

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: P/2014/0672 **Grid Ref:** 313083.41 260357.03

Community Council: New Radnor **Valid Date:** 14/07/2014 **Officer:** Andrew Metcalfe
(Planning Consultant)

Applicant: Hendy Wind Farm Limited

Location: Land off A44 SW of Llandegley, Llandrindod Wells, Powys

Proposal: Full: Construct and operate 7 wind turbines with a maximum tip height of 110m and maximum hub height of 69m together with ancillary development comprising substation, control building, new and upgraded access points and tracks, hardstanding and temporary compound and associated works

Application Type: Application for Full Planning Permission

The reason for Committee determination

The planning application is accompanied by an Environmental Statement.

Site Location and Description

The application site is located circa 6km east of the town of Llandrindod Wells, circa 2.8km south west of the Penybont, and circa 2.5km north of the small rural settlement of Franksbridge.

The application site sits within a relatively low lying valley landscape with ridge lines generally running north/south to its east (peaking at circa 540m) and west (peaking at circa 440m). The turbines themselves will be located between 290m and 340m meaning they will be (in part) visible from distance over the tops of the surrounding terrain – this is discussed in more detail later in this report.

The application site has Public Rights of Way and peat within it. A section of the access road included within the application boundary is registered as common land i.e. (Radnorshire) - CA34, Llandegley Rhos. Llandegley Rhos Common is subject to rights of common and the owner, as recorded in the register, is 'Green Price Settled Estates' (The Gwernaffel Estate).

The area surrounding the application site hosts a number of Scheduled Ancient Monuments and Listed Buildings. The area also hosts a variety of wildlife including breeding birds.

The Environmental Statement (ES) states that the proposal is to construct and operate a wind farm of up to 17.5 MW comprising of:

- 7 (110m tip height) wind turbines (2.5 MW each) and associated infrastructure including crane hard standing areas;
- 1 no. new site entrance to the east off the A44;
- Construction of c. 3.3 km of new access tracks;
- Circa 1km of existing track to be upgraded;
- Construction of temporary site compound (20m x 30m) close to turbine T5;
- Construction of a new on-site substation (circa. 40m x 20m) which includes a control building (25m x 10m) south of turbine T3.

The Development would generate electricity for 25 years after which time it will be decommissioned. Alternatively, the life of the Development may be extended subject to further environmental studies and new consents.

Consultee Responses

Powys County Council – Commons Registration

- Response dated 15th July 2014

We've been made aware that an application has been made to the Planning Inspectorate, for consent for works on common land and for deregistration and exchange. The site is at Llandegley Rhos Common and we have become aware of the application through an advertisement in the County Times on 4th July.

However, to date, no public notice has been sent to Commons Registration in relation to these applications. It would have been sent out by the applicants (Sir Robert Green-Price and Hendy Wind Farm Limited) and we would have expected to receive a copy of the public notice by now. I am emailing to ask whether notice of the application has been sent to the Chief Executive, as is sometimes the case; if so, please let me know.

- Response dated 24th July 2014

I am emailing with regard to applications that have recently been made to the Planning Inspectorate for consent for works, and for deregistration and exchange in respect of an area of common land near Llandegley. We believe that these applications may relate to a planning application (P/2014/0672), for construction of 7 wind turbines and ancillary development. The area of common land affected is Llandegley Ethos Common, which is register unit RCLO34.

We have become aware of the applications for consent for works (under section 38 of the Commons Act 2006), and for deregistration and exchange under section 16 of the Commons Act 2006, because we have been notified by graziers and residents of an advert that appeared in the County Times on 4th July. A scan is attached. This is part of the statutory process; it is the responsibility of the applicant to place the advert.

The applicant is also required to serve notice of the application on a number of parties, including those with grazing rights. Although the regulations do not state that notice must be served on the Commons Registration Authority, the Planning Inspectorate's application forms advise that notice must be served on any relevant County Council. The Regulations and

PINS application forms are attached; the information in the application forms about those to be notified is under sections I (section 16 applications) and J (section 38 applications)

We have not received notification of the application from the applicant, to date; I have checked with Julie Shaw, in case a notice was sent directly the Chief Executive, but they have not received anything. Likewise, we have also checked with Graham Eales of Legal Services and with Gwilym Davies of Planning Services.

The other issue that has been raised is that the register unit quoted in the newspaper adverts has been given the correct name, but the wrong register unit number; the number quoted is RCL3S.

Having discussed the matter with Stuart Mackintosh and with my colleague, Claire Lewis, we feel that these issues do need to be raised with the Planning Inspectorate. We would also like the opportunity to review the proposed exchange land, as it may impact on both the registered rights of common and the CRoW access enjoyed by the public. The deadline for any representations is 1st August.

Before we contact the Planning Inspectorate, I would be most grateful if you could let me know if you have any comments or advice in relation to this, as I understand that you are co-ordinating responses from the Council, from a legal perspective, in relation to wind farm planning applications.

- Response dated 1st August 2014

Thank you for giving Commons Registration the opportunity to comment on the above planning application.

The application does affect an area of registered common land. The eastern part of the application site is located on an area of land registered under the Commons Registration Act 1965 as register unit (Radnorshire) CL34 and known as Llandegley Rhos Common.

A GIS plan identifying the location of the registered common land is enclosed. Commons Registration records show that:

- The owners of the part of common affected by this application are Sir Robert John Green-Price and the Gwernaffel Estates.
- The common is subject to grazing rights.

As the applicant has indicated in the Environmental Statement, two of the access tracks that are proposed to be upgraded do cross the common. In addition, they have stated that temporary fencing will be needed.

It is noted that the applicant has acknowledged the additional protection afforded to registered common land, by sections 16 and 38 of the Commons Act 2006, and is making a Common Land application to the Planning Inspectorate.

Commons Registration advice is that before any construction work on the common starts:

- Consent under section 38 of the Commons Act 2006 must be obtained;

- A section 16 application must be processed and a 'Deregistration and Exchange' Order issued to the Commons Registration Authority.

- Response dated 10th December 2015

Thank you for consulting Commons Registration about the additional information in relation to P/2014/0672. Having reviewed the information, the Commons Registration service has nothing to add to the comments previously made in response to this planning application.

Powys County Council – Countryside Services

- Response dated 21st August 2014

Thank you for the opportunity to comment on this application. Countryside Services would like to register a holding objection to this proposal until additional information is supplied.

From the information made available at this time, it would appear that public rights of way are going to be affected by the application. Countryside Services recommend that turbines are kept tip height from footpaths and 200m from other public rights of way (bridleways, restricted byways and byways open to all traffic or BOATs). Of the proposed turbines at Hendy, the majority fail to meet these recommended distances.

- Turbine 2 is 110m from BOAT CR127
- Turbine 3 is 172m from BOAT CR127
- Turbine 4 is 189m from bridleway LA1218
- Turbine 5 is 127m from bridleway LA1218
- Turbine 6 is 170m from BOAT CR127

The applicants have not offered any permissive additional routes to allow users to keep the recommended distances from the proposed turbines.

Of major concern is the intention to use BOAT CR127 as the main access track into the site. The current plans show the access track running along byway CR127 and then cutting across it at a number of locations. Footpath GC1570 also has an access track running along it to the south of the site, for access to a borrow pit. Figure 3.1 in the Planning Statement shows the location of the substation on top of Footpath GC1570.

In our scoping response, dated 21st August 2013, we requested that the developer provide a single, suitably marked site map indicating clearly all the recorded public rights of way, along with the proposed turbine locations and proposed access tracks with the relevant radius zones shown. They have failed to provide this map, which has meant that it is difficult for people viewing the application to accurately assess the impact of this proposal on the public rights of way network. The information on public rights of way that is provided is on times inaccurate; for example, distances of turbines from public rights of way quoted on P.8 of the Planning Statement, showing a footpath as a bridleway in Fig.7.1 and paths shown in the wrong locations.

It is clear that the turbines are going to have an impact on the visual amenity of the users of the public rights of way network. Therefore, we request that this impact is assessed by the

council's expert. Countryside Services request to see a copy of the PCC Landscape and Visual Architect's report before submitting a final response to this application.

Countryside Services have significant concerns surrounding this application, which have not been addressed following our scoping response. Once we are in receipt of the additional information requested, we will provide a full response. Therefore, we would like to register a holding objection to the proposed Hendy Wind Farm at this time.

- Response dated 29th March 2017

From the information made available at this time, it would appear that public rights of way are going to be affected by the application. Countryside Services recommend that turbines are kept tip height from footpaths and 200m from other public rights of way (bridleways, restricted byways and byways open to all traffic or BOATs). Of the proposed turbines at Hendy, the majority fail to meet these recommended distances.

- Turbine 2 is 110m from BOAT CR127
- Turbine 3 is 172m from BOAT CR127
- Turbine 4 is 189m from bridleway LA1218
- Turbine 5 is 127m from bridleway LA1218
- Turbine 6 is 170m from BOAT CR127

The applicants have now offered a permissive additional route to allow users (walkers, cyclists and horse riders) to keep further from the proposed turbines. They also propose a pre-development condition requiring a micrositing protocol, which includes the micrositing of turbines 2 and 3 away from the public rights of way, to be submitted to and agreed by the Council. If the proposed micrositing occurs, the permissive route would allow 200m recommended distances to be met.

It has now been confirmed that the substation will not be located on top of Footpath GC1570. Concerns were raised about the intention to use BOAT CR127 as the main access track into the site. The current plans show the access track running along byway CR127 and then cutting across it at a number of locations. The applicant is now offering a pre-development condition requiring an access management plan to be submitted to, and agreed by the Council. This plan will set-out, in detail, how the BOAT would be managed during construction to allow safe access by all public users at all times. The plan will need to consider all public rights of way affected during construction and how they will be managed safely. Temporary closures, with diversions, may be required. If so, the applicant is recommended to contact Countryside Services ASAP as the process, for which a separate fee applies, can take a couple of months.

It is clear that the turbines are going to have an impact on the visual amenity of the users of the public rights of way network. Countryside Services request that this impact is assessed by the council's expert and included within their final report.

The applicant has offered additional mitigation in terms of a pre-development condition requiring the access track from the footpath south of the substation GC1570 to the BOAT to be designated as a permissive right of way for the life of the scheme. This permissive route means that the dead-end footpath will now link to the BOAT CR127, offering improved access in the area.

A pre-development condition has also been offered requiring an access management plan to include the reasonable upgrading of the byway through the applicant's property to be submitted to, and agreed by, the Council. Upgrading BOAT CR127 could again provide benefits to the network and users.

A draft s106 has been submitted, which outlines that the applicant is prepared to offer a public rights of way contribution to the sum of £17,500 to allow PCC to provide maintenance and improvements to the local public rights of way network. This would provide users improved opportunities for avoiding the wind farm site if they wish.

Countryside Services have assessed the clarification information provided and additional mitigation offered by the applicant. In light of such, Countryside Services will remove their holding objection to this proposal.

Powys County Council – Highways

- Response dated 21st August 2014

Further to the reasonably comprehensive submission provided for this application the Highways Authority do still require clarification and additional information on the following points:-

- The proposed access route to the site from the SSA C includes a section of the A44 just east of Crossgates where a railway bridge crosses the highway with just 4.4m height clearance. The submission clearly indicates AIL's of heights equal to or greater than this and we therefore do not consider this route to be feasible. Other companies have already dismissed this route as unworkable and sought alternatives
- The TMP includes swept path diagrams identifying manoeuvres through junctions south of Crossgates which therefore do not tally with the access route detailed throughout the documentation.
- The red line boundary within the application fails to include any of the areas of land required for the highway improvements or holding areas proposed within the submission.
- The holding points detailed in section 4 of the TMP have been produced based on Ordnance Survey background data and in order to accurately assess the viability of the proposals the details should be re-submitted based on topographical surveys at scales not exceeding 1 in 500.
- The access arrangements to the site seem to be un-necessarily complicated. It is far from clear why a second access is required when any vehicle travelling from the east would have already passed two alternative access points to the site.
- Full engineering drawings and the appropriate safety audit is required for the proposed new access point detailing access visibility, forward and tangential visibility and additional information regarding the specification of the central barrier.

- Full engineering details are required of the proposed works to the U1574 between the new access link track and the properly known as Pye Corner.
- Copies of the traffic count print outs should be provided so that the Highways Authority can check the figures tabulated within the documents.
- Clarification of how speed limits and travel direction will be realistically enforced is requested. I consider the distance vehicles exiting left from the site will have to travel to Crossgates roundabout is totally unrealistic and believe other road junctions will be utilised for this manoeuvre if such an arrangement is pursued.
- Finally, for information, it should be assumed that the Highways Authority will require an appropriate agreement and bond relating to abnormal wear and tear to the highway network, specifically covering the entire costs in respect of the unclassified U1574.

I trust it is accepted that this list may not be exhaustive and further information may be sought following receipt of the details requested above. Additionally all drawings which relate to the access route to the site, including those already supplied will need to be submitted based on topographical surveys at a scale not exceeding 1 in 500.

- Response dated 5th April 2017

The County Council as Highway Authority for the Class 1 A44 and unclassified U1574.

The details submitted with the application are generally acceptable in that it would appear that a safe means of access can be provided to serve the construction of the development. However, we will require the submission of full engineering details for all aspects of the works that will affect any part of the county highways. Accordingly, we have included a number of pre-commencement conditions to ensure that those details are formally approved before any works commence on the site.

1. No development shall take place until detailed engineering drawings of all highway works on the A44 and U1574 have been submitted to and approved in writing by the local planning authority. The works shall be designed in accordance with the standards in the Design Manual for Roads and Bridges. The details submitted shall also include:
 - a) Drainage details;
 - b) Road markings and signage proposals
 - c) A programme for the implementation of the works
 - d) Details of visibility splays that shall be kept free of obstruction exceeding 0.26 metres above the carriageway level.
 - e) The submission of Road Safety Audits prior to the works being undertaken and upon completion of the highway works.

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

2. No deliveries by Abnormal Indivisible Loads 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.

3. Abnormal Indivisible Loads (AIL's) shall be delivered along the routes specified in Sections 1,2,4,5 of the Strategic Traffic Management Plan for Mid-Wales Wind Farms (the sTMP) dated August 2012 unless the Newtown Bypass is constructed. No AIL's shall be delivered to the site until a Traffic Management Plan (TMP) has been submitted and approved in writing by the local planning authority. Thereafter, AIL's shall be carried out in accordance with the sTMP and approved TMP. The TMP shall include:
 - a) Management of junctions and crossings and any other public rights of way while AIL deliveries take place;
 - b) Management and maintenance of layover areas, passing places and welfare facilities while AIL deliveries take place;
 - c) Details of temporary signing;
 - d) Restrictions of AIL movements during the Royal Welsh Show;
 - e) Details of any alterations to any works that are carried out to enable AIL movements proposed to be implemented after such movements;
 - f) A review mechanism in light of the construction of the Newtown Bypass.

4. No AIL 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 AIL management strategy which will include details of the following:
 - a) Means of control of timing of delivery of AIL movements;
 - b) Temporary traffic diversions and traffic hold points;
 - c) Details of banksmen and escorts for abnormal loads;
 - d) Coordination with all other AIL deliveries (including without limitation to other wind farms in Mid Wales)
 - e) Description of procedures for the allocation of delivery slots including delivery slot triggers and trading;
 - f) The appointment and role of a Transport Coordinator to administer the Abnormal Indivisible Load delivery strategy;
 - g) Liaison with relevant highway and planning authorities and the Police;
 - h) Liaison with members of the public and local communities;
 - i) Liaison with hauliers, developers and landowners prior to the submission of notifications for AIL deliveries and applications for Special Orders for AIL deliveries.

5. 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 Construction Traffic Management Plan shall thereafter be complied with and will include 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 Newtown Bypass
6. No construction works shall take place on site until a scheme to provide for the remediation of any damage or deterioration of the county highway 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 delivery routes prior to the commencement of development;
 - b) The undertaking of further condition survey work after the first export (this being the date when Hendy wind farm wind turbine development first exports electricity to the National Grid on a commercial basis) 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.
7. 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 and approved in writing by the local planning authority and thereafter the approved TMP shall be implemented.
8. 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 in writing by the local planning authority and thereafter the approved TMP shall be implemented.

Powys County Council – Ecology

- Response dated 20th August 2014

Further information is required for ecology. This information is required prior to determination. Due to time constraints and resources, I have not yet managed to visit the site and as such this is not a comprehensive response, however, the key material insufficient information gaps have been identified. Any further information gaps should be picked up by the ecological

consultants in addressing the identified inadequacies set out below. I intend to visit the site but a site visit is best undertaken with yourself and NRW.

I have attached the above documents which the ecology impact assessment should comply with.

Background on which to base the scoping report and survey requirements

The desk study has not been undertaken in accordance with CIEEM, SNH or BCT guidance. The desk study should include designated sites up to 5km and up to 10km for SPAs. This is the standard zone of influence for wind farm impact assessments, particularly with regard to sites designated for birds. The impact assessment for birds needs to be revised to take into account the designated sites up to 10km. Red kites and other target species have been shown to forage at least 7km from their nesting sites.

Of particular note is that the Radnor Forest SSSI, which is designated for its breeding raptors and breeding golden plover, has not been included in the impact assessment. It is located approximately 4.5km to the east of the site. This site and other relevant sites should be included in the impact assessment.

Birds

I have compared the survey results with the Radnorshire bird reports and I have looked the target species up in the Birds of Radnorshire (Peter Jennings 2014) and the survey results and the evaluations do not correspond to these up-to-date bird records. Therefore, the impact assessment needs to be revised to include these records, including any collision risk assessments. In particular, the starling roost at Llandegley is a well known roost that has been there for many, many years. The starling roost is several times larger than recorded during your surveys and therefore the collision risk may be altered by an order of magnitude, perhaps from 200 to 2000 or greater? The ES concludes that the starling roost identified during their survey work is likely to be transient. This is not the case. It is a well known winter roost which has been there for decades and therefore is of much greater than district value. The status of starling, an RSPB red list bird and a UK Priority BAP species, at the site needs to be re-evaluated taking into account the Radnorshire Bird Report data and the potential impacts and collision risk reassessed.

The ES states that golden plover do not breed on the site. The ES states that the closest records are 35km to the west however, they breed on the Radnor Forest SSSI within 5km of the site. Is there no suitable breeding habitat for them on the site?

The impact assessment for target bird species and other significant numbers of birds at the site, such as the winter roost of starlings at Llandegley Rhos (located within the site) reported in the Birds of Radnorshire to be between 135,000 and 180,000 birds (estimated to be 10,000 in your report), needs to be revised to include the local bird information from the Radnorshire Bird Report

A high number of red kite records were recorded for the site. What methodology was used for identifying red kite nests?

Please could the methodology for determining the target species also be provided. The surveyed area does not comply with the SNH guidance as the surveyed area does not extend beyond 500m of the north eastern site boundary. Further survey will be required unless an adequate justification is given for the deviation from the standard methodology. Please could the start and finish times for each of the vantage point bird surveys be provided to assist me in interpreting the results. The report doesn't consider that goshawk and sparrow hawk are target species, an explanation is required. These are both protected species. The impacts to curlew have not been considered in the assessment. Curlew are very sensitive to disturbance particularly when breeding and there were two pairs recorded close to the site access but there is no consideration of them in the impact assessment and no specific mitigation proposed. This needs to be addressed.

A cumulative impact assessment for ecological impacts, particularly potential impacts to birds and bats and habitat loss (particularly any areas of unimproved grassland and habitats of ecological value), is also required.

The information provided in the RSPB Collision Risk checklist above needs to be provided and the impact assessment should assess the potential impacts for the life of the wind farm. Where potential impacts to European designated sites are identified, a Habitats Regulations Assessment will be required and the applicant is required to provide the information to inform this.

Peat

With regard to the peat depth mapping. What survey methodology was followed? Is this an acceptable method to NRW? NRW produced guidance for this type of assessment in 2010, and unless agreed otherwise, Powys County Council require this survey method to be undertaken.

Great Crested Newts

With regard to great crested newts, the HSI is not reliable when there are waterbodies close by that support great crested newts. Whether a pond has potential to support great crested newts or not is greatly influenced by the presence of great crested newts nearby, i.e. a poor quality pond will support great crested newts if there are great crested newts in nearby ponds. Therefore, all ponds within 500m of the area affected by the proposed development are required to be surveyed for great crested newts.

Reptiles

If suitable habitat is present on the site then it should be assumed that common lizards and perhaps also slow worms, will be present. Areas of habitat suitable to support reptiles should be shown on a map and graded as to their potential, i.e. high, medium, low, and negligible.

Habitats of Biodiversity Value

With regard to habitats, and the species-rich marshy grassland, pillwort is considered to be of global significance and I would therefore place the species-rich marshy grassland to be of regional importance as a minimum rather than county value.

Habitat Restoration and Potential Biodiversity Gain

The proposed development of a wind farm at the site should include an extensive habitat restoration scheme as the habitats within the site are known to have degraded in their biodiversity value over recent decades and the government has set a target to reverse biodiversity loss by 2020 and large development proposals are best placed to contribute to this.

Habitats Regulation Assessment — River Wye SAC

The proposed development may impact on the River Wye SAC, therefore the nearest point of the River Wye SAC and feeder watercourses needs to be identified. A Habitats Regulations Assessment is required.

Bats

With regard to bats, potential impacts to noctule bats and pipistrelle bats were identified and further survey effort was undertaken to better understand how noctule bats and other bat species are using the site to inform the impact assessment. The bat survey report on the account of high levels of bat activity at some of the turbines, namely, turbines T5, T7, T8, T9, T10, T11 and T12, recommends that it may be appropriate to increase the cut-in speeds of the turbines either side of dusk and dawn and on a seasonal basis. Therefore, curtailment conditions should be considered for bats. However, the other impacts have to be considered also such as impacts to birds and landscape, etc.

Other Protected Species and Habitats of Biodiversity Value

A Construction Ecological Mitigation Plan (CEMP) will be required for the site which details all the measures to be implemented to safeguard all protected species and habitats of ecological value during construction.

All of the above information is required prior to determination.

- Response dated 7th April 2017

Thank you for consulting me with regards to planning application P/2014/0672 which concerns an application for the construction and operation of 7 wind turbines with a maximum tip height of 110m and maximum hub height of 69m together with ancillary development comprising substation, control building, new and upgraded access points and tracks, hardstanding and temporary compound and associated works.

A response regarding ecology matters and this application was previously provided by Hannah Powell on the 20th August 2017. Within this response request for clarification regarding a number of issues was raised, to address this additional information has been submitted to provide additional information and clarification.

The additional information provided with regards to ecology matters comprises:

- Letter from Cunnane Town Planning dated 23rd March 2015 including statement from ADAS consultant ecologist responding to the comments provided by Hannah Powell and Natural Resources Wales
- Appendix A: Hendy VP Summary Revised 170315, prepared by ADAS UK Ltd
- Appendix B: Reptile Survey Area, Hendy Windfarm, Powys, prepared by ADAS UK Ltd
- Appendix C: Hendy Wind Farm Habitats Regulations Assessment Screening Report, prepared by ADAS UK Ltd

Concern was raised over the zone of influence for which designated sites was considered within the ES, in order to address this the zone of influence has been extended to 10km of Internationally designated sites and 5km for nationally designated sites. No additional internationally designated sites were identified in the extended search area, an additional 8 SSSI were identified as a result of the extended search radius for nationally designated sites – of these only 2 were identified as having birds as features of interest – the other sites identified were for geological or vegetation features.

The Glascwm and Gladestry SSSI identifies red grouse as features of the SSSI, the Radnor Forest SSSI identifies upland breeding birds as a feature of the SSSI. It is acknowledged that whilst these sites were not included in the original ES the surveys undertaken – breeding bird surveys, winter walkover surveys and Vantage Point surveys would have considered the features associated with these sites and the assessments of potential impacts to these features provided in the ES would also be appropriate to consider impacts to these sites and their associated features.

Clarification has been provided regarding the survey methodology for determining target species and identification of red kite breeding sites in addition details regarding timings of Vantage Point surveys has also been provided – the methodology used is considered to be in accordance with relevant guidance and standards and is considered appropriate to enable assessment of potential impacts. The ES concludes that the survey results and collision risk modelling indicates that operational risks of the wind farm to the target species considered would result in non-significant impacts and would not affect the potential of the populations of these species to maintain current numbers.

Curlew were recorded during the surveys, two pairs were recorded either side of the proposed access track at Pye Corner – no mitigation was proposed within the ES for this species. Curlew are highly sensitive to disturbance particularly during the breeding season. In order to address potential impacts to this species it has been identified that construction operations in relation to the track in the area will not be carried out during the curlew breeding season, this precaution will need to be identified within a Construction Environmental Management Plan (CEMP), in addition consideration will also need to be given to the potential for additional or revised areas of no construction activities during the curlew breeding season as a result of pre-commencement survey results.

Concerns were also raised over the presence of a starling roost at Llandegley Rhos – comparisons were made between the results of the surveys undertaken to inform the proposed development and the results of the ‘Birds of Radnorshire’ report and whether additional collision risk modelling was required to assess the discrepancies between the data. The additional information submitted has provided further clarification regarding the observed behaviour and flight patterns of starlings observed during the surveys – the birds were observed flying at low height and were arriving at the roost from directions other than through

the proposed wind farm. In addition it has been proposed that given the transitory nature of starling roosts and ability for this species to adapt to alternative roost location the area of plantation in which the roost is located is felled which would cause the roost to relocate to an alternative location a greater distance from the proposal – whilst this is considered to be an option to reduce the collision risk to this starling roost it must be noted that under the Conservation of Habitats and Species Regulations 2010 (as amended) requires Local Authorities to take measures to preserve, maintain and re-establish habitat for wild birds. This duty includes promoting and delivering habitat management and restoration, and/or habitat creation, to support wild birds through the planning process. As such should the felling of this area form part of the mitigation identified in the Protected Species Protection Plan (PSPP) then appropriate compensation habitat will need to be provided – this could be included as part of a Habitat Management and Enhancement Plan.

Clarification has been provided regarding the methodology used to assess peat depths at the site, it is noted that the methodology used is in accordance with published guidance. The ES identifies that no areas of infrastructure are located on areas of deep or medium depth peat with infrastructure proposed for drier areas of the site – clarification should be sought from NRW as to the acceptability of the methodology.

Great crested newts have been identified in a number of ponds at the site, medium to low population sizes were recorded during the surveys, limited mitigation measures have been proposed within the ES with regards to Amphibians:

Amphibians

No mitigation is considered necessary in respect of amphibians (aside from maintaining a 19mph speed limit on the site). This is because the likelihood of negative effects is very low. This applies to Great Crested Newt as well as other amphibians.

NRW identified in their response dated 22nd December 2014 that they consider that the proposed development is not likely to be detrimental to the favourable conservation status of great crested newt, provided any consent is subject to the imposition of planning conditions or obligations securing the submission of a Reasonable Avoidance Scheme including measures that will be implemented during the construction phase of the development – it is recommended that a Reasonable Avoidance Method Statement (RAMS) for great crested newts is secured through a condition for a Protected Species Protection Plan.

Clarification was requested over areas present on the site considered suitable to support reptiles, a plan indicating the location and extent of habitat considered suitable to support reptiles has been provided. This area was considered to be of medium potential to support reptiles and records of common lizard were made in this area. Limited mitigation measures have been proposed within the ES with regards to Amphibians:

Reptiles

No mitigation is considered necessary in respect of reptiles (aside from maintaining a 19mph speed limit on the site). This is because the likelihood of negative effects is very low.

As common lizard have been recorded on the site and the proposed infrastructure crosses the area of suitable habitat for this it is recommended that a Reasonable Avoidance Method

Statement (RAMS) for reptiles with regards to construction activities is secured through a condition for a Protected Species Protection Plan.

Species rich marshy grassland supporting pillwort has been identified in the north of the site – it was identified in the response made by Hannah Powell that this area of habitat should be considered to be of Regional Importance. This area of habitat is outside of the proposed development area and is not directly impacted by any construction activities – whilst there are no direct impacts considered likely indirect impacts of pollution from construction activities could result in negative impacts – Chapter 10 of the ES and the submitted Hendy Wind Farm Habitats Regulations Assessment Screening Report, prepared by ADAS UK Ltd identify pollution prevention measures that will be implemented, it is considered that the measures proposed are appropriate to prevent negative impact to this area of habitat during the construction phase – full details of pollution prevention measures should be secured through a Construction Environmental Management Plan condition.

As required by Part 1 Section 6 of the Environment (Wales) Act 2016 Local Authorities are required to seek to maintain, enhance and restore biodiversity through all of their functions this includes the planning process. The letter from Cunnane Town Planning identifies that the applicant is amenable to committing to a habitat restoration scheme – this is welcomed. It is recommended that a Habitat Management and Enhancement Plan is secured through a planning condition, any habitat management, restoration or creation identified will need to be appropriate to the site and species associated with the local area and it will need to be demonstrated that proposed measures are achievable – concern has been raised over the suggestion of provision of habitat restoration for the Llandegley Rhos Common area given the potential difficulties in securing management measures on Common Land.

With regards to bats concerns with regards to the perceived impact to Noctule bats were raised by both Hannah Powell and NRW in their response dated 22nd December 2014, in the letter from Cunnane Town Planning the response to NRW's comments with regards to bats identifies that should post-consent/preconstruction surveys reveal unacceptable collision risks to bats then a curtailment scheme will be suggested on specific turbines. The submission and agreement of details of pre-commencement surveys will need to be secured through a planning condition, proposed curtailment measures including the criteria at which curtailment should be applied and the timing/winds speeds in which curtailment would occur should also be identified within a Protected Species Protection Plan.

In NRW's response dated 22nd December 2014 an objection to the application was raised due to lack of transparent Habitats Regulations Assessment for the River Wye SAC. In order to address this a Habitats Regulations Assessment Screening Report produced by ADAS dated February 2015 has been submitted.

As the Competent Authority with regards to projects requiring planning permission PCC are required by Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) to assess the potential for projects to impact European Designated sites, as such the information submitted has been used to undertake a Habitats Regulations Assessment Screening has been undertaken for the River Wye SAC.

Having reviewed the information provided by the applicant as well as comments received from NRW it has been determined that the proposed development would not result in a likely

significant effect to the SSSI's, River Wye SAC and/or its associated features – I have attached a copy of the Screening Assessment for your records.

Should you be minded to approve the application it is recommended that planning conditions are included to secure the following:

- Construction Environmental Management Plan (CEMP) – submission prior to commencement of development. 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
 - Pollution Prevention Plan
 - Invasive Non-Native Species Control Plan
- Protected Species Protection Plan (PSPP) – submission prior to commencement of development. The PSPP will need to include
 - A detailed Pre-commencement Survey Programme including specification for pre-commencement surveys to be undertaken for (but not limited to) bats, otter, curlew, water vole, badger, great crested newt and reptiles and include:
 - survey methodology
 - schedule and timing
 - the development of casualty risk models for bats
 - Details of specifications for Mitigation or Reasonable Avoidance Measures including in relation to bats, great crested newts, otters, reptiles, breeding birds, water vole, pillwort and badgers to ensure their protection throughout the pre-construction, construction and operational phases of the development
- Habitat Management and Enhancement Plan – submission prior to commencement of development This plan will set out detailed nature conservation management and enhancement objectives including the management, restoration or creation of priority habitats and/or species, and a timetable for its implementation. The plan will need to include confirmation of the deliverability of the identified measures.
- Confirmation of appointment of a suitably qualified Ecological Clerk of Works (ECoW) to be employed on the development – submission prior to commencement of development
- Submission of an Ecological Monitoring Plan (EMP) – submission prior to commencement of development. The EMP will need to include details of monitoring of Ecological features through construction, operation and decommissioning of the development, the monitoring will also need to be linked to appropriate contingency plans and identify when results would trigger implementation of relevant contingency measures identified in the CEMP. The EMP shall also include the monitoring arrangements for the Habitat Management Plan (HMP) and Protected Species Protection Plan (PSPP).
- It is recommended that the wording of the conditions to secure the above includes provision for the submitted details to be reviewed for approval by PCC and Natural Resources Wales.

- Response dated 12th April 2017

I have realised that in my previous response to planning application P/2014/0672 I have not made specific reference to consideration of impacts to SSSIs as a result of the development, whilst I did not directly refer to this in my response I confirm that potential for the development to result in negative impacts to these designated sites and or their associated features was considered and following the receipt of additional information it is considered that the proposals subject to adherence to the mitigation measures identified would not result in negative impacts to the SSSIs or their associated features.

The following SSSI are present within 5km of the proposed development consideration of the potential for impact based on the type of SSSI is provided below:

- River Ithon SSSI (also designated as River Wye SAC)
- River Wye (Tributaries) SSSI (also designated as River Wye SAC)

The mitigation measures identified within the Habitats Regulations Assessment Screening Report produced by ADAS with regards to the River Wye SAC are also applicable to demonstrate protection of the associated SSSIs which form part of the River Wye SAC. Having concluded that the measures identified are acceptable and appropriate to avoid harm to the SAC it is also considered that these are appropriate to avoid harm to these SSSIs

- Banc Hirllwyn SSSI – areas of acid grassland vegetation and the nationally scarce maiden pink
- Cae Cwm-Rhocas SSSI - large hay meadow supporting an unusual plant community that has strong affinities with those found in certain flood-meadows
- Cae Llwyn SSSI - an excellent example of a traditionally managed herb-rich meadow supporting both "wet" and "dry" plant communities
- Caeau Coed Mawr SSSI - one of the most extensive areas of agriculturally unimproved grassland remaining in the area, the site also contains a short stretch of the River Edw
- Graig Fawr SSSI - good examples of both acidic and calcareous grassland; for its woodland; and for its lichen community developed on volcanic rocks.
- New Castle Meadows SSSI - good example of species-rich pasture and hay meadow

The above SSSIs are designated for vegetation features, the features would not be directly impacted by the proposed development. Indirect effects e.g. dust, pollution etc. have also been considered and the mitigation measures identified within the ES and HRA Screening Report regarding construction and decommissioning phases of the development are considered to be appropriate to minimise any potential negative impacts to these SSSIs.

- Radnor Forest SSSI - well developed submontane heath communities over thin blanket peat, upland breeding birds
- Glascwm and Gladestry Hills SSSI - excellent example of heather moorland of a predominantly dry heathland type, The site is of high ornithological interest for moorland birds, it has one of the largest red grouse populations in Wales

In addition to the vegetation components of these SSSIs ornithological importance for these sites has also been identified, having reviewed the surveys undertaken to assess impacts to birds from the proposed wind farm as well as the additional information submitted with regards to the survey methodology used to assess the potential impacts it is considered that the surveys have been undertaken in accordance with the recognised guidelines and the assessment results provided demonstrate that the development would not result in significant

negative impacts to bird species identified during the surveys – as such it is considered that the proposed wind farm would not have a negative impact to the mobile features associated with these SSSIs

- Howey Brook Stream Section SSSI – Geological Importance

This SSSI is designated for its geological interest.

Apologies again for the omission of this information in my previous response.

- Response dated 19th April 2017

In Hannah Powell's response to this application dated 20th August 2014 she asked for clarity regarding the potential for the site to support golden plover – the ES stated that golden plover did not breeding on the site of the proposed development and that the nearest records were 35km to the west – however it was identified by Hannah Powell that golden plover were known to breed on the Radnor Forest SSSI within 5km of the site.

Given the identification of breeding populations of this species in a closer proximity than that identified within the ES clarity was sought regarding the potential for this species to breed on the proposed windfarm site i.e. were suitable habitats present for breeding purposes.

The statement provide by the ADAS ecologist Cunnane Town Planning letter dated 23rd March 2015 provides further detail regarding the suitability of the site to support golden plover, surveys undertaken only recorded small number s of this species during spring/autumn migratory periods – the habitats present comprise improved, poor semi-improved and semi-improved grassland considered to be largely unsuitable for feeding and wholly unsuitable for breeding.

Given the further information provided regarding the habitats and suitability of the site to support breeding golden plover it is considered that whilst the ES had not identified the presence of breeding golden plover within 5km of the site at the Radnor Forest SSSI the assessment that the proposed wind farm site is not used by this species for breeding is appropriate due to lack of suitable habitats required by this species during breeding this is further supported by low numbers and timings during which this species was observed during the breeding bird surveys and VP surveys.

Welsh Government as Highway Authority

- Response dated 13th August 2014

I refer to your consultation of 23 July 2014 regarding the above application and advise that the Welsh Government as highway authority for the A44 trunk road directs that the application remains pending until such time as the information below is provided:

1. Within the ES, it has been indicated in 13.8.2 that the movement of Abnormal InvisibleLoads (AIL's) would 'potentially' include a police escort. In addition, the Traffic Management Plan (TMP) describes that the route and movement will also have a Police

escort. The Welsh Government and the Police would require the proposed AIL's to be escorted and the required TTRO(s) to be in place in advance of any proposed movements.

2. Section 3 of the TMP focusses on the sTMP and the movement of AIL's. Reference is made to the use of the proposed Newtown by-pass if completed by the time of their deliveries or alternatively use of the proposed Mochdre link. The document refers to the developer consortium proposing to construct the link. Further information is required detailing whether the applicant is part of the consortium? If not, what guarantees do they have that it will be put in place?

3. If the applicant is a partner they are assuming that all wind farm proposals south of Newtown will be given consent and that the link will be in place when they need it. What proposals does the applicant have if the proposed routes (i.e. sTMP and/or NewtownBypass are not available or in place).

4. Section 4 of the TMP includes details for hold points. This information has been produced using an OS background and in order to accurately assess the viability of these proposals the applicant would need to submit detailed proposals based on a topographical survey at a scale not exceeding 1:500.

5. Section 5 of the TMP identifies a number of proposed signs that will advise the travelling public of wind farm deliveries. The design and proposed location will need to be agreed/approved by the Highway Authority.

6. At the end of the TMP there are various swept path drawings. These identify turning movements on a number of junctions south of Crossgates. These drawings imply that the AIL's journey is from the south, whilst the text states the route is from the north. Clarification is required about the actual route proposed for the AIL's.

7. If the proposed route is from the north, swept path drawings(s) will need to be provided for the bends along the A483 south of Newtown that will need to be negotiated by the proposed AIL convoys. Currently the application does not include, (within red line boundary), any additional land that may be required to allow the proposed AIL(s) to manoeuvre these tight bends. Therefore the applicant must be able to demonstrate that the above manoeuvre is possible without any additional land being required under their control or ownership or it must be included within their application.

8. All drawings including those already supplied (if relevant to the proposed route), will need to be submitted based on a topographical survey at a scale not exceeding 1:500.

If you have any further queries, please contact Darryn Hill on 029 20826676 or darryn.hill4wales.psi.gov.uk

- Response dated 16th December 2015

I refer to your consultation of 25 November 2015 regarding the above application and advise that the Welsh Government as highway authority for the A44 trunk road directs that the application remains pending until such time as the information below is provided:-

1. Detailed dimensions are required at all the proposed layover / holding areas, together with a mid point dimension if they are intended to be located on a curve (long or wide loads at mid point would reduce available width).

The following points should be brought to the attention of the applicant:

a) The AIL's are intended to travel from north Wales to the site, recent loads have actually arrived in a south Wales port and travelled northwards then into England and then back into Wales using the A44. This would seem to be a far quicker and easier route.

b) It is noted that the intention is to run the loads from Ellesmere Port, I would point out that Ellesmere Port is currently suffering a shortage of space and is likely to suffer at the time of these deliveries. An alternative Port put forward by other developments is Liverpool.

c) It must also be highlighted that the recent AIL's at Crossgates managed to negotiate the roundabout by straddling the splitter islands once the bollards were removed and avoided extensive works being undertaken.

d) Specific details regarding timing, number of vehicles etc. shall be agreed in consultation with Police, WG, Agents and UA's as appropriate.

- Response dated 22nd March 2017 following an email from Gwilym Davies to Welsh Govt seeking confirmation of whether the matters raised could be addressed by condition as per their position in relation to the recent Bryn Blaen application.

With reference to your recent correspondence, I can confirm that the Welsh Government would be willing to accept the conditions from page 25 onwards [of the Bryn Blaen decision notice].

Natural Resources Wales

- Response dated 22nd December 2014

Thank you for consulting Natural Resources Wales on this application. This letter is NRW's response to the consultation letter dated 18th July 2014.

NRW note that this is a proposed development for 7 wind turbines, 110m to blade tip that lies outside a TAN 8 Strategic Search Area for major wind farms.

NRW agree with the findings of the Landscape and Visual Impact Assessment, which indicate there would be significant landscape and visual adverse effects within 5 km of the proposal over an area extending in an arc clockwise from the North to the South west of the site. We also advise that there would be significant adverse effect upon the viewpoint at Gwaunceste Hill. Therefore, NRW advise that the proposed development would have significant adverse regional effects upon landscape and visual resource. We also note that the LVIA has not considered the impact of infrastructure associated with this scheme namely roads and grid connection. We would have expected this to have been considered in the LVIA.

However, NRW can confirm that no nationally designated landscapes will be impacted by this development.

Natural Resources Wales objects to the application on the grounds of:

- lack of a transparent Habitats Regulations Assessment for the River Wye SAC.

Our detailed comments are set out below in Annex 1.

Annex 1

Two operational small wind turbines 14m to hub height lie at 1km and 2.5km to the south of the proposed Hendy wind farm site and one turbine 21m high to rotor tip lies at 3.5km to the north.

The site of the Pentre Tump wind farm proposal for 3 turbines 110m high to rotor tip, lies 6km to the south east of the Hendy proposal and was dismissed at appeal (Planning Inspector's report January 2014).

Landscape and visual assessment

NRW generally concur with the LVIA methodology and assessment of predicted effects, but are concerned that the LVIA underplays the significance of effects upon views from some locations; the effects upon landscape character as a result of the associated infrastructure of access road, substation and grid connection have not been given sufficient discussion and assessment; the representation of the development illustrated within the photomontages does not include the associated infrastructure or worst case viewing conditions; and the scope of the cumulative impact assessment needs revisiting following the appeal dismissal of the Pentre Tump development.

LANDMAP evaluates the visual and sensory landscape resource of the area to be of local value (Moderate) for the plateau landscape where the site is proposed and of regional value (High) for the high scenic quality of the adjacent upland hills and ridges of Radnor Forest and Gwaunceste Hill. We also consider Llandegley Rocks to the north of the site to be of high scenic quality – higher than assessed by LANDMAP, which in considering a more extensive area of landscape at level 3 assessment, has averaged out and in this case underplays the scenic qualities of the northern extent of this area. These qualities are experienced within views from the A44 and wider public rights of way network to the north east and east.

Irrespective of the overall landscape evaluations - attractive views, tranquil, exposed, remote, wild and spiritual perceptual qualities can be experienced across the area. Traditional upland and lowland farmed rural character, limited landscape change and lack of modern development is both evident within views of the area and also conferred by LANDMAP historic landscape evaluation, which is of national value (Outstanding) in the area of the site and of regional value (High) for much of the remaining area.

There are frequent locations within the area from which local and middle distant views of the development would be possible, including the public right of way network (strong regional recreational network of routes including byways open to all traffic, bridleways, footpaths and open access land); Sustrans National Cycle Trail 825; the A44 (major route used by local communities and visitors to Mid Wales from the English Midlands) and A481 (major route used by local communities). Many of these routes have elevated vantage points, above the

more visually enclosed field pattern of the valleys and would allow open and prolonged views of the development. The scale and prominence of the development would create a new landmark in the landscape, with movement from rotor blades which attract attention and in the worst cases control and command views.

NRW consider the landscape and visual sensitivity of the area, which includes valued perceptual qualities of ridges and uplands of high scenic quality; attractive views, tranquillity and historic landscape integrity across much of the area; and the areas access and openness to views from the public right of way network, open access land, national cycle trail and main roads; is a context within which the proposed development cannot be accommodated without significant adverse regional scale effects.

Ecology

Protected sites (SSSI and SAC)

The ES1 states that “the scheme lies within 3km of one internationally-designated site, the River Wye Special Area of Conservation (SAC), and this raised the requirement to consider the proposal in terms of its effects on the site. Full consideration was given to this and it was concluded that there would be no effect.” However the ES does not give any details of how this conclusion was arrived at. There are watercourses within the site that drain into the River Wye SAC, providing a hydrological link to the SAC.

Due to the proximity to designated watercourses, the project will need to be considered under the Conservation of Habitats and Species Regulations 2010 (as amended). Given the current information available to us NRW would advise that the project is likely to have a significant effect on the European site and a Habitats Regulations assessment is required. The HRA will need to rely on many of the mitigation measures in a Construction Environmental Management Plan (CEMP) and we advise that a draft CEMP is provided at the pre-application stage for comment and to support the HRA.

Caeau Coed Mawr SSSI, Graig Fawr SSSI and Howey Brook Stream Section Sites of Special Scientific Interest (SSSI) are within 3 km of the site boundary. NRW does not consider there is the potential for these SSSI’s to be adversely affected by the proposal because of the distance between the application site and the SSSIs and/or because the features of the sites are not sensitive to windfarm development.

Protected Species

Protected Species Protection Plan

NRW advise that a Protected Species Protection Plan is provided by the applicant predetermination, which could be incorporated into the Construction Environmental Management Plan, to guide the Ecological Clerk of Works.

Regulation 9 (3) of the Conservation of Habitats and Species Regulations 2010 (as substituted) requires public bodies in exercising any of their functions, to have regard to the requirements of the 1992 ‘Habitats’ Directive (92/43/EEC) and the 2009 ‘Birds’ Directive (2009/147/EC) so far as they may be affected by the exercise of those functions. Our advice

is given in accordance with Regulation 9(1) of these regulations under which we are required to exercise our functions so as to secure compliance with the Habitats and Birds Directives.

The presence of a protected species is a material planning consideration under the provisions of Planning Policy Guidance Wales and Technical Advice Note No. 5. The applicant has consequently undertaken survey and assessment to inform the decision making process. We are generally satisfied with the surveys undertaken, which show that the site supports species protected under the provisions of the Wildlife and Countryside Act 1981 (as amended); the EC Habitats and Species Directive (as implemented by the Conservation of Habitats and Species Regulations 2010 (as amended)). In this case bats and great crested newt are the species considered most likely to be affected by the proposal. The proposal has the potential to cause

- (i) Disturbance, killing or injury to newts and/or loss or damage to terrestrial habitats during the construction phase of the proposal; and
- (ii) killing or injury to bats during the operation phase of the proposal

Bats

The surveys confirmed that several bat species were recorded within and in the environs of the application site, In NRW's view, the assessments and conclusions on Myotis species of bat are satisfactory. In respect of assessments, limited contextual information was provided in the ES.

Both Soprano and Common Pipistrelle were recorded. Of these, Soprano Pipistrelle appears to be the species most likely to be affected by the scheme. Relatively low numbers of bats were recorded. However, only limited contextual information was provided in the ecological submission.

Of the species recorded, Noctule bat is considered to be of highest risk in terms of possible impacts.

Noctule bat was recorded at 5 surveillance points and the maximum number of passes was 16. Numbers of passes was suggested as being low. It was further suggested that passes could be a single individual bat. However, typical size of a Noctule roost may be between 20-30 bats and only limited contextual information was provided in order to assess the scheme in terms of impact on conservation status.

NRW advise a condition requiring surveillance, and if impacts are subsequently detected, the requirement of curtailment as a contingency measure or prescription. Bat mitigation measures should be included in the Protected Species Protection Plan, which should also confirm that turbine blade tips are a safe distance from habitat features, in line with current guidance.

Great Crested Newt

Owing to the presence of a population of great crested newt on the application site, we advise that development proceeds under a licence issued by NRW, who is the appropriate authority responsible for issuing licences under Regulation 53(2)(e) of the above Regulations. This licence can only be issued for the purposes of: "preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment." Furthermore, the licence can only be issued by NRW on condition that there is: "no

satisfactory alternative”, and that “the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.”

In our view the proposal is not likely to be detrimental to the maintenance of the favourable conservation status of great crested newt, provided that any consent is subject to the imposition of planning conditions or obligations in respect of the following: a. Submission and implementation of an approved reasonable avoidance scheme to the satisfaction of the LPA. We advise this scheme needs to include measures that will be undertaken during the construction phase of the scheme.

Otter

The environmental assessment showed that Otters use the site, particularly the River Edw corridor. The ES does not adequately assess the magnitude and significance of potential impacts on this species. For example, the ES states that it is not considered that there is likely to be any serious disturbance to otter because otter usage of the site is largely after dark. However it is clear that construction activity is intended during hours of darkness. We advise therefore that further mitigation measures are detailed by the applicant, in the Protected Species Protection Plan, to avoid significant effects on otters.

Badger - A badger sett was recorded within the site. According to the ES2, the badger sett is located at least 250m from proposed turbine locations, and access tracks would be located at least 75m from the set. Therefore no significant impacts on badgers are expected as a result of the proposal. NRW advise that the mitigation measures for badgers included in the ES are included in the Protected Species Protection Plan. We would advise that a suitably worded condition is included in any planning permission your authority is minded to grant, for this plan to be agreed with the LPA in association with NRW.

Water Vole - Water voles are given full protection under Part I Section 9 of the Wildlife and Countryside Act 1981 (as amended). It is an offence to intentionally or recklessly kill, injure or take this animal, damage, destroy or obstruct access to any place that it uses for shelter or protection or disturb it while it is occupying such a place. A licence is generally required before carrying out any activity which could lead to any of the above. Surveys were carried out for water voles but no signs were found. Owing to the protected status of water voles, suitable mitigation measures should be included in the Protected Species Protection Plan.

Birds

Curlew - Curlew was recorded as a breeding species in 2013, in two areas either side of the access track in the southern part of the site, in the vicinity of Pye Corner. Recent research has shown that displacement impacts on breeding curlew occur in particular during the construction phase of windfarm developments (Pierce-Higgins et al, 2012). The 2013 breeding territories were situated just over a km from proposed turbine locations; research indicates that displacement impact can occur up to 800m from construction areas. NRW therefore advise that, in order to ensure curlew are not impacted by the construction phase of the development, that pre-construction survey is carried out in the spring in order to identify the location of breeding curlew. If curlew are found within 800m of any construction areas, further consideration of mitigation measures will be required, focussing on avoidance of construction disturbance during the breeding season.

Other bird Species - Breeding survey visits, following Brown and Shepherd methodology, were carried out in 2012. The results of these surveys show low breeding activity for Barn Owl, Red Kite, Quail, Lesser Redpoll, Tree Pipit, Linnet, Song Thrush, Grasshopper Warbler and Willow Warbler. The ES3 concluded that the quality of the habitat on the majority of the site is poor for breeding birds, with the best areas located on the south-eastern and north-western boundaries and on the felled coniferous plantation.

A specific survey for Red Kites conducted during spring and summer 2012 found that two or three pairs of Red Kite were suspected to be breeding within a 2 km buffer zone from the core study area.

Winter walkover survey following Brown and Shepherd methodology revealed that Lapwing, Golden Plover, Snipe, Jack Snipe, Red Kite, Kestrel, Buzzard, Goshawk, Sparrowhawk and Starling were present on the development site. The latter occurs also as a large winter roost. Vantage point surveys (VPs) were conducted according to Scottish Natural heritage (SNH) methodology and standard risk collision assessment methodology was employed for target species recorded within the collision risk window, these being, Golden Plover, Starling and Red Kite. The risk of collision is considered to be low or very low for all target species and the significance of the impacts on their populations is assessed as Minor (non-significant) 4

The effects on birds as a result of the removal of habitat for the construction of the windfarm infrastructure are anticipated to be negative (moderate significance) 5.

We note that the effects on birds due to displacement through indirect loss of habitat if birds avoid the windfarm area and surrounding land due to turbine operation, maintenance/visitor disturbance, and land use change that may happen as a result of improved access to the site with the construction of new track, have not been considered within the ES.

Pillwort - Pillwort *Pilularia globulifera*, a red data list plant, is present at Sarn Pool in the north of the site. It is a Nationally Scarce plant and is a section 42 species. The UK holds a significant proportion of the world population of this fern, which is endemic to Western Europe. The ES considers the pond therefore to be of County Level importance. Protection of this important plant should be incorporated into the Protected Species Protection Plan, and cover maintenance of the current favourable conditions (including grazing regime and hydrological state).

Biosecurity - Biosecurity is a material consideration owing to the nature and location of the proposal. In this case, biosecurity issues concern invasive non native species (INNS) and diseases. We therefore advise that any consent includes the imposition of a condition requiring the submission and implementation of a Biosecurity Risk Assessment to the satisfaction of the LPA. This assessment should include (i) appropriate measures to control any INNS on site; and (ii) measures or actions that aim to prevent INNS being introduced to the site for the duration of development and restoration.

Site Hydrology and Hydrogeology - Hydrological links between the development site and the River Edw, an important tributary of the River Wye, are identified in the ES. The River Edw supports features of the River Wye SAC, such as white-clawed crayfish. A Habitats Regulations Assessment is required, as discussed above.

The ES identifies the following potential effects on the hydrology and hydrogeology during the construction phase:

- disruption of natural flow pathways;
- damage of soils structures and changes to local soil hydrology;
- increased infiltration rates;
- erosion of exposed ground;
- silt laden runoff entering in surface watercourses;
- pollution due to concrete residues and accidental spillages.

Some of those effects, such as erosion of track surfaces, disruption of natural flow and changes in the run-off characteristics of the site could continue during the operational phase. Potential impacts due to soil erosion, accidental spillages and pollution on surface watercourses are identified and 20 m buffer zones are included in order to avoid works near watercourses. Additionally, Construction Method Statements shall be produced and approved by NRW prior to commencement of the works.

The ES includes the following mitigation measures in order to minimise impacts on hydrology during the construction phase:

- boggy areas will be avoided;
- control of drainage and provision of temporary drainage routes;
- use of silt traps, settlement ponds, implementation of impermeable barriers and installation of cut-off drains;
- suitable urban drainage systems incorporated into the designs of the tracks;
- use of a geotextile base to minimise compaction and drying out of materials;
- construction of suitable passages;
- work will follow SEPA/EA PPG and CIRIA guidance;
- timing of works to prevent working in wet conditions;
- scheduling construction activities to minimise area and period that soil will be exposed;
- revegetation;
- micrositing of turbine locations;
- use of sulphate-resistant concrete;
- use of best working practises.

The potential impacts on the hydrology of the site during the decommissioning phase are expected to be similar to those during the construction phase.

According to the evaluation of significance included in the ES6, all the residual effects after mitigation are assessed as negative non-significant or negative minor significance.

These measures should be incorporated into a Construction Environmental Management Plan and included as conditions in any planning consent given. Natural Resources Wales will advise the appropriate Authority on the adequacy of the final CEMP. It should include all measures taken to prevent detriment to the environment and any contingency plans with particular reference to the minimisation of pollution to watercourses from silt and storage of fuels and other hazardous materials. Current waste management legislation should be adhered to. New roads and tracks should be constructed in a way, and of material, that will ensure suspended soils are not washed off site and discharged into the water environment during heavy rain or storm events. Construction of tracks and turbines and how the control measures will be retained or amended over the lifetime of the development should be included in the CEMP.

Peat

While the site has been shown not to support substantial areas of deep peat, NRW regards any potential damage to peatland habitats and carbon stores to be a significant issue. In line with section 42 (NERC Act 2006) priority species and habitats of conservation concern in Wales, we would expect that disturbance and/or destruction of peat would be avoided as far as possible, and where it was not possible, such impacts would be minimised.

Peat depth maps showing the extent and depth of peat deposits have been produced, which show that the overall depth of peat recorded was found to vary between shallow deposits to localised areas of peat, just over 1 metre deep. The ES states that the assessment of the impacts of the proposal on peat is not necessary because no construction is planned on peaty areas. The access track in the southern part of the site may pass close to deeper areas of peat but the scale of the figure makes it difficult to quantify.

Mitigation and Enhancement Measures

The Environmental Statement includes measures to avoid and mitigate for any significant adverse effects on the environment, including the micro-siting of tracks to avoid sensitive areas and timing of the works outside the main bird breeding season. However, they have not been collated into a Habitat Management Plan for the development, representing a statement of intent for measures that will be implemented. NRW advice that this is required prior to determination. NRW advise that a Habitat Management Plan is produced, detailing measures for enhancement of the site, prior to determination.

Pre-construction surveys for bat, badger and otter shall be carried out to assess changes in the distribution and use of the site. All works shall stop immediately and NRW contacted for further advice if new otter holts and/or badger setts are located near the working areas. A Species Protection Plan shall be agreed prior to commencement of the works, and an EPS license obtained when required.

A minimum distance of 20 metres between construction activities and water courses shall be maintained in order to avoid impacts on watercourses and associated habitats. Exposed pipelines adjacent to watercourses shall be capped at the end of each working day and trenches will be ramped in order to facilitate the exit of any animal that could be trapped in them. The speed shall be limited to 19mph for all construction traffic.

Monitoring and surveillance, during and post- construction

We recommended the inclusion of details of a monitoring programme covering all the natural heritage interests affected by a scheme through construction, operational & decommissioning phases of the development. We note that the ES7 states that a program of monitoring will be agreed with NRW prior to the development being commissioned but further detail is not provided.

Monitoring of the identified ecological features likely to be adversely affected must be linked to appropriate contingency plans and monitoring results should trigger the implementation of the relevant contingency measures identified in the various Environmental Management Plans (EMPs). Monitoring must be related to good quality recent and accurate baseline data

and include controls. Monitoring should be started at an early stage in the project and be carried out over a sufficient length of time to demonstrate positive or negative trends. It may be necessary to amend construction procedures if the monitoring programmes identify adverse impacts linked to construction or post construction activities and NRW would wish to be consulted in such an event.

Natural Environment and Rural Communities (NERC) Act (2006)

Please note that we have not considered possible effects on all local or regional interests. Therefore, you should not rule out the possibility of adverse effects on such interests, which would be relevant to your Authority's general duty to have regard to conserving biodiversity, as set out in section 40 of the Natural Environment and Rural Communities (NERC) Act (2006). This advice includes any consideration of the planned provision of "linear" and "stepping stone" habitats. To comply with your authority's duty under section 40 of the NERC Act, to have regard to conserving biodiversity, your decision should take account of possible adverse effects on such interests. We recommend that you seek further advice from your authority's internal ecological adviser and/or third sector nature conservation organisations such as the local wildlife trust, RSPB, etc. The Wales Biodiversity Partnership's web site has guidance for assessing proposals that have implications for section 42 habitats and species (www.biodiversitywales.org.uk).

ANNEX 2: EUROPEAN PROTECTED SPECIES - LEGISLATIVE PROTECTION

European Protected Species include:

- Great crested newt (*Triturus cristatus*)
- Common otter (*Lutra lutra*)
- all British bats

All European Protected Species and the places they use to rest and breed are legally protected under the Wildlife and Countryside Act 1981 (as amended) and the Conservation of Habitats and Species Regulations 2010 – the Habitats Regulations. The Habitats Regulations transpose the requirements of the Habitats Directive (Council Directive 92/43/EEC) into UK law.

Under Regulation 41 of the Habitats Regulations: -

A person commits an offence if he or she:

- deliberately captures, injures or kills any wild animal of a European protected species;
- deliberately disturbs animals of any such species;
- deliberately takes or destroys the eggs of such an animal; or
- damages or destroys a breeding site or resting place of such an animal.

Disturbance of animals includes in particular any disturbance which is likely:

To impair their ability to survive, breed or reproduce, or to rear or nurture their young, or,
(ii) in the case of animals of a hibernating or migratory species, to hibernate or migrate; or
(b) to significantly affect the local distribution or abundance of the species to which they belong.

Under S.9(4)(b) and (c) the Wildlife and Countryside Act 1981 (as amended):-

A person commits an offence if he/she intentionally or recklessly

- disturbs any such animal while it is occupying a structure or place which it uses for shelter or protection; or
- obstructs access to any such structure or place.

Where the legal protection afforded European protected species under the Habitats Regulations is likely to be compromised by a proposed development, the development may only proceed under a licence issued by the National Assembly for Wales (NAW). Under Regulation 53(2) of the Habitats Regulations, NAW may issue licences for the purposes of:

‘preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature, and beneficial consequences of primary importance for the environment.’

Furthermore, a licence can only be issued by NAW if the following two conditions are also met:

That there is ‘no satisfactory alternative’ (Regulation 53(9)(a)), and that: ‘the development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range’ (Regulation 53(9)(b)).

In addition, Regulation 9(5) of the Habitats Regulations confirms that all competent authorities, in exercising any of their functions, must have regard to the provisions of the Habitats Directive so far they may be affected by the exercise of those functions.

The principle consideration of any scheme that affects a European Protected Species is whether the plan or project is detrimental to the “Favourable Conservation Status” of the affected species. The Habitats Directive (Article 1 (i)) defines Favourable Conservation Status as:

- "the sum of the influences acting on the species concerned that may affect the long term distribution and abundance of its population within the territory" and "favourable" when:
- "the population dynamics data on the species concerned indicate that it is maintaining itself on a long term basis as a viable component of its natural habitats,
- "the range of the species is neither being reduced nor is likely to be reduced for the foreseeable future", and
- "There is, or will probably continue to be, a sufficiently large habitat to maintain its population on a long term basis".

- Response dated 3rd March 2017 and 18th December 2015

We have the following comments to make on the latest submission

Protected Sites:

Habitats Regulation Assessment - The ES states that the proposed development lies within 3 km of the River Wyes Special Area of Conservation (SAC). In our letter dated 22nd December 2014 we objected to the determination of the planning application until a transparent HRA for the Ricer Wye SAC had been prepared.

We acknowledge the updated HRA that has been prepared by ADAS in support of the planning application dated February 2015.

We are satisfied as demonstrated in the HRA, that the proposed development will not have any significant effects on any protected sites providing that the mitigation prescribed in the HRA will be implemented in full.

We consider as previously advised that all the mitigation identified in the latest HRA shall be detailed in the CEMP which shall form subject of a pre-commencement condition of any planning consent given for the development.

Protected Species Protection Plan

Protected Species Protection Plan (PSPP) - The approval of a Protected Species Protection Plan (PSPP) should form part of a pre-commencement condition of any planning consent given for the proposed development.

The PSPP shall include all of the mitigation outlined in the ES to ensure that the development has no detrimental effect of the maintenance of the favourable conservation status of protected species.

Habitat Management Plan (HMP)

The approval of a Habitat Management Plan (HMP) should form part of a pre-commencement condition of any planning consent given for the proposed development. As we have previously advised, the HMP shall include all of the mitigation measures outlined in the ES.

To conclude, NRW does not object to the proposed development. We thank you for consulting with NRW.

NHS Wales

- Response dated 6th August 2014

We have consulted our technical advisors within Public Health Wales and our comments are based on the information contained within the application documentation.

The Health Board recognises that:

- (a) The most common concerns expressed with regard to the siting of wind turbines are related to noise and visual impacts.
- (b) The response to noise may vary within a population and may depend on the characteristics of the sound including intensity, frequency, complexity and duration as well as background noise levels and the perception of noise as a result of being able to see turbines.
- (c) Many people are concerned about the possible effects of noise exposures on health.
- (d) In terms of quality of life and well-being, it is plausible that people can be adversely affected by exposure to environmental noise.
- (e) Whilst exposure to environmental noise from aircraft and road traffic has been linked with annoyance, sleep disturbance, raised blood pressure and, as a consequence, increased risk of coronary heart disease, evidence that environmental noise impacts adversely on mental health is inconclusive. Evidence to suggest there are links

between wind turbine-generated noise exposures and adverse health outcomes is inconclusive.

- (f) It should be noted that the absence of strong evidence on the existence of health effects from wind turbine noise should not be taken as proof that such effects do not/cannot occur.
- (g) Further helpful information relating to the health impacts associated with windfarms is provided in a position statement developed by the Health Protection Agency (prior to it becoming part of Public Health England). This is available at: http://www.hpa.org.uk/webc/HPAwebFile/HPAweb_0/1284473361539

The Health Board requests that the developer satisfies the Local Authority that all necessary actions are taken to mitigate against potential impacts associated with wind farm generated noise. Consideration should also be given to the cumulative impacts from the proposed development and other existing or planned developments.

Ministry of Defence – Safeguarding

- Response dated 7th August 2014

Thank you for consulting the MOD about the above planning application in your correspondence dated 18/07/2014. I write to advise you that the MOD has no objections to the proposed development

The application is for 7 turbines at 110 metres to blade tip. This has been assessed using the grid reference below as submitted in the planning application or in the developers' pro-forma.

Turbine Easting Northing

1 SO 13429 60509
2 SO 12652 60124
3 SO 12539 59737
4 SO 13016 60258
5 SO 12911 59867
6 SO 13450 60005
7 SO 13591 59753

In the interests of air safety, the MOD requests that the turbines are fitted with aviation lighting. The turbines should be fitted with 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

The principal safeguarding concern of the MOD with respect to the development of wind turbines relates to their potential to create a physical obstruction to air traffic movements and cause interference to Air Traffic Control and Air Defence radar installations.

Defence Infrastructure Organisation Safeguarding wishes to be consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

If planning permission is granted we would like to be advised of the following;

- the date construction starts and ends;

- the maximum height of construction equipment;
- the latitude and longitude of every turbine.

This information is vital as it will be plotted on flying charts to make sure that military aircraft avoid this area.

If the application is altered in any way we must be consulted again as even the slightest change could unacceptably affect us.

I hope this adequately explains our position on the matter. If you require further information or would like to discuss this matter further please do not hesitate to contact me.

Cadw

- Response dated 5th September 2014

Thank you for your letter received on 23 July 2014 inviting Cadw's comments on the planning application for the proposed development as described above.

Cadw's role in the planning process is not to oppose or support planning applications but to provide the local planning authority with an assessment concerned with the likely impact that the proposal will have on scheduled ancient monuments or Registered Historic Landscapes, Parks and Gardens. It is a matter for the local planning authority to then weigh Cadw's assessment against all the other material considerations in determining whether to approve planning permission.

The advice set out below relates only to those aspects of the proposal, which fall within Cadw's remit as a consultee. Our comments do not address any potential impact on the setting of any listed building, which is properly a matter for your authority. These views are provided without prejudice to the Welsh Government's consideration of the matter, should it come before it formally for determination.

GENERAL

According to the size classifications set out in Table 3.1 of the Welsh Government published 'Practice Guidance, Planning Implications of Low Carbon and Renewable Energy' (February 2011) these turbines can be considered 'large' turbines of between 65 and 135m in height. The proposed wind farm is to be located towards the northern side of a wide basin overlooked on all sides by uplands, notably Carneddau to the SW and Llandegley Rocks to the N. Most of this area lies under common and rough or improved pasture.

The advice set out below concerns potential impacts of the development on scheduled ancient monuments within the study area and is based upon the relevant sections of the EIA supplied by the applicant and accessed on the Powys County Council Planning Portal on 15 August 2014. These are: Vol. II (photomontage figures 8.1-12), Vol. III Chapter 8 (Historic Environment Desk Based Assessment (HEDBA)) and Vol. IV (ZTVs and viewpoints 1, 4 and 9). Additional information has been used from the Clwyd-Powys Historic Environment Record (HER), Cadw's own monument records and mapping, and its regional Inspector of Ancient Monuments' knowledge of the individual monuments and the area. Site visits were made to

the monument RD264 and the area to the south of the site boundary between RD147 and RD 112.

SOURCES AND IDENTIFICATION OF MONUMENTS

A total of 53 scheduled ancient monuments (SAMs) have been identified within both the 'Outer' study area of 10km and the ZTV supplied by the applicant, four of which fall within the 'Inner' study area of 1.5km (RD112, RD113, RD147, RD264). The HER also records 104 undesignated assets within the inner study area. Potential impacts on the settings of SAMs within the 'Inner' study area are discussed in detail in HEDBA along with a number of more distant monuments including the motte and bailey RD003 and a series of Prehistoric funerary ritual cairns, barrows and standing stones (RD003, RD008, RD027, RD034, RD069, RD109, RD167, RD238, RD239 and RD240). Potential impacts on the settings of monuments over 5km from the development site were not considered. Cadw is satisfied with the sources consulted in the HEDBA and confirm that the list of SAMs included within the study and listed in Section 7 is accurate.

The EIA reports consultation of a broad range of cartographic and aerial photographic sources and also carried out field visits to several monuments in the study area, yet these investigations do not appear to have identified many new archaeological sites not already recorded in the HER or NMR, with the exception of a field bank within the development boundary. For example the scheduled hillfort RD264 situated on an eastern summit of Llandegley Rocks forms part of a broader complex of possibly contemporary features, including a much larger defended enclosure of potential national importance extending across the adjacent summits to the W, which does not appear to have been identified in the walkover or aerial photo studies. Whilst a number of these sites are recorded in the HER and are included in the study, they form components of a small but archaeologically rich upland landscape which as a group is of arguably of greater collective significance than as assessed in the HEDBA as a series of individual sites.

Paragraph 4.1.3 of the HEDBA notes that site numbered 102 (the hillfort RD112) includes the pillow mounds 90 and 124-9 – 'but are not themselves recorded by Cadw as Scheduled Monuments'. To clarify, these features are located within a scheduled area, are noted in the scheduling description and are therefore designated monuments.

METHODOLOGY

Section 2.9 indicates that the system used to assess the magnitude of indirect impacts on historic assets is adopted from the Design Manual for Roads and Bridges (DMRB, 2007), a methodology that was designed specifically for linear schemes without a vertical element comparable to wind turbines. The predominant archaeological issues raised by the proposed development are indirect impacts on the settings of individual monuments and in this instance the use of a methodology designed specifically for this purpose such as 'The Setting of Heritage Assets' (English Heritage, 2011), which is referenced in Section 7 would have been more appropriate.

The DMRB methodology as set out in Tables 1-3 of Section 2 has direct implications for the assessment of the magnitude of impacts upon the monuments settings, most notably in its classification of the importance of monuments (Table 1). Using this system SAMs are determined to be of 'high' rather than 'very high' importance, which is reserved for World

Heritage Sites, absent from the majority of development areas. This therefore results in the automatic downgrading of the assessment of the significance of impacts on nationally important SAMs the results of which are set out in Table 3. This may have some bearing on the assessment of several SAMs in the study, which in Cadw's view underestimate the magnitude of impact as set out below.

POTENTIAL IMPACTS

There are to be no direct physical impacts on any of the above listed SAMs. The HEDBA however identifies that the turbines have multiple direct impacts on the settings of scheduled monuments. It is a concern that the visual impacts on the settings of scheduled monuments of the stone access tracks, hard standings, substation and other associated infrastructure included within the application are not addressed by the HEDBA, which can therefore be argued not to have comprehensively addressed the full impact of the development.

'INNER' STUDY AREA OF 0.5KM

RD147: Nant Brook Enclosure

This small rectangular earthwork is probably of medieval date and is a well-preserved example of a stock enclosure associated with a possible deserted rural settlement. The monument is almost enclosed within the development site, occupying low ground approximately 500m from the nearest turbine (T3) and 70m to the E of one of the proposed access tracks. Photomontage Fig 8.7 and the setting assessment in paragraphs 5.2.6-5.2.7 of the HEDBA indicate that the whole of Turbine 1 and the blade tips of T2-3 are likely to be visible from the monument, the remainder being screened by rising ground to the N as indicated by Photomontage Fig. 8.8. Paragraph 5.2.7 concludes that the impact of the development the setting of RD147 is likely to be 'moderate' and the significance of this effect as 'moderate / large', arguing that an existing small turbine visible 500m to the SE 'reduces the sensitivity of the monument to change'.

In Cadw's view this assessment underestimates the impact on the monument and it is not appropriate to consider the impact of the existing small turbine at a distance of 500m as being on the same scale as the impact of the much larger, and closer T1 as demonstrated in Fig. 8.7. Whilst this view indicates that T2-3 and the remaining turbines are likely to be only partially visible from the chosen viewpoints within the SAM, no consideration is made of the potential visibility of the turbines behind the monument when viewed from the approaches to the monument from lower ground to the S, E and W. Nor is the additional visual impact of the nearby access track considered in the HEDBA. The presence of the existing turbine should be seen as contributing to a cumulative impact on the monument. Cadw consider that the impact on the setting of this monument is a 'major' one and therefore should have a significance of 'large / very large'.

RD264: Llandegley Rocks Hillfort

This partially quarried hillfort of probable Iron Age date occupies a prominent summit at the eastern end of the Llandegley Rocks escarpment. It directly overlooks the proposed development site, being located 300m to the N of the site boundary and 1.3km to the N of Turbine 5. As requested by Cadw, inter-visibility between RD264 and the broadly

contemporary RD112 has been specifically examined within the assessment and is addressed separately below.

The scheduled hillfort forms an element of a broader series of probably contemporary features, currently undesignated but of potential national importance occupying the north-eastern summits of Llandegley Rocks, including a substantial larger enclosure encompassing two adjacent outcrops, at least one smaller ditched enclosure and a range of other features including, relict boundaries cairns and later house platforms. Whilst a number of these sites are recorded in the HER and have been included in the study, no consideration has been given to the group significance of the monuments or of the small but archaeologically rich upland landscape of which they form part.

Paragraph 5.2.15 of the HEDBA and Photomontage Fig. 8.9 indicate that all seven turbines will, be 'highly visible' from the scheduled hillfort. 5.2.15 concludes that the turbines will have a 'moderate adverse' impact on both the setting of RD264 and its visual relationship with RD112; due to the relative distance of the turbines from the monument, the significance of these impacts has been rated as 'moderate /large'. This assessment underestimates the severity of the impact on the setting of this monument and the adjacent undesignated, but potentially nationally important, group of features. Paragraph 5.2.14 states that the key setting of the hillfort 'is its location in an elevated, prominent position, providing extensive views across the landscape and to other similar sites in the vicinity' such as RD112 Graig Camp i.e. across the basin to the S. Fig. 8.9 clearly demonstrates that the turbines will dominate these significant views and interrupt lines of visibility with RD112, as stated in paragraph 5.2.15. Key views of the hillfort and associated features on the escarpment across what is presently an open landscape to the S are also likely to be significantly affected by the proposed development. Further potential impacts from the extensive stone surfaced access tracks, hard standings and ancillary structures are not considered, although these are likely to appear in views S from this monument and adjacent undesignated features. In Cadw's view the impact on the setting of this monument should therefore be considered a 'major' one and therefore should have a significance of 'large / very large'.

RD112: Graig Camp

This well-preserved hillfort occupies a ridge summit overlooking the development site from the opposite (southern) side of the basin to RD264 and its associated enclosures, approximately 1.3km SE of Turbine 1. As requested by Cadw, inter-visibility between the two monuments has been considered. However, a requested photomontage from within RD112 has not been produced, the setting assessment in paragraphs 5.2.9-5.2.12 and accompanying Plate 8 having been provided from an undisclosed vantage point 'close' to the monument, seemingly on markedly lower ground on one of the nearby public roads. This failure to provide an assessment from within the SAM itself or to consider stone access tracks, hard standings and ancillary elements of the development inevitably places questions on the accuracy of its conclusions.

Paragraph 5.2.9 of the HEDBA states that 'The key setting of Graig Fawr Hillfort is its location in an elevated, prominent position, providing extensive views across the landscape and to other similar sites in the vicinity', paragraph 5.2.12 concluding that the potential impact of the development on the setting of the monument is likely to be a 'moderate adverse' one and considered to be of 'moderate / large' significance.

The central and dominant position of turbines of this scale within the 'key setting' defined in 5.2.9, potential cumulative effects with the smaller turbine 500m to the N noted in 5.2.11 and the unassessed additional impacts of access and ancillary works dictate that the 'moderate adverse' / 'moderate / large' assessments of the HEDBA are likely to underestimate the significance of such impacts on the setting of RD112.

Inter visibility between RD112 and RD264

As requested at scoping, paragraphs 5.2.8-15 of the HEDBA, along with photomontage Fig 8.9 and to a lesser degree the incorrectly sited viewpoint Plate 8 address potential impacts on the visual relationship between these broadly contemporary hill forts, which face each other across the basin in which the wind farm is to be located. However, as RD112 was not visited during the study Cadw does not consider inter-visibility issues to have been properly addressed from this monument.

Paragraph 5.1.15 notes that all seven turbines will be 'highly visible' from RD264 'interrupting the views from this monument to Graig Fawr Hillfort (RD112)', paragraphs 5.2.12 and 5.2.15 assessing the impact on the inter-visibility of the two monuments as 'moderate adverse'. Whilst the exact cultural, chronological and political relationship between the two monuments is unknown, the views between these broadly contemporary monuments across what may have been shared or disputed lower ground are highly significant ones, and indeed paragraphs 5.2.9 and 5.2.14 identify this lower ground as the key setting for both monuments.

The 'moderate adverse' assessment of 5.2.15 underestimates the scale and significance of the impact. Photomontage Fig. 8.9 clearly demonstrates that whilst inter-visibility will not be entirely obscured, views between the two monuments across this open, undeveloped and predominantly pastoral landscape would be substantially interrupted by the introduction of the proposed turbines. The grouping, scale, contrasting colour and moving blades of the turbines will present vertical and moving interruptions to such views and will therefore instead be considered to have a 'major' impact on both direct and peripheral sight lines between the monuments and therefore should have a significance of 'large/ very large'.

RD113: Cwm-Maerdy Standing Stone.

This Bronze Age standing stone occupies a hollow approximately 1.2km SE of and below T7. Whilst paragraphs 5.2.31 and 5.2.32 state that inter-visibility with the turbines is likely to be limited by its topographic location, this was assessed from a point 110m away from the monument, which may have some bearing on the conclusion of a negligible adverse impact. The conclusion is therefore questionable.

'OUTER' STUDY AREA OF 10KM

The HEDBA assesses in detail potential indirect impacts on 11 SAMS within this radius. Of these, impacts on RD008, RD027, RD034, RD069, RD077 RD109, RD167, RD238, RD239 and RD240 are considered to range from 'no change' to 'no change –negligible' , predominantly due to the relative distances of the SAMs from the development site and the screening effects of intervening topography and vegetation. However, RD008, RD027 and RD238 were not visited during this study, which must call into question the methodology used to reach this conclusion for these monuments. In the case of RD088 (Cefnlllys Castle), a

requested photomontage was not produced as access was not gained to the site, the view Plate 16 being taken from undisclosed point 'close to' but clearly not from the isolated ridge summit on which the castle is sited to command extensive views.

RD003: Castell Crug Eryr

This very prominent motte and bailey of probable Welsh origin and documented by Gilradus Cambrensis in the late 12th century is located approximately 2.1 km E of Turbine 7. Paragraph 5.2.20 states that the setting of the monument and its significance 'derives from its prominent and defensible position in the landscape and its inter-visibility with other major defended sites of the period, Key views from this motte and bailey are extensive, and are likely to have been to the north, west and south, over the downwards sloping landscape.' It is possible that the motte was deliberately positioned at the NW corner of the site to overlook and enhance its visibility from this landscape. Photomontage Fig. 8.11 demonstrates that all of the proposed turbines are to be visible from this monument as prominent features within such key views. However, paragraph 5.2.21 assesses the potential indirect impact of the development on the setting of RD003 as 'minor adverse' with a significance of 'moderate minor', citing distance. This underestimates the magnitude of impact on the monument, the proposed turbines forming dominant features central to the lower ground to the N and W which the castle overlooks; again the potential visual impact of the associated access tracks and infrastructure of the development has not been considered by the HEDBA, nor has the impact of the development in the foreground of more distant views of the castle from the lower ground to the N and W. This impact should therefore be considered 'moderate adverse' and of 'moderate / large' significance.

NON-DESIGNATED ASSETS

Whilst non-scheduled sites largely fall outside of Cadw's remit as a consultee the two-page assessment (paragraphs 5.2.45 -5.2.50) of potential indirect impacts on the settings of the many such sites identified within the study areas is cursory. As noted above, the desktop study has not indicated any sites not in the HER or NMR. The HEDBA therefore fails to fully address the potential impact of the development on the broader archaeological record and in some cases the significance of some of the monuments within it, most notably the hillfort RD264 and the array of physically related features of potential national importance on Llandegley Rocks.

SUMMARY

A number of issues of concern have been identified in the assessment of potential indirect impacts on SAMs within the study area. These include:

1. The use of the DMRB methodology for the assessment of potential indirect impacts of the development on historic assets and its downgrading of the importance of SAMs, which consequently have led to an underestimation of the magnitude of impacts on RD003, RD112, RD147 and RD264
2. The failure to assess the visual impact of access tracks, hard standings and ancillary structures
3. RD008, RD027, RD238 and more importantly RD112 were not visited during the study. The potential indirect impacts on the settings of these monuments and inter-visibility between the contemporary RD112 and RD264 were therefore not fully assessed

4. A limited consideration of impacts on undesignated monuments within the study area, notably the broader context of the scheduled hillfort RD264 and related features including a larger enclosure of potential national importance occupying Llandegley Rocks and sharing the same setting

With the exception of existing small turbine to the S of the proposed development site, the overwhelmingly pastoral landscape which forms the broader setting of the above listed monuments is almost entirely free of other large-scale modern developments, industrial features and major roads. Many of these monuments, notably the hillforts RD112, RD264 and its associated undesignated enclosures, the medieval castle RD003 and the Prehistoric funerary and ritual monuments including barrows, cairns and standing stones (RD034, RD069, RD109, RD113, RD167, RD238, RD239, RD240) are likely to have been deliberately sited in order to command views over or enhance their visibility from and across this landscape. The HEDBA acknowledges the importance of the wide basin of lower ground overlooked by RD003, RD112 and RD264 to the settings of these monuments, and of lines of inter-visibility between broadly contemporary sites such as RD112 and RD264, this basin potentially forming the hinterland between the hillfort, but then fails to reflect this importance in its determination of the impact of the turbines on the setting of the monuments.

The proposed turbines will present a major vertical, moving and light-grey addition to this landscape, which will be further punctuated by other contrasting elements such as over 3km of stone surfaced access tracks, hard standings and ancillary structures. Part or all of the development will form a prominent feature in views from and of RD003, RD112, RD147 and RD264 and will interrupt key lines of sight between RD112 and RD264. The scale of the turbines dictates that the impact of the development is likely to be more than a local one, as demonstrated by the large number of SAMs and undesignated monuments falling within the ZTV.

The information provided demonstrates that the proposed development will have a significant adverse impact on the settings of RD003, RD112, RD147 and RD264 and varying degrees of lesser adverse impact on numerous more distant and undesignated monuments within the ZTV. Cumulative impacts with existing turbines in the area illustrated in Vol. IV of the study should also be taken into consideration. These potential multiple impacts can be viewed collectively as a significant adverse impact on the broader historic environment within the study area.

- Response dated 15th January 2016

I am writing further to your letter of 25 November requesting our comments on additional information from the applicant regarding the above proposal. In their report submitted to Powys Council in March 2015, the applicant has responded to issues raised in our consultation response of 5 September 2014. The applicant has also confirmed that, although it was not explicitly stated in the Historic Environment Desk Based Assessment (HEDSA), their visual impact assessment procedure included consideration of the impact of the site infrastructure (access tracks, hard standings etc.)

Many of the applicant's comments are clarifications in response to our queries about the methodological approach.

Design Manual for Roads and Bridges (2007) - The applicant has provided a response to the concern raised in our consultation response about the application of the Design Manual for Roads and Bridges as the methodology for assessment. We are concerned that the approach presented in the manual is geared towards roads and other linear developments, as opposed to windfarms which present a stronger vertical element in the turbines themselves. However, we accept the applicant's explanation that in the absence of Welsh guidance on evaluating setting, they have drawn on the Design Manual for Roads and Bridges as an acknowledged methodology which they have used for other similar applications. However, the Welsh Government will be consulting on guidance for evaluating the impact of development on the setting of historic assets later this year.

Impact on the setting of Scheduled Monuments - We confirm that the proposed development will have no physical impacts on scheduled monuments. However, the development will impact upon the settings of scheduled monuments, in particular RD147 Nant Brook Enclosure, RD264 Llandegley Rocks Hillfort and RD112 Graig Camp. These scheduled monuments are discussed further below. The applicant has queried our statement that there is a direct impact on setting. This statement was not intended to imply a direct physical impact on the monuments in question.

Assessment of impact of infrastructure - In our response to the consultation we had noted that it was unclear whether the assessors had taken any account of the likely impact on infrastructure on the settings of monuments. As discussed above, the applicant confirms that they had taken this into account, and we are therefore content that this question has been answered.

Scope of the assessment - The applicant's additional information confirms that many of the designated monuments for which impact assessments were required or requested at scoping stage were not visited as part of the study, The explanation given in all cases is that they were on private land and therefore inaccessible. At no point is it suggested that the applicant or their agents made any practical attempts to access these sites and were refused permission. This omission does inevitably reduce the reliability of the impact assessments where site visits were not undertaken.

The further information provided by the applicant also addresses a number of points about individual scheduled monuments identified in our letter of 5 September 2014.

RD147 Nant Brook Enclosure - We disagree with the statement provided by the applicant in their additional information regarding the assessment of cumulative impact for this scheduled monument. The applicant states that since the existing turbine is to the south of the monument and their development is to the north there is no cumulative effect since both cannot be seen in the same direction. However, cumulative effect must be considered from the point of the receptor — the scheduled monument. The introduction of the windfarm turbines will add new vertical elements into a sightline currently uncluttered by such elements with a consequent cumulative impact on the setting of the monument. This cumulative effect needs to be taken into account for the assessment of overall impact. The applicant confirms our view that the presence of the existing small turbine should not be considered to reduce the sensitivity of the monument to change, since it is of much smaller scale and further away than the proposed development and in particular turbine T1.

RD264 Llandegley Rocks and RD112 Graig Camp - Due to their proximity and location, the turbines and associated infrastructure (tracks etc) of the windfarm will impact on the setting of Llandegley Rocks hillfort. The photomontages indicate that all seven turbines will be highly visible from the monument and it is particularly notable that they will be dominant features in the sightline between Llandegley Rocks and RD112 Craig Camp located to the south of the development area. We have previously stated this to be an important historic relationship and key view.

The evaluation system applied by the applicant identifies major impact as 'comprehensive changes to setting' and in the additional notes provides further explanation that this is defined as the situation when the view is "completely obscured" (p11). In the context of a windfarm development it is therefore questionable whether there is any circumstance when this evaluation approach might consider a windfarm to constitute a comprehensive change to the setting of a designated asset.

As we previously stated, our concern is that the windfarm with its large, vertical rotating structures will be an extremely dominant feature within this landscape, affecting the settings of both Llandegley Rocks and Graig Camp hillforts and with potential to substantially interfere with the inter-visibility between them.

RDII3 Cwm-Maerdy Standing Stone - The additional information provided by the applicant confirms our understanding that the assessment of impact on setting of this monument was carried out without the benefit of a site visit to the scheduled monument. No further information has been provided therefore we have nothing to add over and above our previous comments.

Outer study area - As we previously commented, many of the scheduled monuments within the outer study area, and in particular the medieval castle RDOO3 Castell Crug Eryr, were located with the intension of exploiting views of the surrounding landscape, being visible for distances and in some cases, inter-visible with other historic structures. The turbines will therefore impose on the setting of the monuments. We agree with the HEDGA that the level of impact lessens with distance but remain concerned that the assessed level of impact underestimates the effects.

In conclusion, I confirm that our comments concerning the impact of the proposed development on the setting of scheduled monuments remain as stated in our letter of 5 September 2014.

CPAT

- Response dated 12th September 2014

Thank you for the consultation on this large-scale wind farm application. Having read through the submitted ES we have the following comments:

Scheduled Monuments

Cadw are the primary consultee with regard to scheduled ancient monuments, Registered Historic Landscapes and Registered Parks and Gardens and we note their detailed

comments, which have been forwarded to us for information. We have nothing to add to Cadw's comments which are detailed and justified. We agree wholly with the Cadw assessment that there will be a significant adverse visual impact upon the settings of the RDOO3, RD1 12, RD1 47 and RD264 scheduled monuments. The determining authority will need to decide whether this impact is sufficient to refuse the current application in accordance with Planning Policy Wales. Ch.6, WO Circular 60/96 and Powys UUP ENV 17.

Non-Designated Archaeological Sites

The development area within the red line boundary includes a number of existing tracks crossing unimproved pasture, which will be utilized to access the wind farm from the A44 for construction, delivery and ongoing maintenance. The turbines, new access tracks, cable trenches, hardstandings, and compound will be erected almost wholly within improved pasture. Two small sections of access track pass through former commercial forestry which has been ploughed and drained (between turbines 5 and 6) and an area of unimproved pasture (south of turbine 3). The substation is located in semi-improved pasture.

The high level of agricultural improvement within the application area has effectively removed all traces of any visible surface archaeology which may have been present here. Unsurprisingly the walkover survey failed to locate any significant new sites which would be directly impacted.

The improved ground would be receptive to geophysical survey and we consider that this technique could be deployed as a phase of additional evaluative survey to determine whether unrecorded sub-surface archaeology will be impacted by construction. Magnetometry would be the preferred technique in this case using a towed array and a reading resolution of 0.25m. Any anomalies identified by the geophysical survey should be targeted with exploratory trenching to determine their origin, date and function.

The assessment identifies two direct adverse impacts on the Hendy Ford (PRN 55523) and the Hindwell to Penybont Roman Road alignment (PRN's 47702 and 47703). With regard to these two sites we have the following comments:

Hendy Ford (PRN 55523) This former ford site identified on the 1889 1 edition OS is considered to be of low significance. It is now crossed by a modern farm track and we would consider there to be no archaeological impact here. Hindwell to Penybont Roman Road alignment (PRN's 47702 and 47703) This is a predicted alignment with no supporting evidence other than the apparent straightness of the route and possible topographic and earthwork features at the southern end where there is a hedgerow with a slight terrace above. The proposed new southern access route between the A44 and the existing track will cross this predicted Roman road alignment and further evaluation by trial trenching should take place here to determine whether a Roman road exists. Changes to the existing northern access splay are minor and a watching brief should be completed in this area.

We therefore consider that further archaeological evaluation could be completed to support this application with regard to potential impacts within the red line boundary.

In the event that this application is approved without further evaluation taking place the following three-part condition for additional investigation should be used to secure the mitigation of impacts to previously unrecorded archaeology within the application area:

A) No development shall take place until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

- a. The programme and methodology of site investigation and recording
- b. The programme for post investigation assessment
- c. Provision to be made for analysis of the site investigation and recording
- d. Provision to be made for publication and dissemination of the analysis and records of the site investigation
- e. Provision to be made for archive deposition of the analysis and records of the site investigation
- f. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition (A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured

Historic Landscape

The wind farm proposal rests on the northern slopes of Llandegley Rhos flanked by the higher Llandegley Rocks ridge to the north and the Radnor Hills to the east and south with a shallow basin to the south and a broad valley to the east traversed by the A44. The location has broad open views in all directions. The development is not located within any of the TAN 8 SSA areas in Powys where large-scale turbine development proposals should preferably be focused.

The upland ridges are covered in a dense scatter of prehistoric enclosed settlement, prehistoric funerary and ritual activity and medieval and post medieval agricultural and settlement activity. The Llandegley ridge to the north is an area of particularly well-defined landscape retaining much of its character, landforms and cultural palimpsest in semi-improved or unimproved pasture. To the east and south the views are extensive across to the Radnor Hills, which are rich in a broadly similar array of archaeological sites.

The turbines and their infrastructure will introduce a new vertical element into this distinctive landscape and the wide-ranging visual influence of the turbines over the surrounding landscape is ably demonstrated by the submitted ZTV's, wireframes and photomontages. There is a significant adverse impact to components of this historic landscape including designated and non-designated archaeological sites which are visually influenced within the 5km ZTV radius.

We consider that this development will have a detrimental impact upon the historic landscape and the determining authority will need to consider this impact.

Conclusions

In conclusion, we find that there are elements of pre-determination evaluation which could be completed to better understand the potential for previously unrecorded sub-surface archaeology within the development area.

We consider that there will be a significant adverse visual impact upon the historic landscape and the currently identified components of that landscape by this wind farm. The primary visual influence is within the 5km ZTV, but also extends beyond this into the 10km ZTV radius. A high number of nationally important designated sites are visually influenced within the 5km ZTV. A number of these monuments have key shared views blocked by the intervening turbines.

The determining authority should therefore take these significant adverse impacts into consideration when considering the application.

- Response dated 1st December 2015

Thank you for the additional information and we note the ADAS response to the Cadw submission. We have nothing to add at this time based on this new information and Cadw will no doubt respond concerning the scheduled monument impacts. We have had no indication that the additional pre-determination evaluation works we recommended in our response will be completed before determination. Without this additional information we would consider that it is not possible to adequately determine the impact of the proposed scheme on potential sub-surface archaeology in the highlighted areas of interest.

RCAHMW

- Response dated 8th August 2014

The remit of the Royal Commission permits us to comment only on the historical significance and context of a monument or structure and on the adequacy or otherwise of the record. The proposed turbine construction would take place on open-access land recently examined as part of RCAHMW's Uplands Project. Findings are available on Coflein, our map-based on-line database. Related development work is scheduled for surrounding farmland and will need to be considered in relation to an archaeological survey of the area.

Campaign to Protect Rural Wales (Brecon and Radnor Branch)

- Response dated 12th August 2014

I am writing on behalf of the Brecon and Radnor branch of CPRW to express our very strong opposition to this proposed scheme. We are shocked and appalled that such a project should have reached this stage in the planning process, since it is flagrantly contrary to the advice in TAN 8 about major wind turbine developments. The proponents of the scheme are clearly aware of this, as is evident from the covering letter from Mr Stuart Vendy to Powys County Council dated 27.6.14. In this letter he claims that the principles set out in TAN 8 are only advisory, which allows for the possibility of constructing wind farms outside a Strategic Search Area 'if there is robust evidence that land outside (but close to) the SSA is suitably unconstrained.' This is a specious argument, based on shameless special pleading, and is in any case irrelevant in relation to this present scheme: the site is not by any stretch of the

imagination close to an SSA (see fig.6.1 in the Planning Statement), and the land is not unconstrained, since it constitutes part of a very special mid-Wales landscape, close to the dramatic and important outcrop of Llandegley Rocks, with their Scheduled Ancient Monument, in a location which would make the enormous turbines, 360 feet to the tip of the blade, visible over huge distances.

We comment in detail on some of the documentation, and refer first to the Supporting Planning Statement (SPS). Section 7.5.14, after a long discussion of visual impact, in particular on the communities at Nant and Hundred House, dismisses this consideration by claiming that it is 'not considered to be of significance', and that the project is therefore in accordance with Policy E3. The Environmental Statement, figures 8.9 and 8.11 in particular, shows how the turbines would dominate an otherwise magnificent landscape, while the ZTV maps show how they would be particularly obtrusive to the west and north of Llandrindod Wells, and across a huge swathe of land from Radnor Forest in the north-east to the outskirts of Builth Wells in the south-west. Section 7.5.14 is patent nonsense, as is the claim on p.x of the Introduction to the Non-Technical Summary that 'due to the confined potential visibility of the development . . . significant effects on the landscape character would be contained and limited.'

We are also deeply concerned about the effects of the scheme on Public Rights of Way, and on Biodiversity and Ecology . We refer again to the SPS, sections 7.8 .3 and 7.9 . The latter refers to the presence of red kites, kestrels, barn owls and great-crested newts, and fig. 7.5 in the Environmental Statement Vol II shows the numerous flight-lines of many relatively rare bird species criss-crossing the proposed site notably fieldfare, grasshopper warbler, red kite, linnets, lesser redpoll, reed bunting and tree pipit; figs. 7.6.a and 7.6. b cover birds of prey and waders respectively, in winter, and 7.9 indicates the very numerous bat transects. There would be very serious danger to many forms of wildlife, and this issue may not be dismissed in the way in which the documentation seeks to do.

There is further evidence of muddled thinking in relation to the financial incentives which the developer would offer to the local community: section 7.5.24 of the SPS correctly acknowledges that these are 'not a planning consideration', yet section 7.9.11 refers to a 'balance' which must be struck between damage to the landscape, to public rights of way and to biodiversity on the one hand, and the benefits of the scheme on the other, viz . energy generation, employment (although not a single permanent local job will be created) and - believe it or not - the injection of money into the local community, despite the earlier admission that this is not a planning consideration. There is no such balance to be struck, and it is entirely improper to enlist the community scheme into the argument.

This is a highly objectionable project, and should be dismissed out of hand. We very much hope that you will recommend refusal in the strongest possible terms.

Health and Safety Executive

- Response dated 30th November 2015

Environmental Impact Assessments are concerned with projects which are likely to have significant effects on the environment.

HSE's principal concerns are the Health and Safety of people at work and those affected by work activities. Therefore HSE cannot usefully comment on what information should be included in the environmental statement of the proposed development. However, if required, environmental statements should not include measures which would conflict with the requirements of the Health and Safety at Work etc. Act 1974 and its relevant statutory provisions.

If this scoping request results in subsequent Planning Applications, then Powys Council should use Planning Advice WebApp to obtain HSE's advice – <https://pa//hsl.gov.uk>

HSE is a statutory consultee for certain developments within the consultation distance of major hazard sites and major accident hazard pipelines, and has provided planning authorities with access to Planning Advice WebApp, an online software decision support tool, through the HSE Extranet website '<https://pa.hsl.gov.uk> for them to use to consult HSE and obtain our advice. Planning authorities can also use Planning Advice WebApp to obtain HSE's advice on a proposed development at the pre-application stage,

I should therefore be grateful if you would arrange for HSE's Planning Advice WebApp to be used to consult HSE for advice on this application, to see if it lies within the GD of a Major Hazard Site or Pipeline.

Should you or your colleagues need any additional help in using the new WebApp to obtain HSE's advice on a proposed development, a central support service is available at lupenquiries@hsl.gsi.gov.uk or by telephone on 01298218159.

Ramblers Association (Radnorshire)

As Ramblers Association representative for Radnorshire, I would like to make the following comments:

There are a number of rights of way in close proximity to the proposed development. Provided that no RoW are closed or obstructed during or after construction we would have no objection to the development. However, should there be any closure or obstruction during or after construction, we would strongly object.

In addition, this development would blight a beautiful area and deter people from using the RoW, and on this basis we would also object.

British Horse Society

On behalf of the British Horse Society I write to comment on this application.

I have visited the site, and have met my fellow BHS County Access and Bridleway Officer Mr Michael Mosse to discuss both the original proposal and subsequent amendments proposed by the agent.

The proposed site intersects CI Byway Open to All Traffic, and it bridleway which is currently obstructed by recent ploughing and fencing (OSGR 31332601). BHS guidelines are that no

wind turbine should be located within three times its height from a bridleway, or 4 times its height from a national route. Neither the original proposal nor the suggested amendments comply with these guidelines.

The BOAT is potentially disrupted by the proposed development, with no proposal for a satisfactory alternative route connecting the eastern and western sections of the BOAT for either horse riders or carriage drivers. Other bridleways in the immediate vicinity could be affected by adverse impact on visual amenity for riders and horses. The more extensive network of bridleways in the general vicinity would also suffer adverse effects on visual amenity.

Considering all these factors, we have not seen, nor can we envisage, offers of mitigation from the developer which would result in a net gain for riders in the vicinity of the proposed development. I therefore recommend refusal of this application.

Radnorshire Wildlife Trust

- Response dated 29th August 2014

Radnorshire Wildlife Trust wishes to object to this proposed development on and around Llandegley Rhos.

Having read the various ecological and environmental supporting information, we do not believe that the ecological assessments have been undertaken in a way that satisfies available guidance produced by Scottish Natural Heritage (and used by statutory agencies across the UK), nor those available from the Chartered Institute of Ecology and Environmental Management.

The search area needs to be widened. This is especially important in an area of tremendous natural, archaeological and landscape value, in order to adequately address the likely impact resulting from this type of development.

Within the application site is a well established and extremely large winter starling roost which is of at least regional importance (Pete Jennings, Radnorshire bird recorder, personal communication).

I am surprised that Radnorshire Wildlife Trust has not been approached by the applicants / agents as part of a scoping exercise which would normally be the case in developing application of this type and scale.

Should the applicants / agents wish to seek the detailed opinion of Radnorshire Wildlife Trust as to our detailed views on the impact of this planning application, we would be happy to oblige. Meantime I would urge you to refuse this application and advise the developers to carry out surveys that adhere to the current guidelines.

- Response dated 5th January 2016

Radnorshire Wildlife Trust (RWT) wishes to object to the proposed installation of seven wind turbines at Hendy. Uandegley.

Our objection is in view of statements made in the Additional information provided by ADAS dated 24th March 2015, in response to selected submissions to the planning application.

RWT is highly concerned by the statement made by ADAS that local records collated by 'Birds of Radnorshire' is largely irrelevant to the proposal. Casual records, verified by county recorders, are highly valuable in forming a local context of wildlife activity, particularly for elusive species. Casual records are commonly the trigger for formal surveys conducted using recognised standards be that for planning applications or conservation projects. To dismiss local records as irrelevant to the proposal degrades and removes information necessary to inform the application.

The comments made by ADAS indicate only data generated by the View Point surveys have been used to inform appropriate responses within the Environmental Statement for goshawk and breeding red kite. Goshawk are known to breed in Radnor Forest and this local knowledge requires further consideration.

It is essential that mitigation to minimise disturbance of Curlew, as a protected, mobile species breeding in the application area, is incorporated into proposed operations.

RWT questions the statement made in view of starling roosts being well known to be transitory. There are numerous long established starling roosts across the UK which contradicts this remark. The roost is significant and ADAS surveys suggests collision risk is low due to flight routes into the site observations of flocking occurring below turbine sweep height. As collision risk is assessed as low further action, such as felling of the plantation is considered inappropriate for what is a valuable local wildlife feature.

Extensive habitat restoration and biodiversity gain within the application site and Llandegley Rhos is strongly welcomed. However RWT questions the potential for this given the common status of Llandegley Rhos and apparent exclusion of large areas of the application site. Restoration and management for biodiversity gain of this area would be highly valuable however detail is needed prior to consent to understand the projects validity.

Should you require any further information please do contact me.

Arquiva

- Response dated 11th August 2014

Thank you for your e-mail consulting us on the above windfarm proposal - Arquiva is responsible for providing the BBC and ITVs transmission network. In responding, we should clarify first that we only address the integrity of our broadcast networks.

This generally involves checking our Re-Broadcast Links (RBL's), and point to point microwave links, essential for network operation.

This is distinct from the separate issue of problems with interference. In other words we only check whether a proposal might detrimentally affect our ability to continue broadcasting

signals from the site. What we do not check is whether there might be interference with the reception of those signals once successfully transmitted from our site to individual properties. Having regard to our network and the lines of sight used by our RBUs, we have no objection or issues to raise based upon the information that you provided.

Welsh Historic Gardens Trust (Brecon and Radnor Branch)

- Response dated 14th January 2016

I would like to strongly object to the proposed windfarm at Hendy. My reasons are that such a windfarm would create a blot on the very special landscape of Radnorshire without actually achieving very much in the way of electricity

Radnorshire County Bird Recorder

- Response dated 11th September 2014

I would like to say that the information on birds contained in the application documents including the ES is a mixture of the superficial, incomplete and the inaccurate.

There are numerous points I could make:

The size of the Starling roost in the conifer plantation is hugely understated. There are usually winter peaks of 130,000 to 180,000 and as yet unverified occasional counts of 2 to 3 times this number. There are also several species of specially protected birds of prey associated with the roost namely Short-eared Owl, Hen Harrier, Merlin, Peregrine, Goshawk, Sparrowhawk, Buzzard and Red Kite. These are all seen regularly taking birds as they go in to roost and as they leave soon after dawn. The behaviour of the huge gathered flock and these predators prior to going down to roost is also highly important with regard to strikes. The roost also includes from time to time up to at least 10,000 thrushes mostly Redwing, Blackbird and Fieldfare.

Peregrine falcons have also nested on Llandegley Rocks in most recent years. The report also fails to recognise the wildfowl and gulls associated with Llanwefr Pool and the important fact that the area lies on a major migratory bird flight path which takes and receives birds from all points north and north east to and from the Edw and thence the Wye valleys.

The coverage of the breeding bird community are also incomplete and superficial.

I have been making bird observations in the area for over 30 years and have recently written The Birds of Radnorshire which includes much of the above information and other records for the area concerned.

There is a great deal more that I could say on the importance of the area for birds. I will be sending in a formal objection later.

Open Spaces Society

- Response date unknown

The Open Spaces Society is Britain's oldest national conservation body and the leading pressure-group concerned with the protection of common land.

We wish to reiterate our strong objection to this application which is largely unchanged from the application which was originally submitted.

The proposed wind-turbines would desecrate an area of natural beauty and high landscape value, which is enjoyed by residents and visitors. These vast turbines would dominate this very special and splendid landscape and would destroy the view of and from the magnificent Llangeley Rocks. There are several public paths crossing the area and users of these routes would be severely affected by the sight and noise of the turbines. People visit the area because of its natural beauty, peace and tranquillity. The turbines could deter them from coming and that would result in a serious loss of tourist income to the community.

The access track to the turbines would be sited on common land. The applicants submitted applications under section 38 of the Commons Act 2006 for works on common land, and under section 16 of the Commons Act 2006 for exchange of common land, both of which were opposed. They have now withdrawn these applications. The replacement land which they proposed was unsuitable since it is in part already access land under the Llangeley Rhos inclosure award. We consider that it is not possible to provide suitable land to compensate for that to be taken and we shall oppose any future applications under the Commons Act 2006.

We urge your council to reject this damaging application.

Open Access Society

- Response dated 5th November 2014

Since the Open Spaces Society sent its initial objection to the application from Hendy Wind Farm Ltd for seven wind turbines and associated development at the above site, further important information has come to light.

The land on which it is proposed to construct at least four of the seven turbines, together with the associated development, is part of an area inclosed by orders made under the Commons Act 1876, for Uandegley Rhos and Hendy Bank. The order provide for a public right of access to the inclosed land: 'a privilege at all times of enjoying air, exercise, and recreation on all parts of the land to be inclosed which shall be unplanted or uncu~ivated for arable purposes ... no injury shall be done to the lands, or to the herbage, or the fences, or to the stock or game or to anything up on such lands.' (Extract from the inclosure awards.)

We recommend that you obtain copies of the awards to check the boundaries and you will see that this is the case.

It could be argued that any development on the inclosed land is unlawful since the awards make no provision for the suspension of access rights upon development.

We therefore submit that the construction of wind turbines on the land which was inclosed by the awards would probably be unlawful and would certainly intertere with the public's legal rights of access there.

We trust you will reject the application.

Wales and West Utilities

- Response dated 1st December 2015.

According to our mains records Wales & West Utilities has no apparatus in the area of your enquiry. However Gas pipes owned by other GT's and also privately owned may be present in this area. Information with regard to such pipes should be obtained from the owners.

Safe digging practices, in accordance with HS(G)47, must be used to verify and establish the actual position of mains, pipes, services and other apparatus on site before any mechanical plant is used. It is your responsibility to ensure that this information is provided to all persons (either direct labour or contractors) working for you on or near gas apparatus.

Please note that the plans are only valid for 28 days from the date of issue and updated plans must be requested before any work commences on site if this period has expired.

Welsh Water

- Response dated 22nd September 2014

We refer to your planning consultation relating to the above site, and we can provide the following comments in respect to the proposed development:

We consider it ESSENTIAL that Natural Resources Wales are satisfied that the proposals will not have any adverse effect on any aquifer, or other water resource, in terms of both water quality and quantity.

We expect the developer to make sure all guidelines and good practice are followed in order to prevent pollution incidents that could compromise the River Wye catchment which is one of our raw water sources.

Our response is based on the information provided by your application. Should the proposal alter during the course of the application process we kindly request that we are consulted and reserve the right to make new representation.

Glascwm Community Council

- Response dated 11th September August 2014

Please find below a brief summary of the points that were raised in the recent extraordinary meeting of Glascwm Community Council to discuss the Hendy Wind farm planning application.

Over 80 members of the public attended the meeting with a large percentage of the public sharing a sense of opposition to the application. The following were the main concerns raised and reiterated throughout the meeting.

1)The size and number of the turbines is controversial and seen as unacceptable in an area of natural beauty and would have a detrimental impact on the surrounding landscape. The visual impact would be too great.

2)It was stated that the site is not in a strategic search area and therefore not in line with the TAN 8 policy of allowing the application to proceed.

3)There a BOAT running through the site and it was stated that the British Horse Society specifies that a BOAT should be at least 3 times the height of the turbine away each turbine.

4)The issue of possible health problems associated with living within a close proximity to a wind fann was raised.

5)It was stated that under the Unitary Development Plan an application should not be accepted if it has an impact on the landscape.

6)The sound and noise level was also considered a concern and the subsonic effects should also be studied.

7)Concerns were raised that there could be an impact on the surrounding wildlife including 150,000 starlings that roosted nearby.

8)The carbon cost on the production of the site would be great.

There were also a number of residents that were supportive of the application and gave the following reasons:

1)Wind energy is seen as a clean energy and is much safer than alternatives such as nuclear power.

2)There had been a reduction in the number of turbines both in number and height to help reduce the visual impact.

3)The community benefits from such a scheme could be beneficial to the area.

4)Consideration should be given to the feelings of the entire community including those not present at the meeting.

A vote was taken by the members of the Community Council that were able to vote with the results being-

1 member giving support to the application and 3 members opposed to it.

Gladestry Community Council

- Response dated 14th August 2014

I am writing on behalf of Gladestry Community Council to oppose the application to erect 7 wind turbines on land close to Llandegley. The reasons for opposition are as follow:

1. The proposed siting of the turbines falls outside the area designated by the Welsh Assembly in TAN8;
2. The impacts of low frequency noise from the turbines would be detrimental to local inhabitants;
3. The plans do not reflect the fact that part of the proposed site is common land;
4. There is no impact assessment on the probable detriment to birdlife in the area, particularly in relation to the roosting site of starlings;
5. There is likely to be an adverse effect to tourism in the area as a result of the spoiling of an area of great scenic beauty used by walkers, riders and sightseers. Such detriment is likely to be experienced in areas such as that covered by this Council; and
6. Roads in and out of the proposed site are not really suitable for multiple journeys of excessively long load needed to transport turbine parts.

To reiterate the opening statement, Gladestry Community Council wishes to oppose this application.

Old Radnor Community Council

- Response dated 20th August 2014

The Community Council objects to the planning application for the following reasons:

1. The landscape impact would have a detrimental effect on a precious rural area.
2. They will have a significant unwanted visual impact on this rural area.
3. There would be a negative impact on local residents.
4. This area of countryside has very little modern infrastructure on the hillsides and the Community Council are fearful that if approved it would set a precedent and lead to a proliferation of applications for wind turbines
5. The site is outside the strategic search area.

- Response dated 16th December 2015

Please note that Old Radnor Community Council wishes to object to the above application and would like to reiterate its previous comments which it considers are still valid -

1. The proposals will have a detrimental Impact to the landscape in a precious rural area
2. There will be significant unwanted impact visual impact to all
3. There will be a negative Impact on local residents
4. There is presently has very little modern infrastructure on the hillsides and approval of this application would set a precedent and lead to a proliferation of applications for turbines in the area.
5. Welsh Government has already identified areas it considers suitable for the siting of turbines. This site is not within one and is therefore outside the strategic search area.

Llanddewi Community Council

- Response dated 4th September 2014

The council does not wish to comment on both of the above application.

New Radnor Community Council

- Response dated 12th September 2014

I write to confirm that New Radnor Community Council wishes to object to the above application.

The proposed development far exceeds the 5mw maximum capacity for small wind farms outside the Strategic Search Areas defined in Welsh Government document, TAN 8 and should be refused for the following reasons –

- the proximity to nearby bridleways and rights of way, the recommended distance from any bridleway is 3x turbine height, equating to 330m in this case. However the nearest right of way to the turbines is just 200m away, representing a clear danger to all users, not only horse riders but also walkers and cyclists;
- the adverse visual impact on the A 44 and on tourism, a principal leisure route into Wales (a route recognised as having high scenic value in the recent planning inspectorate decision on the turbine application at Pentre Tump) and the resultant effect on tourism;
- sited outside Strategic Search Area, wind farms over 5mw (this site being 17.5mw) should, as indicated in TAN 8, be restricted to Strategic Search Areas or brown field sites. To grant permission for this development would industrialise an area of exceptional
- detriment to the local landscape, the views enjoyed from the site area and from surrounding hills, roads and rights of way would be severely detrimentally affected.
- The Unitary Development Plan for Powys states that a wind farm should only be considered where there is no adverse effect on the landscape;
- damage to local wildlife, in particular the local bird population (the email sent to PCC from the Radnorshire County Bird Recorder details many species which would be affected and analyses the present numbers of those species in the area).

I would be grateful if receipt of this letter could be acknowledged via email.

- Response dated 15th January 2016

I write to confirm that having considered the new information New Radnor Community Council still wishes to object to the above application and would like to make the following comments.

When considering its objection the Community Council had regard to the Powys UDP section SP3 which refers to Natural, Historic and Built Heritage and to E3 12.9.1 which refers to Wind farm Development. It also noted that in the appeal decision for Pentre Tump 28/1/14 Inspector Alwyn Nixon set a precedent for decisions on small wind farm applications, using the Powys UDP in the decision process and re-enforcing the policies contained therein.

Interpretation of the TAN 8 documentation produces a need for enhanced protection of areas outside of those strategic search areas identified for wind turbine developments.

Welsh Government Technical Advice Note 8 states that there is a balance to be struck between the desirability for renewable energy and landscape protection. Powys UDP SP3 requires development to take account of the need to protect, conserve and wherever possible enhance the natural and built heritage. E3 states that wind power development should not adversely affect the enjoyment and safe use of the public rights of way network, especially bridleways.

It is the view of the Community Council that this development would unacceptably and adversely affect the environmental and landscape quality of this part of Powys. It would unacceptably and adversely affect the enjoyment of the public rights of way network, bridleways in particular, thereby rendering the proposal unacceptable to the policy of E3 of the Powys UDP.

Access tracks can in themselves have adverse visual impact and this together with the proposed huge turbines would have a very negative visual impact on those enjoying the countryside on footpaths, bridleways and roads. The proposed site is in an area that is very valued for its attractive and historic landscape.

The Community Council feels that the County Council should be proactively steering wind power developments to areas where they would be most acceptable, and away from landscapes valued so highly for their beauty by both locals and tourists and public opinion is of very high relevance and should be taken into account.

In addition I would like to re-iterate the points made in my original letter submitted in September 2014 -

The proposed development far exceeds the 5mw maximum capacity for small wind farms outside the Strategic Search Areas defined in Welsh Government document, TAN 8 and should be refused for the following reasons -

- the proximity to nearby bridleways and rights of way, the recommended distance from any bridleway is 3x turbine height, equating to 330m in this case. However the nearest right of way to the turbines is just 200m away, representing a clear danger to all users, not only horse riders but also walkers and cyclists;
- the adverse visual impact on the A44 and on tourism, a principal leisure route into Wales (a route recognised as having high scenic value in the recent planning inspectorate decision on the turbine application at Pentre Tump) and the resultant effect on tourism;
- sited outside Strategic Search Area, wind farms over 5mw (this site being 17.5mw) should, as indicated in TAN 8, be restricted to Strategic Search Areas or brown field sites. To grant permission for this development would industrialise an area of exceptional natural beauty;
- detriment to the local landscape, the views enjoyed from the site area and from surrounding hills, roads and rights of way would be severely detrimentally affected. The Unitary Development Plan for Powys states that a wind farm should only be considered where there is no adverse effect on the landscape;

- damage to local wildlife, in particular the local bird population (the email sent to PCC from the Radnorshire County Bird Recorder details many species which would be affected and analyses the present numbers of those species in the area).

I would be grateful if receipt of this letter could be acknowledged via email. In addition the Community Council wishes to send a speaker to the planning meeting to speak against the application. Our representative will be Cllr. Nigel Dodman. Please let me have the proposed date of the meeting as soon as possible.

Llandrindod Wells Town Council

- Response dated 6th August 2014

My council has received the above application during the Summer recess. This application has been considered by members with the following objections highlighted:

- The wind turbines are of a substantial height and it impossible to say whether or not they will be seen by the North ward of Llandrindod Wells.
- An amenity area will be destroyed that is enjoyed not only by the residents of Llandegley but by surrounding locality / community and indeed visitors to the area which relies on tourism. This application will have a visual impact on a wide scale.
- There is a concern that people will not want to holiday in the area when the landscape is full of wind farms.
- The proposal includes access roads etc. not just turbines - which again will have a negative visual impact upon the natural beauty of the area.
- There is a fear that "Mid - Wales will be peppered with wind turbines and the current application for 7 is considered to be inappropriate.

Please could you consider my Council's comments prior to making any decision.

Penybont and District Community Council

- Response dated 12th September 2014

The letter and Planning documents were delivered to our Clerk on 25 July 2014 with a response date of 21 days. We immediately requested an extension and this has been confirmed as 4 September 2014 which is still very little time for an application of this size to be fully evaluated and responded to by volunteer Councillors with little experience of planning in this regard. The fact that this timescale coincides with annual school summer holidays erodes this time further.

Penybont & District Community Councillors resolved unanimously at their meeting on 12 September 2014 to object to this application in the strongest possible terms. In doing so, they have taken account of the overwhelming opposition of the local communities demonstrated at the Open Meeting held yesterday evening, September 11 at Penybont Community Centre and of the Petition bearing 150 signatures which was handed in to them on 9 September (a further 11 signatures being appended since then). We understand a copy of this Petition is also being submitted to the County Council. We set out below our initial response and reserve the right to add further detail in any subsequent submission to be read in conjunction with this letter.

The area of Llandegley Rhos and the valley towards Penybont, as viewed from the Radnor Forest, is classically seen as the "gateway" to Wales. This area of unspoilt beauty is punctuated solely by dwelling and farm buildings of a scale to blend into the landscape. The proposed wind energy development will bring an industrial site into the midst of the area, which is highly valued for its scenic qualities, wildness and tranquillity for recreational interests and opportunities. The size and number of these turbines will be intrusive and have a devastating effect on the panoramic views across the valley and Llandegley Rocks.

1. Planning Policy Wales (Edition 7, July 2014)

5.3.1 Many of the most important areas of landscape quality and nature conservation have been statutorily designated.

Although many of the most important areas of landscape quality and nature conservation are statutorily designated, not all are. The landscape on the south side of the A44 carries no national or local landscape protection designation, it is nonetheless evaluated as of high scenic quality.

2a TAN.8

The Assembly Government has commissioned extensive technical work, which has led to the conclusion that, for efficiency and environmental reasons amongst others, large scale wind developments should be concentrated into particular areas defined as Strategic Search Areas (SSA's). The proposed site does NOT fall into an area identified. The developers argue that TAN 8 should only be given limited weight, but the Planning Policy Wales (Edition 7, July 2014) states both local planning authorities and developers should have regard in particular to the guidance contained in Technical Note 8 (TAN 8).

2b TAN.8

1.13 of TAN 8 states most areas outside SSA's should remain free of large wind power schemes. Local planning authorities may wish to consider the cumulative impact of small schemes in areas outside of the SSA's and establish suitable criteria for separation distances from each other and from the perimeter of existing wind power schemes or the SSA's. In these areas there is a balance to be struck between the desirability of renewable energy and landscape protection. Whilst the balance should not result in severe restriction on the development of wind power capacity, there is a case for avoiding a situation where wind turbines are spread across the whole of the county. As a result, the Assembly Government would support local planning authorities in introducing local policies in their development plans that restrict almost all wind energy developments larger than smW to within SSA's and urban/industrial brownfield sites. It is acceptable in such circumstances that planning permission for developments over smW outside SSA's and other urban/brownfield sites may be refused.

To quote Alwyn B Nixon BSc (Hons) MRTPI Inspector appointed by the Welsh Ministers
Date: 28 January 2014

Outside the SSA's the implicit objective of TAN 8 is to maintain the landscape character i.e., no significant change in landscape character from wind turbine development

We believe that the proposed development would unacceptably adversely affect the environmental and landscape quality of Powys, and would unacceptably adversely affect the

enjoyment of the public rights of way network, bridleways, thereby rendering the proposal contrary to Policy E3 of the Powys LOP.

2. The Access Route

Construction traffic in the immediate vicinity of the site is problematic in that it requires a separate application to the Planning Inspectorate in Cardiff in relation to the Commons Act 2006 Sections 16 and 38: the first application of Hendy Windfarm Ltd having been deemed invalid. The Section 16 application is applying for De-registration of Common Land which will have a serious detrimental effect on the common: an untouched wildlife area subject only to the grazing rights of the commoners which carries restrictions as to numbers of animals which can be allowed to roam freely there. The application will also require removal of ancient hedgerows and trees and the construction of 6 culverts over existing water courses.

3. Byway Open to All Traffic (B.O.A. T.)

The south access track in (3) above is a designated B.O.A. T and cannot be closed to the public because of the requirements of the construction work.

Planning Policy Wales (Edition 7, July 2014)

5.2.1' Common Land is a finite resource and should not be developed unnecessarily. Access to it should not be prevented or impeded unnecessarily.

5. Hydrology

The planning document states that any interference with water courses will be of a minor significance. There are a number of properties relying on spring water in the vicinity of the proposed site. The underground water courses and springs are complex and, without further investigation, it cannot be certain that the installation of these turbines will not affect these water sources.

6a Traffic Management: Abnormal Loads

The Newtown Bypass construction has not even started yet and is mentioned as the main transport route for abnormal loads. The alternative given is the Mochre Link and plans for this were rejected by Powys County Council last year. It is premature of the Applicant to presume they will be able to access it.

6b Traffic Management: Regular Traffic

We consider an 8% to 112% increase in HGV traffic through Penybont to be unacceptable. We do not consider an extra 67 HGV's per day between 7 am and 7 pm in the Penybont, Uandegley, Crossgates areas to be "low" and not of significant impact.

7. Ecology

The ecological studies undertaken by the Applicant seem to be lacking in depth and quality according to Powys County Council Senior Ecologist, Hannah Powell, as well as Radnorshire Wildlife.

8 Tourism

Planning Policy Wales (Edition 7, July 2014)

11.1.1 Tourism is vital to economic prosperity and job creation in many parts of Wales. It is a significant and growing source of employment and investment, based on the county's cultural and environmental diversity. Tourism can be a catalyst for environmental protection, regeneration and improvement in both rural and urban areas.

The Applicant mentions that there are no visitor attractions in the area to be affected by the proposal. Our point is that the very fact that there are no amenities is a significant attraction for tourism in itself.

In conclusion, we formally request that we are represented by a spokesperson for the allowed allotted time when this Application comes before the Planning Committee. We would appreciate your confirmation of this request together with, in due course, details of the Agenda of the relevant Planning Committee Meeting.

- Response dated 13th January 2016

As arranged, the Council now write in response to the Additional Information documents and send their thanks for allowing them extended time for response in order that the matter could be considered at a Council Meeting.

As this application is of strong interest to our community, and that of Glascwm and New Radnor – the meeting was attended by residents from all three Community Councils and time was allowed, before the formal Agenda, for public discussion.

The meeting was of the opinion that there was nothing contained in the Additional Information that materially affected the points made in the original opposition letters. Much of the assertions made by the applicant cannot be proven, or otherwise, until after the turbines are in place – by which time it will be too late.

- particular areas of concern that were discussed encompassed
- noise and resonance levels
- ecological factors
- Transport access: particularly the impact on the communities of Llandegley and Penybont in respect of the initial delivery of turbine parts and, importantly, the truck movements required delivering aggregate. It is noted that trucks will be required to exit the site turning left and, if they actually wish to proceed right – they will have to travel to Crossgates roundabout to turn round and go back along the A44. In practise this will not be “policed” and may well result in large trucks turning by way of the road through Llandegely village.
- The point that underpins everything else is the impact of the industrialisation of turbines on this iconic landscape and there is nothing that the applicants can say or do that will mitigate this. For as long as the turbines, or any subsequent replacements are in situ.
- It is our understanding that local community feeling on applications is to be taken into account in reaching a decision and the Community Council's and residents would point

out that the Planning Committee should be under no illusion that this project is supported by the local population. The applicants went through a “cursory” consultation exercise mounted by a PR company at the outset before the application was lodged. Their information Exercise, publicised to take place over a week in Penybont & District Community Centre never materialised and, indeed, the Community Centre never received a hire booking from them.

- The applicant produced a booklet “Statement of Community Involvement” which was dated 11 June 2014 which was compiled well before the local community had time to fully comprehend the vast amount of documentation that comprised the application, realise the level of opposition that there was and organise themselves for action. The booklet, therefore, takes no account of this and presumes a support that was never there.
- When Mr Radford of Hendy attended the meeting convened by Penybont Community Council – to which the other two Community Councils were invited he was very quickly disabused of interest in the “jam tomorrow” concept of community funding. Penybont & New Radnor Community Councils then resolved to have no more discussions of any sort in respect of this as it represented an unnecessary distraction to the vast amount of work they were having to undertake to mount opposition to both this application and the related, but separate application, to De-register part of the Common Land at Llandegley Rhos.

Following all the discussions and points put forward by the public, a unanimous vote was taken on the proposition that the Council should instruct the Clerk to write to Powys Council Planning Department confirming the above. Councillors then resolved to support this proposition unanimously.

Llanbadarn Fawr Community Council

- Response dated 5th August 2014

At the recent meeting of the Council the planning application above was discussed and the members have asked me to write to you expressing their views.

- a) The size of the wind farm and the height of the turbines was considered to be completely unacceptable.
- b) The logistics of bringing the turbines to site and the extra traffic and possible damage to road from heavy lorries was considered.
- c) The environmental aspect of the turbines was considered to be of great detriment to the surrounding area. Such a project could only distract from what is a beautiful area and the effect of turbines on the wildlife is a concern.
- d) This would be a commercial venture and the Council queried your own criteria when considering such projects.

The Council would ask you to consider these concerns before making your decision.

Cllr. Hywel Lewis

- Response dated 11th August 2014

May I please request an extension for responding to the above planning application as I am only now beginning to get representations from my constituents, due no doubt of the holiday

period. Also I have been unable to access the planning portal properly for weeks therefore have not been able to view the application documents.

If an extension is not possible I have object now to this application for the reasons below. Visual impact, the beautiful landscape of Llandegly Rocks will be seriously compromised, The development would be outside the TAN8 area, - The disruption caused by the haulage of these enormous structures and the potential damage to our roads, - The impact on local inhabitants having to live in the shadow of these turbines, - The negative effect a wind farm in the area would have on tourism.

Representations

Public Responses

6 representations were received in support of the application whilst 186 representations were received objecting to the proposed development. These responses are set out in the application file in full and raise a range of concerns. I summarise the main considerations raised below:

- Conflict with local and national planning policy.
 - The size of the turbines is not in keeping with the locality.
 - Adverse impact on the landscape and associated character.
 - Adverse impact on residential amenity.
 - Adverse impact on the open access land and public rights of way.
 - The applicant's submission does not present an accurate reflection of the benefits and impacts of the proposed development.
 - Adverse impact on the A44.
 - Adverse impact on tourism.
 - Potential health issues associated with noise and vibrations.
 - Construction pollution and local road use damage.
 - Irreversible environmental damage.
- Development would cause the area to be less attractive and enjoyable to live in, to see, to walk, to ride or to drive.

It has also been noted that a number of public meetings have been held to discuss the proposed development.

In addition, considerable material has been received from Mr Geoffrey Sinclair objecting to the proposal who lists 55 people as supporting his objections.

Professional Opinions

The following independent professional opinions have been sought in relation to this application:

- Review of Noise Section of the ES by Dick Dowdler, Acoustic Consultant

- A Review of the Environmental Statement - Landscape and Visual Impact Assessment Chapter prepared by Enplan
- Professional opinion on the acceptability of the cultural heritage impacts of the proposed scheme for Hendy Wind Farm by Atkins

Planning History

No relevant planning history to report.

Principal Planning Constraints Identified on GIS

Public Right of Way
Public highways
Common Land
Scheduled ancient monuments

Principal Planning Policies

Local Planning Policy

Powys Unitary Development Plan (2010)
SP3 – Natural, Historic and Built Heritage
SP6 – Development and Transport
SP12 – Energy Conservation and Generation
GP1 – Development Control
GP3 – Design and Energy Conservation
GP4 – Highway and Parking Requirements
ENV2 – Safeguarding the Landscape
ENV3 – Safeguarding Biodiversity and Natural Habitats
ENV4 – Internationally Important Sites
ENV5 – Nationally Important Sites
ENV6 – Sites of Regional and Local Importance
ENV7 – Protected Species
ENV17 – Tree Ancient Monuments and Archaeological Sites
ENV18 - Development proposals affecting archaeological sites
T6 - Walking and Cycling
TR2 – Tourism Attractions
RL4 - Outdoor Activity and Pony Trekking Centres
RL6 - Rights of Way and Access to the Countryside
E3 – Wind Power
DC9 – Protection of Water Resources
DC12 – Overhead Lines and Pipelines
DC13 – Surface Water Drainage

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note
UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

The Powys Local Development Plan has been submitted to the Welsh Government for examination. The public examination of the Plan is underway and its soundness has not been established. The policies relating to wind energy developments are may be material considerations but are currently in a state of flux awaiting the outcome of further background studies before being considered at examination. I therefore consider that the policies contained within the current version of the LDP are to be accorded very little weight at this time.

National Planning Policies

Planning Policy Wales (9th Edition, November 2016)
Technical Advice Note 5 – Nature Conservation and Planning (2009)
Technical Advice Note 6 – Agriculture and Rural Development (2010);
Technical Advice Note 8 – Planning for Renewable Energy (2005);
Technical Advice Note 11 – Noise (1997)
Technical Advice Note 13 – Tourism (1997)
Technical Advice Note 15 – Development and Flood Risk (2004)
Technical Advice Note 19 - Telecommunications (2002)
Technical Advice Note 20 – Planning and the Welsh Language (2013)
Technical Advice Note 23 – Economic Development (2014)
Welsh Office Circular 11/99 – Environmental Impact Assessment

Other policy and guidance

There are a number of national and international agreements and policies relating to the provision of renewable energy and achieving carbon emission reductions. These are material considerations and include:

- 5/93: Public Rights of Way (1993)
- Kyoto Protocol (1997)
- Circular 11/99: Environmental Impact Assessment (1999);
- Energy White Paper (2003)
- Wales Spatial Plan (2004)
- Energy White Paper (2007)
- UK Climate Change Programme (2008)
- Climate Change Act (2008)
- UK Renewable Energy Strategy (2009)
- EU Renewable Energy Directive 2009/28/EC (2009)
- UK Low Carbon Transition Plan (2009)
- A Low Carbon Revolution – The Welsh Assembly Government Energy Policy Statement (2010)
- Written Statement by the First Minister, Welsh Government: Planning for Renewable Energy in Wales (17 June 2011)
- Minister for National Resources letter of 14 August 2015
- Letter by the Minister for Environment and Sustainable Development (John Griffiths) - July 2011
- Welsh Government Circular 016/2014: The Use of Planning Conditions for Development Management

- Welsh Assembly Government (2007), Guide to Good Practice on Using The Register of Landscapes of Historic Interest in Wales In The Planning and Development Process.
- Welsh Assembly Government (2011), Conservation Principals, Policies and Guidance for the Sustainable management of the Historic Environment in Wales
- Welsh Office Circular 60/96 Planning and the Historic Environment: Archaeology
- Welsh Office Circular 61/96 Planning and the Historic Environment: Historic Buildings and Conservation Areas

Officer Appraisal

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Climate change & Principle of Development

The Intergovernmental Panel on Climate Change (IPCC) stated in 2014 that *'warming of the climate system is unequivocal, and since the 1950s, many of the observed changes are unprecedented over decades to millennia. The atmosphere and ocean have warmed, the amounts of snow and ice have diminished, and sea level has risen'*.

The Climate Change Act established a target for the UK to reduce its emissions by at least 80% from 1990 levels by 2050. This target represents an appropriate UK contribution to global emission reductions consistent with limiting global temperature rise to as little as possible above 2°C. The Act established a system of five-yearly carbon budgets, to incrementally achieve this reduction.

To help achieve these increasing targets, there has been a push to increase the proportion of energy generated from renewable sources across the UK. These have been supported by the government in a number of ways including direct financial aid (such as subsidies) and planning policy. Planning policy is clear that there is a need to move towards renewable energy sources to combat climate change.

The need for the development is accepted and the contribution the scheme makes towards meeting that need is material and should be weighed in the planning balance. The proposed development would generate up to 17.5MW, however it is noted that wind farms only typically operate at around 30% of their capacity over the course of a year. The exact load/capacity factor in this instance is unknown but once this is taken into account the proposed development is likely to produce around 5.25MW.

Notwithstanding this, the proposed development would provide a valuable source of clean renewable energy and this should be afforded significant weight in consideration of the application.

Landscape & Visual

The main body of the application area lies at an elevation of between 300m and 340m AOD. The landform of the local context is an eroded upland plateau characterised by the contrast of domed and more rugged uplands with broad, heavily undulating valleys or vales. There is a complexity to the landform of this part of Powys with several identifiable upland areas, interspersed with multiple tributary valleys which independently drain both to the north to the River Ithon and south towards the River Wye. The dramatically steep-sided, round topped and incised edge of the Radnor Forest upland lies to the east of the application site. This is the dominant landform of the study area rising to 650m AOD, although the immediate edge generally rises to just above 500m AOD.

The application site lies within an undulating upland vale which runs very broadly south-west to north-east between the Llandegley Rocks (up to 436m AOD) to the immediate north, Gwaunceste Hill (542m AOD) some 4.5km to the south with the edge of Radnor Forest uplands some 2km to the east. Within the vale there is a band of slightly higher ground, east of Nant, which partially subdivides the area. The application site lies at a watershed within the vale, with waters flowing to the north-east and south-west respectively. In the west the vale is framed north and south by the ridge from Llandegley Rocks, through Gilwern Hill to Castle Hill along its northern side and upland hills from Gwaunceste Hill, through Little Hill to Aberedw Hill to the south amongst others to the south, all of which combine with the other uplands to provide a contained but wide setting for the application site.

The ES considered the likely effects of the proposed turbine on the landscape and visual amenity of the site and surrounding area, in conjunction with the operational wind farms and single turbines in the area. It concludes that due to the contained visual envelope of the proposed development, the significant effects of the proposed Hendy wind turbines would be limited to:

- The character of the landscape of the site and surrounding area encompassing the Upland Moor, north of Hundred House Aspect Area within which the site is located. The character of the landscape of southeast facing slopes of Llandegley Rocks, Bwlchllwyn Bank and higher slopes of Pawl-hir all located within the Rocky Moorland Gilwern Hill AA, a swathe of landscape along the A44 corridor between Castell Crugerydd and Larch Grove within the Rolling Hills central south-east AA, west facing slopes of the Upland Moor Radnor Forest AA at distances of 2.0 - 5.0km from the Hendy turbines, west and north facing slopes of Gwaunceste Hill 3.0 - 5.5km from the proposed turbines within the Upland Moor Glaswem Hill AA, and landscapes immediately west of Gwaunceste Hill within the Improved Upland Radnor Forest AA at distances of 4.0 - 5.0km from the proposed turbines. These significant effects on landscape character would be adverse, direct, individual/ additional cumulative, long-term, temporary and reversible once the proposed development is decommissioned.
- The visual amenity of residents in properties up to approximately 5.5 - 6.0km from the proposed Hendy turbines, with open views towards the proposed turbines. These are limited to a few properties in Nant and Hundred House, and a few individual residential properties in the surrounding landscape. Pye Corner and Hendy Farm are both located within 1km of the proposed turbines. The screening features within the local landscape, partial screening by intervening topography, substantial separation distance from residential dwellings, and the orientation and direction of views from properties will mean in terms of the Lavender test, no overbearing impacts on residential views are expected.

- The visual amenity of users of the local rights of way network within approximately 4.0km of the proposed Hendy turbines including the footpath, bridleways and byway crossing the site.
- The visual amenity of users of the approximately 9km stretch of the Sustrans route 825, The Radnor Ring, between Hundred House and Brynthomas (northwest of the site).
- The visual amenity of visitors to The Pales, Quaker Meeting House.
- The visual amenity of motorists on a short section of the A44 between just beyond Llandegley and The Van, and local roads within 2.0 - 2.5km of the proposed turbines.

In addition, the ES has identified significant cumulative effects as follows:

- Landscape character - through the introduction of both the Hendy and Pentre Tump turbines, significant cumulative changes in landscape character would occur within limited parts of the Rocky Moorland, Gilwem Hill AA, Upland Moor, Glascwm Hill AA and Rolling Hills central south-east AA.
- Visual amenity - motorists and their passengers on the A44 between Walton and Llandegley (significant sequential cumulative effects), cyclists on sections of the Sustrans Radnor Ring cycle route (significant sequential cumulative effects) and users of extremely limited locations on the local PRoW network, such as walkers and horse riders across areas of elevated land such as Gwaunceste Hill and parts of Llandegley Rocks (significant combined cumulative effects).

An independent review of these findings was carried out by Enplan and are set out below

- *The ES LVIA methodology employed is, for the main part, set out with clarity and generally reflects the approaches of the guidance of GLVIA3 and those SNH publications on which it relies. However, we have a number of observations and identified a number of issues with it which we consider lead to the under evaluation of some aspects of the assessment. These latter issues include the failure to use LANDMAP in considering landscape value, the undervaluing of some visual receptors, the inclusion in the assessment criteria and literal use of “other similar structures” and the use of literal applications of precise angles of the view occupied by the wind turbines; all of these could and do reduce the degree of significance of the effects to some extent.*
- *We consider that there are some shortcomings with the selection of representative viewpoints. Those that have been selected are satisfactory but several key scenic locations have not been included and that consequently this affects the assessment. These viewpoints include the BOAT about 700m due west of the turbines, Open Access Land at the summit of Llandegley Rocks about 1.3km from the nearest turbines, Open Access Land within the Radnor Forest area and Open Access Land at Castle Bank, near Camnant.*
- *The access tracks do not feature in the detailed visual impact assessment and do not appear, therefore, to have been taken into account. The access tracks are included within the landscape assessment but we consider the*

assessment to be cursory and which does not consider the effect of the significant earthworks. We note that the design does not show how the BOAT, which is severed three times, would be integrated.

- *There is a fairly high degree of agreement between the detail of the LVIA and with our own assessment. We differ in respect of the level of sensitivity to be applied to certain visual receptors, the value given to certain landscapes and with the individual assessments of magnitude of visual effect for some viewpoints, especially those in close proximity to the turbines. Consequently, we differ in some respects as to the degree of significance of certain effects but we generally agree with the LVIA's judgements in respect of whether an effect is significant or is not significant, in accordance with the meaning required by the EIA regulations. Also, to a large degree, we agree with the LVIA's assessment of where significant landscape and visual effects would extend to. We agree with the residential visual amenity assessment conclusions and with the cumulative landscape and visual impact assessment conclusions.*
- *Where we find particular failing in the LVIA, however, is in the absence of any conclusion as to the landscape and visual consequences of these effects. The conclusion section is simply a summary of the LVIA, it is not a statement of acceptability or otherwise of the proposal in landscape terms. We can, however, draw from the definition of significance provided in the methodology and conclude from this that the significant visual effects up to 5.5-6.0km and the significant landscape effects out to 5km are "of sufficient magnitude to be a material planning matter which should be taken into account in the decision making process", noting that "significant adverse effects are not necessarily unacceptable when weighed in the planning balance". We would go further than this and say that the significant effects on the LANDMAP High overall evaluation VSAs (Upland Moor Radnor Forest and Upland Moor Glascwm Hill) should weigh considerably against the development and that on the Moderate overall evaluation VSAs (Upland Moor north of Hundred House, Rocky Moorland Gilwern Hill and Rolling Hills central south-east) should have some weight. In terms of visual amenity we consider that the significant effects on users of the BOAT, the Open Access Land and Public Rights of Way, particularly of the surrounding upland areas should also weigh considerably against the development. It is for others to consider whether benefits of the scheme outweigh these harms.*
- *In pure landscape and visual terms we consider that the proposals would be unacceptable and recommended that the Council consider refusing this application on the grounds set out above.*

A further landscape assessment has been provided by Geoffrey Sinclair on behalf of local residents, whilst he is not a Chartered Landscape Architect it is noted that he has appeared at a large number of planning inquiries on behalf of objector groups. In his submissions he has also submitted an LVIA prepared by Anthony Jellard Associates for NRW. Both of these assessments largely concur with Enplan's findings that the ES underplays the landscape and visual impacts of the proposed development.

Having been to the site on several occasions I agree with both the ES and Enplan's assessment that there will be significant landscape and visual effects. The development site is located in a largely undeveloped valley setting and despite its undesignated status has

considerable landscape value. It is noted that the impact of the access road, substation and grid connection have not been given sufficient discussion and assessment in the ES as highlighted by several consultation responses but it is considered that the comments from Enplan and others on this matter add to my conclusion of significant landscape and visual effects.

I consider that the impacts identified would render the application contrary to UDP Policies SP12, ENV2, GP1, E3; PPW and TAN 8.

Ecology

There has been a considerable amount of material submitted since the application was originally submitted, particularly correspondence between NRW, PCC Ecology and the applicant on a range of matters but particularly in relation to the impact of the proposed development on SSSI's, the River Wye SAC and the wildlife (including protected birds and reptiles) that live within these areas and the application site. Additional information provided by the applicant comprises:

- Letter from Cunnane Town Planning dated 23rd March 2015 including statement from ADAS consultant ecologist responding to the comments provided by Hannah Powell and Natural Resources Wales
- Appendix A: Hendy VP Summary Revised 170315, prepared by ADAS UK Ltd
- Appendix B: Reptile Survey Area, Hendy Windfarm, Powys, prepared by ADAS UK Ltd
- Appendix C: Hendy Wind Farm Habitats Regulations Assessment Screening Report, prepared by ADAS UK Ltd

This material was considered to cover many of the concerns raised by both NRW and PCC Ecology. NRW's response dated 22nd December 2014 contained an objection due to lack of a transparent Habitats Regulations Assessment for the River Wye SAC. In order to address this a Habitats Regulations Assessment Screening Report produced by ADAS dated February 2015 was submitted. PCC are required by Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (as amended) to assess the potential for projects to impacts European Designated sites, as such the information submitted has been used to undertake a Habitats Regulations Assessment Screening has been undertaken for the River Wye SAC. Having reviewed the information provided by the applicant as well as comments received from NRW and other consultees, PCC Ecology has determined that the proposed development would not result in a likely significant effect to the River Wye SAC and/or its associated features.

Whilst I note the concerns expressed by the Radnorshire Wildlife Trust and the bird recorder neither NRW nor PCC Ecology have raised similar concerns and I am satisfied that there is adequate information provided to determine the application.

In light of the information submitted and the results of the Habitats Regulations Assessment it is considered that the proposed development can be considered to comply with the relevant UDP policies in relation to ecology subject to conditions covering the following matters:

- Construction Environmental Management Plan (CEMP) – submission prior to commencement of development 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
 - Pollution Prevention Plan
 - Invasive Non-Native Species Control Plan
- Protected Species Protection Plan (PSPP) – submission prior to commencement of development. The PSPP will need to include
 - A detailed Pre-commencement Survey Programme including specification for pre-commencement surveys to be undertaken for (but not limited to) bats, otter, curlew, water vole, badger, great crested newt and reptiles and include
 - survey methodology
 - schedule and timing
 - the development of casualty risk models for bats
 - Details of specifications for Mitigation or Reasonable Avoidance Measures including in relation to bats, great crested newts, otters, reptiles, breeding birds, water vole, pillwort and badgers to ensure their protection throughout the pre-construction, construction and operational phases of the development
- Habitat Management and Enhancement Plan – submission prior to commencement of development. This plan will set out detailed nature conservation management and enhancement objectives including the management, restoration or creation of priority habitats and/or species, and a timetable for its implementation. The plan will need to include confirmation of the deliverability of the identified measures.
- Confirmation of appointment of a suitably qualified Ecological Clerk of Works (ECoW) to be employed on the development – submission prior to commencement of development
- Submission of an Ecological Monitoring Plan (EMP) – submission prior to commencement of development. The EMP will need to include details of monitoring of Ecological features through construction, operation and decommissioning of the development, the monitoring will also need to be linked to appropriate contingency plans and identify when results would trigger implementation of relevant contingency measures identified in the CEMP. The EMP shall also include the monitoring arrangements for the Habitat Management Plan (HMP) and Protected Species Protection Plan (PSPP).

Hydrology, Geology & Peat

None of the application site is identified at being at risk from flooding from rivers or the sea but the ES notes at para 10.4.4 that *'high surface water flow on-site may lead to significant flooding off-site, which may impact small communities along the River Edw and Nant Brook'* to the south of the site.

Peat is present on the site and concerns exist about the impacts on it. The site has been shown not to have substantial areas of deep peat and NRW have highlighted that potential damage to peatland habitats and carbon stores are a significant issue. In line with section 42

(NERC Act 2006) priority species and habitats of conservation concern in Wales, disturbance and/or destruction of peat should be avoided as far as possible, and where it was not possible, such impacts would be minimised.

The ES states that the assessment of the impacts of the proposal on peat is not necessary because no construction is planned on peaty areas. The access track in the southern part of the site may pass close to deeper areas of peat but the scale of the figure makes it difficult to quantify. Some concerns have been raised with regard to the methodology used by the applicant in assessing Peat and further information on this has been provided.

Whilst impacts on peat are considered important it is noted that development is located away from areas of deep peat. The applicant has requested a micro-siting policy so that they can ensure impacts on public rights of way are minimised and it is appropriate that this policy takes account of peat to steer development into areas of shallower or no peat. Subject to a suitably worded condition it is considered that the impact on Peat can be minimised so that any impacts would not be considered unacceptable.

Concerns have also been raised in relation to construction activity polluting the local hydrology and the introduction of new tracks increasing surface run-off. Welsh Water have confirmed that the River Wye Catchment is one of their raw water sources and it is essential that this is not polluted. NRW have confirmed that subject to a comprehensive Construction Environment Method Statement being secured by condition and adhered to the risk of pollutants reaching the watercourses is minimal.

Private Drinking Water Supplies

Section 10 of the ES considered the impacts on private drinking water supplies, it shows that local private water supplies are situated 500m or more away from the proposed development and states that they are therefore considered unlikely to be affected by activities carried out during the construction and operation phases of Hendy Wind Farm.

No response has been received from PCC Environmental Health.

Notwithstanding this, due to the unknown nature of the sub terrain it is difficult to predict the exact routing of subsurface flows. Construction activity has the potential to pollute these flows and therefore a planning condition ensuring the quality of private drinking water supplies are maintained during construction is considered appropriate.

Shadow flicker and Reflected Light

Shadow flicker is when the sun passes behind the rotors of a wind turbine and casts a shadow over any neighbouring properties. When the blades (and associated shadows) rotate they move quickly which results in light levels flickering and is most noticeable when the shadow passes across window/door openings.

Only properties within 130 degrees either side of north, relative to the turbines can be affected at the latitudes of the UK – turbines do not cast long shadows on their southern side.

The effect is also mitigated by the size of the turbine and the distance to the receptor. A distance of 10 rotor diameters is generally considered to sufficiently mitigate the impact.

The ES considers that the proposed development would not cause significant shadow flicker effects to any residential property as there are no properties within 820m of a turbine with the closest residential property (Hendy Farm) being circa 960m to the south of turbine T1.

Light reflecting off turbines and the rotating blades can impact dwellings in a similar (but opposite) way to shadow flicker and would primarily impact properties to the south. The applicants have sought to reduce this impact as far as practicable by making the turbines a minimal reflective, off-grey colour with a semi-matt finish. It is considered that the impacts on dwellings as a result of reflective light would be minimal, if at all.

Noise

This proposal will create noise, both during construction and operation.

Construction noise is likely to be audible from the surrounding dwellings. The impact of these works can be controlled by conditions relating to when construction work can take place.

With regard to operational noise, national policy and guidance refers to the need for operational noise levels to fall within the established limits of ETSU-R-97 (The Assessment and Rating of Noise from Wind farms (1997) Energy Technology Support Unit). This guidance sets out indicative noise levels thought to offer a reasonable degree of protection to wind farm neighbours, without placing unreasonable restrictions on wind farms. ETSU-R-97 is supported as an appropriate standard in TAN8.

An independent review of the proposed operational wind farm has been carried out by Dick Bowdler (Acoustic Consultant). His initial assessment concluded that there the ES had erred in its assessment of the impacts and requested further information. This was duly provided by the applicant and Mr Bowdler has confirmed that the proposed noise limits at the various residential properties are considered to be acceptable.

Mr Bowdler has therefore concluded that, subject to appropriate planning conditions, the noise that would be generated by the proposed development will not be harmful to residents.

Cultural Heritage

The proposed development would mainly be situated on a slight depression within the valley landscape. The ES identified that:

- There are no designated heritage assets within the development site.
- There are 53 Scheduled Monuments located within the Outer Study Area (10km). Four of these are located within 1.5km of the Development Site and comprise a medieval enclosure, two hillforts and a standing stone.
- There are two Grade I Listed Buildings within 10km of the Development site, both outside of the ZTV and so are not subject to assessment. There are 11 Grade II* Listed Buildings within 10km of the Development site, four of which are within the ZTV and are subject to appraisal. The turbines would be visible in views of or from two

Grade II* Listed Buildings (The Pales and Church of St Michael) and these are subject to more detailed assessment. The ES concluded that there would be no significant indirect (visual) effects on the significance of any Listed Buildings. However as there will be intervisibility between the proposal and two of the listed building Members will need to apply section 66 of the Listed Buildings Act 1990 (discussed below).

- There are no Conservation Areas within 5km of the Development site.
- There is one Park and Garden of Special Historic Interest (Pencerrig) however this is outside of the ZTV and so is not subject to assessment (as agreed with Powys County Council).

Representations have been received in relation to cultural heritage matters primarily from Cadw, Royal Commission on the Ancient and Historical Monuments of Wales and CPAT. The applicant submitted further information in response to queries and issues raised in their additional information submitted in March 2015.

Atkins was commissioned by PCC to provide a professional opinion on the likely acceptability of the cultural heritage impacts of a proposed wind energy development at Hendy. It highlights that the Environmental Statement and supporting documentation provided in 2015 does not fully report potential impacts and fails to address impacts on non-designated remains of potentially national importance. The report concludes that *'the proposed development would "significantly damage" the setting of at least three and probably more scheduled monuments and other nationally important archaeological remains. Our view reflects that expressed by Cadw and CPAT. If this view is accepted by a decision maker, then PPW requires "exceptional circumstances" to exist before the development can be approved. Whether such circumstances exist is a matter for the decision maker's / planning authority's professional judgement, but the circumstances must be clearly articulated for the decision to have validity in law. As indicated above we would advise that further guidance is sought from Cadw / Welsh Government on the interpretation of this aspect of policy. At this time it is unclear whether the renewable energy policy and delivery situation in Wales provides exceptional circumstances, but our view is that the weight Welsh Government provides some indication that it may.'*

Atkins considered that the proposed development would have a significant impact on the setting four Ancient Monuments (Scheduled Nant Brook Enclosure, Scheduled Graig Camp, Scheduled Llandegley Rocks Hillfort and the Scheduled Crug Eyr Mound and Bailey Castle). Concerns have also been raised with regard to the Scheduled Fedw Stone Circle (despite issues with the degree to which the monument survives), the Scheduled Cwm Maerdy Standing Stone and a number of other scheduled monuments within 5km where the ES has dismissed impacts that potentially should not have been and other unscheduled "nationally important remains". With regard to listed buildings, Atkins concurs with ES in that there will be no significant indirect (visual) effects on the significance of any Listed Buildings,

UDP policies SP3, SP12, E3 and ENV17 all require development to not unacceptably impact important historic features although it is appreciated the wording of each policy differs slightly. Most noticeably in this instance ENV17 states that development will not be permitted if it unacceptably affects the remains of, or setting of, a Scheduled Monument of an archaeological site of national importance. Atkins considered that the proposed development to be in clear conflict with UDP in relation to impact on cultural heritage assets. Furthermore, Circular 60/96 contains a presumption against proposals which would have a significant impact on the setting of visible remains of Scheduled Monuments.

In addition, the harms that would be caused are contrary to the general policy objectives of PPW set out in chapter 6. However, PPW also states at paragraph 6.5.5. *'It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. In cases involving less significant archaeological remains, local planning authorities will need to weigh the relative importance of the archaeological remains and their settings against other factors, including the need for the proposed development.'*

It is concluded that the proposal will have a significantly damaging effect on the setting of scheduled ancient monuments and therefore in accordance with national policy development should be only permitted in exceptional circumstances. There is a presumption against grant of planning permission. However it is recognised that there is a need for developments of this type and it is for the decision maker to form a judgement on whether that need outweighs the presumption against grant of permission and constitutes exceptional circumstances. It is noted that in the case of Bryn Blaen, the Welsh Government concluded that the need for such a development outweighed harm to the historic environment. However each application presents different and unique impacts and should be assessed on a case by case basis.

Given there will be intervisibility between the turbines and the two Grade II* Listed churches Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 comes into play. This states that 'In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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'. The Barnwell Manor case the Court of Appeal made it clear that in enacting s.66 (1), Parliament had intended that the desirability of preserving the settings of listed buildings should not simply be given careful consideration by the decision-maker for the purpose of deciding whether there would be some harm, but should be given "considerable importance and weight" when the decision-maker carried out the balancing exercise. Therefore special regard must be given to the desirability of preserving listed buildings and their setting and any harm caused should be given considerable weight within the planning balance.

It is concluded that the proposed development will have significant and unacceptable impacts on the setting of a number of heritage assets in the vicinity of it. These are considered to constitute a *'significantly damaging effect upon its setting'* in PPW terms.

Highways / Transportation

The proposed development would be accessed via a new access from the A44 joining an existing access which would be upgraded to be able to accommodate the large vehicles required for delivery, construction and maintenance.

The ES confirms that during the operation of the wind farm there would be up to two vehicle movements per week by car or light van for maintenance purposes. On occasions there may be a requirement for the delivery of replacement components to the site in the event of a major failure. It is not considered that these movements will give rise to any unacceptable impacts.

The principal impacts on the highway network would be during the construction and decommissioning phase although much of the development remains post decommissioning it is appropriate to assume that there would be a greater amount of construction traffic compared to decommissioning traffic.

The ES confirms that the Port of Entry for turbine components will be Ellesmere Port although it is noted that the Welsh Government as highway authority have commented on the shortage of space at this port. Other ports may be more appropriate.

The ES considers the impact of construction traffic, primarily along the A44, and concludes that there will be no significant impacts.

The concerns of PCC Highways were set out in their letter dated 21 August 2014, this was superseded by a response dated 5th April 2017 that confirmed the details submitted are generally acceptable. They confirm in this response that the details provided show that a safe means of access can be provided to serve the construction of the development. However, full engineering details are still required and these can be dealt with by pre-commencement conditions.

An initial response from the Welsh Government as highway authority dated 16th December 2015 where they directed that the application not be determined until details of required proposed layover / holding areas are provided. A later email dated 22 March 2017 confirmed that the application can be determined if conditions similar to those applied to the Bryn Blaen permission are applied.

In light of this, it is not considered that an objection to this scheme could be maintained on traffic / highway impacts.

Public Rights of Way / Open Access Land

The proposed turbines are located within close proximity of two PRow's, namely the BOAT CR127 and the bridleway LA1218. It should be noted that Landscape and Visual impacts in relation to PRow's are discussed previously in this report and this section considers other potential impacts on public rights of way.

PCC Countryside Services initially objected to the proposed development as they had significant concerns in relation to the proximity of turbines to these routes and the location of the substation. Following this, the applicants have proposed the following measures:

- A new permissive route for walkers, cyclists and horse riders located 200m from the proposed turbines.
- A micro-siting planning condition which would ensure that turbines 2 and 3 would be located further from the public rights of way.
- The substation will not be located on top of Footpath GC1570.
- A condition requiring an Access Management Plan should be attached to any permission to ensure safe public access along the BOAT CR127 during construction.
- The upgrading of various rights of way on land within the applicants control and a contribution of £17,500 (secured by a Section 106 Agreement) towards maintenance

and improvements to the local PROW network to allow users to avoid the wind farm site if they wish.

Subject to the measures outlined above it is considered that the proposed development would not have an unacceptable impact on the PROW network. UDP Policy RL6 supports proposals that improve access to and enjoyment of the countryside by the public. Whilst there may be potential negative impacts on the amenity of users and their enjoyment of the routes improvements to facilitate access should be welcomed.

Overall it is considered that in relation to impacts on the PROW network other than landscape and visual impacts, subject to the proposed mitigation being secured the impacts on the PROW network will be neutral to slightly positive.

Grid Connection

The ES states that power generated from the development will be transferred from the substation via a new 66Kv overhead power line which will connect with existing infrastructure to the south of Llandrindod Wells. The proposed corridor for the connection is illustrated in Figure 1.7 of Volume H.

This new grid connection line will be the subject of a separate application and dealt with by the local electricity distribution company (Western Power Distribution). It is appropriate that any development does not commence until this permission is in place.

Socio Economic & Tourism

The ES confirms that the total capital cost of the development is estimated at £19.1 - 23.3 million (depending on which turbines are chosen). It is assessed that at the development stage, 8% of the direct economic benefits will be retained locally and 41 % will be retained in the wider region. This indicates that the wind farm would bring in total £0.12 - 0.15 million to the local economy and £0.6 - 0.8 million to the Wales economy during development. At the construction stage, it is estimated that the development would bring about £1.2 - 1.4 million to the local economy and £4.9 - 6 million to the Wales economy. During operation of the wind farm it is estimated that the development would generate £0.2 - 0.3 million locally and £0.5 - 0.6 million in Wales per year during its life time. Further indirect benefits would result due to the increased demand for local services including hotels, B&Bs, pubs, restaurants, taxi firms, fuel and repair garages and local shops. In terms of employment it is estimated that the development could generate 3 - 5 full-time equivalent local jobs and 9 - 24 full-time equivalent regional jobs.

I can find no reason to consider that this information is incorrect and note that financial predictions are likelihoods and not fact.

UDP TR2 seeks to oppose development of any kind, which would have an unacceptable adverse effect upon the environmental setting of established tourist attractions. The application site sits in the heart of rural Powys, an area that has a strong tourism industry in a variety of guises although it is noted that many tourists are drawn to the area for its scenic quality and utilise the public right of way network to enjoy the area. Several representations

have been received from local event organisers and businesses, such as the Fforest Fields Caravan and Camping Park and the British Horse Feeds Red Dragon Festival of Endurance raising concerns that the proposed development will be of detriment to local tourism and their livelihoods or events.

It is noted that there are not any promoted local, regional or national routes in the locality.

In addition, a study into the potential economic impacts of wind farms and associated grid infrastructure on the Welsh tourism industry was completed following a recommendation from the Welsh Government's Environment and Sustainability Committee. The *'Study into the Potential Economic Impact of Wind Farms and Associated Grid Infrastructure on the Welsh Tourism Sector by Regeneris Consulting and The Tourism Company'* concluded that there is limited evidence that wind farms impact tourism in Wales. With regard to Powys in particular, the report does state that *'There are examples of certain locations which are more sensitive to wind farm development on account of their landscapes, types of visitor, limited product diversity and proximity to wind farms. This is particularly the case where the key visitor markets are older people visiting for the tranquillity, remoteness and natural scenery offered in some parts of Wales. Remoter parts of Powys are the most notable examples of where this may be the case. In these locations, the study has concluded that the potential negative effect on visitor numbers may still be low overall, but in some circumstances could be moderate. But these findings are still subject to various aspects of uncertainty and need to be explored on a case by case basis for schemes going through the planning system.'*

It is considered that the impact on tourism is hard to prove and cannot be given weight in favour of grant of permission or refusal. Overall, the socio-economic impact is considered to be slightly positive as the development is likely to have a modest positive effect on the economy and employment.

Aviation

The ES confirms that wind turbines have the potential to cause a variety of effects on aviation and radar these range from the generation of unwanted returns on primary radar and affecting the performance of secondary performance radar (SSR), Navigational aids and communication facilities through to physical collision. The ES considers potential impacts of this development in section 12.2.3 and concludes that the development would not result in any issues.

The MOD have confirmed that they do not object to the proposed development subject to:

- the turbines being fitted with aviation lighting (25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point)
- them being notified of:
 - the date construction starts and ends;
 - the maximum height of construction equipment;
 - the latitude and longitude of every turbine.

No other consultation responses have been received in relation to aviation. It is therefore considered that the impacts on aviation are acceptable subject to conditions securing the above measures.

Telecommunications

Arqiva have are responsible for providing the BBC and ITVs transmission network and they have provided a response in relation to the integrity of these broadcast networks. These networks involve point to point microwave links. They have confirmed that they do not object to the proposed development.

Problems with interference is a separate matter. Due to the scale of wind turbines and the moving parts they can disrupt telecommunication signals at receptors (such as residential properties). The ES identifies in Table 12.4 potential impacts on television signal interference, it accepts that interference with the signal is possible at remote properties in the area, at Hundred House and Cregina although it considered interference would be unlikely.

The ES sets out a series of mitigation options in table 12.4 and notes that until the turbines are erected actual interference will not be known. I consider that a condition on any permission to secure mitigation where required would adequately addresses this matter.

Cumulative Impacts

It is important to consider the cumulative impacts of the proposed development with other wind energy developments in the area in accordance with UDP policy E3.

In Landscape and Visual terms, there would be some in-combination cumulative visual effects. Nearby turbines are much smaller and whilst there are some relatively close (Cwmmaerdy 20.4m to tip 0.8km from the nearest turbine and Brynmelys 18.95m to tip 2km from the nearest turbine for example) impacts will be limited. Due to the terrain some stacking will be inevitable in several views but these effects will be limited. It is also noted that Garreg Lwyd is now constructed some 19.2km to the North, the cumulative effects of this scheme in combination with the proposed development have already been assessed within the ES. The assessment within the ES is supported by Enplan's independent assessment. I consider cumulative landscape and visual impacts would be limited and not significant.

With regard to the historic environment, the ES lacks proper consideration of cumulative impacts and only provides an assessment of cumulative effects in terms of visibility (ES Technical Appendix 5.8). It is hard to conclude on cumulative impact with this information but Atkins has confirmed that there *'may be a limited degree of cumulative effects resulting from the proposed development.'*

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that

there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Planning (Wales) Act 2015 (Welsh language) clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material effect upon the use of the Welsh language in Powys as a result of the proposed decision.

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Wellbeing of Future Generations (Wales) Act 2015 imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. The well-being objectives are set out in chapter 4 of PPW and are:

- A prosperous Wales.
- A resilient Wales.
- A healthier Wales
- A more equal Wales
- A Wales of Cohesive Communities
- A Wales of Vibrant Culture and Thriving Welsh Language
- A Globally Responsible Wales

When considering these objectives it is important to recognise that benefits and impacts of the proposed development pull the overall balance in different directions. However, overall and for the reasons I set out in the conclusions to this report it is considered that the

proposed development is in accordance with the sustainable development principle through its, on balance, positive contribution towards the well-being objectives.

Conclusions

Despite the clear progress being made towards meeting current renewable energy generation targets, the targets beyond these are more challenging and there will be a need for more renewable energy projects to meet them. The need for renewable energy development is clear and the proposed contribution of electricity to the National Grid should be afforded considerable weight in the planning balance.

The lack of local support for the scheme is noted but it is considered that the provision of renewable energy to be a UK wide priority and should be given considerable weight. The economic benefits of the scheme are also to be given weight in support of the proposed development.

Having reviewed the application proposals many of the concerns identified have been addressed through the submission of additional information or can be mitigated through the imposition of appropriate planning conditions or Section 106 Agreement. Impacts on ecology, hydrology, peat, private drinking water supplies, noise, highways & traffic, public rights of way, aviation and telecommunications are all considered to be acceptable. Most of these considerations result in neutral impacts as mitigation is required to avoid negative impacts. Accordingly, they have limited impact on the planning balance.

The primary areas of concern relate to cultural heritage and landscape and visual effects where the proposed development will result in significant impacts.

With regard to cultural heritage the proposed development would have a significant impact on the setting four Scheduled Ancient Monuments (Nant Brook Enclosure, Graig Camp, Llandegley Rocks Hillfort and the Crug Eyr Mound and Bailey Castle) alongside the other unacceptable impacts referred to earlier in this report.

With regard to landscape and visual effects, significant impacts have been identified on the LANDMAP High overall evaluation VSAs (Upland Moor Radnor Forest and Upland Moor Glascwm Hill) and there will be impacts on the Moderate overall evaluation VSAs (Upland Moor north of Hundred House, Rocky Moorland Gilwern Hill and Rolling Hills central south-east). In terms of visual amenity, significant impacts will be experienced on users of the BOAT, the Open Access Land and public rights of way.

UDP Policy E3 and other policies within the UDP state that wind energy developments should not unacceptably adversely affect the environmental and landscape quality of Powys nor any buildings or features of conservation or archaeological interest. In light of the above assessments is considered that the proposed development should be considered contrary to this policy and the Powys UDP. In those circumstances in accordance with section 38(6) planning permission should be refused unless the committee accept that material considerations indicate otherwise. The need for renewable energy is capable of being a material consideration that may give rise to a grant of planning permission notwithstanding the fact that the development does not comply with the development plan.

At the national level PPW states (para 6.5.5) that *'It will only be in exceptional circumstances that planning permission will be granted if development would result in an adverse impact on a scheduled monument (or an archaeological site shown to be of national importance) or has a significantly damaging effect upon its setting. In cases involving less significant archaeological remains, local planning authorities will need to weigh the relative importance of the archaeological remains and their settings against other factors, including the need for the proposed development.'* It is also important to consider Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the local planning authority 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.

As I have set out above, there is a clear need for developments of this type and it is for the decision maker to form a judgement on where the balance lies in this case. It is noted that recent decisions (for example, the Bryn Blaen wind farm for 6 turbines located outside a Strategic Search Areas which was allowed on appeal on 23rd August 2016) have concluded that the need for such renewal development outweighs the harm to the historic environment. However, it is important to consider each application on its individual merits and is for the decision maker to decide whether the strength of the need for renewable energy provides the *'exceptional circumstance'* set out in PPW to grant the proposed development planning permission, and overcome the presumption against grant of permission, despite the identified harmful impacts on the historic environment.

With regard to landscape and visual impacts, the application site is not located within a designated landscape. However, a number significant landscape and visual impacts have been identified following an assessment of the proposed development. These harms are to be given substantial weight against the grant of planning permission.

This is a very finely balanced case. The support for renewable energy projects at national policy expressed through PPW and other policy set out above is clear and the Bryn Blaen decision is an indication of the weight to be given to the need, notwithstanding significant heritage, landscape and visual impacts that were identified. However, each application is to be judged on its individual merits and the impacts need to be carefully assessed.

Recommendation

Environmental information has been taken into consideration when arriving at this recommendation. If members chose to follow this recommendation and grant permission they must ensure that they have taken the environmental information into consideration and record that they have taken it into account.

In this instance I conclude that the balance weighs in favour of the proposed development although in reaching this conclusion I am mindful of the identified significant impacts on a number of Scheduled Ancient Monuments and other heritage assets. In my view the need for renewable energy outweighs the presumption against grant of a planning permission in the Circular and in Section 66, and constitutes exceptional circumstances for such a grant of permission. In addition, the proposals would have significant adverse landscape and visual impacts. Overall, and in weighing up these impacts I consider that the need for renewable energy, together with the economic benefits, outweighs the harms. The recommendation for approval is subject to the planning conditions (to follow in an update report) and Section 106

Agreement to secure the permissive footpath through the site and £17,500 for improvements to public rights of way within and around the application site.

However, as this case is very finely balanced and it is recognised that Members may strike the balance in a different direction and Members may consider that the significant identified heritage, landscape and visual impacts outweigh the renewable energy and economic benefits. If Members did strike the balance in another way then the following are identified as potential reasons for refusal which encapsulate the harms identified above:

1. The proposed development is unacceptable in landscape and visual terms due to the extent and degree of the significant landscape effects on LANDMAP High overall evaluation VSAs (Upland Moor Radnor Forest and Upland Moor Glaschw Hill) and moderate overall evaluation VSAs (Upland Moor north of Hundred House Rocky Moorland Gilwern Hill and Rolling Hills central south-east). The proposed development is contrary to policies UDP SP12, ENV2, GP1 and E3 of the Powys Unitary Development Plan (March 2010), Technical Advice Note 8: Renewable Energy (2005) and Planning Policy Wales: Edition 9 (2016).
2. The proposed development would have a significant effect on users of the BOAT, Open Access Land and Public Rights of Way and thereby contrary to policies UDP SP12, GP1 and E3 of the Powys Unitary Development Plan (March 2010) and Planning Policy Wales: Edition 9 (2016).
3. The proposed development would have an unacceptable adverse impact on the setting of Scheduled Nant Brook Enclosure, Scheduled Graig Camp, Scheduled Llandegley Rocks Hillfort and Scheduled Crug Eyr Mound and Bailey Castle. The proposed development is therefore contrary to policies UDP SP12, UDP SP3, ENV17 and E3 of the Powys Unitary Development Plan (March 2010), Welsh Office Circular 60/96: Planning and the Historic Environment: Archaeology (1996) and Planning Policy Wales: Edition 9 (2016).

CONDITIONS

Proposed conditions to follow in update report to committee.

Susan Bolter
Pennaeth Adfywio, Eiddo a Chomisiynu/
Head of Regeneration Property & Commissioning
**Adfywio, Eiddo a Chomisiynu/
Regeneration, Property and Commissioning**

Applicant: Hendy Windfarm Ltd

Location: Land off A44, SW of Llandegley

