

Chapter 2

Regulatory and Policy Background

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2. Regulatory and Policy Background

2.1 Introduction

2.1.1 This chapter summarises the main regulatory and policy framework that is relevant to the Project at international, national and local levels.

2.1.2 A summary of the European Union (EU) Directives, National Policy Statements (NPS) as well as national and local policy considered relevant to the Project is set out below.

2.2 European Union

2.2.1 The UK voted to leave the EU on the 23rd June 2016. The formal process of triggering Article 50 of the Lisbon Treaty, to commence negotiations for exiting the EU, was undertaken on 29th March 2017. However, the exit process is anticipated to involve lengthy and complex negotiations, taking up to two years. Until the UK formally leaves the EU and/or discards or alters EU legislation, it is considered that the following EU Directives are still relevant to the Project:

- Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (“the EIA [“Environmental Impact Assessment”] Directive”) (Ref. 2.1) and Directive 2014/52/EU (Ref. 2.2);
- Directive 2010/75/EU of 24 November 2010 on industrial emissions (integrated pollution prevention and control) (“the Industrial Emissions Directive” (IED)) (Ref. 2.3);
- Directive 1992/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (“the Habitats Directive”) (Ref. 2.4);
- Directive 2009/147/EC of 30 November 2009 on the conservation of wild birds (“the Birds Directive”) (Ref. 2.5);
- Directive 2008/50/EC of 21 May 2008 on ambient air quality and cleaner air for Europe (“the Ambient Air Quality Directive”) (Ref. 2.6); and
- Industrial Emissions Directive 2010/75/EU – Best Available Techniques (BAT) reference document (BREF) for large combustion plants (July 2017) (Ref 2.7).

a) Directive 2011/92/EU on the assessment of the effects of certain public and private projects on the environment (the EIA Directive)

2.2.2 The EIA Directive (Ref 2.1) ensures that plans, programmes and projects likely to have significant effects on the environment are made subject to an environmental assessment, prior to their approval or authorisation. The Directive sets the thresholds for projects that require an EIA and also outlines the impacts on the environment to be assessed in the EIA process. This Directive was implemented in respect of Nationally Significant Infrastructure Projects (“NSIPs”) in the UK by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) (the “EIA Regulations”).

2.2.3 It is noted here that the EIA Directive was amended in May 2014 (EU Directive 2014/52/EU) (Ref 2.2) and the amendments have been implemented in Member States as of 16 May 2017. For NSIPs, such as the Project, this will be through the

Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (which came into force on 16th May 2017).

2.2.4 However, Regulation 37(2)(a) of the 2017 Regulations states that, where a scoping opinion has already been requested, or an application or an ES submitted, before the commencement of the new EIA regulations, the previous EIA regulations and regime will continue to apply. Therefore, as a Scoping Report was submitted for the Project in June 2014, this Preliminary Environmental Information Report (PEIR) has been undertaken in line with the previous (2011) EIA Directive and associated EIA Regulations.

b) [Directive 2010/75/EU of 24 November 2010 on industrial emissions \(integrated pollution prevention and control\) \(the Industrial Emissions Directive \(IED\)\);](#)

2.2.5 In December 2010 the EU adopted a proposal for a Directive on industrial emissions (IED) (Ref. 2.3). The IED recasts seven existing directives related to industrial emissions, in particular Directive 2008/1/EC of 15th January 2008 concerning integrated pollution prevention and control (IPPC) (“the IPPC Directive”), and Directive 2001/80/EC of 23rd October 2001 on the limitation of emissions of certain pollutants into the air from large combustion plants (“the Large Combustion Plant Directive (LCPD)”), into a single legislative instrument to improve the permitting, compliance and enforcement regimes adopted by Member States. However, the general principles of the IPPC Directive and the LCPD Directive are retained and will remain relevant to the Project. The IED has been implemented in England and Wales by the Environmental Permitting (England and Wales) Regulations 2016.

c) [Directive 1992/43/EEC of 21 May 1992 on the Conservation of natural habitats and of wild fauna and flora \(the Habitats Directive\);](#)

2.2.6 The aim of the Habitats Directive (Ref 2.4) is to contribute towards ensuring biodiversity through the conservation of natural habitats and of wild fauna and flora. Measures taken pursuant to this Directive by the Member States are designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of community interest whilst also taking into account economic, social and cultural requirements, and regional and local characteristics.

2.2.7 The Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") implement the Habitats Directive in England and Wales. The Habitats Regulations contain five Parts and four Schedules, and provide for:

- The designation and protection of “European Sites;”
- The protection of “European protected species;” and
- The adaptation of planning and other controls for the protection of European Sites.

d) [Directive 2009/147/EC of 30 November 2009 on the conservation of wild birds \(the Birds Directive\)](#);

2.2.8 The aim of the Birds Directive (Ref 2.5) is to protect, manage and control all species of naturally occurring wild birds in the Member States. Member States are required to take the requisite measures to maintain the population of the species at a level which corresponds to ecological, scientific and cultural requirements, while taking account of economic and recreational requirements, or to adapt the population of these species to that level. The Birds Directive is implemented in England and Wales through the Wildlife & Countryside Act 1981 (as amended) and the Habitats Regulations.

e) [Directive 2008/50/EC of 21 May 2008 on ambient air quality and cleaner air for Europe \(the Ambient Air Quality Directive\)](#);

2.2.9 The Ambient Air Quality Directive (Ref. 2.6) sets out measures aimed at avoiding, preventing or reducing harmful effects on human health and the environment, by seeking to combat emissions of pollutants at source and identifying and implementing the most effective emission reduction measures at local and national level. In Wales, the Ambient Air Quality Directive is implemented by the Air Quality Standards (Wales) Regulations 2010.

f) [Industrial Emissions Directive 2010/75/EU – Best Available Techniques \(BAT\) reference document \(BREF\) for large combustion plants \(July 2017\)](#)

2.2.10 The BREF for the Large Combustion Plants sector covers combustion of fuels in installations with a total rated thermal input of 50 MW or more. It sets out a series of best available techniques which should be applied to large combustion plants in order to drive greater efficiency, cost savings and lower emissions. Given the nature of the Project (to operate intermittently as a peaking plant) many of the techniques highlighted in the BREF do not apply to the Project. Nevertheless, it has been referenced where appropriate.

2.3 [Nationally Significant Infrastructure Projects and Planning Act 2008](#)

2.3.1 The generation capacity of the Power Generation Plant will exceed 50 MWe and will therefore be classified as a NSIP under Section 15 of the Planning Act 2008 (“PA 2008”) (Ref. 2.8). Accordingly, Development Consent will be required in accordance with Section 31 of the PA 2008.

2.3.2 Development Consent for a NSIP may only be granted by a Development Consent Order (“DCO”) through an application under Section 37 of the PA 2008 to the Secretary of State (“SoS”).

2.3.3 If the DCO Application for the Power Generation Plant is accepted by the Planning Inspectorate (“PINS”), it will be examined for a period of up to six months, starting the day after the date of the Preliminary Meeting for the Project. The examination is a predominantly written process led either by a single appointed person or a panel, who will, within three months of the end of the examination, submit a report with their recommendation on the Application to the relevant SoS. The SoS will

then have three months from the receipt of the PINS' report to make a decision on the DCO Application pursuant to the regime established by the PA 2008. The relevant SoS for the Project is the Secretary of State for Business, Energy & Industrial Strategy (BEIS).

- 2.3.4 Section 104 of the PA 2008 requires the SoS to a make a decision on an application in accordance with relevant NPSs. The relevant NPSs to the Project are discussed in section 2.6 below.

2.4 Wales Act 2017

- 2.4.1 As part of a wider devolution of powers, the Wales Act 2017 (“WA 2017”) (Ref. 2.9) will transfer decision-making powers to the Welsh Government in relation to electricity generating stations up to a capacity of 350MW.

- 2.4.2 The effect of the WA 2017 will be to devolve the SoS's power under the PA 2008 to grant development consent for all electricity generating stations in Wales insofar as such projects (not including wind powered generating stations) do not exceed a capacity of 350MW, to the Welsh Ministers. However, these provisions have not yet come into force and as yet the date on which they will do is not known. It is likely that consultation by the Welsh Government will be required before they can be brought into force.

- 2.4.3 Accordingly, the consenting regime for the Power Generation Plant remains the PA 2008.

2.5 Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 and Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

- 2.5.1 The EIA Regulations (Ref 2.10) require an EIA to be carried out in respect of development that is classed as EIA development. All development in Schedule 1 to the EIA Regulations (“*Schedule 1 development*”) requires EIA. Development in Schedule 2 to the EIA Regulations (“*Schedule 2 development*”) requires EIA if it is likely to have significant effects on the environment.

- 2.5.2 The Project has been identified as a Schedule 1 development and therefore the Applicant intends to carry out an EIA for the Project in accordance with the EIA Regulations.

- 2.5.3 Regulation 5(2)(a) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the “APFP Regulations”) (Ref. 2.11) requires that any ES required pursuant to the EIA Regulations, together with any scoping or screening opinions or directions, must accompany the application for development consent.

- 2.5.4 This document presents the environmental information and an assessment, on a preliminary basis, of the likely significant environmental effects of the Project. Consultation feedback received will further inform and refine the EIA process as

well as the design and development of the Project, prior to preparation of an ES to accompany the DCO Application.

2.6 The Well-being of Future Generations (Wales) Act 2015

2.6.1 The Well-being of Future Generations (Wales) Act 2015 (Ref 2.12) seeks to improve the social, economic, environmental and cultural well-being of Wales by undertaking actions in accordance with the “*sustainable development principle*” (section 5) to achieve the well-being goals (section 4).

2.6.2 The “sustainable development principle” requires a public body to “*act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs*” (section 5 (1)), thereby taking into account (section 5 (2)):

- Balancing short term needs with safeguarding long term needs;
- Taking an integrated approach considering well-being objectives;
- Involving other persons with an interest and reflecting the diversity of the population;
- Acting in collaboration with other persons to meet well-being objectives; and
- Deploying resources to prevent or reduce problems which contribute to well-being objectives.

2.6.3 The well-being goals, comprise the following (Table 1):

- “*A prosperous Wales;*”
- “*A resilient Wales;*”
- “*A healthier Wales;*”
- “*A more equal Wales;*”
- “*A Wales of cohesive communities;*”
- “*A Wales of vibrant culture and thriving Welsh language;*” and
- “*A globally responsible Wales.*”

2.6.4 The Wellbeing of Future Generations (Wales) Act is not binding on the Examining Authority (ExA) or SoS. However, it sets out sustainable development principles and well-being goals which are applicable to public bodies involved in the planning system in Wales. It is therefore relevant to the examination of the DCO Application.

2.7 National Policy Statements

2.7.1 The Department for Energy and Climate Change (DECC) published 6 NPS for Energy in 2011. The NPS which are relevant to the consideration of the DCO application for the Power Generating Plant are:

- *Overarching National Policy Statement for Energy (EN-1) (Ref. 2.13);*
- *National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2) (Ref. 2.14);*
- *National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4) (Ref. 2.15); and*
- *National Policy Statement for Electricity Networks Infrastructure (EN-5) (Ref. 2.16).*

2.7.2 Section 104 of the PA 2008 provides that in making decisions on applications for development consent, the SoS must have regard (amongst certain other documents and matters) to any relevant NPS to which the application relates and must decide applications in accordance with such relevant NPS(s) unless the adverse impacts of the proposal would outweigh its benefits (or in certain other limited circumstances defined in s104, subsections (4) to (8) of the PA 2008).

2.7.3 NPS EN-1 is a relevant NPS for any energy NSIP, along with the relevant technology specific NPS. For the DCO Application this includes NPS EN-2 National Policy Statement for Fossil Fuel Electricity Generating Infrastructure. NPS EN-4 National Policy Statement for Gas Supply Infrastructure does not directly relate to the Power Generation Plant, since development consent is not proposed to be sought in the DCO for the Gas Connection, however regard has been had to the NPS and the relevant parts are discussed below. NPS EN-5 does not directly relate to the Power Generation Plant, since development consent is not sought in the DCO for the Electrical Connection, and the design of the Electrical Connection is predominantly underground., however regard has been had to the NPS and the relevant parts are discussed below.

a) Overarching National Policy Statement for Energy (NPS EN-1)

2.7.4 NPS EN-1 (Ref. 2.13) sets out the Government's overall policy towards the delivery of major energy infrastructure.

2.7.5 Paragraph 1.1.1 of NPS EN-1 states that *"...this NPS, when combined with the relevant technology-specific energy NPS, provides the primary basis for decisions..."*. The relevant technology-specific energy NPS for this Application is NPS EN-2. NPS EN-4 and NPS EN-5 do not directly apply as development consent is not proposed to be sought for the Electricity Connection and Gas Connection, but regard has been had to relevant content in the NPS and they are discussed below. In addition, Paragraph 4.1.5 of NPS EN-1 states that Development Plan Documents or other documents in the Local Development Framework may be both important and relevant considerations to SoS decision-making. Local planning policy for City & County of Swansea (CCS) relevant to this Application is also set out below.

2.7.6 Paragraph 3.1.3 of NPS EN-1 states that all development consent applications for energy infrastructure should be assessed *"on the basis that the Government has demonstrated that there is a need for those types of infrastructure and that the scale and urgency of that need is as described for each of them in this Part."* Accordingly, the SoS *"should give substantial weight to the contribution which projects would make towards satisfying this need when considering applications for development consent under the Planning Act 2008"* (paragraph 3.1.4).

2.7.7 Section 3.3 of NPS EN-1 sets out the key reasons why the Government believes there is an *"urgent need"* for new electricity NSIPs (paragraph 3.3.1), including:

- *"Meeting energy security and carbon reduction objectives;"*
- *"The need to replace closing electricity generating capacity;"*

- *“The need for more electricity capacity to support an increased supply from renewables;”* and
- *“Future increases in electricity demand.”*

- 2.7.8 Furthermore, paragraph 3.7.3 of NPS EN-1 stresses that new electricity network infrastructure projects add to the *“reliability of the national energy supply”* and provide *“crucial national benefits”* which are shared by all users of the system.
- 2.7.9 Whilst alternatives to the need for new large scale electricity infrastructure have been considered – including: reducing demand; more intelligent use of electricity; and interconnection of electricity systems – the Government believes that these measures will not be sufficient to meet energy and climate change objectives on their own (paragraph 3.3.25 of NPS EN-1).
- 2.7.10 Paragraph 3.6.1 of NPS EN-1 recognises the *“vital role”* that fossil fuel power stations play in providing electricity supplies, and states that *“they will continue to play an important role in our energy mix as the UK makes the transition to a low carbon economy.”*
- 2.7.11 Section 4 of NPS EN-1 sets out the general assessment principles by which applications relating to energy infrastructure are to be decided.
- 2.7.12 Paragraph 4.1.2 of NPS EN-1 states that, given the level and urgency of need for energy infrastructure, the SoS *“should start with a presumption in favour of granting consent to applications for energy NSIPs.”*
- 2.7.13 Paragraph 4.1.3 of NPS EN-1 explains that the SoS will weigh up a proposal’s contribution to meeting the need for energy infrastructure, job creation and other long term and wider benefits, against the potential adverse impacts of the proposal in question including, *“any long-term and cumulative adverse impacts, as well as any measures to avoid, reduce or compensate for any adverse impacts.”*
- 2.7.14 Paragraph 4.1.4 of NPS EN-1 continues and explains that the SoS should take into account *“environmental, social and economic benefits and adverse impacts, at national, regional and local levels”* whether identified in the NPSs or elsewhere, including in local impact reports.
- 2.7.15 In addition, Paragraph 4.1.5 of NPS EN-1 states that other matters that the SoS may consider both *“important and relevant to its decision-making”* could include Development Plan Documents or other documents in the Local Development Framework and explains that *“in the event of a conflict between these or any other documents and an NPS, the NPS prevails.”* The documents included within the Local Development Framework for CCS are referenced below at section 2.9.
- 2.7.16 Paragraph 4.1.7 of NPS EN-1 confirms that the SoS will have regard to the guidance in Circular 11/95, as revised, on *“The Use of Conditions in Planning Permissions”* in agreeing or suggesting requirements in a DCO. Although that Circular has in part been superseded by advice contained within NPPG (published

in March 2014), the Applicant notes that the general advice remains essentially similar.

- 2.7.17 Paragraph 4.1.8 states that “The [SoS] may take into account any development consent obligations that an applicant agrees with local authorities.”
- 2.7.18 Paragraph 4.1.9 of NPS EN-1 states that viability issues are unlikely to be of relevance to decision making providing that the technical feasibility of the proposal has been properly assessed, but limited exceptions exist and are set out in NPS EN-1 and others.
- 2.7.19 Paragraph 4.2.1 of NPS EN-1 advises that, “*All proposals for projects that are subject to the European Environmental Impact Assessment Directive must be accompanied by an ES describing the aspects of the environment likely to be significantly affected by the project.*” The Environmental Statement (ES) should include an assessment of the likely significant effects of the proposed project on the environment, including direct, indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects at all stages of the project. Paragraph 4.2.3 of NPS EN-1 adds that “*the ES should cover the environmental, social and economic effects arising from pre-construction, construction, operation and decommissioning of the project.*” When considering cumulative effects, Paragraph 4.2.5 of NPS EN-1 advises that the ES should provide information on how the effects of the proposal combine and interact with the effects of other development, including projects for which consent is sought or granted, as well as those already in existence.
- 2.7.20 Paragraph 4.3.1 of NPS EN-1 advises applicants to consult with the Countryside Council for Wales (CCW) (now Natural Resources Wales (NRW)), in respect of Habitats and Species Regulations, and to subsequently undertake an Appropriate Assessment if required.
- 2.7.21 Paragraph 4.4.1 of NPS EN-1 notes that “*the relevance or otherwise to the decision-making process of the existence (or alleged existence) of alternatives to the proposed development is in the first instance a matter of law, detailed guidance on which falls outside the scope of this NPS. From a policy perspective NPS EN-1 does not contain any general requirement to consider alternatives or to establish whether the proposed project represents the best option.*” However, paragraph 4.4.2 of NPS EN-1 states that applicants are obliged to include, as a matter of fact, information about the main alternatives that have been considered within the ES, including the main reasons for the applicant’s choice, taking into account the environmental, social and economic effects.
- 2.7.22 Paragraph 4.5.1 of NPS EN-1 states that good design for energy infrastructure “*should produce sustainable infrastructure sensitive to place, efficient in the use of natural resources and energy used in their construction and operation, matched by an appearance that demonstrates good aesthetic as far as possible.*” However, paragraph 4.5.1 also acknowledges that “*the nature of much energy infrastructure*

development will often limit the extent to which it can contribute to the enhancement of the quality of the area.”

- 2.7.23 Paragraph 4.5.3 of NPS EN-1 seeks that proposals are *“sustainable and, having regard to regulatory and other constraints, are as attractive, durable and adaptable (including taking account of natural hazards such as flooding) as they can be.”* Further, Paragraph 4.5.3 states that *“Whilst the applicant may not have any or very limited choice in the physical appearance of some energy infrastructure, there may be opportunities for the applicant to demonstrate good design in terms of siting relative to existing landscape character, landform and vegetation.”*
- 2.7.24 Paragraph 4.5.4 of NPS EN-1 seeks that applicants *“demonstrate in their application documents how the design process was conducted and how the proposed design evolved. Where a number of different designs were considered, applicants should set out the reasons why the favoured choice has been selected.”* Further, paragraph 4.5.4 of NPS EN-1 notes that *“in considering applications the [SoS] should take into account the ultimate purpose of the infrastructure and bear in mind the operational, safety and security requirements which the design has to satisfy.”*
- 2.7.25 Paragraph 4.5.5 of NPS EN-1 states that *“applicants are encouraged”* to use design review services.
- 2.7.26 Paragraph 4.6.6 of NPS EN-1 states that, *“Under guidelines issued by DECC (then DTI) in 2006, any application to develop a thermal generating station under Section 36 of the Electricity Act 1989 must either include CHP [Combined Heat and Power] or contain evidence that the possibilities for CHP have been fully explored to inform the IPC’s consideration of the application.”* Further, paragraph 4.6.7 of NPS EN-1 advises that the opportunities for CHP should be considered from the outset of the site selection process.
- 2.7.27 Section 4.7 of NPS EN-1 explains the considerations to be given to Carbon Capture and Storage and Carbon Capture and explains that all applications for new combustion plant which are of a generating capacity at or over 300MW and of a type covered by the EU’s Large Combustion Plant Directive (LCPD) should demonstrate that the plant is *“Carbon Capture Ready”* (CCR).
- 2.7.28 Section 4.8 of EN-1 sets out considerations that applicants and the ExA/SoS should take into account to help ensure that new energy infrastructure is resilient to climate change. Paragraph 4.8.5 of NPS EN-1 advises that applicants *“must consider the impacts of climate change when planning the location, design, build, operation and, where appropriate, decommissioning of new energy infrastructure.”*
- 2.7.29 Paragraph 4.9.1 of NPS EN-1 advises applicants to consult the National Grid and to ensure that there is the necessary infrastructure and capacity within an existing or planned transmission or distribution network to accommodate the electricity generated.

- 2.7.30 Paragraph 4.10.1 of NPS EN-1 advises that *“Issues relating to discharges or emissions from a proposed project which affect air quality, water quality, land quality and the marine environment, or which include noise and vibration may be subject to separate regulation under the pollution control framework or other consenting and licensing regimes.”*
- 2.7.31 Paragraph 4.11.1 of NPS EN-1 advises applicants to consult with the Health and Safety Executive (HSE) on *“matters relating to safety”* which are *“relevant to the construction, operation and decommissioning of energy infrastructure”*.
- 2.7.32 Paragraph 4.12.1 of NPS EN-1 explains that all establishments wishing to hold stock of hazardous substances above a threshold will require Hazardous Substances consent, and thus should consult the HSE at the pre-application stage.
- 2.7.33 Section 4.13 of NPS EN-1 advises that energy production has the *“potential to impact on health and wellbeing”* (paragraph 4.13.1), through *“increased traffic, air or water pollution, dust, odour, hazardous waste and substances, noise, exposure to radiation and increases in pests”* (paragraph 4.13.3). Accordingly, the ES should assess these effects and identify any *“measures to avoid, reduce or compensate for these impacts as appropriate”* (paragraph 4.13.2).
- 2.7.34 Paragraph 4.14.2 of NPS EN-1 stresses the importance of considering possible sources of nuisance and how they may be mitigated or limited at the pre-application stage under section 79(1) of the Environmental Protection Act 1990.
- 2.7.35 Paragraph 4.15.2 of NPS EN-1 outlines that *“Government policy is to ensure that, where possible, proportionate protective security measures are designed into new infrastructure projects at an early stage in the project development.”*
- 2.7.36 Part 5 of NPS EN-1 explains the potential impacts of energy infrastructure, in terms of: *“air quality and emissions”*; *“biodiversity and ecological conservation”*; *“civil and military aviation and defence interests”*; *“coastal change”*; *“dust, odour, artificial light, smoke, steam and insect infestation”*; *“flood risk”*; *“historic environment”*; *“landscape and visual”*; *“land use including open space, green infrastructure and Green Belt”*; *“noise and vibration”*; *“socio-economic”*; *“traffic and transport”*; *“waste management”*; and *“water quality and resources”*.
- 2.7.37 Paragraph 5.2.1 of NPS EN-1 advises that the construction, operation and decommissioning of infrastructure development *“can involve emissions to air which could lead to adverse impacts on health, on protected species and habitats, or on the wider countryside.”* Paragraph 5.2.7 of NPS EN-1 provides that the applicant should undertake an assessment as part of the ES, describing:
- *“Any significant air emissions, their mitigation and any residual effects distinguishing between the project stages and taking account of any significant emissions from any road traffic generated by the project;*
 - *The predicted absolute emission levels of the proposed project, after mitigation methods have been applied;*

- *Existing air quality levels and the relative change in air quality from existing levels; and*
- *Any potential eutrophication impacts.”*

- 2.7.38 With regard to biodiversity and geological conservation for EIA development, paragraph 5.3.3 of NPS EN-1 advises that the ES “*clearly sets out any effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity.*” Appropriate mitigation measures should be “*an integral part of the proposed development*” and should demonstrate that: activities are confined to the minimum areas required during construction; best practice is followed during construction and operation; habitats are restored after construction works where practicable; and opportunities are taken to enhance or create new habitats (paragraph 5.3.18).
- 2.7.39 Paragraph 5.4.1 of NPS EN-1 advises that civil and military aviation and defence interests can be affected by new energy development, and as such an assessment of potential effects should be set out within the ES (paragraph 5.4.10). In addition, the Ministry of Defence (MoD), Civil Aviation Authority (CAA), National Air Traffic Services (NATS) and any aerodrome likely to be affected by the proposed development should be consulted (paragraph 5.4.11).
- 2.7.40 Paragraph 5.6.1 of NPS EN-1 states that “*during the construction, operation and decommissioning of energy infrastructure there is potential for the release of a range of emissions such as odour, dust, steam, smoke, artificial light and infestation of insects.*” Accordingly, applicants are required to assess the potential for emissions and the impact on amenity in the ES, in particular: the type, quantity and timing of emissions; aspects giving rise to emissions; locations affected by the emissions; effects of the emissions on identified locations; and measures to be employed in preventing or mitigating emissions (paragraph 5.6.5). Paragraph 5.6.11 advises that mitigation measures may be provided in respect of engineering, lay-out or administration.
- 2.7.41 Paragraph 5.7.4 of NPS EN-1 states that application for energy projects of 1 ha or greater in Flood Zone 1 and all energy projects in Flood Zones 2 and 3 should be accompanied by a flood risk assessment (FRA). Where necessary, paragraph 5.7.18 of NPS EN-1 advises that flood risk should be mitigated by making arrangements to manage surface water and the impact of the natural water cycle on people and property.
- 2.7.42 Paragraph 5.8.1 of NPS EN-1 advises that the construction, operation and decommissioning of energy infrastructure has the potential to result in adverse impacts on the historic environment. Accordingly, the applicant is required to “*provide a description of the significance of the heritage assets affected by the proposed development and the contribution of their setting to that significance*” (paragraph 5.8.8).

- 2.7.43 Paragraph 5.9.1 of NPS EN-1 acknowledges that the landscape and visual effects of energy projects will vary according to *“the type of development, its location and the landscape setting”*. Paragraphs 5.9.5 – 5.9.7 advise that the applicant should carry out a landscape and visual impact assessment of the effects during construction and operation, including light pollution effects on local amenity and nature conservation. Paragraph 5.9.21 notes that reducing the scale of the project can help to mitigate the landscape and visual impacts, however it is acknowledged that amending the design of proposed energy infrastructure may result in a significant operational constraint and reduction in function.
- 2.7.44 Paragraph 5.10.1 of NPS EN-1 acknowledges that an energy infrastructure project *“will have direct effects on the existing use of the proposed site and may have indirect effects on the use, or planned use, of land in the vicinity for other types of development.”* Accordingly, the applicants should consult the local community (paragraph 5.10.6) and the ES should include an assessment of the impact of the proposed development on existing and proposed land uses near the project. Paragraph 5.10.19 notes that *“there may be little that can be done to mitigate the direct effects”* of the energy project on the existing use of the proposed site; however, the effects may be minimised through the *“application of good design principles, including the layout of the project.”*
- 2.7.45 Paragraph 5.11.1 of NPS EN-1 states that excessive noise can have wide-ranging impacts on the quality of human life, health, and use and enjoyment of areas, as well as on wildlife and biodiversity (paragraph 5.11.2). Where noise impacts arise, paragraph 5.11.4 states that a noise assessment should be provided, to include: a description of the noise generating aspects of the proposal, identification of noise sensitive areas, the characteristics of the existing noise environment, and a prediction of how the noise environment will change. Mitigation measures may include engineering, layout design, or administrative measures (paragraph 5.11.12).
- 2.7.46 Paragraph 5.12.1 of NPS EN-1 states that *“The construction, operation and decommissioning of energy infrastructure may have socio-economic impacts at local and regional levels.”* Accordingly, an assessment should be undertaken of all relevant socio-economic impacts, which may include: the creation of jobs and training opportunities, the provision of additional local services and improvements to local infrastructure, effects on tourism, the impact of a changing influx of workers during different phases of the project, and cumulative effects (paragraph 5.12.3). Mitigation measures could include improvements to the visual and environmental experience for visitors and the local community through high quality design (paragraph 5.12.9).
- 2.7.47 Paragraph 5.13.1 of NPS EN-1 notes that *“The transport of materials, goods and personnel to and from a development during all project phases can have a variety of impacts on the surrounding transport infrastructure and potentially on connecting transport networks.”* The applicant should therefore undertake a transport assessment and consult with the Highways Agency and Highways Authority regarding appropriate mitigation (paragraph 5.13.3).

- 2.7.48 Paragraph 5.14.1 of NPS EN-1 outlines that government policy on hazardous and non-hazardous waste is intended to *“protect human health and the environment by producing less waste and by using it as a resource wherever possible.”* Paragraph 5.14.6 states that the applicant should set out the arrangements proposed for managing waste and include information on the proposed waste recovery and disposal system.
- 2.7.49 Paragraph 5.15.1 of NPS EN-1 advises that infrastructure development can have adverse effects during the construction, operation and decommissioning phases on the water environment, including groundwater, inland surface water, transitional waters and coastal waters. Accordingly, the applicant should undertake an assessment of *“the existing status of, and impacts of the proposed project on, water quality, water resources and physical characteristics of the water environment as part of the ES”* (paragraph 5.15.2). Paragraphs 5.15.9 and 5.15.10 advise that the impacts on the water environment and local water resources can be mitigated through careful design.
- b) **National Policy Statement for Fossil fuel Electricity Generating Infrastructure (NPS EN-2)**
- 2.7.50 NPS EN-2 (Ref. 2.14) outlines considerations and factors relating to site selection and design for developers for fossil fuel generating stations. NPS EN-2 also sets out a number of specific impacts that could arise from a fossil fuel generating NSIP and criteria by which they should be assessed.
- 2.7.51 Paragraph 1.1.1 of NPS EN-2 states *“Fossil fuel generating stations play a vital role in providing reliable electricity supplies and a secure and diverse energy mix as the UK makes the transition to a low carbon economy...”*
- 2.7.52 Paragraph 1.2.1 of NPS EN-2 states that, NPS EN-2, together with NPS EN-1, provides the primary basis for decisions by the SoS on applications for nationally significant fossil fuel electricity generating stations.
- 2.7.53 Part 2 of NPS EN-2 provides additional guidance to Part 4 and Part 5 of EN-1 regarding the assessment of impacts specifically associated with fossil fuel generating stations.
- 2.7.54 Paragraph 2.2.1 of NPS EN-2, *“it is for energy companies to decide which applications to bring forward and the government does not seek to direct applicants to particular sites for fossil fuel generating stations.”*
- 2.7.55 NPS EN-2 notes that *“Fossil fuel generating stations have large land footprints and will therefore only be possible where the applicant is able to acquire a suitably-sized site”* (NPS EN-2, paragraph 2.2.2). It also notes that *“Applicants should locate new fossil fuel generating stations in the vicinity of existing transport routes wherever possible.”*

- 2.7.56 Section 2.3 of NPS EN-2 states that government policy criteria for fossil fuel generation stations relating to – CHP, CCR, Carbon Capture and Storage, climate change adaptation, and “*good design*” – must be met before consent is given.
- 2.7.57 Section 2.3.13 of NPS EN-2 sets out considerations specifically for fossil fuel generating stations in respect of climate change. NPS EN-2 suggests that as fossil fuel generating stations are likely to be proposed for coastal or estuarine sites, applicants should set out how the proposal would be resilient to: “*coastal changes and increased risk from storm surge; effects of higher temperatures, including higher temperatures of cooling water; and increased risk of drought leading to a lack of available cooling water*” (paragraph 2.3.13).
- 2.7.58 Paragraph 2.3.16 of NPS EN-2 states that, “*Applicants should demonstrate good design particularly in respect of landscape and visual amenity ...and in the design of the project to mitigate impacts such as noise and vibration, transport impacts and air emissions.*”
- 2.7.59 Section 2.4 of NPS EN-2 contains additional policy for assessing the potential impacts of energy infrastructure projects for fossil fuel generating stations, relating to: “*air emissions; landscape and visual; noise and vibration; release of dust by coal-fired generating stations; residue management for coal-fired generating stations; and water quality and resources*” (paragraph 2.4.1).
- 2.7.60 Paragraph 2.5.2 of NPS EN-2 acknowledges that CO₂ emissions are a “*significant adverse impact of fossil fuel generating stations*”. As such, paragraph 2.5.5 of EN-2 states that an assessment should be carried out at the initial stages of developing proposals, and Paragraph 2.5.8 of EN-2 states that the SoS and NRW (the relevant authority in Wales) should be satisfied that the potential adverse impacts of mitigation measures are assessed.
- 2.7.61 Paragraph 2.6.2 of NPS EN-2 advises that the main structures of a fossil fuel generating station – including the turbine and boiler halls, exhaust gas stacks, storage facilities, cooling towers, and water processing plant – are large and likely to “*have an impact on the surrounding landscape and visual amenity*”. A landscape and visual impact assessment should therefore be included as part of the ES, and consideration should be given to the design of the plant, the materials to be used, and the visual impact of the stack (paragraphs 2.6.3 and 2.6.4). Paragraph 2.6.5 of EN-2 states that mitigation is to “*minimise impact on visual amenity as far as reasonably practicable*”; however, the visibility of a fossil fuel generating station should be given limited weight if the SoS is satisfied that the location is appropriate for the project and that it has been designed sensitively (paragraph 2.6.10).
- 2.7.62 Paragraph 2.7.1 of NPS EN-2 advises that the sources of noise and vibration from fossil fuel generating stations may include the gas and steam turbines and external noise sources such as externally-sited air-cooled condensers. Paragraph 2.7.2 of EN-2 states that the ES should include a noise assessment, and paragraph 2.7.5 of NPS EN-2 states that mitigation should be achieved through “*good design*”,

including enclosure of plant and machinery in noise-reducing buildings where possible.

2.7.63 Paragraph 2.10.1 of NPS EN-2 advises that water cooling systems for fossil fuel generating stations may have additional impacts on water quality, abstraction and discharge. Where the project is likely to have an effect on water quality and resources, Paragraph 2.10.2 of EN-2 states that an assessment should be undertaken to *“demonstrate that appropriate measures will be put in place to avoid or minimise adverse impacts of abstraction and discharge of cooling water.”*

c) **National Policy Statement for Gas Supply Infrastructure and Gas and Oil Pipelines (EN-4)**

2.7.64 NPS EN-4 (Ref. 2.15), together with NPS EN-1, provides the primary basis for decisions by the SoS on applications for gas supply infrastructure and gas and oil pipelines (Paragraph 1.2.1). However, the proposed DCO application will not include Gas Connection apparatus for the Project, so the decision making policies in NPS EN-4 will not be directly applicable. However, section 2.19 addresses gas and oil pipelines and identifies factors that should influence site selection by project promoters. These include noise and vibration, biodiversity, landscape and visual effects, soil and geology and effects on water quality and resources.

2.7.65 **Chapter 5: Alternatives Considered** of this PEIR includes a description of alternatives considered and route selection for the Gas Connection route. The environmental effects of the Gas Connection are considered within each topic-specific chapter in this PEIR. Accordingly, NPS EN-4 will be of relevance as a matter that the SoS may consider important and relevant in the context of the routing of the Gas Connection and powers of compulsory acquisition sought, rather than being directly applicable to the Power Generation Plant itself.

2.7.66 Relevant guidance on the assessment of impacts of gas supply infrastructure is summarised below, and regard has been had to this guidance in preparation of this PEIR.

2.7.67 Part 2 of NPS EN-4 provides additional guidance to Part 4 and Part 5 of EN-1 regarding the assessment of impacts specific to gas supply infrastructure and oil and gas pipelines.

2.7.68 Sections 2.20 – 2.23 of NPS EN-4 set out additional policy for assessing the potential impacts of gas and oil pipelines, relating to: noise and vibration; biodiversity, landscape and visual; water quality and resources; and soil and geology.

2.7.69 Paragraph 2.20.2 of NPS EN-4 states that there are specific noise and vibration impacts which apply to gas pipelines, including: *“During the pre-construction phase there could be vibration effects from seismic surveys. During construction, tasks may include site clearance, soil movement, ground excavation, tunnelling, trenching, pipe laying and welding, and ground reinstatement. In addition, increased HGV traffic will be generated on local roads for the movement of*

materials.” The ES should include an assessment of all of the above noise and vibration effects during the pre-construction and construction phases (paragraph 2.20.5).

2.7.70 Paragraph 2.21.1 of NPS EN-4 states that the construction of a pipeline can impact upon *“specific landscape elements within and adjacent to the pipeline route, such as grasslands, field boundaries (hedgerows, hedgebanks, drystone walls, fences), trees, woodlands, and watercourses.”* Accordingly, the ES should include *“an assessment of the biodiversity and landscape and visual effects of the proposed route and of the main alternative routes considered”* (paragraph 2.21.3 of EN4). Where it is not possible to restore the landscape to its original state, Paragraph 2.21.3 of EN-4 also states that *“the applicant should set out measures to avoid, mitigate, or employ other landscape measures to compensate for, any adverse effect on the landscape.”*

2.7.71 Paragraph 2.22.2 of NPS EN-4 advises that *“constructing pipelines creates corridors of surface clearance and excavation that can potentially affect watercourses, aquifers, water abstraction and discharge points, areas prone to flooding and ecological receptors.”* As such, an assessment should be provided in the ES *“where the project is likely to have effects on water resources or water quality,”* for example through impacts on: *“groundwater recharge or on existing surface water or ground abstraction points; associated ecological receptors,”* or through: *“siltation or spillages, discharges from maintenance activities or the discharge of disposals such as wastewater or solvents”* (paragraphs 2.22.3 and 2.22.4).

2.7.72 Paragraph 2.23.1 of NPS EN-4 states that *“it will be important for applicants to understand the soil types and the nature of the underlying strata.”* Accordingly, applicants should consult with the relevant statutory consultees at an early stage regarding the potential impact of gas pipelines on soil and geology (paragraph 2.23.4). Paragraph 2.23.2 states that applicants should assess the stability of the ground conditions associated with the pipeline route, including considering the options for installing the pipeline.

d) National Policy Statement for Electricity Networks Infrastructure (EN-5)

2.7.73 NPS EN-5 (Ref. 2.16), together with NPS EN-1, provides the primary basis for decisions by the SoS on applications for electricity networks infrastructure. However, the proposed DCO application will not include Electrical Connection apparatus for the Project, and the connection will be by underground cable, so the decision making policies in NPS EN-5 will not be directly applicable. Relevant guidance on the assessment of impacts underground electrical connections is summarised below, and regard has been had to this guidance in preparation of this PEIR.

2.7.74 Part 2 of NPS EN-5 provides additional guidance to Part 4 and Part 5 of EN-1 regarding the assessment of impacts specific to electricity networks infrastructure

- 2.7.75 Paragraph 2.8.9 of NPS EN-5 notes, “*The impacts and costs of both overhead and underground options vary considerably between individual projects (both in absolute and relative terms). Therefore, each project should be assessed individually on the basis of its specific circumstances and taking account of the fact that Government has not laid down any general rule about when an overhead line should be considered unacceptable.*”
- 2.7.76 Paragraph 2.10.1 of NPS EN-5 advises that “*power frequency Electric and Magnetic Fields (EMFs) arise from generation, transmission, distribution and use of electricity and will occur around power lines and electric cables...*” Paragraph 2.10.15 of EN-5 states that in order to mitigate for EMFs, the applicant should consider: height, position, insulation and protection measures; optimal phasing of high voltage overhead power lines where possible and practicable; and any new Government advice.

2.8 Other Government Policy

- 2.8.1 The NPSs have been informed by and followed by other government policy and evidence as to the need for viable proposals to contribute towards greater reliability of electricity supply in the UK.
- 2.8.2 To ensure that there is reliability of supply, it is Government policy that the electricity generation mix needs to incorporate a balance of technologies that continuously and reliably produce stable and controllable power and that within this scenario, gas-fuelled electricity generating technologies can play a significant role. In the Annual Energy Statement (AES) (latest version published October 2014) (Ref. 2.17), DECC (now BEIS) supported the role of gas in the energy sector and directed the need to build new power generation infrastructure.
- 2.8.3 The AES identifies the need to retain sufficient power generation capacity following the rapid closure of existing capacity, and acknowledges the role of gas in the energy sector. The Statement also sets out the Government’s long-term direction for reducing energy demand and safeguarding energy security, by increasing the proportion of energy from renewable and low carbon sources.
- 2.8.4 The Welsh Government policy statement, “*A Low Carbon Revolution: Wales’ Energy Policy Statement, March 2010*” (Ref. 2.18), reflects, in terms of energy production, the work of the UK Climate Change Commission and the UK National Policy Statements on Energy and Renewables. The statement sets out a framework for carbon reduction in Wales, provides targets and advice to local planning authorities (LPAs) for implementation of policy into Local Development Plans (LDPs). In particular it aims to maximise energy savings and energy efficiency to make producing the majority of the energy that Wales needs from low carbon sources that are feasible and less costly. The statement recognises energy needs in a modern society will remain considerable.
- 2.8.5 The “*Electricity Market Reform White Paper – Planning our electric future: a White Paper for secure, affordable and low-carbon electricity*” (DECC, 2011) (Ref. 2.19)

“sets out the Government’s commitment to transform the UK’s electricity system to ensure that our future electricity supply is secure, low-carbon and affordable.” A key part of this wide ranging reform is the introduction of a “Capacity Mechanism” in order *“to guarantee future security of electricity supply as a quarter of ageing plant closes during this decade and the proportion of intermittent or less flexible low-carbon generation rises”* (paragraph 1.35).

- 2.8.6 The White Paper sets out, at page 24, a vision for the Electricity System following reform, in which it is stated *“The electricity grid has evolved to accommodate more localised and intermittent sources of generation, as well as being smarter and more responsive.”* A significant focus of the White Paper is to decarbonise electricity generation in the long term, although it is acknowledged at paragraph 2.4.23 that *“we are going to need new, unabated gas in the next few years.”*
- 2.8.7 *“The Carbon Plan - delivering our low carbon future”* (HM Government, 2011) (Ref. 2.20) sets out the Coalition Government’s policies for how the UK will achieve decarbonisation within the framework of its energy policy; making the transition to low carbon economy while maintaining energy security, and minimising costs to customers. Paragraph 2.146 of the Plan recognises that the nature of the electricity network will need to change so that it becomes smarter at balancing demand and supply as generation/supply become more intermittent and demand increases. In light of this the Plan states that on the way to 2050, some flexible fossil fuel plant is likely to be needed to ensure security of supply. Paragraph 2.147 states that over the next decade, the UK will need to invest in new generation capacity to replace the coal and nuclear power stations that are set to close by the early 2020s in order to maintain our energy security, while meeting our legal commitments to reduce carbon emissions and increase renewable electricity generation. Paragraph 2.148 goes on to outline that to do this, the coming years will see a continuation of previous trends, which will include more switching from coal to gas-powered generation. Thus the Carbon Plan reinforces the position set out in the White Paper and acknowledges that to meet our energy security needs and make the transition to a low carbon economy, gas will continue to play a valuable role.
- 2.8.8 *“Energy Wales – a Low Carbon Transition”* (Welsh Government, March 2012) (Ref. 2.21) states, at page 10, that *“Gas will be a key transitional fuel because greenhouse gas emissions from gas are significantly less than coal subject to the method of extraction. Gas is a flexible, responsive and reliable source of energy which can play a key role in the transition to a genuinely low carbon energy system”*. In the short term, gas, nuclear and bio-energy will provide the energy to compensate for the intermittency in supply from renewable resources.
- 2.8.9 *“Electricity System: Assessment of Future Challenges – Annex”* (DECC, August 2012) (Ref. 2.22) seeks to fully understand the implications of the challenges posed by moving to an energy mix with a greater proportion of intermittent and less flexible generation and identify means of addressing them. The overall aim is to ensure that the electricity system can facilitate future low carbon generation and expected increases in electricity demand in the most secure and affordable way, with the most efficient use of assets. Again, there is acknowledgement of the

continued role for unabated gas fired generating plant. Paragraph 3.8 states that over the next two decades, gas will continue to play a key role in the UK's energy mix alongside other lower carbon electricity sources. The paragraph goes on to state that new gas generation capacity will be needed to ensure security of supply, and to balance the electricity system as more low carbon technology becomes available.

- 2.8.10 The *“Electricity Capacity Report”* (ECR) (National Grid, May 2017) (Ref. 2.23) summarises the modelling analysis undertaken regarding the amount of capacity to be secured for delivery in 2018/19 and 2021/22. The report states that there is expected to be an increase in capacity requirements for 2018/19, compared to the 2014 ECR, and for 2021/22, when compared to the 2016 ECR, based on a higher assumed peak demand.
- 2.8.11 The *“Gas Generation Strategy”* (DECC, December 2012) (Ref. 2.24) consolidates the range of government policy as set out above in setting out the important role for gas generation. It is stated that as a reliable, flexible source of electricity it will play a part in any future generation mix, supporting a secure, low-carbon and affordable electricity system. It states that *“Gas currently forms an integral part of the UK’s generation mix and is a reliable, flexible source of electricity. Using gas as a fuel in our power stations currently provides a significant proportion of our electricity generation (around 40% in 2011)”* (Executive Summary). Moreover, it suggests that there could be as much as 26 gigawatts (GW) of new gas generation infrastructure required if the decarbonisation target is set at 200 g/CO₂/kWh. It also indicates that in 2030 we could need more overall gas capacity than we have today, although operating at lower load factors, reflecting the role of ‘peaking’ plant in backing up intermittent sources of energy generation. *“The modelling shows that gas could play a more extensive role, with higher load factors, should the 4th Carbon Budget be revised upwards”* (Executive Summary). The strategy also presents scenarios at Table 2B on page 22 which indicate that up to 41 GW of new gas generation capacity will be needed by 2030 to underpin long term electricity supplies and provide back-up to nuclear and wind generation at times of peak demand.
- 2.8.12 The 2014 National Infrastructure Plan (HM Treasury, December 2014) (Ref. 2.25) provides explicit support for this type of project, stating: *“New gas plant is also needed and will be vital in supplying a backup for less flexible renewable generation and ensuring that the system can meet peak electricity demand”* (Paragraph 8.4). Paragraph 8.3 adds that, *“Large-scale investment in gas and low-carbon electricity generation is vital in order to replace ageing energy infrastructure, maintain secure energy supplies and meet legally-binding environmental targets.”*
- 2.8.13 In October 2016, The Energy and Climate Change Committee published *“The energy revolution and future challenges for UK energy and climate change policy — Third Report of Session 2016–17”* (Ref 2.26). The report reflects on upcoming challenges for UK energy and climate policy. For energy supply it states that *“The Government should seek to build investor confidence, to avoid exacerbating difficulties in bringing forward investment in new electricity capacity and new indigenous resources. The Government should also examine the role of the*

‘solidarity principle’ in managing potential gas crises, specifically how the UK can continue to participate. If excluded from the ‘solidarity principle’ the UK Government must urgently investigate alternative back-up arrangements to ensure security of supply in the event of a crisis” (Paragraph 111).

2.8.14 The “*Final Report of the Industrial Strategy Commission*” (Industrial Strategy Commission, November 2017) (Ref 2.27) reinforces that “*the availability of a secure and reliable energy supply is a central concern*” and emphasises that there is a “*pressing need*” to decarbonise energy supplies due to the impacts of climate change (page 58).

2.9 Welsh Planning Policy

2.9.1 Section 104 of the PA 2008 requires the SoS to have regard to any Local Impact Report and other matters which the SoS “*thinks are both important and relevant to the Secretary of State’s decision*”, which may include Planning Policy Wales (PPW), Technical Advice Notes (TANs), The Wales Spatial Plan, Unitary Development Plans (UDPs), (LDPs) or other local policy documents in Wales as set out below.

a) Planning Policy Wales (Edition 9, November 2016) (PPW) and associated Technical Advice Notes (TAN)

2.9.2 PPW (Ref. 2.28) sets out the land use planning policies of the Welsh Government and is supplemented by 24 topic-based TANs. TANs prescribe the government’s policies on various planning issues that shape the preparation of development plans. The principles and objectives of TANs prescribe the overarching national guidance for specific individual environmental topics. TANs relevant to the Project include:

- TAN 5: Nature Conservation and Planning (2009) (Ref 2.29);
- TAN 6: Planning for Sustainable Rural Communities (2010) (Ref 2.30);
- TAN 11: Noise (1997) (Ref 2.31);
- TAN 12: Design (2016) (Ref 2.32);
- TAN 15: Development and Flood Risk (2004) (Ref 2.33);
- TAN 18: Transport (2007) (Ref 2.34);
- TAN 20: Planning and the Welsh Language (2013) (Ref 2.35)
- TAN 21: Waste (2014) (Ref 2.36); and
- TAN 23: Economic Development (2014) (Ref 2.37).

2.9.3 Both the PPW and TANs may be considered to be relevant and important under the PA 2008 regime. The provisions of the PPW and TANs which are of potential relevance to the Project are set out below.

2.9.4 PPW Chapter 4, “*Planning for Sustainability*”, sets out the principles and objectives underpinning the Welsh Government’s approach to planning policy for sustainable development.

2.9.5 The definition of sustainable development in Wales is given in Chapter 4 as: “the process of improving the economic, social, environmental and cultural well-being of

Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals.” (PPW Figure 4.2).

2.9.6 PPW Paragraph 4.2.2 highlights that “the planning system provides for a presumption in favour of sustainable development to ensure that social, economic and environmental issues are balanced and integrated”.

2.9.7 PPW Section 4.4 outlines the objectives for the planning system which reflect the Welsh Government’s view for sustainable development and the outcomes they seek to deliver across Wales. A summary of the relevant objectives (paragraph 4.4.3) is listed below:

- “Promote resource-efficient and climate change resilient settlement patterns...;”
- “Play an appropriate role in securing the provision of infrastructure to form the physical basis for sustainable communities” (including energy supplies and distribution networks);
- “Encourage opportunities to reduce waste and all forms of pollution and promote good environmental management and best environmental practice;”
- “Promote a low carbon economy and social enterprises;”
- “Support initiative and innovation and avoid placing unnecessary burdens on enterprises...so as to enhance the economic success of both urban and rural areas...;”
- “Contribute to the protection and improvement of the environment, so as to improve the quality of life, and protect local and global ecosystems;”
- “Minimise the risks posed by, or to, development on or adjacent to unstable or contaminated land and land liable to flooding;”
- “Promote quality, lasting, environmentally-sound and flexible employment opportunities;”
- “Contribute to the protection and, where possible, the improvement of people’s health and wellbeing as a core component of sustainable development and responding to climate change;”
- “Promote access to employment, shopping, education, health, community, leisure and sports facilities and open and green space, maximising opportunities for community development and social welfare;”
- “Respect and encourage diversity in the local economy;”
- “Foster improvements to transport facilities and services which maintain or improve accessibility to services and facilities, secure employment, economic and environmental objectives, and improve safety and amenity;”
- “Foster social inclusion by ensuring that full advantage is taken of the opportunities to secure a more accessible environment for everyone that the development of land and buildings provides;” and
- Support the need to tackle the causes of climate change by moving towards a low carbon economy.”

2.9.8 PPW Chapter 4 is supplemented by TAN 6 “*Planning for Sustainable Rural Communities*” (2010) (Ref 2.30), which provides practical guidance on how the planning system can contribute to: sustainable rural economies; sustainable rural housing; sustainable rural services and sustainable agriculture. TAN 6 recognises that “*strong rural economies are essential to support sustainable and vibrant rural communities*” (paragraph 3.1.1) and supports the “*diversification of the rural*”

economy by accommodating the needs of both traditional rural industries and new enterprises, whilst minimising impacts on the local community and the environment” (paragraph 3.1.2).

- 2.9.9 TAN 12, “*Design,*” (2016) (Ref. 2.32) should also be considered in conjunction with Chapter 4 of PPW. This TAN sets out the objectives of good design and aims to encourage good design in all aspects of development, stating that: “*The way in which development relates to its urban or rural landscape context or seascape context is critical to its success*” (paragraph 5.5.1). “*The aim should be to achieve good design solutions, which maximise the natural landscape assets and minimise environmental impact on the landscape. It is particularly important that proposals to amend or create new landscape are not considered as an afterthought and that the long term impact of development on the landscape is fully understood*” (paragraph 5.5.2).
- 2.9.10 TAN 18, “*Transport,*” (2007) (Ref. 2.34) provides guidance on issues relating to sustainable development through transport, so represents a further supplementary document to Chapter 4. TAN 18 describes how to integrate land use and transport planning and explains how transport impacts should be assessed and mitigated.
- 2.9.11 PPW Chapter 5, “*Conserving and Improving Natural Heritage and the Coast,*” sets out the Welsh Government’s overarching advice on the conservation of biodiversity and the coast in a planning context. The chapter sets out objectives for conservation that should be delivered via the planning process. It includes guidance on integrating the requirements of development and conservation, and highlights existing measures for biodiversity conservation (legislation and policy) in Wales.
- 2.9.12 The approach to conservation delivered through PPW is similar to the general principles contained within NPS EN-1 which states that development should aim to avoid significant harm to biodiversity and geological conservation interests through mitigation and consideration of reasonable alternatives. Paragraph 5.3.6 of NPS EN-1 does however suggest that “*the benefits of nationally significant low carbon energy infrastructure development may include benefits for biodiversity and geological conservation interests and these benefits may outweigh harm to these interests*”.
- 2.9.13 PPW Chapter 5 is supplemented by TAN 5 “*Nature Conservation and Planning*” (2009) (Ref. 2.29), which is concerned with the protection of statutorily designated site and habitats, the conservation of protected and priority species; and protecting and enhancing biodiversity and nature conservation in the wider countryside within Wales.
- 2.9.14 PPW Chapter 7, “*Economic Development,*” refers to the Welsh Government definition of economic development as development of land and buildings for activities that generate wealth, jobs and incomes (paragraph 7.1.1). This paragraph also notes that the “*construction and energy sectors are important to the economy and sensitive to planning policies*”.

- 2.9.15 It is likely to be relevant to consider the provisions of the NPSs in light of the Welsh Government’s definition of economic development. In paragraph 2.1.2 of NPS EN-1 it states that *“energy is vital to economic prosperity and social well-being”* and as such, it is important to ensure that the UK has secure and affordable energy and the infrastructure in place to deliver this. Section 5.12 of the NPS outlines that the applicant should assess socio-economic impacts of proposals, which will include giving due consideration to the creation of jobs and training opportunities.
- 2.9.16 TAN 23, *“Economic Development”* (2014) (Ref. 2.37), provides additional interpretation to chapter 7. PPW chapter 7 states that the planning system should support economic and employment growth alongside social and environmental considerations within the context of sustainable development (paragraph 7.1.3). TAN 23 contains the concept of *“larger than local planning”*, which advises that market forces do not respect local authority boundaries and therefore the planning system should ensure that it steers development to the most efficient and sustainable locations. This means that strategic planning for economic development is essential. Paragraph 2.1.1 addresses the need to weigh economic benefits and states that *“it should not be assumed that economic objectives are necessarily in conflict with social and environmental objectives”*. The TAN advises that the planning system should positively and imaginatively seek win-win outcomes (paragraph 2.1.1).
- 2.9.17 PPW Chapter 12, *“Infrastructure and Services,”* emphasises the importance of infrastructure projects to Wales: *“Adequate and efficient infrastructure, including services such as education and health facilities along with water supply, sewers, waste management, electricity and gas (the utilities) and telecommunications, is crucial for the economic, social and environmental sustainability of all parts of Wales”* (paragraph 12.1.1).
- 2.9.18 The Welsh Government aims to secure the environmental and telecommunications infrastructure necessary to meet sustainable development objectives, which are listed in paragraph 12.1.4 of PPW. The objectives considered to be relevant for the purposes of this project are listed as follows:
- *“To promote the generation and use of energy from renewable and low carbon energy sources at all scales and promote energy efficiency, especially as a means to secure zero or low carbon developments and to tackle the causes of climate change;”*
 - *“To promote an integrated approach to the provision and renewal of environmental and telecommunications infrastructure;”*
 - *“To ensure that environmental and telecommunications infrastructure is provided in such a way as to enable sustainable development objectives to be met, avoiding adverse impacts on the environment (including the natural and historic environment), local communities and health;”*
 - *“To ensure that in considering environmental and telecommunications infrastructure account is taken of the impacts of climate change in the location, design, build, operation and, where appropriate, the decommissioning of new infrastructure (see 4.5 [of PPW6]);”* and

- *“To ensure that the vulnerability of infrastructure to severe weather events is minimised and that infrastructure is designed to cope with higher average temperatures and increasing risk of storm surges, drought and flooding.”*

2.9.19 Section 12.8.6 of PPW outlines that it is the Welsh government’s aim to, “secure an appropriate mix of energy provision for Wales which maximises benefits to our economy and communities, whilst minimising potential environmental and social impacts. This forms part of the Welsh Government’s aim to secure the strongest economic development policies to underpin growth and prosperity in Wales recognising the importance of clean energy and the efficient use of natural resources, both as an economic driver and a commitment to sustainable development.”

2.9.20 For the purposes of planning policy, 12.8.7 of PPW defines “*low carbon energy*” as the term used to cover technologies that are energy efficient (but does not include nuclear). Figure 12.2 sets out the scales of development, for planning purposes, for low carbon and renewable energy projects. It acknowledges that an energy project is deemed to be “*strategic*” when it exceeds a threshold of 50MW for all technologies other than onshore wind. Additionally the PPW recognises the role of the SoS in deciding onshore projects of an installation size of over 50 MW.

2.9.21 PPW Chapter 13, “*Minimising and Managing Environmental Risks and Pollution,*” is concerned with maximising environmental protection for people, natural and cultural resources, property and infrastructure; and preventing or managing pollution and promoting good environmental practice (paragraph 13.1.2).

2.9.22 Chapter 13 is supplemented by TAN 15, “*Development and Flood Risk*” (2004) (Ref. 2.33), which provides a precautionary framework to guide planning decisions within which risks arising from both river and coastal flooding, and from additional run-off from development in any location, can be assessed.

2.9.23 PPW Chapter 13 is also supplemented by TAN 11, “*Noise*” (1997) (Ref. 2.31), which provides advice on “*how the planning system can be used to minimise the adverse impact of noise without placing unreasonable restrictions on development or adding unduly to the costs and administrative burdens of business*”. It outlines some of the main considerations which LPAs should take into account in determining planning applications for development which will either generate noise or be exposed to existing noise sources.

2.9.24 PPW Chapter 14 sets out land use planning policy guidance in relation to mineral extraction and related development in Wales, which includes all minerals and substances in, on or under land extracted either by underground or surface working. The key principles are:

- *“To provide for an adequate supply of minerals that society needs now and in the future, together with protecting and improving amenity;*
- *To protect things that are highly cherished for their intrinsic qualities, such as wildlife, landscapes and historic features; and to protect human health and safety by ensuring that environmental impacts caused by mineral extraction*

and transportation are within acceptable limits; and to secure, without compromise, restoration and aftercare to provide for appropriate and beneficial after-use;

- *To help conserve non-renewable resources for future generations through efficient use, recycling and waste prevention; to protect renewable resources from serious harm or pollution; and to promote the use of appropriate alternative materials; and*
- *To ensure an adequate supply of minerals that are needed at prices that are reasonable; and to safeguard mineral resources for future generations.”*

2.9.25 TAN 20, “*Planning and the Welsh Language*” (2013) (Ref. 2.35), provides guidance on how the Welsh language may be given appropriate consideration in the planning system, particularly in respect of LDPs, development management and signs and advertisements. Paragraph 3.1.1 notes that, “*Planning decisions should be concerned with the use of land rather than the identity or personal characteristics of the user.*” The appropriate use of the Welsh language has been considered throughout pre-application consultation and in the preparation of the DCO Application.

2.9.26 TAN 21, “*Waste*” (2014) (Ref. 2.36), advises on the role of land use planning in the management and control of waste. Guidance is based on the principles of the waste hierarchy, which seeks to prevent waste in the first instance, or alternatively re-use or recycle waste. The principles in TAN 21 have been applied in consideration of waste issues for the Project.

b) Minerals Technical Advice Notes

2.9.27 Minerals planning policy set out in PPW is supplemented by topic-based Minerals Technical Advice Notes (MTANs).

2.9.28 Two MTANs have been produced, one concerning aggregates (MTAN 1, March 2004) (Ref. 2.38) and the other concerning coal (MTAN 2, 2009) (Ref 2.39).

2.9.29 They set out detailed advice on the mechanisms for delivering the policy for coal extraction, through surface and underground working, by mineral planning authorities and the coal mining industry and may be material in the determination of applications under the Town & Country Planning Act 1990 (“TCPA 1990”).

2.9.30 The Project Site is located on land identified within local planning policy with coal and sand and aggregate resources (section 2.10) and therefore the two MTANs may, potentially be considered relevant in relation to NSIP applications under the PA 2008, in interpreting land use criteria contained in the relevant NPS.

c) Wales Spatial Plan

2.9.31 The Wales Spatial Plan (Ref 2.40) was adopted by the Welsh Government in 2004 and updated in 2008.

2.9.32 The purpose of the Wales Spatial Plan is “*to ensure that what is done in the public, private and third sectors in Wales is integrated and sustainable, and that actions*

within an area support each other and jointly move towards a shared vision for Wales and for the different parts of Wales” (paragraph 1.5). The Plan identifies six sub-regions in Wales but does not define these Spatial Plan Areas by administrative boundaries, allowing partners to work together on common issues in a flexible way. The Spatial Plan area which the Project Site falls under is South East Wales “*Capital Region.*”

2.9.33 Chapter 11 recognises that the economy in Wales has a spatial dimension. Paragraph 11.1 recognises that while some areas adjoining the English border have economic performance characteristics fairly similar to the UK average, the more western areas and the former coal-mining areas lag behind.

2.9.34 Paragraph 11.6 states the need to take a joint approach with local authorities, travel consortia, and others to tackling regional infrastructure problems on issues of housing, transport, water, sewerage, energy, waste and information and communications technology (ICT).

d) Environment Strategy for Wales (2006)

2.9.35 The Environment Strategy for Wales (Ref 2.41) was published in 2006 and outlines the Welsh Government’s long term strategy for the environment of Wales over the next 20 years. The purpose of the Strategy is to provide a framework within which to “*achieve an environment which is clean, healthy, biologically diverse and valued by the people of Wales*”, such that by 2026, the Welsh environment is “*thriving and contributing to the economic and social well-being and health of all of the people of Wales*” (page 3).

2.9.36 The Environment Strategy has 5 main environmental issues: addressing climate change; sustainable resource use; distinctive biodiversity, landscapes and seascapes; the local environment; and environmental hazards. For each of the environmental themes, the Strategy explains the issues, proposed outcomes and associated indicators and timelines for delivery.

2.9.37 The Environment Strategy is currently being reviewed by the Welsh Government to ensure that it reflects the relevant commitments in the Natural Resource Management Programme.

e) Noise Action Plan for Wales 2013 – 2018

2.9.38 The Noise Action Plan (Ref 2.42), produced by the Welsh Government, describes how and why environmental noise is managed across Wales and includes a chapter devoted to noise management in the built up area of Swansea and Neath Port Talbot. It includes the identification of Quiet Areas and Priority Areas. The Project Site does not lie within or in the vicinity of the designated areas, however the general principles of the Noise Action Plan may be of relevance.

2.10 Local Planning Policy

2.10.1 In deciding an application under the PA 2008, the SoS must have regard to the NPSs and *"any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision"* (Section 104(2)(d) of the PA 2008). Local planning policy guidance on land use and environmental protection may be considered by the Secretary of State to be a relevant and important matter to which regard should be had in the decision making for the Power Generating Plant.

2.10.2 The relevant development plan for the Project Site is the CCS UDP which is considered further below.

2.10.3 In addition, draft and supplementary local planning policy, referred to below, are material considerations under the TCPA 1990 regime and may also be *"important and relevant"* (Section 104(2)(d) of the PA 2008) to the determination of the DCO Application.

a) Development Plan

2.10.4 The CCS UDP (Ref 2.43) was adopted in November 2008 and comprises the UDP Proposals Map and UDP Written Statement. The UDP is the key development plan document for the area which provides a range of policies and proposals relating to future development within CCS up to 2016.

i. CCS UDP 2008 Proposals Map and site-specific policies

2.10.5 As shown on the UDP Proposals Map (Figures 2-1 and 2-2), the Project Site is located on land identified as *"Coal"* and *"Sand and Aggregates"*, where UDP Policies R2 and R4 respectively apply. Policy R2 states that development proposals that would affect the working of known potential resources will have to be accompanied by a full assessment of the potential resource and the impact of the proposal in terms of sterilising the resource. Similarly, Policy R4 states that development proposals that would affect the working of known potential mineral resources will have to be accompanied by a full assessment of the potential mineral resource and the impact of the proposal in terms of sterilising the resource.

2.10.6 The Project Site is also located adjacent to the south of a Hazardous Installation Consultation Zone and approximately 200 m to the north of a Notified High Pressure Mains Buffer where UDP Policy EV41 applies. Policy EV41 states that development of land in the vicinity of existing hazardous installations will not be permitted if there would be a significant risk to life or health.

2.10.7 Approximately 300 m to the east of the Project Site, and therefore not affected by the Project, is land identified as having known potential for *"Crushed Rock"* mineral resources, where UDP Policy R5 applies. Policy R5 states that development proposals that would affect the working of known potential mineral resources will have to be accompanied by a full assessment of the potential mineral resource and the impact of the proposal in terms of sterilising the resource.

Figure 2.1 Extract from UDP Proposals Map (Map 2: Urban Area East)

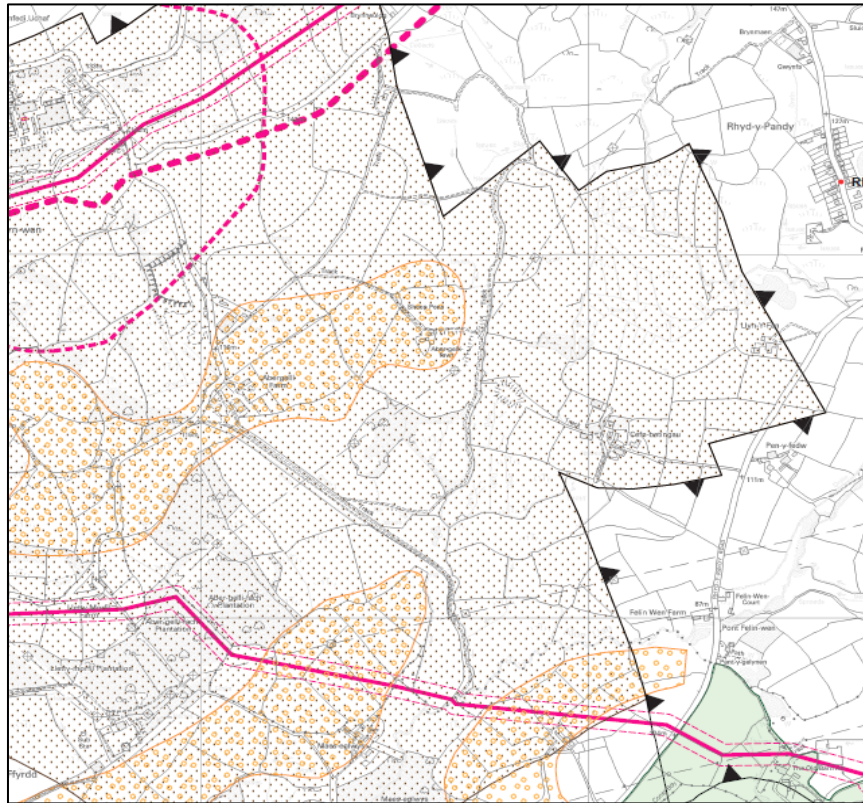
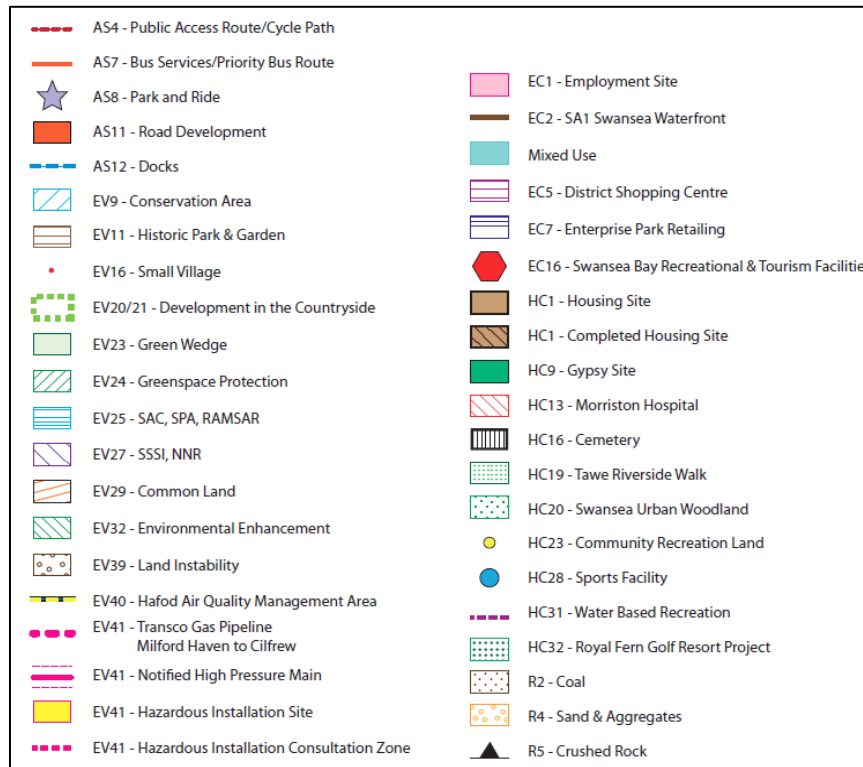


Figure 2.2 Extract from UDP Proposals Map (Key)



ii. CCS UDP 2008 Written Statement

2.10.8 The UDP Written Statement sets out the broad vision and strategy for development and conservation together with more detailed policies and development proposals.

In addition to the site-specific policies set out above, the following UDP policies are also considered to be relevant.

2.10.9 Strategic Policy SP1 states that *“sustainable development will be pursued as an integral principle of the planning and development process.”*

2.10.10 Strategic Policy SP2 states that *“the countryside will be protected and conserved...”*

2.10.11 Strategic Policy SP3 states that the natural, built, and cultural heritage of the County will be protected and enhanced to safeguard from materially harmful development.

2.10.12 Strategic Policy SP11 states that *“the upgrading of infrastructure provision and the generation of energy from renewable resources to meet the needs of existing and new development will be favoured, provided that environmental impact is kept to a minimum”*.

2.10.13 Strategic Policy SP12 states that the Council will encourage development that *“makes efficient use of resources and energy”*.

2.10.14 Policy EV1 states that new development should accord with a number of objectives of *“good design,”* including:

- i. *“Be appropriate to its local context in terms of scale, height, massing, elevational treatment, materials and detailing, layout, form, mix and density;”*
- ii. *“Integrate effectively with adjacent spaces and the public realm;”*
- iii. *“Not result in a significant detrimental impact on local amenity in terms of visual impact, loss of light or privacy, disturbance and traffic movements;”*
- iv. *“Incorporate a good standard of landscape design;”*
- v. *“Sensitively relate to existing development patterns and seek to protect natural heritage, the historic and cultural environment not only on-site, but in terms of potential impact on neighbouring areas of importance;”*
- vi. *“Promote resource efficient and adaptable buildings and layouts using sustainable design and construction techniques, including the re-use and recycling of construction and demolition waste on site, and energy and water efficiency measures;” and*
- vii. *“Provide a safe environment by addressing issues of security...”*

2.10.15 Policy EV2 states that new development should have regard to the physical character and topography of the site and its surroundings by:

- i. *“Avoiding locations that would have a significant adverse impact on prominent buildings, landscapes, open spaces and the general including loss of visual amenity,*
- ii. *Effectively integrating with the landscape, seascape or coastline by utilising topography to integrate into the contours of the site and avoiding conspicuous locations on prominent skylines and ridges,*
- iii. *Retaining important views into and out of the site,*

- iv. *Taking into account and where possible retaining site features including existing buildings, topography, landscape, archaeological and water features, trees and hedgerows, and, where appropriate:*
- v. *Undertaking, at the earliest opportunity, an assessment of species and habitats on site and, where planning permission is granted, implementing any necessary mitigation measures,*
- vi. *Avoiding detrimental effects on the historic environment,*
- vii. *Locating near transport nodes to encourage an integrated transport system,*
- viii. *Not prejudicing the viability and function of any agricultural land adjoining the site,*
- ix. *Determining whether the proposal would be at risk from flooding, increase flood risk off-site, or create additional water run-off, development for infrastructure and services,*
- x. *Having due regard to the implications of the development for infrastructure and services,*
- xi. *Integrating with existing community facilities,*
- xii. *Utilising landscape and topography to maximise energy efficiency,*
- xiii. *Having full regard to existing adjacent developments and the possible impact of environmental pollution from those developments, as well as the creation of any environmental pollution to the detriment of neighbouring occupiers (including light, air and noise),*
- xiv. *Identifying the location of any hazardous installations in the area and development that would be at risk from, or prejudice the operational use of, hazardous installations,*
- xv. *Identifying and fully addressing issues of contamination and land instability.”*

2.10.16 Policy EV3 states that proposals for new development will be required to, inter alia, “provide access and facilities for all” and “contribute to a high quality public realm”.

2.10.17 Policy EV6 states that the Council will seek to “protect, preserve and enhance” unscheduled archaeological site and monuments and their settings. Where proposals affect sites and areas of archaeological potential, applicants are required to undertake an assessment of the impact of development and set out measures to preserve, enhance and record features of archaeological interest.

2.10.18 Policy EV12 states that “the character of lanes and public paths that contribute to the amenity, natural and historic qualities of an area will be protected...In rural areas the design of any necessary works should be appropriate to the character of the area and should not detract from the landscape or suburbanise the area.”

2.10.19 Policy EV21 states that non-residential development in the countryside will only be permitted where it can be demonstrated that:

- i. *“It is beneficial for the rural economy or rural employment, or*
- ii. *It meets the overriding social or economic needs of the local community, or*
- iii. *It is an appropriate development associated with farm diversification, sustainable tourism and recreation, or nature conservation and does not adversely affect the viability of an established farm unit, or*
- iv. *It provides an acceptable economic use for previously developed land or existing building(s) in accordance with Policy EC12 [which concerns the conversion and re-use of existing rural buildings], or*

- v. *It is essential for communications, telecommunications, other forms of utility service provision, minerals or renewable energy generation.”*

2.10.20 Policy EV22 states that the countryside will be “*conserved and enhanced for the sake of its natural heritage, natural resources, historic and cultural, environment and agricultural and recreational value*” through the control of development and practical management and improvement measures.

2.10.21 Policy EV30 states that encouragement will be given to the “*protection and improved management of woodlands, trees and hedgerows which are important for their visual amenity, historic environment, natural heritage and/or recreation value.*” Priority will be given to: “*(i) protecting the remaining areas of ancient semi natural woodland and planted ancient woodland sites; (ii) promoting new planting with species appropriate to the location...; and (iii) ensuring that protection of amenity interests is achieved where management involves commercial felling and replanting.*”

2.10.22 Policy EV38 states that development proposals on land where there is a risk from contamination or landfill gas will not be permitted unless it can be demonstrated that “*measures can be taken to satisfactorily overcome any danger to life, health, property, controlled waters, or the natural and historic environment.*”

2.10.23 Policy EV40 states that development proposals will not be permitted that would “*cause or result in significant harm to health, local amenity, natural heritage, the historic environment or landscape character because of significant levels of air, noise or light pollution.*”

2.10.24 Policy EC1 allocates 190 ha of employment land at Felindre Strategic Business Park, located approximately 1.5 km to the south-west of the Project Site, in order to meet the growth needs of the local economy.

2.10.25 Policy EC13 states that development that would result in the loss of the best and most versatile agricultural land will not normally be permitted, unless “*there is an overriding need and:*

- i. Previously developed land is unavailable, and either*
- ii. Lower grade land is unavailable, or*
- iii. Lower grade land is of a higher environmental value.”*

2.10.26 Policy HC1 allocates land at Tircoed, Penllergaer, located approximately 2.5 km to the south-west of the Project Site, for the delivery of 84 units.

2.10.27 Policy R16 states that “*proposals for major new developments will be required to incorporate adequate and effective waste management facilities.*”

2.10.28 Policy AS2 states that new developments should be designed to “*allow for the safe, efficient and non-intrusive movement of vehicles*”. In addition, the means of access to new developments should be designed to ensure that impacts on the natural, historic and built environment and local communities are minimised.

2.10.29 Policy AS3 states that “*development that adversely affects the safety, enjoyment and convenient use of a Public Right of Way (PROW) will only be permitted where an acceptable alternative route is identified.*”

2.10.30 Policy AS10 requires new developments to “*incorporate appropriate traffic management measures to mitigate against significant adverse impacts that would otherwise be caused by traffic movements.*”

b) Other Material Considerations

i. CCS Draft LDP – Overview

2.10.31 CCS is currently in the process of preparing a new LDP (Ref 2.44), which upon adoption will replace the UDP as the key planning policy document for CCS up to 2025.

2.10.32 To date, the preparation of the LDP has been subject to the following phases of consultation and engagement:

- Stage 1: Delivery Agreement (DA) – The DA sets out the timetable for preparation of the LDP and the Council’s Community Involvement Scheme. The DA was subject to consultation in April and May 2009 and was updated in 2013.
- Stage 2: Pre-Deposit Plan Preparation and Involvement – This stage included the preparation and collection of background evidence, and an invitation for the submission of candidate sites for assessment from 2010.
- Stage 3: Pre-Deposit Plan Preparation and Public Consultation – A Draft LDP Vision and Objectives document and a Draft LDP Strategic Options document were subsequently subject to consultation in 2012. Following this, the Draft LDP Preferred Strategy was subject to public consultation (via exhibitions, community information sessions, presentations and workshops) in 2013, prior to the publication of the final LDP Preferred Strategy in July 2014. In December 2014, a draft LDP proposals map was published for consultation on proposed sites and boundary changes.
- Stage 4: Deposit Plan (including consultation on a draft version of the LDP) – Further to preceding stages and review of consultation feedback, the Deposit LDP was published for consultation between July and August 2016.

2.10.33 CCS submitted the LDP to the Ministers of the Welsh Government for independent examination on 28th July 2017. Following formal acceptance on 4th August 2017, the Ministers of the Welsh Government have appointed Inspectors to conduct the independent examination and to assess the soundness of the LDP. The first stage of the examination will be a pre-hearing meeting on 13th December 2017 to explain and discuss procedural and administrative matters relating to the management of the examination. Examination hearings are subsequently due to commence on 6th February 2018.

2.10.34 The examination hearings are currently scheduled to proceed on a topic basis as set out in Table 2-1:

Table 2-1 CCS LDP Examination Hearings Programme

Week 1: 6 - 9 February	Week 2: 13 - 15 February	Week 3: 27 Feb - 1 March	Week 4: 13 - 15 March	Week 5: 20-22 March
Plan preparation; vision & objectives; spatial strategy	Strategic Development Areas D, E and G	Non-strategic and rural exception site allocations	Transport, social infrastructure and open space	Reserve
Deliverability and infrastructure	Strategic Development Areas B, C and H	Employment, retail and tourism	Welsh language; design; built & natural environment	Alternative sites
Housing provision	Strategic Development Areas A, F, I, J, K and L	Green Belt, Green Wedges, settlement boundaries, key villages, rural areas	Gypsy & Traveller sites; specialist housing	Monitoring
Affordable housing			Energy, flood risk, environmental protection, minerals & waste	

2.10.35 Following formal closure of the examination hearings, the inspector's report will be prepared and submitted to the Council with recommendations regarding the LDP. It is anticipated the LDP would be formally adopted by CCS thereafter subject to the inspector's recommendations.

2.10.36 Prior to the commencement of examination hearings, the submitted LDP is considered to hold some weight for decision-making purposes based on the previous stages of preparation and consultation (listed above). At the closure of the examination hearings and following the publication of the inspector's report, the weight to be attached to the draft LDP may change based upon the inspector's recommendations. Upon adoption, the LDP would replace the UDP and receive full weight for decision-making purposes.

2.10.37 The submitted LDP, comprising the Proposals Maps and Written Statement, seeks to provide a planning framework that will enable the delivery of sustainable development in the right places across the county.

ii. CCS Draft LDP Proposals Map and site-specific policies

2.10.38 As shown on the draft LDP Proposals Map (Figures 2-3 and 2-4), the Project Site is located on land identified as safeguarded "Coal Resources" and "Sand and Gravel"

resource, where draft LDP Policy R12 applies. Draft Policy RP 12 states that *“development within mineral safeguarding areas that would permanently sterilise identified resources of aggregates and coal will only be permitted where it can be demonstrated that:*

- *The extraction of the mineral is impracticable, uneconomic or environmentally unacceptable;*
- *The mineral has already been extracted or can be extracted satisfactorily prior to the development taking place;*
- *The scale and location of the development would have no significant impact on the potential working of the resource; or*
- *There is an overriding need for the development.”*

2.10.39 The Project Site is also located within proximity of a designated Mineral Buffer Zone, where draft LDP Policy RP 14 applies. Draft Policy RP 14 states that, aside from mineral extraction and sensitive non-mineral development, any other development proposals will be *“carefully assessed to ensure that there would be no significant adverse effect on natural heritage, the amenity and well-being of neighbouring properties, or the quality and quantity of controlled waters.”*

2.10.40 To the north, the Project Site is located within proximity of a Landscape Protection Area, where Policy ER5 applies, and a Strategic Search Area, where Policy EU1 applies. Draft Policy ER 5 states that *“development will not be permitted that would have a significant adverse effect on the character and quality of the landscape and setting of the County”*. Within Special Landscape Areas, including the Mawr Uplands to the north of the Project Site, priority will be given to protecting, managing and enhancing the character and quality of the area. Draft Policy EU 1 support proposals for large scale wind farms and their associated infrastructure within the Strategic Search Area.

2.10.41 To the south, the Project Site is located within proximity of a Strategic Development Area (Policy SD 1(G)) and safeguarded land at Morryston Hospital (Policy SI 4).

2.10.42 Draft Policy SD G seeks to allocate a new sustainable settlement at land north-west of M4 J46 at Llangyfelach, to the south-west of the Project Site, for *“comprehensive mixed use development of up to 850 homes during the Plan period, incorporating a mix of low-medium and high density residential, a new district centre with commercial units, primary school, a mix of public realm, open space and play provision, new community buildings, and a strategic business park.”*

2.10.43 Draft Policy SI 4 safeguards land adjacent to Morryston Hospital, to the south-east of the Project Site, for future development, restricted to healthcare related uses associated with Morryston Hospital. Proposals are required to be *“delivered alongside appropriate new and enhanced highway infrastructure that will significantly improve the existing substandard road access leading to the site”*. A new access road is proposed as part of this proposal (Strategic Transport Strategy Table 9.2) to resolve road capacity issues from the roundabout immediately north of M4 J46.

Figure 2.3 Extract from draft LDP Proposals Map (Map 13: Mawr)

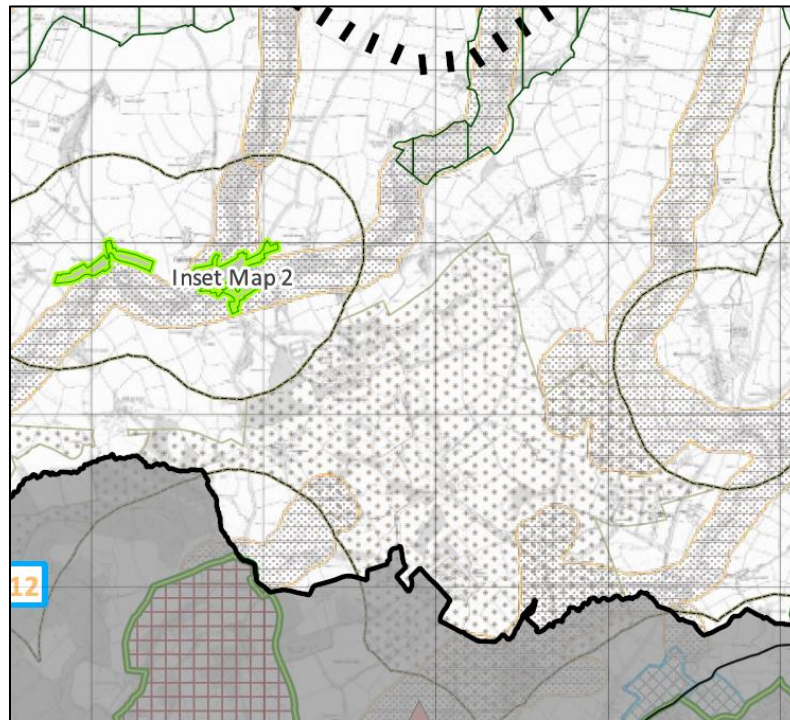


Figure 2.4 Extract from draft LDP Proposals Map (Legend)

Legend	
LDP Deposit Draft	
CV1 - Village Boundary	RC7 - Retail Park
CV2 - Development in the Countryside	RP12 - Safeguarded Coal Resources
ER3 - Green Wedge & Belt	RP12 - Safeguarded Category 1 Sandstone Resource
Green Wedge	RP12 - Safeguarded Category 1 Sand & Gravel Resource
Green Belt	RP12 - Safeguarded Category 1 Limestone Resource
ER5 - Landscape Protection	RP12 - Safeguarded Category 2 Sand & Gravel Resource
EU1 - Strategic Search Area	RP12 - Safeguarded Category 2 Sandstone Resource
RP7 - Sustainable Waste Management	RP13 - Settlement Protection Zone
H1 - Non Strategic Housing Sites	RP14 - Mineral Buffer Zone
H5 - Rural Exception Sites	SD1 - Strategic Development Areas
Housing Commitments	SI4 - Morriston Hospital / Safeguarded Land
H6 - Gypsies and Traveller Site	SI7 - Cemetery
RC3 - Swansea Central Area Retail Centre	T8 - Port & Docks
RC5 - District Centres	Village Inset Maps
RC6 - Local Centres	Wales Unitary Authorities
	Sir Gaerfyrddin - Carmarthenshire
	Castell-nedd Port Talbot - Neath Port Talbot

iii. CCS Draft LDP - Written Statement

2.10.44 The LDP Written Statement sets out a vision, strategic objectives and growth strategy that addresses development opportunities and issues across the county. In addition to the site-specific policies set out above, the following draft LDP policies are also considered to be relevant.

2.10.45 Draft paragraph 1.2.2 sets out the overarching vision of the LDP, that “The County will be a desirable place to live, work and visit that (sic):

- Capitalises on the distinctive relationship between its vibrant urban areas and outstanding rural and coastal environments;

- *Supports a competitive and prosperous economy that acts as a focal point for the wider Swansea Bay City Region;*
- *Has sustainable, distinct communities, in both urban and rural locations, that benefit from sufficient good quality accommodation, supporting infrastructure, community facilities and opportunities for recreation;*
- *Is a thriving City Centre destination that offers excellent shopping facilities and supporting leisure and business opportunities, capitalising on its proximity to the waterfront;*
- *Celebrates and conserves its unique natural heritage and cultural and historic environments.”*

2.10.46 The LDP vision will be delivered through a series of strategic objectives relating to “*Enhancing Communities, Facilities & Infrastructure*”, “*Delivering Economic Growth and Prosperity*”, and “*Fostering a High Quality Environment*”. Of the objectives set out in Figure 4, those relevant to the Project are set out below:

- Ensure that communities have a mix of uses and facilities;
- Facilitate the provision of appropriate infrastructure to support communities and businesses;
- Encourage appropriate development of low carbon and renewable energy resources and energy infrastructure;
- Support the safeguarding and sustainable use of natural resources where appropriate;
- Support development that positions Swansea as an economically competitive place and an economic driver for the City Region;
- Facilitate growth and diversification of the local economy and an increase in high value, skilled employment;
- Promote and enhance a diverse and sustainable rural economy;
- Promote a sustainable development strategy that avoids significant adverse environmental impacts and respects environmental assets;
- Maintain and enhance green infrastructure networks;
- Support measures to minimise the causes and consequences of climate change; and
- Promote good design that is locally distinct, sustainable, innovative and sensitive to location.

2.10.47 Draft Policy PS 1 sets out the Plan’s sustainable development strategy which seeks to limit development in the countryside to exceptional circumstances.

2.10.48 Draft Policy PS 2 requires that development enhances the quality of places and spaces and responds positively to local context and character. In addition, a number of design principles are set out dependant on the nature, scale and siting of the proposal, including, inter alia:

- *“Have regard to important elements of local heritage, culture, landscape, townscape, views and vistas;”*
- *“Integrate effectively with and enhance the County’s green infrastructure network;”*
- *“Provide appropriate parking and circulation areas;”*

- *“Maximise opportunities for sustainable construction, resource efficiency and contributions towards increased renewable or low carbon energy generation;” and*
- *“Ensure no significant adverse impact on natural heritage and built heritage assets.”*

2.10.49 Draft Policy PS 4 seeks to address opportunities for the creation of up to 14,700 additional jobs over the Plan period.

2.10.50 In addition to the proposed sustainable settlement at Llangyfelach (Policy SD G), proposed development at the following Strategic Development Areas within proximity of the Project Site is allocated within the submitted LDP:

- Draft Policy SD A seeks to allocate land south of Glanffrwd Road at Pontarddulais, to the west of the Project Site, for comprehensive, residential led, development of up to 720 homes, incorporating a primary school, leisure and recreation facilities, public open space and appropriate community facilities, employment and commercial uses.
- Draft Policy SD C seeks to allocate land south of A4240, Penllergaer, to the south-west of the Project Site, for comprehensive, residential led, mixed use development of up to 750 homes during the Plan period (and up to 1,000 homes beyond the Plan period), incorporating primary school, leisure and recreation facilities, public realm, public open space and appropriate community and commercial uses.
- Draft Policy SD E seeks to allocate land north of Clasemont Road, Morriston, to the south of the Project Site, for comprehensive, residential led, mixed use development of up to 675 homes during the Plan period, incorporating primary school, leisure and recreation facilities, public realm, public open space and appropriate community and commercial uses.

2.10.51 The following draft LDP policies seek to allocate major residential-led development at sites within proximity of the Project Site:

- LDP Policy H1.11 – 60 dwellings at Land at Ramsey Road, Clydach;
- LDP Policy H1.21 – 90 dwellings at Land east of Pontarddulais Road, Gorseinon;
- LDP Policy H1.26 – 100 dwellings at Land at Carmel Road and Bryntirion Road, Pontlliw;
- LDP Policy H1.30 – 50 dwellings at Land north of Llewellyn Road, Penllergaer; and
- LDP Policy H1.31 – 50 dwellings at Land at Bolgoed Road, Pontarddulais.

2.10.52 Draft Policy IO 1 states that *“development must be supported by appropriate infrastructure, facilities and other requirements considered necessary as part of the proposal,”* which must be provided in a timely and coordinated manner. Where necessary, *“planning obligations will be sought to ensure that the effects of developments are fully addressed in order to make the development acceptable.”*

2.10.53 Draft Policy IO 2 requires developers to *“maximise added benefits from the development in relation to the creation of training and job opportunities.”*

2.10.54 Draft Policy HC 1 seeks to preserve or enhance the County's distinctive historic and cultural environment by requiring high quality design standards. Similarly, draft Policy HC 2 seeks to preserve or enhance the County's buildings and features of historic importance.

2.10.55 Draft Policy SI 1 states that health inequalities will be reduced and healthy lifestyles encouraged by ensuring that development proposals, inter alia, *“do not result in significant risks to life, human health or well-being, particularly in respect of air, noise, light, water or land pollution.”*

2.10.56 Draft Policy SI 8 states that development must be designed to promote safe and secure communities and minimise the opportunity for crime.

2.10.57 Draft Policy ER 1 requires that development proposals take into account the following principles to mitigate against the effects of climate change, adapt to its impacts, and to ensure resilience:

- i. Reduce carbon emissions;
- ii. Protect and increase carbon sinks;
- iii. Adapt to the implications of climate change at both a strategic and detailed design level;
- iv. Promote energy and resource efficiency and increase the supply of renewable and low carbon energy;
- v. Avoid unnecessary flood risk by assessing the implications of development proposals within areas susceptible to flooding and preventing development that unacceptably increases risk, and
- vi. Maintain ecological resilience.

2.10.58 Draft Policy ER 2 requires that development to maintain or enhance the County's multi-functional green infrastructure network.

2.10.59 Draft Policy ER 6 states that *“development will not be permitted that would result in a likely significant adverse effect to sites of international or national nature conservation importance”*. In addition, *“development that would affect locally designated sites of nature conservation importance should maintain or enhance the nature conservation interest of the site.”*

2.10.60 Draft ER 8 states that development proposals that would have a significant adverse effect on the continued viability of habitats and species will only be permitted where:

- i. *“The need for development outweighs the nature conservation importance of the site”*;
- ii. *The developer demonstrates that there is no satisfactory alternative location for the development which avoids nature conservation impacts;*
- iii. *Effective mitigation measures are provided by the developer; and*
- iv. *Any unavoidable harm is minimised by effective mitigation to ensure that there is no reduction in the overall nature conservation value of the area.”*

2.10.61 Draft Policy ER 9 states that development proposals *“will be expected to maintain, protect and enhance ecological networks and features of importance for*

biodiversity...Development proposals that could result in a significant adverse effect on the connectivity of ecological networks and features of importance for biodiversity will only be permitted where:

- i. The need for the development outweighs the nature conservation value of the site;*
- ii. It can be demonstrated that there is no satisfactory alternative location for the development;*
- iii. A connected element of the natural resource is retained as part of the design of the development; and*
- iv. Compensatory provision will be made of comparable ecological value to that lost as a result of the development.”*

2.10.62 Draft Policy ER 10 states that development will not be permitted that would cause significant adverse effect to geological or geomorphological Sites of Special Scientific Interest (SSSIs). Development that would affect regionally important geological or geomorphological sites (RIGs) should maintain the geological or geomorphological interests of the site.

2.10.63 Draft Policy ER 11 states that *“development that would adversely affect trees, woodlands and hedgerows of public amenity, natural/cultural heritage value, or that provide important ecosystem services will not normally be permitted.”*

2.10.64 Draft Policy CV 2 sets a presumption against development in the countryside, except where it is for, inter alia, *“necessary infrastructure provision”*. Development in the countryside is required to ensure that the integrity of the countryside is conserved and enhanced.

2.10.65 Draft Policy T 1 requires that *“development must be supported by appropriate transport measures and infrastructure”*. Development that would have an unacceptable impact on the safe and efficient operation of the transport network will not be permitted.

2.10.66 Draft Policy T 5 sets out a series of design principles for transport infrastructure, including ensuring that the design of development, inter alia:

- *“Allows for the safe, efficient and effective movement of vehicles, inclusive of service vehicles;”*
- *“Does not give rise to any significant adverse effect on the natural heritage, and the historic and cultural environment is preserved and enhanced;” and*
- *“Maintains the character of rural lanes and public paths;”*

2.10.67 Draft Policy T 7 requires that acceptable alternative routes are identified and provided where development *“significantly adversely affects the character, safety, enjoyment and convenient use of a Public Right of Way (PROW).”*

2.10.68 In addition to supporting large scale wind farm developments within the Strategic Search Area (referenced above), draft Policy EU 1 supports proposals for renewable or low carbon energy development across CCS, subject to the following criteria:

- a) *“The siting, design, layout, type of installation and materials used do not have a significant adverse effect on the characteristics and features of the proposed location;*
- b) *The development would not result in unacceptable loss of public amenity or public accessibility to the area;*
- c) *The development would not result in significant adverse effects on natural heritage or historic environment, or visual amenity either individually or cumulatively;*
- d) *There would be no significant adverse effect on the Gower AONB;*
- e) *There would be no significant adverse impact on water quality and quantity;*
- f) *The development would not result in the permanent sterilisation of minerals resources;*
- g) *The development would not compromise the transport network;*
- h) *The development would not interfere with aircraft operations or telecommunications;*
- i) *There would be no loss of carbon sinks, or that on-site loss can be adequately mitigated; and*
- j) *The satisfactory removal of infrastructure and remediation and/or restoration of the natural environment, would be undertaken in accordance with an aftercare scheme to be agreed with the Council prior to the development being carried out.”*

2.10.69 Draft Policy RP 1 seeks to prevent development that would result in a *“significant risk to: life; human health and well-being; property; controlled waters; or the natural and historic environment,”* particularly in respect of: *“air, noise or light pollution; flood risk; water resources; land contamination; land instability or subsidence; mineral resources; and sustainable waste management.”*

2.10.70 Draft Policy RP 2 requires that, *“where development could lead to exposure to a source of air, noise or light pollution, it must be demonstrated that appropriate mitigation measures will be implemented and incorporated into the design of the development.”*

2.10.71 Draft Policy RP 3 states that *“development that compromises the quality of the water environment, or does not comply with good water resource management, will not be permitted. Development proposals must make efficient use of water resources and, where appropriate, contribute towards improvements to water quality.”*

2.10.72 Draft Policy RP 4 states that development will not be permitted in areas at risk of flooding, unless it can be demonstrated that *“the development can be justified in line with national guidance and is supported by a technical assessment that verifies that the new development is designed to alleviate the threat and consequences of flooding”*.

2.10.73 Draft Policy RP 5 states that *“development proposals on land where there is a risk from contamination or landfill gas will not be permitted unless it can be demonstrated that measures can be taken to satisfactorily overcome any significant risk to life, human health, property, controlled waters, or the natural and historic environment.”*

2.10.74 Draft Policy RP 6 states that “*development which would create, affect or might be affected by unstable or potentially unstable land will not be permitted where there would be a significant direct risk to life, human health, property, buildings and structures, or the natural heritage on the site or in its vicinity.*”

2.10.75 Draft Policy RP 7 supports the development of sustainable waste management facilities in appropriate rural locations. Supporting paragraph 2.14.48 notes that preferred areas for new waste management facilities include the former Tip site at Felindre, within proximity of the Project Site. The site at Felindre is identified specifically for the potential to accommodate a Combined Heat and Power (CHP) Facility which could provide heat or power for adjacent proposed developments.

2.10.76 Draft Policy RP 9 requires development to incorporate, as appropriate, “*adequate and effective provision for the storage, recycling and other sustainable management of waste, and allow for appropriate access arrangements for recycling and refuse collection vehicles and personnel.*”

iv. CCS Supplementary Planning Guidance

2.10.77 CCS has produced Supplementary Planning Guidance (SPG) to support the implementation of adopted UDP planning policies.

2.10.78 The Planning Obligations SPG (Ref. 2.45), published by CCS in March 2010, is an SPG document of potential relevance to the Project. The Planning Obligations SPG identifies the types of obligations developers may be expected to contribute towards, the likely amounts of these obligations, and the procedures involved when entering into obligations.

v. Swansea Environment Strategy 2006 and Ten Year Progress Review (2016)

2.10.79 The Swansea Environment Strategy (SES) (Ref. 2.46), published by Swansea Environmental Forum (SEF) in 2006, provides a long-term vision and strategic priorities for the natural and built environment in Swansea.

2.10.80 SEF is the lead strategic partnership for all aspects of the natural and built environment in the City and County of Swansea. It is an independent membership organisation, initially set-up in 1985, which brings together individuals, statutory bodies, businesses and voluntary groups to promote environmental sustainability and develop collaborative projects to improve our natural and urban environments.

2.10.81 The SES establishes a 2020 vision and a series of priorities for: the natural environment and biodiversity; the built environment and energy use; water, land and waste management; sustainable transport and air quality; and environmental awareness and action.

Table 2-2 SES Themes and Vision

Theme	2020 Vision
The Natural Environment and Biodiversity	Swansea's unique and diverse natural environment will be protected, enhanced and promoted to maximise social, economic and environmental well-being.
The Built Environment and Energy Use	Swansea will have strong, sustainable and distinctive communities where everyone can enjoy a clean, safe and high-quality built environment with affordable housing, public spaces and considerately-designed and resource-efficient buildings.
Water, Land and Waste Management	Swansea's water resources, land and waste will be managed sustainably to maximise benefits for everyone and minimise risks to the environment and human health.
Sustainable Transport and Air Quality	Swansea's citizens will live near to work opportunities, leisure facilities and essential services, have access to a choice of convenient and efficient transport options, and enjoy clean air.
Environmental Awareness and Action	All people living in, working in and visiting Swansea will understand, respect and appreciate our environment and will participate in positive actions towards sustainability.

2.10.82 The Ten Year Progress Review (Ref. 2.47) demonstrates that progress has been made under each of the Environment Strategy's five themes, most significantly in waste management, sustainable building and energy use, managing flood risk, and community engagement.

vi. Swansea Local Biodiversity Strategy and Action Plan

2.10.83 The Swansea Biodiversity Partnership produced the Swansea Local Biodiversity Strategy and Action Plan (Ref. 2.48) in 2005. The document provides a strategic framework and series of detailed species and habitat action plans looking at how individuals and organisations could work to try and halt biodiversity loss in Swansea.

2.10.84 The document was prepared with the following aim: *"To conserve, enhance and promote the special qualities of Swansea's unique and ecologically diverse natural environment, and to maximise the contribution it makes to the social, economic and environmental wellbeing of the area"* (page 5).

2.11 References

- Ref. 2.1 European Commission, Directive 2011/92/EU. December 2011.
- Ref. 2.2 European Commission. Directive 2014/52/EU. May 2014.
- Ref. 2.3 European Commission. Directive 2010/75/EU. November 2010.
- Ref. 2.4 European Commission. Directive 1992/43/EEC. May 1992
- Ref. 2.5 European Commission. Directive 2009/147/EC. November 2009.
- Ref. 2.6 European Commission. Directive 2008/50/EC. May 2008.
- Ref. 2.7 European Commission. Directive 2010/75/EU: Best Available Techniques (BAT) Reference Document for Large Combustion Plants. July 2017.
- Ref. 2.8 The Planning Act 2008 (as amended)
- Ref. 2.9 The Wales Act 2017
- Ref. 2.10 The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) ("*the EIA Regulations*").
- Ref. 2.11 Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations)
- Ref. 2.12 The Well-being of Future Generations (Wales) Act 2015
- Ref. 2.13 Department of Energy & Climate Change. The Overarching National Policy Statement for Energy (NPS EN-1, July 2011).
- Ref. 2.14 Department of Energy & Climate Change. The National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (NPS EN-2, July 2011).
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- Ref. 2.31 Welsh Government. Technical Advice Note 11: Noise (1997).
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