

## **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

29<sup>th</sup> 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

29<sup>th</sup> 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  
LD1 5LG

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.

Bae Caerdydd • Cardiff Bay  
Caerdydd • Cardiff  
CF99 1NA

*Wedi'i argraffu ar bapur wedi'i ailgylchu (100%)*

English Enquiry Line 0845 010 3300  
Llinell Ymholiadau Cymraeg 0845 010 4400  
Correspondence: John.Griffiths@wales.gsi.gov.uk  
*Printed on 100% recycled paper*

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 17<sup>th</sup> 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.

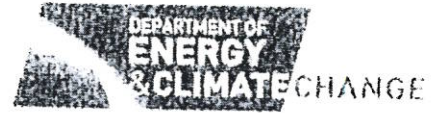
In discharging the planning service in Wales both the Welsh Government and local planning authorities have a duty to make planning decisions in a timely way. TAN 8 does not preclude local planning authorities from refusing wind farm applications in Strategic Search Areas and I believe that any moratorium 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

Department of Energy & Climate Change  
3 Whitehall Place

London

SW1A 2AW

[www.decc.gov.uk](http://www.decc.gov.uk)

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  
Powys  
LD1 5LG

*Dear Cllr. 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.

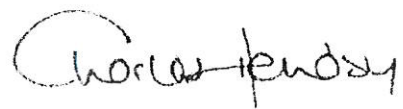
The guidance in TAN8 or any revision or successor would be a material consideration (or in the language of the Planning Act, a “relevant and important matter” to which regard is to be had) in any decision that the Secretary of State may take on an application for consent but it would not bind his decision-making. 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

A handwritten signature in black ink that reads "Charles Hendry". The signature is written in a cursive style with a large initial 'C'.

CHARLES HENDRY