Lesley Griffiths AC/AM
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs

Llywodraeth Cymru
Welsh Government

Ein cyf/ Our ref: qA1320857

Mr Keith McKinney
Aaron and Partners LLP
Grosvenor Court
Foregate Street
Chester
CH1 1HG

Keith.mckinney@aaronandpartners.com

25 October 2018

Dear Mr McKinney,

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED): SECTION 78 APPEAL BY HENDY WIND FARM LIMITED
THE CONSTRUCTION AND OPERATION OF SEVEN WIND TURBINES WITH A MAXIMUM TIP HEIGHT OF 110M (HUB HEIGHT 69M) TOGETHER WITH ANCILLARY DEVELOPMENT COMPRISING SUBSTATION, CONTROL BUILDING, NEW AND UPGRADED ACCESS POINTS AND TRACKS, HARDSTANDING AND TEMPORARY COMPOUND WITH ASSOCIATED WORKS AT LAND OFF A44, SOUTH WEST OF LLANDEGLEY, NR LLANDRINDOD WELLS, POWYS.

1. Consideration has been given to the report of the Inspector, Hywel Wyn Jones BA (Hons) BTP MRTPI, who held an Inquiry for your client's appeal against Powys County Council's ("the Council") refusal of planning application P/2014/0672 for the construction and operation of seven wind turbines with a maximum tip height of 110m (Hub Height 69m) together with ancillary development comprising substation, control Building, new and upgraded access points and tracks, hardstanding and temporary compound with associated works, on land off A44, South West of Llandegley, Nr Llandrindod Wells, Powys.

Bae Caerdydd • Cardiff Bay
Caerdydd • Cardiff
CF99 1NA

Canolfan Cyswllt Cyntaf / First Point of Contact Centre:
0300 0604400
Gohebiaeth.Lesley.Griffiths@llyw.cymru
Correspondence.Lesley.Griffiths@gov.wales

Rydym yn croesawu derbyn gohebiaeth yn Gymraeg. Byddwn yn ateb gohebiaeth a dderbynnir yn Gymraeg yn Gymraeg ac ni fydd gohebu yn Gymraeg yn arwain at oedi.

We welcome receiving correspondence in Welsh. Any correspondence received in Welsh will be answered in Welsh and corresponding in Welsh will not lead to a delay in responding.

2. On 15 June 2017, in accordance with section 79 and paragraph 3(1) of Schedule 6 to the Town and Country Planning Act 1990 ("the 1990 Act"), the appeal was recovered for determination by the Welsh Ministers. All appeals which fall within the categories and thresholds of the new Developments of National Significance process are now recovered for determination by the Welsh Minsters. Regulation 4A of the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016, as amended by the Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) (Amendment) Regulations 2016 specifies the construction of an onshore wind generating station which is expected to have (when constructed) an installed generating capacity of 10 megawatts or above is of national significance. The development, the subject of the appeal, for seven wind turbines with an installed capacity of 17.5MW falls within this criterion.

3. Under the provisions of the Government of Wales Act 2006 the power to determine applications under section 79 of the 1990 Act has been transferred to the Welsh Ministers, these functions are within the portfolio of the Cabinet Secretary for Energy, Planning and Rural Affairs and have been exercised by me as Minister.

4. In exercising their functions as part of carrying out Sustainable Development in accordance with the Well-Being of Future Generations (Wales) Act 2015 ("the WFG Act"), section 2 of the Planning (Wales) Act 2015 requires the Welsh Ministers, as a public body, to ensure the development and use of land contributes towards improving the economic, social, environmental and cultural well-being of Wales. In order to act in this manner, the Welsh Ministers have taken into account the ways of working set out in section 4 of 'SPSF1: Core Guidance, Shared Purpose: Shared Future – Statutory Guidance' on the WFG Act through examination of the appeal by way of an Inquiry in accordance with the Town and Country Planning (Inquiries Procedure) (Wales) Rules 2003.

5. A Planning Inspector, appointed by the Welsh Ministers held an Inquiry from 13 to 16 and from 20 to 23 of March 2018 and carried out a site visit on 23 March 2018. The Inspector recommends the appeal is dismissed and planning permission refused. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to the Inspector's report.

Environmental Statement

6. In accordance with The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 as amended, the submitted planning application was accompanied by an Environmental Statement and Non-technical Summary. I have taken the Environmental Statement and all other environmental information provided into account in the consideration of this appeal, as required by the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999.

Habitats Regulations

7. The site lies within 1.3km of the River Wye/Afon Gwy Special Area of Conservation (SAC). In a letter dated 22 December 2014 NRW expressed concern regarding the lack of transparent Habitats Regulations Assessment for the SAC. This prompted the appellant to submit a 'Habitats Regulations Assessment Screening Report', February 2015. Probable effects on the SAC were identified at both construction and decommissioning stages of the scheme. However, when factoring in identified mitigating measures, it found there would be no significant impacts. In response to the report, NRW confirmed on 18 December 2015 it was satisfied the proposed development would not have any significant effects on any protected sites provided the mitigation prescribed in the report is implemented in full (IR14).

8. Since the close of the Inquiry a preliminary ruling by the Court of Justice of the European Union (C-323-17, dated 12 April 2018) has established at the screening stage of the Habitats Regulations Assessment process, mitigation measures should not be taken into account in deciding whether an Appropriate Assessment (AA) is required. The Inspector considered, on this basis, it is evident the possibility the proposal would have significant adverse effects cannot be ruled out without further consideration.

9. As the competent authority the Welsh Ministers were, therefore, required to undertake an AA. An AA was carried out on 19 October 2018, which forms an addendum to the Inspector's original report. The Inspector concluded it is beyond reasonable scientific doubt the scheme, either alone or in combination with other projects, would not have an adverse effect on the integrity of an European Site, namely the River Wye/Afon Gwy SAC. This conclusion is predicated on securing the identified mitigation measures through the imposition of the recommended planning conditions. I accept the findings and conclusions of the AA.

10. I am satisfied Welsh Ministers' duties under the Habitats Directive have been discharged and Regulation 63(5) of the Conservation of Habitats and Species Regulations 2017 has been satisfied.

Main Issues

11. In the Inspector's view, the main considerations in this appeal are the effect of the development on (IR322):

    - the landscape character and visual amenity of the area;
    - the setting of heritage assets in the locality; and
    - whether any harm identified in relation to the foregoing considerations is outweighed by the benefits of the scheme, particularly its contribution to renewable energy generation and combating the effects of climate change.

    I agree these are the main considerations.

The effect on the landscape character and visual amenity of the area

12. The site does not lie within, nor would the proposal impact on, any national landscape designation. Within Powys there are no local landscape designations in the LDP. The Inspector is satisfied the Landscape and Visual Impact Assessment (LVIA) followed the methodological guidelines established by the Guidelines for Landscape and Visual Impact Assessment (GLVIA3). (IR323-325).

13. The Inspector confirms neither the site nor the surrounding area is designated as a registered historic landscape, however, LANDMAP identifies the historic aspect area of the site as outstanding (national) value and much of the surrounding area is of high (regional) value. The Inspector observed any modern man-made features within the landscape as relatively modest intrusions into the largely unspoilt open landscape in which the historic associations can be appreciated as an important component of the local landscape character (IR326-328).

14. The Inspector considers there is a clear distinction between the value of particular historic assets and their setting in their own right and any contribution they make to the character and visual amenity of the landscape (IR329).

15. In terms of the local topography the site sits within a 'bowl' defined by surrounding higher ground. The Inspector states the extent to which the turbines would be viewed against land rather than sky in relatively close views is unusual; most larger-scale turbines in Powys occupy locally elevated positions. As a consequence of the local topography the turbines in this case, or at least the lower parts, would be well screened from view by nearby steeply-sloping topography in certain directions, most notably from points within an area in an arc from points from the west to the north of the site (IR332-333).

16. However, the Inspector notes, the bowl shaped topography also means from many of those areas where the development would be visible the turbines would be seen in the context of a relatively enclosed landscape. The Inspector considers this visual context would influence the apparent scale of the proposed turbines and means they would be perceived as relatively larger structures than would be the case when located in more expansive landscapes, such as the mountain tops occupied by most wind farms in Powys (IR334).

17. There is no dispute between the parties the impact on the landscape within and close to the site would be very considerable and the landscape would be altered to a wind farm landscape within an area some 1km to 1.5km of the turbines, given their size and number. The Inspector considers whilst the surrounding countryside would continue to be visible, the sheer size and number of the turbines, the sweeping motion of the blades and, to a lesser degree, the existence of the access tracks and associated remodelling of the land and other aspects of the development, would continue to have a dominating influence on the landscape for some distance beyond the site itself (IR335).

18. The Inspector states in terms of the precise siting and layout of the turbines, there would be incidence of stacking where the swept path movement of the blades of one turbine would overlap with another turbine creating a visual cluttering or jarring effect. Nonetheless the Inspector is satisfied the design of the scheme has taken reasonable steps to avoid this from the more important static viewpoints whilst avoiding siting the turbines too far apart. The Inspector is also satisfied the revised details of the new tracks which were presented to the Inquiry shows it is possible to follow more closely the existing terrain in terms of the vertical alignment of the tracks thereby avoiding excessively deep cuttings and tall embankments. The Inspector considers subject to controlling the details of the work through suitable conditions, the visual impact of the scheme on the landscape fabric is relatively modest and would be mostly reversible, save for the possible retention of access tracks to serve future farming activity (IR336-338).

19. The Inspector considers the landscape in question is one which is valued by local residents and those who use the network of public rights of way. The Inspector considers these users of the public rights of way which cross over or close to the site are sensitive receptors and it is likely their enjoyment of the attractive undulating landscape would be significantly harmed by the presence of the development (IR339).

20. The Inspector considers whilst the scheme makes provision for a new recreational route, which is the subject of the draft S106 agreement, the impact on users of those sections of the public rights of way within and close to the site would be considerable. The Inspector acknowledges the financial contribution included in the draft S106 agreement would, if executed, enable the accessibility of local public rights of way to be improved but would not mitigate the harmful visual impact users would experience along sections of several routes (IR340-341).

21. The Inspector states numerous local residents and visitors refer to the iconic presence of the distinctive Llandegley Rocks on the scenic quality and value of the surroundings. The Rocks is a feature readily noticeable from various vantage points in the wider surroundings and provides a dramatic skyline which frames views of the site particularly on approaching Llandegley from higher land near Castell Crug Eryr on the A44 from the south east (IR342).

22. Although motorists travelling along a main road may generally be considered to be less sensitive receptors in terms of their surrounding landscape, the Inspector considers this section of the A44 is an important tourist route from England into mid Wales and was a consideration which influenced a decision to dismiss an appeal at nearby Pentre Tump (IR343).

23. On approaching the site, the Inspector states views of the development would be obscured until The Van, a local hill has been reached. Thereafter a dramatically winding section of the road begins to open up to reveal panoramic views over lower lying ground framed by the distinctive skyline of ridges, including Llandegley Rocks. The Inspector states this elevated vantage point, which is some 2km from the nearest turbine, means virtually the whole of each turbine tower would be seen against the rising ground behind with the blades breaking the skyline. The Inspector considers the light colour of the towers would be in striking contrast to the darker ground behind emphasising their presence in most daylight conditions (IR344).

24. From the road layby parts of some of the turbines would be obscured by topography with only the blades of some being visible as they break the skyline. In this view, the development would be readily visible on a prominent ridge. From VP9, which would be 4.6km or so away, the turbines would be wholly seen against land which would highlight their visual presence. The Inspector notes the fact they would be seen in the mid distance in a vast landscape would assist in reducing the apparent scale of the development. However, the Inspector is of the view this is a sensitive vantage point where users of the rights of way would be seeking to enjoy the impressive views of largely undeveloped countryside in the direction of the site which would be harmed by the presence of prominent and intrusive man-made features (IR345).

25. There are 2 dwellings within 1km of a proposed turbine, Pye Corner and Hendy Farm, with a relatively few others within 1.5km. The Inspector agrees with the findings of the Environmental Statement (ES) which state the scheme would not lead to an unsatisfactory residential environment for any nearby residents (IR347).

26. Based on the documentary evidence and visits to the site, the Inspector concludes the impact would be significant on a landscape which has a quality of regional value. The Inspector is of the view whilst the nearby higher landforms provide a screening effect which limits the visual impact of the scheme from much of its surroundings, this landform, in particular Llandegley Rocks, creates a relatively intimate local landscape which is poorly suited to accommodate a development of the scale proposed. Accordingly the Inspector considers the scheme does not perform well in terms of responding sensitively to local circumstances as sought by paragraph 12.8.14 of Planning Policy Wales (PPW). The extent to which the visual qualities of the landscape would be harmed leads the Inspector to find the scheme fails to strike an acceptable balance between facilitating renewable energy and landscape protection as advised in paragraph 2.13 of Technical Advice Note (TAN) 8 (IR348-349).

27. The Inspector considers the scheme would have a substantially detrimental effect on the visual character of the landscape. He considers its topography creates a distinctive and valued landscape which would be harmed by the development. The Inspector states whether these aforementioned impacts are unacceptable in terms of LDP policy DM4, and by association policy RE1, is a matter which is considered in the overall balance (IR350).

The effect on the setting of heritage assets in the locality

28. The Inspector confirms most of the listed buildings in the locality would be screened from views of the turbines by topography and vegetation. Whilst the introduction of modern structures into a predominantly natural scene would have an effect on the setting of listed buildings, the Inspector is satisfied there would be no material harm to the significance of such assets. In reaching this finding the Inspector has borne in mind the protective effect of the statutory duty in relation to listed buildings and their setting (IR352).

29. There is general consensus between the main parties the ES is correct in identifying the main effects on cultural heritage as being the impact on the setting of 4 Scheduled Ancient Monuments (SAMs). The importance of protecting the setting of scheduled monuments from significantly damaging effects is set out in national policy. The ES identifies the effects on 3 SAMs, Nant Brook, Graig Camp and Llandegley Rocks, as moderate to large significance, with the effect on the Castell Crug Eryr SAM as minor to moderate significance (IR353).

30. The Nant Brook Enclosure, an Iron Age defended enclosure, lies within some 500m of the nearest turbine. The Inspector considers the sweeping motion of turbine blades viewed on the skyline immediately above the SAM would represent a more intrusive change to the generally unspoilt upland setting. The Inspector concludes the degree of impact on its setting would be substantial and would affect its historic significance and its appreciation (IR356-357).

31. The turbines would be sited between the Iron Age hillforts of Llandegley Rocks to the north west and, to the south east, Graig Camp. The Inspector states the evidence suggests the hinterland which includes the appeal site is likely to have had a significant association with these assets. The Inspector considers given the visual impact of the proposed turbines they would have a significant impact on the relationship between these monuments, notwithstanding their presence would not physically prevent views across this lower land. The Inspector also acknowledges the intervening distance means inter-visibility between the two monuments is not readily discernible, however, as observed during his site visit, the prominent and distinctive landforms on which they are sited means they are easily found (IR358-359).

32. Graig Camp sits on a prominent ridge summit. Its physical remains extend over the summit of the hill and at its northern extent reveal extensive views in the direction of the Llandegley Rhos area and Llandegley Rocks within an extensive panorama. The Inspector states the views in this direction are impeded to some extent by the presence of a higher part of the ridge in this direction. Most of the turbines would be clearly visible, with the closest turbine some 1.3km away (IR360).

33. The Inspector is of the view the extent to which the large moving structures proposed would challenge the prominence of Graig Camp would significantly harm its historic significance (IR361).

34. Llandegley Rocks Hillfort forms an important element within the wider Iron Age context and within the surrounding landscape. It occupies a highly prominent and elevated position overlooking the appeal site and affording views of Graig Camp Hillfort. The Inspector is of the view the dominant visual impact of the proposed turbines on its immediate surroundings would challenge this prominence and significantly harm its historic significance (IR362-363).

35. Castell Crug Eryr is a medieval motte and bailey castle perched on one of several pronounced hilltops in the vicinity of The Van. At some 2km from the nearest proposed turbine it is the furthest of the 4 affected SAMs. The prominence of the Castle within the landscape is largely unaltered since the time it was built. The Inspector considers views of the castle and the land it overlooked would be considerably altered by the introduction of the turbines. Their prominence, emphasised by their contrasting colour against the darker background and their movement, would compete for attention with the castle and undermine its visual dominance. The Inspector concludes such an impact would be significantly harmful to the monument's significance (IR364-366).

36. The Inspector considers the site and its environs provide a tranquil setting and the presence of the SAMs, and the degree to which they all overlook the area, contributes to this atmosphere. The appellant points out the character of the site and its surroundings have been extensively altered since the SAMs were built and used. Their previously open moorland state was changed following the introduction of field enclosures. The Inspector considers such changes and the more modern developments are modest in scale and impact, in marked contrast to the impact which would be caused by the scheme (IR367).

37. The Inspector considers the effect of the introduction of the 7 large modern structures on the landscape would be significant. The Inspector is of the view the extent to which the natural landscape would be altered and the turbines would become a focus of attention would affect the appreciation of these historic assets, their historic function and their relationship with their surroundings. The Inspector concludes this effect on their setting would harm the significance of each of these historic assets (IR368).

38. The Inspector shares the appellant's view as the harm which he has identified is reversible and the setting of the SAMs will revert to its present state, this reduces the extent of the harm. However, the Inspector is of the view whilst 25 years is a comparatively short time in relation to the age of the assets, it is a significant period in the lifetime of individuals who would be denied the opportunity to properly appreciate the assets. Thus its reversibility does not alter the Inspector's view the development would lead to a significantly damaging impact. The Inspector also acknowledges the appellant has suggested a condition which would provide for improved interpretation and understanding of the historic interest of the local SAMs, and whilst they would not reduce the degree of harm identified, would represent benefits to be taken into account. In this case the Inspector finds these benefits are not sufficient to alter his findings on the detrimental effect which would arise (IR370).

39. Paragraph 6.5.5 of PPW states, "Where nationally important archaeological remains, whether scheduled or not, and their settings are likely to be affected by proposed development, there should be a presumption in favour of their physical protection *in situ*. It will only be in exceptional circumstances 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". The Inspector considers the extent to which the setting of the SAMs would be altered by the large and moving structures would represent a significantly damaging effect in the terms of paragraph 6.5.5 of PPW. Whether there are exceptional circumstances which justify the effect, and whether the harm is one which outweighs the carbon emissions reduction benefits of the scheme are matters the Inspector addresses later in his report as part of the overall balance. In the balancing exercise the Inspector also considers whether the identified harm is 'unacceptable' for the purposes of assessing compliance with Local Development Plan (LDP) policy SP7 and, by extension, policy RE1 (IR371).

40. The Inspector has considered the impact on the setting of other archaeological features and concludes any effects would be low. The Clwyd Powys Archaeological Trust has expressed concern regarding the potential impact on a buried Roman Road. The Inspector considers this matter, along with any other features of potential archaeological interest which may be revealed, can be adequately addressed by a suggested condition (IR372).

Benefits of the Scheme

41. The scheme is estimated to produce sufficient energy to power up to 12,578 homes over its operational lifespan, and to displace some 26,980 tonnes of CO_2 a year. The Inspector is of the view this represents a substantial contribution to the production of energy from a renewable resource and to the reduction in greenhouse gas emissions. The Inspector considers such a contribution is significant in the context of the UK Government's energy policy and the targets required by Welsh Government (WG), and the commitment of both Governments to address climate change (IR373). It is noted while the Inspector refers to UK Government National Policy Statements in setting out the policy context for the appeal (IR36), National Policy Statements EN-1 and EN-3 are not material planning considerations in the determination of this planning appeal.

42. In response to a change in the UK Government's position in recent years WG has emphasised its continued commitment to the important role of onshore wind in meeting renewable energy production targets. The Inspector notes whilst there is evidence good progress is being made in relation to the 2020 target the more ambitious target for 2030 of 70% of electricity consumption from renewable energy appears more challenging, particularly given the likely degree of reliance on electricity production given the more limited progress in relation to heat and transport (IR374).

43. The Inspector notes many objectors point to the presence of two SSAs in Powys and to the number of operational wind farms in the County as evidence it is contributing more than its share of renewable energy both in relation to Wales and the UK. However, the Inspector states there are no provisions in either national or local planning policy to support the concept of an upper limit on wind energy developments within a local planning authority area. Indeed, in accordance with national policy, the recently adopted LDP acknowledges the County's continued role in facilitating such development. The Inspector is of the view the acceptability of such schemes must be assessed on their individual merits within the framework of planning policy (IR375).

44. A potential route providing connection to the national grid at a point which has adequate capacity has been identified. The Inspector states this is significant in terms of ensuring the deliverability of the project although he notes the required infrastructure connection would require a separate consent which would be pursued by Western Power Distribution (IR376).

45. The Inspector considers the scheme would provide benefits to the local economy in terms of investment and employment opportunities, particularly during the construction and decommissioning phases as identified in the ES. As a proportion of the overall project such local opportunities would be limited given the specialised nature of much of the work. Nonetheless the Inspector considers there would be some benefits to the local economy (IR377).

46. In light of the national renewable energy targets and the associated supportive thrust of planning policy, the Inspector concludes the scheme's identified contribution to renewable energy is an important consideration which attracts significant weight (IR378).

Conditions and Section 106 Agreement (S106)

47. I have considered the conditions set out at the Annex to the Inspector's report and, subject to minor changes, agree they are necessary and reasonable and meet the tests in Welsh Government Circular 016/2014, "The Use of Planning Conditions for Development Management".

48. The Inspector states the obligations would secure a financial contribution to be used to improve public rights of way within 10km of the appeal site and would also secure the provision and maintenance of a recreational route across the site during the lifetime of the development which would provide an alternative route to that directly affected by the works (IR313-315).

49. An amended, signed S106 agreement was received by the Planning Inspectorate on 14 May 2018. I am satisfied the obligations in the S106, dated 1 May 2018, meet the appropriate tests in Section 122(2) of the Community Infrastructure Levy Regulations 2010 and Circular 13/97, "Planning Obligations". As such I have given weight to the S106 in the determination of this appeal.

Inspector's Overall Conclusions

50. The Inspector considers the scheme would give rise to significant harm to the character of the landscape and its visual amenity, including its recreational enjoyment by users of local public rights of way and those passing through the area on an important tourist route (IR403).

51. The Inspector considers the development would also cause harm to heritage assets, specifically by virtue of the impact on the setting of 4 SAMs. He considers the nature and extent of this impact is such it would harm their significance. The Inspector concludes notwithstanding the time limited and reversible nature of the impact, the extent to which the scheme would alter the largely unspoilt and remote character of the site and surroundings and the consequential effect on the appreciation of the setting of these SAMs would represent a considerable harmful impact on the significance of these assets, including the ability of visitors to appreciate their historic context and function (IR404).

52. The Inspector is of the view, having regard to the scope to control and mitigate certain effects, none of the other matters raised in objection to the proposal weigh appreciably against the scheme. Nevertheless the Inspector considers the impact on the landscape and its amenity, and on cultural heritage are weighty considerations in this case.

53. The Inspector states national policy adopts a generally protective stance in relation to both considerations, however, in the context of proposals for renewable energy generation this protection is qualified by a need to strike a balance between the harm and need to facilitate renewable energy generation. In the case of the LDP the policies which are relevant to these considerations qualify their protective stance by presuming against developments which would give rise to 'unacceptable' adverse effects or impacts. This suggests a need to strike a balance between the extent of the harm and benefits which would arise to establish whether the identified harm is one which is acceptable (IR405).

54. The Inspector considers the main benefit arising from the scheme would be its contribution to the production of renewable energy and consequential reduction in CO_2 emissions. The Inspector is of the view this is a significant contribution capable of meeting the power needs of up to 12,578 homes and would displace approximately 26,980 tonnes of CO_2 a year. In the context of the supportive stance of national planning policy and the need to meet increasingly ambitious national and international targets the Inspector considers this is a benefit which attracts significant weight (IR406).

55. The Inspector states the scheme would also provide local economic and employment benefits which attract modest weight. Subject to securing an executed agreement, he considers the suggested financial contribution to improving local public rights of way would be a local benefit. However, the Inspector considers it would, alongside the proposed recreational route, only partly offset the harmful effects of the scheme on the enjoyment of the existing local network and thus attracts minor weight. Likewise the Inspector considers the improvements to the interpretation of the historic heritage through a suggested condition would be a minor benefit set against the harmful effects to historic assets which have been identified (IR407).

56. National policy permits significant damage to the setting of historic assets only in exceptional circumstances. The Inspector considers the benefit associated with renewable energy production is capable of providing circumstances which are exceptional given the generally supportive thrust of national policy. However such support is a qualified one; it requires the public benefit of reducing carbon emissions to be weighed against the harm to the significance of historic assets. The Inspector notes national policy also requires a balancing exercise in relation to landscape protection and facilitating renewable energy generation (IR408).

57. The Inspector is of the view the host landscape has a distinctive character which makes it valued for its own sake and for the publicly accessible amenity it provides. When taken individually the extent of harm to the landscape and historic assets leads the Inspector to conclude the scheme fails to strike an appropriate balance between promoting renewable energy projects and protecting these interests as sought by national policy. The Inspector concludes the combined harm to landscape and heritage matters significantly outweigh the identified benefits. Thus, in terms of the relevant policies of the LDP, the Inspector considers the scheme would cause unacceptable adverse effects on the landscape and on SAMs (IR409).

58. The Inspector has considered the duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-being of Future Generations (Wales) Act 2015. Having concluded the harm which would be caused by the development clearly outweighs the benefits it would bring, the Inspector also finds the proposal fails to accord with the wide reaching aims and objectives of the Well-being of Future Generations Act (IR305).

59. The Inspector recommends the appeal be dismissed and planning permission be refused.

FORMAL DECISION

60. The Welsh Government is committed to renewable and low carbon energy generation and Planning Policy Wales sets out the need to take into account the wider environmental, social and economic benefits and opportunities from renewable and low carbon energy development as part of the Government's overall commitment to tackle climate change. In this case I am satisfied the Inspector has considered the relevant issues in full, however, I do not agree with the conclusions of his balancing exercise and his resulting conclusion.

61. PPW notes in the short to medium term, wind energy continues to offer the greatest potential for delivering renewable energy and the need for wind energy is a key part of the Welsh Government's vision for future renewable electricity production. This should be taken into account by decision makers when determining such applications.

62. The Inspector notes the contribution the proposal would make towards meeting the need for national energy targets is considered to weigh in favour of the development. The proposal will generate up to 17.5MW and would provide a valuable source of renewable energy which should be afforded significant weight. As the Inspector recognises, whether planning permission should be granted for the proposal rests on the balance between the benefits of generating electricity from renewable onshore wind and the identified impacts of the scheme on landscape and visual amenity, the setting of the SAMs and other matters raised in evidence.

63. In terms of landscape and visual amenity, the Inspector states the scheme would have a substantially detrimental effect on the visual character of the landscape. I note the proposed wind turbines would be located outside the Strategic Search Areas and Technical Advice Note (TAN): 8 states outside SSAs there is a balance to be struck between the desirability of renewable energy and landscape protection. Whilst I acknowledge the Inspector's conclusions on this issue, I note the site does is not located within a nationally designated landscape and the proposal would not impact on any national landscape designation.

64. In this context, I consider the benefits of the proposal in terms of delivering renewable energy are material considerations which are sufficient to outweigh the identified impacts of the scheme on landscape and visual amenity and the balance, therefore, weighs in favour of the appeal.

65. With regard to historic assets, the Inspector concludes the extent to which the setting of the scheduled monuments would be altered by the large and moving structures would represent a significantly damaging effect, in terms of paragraph 6.5.5 of PPW. Paragraph 6.5.5 of Planning Policy Wales (PPW) states "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."

66. Whilst I do not disagree with the Inspector's conclusion the proposal will have a significant impact on the setting of historic assets, however, I consider in this case, the need for development which produces renewable energy outweighs the presumption against grant of permission in relation to the impact on the setting of SAMs. Paragraph 6.2.3 of PPW states "the public benefit of taking action to reduce carbon emissions, or to adapt to the impact of climate change, should be weighed against any harm to the significance of historic assets." I am of the view, in this case, the proposal's contribution to renewable energy targets constitutes an exceptional circumstance for the purpose of paragraph 6.5.5 of PPW, particularly as the identified harm is reversible and the setting of the scheduled monuments will revert back to their present state once the scheme is decommissioned.

67. Therefore, I disagree with the Inspector's recommendation. In exercise of the power referred to in paragraph 2 of this decision letter, I hereby allow this appeal and grant planning permission for the "construction and operation of seven wind turbines with a maximum tip height of 110m (Hub Height 69m) together with ancillary development comprising substation, control Building, new and upgraded access points and tracks, hardstanding and temporary compound with associated works" on land off A44, South West of Llandegley, Nr Llandrindod Wells, Powys (Ref: P/2014/0672) subject to the conditions in Annex A and the accompanying signed Section 106 agreement dated 1 May 2018.

68. In reaching this decision I note the duty to carry out sustainable development under section 2 of the Planning (Wales) Act 2015 and I consider the decision accords with the sustainable development principle set out in WFG Act 2015. In accordance with section 3(2) of the WFG Act 2015 and the well-being objectives of the Welsh Ministers, the decision will "drive sustainable growth and combat climate change" by increasing the amount of renewable wind energy generated in Wales.

69. A copy of this letter has been sent to Powys County Council and to those persons and organisations who appeared at the Inquiry.

Yours sincerely



Lesley Griffiths AC/AM
Ysgrifennydd y Cabinet dros Ynni, Cynllunio a Materion Gwledig
Cabinet Secretary for Energy, Planning and Rural Affairs

Enc: Inspector's report and addendum report, leaflet 'H' and leaflet 'HC'

Annex A – Conditions and Notes

Preamble: terms and time limits

In these conditions, unless the context otherwise requires:

"**AIL**" means abnormal indivisible loads;

"**approved plans**" means:

- Site Location Map and Application Boundary (Revision A Sept 2014);
- WYG Figures HENDY 100-0001 (P3) and Hendy 700-0001-0007 (P3);
- Environmental Statement Figure 1.2.2 (Drawing No. 202783-100-002A), save that the existing gate will not be relocated as indicated in the figure;
- Environmental Statement Figure 1.2.3 (Drawing No. 202783-100-003A);
- Environmental Statement Figure 1.2.9 (Drawing No. 202783-100-009A);
- Environmental Statement Figure 1.3 (Drawing No. HEP-WTG-02-01 A00-02);
- Environmental Statement Figure 1.4 (Drawing No. GCS0012B);
- Environmental Statement Figure 1.5;
- Environmental Statement Figure 1.6 (Drawing No. 202783-100-007A);

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

"**Construction Environmental Management Plan**" means the plan as described in Condition 21;

"**Construction Period**" means the period from work commencing on the Development until the date 18 months after first export;

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

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

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

a) 7 (up to 110m tip height and maximum hub height of 69m) wind turbines (up to 2.5 MW each) and associated infrastructure including crane hard standing areas;
b) 1 no. new site entrance to the east off the A44;
c) construction of circa 3.3 km of new access tracks;
d) circa 1km of existing track to be upgraded;
e) construction of temporary site compound (20m x 30m) close to turbine T5;
f) construction of a new on-site substation (circa. 40m x 20m) which includes a control building (25m x 10m) south of turbine T3;
g) upgrading of the byway through the applicant's property;

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

"existing tracks" means the circa 1km of existing tracks that are to be upgraded as part of the development;

"**expiry of this permission**" means the date 25 years from the date of the first export;"**ETSU-R-97**" means the ETSU Report number ETSU-R-97 'The Assessment and Rating of Noise from Wind Farms' published in September 1996;

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

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

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

"micro-siting" means the movement of the turbines, cranepads and new tracks from their location on the approved plans;

"**new tracks**" means the circa 3.3km of new access tracks to be constructed as part of the development;

"**NRW**" means Natural Resource Wales, a Welsh Government sponsored body and statutory consultee on environmental protection; regulation; and maintenance of natural resources;

"**other documents**" means:

- Design and Access Statement - 27th June 2014
- Environmental Statement (Vol I) and Technical Appendices (Vol III)
- Environmental Statement Figure 1.2.2, save that the existing gate will not be relocated as indicated in the figure
- Environmental Statement Figure 1.2.3
- Environmental Statement Figure 1.2.9
- Environmental Statement Figures 1.3 – 1.6
- Transport Assessment - May 2014
- Transport Management Plan - January 2015
- Habitats Regulation Assessment Screening Report – February 2015

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

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

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

Timings & Plans

1) The development shall begin not later than five years from the date of this decision.

2) Subject to the conditions attached to this permission and micro-siting, the development shall be carried out in accordance with the approved plans and in accordance with the principles set out in the other documents.
3) The permission hereby granted shall endure for a period of 25 years from the first export. Written confirmation of the first export date shall be sent to the Local Planning Authority within one month of the first export date.

Site Decommissioning & Restoration

4) At least 30 months prior to the expiry of this permission, details and methodologies for a full ecological survey to be undertaken to inform a site decommissioning and restoration scheme shall be submitted to the Local Planning Authority.

5) Within the 24 months prior to decommissioning of the site, but no later than 12 months prior to decommissioning, a full ecological survey of the site shall be undertaken to inform decommissioning, in accordance with the methodologies and timings as required by Condition 4. A survey report shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of decommissioning and then implemented as approved. The report shall include ecological mitigation measures, as appropriate, based on the ecological assessment findings to be followed during decommissioning, and beyond.

6) No later than 12 months before the expiry date of this permission hereby granted a decommissioning and site restoration scheme shall be submitted in writing to the Local Planning Authority for its approval in writing. The site decommissioning and restoration scheme shall be implemented as approved and be completed within 12 months from the expiry date of this permission. The site decommissioning and restoration scheme shall include, but not be limited to:

    a) details of the removal of all the wind turbines and the surface elements of the development plus one metre of the wind turbine bases below ground level;
    b) details of means of the removal, including how this will avoid effects on protected species and habitats;
    c) timing of the removal of new tracks, structures, buildings and other associated infrastructure;
    d) earth moving and soil replacement;
    e) restoration of the landscape;
    f) temporary protective fencing around landscape features to be retained on-site (and when the fencing is to be removed);
    g) reinstatement of any public rights of way, paths and footpaths;
    h) monitoring and remedial actions; and
    i) the management of traffic.

Turbine Failure

7) In the event of a wind turbine failing to produce electricity to the grid for a continuous period of 6 months or more, other than required by Conditions 38, 39, 40 and 51, a scheme for the repair or removal of that turbine shall be submitted to the Local Planning Authority for its written approval within 2 months of the end of that 6 month period and implemented within 6 months of approval unless a longer period is agreed in writing by the Local Planning Authority.

Micro-Siting

8) The location of the wind turbines, crane pads, existing tracks and new tracks shall be as positioned on the approved plans, save that the wind turbines may be located up to 30 metres from the positions on the approved plans and the new tracks may be located up to 20 metres from the positions on the approved plans (save that the new tracks may be extended as necessary in the event that the micrositing of the wind turbines or crane pads is more than 20 metres). These allowances are subject to the red line boundary within Site Location Map and Application Boundary (Revision A Sept 2014).

9) No development shall commence until a micro-siting protocol has been submitted to and approved in writing by the Local Planning Authority. It shall set out a protocol for deciding on micro siting of all development to minimise the impact on environmental constraints. The protocol shall be implemented as approved and include, but not be limited to, the following criteria:

   a) Take account of peat, blanket bog habitat, curlew, protected species, watercourses, public and permissive rights of way, heritage assets, bats, health and safety and any other identified environmental or engineering constraints.
   b) Wind turbines 2, 3 and 6, their crane pads and directly associated infrastructure to be micro-sited from the positions shown on the approved plans so as to be further away from PROW.

Turbine Design

10) No development shall take place until details of the external finish of the wind turbines hereby permitted have been submitted to and approved in writing by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

11) The wind turbines hereby approved shall have a blade tip height of no greater than 110 metres and hub height no greater than 69m.

12) All wind turbine blades shall rotate in the same direction.

13) All electricity cables connecting the wind turbines and the substation, and other services within the site boundary shall be installed underground and

alongside the new tracks and existing tracks. Any variation shall be submitted to and approved in writing by the Local Planning Authority before development commences. The development shall be carried out in accordance with the approved details.

14) No development shall commence until detailed design of the layout, external treatment, design, materials, and orientation and screening of the on-site substation have been submitted to and approved in writing by the Local Planning Authority. The substation shall be constructed in accordance with the approved details.

15) Save for the lighting in condition 17, no development shall commence until details of any permanent outdoor lighting provision have been submitted to and approved in writing by the Local Planning Authority. Outdoor lighting should only be provided to comply with health and safety requirements. Any outdoor lighting shall be provided in accordance with the approved details.

16) No symbols, signs, logos or other lettering, other than those required by law for health and safety reasons, shall be displayed on any part of the wind turbines nor any building or structures without written approval from the Local Planning Authority.

17) All wind turbines shall be fitted with either 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.

Construction Work

18) No construction work (other than the delivery of abnormal loads) shall take place outside the hours of 07:30 and 19:30 Monday to Friday inclusive, 07:30 and 13:00 on Saturdays with no construction work at all on Sundays and Public Holidays. Outside these hours, works at the site shall be limited to emergency works, erection of wind turbines, dust suppression, and the testing and maintenance of plant and equipment, or construction work that is not audible from any noise sensitive property, unless otherwise approved in writing by the Local Planning Authority. The Local Planning Authority shall be informed in writing of emergency works within three days of occurrence.

19) Notwithstanding the provisions of Condition 18, delivery of wind turbine and crane components may take place outside the times specified in Condition 18 subject to such deliveries first being approved by the Local Planning Authority.

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

Construction Environmental Management Plan

21) No development, including site clearance, scrub and vegetation removal and tree felling works, shall commence until a detailed, site specific Construction Environmental Management Plan covering the periods of site clearance, construction and the restoration of all work areas has been submitted to and approved in writing by the Local Planning Authority. The Construction Environmental Management Plan must be implemented as approved and shall include, but not be limited to:

a) the mitigation measures to be implemented to avoid harm to protected species and minimise damage to species and habitats;
b) the timing of construction works, including the timing of vegetation removal to avoid the potential for effects on reptiles, amphibians and nesting birds;
c) the wheel washing facilities, including siting;
d) the timing of works and methods of working for cable trenches, foundation works and erection of the wind turbines;
e) the timing of works and construction of the substation / control building;
f) the cleaning of site accesses, site tracks and the adjacent public highway and the sheeting of all heavy goods vehicles taking spoil or construction materials to / from the site to prevent spillage or deposit of any materials on the highway;
g) a Pollution Prevention Plan containing measures to be implemented including:

    i) sediment control;
    ii) the bunding of fuel, oil and chemical storage areas;
    iii) sewage disposal;
    iv) measures for the protection of water courses and ground water and soils; and
    v) a programme for monitoring private water supplies, water courses and water bodies before and during the authorised development, including details of the action to be taken if monitoring indicates adverse effects on private water supplies, water courses or water bodies;

h) the disposal of surplus materials;
i) the management of construction noise and vibrations (including identification of access routes, locations of materials lay-down areas, details of equipment to be employed, operations to be carried out, mitigation measures and a scheme for the monitoring of noise);
j) the handling, storage and re-use on site of site-derived soil;
k) the handling, storage and management of any peat excavated;
l) the location, design and construction methods of the new tracks including drainage provisions, and the pollution prevention measures to be implemented to ensure there are no polluting discharges from the new tracks and disturbed areas including provision to ensure that no polluting discharge from the existing tracks and disturbed areas enters any watercourse;

m) the design and construction methods of the upgrade works to the existing tracks including drainage provisions, and the pollution prevention measures to be implemented to ensure there are no polluting discharges from the existing tracks and disturbed areas including provision to ensure that no polluting discharge from the existing tracks and disturbed areas enters any watercourse;
n) Invasive Non-Native Species Control Plan;
o) the landscaping of the access track;
p) the nature, type and quantity of materials to be imported on site for backfilling operations or construction of the access track;
q) the management of ground and surface water (including mitigation to protect private water supplies);
r) the management of dust;
s) the proposed temporary site compound for storage of materials, machinery and parking within the sites clear of the highway, including the siting of the temporary buildings and all means of enclosure, oil/ fuel and chemical storage and any proposals for temporary lighting, and details of proposals for restoration of the sites of the temporary compound and works within 12 months of the first export date;
t) the design and construction of any culverts (to include the use of open bottomed culverts);
u) the restoration of all areas of the site which will be temporarily used for construction;
v) details (including location and pollution prevention measures) for any concrete batching plants;
w) protocols and programme for any required environmental monitoring to be made publicly available on an annual basis;
x) proposed communications protocol and mechanism for investigating complaints, including the action to be taken where complaint investigations indicate materially adverse effects have occurred as a result of the construction of the authorised project;
y) a protocol for ecological compliance auditing;
z) reporting and liaison mechanisms between the contractor, Ecological Clerk of Works (ECoW), the local planning authority and NRW;
aa) measures to prevent the importation or export of alien or invasive plant or animal species, as well as measures to prevent the spread of animal or plant diseases;
bb) details of the mitigation measures to be adopted as set out in chapter 10 of the Environmental Statement and the Habitats Regulation Assessment Screening Report;
cc) measures to restore the contractor's compound and revegetation of crane hard standing areas and to stabilise of all verges, embankments and cuttings;
dd) the landscape mitigation measures to be implemented including:

    i) measures to ensure the retention and re-use of site derived materials including the stockpiling of site derived subsoil and topsoil for reuse when reinstating any temporary works;
    ii) temporary protective fencing around landscape features to be retained on-site;

iii) the use of locally sourced aggregate for the surfacing of the access track;
iv) seeding of all restored and reinstated areas, including the temporary contractor's compound, crane hard standing areas, verges, embankments, cuttings and reinstated sections of the access track; and
v) planting of any vegetation on the site.

The Construction Environmental Management Plan shall be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

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

Hydrology

23) No development shall commence until a Surface Water Management Plan containing details of the surface water drainage system (including means of pollution control) has been submitted to and approved in writing by the Local Planning Authority. The plans must be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

24) No development shall commence until a water quality monitoring strategy (including monitoring at sources of private drinking water supplies) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include:

a) the identification of properties and private water supplies that may be affected by the development (either located within the site or dwellings located outside the site boundary but served by water supplies originating within the site boundary);
b) the minimum acceptable water quality and parameters to be tested, in relation to drinking water;
c) the measures to be taken to protect private water supplies (Wells, Springs or Boreholes) which must include a baseline assessment of the water quality and subsequent testing during the construction phase; and
d) mitigation measures should the quality of water deteriorate.

Public Rights of Way

25) No development shall commence until an Access Management Plan (AMP) has been submitted to and approved in writing by the Local Planning Authority. The AMP shall be implemented as approved and include:
a) details of how safe access by the public on public rights of way during construction of the authorised development will be maintained including details of any temporary closures of public rights of way required and the diversions that would be put into place;

b) details of the provision of signage and other information alerting the public to construction works;
c) details of how construction traffic and construction workers are informed and trained about public rights of way and their use by members of the public;
d) details of any fencing or barriers to be provided during the construction period;
e) details of the new permissive route from the footpath south of the substation to the BOAT which is to be designated as a permissive right of way for the life of the scheme;
f) details of improvements to Public Rights of Way within the site;
g) details of how the AMP shall not conflict with the ecological provisions contained in these conditions;
h) details of maintenance and any required restoration work to all Public Rights of Way (including repairs to any damage caused at the construction stage) to an acceptable standard;
i) provision of suitable interpretation boards; and
j) details of a promotional day to be held on site after first export and all Public Rights of Way improvements on site have been completed.

Highways & Traffic Movements

26) Prior to the commencement of any construction works on site, a scheme to provide for the remediation of any incidental damage or deterioration directly attributable to the development on the A44, within 100 metres of the proposed site accesses (and to include the unclassified roads leading from the A44 to the site) shall be prepared in consultation with Powys County Council as the local highway authority and submitted to and approved in writing by the Local Planning Authority. 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; 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 be implemented as approved.

27) No development shall take place until detailed engineering drawings of all highway works on the A483 (T), A44 and U1574 have been submitted to and approved in writing by the Local Planning Authority. 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; and

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.

28) AILs associated with the development shall be delivered strictly in accordance with an AIL Traffic Management Plan (AILTMP) which has been submitted to and approved in writing by the Local Planning Authority. In this respect, the AILTMP shall be prepared in consultation with the Welsh Government as Welsh trunk road highway authority and Powys County Council as the local highway authority prior to the commencement of any works. AIL's shall be delivered along the routes specified in Sections 1,2,4 and 5 of the Strategic Traffic Management Plan for Mid-Wales Wind Farms dated August 2012 unless the Newtown Bypass is completed and operational. The AILTMP shall include:

a) proposals for transporting AILs from their point of entry to the Welsh trunk road network to the site that minimise any impact on the safety and free flow of trunk road traffic;
b) management and maintenance of layover areas, junctions, passing places, public rights of way and welfare facilities while AIL deliveries take place;
c) details of temporary signage;
d) details of any alterations to any works that are carried out to enable AIL movements;
e) evidence of trial runs that mimic the movement of the worst case AILs along the access route;
f) number and size of AILs, including loaded dimensions and weights;
g) number and composition of AIL convoys, including anticipated escort arrangements;
h) methodology for managing trunk road traffic during AIL deliveries, including identification of passing places and holding areas as necessary;
i) convoy contingency plans in the event of incidents or emergencies;
j) estimated convoy journey durations and timings along the route, including release of forecast traffic queues;
k) swept path analysis modelling the movement of the worst case AILs at all potential horizontal and vertical constraints along the access route;
l) proposals for the temporary or permanent modifications required to the highway or its associated infrastructure along the access route and details of how this would be managed;
m) plans for the reinstatement of any temporary works after completion of the construction phase;
n) a review mechanism in light of the construction of the Newtown Bypass;
o) land ownership must be clarified on all drawings showing proposed highway modifications. The developer shall be responsible for the acquisition and reinstatement of all third party land including re-instatement of boundary features;
p) proposals to liaise with all relevant stakeholders (including the relevant highway and planning authorities, Police, members of the public and local communities, hauliers, developers and landowners) prior to the

submission of notifications for AIL deliveries and applications for special orders for AIL deliveries;

q) consideration of the cumulative impact of other wind farm schemes proposing to use all of part of the same access route and coordination with those schemes where possible;
r) the appointment and role of a transport coordinator to administer the abnormal indivisible load delivery strategy;
s) means of control of timing of delivery of AIL movements;
t) temporary traffic diversions and traffic hold points;
u) restrictions of AIL movements during the Royal Welsh Show;
v) details of banksmen and escorts for abnormal loads;
w) full details of any highway works associated with the construction of layover areas, passing places and highway improvements including:

    i) the detailed design of any works;
    ii) geometric layout;
    iii) construction methods;
    iv) drainage; and
    v) street lighting.

29) 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 shall include the following:

a) construction vehicle routing, including specific measures to ensure that construction traffic uses the proposed route;
b) means of monitoring vehicle movements to and from the site including the use of vehicles displaying a unique vehicle number, a livery indicating use at the development site and a telephone number for complaints to be logged;
c) the complaint's procedure;
d) timing of vehicle deliveries to the site;
e) the management of junctions and crossings of highways and other public rights of way;
f) 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;
g) a travel plan aimed at maximising the use of sustainable travel by the construction workforce associated with the development;
h) communications with members of the public and local communities; and
i) a review mechanism in light of the Newtown Bypass.

30) No development works shall be undertaken until the developer demonstrates rights of access to all proposed works that are not part of the highway network to the satisfaction of the Local Planning Authority.

31) Full details of the highway works associated with any approved access onto the A44 including the detailed design, geometric layout, construction and

drainage, shall be submitted to and approved in writing by the Local Planning Authority prior the commencement of any works on the site.

32) No development shall commence until full construction details have been prepared for the sections of the U1574 that may be subject to alteration. These details shall be submitted to and approved in writing by the Local Planning Authority

33) Adequate provision shall be made within the development to enable vehicles to turn around, so they may enter and leave the site in a forward gear.

34) No drainage from the site shall be connected to or allowed to discharge into the A44 drainage system or onto its carriageway.

35) Wheel-washing facilities, to be approved in writing by the Local Planning Authority shall be provided at the site exit before any other development commences. Such facilities shall thereafter remain available during the construction period and be used by all vehicles exiting the site.

36) AILs associated with the maintenance, repair, replacement or decommissioning of the development shall leave the site strictly in accordance with a Traffic Management Plan prepared in consultation with the relevant highway authority. The Traffic Management Plan shall be submitted to and approved in writing by Local Planning Authority prior to commencement of any removal of wind turbines, replacement of wind turbines or decommissioning works.

Ecology

37) No development shall commence, including vegetation clearance and tree felling, until a suitably qualified Ecological Clerk of Works (ECoW) has been employed. The ECoW shall be appointed prior to the commencement of any tree felling, site/vegetation clearance works or development. The scope of the ECoW shall include, but not be limited to:

a) monitoring compliance with and reporting on the success or failure of the approved mitigation works and in the event of failures advising on remedial mitigation measures;
b) advising the developer on the implementation of the approved mitigation proposals and the protection of important nature conservation interests on the site;
c) directing and consulting on the micro-siting and placement of wind turbines, roads and other infrastructure;
d) monitoring and reporting on the compliance with the Construction Environmental Management Plan and other associated environmental plans; and
e) attending liaison meetings with and reporting compliance with conditions and plans and mitigation measures to the Local Planning Authority and other parties as necessary.

38) No development shall commence until a Protected Species Protection Plan has been submitted to and approved in writing by the Local Planning Authority. The Protected Species Protection Plan shall include:

a) All mitigation measures outlined in the Environmental Statement to ensure that the development has no detrimental effect on the maintenance of the favourable conservation status of protected species.

b) A detailed pre-commencement survey programme including specification for pre-commencement surveys to be undertaken for bats, otter, curlew, starlings and their raptors, water vole, badger, great crested newt reptiles and include:

i) survey methodology;
ii) schedule and timing; and
iii) the development of casualty risk models for bats.

c) Details of specifications for mitigation or reasonable avoidance measures including in relation to bats, great crested newts, otters, reptiles, breeding birds, starlings and their raptors, water vole, pillwort and badgers to ensure their protection throughout the pre-construction, construction and operational phases of the development.

The Protected Species Protection Plan must be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

39) No development shall commence until a Bat Protection Plan has been submitted to and approved in writing by the Local Planning Authority. The bat protection plan must be implemented as approved and include details of:

a) any necessary mitigation measures to ensure the protection of the species during site clearance works and construction of the development;
b) a monitoring procedure to record bat activity and weather conditions;
c) a monitoring procedure to record bat mortality at wind turbines;
d) a requirement for the annual reporting of the results of monitoring, and where necessary details of any remedial action to reduce bat mortality;
e) a procedure for agreeing and implementing remedial measures aimed at reducing or avoiding bat mortality, such measures must include wind turbine curtailment and/or land management changes; and
f) an agreed timeframe for monitoring, sufficient to determine the impact of the operation of the authorised development on bats and the efficacy of any remedial measures to be implemented.

40) No development shall commence until a Habitat Management and Enhancement Plan (HMEP) has been submitted to and approved in writing by the Local Planning Authority. The Habitat Management and Enhancement Plan shall include:

a) the nature conservation management and enhancement objectives including the management, restoration or creation of priority habitats

and/or species, and a timetable for its implementation; confirmation of the deliverability of the identified measures; and

b) all mitigation measures outlined in the Environmental Statement.

The Habitat Management and Enhancement Plan must be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

41) No development shall commence until an Ecological Monitoring Plan (EMP) has been submitted to and approved in writing by the Local Planning Authority. 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).

Archaeology

42) No development shall take place until a Written Scheme of Investigation has been submitted to and approved in writing by the Local Planning Authority in writing. The Written Scheme of Investigation shall include:

a) an assessment of significance of the known heritage assets in the locality and an assessment of the potential of the development site to contain currently unknown archaeological remains;
b) a programme and methodology for site investigation and recording which may include geophysical survey, trenching, archaeological excavation and/or watching brief as appropriate;
c) the programme for post investigation assessment
d) provision to be made for analysis of the site investigation and recording;
e) provision to be made for publication and dissemination of the analysis and records of the site investigation;
f) provision to be made for archive deposition of the analysis and records of the site investigation; and
g) nomination of a professionally qualified archaeologist.

The Written Scheme of Investigation must be implemented as approved unless otherwise agreed in writing by the Local Planning Authority.

43) No development shall take place until a scheme of works in relation to the historic environment has been approved in writing by the Local Planning Authority. The scheme of works shall include:

a) sample trenching of the Nant Brook Enclosure (Scheduled Ancient Monument No.RD147);
b) details of a sign board to be erected to explain the archaeological/cultural context and significance of the Nant Brook Enclosure to visitors;

c) an aerial Lidar survey, transcription and interpretative study of Llandegley Rhos and adjacent area, including: Nant Brook Enclosure (Scheduled Ancient Monument No.RD147), Llandegley Rocks Hillfort (Scheduled Ancient Monument No. RD264), Graig Camp (Scheduled Ancient Monument No. RD112) and Crug Eryr Mound and Bailey Castle (Scheduled Ancient Monument No. RD003); and
d) a timetable for the completion of the approved scheme of works.

44) No development or site clearance shall commence until the Local Planning Authority has been informed in writing of the name of a professionally qualified archaeologist who is to be responsible for ensuring the Written Scheme of investigation approved under condition 42 is carried out in a full and proper manner. He/she is to be present during the undertaking of any excavations in the development area so that the watching brief can be conducted. No work shall commence until the Local Planning Authority has confirmed in writing that the proposed archaeologist is suitable.

45) The developer shall afford access at all reasonable times to any archaeologist nominated by the Local Planning Authority, and shall allow him/her to observe the excavations and record items of interest and finds.

Television interference

46) Prior to the erection of any wind turbine a scheme providing for a baseline survey and the investigation and alleviation of any interference to television reception caused by the operation of the wind turbines shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for the investigation by a qualified independent television engineer within 3 weeks of any complaint of interference with television reception, where such complaint is notified to the developer by the Local Planning Authority. Where impairment is determined by the qualified television engineer to be attributable to the development, mitigation works shall be carried out in accordance with the scheme which has been approved in writing by the Local Planning Authority.

Aviation / Defence

47) Prior to the erection of any turbine, the developer shall provide written confirmation to the Local Planning Authority that the following information has been provided to the Defence Geographic Centre of the Ministry of Defence:

a) the date construction starts and is likely to end;
b) the maximum height of construction equipment; and
c) the latitude and longitude of every wind turbine.

Community Liaison

48) No development shall commence until a community liaison scheme for the construction and decommissioning period has been submitted to and approved in writing by the Local Planning Authority. The community liaison scheme shall be implemented as approved and include:

a) details of developer liaison with the local community to ensure residents are informed of how the construction or decommissioning of the development is progressing;
b) a mechanism for dealing with complaints from the local community during the construction or decommissioning of the development; and
c) a nominated representative of the developer who will have the lead role in liaising with local residents and the relevant planning authority.

Common Land

49) No development shall commence until commons consent, as required, has been granted.

Grid Connection

50) No development shall commence until planning permission, as required, has been granted for all stages of the grid connection from the substation to the National Grid.

Noise

51) The rating level of noise emissions from the combined effects of the wind turbines (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the local planning authority on its request, within 14 days of receipt in writing of such a request;
b) No electricity shall be exported until the wind farm operator has submitted to the local planning authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the local planning authority;
c) Within 21 days from receipt of a written request from the local planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its

expense, employ a consultant approved by the local planning authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the local planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the local planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component;

d) The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously, have been submitted to and approved in writing by local planning authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the local planning authority under paragraph (c), and such others as the independent consultant considers likely to result in a breach of the noise limits;

e) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the local planning authority for written approval proposed noise limits selected from those listed in the tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the local planning authority for the complainant's dwelling.

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

g) Where a further assessment of the rating level of noise emissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (d) above unless the time limit has been extended in writing by the local planning authority.

Table 1 - Noise limits expressed in dB LA90, 10 minute to be applied at all times of Day or Night

	Easting	Northing	Standardised Wind Speed m/s					
			5	6	7	8	9	10
Bwlch-Y-Cefn	312088	261106	36	38.4	40	40	40	40
Pye Corner	314385	260363	36	37.6	39.9	40	40	40
Nursery Cottage	311435	260061	36	36	36.9	40	40	40
Sunny Bank	311584	260601	36	36	36.9	40	40	40
Graig (South)	312730	258692	36	36	37.4	39.5	40	40
Blaen Edw	314571	259481	36	37.6	39.9	40	40	40
Penffynon	311423	260780	36	36	36.9	40	40	40
Bwlch Llwyn	311382	259545	36	36	36.9	40	40	40
Graig (North)	312577	261773	36	38.4	40	40	40	40
Hendy Farm	312380	258778	45	45	45	45	45	45
The Green	312450	258563	36	36	37.4	39.5	40	40
Gelynen	312328	258485	36	36	37.4	39.5	40	40
Bwlchau	311753	258555	36	36	37.4	39.5	40	40
Cornhill	314704	260670	36	37.6	39.9	40	40	40
Pen y Bank	311467	260526	36	36	36.9	40	40	40

Guidance Notes for Noise Condition 51

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise emissions from the wind farm. The rating level at each

integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

Guidance Note 1

a) Values of the La90,10 minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

b) The microphone should be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

c) The La90,10 minute measurements should be synchronised with measurements of the 10- minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of

0.05 metres . It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise emissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2 (b)

b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (d) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Local Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

Where, in accordance with the approved assessment protocol under paragraph (d) of the noise condition, noise emissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

a) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise emissions during 2 minutes of each 10 minute

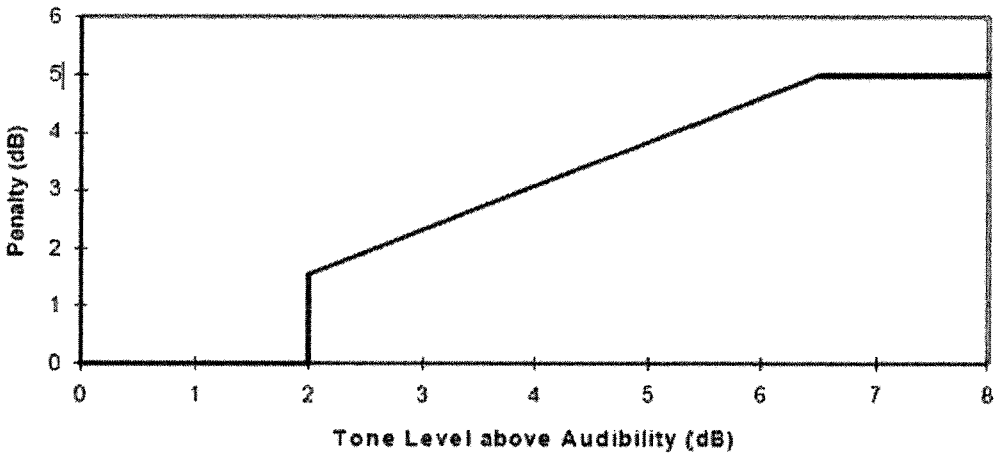
period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

b) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104109 of ETSU-R-97.

c) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

d) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

e) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (d) of the noise condition.

b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (e) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (c) and the approved protocol under paragraph (d) of the noise condition.

f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

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

g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

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

NOTES

Notification of initiation of development and display of notice

You must comply with your duties in section 71ZB (notification of initiation of development and display of notice: Wales) of the Town and Country Planning Act 1990. The duties include the following:

Notice of initiation of development

Before beginning any development to which this planning permission relates, notice must be given to the local planning authority in the form set out in Schedule 5A to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details which must be given to the local planning authority to comply with this duty.

Display of notice

The person carrying out development to which this planning permission relates must display at or near the place where the development is being carried out, at all times when it is being carried out, a notice of this planning permission in the form set out in Schedule 5B to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 or in a form substantially to the like effect. The form sets out the details the person carrying out development must display to comply with this duty.

The person carrying out development must ensure the notice is:
(a) firmly affixed and displayed in a prominent place at or near the place where the development is being carried out;
(b) legible and easily visible to the public without having to enter the site; and
(c) printed on durable material. The person carrying out development should take reasonable steps to protect the notice (against it being removed, obscured or defaced) and, if need be, replace it.