

Environment and Sustainability Committee

Meeting Venue:
Committee Room 3 – Senedd

Meeting date:
1 December 2011

Meeting time:
13:15

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda

1. Introductions, apologies and substitutions

2. Inquiry into energy policy and planning in Wales – Evidence from the Welsh Local Government Association and local authorities (13.00 – 15.00)

E&S(4)-11-12 paper 1 – Welsh Local Government Association
E&S(4)-11-12 paper 2 – Powys County Council

Craig Mitchell, Policy Officer, Welsh Local Government Association
Cllr Graham Brown, Chair, TAN 8 Working Group, Powys County Council
Alan Southerby, Senior Manager, Development Management, Powys County Council
Steve Packer, Specialist Projects Adviser, Powys County Council
Cllr David Lewis, Cabinet Member for Economic Development & Property Services, Neath Port Talbot County Borough Council
Geoff White, Head of Planning, Neath Port Talbot County Borough Council

Agenda Item 2

Environment and Sustainability Committee

E&S(4)-11-11 paper 1

Inquiry into Energy Policy and Planning in Wales – Evidence from the
Welsh Local Government Association

Planning and Energy Inquiry

Environment and Sustainability
Committee

23rd September



INTRODUCTION

1. The Welsh Local Government Association (WLGA) represents the 22 local authorities in Wales, and the three national park authorities, the three fire and rescue authorities, and four police authorities are associate members.
2. It seeks to provide representation to local authorities within an emerging policy framework that satisfies the key priorities of our members and delivers a broad range of services that add value to Welsh Local Government and the communities they serve.
3. Undoubtedly Wales must make progress on tackling the issue of enabling communities to live sustainably; and clearly energy is a critical element of this process in terms of not only energy resilience/security, economic development and Climate Change but also social equity. There are also significant fuel poverty issues across Wales which are accentuated in rural Wales by the type and age of housing (solid walled) and the availability of heating systems (off gas network). Given the significant fluctuations in fuel costs and potential disruptions to external supplies of energy it is essential that robust Welsh solutions are progressed; solutions which address the carbon intensity of our energy whilst tackling the real difficulties caused by the high cost of that energy.

Sustainable Development Framework

4. To help set out this broad context for local decision makers the WLGA have worked closely with the Welsh Government in building the knowledge and capacity of elected members to understand these complex issues and the significant threats that communities across Wales face. We have done this primarily through the SD framework (<http://www.wlga.gov.uk/english/sustainable-development-framework/> <http://www.wlga.gov.uk/cymraeg/fframwaith-datblygu-cynladwy/>) and specifically through some of the futures work within that programme. This work has sought to extrapolate key trends in a range of social, environmental and economic issues to describe to members what the future potentially holds for their communities. This included key health determinants such as obesity, changes in the natural environment such as climate change, one planet living and so on (<http://www.wlga.gov.uk/english/futures-masterclass-resources/> <http://www.wlga.gov.uk/cymraeg/futures-masterclass-resources/>). This work attempted to allow members to understand the

context for their day to day decision making and to see how incremental processes add up to certain potential outcomes. We will continue to develop these aspects of the programme as they are vital to enable more effective decision making locally and will assist in the development of any response to future Welsh Government legislation regarding the SD duty.

5. The WLGA will continue to develop these resources as part of a wider programme of induction support for the influx of new Members following the local government elections next May. There will also be specific planning training resources which will highlight what the role of planning committee members are in relation to the range of difficult decisions they face in a range of areas.

SD and Planning

6. The committee (and its predecessors) have forensically examined the planning system on a number of occasions during previous Assemblies underlining the critical role that the service has in relation to sustainability. Indeed it is already a key outcome sought by the Welsh Government and the planning system, a principle enshrined in the 2004 Planning and Compulsory Purchase Act *s.39 - (2) The person or body must exercise the function with the objective of contributing to the achievement of sustainable development.*
7. Those previous examinations have also demonstrated the complexity of the policy context and a key role that LPA's play in balancing a range of divergent priorities and policy ambition. The delivery of renewable energy is clearly such an issue.
8. Recommendation 9 of the previous committees report into Planning in Wales published in January 2011 states that the Welsh Government should produce new guidance to LPA's on how to refine the boundaries of the Strategic Search Areas (SSA's) to ensure greater consistency. How the Welsh Government takes forward this recommendation will have an impact upon the delivery of policy across Wales and is therefore relevant to this inquiry especially in any debate about the potential revisions to TAN 8.

Community involvement

9. It is apparent that local engagement and dialogue around energy issues is clearly an issue. The recent initiative by Community Energy Cymru is timely in this regard and may help develop a broader comprehension of why the issue

of renewables is so critical. This may help inform some of the local debates. Again recommendation 18 of the previous committees report suggesting an evaluation of community engagement approaches as part of the LDP process would be relevant here especially with the development of the toolkit for energy assessments as part of that LDP process.

10. That energy assessment Toolkit offers a methodology which enables local authorities to develop an evidence base to assess the potential renewable and low carbon energy generation within their locality. The information can underpin renewable energy and low carbon energy policies in the local development plan. In the future this will aid in:
 - discussions with developers about opportunities for district heating and waste heat;
 - identifying the potential of new energy generation schemes in supplying new or existing developments; and in
 - The case of wind power, assist officers in the merits of particular applications.
 - Enable a public debate on the merits and issues with such development locally.

11. It is this type of engagement with communities that the petition before the committee on TAN 8 highlights and it is critical that any such developments should benefit local communities as well as meeting wider strategic energy policy. It is also clear that some of the issues been raised by petitioners are beyond the scope of the planning system or fall under other regulatory bodies such as the IPC and its successor. This naturally results in a high degree of frustration that people find it difficult to have their concerns heard or feel they are been fobbed off to another body. This is clearly bad for local democratic processes, bad for the public perception and confidence in the planning regime and prevents an informed debate on how to tackle the significant energy issues we have to address.

Integrated decision making

12. Therefore aspects of policy such as UK National Policy Statements should be more expressly resonant with Welsh policy and political processes whilst UK decision making through bodies such as the IPC and the National Grid should have a clearer accountability to Wales.

13. The response from the LPA's to the IPC on major projects in terms of local impact reports is often the only point at which the public feel they can make their views known on potentially contentious infrastructure. Consequently it often results in a very charged debate on each particular application with a great deal of conflict for local members who clearly are there to represent the views of their communities but are also charged with delivering the proposals set out in TAN 8 and Welsh energy policy but must only consider planning issues. Therefore a broader debate initiated by the work of this committee is welcome and timely to allow a more considered contemplation of the key issues. Difficult decisions will still remain to be taken but the public must have confidence that their voice has been heard and their concerns taken into the process.
14. The Welsh Government programme of financial support for LPA's to access technical expertise in dealing with energy applications is welcome and effective. It allows a transparent independent assessment of the detail of the submissions and allows a more informed negotiation around that detail. The WLGA would like to see this support continued but with a view to understand how this expertise could be integrated into the public sector through collaborative arrangements rather than utilising third party consultants on an ad-hoc basis. This approach fits with the broader debate initiated by the Simpson review.

Devolving decisions to the most appropriate level

15. More critically recommendation 25 of the previous committee's report suggests that all energy consents over 50 megawatts should be devolved to Welsh Ministers and those decisions in Wales should have to relate to Welsh planning policy rather than the National Policy Statements. The WLGA supports this position as it will allow a far more coherent, integrated and proportionate response. It would also allow a better integrated resolution of the significant transport issues currently presented by on shore wind power.
16. The WLGA also support the premise upon which the Low Carbon Revolution – *Energy Policy statement (2010)* is built as set out in the Cabinet forward. Clearly Climate Change remains a critical threat to our communities and the future well being of those communities is dependent upon increasing energy resilience delivered through low carbon sources. Fuel poverty remains an issue across Wales and the energy hierarchy set out in the policy statement is fundamental. Again this is echoed in the petition on TAN 8 and indeed energy saving measures are essential. To this end UK and Welsh initiatives such as

CERT/ECO, the Green Deal and ARBED have the support of Welsh LA's especially where programmes can be targeted to reduce fuel poverty; ARBED in particular should be praised for its holistic innovative approach. However the complexity of the funding and policy landscape on energy efficiency across the UK often presents real challenges for LA's seeking to lever in investment to communities.

17. One position put forward is that it is difficult to argue for significant renewables when a large number of domestic and non domestic properties are still energy inefficient. There is a broader debate about how effective investment in each area is and how they should be prioritised. However it remains that we need both energy efficiency measures *and* low carbon energy generation; it is the balance and the range of technologies that require debate.

Social Equity

18. The potential tension with fuel poverty issues are highlighted by approaches such as the Feed in tariff and the Green Deal; both require upfront investment that favours individuals with capital to invest which clearly those in poverty cannot access. The WLGA are working with partners to examine if the approaches began in Birmingham and Newcastle to address some of these issues can be pursued in a Welsh context.
19. Therefore large scale renewable projects should consider how local fuel poverty issues could be tackled as part of any community benefit aspects of the project. This reinforced by the fact that Climate change itself will impact upon communities in different ways and the resilience of those communities will be affected by their socio/economic status.
20. It is also highly desirable that the economic benefits of delivering low carbon energy should accrue in Wales and again initiatives such as ARBED which have sought to do this by developing local supply chains have been fully supported by LA's; as will ARBED phase 2 which is currently being developed.
21. The development of the feed in tariff and renewable heat incentive alongside changes to the Development Management (with greater permitted development for micro renewables) regime for planning have led to a significant up shift in small scale renewables. This welcome development should be encouraged and should promote further debate and awareness

across communities as this infrastructure becomes an everyday part of our lives.

Energy Mix

22. The energy policy statement makes it clear that on shore renewables are not the only potential technology that can deliver low carbon energy. However different technologies remain at different stages of their implementation and cost so the market will continue to bring forward solutions at differing rates. Given how this potentially impacts upon energy bills this is no theoretical debate.
23. It is clear that the scale of the issues we face in respect of Climate Change and set out in the statement and more fully in the Welsh Government Climate Change Strategy mean that we do not necessarily have the luxury of either or but frankly all suitable technologies must be deployed. It is obvious that on shore wind is one of the more mature technologies available and as such will remain a solution in the short to medium term. There is a constant debate as to the efficiency of turbines, their cost and environmental impact which must be addressed in a way in which the wider public have confidence in. previously the SD Commission often provided this insight and advice into the public debate and this role is still necessary.
24. However these turbines are not permanent structures and it is possible that as they reach the end of their productive life that they may be replaced in the energy mix by more 'aesthetically' acceptable technologies. However all technologies will have an impact and different communities will continue to be impacted to a greater or lesser extent; energy from waste is a good example of this.
25. The proposals set out in the energy policy statement are informed by an understanding of the potential for differing technologies, their scope for implementation including costs and the associated infrastructure required to bring the energy to consumers. There are complex inter relations between subsidy levels, regulatory frameworks and the cost of energy to the consumer that must be balanced.
26. Fundamental to this is the extent to which energy consents and processes are devolved and who has ultimate responsibility for those policies and decisions and in what context they are taken. This is at the heart of this committee's current inquiry.

Specific Inquiry Questions

27. The committee's letter of 2nd August 2011 setting out the terms of the inquiry raise a number of specific issues and questions. The wide ranging nature of these questions means that aspects are beyond the scope and competence of what the WLGA can comment upon. Other areas raise issues where it is difficult to evidence a position beyond representing the broad view of local government across Wales.
28. Therefore is difficult to determine the precise implications for Wales if responsibility for consenting major onshore and offshore energy projects remains a matter reserved by the UK government. However there are clearly some broad views which can be considered. The relative weight of the Welsh planning and policy framework in relation to the UK National Policy Statements is critical. If more weight is given to the UK position as is currently the case then this potentially undermines the position in Wales and may prove counter productive. Strategically planning for energy infrastructure implicitly becomes complex and potentially muddled especially from the wider public perception. The supporting infrastructure also becomes more difficult as the culminative effect of development is effectively difficult to determine.
29. This lack of coherence may mean that less than optimum sites are developed or that developments are disproportionate in scale to enable the developer to go through one regime rather than another. This cannot be healthy and appropriate. In this context the WLGA continues to support the devolvement of energy consents to Welsh Ministers on the understanding that LPA's would be instrumental in any future decision making. To not do so would potentially maintain the types of problems presented by the current regime.
30. The targets set out in the energy policy statement are complex as they must be delivered by a range of stakeholders, subsidies and technologies. Fundamentally it is whether private investment is forthcoming that determines if proposals come forward so they must be treated carefully. The planning system cannot initiate projects but can heavily influence their progress and deliverability. They are clearly a signal to the market about what government expects to be delivered and this must inform those investment decisions giving additional assurance to investors that government is supportive in Wales of this type and scale of development.

31. A useful analogy could be drawn here with the development of waste infrastructure across Wales. In partnership with LA's the Welsh Government has set out a coherent and planned process of delivering the infrastructure necessary to meet Welsh policy aims within the context of EU wide legislation and targets. However that process runs in parallel with potential private sector investment over and above the programme and potentially consented by the IPC and its successor. This has implications for the viability of the strategically planned process within Wales and the public perception on the lack of integration and joined up planning. It is clear that a similar problem may present in relation to energy consents, in particular the culminative impacts of different decisions.
32. The Welsh Government Climate Change strategy details some of the delivery processes for meeting the 3% reduction target in relation to areas of devolved responsibility. Undoubtedly part of that strategy development revolves around an understanding of how UK wide policies such as the Carbon Reduction Commitment would impact upon Wales and therefore how Welsh initiatives could be cognascent of this. The Climate Change Commission are in the process of developing a report to the Assembly on progress upon the targets which in tandem with a report from the UK Committee on Climate Change will support the Welsh Governments annual report on progress. Whilst there may be potential for the delivery of the 3% target to be affected by UK policy and decisions on energy consents and renewables it is difficult to determine to what extent and whether this impact may be positive or negative. It would seem appropriate for the Climate Change Commission to be asked for a view on this and for the Committee on Climate Change to address this issue as part of their report to the Welsh Government.

Implications of decisions

33. There are clearly implications if decisions are taken not fully recognising the Welsh policy context, primarily around;
- Spatial distribution of projects and their co-ordination (especially with other key infrastructure projects),
 - Nature and scale of technology especially where certain technologies may be over represented in certain locations,
 - Integration of projects realising broader synergies and the requirement for supporting infrastructure
 - The piecemeal and disjointed delivery of projects with disproportionate and continued disruption to communities

- Public perception/acceptability of the process and engagement in the decision making process,
- Realisation of community benefit and delivery of key social and economic ambitions relating to green jobs and local sustainability.

TAN 8

34. The committee poses the question as to whether TAN 8 should now be reviewed and indeed given the context above this is a reasonable issue to raise. However given that many of the concerns relate to factors currently outside the remit of the Welsh Government and TAN8 it is difficult to see how such a review could be framed to address these issues. Whilst it may present a new context for energy decisions especially in light of transport and supporting infrastructure concerns this would not tackle the fundamental issue of the position of such policy in relation to the UK National Policy Statements and the fact that large infrastructure decisions are taken on a UK basis. Therefore whilst we are not averse to a review the WLGA remains to be convinced of the purpose of such a review in this context especially as aspects of the TAN were reviewed in the last administration.
35. In terms of the consenting agencies it is clear that the differing regimes do present issues and delays. This is especially true where new and emerging technologies are deployed in sensitive environments protected by EU wide frameworks such as the habitats regs. The development of a Single Environment Body will aid this process as will the current development of an eco systems approach which allows a more holistic approach to the issues potentially allowing habitat and biodiversity gain to be more strategically delivered.
36. Whilst we do not have a position on the energy mix presented in the Energy statement it is clear that a mix of technologies will be required to deliver our transition to a low carbon economy. The actual mix delivered will remain a complex interaction of potential for growth, development of technologies and financial decisions of other stakeholders. However to ensure a viable mix it is clear that the Welsh Government should continue to support the broad range of technologies and enable their delivery to market in a way which optimises the potential benefit for Wales.

Greenhouse gas targets

37. In terms of how this will meet the Welsh Governments targets for greenhouse gas emissions this is not entirely clear as these reductions form part of the energy generation sector which does not directly form part of the Climate Change Strategy although the benefits clearly accrue further down the supply chain in the residential sector, within transport (with the development of electric vehicles), and within the public sector with greater access to low carbon energy. However these benefits will be reflected across the UK in the assumptions about the energy mix provided to industrial and domestic energy users.
38. Transport will remain a critical issue in the development of certain technologies. The WLGA have commissioned work looking at ports infrastructure to determine the potential growth and use for renewable technologies

Conclusion

39. The WLGA supports the move toward the development of a low carbon economy in Wales in a way which optimises the benefit for communities across Wales. The threats we face in terms of Climate Change, sustainability, energy resilience and the range of social, economic and environmental constraints and issues we face are significant and urgent. We have also supported the Welsh Government in their calls for the devolution of energy consents above 50 Mw to Wales to allow a more strategic and integrated approach to the delivery of this infrastructure.
40. It is clear that Wales must play its part on a UK basis in helping meet these challenges and take advantage of the potential for renewables presented by our topography, climate and marine environment. However this must be done in a way which delivers real engagement and benefit for the people of Wales.

For further information please contact:

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Powys County Council

Response to the National Assembly for Wales' Environment and Sustainability Committee's inquiry into energy policy and planning in Wales

1. Terms of engagement

1.1 Powys County Council (PCC) welcomes the opportunity to give evidence to the National Assembly for Wales in this matter and thanks them for granting an extension of time in this regard.

1.2 PCC understands that the Environment and Sustainability Committee will consider how the current devolution arrangements for energy policy and planning affect the delivery of the Welsh Government's desired future 'energy mix' in Wales, as set out in 'A Low Carbon Revolution – Energy Policy Statement' (2010) and the 'UK Renewable Energy Roadmap' (2011).

1.3 PCC understands that the inquiry will be framed by the following terms of reference:

- a. What are the implications for Wales if responsibility for consenting major onshore and offshore energy infrastructure projects remains a matter that is reserved by the UK Government?
- b. How does this affect achievement of the Welsh Government's aspirations for various forms of renewable and low carbon energy as set out in the Energy Policy Statement?
- c. How does this affect delivery of the Welsh Government's target for a 3 per cent reduction in Green House Gas emissions per annum from 2011?
- d. What will be the impact if consenting decisions on major infrastructure projects and associated development are not all taken in accordance with Welsh planning policy?

1.4 Within these terms of reference, PCC understands that the issues that the Committee will want to consider include:

- a. The role of the different consenting agencies, how they inter-relate and how the current system could be improved, both with and without further devolution (Infrastructure Planning Commission, Planning Inspectorate, Local Planning Authorities, National Parks, Welsh Government, Marine Management Organisation, Environment Agency).
- b. The relationship between the UK Government's Energy National Policy Statements and Welsh national and local planning policies (including Planning Policy Wales, Technical Advice Note 8 and Local Development Plans) and whether or not these policies can achieve the Welsh Government's aspirations, including whether or not a formal review of TAN 8 is now required.

- c. The potential contribution and likelihood that different types of renewable and low carbon energy (offshore wind, tidal, onshore wind, hydro-power, nuclear, bio-energy/waste, micro-generation, community energy projects) will be capable of delivering the Welsh Government's aspirations for energy generation as set out in A Low Carbon Revolution – Energy Policy Statement and the UK Renewable Energy Roadmap.
- d. The potential contribution of these different types of renewable energy to meeting the Welsh Government's annual target for Green House Gas emission reduction.
- e. The potential role of other forms of energy production in Wales e.g. existing fossil fuel energy generation, proposed nuclear generation and newer technologies such as coal-bed methane and shale gas.
- f. The transport issues relating to wind turbines and other forms of renewable energy including their impact on roads, traffic and tourism.

1.5 PCC accepts that submissions do not need to address all the above areas.

1.6 PCC also understands that the Committee will be holding oral evidence sessions in the autumn 2011 and that it would be helpful if an indication could be given as to whether it would be prepared to give oral evidence, if invited.

2. Evidence

2.1 Whilst accepting that the inquiry has set itself a broad remit, Powys County Council wishes to give evidence in relation to certain matters.

2.2 In essence, the position of Powys County Council is as set out in the minute of its meeting held on Wednesday 29 June 2011, a copy of which is attached at Appendix 1 as supplemented by the resultant letters to the Welsh Government (WG) and the Department for Energy and Climate Change (DECC), copies of which are attached at Appendices 2 and 3.

2.3 Replies to these letters are attached at appendices 4 and 5.

3. Materiality of TAN8

3.1 One of the main issues now facing the Council in the light of the First Minister's statement made on 17 June 2011 and supplemented by the letter of clarification written in July 2011 by the Minister for Environment and Sustainable Development, John Griffiths, is the scope for costly litigation over the interpretation and weight to be given to Welsh Government policy as set out in Planning Policy Wales (currently Edition 4, February 2011) and Technical Advice Note (TAN) 8 – Renewable Energy (2005).

3.2 TAN8 is quite clear where it says that:

“The installed capacity targets are intended to assist the planning process and are not to be seen as the definitive capacity for the areas. There may be practical, technical and/or environmental reasons why the capacity may be more or less than that indicated.”

3.3 The First Minister's statement says that:

"In our view the TAN 8 capacities should be regarded as upper limits and we call upon UK Government to respect this position when they finalise the Renewable Energy National Policy Statement and to not allow proliferation when they take decisions on individual projects in Wales.

3.4 Subsequent to this, the letter from John Griffiths in July states:

*The potential estimated in the Low Carbon Revolution Energy Policy Statement was based on the **maximum** capacities that we considered appropriate for the SSAs in Tan 8 in 2005. The maximum capacities of the SSAs as provided for and referenced in TAN 8, were assessed by independent consultants Garrad Hassan and provide for almost 1700 megawatts of onshore wind across all our SSAs. The remaining 300MW are anticipated to come from a combination of developments under 25MW, brownfield sites as well as community and local schemes and a contribution from micro-generation. We remain committed to achieving this potential.*

3.5 These figures are different to those set out in TAN8.

3.6 Powys believes that the use by the Minister of the Garrad Hassan study to argue for upper Strategic Search Area (SSA) limits, based on environmental capacity, gives scope for challenge. Powys understands that Garrad Hassan was commissioned to explore the extent of installed capacity that could reasonably be produced from the SSAs using broad brush constraints, some of which no longer exist. Powys believes that the study in no way assessed overall environmental capacity as evidenced by the following extract:

"The work does not seek to pre-empt detailed on-ground studies that would typically be undertaken by wind farm developers when assessing the sites. Rather, it provides an informed view of the broad capacity limits of the areas and the headline common factors which are likely to influence those limits... The terms of reference did not include any input ...into the definition of the SSA areas or any assessment of planning matters such as landscape capacity."

3.7 The simple fact is that, in short, it is for decision makers such as Powys County Council to decide when environmental capacity has been reached without being expected to be constrained by limits that are potentially flawed as a concept.

3.8 Powys has already sought leading counsel's advice on the weight to be given to the First Minister's statement in reporting planning applications to Committee or responding to DECC/IPC. Counsel's advice is that the statement is of limited comfort and should be given only limited weight.

3.9 The current position is, therefore, one of considerable confusion. The planning acts state that planning applications must be determined in line with the Development Plan unless material considerations indicate otherwise. PPW augmented by TAN8 is demonstrably one such valid material consideration, which Powys County Council as Local Planning Authority, along with every other Welsh Council, will have to have proper regard to.

- 3.10 It is well known that the planning process needs to weigh all material factors into the balance. The position we find ourselves in with regard to TAN8 and the apparently conflicting messages set out in the First Minister's statement and the letter from the Minister complicates the process for developers and LPAs alike and gives rise to the potential for costly litigation.
- 3.11 In a nutshell, the national planning policy position has created the antithesis of certainty, for all those involved in the process. This is unacceptable and is one of the reasons why we as a County Council and one that is significantly affected in this matter, has called for a complete review of TAN8. The Welsh Government has refused to entertain such a review. We believe that this is untenable.
- 3.12 Your inquiry poses the question as to whether or not these policies can achieve the Welsh Government's aspirations, including whether or not a formal review of TAN 8 is now required.

Powys submits that a review of TAN8 is imperative if we are to move forward with any certainty.

4. Welsh versus UK Government Policy

- 4.1 The UK National Policy Statements (NPSs) have now been finalised by Parliament. These set out how decisions will be taken on a UK wide basis by DECC and the IPC.
- 4.2 The Renewable Energy Infrastructure NPS (EN-3) makes a clear distinction between the weight that should be attached to it and that of other policy such as TAN8 and includes the following statement:

"Policy set out in existing planning guidance in England, and where a proposal is located in Wales in planning policy and advice issued by the Welsh Assembly Government relevant to renewables, will provide important information to applicants of nationally significant energy infrastructure projects (energy NSIPs). The IPC should have regard to these policies and expect applicants to have taken them into account when working up their proposals. Applicants should explain in their applications to the IPC how their proposals fit with the guidance and support its targets or, alternatively, why they depart from them. Whether an application conforms to the guidance or the targets will not, in itself, be a reason for approving or rejecting the application."

- 4.3 This statement is considered to represent a situation where UK policy would demonstrably override Welsh policy. It can be seen, therefore, that the NPS will be the main policy consideration to take into account, ahead of PPW and TAN 8.
- 4.4 This is because, as with all material considerations, it is a matter for the decision maker to weigh the issues in the balance and decide upon a hierarchy based on the respective arguments and relative weight that can be attributed to each consideration. Put simply, if a UK wide decision making body (i.e., the IPC) is the decision maker, it is considered to be more likely than not that UK policy will be considered ahead of Welsh policy.

4.5 Powys County Council believes that this is a very significant factor to consider within the terms of your inquiry. There are two Strategic Search Areas that lie wholly within Powys – SSAs B and C. The respective indicative targets for each are 290MW and 70MW. Currently, there are five wind farms operational in Powys with an installed capacity of 105MW. The most recently approved application is that at Tirgwynt that proposes a 27.6MW scheme. There are presently 15 applications being considered by the Council that have the potential to deliver an additional 894MW, 541.5MW in SSA B and 352.5MW in SSA C.

4.6 When this figure is further disaggregated in terms of decision maker, the equation is particularly revealing, as follows:

- Powys County Council – 304.5MW
- DECC/IPC – 589.5MW

4.7 On this basis, there is a clear issue to consider concerning the effectiveness of Welsh policy as set out in PPW and TAN8 given the fact that the overwhelming majority of proposed installed capacity through new wind farms is likely to be determined by having greater regard for UK policy than Welsh policy.

4.8 Your inquiry poses the question as to the role of the different consenting agencies, how they inter-relate and how the current system could be improved, both with and without further devolution making reference to the IPC, PINS and LPAs amongst others. It also asks about the relationship between the UK Government's Energy National Policy Statements and Welsh national and local planning policies and whether or not these policies can achieve the Welsh Government's aspirations.

Powys submits that there is a considerable question mark over the strength and potency of Welsh policy in this regard which, if not addressed, could lead to the current Welsh spatial approach to wind farm development being replaced by a market led approach in determining where to site such large scale renewable energy installations.

5. Other matters

5.1 Powys County Council believes that more emphasis should now be placed on local, community based sources of renewable energy using local resources, be it water, wind, solar or even Thorium. This is considered, in itself, to be a further reason to review TAN8. Such an emphasis would have the same desired effect of creating sustainable energy sources for communities whilst reducing the need to pull power from the National Grid. In addition, it would be unlikely to require the construction of significant substation installations and lines of pylons through the north of the County, a matter that is causing considerable concern and anxiety locally but one that will at some point have to be presided over in a planning capacity by both the County Council and the IPC.

5.2 Furthermore, without going into the efficiencies or otherwise of wind energy, it is disappointing that a decision was made to not pursue the Severn Barrage given that the energy produced there would arguably have been greater than

the wind farms in Wales. In respect of the cost, it is arguable that the construction of the Severn Barrage would be less than all the costs associated with wind farm construction plus all the associated infrastructure costs and potential 'human' cost to Welsh communities, economies and the environment which the County Council will need to reconcile as part of its planning responsibilities.

5.3 Powys believes that TAN8, if it were considered as a stand alone document, displays a disconnection in terms of strategic thinking. It would be a reasonable proposition to consider that such matters as associated infrastructure would have been part and parcel of the fabric of this strategic policy. However, this is not readily apparent. For example, the identified SSAs in Mid Wales are seemingly unrelated to available infrastructure and necessary grid connection, hence the current proposals for a sizeable substation and grid infrastructure.

5.4 Likewise, in itself, TAN8 does not address the possible continued disruption to residents, businesses and communities during the construction phases. Powys has previously identified somewhere in the region of 3,000 abnormal loads passing through communities in this respect. Such abnormal loads will cause inconvenience together with the potential for reduced business and commercial activity. These are real issues that Powys will need to face up to given the nature and extent of the road network in Mid Wales.

Powys asks the inquiry to look at the environmental, socio-economic, community, health, ecological, transportation, cultural and cumulative impact of wind farms and the necessary infrastructures and carries out a cost benefit analysis of wind farm energy when compared to alternative sources of renewable energy.

5.5 The Committee is also asked to consider the relationship between the European Directive on Environmental Assessment embodied within Welsh law by the relevant Statutory Instruments and the guidance contained within TAN8 given that in any hierarchy, law will always take precedence. Whilst Powys accepts that individual planning applications are and will be accompanied by Environmental Statements made pursuant to the associated regulations, there is nonetheless considered to be a question mark as to the appropriateness of the policy within the context of the aforementioned overarching Directive.

5.6 Powys accepts that such matters might reasonably be considered within the mix when it comes to formally assessing each and every planning proposal. However, the Committee is nonetheless invited to take advice and consider this issue as part of its inquiry which may well aid the planning process further down the line.

Powys asks the inquiry to consider the relationship between the European Directive on Environmental Assessment and TAN8.

6. Final remarks

6.1 As already mentioned, Powys County Council welcomes the opportunity to engage in this debate and sincerely hopes that its evidence can be taken fully into account in the Committee's on-going deliberations.

6.2 To aid this process further, Powys County Council would be more than happy to give oral evidence in the forthcoming sessions in the autumn as a means of furthering the arguments and comments put forward and as a means of providing any necessary clarity as to its position in this matter.

6.3 For the avoidance of any doubt, this consultation response does not purport or seek to make any sort of assessment of the merits of national Welsh planning policy as set out in PPW or TAN 8, nor does it seek to commence any form of weighted consideration of TAN 8, in terms of any individual planning proposal for Powys County Council as Local Planning Authority. This will very much be a matter for individual planning applications and DECC/IPC proposals as and when they come forward for consideration and determination by the County Council.

County Councillor Graham Brown

For and on behalf of The Tan 8 Working Party representing Powys County Council in this matter

September 2011

Powys County Council
Powys County Hall
LLANDRINDOD WELLS
Powys
LD1 5LG

29th July 2011

Mr John Griffiths AM
Minister for Environment &
Sustainable Development
Welsh Government
Cardiff Bay
Cardiff
CF99 1NA

Dear Sirs

By this letter, Powys County Council ("Powys") calls on the Welsh Government to carry out an immediate review of TAN 8 and to call a moratorium on all wind farm applications, whether pending decisions or in pre-application stage, until the review is completed.

In carrying out the review, Powys specifically asks the Welsh Government to consider the environmental, socio economic, community, health, ecological, transportation, cultural and cumulative impacts of the construction of wind farms and the necessary infrastructures in rural Wales. Powys also asks that, in carrying out the review, the Welsh Government carries out a cost-benefit analysis of wind farm energy production when compared to alternative sources of energy.

The background to this request, and the reasons it is sought, are set out below.

TAN 8

Technical Advice Note 8 ("TAN 8"), "Planning for Renewable Energy", was published in July 2005 but remains material to the determination of planning applications by local planning authorities such as Powys and to the giving of consultation responses by local planning authorities such as Powys to the Infrastructure Planning Commission ("IPC") in relation to strategic energy projects of more than 50MW. Its purpose, as stated in its paragraph 1.1, is to provide technical advice to supplement the policy set out in Planning Policy Wales ("PPW") and the Ministerial Interim Planning Policy Statement ("MIPPS"), which itself amended PPW. PPW was recently revised and was re-published in February this year.

The background to TAN 8 is set out in its paragraph 1.4: in order to meet UK-wide targets, the Welsh Government concluded that an additional 800MW of additional installed capacity was required from onshore wind sources.

Paragraph 2.2 explains that, in order to try to meet that target, the Assembly Government (as it then was) commissioned extensive technical work from the consultancy firm Arup which led to the conclusion that, for efficiency and environmental reasons amongst others, large scale onshore wind developments (defined as those over 25MW) should be concentrated into particular areas known as Strategic Search Areas (“SSAs”). SSAs were identified through a variety of means having been the subject of further detailed consideration in specially commissioned research by the consultants Garrad Hassan in 2004. SSAs are shown on a series of Maps in TAN 8. The Welsh Government will be aware that two of the SSAs (Carno North and Newtown South) lie wholly within Powys’ area; one of the SSAs (Nant-y-Moch) lies partly within it.

In respect of each of the SSAs, TAN 8 provides targets of installed capacity in MW. Paragraph 2.5 explains that “although the Assembly Government has an established target of 800MW of installed onshore capacity, Table 1 indicates that SSAs may be capable of accommodating up to approximately 1120MW of additional capacity”.

From its publication, TAN 8 was intended to feed into the plan-making process at local level. Section 5 of TAN 8 set out that the local implications of TAN 8 should be incorporated into Local Development Plans (LDPs) in line with the requirements of the LDP process. As it was put in paragraph 5.4 of TAN 8: “the SSAs for onshore wind as identified on Maps 1-8 are of key importance to the achievement of energy policy targets; they must be referred to in local development plans and, if refined, incorporated into local development plan proposal maps”. Further advice was given at Annex D. This set out a detailed “potential methodology” for undertaking a local authority-led study of any of the SSAs.

The promise of a review

In *One Wales – A progressive Agenda for the Government of Wales* (2007), the Welsh Government committed to review TAN 8 following production of an Energy Route Map and an Assembly government Energy Strategy. The Route Map published in 2008 reaffirmed the same commitment (see paragraphs 7.15 and 7.16 of the same). Paragraph 7.17 of the Route Map made clear why a review was so necessary: “if all potential projects were to go ahead in full, wind-farms within the TAN 8 strategic search areas could produce up to 2500MW of capacity: three times the existing TAN 8 indicative target for 2010...”.

In light of the Government’s commitment to a review, the consultants Arup were again commissioned in October 2009 to undertake a study that would provide an evidence base to inform a revised planning policy framework for onshore wind development in and around the SSAs. The research, published in June 2010, found that proposals for some 2300MW of onshore wind were at that time under consideration in and around the SSAs, almost all since the publication of TAN 8 in 2005. It further found that, based on knowledge of current project developments,

there appeared to be only the potential for around 300MW of additional development in and around the SSAs.

The Welsh Government's recent approach

On 17 June 2011, the First Minister made a written statement on the subject "Planning for Renewable Energy in Wales". In that statement, the First Minister said that the indicative capacities set out in TAN 8 on 2005 reflected a considered view of the potential impact of grid and transport connections but that, in a number of the SSAs, developer interest had greatly exceeded those indicative figures. The First Minister expressed the Welsh Government's belief that "this level of development is unacceptable in view of its wider impacts on the local area". He went on: "in our view the TAN capacities should be regarded as upper limits".

The First Minister justified this approach on the basis that "the level of capacity within the Strategic Search Areas ... set in 2005 would negate the need for the large obtrusive pylons which are causing such concern ... It has always been our position, as set out in our Energy Policy Statement, that such connections should be delivered by less intrusive techniques, and as sensitively as possible, including the use of undergrounding".

The First Minister's statement has been followed this month by a letter to stakeholders from Mr John Griffiths AM, Minister for Environment and Sustainable Development, purporting to "provide further clarity on the issue of **maximum** installation capacities for onshore wind within the Strategic Search Areas (SSAs) identified in TAN 8 in 2005". The letter sought to draw attention to passages in TAN 8 in which reference to underground cabling is made, and stated: "provided development is limited to the maximum capacities above, we do not believe there is a need for the large, visually intrusive, high voltage grid network infrastructure and associated sub station of the kind proposed within Mid Wales ...".

Why a review and moratorium is now urgently required

In light of the above, two reasons in particular more than justify a review of TAN 8 as it stands, and a moratorium on all wind farm applications across Wales and the rest of the UK.

Firstly, through a combination of the fact that local planning authorities are currently faced with proposals for capacity far exceeding that for which provision is made in TAN 8, and the fact that TAN 8 expresses its capacities as "indicative" on its face, TAN 8 provides a wholly inadequate means to control visually harmful development such as that involving large numbers of over-ground pylons. In Powys' view, much more robust policy is required to avoid that problem. Only a review of TAN 8 can achieve this, and pending that review a moratorium on all wind-farm applications should be called so as to ensure that proposals are dealt with on a consistent basis henceforth. It is Powys' view that a review of this nature must be informed by a comprehensive Strategic Environmental Assessment, with full consultation.

Secondly, although Powys agrees with the substance of the First Minister's concerns, it is unclear what the status of the First Minister's statement is in the

determination of planning applications. At most it is guidance on the interpretation of pre-existing policy; it does not purport to replace (nor is Powys clear that it is capable of replacing) TAN 8 itself. The First Minister's concerns can therefore only rationally be addressed by a review of the policy.

A revised policy would no doubt be clearer than is TAN 8 currently on the circumstances in which under-ground techniques should be regarded as mandatory. But wind-farms are not just about electricity-generation with a visual impact. Powys believes strongly that a review of TAN 8 should therefore involve a consideration of the environmental, socio economic, community, health, ecological, transportation, cultural or cumulative impacts of the construction of wind farms specifically and the necessary consequential infrastructures in rural Wales. There should also be a full cost-benefit analysis of wind farm energy production when compared to alternative sources of energy. Only through a review of this scope will the Welsh Government be in a position to produce guidance to local authorities in respect of planning within SSAs which balances the undoubted need to address UK-wide renewable energy targets with the need perceived by many to avoid the visual harm caused by over-ground cabling arising specifically from wind-farm proposals.

The current regime creates uncertainty for developers and local authority planning departments alike, and gives scope for costly litigation over the interpretation of – and the weight to give - the competing and contradictory policies, advice notes, guidance and ministerial statements. Until recently, planning officers have been unaware of the “maximum capacity” now indicated. This adds complication to the assessment and taking forward of applications for decision by the Council's Planning Committee and its recommendations to DECC and IPC.

Powys calls upon the Welsh Government to address these serious concerns as a matter of urgency.

I should be grateful for your comprehensive response to this letter no later than Friday 9 September 2011, following which Powys will further consider its position.

Yours faithfully

County Councillor W Barry Thomas
Chairman of Powys County Council

Powys County Council
Powys County Hall
LLANDRINDOD WELLS
Powys
LD1 5LG

29th July 2011

Mr Charles Hendry MP
Minister of State for Energy
Department of Energy & Climate Change
3 Whitehall Place
London
SW1A 2AW

Dear Sirs

Powys County Council ("Powys") has called on the Welsh Government to carry out an immediate review of TAN 8 and on the Welsh and UK Governments to call a moratorium on all wind farm applications, whether pending decisions or in pre-application stage, until the review is completed. In carrying out the review, Powys has specifically asked the Welsh Government to consider the environmental, socio economic, community, health, ecological, transportation, cultural and cumulative impacts of the construction of wind farms and the necessary infrastructures in rural Wales. It has also asked that, in carrying out the review, the Welsh Government carries out a cost-benefit analysis of wind farm energy production when compared to alternative sources of energy.

By this letter, Powys demands that the Department of Energy and Climate Change ("DECC"), in the development of the National Policy Statement on Renewable Energy Generation, ensures that within the policy, provision will be made to guarantee that full consideration will be given to policies that exist in Wales, at National, Welsh and Local Government level.

The need for flexibility in the NPS has become the more acute because of an apparent change in position on the part of the Welsh Government as to the interpretation of TAN 8.

By way of background, Technical Advice Note 8 ("TAN 8"), "Planning for Renewable Energy", was published in July 2005 but remains material to the determination of planning applications by local planning authorities such as Powys and to the giving of consultation responses by local planning authorities such as Powys to the Department for Energy and Climate Change ("DECC") and the Infrastructure Planning Commission ("IPC") in relation to strategic energy projects of more than

50MW. The background to TAN 8 is set out in its paragraph 1.4: in order to meet UK-wide targets, the Welsh Government concluded that an additional 800MW of additional installed capacity was required from onshore wind sources. Paragraph 2.2 explains that large scale onshore wind developments (defined as those over 25MW) should be concentrated into particular areas known as Strategic Search Areas (“SSAs”).

In respect of each of the SSAs, TAN 8 provides indicative targets of installed capacity in MW. Paragraph 2.5 explains that “although the Assembly Government has an established target of 800MW of installed onshore capacity, Table 1 indicates that SSAs may be capable of accommodating up to approximately 1120MW of additional capacity”.

On 17 June 2011, the Welsh First Minister made a written statement on the subject “Planning for Renewable Energy in Wales”. In that statement, the First Minister said that the indicative capacities set out in TAN 8 on 2005 reflected a considered view of the potential impact of grid and transport connections but that, in a number of the SSAs, developer interest had greatly exceeded those indicative figures. The First Minister expressed the Welsh Government’s belief that “this level of development is unacceptable in view of its wider impacts on the local area”. He went on: “in our view the TAN capacities should be regarded as upper limits”. He justified this approach on the basis that “the level of capacity within the Strategic Search Areas ... set in 2005 would negate the need for the large obtrusive pylons which are causing such concern ... It has always been our position, as set out in our Energy Policy Statement, that such connections should be delivered by less intrusive techniques, and as sensitively as possible, including the use of undergrounding”.

In light of the above, Powys has written to the Welsh Government calling for a review of TAN 8 as it stands. This is because, firstly, much more robust policy than TAN 8 is required to control visually harmful development such as that involving large numbers of over-ground pylons, and secondly because it is unclear what effect or status the First Minister’s statement can have in the determination of planning applications.

Given the urgent need for a review, Powys considers that there is a consequential need for a moratorium on all wind farm applications in Wales and the UK, and has written to the Welsh and UK Governments to that effect.

Against the above background, Powys demands that DECC ensures provision is made within the NPS on Renewable Energy Generation to guarantee that full consideration will be given to policies that exist in Wales, at National, Welsh and Local Government level. Powys further demands that DECC should ensure that the amended policy be informed by a Strategic Environmental Assessment, with full consultation.

The Welsh Government has made clear that it expects all decision-makers in Wales (including the IPC or its successor, in the case of applications over the devolved threshold) to recognise the spatially specific policy outlined in TAN 8 and to respect the fact that the SSAs have a finite environmental capacity. For Welsh local authorities, TAN 8 is material not only in devolved proposals of under 50MW but

also in the giving of consultation responses to DECC and the IPC in other cases. Unless the NPS allows DECC and the IPC sufficient flexibility to take account of Welsh policy, conflict will arise, especially given the Welsh First Minister's recent statement encouraging local planning authorities to apply the capacities in TAN 8 as maxima. At the very least, the current uncertainty over TAN 8 in Wales can only reinforce the need for flexibility in the NPS.

I should be grateful for your comprehensive response to this letter no later than Friday 9 September 2011, following which Powys will further consider its position.

Yours faithfully

County Councillor W Barry Thomas
Chairman of Powys County Council

John Griffiths AC /AM
Gweinidog yr Amgylchedd a Datblygu Cynaliadwy
Minister for Environment and Sustainable Development



Llywodraeth Cymru
Welsh Government

Ein cyf/Our ref JG/05929/11

County Councillor W Barry Thomas
Powys County Council
County Hall
Llandrindod Wells
Powys
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7 August 2011

Dear Barry,

Thank you for your letter of 29th July calling on the Welsh Government to carry out a review of Technical Advice Note 8 and to introduce a moratorium on all wind farm applications.

In responding to your request it is important that I put TAN 8 into context in relation to other Government policies and to provide an explanation of what the TAN seeks to achieve.

The UK is subject to the requirements of the EU Renewable Energy Directive. This includes a UK target of 15% of energy from renewables by 2020. The UK Renewable Energy Strategy (2009) and the UK National Renewable Energy Action Plan (2010) sets the path for the delivery of these targets, promoting renewable energy to reduce global warming and to secure future energy supplies.

The Welsh Government is committed to playing its part by delivering an energy programme which contributes to reducing carbon emissions as part of an approach to tackling climate change. The Welsh Government's Low Carbon Energy Policy Statement (2010) sets out our energy policy and identifies the sustainable renewable energy production aspiration of 29TWhr by 2020 through the strengthening of renewable energy production from a variety of different technologies. These include onshore and offshore wind, biomass (electricity), tidal range, tidal stream/wave, local electricity generation (mainly PV/wind/hydro). The Low Carbon Energy Policy Statement demonstrates that onshore wind power offers the greatest potential for an increase in the generation of renewable energy in the short to medium term and that it continues to offer the greatest potential for strategic scale renewable energy generation.

The Low Carbon Energy Policy Statement explains the Welsh Government's aim by 2050, at the latest, to be in a position where almost all of our local energy needs can be met by low carbon electricity production. The approach is to reduce energy consumption and improve energy efficiency first and maximise renewable and low carbon energy generation at every scale across Wales. This is part of a concerted effort to tackle climate change in Wales.

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The Welsh Government's energy policy recognises the importance of a mixture of renewable energy technologies. However, onshore wind energy in the short term offers the greatest potential for an increase in the generation of electricity from renewable energy and it is at the present time one of the most commercially viable sources of renewable energy available and it is right that we plan positively for it.

Our planning policy as set out in Planning Policy Wales and supported by Technical Advice Note 8 seeks to facilitate the delivery of the Welsh Government's renewable energy policy and establishes a framework for local planning authorities to produce Local Development Plans, and is a material consideration for individual planning applications. You will be aware that we reviewed our over-arching planning policy for renewable energy in February this year and alongside this we issued a letter which factually updated TAN 8.

As a consequence the 800MW target for 2010, to which you refer in your letter has been superseded by the Low Carbon Energy Policy Statement. Nevertheless, the Strategic Search Area based approach to large scale onshore wind remains as a basic principle of TAN 8. The Strategic Search Areas were derived following independent technical assessment of the most suitable areas for large scale wind development and the intention of planning policy is to restrict the proliferation of large scale wind farm developments to a limited number of sites in the uplands of Wales whilst trying to address the immediate challenge presented by climate change. There are large areas of Wales that are excluded from consideration as Strategic Search Areas by features that militate against large wind farm developments. In particular, large wind farm developments in Wales' three National Parks and designated Areas of Outstanding Natural Beauty, would be contrary to planning policy.

Wales has an abundant wind resource which, combined with the generous financial support offered by the UK Government, means that it is inevitable that developers will continue to promote and seek to construct large scale wind farms in Wales. Without the strategic approach offered in TAN 8 there is a danger that wind farms would be scattered across the whole of Wales in an uncoordinated way, and I believe that TAN 8 offers the best way forward to meet our obligations whilst at the same time protecting much of upland Wales.

My colleague the First Minister issued a Written Statement on 17th June which set out the Welsh Government's view that we must continue to plan positively for large scale wind developments but that the current level of developer interest in some Strategic Search Areas exceeded what was originally anticipated when TAN 8 was conceived. Whilst TAN 8 recognises that in Mid and North Wales the Grid capacity would require reinforcement in order to deliver the outputs of some of the Strategic Search Areas, we believe that it is this overcapacity which has brought about National Grid's current proposals for Grid reinforcement in Mid Wales, and the Welsh Government has made its views clear on the unacceptability of the scale of these proposals.

My letter, published on the Welsh Government's website last month, clarifies that are maximum outputs for each of the Strategic Search Areas which we believe should not be exceeded and we have called on all decision making bodies to respect this view. We remain fully committed to the principles of TAN 8 and therefore will not be undertaking a pre-emptive review of the TAN. Neither can I support your call for an all Wales moratorium on wind farm applications.

In discharging the planning service in Wales both the Welsh Government and local planning authorities have a duty to make planning decisions in a timely way. TAN 8 does not preclude local planning authorities from refusing wind farm applications in Strategic Search Areas and I believe that any moratorium would lead to uncertainty within the wind power industry and also for the people of Wales. It would also hinder local planning authorities seeking to bring forward Local Development Plans in Wales.

John Griffiths AC / AM

Gweinidog yr Amgylchedd a Datblygu Cynaliadwy

Minister for Environment and Sustainable Development



Charles Hendry MP

Minister of State

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Our ref: 12 04 09 04.43C

County Councillor W Barry Thomas
Chairman of Powys County Council
Powys County Council
Powys County Hall
Llandrindod Wells
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Dear Mr. Thomas,

9 September 2011

Thank you for your letters of 29 July 2011 addressed to myself, my colleague, the Secretary of State for the Environment, Food and Rural Affairs and the Permanent Secretaries for DECC and DEFRA.

In respect of your request that the UK Government gives full consideration to policies that exist in Wales, at national, Welsh and local government level in the National Policy Statement ("NPS") for Renewable Energy ("EN3"), you will be aware that the Secretary of State designated the six National Policy Statements for Energy ("NPSs") on 19 July 2011. EN 3 sets out the relationship between the National Policy Statements and Welsh renewables policy quite clearly:

"Policy set out in existing planning guidance in England, and where a proposal is located in Wales in planning policy and advice issued by the Welsh Assembly Government relevant to renewables, will provide important information to applicants of nationally significant energy infrastructure projects (energy NSIPs). The IPC should have regard to these policies and expect applicants to have taken them into account when working up their proposals. Applicants should explain in their applications to the IPC how their proposals fit with the guidance and support its targets or, alternatively, why they depart from them. Whether an application conforms to the guidance or the targets will not, in itself, be a reason for approving or rejecting the application." (EN3 – 2.2.1)

In respect of planning policies at the local level, the Overarching National Policy Statement (EN 1) states:

"Other matters that the IPC may consider both important and relevant to its decision-making may include Development Plan Documents or other documents in the Local Development Framework. In the event of a conflict between these or any other documents and an NPS, the NPS prevails for purposes of IPC decision

making given the national significance of the infrastructure. The energy NPSs have taken account of relevant Planning Policy Statements (PPSs) and older-style Planning Policy Guidance Notes (PPGs) in England and Technical Advice Notes (TANs) in Wales where appropriate.” (EN1 – 4 1.5)

This remains an accurate description of the intended relationship between national, Welsh and local planning policy and the Government has no intention to revise this aspect of the national policy statements.

In respect of your call for the Welsh Government (“WG”) to carry out an immediate review of Technical Advice Note 8; Planning for Renewable Energy (“TAN 8”), I would like to make it clear that planning policy is a devolved matter in Wales and any decision on whether to review TAN8 is entirely a matter for the Welsh Government rather than the UK Government.

The guidance in TAN8 or any revision or successor would be a material consideration (or in the language of the Planning Act, a “relevant and important matter” to which regard is to be had) in any decision that the Secretary of State may take on an application for consent but it would not bind his decision-making. The same goes for any subsequent commentary or revision that the Welsh Government choose to make on TAN8. If the WG decides to embark on a review of TAN8, planning applications would be expected to take into account the most recently published version of relevant planning policy (or any consultation version of the policy giving due weight to consultation status) pending the outcome of the review. In our view it is not to be expected that planning applications should be suspended while the review is being conducted, any more than we would expect that applications under the Planning Act should be suspended pending review of a National Policy Statement, or applications to a local planning authority should be suspended pending work on a local plan – unless the applicant so requests. Consequently the UK Government does not intend to impose a moratorium on wind farm applications either in Wales or more widely and neither will it be holding in abeyance those applications for consent for which it is directly responsible.

Furthermore, whilst I acknowledge the situation in respect of applications for consent for wind farms in mid-Wales is complex, I am keen to ensure that the planning applications do not take any longer than is absolutely necessary to complete. Continued uncertainty in this matter is not in the interests of anyone – that includes both the applicants and local people. Whilst I would not seek to question the commitment of Powys County Council (“Powys CC”) to providing DECC with timely responses in respect of the applications for consent made under S36 of the Electricity Act 1989, and I fully understand the reasons why you have been unable to respond so far, I fear that your call for a moratorium will not increase confidence that these applications will be completed within a reasonable timeframe.

Therefore having carefully considered the current status of the S36 applications and the proposed timeframes for taking applications to Powys CC’s planning committee as set out in the helpful letter of 1 June 2011 from Powys CC’s Specialist Service Manager, I have concluded that, in order to reassure all parties to the applications that they will be determined in a timely manner, I request that Powys CC returns completed Forms B in respect of the applications for consent under S36 of the Electricity Act 1989, thereby indicating whether or not it objects to them, by 31 March 2012 at the latest.

I am copying this letter to John Griffiths AM (Welsh Government), Simon Christian (CeltPower), Vanessa Clipstone (Fferm Wynt Llaithddu Cyf), Christopher Morris (Nuon UK), Richard Evans (RES UK & Ireland), Jeremy Smith (Npower Renewables), and Terry Hill (Independent Power System)

Yours sincerely

Charles Hendry

CHARLES HENDRY