

5 APPENDIX 5.7 - COMMON LAND LANDSCAPE AND VISUAL STATEMENT

5.1 Introduction

- 5.1.1 A part of the proposed Pen March Wind Farm site area occupies land identified as Common Land, to which the public has certain rights as described in the Commons Act, 2006. This statement addresses landscape and visual considerations relevant to the application to deregister part of the Common Land and to the replacement or compensatory land proposed.
- 5.1.2 This statement draws on the assessment carried out by OPEN for the LVIA chapter of the Pen March Wind Farm EIA. This includes extensive field survey, baseline analysis and assessment of key landscape character and visual receptors in the immediate context of the sites area as well as in the surrounding landscape context. A separate photographic field survey was also conducted to help inform this statement.

5.2 Approach

- 5.2.1 Insofar as landscape and visual factors are concerned, two specific requirements related to the Commons Act, 2006 (Section 16 - Deregistration and exchange: applications), are required to be assessed. These are effects related to the “interests of the neighbourhood” and the “public interest”. In relation to these specific requirements the assessment approach in this statement includes the following steps:
- Step 1 - Baseline Context (description of the potentially affected Common Land);
 - Step 2 - The Proposed Scheme (description of the Proposed Scheme including key infrastructure, Common Land to be de-registered and replacement land);
 - Step 3 - Assessment of ‘interests of the neighbourhood’
 - Step 4 - Assessment of ‘public interest’
- 5.2.2 The Welsh Government ‘Common Land Consents Guidance’ (August, 2014) provides information on the key issues which are covered by the Commons Act, 2006. This guidance provides a framework in which to assess the effects related to the “interests of the neighbourhood” and the “public interest”, as described in sections 3.9.2 – 3.9.3 of the guidance.
- 5.2.3 Section 4.12 – 4.13 of this guidance also highlights the ‘Underlying Public Benefit’ related to wind energy development and common land use – *‘Some proposed works on common land do not benefit the common but nevertheless there is a potential underlying public benefit, for example works for the generation of sustainable energy (wind farms). The Welsh Government wishes to promote sustainable energy generation in an appropriate setting but, equally, its policy is to ensure that the stock of commons is not diminished, that works on common land must maintain or improve the condition of the common, and the use must be consistent with its status as common land.’*
- 5.2.4 The following Figures have been produced to support this landscape and visual statement:

- Figure TA5.7-1 - Common Land with LVIA Viewpoints
- Figure TA5.7-2 - Gelligaer and Merthyr Common (Northern Area) with Site Context Photography Locations
- Figure TA5.7-3a-d - Site Context Photography
- Figure TA5.7-4 - Common Land with Visual and Sensory LANDMAP aspect area
- Figure TA5.7-5 - Common Land with Historic Landscape LANDMAP aspect area
- Figure TA5.7-6 - Common Land with Cultural Landscape Services LANDMAP aspect area

5.2.5 Reference should also be made to the Pen March Wind Farm EIA and specifically Chapter 5 LVIA and Appendix 5.1 Methodology.

5.3 Step 1 - Baseline Context

- 5.3.1 The common land area in which the site is located is known as the Gelligaer and Merthyr common which has an overall area of 2650.62ha. This area of common land stretches north to south (approximately 14km in length) from the southern boundary of the BBNP across the site area and the A465 corridor to Bargoed in the south (see Figure TA5.7-1).
- 5.3.2 The busy A465 cuts through the common land at the Heads of the Valleys, physically separating it into two parcels to the north and south of the A465. The common includes the upland area to the north A465 and the ridges of Merthyr Gelligaer and Brithdir to the south of the A465. The area of Gelligaer and Merthyr common to the north of the A465 is approximately 545.34 ha in size (See Figure TA5.7-2).
- 5.3.3 The only connection between the northern parcel and larger southern parcel is via a minor road which passes underneath the A465 to the north of the Blaen Carno Farm. These two parcels of common land also have quite different landscape characteristics and land uses. The area to the north of the A465 is an area of grassland that has an upland moorland appearance whilst the area to the south of the A465 has a more managed appearance with large areas of improved or semi-improved grassland. The area to the south also closely neighbours the large scale open cast mine at Ffos-y-fran which was also once common land.

5.4 Step 2 - The Proposed Scheme

- 5.4.1 The site covers an area of 463.51ha, much of this area is common land which within the site covers an area of 386.13ha. The specific calculations relating to the Proposed Scheme and its interaction with the Common Land on the site are described in detail within Chapter 12 of the EIAR. In total the area of common land required during construction and operation of the Proposed Scheme totals 34.72ha, this is referred to as the 'Release Land'.
- 5.4.2 The 'Replacement Land' is the area of land offered in replacement of the 'Release Land', it is intended that this area will become Common Land and totals 34.72ha. The 'Loss of Grazing Land' describes the area of land that would be unable to support grazing following the completion of construction and revegetation of temporary construction areas, this area totals 3.50ha within Common Land.
- 5.4.3 Key elements of infrastructure and their size in relation to the Common Land area are listed below for reference -

- 5.87km length of new track are proposed for the Proposed Scheme. Within the Common Land area there would be 5.28km of track required.
- Each turbine would require a turbine foundation and an area of hardstand adjacent to the turbines. Only 5 of the six turbines are within Common Land with turbine No4 lying outside the Common Land area.
- Substation Compound of 50m x 50m, including a control building, car parking, a fenced compound, perimeter track, lightning masts and communications masts.
- Battery Storage area of 50m x 50m, located adjacent to the Substation Compound.
- Temporary Construction Compound of 50m x 50m.

5.5 Step 3 - Assessment of 'interests of the neighbourhood'

5.5.1 Sub-section 6, part b, of Section 16 of the Commons Act (2006) refers to effects on "the interests of the Neighbourhood". Welsh Government – Common Land Consents Guidance (August, 2014) provides information on the key issues which are covered by this part of the Act at paragraph 3.9.2. These are set out below:

- *'Does the proposed replacement land or outcome intended by the proposed works add something that will positively benefit the neighbourhood?*
- *Does the loss of the release land or the construction of the works mean that local people will be prevented from using the common or green in the way they are used to? For example, will the loss of the release land reduce the area of the cricket pitch below a viable threshold, or the works interfere with a regular riding circuit (particularly if any replacement land cannot mitigate the loss)?*
- *Does the construction of the works or, in relation to any exchange land, will the removal of the release land from its status as common land or green, interfere with future use and enjoyment (whether by commoners, the public or others) of the land as a whole (e.g. will fencing sterilise part of the land, rendering it practically inaccessible)? Is it likely or possible that the release land could cease to be available as a means of access between other parts of the land as a whole (e.g. the removal of a vehicular access way from a green would enable the owner to fence off the access way from the green on either side, or otherwise exclude access to it)?'*

5.5.2 With regard to the Act and the above Guidance, the following matters are therefore considered in relation to landscape and visual matters:

- Would there be a positive benefit to the neighbourhood?
- Would local people continue to be able to use the common in the way they are used to?
- Would there be any interference with the future use and enjoyment of the land as a whole (e.g. will fencing sterilise part of the land)?
- Would it possible that the common could cease to be available as a means of access between other parts of the land as a whole?

Would there be a positive benefit to the neighbourhood?

5.5.3 The key benefit for some users of the common would be improved access via the proposed tracks. This is of particular advantage to those users who may find existing routes across the site as challenging either due to difficult terrain (including rough terrain and undulations; deep gullies of watercourses; large areas of boggy moorland; the risk of shake holes; the remnant topographical features relating to extant mining activity; or

weather conditions that make access particularly difficult on the site). The proposed access tracks could also be used as a stepping off point for those who wish to traverse rougher terrain to the north of the site and would not prevent this broader access to the common.

Would local people continue to be able to use the common in the way they are used to?

- 5.5.4 As described above the access to the common would not be restricted by the Proposed Scheme which would ultimately bring increased levels of access through turbine access tracks. There would be no requirement for the closure of PROWs found on the site (PRoW Gelligaer FP 101) as a result of the Proposed Scheme and access would not be restricted to the broader landscape as a result.
- 5.5.5 Access restrictions would be required for safety and security in the substation compound area and temporary restrictions to parts of the site during construction would also be required. These restrictions are minor in extents and for the most part are temporary. Ultimately the Proposed Scheme would not prevent broader access and enjoyment of the common and whilst the Proposed Scheme would appear at close range, outward views to the surrounding landscape would not be restricted by the Proposed Scheme.

Would there be any interference with the future use and enjoyment of the land as a whole (e.g. will fencing sterilise part of the land)?

- 5.5.6 The substation will be permanently fenced with palisade fencing. There is likely to be a requirement for fencing during the construction phase, however, this requirement will be kept to a minimum and used for health and safety purposes and security. The construction compound will be fenced during all of the construction phase.
- 5.5.7 The area of the site where fencing would be implemented is therefore considered to be of a minor extent in relation to the overall site and for the most part are of a temporary nature. The fencing would not therefore sterilise large areas of the common or prevent the *'future use and enjoyment of the land as a whole'*.

Would it possible that the common could cease to be available as a means of access between other parts of the land as a whole?

- 5.5.8 As described above, access to the wider common would still be available despite the introduction of the Proposed Scheme. Restrictions for safety and security would be required for the area surrounding the substation and access would be restricted to working areas during construction along the tracks and around the turbine hard standings. These restrictions are considered to be minor in extent and largely temporary. It is considered therefore that they would not impinge upon the means of access from the area of common within the site boundary and the surrounding areas of common or neighbouring commons.

5.6 Step 4 - Assessment of 'public interest'

- 5.6.1 Sub-section 6, part c, of Section 16 of the Commons Act (2006) refers to effects on "the public interest". Welsh Government – Common Land Consents Guidance (August, 2014) provides information on the key issues which are covered by this part of the Act at

paragraph 3.9.3. This begins with a confirmation of the definition of the public interest as follows: *'The public interest is defined at sections 16(8) and 39(2) of the Act as including the public interest in nature conservation, the conservation of the landscape, the protection of public rights of access to any area of land, and the protection of archaeological remains and features of historic interest.'*

5.6.2 The key issues relating to the public interest are then set out in a series of six bullet points, of which it is considered the following two are relevant to this landscape and visual statement:

- *'What effect will the proposals have on those wishing to use the common for recreation and access? (In the case of any exchange, it should be assumed that the release land will cease to be available for recreation and access, unless a legally binding provision is intended to be made to assure continued use).'*
- *'What will be the impact on the landscape if the proposals proceed? (For example, is the landscape in a specially designated area, such as a National Park or Area of Outstanding Natural Beauty? Will the impact include an adverse effect on the enjoyment of the remaining part of the common or green (e.g. if development of any release land might spoil the view or impair the conservation of wildlife on the remaining part)? What consideration has been given to minimising any impact by good design (e.g. in relation to a fencing scheme, minimising the extent of new fencing by utilising the existing boundaries of the common)?'*

5.6.3 With regard to the Act and the above Guidance, the following matters are therefore considered in relation to landscape and visual matters:

- What would be the visual effect on those wishing to use the common for recreation and access?
- What effect would the proposals have on the landscape character of the common?
- Is the proposal within a specially designated area?
- Would the proposals have an adverse effect on the enjoyment of the common?
- What consideration has been given to minimising the impacts through good design?

What would be the visual effect on those wishing to use the common for recreation and access?

5.6.4 The visual effect of the Proposed Scheme reported in the LVIA is informed by a series of 26 agreed viewpoints that were selected to represent visibility from a range of receptors throughout the LVIA Study Area. The LVIA considers the visual effects resulting from the Proposed Scheme and has assessed the detailed visual effects of recreational receptors within the common land area and also from the surrounding landscape with a view towards the site and common land area.

5.6.5 3 viewpoints lie within the Gelligaer and Merthyr common land area – Viewpoint 2 A465 / Heads of the Valleys Road; Viewpoint 13 Fochriw; and Viewpoint 16 Pen Garbugail. Whilst not in the common land area Viewpoint 1 PRoW (Gelligaer FP 101) lies close to its boundary and has clear views across the northern parcel of Gelligaer and Merthyr common land where the site is located and is located on the neighbouring Public Right of Way Gelligaer FP 101.

5.6.6 Significant effects were assessed in the LVIA for recreational receptors at viewpoint 1 and viewpoint 2 due to the close proximity to the northern area of the Gelligaer and

Merthyr common land area in which the Proposed Scheme would be located. At both of these viewpoints the views to the south and southeast across the Upper Rhymney Valley and Heads of the Valleys landscape would be unaffected by the Proposed Scheme and would remain open for receptors who might want to experience these longer distance views. Visual effects were assessed as not significant for viewpoints 13 and 16 which are more distant from the Proposed Scheme within the southern area of the Gelligaer and Merthyr common land.

What effect would the proposals have on the landscape character of the common?

- 5.6.7 The LVIA identified Landscape Character Areas (LCAs) within a variety of characterisation and sensitivity studies within southeast Wales. The Gelligaer and Merthyr common lies within the area covered by the Heads of the Valleys Smaller Scale Wind Turbine Development, Landscape Sensitivity and Capacity Study Final Report, 2015 (Gillespies), abbreviated HOV in the LVIA.
- 5.6.8 The northern area of the Gelligaer and Merthyr common in which the Proposed Scheme site is found lies almost entirely within character area HOV LCA 17 Upland north of the Heads of the Valleys corridor. The southern area of the Gelligaer and Merthyr common lies largely within HOV LCA 13 Upland moorland between Taff and Rhimney Valleys with a small area within HOV LCA 12 Merthyr Tydfil east valley side.
- 5.6.9 The LVIA has found that significant landscape character effects would be localised and contained to the landscape character of the site area and immediately surrounding upland landscape. Significant effects would occur within HOV LCA 17 Upland north of the Heads of the Valleys corridor to a localised area of approximately 1km to the south and west from the Proposed Scheme turbines and around 3km to the east.
- 5.6.10 In the surrounding areas, the LVIA also found significant character effects within LCA9 - Mynyddoed Llangatwg and Llangynidr within the Bannau Brycheiniog National Park to around 3km from the northernmost turbine of the Proposed Scheme.
- 5.6.11 Localised Significant effects also apply to the LANDMAP Visual and Sensory aspect area BRCKNVS372 Mynydd Llangynidr and Mynydd Llangattock and historic landscape aspect area BRCKNHL133 Mynydd Llangynidr that correspond to the same portions of HOV LCA 17 Upland north of the Heads of the Valleys corridor and BBNP LCA9 - Mynyddoed Llangatwg and Llangynidr that experience significant character effects.
- 5.6.12 Such significant effects would arise largely due to the close proximity and clear visibility of the Proposed Scheme but also take account of the interaction with the visibility and potential cumulative effects with other existing turbines in this area, in particular at St Merryn Meat Factory, Pengarnddu Industrial Estate, Pen Bryn Oer and Tafaranaubach which are closest to the Proposed Scheme.

Is the proposal within a specially designated area?

- 5.6.13 The Proposed Scheme does not lie within any nationally designated area. It does however lie within Special Landscape Area (SLA) - 23 Upper Rhymney Valley and SLA - 33 Nant Morlais and Cwm Taff Fechan.
- 5.6.14 The LVIA assesses localised significant effects on both of these designations in the upland area which corresponds with the same area of HOV LCA 17 Upland north of the

Heads of the Valleys corridor that experiences significant effects. All other landscape designations in the LVIA Study Area were found to be not significant, including other areas of SLA and VILL. The LVIA also concludes no significant effects on the special qualities of the BBNP which closely neighbours the Proposed Scheme site to the north.

Would the proposals have an adverse effect on the enjoyment of the common?

- 5.6.15 As previously described, it is considered that the Proposed Scheme would not interfere with the overall ability to access either the area of common within the site boundary, the surrounding areas of common or neighbouring commons. The enjoyment of the common is therefore not interrupted in terms of the movement through the landscape. The right of access would through the common would therefore remain available. Whilst the close views towards the Proposed Scheme would result in significant visual effects the longer views across the valleys landscape would remain available and still able to be appreciated by the recreational receptors in the area.
- 5.6.16 A key benefit for some users of the common would be improved access via the proposed tracks. This is of particular advantage to those users who may find existing routes across the site as challenging either due to difficult terrain (including rough terrain and undulations; deep gullies of watercourses; large areas of boggy moorland; the risk of shake holes; the remnant topographical features relating to extant mining activity; or weather conditions that make access particularly difficult on the site). The proposed access tracks could also be used as a stepping off point for those who wish to traverse rougher terrain to the north of the site and would not prevent this broader access to the common.

What consideration has been given to minimising the impacts through good design?

- 5.6.17 The design of the Proposed Scheme has evolved as part of an iterative process which has aimed to provide an optimal design in environmental, as well as technical and economic terms and includes landscape and visual mitigation measures which have been a central consideration in the design process.
- 5.6.18 The proposed turbine layout has been designed to minimise the effect on the surrounding landscape and visual resource. Therefore, the turbine layout design has evolved with the intention of presenting a simple, well-balanced image of the Proposed Scheme in the majority of views, including those views within the Gelligaer and Merthyr common.
- 5.6.19 Within the site itself, ground disturbance would be restricted as far as practicable and any soil materials excavated would be retained on the Site for re-use on areas to be re-vegetated following the construction phase. The proposed substation, construction compound and tracks have been considered throughout the design process to minimise landscape and visual impacts where possible. The reuse of existing tracks for sections of access tracks would minimise the amount of new and upgraded track required as part of the Proposed Scheme, and so minimising further landscape and visual effects.

5.8 Conclusions

- 5.8.1 In drawing together the analysis described in this statement alongside the detailed assessment of landscape and visual effects presented in Chapter 5 of the EIAR, it is considered that whilst there would be localised significant landscape and visual effects resulting from the Proposed Scheme the overall experience and enjoyment of the Gelligaer and Merthyr common would not be disrupted to an unacceptable level.

5.9 References

- Commons Act 2006, Section 16, sub-sections 6b and 6c
- Welsh Government, 2014 - Common Land Consents Guidance