridgeway at Two Tumps; Conspicuous and Apparent effects, which would also be significant, would occur along lengths of the route near Block Wood and Ceri Forest. The users of many other public rights of way would also be significantly affected including the BOAT which runs south from Castell-y-blaidd towards Gors Lydan and public footpath to Warren Hill.
 - (iv) Significant visual effects would occur to approximately 12km into the Shropshire Hills AONB, including short length of Offa's Dyke Path and the Shropshire Way near Mardu and Hersden Hill and many other country lanes and public rights of way. From the Black Mountain plateau, between the Clun and Teme valleys, the openness of the landscape would allow frequent views of the wind farm, indeed the rolling and attractive Powys hills are often the principal feature of these broad views. From these viewpoints the wind farm would stand out, starkly on the near horizon and would fundamentally compromise the rural character of the present scene.

³⁹⁷ SoCG p.18, vi

61. Despite a level of agreement as to harm as evidences in the S of CG, there were some clear differences of approach between experts relevant to their respective overall conclusions and consequentially to the planning balance as assessed and applied by each side.
62. PRV was criticised in xx for his approach in identifying a unit of landscape that he felt relevant to assess in his evidence. That criticism was without basis. Indeed, it was exactly the kind of an exercise an expert should undertake to assist an understanding and assessment of impact in this context. This is particularly the case in the context of large scale wind farms especially when , for example, identified LANDMAP areas are not formulated necessarily to take such impacts into account – a point recognised by recent NRW guidance on the use of LANDMAP³⁹⁸. In fact, as Miss Hawkins ('KH') accepted in her subsequent xx, PRV had been quite 'entitled' to do such an exercise. In any event, PRV had also assessed each LANDMAP area separately in his appendices.
63. Indeed the PRV approach to assessment – which considered the relationships between the relevant LANDMAP areas – made far more sense given the undoubted visual and character relationships that exist between them. In simple terms, the high scenic values of adjoining landscapes together with landscapes further afield (for example the AONB) combines to produce an overall broad landscape of considerable value. By contrast the approach by KH ignores such an approach and focussed on individual areas.
64. Moreover, she ignored key underlying information relating to the Clun and NW Herefordshire Hills (NLCA 98 in PRV appendix K). This important document which identified a number of important characteristics of that area – including tranquillity, recreation and the similarity to the Welsh landscape - appeared not to have been considered by KH.
65. Importantly, the AONB lies very close to the proposed development, just some 3km to the east. Given the statutory context³⁹⁹ which requires regard to this by a decision maker, it is remarkable how little weight was placed upon this by the appellant's experts.
66. In particular, DS refused to even acknowledge that the statutory Shropshire AONB Management Plan 2014-2019 (CD33b) – newly produced – was even a material planning consideration. That is a remarkable conclusion to put forward by a planning witness- clearly wrong -and demonstrating that the appellant has not placed into its

³⁹⁸ CD37, May 2013 guidance at p.3 of 20

³⁹⁹ S.85 of the C& RW Act 2000

overall assessment weight to the important matters discussed in that document concerning the special qualities and significance of the AONB⁴⁰⁰. Indeed, that Plan indicates that land within 5km of the AONB boundary should be considered unsuitable for large scale wind farm proposals such as this. Whilst such a position would not exclude the wind farms supported by PCC at the Mid Wales Inquiry, it would quite properly exclude this proposal.

67. In that regard, the agreed effects on the AONB are of particular note. Both KH and PRV consider that there would be significant (major and major/moderate) adverse long term effects on **the character** of the AONB landscape up to 6km east and NE of the turbines extending into and affecting LCTs in the AONB⁴⁰¹. Whilst there would inevitably be visual effects of a serious nature too which impact on the special qualities of the AONB, it is important to appreciate that such is the closeness of the proposal that the very 'character' of the AONB will also be affected.
68. The other key difference in approach between the experts lay in the reliance by KH on the earlier Arup work and the context of TAN8 as she understood and applied them. I have already addressed the correct context for their use in the submissions above. It became evident in xx of KH that her evidence had – at key stages – simply relied on a combination of TAN 8 and Arup to justify a conclusion of acceptability in her terms⁴⁰². In her terms the mere fact that the proposal fell within the TAN 8 boundary (as 'refined' or considered by Arup or TAN8) meant in some way that the impacts were to be expected.
69. But this is simply not a correct approach to assessment – which, as has been seen above, requires consideration at a site specific level beyond the scope of such earlier work. If one accepts the clear limitations of such earlier work, it cannot be right to rely on them as a means of confirming the acceptability of a specific proposal. But that is exactly what KH did in her evidence.
70. Even in relation to the AONB she concluded that as (in her view) Arup had '*taken into account*⁴⁰³... the effects and... *'consequently'*... the *'appeal proposal could be satisfactorily accommodated'* (para 10.14, p.82). This approach misses out a key step of analysis and consideration. It places reliance on a body of work which in terms did not provide a basis for judging whether a proposal could be satisfactorily accommodated.

⁴⁰⁰ See especially at p.9-10 and the 'policy' at p38-39.

⁴⁰¹ Page 17 at iv of the SoCG

⁴⁰² For example, at p.81, para 10.8 in relation to character or p.82 para 10.11-14 re the AONB

⁴⁰³ P.82, para 10.13

71. In terms of cumulative impacts, the SEI had not addressed an assessment on a 'combined' basis as distinct from an 'additional' basis. KH had in her statement of evidence produced a combined assessment, but here this was limited to only some scenarios. Her approach again relied at this stage on the earlier Arup work and so was again misguided.
72. By contrast PRV had considered all scenarios on an additional and combined basis. This is important given the concern - explained by PRV - that consent for Llanbadarn Fynydd (or indeed this proposal) could be seen to de-sensitise the eastern part of SSAC and so make further proposals more likely.
73. PRV explained that at the Conjoined Mid-Wales Wind Farm Inquiry he presented evidence in which he found the effects of Llandinam Repowering to be acceptable individually and cumulatively in all scenarios other than with all in-planning wind farms, Llaithddu to be individually unacceptable, although the northern array of Llaithddu was acceptable cumulatively with Llandinam Repowering and Llanbadarn Fynydd to be unacceptable both individually and cumulatively in any scenario.
74. In respect of the three SSA C schemes plus the TCPA schemes these would in-combination, he had concluded, give rise to very extensive and severe landscape and visual effects across the whole of SSA C which he considered would extend significant effects well beyond the boundaries of the SSA into neighbouring landscapes, including the Shropshire Hills AONB. This would be a wholly unacceptable proposition in landscape terms and would vastly exceed the objectives of TAN 8 which never envisaged such impacts or that, in effect, the whole SSA would be developed.
75. In that context, PRV was of the clear view that the introduction of Garreg Lwyd Hill to any of the scenarios presented in the 2014 SEI would result in in-combination effects that would be significant and unacceptable. Incrementally Garreg Lwyd Hill would add less effect to each scenario the greater the capacity of the scenario but would be the greatest contributor of all to the effects on the AONB and a major contributor to sequential effects on Glyndŵr's Way.
76. PCC submit that in landscape and visual terms the proposals would have a significant and unacceptable effects on the high sensitivity landscapes of the eastern edge of Powys and the western borders of the Shropshire Hills AONB and to the visual amenity of users of national and regional routes and a wide range of public rights of way and Open Access Land within these areas. These effects go beyond what is anticipated or required by TAN8 and will cause excessive harm.
77. PCC submits that the proposals would, in the western border areas of the AONB, significantly detract from the highlighted Special Qualities of 'scenic and environmental

quality', 'tranquillity' and 'cultural and opportunities for enjoyment' (in particular recreational routes) and undermine the purposes of the AONB.

78. Consequently the proposals would be in conflict with the landscape considerations of chapter 12.8 of Planning Policy Wales, EN-1 and EN-3, and Powys UDP Policies SP12, ENV2 and E3.

Cultural Heritage Matters

79. The relevant policy and legal context relating to heritage has been set out at some length in the appendix to the opening statement and is not repeated here. For the avoidance of doubt those submissions are adopted for the purposes of closing submissions as well. The key issues relate to the impact of the proposals on the large range of nationally important designated heritage assets which exist in the area. The Welsh and UK policy tests use differing conceptual language, although the experts primarily used the concepts of 'substantial' and 'less than substantial'⁴⁰⁴ harm to describe their findings.

80. As Mr Croft ('AC') explained, the eastern part of SSA C and the area around Garreg Lwyd contains a notable assemblage of designated and non-designated sites from a range of periods.

81. The 2008 Environmental Statement (CD1) identified 29 Scheduled Monuments and 4 listed buildings within a 5km radius of the Site and approximately 47 features within c. 100m of the development site, including non-designated prehistoric barrows, potential prehistoric settlement sites, numerous undated remains (many of which are likely to be prehistoric in date) and a number of post-medieval remains (See Chapter 7 and Figures 7.1 and 7.2 of the 2008 ES). The Environmental Statement identified that many of these sites were of "medium importance" (see Table 7.1 on page 162 of the ES and Table 7.10 on pages 167-8 of the ES). This is, in terms of the Environmental Statement's scoring mechanism, equivalent to a Grade II listed building.

82. Dr Collcutt (DC) accepted that in the vicinity of the appeal site there were a cluster of nationally important scheduled ancient monuments and that the landscape was historically important⁴⁰⁵ as had been accepted by CADW in 2011 in their consultation response⁴⁰⁶.

⁴⁰⁴ Derived from EN-1 as explained in the legal submissions

⁴⁰⁵ His SNC/3 fig 3 – colour dot plan – revealed the concentration

⁴⁰⁶ Croft appendix C

83. In essence the key aspects of the historic environment that require consideration in relation to the proposed development are:

- the assemblage of prehistoric remains occupying the landscape from the Glog / Kerry Ridge in the north down to Warren Hill and Beacon Hill in the south. While mainly funerary monuments (barrows) the assemblage also contains other sites including a henge, potential settlement evidence and potential standing stones. Castelltinboeth and Castell-y-blaidd also possibly have their origins in the late prehistoric period.
- the scheduled medieval monuments in the area including Castelltinboeth, Castell-y-blaidd, the Castell-y-blaidd settlement and the Fron Top settlement
- the grade II listed buildings at Cym yr Hob

Approach

84. There were several differences in approach as between the heritage experts.

85. The eastern part of SSA C and the landscape around the proposed development site contains evidence of Prehistoric use or occupation, including flint scatters, settlement sites, barrows and funerary monuments. The most notable surviving prehistoric monuments are the many barrows, many of which crown prominent hills or occupy distinctive topographical locations along watersheds, ridgelines or at the heads of passes.

86. As AC explained, these monuments were designed to be visible in the landscape and to occupy key locations relating to water and, probably, movement. They often made use of local topographic features to accent their presence in the landscape and draw attention to them. The natural features they utilise and, in some cases, adjacent natural mounds would have had their own significance and meaning to prehistoric communities, our modern conceptions of the division of "*natural*" and "*human made*" are unlikely to have been recognised in the Bronze Age.

87. AC considered that in this physically distinct eastern landscape – currently largely unaffected by wind farms – there could be discerned a marked difference from the west. Obviously, designated assets there had already been affected by an existing wind farm to varying degrees – Llandinam. In addition, the west was characterised by a higher more remote upland setting. By contrast in the east the landscape had been occupied and utilised in a more intensive manner since at least the bronze age. Further, as AC explained and DC accepted there were examples of later habitation in the east – Castell y Balidd – RD102 or RD155 which simply were not to be found in the west.

88. In most cases, the barrows remain as visible monuments with a visual presence in the landscape. Views from, and to, these monuments as well as views of the natural formations on which they were situated are fundamental elements of their setting and significance. Additionally, approaches to them and across the landscape are also of importance to their setting and to understanding their role in the landscape and prehistory. The generally open, uncluttered landscape in which they sit enables us to appreciate and understand the monuments and the connections between them and the underlying physical landform; this too contributes substantially to their setting and significance.

89. DC was less prepared to attribute significance to views outward views (views looking out from monuments) and in addition felt that the range of views (whether inward or outward) was significant over a lesser distance (around 600-1200 metres – see his A16, p.17). AC disagreed and it is right to note that the DC assumptions appear to have been based on Belgium research that related to an entirely different, flatter landscape context landscape where researchers had applied limitation to sight distances in their modelling exercises⁴⁰⁷. AC was of the opinion that in the current context longer and significant views were apparent and intended (for example between R D084 and Warren Hill [105] over about 5.5km – through which the proposed turbines would intrude).
90. A further point of difference related to the relevance of public access. In policy terms it is clear that the contribution that setting makes to significance does not depend upon their being public rights or an ability to access or experience the setting of an asset⁴⁰⁸. However, DC appeared to give considerable less weight to harm when it was to an asset which he considered the public did not have a right to access. That was an incorrect approach to adopt.
91. A key difference in approach also related to the methodology employed in assessing levels of harm.
92. Dr Collcutt employed a methodology in which:
- (i) He did not assess even adverse 'important' effects on significance at a local scale as constituting 'material' harm or even 'less than substantial harm' in policy terms⁴⁰⁹. This was a crucial distinction from AC who had in terms included moderate adverse effects in his assessment of less than substantial harm⁴¹⁰. Importantly this meant that even when there was more than negligible or minor adverse effects, DC did not report them as being material in policy terms. A good example of this distinction relates to RD155. AC concluded substantial harm for the reasons explained in his evidence. The turbines will clearly fundamentally alter the rural character and visual surroundings and setting (both of significance) of the asset. Despite their being an obvious relationship with Castell y Blaidd (which all other experts including CADW acknowledged – see appendix C of Croft) DC was not prepared to accept that there would be any material harm so as to meet his level of less than substantial/material harm.
 - (ii) As Dr Collcutt accepted, his definition of 'substantial' harm was placed the concept of harm materially higher in the scale than AC. Whilst all accepted such matters were ones of judgment, it is clear that DC's approach equated substantial harm as being

⁴⁰⁷ As put to DC in xx and explained by AC in chief

⁴⁰⁸ PPS5 practice guide– CD33

⁴⁰⁹ See CH appendix 7.1, pps 27 & 28 in 2014 SEI Vol 2

⁴¹⁰ See Croft definition of LTSH at p.17, para 4.23: 4.23. *"Less than Substantial Harm" could be taken to cover very a broad range of potential harm from very minor impacts through to alterations to quite notable changes to significance, which would certainly require consideration in policy terms. For the purposes of my evidence, I have disregarded negligible changes and have utilised the term "Less than Substantial Harm" to indicate changes to significance that would be noticeable and appreciable and warrant consideration in policy terms. Throughout my evidence I describe, in general terms, where on the broad spectrum of Less than Substantial Harm, where I consider the level of harm to be. NB although AC withdrew some assets at the very lower end of his scale from consideration his assessment of harm on key assets remained unchanged.*

almost the same as total loss. It is submitted that he pitched it too highly and that the approach of AC accorded more reasonably with best practice and guidance.

93. I do not set out and rehearse all the evidence relating to the large numbers of assets that the inquiry evidence considered. Full reliance is placed on the evidence of AC with the caveats he described in his evidence. In summary PCC consider that the position should be considered as follows by the decision maker:

Asset	Designation	Significant Impact (PPW / Circ 60/96)	Degree of Harm
Castell-y-blaidd (RD102)	Scheduled Monument	Significant Impact	Substantial Harm
Scheduled medieval upland settlement near to Castell-y-blaidd (RD155)	Scheduled Monument	Significant Impact	Substantial Harm
Fron Top Deserted Rural Settlement (RD173)	Scheduled Monument	Significant Impact	Less than Substantial Harm
Cwm Rhos Barrow (ND9)	Non-designated monument of national importance	Significant Impact	Less than Substantial Harm

Asset	Designation	Significant Impact (PPW / Circ 60/96)	Degree of Harm	
Coventry Barrow (RD103)	Scheduled Monument	Significant Impact	Substantial Harm	
Ty'n Y Ddol Hill barrow (RD252)	Scheduled Monument	Significant Impact	Substantial Harm	
Cae Glas Barrows group (RD104)	Scheduled Monument and non-designated monument	Significant Impact	Less than Harm	Substantial
Warren Hill barrow (RD105)	Scheduled Monument	Significant Impact	Less than Harm	Substantial
Windy Hill Barrow (RD251)	Scheduled Monument	Significant Impact	Less than Harm	Substantial
Rhiw Porthnant (RD084)	Scheduled Monument	Significant Impact	Less than Harm	Substantial

Asset	Designation	Significant Impact (PPW / Circ 60/96)	Degree of Harm
Gors Lydan Barrows (RD 106)	Scheduled Monument	Significant Impact	Less than Substantial Harm
Cwm Yr Hob Farm, Old house and attached range and Cwm Yr Hob Barn	Grade II listed building	N/A	Less than Substantial Harm

94. The evidence of Dr Collcutt was in many respects evasive and lacking in appreciation of the extent of harm that would clearly be caused. Such matters will of course be issues largely assessed on site – in particular the several disputes about what in fact can be seen from where and the significance of such visual and setting relationships.
95. In relation to several of the assets – notably Castell Y Blaidd, RD155, RD 103 and RD252 PCC submit there will be substantial harm caused if the proposal is allowed. As explained in the legal submissions findings of substantial harm require exceptional justification which the appellant has not even begun to establish in evidence. Dr Collcutt’s findings in relation to nearly all the assets are perhaps best described as surprising. By way of example, in relation to RD103 (where AC found substantial harm) DC accepted that the turbines would have a ‘*distracting and dominating effect*’ but went on to conclude only less than substantial harm on the 1st pentile.
96. This is just one example of DC seriously underplaying the impact of the proposal on a nationally important asset. His approach is genuinely hard to fathom.
97. Whilst even DC finds a considerable degree of harm to some assets, he sought to argue that this identified harm to setting could in some way be reduced by various proposed compensatory/mitigatory measures. As both Mr Carpenter and AC explained there was no logical basis for such an approach. The harm to setting could not logically be reduced by proposed works which would – even if carried out – not in fact reduce the impact on setting at all.

98. For example, at Castell y Blaidd, proposed information boards, or scarring repairs would not reduce the impact of nearby turbines one jot. The proposed works to the listed building Cwm Yr Hob would in any event require separate consents (and so should not be conditioned) , have not been assessed in sufficient detail and have not even begun to consider ownership issues and deliverability. Accordingly the assessed 'pentile' reductions by DC were without logic or any policy support at all.
99. Further, the proposed mechanisms for such measures – which consisted of last minute poorly drafted conditions – provided no certainty that such measures would in fact ever be delivered and no certainty that they would be delivered before the wind farm was constructed and causing harm. The proposals are unreasonable, not properly secured and should not be given any weight by the decision maker. They appeared to be a dreamt up, last minute attempt to avoid policy (EN1) and statutory (S.66) presumptions which stand against the development proposed. They avoid neither.
100. In terms of cumulative impacts, the evidence of AC demonstrated that the development of Llanbadarn Fynydd, Neuadd-goch Bank, Bryngydfa and Garreg Lwyd, would degrade the setting of a large number of designated and non-designated assets, including scheduled monuments and listed buildings, and also fundamentally change the character of a complex interrelated historic landscape; all of which are currently subject to little intrusion from modern infrastructure or wind energy developments. The scale of degradation is such that for many assets Substantial Harm would occur to their significance.
101. On its own Garreg Lwyd would have a Significant Impact, in terms of national policy, on the setting of a significant number of scheduled monuments and on one non-designated asset of national importance.
102. PPW states that *"Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical preservation in situ"*.
103. Circular 60/96 restates this and provides further clarification *"Where nationally important archaeological remains, whether scheduled or not, and their settings, are affected by proposed development there should be a presumption in favour of their physical preservation in situ i.e., a presumption against proposals which would involve significant alteration or cause damage, or which would have a significant impact on the setting of visible remains."*
104. It is clear therefore that in accordance with national policy, there should be a presumption against this proposal. Given the number of monuments affected and the scale of the impact in some cases, considerable weight should be given to that presumption.
105. Policy ENV 17 of the Powys UDP (2010) states that *"Development which would unacceptably affect the site or setting of a scheduled ancient monument or of an archaeological site of national importance will not be permitted and other sites of archaeological importance will be safeguarded where possible."*

106. In light of the range and scale of impacts, PCC submit that the proposed development would unacceptably affect the setting of a number of scheduled monuments and a site of national importance, and that the development, when considered in the balance, should therefore not be permitted.
107. The proposed development would also affect the setting of the Cwm-y-hob Grade II listed building complex. There is a statutory requirement to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and this is reinforced in PPW.
108. Although the harm to the setting in relation to that building is not considered by any party to be overwhelming, both parties are agreed that the development would result in Less than Substantial Harm to it.
109. As was made clear in the Barnwell judgement, Less than Substantial Harm cannot be treated as a "*less than substantial objection to the granting of planning permission*" (see Para 29 of Judgement) and special regard must still be given to the desirability of preserving (i.e. causing no harm to) a building's setting.
110. In terms of EN-1, PCC submit that the proposed development would result in Substantial Harm to four scheduled monuments: Castell-y-blaidd (RD102); a Scheduled medieval upland settlement near to Castell-y-blaidd (RD155); the Coventry Barrow (RD103); and the Ty'n Y Ddol Hill barrow (RD252).
111. As set out in paragraph 5.8.14 of EN1 "*There should be a presumption in favour of the conservation of designated heritage assets and the more significant the designated heritage asset, the greater the presumption in favour of its conservation should be. Once lost heritage assets cannot be replaced and their loss has a cultural, environmental, economic and social impact. Significance can be harmed or lost through alteration or destruction of the heritage asset or development within its setting. Loss affecting any designated heritage asset should require clear and convincing justification. Substantial harm to or loss of a grade II listed building park or garden should be exceptional. Substantial harm to or loss of designated assets of the highest significance, including Scheduled Monuments; registered battlefields; grade I and II* listed buildings; grade I and II* registered parks and gardens; and World Heritage Sites, should be wholly exceptional*".
112. The guidance would therefore indicate that "*wholly exceptional*" circumstances would be required to justify the development. There is no evidence to suggest a need let alone any exceptional need.
113. EN1 goes on to state in paragraph 5.8.15 that "*Any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss. Where the application will lead to substantial harm to or total loss of significance of a designated heritage asset the IPC should refuse consent unless it can be demonstrated that the*

substantial harm to or loss of significance is necessary in order to deliver substantial public benefits that outweigh that loss or harm."

114. AC's evidence has also demonstrated that the proposed development would result in Less than Substantial Harm (at varying degrees) to a significant number of scheduled monuments, one non-designated asset of national importance and a grade II listed building (see Table above).
115. As indicated above EN1 sets out that any harmful impact on the significance of a designated heritage asset should be weighed against the public benefit of development, recognising that the greater the harm to the significance of the heritage asset the greater the justification will be needed for any loss.
116. PCC also submit that given the number of assets and extent of harm it is appropriate to approach impacts on the historic environment in the round. In the recent Asfordby decision (CD35c) in England, the SoS stated in paragraph 17 that *"While the Secretary of State accepts that each of these assets may well suffer from less than substantial harm if considered separately as being the only asset of any significance, he takes the view that, looking at the sum total of the impact on so many and varied assets, the harm caused is arguably greater than the sum of its parts."*
117. This essentially indicates that the benefits of the scheme cannot be weighed in their entirety against the harm to each asset in turn, but must be set against the total harm to the historic environment; and that in some circumstances the sum of total harm can be greater than the individual harms.
118. PCC submit that this principal clearly applies in this case. The proposed development at Garreg Lwyd does not harm individual unrelated assets; instead it harms clearly related groups of assets, namely an extensive ensemble of interrelated prehistoric barrows and also a smaller group of medieval / early post-medieval rural remains around Castell-y-Blaidd and Fron Top.
119. Finally, in the context of TAN8, PCC submit that in this context the now familiar paragraph 24 that, *"Not all of the land within the SSAs may be technically, economically and/or environmentally suitable for major wind power proposals; however the boundaries are seen as encompassing sufficient suitable land, in one or more sites, to deliver the Assembly Government's energy policy aspirations"* – is of particular relevance.
120. Given the important historic environment interest around Garreg Lwyd and given the undoubted impact that Garreg Lwyd will have on the setting of a number of nationally important monuments, it is apparent that this location is not *"environmentally suitable for major wind power proposals"*.

Noise

121. This matter can be dealt with briefly. The inquiry heard evidence from Mr Bufton in relation to the dangers of imposing conditions which anticipate a breach of ETSU in a

scenario where Llandbadarn Fynydd were to be consented and conditions imposed as agreed in a statement of common ground before the Mid Wales Conjoined Inquiry. For the reasons stated in the evidence of Mr Bufton it would be incorrect to proceed on the basis suggested by the appellant. The debate in any event illustrated the difficulty of proceeding to determine this proposal at this stage.

Overall Planning Considerations and balance

122. Mr Carpenter has provided a thorough assessment of the overall planning balance of this case. He concludes that the stand alone landscape, visual and cultural heritage harms are such that the appeal proposal must be refused. He has fairly and carefully taken into account the materially relevant benefits and given full weight to these matters in evidence.
123. It is clear from the evidence at the inquiry, referred to in summary above, that in relation to landscape/visual and cultural heritage matters – both on an individual and cumulative basis – the proposals will cause severe harm.
124. PCC acknowledges that the fact that individual proposals will give rise to significant adverse impacts in landscape and visual terms or indeed heritage terms is not to be equated with the impacts being unacceptable in the broader sense so as to justify the refusal of consent without more.
125. There will, to take one obvious example, almost always be significant landscape and visual impacts resulting from the construction and operation of modern onshore wind turbines.
126. However, it is necessary to undertake an overall balance – taking into account where necessary appropriate statutory considerations - so as to establish where the advantage lies in terms of the overall public interest. It simply does not follow from relevant policy that all and any significant landscape impacts are to be accepted even in the context of renewable energy development.
127. Equally, in that consideration, the fact that a proposal is time limited does not mitigate against the effects of the development. It simply regulates the period over which they are experienced. No part of Welsh policy indicates that the general populace should tolerate development which is unacceptable simply because it is time limited.
128. The legal starting point for determination remains the development plan in the context of s 38 (6). There will be undoubted, clear conflicts with development plan policy as set out above if the proposal is allowed. In addition the important and strong statutory presumption against the grant of planning permission (as explained by the CA in Barnwell) applies by virtue of s.66 of the Planning (LBCA) Act 1990 is engaged. There is insufficient evidence to overcome this presumption.
129. The 'starting point ' then is simply not a presumption in favour of this wind farm as suggested in xx to the planning witness of the Council. Even Mr Stewart for the

appellant accepted the starting point was the development plan and the related statutory presumptions against the proposal.

130. There are also the important statutory considerations found within the Countryside and Rights of Way Act 2000 s.85 requiring specific regard to be had to the purposes of the AONB. In terms this requires the decision maker to have regard to the purposes of conserving and enhancing the natural beauty of the AONB. As PPW makes clear, the decision making process should favour the preservation of natural beauty. Along with national parks, AONBs must be given the highest status of protection from inappropriate developments. On any sensible view, it is clear that the proposal quite apart from anything else is not conserving or enhancing the purposes of the AONB and these considerations too mitigate strongly against this proposal.

131. Viewed in the round and in the correct legal and policy context PCC submit that this appeal proposal should be dismissed.

Timing of decision making for this appeal

132. PCC wish to emphasise the importance of the timing of this appeal in the context of ensuring Welsh Government Policy is adhered to. It is an inherent danger of the current planning decision making arrangements, particularly as they relate to wind farm proposals in Wales, where different sized schemes are decided upon by different decision makers and under differing statutory provisions, that the 'bigger picture' might be missed unless the respective decision makers are able to take into account and assess the implications of each other's decisions.

133. This is a matter which concerns Powys in the context of SSAC and strategic decision making. The Mid Wales Conjoined Inquiry considered, in a strategic context and over the course of a year, three wind farm proposals within SSAC (Llandinam, Llaithddu and Llanbadarn Fynydd). As Powys have explained in evidence⁴¹¹, that inquiry heard detailed evidence about the finite environmental capacity of SSAC. The strategic approach Powys pursued in evidence considered that the finite environmental capacity will already have been met by schemes or parts of them which, in combination, Powys supported.

134. Despite cross examination seeking to suggest the contrary, the Council witnesses were clear that the position adopted by PCC both at the Mid Wales inquiry and at this one was the formally agreed and authorised position of the Council. It is, with respect, very strange for the appellant to have suggested otherwise.

135. The Inquiry closed at the end of May and S of S is due to make decisions in relation to the schemes⁴¹². On any view, it is clear that the result of that inquiry may be highly material to the decision of the WG in this appeal and to what regard should be paid to Welsh policy. In part, Powys accepts, the issue is one of timing.

⁴¹¹ Proof of Mr Carpenter, section 1

⁴¹² Powys is not aware as to whether a date for the likely decision has been published

136. But it urged from the outset⁴¹³ and it urges again in closing that steps are taken to ensure, if there appears to be a prospect of different decision makers arriving at decisions in the same strategic area at around the same time and without cognisance of what the other is proposing to do, that there is a process instituted which allows consideration as between the decision makers of what is being proposed in a strategic way. To do otherwise would endanger the Welsh government policy being adhered to.
137. It is important to emphasise that to take such an approach would not be to detract from the ability of the Welsh Government to take decisions in the context of Welsh policy as was suggested by the appellant. Rather, it would be to seek to ensure that Welsh policy is not ignored. The reality is that the forthcoming Mid Wales Inquiry decisions will be applying and considered Welsh policy relating to, in particular, SSAs. The capacity limits in Welsh policy and environmental capacities will be fundamental to the decisions and to respect that Welsh policy and ensure it is not simply ignored the decisions – in particular ones which would increase capacity and inevitably take up more of the 'finite environmental capacity' must not be taken in isolation.
138. Important and relevant as that background is, the overall unacceptability of the current proposal at least is not dependent upon it. That is to say, the decision maker could properly refuse this appeal given the inherent unacceptability of it without more. But to do anything else at this stage other than refusal would, in the submission of PCC, be to fall into error.
139. PCC respectfully submits that the appeal should be dismissed.

⁴¹³ It was a point also raised in the St of case at para 36

ANNEX C

The case for the Conservation of Upland Powys Group

1. Conservation of Upland Powys (CUP)

CUP (formerly Conservation of Upland Montgomeryshire) is a membership organisation established in 1993, it currently has in excess of 670 members. At the 2014 AGM it was resolved that CUP be tasked with representing the membership at the Garreg Lwyd Appeal Inquiry. We are aware there have been a large number of both individual and group (for example Community Councils and CPRW Branches) objections to the application and for convenience CUP has analysed and provided a summary of reasons for objection from individuals. A number of residents made their personal representations and we do not seek to represent these in our Closings although there will be many common issues of concern.

The arguments are briefly summarised below.

2. Context

2.1 Garreg Lwyd Hill (GLH) may be a relatively small scheme in terms of the electrical output (10.2MW pa with a generous load factor of 30%) but the effects upon impressive and tranquil landscapes will be considerable.

2.2 CUP have made the case that in the balance the impacts on landscape, visual amenity, cultural heritage, a National Trail, footpaths and bridleways, tourism and the adverse impacts on the health and well being of residents render it unacceptable in planning terms. Additionally there is little information that attempts to evaluate the potentially wider ecological impact.

2.3 As can be seen from the analysis and number of representations from local people, there is a wide ranging and comprehensive objection to a scheme that will produce negative effects of major significance and produce little in the way of strategic or secure, reliable and affordable power generation. The secure electricity output will, as shown in our evidence from the acknowledged industry body, be of the order of only 1.7 MW.

3. Landscape

3.1 The landscape of GLH is typified by Glyndwr's Way National Trail that meanders through it. The wind farm would be significantly visible for some 24kms of the trail, effectively a day's walking. National Trails were designed to enable people to appreciate the best and most characteristic scenery and we are facing the anachronism of seventeen 126m high moving structures at the focal point of Glyndwr's Way in this area. This appears incomprehensible to all who value the remote, tranquil and wild qualities with far reaching views. We have heard how visitors and local people respond to these qualities; qualities also identified by Landmap and the landscape expert witnesses for both the appellant and the Council.

3.2 We accept that designation may give a value but it has no differentiation in terms of the outstanding qualities which span both areas. This was recognised by the Hobhouse Report when defining areas for special conservation where the same value was given to the North Powys Uplands as to the Shropshire Hills. We therefore cannot accept the statement of the RES planning witness that the landscape of the wind farm area and its surroundings is of low or no value.

- 3.3 The landscape, and the visual amenity derived from it, are viewed as a whole and cannot be 'salami sliced' to justify incongruous and alien development. CUP would support the approach of Mr Russell Vick that landscape is read as a whole unit. This is particularly the case where wind turbines of over 120m height and their associated infrastructure are concerned and they are impacting on several varied landscapes and over a long distance. Landmap has some uses but CUP would maintain that inconsistencies due to the use of different observers and attempts to divide the landscape into a series of homogeneous units makes it a less than useful tool here. It is, however, noteworthy that Landmap for the GLH area sees wind farms as the 'major threat'. EN 1 may exhort us to accept adverse visual impact but we see in Inspectors' and Secretary of State decisions that there are limits to acceptance. CUP maintains that placing multiple turbines on an upland plateau in an area of highly valued, unspoilt and far reaching panoramas of considerable loveliness and tranquillity renders this scheme unacceptable in the planning balance.
- 3.4 It is notable that the policy for the Shropshire Hills AONB states that land within 5 kms of the AONB boundary is unsuitable for large scale wind development and should be excluded from any Search Areas. This is an important principle. Views out of the AONB are seen as a key characteristic of the AONB and as important as those looking inwards.. The presence of a proximate wind farm would thus be to the detriment of AONB quality and value in both visual and amenity terms.
- 3.5 There is no validity for the acceptance of a 'wind farm landscape' as envisaged by Arup in 2005 and no legitimacy for beginning a baseline landscape assessment from a position of that acceptance. Crucially there was no consultation with either the affected Planning Authorities or the public regarding such a dramatic landscape change which was not proposed until the issue of Annex D which was not part of the TAN8 consultation process.
- 3.6 CUP notes that in cross-examination Ms Hawkins stated that GLH is a 'classic wind farm landscape' and her assessment starts from this subjective view. This assertion sits uncomfortably with her professional assessment of the actual levels of landscape quality and impacts (predominantly High) that largely accord with those of Mr Russell Vick and those of CUP members. It is also clear from both landscape witnesses that little weight can be given to either of the Arup refinement exercises given concerns regarding methodology and a predominantly desk based approach using a Landmap structure still in its infancy. It was further confirmed that the 2008 refinement did not consider the sensitivity of landscape zones adjacent to the zone in question. Our evidence shows that no analysis of landscape and visual effects was taken into account in the original drawing up of the Strategic Search Areas for TAN 8.
- 3.7 The evidence of Mr Croft regarding the heritage landscape and the setting of SAMs of national importance similarly casts doubt on this assertion of 'classic' windfarm suitability should such a concept exist.
- 3.8 Ms Hawkins very properly states, giving the example of Glyndwr's Way, that the presence of one high sensitivity receptor was of exactly the same degree of importance as 100 and that any adjustment for quantity should be left to the planning balance. However, she downgraded the importance of the impact of the GLH windfarm on the views from the west of the AONB (Clun Forest area) purely on the basis that there were fewer visitors than in the 'honeypot' areas around Church Stretton to the east and

where GLH would not be visible. This is inconsistent but also ironic since visitors to the quieter areas would be more likely to be seeking visual tranquillity and thus to perceive the visual intrusion more acutely.

- 3.9 CUP commends RES on the production of a wide range of viewpoint photomontages that attempt to fairly represent the degree of impact and landscape change. Even though the latest photomontages show blue turbines that blend well with the sky it is not difficult to imagine these in stark white. The viewpoints clearly show just how seriously GLH alone will totally dominate the landscape in both near and more distant views and particularly for high sensitivity receptors on promoted bridleways, Glyndwr's Way and the Kerry Ridgeway and those using the many PRowWs and the open access land adjacent to GLH. Other wireframes and photomontages demonstrate the potentially degrading jumble of multiple wind farms dominating many views and in multiple directions. It is not, of course, possible to appreciate the incongruity of eye drawing movement that is the reality of a wind farm.
- 3.10 The comprehensive additional viewpoint evidence submitted by CUP shows the multiple landscapes in Wales and Shropshire that will be severely affected by the GLH scheme. This photographic evidence also shows that the landscape of the affected areas of Wales is of comparable quality, tranquillity, variety, integrity and scale of that of the AONB areas.
- 3.11 Ms Hawkins confirms in her summary of evidence (2.7) that significant visual effects on panoramic views can be experienced up to 10kms from the windfarm. This confirms that more of Glyndwr's Way will be significantly affected than is being claimed with our estimate of approximately 24kms length being the more accurate. As an example the ZTV portion south west of Llanbadarn Fynydd is only 7 kms distant from the windfarm (cf CUP landscape evidence at position A) but is not included in RES or Powys CC assessments.
- 3.12 No landscape assessment has been provided of the impact of the substantial on-site transformer station and the transmission line that will be required although evidently not in keeping with the rurality of the area.
- 3.13 The access tracks will further detract from the remote and wild aspect of the area. The impact of the tracks down both sides of the Gwenlas valley near Fiddlers Green will be substantial. CUP also cannot support the 'improvement' of access to the higher moorland reaches of the BOAT and the provision of a car park and possible 'open days' as they are not commensurate with the quiet enjoyment of this area as exemplified by residents' concerns heard at the Inquiry.
- 3.14 RES agree that 25 years is not 'temporary' in planning terms. The reality is even more stark as, for example, residents near to the Llandinam windfarm may discover. After over 20 years of being uncomfortable windfarm neighbours their reasonable expectations of restored landscapes and tranquillity may be dashed by several years of disruption as three times bigger turbines are installed for a further 25 years.
- 3.15 CUP accepts that RES have attempted to limit impact by the removal of 7 turbines but given the upland plateau setting, a reduction in numbers does not necessarily substantially reduce the visual impact. This is clear from the ZTVs where all parties agreed the removal of turbines produces no discernable change.

3.16 The cumulative effect of GLH and all the other proposed windfarms is of great concern to the residents and visitors. It is notable that RES have not included all schemes that are 'in planning' in their Statement of Evidence analysis, Bryngydfa and Neuadd Goch Bank being significant omissions. Also, only incremental cumulative analysis was undertaken in the ES and SEIs which are subject to consultation, total cumulative not appearing until their Statement which is not subject to such consultation. Obviously the total cumulative is the one more relative here and Bryngydfa and Neuadd Goch Bank should be added.

4. Residents

- 4.1 Although relatively remote, the area does sustain isolated properties whose residents will be seriously affected by various aspects of the windfarm. Residents will experience loss of visual amenity, noise, shadow flicker, possible cumulative effects with other windfarms and the disruption of a protracted construction period. This will cause a dramatic degradation of their amenity such that several of the properties will become unsatisfactory places to live.
- 4.2 CUP express considerable concern regarding the well being of residents and believes insufficient consideration has been given to those who live and work in the area proximate to the proposed windfarm.
- 4.3 Visual amenity was not assessed by means of wireframes until the appeal documents were released and therefore had not been available to any resident through a consultation process. When these could be inspected it was evident that a number of properties, particularly Gatehouse, Hope's Castle Farm, Bryn Mawr Cottage and Upper and Lower Green would have their visual amenity severely compromised by a perception of a closing off of views by a considerable array of dominating turbines completely anachronistic in the rural context and serving to destroy the visual tranquillity. As acknowledged by Ms Hawkins, trees and forestry cannot be accepted as screening as they may die or be felled within the lifetime of the windfarm and their maintenance may be outside the control of a resident.
- 4.4 Should other large windfarms, such as Llanbadarn Fynydd and Bryngydfa, be constructed then the resultant visual jumble would be overbearing at many of these residencies. It is likely that such properties would become virtually unsaleable.
- 4.5 Ms Hawkins applies the well known Lavender test to residential amenity but fails to note it is not distance specific and applies it inaccurately as meaning that both front and rear of the property must be impacted. Although no criticism of Ms Hawkins, it is also true that the criteria of 'overbearing' and 'overwhelming' remain highly subjective varying with the individual and their use of the property and land. An employee of a potential developer will not visit the site again or have to live and work there and has certainly not invested their well being, time and funds in a property.
- 4.6 It should also be taken into consideration that residential amenity of being able to walk, cycle and ride the PRoWs and open access land without the detraction and noise of turbines will also be lost.
- 4.7 CUP and RES are agreed that the consideration of Residential Amenity must take account of all characteristics of the development not just the visual impact that will affect residents.

- 4.8 Noise and amplitude modulation (AM) associated with wind turbines is increasingly recognised as a significant problem and some 13% of existing windfarms have reported significant noise problems. It is agreed by acousticians that AM has the potential to carry over much greater distances than 'ordinary' noise and also that it is difficult to predict whether AM will be an issue with any planned windfarm or at which properties. It is clear that a precautionary approach regarding AM must be taken.
- 4.9 Research and medical advice from many countries increasingly casts serious doubt on the validity of using ETSU-R-97 as a benchmark that will offer sufficient protection to residents and there is also concern regarding measuring and noise modelling techniques. It is a very lengthy process of several years for those affected to obtain satisfactory redress where noise nuisance from turbines becomes a problem. It is accepted that, at best, ETSU provides only a 'reasonable' not a high level of protection so clearly the lower limits must be applied.
- 4.10 Professional concern is evident regarding cumulative exceeding of limits which would be totally unacceptable. CUP has provided extensive evidence to this Inquiry regarding the mechanisms by which noise affects human receptors and existence of very real problems caused by wind turbines. It is clear that should this proposal be recommended for approval 'Denbrook' conditions should be applied as the minimum precautionary AM requirement.
- 4.11 Our evidence illustrates those properties where noise concerns are substantial and in combination with the severe visual amenity issues at those properties will make the locations unsatisfactory for residence. The cumulative noise issues that were identified in evidence given at the Inquiry regarding Fiddlers Green also add those two properties to the list.
- 4.12 The planning application is for turbines of 2 MW capacity and the candidate turbines that have been used to determine the noise profile at each property are 1.8 MW. CUP expresses concern that the conditions do not require the developers to demonstrate that the selected turbines satisfy those actual profiles. It is plainly ludicrous that the developer does not have to show the turbines meet the original specification until a complaint is made by a resident. The developer will have to undertake an analysis of the selected turbine against the agreed conditions anyway and therefore it makes perfect sense for that to be supplied to the County Council so that all parties are starting at an agreed base if problems do subsequently arise.
- 4.13 This is of paramount importance when cumulative windfarm noise in the vicinity of residences could occur and, as per Llanbadarn Fynydd, developers also seek planning permission for turbines at higher power output than their candidate turbine. It is general engineering practice that one should have to prove to a 'regulatory body' that the final design accords with proposed specification and there is a serious need here to prove such when peoples' amenity could be so seriously affected. The debate at the Appeal over the cumulative effect of GLH and Llanbadarn Fynydd illustrates how important it is that misunderstandings over limits and specifications are eliminated and a condition requiring the above certification is a reasonable request especially since the developer will have to produce the information anyway.

5. Cultural Heritage

- 5.1 It is disappointing that there are no wireframes or photomontages produced by the developer to permit easier recognition of the effects of the proposed scheme on the settings of the numerous Scheduled Ancient Monuments (SAMs). CUP has attempted in its evidence to illustrate the setting context of representative SAMs and to also give as far as is possible an idea of the scale of the turbines at all locations by reference to RES photomontages or wireframes at similar distances. We fully acknowledge the limitations of such an exercise but we believe it will assist the Inspector in evaluating the significance of the effects upon settings.
- 5.2 RES and the Council both find significant effects upon SAMs and acknowledge that there is an important intervisibility between many of them. As with landscape, the general public see such assets as an entity provoking a sense of place, an element of mystery and timelessness rather than relying on professional interpretation for their appreciation. As agreed at the Inquiry the proposed mitigation does not remove the perceived harm to the setting and additions such as interpretation boards are considered intrusive by many. The effect upon settings of SAMs, as demonstrated in our evidence is severe and requires full consideration in the balance. Given the prominent upland location, there are long views of and between assets from the Mid Wales plateaux.
- 5.3 The ability to access assets is not an issue affecting setting but is an aspect of their general appreciation and an additional benefit here. To high sensitivity walkers / riders near the heritage sites the proximity of the turbines would be overbearing. For example RD 103 Coventry Round Barrow at only 350 metres approximately and RD 252 Ty'n-y-ddol Hill Round Barrow at 400 metres from the nearest turbine where walkers would experience an overbearing effect and therefore the setting ought to be considered to be similarly affected. This cannot be acceptable for UK nationally important SAMs.
- 5.4 As shown in evidence from all parties, much discussed at the Inquiry and seen on the site visits, the intervisibility between the Bronze Age monuments is a crucial aspect of their significance in this important historic landscape. Although the turbines do not physically intersect the line of intervisibility their scale and proximity means they will have a severe effect upon any appreciation of both the particular assets and this vital axis. Again this cannot be acceptable for UK nationally important SAMs.
- 5.5 Evidence from all parties at the Appeal demonstrated that the effect upon the setting of Castell-y-blaidd would be significant and as with Powys CC we believe that the effect will be extremely severe. The development would destroy the rural setting and this is fundamental to the significance of the SAM. Also the approaches along Glyndwr's Way, the BOAT and the public access from Killowent (all of which are used by horse riders as well as walkers) will be severely affected by the development and remove the opportunity for public appreciation of the asset's setting. The setting of the Castell-y-blaidd medieval settlement will also be severely affected and the visual interrelationship between the two, as readily apparent on the site visit, will become meaningless especially when looking towards the Castell from the settlement. This grouping together with the medieval settlement at Fron Top, which would have the setting similarly destroyed (cf CUP evidence) is, as described by CADW, a 'precious' area.

- 5.6 The substantial harm to the setting of the above SAMs together with the severe effects upon other SAMs, as shown in our Statement of Evidence, must mean that there is a case, as has been shown in other Appeals, for a dismissal of the application on that development's cumulative effect upon SAMs.
- 5.7 CUP, having heard the latest explanations of the 'compensation' for historic assets at the Inquiry, cannot but agree with Powys CC that they do nothing to reduce the harm and are somewhat incensed on behalf of residents and visitors that interpretation boards should be seen as compensation for destroying such priceless settings.
- 5.8 As was expressed by the RES witness it is the public appreciation of the assets that is the important issue and not what the expert may think it may be.
- 5.9 Although we fully understand that there is not a Registered Historic Landscape that is relevant to the site and RES were not required to undertake an ASIDOHL because of the distance to such a Landscape the reference in our evidence was to the undertaking of an ASIDOHL on the HLCAs at and surrounding the site. HLCAs were particularly devised for the SSAs in 2006 (see Britnell 2006 CPAT report 821 used at Appeal) so that ASIDOHLs could be undertaken to identify in a methodical way the effects of proposed windfarms. As stated in CUP evidence such exercises have been undertaken by Llaithddu and Neuadd Goch Bank developers as was demonstrated at the Inquiry. Considering the importance of the assets around the GLH site it appears remiss that such an exercise was not carried out here.

6. Tourism

- 6.1 Mid Wales Tourism Strategy promotes the natural environment as the 'key visitor asset' providing 'superb, unspoilt scenery, tranquillity and a mecca for outdoor pursuits'. These are indeed the very reasons for coming to the area consistently cited in Visit Wales surveys. Wind turbine development has the potential to alter the natural environment by changing landscape character thus detracting from the key attraction and deterring existing and potential visitors from accessing the area. Deterred visitors may go elsewhere in Wales but this is of no consequence when considering the livelihoods of North Powys businesses directly or indirectly dependent on tourism and tourist value growth. A distinction clearly recognised by Inspector MacKenzie in her appeal recommendation in an area of Northumbria⁴¹⁴ not dissimilar to GLH.
- 6.2 Value growth is a key strategic driver for Powys with the Wales imperative to increase tourism by 10%⁴¹⁵ and to attract more international visitors. Well signed National Trails, of which there are only two wholly in Wales, are particularly attractive to foreign visitors. The county of Powys is the fifth largest provider of tourism income in Wales and would be expected to contribute significantly to the targets.
- 6.3 Even in 2004 Visit Wales, in a substantive study, found high levels of concern expressed by hill walkers, mountaineers and mountain bikers with 51% of visitors stating

⁴¹⁴ Inspector MacKenzie 2009 Northumberland County Council Moorsyde Windfarm Appeal Report 2009 (CUP ref doc) cited Tourism SoE section 7

⁴¹⁵ Ministerial Statement 2013. Mrs E Hart AM cited in Tourism SoE para 7.1

windfarms spoil the look of the Welsh countryside and 22% tending to avoid countryside with windfarms.⁴¹⁶

- 6.4 Powys has a stable economy with virtually full employment. Numbers of innovative SMEs and self employed are particularly high as are skills levels and the number of sector leading entrepreneurial and sustainable businesses. Pay levels are not high but temporary, superimposed construction activity will do nothing to address this and may well destabilise the economy.
- 6.5 With real data available from existing windfarms in rural Mid Wales and the Cardiff University study⁴¹⁷ into the economic impact of existing windfarms in rural Wales, we do not need to rely on modelling or conjecture: on-shore wind is not creating the levels of employment predicted by the Renewables Industry. There are limited opportunities for genuine local purchasing of goods and services around wind energy sites and existing foreign expertise and specific skills development mean that it is, *'very unlikely to create significant capacity in Wales to produce turbines'*. As a significant proportion of expenditure for a windfarm is in manufacture this does not represent investment in Wales or even the UK. The Cardiff study concluded that new investment in SSAs across the whole of Wales is *'unlikely to create significant additional employment as a result of operations and maintenance activity..., 'less than 150 direct jobs across the whole of Wales'*.
- 6.6 The Cardiff University study assesses community benefit schemes as being unlikely to create significant additional jobs and overall job losses are likely due to impacts on rural tourism and small businesses.
- 6.7 Tourism brings well over £600 million annually and supports 12% of VAT registered businesses in Powys. 'Tourism, is inordinately important to Mid Wales contributing to local prosperity and quality of life it also supported the development of vital infrastructure and other economic activities⁴¹⁸. 75% of visitors return to Mid Wales and satisfaction and holiday park home ownership is high (5 000 holiday park homes in secluded valley locations within 15kms of the SSAs).
- 6.8 The impact on Glyndwr's Way National Trail is particularly significant as it winds through and around the wind farm site. CUP has shown that walkers will in fact be impacted by the wind turbines for some 24 kms, more than a day's walking for many. The feeling of walking in expansive, unspoilt rurality will be lost.
- 6.9 Trails provide⁴¹⁹ an opportunity for economic development in rural areas where there are limited alternatives; a catalyst for value added development, and a 'flagship' walking product to draw potential visitors. It is evident how well this works at Brandy House Farm and there are another 41 accommodation providers listed in the guide for Glyndwr's Way.
- 6.10 The iconic ancient Kerry Ridgeway Promoted Regional Trail will have all 17 turbines clearly visible from its elevated viewpoint.

⁴¹⁶ Impact of Windfarms on Tourists in Wales NFO World Group 2003 for Visit Wales (CUP ref doc) cited Tourism SoE para 4.2

⁴¹⁷ Munday Bristow and Cowell Cardiff University published in Journal of Rural Studies 2011 (CUP ref doc)

⁴¹⁸ Jones C Welsh Economic Research Unit 2010 (CUP ref doc) cited Tourism SoE para 2.2

⁴¹⁹ Benefit to Businesses of National Trails in Wales 2006 for CCW (CUP ref doc) cited Tourism SoE para 3.8

- 6.11 Cultural heritage is increasingly being seen as important in the promotion of tourism nationally and strenuous efforts are being made to encourage tourists to understand and appreciate our heritage assets. Placing wind turbines in areas of considerable cultural importance and with a strong sense of mystery and timelessness runs counter to and devalues such initiatives.
- 6.12 Recent surveys show that walkers are antipathetic to wind farms and of one thousand interviewees some 2/3^{rds} stated they had or would avoid places with wind farms⁴²⁰. Ramblers' Cymru have developed a policy that is unequivocal on the deterrent effect of on shore wind farms despite broad support for other renewables⁴²¹.
- 6.13 To summarise the position for horse riders, an important group for our tourism businesses. Any horse, even with an experienced rider, may be unpredictably upset by turbine movement or shadow flicker. Many horses may not react or can become 'acclimatised' over time but this cannot be an option for occasional visitors and business owners could not use rides near wind farms. There are bridleways and promoted rides throughout the GLH area. The development produces an avenue of 7 turbines very close to the walker or rider from Killowent to Castell-y -blaidd, a much loved route⁴²². It is not only the exhilaration of the ride that is important, riders too appreciate the wonderful unspoilt scenery as can clearly be seen from unsolicited comments.
- 6.14 There are local and visiting riders who would be excluded from the GLH area, an important consideration as expressed by Inspector Jones⁴²³ considering the not dissimilar Mynydd Llanllwni area of SSA G. He stated: *'Less confident riders would be reluctant to ride within a certain distance of the turbines, although they would not be precluded from doing so. It would also be against the public interest to permit proposals which would effectively discourage some members of the public from enjoying rights of access.'*
- 6.15 Regeneris (March 2014, commissioned by Welsh Government)⁴²⁴ studied the potential impact of wind farms on Welsh tourism and took North Powys as a case study area. Although concluding that overall Welsh tourism may not suffer as visitors deterred by wind farms in one area may go elsewhere in Wales, there were concerns regarding the tourism industry in North Powys. The nature of our 'unique landscape characteristics' that is the main tourist attraction and the visitor demographic means a much higher sensitivity and vulnerability to wind farm development. They recognised that, even within Wales, it is inappropriate to extrapolate data from one area to another and here we have an *'alternative to busier parts'* of the country. They conclude: *'the scale of the development combined with the visitor profile and wilderness offer of this study area leaves it **more sensitive** to wind farm development than other parts of Wales...there may be **less potential for replacement of visitors** than other areas.'*

⁴²⁰ Mountaineering Council of Scotland Survey (March 20014) Windfarms and Changing Mountaineering Behaviour in Scotland (CUP ref doc) cited in Tourism SoE para 4.9

⁴²¹ Ramblers' Cymru Renewable Energy Policy Statement 2013 (CUP ref doc) cited in Tourism SoE para 4.10

⁴²² Example: statements from Mr R Wright and from Mr & Mrs Brock at Brandy House Farm.

⁴²³ Inspector : Mynydd Llanllwni and Mynydd Llanfihangel Rhos y – Corn Commons 2014 (core doc 35b) cited in Tourism SoE para 7.13 on

⁴²⁴ Regeneris and The Tourism Company 2014 (CUP ref doc) cited in Tourism SoE section 4 and see also Summary and Analysis of the North Powys Case Study (Kibble 2014) Annex to Tourism SoE

Discouragement of private sector investment as a result of windfarm development is seen as a further significant risk factor.

- 6.16 RES offer no compelling evidence on tourism. It is evident that they are not inviting the Inspector to put much weight on their Tourism Impact Study which they agreed at the Inquiry was high level and less than rigorous. Contrary to accepted good practice the Study included no interviews with visitors or tourism businesses but relied extensively on questionable extrapolation from a predictive and unrelated study at Fullabrook and other well outdated studies largely commissioned by the Renewables Industry and without the benefit of peer review. The study failed to accurately identify the tourism attraction or the visitor demographic and by unduly restricting the study area did not encompass the accommodation used by the many discerning visitors who enjoy the uplands. Assumptions cannot be made based on an incomplete understanding of the local situation.
- 6.17 A higher volume of visitors does not determine the sensitivity of an area to adverse change. In fact, in an area where quality is promoted over quantity and the sought out attributes are the sense of isolation, rurality and peace then the likely sensitivity to a large windfarm development or multiple developments is increased.
- 6.18 The construction period will generate closures of paths, bridleways and access land; noise; roadworks and heavy traffic on erstwhile quiet roads. Once deterred, visitors do not return.
- 6.19 Tourism businesses are already reporting a fall in repeat bookings and sales of holiday park homes as a result of the Mid Wales wind farm proposals. This clearly demonstrates visitor views and is jeopardising investment.
- 6.20 Powys UDP TR2 states: 'development of any kind which would have an unacceptable adverse effect on the environmental setting of established tourist attractions will be opposed'. This development adversely impacts the landscape tourist attraction and well established Glyndwr's Way so fails this test.
- 6.21 The designation of Glyndwr's Way as a National Trail itself required '*... no developments which are unsightly or alien to the rural countryside*'. Again the proposal is unsatisfactory as measured against this criterion.
- 6.22 The economic and social value of landscape and the necessity to engage people with their landscapes is enshrined in the European Landscape Convention to which the UK is a signatory.
- 6.23 Recently, Inspectors have been increasingly recognising the potential for windfarms having detrimental effects on tourism when the characteristics that draw visitors are unspoilt countryside, distant horizons, cultural heritage and tranquillity and where creating a wind farm landscape would '*fail to promote tourism*' (MacKenzie).
- 6.24 Inspector Nixon at Pentre Tump in North Radnorshire⁴²⁵, an area where tourism is also predominantly based on walking and riding, gave significant weight to their amenity and tourism potential. He considered: '*Prominent, dominant or even*

⁴²⁵ Appeal decision by Inspector Nixon (Jan 2014): Land at Pentre Tump, New Radnor (CUP ref doc) cited in Tourism SoE para 7.9

overwhelming' turbines from these routes made ' a seriously adverse effect on the character and appearance of the upland landscape and the amenity of its users.' There is no National Trail or promoted bridleway at Pentre Tump.

- 6.25 Inspector Jones was also unequivocal: 'Altering a wild, empty and quiet landscape to an upland wind farm landscape would significantly alter such experiences for those using the site and surrounding area for recreation/amenity purposes ... (and) would not be in the public interest'.
- 6.26 He further acknowledges that the loss or damage to 'landscape, views, peace, quiet, tranquillity' would mean 'there is no guarantee they would be replaced in the same numbers by those visiting for the first time irrespective of the presence, or because of the wind farm.' He takes tourism potential very seriously and percipiently predates the Regeneris report conclusions.
- 6.27 Far from designating 'predetermined' wind farm sites Arup (2004) were requested to omit landscape capacity, sensitivity, quality and character; historic assets; National Trails or social issues from consideration. All the subsequent Arup exercises were predominantly desk based and did not look at the wider landscape context so cannot inform our views regarding our prime tourist asset.
- 6.28 Powys County Council policy direction is not changing but rather being strengthened as is evident from the Draft Deposit LDP: '*visitors are drawn to the area for its outstanding scenery, heritage and recreational activities*'. They state: '*Protecting these attractions and supporting a sustainable and year round tourism sector is a must for the LDP*' (7.17).
- 6.29 The Inquiry has not been presented with any convincing argument that tourism, an important and vital sector of our economy, will not be adversely impacted in contravention of the policy for growth. All the local indicators and more recent research indicate that the balance of probability is that GLH, either alone or incrementally as one of several wind farms, will negatively impact on tourism.

7. Highway Transport

- 7.1 Before addressing the effects of the movement of the windfarm components and construction materials on the congestion on the unsuitable road network, the road works necessary require consideration. Our evidence shows that the alterations to the A483 between Newtown and the Llanbadarn Fynydd site access will be highly disruptive on this circuitous and relatively dangerous road. Already there are many disruptions on this road due to necessary maintenance works and the above works will add considerably to this. It was proposed by RES that these works would in fact reduce the ongoing maintenance work and therefore be a net benefit in delay reduction. This obviously cannot be the case as routine maintenance will still be required over the entire road between the two points.
- 7.2 The movement of AILs will inevitably bring considerable disruption to Newtown and the A483. RES acknowledged at the Inquiry that the movement of AILs through Newtown is not limited by the STMP to only that before the morning peak but could be expanded to many over the course of daylight hours as our proof illustrates. Residents and businesses are obviously concerned about the effect that these complex movements through Newtown and over the Newtown to Dolfor road will have upon their daily lives.

7.3 In addition the increase in HGV and other construction traffic particularly on the A483 will considerably add to these difficulties and at certain times, as our proof illustrates, will be of major concern.

7.4 As Capita Symonds identified in their assessment of the impact of eight windfarm proposals on Powys: *'individual developers have underestimated the potential traffic disruption'* and that this will *'inevitably lead to major disruption and is likely to have a major impact on the economy and tourism trade.'*⁴²⁶ Assessment took no account of preceding road alterations or a parallel transmission infrastructure construction phase.

7.5 The application also takes no account of the concurrent construction of the Newtown By-Pass which, we are assured by the Welsh Government Minister, will commence in 2015. Much of the construction activity will be in the same area as that proposed by RES so the cumulative effect upon traffic conditions and ecological issues will be substantial. What has been proposed for this scheme must therefore be reviewed against the by-pass works as a minimum or more suitably the windfarm transport required to use the constructed by-pass.

8. On Site Transport

8.1 It has become ever more apparent through the Inquiry process that the access track design, for reasons of noise, dust contamination, private water supplies etc, has not taken account of the amenity needs of the residents of the two properties at Fiddlers Green. The track should be moved well away from these properties or strict conditions imposed that will safeguard the residents' human rights.

8.2 It is of concern that the operational hours could be so easily altered during the Appeal without apparently having any effect upon the total construction period. CUP supports the residents concern that the total effect of the construction may not yet have been fully understood by the developers and the residents could be faced with further unexpected announcements.

9. Conditions

9.1 The conditions required with respect to operational noise have been discussed in our noise section above.

9.2 There are also concerns as regards the noise that would be experienced during the construction period of the windfarm and its entire infrastructure. These issues have been fully researched by Miss M L Flanders and Mr B S Crawford who would be seriously affected and we would commend to the inspector the submissions presented by these parties.

9.3 As the Appeal has heard residents have grave concerns regarding the integrity of their private water supplies if the development were to proceed. CUP supports those residents in requiring adequate conditions to guarantee the integrity and quality of the supplies both during construction and operation of the windfarm. In a remote area where there is no possibility of any other water supply it is inconceivable to put such a basic requirement at risk.

⁴²⁶ Capita Symonds Final Report for Powys CC and WG 2008 (CUP ref doc) cited in Tourism SoE para 5.14

9.4 It is very important that construction traffic only uses the designated routes as diversion onto predominantly single track roads in the area immediately leads to very difficult traffic conditions involving much reversing and major problems for the farming community. Also very rapid degradation of road verges occurs as traffic tries to pass each other in highly unsuitable locations. CUP is therefore very concerned to ensure that conditions requiring adherence to designated routes are implemented and upheld.

10. Ecology and Wildlife

10.1 CUP has demonstrated that the approach taken by RES has not provided an understanding at ecosystem level. Instead, piecemeal detail conceals the impact of the proposal upon the natural environment as indeed is the case with such an approach to landscape as we have seen. We have attempted to show that the Inquiry has been given a series of small pieces of a jigsaw; what it has not been given is the full picture. The ecosystem approach is essential, which is why the Welsh Government has been encouraging it for the past two years as giving the evidence to inform our decisions.

10.2 The diagram produced by DECC (provided in CUP evidence) shows clearly the land take required to produce 26TWh per year. Hinkley Point C takes 430 acres; following the 250,000 acres that is shown for onshore windfarms a note states that in fact DECC estimates that the land take could be between 160,000 and 490,000 acres.

10.3 CUP has demonstrated that the incremental destruction of countryside that is of lower agricultural value and of low population is destroying our wildlife. The shameful lack of use of the available legislation and guidance has decimated the habitats and wildlife that we knew as children. For example, the wetland on the site is important for great crested newt

10.4 The State of Nature report⁴²⁷ is clear; what has been allowed to happen over the past 50 years is nothing short of a disgrace. We have, for example lost 99% of our hay meadows since the war and curlew, that were heard all over Mid Wales are struggling to hold on and are now on Wales' Red Data Book list. The decline can only be reversed by making use of policies and legislation now available.

10.5 Degradation of habitat reduces carrying capacity still further, irrefutably affecting species' ability to survive, damaging the biodiversity of the area, probably permanently.

10.6 A good example of this is curlew; they feed on a number of sites over a wide area. This means that they may only use a site for a day or so before moving to their next feeding ground; they do this because the carrying capacity of these feeding grounds has so reduced over the past years that they cannot sustain them for a longer period. Some birds may have six or seven feeding sites and each is of tremendous importance. If that feeding ground is no longer available the birds' food will be significantly reduced. It is important to remember that they have already lost the best sites, and the second best sites, so are struggling with what is left.

10.7 Curlew, the largest European wader, is not only particularly shy, it also has a very long nesting season; from the beginning of March to the end of August. Curlew are present on the proposed site. Activity where they are known to be, from 1st March to 31st August is impossible; disturbance occurs within 600 metres and is illegal.

⁴²⁷ http://www.rspb.org.uk/Images/stateofnature_tcm9-345839.pdf and appended

- 10.8 Evidence regarding bats and other protected mammals has been limited and CUP is particularly concerned that 2014 guidance on bat surveying has not been implemented despite the 2014 SEI providing ample opportunity for such updating, It is accepted that there is a significant lack of knowledge of the impact of windfarms on bats in the UK. This is entirely because the work evidencing adverse impact has been undertaken in Europe and North America.
- 10.9 It is therefore disappointing that the statutory bodies have not registered objection regarding bats when they are fully aware that robust surveying to guidance standards has not been undertaken.

11. Planning Balance

- 11.1 Understandably, given the many issues regarding the GLH site, RES reduced their argument principally to the need for wind energy and what they express as 'the planning imperative to develop on shore wind capacity'. Even if these are accepted as given, good planning principles must still be applied. This is essential for windfarms where the effect is so dominating and rural landscapes have a limited capacity of absorption and the potential for impact on residents and other socio-economic factors is high.
- 11.2 Mid Wales already has over 270 wind turbines. Development of more windfarms will result in more obtrusive siting and extensive new infrastructure. The area has made its contribution to wind in the energy mix and this should be seen as a natural conclusion to development and an opportunity to look at other renewable sources and more sustainable energy conservation in the region before the unspoilt and precious natural beauty of the region is compromised and the important rural tourism sector damaged. In addition to the GLH proposal there are 12 consented turbines awaiting construction, turbines at decision and several hundred more in planning. The potential for cumulative harm is immense.
- 11.3 In the Arup exercise the SSAs were never intended as pre-determined windfarm sites. The reality is in the word: these were, and remain, areas for search only.
- 11.4 TAN8 was the Welsh Government's attempt to implement an energy policy, where as our evidence shows they have no devolved competence, through the planning system. Their brief to Arup was to draw up 'broadbrush' areas where it may be possible to construct large windfarms. They were specifically instructed to omit a number of planning issues from their consideration at this stage. Thus the SSAs were drawn up without reference to landscape (other than where designated); ecology and biodiversity; national trails and specific cultural heritage assets, or socio-economy. Further more, transport and access issues were also excluded. All these material planning issues were left for later consideration so there is no reason for not giving full and proper consideration to all factors.
- 11.5 Later work by Arup for Powys did not result in SSAs being adopted into the UDP because the mandatory Strategic Environmental Assessment was not carried out. We are thus left with only indicative and untested boundaries for search areas. The nature of windfarms and knowledge of their effectiveness and impact has changed considerably since 2004 as Arup anticipated in their direction that a review should be undertaken

within seven years. Furthermore, Powys County Councillors voted unanimously (with one abstention) in April 2012 that TAN8 was no longer fit for purpose and more windfarms should not be considered until it was reviewed. There is thus even less legitimacy for the application of TAN8 in Powys.

- 11.6 It must also be recalled that Arup and, assessors, Garrad Hassan, both indicated independently that all the land within the SSAs would not be suitable for windfarms once all material planning considerations were taken into account and as our evidence clearly shows Garrad Hassan identified that the areas would be unlikely to achieve even their original capacity targets when such issues were considered. As this was 70 MW for SSA C the argument by the RES expert witness that the figure of 148 MW should be used bears no credibility. In fact the appendices of the report show that for the base case plus noise (i.e. without considering all the other planning issues) for SSA C only some four of the proposed GLH turbines are on land that Garrad Hassan considered suitable.
- 11.7 It is clear that the SSAs are not predetermined areas and that it is inappropriate to give any planning weight to their existence. The target capacities that were in the original Tan 8 have, as CUP evidence shows, been removed and the Griffiths' letter only talks of environmental limits. Thus, as required by UK energy policy there is no technology specific targets to be met in the SSAs. The GLH proposal should therefore be determined against normal planning criteria enshrined in the Powys UDP.
- 11.8 It is obviously very important that the qualities of the Shropshire Hills AONB are fully taken into account. CUP is surprised to hear that RES considered that the AONB Management Plan should carry no weight at all.
- 11.9 CUP requests that the Inspector takes into the planning balance consideration of all our presented evidence and the above key points and that when weighed in this balance the decision lies firmly in the rejection of this development.

ANNEX D

RECOMMENDED CONDITIONS - Appeal A

Terms, Time Limits

1. In these conditions, unless the context otherwise requires:

"**commencement**", in relation to the authorised development, means the date on which the authorised development begins by the carrying out of a material operation as defined in section 56 of the 1990 Act and "commence" and "commenced" shall be construed accordingly;

"**Construction Period**" means the period from work commencing on the Development until the date 18 months after the Site compounds have been reinstated in accordance with the conditions of this consent;

"**first export**" means the date the authorised development first exports electricity to the Grid on a commercial basis;

"**site**" means land within the development boundary;

"**wind turbines**" means the wind turbines forming part of the development and "wind turbine" shall be construed accordingly

"**dB**" refers to the Decibel noise measurement unit;

"**dB(A)**" refers to a Decibel noise measurement unit, with the inclusion of the A-weighting filter in the measurements as referred to in ETSU-R-97;

"**ETSU-R-97**" means the ETSU Report number ETSU-R-97 'The Assessment and Rating of Noise from Wind Farms' published in September 1996;

"**LA90**" means the decibel (dB) level exceeded for 90% of each sample period;

"**Local Planning Authority**" means Powys County Council;

"**development**" means the works that are permitted to take place as a result of this permission. This includes;

- (a) up to 17 wind turbines each sited, subject to conditions, in locations shown on Figure 4.2 Site Layout contained within 2014 Supplementary Environmental Information on concrete foundations incorporating hardstandings for cranes and fitted with rotating blades having a hub height of 80 metres and a height to blade tip of up to 126.5 metres including transformers.
- (b) A series of cables buried beneath the surface of the ground and connecting the wind turbines to the substation.
- (c) A series of access tracks between the wind turbines
- (d) A construction, maintenance and emergency site access road
- (e) An onsite electricity substation
- (f) An anemometry mast.
- (g) Borrow pits for the extraction of stone to be used in the construction of the development.

"**emergency**" means circumstances in which there is reasonable cause for apprehending imminent injury to persons, serious damage to property or danger of serious pollution to the environment;

“NRW” means Natural Resource Wales, a Welsh government sponsored body and statutory consultee on environmental protection; regulation; and maintenance of natural resources

“Public Holiday” means a day that is, or is to be observed as a public holiday;

2. Where under any condition details, a scheme, or a plan are to be submitted for the approval, or confirmation, of the local planning authority then unless the condition provides otherwise:
 - (a) those details or scheme or plan and that approval must be in writing;
 - (b) the approved details, scheme or plan shall be taken to include any amendments that may subsequently be approved in writing by the local planning authority, provided that no amendments may be approved by the local planning authority where such amendments may give rise to any materially different environmental effects to those assessed in the environmental statement.

Reason: For the avoidance of doubt

3. Subject to the conditions attached to this permission, the development shall be carried out in accordance with the following approved plans and documents:

2008 ES

- Figure 4.2.7 Car Parking Details
- Figure 4.3 Typical Front and Side Elevations of a Wind Turbine
- Figure 4.4 Typical Access Track Design
- Figure 4.5 Typical Watercourse Crossing
- Figure 4.6 Crane Hardstanding General Arrangement
- Figure 4.7 Wind Turbine Foundation
- Figure 4.8 Temporary & Permanent Anemometer Masts
- Figure 4.9 Typical Substation Layout
- Figure 4.10 Substation Buildings and Compound Elevations
- Figure 4.11 Temporary Construction Compound
- Figure 4.10 Typical Site Drainage Plan
- Figure 4.13 Borrow Pit Section & Layout Plan
- Figure 4.14 Indicative Steep-Sided Water Crossing Detail

2013 Wind Farm SEI

- Appendix SEI 4: Garreg Lwyd Habitat Management Plan
- Proposed BOAT Diversion Drawing number 01589D2250-01

2014 Wind Farm SEI

- Figure 4.1 Turbine Layout and Site Boundary
- Figure 4.2 Site Infrastructure

- Appendix 8.6a Site Entrance Drawings. Drawing number 01589D2430-04 Sheets 1 to 5 (of 5): Site Entrances
- Appendix 8.6b Site Entrance Drawings. Sheet number 60304149-SKE-C-0001: Forward Visibility Check

Reason: For the avoidance of doubt.

4. The development hereby permitted shall be begun before the expiration of five years from the date of this approval.

Reason: For the avoidance of doubt.

5. No abnormal indivisible loads (AILs) shall be delivered to site until such time as highway upgrade works have been completed to the satisfaction of the Local Planning Authority and this has been confirmed in writing.

Reason: For highway safety.

6. Prior to the hereby approved turbines first operating the developer shall complete the construction of the public car park in accordance with the approved Figure 4.2.7 as contained in the ES 2008 and shall make the car park available for public use within 6 months of the hereby approved turbines first operating.

Reason: In the interests of public amenity.

7. The permission hereby granted shall endure for a period of 25 years from the date of first export. Written confirmation of the first export date shall be sent to local planning authority within one month of the first export date.

Reason: For the avoidance of doubt and to establish the duration of this permission.

Site Recording

8. No development shall commence until all areas that will be disturbed by the development have been photographically recorded and these photos, alongside a plan detailing the precise location and bearing of these photos have been submitted to and approved by the local planning authority in writing.

Reason: to record the landscape and site prior to the development commencing and provide a basis for the decommissioning and site restoration scheme.

Site Decommissioning and Restoration

9. At least 24 months prior to the decommissioning of the scheme details and methodologies for a full ecological survey to be undertaken to inform a Site Decommissioning and Restoration Scheme shall be submitted to and agreed in writing by the LPA.

Reason: To ensure impacts on protected species and breeding birds are minimised.

10. Not less than 12 months before the expiry of this permission, a Site Decommissioning and Restoration Scheme shall be submitted to and approved in writing by the local

planning authority. The scheme shall be implemented as approved and be completed within 12 months from the expiry date of this permission. The scheme shall include, but not be limited to:

- (a) Details of the removal of all the wind turbines and the surface elements of the development plus one metre of the turbine bases below ground level;
- (b) Details of means of removal, including how this will avoid effects on protected species and habitats;
- (c) Phasing of the removal of tracks, structures, buildings and other associated infrastructure;
- (d) Earth moving & soil replacement;
- (e) Restoration of the landscape;
- (f) Reinstatement of public rights of way, paths and footpaths; and
- (g) Monitoring and remedial actions.

Reason: to ensure development is removed in a sympathetic manner upon expiry of this permission.

11. Prior to the implementation of the Site Decommissioning and Restoration Scheme, a community liaison scheme shall be submitted to and approved in writing by the local planning authority. The community liaison scheme shall be implemented as approved and shall include:
 - (a) details of developer liaison with the local community to ensure residents are informed of how the decommissioning of the development is progressing;
 - (b) a mechanism for dealing with complaints from the local community during the decommissioning of the development; and
 - (c) a nominated representative of the developer who will have the lead role in liaising with local residents and the relevant planning authority.

Reason: To ensure the amenity of local residents is protected.

12. On completion of the restoration work, any remaining fixed equipment, machinery and buildings erected or brought on to the site for the purpose of implementing the Site Decommissioning and Restoration Scheme shall be removed from the site.

Reason: to ensure the site is left in a satisfactory manner upon completion of the Site Decommissioning and Restoration Scheme.

13. No development shall take place on the site until the developer has submitted to the local planning authority details of a financial instrument, and arrangements which will ensure that funds sufficient to cover the completion of the decommissioning and site restoration costs, in accordance with Condition 10 above, are available to the local planning authority prior to the commencement of decommissioning and site restoration. The financial instrument shall include arrangements for funds to increase with inflation and shall include a review provision upon the 5th, 10th, 15th and 20th anniversary of the first export to ensure that the funds remain sufficient to cover the

completion of the decommissioning and site restoration costs in accordance with Condition 10 above.

Reason: to ensure the site is left in a satisfactory manner upon completion of the Site Decommissioning and Restoration Scheme.

14. No development shall take place on site until the local planning authority has approved the arrangements in condition 13 in writing, the approved financial instrument is in place and arrangements have been secured to ensure that funds will be in place prior to the commencement of decommissioning and site restoration. The financial instrument shall be maintained throughout the duration of the permission and reinstatement period and the arrangements for deposit of funds, inflation adjustment and review of the financial instrument will be implemented.

Reason: to ensure the site is left in a satisfactory manner upon completion of the Site Decommissioning and Restoration Scheme.

Turbine Failure

15. In the event of a wind turbine failing to produce electricity to the grid for a continuous period of 6 months or more, other than required by condition 47, a scheme for the repair or removal of that turbine shall be submitted to the local planning authority for its written approval within 2 months of the end of that 6 month period and implemented within 6 months of approval unless a longer period is agreed in writing by the local planning authority.

Reason: in the interests of visual amenity.

Development Micro-Siting

16. No development shall commence until a micro-siting protocol has been submitted to and approved in writing by the local planning authority. It shall set out a protocol for deciding on micro siting of all development to minimise the development's impact on, but not limited to, protected species, watercourses, rights of way, heritage asset, bats, health and safety and any other identified environmental or engineering constraints.

Reason: in the interests of minimising environmental impact.

17. All aspects of the development shall be located within 50m of the locations shown on Figure 4.1 contained within 2014 Supplementary Environmental Information in accordance with the protocols established in condition 16.

Reason: in the interests of minimising environmental impact.

18. Within 3 months of the first export date, a plan showing the exact location of all development (including tracks, hard standings, access areas, turbines, infrastructure routes, borrow pits etc) shall be submitted to and approved in writing by the local planning authority.

Reason: to record the final as built scheme once micro-siting allowances have been taken into account.

Detailed Development Design and Appearance

19. No turbines shall be delivered to site until details of the turbines, including make, model, design, size, transformer location, power rating, the anemometer mast and associated apparatus has been submitted to and approved in writing by the local planning authority. The turbines, anemometer mast and associated apparatus shall be constructed in accordance with the approved details.

Reason: to ensure satisfactory appearance and in the interests of visual amenity.

20. No turbines shall be erected until the proposed turbine finish and colour has been submitted to and approved in writing by the local planning authority. The turbines shall be constructed in accordance with the approved details.

Reason: to ensure satisfactory appearance and in the interests of visual amenity.

21. All turbine blades shall rotate in the same direction.

Reason: in the interest of visual amenity.

22. All electricity cables connecting the turbines and the substation, and other services within the site boundary shall be installed underground and alongside tracks which are constructed on the site as part of the development. Any variation shall be submitted to and approved in writing by the local planning authority before development commences. The development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity.

23. No development shall commence until details relating to the external treatment, design, materials, and orientation and screening of the on-site substation have been submitted to and approved in writing by the local planning authority. The substation shall be constructed in accordance with the approved details.

Reason: In the interests of visual amenity.

24. No development shall commence until details of any permanent outdoor lighting provision have been submitted to and approved in writing by the local planning authority. Any outdoor lighting shall be provided in accordance with the approved details.

Reason: in the interests of visual amenity.

25. No symbols, signs, logos or other lettering, other than those required by law for health and safety reasons, shall be displayed on any part of the turbines nor any building or structures without written approval from the local planning authority.

Reason: In the interests of visual amenity

Construction Hours

26. No construction work (other than the delivery of abnormal loads) shall take place outside the hours of 07:30 and 19:30 Monday to Friday inclusive, 07:30 and 13:00 on

Saturdays with no construction work at all on Sundays and Public Holidays. Outside these hours, works at the site shall be limited to emergency works, erection of turbines, dust suppression, and the testing and maintenance of plant and equipment, or construction work that is not audible from any noise sensitive property, unless otherwise approved in writing by the local planning authority. The local planning authority shall be informed in writing of emergency works within three days of occurrence.

Reason: To protect the amenity of the area.

27. All activities associated with the construction of the development shall be carried out in accordance with British Standard BS5228:2009: Code of Practice for noise and vibration control on construction and open sites – Part 1: Noise and Part 2: Vibration.

Reason: In the interest of amenity.

Construction and Environment Management Plan

28. No development, including site clearance, scrub and vegetation removal and tree felling works, shall commence until a detailed, site specific Construction Environment Management Plan (CEMP) is submitted to and approved in writing by the local planning authority. The CEMP shall cover the periods of site clearance, construction and the restoration of all work areas and shall include detailed method statements, contractor arrangements, reporting and liaison mechanisms between the contractor, Ecological Clerk of Works (ECoW), the local planning authority and NRW, monitoring and contingency proposals for implementation, including:
- (a) A track construction plan including the excavation and make up of internal access roads and hard standing areas, including measures to address silt-laden run-off from any workings, temporary and permanent access roads, soil storage and other engineering operations;
 - (b) Working statement (including design and construction) to cover all channel and bank works including all channel crossings;
 - (c) A detailed timetable for tree felling, vegetation and site clearance, construction and habitat management up to the commissioning of the turbines and site restoration. The timetable should include potential contingencies for birds and protected species;
 - (d) Measures to be taken during vegetation and site clearance, tree felling and the construction and restoration periods to protect wildlife and habitats including legally protected species, and the River Wye SAC;
 - (e) The hours of working for all construction activities;
 - (f) Arrangements for the parking of vehicles of site operatives and visitors;
 - (g) Arrangements for the loading, unloading and storage of plant and materials used during the construction of the development;
 - (h) An Environmental Management and Pollution Prevention Plan (to include a water quality monitoring plan, surface water management plan and a drainage management plan) which comprises arrangements to protect groundwater, surface water and the River Wye SAC during site clearance, construction and the

- restoration phases of development including wet weather contingency measures and an Incident Response Plan in the event of a pollution incident and measures for the storage of materials including soil and its disposal;
- (i) Construction arrangements for turbine foundations, access roads and other infrastructure, including concrete batching and dewatering arrangements to treat potentially sediment laden water;
 - (j) Arrangements for fuel storage and fuelling, the storage and handling of oils and lubricants, and the handling of cement materials to prevent any entry to watercourses and contingency plans in the event of spillage;
 - (k) Cable laying on the site including the detailed design of the trenches;
 - (l) Access, signing and re-routing arrangements for recreational users during construction activities;
 - (m) Construction method statements for the construction works compound and all infrastructure, including their eventual removal and satisfactory reinstatement;
 - (n) Details and method statements for hedgerows, stone walls and banks that are to be removed and relocated;
 - (o) Reinstatement of any disturbed ground post construction, including re-vegetation of access track and hardstanding areas, in order to reduce their visual and ecological impact, together with measures to monitor its success;
 - (p) Emergency site procedures in the event of disturbance or fatality of any otter or badgers;
 - (q) Arrangements to prevent the spread of non-native invasive species;
 - (r) Approach to excavated materials;
 - (i) Details of approach to borrow pits including: Proposed location, opening, working and reinstatement of on-site borrow pits; and
 - (ii) No excavation of the borrow pit shall take place below the depth of the water table;
 - (iii) Details of backfill material for the borrow pits.
 - (s) Nothing other than uncontaminated excavated natural materials shall be tipped on the site;
 - (t) Measures to control dust and mud arising from the site including damping down, the provision of wheel washing facilities and the sheeting of HGV's taking spoil or construction materials to and from the site;
 - (u) Measures to clean and maintain the site entrance and the adjacent public highway;
 - (v) Temporary site illumination including proposed lighting levels together with the specification of any lighting.

The development shall be implemented in accordance with the approved CEMP unless otherwise agreed in writing with the local planning authority.

Reason: To ensure the safety of the highways affected and minimize environmental effects including on the River Wye SAC.

29. Before any wind turbine is removed or replaced a revised Construction Environment Management Plan dealing solely with that removal or replacement shall be submitted to and approved in writing by the Local Planning Authority, and implemented as approved.

Reason: To protect water, fauna, flora and the environment in general.

Rights of Way

30. No development shall commence until a Rights of Way Management Plan (RWMP) has been submitted to and approved in writing by the local planning authority. The RWMP shall be implemented as approved and shall include:
- (a) details of the temporary re-routing of public rights of way during construction of the authorised development;
 - (b) details of the provision of signage and other information alerting the public to construction works;
 - (c) details of any fencing or barriers to be provided during the construction period;
 - (d) details as to how public rights of way, paths and roads will be inspected prior to and monitored during the construction period;
 - (e) details of alternative routes for any public rights of way that need to be diverted; details of permissive routes to be provided within the site
 - (f) details of the BOAT diversion between approximate National Grid References 311900 281400 and 312700 280300;
 - (g) Details of how the RWMP shall not conflict with the ecological provisions contained in the Protected Species Protection Plan, and the Habitat Management Plan.

Reason: to protect public rights of way.

Ecology

31. No development shall commence until an on-site detailed Habitat Management Plan (HMP), setting out detailed nature conservation management objectives including the management of priority habitats and species, and a timetable for its implementation, has been submitted to and approved in writing by the local planning authority. The HMP shall include (but not be limited to) details of the habitat management measures contained in the Environmental Statement dated 2008, (where relevant) and the HMP dated February 2013 submitted with the 2013 Supplementary Environmental Information (SEI). The HMP shall be implemented as approved.

Reason: To minimise the environmental effects on habitats.

32. No development shall commence, including vegetation clearance and tree felling, until details of a suitably qualified ECoW to be employed on the development has been

submitted to, and approved in writing by the Local Planning Authority. The EcoW shall be responsible for:

- (a) Monitoring compliance with and reporting on the success or failure of the approved mitigation works and in the event of failures advising on remedial mitigation measures;
- (b) Advising the developer on the implementation of the approved mitigation proposals and the protection of important nature conservation interests on the site;
- (c) Directing and consulting on the micro-siting and placement of turbines, roads and other infrastructure;
- (d) Monitoring and reporting on the compliance with the Construction Environmental Management Plan (CEMP) and protected species protection plan
- (e) Attending liaison meetings with and reporting compliance with conditions and plans and mitigation measures to PCC and NRW and other parties as necessary

The approved ECoW shall be appointed at least one month prior to the commencement of any tree felling/site and vegetation clearance works or development and remain in the position throughout the construction period.

Reason: to ensure that the protection and mitigation measures proposed as part of the development are implemented correctly and in agreement with all statutory bodies.

33. No development, or vegetation clearance and tree felling, shall commence until a Protected Species Protection Plan (PSPP) has been, submitted to and approved in writing by the local planning authority. The Plan shall be implemented as agreed and include but not be limited to details of:
 - (a) the specification for pre-commencement surveys to be undertaken for bats, great crested newts, otters, dormouse, water vole, and badgers, to include survey methodology, schedule and timing, the development of casualty risk models for bats, and if present suitable mitigation measures to ensure their protection throughout the pre-construction, construction and operational phases of the development;
 - (b) detailed survey of watercourses and wetland areas for the presence of otter breeding and resting sites within a radius of 500m around each turbine and 500m either side of access tracks and areas subject to construction disturbance;
 - (c) detailed survey of areas up to 500m from water bodies for Great Crested Newts;
 - (d) a survey check for badger setts or badger foraging activity up to within 50m around construction areas and 100m of drilling, piling or blasting activity;
 - (e) the preparation of a hedgerow/habitat plan to include details of removal, translocation, and aftercare of all hedgerows and habitat to be affected by works within the site and the access road
 - (f) the measures to be undertaken to confirm compliance of all protected species mitigation, compensation and enhancement measures.

Reason: To ensure there is no detriment to the favourable conservation status of European protected species (as listed in Schedules 2 or 5 of the Conservation of Habitats and Species Regulations 2010) and to protect other statutorily protected species.

34. No development shall commence until an Ecological Monitoring Plan (EMP) is submitted to and approved in writing by the local planning authority. The EMP shall be implemented as agreed, and include the monitoring arrangements for the Habitat Management Plan (HMP) and Protected Species Protection Plan. Monitoring shall be undertaken of the HMP, bats and great crested newts at periods of at least 1, 2, 3, 5, 10 and 15 years after first export. The raw data, collated and interpreted results of all monitoring will be made available to the local planning authority and NRW within six months of being completed in each of the respective years. Monitoring protocols shall be agreed in writing by the local planning authority. The monitoring results will be taken into account when reviewing the HMP and if necessary the actions set out in the HMP will be amended after agreement with the local planning authority and NRW.

Reason: To ensure the impacts on the environment are minimised.

35. Development activities shall be carried out in full compliance with the mitigation measures identified in Section 8.7 of the 2008 Environmental Statement and Habitats Regulations Assessment (2010) (where applicable) in order to limit any impacts on the River Wye SAC.

Reason: In order to limit any impacts on the River Wye SAC.

36. All biodiversity databases & records collated, as a result of surveys/monitoring over the developments lifetime, which shall include pre-commencement surveys, shall be digitally submitted to the local planning authority and sent to the Biodiversity Information Service for Powys and Brecon Beacons National Park (BIS) within 6 months of the data being gathered.

Reason: to ensure that environmental data and information gathered is properly recorded.

Water Contamination & Private Drinking Water Supplies

37. No development shall commence until the results of an assessment of the quality of water in watercourses within the site, groundwater beneath the site, the methodology for which shall be agreed in writing by the local planning authority, has been submitted to and approved in writing by the local planning authority.

Reason: In order to protect water quality.

38. No development shall commence until the details of a scheme for the monitoring of water quality in watercourses within the site, groundwater beneath the site every 3 months throughout the construction period, and annually until the wind farm is fully decommissioned and the site restored, has been submitted to and approved in writing by the local planning authority. The scheme shall include suitable mitigation measures to be taken should the quality of water deteriorate.

Reason: In order to protect water quality.

Shadow Flicker

39. Prior to the erection of any wind turbine a scheme shall be submitted to and approved in writing by the local planning authority setting out a protocol for the assessment of shadow flicker in the event of any complaint alleging shadow flicker effects to the local planning authority from the owner or occupier of any dwelling within 10 diameter blade lengths of a turbine (defined for the purposes of this condition as a building within Use Class C3 or C4 of the Use Classes Order) which lawfully exists or had planning permission at the date of this permission. The written scheme shall include remedial measures to alleviate any effects of shadow flicker attributable to the development. Operation of the turbines shall take place in accordance with the approved scheme.

Reason: In the interests of local amenity of nearby residents.

Television Interference

40. Prior to the erection of any wind turbine a scheme providing for a baseline survey and the investigation and alleviation of any interference to television reception caused by the operation of the turbines shall be submitted to and approved in writing by the local planning authority. The scheme shall provide for the investigation by a qualified independent television engineer of any complaint of interference with television reception, where such complaint is notified to the developer by the local planning authority. Where impairment is determined by the qualified television engineer to be attributable to the development, mitigation works shall be carried out in accordance with the scheme which has been approved in writing by the local planning authority.

Reason: In the interests of amenity of nearby residents.

Cultural Heritage

41. No development shall take place until the applicant, or their agents or successors in title, has secured agreement for a written scheme of historic environment mitigation which has been submitted by the applicant and approved by the local planning authority in writing. Thereafter, the programme of work will be fully carried out in accordance with the requirements and standards of the written scheme.

Reason: To ensure that any archaeological value of the site is discovered and the findings are suitably recorded.

42. All records collated, as a result of the Scheme of Archaeological Investigation, shall be submitted to the local planning authority and sent to the Historic Environment Record (currently held by Clwyd-Powys Archaeological Trust) within 6 months of the record being gathered. The Scheme of Archaeological Investigation will include provision for the publication of results and the long term storage of artefactual remains.

Reason: To ensure that any archaeological value of the site is discovered and the findings are suitably recorded.

Aviation

43. No wind turbine shall be erected before the following information has been provided to the Defence Geographic Centre of the Ministry of Defence:
- (a) the date construction starts and ends;
 - (b) the maximum height of construction equipment;
 - (c) the latitude and longitude of every turbine.

Reason: In the interests of aviation safety

Community Liaison

44. No development shall commence until a community liaison scheme for the construction period has been submitted to and approved by the local planning authority. The community liaison scheme shall be implemented as approved and include:
- (a) details of developer liaison with the local community to ensure residents are informed of how the construction of the development is progressing;
 - (b) a mechanism for dealing with complaints from the local community during the construction of the development; and
 - (c) a nominated representative of the developer who will have the lead role in liaising with local residents and the relevant planning authority.

Reason: To ensure the amenity of local residents is protected.

Local Labour Provision

45. The development hereby approved shall not commence until details of a Training and Employment Management Plan has been submitted to and approved in writing by the local planning authority. The plan will aim to promote training and employment opportunities at all stages of the development for local people and maximise the use of local contractors and supply chains, in so far as this is commercially viable. The development shall be carried out in accordance with the agreed plan and any amendments to the plan shall be agreed in writing with the local planning authority.

Reason: To ensure local economic benefit from the development.

Noise

46. No turbine shall be brought into operation before a scheme for the assessment and regulation of Excess Amplitude Modulation (EAM) has been submitted to and approved by the Local Planning Authority. That scheme shall be in general accordance with, if it exists, any guidance endorsed in National Planning Policy of Guidance at that time; or in the absence of endorsed guidance, guidance published by the Institute of Acoustics. The approval scheme shall be implemented for the life of the development.

Reason: In the interests of residential living conditions.

47. The rating level of noise emissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with

the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

- (a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the local planning authority on its request, within 14 days of receipt in writing of such a request;
- (b) No electricity shall be exported until the wind farm operator has submitted to the local planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the local planning authority;
- (c) Within 21 days from receipt of a written request from the local planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the local planning authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the local planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the local planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component;
- (d) The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously, have been submitted to and approved in writing by local planning authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the local planning authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits;
- (e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the local planning authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant

considers as being likely to experience the most similar background noise environment to that experienced at the complainant’s dwelling. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the local planning authority for the complainant’s dwelling.

- (f) The wind farm operator shall provide to the local planning authority the independent consultant’s assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (c), unless the time limit is extended in writing by the local planning authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the local planning authority with the independent consultant’s assessment of the rating level of noise emissions;
- (g) Where a further assessment of the rating level of noise emissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant’s assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the local planning authority.

Reason: To protect the amenity of the area.

Table 1 – Noise limits expressed in dB $L_{A90,10\text{ minute}}$ to be applied to Noise from Garreg Lwyd at all times of Day or Night if the Wind Farm at Llanbadarn Fynydd is Operational

Location	Standardised 10 metre-height Wind Speed (as defined in accordance with the attached Guidance Notes to the noise condition)											
	1	2	3	4	5	6	7	8	9	10	11	12
Blaen-nant-du	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Blaen-nant-du 2	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Bryn-mawr Cottage	37.5	37.5	37.5	37.5	37.6	40.5	43.6	46.7	49.6	52.3	54.4	54.4
Bwlch-gwyn	37.5	37.5	37.5	37.5	37.5	37.5	39.4	42.2	45.2	48.4	48.4	48.4
Cork Cottage	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Cwm yr Hob	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Cwm-gwyn Hall	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3

Location	Standardised 10 metre-height Wind Speed (as defined in accordance with the attached Guidance Notes to the noise condition)												
	1	2	3	4	5	6	7	8	9	10	11	12	
Cwm-mawr	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	34.7	35.0	35.0
Cwm-mawr Stud	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Ddol	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Ddol - Holiday Home	35.0	35.0	35.0	35.0	35.0	35.1	36.0	36.0	35.2	35.6	35.6	35.6	35.6
Garn	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Gatehouse Farm	37.5	37.5	37.5	37.5	37.5	40.3	44.2	48.2	52.1	55.9	59.3	59.3	59.3
Great House Barn	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3	47.3
Green Hollow	37.5	37.5	37.5	37.5	37.5	40.3	44.2	48.2	52.1	55.9	59.3	59.3	59.3
Gwenlas	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Hendy	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3	47.3
Higher Fiddlers Green	35.0	35.0	35.0	35.0	35.0	35.0	35.2	35.1	35.0	35.0	35.0	35.0	35.0
Hopes Castle Farm	37.5	37.5	37.5	37.5	37.5	39.3	42.8	46.4	49.9	53.0	53.0	53.0	53.0
Killowent	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3	47.3
Little House Farm	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3	47.3
Llanrhys	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3	47.3
Lower Fiddlers Green	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Lower Green	37.5	37.5	37.5	37.5	37.5	37.7	40.2	42.9	45.7	48.5	48.5	48.5	48.5
Lower House Farm	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3	47.3
Lower House Holt	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3	47.3
Maes-gwyn	37.5	37.5	37.5	37.5	37.5	37.7	40.2	42.9	45.7	48.5	48.5	48.5	48.5
New House	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3	47.3
Pink House	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3	47.3
Rhuid	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3	47.3
Scrubs Farm	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3	47.3

Location	Standardised 10 metre-height Wind Speed (as defined in accordance with the attached Guidance Notes to the noise condition)											
	1	2	3	4	5	6	7	8	9	10	11	12
Sign	37.5	37.5	37.5	37.5	37.5	37.5	39.4	42.2	45.2	48.4	48.4	48.4
Tansomalia	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Tynybryniau	37.5	37.5	37.5	37.5	37.5	37.7	40.2	42.9	45.7	48.5	48.5	48.5
Upper Cae-glas	37.5	37.5	37.5	37.5	37.5	37.7	40.2	42.9	45.7	48.5	48.5	48.5
Upper Green	37.5	37.5	37.5	37.5	37.5	37.7	40.2	42.9	45.7	48.5	48.5	48.5
Upper Ty-Ilidiart	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Waen	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0	35.0
Wood Cottage	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3

Table 2 – Noise limits expressed in dB $L_{A90,10 \text{ minute}}$ to be applied to Noise from Garreg Lwyd at all times of Day or Night if the Wind Farm at Llanbadarn Fynydd is not Operational

Location	Standardised 10 metre-height Wind Speed (as defined in accordance with the attached Guidance Notes to the noise condition)											
	1	2	3	4	5	6	7	8	9	10	11	12
Blaen-nant-du	37.5	37.5	37.5	37.5	37.5	37.6	41.0	44.6	48.2	51.9	55.8	59.7
Blaen-nant-du 2	37.5	37.5	37.5	37.5	37.5	37.6	41.0	44.6	48.2	51.9	55.8	59.7
Bryn-mawr Cottage	37.5	37.5	37.5	37.5	37.6	40.5	43.6	46.7	49.6	52.3	54.4	54.4
Bwlch-gwyn	37.5	37.5	37.5	37.5	37.5	37.5	39.4	42.2	45.2	48.4	48.4	48.4
Cork Cottage	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Cwm yr Hob	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Cwm-gwyn Hall	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Cwm-mawr	37.5	37.5	37.5	37.5	37.5	37.5	37.5	37.5	38.0	40.0	42.2	44.7
Cwm-mawr Stud	37.5	37.5	37.5	37.5	37.5	37.5	37.5	37.5	38.0	40.0	42.2	44.7
Ddol	37.5	37.5	37.5	37.5	37.5	37.5	37.5	37.5	38.0	40.0	42.2	44.7

Location	Standardised 10 metre-height Wind Speed (as defined in accordance with the attached Guidance Notes to the noise condition)											
	1	2	3	4	5	6	7	8	9	10	11	12
Ddol - Holiday Home	37.5	37.5	37.5	37.5	37.5	37.5	37.5	37.5	38.0	40.0	42.2	44.7
Garn	37.5	37.5	37.5	37.5	37.5	37.6	41.0	44.6	48.2	51.9	55.8	59.7
Gatehouse Farm	37.5	37.5	37.5	37.5	37.5	40.3	44.2	48.2	52.1	55.9	59.3	59.3
Great House Barn	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Green Hollow	37.5	37.5	37.5	37.5	37.5	40.3	44.2	48.2	52.1	55.9	59.3	59.3
Gwenlas	37.5	37.5	37.5	37.5	38.3	39.7	41.3	42.9	44.7	46.5	48.6	50.7
Hendy	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Higher Fiddlers Green	37.5	37.5	37.5	37.5	37.5	37.5	37.5	37.5	38.0	40.0	42.2	44.7
Hopes Castle Farm	37.5	37.5	37.5	37.5	37.5	39.3	42.8	46.4	49.9	53.0	53.0	53.0
Killowent	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Little House Farm	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Llanrhys	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Lower Fiddlers Green	37.5	37.5	37.5	37.5	37.5	37.5	37.5	37.5	38.0	40.0	42.2	44.7
Lower Green	37.5	37.5	37.5	37.5	37.5	37.7	40.2	42.9	45.7	48.5	48.5	48.5
Lower House Farm	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Lower House Holt	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Maes-gwyn	37.5	37.5	37.5	37.5	37.5	37.7	40.2	42.9	45.7	48.5	48.5	48.5
New House	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Pink House	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Rhuvid	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Scrubs Farm	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Sign	37.5	37.5	37.5	37.5	37.5	37.5	39.4	42.2	45.2	48.4	48.4	48.4
Tansomalia	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Tynybryniau	37.5	37.5	37.5	37.5	37.5	37.7	40.2	42.9	45.7	48.5	48.5	48.5

Location	Standardised 10 metre-height Wind Speed (as defined in accordance with the attached Guidance Notes to the noise condition)											
	1	2	3	4	5	6	7	8	9	10	11	12
Upper Cae-glas	37.5	37.5	37.5	37.5	37.5	37.7	40.2	42.9	45.7	48.5	48.5	48.5
Upper Green	37.5	37.5	37.5	37.5	37.5	37.7	40.2	42.9	45.7	48.5	48.5	48.5
Upper Ty-Ilidiart	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3
Waen	37.5	37.5	37.5	37.5	37.5	37.5	39.4	42.2	45.2	48.4	48.4	48.4
Wood Cottage	37.5	37.5	37.5	37.5	37.5	37.8	39.9	42.3	44.8	47.3	47.3	47.3

Table 3: Coordinate locations of the properties listed in Tables 1 and 2

Property	Easting	Northing
Blaen-nant-du	310772	281936
Blaen-nant-du 2	310535	281877
Bryn-mawr Cottage	312712	281598
Bwlch-gwyn	314530	276779
Cork Cottage	314124	282351
Cwm yr Hob	315104	279678
Cwm-gwyn Hall	313667	282633
Cwm-mawr	310786	279885
Cwm-mawr Stud	310692	279592
Ddol	311201	279689
Ddol Holiday Home	311344	279818
Garn	310215	281777
Gatehouse Farm	315162	280038
Great House Barn	314944	281823
Green Hollow	316167	279704
Gwenlas	311435	280395
Hendy	314897	282374
Higher Fiddlers Green	311658	281737

Property	Easting	Northing
Hopes Castle Farm	313288	281753
Killowent	315017	280583
Little House Farm	314734	281967
Llanrhys	315899	278546
Lower Fiddlers Green	311761	281614
Lower Green	312910	278434
Lower House Farm	315527	278940
Lower House Holt	315460	279110
Maes-gwyn	315029	277734
New House	315556	278508
Pink House	315655	278530
Rhuvid	314814	281316
Scrubs Farm	316152	280018
Sign	312131	279161
Tansomalia	316061	280298
Tynybryniau	312296	278537
Upper Cae-glas	313496	276907
Upper Green	312768	278726
Upper Ty-Ilidiart	314475	282226
Waen	312205	282244
Wood Cottage	315841	280678

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Note:

For the purposes of this condition, a “dwelling” is a building within Use Class C3 & C4 of the Town and Country Planning (Use Classes) Order 1987 which lawfully exists or had planning permission at the date of this consent.

Guidance Notes for Noise Condition 47

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

- (a) Values of the $L_{A90,10 \text{ minute}}$ noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- (b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The $L_{A90,10 \text{ minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.
- (d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres . It is this standardised 10 metre height wind speed data, which is correlated with the noise

measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

- (e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.
- (f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

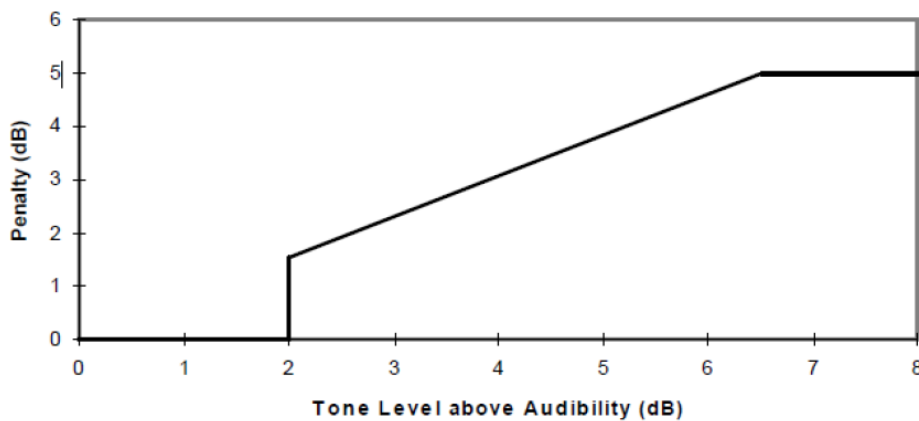
Guidance Note 2

- (a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b)
- (b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Local Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.
- (c) For those data points considered valid in accordance with Guidance Note 2(b), values of the $L_{A90,10 \text{ minute}}$ noise measurements and corresponding values of the 10- minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- (b) For each 10 minute interval for which $L_{A90,10 \text{ minute}}$ data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise immissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

- (c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104109 of ETSU-R-97.
- (d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.
- (e) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.
- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

- (a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (d) of the noise condition.
- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.
- (c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant’s dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall

undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

- (d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
- (e). Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.
- (f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

- (g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- (h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (e) of the noise condition then the development fails to comply with the conditions.

ANNEX E

RECOMMENDED CONDITIONS - Appeal B

Time Limits

1. The development shall begin no later than five years from the date of this decision.

Reason: For the avoidance of doubt.

2. Subject to the conditions attached to this permission, the development shall be carried out in accordance with the following approved plans and documents:

2013 Access Route ES, Appendix 2: Garreg Lwyd Hill Wind Farm Traffic Management Plan

- Appendix E: Drawing 01589D2431-04 Sheets 1-4 (of 4)
- Appendix G: Drawing 01589D2423-05: Figure 1.3 Access Route Works on Llanbadarn Fynydd Wind Farm Site

2014 Access Route SEI

- Appendix 3.11 Drawing number 01589D2533-04 Sheets 1 to 8 (of 8) 2014 Planning Red Line Boundary – Access A483 Route

Reason: For the avoidance of doubt.

Highways

3. No development shall take place until detailed plans of the new junction with the A483 trunk road have been submitted to and approved in writing by the local planning authority. The details submitted shall reflect plan reference 01589D2430-04 and include:

- (a) details of visibility splays that shall be kept free at all times of any obstruction including trees and shrubs exceeding 1.05 metres in height above the adjoining carriageway;
- (b) drainage details; and
- (c) road markings and signage proposals

The works shall be implemented in accordance with the approved details and within five days of the new access first being brought into use, the existing access to Hafod Fach shall be permanently closed and the highway reinstated in accordance with the agreed details.

Reason: To ensure a satisfactory means of access is provided in the interests of highway safety.

4. No deliveries by abnormal indivisible load shall take place until detailed plans of improvements to the A483 trunk road between Newtown and the A483 trunk road site access have been submitted and approved in writing by the local planning authority. The details submitted shall reflect the improvements indicated within sTMP6 Revision

T dated March 2014. The works shall be implemented in accordance with the approved details.

Reason: To ensure a satisfactory means of access is provided in the interests of highway safety.

5. No development shall take place until detailed plans of the new junctions and other highway works on the C1057 county highway have been submitted to and approved in writing by the local planning authority. The details submitted shall reflect plan reference 01589D2430-04 and include:
 - (a) details of visibility splays that shall be kept free at all times of any obstruction including trees and shrubs exceeding 1.05 metres in height above the adjoining carriageway;
 - (b) drainage details;
 - (c) road markings and signage proposals; and
 - (d) a programme for the implementation of the works.

The works shall be implemented in accordance with the approved details.

Reason: To ensure a satisfactory means of access is provided in the interests of highway safety.

6. No deliveries by abnormal indivisible load shall take place until an assessment of the capacity and impact on the highway and all structures forming part of the highway along the delivery route including layover areas, passing places, bridges, culverts, retaining walls, embankments, drainage systems, street lighting, street signs, safety barriers is carried out and submitted to and approved by the local planning authority and full engineering details and drawings of any works required to such structures to accommodate the passage of abnormal indivisible loads have been submitted to and approved by the local planning authority and the approved works shall be completed prior to any abnormal indivisible load deliveries to the site

Reason: in the interests of highway safety and amenity.

7. Abnormal Indivisible Loads (AILs) shall be delivered along the routes specified in Sections 1, 2, 4, 5 (part within Newtown) and 6 of the Strategic Traffic Management Plan for Mid-Wales Wind Farms (the sTMP) dated August 2012 (section 6 Revision T is dated March 2014) unless the Newtown Bypass is constructed. No abnormal indivisible loads shall be delivered to the Site until a traffic management plan (TMP) for abnormal indivisible load deliveries as an addendum to the sTMP has been submitted to and approved by the local planning authority. Thereafter abnormal indivisible loads shall be carried out in accordance with the sTMP and approved TMP. The TMP shall include:
 - (a) Rights of access to any junction improvements, passing places layover areas and welfare facilities that are not proposed to form a part of the highway network;
 - (b) Management of junctions and crossings of highways and other public rights of way while abnormal indivisible load deliveries take place;

- (c) Management and maintenance of layover areas, passing places and welfare facilities while abnormal indivisible load deliveries take place;
- (d) Details of temporary warning signs;
- (e) Restrictions on abnormal indivisible load movements during the Royal Welsh Show;
- (f) Details of any alterations to any works that are carried out to enable abnormal indivisible load movements proposed to be implemented after such movements are completed;
- (g) A review mechanism in light of the construction of the Newtown Bypass

Reason: To ensure the safety of the highways affected and that the developer rectifies any damage caused.

8. No abnormal indivisible load deliveries shall be made to the site until an abnormal indivisible load management strategy has been submitted to and approved in writing by the local planning authority. All AIL deliveries shall be carried out in accordance with the approved abnormal indivisible load management strategy which will include details of the following:
- (a) Management and maintenance of abnormal indivisible load delivery strategies and management of AIL deliveries;
 - (b) Means of control of timing of delivery AIL movements;
 - (c) Temporary traffic diversions and traffic hold points;
 - (d) Details of banksmen and escorts for abnormal loads;
 - (e) Coordination with all other AIL deliveries (including without limitation to other wind farms in Mid Wales);
 - (f) Description of procedures for the allocation of delivery slots including delivery slot triggers and trading;
 - (g) The appointment and role of a Transport Coordinator to administer the abnormal indivisible load delivery strategy;
 - (h) Liaison with relevant highway and planning authorities and the Police;
 - (i) Liaison with members of the public and local communities;
 - (j) Liaison with the hauliers, developers and landowners prior to the submission of notifications for AIL deliveries and applications for Special Orders for AIL deliveries.

Reason: in the interests of highways safety and amenity.

9. No construction works shall take place on site until a Construction Traffic Management Plan (CTMP) for non-abnormal indivisible load vehicles has been submitted to and approved in writing by the local planning authority. The approved traffic management plan shall thereafter be complied with and will include details of the following:
- (a) construction vehicle routeing;
 - (b) means of monitoring vehicle movements to and from the site including the use of liveried construction vehicles displaying the name of the developer, the vehicle number, a telephone number for complaints and procedures for dealing with complaints;
 - (c) timing of vehicle deliveries to the site;
 - (d) the management of junctions and crossings of highways and other public rights of way;
 - (e) contractual arrangements for the control of construction traffic offsite and to ensure that complaints and breaches of the TMP requirements are able to be remedied;
 - (f) a travel plan aimed at maximising the use of sustainable travel by the construction workforce associated with the development;
 - (g) vehicle movements during the Royal Welsh show;
 - (h) communications with members of the public and local communities;
 - (i) a review mechanism in light of the construction of the Newtown Bypass

Reason: in the interests of highway safety and amenity

10. No construction works shall take place on site until a scheme to provide for the remediation of any damage or deterioration of the highway (to include both the trunk road and the local road network) attributable to the development has been provided to the local planning authority and approved in writing. Such a scheme shall include:-
- (a) The undertaking of a condition survey of the proposed highway to be used as AIL and construction traffic delivery routes prior to commencement of development;
 - (b) The undertaking of further condition survey work after first export; and
 - (c) Provision of details and timescale for works to remediate damage or deterioration to all parts of the highway including street furniture, structures, highway verge and carriageway and footway surfaces.

The scheme shall thereafter be implemented in accordance with the approved details.

Reason: To ensure the safety of the highways affected.

11. No movement of traffic associated with any decommissioning of the development shall take place until a traffic management plan dealing with such decommissioning

has been submitted to and approved in writing by the local planning authority and thereafter the approved TMP shall be implemented

Reason: To ensure the safety of the highways affected.

12. No abnormal indivisible load movements associated with any repairs or replacement components shall take place during the life of the development until a traffic management plan dealing with such repair and/or replacement has been submitted to and approved by the local planning authority and thereafter the approved TMP shall be implemented

Reason: To ensure the safety of the highways affected.

Ecology

13. No development, vegetation clearance or tree felling associated with the Highways Improvements shall commence until a protected species protection plan has been submitted to and approved by the Local Planning Authority. The Plan shall be implemented as agreed and include but not be limited to details of:
- (a) Avoidance / mitigation (where necessary) required to prevent incidental capture/killing of otters during the construction phase;
 - (b) Avoidance, mitigation (where necessary) and compensatory measures for bats as set out in the Access Route SEI 2014 sections 4.7.16-19;
 - (c) Appropriate avoidance / mitigation (where necessary) measures for dormouse;
 - (d) The provision of on-site and off-site compensation for dormouse;
 - (e) Submission of long term management prescriptions for on-site compensation for dormouse;
 - (f) Submission of long term monitoring prescriptions for dormouse and bats;
 - (g) Water vole update surveys and any appropriate mitigation measures for the section of the access road between Cwm y Berllwyd across the proposed Llanbadarn Fynydd wind farm to the wind farm entrance.

Reason: To ensure that there is no detriment to the Favourable Conservation Status of European Protected Species and nationally protected species

14. Prior to commencement of development, including site clearance, any vegetation clearance and tree felling associated with the highway improvements an ecological compliance audit scheme shall be submitted to and approved by the local authority detailing:
- (a) Aims and objectives of the compliance audit scheme;
 - (b) Appropriate success criteria including key performance indicators;
 - (c) Methods of data gathering;
 - (d) The timing and frequency of audits;

- (e) Responsible persons and lines of communication to include the employment of an Ecological Clerk of Works during the construction phase and one month prior to works commencing.

The ecological compliance audit scheme shall be implemented in accordance with the approved details.

Reason: To ensure that the environmental impacts of the scheme are minimised.

- 15. No development including site clearance, scrub and vegetation removal and tree felling works associated with the highways improvements shall commence until a detailed, site specific Construction Environment Management Plan (CEMP) is submitted to and approved in writing by the local planning authority. The CEMP, shall cover the periods of site clearance, construction and the restoration of all work areas and shall include detailed method statements, contractor arrangements, reporting and liaison mechanisms between the contractor, ECoW, the local planning authority and NRW, monitoring and contingency proposals for implementation, including:
 - (a) A construction plan including measures to address silt-laden run-off from any workings, soil storage and other engineering operations;
 - (b) Working statement (including design and construction) to cover all channel and bank works including all channel crossings;
 - (c) A detailed timetable for tree felling, vegetation and site clearance, construction and habitat management. The timetable should include potential contingencies for birds and protected species.
 - (d) Measures to be taken during vegetation and site clearance, tree felling and the construction and restoration periods to protect wildlife and habitats including legally protected species, and the River Wye SAC.
 - (e) The hours of working for all construction activities;
 - (f) An Environmental Management and Pollution Prevention Plan (to include a water quality monitoring plan) which comprises arrangements to protect groundwater, surface water and the River Wye SAC during site clearance, construction and the restoration phases of development including wet weather contingency measures and an Incident Response Plan in the event of a pollution incident and measures for the storage of materials including soil and its disposal;
 - (g) Arrangements for fuel storage and fuelling, the storage and handling of oils and lubricants, and the handling of cement materials to prevent any entry to watercourses and contingency plans in the event of spillage;
 - (h) Access, signing and re-routing arrangements for recreational users during construction activities;
 - (i) Construction method statements for the construction works, including works compounds and any reinstatement;
 - (j) Details and method statements for hedgerow removal, translocation and replanting including all long term aftercare of hedgerows. The condition of

- hedgerows/vegetation to be translocated/removed should be detailed in addition to the proposed replanting mixes and all short and long term management;
- (k) Reinstatement of any disturbed ground post construction, including re-vegetation of access track and highway edges and hardstanding areas (where practicable and required by the Local Planning Authority), in order to reduce their visual and ecological impact, together with measures to monitor its success;
 - (l) Emergency site procedures in the event of disturbance or fatality of any otters or badgers;
 - (m) Nothing other than uncontaminated excavated natural materials shall be tipped on the site;
 - (n) Temporary site illumination including proposed lighting levels together with the specification of any lighting;
 - (o) A biosecurity risk assessment to include
 - (i) the containment, control and removal of invasive non-native species on site
 - (ii) measures to prevent the colonisation or introduction of invasive non-native species or diseases on site
 - (p) Measures to mitigate damage to road verge nature reserves.

The development shall be implemented in accordance with the approved CEMP unless otherwise agreed in writing with the Local Planning Authority.

Reason: To ensure the environmental impacts of the works are minimised.

16. Within 6 months of permission being granted, all databases & records collated within the Environmental Statement and Supplementary Environmental Information shall be digitally sent to Biodiversity Information Service for Powys and Brecon Beacons National Park ('BIS').

Reason: To ensure the findings are suitably recorded