



Department
of Energy &
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Your ref:

Our ref: 12.04.09.04/169C

12 March 2013

Dear Ms Thomas

**PLANNING ACT 2008
APPLICATION FOR THE PROPOSED BRECHF A FOREST WEST WIND
FARM ORDER**

1. I am directed by the Secretary of State for Energy and Climate Change (the "Secretary of State") to advise you that consideration has been given to:
 - (a) the report of the Examining Authority, Bob Macey ("the ExA"), who conducted an examination into the application ("the Application") made on 26 October 2011 by RWE Npower Renewables Limited ("RNPL") for a development consent order ("the Order") under sections 37, 114, 115, and 120 of the Planning Act 2008 ("the 2008 Act") for the Brechfa Forest West Wind Farm ("the Development"); and,
 - (b) representations received by the Secretary of State and not withdrawn in respect of the Application.
2. The examination of the Application by the ExA began on 13 March 2012 and was completed on 13 September 2012. The examination was conducted on the basis of written evidence submitted to the ExA and discussed at hearings held on 20 June 2012 (at the Canolfan Waunifor Centre - CWC), 21 June 2012 (CWC), 11 July 2012 (Maesycrugiau, near Pencader, and Brechfa Church Hall) and 12 July 2012 (CWC).

3. The Order, if made, would grant development consent for the construction and operation of a wind generating station in the Brechfa Forest, Carmarthenshire, comprising up to 28 wind turbine generators (with a total installed capacity of between 56 and 84MW) and other infrastructure integral to the construction and operation of the wind farm (including access tracks, a meteorological mast and an onsite electricity sub-station).

4. Enclosed with this letter is a copy of the ExA's report ("the Report" or "ER"). The findings and overall conclusions are set out in sections 4 - 6 of the Report while the recommendation is at section 7.

Summary of the ExA's Recommendation

5. The ExA recommended that the Order be made, on the basis of the provisions set out in Appendix F of the Report.

Summary of the Secretary of State's Decision

6. The Secretary of State has decided under section 114 of the 2008 Act to make, with modifications, an Order granting development consent for the proposals in the Application. This letter is the statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and regulation 23(2)(d) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Secretary of State's Consideration

7. The Secretary of State has carefully considered the Report, the representations made known to him in respect of the Application and all other material considerations including comments made during a debate on Brechfa Forest West Wind Farm which was held in Westminster Hall on 6 March 2013. The Secretary of State's consideration of the Report is set out in the following paragraphs. His consideration of the representations received after the close of the examination (i.e post-12 September 2012) is also set out below. All paragraph references, unless otherwise stated, are to the Report and references to Requirements are to the requirements in Parts 3 and 4 of Schedule 1 to the Order.

Need and Relevant Policy for the Proposed Development

8. Pursuant to the comments of the ExA set out at sections 5.2 to 5.5 of the Report, the Secretary of State considers that, in the absence of any adverse effects which are unacceptable in planning terms, granting consent to the proposed Brechfa Forest West Wind Farm would be consistent with energy National Policy Statements EN-1 (Overarching NPS for Energy) and EN-3 (NPS for Renewable Energy Infrastructure), which set out a national need for development of new nationally significant electricity generating infrastructure of the type proposed at Brechfa.

9. He, therefore, accepts that the planning case for the wind farm should be considered on its merits.

10. The ExA also considered relevant and important policies in respect of the United Kingdom's international obligations as set out in Conservation of Habitats and Species Regulations 2010 (as amended) (see for example, ER 5.14) and in this context, the Secretary of State has taken these policies into account in assessing potential adverse impacts.

11. Subject to the qualifications explained in paragraph 47 below about minor drafting modifications to the Order, the Secretary of State agrees with the ExA's conclusions on the matters discussed in the report (ER 5.1 – 5.20).

Landscape and Visual Impact

12. The ExA's assessment of the Landscape and Visual Impacts of the Development are contained at paragraphs 4.5 to 4.32 of the Report. A summary of the Applicant's assessment of the landscape and visual impact of the project is contained at ER 4.11. In broad terms, the Applicant's assessment was that the Development is likely to have some significant impacts for certain sites and some properties both on its own and in combination with other constructed or proposed wind farm developments. The ExA's assessment had regard, among other things, to:

- (a) local community concerns, including representative groups, the Countryside Council For Wales ("CCW") and the local impact report of Carmarthenshire County Council (ER 4.12);
- (b) written representations from various parties (see, for example, ER 4.22) – including those relating to certain disagreements between the Applicant and Carmarthenshire County Council concerning the methodology for assessing landscape and visual impacts (see, for example, ER 4.16 – 4.22); and,
- (c) a number of site visits made to viewpoints selected from the Environmental Statement submitted by the Applicant, and all those within 5km of the site of the proposed Development (he also visited viewpoints close to various properties in the vicinity of the proposed Development) (ER 4.23 – 4.26).

13. The ExA considered the various issues raised by Carmarthenshire County Council (including the proposed height of the turbines in relation to those used on the nearby built Alltwalis wind farm and the question of whether the Applicant's Environmental Statement understated certain impacts) and concluded that the Applicant's case is reasonable (ER 4.27 – 4.29). The Secretary of State has considered the ExA's assessment of matters related to the landscape and visual impacts and sees no reason to consider that the ExA

has not drawn the appropriate conclusion, that while development of the Brechfa Forest West wind farm would bring adverse visual and landscape impacts, these are not so significant as to outweigh the desirability of, and pressing need for, this type of infrastructure as set out in National Policy Statements (ER 5.9).

Ecology

14. The ExA considers each of the following ecological issues in his report (ER 4.33 – 4.81):

(i) *Implications for European Sites*

- (a) Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (“the Habitats Regulations”) requires the Secretary of State to consider whether the proposed Development would be likely to have a significant effect on a European Site as defined in such Regulations. If such an effect is likely, then he must undertake an Appropriate Assessment (“AA”) addressing the implications for the European Site in view of its conservation objectives. The AA should take into account the impacts of the proposed project alone and also in combination with other plans and projects. In light of any such assessment, the Secretary of State may grant development consent only if it has been ascertained that the project will not, either on its own or in combination with other projects, adversely affect the integrity of such a site, unless there are no feasible alternatives and imperative reasons for overriding public interest apply.
- (b) The Applicant submitted a Habitats Regulation Assessment Screening Report with the Application which identified two European Sites which might be adversely impacted by the proposed Development – the Afon Tywi Special Area of Conservation (“SAC”) and the Afon Teifi SAC. The proposed Development lies in the catchment area of these protected rivers that are located some 9.1km and 1.7km away from the Afon Tywi SAC and the Afon Teifi SAC, respectively.
- (c) The Secretary of State notes that in the case of both SACs, the Countryside Council for Wales (“CCW”) initially expressed concerns about the potential impacts of the proposed Development, especially during its construction, on their water quality and the impact this might have on their qualifying interest features, particularly European Otter, River Lamprey and Atlantic Salmon. He also notes that the Environment Agency Wales (“EAW”) proposed mitigation measures to be included by way of a requirement in the Order (Requirement 9(2)(g)(v)) and that CCW subsequently took the view that this addressed its concerns and, as a result, there would be no likely significant effect on either SAC.
- (d) The ExA concludes that the proposed mitigation is appropriate. Considering the evidence provided by the Applicant in its Environmental

Statement, the enhancement of mitigation measures developed during the Examination, the agreement of the main statutory bodies and the detailed Report on the Implications for European Sites compiled by the Planning Inspectorate's Secretariat at Appendix E of the Report, the ExA concludes that it has been shown beyond reasonable doubt that there is not likely to be a significant effect on the two SACs and recommends that an AA is not required.

- (e) No other European sites have been identified as being potentially affected, nor were sites identified as being of concern by the Statutory Nature Conservation Bodies. The Secretary of State has considered the risk to the European Sites and is confident that the proposed mitigation in the form of the agreed construction method statement, including water quality monitoring, would avoid the risk of any possible significant effect. He agrees, therefore, with the conclusions of the ExA on this matter (ER 4.43) and has not undertaken an AA.

(ii) *Monitoring of Bats*

The Report notes that the Applicant has proposed a programme of monitoring to assess possible impacts of the construction and operation of the wind farm on local bat populations which are strictly protected under the EU Habitats Directive and the Wildlife and Countryside Act 1981 (ER 4.46). The ExA considers concerns that bats could be at risk of collision or barotraumas (reaction to changing air pressure generated by a moving turbine blade close to a bat) (ER 4.47) and assesses possible mitigation measures. He concludes that in the light of relevant guidance from the Bat Conservation Trust (Annex 3, BCT Bat Surveys: Good Practice Guidelines, 2nd Edition 2012, section 10.8), a provision requiring monitoring of impacts on bats, including mortality surveys (with subsequent action should the monitoring programme justify the need) is sufficient mitigation in the case of the proposed Development (ER 4.51). Given that conclusion, the ExA considered that such monitoring should form part of the draft habitat management plan (see paragraph (v) below) and made modifications to draft requirement 15 to give effect to this (ER 4.52). The Secretary of State agrees with the ExA's analysis of this issue and considers that the revised Requirement provides suitable mitigation.

(iii) *Nightjars*

the Report notes that mitigation is needed to prevent impacts on a local population within Brechfa Forest (ER 4.53). Nightjars are an Annex I protected species under the Wild Birds Directive and thus of high nature conservation importance. The Report also notes that the Applicant provides an assessment of the potential impacts in the Environmental Statement (ER 4.58) and that there is some uncertainty about the evidence available to determine the nature of the impacts with any

accuracy (ER 4.60). The ExA concludes there is some risk to the nightjar population from turbine noise impacting on nightjar mating but agrees with the Applicant that the impact on the Welsh population is probably negligible to minor (ER 4.61). The ExA notes that the draft Order includes a monitoring and mitigation Requirement for nightjars (Requirement 15(2)(f)) and considers this to be appropriate and sufficient (ER 4.61). The ExA also considered the impact of amendments made to the Habitats Regulations (among other things, to align them more closely with the Wild Birds Directive) during the course of the examination with regard to protection of wild bird population. He considers that the mitigation measures proposed and the modifications made to Requirement 15 are sufficient to satisfy the amended provisions (ER 4.62). The Secretary of State has considered the ExA's assessment of the issues and agrees that the proposed mitigation supported by a Requirement in the Order will be sufficient to maintain their population (ER 4.62).

(iv) *European Protected Species (EPS) Licensing*

- *Bats*
- *Dormice*
- *Derogation Tests*

The ExA notes that concerns had been expressed that the proposed Development could have an adverse impact on certain European Protected Species, specifically dormice and bats. He also notes that it is an offence to disturb such creatures unless authorised by way of the grant of an EPS Licence which would need to be the subject of an application to the Welsh Government. The ExA considers the process by which such a licence application might be made and concludes that it is not for him to reach a conclusion on this matter in his Report. He further concludes that there are no EPS licensing issues that weigh significantly against making the Order. The Secretary of State agrees with the ExA's conclusions on this matter.

(v) *Habitats Management Plan*

The ExA notes that he has expanded and strengthened the draft Order to provide additional mitigation measures to give effect to the issues discussed during the examination (such as nightjar and bat monitoring) and to provide specific reference to a number of ecological issues discussed in the Report, including, for example, in relation to the access track. These are to be included in a Habitat Management Plan which is to be submitted to and agreed with Carmarthenshire County Council (Requirement 15 of the Order). The Secretary of State considers that Requirement 15 as amended by the ExA provides an appropriate mechanism for mitigation of adverse ecological impacts (ER 4.81) and agrees with the ExA's conclusions in this regard.

15. In conclusion, the Secretary of State agrees with the ExA that there are no outstanding ecological issues of such impact – when taking account of the mitigation measures proposed – that would provide sufficient grounds for not approving the Development (ER 5.14).

Local Access Track

16. The Secretary of State has considered the ExA's analysis of the issues raised in relation to the new local access track proposed for the Development. He agrees with the ExA's conclusions that given the need for renewable energy and the mitigation measures proposed (ER 4.90 – 4.91), the access track does not have adverse planning consequences that weigh heavily in opposition to approval of the project (ER 4.92). The Secretary of State also agrees with the ExA's conclusions at paragraph 4.93 of the Report that it would be appropriate for RNPL to remediate the track. The Secretary of State, therefore, accepts the supplementary modifications made to Requirements 5 and 9(2) of the Order recommended by the ExA in respect of these matters (ER 4.91 and 4.93). The Secretary of State further agrees with the ExA that, in finding no basis in planning terms to reject the Application for the proposed local access track, the existence of an alternative is not a material consideration (ER 4.96).

Noise

17. The Secretary of State notes the ExA's consideration of local opposition to the siting of three particular turbines in the proposed Development – numbers 17, 18 and 23 – because of their proximity to properties (ER 4.114). The ExA's consideration of this matter included questioning the Applicant on why these turbines had not been re-sited. The ExA records that the Applicant indicated that the turbine locations had been the product of an iterative process which focused on assessment of noise impacts taking account of ETSU-R-97 limits. He also notes the ExA's observation that Carmarthenshire County Council subsequently confirmed that there were no specific noise reasons for re-siting the turbines. The ExA concluded that there was no evidence of a likely noise impact to support a conclusion that the turbines should be re-sited or excluded.

18. The Secretary of State agrees with the ExA that the noise concerns identified and considered in the Report with regard to the Development as a whole provide insufficient grounds for rejecting the Application given the strength of policy commitment, the assessments supporting compliance with ETSU-R-97 and the approach to addressing amplitude modulation within the proposed Order (ER 5.13).

Other Issues

Scope of Proposed Works

19. There were concerns that some of the works proposed by the Applicant fell outside the scope of what might be included in the Order. The Secretary of

State agrees with the ExA that each of the elements identified as 'Works' in the Order forms an integral part of the proposed Development (ER 4.146).

Flicker

20. Concerns were raised that some properties in the vicinity of the proposed Development could be subject to a flicker effect, where the shadow of a turning blade is projected into a dwelling causing a fluctuation in light intensity. The distance within which such effects occur is usually quoted as ten times the rotor diameter of the turbine in question. In the case of the Brechfa project, the proposed turbines have a diameter of 90 metres which means that any impacts should be limited to 900 metre distance turbine. The Applicant indicated that there were only two properties within 900 metres of the wind turbines that were likely to be affected by shadow flicker, but local residents argued that it was not impossible that effects could be generated beyond that point. The ExA, therefore, suggested an amendment to the draft Order to ensure that the Requirement applies to all the proposed turbines (ER 4.148). The Secretary of State agrees that the amended requirement would ensure that any shadow flicker effects would be mitigated appropriately so as not to cause a loss of amenity at any dwelling which lawfully existed or had planning permission at the date of the Order (ER 4.148).

Flooding

21. There were concerns from local people and others that the proposed Development could increase flood risk. The Secretary of State agrees with the ExA that given the evidence on the acceptability of the Applicant's approach to surface water management, and the Requirements that have been included in the Order, little weight should be attached to concerns raised in relation to flooding or surface water management (ER 4.153).

Grid Connection

22. The Application contains no provision for connection to the electricity grid, a matter which was a concern to some interested parties during the examination and was raised in representations made after the close of the examination. The Secretary of State agrees with the Examining Authority (at ER 4.163) that this matter should be considered in the light of policy set out in section 4.9 of the Overarching National Policy Statement for Energy (EN-1) and that there are no obvious reasons why an application for a grid connection is likely to be refused. The Secretary of State also agrees with the ExA that there is no requirement at this stage to go further in this matter and reach a definite conclusion on the adequacy of the route for a grid connection (ER 4.156, ER 4.167). The Secretary of State, therefore, accepts the ExA's assessment and finds no reasons to depart from his conclusions (ER 4.167).

TAN8 Capacity Limits

23. There were concerns that the generating capacity of the Brechfa project when taken with the built Alltwalis wind farm (23MW) and the proposed Bryn Llewelyn (48MW) and Brechfa Forest East (36MW) wind farms would breach the maximum wind farm generating capacity limits for the Strategic Search Area (SSA) within which the wind farms are sited (or would be sited if consented) as identified by the Welsh Government (see paragraphs 4.169 – 4.172 of the ER). The nominal capacity of the SSA in question is 132MW and that total would be breached if the Brechfa project and the other unconsented projects were to be built. The ExA notes, however, that there is no guarantee that the Bryn Llewelyn and Brechfa Forest East projects will be built and that the Applicant for the proposed Development has provided a thorough assessment of impacts arising from the project including consideration of the other similar schemes. The Secretary of State, therefore, agrees with the ExA's conclusions that TAN8, as modified by the Welsh Government in 2011, does not provide grounds for rejecting the proposal for Brechfa Forest West (ER 4.172).

Socio-economic considerations

24. The main socio-economic concern raised with respect to the proposed Development was in relation to its potential adverse impacts on tourism. The ExA rightly notes that NPS EN-1 requires that socio-economic impacts are considered during the examination of development consent applications for Nationally Significant Infrastructure Projects (ER 4.174). EN-1, however, also indicates that little weight should be given to any assertions made in this context unless it is supported by evidence. In this context, the ExA finds that none of the evidence produced in opposition to or in support of the Brechfa project is compelling and that little weight should, therefore, be given to it (ER 4.180). The Secretary of State agrees with the ExA's conclusions in this regard, that given the limited scale of the full-time employment effect of the construction and operation of the wind farm (which has been cited in support of the Development), and the uncertain nature of any impact on tourism numbers and spend, socio-economic considerations do not bear heavily on the decision given the identified need for energy infrastructure (ER 4.180).

Access and Recreation

25. Carmarthenshire County Council and CCW expressed concerns about the implications of the Brechfa project on access to the Brechfa Forest area which is used by cyclists, walkers and horse riders. The whole of Brechfa Forest is designated as open for pedestrians. In addition, the Forestry Commission Wales which manages Brechfa Forest on behalf of the Welsh Government, allows access to horse riders and cyclists. It is acknowledged that some diversions of public rights of way would be necessary during wind farm construction though these would be restored once the wind farm became operational (ER 4.184).

26. In these circumstances, the ExA notes that the area of the forest that would be closed during construction is relatively small in relation to the extent of the area that will remain open (ER 4.187). Similarly, he notes that only a small proportion of the rights of way in the forest will be closed (and be subject to diversion). The draft Order includes a Requirement for an access management plan to be approved by the Carmarthenshire County Council, as the relevant planning authority (Requirement 17). Bearing these matters in mind, the ExA gives little weight to the concerns raised in this regard in considering the case against the Development. The Secretary of State agrees with the ExA that the loss of access to the Brechfa Forest West site carries little weight in the consideration of the case against development (ER 4.188).

Transport

27. The main transport concerns centre on the impact of the construction of the Brechfa project on local and major trunk roads through the large number of large loads that will need to use them to transport the major wind farm components – turbine blades, nacelles and turbine towers – to the site of the proposed Development. As raised by the ExA, NPS EN-3 (paragraph 2.7.78) provides relevant policy background to this issue and, broadly speaking, requires the Secretary of State to be satisfied that abnormal loads can be safely transported in a way which minimises inconvenience and does not cause unacceptable environmental effects after mitigation. The ExA notes that the majority of the roads that will be used by vehicles transporting the wind farm components are major routes along which large loads already travel. While some of the wind farm loads will be abnormal indivisible loads and thus require particular traffic management procedures to be put in place, he notes that the roads are expected to be able to handle them. The ExA also notes that the draft Order requires that a Construction Traffic Management Plan needs to be submitted to and approved by Carmarthenshire County Council before any authorised development can commence (Requirement 8). As such, the ExA concludes that there are no issues of planning significance that weigh significantly in his consideration (ER 4.198). The Secretary of State considers that the Requirement as included in the draft Order for a Construction Traffic Management Plan to be approved by Carmarthenshire County Council is an appropriate measure for addressing concerns about transport impacts.

Compensatory Planting

28. The Applicant has agreed with Forestry Commission Wales to contribute to the cost of planting trees outside the site boundary, but within Wales, to enhance woodland in accordance with the Welsh Government's "Woodlands for Wales" strategy (ER 4.199). This agreement is outside the ExA's consideration of the development consent application. The Secretary of State agrees with the ExA that no weight should be given to this matter in considering the Application (ER 4.200).

Representations Received after the Close of the Examination Phase

Potential Impacts on Radar Installations at Crug-y-Gorllwyn and Aberporth

29. The ExA considered a representation from the Ministry of Defence (“the MoD”) which was received on 5 January 2012. The representation stated that the MoD had no objection to the proposed Brechfa project subject to the wind turbines being fitted with infra-red aviation warning lighting to maintain aviation safety. The representation provided background information on the MoD’s position and provided a detailed specification for the aviation lighting.
30. In the light of the MoD’s ‘no objection’ to the Brechfa project, the ExA’s Report does not cover the impacts of the project on MoD interests. However, the ExA’s draft Order does include a condition (Requirement 30) to cover the MoD’s request for the installation of infra-red aviation warning lights (following approval by Carmarthenshire County Council).
31. Since the close of the examination, however, the Secretary of State has received representations which raise questions about possible impacts of the Development on radar systems at:
- Crug-y-Gorllwyn (a Met Office weather radar for which safeguarding is provided by MoD); and,
 - Aberporth (an MoD air traffic control radar).
32. The central concern was that the MoD had objected on behalf of the Met Office to a wind farm proposal close to Brechfa Forest West – the Bryn Llewelyn wind farm – because of the potential interference with the Crug-y-Gorllwyn radar but had not made a similar representation as regard to Brechfa. Representations also called into question whether the MoD had disregarded objections from the Met Office as part of its safeguarding operations (that is, responsibility for ensuring that planned developments do not adversely impact on radar operational capability).
33. In the light of these representations, the Secretary of State wrote to the MoD to seek clarification of the position. In response, the MoD has stated that no objection to the Development was made because it would be hidden from the Crug-y-Gorllwyn radar by the constructed Alltwalis wind farm and would not, therefore, interfere with operations to a materially greater extent than is currently the case. The MoD also confirmed that it currently undertakes safeguarding on behalf of the Met Office that it works closely with the Met Office in respect of any development that has the potential to affect its radar operations.
34. The MoD has confirmed that it has withdrawn its objection to the Bryn Llewelyn project provided a suitable condition is attached to any consent that might be issued by Carmarthenshire County Council.

35. As far as the MoD's position on potential impacts on the radar system at Aberporth is concerned, the MoD has stated that whilst it did object because of concerns about the impact of the Development on that radar, it has confirmed that the objection was removed subject to suitable aviation warning lights being installed. As indicated above, the draft Order contains a Requirement (Requirement 30) that specifies that details of the installation of infra-red aviation warning lights should be submitted to and approved by the relevant planning authority (Carmarthenshire County Council) before any wind turbine is erected.

36. It has been drawn to the Secretary of State's attention in representations made to him that pilotless drone aircraft fly in an area of south west Wales close to the proposed Development and that the tracking of the drone flights is undertaken by the radar facility at Aberporth. Concerns were expressed that the proposed Development could degrade the tracking facility at Aberporth with consequent impacts on flight safety. However, the MoD has raised no objection to the proposed Development on the basis of impacts on the Aberporth radar.

37. In the light of these clarifications, the Secretary of State is satisfied that the representation received by the ExA from the MoD provides a proper reflection of concerns regarding the impact of the Development on radar. Further, the Secretary of State sees no reason why the examination process can be regarded as not providing sufficient opportunity for objections to have been made at any time.

Adequacy of the ExA's Examination Process.

38. There were concerns that the ExA had not conducted its consideration of the development consent application for the Development in a reasonable way. In addition, there were concerns that the limitation on the time available for the examination of the application (six months) did not allow sufficient time for a proper debate on issues which could have a profound effect on those affected by the Development if granted consent.

39. There were a number of allegations levelled at the ExA in this regard and, in particular, the handling of the new Planning Act process: namely, that officers in the Planning Inspectorate and the ExA appeared to be unsure of how the new planning process should operate; that RNPL misled the ExA; the draft Order was consulted on only once; that the ExA didn't appoint a noise expert and had to rely on his 'layman's knowledge and personal judgement'; and that there was a lack of site visits by ExA and he didn't go to visit private properties suggested by Interested Parties but went to locations chosen by the Applicant.

40. The Secretary of State was made aware that a tape recording of one of the issue specific hearings into the proposed Development did not include several minutes of the discussion that took place about noise impacts. There

was a concern, therefore, that the ExA's consideration of this matter may have been deficient. In relation to this matter, the Secretary of State notes that there is no obligation to make audio versions of hearings available and that internal guidance to ExAs is that they should not rely on audio records in making their assessments. While noting that this matter is still subject to a formal complaint to the Planning Inspectorate, the Secretary of State sees no reason why this would materially affect the proper examination of the Application.

41. In conclusion, based on his consideration of the ExA's Report, the Secretary of State considers that the ExA handled the examination and the issues raised during the Examination of the Application in an entirely reasonable and professional manner.

42. The Secretary of State notes that the timetable for consideration of the Application is provided by statute (noting in particular section 98 of the 2008 Act, subsection (1) of which provides, for example, that the ExA is under a duty to complete the examination within the period of six months beginning with the day after the day of the preliminary meeting) and applies to all applications for Nationally Significant Infrastructure Projects. The Secretary of State notes in this regard also that the ExA allowed the maximum time permissible under the Planning Act regime for the examination of the Application.

Fire risk within Brechfa Forest

43. There were concerns that, in the event a wind turbine in the Development caught fire, a spark could ignite areas of woodland and lead to a more widespread blaze. In response, the Secretary of State notes that Forestry Commission Wales has agreed to the siting of the Development within Brechfa Forest and that there has been no objection to the Development from the Mid and West Wales Fire and Rescue Service (the Service's letter of 24 August 2012 to the ExA refers). In the light of the stated positions of Forestry Commission Wales and the local fire service, the Secretary of State does not consider that this matter is one that provides grounds for rejecting the Application.

Potential impacts on wells and aquifers

44. There were concerns that the Development could damage the aquifer that lies under Brechfa Forest with consequent impacts on water supplies provided through wells and boreholes. The Secretary of State notes that the ExA considers in paragraph 4.90 of the Report the potential impacts of the Development on private water supplies and concludes that mitigation measures contained in the Construction Method Statement that must be approved by Carmarthenshire County Council (set out in Requirement 9) reduce any risk of an adverse impact on private water supplies to an acceptable level. The Secretary of State agrees with the ExA's assessment of this matter and considers that it is not one that provides grounds for rejecting the Application.

Secretary of State's Conclusions and Decision

45. For the reasons given in this letter, the Secretary of State agrees with the ExA that there is a compelling case for authorising the Development, given the added contribution that it would make to the production of renewable energy and that this case is not outweighed by the potential adverse local impacts of the Development as mitigated by the proposed terms of the Order.

46. The Secretary of State has therefore decided to accept the ExA's recommendation at ER 5.20 and ER 7.1 to make the Order granting development consent on the basis of the provisions set out in the draft Order proposed by the ExA (in Appendix F to the ER), but subject to the modifications outlined in paragraph 47 below. He confirms that, in reaching this decision, he has had regard to the local impact report submitted by Carmarthen County Council and to all other matters which he considers important and relevant to his decision as required by section 105 of the 2008 Act. The Secretary of State confirms for the purposes of regulation 3(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 that he has taken into consideration the environmental information as defined in regulation 2(1) of those Regulations.

Modifications to the Order

47. The Secretary of State has decided to make various minor drafting changes to the form of the draft Order set out in Appendix F of the ExA's Report which do not materially alter its effect, including changes to conform with the current practice for Statutory Instruments (for example, modernisation of language), changes in the interests of clarity and consistency and changes to ensure that the Order has the intended effect.

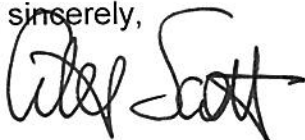
Challenge to decision

48. The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached as an Annex to this letter.

Publicity for Decision

49. The Secretary of State's decision on this Application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009.

Yours sincerely,



GILES SCOTT
Head, National Infrastructure Consents

ANNEX

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the former Infrastructure Planning Commission or the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the High Court during the period of six weeks from the date when the Order is published. The Brechfa Forest West Wind Farm Order as made is being published on the date of this letter on the Planning Inspectorate web-site at the following address:

<http://infrastructure.planningportal.gov.uk/projects/Wales/Brechfa-Forest-West-Wind-Farm/>

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London WC2A 2LL (0207 947 6655)

