



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

DNS: EIA Scoping Direction

3270299: Mynydd Carn Y Cefn Wind Farm

15/06/2021

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This Scoping Direction is provided on the basis of the information submitted to the Planning Inspectorate on 20 April 2021, in addition to consultation responses received. The advice does not prejudice any recommendation made by an Inspector or any decision made by the Welsh Ministers in relation to the development, and does not preclude the Inspector from subsequently requiring further information to be submitted with the submitted DNS application under Regulation 24 of [The Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017](#) (as amended) (“The 2017 Regulations”).

1. Introduction

The Planning Inspectorate (“the Inspectorate”) received a request under [Regulation 33](#) of the 2017 Regulations for a Scoping Direction in relation to a proposed development for a wind farm consisting of up to eight turbines with associated infrastructure by Pennant Walters.

The request was accompanied by a [Scoping Report](#) (SR) and [Appendices](#) that outlines the proposed scope of the Environmental Statement (ES) for the proposed development.

This Direction has taken into account the requirements of the 2017 Regulations as well as current best practice towards preparation of an ES. In accordance with the 2017 Regulations the Inspectorate has consulted on the SR and the responses received from the consultation bodies have been taken into account in adopting this Direction.

The Inspectorate is authorised to issue this Scoping Direction on behalf of the Welsh Ministers.

2. Site Description

The site is located to the west of Abertillery, at the southern end of a forked upland ridge between the Ebbw Fawr valley and the Ebbw Fach valley in the Blaenau Gwent County Borough Council planning area. Further details are given in Section 2.2 of the SR.

3. Proposed Development

The proposal is for a wind farm of eight turbines and associated infrastructure including access tracks, transformer and a substation. Further details are available in Section 2.3 of the SR.

The scope of the EIA should include all elements of the development as identified in the SR, both permanent and temporary, and this Scoping Direction is written on that basis.

In line with the requirements of [Regulation 17](#) and [Schedule 4](#) to the 2017 Regulations, any reasonable alternatives considered should be presented in the ES. The reasons behind the selection of the chosen option should also be provided in the ES, including where environmental effects have informed the choices made.

4. Consultation

In line with [Regulation 33\(7\)](#) of the 2017 Regulations, formal consultation was undertaken with the following bodies:

- Local Planning Authority [Blaenau Gwent County Borough Council] (BGCBC)
- Natural Resources Wales (NRW)
- Cadw
- The Coal Authority
- Dŵr Cymru

The Inspectorate also consulted:

- Brecon Beacons National Park Authority (BBNPA)
- Caerphilly County Borough Council (CCBC)
- Torfaen County Borough Council (TCBC)

Responses received are included in **Appendix 1**.

5. Environmental Impact Assessment Approach

The Applicants should satisfy themselves that the ES includes all the information outlined in [Schedule 4](#) of the 2017 Regulations. In addition, the Applicant should ensure that the Non-Technical Summary includes a summary of all the information included in Schedule 4. Consider a structure that allows the author of the ES and the appointed Inspector and Decision Maker to readily satisfy themselves that the ES contains all the information specified [Regulation 17](#) and Schedule 4 of the 2017 Regulations. Cross refer to the requirements in the relevant sections of the ES and include a summary after the Contents page that lays out all the requirements from the Regulations and what sections of the ES they are fulfilled by.

As the assessments are made, consideration should be given to whether standalone topic chapters would be necessary for topics that are currently proposed to be considered as part of other chapters, particularly if it is apparent that there are significant effects and a large amount of information for a particular topic.

There may also be topic areas scoped out of the ES where the developer may wish to include application documents that sit outside of the ES and provide information that will support their consultation(s) and the decision-making process. The developer is encouraged to liaise with key consultees regarding non-ES application documents which are not a legislative requirement of the DNS regime. If agreement cannot be reached over non-ES application documentation, then the developer may wish to explore whether the Inspectorate can help provide clarity via its statutory preapplication advice service.

The ES should focus on describing and quantifying significant environmental effects. Policy considerations / arguments relating to those impacts should be addressed in other documentation supporting the application (e.g. a Planning Statement), which cross references the ES where necessary.

5.1 Baseline

[Schedule 4](#) of the 2017 Regulations states that the 'baseline scenario' is "A description of the relevant aspects of the **current** state of the environment" (emphasis added). The baseline of the ES should reflect actual current conditions at that time.

5.2 Reasonable Alternatives

In line with the requirements of [Regulation 17](#) and [Schedule 4](#) to the 2017 Regulations, any reasonable alternatives studied by the Applicant should be presented in the ES. The reasons behind the selection of the chosen option should also be provided in the ES, including where environmental effects have informed the choices made.

It is worth bearing in mind that under the [Conservation of Habitats and Species Regulations 2017](#) ("the Habitats Regulations") unless it can be clearly shown to the Welsh Ministers that the project would have no adverse effect on the integrity of any designated sites, it would have to be shown that there is no feasible alternative solution (see advice note from [IEMA](#)). Further advice regarding the Habitats Regulations is provided in the final chapter of this Screening Direction.

5.3 Currency of Environmental Information

For all environmental aspects, the applicant should ensure that any survey data is as up to date as possible and clearly set out in the ES the timing and nature of the data on which the assessment has been based. Any study area applied to the assessments should be clearly defined. The impacts of construction, operation and decommissioning activities should be considered as part of the assessment where these could give rise to significant environmental effects. Consideration should be given to relevant legislation, planning policies, and applicable best practice guidance documents throughout the ES.

The ES should include a chapter setting out the overarching methodology for the assessment, which clearly distinguishes effects that are 'significant' from 'non-significant' effects. Any departure from that methodology should be described in individual aspect assessment chapters. Where professional judgement has been applied this should be clearly stated.

The ES topic chapters should report on any data limitations, key assumptions and difficulties encountered in establishing the baseline environment and undertaking the assessment of environmental effects.

5.4 Cumulative Effects

The Inspectorate welcomes the commitment to address cumulative effects. Effects deemed individually not significant from the assessment, could cumulatively be significant, so inclusion criteria based on the most likely significant effects from this type of development may prove helpful when identifying what other developments should be accounted for. The criteria may vary from topic to topic.

The applicants should note that best practice is to include proportionate information relating to projects that are not yet consented, dependent on the level of certainty of them coming forward. While development that has been constructed at the time of completion of the ES will form part of the baseline it may still be necessary to include such developments in the consideration of cumulative effects.

All of the other developments considered should be documented and the reasons for inclusion or exclusion should be clearly stated. Professional judgement should be used to avoid excluding other development that is close to threshold limits but has characteristics likely to give rise to a significant effect; or could give rise to a cumulative effect by virtue of its proximity to the proposed development. Similarly, professional judgement should be applied to other development that exceeds thresholds but may not give rise to discernible effects. The process of refinement should be undertaken in consultation with BGCBC, TCBC, CCBC, BBNPA, NRW, and Cadw. The applicants should also closely monitor the DNS Portal for other windfarm proposals in the vicinity.

The scope of the cumulative assessment should be fully explained and justified in the ES.

The Planning Inspectorate's guidance for Nationally Significant Infrastructure Projects – [Advice Note 17: Cumulative Effects Assessment](#) sets out a staged process for assessing cumulative impacts that may be of relevance to the Applicant.

5.5 Mitigation

Any mitigation relied upon for the purposes of the assessment should be explained in detail within the ES. The likely efficacy of the mitigation proposed should be explained with reference to residual effects. The ES should provide reference to how the delivery of measures proposed to prevent / minimise adverse effects is secured (through legal requirements or other suitably robust methods) and whether relevant consultees agree on the adequacy of the measures proposed.

5.6 Population and Human Health

The Applicant should ensure that the ES addresses any significant effects on population and human health, in light of the EIA Regulations 2017. This could be addressed under the separate topic chapters or within its own specific chapter.

5.7 Transboundary Effects

[Schedule 4 Part 5](#) of the EIA Regulations requires a description of the likely significant transboundary effects to be provided in an ES. The ES should address this matter as appropriate.

6. Environmental Impact Assessment Aspects

This section contains the Inspectorate's specific comments on the scope and level of detail of information to be provided in the Applicant's ES. Environmental topics or features are not scoped out unless specifically addressed and justified by the Applicant and confirmed as being scoped out by the Inspectorate. In accordance with Regulation 17(4)(c) the ES should be based on this Scoping Direction in so far as the Proposed Development remains materially the same as the Proposed Development described in the Applicant's Scoping Report.

The Inspectorate has set out in this Direction where it has/ has not agreed to scope out matters on the basis of the information available at this time. The Inspectorate is content that the receipt of a Scoping Direction should not prevent the Applicant from subsequently agreeing with the relevant consultees to scope such matters out of the ES, where further evidence has been provided to justify this approach. However, in order to demonstrate that the matters have been appropriately addressed, the ES should explain the reasoning for scoping them out and justify the approach taken.

6.1 Aspects Scoped In

Subject to any comments provided in Table 1, the following aspects are scoped into the ES:

- Landscape and Visual Impact Assessment**
- Historic Environment**
- Biodiversity**
- Ornithology**
- Water Environment**
- Ground Conditions**
- Traffic and Transport**
- Noise**
- Existing Infrastructure**
- Shadow Flicker**
- Socio-economics**
- Population & Human Health (no stand-alone chapter)**
- Climate (no stand-alone chapter)**
- Sustainable Resource Use (no stand-alone chapter)**
- Major Accidents and Disasters (no stand-alone chapter)**

7. Table 1: The Planning Inspectorate's Comments

ID	Reference in Scoping Report	Issue	Comment
Description of the Development			
ID.1	2.3.4	Maximum tip height	The SR indicates that the potential maximum tip height is 180 m yet goes on to consider 175 m to tip rather than the worst-case scenario of 180 m to tip. The ES should be clear about what the potential maximum tip height is and ensure that all chapters incorporate assessment of the worst-case scenario.
ID.2	2.3.15	Grid connection	<p>The SR indicates that the grid connection may be subject to a separate consenting regime. Nonetheless, the ES should address the grid connection in a proportionate manner based on the level of certainty as to the likely connection route at the time of the DNS application being made.</p> <p>It should be noted that following amendments to The Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016, an electric line above ground of up to 132 kV associated with a DNS Generating Station is specified as a DNS in itself.</p>
Landscape and Visual Impact Assessment			
ID.3	Appendix 5.1.2	LANDMAP Guidance	The applicant's attention is drawn to the comments from NRW that confirm that LANDMAP Guidance Note 3 has been withdrawn and is superseded by LANDMAP Guidance Note 46 (GN46). The Inspectorate welcomes the fact that the main SR seems to focus on GN46, and the ES should be prepared in line with the latest relevant guidance.
ID.4	5.2.2	LVIA Search and Study Area	In line with the above comment regarding maximum tip height and worst-case scenario, the Inspectorate agrees with NRW that the study area should be increased to a 26 km radius, and that the cumulative Zone of Theoretical Visibility (ZTV) should be larger.

ID	Reference in Scoping Report	Issue	Comment
ID.5	5.3.11	Distance for cumulative baseline of other wind energy developments	NRW highlight the fact that the stated distance of 26 km would seem to exclude Pen y Cymoedd wind farm, which as the SR states in 5.3.4 should be included. This supports the fact that a slightly larger distance than 26 km would be appropriate.
ID.6	5.3.11 Table 5.3	Brecon Beacons National Park	<p>The applicant's attention is drawn to comments received from the BBNPA and NRW. BBNPA suggest additional viewpoints that should be included in the LVIA. The applicant should liaise with NRW and BBNPA to finalise the list of viewpoints within the National Park, giving consideration to the National Park's status as an International Dark Sky Reserve.</p> <p>The likely LVIA effects from the Brecon Beacons National Park are scoped into the ES.</p>
ID.7	5.3.11 Table 5.3 6.4.9	Blaenavon World Heritage Site	<p>Cadw and NRW raise concerns over the suggested approach to LVIA effects on the World Heritage Site (WHS). The applicant's stated intention to liaise with Cadw is welcomed, and they should ensure that they try to reach an agreed approach to assessing effects on the WHS.</p> <p>The likely effects on the WHS are scoped into the ES.</p>
ID.8	Table 5.2	Viewpoints	The applicant's attention is drawn to the amendments and additional viewpoints provided by CCBC.
ID.9	5.4.20	Evaluation of Landscape and Visual Effects	The Inspectorate welcomes the recognition that overly mechanistic reliance on a matrix such as that presented in Table 5.4 of the SR is to be avoided. As NRW highlight even low magnitude effects on high sensitivity receptors can be significant. The application of professional judgement in the preparation of the ES is an appropriate approach and should be clearly explained.

ID	Reference in Scoping Report	Issue	Comment
Historic Environment			
ID.10	6.4.8	Effects on designated historic assets	Cadw have provided a comprehensive list of the designated assets that are located within 5 km of the proposed development that fall within the produced ZTV. The list should be reviewed when the final expanded ZTV for the ES is produced. Any exclusion of designated assets that appear to fall within the relevant criteria should be agreed with Cadw and justified in the ES.
ID.11	6.4.9	Blaenavon World Heritage Site	As stated above, the WHS cannot be excluded from the scope of the ES.
ID.12	6.4.4	Direct disturbance of archaeological assets	The applicant's attention is drawn to the comments from the Glamorgan-Gwent Archaeological Trust (GGAT), and the applicant is encouraged to continue to liaise with GGAT regarding the approach to this aspect.
Biodiversity			
ID.13	Table 7.4 Appendix 7.1, chapter 5.1	Dormouse	NRW indicate that Dormice should be addressed; if it is considered that they can be scoped out of the ES this should clearly addressed and justified within the ES. Dormice are provisionally scoped in to the ES.
ID.14	Table 7.4 Appendix 7.1, Chapter 5	Otter	NRW consider that potential effects on otter should be assessed. Given this, the Inspectorate welcomes the assurance in Table 7.4 that appropriate locations within 250 m of the site boundary will be surveyed for otter, and the fact that Otter are not listed as being scoped out in Chapter 5 of Appendix 7.1. The applicant is encouraged to seek agreement with NRW regarding the approach to this element of the ES.

ID	Reference in Scoping Report	Issue	Comment
ID.15	Table 7.4, Appendix 7.1 & Appendix 7.2	Bats	<p>NRW have provided detailed comments with regards to Bats including requirements for:</p> <ul style="list-style-type: none"> • Additional static monitoring at turbine locations should the design layout change significantly and; • Automated bat survey data acquired to date is displayed in a manner that analyses of the timings of bat calls to show patterns of movement throughout the night across the seasons; • Further consideration in relation to Lesser Horseshoe Bats. <p>The Inspectorate directs that the ES should comply with these requirements, unless otherwise agreed with NRW and justified in the submitted ES.</p>
Ornithology			
ID.16	Table 8.4	Nightjar	<p>The applicant's attention is drawn to NRW's requirement for two years of breeding nightjar surveys where presence is confirmed in year one. The applicant is encouraged to liaise with NRW regarding the details of all work undertaken to date and reach an agreed approach to this matter which should be clearly explained in the ES.</p>
ID.17	Table 8.4 Table 8.5	Summary of proposed baseline survey programme for ornithology & Summary of number of flights for target species recorded during vantage point surveys 2020-2021	<p>NRW recommend presentational changes relating to this data for the final ES. The applicant is encouraged to seek an agreed approach with NRW and the Local Authority Ecologist relating to the ornithology chapter. In any case the approach adopted in the final ES should be clearly explained and aim to allow users (including the decision maker) to clearly understand the findings of the EIA process.</p>

ID	Reference in Scoping Report	Issue	Comment
The Water Environment			
ID.18	4.5.2	Construction Environmental Management Plan (CEMP)	A CEMP will be an important document in relation to this aspect of the environment. If the final CEMP is not available at the time of completing the ES a draft CEMP should form part of the ES. The applicant's attention is drawn to NRW's comments regarding the CEMP and Pollution Prevention.
Ground Conditions			
ID.19	10.5.20	Peat	The applicant's attention is drawn to the comments from NRW regarding the Phase 1 peat depth survey, and the need to ensure that effects due to peat loss such as impacts on habitats and CO ₂ release are fully addressed in the ES. The applicant is encouraged to seek an agreed approach from the Local Authority and NRW in relation to this aspect of the environment.
ID.20	Section 10	Coal Mining	The Inspectorate welcomes the stated approach to provision of a Coal Mining Risk Assessment. The Coal Authority provides comments that may be of assistance to the applicant.
Traffic & Transport			
ID.21	Section 11	General approach	The approach put forward in the SR is considered appropriate.
Noise			
ID.22	12.3.4	Noise	In line with comments received from the Specialist Environmental Health Officer at BGCBC, current background readings should be provided as part of the baseline data for the identified sensitive noise receptors. The applicant is encouraged to seek an agreed approach to this aspect of the environment and to include an explanation of the approach in the final ES.

ID	Reference in Scoping Report	Issue	Comment
Existing Infrastructure			
ID.23	13.1.2	Telecommunications and Broadcast Services	The applicants should ensure that consultation is undertaken with relevant non-statutory consultees, i.e. operators who may be concerned that the proposal could affect their services. As TAN 8 has been revoked the applicant may wish to contact the Planning Directorate of the Welsh Government if there is any difficulty in identifying contact details for relevant interests.
Shadow Flicker			
ID.24	13.2.2	Shadow flicker occurrence	The Inspectorate notes that in ' Review of Light and Shadow Effects from Wind Turbines in Scotland ' (L.U.C. for climateXchange, 2017) it was found that "there is a lack of evidence to support the use of ten rotor diameters as a cut off, and this is entirely down to misinterpretation of the original reference to this distance." Whilst the approach set out in the SR is acknowledged, the ES should provide a clear rationale as to the methodology adopted, and why it is considered appropriate given the scale of turbines proposed and the requirement for more nuanced assessment suggested by the concerns raised in the above document.
Socio-economic			
ID.25	13.3.2	Public Rights of Way (PROW)	The Inspectorate welcomes the intention to consider direct impacts on users of the PROW network in this chapter of the ES. The applicant should liaise with the Local Authority over the approach to this aspect of the environment.
Population and Human Health			
ID.26	13.4	General approach	The Inspectorate considers that the stated approach of including assessment of impacts within other relevant technical chapters with the inclusion of a summary table is proportionate and likely to be helpful to users of the ES.

ID	Reference in Scoping Report	Issue	Comment
	Climate		
ID.27	13.5	General approach	The Inspectorate agrees that it is appropriate to address the vulnerability of the proposal to climate change and extreme climate events in the section relating to the design of the proposed development. However, the carbon balance calculation should be included as part of the ES, even if there is no full standalone Green House Gas Emissions chapter.
	Sustainable Resource Use		
ID.28	13.6	General approach	While the Inspectorate agrees in principle with the approach outlined, it may be useful to include a summary table that signposts where any aspect of sustainable resource use is dealt with in other technical chapters.
	Major Accidents and Disasters		
ID.29	Table 13.1	Scope of matters to be included	The Inspectorate agrees with the matters identified for further exploration in the ES. As with other aspects scoped in to the ES but that do not require a full stand-alone chapter, it may be beneficial to include a summary table that signposts the chapters where these matters are addressed.

8. Other Matters

This section does not constitute part of the Scoping Direction, but addresses other issues related to the proposal.

8.1 Habitats Regulation Assessment

[The Conservation of Habitats and Species Regulations 2017](#) require competent authorities, before granting consent for a plan or project, to carry out an appropriate assessment (AA) in circumstances where the plan or project is likely to have a significant effect on a European site (either alone or in combination with other plans or projects). The competent authority in respect of a DNS application is the relevant Welsh Minister who makes the final decision. It is the Applicant's responsibility to provide sufficient information to the competent authority to enable them to carry out an AA or determine whether an AA is required.

When considering whether or not significant effects are likely, applicants should ensure that their rationale is consistent with the [CJEU finding](#) that mitigation measures (referred to in the judgment as measures which are intended to avoid or reduce effects) should be assessed within the framework of an AA and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European site when determining whether an AA is required ('screening'). The screening stage must be undertaken on a precautionary basis without regard to any proposed integrated or additional avoidance or reduction measures. Where the likelihood of significant effects cannot be excluded, on the basis of objective information the competent authority must proceed to carry out an AA to establish whether the plan or project will affect the integrity of the European site, which can include at that stage consideration of the effectiveness of the proposed avoidance or reduction measures.

The applicant's attention is drawn to the NRW's comments regarding the Usk Bat SAC.

The Planning Inspectorate's guidance for Nationally Significant Infrastructure Projects – [Advice Note 10: Habitat Regulations Assessment relevant to Nationally Significant Infrastructure Projects](#) may prove useful when considering what information to provide to allow the Welsh Ministers to undertake AA. Where it is effective to cross refer to sections of the ES in the HRA, a clear and consistent approach should be adopted.

8.2 SuDS Consent

Whilst a separate legislative requirement from planning permission, the Applicant's attention is drawn to the statutory SuDS regime that came into force in Wales in January 2019. The requirement to obtain SuDS consent prior to construction may require iterative design changes that influence the scheme that is to be assessed within the ES and taken through to application. As such, it is recommended that the applicant contact the local SuDS Approval Body early on.

8.1 The National Development Framework (Future Wales: the national plan 2040), Planning Policy Wales (PPW) 11, and the revocation of TAN 8

On [24 February 2021](#), the Welsh Government published the [National Development Framework](#) (NDF). The NDF has development plan status, forming the highest tier of the development plan hierarchy in Wales. Planning Policy Wales has been updated to [edition 11](#). TAN 8 was revoked on the same date.

Appendix 1: Consultation Responses

NB: The initial response from BGCBC (letter dated 31 May 2021 and letter from GGAT) was received on 29 May 2021. This was subsequently supplemented by comments in relation landscape, ecology and rights of way on 08 June 2021 and comments from the Specialist Environmental Health Officer and the Highway Engineer on 10 June 2021.