Plas Power Solar and Energy Storage Project

4.3.01 to 4.3.04 Environmental Statement Volume 3: Appendices - Chapter 1



June 2024

DNS Ref: DNS/3253253

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Chapter 1: Introduction
Appendices

Appendix 1.1
Screening Direction Request 2020

Our ref: JPW1473

Date: 27 May 2020

The Planning Inspectorate Wales
Crown Buildings
Cathays Park
Cardiff
CF10 3NQ

Dear sir or madam,

Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 Request for Screening Direction for Proposed Solar Farm and Ancillary Development at Plas Power Estate, Ruthin Road, Wrexham LL11 3BS

Regarding the above, please accept this letter as a request for a formal Screening Direction from the Welsh Ministers under Regulation 31 of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 ('the EIA regulations') in terms of whether an Environmental Impact Assessment ('EIA') is required to accompany an application for planning permission for a development of national significance for the purposes of section 62D of the 1990 Act.

To enable the Welsh Ministers to provide a Screening Direction, in accordance with Regulations 31(2) please find enclosed the following information:

(a) A plan sufficient to identify the land (see EIA Screening Site Location Plan at 1:10,000 drawing reference: JPW1743-DNS-001 Rev E and EIA Site Location Plan at 1:20,000 drawing reference: JPW1743-DNS-002 Rev E) is enclosed:
(b) A description of the development (see below), including:
  (i) A description of the physical characteristics of the development and, where relevant, of demolition works. These are also partly illustrated within the following;
    1. (Draft) Plas Power Estate Proposed Layout (drawing reference: PLAS_01 Rev5); and
    2. (Draft) Panel Elevation 4 Landscape for Bifacial (drawing reference: PNL_4L-BI).
  (ii) A description of the location of the development, with regard to the environmental sensitivity of the geographical areas likely to be affected;
(c) A description of the aspects of the environment likely to be significantly affected by the development (see below);
(d) To the extent the information is available, a description of any likely significant effect of the proposed development on the environment resulting from:
  (i) The expected residues and emissions and the production of waste, where relevant; and
  (ii) The use of natural resources, in particular soil, land, water and biodiversity; and
(e) Such other information or representations as the person making the request may wish to provide or make, including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

This Screening Direction request has also been prepared with regard to Welsh Office Circular 11/99: Environmental Impact Assessment, which remains in force in Wales.

We trust the below is sufficient to enable you provide a formal Screening Direction within 21 days beginning with the date of receipt of this request.

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Site Location

The site lies within the administrative boundary of Wrexham County Borough Council (the LPA) and is located approximately 3.4 km to the west of Wrexham town centre, immediately west of the A483. The majority of the site comprises two interconnected areas north and south of the River Clywedog and Plas Buckley Road. The northern part of the site is bound at its northernmost point by the A525 Ruthin Road, at its easternmost point by the A483, to the south by Plas Power Woods and its westernmost point by agricultural fields beyond which lies Rhos Berse Road and Nant Road. The southern part of the site lies south of Plas Power Woods and Plas Buckley Road. It is bound to the east by a stream, woodland and agricultural fields with Ffordd Cadwgan beyond. At the southernmost point lies Ffordd Cadwgan. To the west lie agricultural fields.

The site extends to approximately 139 ha in total, is irregular in shape and comprises several agricultural fields, primarily used for pasture grazing, bound by a mixture of mature woodland, trees, hedgerows, fencing tracks and roads.

Proposed Development

Lightsource bp proposes to develop a solar photovoltaic electricity generating station ('solar park' or 'solar farm') and associated ancillary development, with an installed generation capacity of up to 77 MW. The power generated would be enough to power approximately 21,500 typical family homes and result in an approximate saving of 27,000 tonnes of CO_2 per annum – the equivalent of removing 5,750 cars from the road.

The main components of a solar farm are:

- Solar panels and frames;
- Inverters;
- Transformers;
- Cabling; and
- Substation.

An indicative proposed site layout and typical solar panel elevation is enclosed (see drawing references: PLAS_01 Rev5 and PNL_4L-BI).

The solar panels 'over sail' between 25% and 40% of the land which they occupy, typically, and are arranged in series of rows up to a height of 3 m at the highest point and tilted southwards at an angle of 10-25 degrees. The support frame uprights are pile driven into the ground, 'string' inverters are usually mounted onto the support frames while some excavation is required for the transformers' foundations.

The majority of the cabling associated with the development will be laid underground via surface dug trenches of approximately 1 m deep and 50 cm wide and backfilled. These will utilise existing access tracks and road options wherever possible, particularly where sensitive habitats or archaeology is potentially present, such as through Plas Power Wood and Big Wood, both of which lie within Bersham Conservation Area and where a cable route will cross to connect the northern and south parts of the site. Indicative cable route locations are included within the Screening Direction request, including for surface dug and horizontal directional digging (HDD) options. Options are being explored currently for connection routes of the northern and southern sites and to the Legacy substation to the south west of the site. Where surface dug trenches are not possible or practical within existing tracks and roads or would have an unacceptable environmental effect, in terms of ecology or on historical assets for example, HDD will be utilised, e.g. beneath hedgerows, watercourses, woodland and highways if required.

The solar farm will be enclosed by 2 m tall post and wire 'deer' fencing with 3 m tall security cameras in selected locations for security and insurance purposes.

Several existing access points will be used for access for the construction, maintenance and decommissioning of the solar park. If necessary, some minor modifications to enable access to the site by all vehicles anticipated to visit it will be undertaken. Existing farm tracks will be used for internal access within

the site wherever possible. New access tracks, where required, will be formed, normally, using a layer permeable crushed stone.

Construction is anticipated to take approximately 6-8 months while decommissioning will take up to 6 months.

A solar farm is a temporary and fully reversible use, unlike housing for example, with all equipment removed from site at the end of the installation's operational life (approximately 40 years). The methods used in construction (limited concrete) mean that remediation works following the removal of the panels and associated infrastructure are relatively minor and will return the site to its previous greenfield character.

The solar farm will be designed to accommodate sheep grazing beneath and between the rows of panels, providing an efficient dual use of land for renewable energy generation and agriculture.

Relevant Legislation and Screening Criteria

Current EIA legislation in Wales is in the form of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations). In addition, Welsh Office Circular 11/99: Environmental Impact Assessment continues to be in force in Wales and provides additional guidance on the need for EIA.

Schedule 1 Development

A list of projects for which EIA may be required is set out in Schedules 1 and 2 of the EIA Regulations. Schedule 1 developments require EIA to be undertaken in all cases. The proposed development does not fall within Schedule 1 of the EIA Regulations.

Schedule 2 Development

Schedule 2 development is defined in the EIA Regulations as development, other than exempt development, of a description mentioned in Column 1 of the table in Schedule 2 where:

(a) Any part of that development is to be carried out in a sensitive area; or
(b) Any applicable threshold or criterion in the corresponding part of Column 2 of that table is respectively exceeded or met in relation to that development.

The site does not fall within a 'sensitive area' as defined by the EIA Regulations.

Regarding paragraph (b), the proposed development would fall under Section (3) 'Energy Industry' (a) 'Industrial installations for the production of electricity, steam and hot water (unless included in Schedule 1) of Schedule 2. The proposed development exceeds the area threshold of 0.5 ha listed within Column 2 of Schedule 2 (3) (a).

Considering the above, the proposed development therefore constitutes Schedule 2 development under the EIA Regulations and should therefore be screened accordingly.

Screening of Schedule 2 Development

A Schedule 2 development does not require EIA to be undertaken in all cases but must be considered against the criteria provided in Schedule 3 of the Regulations to determine whether significant effects on the environment are likely. Schedule 3 considers the characteristics and location of the development and the characteristics of the potential impact.

This letter therefore considers the potential for likely significant effects to arise. In doing so, the following aspects have been taken into account

(a) the size and design of the whole development;
(b) cumulation with other existing development and/or approved projects;
(c) the use of natural resources in particular land, soil, water and biodiversity;
(d) the production of waste;

(e) pollution and nuisances;
(f) the risk of major accidents and/or disasters which are relevant to the project concerned, including those caused by climate change, in accordance with scientific knowledge;
(g) the risks to human health (for example due to water contamination or air pollution).

Circular 11/99 in Wales is also relevant and states that EIA for Schedule 2 development will be needed:

a. for major developments which are of more than local importance;

b. for developments which are proposed for particularly environmentally sensitive or vulnerable locations; and

c. for developments with unusually complex and potentially hazardous environmental effects.

In determining whether significant environmental effects are likely, this letter focusses on whether the proposed development would be likely to give rise to significant effects on the environment.

Description and Characteristics of the Proposed Development

The proposed development's characteristics for the purposes of EIA screening in accordance with Schedule 3 have been summarised below:

- A description of the size and design of the development is provided above;
- No cumulative projects have been identified during pre-application discussions to date, including as part of the pre-application advice service provided by the LPA dated 9 January 2020 (reference: ENQ/2019/0289). Any existing operational developments will form part of the baseline of relevant assessments;
- The proposed development will use relatively limited natural resources. Regarding land, approximately 25%-40% of the 139 ha site will be 'over sailed' by photovoltaic panels. The majority will remain undeveloped and will be possible for agricultural use as grazing, including the areas below the panels themselves;
- Very little waste will be produced by the proposed development;
- No pollution will be produced by the proposed development. Regarding nuisance, there is potential nuisance associated with the construction and decommissioning of the project though these will be temporary and relatively short in duration. Once operational the proposed development is unlikely to cause significant nuisance;
- The proposed development is not considered to pose any risk to human health.

No demolition works would be required prior to commencement of the development.

Location of the Proposed Development: Environmental Sensitivity

The site is not affected by any statutory international or national biodiversity or landscape designations.

A relatively small part of the site crosses Bersham Conservation Area. Similarly, this part of the site is also located within Big Wood Local Wildlife Site (a non-statutory designation). However, proposed development within this location would comprise underground cabling only that would utilise existing tracks, roads or be HDD'd to limit impacts on heritage assets in the vicinity and so impact would be limited to construction only.

The site lies in proximity to several Listed Buildings, Scheduled Ancient Monuments and Bersham Conservation Area.

The site currently lies within a locally designated Special Landscape Area ('SLA') and Green Barrier as designated within the Wrexham Unitary Development Plan (UDP), adopted February 2005, Proposals Map which is the 'Development Plan' for the purposes of Section 38(6) of the Planning and Compulsory Purchase Act 2004. However, the emerging Development Plan, the Wrexham Local Development Plan (LDP), removes these designations from the site. The SLA designation is proposed for removal following a review (Wrexham County Borough Council Special Landscape Areas Study, 2017) that found that the area did not meet up to date Natural Resources Wales' (NRW) guidance for SLA designation contained within LANDMAP Guidance Note 1 – Special Landscape Areas 2016 version. Similarly, the Green Barrier is proposed for removal following a review that found (south of the B5430):

"… there appears to be little justification to retain a green wedge in this location " (Wrexham Strategic Green Wedge Review, 2017).

Characteristics of the Potential Impacts

For each topic area below a description of the relevant baseline information, including designated sites and key receptors, is provided, where known, and key aspects of the environment affected by the proposed development identified. The likely effects of the proposed development are described together with any significant effects that would warrant EIA. Specific mitigations measures to reduce and/or offset any significant effects are identified where relevant.

Landscape and Visual Resources

A Landscape and Visual Impact Assessment (LVIA) and Glint and Glare Assessment would be undertaken to assess the potential for significant adverse effects upon landscape and visual resources that may result from the proposed solar park.

The proposal site is outside any Area of Outstanding Natural Beauty (AONB), a designation of national importance for scenic quality; the nearest being the Clwydian Range and Dee Valley AONB, located circa. 2 km to the south west (at its nearest point). Consequently, there would be no direct physical impacts upon the AONB as a result of the proposed solar park.

Other designations of local importance that currently affect the site include a SLA and Green Barrier. However, as indicated above, the emerging LDP removes the SLA and reduces the extent of the Green Barrier designation such that these will no longer affect the site in the future.

Potentially significant effects upon views are likely to be limited due to the established screening effects of existing vegetation, including hedgerows, trees and blocks of woodland to the south and within the northern parts of the proposal site. This would potentially limit inter-visibility between the solar park and the wider landscape. Consequently, the availability of views to the solar park are likely to be limited to the very local level adjacent to it, particularly where existing vegetation is less dense and / or not present.

It is anticipated that any adverse landscape and / or visual effects resulting from the proposed development, including any potentially significant effects, would be limited to the local area adjacent to the proposal site and would be of a limited duration, i.e. confined to the approximate 40-year operational lifespan of the proposed development. After which, the site would be reinstated to agriculture / pasture.

There is a potential for some cumulative landscape and visual effects upon views as a result of the proximity of the Bronwylfa Reservoir solar park to the south west of the proposal site. These would be considered as part of the LVIA. There are also several other existing solar farms in the area, many of these are located circa. 5 km or more from the proposal site. Consequently, they would fall outside of the proposed 5 km radius study area for the LVIA and would not be considered in any assessment. Any additional planned or yet to be built out solar parks would be taken into consideration as part of the assessment of potential cumulative landscape and visual effects.

A Glint and Glare Assessment would be completed in support of the planning application. Solar panels are designed to absorb light rather than reflect it. This, coupled with the extensive boundary vegetation, would limit the effects of glint and glare on the surrounding landscape and potentially sensitive visual receptors.

In conclusion, it is anticipated that there would be some adverse landscape and visual effects as a result of the proposed solar park. However, it is anticipated that these effects would be confined to the local area adjoining the proposal site and would be confined to the 40-year lifespan of the proposed development. These effects would be most obvious in places where not screened by existing vegetation, which is limited to very few places. However, with appropriate additional structural planting, together with the retention and protection of existing vegetation, these potential effects would be limited.

Ecology and Biodiversity

A Preliminary Ecological Appraisal of the area within the development red line boundary was undertaken on 3rd to 5th September 2019, which included a desk study identifying designated sites within 2 km (10 km for international designations) of the red line application boundary. These are summarised in Table 1 below.

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On-site Habitats

The area within the red line application boundary almost entirely comprises rye-grass leys used for silage production, and improved grassland grazed by cattle and sheep. Both habitat types are of very low ecological value being floristically very species-poor and intensively managed.

Smaller areas of semi-improved grassland and mown amenity grassland were present which were also species-poor and of low ecological value.

The fields are bounded by hedgerows, just over half of which are considered species-rich with at least five native woody species present in the canopy. Most of the hedgerows contained some semi-mature and mature trees.

Each of the individual hedgerows is a Habitat of Principal Importance under Section 7 of the Environment (Wales) Act 2016. Species-rich hedgerows within the site may also classify as 'Important' under the Hedgerows Regulations 1997.

Semi-mature and mature trees of sycamore *Acer pseudoplatanus*, ash *Fraxinus excelsior*, holly *Ilex aquifolium*, English oak *Quercus robur* are scattered throughout the site as individual trees and small groups within pasture. There are also a few scattered younger trees.

Drainage ditches run alongside several field boundary hedgerows. Most of the ditches were dry with two containing very shallow standing water. None of the ditches supported aquatic vegetation.

The area within the redline boundary does not itself form any part of any statutory designated site. A relatively small part of the site crosses the non-statutory Big Wood Local Wildlife Site. However, where the site crosses this non-statutory designation the proposed development would comprise either shallow surface drug trenches within existing tracks and roads or HDD to lay cabling, which would likely have limited construction only impact on adjoining habitats.

Off-site Habitats

The red line application boundary adjoins several blocks of broadleaved semi-natural woodland and mixed plantation including Big Wood Local Wildlife Site. The River Clywedog flows through the Big Wood Local Wildlife Site and a tributary of the River Clywedog flows through a narrow wooded corridor adjoining the southern part of the site boundary.

All of the blocks of semi-natural woodland and watercourses are Habitats of Principal Importance under Section 7 of the Environment (Wales) Act 2016.

Designated Sites

Table 1 below identifies the national and international statutory nature conservation designations within 2 and 10 km radius of the site respectively.

Table 1: Nature conservation designations within 2km (national and local designations) and 10km (international designations) from the development redline boundary

Site name	Site Status	Features of Interest	Distance from site (km)
Statutory Sites			
Johnstown Newt Sites	SAC	Former coal and extraction sites with one of the largest known populations of GCN in Great Britain.	1.69
Berwyn and South Clwyd Mountains	SAC	Contains the largest stands of upland European dry heath and the most extensive tract of near-natural blanket bog in Wales.	1.82
River Dee and Bala Lake	SAC	Designated for Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitricho-Batrachion* vegetation, Atlantic salmon and Floating water-plantain	6.73
Midland Meres & Mosses Phase 2	Ramsar Site	Designated for wetlands from open water to raised bog with associated nationally scarce plants and bryophytes. Also supports several rare invertebrates.	6.01

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Site name	Site Status	Features of Interest	Distance from site (km)
Gatewen Marsh	SSSI	One of three significant examples in the county of the "southern mesotrophic mires" wetland type. It occupies the flat valley bottom of a tributary of the River Gwenfro.	1.17
Stryt Las A'r Hafod	SSSI	A composite site of interest for its amphibians, including one of the largest known breeding GCN populations in Great Britain.	1.75
Ruabon/Llantysilio Mountains and Minera	SSSI	Designated for its heather moor, limestone and neutral grassland habitats and for a range of upland breeding birds, rare and uncommon plants and bats roosting in mines and caves.	1.86
Non-Statutory Sites			
Big Wood	WS	A mix of conifer and beech plantation with patches of semi-natural broadleaved woodland dominated by sycamore and beech. Many conifer trees have been felled as part of the management regime.	Adjoins site
Higher Berse Marsh	WS	Two areas of marshy grassland separated by Higher Berse road. The southern section adjoins the development. Habitats include fen, marshy grassland, semi-improved neutral grassland, semi-natural broadleaved woodland, bracken, dense scrub, scattered trees standing water and swamp.	0.45
Afon Gwenfro	WS	A reclaimed coal site with good semi-improved neutral grassland, scrub, broadleaved woodland of ash alder and sycamore and a small wetland dominated by sea club-rush.	1.00
Nant Mill - Grasslands	WS	A section of grassland located between Big Wood and Mill Terrace Road. No further information is currently available.	0.11
Nant Mill Bat Sites	WS	A large building supporting bat roosts located to the west of Big Wood. No further information on the site is currently available.	0.17
New Broughton Meadow	WS	The site includes, marshy grassland, wet alder / willow carr, a pond, sandy grassland and scrub.	0.54
Legacy Substation	WS	Land surrounding the Legacy Substation, including semi-improved neutral grassland, scrub and semi-natural broadleaved woodland.	0.29
Berse Drelincourt	WS	A mosaic of scrub, a stream, semi-improved neutral grassland, semi-natural broad-leaved woodland and standing water.	0.60
Crematorium	WS	Two herb-rich semi-improved neutral grassland hay meadows, a broadleaved woodland, patches of parkland and two ponds with marginal vegetation. Royal fern and ostrich fern occur.	0.63
Moss Valley	WS	Wooded valley slopes with moderately diverse ground flora. There is also an area of herb-rich semi-improved neutral grassland and a disused railway line with uncommon plants.	1.27
Bronwylfa Wood	WS	Semi-natural broad-leaved woodland along Pentre Bychan Brook. Patches have been replanted with conifers.	1.20
The Smelt	WS	A complex of habitats along the river Clywedog, including broad-leaved woodland, neutral grassland, species-rich marshy grassland and some very small patches of calcareous grassland.	1.27
Erddig Estate	WS	National Trust estate with woodlands, semi-improved neutral grassland and marsh supporting uncommon species. Mature parkland trees support an excellent insect assemblage with 12 notable and 1 red data species	1.31
New Brighton	WS	A disused lead mine, dismantled railway and an old silica rock quarry (still partly in use) recolonised by a mosaic of birch heather, gorse, bracken and semi-improved acid grassland. It is a good area for birds.	1.53
Cae Penymynydd	WS	A semi-improved neutral grassland field with a marshy patch. Skylarks have been recorded here.	1.86

Abbreviations in Table 1: SAC – Special Area of Conservation; SSSI = Site of Special Scientific Interest; WS = Local wildlife site

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Flora and Fauna

Table 2 below describes the flora and fauna features associated with the site.

Table 2: Plas Power Flora and Fauna

Flora or Fauna	Description
Amphibians	Outside the site boundary, a man made engineered lagoon lies directly adjacent with a further four small ponds located within 250m from the application boundary. All other ponds are located over 600m from the closest development activities. One or more of the waterbodies have the potential to support breeding populations of great crested newts (GCN) with the on-site hedgerows and woodland would providing higher value terrestrial habitat for this species. Johnstown Newt Sites is a SAC designated for its GCN population and covers multiple sites, closest to the development being Stryt Las A'r Hafod SSSI located 1.69km south of the site boundary. The closest GCN record held by the Local Records Centre is from a location 0.62km from the site boundary.
Reptiles	Adder, grass snake, common lizard and slow worm have all been recorded within the local area. Most of the site comprises arable/grass leys and closely grazed pasture which will have negligible value for reptiles. Potential reptile habitat is largely restricted to the bases of the field boundary hedgerows.
Birds	The hedgerows and mature trees would be expected to have value for a range of breeding species associated with farmland habitats. The arable and pasture could also be used by ground nesting farmland species including skylark. The farmland could also have value for wintering farmland birds. The survey of wintering birds carried out in 2019 / 2020 recorded an assemblage within the survey area of 58 species of which 26 are classified as species of conservation concern in Wales (Red listed, Amber Listed and/or Species of Principal Importance). The survey area included the edges of the off-site woodland blocks and additional agricultural land to the north and west of the red line application boundary. Small numbers of passerines associated with farmland were recorded including meadow pipit, yellowhammer, skylark, and bullfinch. Flocks of wintering redwing, fieldfare, starling and gull species feed on the invertebrates in the soils of the arable fields and improved pasture. No warder species were recorded. All the recorded species of conservation interest were considered to be present in numbers that would be significant at a local level or lower. All species not qualifying as of conservation interest were pre-sent at a site level of importance.
Bats	Mature and semi-mature trees individually and in hedgerows and woodland may contain features which could be used by roosting bats. Woodland edge and hedgerows will be used by foraging and commuting bats being part of wildlife corridors in the wider landscape. Some bat species may also forage over parts of the agricultural fields within the site.
Dormice	Dormice have been recorded within the county. Most of the on-site hedgerows are intact with a dense structure and direct connectivity woodland. The hedgerows and woodlands provide habitats that could support dormice. [redacted]
Water Vole and Otter	Otter have been recorded in Big Wood / River Clywedog which adjoin the site. The River Clywedog, and tributary which adjoin the site and provide suitable habitat for otter. The other watercourses adjoining the site are at best sub-optimal for otter. The closest water vole record to the site is 3.67km east of the site along the River Gwenfro, on the eastern side of Wrexham. The drainage ditches within the site have limited foraging opportunities and a shallow water depth and are thus considered to have low-negligible potential to support water vole. The River Clywedog and tributary stream located adjacent to the southern section of the site provide suitable habitat for water vole.
Other Species	Brown hare, polecat and hedgehog are all known to occur in the local area and are Species of Principal Importance under Section 7 of the Environment (Wales) Act 2016.

Designations

Johnstown Newt Sites SAC and Berwyn and South Clwyd Mountains SAC are both located within 2 km of the development with the River Dee and Bala Lake SAC located beyond the potential zone of influence of this proposed development. There will be no potential for a direct adverse effect on any of the habitats in either of the SACs located closest to the site due to the nature of solar park development.

The potential adverse effects on fauna using the designated sites is considered to be very low given their distance from the development. However, if GCN are breeding in ponds adjacent to the site, and there is a potential relationship with the breeding populations in the SAC effects then a shadow HRA assessment would be prepared for the development, if the potential adverse impacts are not ruled out. Solar park developments inherently have a very low impact on GCN requiring negligible loss of GCN breeding and terrestrial habitat. Conversely the implementation of long term management for biodiversity over the lifetime of a solar park has the potential to result in an enhancement of conditions for this species.

Big Wood Local Wildlife Site will be protected through the delineation of an exclusion zone with a stand-off of 15 m from the proposed solar park perimeter fence. Implementation of environmental best practice construction techniques during construction will be utilised, particularly for the cabling along access tracks and roads within or HDD beneath Big Wood Local Wildlife Site.

Habitat Loss, Retention and Protection

The solar park will be a development with intrinsically low impact. The panel installation requires no excavation or earth movement. Where grassland habitat is present, disturbance is minimised as far as possible. Where panels are installed in arable fields, the area beneath and surrounding the panels can be easily transformed into grassland habitat. At the end of its operation life, the solar park can be dismantled and removed with substantially less disturbance than most other developments.

The site layout out has been designed to retain all of the on-site hedgerows with a 7-10m stand off from the base to protect their immediate context, avoid damage to roots and provide access for their management.

All mature and semi-mature trees and tree groups will be retained and be protected during construction with root protection areas as detailed in the Arboricultural Method Statement in accordance with BS5837:2012 Trees in Relation to Design, Demolition and Construction**.**

Where the site adjoins mature trees or semi-natural woodland, a minimum stand-off of 10-15m will be incorporated into the layout between the boundary fence and the off-site woodland and trees, except within Big Wood Wildlife Site where development activities will comprise limited cabling within existing tracks or roads or HDD beneath the site.

All of the on-site and adjacent water courses will be retained with site layout designed to maintain a stand-off from all watercourses during construction and operation. Crossings of watercourses for access during construction will use existing crossing points to avoid the need for new culverts or crossings.

The stand-offs from retained habitats will be maintained during construction with Heras fencing or equivalent. No access or storage of materials will be permitted within stand-off areas during construction.

Japanese knotweed, an invasive species listed under Schedule 9 of the Wildlife and Countryside Act 1981 (as amended), was not found within the site boundary but two small stands were noted on the bank of a field boundary drain immediately to the north of the A525. Measures to avoid the spread of this species will be implemented as part of construction including further checks of the working area for new stands prior to enabling works or the installation of the solar arrays. An invasive species risk assessments and protocol will be prepared prior to the commencement of any development.

Areas of higher value broadleaved woodland adjoins the boundary of the solar park development area and working practices during construction addressing management of surface water, dust deposition, and pollution avoidance will be implemented to protect boundary and adjoining habitats.

Unavoidable residual effects will remain on the agricultural fields with a cessation in silage production and grazing of cattle. Solar arrays installed in improved grassland fields may still be grazed by sheep or alternatively subject to a low intensity grassland management. Field margins around the development will be managed by either a late summer hay cut or where conditions allow grazing by cattle in late winter/early spring (February and March).

Fauna

The retention and protection of hedgerows, trees, woodland and water courses both within and adjoining the site will maintain the context of these habitats within the site and wider landscape. Consequently, no adverse effects are anticipated on the following species / species groups: bats (foraging and roosting), dormouse, otter, water vole, hedgehog, breeding and wintering birds associated with trees, hedgerows and woodland. There will be no use of artificial lighting during construction or operation that could otherwise adversely affect animals using the retained and protected habitats.

There are no known badger setts within or adjoining the site. Grassland habitats with the site will be retained and would continue to provide foraging habitats for badgers. Part of the site will fall within territories of badger social groups. The perimeter fencing will be designed with gaps in the base large enough for use by badgers which will ensure 'permeability' for almost all fauna.

Great crested newts may breed in one or more ponds located within 250m of the site boundary and a proportion of the development area. However, solar park developments result in the negligible loss of GCN habitat and long term management for biodiversity over the lifetime of a solar park typically creates conditions that will maintain or increase the population size.

Once built the fields in which solar arrays are installed could have a reduced level of use by some commonly occurring wintering bird species and the site would be less favourable for ground nesting birds including skylark. The site forms only a small proportion of the total extent of arable land and improved grassland in the surrounding area and changes in the pattern of use of fields by redwing, fieldfare, gulls and starlings would not affect the overall populations. There will be a reduction in nesting opportunities for a small number of ground nesting bird species including skylark. This impact can be offset by managing the arable and silage fields in the wider landholding through the timing of crop sowing, allocation of skylark plots and delaying of first silage cut until after the start of June with all subsequent cuts are at least seven weeks apart.

The nature of the solar park development has a minimal impact on biodiversity. The arrays are largely incorporated into the existing landscape. The context of the agricultural fields that are currently intensively managed will change, but the ground below the panels will remain a resource for use by many species of fauna over the lifetime of the solar development. The retention of the connected network of hedgerows with linkage to woodland will maintain wildlife corridors and will be enhanced with additional planting. The developed site should continue to support the vast majority of the fauna species that currently utilise the site.

Cultural Heritage

An Archaeological Desk-Based Assessment and Built Heritage Appraisal of the site and wider area were prepared by RPS in October 2019. The documents identify the heritage value and sensitivity of any potentially affected heritage receptors and assesses them in accordance with the requirements of Chapter 6 of *Planning Policy Wales*, *Technical Advisor Note (TAN) 24*, the *Historic Environment (Wales) Act*, heritage-related policies in the Development Plan and relevant guidance, including *Heritage Impact Assessment in Wales* and *Setting of Historic Assets in Wales*.

The Archaeological Desk-Based Assessment assessed the site and wider area for its below ground archaeological potential, and potential impacts on the settings of designated archaeological heritage assets. There report confirmed there would be no direct impacts on any designated archaeological heritage assets and the potential impacts on non-designated buried archaeological remains are considered low given much of the site was formerly used for opencast coal extraction. All impacts will arise as a result of a change within the respective settings of the following:

- Bersham Ironworks, (DE189);
- Section of Offa's Dyke in Plas Power Park (DE180);
- Section of Offa's Dyke in Plas Power Woods (DE139);
- Section of Offa's Dyke: Cadwgan Hall section (DE132);
- Section of Offa's Dyke (DE183);
- Section of Offa's Dyke (DE182);
- Section of Offa's Dyke (DE181);
- Section of Offa's Dyke (DE194);
- Section of Offa's Dyke (DE137);
- Cadwgan Hall Mound (DE131);
- Llyntro Moat Rhostyllen (DE 193); and

- Croes-Foel Barrow (DE048).

An accompanied site visit with Cadw was also undertaken on 14 November 2019 that identified that heritage impact is anticipated to be minor across the majority of the site. The fields adjoining Offa's Dyke, which is a Scheduled Ancient Monument, were identified as sensitive to its setting. Consequently, the proposed development subject to this Screening Direction request has been modified to omit panels from these fields. Following this amendment to the scheme only a minor impact on the setting of Cadwgan Hall Mound is anticipated in archaeological terms.

The Built Heritage Appraisal identified that the proposed development will have no direct impacts on any identified built heritage assets, other than limited cabling through Bersham Conservation Area, which will be limited to shallow surface dug trenches and back filling within existing tracks and roads or a HDD routed cabling well not affecting any known heritage assets. All impacts will arise as a result of a change within the respective settings of the following:

- Bersham Conservation Area and listed buildings within (including the Grade II* listed Octagonal Building at Bersham Ironworks Site; Single Storeyed Building to SE of Octagonal Building at Bersham Ironworks Site; and the Church of St Mary);
- Plas Power grouping of Grade II listed buildings (comprising the Ice House; Stable Block; Bath House; Game Larder; and Dairy); and
- Walls, railings, gates and entrance lodge to Plas Power Park (Grade II).

Regarding Bersham Conservation Area and the listed buildings within it, it was identified that due to the very enclosed nature of the Conservation Area it is likely that the proposed development will have little to no visual impact on the Conservation Area or any of the listed buildings within it. It is therefore considered likely that there will be only a very limited adverse impact from the proposed development on the Conservation Area or any individual asset within it.

Regarding the Plas Power Grouping, this group of listed buildings is largely enclosed by plantation, with limited inter-visibility between the assets and the proposed development. This will limit the visual impact of the proposals on the assets. There is a strong historic relationship between the assets and much of the site, which was formerly parkland. The site has undergone considerable change during the twentieth century, including opencast mining in proximity to the assets, which has eroded the ability to appreciate this historic relationship and that would limit the proposed development's impact on the intrinsic historical relationship between the assets and the land on which it is proposed to be situated.

Regarding the walls, railings, gates and entrance lodge to Plas Power Park, the proposed development is likely to have limited inter-visibility with the assets. Similar to the above, the site has undergone considerable change during the twentieth century that has greatly eroded the ability to appreciate the assets' intrinsic historical relationship with the land on which the proposed development is proposed to be situated, limiting its impact.

Both assessments have been considered in developing design mitigation measures to reduce adverse effects to heritage receptors. For example, it was anticipated that there will be impacts on the settings of some built heritage receptors, including the grouping at Plas Power. Design mitigation in the form of buffer zones and construction location and techniques for cabling have been implemented within the proposal and, where appropriate, a degree of landscaping within the setting of the noted built heritage receptors may be included to minimise these impacts further.

In summary, the proposed development is anticipated to result in no more than minor adverse effects on cultural heritage and, therefore, considered not to be significant in EIA terms. It is also considered that any impacts on setting to a heritage receptor as a result of the scheme are reversible and temporary in nature – further reducing the significance of effects.

Traffic and Transport

Traffic and transportation impacts will be local and limited to the construction and decommissioning periods only. Regarding the nature of the impact, most of traffic associated with the proposal will be experienced during the construction phase. The construction period is expected to take approximately 6-8 months. It is expected that construction hours will be between 07:00 and 18:30 hours Monday to Friday and 07:00 to 13:00 hours on Saturday. It is unlikely that, even at the most intense period of construction there will be more than 15 HGV deliveries per day.

Expected HGV volumes are an estimate based on experience of other similar sites in the UK. A construction and environmental management plan will be drawn up to mitigate against any impact the deliveries may have on the local area which is considered to be low.

Vehicle movements associated during the operational period of the solar farm are very low, being mainly associated with the monitoring, upkeep and cleaning of the site. These trips will typically be made by small vans. The frequency of vehicle trips associated with monitoring and upkeep of the site is typically expected to be about 10-20 times a year.

Based upon an Initial analysis and professional judgement, the level of vehicle movements generated during the construction period is not predicted to result in any significant environmental effects.

Noise and Vibration

Noise and vibration impacts could arise in the construction and demolition phases from cable laying, HDD, piling of foundations for plant and equipment and off-site traffic generation. The full construction programme is approximately six months, and any individual residential receptors are only likely to be exposed to noise and vibration for relatively short periods within this period. Forecast traffic generation numbers during construction and demolition are expected to be no greater than 15 HGVs per day at the peak of the construction period.

Operational noise effects may arise from the inverters, transformers and other plant within the substation. The noise from operational plant would be controlled through best practice layout design, separating noise generating plant from receptors and the use of enclosures or other mitigation measures if necessary. There are no potential sources of vibration associated with the operation of the solar farm.

Based upon the initial analysis and professional judgement, noise and vibration from the construction and demolition and noise from the operation of the solar farm are unlikely to result in any significant environmental effects.

Air Quality

The proposal will have no direct adverse environmental effect on air quality and therefore will have no significant environmental effect in EIA terms. More widely, the electricity the proposed development will produce will potentially displace primary fossil fuel derived electricity that relies on thermal combustion and the consequent release of Green House Gases (GHGs) and other pollutants into the atmosphere. Consequently, the proposal is considered to have a beneficial effect on air quality.

Climate Change

Climate change in the context of Environmental Impact Assessment (EIA) can be considered broadly in two domains: the impact of GHGs caused directly or indirectly by the project, which contribute to climate change; and the potential impact of changes in climate to the development, which could affect it directly or could modify its other environmental impacts.

The proposed development would have no direct GHG emissions while in operation, save for very minor emissions from vehicles to make occasional maintenance visits. It would cause indirect emissions via the supply chain for manufacturing and installing the PV panels, which is sometimes referred to as the ‘embodied carbon’ of these products. However, solar PV is recognised as a low-carbon technology on a lifecycle basis, taking into account the embodied carbon and the benefits of renewable electricity generation over its operating lifetime.

The baseline for GHG emissions is the equivalent level of electricity generation from alternative sources connected to the electricity grid. The average carbon intensity of electricity generation for the grid in the UK

is around 291 $kgCO_2e/MWh$[1] whereas for utility-scale solar PV the lifecycle carbon intensity may typically be around 48 $kgCO_2e/MWh$[2].

The nature of the development, installing solar panels above ground on agricultural land, is not such to cause any disturbance to significant soil or vegetation carbon stocks.

The beneficial GHG emission impact of the project is in line with existing policy that supports use of solar PV, which is based on existing evidence of the GHG emissions reduction that they afford. There is therefore no likely significant project- or site-specific environmental effect to further assess, beyond that known and supported by existing evidence and policy, and therefore EIA of GHG emissions effects is proposed to be screened out.

The applicant proposes to quantify in a supporting statement to the planning application the likely level of annual renewable electricity generation and the resulting GHG emissions reduction compared to the baseline scenario.

Regarding climate risks, the changing climatic parameters over the project's lifetime that are relevant are considered to be cloud cover and sunlight hours, rainfall rates and the probability or intensity of severe weather with high winds. Greater or lesser cloud cover and sunlight hours may increase or decrease the annual rate of electricity generation by the proposed development but not to the extent that significantly affects the GHG emissions benefit. Depending on site-specific factors, changes in rainfall may affect flood risk for the site and this will be considered with appropriate climate change allowance in any flood risk or drainage assessment. Extreme weather events with high wind speeds are an existing risk to the development in the baseline and climate change during its lifetime is not likely to significantly increase the consequences of such an event.

There is potential for an inter-related effect where climate change affects the future baseline or sensitivity of receptors, particularly with regard to ecology. For example, additional climate stresses may increase the sensitivity of protected species or habitats to disturbance. However, as described in the ecology and biodiversity section above, the site is not considered sensitive to ecological impacts.

Save in respect of flood risk, addressed below, EIA of climate risks is therefore proposed to be screened out.

Hydrology and Flood Risk

The site comprises enclosed agricultural fields the majority of which are bound by hedgerows and/or forested areas. There are a number of unnamed ordinary watercourses which act as field drainage as well as a number of ponds. The River Clywedog is the main hydrological feature and flows from northwest to southeast through the site into which a number of the onsite ordinary watercourse discharge.

The vast majority of the site is located within Flood Zone 1 (low risk of flooding from fluvial or tidal sources) and Development Advice Map (DAM) Zone A (considered to be at little or no risk of fluvial or coastal/tidal flooding). A localised area of the site is shown has been assessed as Flood Zone 2 and 3 associated with the flood envelope of the River Clywedog.

NRW surface water mapping identifies a number of isolated locations within the site boundary at low to high risk of surface water flooding. Low risk is defined as areas with a chance of flooding between 1 in 1000 (0.1%) and 1 in 100 (1%), with high risk areas with a chance of flooding of greater than 1 in 30 (3.3%).

The baseline hydrological conditions will be identified from desktop information using publicly available data sources and existing reporting. The main sources of information to be used in the assessment would include:

- OS maps;
- Strategic Flood Consequence Assessment;
- Surface Water Management Plan,
- Flood mapping and related data; and
- Multi-Agency-Geographic-Information for the Countryside (MAGIC) website.

[1] BEIS and Defra, 2019: UK Government GHG Conversion Factors for Company Reporting, v1.0; including fuel supply-chain emissions and as-generated (excluding transmission and distribution losses)

[2] Median value from review of LCA studies reported in IPCC Fifth Assessment Report, Working Group 3, Annex III, Table A.III.2; specific lifecycle emissions will depend on the panel technology, manufacturer and capacity factor of the installation

The key sources of this data include the following:

- Wrexham County Borough Council;
- Natural Resource Wales; and
- Landowners.

A Flood Consequence Assessment supported by a drainage strategy will be prepared in accordance with Planning Policy Wales, Technical Advice Note 15 and latest climate change data to ensure flood risk and hydrological impacts are managed appropriately.

Ground Conditions and Hydrogeology

The baseline conditions in relation to ground conditions and hydrogeology have been determined from a preliminary review of online information available from the British Geological Survey (BGS) and National Resource Wales (NRW). A Desk Top Study and Preliminary Risk Assessment (DTS and PRA) will be required as one of the finalised technical reports for the proposed development in order to confirm the accuracy or otherwise of the online information.

The available records indicate that the geology of the site comprises a cover of Glacial Superficial deposits comprising either Glacial Till or Glaciofluvial sands and gravels overlying bedrock strata of the Pennine Lower and Middle Coal Measures. The presence of shallow coal seams has resulted in the use of much of the site, particularly in the east (Plas Power Park opencast site) and south (Cadwgan), for historical opencast extraction, resulting in the backfill and restoration of areas excavated to approximately 10 to 13 m depth. Whilst the nature of the backfill cannot be established from the information currently available, it is considered likely that it is coal mining arisings or reinstated overburden. On this basis these activities are considered unlikely to present a significant risk to human health or environmental receptors when the low impact nature of the development is considered. This position will need to be confirmed by the proposed DTS and PRA.

The hydrogeological setting of the site is that the glacial superficial deposits are designated Secondary aquifers (undifferentiated – Glacial Till and Secondary A – Glaciofluvial Deposits). The underlying Lower and Middle Coal Measures strata are also recognised as a Secondary A Aquifer. The groundwater of both superficial and bedrock aquifers is classed as being mainly low vulnerability. The site is not located within a groundwater source protection zone (SPZ), therefore based on the low vulnerability setting it is considered that the proposed development will have no significant impact on existing potable groundwater reserves. , Additionally it should be noted that water quality in these deposits is likely to have been degraded on the basis of the coal mining activities in the area.

The site is located within a Coal Authority Coal Mining High Risk area, with parts of the eastern and southern portions of the site also indicated to have undergone surface mining by opencast methods. Whilst this is the case, when the opencast nature of the mining works and the nature of the development are considered the risk from mining stability is not considered to be significantly increased as a result of the proposed development.

The site is also within an identified Mineral Resource Area, with the geology underlying the majority of the site containing secondary shallow coal resources, isolated areas of primary shallow coal resources and superficial glaciofluvial sand and gravel deposits. Whilst these deposits are present, they are recorded to extend significantly beyond the site boundary and the proposed use is temporary, and therefore sterilisation of minerals is not considered a significant impact.

Both a Preliminary Coal Mining Risk Assessment and a Preliminary Minerals Statement will be undertaken in conjunction with the DTS and PRA. Should the DTS and PRA confirm a high risk from Coal Mining then a full Coal Mining Risk Assessment will be required.

Land and Soils

The site comprises mainly grassland agricultural fields, interspersed with blocks of woodland. The north eastern part of the site is shown on the Soil Survey of England and Wales National Soils Map (1:250,000) for Wales to have been previously worked and restored for opencast coal and the field pattern and regularity of the boundaries in this area also indicates this. This area of worked and restored land is unlikely to comprise high quality agricultural land.

The land to the west of the restored area comprises soils of the Brickfield 2 soil association, which consists of fine loamy soils developed in till. These soils are subject to a soil wetness limitation due to the presence of

slowly permeable subsurface horizons and the area is likely to comprise mainly lower quality agricultural land.

To the south of the site there is an area of Wick association soils derived from glaciofluvial deposits. This area of land comprises deeper loamy typical brown earth soils and has been previously surveyed by the Welsh Government and identified as Grade 2 and 3a land.

A detailed ALC survey of the site would be undertaken to identify the distribution of ALC grades across the entire site. However, the effects of the proposal would be temporary in nature and the restoration of the site following decommissioning would ensure that the future quality of the agricultural land for food production would not be compromised.

Population and Human Health

The direct population and human health effects of the proposed development are limited and will not result in a significant environmental effect. As noted within the air quality and climate change sections above, more widely the proposal will displace primary fossil fuel derived electricity and the consequent GHG and other pollutants released during thermal combustion and result in beneficial effects on human health.

Socio-economics and Community

The direct socio-economic and community effects of the proposed development are limited and will not result in a significant environmental effect. The proposed development will contribute to the diversification of the rural economy and facilitate dual use of the land for energy generation and grazing. More widely, the proposed development contributes to cost-effective local energy generation and energy security with limited governmental subsidy and therefore socio-economic and community benefits.

Risk of major accidents and/or disasters

Solar photovoltaic technology is a relatively benign form of electricity generation with very low risk of accident or disaster and will not have a significant environmental effect in this regard. The solar park will be enclosed by appropriately designed security fencing and monitored by CCTV, which will lower the risk of unauthorised access and accidents.

Inter-relationships and Cumulative Impacts

No cumulative developments were identified as part of the pre-application advice service provided by Wrexham County Borough Council dated 9 January 2020 (reference: ENQ/2019/0289).

Any existing operational developments in the vicinity of the proposed development would be included and assessed as part of relevant assessments' baseline.

No relevant commitments in the form of unimplemented extant planning permissions or allocations within the Development Plan have been identified for cumulative assessment as part of the EIA screening direction request preparation. The emerging LDP allocates junction 4 of the A483 (the roundabout junction with the A525) to the north east of the site as a Strategic Transport Improvement (Policy T6) and this has been considered. The options for improvement of the junction appear to utilise predominantly land to the north of the A525 and/or within or to the east of the A483 and do not impinge on the proposed site (see Wrexham Strategic Road Network Capacity and Improvement Study, 2016).

Some inter-relationships would exist, for example in terms of landscape and visual, cultural heritage and residential amenity effects, but not to the extent that these would increase the significance in EIA terms of these combined effects.

Summary and Conclusion

This letter identifies available information regarding the likely impacts associated with the proposed development and has confirmed that the proposed development is not Schedule 1 development.

The proposed development is considered to be Schedule 2 development as it comprises an industrial installation for the production of electricity with an area in excess of 0.5 ha. Therefore, EIA is only required if

it is considered that there are likely to be significant environmental effects as a result of the proposed development. The development has been considered against the criteria in Schedule 3. The letter provides a detailed consideration of the likely effects of the proposed development. The proposed mitigation measures outlined in this screening letter would control and reduce potential effects associated with the proposed development.

In addition to screening in accordance with Schedule 3 regard should also be paid to Welsh Office Circular 11/99 in Wales, which states that EIA for Schedule 2 development will be needed:

a. for major developments which are of more than local importance;

b. for developments which are proposed for particularly environmentally sensitive or vulnerable locations; and

c. for developments with unusually complex and potentially hazardous environmental effects.

In these regards, while the proposed development is considered to be of national significance in terms of it electricity generating capacity, in terms of its environmental effects it is (a.) not considered to be of more than local importance, (b.) not located in an environmentally sensitive location and (c.) does not possess unusually complex and potentially hazardous environmental effects.

It is therefore considered that the development does not have any significant effects and concluded not to be EIA development.

We request a formal screening direction under Regulation 31 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 accordingly.

We look forward to receiving the Welsh Minister's formal screening direction in due course. Should you have any queries or need any further information please do not hesitate to contact me.

Yours faithfully,
for RPS Group Limited

[redacted]

Dafydd Williams
Associate
[redacted]

cc: Mr R Turner, Lightsource BP

Enc. As above

Appendix 1.2
Screening Direction 2020

The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Adeilad y Goron
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Caerdydd
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Crown Buildings
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Dafydd Williams
RPS Group Ltd

and

Environment & Planning
Wrexham County Borough Council

(via e-mail)

Eich Cyf / Your Ref: JPW1473

Ein Cyf / Our Ref: 3253253

Dyddiad / Date: 1 July 2020

Dear Mr Williams

Town and Country Planning Act 1990
The Developments of National Significance (Procedure) (Wales) Order 2016
Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017

Potential DNS Application
Site Address: Plas Power Estate, Ruthin Road, Wrexham, LL11 3BS
Proposed Development: 77 MW Solar Farm and ancillary development

On the 27 May 2020 the Planning Inspectorate received a request made under regulation 31(1) of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 ("the Regulations"), for the Welsh Ministers to make a screening direction as to whether or not the development proposed is "EIA Development" within the meaning of the Regulations.

The Planning Inspectorate is authorised by the Welsh Ministers to provide that screening direction to provide that screening direction.

The project, as described above, falls within the description at paragraph 3(b) in column 1 of the table in Schedule 2 to the Regulations.

As the proposal is a potential Development of National Significance (DNS) application, the attached screening assessment identifies the key areas which have been considered. Having taken into account the selection criteria in Schedule 3 to the Regulations and the advice in Welsh Office Circular 11/99: Environmental Impact Assessment on establishing whether EIA is required, the assessment concludes that:

Based on the information provided and given the scale and nature of the proposed development, there is potential for significant effects on features of the Johnstown Newt Sites SAC and Stryt Las SSSI, particularly during construction and de-commissioning, and for cumulative impacts with other planned activities and projects which could have a combined effect on features of the River Dee and Bala Lake SAC and River Dee SSSI. It is also likely that the scheme would result in significant visual effects. For these reasons, I conclude that EIA is required in this instance.

Therefore, in exercise of the powers conferred by the Regulations and the authority referred to above, the Welsh Ministers hereby direct that the development subject of this application is EIA development within the meaning of the Regulations.

Consequently, this application must be accompanied by an Environmental Statement. Under regulation 17(1) of the Regulations an Environmental Statement must contain, for the purpose of assessing the likely impact on the environment, the information specified in that regulation. It is recommended that you refer to the Regulations and the accompanying Circular, Welsh Office Circular 11/99, before and during the preparation of the Environmental Statement. In the meantime, you may wish to have regard to the particular environmental topics identified in the attached screening assessment.

This letter will be copied to Wrexham County Borough Council, so that this screening direction is placed on Part 1 of the Planning Register in relation to the application in question, in accordance with the Regulations.

Yn gywir / Yours sincerely

[redacted]

Christopher Sweet MPlan

Swyddog Cynllunio / Planning Officer
Tîm Cynllunio a'r Amgylchedd / The Planning & Environment Team
Yr Arolygiaeth Gynllunio / The Planning Inspectorate

STAGE 1 – INITIAL EIA SCREENING ASSESSMENT

1	Case Details	
A	DNS case reference	
	3253253	
B	Brief description of development	
	Solar farm with an installed generating capacity of up to 77MW and ancillary development.	
2	EIA Screening Details	
2A	Schedule 1	
	Is the project Schedule 1 development as described in Schedule 1 of the EIA Regulations?	No
	If Yes, under which description of development? If No, consider whether project is 'Schedule 2' development below in part 2(B).	
2B	Schedule 2	
(i)	Is the project listed as a description of development under Column 1 of Schedule 2 of the EIA Regulations?	Yes
	If Yes, under which description of development? If No, EIA is not required.	
	3(a)	
(ii)	Does the project change or extend development described in paragraphs 1 to 12 of Column 1 of schedule 2, where the change or extension may have SIGNIFICANT* adverse effects on the environment?	No
	*If Yes, provide reasons for your answer below. *If unsure, discuss with PET. Proceed to point (iii).*	
	Choose an item.	
(iii)	Is the project located wholly or partly within a 'Sensitive Area' as defined by Regulation 2 of the EIA Regulations?	No
	If Yes, state which area and more to Question 3. If No, proceed to point (iv) below.	
(iv)	Are the applicable thresholds/criteria in Column 2 exceeded / met?	Yes
	If Yes, note which applicable threshold/criteria. If No, EIA is not required.	
	The area of development exceeds 0.5 ha.	

3	LPA / Welsh Ministers' Screening	
(i)	Has the LPA issued a Screening Opinion (SO)?	No
(ii)	Have the Welsh Ministers issued a Screening Direction (SD)?	No
4	Environmental Statement (ES)	
	Has the applicant/appellant supplied an ES for the current or previous (if reserved matters or conditions) application?	No

STAGE 2 – DETAILED EIA SCREENING ASSESSMENT

As per Schedule 3, Para 3: When considering the potential impact, take into account; (a) magnitude / spatial extent / population likely to be affected; (b) nature of impact; (c) transboundary nature; (d) intensity & complexity; (e) probability; (f) expected onset / duration / frequency & reversibility; (g) cumulation with existing and / or approved development; (h) the possibility of effectively reducing the impact.

5	Detailed Screening Questions	
Questions to be considered	Yes/No/Unknown – provide description	**For 'Yes/Unknown', are effects** likely to be significant? *Include consideration of features or measures to avoid or prevent what might otherwise be significant effects*
CRITERION 1. CHARACTERISTICS OF DEVELOPMENT		
Question 1(a) Size and design of the Development		
Will construction, operation or decommissioning of the Project involve actions which will cause physical changes in the locality (topography, land use, changes in waterbodies, etc.)?	Yes. The proposed development would result in the site (some 139 ha) being altered from agricultural use to that of a 77 MW solar farm made up of PV Panels with an upper height of 3m at the highest point and associated infrastructure. As such, there would be considerable physical change to the site itself. Whilst there would be little change in terms of topography, based on the information provided and given the scale and nature of the proposal, significant effects in this respect must be considered likely at this stage.	Significant effect likely.

5	Detailed Screening Questions	
Questions to be considered	Yes/No/Unknown – provide description	**For 'Yes/Unknown', are effects** likely to be significant?
Question 1(b) Cumulation with Existing and/or Approved Development		
Are there any other factors which should be considered such as: • consequential development which could lead to environmental effects? • the potential for cumulative impacts with other existing or planned activities in the locality? • any plans for future land uses on or around the location which could be affected by the project? • transfrontier impacts?	Given the scale and location of the proposal, there is some potential for cumulative visual effects in combination with other solar farm developments such as Bronwylfa Reservoir solar park to the south west of the Site. Additionally, Natural Resource Wales (NRW) indicate in their response the potential for cumulative impacts with the improvements to the adjacent A483 including Junction 4 (directly adjacent the site) which could have a combined effects on Otter which are a feature of the River Dee and Bala Lake SAC and River Dee SSSI. The Site would be reinstated to fully agricultural land at the end of the project's lifespan, therefore it would not affect future land uses. There is no transfrontier impact. Nonetheless, the request for an EIA Screening Direction does not contain enough information to exclude the potential for cumulative impacts with other existing or planned activities outlined above and I therefore consider that significant cumulative effects are likely.	Significant effect likely.

5	Detailed Screening Questions	
Questions to be considered	Yes/No/Unknown – provide description	**For 'Yes/Unknown', are effects** likely to be significant?
Question 1(c) Use of Natural Resources, in particular land, soil, water and biodiversity		
Will construction or operation of the Project use natural resources such as land, water, materials or energy, especially any resources which are non-renewable or in short supply?	Yes, the proposal would require a degree of land take and use of natural resources during both the construction and operational stages. However, the land would be able to be used for continued grazing during the operational phase and there is potential for a degree of material recycling at the end of the project's lifespan. Given that low degree of impact and the scale of the project, I am content that significant effects on natural resources are unlikely.	Significant effect unlikely.
Question 1(d) Production of Waste		
Will the Project produce solid wastes during construction or operation or decommissioning?	Yes, some waste will be produced during construction and, notwithstanding the potential for some recycling of materials, the decommissioning of the equipment at the end of its lifespan would result in some solid waste. However, given the scale and nature of the proposed development I do not consider that significant effects are likely in terms of waste generation.	Significant effect unlikely.
Question 1(e) Pollution and Nuisances		
Will the Project involve use, storage, transport, handling or production of substances or materials which could be harmful to human health or the environment	Yes, construction will involve use and storage of substances which could be harmful to human health or the environment. However, standard	Significant effect unlikely.

5	Detailed Screening Questions	
Questions to be considered	Yes/No/Unknown – provide description	**For 'Yes/Unknown', are effects** likely to be significant?
or raise concerns about actual or perceived risks to human health?	construction control measures would reduce the risk of harm to humans and the surrounding environment.	
Will the Project cause noise and vibration or release of light, heat energy or electromagnetic radiation?	Yes, some noise and vibration likely during the construction phase, though this would be localised and time limited. There would also be a minimal amount of noise during the operational phase and potential for redirection of light in terms of glint and glare via the reflective surface of the panels. Whilst these will be considerations for the decision maker, given the location of the site and the nature of the impacts, I am content that any effects in terms of glint and glare and noise would be localised and unlikely to be of a magnitude that would be significant, such that they would warrant EIA. As noted by the LPA, further noise assessment is nonetheless likely to be required.	Significant effect unlikely.
Will the Project release pollutants or any hazardous, toxic or noxious substances to air, or lead to risks of contamination of land or water (including surface waters, groundwater, coastal wasters or the sea)?	Yes, the request for EIA Screening Direction indicates that the site includes part of the River Clywedog, unnamed watercourses and ponds. However, standard construction control measures would reduce the risk of contamination of land or water. Therefore, it is not anticipated that a significant impact will arise.	Significant effect unlikely

5	Detailed Screening Questions	
Questions to be considered	Yes/No/Unknown – provide description	**For 'Yes/Unknown', are effects** likely to be significant?
Question 1(f) Risk of major accidents and/or disasters relevant to the development concerned, including those caused by climate change, in accordance with scientific knowledge		
Will there be any risk of accidents during construction or operation of the Project which could affect human health or the environment?	Yes, some small risk of accident during construction, operation and decommissioning. However, given the scale and type of works involved, such risks are unlikely to be significant.	Significant effect unlikely.
Question 1(g) Risks to Human Health (for example due to water contamination or air pollution)		
Will there be any risk to human health during the construction and/or operation of the development	Some small risk as outlined above, but the scale is such that it would not be significant.	Significant effect unlikely.
CRITERION 2. LOCATION OF DEVELOPMENT		
Question 2(a) Existing and Approved Land Use		
Will the Project result in social changes, for example, in demography, traditional lifestyles, employment?	No.	N/A
Are there any routes or facilities on or around the location, which are used by the public for access to recreation or other facilities, which could be affected by the project?	Yes, Bersham public footpath 1 runs through the site and would be obstructed by the Proposed Development. At this stage it is unclear how the application seeks to address this issue. However, given the scale of the potential loss, I am satisfied that even if no other provision can be made, the effects are not likely to be significant in EIA terms.	Significant effect unlikely.
Are there any transport routes which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	Yes, there would be impacts on the local road network in terms of the construction phase. The LPA indicates that there may be impacts on the A483 trunk road and that consultation is required with the North and Mid Wales Trunk Road Agency. However, due to the temporary nature of construction	Significant effect unlikely.

5	Detailed Screening Questions	
Questions to be considered	Yes/No/Unknown – provide description	**For 'Yes/Unknown', are effects** likely to be significant?
	traffic and the potential for securing a Construction Traffic Management Plan where necessary, I do not consider significant effects to be likely in this respect.	
Is the project located in a previously undeveloped area where there will be loss of greenfield land?	Yes, the site is currently greenfield land in agricultural use. However, the nature of the proposal is such that grazing could continue during the operational phase and the land could be largely restored at the end of the scheme's lifespan. As such, significant effects are unlikely.	Significant effect unlikely.
Are there any areas on or around the location occupied by land uses which could be affected by the project, particularly sensitive land uses e.g. hospitals, schools, places of worship, community facilities?	No.	N/A
Question 2(b) Relative Abundance, Availability Quality and Regenerative Capacity of Natural Resources in the Area and its Underground		
Are there any areas on or around the location which contain important, high quality or scarce resources e.g. groundwater, surface waters, forestry, agriculture, fisheries, tourism, minerals, which could be affected by the project?	Yes. The site is in agricultural use. However, the majority of the site is used for grazing, which could continue during the operational phase, and the effects of the proposal could be largely reversed at the end of the project's lifespan. I am therefore content that significant effects in these respects are therefore unlikely.	Significant effect unlikely.

5	Detailed Screening Questions	
Questions to be considered	Yes/No/Unknown – provide description	**For 'Yes/Unknown', are effects** likely to be significant?
Question 2(c) Absorption Capacity of the Natural Environment		
Are there any other areas on or around the location which are important or sensitive for reasons of their ecology, or are used by protected, important or sensitive species of fauna or flora, which could be affected by the project?	Yes, in places the site in within 2km of the Johnstown Newt Sites SAC and within 7km of the River Dee and Bala Lake SAC and the River Dee SSSI. NRW suggest that impacts on Great Crested Newts (GCN) could be potentially significant, particularly during construction and de-commissioning (GCN are a feature of the Johnstown Newt Sites SAC and Stryt Las SSSI located approximately 1.69 km and 1.7km away respectively). Additionally, NRW indicate that there is potential for otter to use tributaries of the Dee (including the River Clywedog) for foraging and dispersal along the river's entire catchment area. When considering otter as a feature of the River Dee and Bala Lake SAC and River Dee SSSI, significant cumulative impacts in this respect cannot be ruled out. As such, based on the information provided and given the scale and location of the proposal, I consider that significant effects on protected species are likely in the above respects at this stage.	Significant effect likely.
Are there any inland, coastal, marine or underground waters on or around the location which could be affected by the project?	Yes, as noted above the site includes part of the River Clywedog, unnamed watercourses and ponds. However, whilst this provides a pathway for effects on protected species as outlined	Significant effect unlikely

5	Detailed Screening Questions	
Questions to be considered	Yes/No/Unknown – provide description	**For 'Yes/Unknown', are effects** likely to be significant?
	above, given the type of development proposed, I do not consider that effects in terms of water quality are likely to be significant.	
Are there any areas or features of high landscape or scenic value on or around the location which could be affected by the project?	Yes, the proposal would potentially be visible from the Clwydian Range and Dee Valley AONB, but the degree of separation is such that any effect would not be significant.	Significant effect unlikely
Is the project in a location where it is likely to be highly visible to many people?	Yes. Parts of the land are particularly visible, included those immediately to the north and south of the A525, the B5430 and Tanllan Lane. Whilst there may be some scope for effects to be limited by established and additional screening, based on the level of information provided and given the scale of the proposal and its potential visibility, I consider that significant effects in this respect must be considered likely at this stage.	Significant effect likely.
Are there any areas on or around the location which are densely populated or built-up, which could be affected by the project?	No.	N/A
Are there any areas or features of historic or cultural importance on or around the location which could be affected by the project?	Yes. There are a number of historic assets located within 3 km of the site as identified in the request for a Screening Direction. Cadw note that the project layout has been modified to reduce the likely impact of the proposed development on the historic environment to a level which is not of	Significant effect unlikely.

5	Detailed Screening Questions	
Questions to be considered	Yes/No/Unknown – provide description	**For 'Yes/Unknown', are effects** likely to be significant?
	sufficient impact to require an EIA to be produced. I see no reason to disagree with that view. Cadw's response also indicates that there is not sufficient information on non-designated heritage assets and the potential for further buried archaeological information to be present in the proposed development area to allow its full impact to be determined at this stage. Further assessment in this respect will therefore likely be required. However, given the type of development proposed and the degree of physical works involved, I am satisfied that significant effects on the historic environment as a whole are nonetheless unlikely.	
Are there any areas on or around the location which are already subject to pollution or environmental damage e.g. where existing legal environmental standards are exceeded, which could be affected by the project?	No.	N/A
Is the project location susceptible to subsidence, landslides, erosion, flooding or extreme or adverse climatic conditions, which could cause the project to present environmental problems?	Yes, the majority of the site lies in Zone A, with a small proportion within Zone C2. The request for Screening Direction identifies flood risk as a consideration at the site, and states that a Flood Consequences Assessment (FCA) would be prepared in support of the planning application. However, on the basis of the information	Significant effect unlikely.

5	Detailed Screening Questions	
Questions to be considered	Yes/No/Unknown – provide description	**For 'Yes/Unknown', are effects** likely to be significant?
	submitted and taking account of the type of development, I consider significant effects unlikely in this respect.	
Has there already been a failure to meet environmental quality standards that is relevant to the project?	No.	N/A

Statement of reasons
Based on the information provided and given the scale and nature of the proposed development, there is potential for significant effects on features of the Johnstown Newt Sites SAC and Stryt Las SSSI, particularly during construction and de-commissioning, and for cumulative impacts with other planned activities and projects which could have a combined effect on features of the River Dee and Bala Lake SAC and River Dee SSSI. It is also likely that the scheme would result in significant visual effects. For these reasons, I conclude that EIA is required in this instance.

6	Outcome of assessment	
(ii)	If a SO/SD has been provided do you agree with it?	N/A
(iii)	Is EIA required?	Yes

Outcome	Action	✓
Schedule 2 development – threshold exceeded/ criterion met or Sensitive Area and likely to have significant effects	Issue direction stating EIA Required (Letter 2)	✓

Name and Job Title of Assessor	Chris Sweet – Planning Officer
Date of Assessment	29/06/2020

Cyfoeth Naturiol Cymru
Natural Resources Wales

Ein cyf/Our ref: CAS-115403-R9J7
Eich cyf/Your ref: 3253253

Maes y Ffynnon,
Penrhosgarnedd,
Bangor,
Gwynedd,
LL57 2DW

[redacted]

Er sylw / For the attention of Giulia Bazzoni
Crown Buildings,
Cathays Park,
Cardiff,
CF10 3NQ

17/06/2020

Dear Ms Bazzoni,

BWRIAD / PROPOSAL: Solar photovoltaic electricity generating station and associated ancillary development, with an installed generation capacity of up to 77 MW.

LLEOLIAD / LOCATION: Land at Plas Power Estate, Ruthin Road, Wrexham

Thank you for your letter dated 28/05/2020 requesting Natural Resources Wales's (NRW) views on whether the above proposed development is likely to have a significant environmental effect.

We note the information provided (applicants covering letter, RPS, ref JPW1473, dated 27th May 2020, site location plan, layout plan, and panel elevations).

We consider that the proposed development is likely to have adverse effects on the environment. However, in light of the information available to us we cannot confirm the significance of all these effects. We therefore cannot rule out that some of these effects may be significant. In the absence of further information, we consider that the proposed development has the potential to have significant environmental effects.

Our view on the likelihood of significant effect on each of the environmental interests identified by you in your consultation letter is set out below:

Protected Species and Protected Sites

We consider that the proposed development has the potential to have environmental effects on the following protected species:

- Otter (feature of the Bala Lake and River Dee Special Area of Conservation (SAC), River Dee Site of Special Scientific Interest (SSSI) and a European Protected Species (EPS)

- Great Crested Newt (GCN) (feature of the Johnstown Newt Sites SAC and Stryt Las Site SSSI and an EPS

There are records of both species in close proximity to the development site (record of otter within approximately 400m and record of GCN directly adjacent the site).
In our opinion the applicants covering letter (RPS, ref JPW1473, dated 27th May 2020) fails to provide detailed consideration of potential impacts during construction, operation (in respect of maintenance of the solar panels), and de-commissioning and the measures envisaged to avoid or prevent significant effects.

We have identified that the development could result in environmental effects due to habitat loss and disturbance from the proposed development.

The supporting information indicates that the site includes part of the River Clywedog, unnamed watercourses and ponds. There is potential for otter to use tributaries of the Dee (including the River Clywedog) for foraging and dispersal along the river's entire catchment area. When considering otter as a feature of the River Dee and Bala Lake SAC and River Dee SSSI, we advise cumulative impacts could be significant. Currently there is insufficient information to rule out the impact of this proposal cumulatively with other development. We are aware of ongoing proposals for improvements to the adjacent A483 including Junction 4 (directly adjacent the site). It is also noted that the area to the east of the site is an allocation in the deposit Wrexham LPD.

We also consider that impacts on GCN could be potentially significant, particularly during construction and de-commissioning (GCN are a feature of the Johnstown Newt Sites SAC and Stryt Las SSSI located approximately 1.69 km and 1.7km away respectively). An effect during maintenance is also possible (for example as a result of the use of chemicals for the cleaning of solar panels).

Appropriate consideration will be required to INNS/biosecurity issues. In respect of dormouse and water vole, we agree with the outline impact assessments.

Therefore, in light of the information available to us we cannot confirm the significance of the effects referred to above. We therefore cannot rule out that these effects may be significant. In the absence of further information, we consider that the proposed development has the potential to have significant environmental effects.

We have considered the likelihood of significant effects from the scheme on environmental interests listed on our consultation topics list: Development planning advisory service, consultation topics

We provide further advice in Annex 1 on interest features in the NRW Consultation topic list which we consider are unlikely to be significantly affected by the proposed development, however these should be addressed as part of any planning submission.

Our advice does not rule out the potential for the proposed development to affect other interests, including other environmental interests, or human health. You may wish to consult other bodies for their expert advice on those effects.

Our advice is made without prejudice to comments we may subsequently wish to make when consulted on any planning application, any environmental permit, the submission of more detailed information, or an Environmental Statement.

Yn gywir / Yours faithfully,

[redacted]

Daniel Davies
Uwch Cynghorydd, Cynllunio Datblygu / Senior Advisor, Development Planning
Cyfoeth Naturiol Cymru / Natural Resources Wales

Annex 1

Landscape (Clwydian Range and Dee Valley Area of Outstanding Natural Beauty)

The Plas Power Estate site lies within open countryside to the west of the A484 and the large town of Wrexham, and to the east of village of Coedpoeth. Hillslopes rise gently across the site and westwards towards the upland plateau of Ruabon/ Esclusham Mountain. This plateau of open moorland and enclosed farmed hillslopes lie within the Clwydian Range and Dee Valley AONB. The boundary of this designated landscape lies 1.5km to the west of the Plas Power Estate site.

The screening effect of the plateau edge gives Ruabon/ Esclusham Mountain a remote and wild character. The area feels removed from the settled lowlands around Wrexham and its rural villages.

Footpaths and open access land within the vicinity of New Broughton (within the AONB) have the potential for views of the proposed solar farm. The greater than 1.5km viewing distance and panoramic nature of the view has the potential to make the solar farm a relatively small component of the view. The visual characteristics of the development are likely to have some contrast with farmland but would be seen quite closely associated with the settled and developed lowlands around the town of Wrexham.

From desktop context analysis, we consider the proposed development has the potential to have some adverse effect upon views from the AONB, but that the effects are unlikely to be significant.

We would expect a Landscape and Visual Assessment (LVA) to be undertaken and submitted with the planning application; the analysis of available views used to inform the layout of the scheme; and to identify any areas where strategic planting, thickening of hedgerows etc would benefit the development's visual integration. The AONB, local landscapes and local visual amenity interests need to be considered. A glint and glare assessment would also be required for viewpoints identified by the LVA.

Pollution Prevention

We note that a number of watercourses cross the site. There is potential for pollution to enter watercourses during the construction, operation and decommissioning of the solar farm. These provide a potential pollution pathway to the Clywedog River which ultimately flows to the River Dee (Bala Lake and River Dee SAC and River Dee SSSI) approximately 6.7 km away. However, subject to the implementation of appropriate pollution prevention measures and the site layout designed to maintain a stand-off from all watercourses during construction and operation (as set out in the applicants covering letter - RPS, ref JPW1473, dated 27th May 2020) we consider that a significant environmental effect is unlikely with regards to the impact of pollution on water quality and designated sites.

Flood Risk

The majority of the site lies in Zone A, with a small proportion within Zone C2 as defined by the Development Advice Map (DAM) referred to under Technical Advice Note (TAN) 15 Development and Flood Risk (July 2004). Our Flood Map confirms the site to be located partially within the 1% (1 in 100) and 0.1% (1 in 1,000) annual exceedance probability (AEP) event flood outlines.

The development proposal is for the construction of a circa 77MW solar farm and associated infrastructure. The following comments are based on the proposal being classified as 'less vulnerable' development in accordance with Figure 2 of TAN15.

We note that this consultation relates to an EIA Screening request. In respect to advising whether the proposal is likely to have a significant environmental effect, no detailed flood risk data/information has been submitted to inform our opinion. The 'EIA Screening Direction Request' does identify flood risk as a consideration at the site, and states that a Flood Consequences Assessment (FCA) would be prepared in support of the planning application. The proposed layout also suggests that the solar panels are to be set back somewhat from the flood outline. Acknowledging that the vast majority of the site lies outside the flood outline, and on this basis of the information submitted, there is unlikely to be a significant environmental effect as a result of the proposals in relation to flood risk, subject to production of a Flood Consequences Assessment (FCA) which fully mitigates flood risk in accordance with the requirements of TAN15.

The FCA will need to assess flood risk from all sources, including the Afon Clywedog and its tributaries. It should be noted that the flood outline on the DAM does not include the impacts of climate change, or culvert/bridge blockages. The FCA will need to quantify the flood risk posed to the site, considering the impacts of climate change. It will also need to be considered whether the blockage of any nearby bridges/culverts could influence flood risk at the site. Any flood risk data we hold for the site can be requested by contacting datadistribution@cyfoethnaturiolcymru.gov.uk.

For a solar farm development, we would typically expect a FCA to demonstrate the following, in order to comply with TAN15:

- All solar panel edges should be raised a minimum of 300 mm above the 1% AEP event with an allowance for climate change, including a blockage of any relevant culvert/bridge structures (if appropriate)
- All water sensitive infrastructure should be raised at least 300 mm above the 1% AEP event with an allowance for climate change, including a blockage of any relevant culvert/bridge structures (if appropriate)
- The FCA will need to assess the flood risk posed to the site and access in the extreme event (0.1% AEP event including a blockage of any relevant culvert/bridge structures), in relation to the tolerable thresholds outlined in A1.15 of TAN15
- It would need to be demonstrated that the proposal does not have an adverse impact on flood risk elsewhere, in up to the 0.1% AEP event including a blockage of any relevant culvert/bridge structures. If no ground raising/reprofiling within the flood outline is proposed then this will need to be outlined clearly in the FCA

Based on the proposed plan, it appears that the primary access road which has several crossings over the Afon Clywedog is an existing road, and it does not appear that any new development will be located within 8 metres of the Main River. A bespoke Flood Risk Activity Permit (Environmental Permitting Regulations England & Wales, 2016) would be required for any works in, over, under or near a main river or within 8 metres of Main River. Further advice and guidance is available on our website at:

http://www.naturalresources.wales/permits-and-permissions/flood-risk-activities/

Contaminated Land

The site historically has been part of an open cast coal mine and has had an industrial use, therefore there is potential for contamination, as commented in the RPS Letter JPW1473, a Desk Top Study and Preliminary Risk Assessment (DTS and PRA) will be required. These should be submitted along with any intrusive investigation and further risk assessment with any subsequent planning application, any resulting issue could be dealt with by planning conditions as appropriate.

Llywodraeth Cymru
Welsh Government

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Parc Nantgarw, Caerdydd CF15 7QQ
Ffôn 0300 025 6000
Ebost cadw@gov.cymru
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[redacted]

Robert Sparey
Planning Inspectorate

dns.wales@planninginspectorate.gov.uk

Eich cyfeirnod
Your reference: DNS 3253253

Ein cyfeirnod
Our reference:

Dyddiad
Date: 15 June 2020

Llinell uniongyrchol
Direct line: [redacted]

Ebost
Email: [redacted]

Dear Robert

EIA Screening - Plas Power Estate, Ruthin Road, Wrexham LL11 3BS

Thank you for your letter of 29 May asking for Cadw's view on the likely impact of the proposed development described above on the environment and whether or not Environmental Impact Assessment (EIA) is required.

Cadw, as the Welsh Government's historic environment service, has assessed the characteristics of this proposed development and its location within the historic environment. In particular, the likely impact on designated or registered historic assets of national importance. In assessing if the likely impact of the development is significant Cadw has considered the extent to which the proposals affect those nationally important historic assets that form the historic environment, including scheduled ancient monuments, listed buildings, registered historic parks, gardens and landscapes.

These views are provided without prejudice to the Welsh Government's consideration of the matter, should it come before it formally for determination.

Our records show that the historic assets listed in Annex A are potentially affected by the proposal.

The proposed development is some 139ha but only between 25% and 40% of this are will be "over sailed" by photovoltaic panels.

The designated historic assets in Annex A are located inside 3kms of the application area. When Cadw was consulted on this proposed development in 2019 there were significant concerns about the likely impact of the proposed development on scheduled monuments DE131 Cadwgan Hall Mound, and DE132 Offa's Dyke: Cadwgan Hall Section, extending from River Clywedog to the Railway and particularly in regard to scheduled monument DE180 Offa's Dyke: Section in Plas Power Park. A site meeting was held where we expressed our concerns and it is noted that the proposed development area has now been

Mae'r Gwasanaeth Amgylchedd Hanesyddol Llywodraeth Cymru (Cadw) yn hyrwyddo gwaith cadwraeth ar gyfer amgylchedd hanesyddol Cymru a gwerthfawrogiad ohono.

The Welsh Government Historic Environment Service (Cadw) promotes the conservation and appreciation of Wales's historic environment.

Rydym yn croesawu gohebiaeth yn Gymraeg ac yn Saesneg.
We welcome correspondence in both English and Welsh.

BUDDSODDWR MEWN POBL
INVESTOR IN PEOPLE

Cadw

altered in particular in the area surrounding scheduled monument DE180, but also in the areas close to scheduled monuments DE131 and DE132.

These changes have reduced the likely impact of the proposed development on the historic environment to a level which is not of sufficient impact to require an EIA to be produced. However, the proposed development is still likely to have an adverse impact on the settings of a number of the designated historic assets identified above and also on non-designated historic assets. Consequently any application for this development will need to be accompanied by a desk-based historic environment assessment including information on the scale of these impacts.

It should also be noted that there may not currently be sufficient information on the non-designated heritage assets and the potential for further buried archaeological information to be present in the proposed development area to allow its full impact to be determined. Consequently there may be a need for a geophysical survey and possibly an archaeological field evaluation, to be carried out prior to the submission of the planning application so that the results of this work can be included with that submission.

Yours sincerely

Jenna Arnold
Diogelu a Pholisi/ Protection and Policy

Annex A

Scheduled Ancient Monuments:
DE017 Erddig Mound & Bailey Castle
DE047 Hadfod-y-Bwlch Round Barrow
DE048 Croes-Foel Round Barrow
DE110 Offa's Dyke: Section S from Cae Llewellyn
DE113 Offa's Dyke: Vron Farm Section
DE131 Cadwgan Hall Mound
DE132 Offa's Dyke: Cadwgan Hall Section, extending from River Clywedog to the Railway
DE137 Offa's Dyke: Pentre-Bychan Hall Section, extending 540m S from Bron-Wylfa
DE139 Offa's Dyke: Plas Power Section
DE152 Wat's Dyke: Section extending from Erddig Park to Middle Sontley
DE153 Wat's Dyke: Section extending from Middle Sontley to Black Brook Bridge
DE158 Wrexham Churchyard Ornamental Wrought Iron Gates and Screen
DE163 Fairy Oak Round Barrow
DE164 Hillbury Round Barrow
DE165 Wat's Dyke: Section South of Ruthin Road
DE173 Wat's Dyke: Sections N & S of the Court
DE174 Offa's Dyke: Section S of Bryn yr Owen Farm
DE178 Offa's Dyke: Section S of Aberderfyn Road
DE179 Offa's Dyke: Sections N & S of Bryn yr Owen Colliery
DE180 Offa's Dyke: Section in Plas Power Park
DE181 Offa's Dyke: South Section at Coedpoeth
DE182 Offa's Dyke: North Section at Coedpoeth
DE183 Offa's Dyke Section South of River Gwenfro
DE184 Offa's Dyke: Vron Section
DE185 Offa's Dyke: Section South of Brymbo Colliery
DE189 Bersham Ironworks
DE191 Wat's Dyke: Section SSW of Wrexham Station, 130m Long
DE193 Moated Site near Groesfoel Farm, Rhostyllen
DE194 Offa's Dyke: Section extending 120m from Railway to Bronwylfa Road, Legacy
DE199 Bersham Colliery: No 2 Winding Gear
DE202 Brymbo Ironworks: Early Blast Furnace, Cast House & Foundry
DE203 Penrhos Engine House
DE221 Wat's Dyke: Garden Village Section
DE237 Nant Mill Wood Shaft Mounds
DE241 New Minera Lead Mine
DE242 Minera Halvans Plant
DE243 Taylor's Shaft, Minera
DE244 Meadow Shaft, Minera
DE286 Wat's Dyke at Crispin Lane, Wrexham
DE290 Gatewen Hall round barrow

Registered Historic Parks and Gardens:
PGW (C) 62 Wrexham: Erddig (grade I)
PGW (C) 67 Wrexham: Wrexham Cemetery (grade II)

Wrexham County Borough Council / Cyngor Bwrdeistref Sirol Wrecsam
Guildhall, Wrexham. LL11 1AY
Neuadd y Dref, Wrecsam. LL11 1AY
DX: 721924 - Wrexham 4
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wrexham
COUNTY BOROUGH COUNCIL
CYNGOR BWRDEISTREF SIROL
wrecsam

GIULIA BAZZONI
PLANNING AND ENVIRONMENT TEAM
THE PLANNING INSPECTORATE
CROWN BUILDINGS
CATHAYS PARK
CARDIFF
CF10 3NQ

Your Ref/Eich Cyf 3253253
Our Ref/Ein Cyf ENQ/2020/0077
Date/Dyddiad
Ask for/Gofynner am
Direct Dial/Rhif Union
E-mail/E-bost [redacted]

Dear Madam,

Town and Country Planning Act 1990
The Developments of National Significance (Procedure) (Wales) Order 2016 (As Amended)
Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017

SCREENING DIRECTION CONSULTATION FROM PLANNING INSPECTORATE
PLAS POWER ESTATE, RUTHIN ROAD, WREXHAM. LL11 3BS

I refer to your letter dated 28 May 2020.

With reference to your consultation regarding the above, please see below my comments regarding the proposals. I have only provided comments on matters that are considered likely to give rise to significant impacts. As a development within Schedule 2 of the 2017 EIA regulations the proposal has been assessed under the screening criteria set out in Schedule 3.

1. characteristics of the development;
(a) the size and design of the development;
(b) the cumulation with other existing development and/or approved development;
(c) the use of natural resources, in particular land, soil, water and biodiversity;
(d) the production of waste;
(e) pollution and nuisances;
(f) the risk of major accidents and/or disasters relevant to the development concerned, including those caused by climate change, in accordance with scientific knowledge;
(g) the risks to human health (for example due to water contamination or air pollution).

Under item b, the development lies close to an existing solar park north-west of Legacy Substation, and there are two nearby energy schemes in the DNS process which are likely to involve connections to the Legacy sub-station (DNS/3237973 Bersham Glenside and DNS/3251435 Legacy gas).

Rydym yn croesawu gohebiaeth yn Gymraeg.
Byddwn yn ymateb i unrhyw ohebiaeth yn Gymraeg ac ni fydd hyn yn arwain at unrhyw oedi.

We welcome correspondence in Welsh.
We will respond to any correspondence in Welsh and this will not lead to any delay.

With regard to item g, comments are attached from the Contamination officer (appendix A), which conclude that the impacts of the development can be adequately assessed through reports to accompany the application.

2. location of the development; and
(a) the existing and approved land use;
(b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;
(c) the absorption capacity of the natural environment, paying particular attention to the following areas—
(i) wetlands, riparian areas, river mouths;
(ii) coastal zones and the marine environment;
(iii) mountain and forest areas;
(iv) nature reserves and parks;
(v) European sites and other areas classified or protected under national legislation;
(vi) areas in which there has already been a failure to meet the environmental quality standards laid down in Union legislation and relevant to the project, or in which it is considered there is such a failure;
(vii) densely populated areas;
(viii) landscapes and sites of historical, cultural or archaeological significance.

The site has no formal national or international designations.

Special Landscape Area (SLA)

Parts of the site fall within a Special Landscape Area designated under policy EC5 of the Wrexham Unitary Development Plan and a Green Barrier under policy EC1
https://www.wrexham.gov.uk/service/development-plans-and-other-planning-policy/wrexham-unitary-development-plan
The Wrexham Local Development Plan is likely to be adopted in the near future
https://www.wrexham.gov.uk/service/development-plans-and-other-planning-policy/wrexham-local-development-plan-2-ldp2-2013-2028

The site is within Wrexham LANDMAP areas 7c, 7d and 9a (appendix B).

The key priority is the conservation and enhancement of the landscape. UDP policy EC5 does not explicitly refer to renewable energy, however the key consideration for this type of development will be demonstrating that the proposals have been designed to minimise visual impact from both near and distinct viewpoints. The land is not included within an LDP SLA.

Landscape Impact

The development will inevitably result in a significant change to the existing landscape. Whilst I am confident that there are areas of the land where the development would not be unduly prominent, parts of the land are particularly visible, included those areas

immediately to the north and south of the A525, the B5430 and Tanllan Lane. I am concerned that due to the longer distance views possible of the land from these roads, parts the development would be highly visible and therefore harmful to the landscape. This is matter that would need to be given further detailed consideration. Whilst the site is some distance from the Clwydian Range and Dee Valley Area of Outstanding Natural Beauty, it will also be necessary to consider the impact upon via long distance viewpoints.

Taking all of the above into account, the final design of the development will need to be informed by a Landscape and Visual Impact Assessment. Opportunities for landscape enhancements to help integrate the development into the wider rural landscape will also need to considered.

Details of the electricity connections to Legacy Sub-station should be supplied.

Consultation is required with Natural Resources Wales.

Agricultural Land

According to the Welsh Government's Predictive Agricultural Land Classification map, the majority of the land would appear to be Grade 3b land, and it also contains Grade 2. The development of land containing Grade 2 land would therefore need to have regard to UDP policy EC2 as well as paragraphs 3.54 and 3.55 of Planning Policy Wales.

Flood Risk

The southern part of the site falls within C2. Technical Advice Note 15 advises that development should be directed away from zone C2; however given that only a small portion of the land is falls within C2 zone it would appear possible to design the development to take full account of this matter.

Consultation is required with Natural Resources Wales.

Ecology

The proposal for a solar farm in this location has the potential to adversely impact on 2 Local Wildlife Sites W218 (Legacy substation) and W217 (Big Wood). There are also potential impacts on the River Clywedog, a tributary of the River Dee Special Area of Conservation. Other species of concern include ground nesting birds which are nationally declining and the European protected great crested newt which has a strong population in the area. The submitted site plan shows limited scope for ecological mitigation or bettering.

Consultation is required with Natural Resources Wales.

Rydym yn croesawu gohebiaeth yn Gymraeg.
Byddwn yn ymateb i unrhyw ohebiaeth yn Gymraeg ac ni fydd hyn yn arwain at unrhyw oedi.

We welcome correspondence in Welsh.
We will respond to any correspondence in Welsh and this will not lead to any delay.

Trees and Hedgerows

The development would be designed to minimise the loss of trees and hedgerows. I would expect an Arboricultural Impact Assessment to be undertaken prior to the layout of the development being finalised.

Historic Environment
The site is close to Offas Dyke, a scheduled ancient monument, and Bersham Conservation Area.
http://old.wrexham.gov.uk/english/planning_portal/historic_environment/bersham.htm
Comments from the Clwyd-Powys Archaeological Trust (appendix C) and conservation/heritage officers are attached (appendix D).

Consultation is required with Cadw.

Public rights of way
Bersham public footpath 1 runs through, and will be obstructed by, the proposed development. The application should explain the intention with regard to the footpath.

Highways
There would be impacts on the local road network in terms of the construction phase and details of traffic routing and any accommodation works should be supplied. A Construction Traffic Management Plan (with provision for contractor parking) will definitely be required. Once operational, the vehicle movements are likely to be minimal.

The scheme should review their proposed temporary & permanent access points in terms of design, vehicle sizes, visibility, hard paving, anticipated traffic movements etc., and the suitability of the proposed routes to the site.

TAN 18 provides guidance on thresholds for requesting Transport Assessments for different class uses, and given its size, it may well require a Transport Assessment.

There may be impacts on the A483 trunk road and consultation is required with the North and Mid Wales Trunk Road Agency.

3. characteristics of the potential impacts;
(a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);
(b) the nature of the impact;
(c) the transboundary nature of the impact;
(d) the intensity and complexity of the impact;
(e) the probability of the impact;
(f) the expected onset, duration, frequency and reversibility of the impact;
(g) the cumulation of the impact with the impact of other existing and/or approved development;
(h) the possibility of effectively reducing the impact.

Rydym yn croesawu gohebiaeth yn Gymraeg.
Byddwn yn ymateb i unrhyw ohebiaeth yn Gymraeg ac ni fydd hyn yn arwain at unrhyw oedi.

We welcome correspondence in Welsh.
We will respond to any correspondence in Welsh and this will not lead to any delay.

There will be impacts in terms of the change to the locality and release of potential pollutants as set out above, but these will be assessed through the submission of detailed reports and the application process.

Overall conclusion
In light of the comments made above, the proposed development is considered to be one that should not be subject to an Environmental Impact Assessment.

Yours faithfully,

[redacted]

Pennaeth yr Amgylchedd a Chynllunio/Head of Environment and Planning

Appendices:

A. Comments from Contaminated land officer
B. LANDMAP area 7c 7d and 9a
C. CPAT comments
D. Heritage comments

Rydym yn croesawu gohebiaeth yn Gymraeg.
Byddwn yn ymateb i unrhyw ohebiaeth yn Gymraeg ac ni fydd hyn yn arwain at unrhyw oedi.

We welcome correspondence in Welsh.
We will respond to any correspondence in Welsh and this will not lead to any delay.

3253253 ENQ/2020/0077 Appendix A
Simon,

Re: ENQ/2020/0077 – DNS Application – Proposed 77 Mw Solar Park, Land at Plas Power Estate, Ruthin Road, Wrexham LL11 3BS

I have considered all of the information submitted in support of the above enquiry and I can provide the following comments.

It is noted that the proposed development is located on an area of land that has been historically identified as forming part of an open cast mine (1964) and subsequently a non water fill (1976) as these former uses have the potential to cause residual contamination it will be necessary to condition any future consent to ensure that any potential contaminations issues are dealt with. Should a planning application be submitted we would recommend to the Planning Department that our standard contamination conditions are imposed on any permission granted. This would require the developer to undertake a phased contamination assessment and if deemed necessary remedial works and verification.

Kind regards
Stacey

Stacey Inglis
Contaminated Land Officer
[redacted]



West Wrexham Ridges and Valleys 7d

This is one of a series of Local Planning Guidance Notes based on Wrexham LANDMAP (adopted November 2004), setting out recommendations for each Landscape Character area.

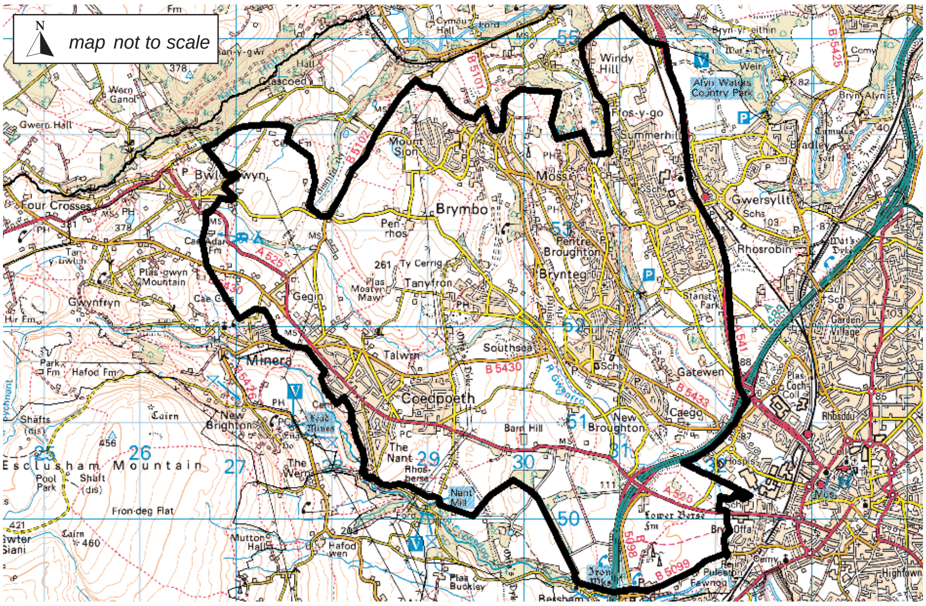


A complex area of former mining villages, industry, farmland and woodland in a landscape of distinct ridges and valleys which are aligned towards Wrexham town

Landscape context

West Wrexham Ridges and Valleys is the largest and most varied of four character areas in Wrexham which have a mixed rural and urban landscape. The other areas are Chirk, Rhosllannerchrugog - Rhostyllen, and Cefn Mawr

Map of West Wrexham Ridges and Valleys Landscape Character Area



Character Area boundaries should be considered transitional rather than precise
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West Wrexham Ridges and Valleys summary:

- Mixed rural and urban village character
- Strong NW-SE orientation, with alternating ridges and valleys
- Hilltop villages separated by woodland, former industrial land and farmland
- Widespread use of local Cefn sandstone in older buildings, and distinctive stone walls
- Changing landscape as post mining restoration and regeneration continue
- Variety of wildlife habitats including small but important wetlands
- Border area - Offa's Dyke and site of prehistoric hillfort



Key characteristics

Visual character:

- Visually varied and complex, including lowland, valleys and hill and scarp areas
- Characteristic undulating hill slopes with wooded valleys
- Views towards Wrexham and the lowlands
- Urban villages and Wrexham linked by roads crossing open lowland farmland area
- Scattered groups of buildings in local Cefn sandstone and stone-built village cores, individuality in later additions but much standardised modern housing development

Geological character:

- The complex landform is related to geological faults, with alternating series of resistant sandstone ridges, and Coal Measure valleys of Carboniferous age
- Villages are built on outcrops of Cefn Rock (sandstone) which has been quarried for local building stone
- Glacial till covers much of the lower areas, with glacial sands and gravels towards Wrexham
- Many artificial landforms including the former Brymbo steelworks site

Ecological character:

- Much of the non-built area is improved grassland or arable of relatively low value

- Important wetlands include reed mace swamp at Gatewen Moss and rich swamp and marshy grassland at Higher Berse Marsh. Gwenfro valley has wet woodland and areas of valuable lowland pasture
- Plas Power tip and the former Brymbo Steelworks site are being restored mainly to broadleaved woodland

Historical character:

- Countryside has remnants of ridge and furrow, regular and irregular fields, but much land has been disturbed
- Most settlement is related to 19th and 20th century mining and industry
- Remnants of Bryn y Gaer prehistoric military hillfort at Pentre Broughton and the route of Offa's dyke can be identified
- Brymbo steelworks heritage area and Plas Power colliery buildings have been preserved
- Network of disused industrial railway lines crosses area

Cultural character:

- Urban villages retain their own cultural identity, but this is becoming weakened
- Area is affected by A483 corridor, which separates it from Wrexham, but increases accessibility to commuters
- Agriculture is still of some importance but horsiculture is an increasing land use

Landscape sensitivity

This area continues to accommodate profound changes, but is vulnerable to further loss of local distinctiveness, and coalescence of villages because of continuing development pressure. The small scale of the ridges and valleys means they are sensitive to large scale development, masts and power lines, and inappropriate engineered landfoms

Overall management strategy:

Conservation

Management Guidance

Aims	Guidelines
Enhance character of hill villages and wooded valleys	• Promote urban forestry, strengthen, restore and enhance wooded valleys • Keep settlements separate and maintain green barrier between villages and Wrexham town • Encourage the restoration and repair of rural and urban stone walls using local stone • Avoid standardised new developments using non-local materials and inappropriate highway design
Develop an accessible green network	• Maintain and develop green corridors for wildlife and people, linking rural and urban green spaces
Promote positive management of urban fringe countryside	• Encourage hedgerow retention and management and new hedgerow and tree planting along the urban fringe • Promote agri-environment agreements to encourage management for public access and wildlife as well as sustainable agricultural production • Areas for Horsiculture are to conserve traditional field boundaries Avoid the proliferation of fences, structures and buildings within the countryside, where this would erode character
Conserve geological features	• Maintain continuity and integrity of rock and glacial exposures and landforms
Enhance and extend existing habitats for wildlife	• Maintain high water table in wetland habitats and extend wetland habitats • Maintain secondary habitats in industrial redevelopments • Protect potential bat and owl roosting sites in old buildings and walls • Manage and extend woodlands to improve structure and wildlife value
Preserve archaeological features	• Maintain green areas to preserve surviving archaeology, carry out field and desk studies of fieldscape • Preserve by record Bryn y Gaer hillfort, evaluate in advance of any development or groundworks • Evaluate industrial sites in urban villages in advance of development • Preserve disused railway lines, and assess in wider industrial context • No development on or near Offa's Dyke - contact Cadw
Preserve local distinctiveness	• Support community cultural initiatives in urban villages, preserve historic appearance of buildings and settlements



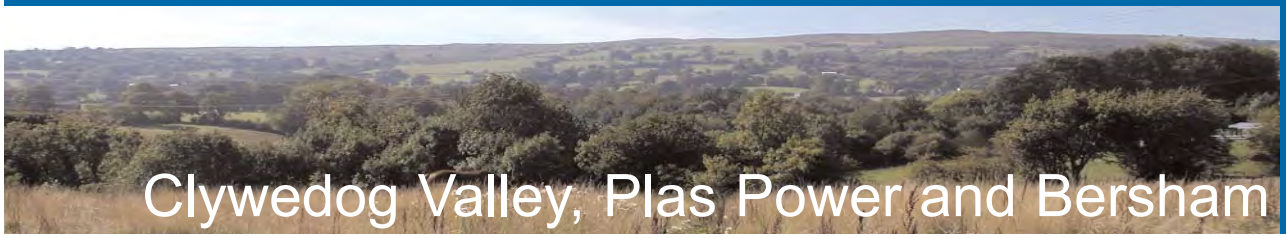
For further information contact:

Planning Environment
Planning Department
Wrexham County Borough Council
Lambpit Street, Wrexham. LL11 1AR

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Clywedog Valley, Plas Power and Bersham 9a

This is one of a series of Local Planning Guidance Notes based on Wrexham LANDMAP (adopted November 2004), setting out recommendations for each Landscape Character area



Clywedog Valley, Plas Power and Bersham summary

- Cut-off areas of countryside, and wooded valley to the east of Wrexham town
- Woodlands of high nature conservation value
- Country parks at Nant Mill and Minera
- High potential for recreation, linking town and country
- Heritage centre and ironworks at Bersham
- Plas Power estate adjoining Clywedog Valley, surrounded by a magnificent stone wall

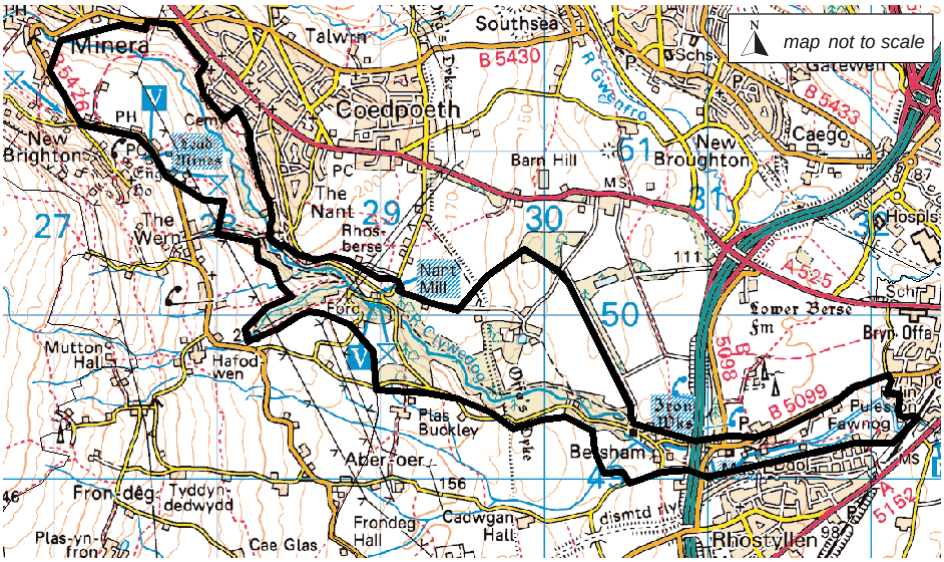


Small wooded valley from Wrexham to Minera, providing woodland walks with industrial archaeology and nature conservation interest, historically linked to Plas Power estate and Bersham iron works

Landscape context

This is one of several minor river valleys which are well wooded, with features showing former industrial uses. Adjacent farmed and wooded estate countryside is also included in this character area. The other valleys of this type are the River Alyn valley (9b), Ffrith Valley (9c) and Dee Valley - Froncysyllte to Newbridge (9d)

Map of Clywedog Valley, Plas Power and Bersham Landscape Character Area



Character Area boundaries should be considered transitional rather than precise

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Key characteristics

Visual character:

- Varied visual character but area, though close to settlements, is separated from them by walls, roads or topography and has a more tranquil character
- Upper Clywedog valley is overlooked by Coedpoeth and Minera, middle section is a wooded rocky gorge, and lower section is more shallow with a mosaic of lowland farmland and woodland
- Substantial Cefn sandstone stone walls of the Plas Power estate surround approximately a square mile of parkland

Geological character:

- In this area the upper Clywedog Valley follows a course between Esclusham Mountain to the south and Coal Measure areas to the north, separated by fault lines. The lower valley cuts through part of the terrace of sands and gravels known as the Wrexham delta terrace, on which Wrexham sits
- The river is incised into the landform, and where it cuts through resistant Cefn sandstone in the area of Nant Mill Country Park there are steep slopes and rock exposures
- There is much disturbed land or woodland, but soils are generally derived from alluvium or glacial drift.

Ecological character:

- Several valuable habitats associated with the river, valley bottom and floodplain
- River Clywedog is an aquatic habitat of high value



- Upland mixed ash woodland of high value and oak/ash/sycamore woodland are found in the valley and Plas Power estate

Historical character:

- The area is crossed by Offa's Dyke, a prehistoric military feature of outstanding archaeological value
- The eastern half of the Plas Power estate is restored land, following post war opencast coal mining, and the remaining designed landscape is in poor condition
- North of Bersham, the farmland retains a pattern of small fields

Cultural character:

- Recreational and educational area with Clywedog Trail from Wrexham to Minera, Bersham Heritage Centre and Minera lead mining centre, and the Nant Mill Country Park
- Bersham, now a Conservation Area, was a centre for iron working, and originally the trees from the valley provided charcoal for smelting. John Wilkinson (1728-1808) known as 'the father of the iron trade' is of international renown - the ironworks supplied clients throughout Europe
- The valley is linked to the Plas Power estate, of which the central core (the Hall has been lost) and the higher parts survive

Overall management strategy:

Conservation and Restoration

Management guidance

Aims	Guidelines
Enhance existing visual character	● Retain wooded valley character ● Protect and restore remaining historic landscape features of interest in Plas Power estate, ensure appropriate land uses
Conserve geological features	● Maintain continuity and integrity of rock exposures and Landforms and assess new exposure ● Maintain integrity of fluvial and glacial landforms
Enhance and extend wildlife habitats	● Enhance river bank habitats and minimise hard bank engineering such as canalisation or retaining walls ● Replace coniferous trees with native broadleaved trees in woodlands, increase diversity in woodland structure, retain old/dead trees standing or fallen, restrict grazing ● Enhance lowland pastures ● Encourage agri-environment agreements for sustainable land management ● Refer to Green network strategy due March 2007 to identify potential sites
Conserve historical features	● Preserve evidence of former industrial uses along river ● Assess archaeology prior to any new developments ● No development on or near Offa's Dyke - contact Cadw ● Preserve important elements of designed landscapes, and seek to reinstate original design intent, where in decline or degraded
Enhance and interpret cultural heritage	● Support Clywedog Trail and Bersham Heritage Centre ● Manage valley woodlands and historic landscape features for recreation and education ● Strengthen links into Wrexham Town, and up to Minera Quarry and Esclusham Mountain (refer to Green Network Strategy)

Landscape sensitivity:

The scale of the valley is very small, and any incongruous development within it or nearby, or loss of tree cover could affect its character. The Plas Power estate and Bersham areas are vulnerable to recreational and residential development because of their proximity to Wrexham town.



For further information contact:

Planning Environment
Planning Department
Wrexham County Borough Council
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Rhosllannerchrugog - Rhostyllen Ruabon - Penycae

7c

This is one of a series of Local Planning Guidance Notes based on Wrexham LANDMAP (adopted November 2004), setting out recommendations for each Landscape Character area.



Rhosllannerchrugog Rhostyllen - Ruabon Penycae summary

- Rural and urban areas affected by history of mining and quarrying
- Villages (Rhos, Penycae, Rhostyllen, Ruabon) characterised by high density and use of Ruabon red brick
- Prehistoric military border area - Gardden hill fort and Offa's Dyke
- Much accessible natural greenspace forming ecological network, including woodland and grassland habitats of high value
- The A483 and railway follow the lower edge of area

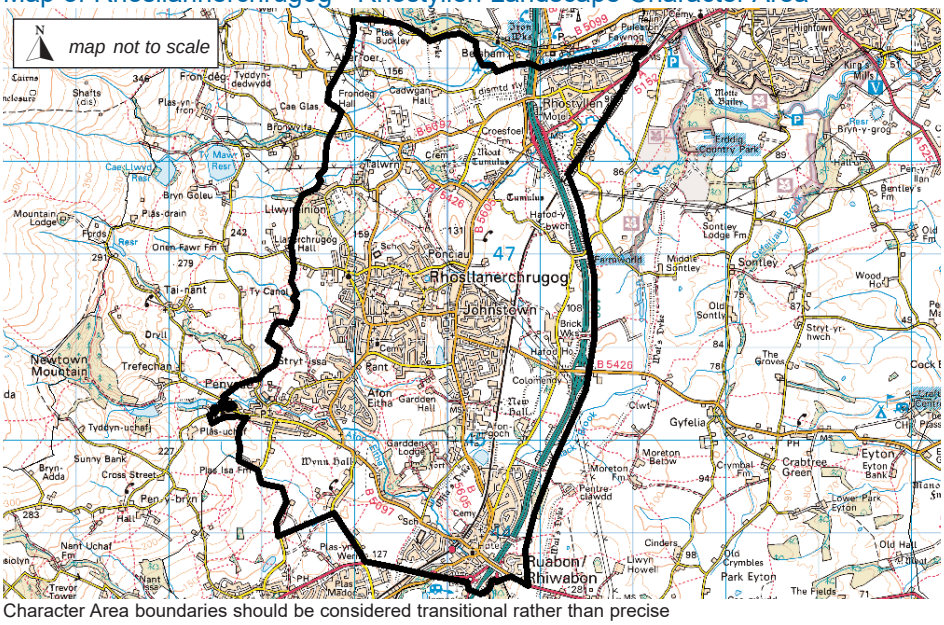


Closely-built former mining communities with a rich cultural heritage, located on the lower slopes of Ruabon Mountain, and distinguished by the widespread use of local Ruabon red brick

Landscape context

Rhosllannerchrugog - Rhostyllen is one of four character areas in Wrexham which have a mixed rural and urban landscape. The other areas are Chirk, Cefn Mawr and West Wrexham Ridges and Valleys

Map of Rhosllannerchrugog - Rhostyllen Landscape Character Area



Character Area boundaries should be considered transitional rather than precise

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Key characteristics

Visual character:

- Lower slopes of Ruabon Mountain consisting of undulating farmland, with residential and industrial development.
- Bersham colliery and tip, and the former Hafod tip, now restored, are landmarks

Geological character:

- Gentle Carboniferous Coal Measure slopes (sandstone) mostly overlain by glacial till, although Rhosllannerchrugog centre is built on an outcrop
- A sandstone ridge, highest at Gardden Hill and followed to the north by Offa's Dyke (part now under Johnstown) runs through the centre of the character area
- To the east of Johnstown, Etruria Marl has been quarried to make the characteristic red bricks and tiles

Ecological character:

- Most farmland is improved grassland of low biodiversity value
- Some former industrial sites are now of high wildlife value, including Stryt Las (great crested newts), the former Hafod tip (a young broadleaved woodland), and birch woodland north of Rhos
- Fragmented areas of semi-natural vegetation include broadleaved scrub, neutral grassland, upland oak woodland along the Afon Eitha valley, beech woodland on Gardden Hill, neutral grassland at Legacy substation, lowland pasture, and oak/ ash/sycamore woodlands around the Crematorium and Llwyneinion

Historical character:

- Settlements are mainly of 19th -20th century origin but Penycae and Ruabon have older centres
- Coal mining remains are frequent but Bersham Colliery, with its coal spoil tip and remaining headgear is of particularly high value. Industrial sites are linked by a network of disused industrial railways
- Border area - prehistoric military hillfort at Gardden and Offa's Dyke, marking a former political and military boundary

Cultural character:

- Rhostyllen, with modern industrial and commercial areas next to the A483, is now closely linked to Wrexham town
- Johnstown, once linked with the brickworks and Hafod colliery, is a mainly English-speaking community.
- Rhosllannercrugog is a culturally rich community with strong Welsh culture and language
- Surrounding farming is under pressure, with part time holdings and increase in 'horsiculture'
- Hafod y Bonc Country Park is a former tip now important for environmental education and recreation

Landscape sensitivity:

The distinctive Welsh identity of the area is vulnerable to development pressure, particularly infill housing of standardised design and materials.The A483 corridor is visually threatened by nearby landfill, masts, building development and power lines. Surrounding farmland is also very vulnerable to urban pressures

Overall management strategy:

Enhancement, conservation and sustainable development

Management guidance

Aims	Guidelines
Enhance visual character	● Promote urban forestry and enhance remaining areas of neglected or derelict land ● Rationalise/reduce overhead power line clutter ● Survey and assess use of sandstone and local brick in walls and buildings
Develop an accessible green network	● Retain and improve environment for pedestrians and cyclists within settlements through the development of accessible natural green space and green network (refer to Green Strategy due March 2007)
Conserve geological features	● Maintain morphological integrity of landform and assess new exposures
Enhance and extend existing habitats for wildlife	● Develop wildlife corridors as part of a green network, linking areas of fragmented habitats (refer to Green Network Strategy due March 2007) ● Maintain ponds and protected great crested newts ● Maintain, enhance and expand: scrub, broadleaved woodland, lowland pasture and hedges ● Diversify improved grassland and farmland and reduce chemical use in agriculture
Preserve archaeological features	● Preserve mining remains, especially winding house, headgear and tip at Bersham, maintain and repair ● Development which adversely affect the site or setting of Offa's Dyke or Gardden Hill Fort would not be permitted ● Preserve historic core of Ruabon, including mills and chapels
Survey area of potential archaeological interest	● Evaluate historic core of settlements prior to development and assess in relation to wider historic landscape ● Carry out surveys of former colliery sites, railway lines and quarries, and assess in context of wider industrial landscape.Conserve historic transport routes
Strengthen cultural identities of settlements	● Preserve coal mining heritage at Bersham Colliery as visible reminder of Wrexham's former industrial base ● Preserve character of lower Ruabon slopes e.g. field systems, industrial sites ● Support Welsh-language cultural initiatives, and culturally distinct communities



For further information contact:
Planning Environment
Planning Department
Wrexham County Borough Council
L[redacted]

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3253253 ENQ/2020/0077 Appendix C CPAT Comments

Dear Simon

Thank you for the consultation on this screening opinion. Our comments are as follows:

1) Background

We previously received the cultural heritage DBA from the RPS in November 2019 for comment and Cadw were consulted also. RPS provided a zoned plan (copy attached). At that time our comments were:

1. Remove Zone C from the development proposal to protect the setting of the scheduled dyke.

2. In zone D pull the red boundary back to the east from the edge of Big Wood by at least 100 metres
and preferably as far as the track to preserve the setting of the scheduled dyke here.

3. Geophysics of all fields not impacted by the prior extraction activity to determine the sub-surface
potential. The geophysics should preferably use the caesium-vapor magnetometry technique on a 0.25m
x 1m sensing grid using a towed array. We typically use the TigerGeo contractors for this. The results
should be appropriately filtered and fully interpreted.

4. The proposal will need to assess the impacts of any electrical connection route to the grid.

Some of this advice has been taken forward in the last six months including a partial removal of panels in Zone C around Offas Dyke to the north and in the area south of the former Plas Power Hall. The geophysics will need to be completed at the pre-determination stage to inform the application. Other potential visual impacts on scheduled monuments in the vicinity and the Bersham Ironworks have been assessed and we are in agreement that there is no signifcant visual impact. There was no setting impact assessment for the Grade II listed Plas Power Estate buildings and this will need to be completed via a Heritage Impact Assessment for any forthcoming application.

2) Screening

In terms of the screening opinion Cadw will therefore need to inform the LPA as to whether they still consider there to be a potential significant visual impact on Offa's Dyke in light of the fact that the layout alterations suggested in November have been partly completed.

With regard to non-designated archaeology a large part of the eastern half of the application area has been destroyed by later mineral extration. We would still require pre-determination geophysics in areas outside the former extraction zone and information from

this may result in some additional pre-determination evaluation and layout alterations. A significant impact is not likely as we can normally adjust the array layout to avoid any significant sub-surface archaeology revealed.

There may be a setting impact for the Grade II listed Plas Power Estate buildings (notably the stables) within the park even though many are screened by woodland and this needs to be assessed. The visual impact is not likely to be signifcant with appropriate screening and layout adjustments.

I hope these comments are useful, but please get back to me if you would like to discuss them further.

Kind regards

Mark Walters

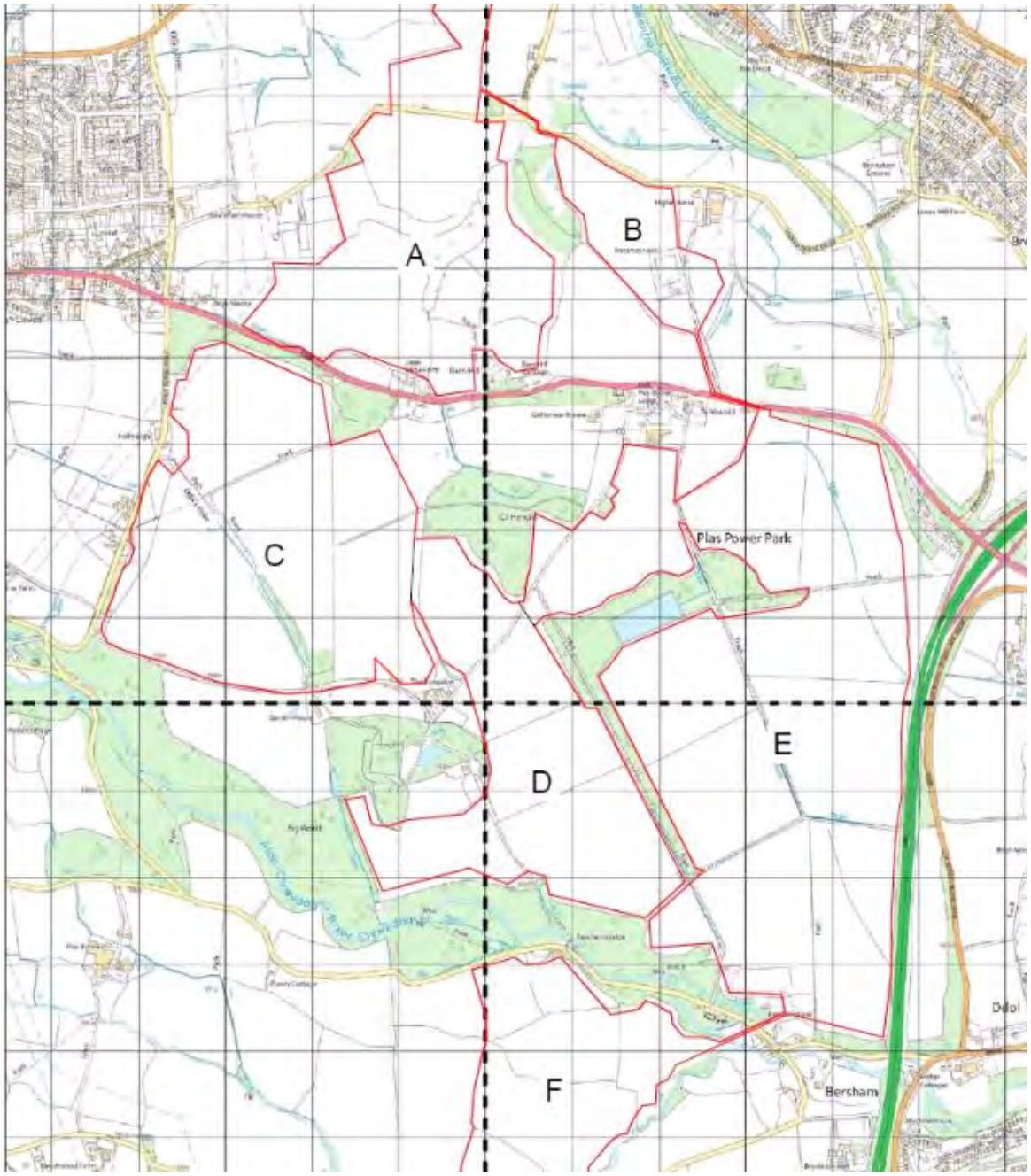
Mark Walters
Development Control Archaeologist / Swyddog Rheoli Datblygiad

Please note that our office is closed due to the coronavirus situation and I am working from home



Ymddiriedolaeth Archaeolegol Clwyd-Powys, Y Swyddfeydd, Coed y Dinas, Welshpool, SY21 8RP, Swyddfa Gofrestredig fel yr uchod. Rhif Cwmni 1212455, Rhif Elusen 508301, Sefydliad Cofrestredig CIfA.

Clwyd-Powys Archaeological Trust, The Offices, Coed y Dinas, Welshpool, SY21 8RP.
Registered Office as above. Company No 1212455, Charity No 508301. Chartered Institute for Archaeologists Registered Organisation No 6.
Please note that I do not work Fridays


A
B
C
D
E
F
Plas Power Park
Bersham
Depot

3253253 ENQ/2020/0077 Appendix C Heritage Comments

I am concerned regarding the field immediately to the north of the ironworks, as it's used as an overflow car park when we have the History Alive events at the site, without it we will be limited to the normal site car park only which will be major issue for the viability of the event.

The proposed development isn't going to be visible from any of the ironworks buildings although visitors will catch site of it from the car park and down towards the mill, there is unlikely to be anything there archaeologically because as Mark says it was trashed by a big NCB opencast in the 70s.

The area to the south of the river will have been crossed by waggon ways bringing raw materials to the works but likely they would have been destroyed by agriculture since the 18th Century. I agree with Mark's recommendations for geophysical surveys particularly over the proposed cable trench lines and for taking the development away from the dyke to protect its setting as much as possible.

Steve

Steve Grenter
Heritage & Archives Lead
Rheolwr Gwasanaeth Treftadaeth

[redacted]

✉ Wrexham County Borough Museum & Archives, Regent Street, Wrexham LL11 1RB.
✉ Amgueddfa ac Archifdy Bwrdeistref Siriol Wrecsam, Stryt yr Rhaglaw, Wrecsam, LL11 1RB.

As Mark Walters, CPAT has already stated, a Heritage Impact Assessment should be undertaken with a particular focus on the impact of proposals upon the setting of the designated heritage assets. In relation to the grade II Listed Plas Power Estate buildings, the document notes that these buildings are in a very poor state of repair. They are considered to be some of worst buildings, in terms of condition, on the Councils Buildings at Risk register and I would therefore suggest that as part of any mitigation we should be seeking repairs, or at the very least consolidation to prevent further deterioration, most notably of the ice house, bath house, game larder and dairy.

I would also suggest that an LVIA be carried out to assess, in particular, the impacts of development upon views to and from the Clwydian Range and Dee Valley AONB.

Kind Regards

Anna Irwin
Arweiniwr Cadwraeth a Amgylchedd/ Conservation and Environment Lead
Cynllunio a Rheoleiddio / Planning and Regulatory

[redacted]
Neuadd y Dref, Wrecsam, LL11 1AY
Guildhall, Wrexham, LL11 1AY

Sparey, Robert

From: [redacted]
Sent: 08 June 2020 11:12
To: Simon Greenland
Subject: FW: ENQ/2020/0077 DNS Application - Proposed 77Mw Solar Park, Land at Plas Power Estate, Ruthin Road, Wrexham LL11 3BS - EIA Screening Consultation

Hi Simon

I would make the following comments in response to this:

Construction phase:

Noise –a noise impact assessment should be considered for the construction phase to minimise and control any construction noise nuisance at noise sensitive properties (isolated residencies and built up areas (Coedpoeth and Rhostyllen)).

Dust – a dust management plan should be drawn up to manage dust from site surfaces and traffic, along with any demolition activities, that might affect any residential or commercial properties.

Advice – the Council has the option to control construction noise via the Control of Pollution Act (CoPA). The developer should consider an application under this if any extraordinary noise is to be expected (pile driving??). Otherwise, if complaints are received they will be investigated and a CoPa notice may be used to control activities.

An abatement notice can be issued should there be any nuisance caused from dust from construction/demolition activities.

Operational phase:

Noise impact assessment – Whilst the site will not be near any major residential development (Coedpoeth and Rhostyllen being the nearest), there are a number of isolated residential properties where noise from the operation of the site might be an issue. These should be considered during the planning phase by carrying out a noise impact assessment. The location of noise sensitive premises will be determined by the location of any noise generating plant, such as gas engines, transformers and inverters and their proximity to any premises.

A BS4142: 2014 `Methods for rating and assessing industrial and commercial sound' should;

- provide information on typical operating noise levels from site plant (transformers, inverters and gas engines);
- provide information on background and residual noise levels at the nearest sensitive receptors during the most sensitive periods of proposed operation; and
- advise on any operations that are shown to exceed appropriate and relevant noise criteria and where appropriate provide recommendations for further mitigation.

Do you require me to put this response in any other format or is this email sufficient?

Best regards

Andy

Appendix 1.3
EIA Regulations

WELSH STATUTORY INSTRUMENTS

2017 No. 567 (W. 136)

TOWN AND COUNTRY PLANNING, WALES

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017

Made - - - -	*20 April 2017*
Laid before the National Assembly for Wales - -	*24 April 2017*
Coming into force - -	*16 May 2017*

The Welsh Ministers being designated for the purposes of section 2(2) of the European Communities Act 1972 [F1] in relation to the requirement for an assessment of the impact on the environment of projects likely to have significant effects on the environment, insofar as it concerns town and country planning [F2], in exercise of the powers conferred by that section, section 71A of the Town and Country Planning Act 1990 [F3], and having taken into account the selection criteria in Annex III to Directive 2011/92/EU [F4] of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment [F5], make the following Regulations.

F1 1972 c. 68. Section 2(2) was amended by section 27(1) of the Legislative and Regulatory Reform Act 2006 (c. 51) and section 3(3) of, and Part 1 of the Schedule to, the European Union (Amendment) Act 2008 (c. 7).

F2 S.I. 2007/1679. *See* article 4.

F3 1990 c. 8. Section 71A was inserted by section 15 of the 1991 Act. The functions of the Secretary of State under that Act were, so far as exercisable in relation to Wales, transferred to the National Assembly for Wales by article 2 of, and Schedule 1 to, the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672): *see* the entry in Schedule 1 for the 1991 Act. Those functions were transferred to the Welsh Ministers by section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32), the functions being relevant Assembly functions as defined in paragraph 30(2).

F4 Directive 2011/92/EU has been amended by Directive 2014//52/EU. *See* Articles 2(1) and 3(1) of Directive 2014/52/EU.

F5 O.J. No. L 26, 28.1.2012, p. 1. The Directive has been amended by Directive 2014/52/EU of the European Parliament and of the Council O.J. No. L 124, 25.4.2014, p. 1. *See* in particular Article 3(1).

PART 1

General

Title, commencement and application

1.—(1) The title of these Regulations is the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017.

(2) These Regulations come into force on 16 May 2017.

(3) These Regulations apply in relation to Wales.

(4) In relation to an application for planning permission made to the Welsh Ministers, Parts 2 to 7 of these Regulations apply only to the extent and in the way set out in Part 7.

Interpretation

2.—(1) In these Regulations—

"the 1990 Act" ("*Deddf 1990*") means the Town and Country Planning Act 1990;

"the 1991 Act" ("*Deddf 1991*") means the Planning and Compensation Act 1991 [F6];

"the 1995 Act" ("*Deddf 1995*") means the Environment Act 1995 [F7];

"the 2012 Order" ("*Gorchymyn 2012*") means the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 [F8];

"the 2016 Order" ("*Gorchymyn 2016*") means the Developments of National Significance (Procedure) (Wales) Order 2016 [F9];

"any other information" ("*unrhyw wybodaeth arall*") means any other substantive information relating to the environmental statement and provided by the applicant or the appellant as the case may be;

"any particular person" ("*unrhyw berson penodol*") includes any non-governmental organisation promoting environmental protection;

"by local advertisement" ("*drwy hysbyseb leol*"), in relation to a notice, means—

(a) by publication of the notice in a newspaper circulating in the locality in which the land is situated; and

(b) by publication of the notice on the website of the relevant planning authority;

"the consultees" ("*yr ymgynghoreion*") means—

(a) in respect of an application for planning permission made to the Welsh Ministers, any authority, body or person which they are required to consult, or would be required to consult if an application for planning permission were before them, by virtue of article 22 of the 2016 Order (time periods for decision) and the bodies referred to in sub-paragraph (c) if not already within this sub-paragraph;

(b) any body which the relevant planning authority is required to consult, or would, if an application for planning permission for the development in question were before them, be required to consult by virtue of article 14 of the 2012 Order (consultations before the grant of permission) or of any direction under that article, and the bodies referred to in sub-paragraph (c) if not already within this sub-paragraph;

(c) the following bodies—

(i) any principal council for the area where the land is situated, if not the relevant planning authority;

(ii) the Natural Resources Body for Wales [F10];

(iii) other bodies designated by statutory provision as having specific environmental responsibilities and which the relevant planning authority or the Welsh Ministers, as the case may be, consider are likely to have an interest in the application;

"the Directive" ("*y Gyfarwyddeb*") means Directive 2011/92/EU of the European Parliament and of the Council on the assessment of the effects of certain public and private projects on the environment [F11];

"dwellinghouse" ("*tŷ annedd*") means a building or part of a building which is used as a single private dwelling and for no other purpose;

"EIA application" ("*cais AEA*") means—

(a) an application for planning permission for EIA development; or

(b) a subsequent application in respect of EIA development;

"EIA development" ("*datblygiad AEA*") means development which is either—

(a) Schedule 1 development; or

(b) Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location;

"environmental information" ("*gwybodaeth amgylcheddol*") means the environmental statement, including any further information and any other information, any representations made by any consultee and any representations duly made by any other person about the environmental effects of the development;

"environmental impact assessment" ("*asesiad o'r effaith amgylcheddol*") means the process described in regulation 4(1);

"environmental statement" ("*datganiad amgylcheddol*") means a statement as described in regulation 17;

"exempt development" ("*datblygiad esempt*") means development in respect of which the Welsh Ministers have made a direction under regulation 5(4);

"European site" ("*safle Ewropeaidd*") means a site within the meaning of **[**[F12]regulation 8(1) of the Conservation of Habitats and Species Regulations 2017**]**;

"further information" ("*gwybodaeth bellach*") has the meaning given in regulation 24(1);

"initiating body" ("*corff cychwyn*") means the local planning authority or the Welsh Ministers, as appropriate, where they propose to make the section 97 order or the section 102 order;

"inspector" ("*arolygydd*") means a person appointed by the Welsh Ministers to determine an appeal;

"the land" ("*y tir*") means the land on which the development would be carried out or, in relation to development already carried out, has been carried out;

"local development order" ("*gorchymyn datblygu lleol*") means a local development order made pursuant to section 61A of the 1990 Act [F13];

"monitoring measure" ("*mesur monitro*") means provision requiring the monitoring of any significant adverse effects on the environment of proposed development including any measures contained in—

(a) a condition imposed on the grant of planning permission; or

(b) a planning obligation;

"principal council" ("*prif gyngor*") has the meaning given by section 270(1) (general provisions as to interpretation) of the Local Government Act 1972 [F14];

"register" ("*cofrestr*") means a register kept pursuant to section 69 of the 1990 Act (registers of applications etc.) [F15] and "appropriate register" ("*cofrestr briodol*") means the register on which particulars of an application for planning permission for the relevant development have been placed or would be placed if such an application were made;

"relevant planning authority" ("*awdurdod cynllunio perthnasol*") means the body to whom it falls, fell, or would fall, to determine an application for planning permission for the development in question, but for—

(a) the development being a development of national significance for the purposes of section 62D of the 1990 Act [F16]; or

(b) a direction under section 77 of the 1990 Act (reference of applications to Secretary of State) [F17];

"Schedule 1 application" ("*cais Atodlen 1*") and "Schedule 2 application" ("*cais Atodlen 2*") mean an application for planning permission for Schedule 1 development and Schedule 2 development respectively;

"Schedule 1 development" ("*datblygiad Atodlen 1*") means development, other than exempt development, of a description mentioned in Schedule 1;

"Schedule 2 development" ("*datblygiad Atodlen 2*") means development, other than exempt development, of a description mentioned in Column 1 of the table in Schedule 2 where—

(a) any part of that development is to be carried out in a sensitive area; or

(b) any applicable threshold or criterion in the corresponding part of Column 2 of that table is respectively met or exceeded in relation to that development;

"scoping direction" ("*cyfarwyddyd cwmpasu*") has the meaning given to it by regulation 14(7);

"scoping opinion" ("*barn gwmpasu*") has the meaning given to it by regulation 14(1);

"screening direction" ("*cyfarwyddyd sgrinio*") means a direction made by the Welsh Ministers as to whether development is EIA development;

"screening opinion" ("*barn sgrinio*") means a written opinion of the relevant planning authority as to whether development is EIA development;

"section 97 order" ("*gorchymyn adran 97*") means—

(a) an order of a local planning authority under section 97(1) of the 1990 Act (power to revoke or modify planning permission); or

(b) an order of the Welsh Ministers under section 100(1) of the 1990 Act (revocation and modification of planning permission);

"section 102 order" ("*gorchymyn adran 102*") means—

(a) an order of a local planning authority under section 102 of the 1990 Act; or

(b) an order of the Welsh Ministers to like effect pursuant to section 104(1) of the 1990 Act (orders requiring discontinuance of use or alteration or removal of buildings or works);

"sensitive area" ("*ardal sensitif*") means any of the following—

(a) land notified under section 28(1) (sites of special scientific interest) of the Wildlife and Countryside Act 1981 [F18];

(b) a National Park within the meaning of the National Parks and Access to the Countryside Act 1949 [F19];

(c) a property appearing on the World Heritage List kept under Article 11(2) of the 1972 UNESCO Convention for the Protection of the World Cultural and Natural Heritage [F20];

(d) a scheduled monument within the meaning of the Ancient Monuments and Archaeological Areas Act 1979 [F21];

(e) an area of outstanding natural beauty designated as such by an order made under section 82(2) (areas of outstanding natural beauty) of the Countryside and Rights of Way Act 2000 [F22];

(f) a European site;

"subsequent application" ("*cais dilynol*") means an application for consent, agreement or approval of a matter—

(a) required by or under a condition to which a planning permission is subject; and

(b) which must be obtained before all or part of the development permitted by the planning permission may be begun;

"subsequent consent" ("*cydsyniad dilynol*") means consent, agreement or approval granted pursuant to a subsequent application;

[F23]...

(2) Subject to paragraph (3), expressions used both in these Regulations and in the 1990 Act have the same meaning for the purposes of these Regulations as they have for the purposes of the 1990 Act.

(3) Expressions used both in these Regulations and in the Directive (whether or not also used in the 1990 Act) have the same meaning for the purposes of these Regulations as they have for the purposes of the Directive.

(4) In these Regulations references to the Welsh Ministers must not be construed as references to an inspector.

(5) Where a person may, or is required to, state, notify, request, confirm, inform or make representations, that person must do so in writing.

(6) Any notice or other document to be sent, served or given under these Regulations may be served or given in a manner specified in section 329 of the 1990 Act (service of notices) [F24].

F6 1991 c. 34.
F7 1995 c. 25.
F8 S.I. 2012/801 (W. 110); amended by S.I. 2015/1330 (W. 123); there are other amending instruments but none is relevant.
F9 S.I. 2016/55 (W. 25).
F10 *See*S.I. 2012/1903 (W. 230).
F11 O.J. No. L 26, 28.1.2012, p. 1-21. Council Directive 2011/92/EU has been amended by Council Directive 2014/52/EU, O.J. No. L 124, 25.4.2014, p. 1–18.
F12 Words in reg. 2(1) substituted (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), **Sch. 6 para. 78(2)(a)**
F13 Section 61A was inserted by the Planning and Compulsory Purchase Act 2004 (c. 5), **section 40(1)**; sub-section (1) was repealed by the Planning Act 2008, sections 188(1), (2), 238 and Schedule 13; sub-section (2) was amended by the Planning Act 2008, section 188(1) and (3).
F14 1972 c. 70. "Principal council" means a council elected for a county borough.
F15 Section 69 was substituted by the Planning and Compulsory Purchase Act 2004, section 188(1) and Schedule 6, paragraphs 1 and 3; section 69 was amended by the Planning Act 2008 (c. 29), **section 190(1)** and (4); the Localism Act 2011 (c. 20), **section 237** and Part 18 of Schedule 25. There are other amendments which are not relevant to this instrument.
F16 Section 62D was inserted by section 19 of the Planning (Wales) Act 2015 (anaw 4).
F17 Section 77 was amended by the 1991 Act, Schedule 7, paragraph 18.

F18 1981 c. 69. Section 28(1) was substituted by the Countryside and Rights of Way Act 2001 (c. 37), **section 75(1)** and Schedule 9, paragraph 1, and amended by the Natural Environment and Rural Communities Act 2006 (c. 16) section 105(1), Schedule 11, Part 1, paragraph 79, and by the Marine and Coastal Access Act 2009 (c. 23) section 148, Schedule 13, Part 2, paragraph 2(1).
F19 1949 c. 97, *see* section 5(3). *See* section 27AA for the application of section 28 in relation to land in Wales.
F20 *See* Command Paper 9424 and http:/whc.unesco.org/en/list.
F21 1979 c. 46. *See* the definition in section 1(11).
F22 2000 c. 37. Section 82(2) was amended by S.I. 2013/755.
F23 Words in reg. 2(1) omitted (31.12.2020) by virtue of The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(2)**; 2020 c. 1, Sch. 5 para. 1(1)
F24 Section 329 was amended by the Town and Country Planning (Electronic Communications) (Wales) (No. 1) Order 2004 (S.I. 2004/3156 (W. 273)).

Prohibition on granting planning permission or subsequent consent without environmental impact assessment

3. A relevant planning authority or the Welsh Ministers or an inspector must not grant planning permission or subsequent consent for EIA development unless an environmental impact assessment has been carried out in respect of that development.

Environmental impact assessment

4.—(1) The environmental impact assessment is a process consisting of—

(a) the preparation of an environmental statement by the person seeking or initiating planning permission;

(b) any consultation, publication and notification required by Parts 5, 9 and where relevant, Part 12 of these Regulations, the 2012 Order or the 2016 Order in respect of EIA development; and

(c) the steps required under regulation 25(1).

(2) The environmental impact assessment must identify, describe and assess in an appropriate manner, in light of each individual case, the direct and indirect significant effects of proposed development on the following—

(a) population and human health;

(b) biodiversity, with particular attention to species and habitats protected under **[**[F25]EU-derived domestic legislation which transposed **]** Directive 92/43/EEC[F26] and Directive 2009/147/EC[F27]**[**[F28]as may be amended from time to time**]**;

(c) land, soil, water, air and climate;

(d) material assets, cultural heritage and the landscape; and

(e) the interaction between the factors listed in sub-paragraphs (a) to (d).

(3) The effects referred to in paragraph (2) on the factors set out in that paragraph must include—

(a) the operational effects of the proposed development, where the proposed development will have operational effects; and

(b) the expected effects deriving from the vulnerability of the proposed development to risks of major accidents and disasters that are relevant to that development.

(4) The relevant planning authority or the Welsh Ministers, as the case may be, must ensure that they have, or have access as necessary to, sufficient expertise to examine the environmental statement.

F25 Words in reg. 4(2)(b) inserted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(3)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F26 Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and on the conservation of wild fauna and flora O.J. L 206, 22.7.1992, pp. 7–50.

F27 Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds O.J. L 20, 26.1.2010, pp. 7–25.

F28 Words in reg. 4(2)(b) inserted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(3)(b)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 2

Screening

General provisions relating to screening

5.—(1) Subject to paragraphs (3) and (4), the occurrence of an event mentioned in paragraph (2) determines for the purpose of these Regulations that development is EIA development.

(2) The events referred to in paragraph (1) are—

(a) the submission by the applicant or appellant in relation to that development of a statement referred to by the applicant or appellant as an environmental statement for the purposes of these Regulations; or

(b) the adoption by the relevant planning authority of a screening opinion to the effect that the development is EIA development.

(3) A direction of the Welsh Ministers determines for the purpose of these Regulations whether development is or is not EIA development.

(4) The Welsh Ministers may direct that these Regulations do not apply in relation to a particular proposed development specified in the direction—

(a) **[**[F29] in exceptional circumstances, without prejudice to regulations 56 and 57 and**]** where in the opinion of the Welsh Ministers the application of these Regulations would adversely affect the purpose of the development;

(b) if the development comprises or forms part of a project having the response to civil emergencies as its sole purpose and in the opinion of the Welsh Ministers compliance with these Regulations would adversely affect those purposes.

(5) Where a direction is given under paragraph (4)(a) or (4)(b) the Welsh Ministers must send a copy of any such direction to the relevant planning authority.

(6) Where a direction is given under paragraph (4)(a) the Welsh Ministers must—

(a) make available to the public the information considered in making the direction and the reasons for making the direction;

(b) consider whether another form of assessment would be appropriate; and

(c) take such steps they consider appropriate to bring the information obtained under the other form of assessment to the attention of the public.

[F30](7) . . . . . .

(8) Where a local planning authority or the Welsh Ministers have to decide under these Regulations whether Schedule 2 development is EIA development, the authority or the Welsh Ministers must take into account in making that decision—

(a) any information provided by the person minded to carry out development;

(b) the available results of other environmental assessments carried out pursuant to **[**[F31]retained EU law (other than an enactment which implemented the Directive)**]**; and

(c) such of the selection criteria set out in Schedule 3 as are relevant to the development.

(9) Where a local planning authority adopt a screening opinion, or the Welsh Ministers make a screening direction—

(a) that opinion or direction must state the main reasons for the conclusion of the authority or the Welsh Ministers, as appropriate, with reference to the relevant criteria listed in Schedule 3;

(b) if it is determined that proposed development is not EIA development, that opinion or direction must state any features of the proposed development and measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(10) The authority or the Welsh Ministers, as appropriate, must send a copy of the opinion or direction to the person who proposes to carry out, or who has carried out, the development in question.

(11) The Welsh Ministers may make a screening direction either—

(a) of their own volition; or

(b) if requested to do so by any person.

(12) The Welsh Ministers may direct that particular development of a description mentioned in Column 1 of the table in Schedule 2 is EIA development in spite of the fact that neither of sub-paragraphs (a) and (b) of the definition of "Schedule 2 development" is satisfied in relation to that development.

(13) If the Welsh Ministers make a screening direction in accordance with paragraph (11), they must—

(a) take such steps as appear to be reasonable to them in the circumstances, having regard to the requirements of regulation 6(2) and (4), to obtain information about the proposed development to inform a screening direction;

(b) take into account in making that direction—

(i) the information gathered in accordance with sub-paragraph (a);

(ii) the available results of other environmental assessments carried out pursuant to **[**[F32]retained EU law (other than an enactment which implemented the Directive)**]**; and

(iii) such of the selection criteria set out in Schedule 3 as are relevant to the development; and

(c) issue a screening direction within 90 days from the date on which the Welsh Ministers have obtained sufficient information to make a direction.

(14) Where the Welsh Ministers consider that due to exceptional circumstances relating to the circumstances of the proposed development that it is not practicable for them to adopt a screening direction within the period specified in paragraph (13)(c), the Welsh Ministers may extend that period by notice given to the person who made the request for a screening direction.

(15) The Welsh Ministers must state in any notice given under paragraph (14) the reasons justifying the extension and the date when the determination is expected.

(16) The Welsh Ministers must send a copy of any screening direction to the relevant planning authority.

F29 Words in reg. 5(4)(a) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(4)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F30 Reg. 5(7) omitted (7.3.2019) by virtue of The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), reg. 1(2)(3), **6(4)(b)**

F31 Words in reg. 5(8)(b) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(4)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

F32 Words in reg. 5(13)(b)(ii) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(4)(c)**; 2020 c. 1, Sch. 5 para. 1(1)

Requests for screening opinions

6.—(1) A person who is minded to carry out development may request the relevant planning authority to adopt a screening opinion.

(2) A request for a screening opinion in relation to an application for planning permission must be accompanied by—

(a) a plan sufficient to identify the land;

(b) a description of the development, including in particular—

(i) a description of the physical characteristics of the development and, where relevant, of demolition works;

(ii) a description of the location of the development, with particular regard to the environmental sensitivity of geographical areas likely to be affected;

(c) a description of the aspects of the environment likely to be significantly affected by the development;

(d) a description of any likely significant effects, to the extent of the information available on those effects, of the proposed development on the environment resulting from—

(i) the expected residues and emissions and the production of waste, where relevant; and

(ii) the use of natural resources, in particular soil, land, water and biodiversity; and

(e) such other information or representations as the person making the request may wish to provide or make including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(3) A request for a screening opinion in relation to a subsequent application must be accompanied by—

(a) a plan sufficient to identify the land;

(b) sufficient information to enable the relevant planning authority to identify any planning permission granted for the development in respect of which a subsequent application has been made;

(c) the information described in paragraph (2)(c) and (d), but only to the extent that this relates to likely significant effects on the environment which were not previously identified; and

(d) such other information or representations as the person making the request may wish to provide or make, including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(4) The person making the request for the screening opinion must, when that person provides the information required by paragraphs (2) or (3), take into account the criteria in Schedule 3 and the available results of other environmental assessments carried out pursuant to **[**F33retained EU law (other than an enactment which implemented the Directive)**]** .

(5) An authority receiving a request for a screening opinion must, if they consider that they have not been provided with sufficient information to adopt an opinion, notify the person making the request of the points on which they require additional information.

(6) An authority must adopt a screening opinion within—

(a) 21 days; or

(b) such longer period not exceeding 90 days as may be agreed in writing with the person making the request,

in either case, from the date on which the person making the request submits the information required under paragraph (2) or (3).

(7) An authority which adopts a screening opinion pursuant to paragraph (6) must send a copy to the person who made the request.

(8) Where an authority—

(a) fails to adopt a screening opinion pursuant to paragraph (6); or

(b) adopts an opinion to the effect that the development is EIA development;

the person who requested the opinion may request the Welsh Ministers to make a screening direction.

(9) The person may make a request pursuant to paragraph (8) even if the authority have not received additional information which they have sought under paragraph (5).

F33 Words in reg. 6(4) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(5)**; 2020 c. 1, Sch. 5 para. 1(1)

Requests for screening directions of the Welsh Ministers

7.—(1) A person who pursuant to regulation 6(8) requests the Welsh Ministers to make a screening direction (a "person making a request") must submit with the request—

(a) a copy of the request to the relevant planning authority under regulation 6(1) and the documents which accompanied it;

(b) a copy of any notification received under regulation 6(5) and of any response sent;

(c) a copy of any screening opinion received from the authority and of any accompanying statement of reasons; and

(d) any representations that the person wishes to make.

(2) A person making a request must send to the relevant planning authority a copy of that request and the representations that person makes to the Welsh Ministers.

(3) If the Welsh Ministers consider that sufficient information to make a screening direction has not been provided, they must give notice to the person making the request.

(4) The notice must specify the points on which additional information is required.

(5) The Welsh Ministers may also request the relevant planning authority to provide such information as they can on any of those points.

(6) The Welsh Ministers must make a screening direction within—

(a) 21 days; or

(b) such longer period not exceeding 90 days as may be reasonably required,

in either case, from the date on which the person making the request submits the information required under paragraph (1).

(7) Where the Welsh Ministers consider that due to exceptional circumstances relating to the proposed development it is not practicable for them to adopt a screening direction within the period of 90 days, the Welsh Ministers may extend that period by giving notice in writing to the person who made the request for a screening direction.

(8) The Welsh Ministers must state in any notice under paragraph (7) the reasons justifying the extension and the date when the determination is expected.

(9) The Welsh Ministers must send a copy of any screening direction made pursuant to paragraph (6) to the person who made the request, the applicant (if they are not the person who made the request) and the relevant planning authority as soon as reasonably practicable.

PART 3

Procedures Concerning Applications for Planning Permission

Applications which appear to require screening opinion

8.—(1) Where it appears to the relevant planning authority that—

(a) an application which is before them for determination is a Schedule 1 application or a Schedule 2 application;

(b) the development in question has not been the subject of a screening opinion or screening direction; and

(c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (5) and (6) of regulation 6 apply as if the receipt or lodging of the application were a request made under regulation 6(1).

(2) Where regulation 6(4) applies by virtue of this regulation, the relevant planning authority must, where and insofar as necessary to ensure that the applicant has provided the information referred to in regulation 6(2), make a request for additional information before issuing a screening opinion.

Subsequent applications where environmental information previously provided

9.—(1) This regulation applies where it appears to the relevant planning authority that—

(a) an application which is before them for determination—

(i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;

(ii) has not itself been the subject of a screening opinion or screening direction; and

(iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and

(b) the original application was accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations.

(2) Where it appears to the relevant planning authority that the environmental information already before them is adequate to assess the significant effects of the development on the environment, they must take that information into consideration in their decision for subsequent consent.

(3) Where it appears to the relevant planning authority that the environmental information already before them is not adequate to assess the significant effects of the development on the environment, they must serve a notice seeking further information in accordance with regulation 24(1).

Subsequent applications where environmental information not previously provided

10.—(1) Where it appears to the relevant planning authority that—

(a) an application which is before them for determination—

(i) is a subsequent application in relation to Schedule 1 or Schedule 2 development;

(ii) has not itself been the subject of a screening opinion or screening direction; and

(iii) is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations; and

(b) the original application was not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (5) and (6) of regulation 6 apply as if the receipt or lodging of the application were a request made under regulation 6(1).

(2) Where paragraph (5) of regulation 6 applies by virtue of this regulation, the relevant planning authority must, where and insofar as necessary to ensure that the applicant has provided the information referred to in regulation 6(2), make a request for additional information before issuing a screening opinion and regulation 6(4) applies as if the receipt or lodging of the application were a request made under regulation 6(1).

Application made to a local planning authority without an environmental statement

11.—(1) Where an EIA application before a local planning authority for determination is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the authority must notify the applicant that the submission of an environmental statement is required.

(2) Where the relevant planning authority is aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, the relevant planning authority must notify the applicant of any such person.

(3) An authority must notify the applicant in accordance with paragraph (1)—

(a) within 21 days beginning with the date of receipt of the application or such longer period as may be agreed in writing with the applicant; or

(b) where the Welsh Ministers, after the expiry of that 21 days or any longer agreed period, make a screening direction to the effect that the development is EIA development, within 7 days beginning with the date the authority received a copy of that screening direction.

(4) An applicant receiving a notification pursuant to paragraph (1) may, within 21 days beginning with the date of the notification, write to the authority stating—

(a) that the applicant accepts their view and is providing an environmental statement; or

(b) unless the condition referred to in paragraph (5) is satisfied, that the applicant is writing to the Welsh Ministers to request a screening direction.

(5) For the purpose of paragraph (4)(b) the condition is that the Welsh Ministers have made a screening direction in respect of the development—

(a) in the case of an application for planning permission; or

(b) pursuant to a subsequent application,

as the case may be.

(6) If the applicant does not write to the authority in accordance with paragraph (4), the permission or subsequent consent sought is deemed to be refused at the end of the relevant 21 days, unless the condition referred to in paragraph (7) is satisfied and the deemed refusal—

(a) is treated as a decision of the authority for the purposes of article 29(3)(c) (register of applications) of the 2012 Order; but

(b) does not give rise to an appeal to the Welsh Ministers under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions) [F34].

(7) For the purpose of paragraph (6) the condition is that the Welsh Ministers have made a screening direction to the effect that the development is not EIA development—

(a) in the case of an application for planning permission; or

(b) pursuant to a subsequent application,

as the case may be.

(8) Unless the Welsh Ministers make a screening direction that the development is not EIA development, an authority which has given a notification in accordance with paragraph (1) must determine the relevant application by refusing planning permission or subsequent consent if the applicant does not submit an environmental statement and comply with regulation 19(6).

(9) A person who requests a screening direction pursuant to paragraph (4)(b) must send to the Welsh Ministers with the request copies of—

(a) the request to the relevant planning authority under regulation 6(1) and the documents which accompanied it;

(b) any notification made under regulation 6(4) and any response sent by that person to the relevant planning authority;

(c) the application;

(d) all documents sent to the authority as part of the application;

(e) all correspondence between the applicant and the authority relating to the proposed development;

(f) any planning permission granted for the development; and

(g) in the case of a subsequent application, relevant documents or information relating to the planning permission granted for the development,

and paragraphs (2) to (9) of regulation 7 apply to a request under this regulation as they apply to a request made pursuant to regulation 6(8).

F34 Section 78 was amended by the 1991 Act, section 17(2); the Planning and Compulsory Purchase Act 2004 (c. 5), **section 43(2)**; the Localism Act 2011 (c. 20), **section 121** and Schedule 12, paragraphs 1 and 11 and section 123(1) and (3); the Planning Act 2008 (c. 29), **section 196(4)** and Schedule 10, paragraphs 1 and 3, section 197 and Schedule 11, paragraphs 1 and 2; the Growth and Infrastructure Act 2013 (c. 27), **section 1(2)** and Schedule 1, paragraphs 1 and 8; the Planning (Wales) Act 2015 (anaw 4), section 45; and by S.I. 2014/2773 (W. 280), article 3 and Schedule 1, paragraphs 1 and 3. There is another amendment which is not relevant to this instrument.

Application referred to the Welsh Ministers without an environmental statement

12.—(1) Where an application has been referred to the Welsh Ministers for determination under section 77 of the 1990 Act (reference of applications to the Welsh Ministers) [F35], and it appears to the Welsh Ministers that—

(a) it is a Schedule 1 application or a Schedule 2 application;

(b) the development in question—

(i) has not been the subject of a screening opinion or screening direction; or

(ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it was not EIA development; and

(c) the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

paragraphs (3) to (9) of regulation 7 apply as if the referral of the application were a request made by the applicant pursuant to regulation 6(8).

(2) Where regulation 7(3) applies by virtue of this regulation, the Welsh Ministers must, where necessary to ensure that the applicant has provided—

(a) in the case of applications, the information referred to in regulation 6(2),

(b) in the case of subsequent applications, the information required by regulation 6(3),

make a request for additional information before issuing a screening direction and regulation 6(4) applies as if the referral of the application were a request made by the applicant under regulation 6(1).

(3) Where the Welsh Ministers have determined that an application referred to them for determination is an EIA application but the application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, the Welsh Ministers must notify the applicant that the submission of an environmental statement is required and must send a copy of that notification to the relevant planning authority.

(4) Where the Welsh Ministers are aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, they must notify the applicant of any such person.

(5) The Welsh Ministers must notify the applicant in accordance with paragraph (3) within 21 days beginning with the date the application was received or such longer period as may be reasonably required.

(6) An applicant who receives a notification under paragraph (3) may, within 21 days beginning with the date of the notification, confirm to the Welsh Ministers that an environmental statement will be provided.

(7) If the applicant does not write in accordance with paragraph (6), the Welsh Ministers do not have a duty to deal with the application and at the end of the 21 days they must inform the applicant that no further action is being taken on the application.

(8) Where—

(a) a notification has been given under paragraph (3), and

(b) the applicant does not submit an environmental statement which complies with regulation 19(6),

the Welsh Ministers must determine the relevant application by refusing planning permission or subsequent consent.

F35 Section 77 was amended by the 1991 Act, section 32, Schedule 7, paragraph 18; the Infrastructure Act 2015 (c. 7), **section 30(1)** and Schedule 4, Part 2, paragraphs 2 and 11(a); and by S.I. 2014/2773 (W.

280), article 3 and Schedule 1, paragraphs 1 and 2. There are other amendments which are not relevant to this instrument.

Appeal to the Welsh Ministers without an environmental statement

13.—(1) Where, on consideration of an appeal under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions) it appears to the Welsh Ministers that—

(a) the relevant application is a Schedule 1 application or a Schedule 2 application; and

(b) the development in question—

(i) has not been the subject of a screening opinion or screening direction; or

(ii) in the case of a subsequent application, was the subject of a screening opinion or direction before planning permission was granted to the effect that it is not EIA development; and

(c) the relevant application is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations,

paragraphs (3) to (9) of regulation 7 apply as if the appeal were a request made by the appellant pursuant to regulation 6(8).

(2) Where an inspector is dealing with an appeal and a question arises as to whether the relevant application is an EIA application and it appears to the inspector that it may be such an application, the inspector must refer that question to the Welsh Ministers and must not determine the appeal before a screening direction is made, except by refusing planning permission or subsequent consent.

(3) Paragraphs (3) to (9) of regulation 7 apply to a question referred under paragraph (2) as if the referral of that question were a request made by the appellant pursuant to regulation 6(8).

(4) Where regulation 7(3) applies by virtue of paragraph (1) or (3), the Welsh Ministers must, where necessary to ensure that the applicant has provided, in the case of—

(a) applications, the information referred to in regulation 6(2); and

(b) subsequent applications, the information referred to in regulation 6(3),

make a request for additional information before issuing a screening direction and regulation 6(4) applies as if the referral of the application were a request made by the applicant under regulation 6(8).

(5) Where it appears to the Welsh Ministers that the relevant application is an EIA application and is not accompanied by a statement referred to by the appellant as an environmental statement for the purposes of these Regulations, they must notify the appellant that the submission of an environmental statement is required.

(6) Where the Welsh Ministers are aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, they must notify the appellant of any such person.

(7) An appellant who receives a notification under paragraph (5), may within 21 days beginning with the date of the notification, confirm to the Welsh Ministers that an environmental statement will be provided.

(8) If the appellant does not confirm in accordance with paragraph (7), the Welsh Ministers have or, where relevant, the inspector has, no duty to deal with the appeal; and at the end of the 21 days the Welsh Ministers, or the inspector, must inform the appellant that no further action is being taken on the appeal.

(9) Where—

(a) a notification has been given under paragraph (5), and

(b) the appellant does not submit an environmental statement and comply with regulation 19(6),

the Welsh Ministers or, where relevant, the inspector must determine the appeal by refusing planning permission or subsequent consent.

PART 4

Preparation of Environmental Statements

Scoping opinions

14.—(1) A person who is minded to make an EIA application may ask the relevant planning authority to state their opinion as to the scope and level of detail of the information to be provided in the environmental statement ("scoping opinion").

(2) A request under paragraph (1) must include—

(a) in relation to an application for planning permission—

(i) a plan sufficient to identify the land;

(ii) a brief description of the nature and purpose of the development including its location and technical capacity;

(iii) its likely significant effects on the environment; and

(iv) such other information or representations as the person making the request may wish to provide or make;

(b) in relation to a subsequent application—

(i) a plan sufficient to identify the land;

(ii) sufficient information to enable the relevant planning authority to identify any planning permission granted for the development in respect of which a subsequent application has been made;

(iii) a description of the likely significant effects on the environment which were not identified at the time planning permission was granted; and

(iv) such other information or representations as the person making the request may wish to provide or make.

(3) An authority receiving a request under paragraph (1) must, if they consider that they have not been provided with sufficient information to adopt a scoping opinion, notify the person who made the request of the points on which they require additional information.

(4) An authority must not adopt a scoping opinion in response to a request under paragraph (1) until they have consulted the consultees, but must, subject to paragraph (5), within 8 weeks beginning with the date of receipt of that request or such longer period as may be agreed in writing with the person who made the request, adopt a scoping opinion and send a copy to the person who made the request.

(5) Where a person has, at the same time as making a request for a screening opinion under regulation 6(1), asked the authority for an opinion under paragraph (1) above, and the authority have adopted a screening opinion to the effect that the development is EIA development, the authority must, within 8 weeks beginning with the date on which that screening opinion was adopted or such longer period as may be agreed in writing with the person who made the request, adopt a scoping opinion and send a copy to the person who made the request.

(6) Before adopting a scoping opinion the authority must take into account—

(a) any information provided by the applicant about the proposed development;

(b) the specific characteristics of the particular development;

(c) the specific characteristics of development of the type concerned; and

(d) the environmental features likely to be significantly affected by the development.

(7) Where an authority fail to adopt a scoping opinion within the relevant period mentioned in paragraph (4) or (5), the person who requested the opinion may ask the Welsh Ministers under regulation 15(1) to make a direction as to the information to be provided in the environmental statement (a "scoping direction").

(8) Paragraph (7) applies even if the authority has not received additional information which they have sought under paragraph (3).

(9) Nothing prevents an authority which have adopted a scoping opinion from requiring the person who made the request to provide additional information.

(10) "Additional information" ("*gwybodaeth ychwanegol*") in paragraph (9) means information in connection with any statement that may be submitted by that person as an environmental statement for the purposes of these Regulations in connection with an application for planning permission or a subsequent application for the same development.

Scoping directions

15.—(1) A request made under this paragraph pursuant to regulation 14(7) must include—

(a) a copy of the request to the relevant planning authority under regulation 14(1);

(b) a copy of any relevant notification under regulation 14(3) and of any response;

(c) a copy of any relevant screening opinion received by the person making the request and of the accompanying statement of reasons; and

(d) any representations that the person making the request wishes to make.

(2) A person making a request must send to the relevant planning authority a copy of that request, but that copy need not include the matters mentioned in paragraph (1)(a) to (c).

(3) If the Welsh Ministers consider that the information provided pursuant to paragraph (1) is insufficient to make a scoping direction, the Welsh Ministers must give notice to the person making the request.

(4) The notice must set out any points on which additional information is required.

(5) The Welsh Ministers may also request the relevant planning authority to provide such information as they can on any of those points.

(6) The Welsh Ministers must—

(a) consult the consultees before making a scoping direction in response to a request under paragraph (1), and

(b) make a direction and send a copy to the person making the request and to the relevant planning authority, within 5 weeks beginning with the date of receipt of that request or such longer period as may be reasonably required.

(7) Before making a scoping direction the Welsh Ministers must take into account the matters specified in regulation 14(6).

(8) Nothing prevents the Welsh Ministers, (after they have made a scoping direction) nor the relevant planning authority from requiring the person making the request to provide additional information.

(9) "Additional information" ("*gwybodaeth ychwanegol*") in paragraph (8) means information in connection with any statement that may be submitted by that person as an environmental statement

for the purposes of these Regulations in connection with an application for planning permission or a subsequent application for the same development.

Procedure to facilitate preparation of environmental statements

16.—(1) Any person who intends to submit an environmental statement to the relevant planning authority or the Welsh Ministers under these Regulations may give notice to that authority or the Welsh Ministers under this paragraph.

(2) A notice under paragraph (1) must include the information necessary to identify the land and the nature and purpose of the development, and must indicate the main environmental consequences to which the person giving the notice proposes to refer in the environmental statement.

(3) The recipient of—

(a) such notice as is mentioned in paragraph (1); or

(b) a statement or confirmation made pursuant to regulation 11(4)(a), 12(6) or 13(7), must—

(i) notify the consultees of the name and address of the person who intends to submit an environmental statement and of the duty imposed on the consultees by paragraph (4) to make information available to that person; and

(ii) inform the person who intends to submit an environmental statement of the names and addresses of the consultees so notified.

(4) Subject to paragraph (5), the relevant planning authority and any consultee notified in accordance with paragraph (3) must, if requested by the person who intends to submit an environmental statement, enter into consultation with that person to determine whether the authority or consultee has in its possession any information which that person considers, or they consider, relevant to the preparation of the environmental statement. If they have, the authority or consultee must make that information available to that person.

(5) A relevant planning authority or consultee which receives a request for information under paragraph (4) must treat it as a request for information under regulation 5(1) of the Environmental Information Regulations 2004 [F36].

F36 S.I. 2004/3391.

PART 5

Publicity and Procedures on Submission of Environmental Statements

Environmental statements

17.—(1) An EIA application must be accompanied by an environmental statement for the purposes of these Regulations but this is subject to paragraph (2).

(2) Where regulation 9(1) and (2) apply, paragraph **Error! Reference source not found.** does not apply.

(3) An environmental statement is a statement which includes at least—

(a) a description of the proposed development comprising information on the site, design, size and other relevant features of the development;

(b) a description of the likely significant effects of the proposed development on the environment;

(c) a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;

(d) a description of the reasonable alternatives studied by the applicant or appellant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the significant effects of the development on the environment;

(e) a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and

(f) any additional information specified in Schedule 4 relevant to the specific characteristics of the particular development or type of development and to the environmental features likely to be significantly affected.

(4) An environmental statement must—

(a) be prepared by persons who in the opinion of the relevant planning authority or the Welsh Ministers, as appropriate, have sufficient expertise to ensure the completeness and quality of the statement;

(b) contain a statement by or on behalf of the applicant or appellant describing the expertise of the person who prepared the environmental statement;

(c) where a scoping opinion or direction has been issued in accordance with regulation 14 or 15, be based on the most recent scoping opinion or direction issued (so far as the proposed development remains materially the same as the proposed development which was the subject of that opinion or direction);

(d) include the information reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment; and

(e) take into account other relevant environmental assessments required under **[**[F37]retained EU law**]** or any other provision of domestic legislation, with a view to avoiding duplication of assessment.

F37 Words in reg. 17(4)(e) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(6)**; 2020 c. 1, Sch. 5 para. 1(1)

Procedure where an environmental statement is submitted to a local planning authority

18.—(1) An applicant who submits an environmental statement to the relevant planning authority must submit it in electronic and paper format unless otherwise agreed in writing.

(2) If at the same time as it makes an EIA application the applicant serves a copy of the statement on any other body, the applicant must—

(a) serve with the statement a copy of the application and any plan submitted with the application (unless these have already been provided to the body in question);

(b) inform the body that representations may be made to the relevant planning authority; and

(c) inform the authority of the name of every body so served and of the date of service.

(3) When a relevant planning authority receive an environmental statement, the authority must—

(a) send to the Welsh Ministers, within 14 days of receipt of the statement, one electronic copy of the statement, a copy of the relevant application and of any documents submitted with the application;

(b) inform the applicant of the number of copies required to enable the authority to comply with sub-paragraph (c);

(c) forward to any consultee which has not received a copy direct from the applicant, a copy of the statement and inform any such consultee that they may make representations;

(d) where the authority are aware of any particular person who is or is likely to be affected by, or has an interest in, the application and who is unlikely to become aware of it by means of electronic publication or site notice or by local advertisement, send a notice to such person containing the details set out in regulation 19(2)(b) to (k) and the name and address of the authority.

(4) The applicant must send the copies required for the purposes of paragraph (3)(c) to the relevant planning authority.

(5) Where an applicant submits an environmental statement to the authority in accordance with paragraph (1), the provisions of article 12 of and Schedule 3 to the 2012 Order (publicity for applications for planning permission) apply to a subsequent application as they apply to a planning application falling within article 12(2) of the 2012 Order as if the reference in the notice in Schedule 3 to the 2012 Order to "planning permission to" read "consent, agreement or approval to".

(6) The relevant planning authority must not determine the application until the expiry of 30 days from the last date on which a copy of the statement was served in accordance with this regulation.

Publicity where an environmental statement is submitted after the planning application

19.—(1) Where an application for planning permission or a subsequent application has been made without an environmental statement and the applicant proposes to submit such a statement, the applicant must, before submitting it, comply with paragraphs (2) to (5).

(2) The applicant must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

(a) the applicant's name, that an application is being made for planning permission or subsequent consent and the name and address of the relevant planning authority;

(b) the date on which the application was made and, if it be the case, that it has been referred to the Welsh Ministers for determination or is the subject of an appeal to the Welsh Ministers;

(c) the address or location and the nature of the proposed development;

(d) that—

(i) a copy of the application, any accompanying plan and other documents, and a copy of the environmental statement, and

(ii) in the case of a subsequent application, a copy of the planning permission in respect of which that application has been made and supporting documents,

may be inspected by members of the public at all reasonable hours;

(e) an address in the locality in which the land is situated at which those documents may be inspected, and the latest date on which they are available for inspection (being a date not less than 30 days later than the date on which the notice is published);

(f) details of a website maintained by or on behalf of the relevant planning authority on which the environmental statement and other documents may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);

(g) an address (whether or not the same as that given under sub-paragraph (e)) in the locality in which the land is situated at which copies of the statement may be obtained;

(h) that copies may be obtained there so long as stocks last;

(i) if a charge is to be made for a copy, the amount of the charge;

(j) that any person wishing to make representations about the application should make them, before the later of the dates stated in accordance with sub-paragraph (e) or (f), to the relevant planning authority or (in the case of an application referred to the Welsh Ministers or an appeal) to the Welsh Ministers; and

(k) in the case of an application referred to the Welsh Ministers or an appeal, the address, including an electronic address, to which representations should be sent.

(3) An applicant who is notified under regulation 11(2), 12(4) or 13(6) of such a person as mentioned in any of those regulations must serve a notice on every such person; and the notice must contain the information specified in paragraph (2).

(4) The applicant must, where it has the right to, or can reasonably acquire the right to, post on the land a notice containing the information specified in paragraph (2).

(5) The notice mentioned in paragraph (4) must—

(a) be left in position for not less than 7 days in the 28 days immediately preceding the date of the submission of the statement; and

(b) be affixed firmly to some object on the land and sited and displayed in such a way as to be easily visible to, and readable by, members of the public without going on to the land.

(6) The environmental statement, when submitted, must be accompanied by—

(a) a copy of the notice mentioned in paragraph (2) certified by or on behalf of the applicant as having been published in a named newspaper on a date specified in the certificate; and

(b) a certificate by or on behalf of the applicant which states either—

(i) that a notice was posted on the land in compliance with this regulation and when this was done, and that the notice was left in position for not less than 7 days in the 28 days immediately preceding the date of the submission of the statement, or that, without any fault or intention on the applicant's part, it was removed, obscured or defaced before 7 days had elapsed and the applicant took reasonable steps for its protection or replacement, specifying the steps taken; or

(ii) that the applicant was unable to comply with paragraphs (4) and (5) because the applicant did not have the necessary rights to do so; that any reasonable steps available to acquire those rights have been taken but unsuccessfully, specifying the steps taken.

(7) Where an applicant indicates that the applicant proposes to provide a statement in the circumstances mentioned in paragraph (1), the relevant planning authority, the Welsh Ministers or the inspector, as the case may be, must (unless disposed to refuse the permission or subsequent consent sought) suspend consideration of the application or appeal until receipt of the statement and the other documents mentioned in paragraph (6); and must not determine the application or appeal during the period of 30 days beginning with the last date on which the statement and the other documents so mentioned are published in accordance with this regulation.

(8) Where it is proposed to submit an environmental statement in connection with an appeal, this regulation applies as if references to the applicant were references to the appellant.

Provision of copies of environmental statements and further information for the Welsh Ministers on referral or appeal

20.—(1) Where an applicant for planning permission or subsequent consent has submitted an environmental statement, or further information, to the relevant planning authority in connection with that application and—

(a) the application is referred to the Welsh Ministers under section 77 of the 1990 Act (reference of applications to Secretary of State); or

(b) the applicant appeals under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions),

the applicant must supply the Welsh Ministers with the statement and, where relevant, the further information unless, in the case of a referred application, the authority have already done so.

(2) The statement and the further information supplied in accordance with paragraph (1) must be in electronic and paper format unless otherwise agreed in writing.

Procedure where an environmental statement is submitted to the Welsh Ministers

21.—(1) This regulation applies where an applicant or appellant submits an environmental statement to the Welsh Ministers, in relation to an EIA application which is—

(a) before the Welsh Ministers or an inspector for determination; or

(b) the subject of an appeal to the Welsh Ministers.

(2) The applicant or appellant must submit the environmental statement in electronic and paper format to the Welsh Ministers and to the relevant planning authority, unless otherwise agreed in writing.

(3) An applicant or appellant who submits an environmental statement to the Welsh Ministers may provide a copy of it to any other body, and if so must—

(a) comply with sub-paragraphs (a) and (b) of regulation 18(2) as if the reference in regulation 18(2)(b) to the relevant planning authority were a reference to the Welsh Ministers; and

(b) inform the Welsh Ministers of the matters mentioned in regulation 18(2)(c).

(4) The Welsh Ministers must comply with regulation 18(3) (except sub-paragraph (a) of that regulation) and the applicant or appellant must comply with regulation 18(4) as if—

(a) references in those provisions to the relevant planning authority were references to the Welsh Ministers; and,

(b) in the case of an appeal, references to the applicant were references to the appellant,

and the Welsh Ministers or the inspector must comply with regulation 18(6) as if it referred to the Welsh Ministers or the inspector instead of the relevant planning authority.

Availability of copies of environmental statements

22. An applicant or appellant who submits an environmental statement in connection with an application or appeal, must ensure that a reasonable number of copies of the statement are available at the address named in the notices published or posted pursuant to article 12 of the 2012 Order or regulation 19(2)(g) as the address at which such copies may be obtained.

Charges for copies of environmental statements

23. A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of a statement made available in accordance with regulation 22.

Further information and evidence in respect of environmental statements

24.—(1) If a relevant planning authority, the Welsh Ministers or inspector dealing with an application or appeal in relation to which the applicant or appellant has submitted an environmental statement, are of the opinion that, in order to satisfy the requirements of regulation 17(3) it is

necessary for the statement to be supplemented with additional information which is directly relevant to reaching a reasoned conclusion on the likely significant effects of the development described in the application, the relevant planning authority, the Welsh Ministers or inspector must notify the applicant or appellant accordingly and the applicant or appellant must provide that additional information in paper and electronic format, unless otherwise agreed in writing; and such additional information is referred to in these Regulations as "further information" ("*gwybodaeth bellach*").

(2) Paragraphs (3) to (9) apply in relation to further information and any other information except in so far as—

(a) the further information and any other information is provided for the purposes of an inquiry or hearing held under the 1990 Act; and

(b) the request for the further information made pursuant to paragraph (1) stated that it was to be provided for such purposes.

(3) The recipient of further information or any other information must publish by local advertisement a notice stating—

(a) the name of the applicant for planning permission or subsequent consent, or the appellant (as the case may be), and the name and address of the relevant planning authority;

(b) the date on which the application was made and, if it is the case, that it has been referred to the Welsh Ministers for determination or is the subject of an appeal to the Welsh Ministers;

(c) in the case of a subsequent application, sufficient information to enable the planning permission for the development to be identified;

(d) the address or location and the nature of the proposed development;

(e) that further information or any other information is available in relation to an environmental statement which has already been provided;

(f) that a copy of the further information or any other information and of any environmental statement which relates to any planning permission or subsequent application may be inspected by members of the public at all reasonable hours;

(g) an address in the locality in which the land is situated at which the further information or any other information may be inspected and the latest date on which it will be available for inspection (being a date not less than 30 days later than the date on which the notice is published);

(h) details of a website maintained by or on behalf of the relevant planning authority on which the further information or any other information may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);

(i) an address in the locality in which the land is situated (whether or not the same as that given pursuant to sub-paragraphs (g) and (h)) at which copies of the further information or any other information may be obtained;

(j) that copies may be obtained there so long as stocks last;

(k) if a charge is to be made for a copy, the amount of the charge;

(l) that any person wishing to make representations about the further information or any other information should make them, before the date stated in accordance with sub-paragraph (g), to the relevant planning authority, the Welsh Ministers or the inspector (as the case may be); and

(m) the address to which representations should be sent.

(4) The recipient of the further information or any other information must send a copy of it to each person to whom, in accordance with these Regulations, the statement to which it relates was sent.

(5) Where the recipient of the further information or any other information is the relevant planning authority they must send to the Welsh Ministers one copy of the further information.

(6) The recipient of the further information may by notice require the applicant or appellant to provide such number of copies of the further information or any other information as is specified in the notice (being the number required for the purposes of paragraph (4) or (5)).

(7) Where information is requested under paragraph (1) or any other information is provided, the relevant planning authority, the Welsh Ministers or the inspector, as the case may be,—

(a) must suspend determination of the application or appeal; and

(b) must not determine it before the expiry of 30 days after the latest of—

(i) the date on which the further information or any other information was sent to all persons to whom the statement to which it relates was sent;

(ii) the date that notice of it was published in a local newspaper; or

(iii) the date that notice of it was published on the website.

(8) The applicant or appellant who provides further information or any other information, in accordance with paragraph (1) must—

(a) ensure that a reasonable number of copies of the information are available at the address named in the notice published pursuant to paragraph (3)(i) as the address at which such copies may be obtained; and

(b) take any reasonable steps required by the authority to ensure that copies of the further information or other information are made available for access on the website referred to in the notice published pursuant to paragraph (3).

(9) A reasonable charge reflecting printing and distribution costs may be made to a member of the public for a copy of the further information or any other information, made available in accordance with paragraph (8)(a).

(10) The relevant planning authority or the Welsh Ministers or an inspector may require an applicant or appellant to produce such evidence as they may reasonably call for to verify any information in the environmental statement.

Consideration of whether planning permission should be granted

25.—(1) When determining an application or appeal in relation to which an environmental statement has been submitted the relevant planning authority or the Welsh Ministers, as the case may be, must—

(a) examine the environmental information;

(b) reach a reasoned conclusion on the significant effects of the proposed development on the environment, taking into account the examination referred to in sub-paragraph (a) and, where appropriate, their own supplementary examination;

(c) integrate that conclusion into the decision as to whether planning permission or subsequent consent is to be granted; and

(d) if planning permission or subsequent consent is to be granted, consider whether it is appropriate to impose monitoring measures.

(2) The reasoned conclusion referred to in paragraph (1) must be up to date when the determination is made; and that conclusion must be taken to be up to date if in the opinion of the relevant planning authority or the Welsh Ministers, as the case may be, it addresses the significant effects that are likely to arise as a result of the development proposed.

(3) When considering whether to impose a monitoring measure under paragraph (1)(d), the relevant planning authority or the Welsh Ministers, as appropriate, must—

(a) if monitoring is considered to be appropriate, consider whether to make provision for potential remedial action;

(b) take steps to ensure that the type of parameters to be monitored and the duration of the monitoring are proportionate to the nature, location and size of the proposed development and the significance of its effects on the environment; and

(c) consider, in order to avoid duplication of monitoring, whether monitoring arrangements required under **[**F38retained EU law (other than an enactment which implemented the Directive)**]** or other legislation applicable in Wales are more appropriate than imposing monitoring measures.

(4) In cases where no statutory timescale is in place the determination of the relevant planning authority or the Welsh Ministers, the case may be, must be made within a reasonable period of time, taking into account the nature and complexity of the proposed development, from the date on which the relevant planning authority or the Welsh Ministers have been provided with the environmental information.

F38 Words in reg. 25(3)(c) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(7)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 6

Coordination of assessments

26.—(1) Where in relation to EIA development there is, in addition to the requirement for an environmental impact assessment to be carried out, also a requirement to carry out a Habitats Regulations Assessment, the relevant planning authority (or the Welsh Ministers, as the case may be) must where appropriate ensure that the Habitats Regulations Assessment and the environmental impact assessment are co-ordinated.

(2) In this regulation, a "Habitats Regulations Assessment" ("*Asesiad Rheoliadau Cynefinoedd*") means an assessment under **[**F39regulation 63 of the Conservation of Habitats and Species Regulations 2017**]**.

F39 Words in reg. 26(2) substituted (30.11.2017) by The Conservation of Habitats and Species Regulations 2017 (S.I. 2017/1012), reg. 1(2), **Sch. 6 para. 78(3)(a)**

PART 7

Availability of Directions etc. and Notification of Decisions

Availability of opinions, directions etc. for inspection

27.—(1) Where particulars of a planning application or a subsequent application are placed on Part 1 of the register, the relevant planning authority must take steps to secure that there is also placed on that Part a copy of any—

(a) screening opinion;

(b) screening direction;

(c) scoping opinion;

(d) scoping direction;

(e) notification given under regulation 11(1), 12(3) or 13(5);

(f) direction under regulation 5(4) or (5);

(g) environmental statement, including any further information and any other information;

(h) statement of reasons accompanying any of the above.

(2) Where the relevant planning authority—

(a) adopt a screening opinion or scoping opinion; or

(b) receive a request under regulation 14(1) or 15(1), or a copy of a screening direction, scoping direction, or direction under regulation 5(4) before an application is made for planning permission or subsequent consent for the development in question,

the authority must take steps to secure that a copy of the opinion, request, or direction and any accompanying statement of reasons are made available for public inspection at all reasonable hours at the place where the appropriate register (or relevant part of that register) is kept.

(3) Copies of the documents referred to in paragraph (2) must remain so available for a period of two years from the date on which they are placed on the register.

Information to accompany decisions

28.—(1) Where an EIA application or appeal in relation to which an environmental statement has been submitted is determined by a relevant planning authority or the Welsh Ministers, as the case may be, the person making that determination must provide to the applicant or appellant the information specified in paragraph (2).

(2) The information is—

(a) information regarding the right to challenge the validity of the decision and the procedures for doing so; and

(b) if the decision is to grant planning permission or subsequent consent—

(i) the reasoned conclusion of the relevant planning authority or the Welsh Ministers, as the case may be, on the significant effects of the development on the environment, taking into account the results of the examination referred to in regulation 25(1)(a) and (b);

(ii) any conditions to which the decision is subject which relate to the likely significant environmental effects of the development on the environment;

(iii) a description of any features of the development and any measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment; and

(iv) any monitoring measures considered appropriate by the authority or the Welsh Ministers, as the case may be; or

(c) if the decision is to refuse planning permission or subsequent consent, the main reasons for the refusal.

Duties to inform the public and the Welsh Ministers of final decisions

29.—(1) Where an EIA application is determined by a local planning authority, the authority must promptly—

(a) inform the Welsh Ministers of the decision by electronic means;

(b) inform the consultees of the decision;

(c) inform the public of the decision, by local advertisement, or by such other means as are reasonable in the circumstances; and

(d) make available for public inspection at the place where the appropriate register (or relevant part of that register) is kept, a statement containing—

(i) details of the matters referred to in regulation 28(2);

(ii) the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public;

(iii) a summary of the results of the consultations undertaken and information gathered, in respect of the application and how those results, in particular how the comments received from an EEA State pursuant to consultation under regulation 56, have been incorporated or otherwise addressed.

(2) Where an EIA application is determined by the Welsh Ministers or an inspector, the Welsh Ministers must—

(a) notify the relevant planning authority of the decision; and

(b) provide the authority with such a statement as is mentioned in paragraph (1)(c).

(3) The relevant planning authority must, as soon as reasonably practicable after receipt of a notification under paragraph (2)(a), comply with sub-paragraphs (b) to (d) of paragraph (1) in relation to the decision so notified as if it were a decision of the authority.

PART 8

Applications for planning permission made to the Welsh Ministers

Application of Parts 2 to 7

30.—(1) This Part applies where an application for planning permission is made to the Welsh Ministers and so that "application" ("*cais*") in this Part means an application for planning permission so made.

(2) Parts 2 to 7 apply subject to the exceptions in the following paragraph and the modifications and supplementary provisions in this Part.

(3) Regulations 6, 7(1), 7(2), 8 to 15, 20, and 22 do not apply.

Requests for screening directions of the Welsh Ministers

31.—(1) A person who is minded to make an application may request the Welsh Ministers to adopt a screening direction.

(2) A request for a screening direction in relation to an application must be accompanied by—

(a) a plan sufficient to identify the land;

(b) a description of the development, including in particular—

(i) a description of the physical characteristics of the whole development and, where relevant, of demolition works;

(ii) a description of the location of the development, with particular regard to the environmental sensitivity of geographical areas likely to be affected;

(c) a description of the aspects of the environment likely to be significantly affected by the development;

(d) a description of any likely significant effects, to the extent of the information available on those effects, of the proposed development on the environment resulting from—

(i) the expected residues and emissions and the production of waste, where relevant; and

(ii) the use of natural resources, in particular soil, land, water and biodiversity;

(e) a statement that the request is made in relation to a development of national significance for the purposes of section 62D of the 1990 Act; and

(f) such other information or representations as the person making the request may wish to provide or make including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(3) The person making the request for the screening opinion must take into account the criteria in Schedule 3 and the available results of other environmental assessments carried out pursuant to **[**[F40]retained EU law (other than an enactment which implemented the Directive)**]** when that person provides the information required by paragraph (2).

(4) A person making a request pursuant to paragraph (1) must send to the relevant planning authority a copy of that request and the documents which accompany that request.

(5) Paragraphs (3) to (9) of regulation 7 apply as if the references to making a request under regulation 6(8) were references to making a request under regulation 31(1).

F40 Words in reg. 31(3) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(8)**; 2020 c. 1, Sch. 5 para. 1(1)

Applications made without an environmental statement

32.—(1) Where an application is made and it appears to the Welsh Ministers that—

(a) it is an EIA application; and

(b) it is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations,

the Welsh Ministers must notify the applicant that the submission of an environmental statement is required and send a copy of that notification to the relevant planning authority.

(2) The Welsh Ministers must notify the applicant in accordance with paragraph (1) within 28 days, beginning with the date on which the Welsh Ministers are in receipt of an application, or such longer period as the Welsh Ministers may determine.

(3) An applicant who receives a notification under paragraph (1) may, within 21 days beginning with the date of the notification, confirm to the Welsh Ministers that an environmental statement will be provided.

(4) Where the Welsh Ministers are aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, the Welsh Ministers must notify the applicant of any such person.

(5) If the applicant does not confirm in accordance with paragraph (3), the Welsh Ministers are under no duty to deal with the application and, at the end of the 21 day period, they must inform the applicant that no further action is being taken on the application.

(6) Where—

(a) a notification has been given under paragraph (1); and

(b) the applicant does not submit an environmental statement and comply with regulation 19 (publicity where an environmental statement is submitted after the planning application),

the Welsh Ministers must determine the application only by refusing planning permission.

Scoping directions

33.—(1) A person who is minded to make an application for planning permission may ask the Welsh Ministers to make a scoping direction.

(2) A request under paragraph (1) must include—

(a) a plan sufficient to identify the land;

(b) a brief description of the nature and purpose of the development including its location and technical capacity;

(c) its likely significant effects on the environment;

(d) a statement that the request is made in relation to a development of national significance for the purposes of section 62D of the 1990 Act; and

(e) such other information or representations as the person making the request may wish to provide or make.

(3) A person making a request pursuant to paragraph (1) must send to the relevant planning authority a copy of that request and the documents which accompany that request.

(4) If the Welsh Ministers consider that the information provided pursuant to paragraph (1) is insufficient to make a scoping direction, the Welsh Ministers must give notice to the person making the request.

(5) The notice must set out any points on which additional information is required.

(6) The Welsh Ministers may also request the relevant planning authority to provide such information as they can on any of those points.

(7) The Welsh Ministers must—

(a) consult the consultees before making a scoping direction in response to a request under paragraph (1), and

(b) make a direction and send a copy to the person who made the request and to the relevant planning authority, within 8 weeks beginning with the date of receipt of that request or such longer period as may be reasonably required.

(8) Before making a scoping direction the Welsh Ministers must take into account—

(a) any information provided by the applicant about the proposed development;

(b) the specific characteristics of the particular development;

(c) the specific characteristics of development of the type concerned; and

(d) the environmental features likely to be significantly affected by the development.

(9) Nothing prevents the Welsh Ministers, (after they have made a scoping direction) from requiring the person who made the request to provide additional information about the likely significant effects of the proposed development.

(10) "Additional information" ("*gwybodaeth ychwanegol*") in paragraph (9) means information in connection with any statement that may be submitted by that person as an environmental statement for the purposes of these Regulations.

Procedure to facilitate preparation of environmental statements

34. Regulation 16 applies as if—

(a) paragraph (3) reads—

"(3) The recipient of—

(a) such notice as is mentioned in paragraph (1); or

(b) a statement made pursuant to regulation 11(4)(a), 12(6), 13(7) or 32(3), must—

(i) notify the consultees of the name and address of the person who intends to submit an environmental statement and of the duty imposed on the consultees by paragraph (4) to make information available to that person; and

(ii) inform the person who intends to submit an environmental statement of the names and addresses of the consultees so notified."; and

(b) the references in paragraphs (4) and (5) to the "relevant planning authority" and "authority" were to the Welsh Ministers.

Publicity where an environmental statement is submitted after the planning application

35. Regulation 19 applies as if paragraphs (2) and (3) read—

"(2) The applicant must publish in a local newspaper circulating in the locality in which the land is situated a notice stating—

(a) the applicant's name, that an application is being made to the Welsh Ministers for planning permission and the address of the Welsh Ministers;

(b) the date on which the application was made;

(c) the address or location and the nature of the proposed development;

(d) that a copy of the application, any accompanying plan and other documents, and a copy of the environmental statement may be inspected by members of the public at all reasonable hours;

(e) an address in the locality in which the land is situated at which those documents may be inspected, and the latest date on which they are available for inspection (being a date not less than 30 days later than the date on which the notice is published);

(f) details of a website maintained by or on behalf of the Welsh Ministers on which the environmental statement and other documents may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);

(g) an address (whether or not the same as that given under sub-paragraph (e)) in the locality in which the land is situated at which copies of the statement may be obtained;

(h) that copies may be obtained there so long as stocks last;

(i) if a charge is to be made for a copy, the amount of the charge;

(j) that any person wishing to make representations about the application must make them, before the date named in accordance with sub-paragraph (e) or (f), whichever is the latest, to the Welsh Ministers; and

(k) the address to which representations should be sent.

(3) An applicant who is notified under regulation 32(4) of such a person as mentioned in that regulation, must serve a notice on every such person; and the notice must contain the information specified in paragraph (2), except that the date noted as the latest date on which

the documents will be available for inspection must not be less than 21 days later than the date on which the notice is first served."

Availability of copies of environmental statements

36. An applicant who submits an environmental statement in connection with an application, must ensure that a reasonable number of copies of the statement are available at the address named in the notices published or served pursuant to article 18(2) of the 2016 Order as the address at which such copies may be obtained.

Availability of directions etc. for inspection

37. Regulation 27 applies as if paragraph (1)(e) reads "notification given under regulation 32(2) (applications made without environmental statement);".

PART 9

Restrictions of Grants of Permission

New simplified planning zone schemes or enterprise zone orders

38. No—

(a) adoption or approval of a simplified planning zone scheme [F41];

(b) an order designating an enterprise zone made under section 88 of the 1990 Act; or

(c) the approval of a modified scheme in relation to such an enterprise zone, may—

(i) grant planning permission for EIA development; or

(ii) grant planning permission for Schedule 2 development unless that grant is made subject to the prior adoption of a screening opinion or prior making of a screening direction that the particular proposed development is not EIA development.

F41 *See* the definition of "simplified planning zone" in section 336 of the 1990 Act.

Local development orders

39.—(1) This regulation applies in relation to Schedule 2 development for which a local planning authority propose to grant planning permission by local development order.

(2) Where this regulation applies—

(a) the local planning authority must not adopt or revise a local development order unless they have either requested and adopted a screening opinion or the Welsh Ministers have made a screening direction;

(b) regulation 7(1) applies as if the words "pursuant to regulation 6(8)" were omitted;

(c) regulations 6(2) to (9), 7 and 8 apply as if references to—

(i) an application for planning permission, are to a proposal for a local development order;

(ii) a relevant planning authority, are to the local planning authority to whom it would fall to adopt or revise the local development order;

(iii) the applicant, are to the authority; and

(iv) a Schedule 2 application are to a proposal for a local development order to grant planning permission for Schedule 2 development.

(3) Paragraph (4) and Schedule 5 apply where—

(a) the local planning authority adopts a screening opinion; or

(b) the Welsh Ministers make a screening direction,

to the effect that the development concerned is EIA development.

(4) The local planning authority must not adopt or revise a local development order which grants planning permission for Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location unless an environmental impact assessment has been carried out in respect of that development.

Section 97 orders and section 102 orders

40.—(1) This regulation applies where a local planning authority or the Welsh Ministers propose to make or confirm a section 97 order modifying any permission to develop land or a section 102 order granting planning permission.

(2) The local planning authority must not make and the Welsh Ministers must not make or confirm a section 97 order or a section 102 order in relation to Schedule 2 development unless the authority have requested and adopted a screening opinion or the Welsh Ministers have made a screening direction.

(3) Where this regulation applies—

(a) regulation 6(4) does not apply;

(b) regulation 7(1) applies as if the words "pursuant to regulation 6(8)" were omitted;

(c) regulations 6(2), (4), (5) to (9) and 7(1), (3) to (9) apply as if references to—

(i) an application for planning permission, are to a proposal for a section 97 or a section 102 order;

(ii) a relevant planning authority, are to the body to whom it falls to make the section 97 or section 102 order;

(iii) the applicant are to the initiating body; and

(iv) a Schedule 1 or a Schedule 2 application are to a proposal of a section 97 order or a section 102 order which would grant or modify planning permission for Schedule 1 development or Schedule 2 development respectively.

(4) Paragraphs (5) and (6) and Schedule 6 apply in either case—

(a) to Schedule 1 development;

(b) where either—

(i) the local planning authority adopts a screening opinion, or

(ii) the Welsh Ministers make a screening direction under these Regulations,

to the effect that the development is EIA development.

(5) The local planning authority must not make a section 97 order which permits or requires EIA development unless an environmental impact assessment has been carried out in relation to that development.

(6) The Welsh Ministers must not confirm or make a section 97 order or a section 102 order which permits or requires EIA development unless an environmental impact assessment has been carried out in relation to that development.

Action under section 141 of the 1990 Act

41.—(1) This regulation and Schedule 7 apply in relation to the exercise of functions by the Welsh Ministers under section 141(2) or (3) of the 1990 Act [F42].

(2) Where the Welsh Ministers receive a purchase notice under section 139(4) of the 1990 Act, the Welsh Ministers must not modify planning permission for EIA development or direct that, if an application for planning permission for EIA development is made, it must be granted unless an environmental impact assessment has been carried out in respect of that development.

F42 Section 141 of the 1990 Act enables Welsh Ministers to take certain action in relation to planning permission instead of confirming a purchase notice submitted to them pursuant to section 140 of the 1990 Act. A purchase notice may be served on a council pursuant to section 137 of the 1990 Act.

PART 10

Unauthorised Development

Interpretation of this Part

42. In this Part—

"enforcement functions" ("*swyddogaethau gorfodi")* means—

(a) the issue of an enforcement notice under section 172 of the 1990 Act (issue of enforcement notice) [F43];

(b) the issue of a planning contravention notice under section 171C of the 1990 Act (power to require information about activities on land) [F44];

(c) the issue of a temporary stop notice under section 171E of the 1990 Act (temporary stop notice) [F45];

(d) the issue of a stop notice under section 183 of the 1990 Act (stop notices) [F46];

(e) the service of a breach of condition notice under section 187A of the 1990 Act (enforcement of conditions) [F47]; and

(f) an application to the court for an injunction under section 187B of the 1990 Act (injunctions restraining breaches of planning control) [F48];

"ground (a) appeal" ("*apêl sail (a)*") means an appeal brought under section 174(2)(a) of the 1990 Act (appeal against enforcement notice) [F49]; and

"unauthorised EIA development" ("*datblygiad AEA anawdurdodedig*") means EIA development which is the subject of an enforcement notice under section 172 of the 1990 Act (issue of enforcement notice).

F43 Section 172 was substituted by section 5 of the 1991 Act.
F44 Section 171C was inserted by section 1 of the 1991 Act and amended by article 5(a) of S.I. 2004/3156 (W. 273).
F45 Section 171E was inserted by section 52 of the Planning and Compulsory Purchase Act 2004 (c. 5).
F46 Section 183 was substituted by section 9 of the 1991 Act.
F47 Section 187A was inserted by section 2 of the 1991 Act. There is a further amendment which is not relevant to Wales.
F48 Section 187B was inserted by section 3 of the 1991 Act.

F49 Section 174 was amended by sections 6, 32 and 84 of, and paragraph 22 of Part 1 to Schedule 19 to the 1991 Act, S.I. 2004/3156 (W. 273), section 63 of, and paragraphs 2 and 5 of Schedule 17 to the Enterprise and Regulatory Reform Act 2013 (c. 24) and by section 46 of the Planning (Wales) Act 2015 (anaw 4). There are other amendments which are not relevant to Wales. *See* also section 177(5) which was amended by paragraph 24 of Schedule 7 to the 1991 Act.

Duty to ensure objectives of the Directive are met

43. Relevant planning authorities, in the exercise of their enforcement functions, must have regard to the need to secure compliance with **[**F50any law which implemented the Directive and with the objectives of the Directive**]** .

F50 Words in reg. 43 substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(9)**; 2020 c. 1, Sch. 5 para. 1(1)

Prohibition on the grant of planning permission for unauthorised EIA development

44. The Welsh Ministers or an inspector must not grant planning permission or subsequent consent under section 177(1) of the 1990 Act (grant or modification of planning permission on appeals against enforcement notices) F51 in respect of unauthorised EIA development unless an environmental impact assessment has been carried out in respect of that development.

F51 Section 177 was amended by sections 6(3) and 32 of, and paragraph 24 of Schedule 7 to, the 1991 Act and by section 123(1), (6) of the Localism Act 2011 (c. 20) and by section 44(1) and (3) of the Planning (Wales) Act 2015. There is another amendment which is not relevant to this instrument.

Screening opinions

45.—(1) Where it appears to the local planning authority by whom or on whose behalf an enforcement notice is to be issued that the matters constituting the breach of planning control comprise or include Schedule 1 development or Schedule 2 development they must, before the enforcement notice is issued—

(a) take such steps as appear to be reasonable to them in the circumstances, having regard to the requirements of regulation 6(2) and (4), to obtain information about unauthorised development to inform a screening opinion; and

(b) adopt a screening opinion.

(2) Where it appears to such local planning authority that the matters constituting the breach of planning control comprise or include EIA development they must serve with a copy of the enforcement notice a notice ("regulation 45 notice") which must—

(a) include the screening opinion required by paragraph (1); and

(b) require a person who gives notice of an appeal under section 174 of the 1990 Act to submit to the Welsh Ministers with the notice two copies of an environmental statement relating to that EIA development.

(3) The local planning authority by whom a regulation 45 notice has been served must send a copy of it to—

(a) the Welsh Ministers;

(b) the consultees; and

(c) any particular person of whom the authority is aware, who is likely to be affected by, or has an interest in, the regulation 45 notice.

(4) Where a local planning authority provide the Welsh Ministers with a copy of a regulation 45 notice they must include with it a list of the other persons to whom a copy of the notice has been or is to be sent.

Screening directions

46.—(1) Any person on whom a regulation 45 notice is served may, within 21 days beginning with the date the notice is served, apply to the Welsh Ministers for a screening direction.

(2) An application for a screening direction must be accompanied by—

(a) a copy of the regulation 45 notice;

(b) a copy of the enforcement notice which it accompanied; and

(c) the information required under, and representations made in accordance with, regulation 6(2), which must be prepared by the applicant in compliance with regulation 6(4).

(3) At the same time as applying to the Welsh Ministers, the applicant must send to the authority by whom the regulation 45 notice was served, a copy of the application and of the information and any representations provided or made in accordance with paragraph (2)(c).

(4) If the Welsh Ministers consider that the information provided in accordance with paragraph (2) is insufficient to make a direction, they must notify the applicant and the authority of the matters in respect of which additional information is required; and the information so requested must be provided by the applicant within such reasonable period as may be specified in the notice.

(5) Regulation 7(6) to (8) applies to a direction sought pursuant to paragraph (1).

(6) The Welsh Ministers must send a copy of the direction to the applicant.

(7) Where the Welsh Ministers direct that the matters which are alleged to constitute the breach of planning control do not comprise or include EIA development, they must send a copy of the direction to every person to whom a copy of the regulation 45 notice was sent.

Provision of information

47.—(1) The relevant planning authority and any person, other than the Welsh Ministers, to whom a copy of the regulation 45 notice has been sent ("the regulation 45 consultee") must, if requested by the person on whom the regulation 45 notice was served, enter into consultation with that person to determine whether the regulation 45 consultee has in their possession any information which that person or the regulation 45 consultee considers relevant to the preparation of an environmental statement and if they have, the regulation 45 consultee must make any such information available to that person.

(2) Regulation 16(5) applies to information under paragraph (1) as it applies to any information falling within regulation 16(4).

Appeal to the Welsh Ministers without a screening opinion or screening direction

48.—(1) Where on consideration of an appeal under section 174 of the 1990 Act it appears to the Welsh Ministers that the matters alleged to constitute the breach of planning control comprise or include Schedule 1 development or Schedule 2 development, they must, before any notice is served pursuant to regulation 49, make a screening direction.

(2) Where an inspector is dealing with an appeal under section 174 of the 1990 Act and a question arises as to whether the matters alleged to constitute the breach of planning control comprise or

include Schedule 1 development or Schedule 2 development, the inspector must refer that question to the Welsh Ministers.

(3) Before receiving a screening direction the inspector may not determine the application which is deemed to have been made by virtue of the appeal under section 174 of the 1990 Act ("the deemed application") except to refuse that application.

(4) Where a question is referred under paragraph (2), the Welsh Ministers must make a screening direction within 21 days beginning with the date on which the question was referred or such longer period as may be reasonably required, not exceeding 90 days from the date on which the person making the request submits the information required under regulation 46(2)(c).

(5) Where the Welsh Ministers consider that due to exceptional circumstances relating to the proposed development it is not practicable for them to adopt a screening direction within the period of 90 days beginning with the date of the request, the Welsh Ministers may extend that period by giving notice in writing to the person who made the request.

(6) The Welsh Ministers must state in any notice under paragraph (5) the reasons justifying the extension and the date when the determination is expected.

(7) The Welsh Ministers must send a copy of any screening direction made pursuant to paragraph (4) to the inspector.

(8) If the Welsh Ministers consider that sufficient information to make a screening direction has not been provided, they must give notice to the applicant and the authority by whom the regulation 45 notice was served, of the matters in respect of which additional information is required, and the information so requested must be provided by the applicant within such reasonable period as may be specified in the notice.

(9) If an appellant to whom notice has been given under paragraph (8) fails to comply with the requirements of that notice, the appeal in so far as it is a ground (a) appeal, lapses at the end of the period specified in the notice.

Appeal to the Welsh Ministers without an environmental statement

49.—(1) The procedure in paragraph (2) applies where—

(a) the Welsh Ministers or an inspector are considering an appeal under section 174 of the 1990 Act;

(b) the matters which are alleged to constitute the breach of planning control comprise or include unauthorised EIA development; and

(c) the documents submitted for the purposes of the appeal do not include a statement referred to by the appellant as an environmental statement for the purposes of these Regulations.

(2) The procedure is—

(a) the Welsh Ministers must, within the period of 21 days beginning with the day on which the appeal is received, or such longer period as may be reasonably required, notify the appellant of the requirements of sub-paragraph (c); but this is subject to sub-paragraph (b);

(b) notice need not be given under sub-paragraph (a) where the appellant has submitted an environmental statement to the Welsh Ministers for the purposes of an appeal under section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions) which—

(i) relates to the development to which the appeal under section 174 of the 1990 Act relates; and

(ii) is to be determined at the same time as the appeal under section 174 of the 1990 Act;

and that statement, any further information, any other information and the representations (if any) made in relation to it must be treated as the environmental information for the purpose of regulation 41;

(c) the appellant must, within the period specified in the notice or such longer period as the Welsh Ministers may allow, submit to the Welsh Ministers two copies of an environmental statement relating to the unauthorised EIA development in question;

(d) the Welsh Ministers must send to the relevant planning authority a copy of any notice sent to the appellant under sub-paragraph (a);

(e) if an appellant to whom notice has been given under sub-paragraph (a) fails to comply with the requirements of sub-paragraph (c), the ground (a) appeal lapses at the end of the period allowed;

(f) as soon as reasonably practicable after the occurrence of the lapse described in sub-paragraph (e), the Welsh Ministers must notify the appellant and the relevant planning authority that the ground (a) appeal has lapsed.

Procedure where an environmental statement is submitted to the Welsh Ministers

50. Where the Welsh Ministers receive (otherwise than as mentioned in regulation 49(2)(b)) an environmental statement in connection with an enforcement appeal, they must—

(a) send a copy of that statement to the relevant planning authority, advise the authority that the statement will be taken into consideration in determining the ground (a) appeal, and inform them that they may make representations;

(b) notify the persons to whom a copy of the relevant regulation 45 notice was sent that the statement will be taken into consideration in determining the ground (a) appeal, and inform them that they may make representations and that, if they wish to receive a copy of the statement or any part of it, they must notify the Welsh Ministers of their requirements within 7 days of the receipt of the Welsh Ministers' notice; and

(c) respond to requirements notified in accordance with paragraph (b) by providing a copy of the statement or of the part requested (as the case may be).

Further information and evidence respecting environmental statements

51. Regulation 24(1) and (10) apply to statements provided in accordance with this Part with the following modifications—

(a) where the Welsh Ministers or an inspector notify the appellant under regulation 24(1), the appellant must provide the further information within such period as the Welsh Ministers or the inspector may specify in the notice or such longer period as the Welsh Ministers or the inspector may allow;

(b) if an appellant to whom a notice has been given under paragraph (a) fails to provide the further information within the period specified or allowed, the the ground (a) appeal lapses at the end of that period.

Publicity for environmental statements or further information

52.—(1) Where an authority receive a copy of a statement by virtue of regulation 50(a) or any further information or other information, they must publish by local advertisement a notice stating—

(a) the name of the appellant and that the enforcement notice has been appealed to the Welsh Ministers;

(b) the address or location of the land to which the notice relates and the nature of the development;

(c) sufficient information to enable any planning permission for the development to be identified;

(d) that a copy of the statement, further information or any other information and of any planning permission may be inspected by members of the public at all reasonable hours;

(e) an address in the locality in which the land is situated at which the statement or further information or any other information may be inspected, and the latest date on which it will be available for inspection (being a date not less than 30 days later than the date on which the notice is published);

(f) details of a website maintained by or on behalf of the relevant planning authority on which the environmental statement and other documents may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days later than the date on which the notice is published);

(g) that any person wishing to make representations about any matter dealt with in the statement or further information or any other information should make them, before the latest date stated in accordance with sub-paragraph (e) or (f), to the Welsh Ministers; and

(h) the address to which any such representations should be sent.

(2) The authority must, as soon as practicable after publication of a notice in accordance with paragraph (1), send to the Welsh Ministers a copy of the notice certified by or on behalf of the authority as having been published by local advertisement on a date specified in the certificate.

(3) The relevant planning authority must make the environmental statement available for inspection on a website maintained by or on its behalf.

(4) Neither the Welsh Ministers receiving a certificate under paragraph (2) nor an inspector may determine the ground (a) appeal in respect of the development to which the certificate relates until the expiry of 30 days from the date stated in the published notice as the last date on which the statement or further information was available for inspection.

Public inspection of documents

53.—(1) The relevant planning authority must make available for public inspection at all reasonable hours at the place where the appropriate register (or relevant part of that register) is kept, a copy of—

(a) every regulation 45 notice given by the authority;

(b) every notice received by the authority under regulation 49(2)(d); and

(c) every statement and all further information received by the authority under regulation 50(a);

and copies of those documents must remain so available for a period of 2 years or until they are entered in Part 2 of the register in accordance with paragraph (2), whichever is the sooner.

(2) Where particulars of any planning permission granted by the Welsh Ministers or an inspector under section 177 of the 1990 Act are entered in Part 2 of the register [F52], the relevant planning authority must take steps to secure that that Part also contains a copy of any of the documents referred to in paragraph (1) as are relevant to the development for which planning permission has been granted.

(3) The provisions of paragraphs (2) and (3) of regulation 29 apply to a grant of planning permission under section 177 of the 1990 Act as they apply to an application for and grant of planning permission under Part 3 of the 1990 Act.

F52 *See* section 177(8) of the 1990 Act.

Significant transboundary effects

54. Regulation 56 applies to unauthorised EIA development as if—

(a) regulation 56(1)(a) read—

"(a) on consideration of an appeal under section 174 of the 1990 Act the Welsh Ministers are of the opinion that the matters which are alleged to constitute the breach of planning control comprise or include EIA development and that the development has or is likely to have significant effects on the environment in **[**F53an**]** EEA State; or";

(b) in regulation 56(3)(a), "a copy of the application concerned" read "a description of the development concerned";

(c) in regulation 56(6) "application" read "appeal".

F53 Word in reg. 54(a) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(10)**; 2020 c. 1, Sch. 5 para. 1(1)

PART 11

ROMP Applications

General application of the Regulations to ROMP applications

55.—(1) In this regulation and in Schedule 8—

"the General Regulations" ("*y Rheoliadau Cyffredinol*") means the Town and Country Planning General Regulations 1992 **F54**;

"relevant mineral planning authority" ("*awdurdod cynllunio mwynau perthnasol*") means the body to whom it falls, fell, or would, but for a direction under—

(a) paragraph 7 of Schedule 2 to the 1991 Act;

(b) paragraph 13 of Schedule 13 to the 1995 Act; or

(c) paragraph 8 of Schedule 14 to the 1995 Act,

fall to determine the ROMP application in question;

"ROMP" ("*ROMP*") means review of old mineral permission;

"ROMP application" ("*cais ROMP*") means an application to a relevant mineral planning authority to determine the conditions to which a planning permission is to be subject under—

(a) paragraph 2(2) of Schedule 2 to the 1991 Act (registration of old mining permissions);

(b) paragraph 9(1) of Schedule 13 to the 1995 Act (review of old mineral planning permissions); or

(c) paragraph 6(1) of Schedule 14 to the 1995 Act (periodic review of mineral planning permissions) **F55**;

"ROMP development" ("*datblygiad ROMP*") means development which has yet to be carried out and which is authorised by a planning permission in respect of which a ROMP application has been or is to be made;

"ROMP subsequent application" ("*cais dilynol ROMP*") means an application for approval of a matter where the approval—

(a) is required by or under a condition to which a planning permission is subject following determination of a ROMP application; and

(b) must be obtained before all or part of the minerals development permitted by the planning permission may be begun or continued;

"ROMP subsequent consent" ("*cydsyniad dilynol ROMP*") means consent granted pursuant to a ROMP subsequent application; and

"undetermined ROMP application" ("*cais ROMP amhenderfynedig*") has the same meaning as in regulation 2 of the Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009 [F56].

(2) Subject to paragraph (3) and to the modifications and additions set out in Schedule 8, these Regulations apply to—

(a) a ROMP application as they apply to an application for planning permission;

(b) a ROMP subsequent application as they apply to a subsequent application;

(c) ROMP development as they apply to development in respect of which an application for planning permission is, has been, or is to be made;

(d) a relevant mineral planning authority as they apply to a relevant planning authority;

(e) a person making a ROMP application as they apply to an applicant for planning permission;

(f) a person making a ROMP subsequent application as they apply to a person making a subsequent application;

(g) the determination of a ROMP application as they apply to the granting of a planning permission; and

(h) the granting of ROMP subsequent consent as they apply to the granting of subsequent consent.

(3) These Regulations do not apply to—

(a) any undetermined ROMP application to which the Town and Country Planning (Environmental Impact Assessment) (Undetermined Reviews of Old Mineral Permissions) (Wales) Regulations 2009 apply;

(b) to any appeal in relation to such an application.

F54 S.I. 1992/1492. Relevant amending instruments are S.I. 1992/1892 and S.I. 1997/3006.

F55 Paragraph 6 was amended by S.I. 2004/3156 (W. 273). There is another amendment which is not relevant to these Regulations.

F56 S.I. 2009/3342 (W. 293).

PART 12

Development with Significant Transboundary Effects

Development in Wales likely to have significant effects in [F57an] EEA State

56.—(1) Where—

(a) it comes to the attention of the Welsh Ministers that development proposed to be carried out in Wales is the subject of an EIA application and is likely to have significant effects on the environment in **[**F58an**]** EEA State; or

(b) **[**F59an**]** EEA State likely to be significantly affected by such development so requests,

the Welsh Ministers must—

(i) send to the EEA State as soon as possible and no later than the date of publication in the London Gazette referred to in sub-paragraph (ii), the particulars mentioned in paragraph (2) and, if relevant, the information referred to in paragraph (3);

(ii) publish in a notice in the London Gazette the information in paragraph (2) and, if relevant, the information referred to in paragraph (3) and an address where additional information is available; and

(iii) give the EEA State a reasonable time in which to indicate whether it wishes to participate in the procedure for which these Regulations provide.

(2) The particulars referred to in paragraph (1)(b)(i) are—

(a) a description of the development, together with any available information on its possible significant effect on the environment in **[**F60an**]** EEA State; and

(b) information on the nature of the decision which may be taken.

(3) Where an EEA State indicates, in accordance with paragraph (1)(b)(iii), that it wishes to participate in the procedure for which these Regulations provide, the Welsh Ministers must as soon as possible send to that EEA State—

(a) a copy of the application concerned;

(b) details of the authority responsible for deciding the application;

(c) a copy of any planning permission relating to the development;

(d) a copy of any environmental statement in respect of the development; and

(e) relevant information regarding the procedure under these Regulations,

but only to the extent that such information has not been provided to the EEA State earlier in accordance with paragraph (1)(b)(i).

(4) The Welsh Ministers must also ensure that the EEA state concerned is given an opportunity, before planning permission for the development is granted, to forward to the Welsh Ministers, within a reasonable time, the opinions of its public and of the authorities likely to be concerned by the project by reason of their specific environmental responsibilities on the information supplied.

(5) The Welsh Ministers must F61...—

(a) enter into consultations with the EEA State concerned regarding, inter alia, the potential significant effects of the development on the environment of that EEA State and the measures envisaged to reduce or eliminate such effects; and

(b) determine in agreement with the F62... EEA State a reasonable period of time for the duration of the consultation period.

(6) Where an EEA State has been consulted in accordance with paragraph (5), on the determination of the application concerned the Welsh Ministers must inform the EEA State of the decision and must forward to it a copy of the information referred to in regulation 28.

F57 Word in reg. 56 heading substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(11)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F58 Word in reg. 56(1)(a) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(11)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F59 Word in reg. 56(1)(b) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(11)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F60 Word in reg. 56(2)(a) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(11)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F61 Words in reg. 56(5) omitted (31.12.2020) by virtue of The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(11)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F62 Word in reg. 56(5)(b) omitted (31.12.2020) by virtue of The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(11)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

Projects in [F63an] EEA State likely to have significant transboundary effects

57.—(1) Where the Welsh Ministers receive from **[**F64an**]** EEA StateF65... information which that EEA State has gathered from the developer of a proposed project in that EEA State, which is likely to have significant effects on the environment in Wales, they mustF66...—

(a) enter into consultations with that EEA State regarding the potential significant effects of the proposed project on the environment in Wales and the measures envisaged to reduce or eliminate such effects; and

(b) determine in agreement with that EEA State a reasonable period, before development consent for the project is granted, during which members of the public in Wales may submit to the competent authority in that EEA State representations F67....

(2) The Welsh Ministers must also—

(a) arrange for the information referred to in paragraph (1) to be made available, within a reasonable time and for a time period of no less than 30 days, both to the authorities in Wales which are likely to be concerned by the project by reason of their specific environmental responsibilities, and to the public concerned in Wales;

(b) ensure that those authorities and the public concerned are given an opportunity, before development consent for the project is granted, to forward to the **[**F68authority in the relevant EEA State which that state has designated as responsible for performing the duties arising from the Directive**]**, within a reasonable time, their opinion on the information supplied; and

(c) make available to the public concerned any information received from the **[**F69authority in the relevant EEA State which that state has designated as responsible for performing the duties arising from the Directive**]**.

F63 Word in reg. 57 heading substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(12)(a)**; 2020 c. 1, Sch. 5 para. 1(1)

F64 Word in reg. 57(1) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(12)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F65 Words in reg. 57(1) omitted (31.12.2020) by virtue of The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(12)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

F66 Words in reg. 57(1) omitted (31.12.2020) by virtue of The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(12)(b)(iii)**; 2020 c. 1, Sch. 5 para. 1(1)

F67 Words in reg. 57(1)(b) omitted (31.12.2020) by virtue of The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(12)(b)(iv)**; 2020 c. 1, Sch. 5 para. 1(1)

F68 Words in reg. 57(2)(b) substituted (7.3.2019) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), reg. 1(2)(3), **6(12)(c)(i)**

F69 Words in reg. 57(2)(c) substituted (7.3.2019) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), reg. 1(2)(3), **6(12)(c)(ii)**

PART 13

Miscellaneous

Objectivity and bias

58.—(1) Where a local planning authority or the Welsh Ministers have a duty under these Regulations, they must perform that duty in an objective manner and so as not to find themselves in a situation giving rise to a conflict of interest.

(2) Where a local planning authority, or the Welsh Ministers are acting as a developer and that authority or the Welsh Ministers, as the case may be, are also responsible for determining their own proposal, that authority or the Welsh Ministers, as the case may be, must make appropriate administrative arrangements to ensure that there is a functional separation between those persons who seek or require permission for development and the persons responsible for determining that proposal.

Application to the High Court

59. For the purposes of Part 12 of the 1990 Act (validity of certain decisions), the reference in section 288(1)(b) [F70] to action of the Welsh Ministers not being within the powers of the 1990 Act is to be taken to extend to a grant of planning permission or subsequent consent not being permitted by reason of regulations 3 or 44.

F70 Section 288(1)(b) was amended by the Planning (Wales) Act 2015 (anaw 4), section 27 and Schedule 4, paragraph 16.

Hazardous waste and material change of use

60. A change in the use of land or buildings to a use for a purpose mentioned in paragraph 9 of Schedule 1 involves a material change in the use of that land or those buildings for the purposes of section 55(1) of the 1990 Act (meaning of "development" and "new development").

Extension of the period for an authority's decision on a planning application

61.—(1) For the purposes of section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions), in determining the time which has elapsed without the relevant planning authority giving notice to the applicant of their decision, where—

(a) the authority have notified an applicant in accordance with regulation 11(1) that the submission of an environmental statement is required; and

(b) the Welsh Ministers have given a screening direction in relation to the development in question,

no account is to be taken of any period before the issue of the direction.

(2) Where it falls to an authority to determine an EIA application, articles 22 (time periods for decisions) and 23 (applications made under planning condition) of the 2012 Order have effect as if—

(a) each of the references in articles 22(2)(a) and 23 to a period of 8 weeks is a reference to a period of 16 weeks; and

(b) the reference in article 22(2)(aa) [F71] to the period of 12 weeks is a reference to the period of 20 weeks.

F71 Sub-paragraph (aa) of article 22(2) was inserted by article 11(b) of the Town and Country Planning (Development Management Procedure) (Wales) (Amendment) Order 2016 (S.I. 2016/59 (W. 29)).

Extension of the power to provide in a development order for the giving of directions as respects the manner in which planning applications are dealt with

62. Provisions included in a development order by virtue of section 60 of the 1990 Act (permission granted by development order) [F72] which enable the Welsh Ministers to give directions, must enable them to direct that development which is both of a description mentioned in Column 1 of the table in Schedule 2, and of a class described in the direction is EIA development for the purposes of these Regulations.

F72 There are amendments to section 60 which are not relevant to these Regulations.

Application to the Crown

63.—(1) These Regulations apply to the Crown with the following modifications.

(2) In relation to an application made to the Welsh Ministers other than an application under section 62D of the 1990 Act (developments of national significance: applications for planning permission), regulation 12 (application referred to the Welsh Ministers without an environmental statement) is to be read as if—

(a) in paragraph (1)—

(i) before "referred" in the first place it occurs, it read "made to the Welsh Ministers under section 293A of the 1990 Act (urgent Crown development: application) [F73] or"; and

(ii) before "referral" it read "making or the";

(b) in paragraph (2), before "referral", it read "making or the"; and

(c) in paragraph (3), before "referred" in the first place it occurs, it read "made under section 293A of the 1990 Act or".

F73 Section 293A was inserted by section 82(1) of the Planning and Compulsory Purchase Act 2004 (c. 5) (the "2004 Act") and has been amended by section 16 and Schedule 2, paragraphs 8 and 9 and section 27 and paragraphs 1 and 17(1) to (3) of Schedule 4 to the Planning (Wales) Act 2015. Section 118(3) of the 2004 Act provides that a reference in Schedule 1 to the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672) to an enactment amended by the 2004 Act must be taken as a reference to the enactment as so amended.

Amendment of other instruments

64. The instruments in Schedule 9 are amended to the extent set out in that Schedule.

Revocation, saving and transitional provisions

65.—(1) The 2016 Regulations are revoked, but this is subject to paragraphs **[**F74(2), (7) and (8)**]**.

[F75(2) The 2016 Regulations continue to have effect where before 16 May 2017—

(a) the applicant or appellant submitted an environmental statement or requested a scoping opinion in respect of the development; or

(b) in respect of—

(i) local development orders;

(ii) section 97 orders;

(iii) section 102 orders; or

(iv) action under section 141 of the 1990 Act,

the local planning authority, the initiating body or the applicant prepared an environmental statement or a scoping opinion or requested a scoping direction in connection with that order or action.**]**

(7) Parts 1 and 2 of the 2016 Regulations continue to have effect in respect of—

(a) requests for a screening opinion or screening direction;

(b) screening opinions adopted by the relevant planning authority; and

(c) screening directions made by the Welsh Ministers, where, before 16 May 2017, such requests were made, or the local planning authority or the Welsh Ministers (as the case may be) initiated the making or adoption of screening opinions or screening directions.

(8) The 2016 Regulations continue to have effect for the purposes of the Town and Country Planning (Undetermined Reviews of Old Mineral Permissions)(Wales) Regulations 2009 F76.

(9) Accordingly, these Regulations (other than this regulation) do not apply in respect of development to which the 2016 Regulations continue to have effect by virtue of any of paragraphs **[**F77(2), (7) and (8)**]**.

(10) In this regulation—

"2016 Regulations" ("*Rheoliadau* 2016") means the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 F78;

"environmental statement" ("*datganiad amgylcheddol*"), scoping direction" ("*cyfarwyddyd cwmpasu*") and "scoping opinion" ("*barn gwmpasu*") have the meanings in regulation 2 of the 2016 Regulations; and

"ROMP" ("*ROMP*") and "ROMP application" ("*cais ROMP*") have the same meaning as in regulation 55(1).

F74 Words in reg. 65(1) substituted (1.4.2019) by The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2019 (S.I. 2019/299), regs. 1(2), **2(2)(a)**

F75 Reg. 65(2) substituted for reg. 65(2)-(6) (1.4.2019) by The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2019 (S.I. 2019/299), regs. 1(2), **2(2)(b)**

F76 S.I. 2009/3342 (W. 293) as amended by S.I. 2003/755 (W. 90) and S.I. 2016/58 (W. 28) see for ROMP applications made before 15 November 2000.

F77 Words in reg. 65(9) substituted (1.4.2019) by The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2019 (S.I. 2019/299), regs. 1(2), **2(2)(c)**

F78 S.I. 2016/58 (W. 28).

Consequential amendments

66. The instruments in Schedule 10 are amended to the extent shown in that Schedule.

Lesley Griffiths
Cabinet Secretary for Environment and Rural Affairs, one of the Welsh Ministers

SCHEDULE 1

Regulation 2(1)

Descriptions of development for the purposes of the definition of "Schedule 1 development"

Interpretation

In this Schedule—

"airport" ("*maes awyr*") means an airport which complies with the definition in the 1944 Chicago Convention setting up the International Civil Aviation Organisation (Annex 14) [F79];

"express road" ("*gwibffordd*") means a road which complies with the definition in the European Agreement on Main International Traffic Arteries of 15 November 1975 [F80];

"nuclear power station" ("*gorsaf bŵer niwclear*") and "other nuclear reactor" ("*adweithydd niwclear arall*") do not include an installation from the site of which all nuclear fuel and other radioactive contaminated materials have been permanently removed; and development for the purpose of dismantling or decommissioning a nuclear power station or other nuclear reactor is not to be treated as development of the description mentioned in paragraph 2(b) of this Schedule.

F79 *See* Command Paper 6614.
F80 *See* Command Paper 6993.

F79 *See* Command Paper 6614.
F80 *See* Command Paper 6993.

Descriptions of development

The carrying out of development to provide any of the following—

1. Crude-oil refineries (excluding undertakings manufacturing only lubricants from crude oil) and installations for the gasification and liquefaction of 500 tonnes or more of coal or bituminous shale per day.

2.

(a) Thermal power stations and other combustion installations with a heat output of 300 megawatts or more; and

(b) Nuclear power stations and other nuclear reactors (except research installations for the production and conversion of fissionable and fertile materials, whose maximum power does not exceed 1 kilowatt continuous thermal load).

3.

(a) Installations for the reprocessing of irradiated nuclear fuel;

(b) Installations designed—

(i) for the production or enrichment of nuclear fuel;

(ii) for the processing of irradiated nuclear fuel or high-level radioactive waste;

(iii) for the final disposal of irradiated nuclear fuel;

(iv) solely for the final disposal of radioactive waste;

(v) solely for the storage (planned for more than 10 years) of irradiated nuclear fuels or radioactive waste in a different site than the production site.

4.

(a) Integrated works for the initial smelting of cast-iron and steel;

(b) Installations for the production of non-ferrous crude metals from ore, concentrates or secondary raw materials by metallurgical, chemical or electrolytic processes.

5. Installations for the extraction of asbestos and for the processing and transformation of asbestos and products containing asbestos—

(a) for asbestos-cement products, with an annual production of more than 20,000 tonnes of finished products;

(b) for friction material, with an annual production of more than 50 tonnes of finished products; and

(c) for other uses of asbestos, utilisation of more than 200 tonnes per year.

6. Integrated chemical installations, that is to say, installations for the manufacture on an industrial scale of substances using chemical conversion processes, in which several units are juxtaposed and are functionally linked to one another and which are—

(a) for the production of basic organic chemicals;

(b) for the production of basic inorganic chemicals;

(c) for the production of phosphorous-, nitrogen- or potassium-based fertilisers (simple or compound fertilisers);

(d) for the production of basic plant health products and of biocides;

(e) for the production of basic pharmaceutical products using a chemical or biological process;

(f) for the production of explosives.

7.

(a) Construction of lines for long-distance railway traffic and of airports with a basic runway length of 2,100 metres or more;

(b) Construction of motorways and express roads;

(c) Construction of a new road of four or more lanes, or realignment and/or widening of an existing road of two lanes or less so as to provide four or more lanes, where such new road, or realigned and/or widened section of road would be 10 kilometres or more in a continuous length.

8.

(a) Inland waterways and ports for inland-waterway traffic which permit the passage of vessels of over 1,350 tonnes;

(b) Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes.

9. Waste disposal installations for the incineration, chemical treatment (as defined in **[**F81Annex I to Directive 2008/98/EC of the European Parliament and of the Council, as last amended by **[**F82Directive (EU) 2018/851**]**,**]** under heading D9), or landfill of hazardous waste as defined in regulation 6 of the Hazardous Waste (Wales) Regulations 2005 F83.

F81 Words in Sch. 1 para. 9 substituted (17.12.2018) by The Environment, Planning and Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/1216), regs. 1(3), **20(2)**

F82 Words in Sch. 1 para. 9 substituted (19.11.2020) by The Waste (Wales) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/1179), regs. 1(2), **6(2)(a)**

F83 S.I. 2005/1806 (W. 138).

10. Waste disposal installations for the incineration or chemical treatment (as defined in **[**[F84]Annex I to Directive 2008/98/EC of the European Parliament and of the Council, as last amended by **[**[F85]Directive (EU) 2018/851**]**,**]** under heading D9) of non-hazardous waste with a capacity exceeding 100 tonnes per day.

F84 Words in Sch. 1 para. 10 substituted (17.12.2018) by The Environment, Planning and Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/1216), regs. 1(3), **20(2)**

F85 Words in Sch. 1 para. 10 substituted (19.11.2020) by The Waste (Wales) (Miscellaneous Amendments) Regulations 2020 (S.I. 2020/1179), regs. 1(2), **6(2)(b)**

11. Groundwater abstraction or artificial groundwater recharge schemes where the annual volume of water abstracted or recharged is equivalent to or exceeds 10 million cubic metres.

12.

(a) Works for the transfer of water resources, other than piped drinking water, between river basins where the transfer aims at preventing possible shortages of water and where the amount of water transferred exceeds 100 million cubic metres per year;

(b) In all other cases, works for the transfer of water resources, other than piped drinking water, between river basins where the multi-annual average flow of the basin of abstraction exceeds 2,000 million cubic metres per year and where the amount of water transferred exceeds 5% of this flow.

13. Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2 point (6) of Council Directive 91/271/EEC[F86].

F86 O.J. No. L 135, 30.5.1991, p. 40.

14. Extraction of petroleum and natural gas for commercial purposes where the amount extracted exceeds 500 tonnes per day in the case of petroleum and 500,000 cubic metres per day in the case of gas.

15. Dams and other installations designed for the holding back or permanent storage of water, where a new or additional amount of water held back or stored exceeds 10 million cubic metres.

16. Pipelines with a diameter of more than 800 millimetres and a length of more than 40 kilometres:

— for the transport of gas, oil, chemicals, or

— for the transport of carbon dioxide streams for the purposes of geological storage, including associated booster stations.

17. Installations for the intensive rearing of poultry or pigs with more than—

(a) 85,000 places for broilers or 60,000 places for hens;

(b) 3,000 places for production pigs (over 30 kg); or

(c) 900 places for sows.

18. Industrial plants for—

(a) the production of pulp from timber or similar fibrous materials;

(b) the production of paper and board with a production capacity exceeding 200 tonnes per day.

19. Quarries and open-cast mining where the surface of the site exceeds 25 hectares, or peat extraction where the surface of the site exceeds 150 hectares.

20. Installations for storage of petroleum, petrochemical or chemical products with a capacity of 200,000 tonnes or more.

21. Storage sites pursuant to **[**F87Chapter 3 of Part 1 of the Energy Act 2008 and any law which implemented**]** Directive 2009/31/EC of the European Parliament and of the Council of 23 April 2009 on the geological storage of carbon dioxide F88.

F87 Words in Sch. 1 para. 21 inserted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(13)**; 2020 c. 1, Sch. 5 para. 1(1)

F88 O. J. No L 140, 5.6.2009, p. 114.

22. Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to **[**F89Chapter 3 of Part 1 of the Energy Act 2008 and any law which implemented**]** Directive 2009/31/EC from installations covered by this Schedule, or where the total yearly capture of carbon dioxide is 1.5 megatonnes or more.

F89 Words in Sch. 1 para. 22 inserted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(13)**; 2020 c. 1, Sch. 5 para. 1(1)

23. Any change to or extension of development listed in this Schedule where such a change or extension in itself meets the thresholds, if any, or description of development set out in this Schedule.

SCHEDULE 2

Regulation 2(1)

Descriptions of development and applicable thresholds and criteria for the purposes of the definition of "Schedule 2 development"

1. In the table below—

"area of the works" ("*arwynebedd gwaith*") includes any area occupied by apparatus, equipment, machinery, materials, plant, spoil heaps or other facilities or stores required for construction or installation;

"controlled waters" ("*dyfroedd a reolir*") has the same meaning as in the Water Resources Act 1991 F90;

[F91"electric line" ("*llinell drydan*") has the meaning given in section 64(1) of the Electricity Act 1989;**]**

"floorspace" ("*arwynebedd llawr*") means the floorspace in a building or buildings.

F90 1991 c. 57. *See* section 104.

F91 Words in Sch. 2 para. 1 inserted (1.4.2019) by The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2019 (S.I. 2019/299), regs. 1(2), **2(3)**

2. The table below sets out the descriptions of development and applicable thresholds and criteria for the purpose of classifying development as Schedule 2 development.

Column 1 Description of development	***Column 2 Applicable thresholds and criteria***

The carrying out of development to provide any of the following—

***1** Agriculture and aquaculture*

(a) Projects for the use of uncultivated land or semi-natural areas for intensive agricultural purposes;	The area of the development exceeds 0.5 hectare.
(b) Water management projects for agriculture, including irrigation and land drainage projects;	The area of the works exceeds 1 hectare.
(c) Intensive livestock installations (unless included in Schedule 1);	The area of new floorspace exceeds 500 square metres.
(d) Intensive fish farming;	The installation resulting from the development is designed to produce more than 10 tonnes of dead weight fish per year.
(e) Reclamation of land from the sea.	All development.

2 Extractive industry	
(a) Quarries, open cast mining and peat extraction (unless included in Schedule 1); (b) Underground mining;	All development except the construction of buildings or other ancillary structures where the new floorspace does not exceed 1,000 square metres.
(c) Extraction of minerals by fluvial or marine dredging;	All development.
(d) Deep drillings, in particular— (i) geothermal drilling; (ii) drilling for the storage of nuclear waste material; (iii) drilling for water supplies; with the exception of drillings for investigating the stability of the soil;	(i) In relation to any type of drilling, the area of the works exceeds 1 hectare; or (ii) in relation to geothermal drilling and drilling for the storage of nuclear waste material, the drilling is within 100 metres of any controlled waters.
(e) Surface industrial installations for the extraction of coal, petroleum, natural gas and ores, as well as bituminous shale.	The area of the development exceeds 0.5 hectare.

3 Energy industry	
(a) Industrial installations for the production of electricity, steam and hot water (unless included in Schedule 1);	The area of the development exceeds 0.5 hectare.
(b) Industrial installations for carrying gas, steam and hot water;	The area of the works exceeds 1 hectare.
(c) Surface storage of natural gas; (d) Underground storage of combustible gases; (e) Surface storage of fossil fuels;	(i) The area of any new building, deposit or structure exceeds 500 square metres; or (ii) a new building, deposit or structure is to be sited within 100 metres of any controlled waters.
(f) Industrial briquetting of coal and lignite;	The area of new floorspace exceeds 1,000 square metres.

(g) Installations for the processing and storage of radioactive waste (unless included in Schedule 1);	(i)The area of new floorspace exceeds 1,000 square metres; or (ii) the installation resulting from the development will require the grant of an environmental permit under **[**F92the Environmental Permitting (England and Wales) Regulations 2016**]** in relation to a radioactive substances activity described in paragraph 11(2)(b), (2)(c) or (4) of Part 2 of Schedule 23 to those Regulations, or the variation of such a permit.
(h) Installations for hydroelectric energy production;	The installation is designed to produce more than 0.5 megawatts.
(i) Installations for the harnessing of wind power for energy production (wind farms);	(i) The development involves the installation of more than 2 turbines; or (ii) the hub height of any turbine or height of any other structure exceeds 15 metres.
(j) Installations for the capture of carbon dioxide streams for the purposes of geological storage pursuant to **[**F93Chapter 3 of Part 1 of the Energy Act 2008 and any law which implemented**]** Directive 2009/31/EC from installations not included in Schedule 1.	All development.
[F94(k) Transmission of electrical energy by overhead cables.	Development to provide an electric line installed above ground with a nominal voltage of 132 kilovolts.**]**
4 Production and processing of metals	
(a) Installations for the production of pig iron or steel (primary or secondary fusion) including continuous casting; (b) Installations for the processing of ferrous metals— (i) hot-rolling mills; (ii) smitheries with hammers; (iii)application of protective fused metal coats; (c) Ferrous metal foundries; (d) Installations for the smelting, including the alloyage, of non-ferrous metals, excluding precious metals, including recovered products (refining, foundry casting, etc.); (e) Installations for surface treatment of metals and plastic materials using an electrolytic or chemical process; (f) Manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines;	The area of new floorspace exceeds 1,000 square metres.

(g) Shipyards; (h) Installations for the construction and repair of aircraft; (i) Manufacture of railway equipment; (j) Swaging by explosives; (k) Installations for the roasting and sintering of metallic ores.	
5 Mineral industry	
(a) Coke ovens (dry coal distillation); (b) Installations for the manufacture of cement; (c) Installations for the production of asbestos and the manufacture of asbestos-based products (unless included in Schedule 1); (d) Installations for the manufacture of glass including glass fibre; (e) Installations for smelting mineral substances including the production of mineral fibres; (f) Manufacture of ceramic products by burning, in particular roofing tiles, bricks, refractory bricks, tiles, stoneware or porcelain.	The area of new floorspace exceeds 1,000 square metres.
6 Chemical industry (unless included in Schedule 1)	
(a) Treatment of intermediate products and production of chemicals; (b) Production of pesticides and pharmaceutical products, paint and varnishes, elastomers and peroxides;	The area of new floorspace exceeds 1,000 square metres.
(c) Storage facilities for petroleum, petrochemical and chemical products.	(i) The area of any new building or structure exceeds 0.05 hectare; or (ii) more than 200 tonnes of petroleum, petrochemical or chemical products is to be stored at any one time.
7 Food industry	
(a) Manufacture of vegetable and animal oils and fats; (b) Packing and canning of animal and vegetable products; (c) Manufacture of dairy products; (d) Brewing and malting; (e) Confectionery and syrup manufacture; (f) Installations for the slaughter of animals; (g) Industrial starch manufacturing installations; (h) Fish-meal and fish-oil factories; (i) Sugar factories.	The area of new floorspace exceeds 1,000 square metres.
8 Textile, leather, wood and paper industries	

(a) Industrial plants for the production of paper and board (unless included in Schedule 1); (b) Plants for the pre-treatment (operations such as washing, bleaching, mercerisation) or dyeing of fibres or textiles; (c) Plants for the tanning of hides and skins; (d) Cellulose-processing and production installations.	The area of new floorspace exceeds 1,000 square metres.
9. Rubber industry	
Manufacture and treatment of elastomer-based products.	The area of new floorspace exceeds 1,000 square metres.
10. Infrastructure projects	
(a) Industrial estate development projects;	The area of the development exceeds 5 hectares.
(b) Urban development projects, including the construction of shopping centres and car parks, sports stadiums, leisure centres and multiplex cinemas;	(i) The development includes more than 1 hectare of urban development which is not dwellinghouse development; or (ii) the development includes more than 150 dwellinghouses; or (iii) the overall area of the development exceeds 5 hectares.
(c) Construction of intermodal transhipment facilities and of intermodal terminals (unless included in Schedule 1);	The area of the development exceeds 0.5 hectare.
(d) Construction of railways (unless included in Schedule 1);	The area of the works exceeds 1 hectare.
(e) Construction of airfields (unless included in Schedule 1);	(i) The development involves an extension to a runway; or (ii) the area of the works exceeds 1 hectare.
(f) Construction of roads (unless included in Schedule 1);	The area of the works exceeds 1 hectare.
(g) Construction of harbours and port installations including fishing harbours (unless included in Schedule 1);	The area of the works exceeds 1 hectare.
(h) Inland-waterway construction not included in Schedule 1, canalisation and flood-relief works; (i) Dams and other installations designed to hold water or store it on a long-term basis (unless included in Schedule 1); (j)Tramways, elevated and underground railways, suspended lines or similar lines of a particular type, used exclusively or mainly for passenger transport;	The area of the works exceeds 1 hectare.
(k) Oil and gas pipeline installations and pipelines for the transport of carbon dioxide streams for the	(i) The area of the works exceeds 1 hectare; or,

purposes of geological storage (unless included in Schedule 1); (l) Installations of long-distance aqueducts;	(ii) in the case of a gas pipeline, the installation has a design operating pressure exceeding 7 bar gauge.
(m) Coastal work to combat erosion and maritime works capable of altering the coast through the construction, for example, of dykes, moles, jetties and other sea defence works, excluding the maintenance and reconstruction of such works;	All development.
(n) Groundwater abstraction and artificial groundwater recharge schemes not included in Schedule 1; (o) Works for the transfer of water resources between river basins not included in Schedule 1;	The area of the works exceeds 1 hectare.
(p) Motorway service areas.	The area of the development exceeds 0.5 hectare.

11 Other projects	
(a) Permanent racing and test tracks for motorised vehicles;	The area of the development exceeds 1 hectare.
(b) Installations for the disposal of waste (unless included in Schedule 1);	(i) The disposal is by incineration; or (ii) the area of the development exceeds 0.5 hectare; or (iii) the installation is to be sited within 100 metres of any controlled waters.
(c) Waste-water treatment plants (unless included in Schedule 1);	The area of the development exceeds 1,000 square metres.
(d) Sludge-deposition sites; (e) Storage of scrap iron, including scrap vehicles;	(i) The area of deposit or storage exceeds 0.5 hectare; or (ii) a deposit is to be made or scrap stored within 100 metres of any controlled waters.
(f) Test benches for engines, turbines or reactors; (g) Installations for the manufacture of artificial mineral fibres; (h) Installations for the recovery or destruction of explosive substances; (i) Knackers' yards.	The area of new floorspace exceeds 1,000 square metres.

12 Tourism and leisure	
(a) Ski-runs, ski-lifts and cable-cars and associated developments;	(i) The area of the works exceeds 1 hectare; or (ii) the height of any building or other structure exceeds 15 metres.
(b) Marinas;	The area of the enclosed water surface exceeds 1,000 square metres.
(c) Holiday villages and hotel complexes outside urban areas and associated developments; (d) Theme parks;	The area of the development exceeds 0.5 hectare.

(e) Permanent camp sites and caravan sites;	The area of the development exceeds 1 hectare.
(f) Golf courses and associated developments.	The area of the development exceeds 1 hectare.

13 Changes and extensions	
(a) Any change to or extension of development of a description listed in Schedule 1 (other than a change or extension falling within paragraph 23 of that Schedule) where that development is already authorised, executed or in the process of being executed.	The development as changed or extended may have significant adverse effects on the environment.
(b) Any change to or extension of development of a description listed in paragraphs 1 to 12 of column 1 of this table, where that development is already authorised, executed or in the process of being executed.	(a) The thresholds and criteria in the corresponding part of Column 2 of this table applied to the development as changed or extended are met or exceeded; and (b) in such a case the development as changed or extended may have significant adverse effects on the environment.
(c) Development of a description mentioned in Schedule 1 undertaken exclusively or mainly for the development and testing of new methods or products and not used for more than two years.	All development.

F92 Words in Sch. 2 para. 2 table substituted (17.12.2018) by The Environment, Planning and Rural Affairs (Miscellaneous Amendments) (Wales) Regulations 2018 (S.I. 2018/1216), regs. 1(3), **20(3)**

F93 Words in Sch. 2 para. 22 inserted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(14)**; 2020 c. 1, Sch. 5 para. 1(1)

F94 Words in Sch. 2 para. 2 table inserted (1.4.2019) by The Town and Country Planning (Environmental Impact Assessment) (Wales) (Amendment) Regulations 2019 (S.I. 2019/299), regs. 1(2), **2(4)**

SCHEDULE 3

Regulations 5(8), (9), (13), 6(4), and 31(3)

Selection criteria for screening Schedule 2 development

Characteristics of development

1. The characteristics of development must be considered having regard, in particular, to—

(a) the size and design of the development;

(b) the cumulation with other existing development and/or approved development;

(c) the use of natural resources, in particular land, soil, water and biodiversity;

(d) the production of waste;

(e) pollution and nuisances;

(f) the risk of major accidents and/or disasters relevant to the development concerned, including those caused by climate change, in accordance with scientific knowledge;

(g) the risks to human health (for example due to water contamination or air pollution).

Location of development

2. The environmental sensitivity of geographical areas likely to be affected by development must be considered, having regard, in particular, to—

(a) the existing and approved land use;

(b) the relative abundance, availability, quality and regenerative capacity of natural resources (including soil, land, water and biodiversity) in the area and its underground;

(c) the absorption capacity of the natural environment, paying particular attention to the following areas—

(i) wetlands, riparian areas, river mouths;

(ii) coastal zones and the marine environment;

(iii) mountain and forest areas;

(iv) nature reserves and parks;

(v) European sites and other areas classified or protected under national legislation;

(vi) areas in which there has already been a failure to meet the environmental quality standards laid down in **[**F95retained EU law**]** and relevant to the project, or in which it is considered there is such a failure;

(vii) densely populated areas;

(viii) landscapes and sites of historical, cultural or archaeological significance.

F95 Words in Sch. 3 para. 2(c)(vi) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(15)**; 2020 c. 1, Sch. 5 para. 1(1)

Types and characteristics of the potential impact

3. The likely significant effects of the development on the environment must be considered in relation to criteria set out under paragraphs 1 and 2, with regard to the impact of the development on the factors specified in regulation 4(2), taking into account—

(a) the magnitude and spatial extent of the impact (for example geographical area and size of the population likely to be affected);

(b) the nature of the impact;

(c) the transboundary nature of the impact;

(d) the intensity and complexity of the impact;

(e) the probability of the impact;

(f) the expected onset, duration, frequency and reversibility of the impact;

(g) the cumulation of the impact with the impact of other existing and/or approved development;

(h) the possibility of effectively reducing the impact.

SCHEDULE 4

Regulation 17(3)

Information for inclusion in environmental statements

1. Description of the development, including in particular—

(a) a description of the location of the development;

(b) a description of the physical characteristics of the whole development, including, where relevant, requisite demolition works and the land-use requirements during the construction and operational phases;

(c) a description of the main characteristics of the operational phase of the development (in particular any production process), for instance, energy demand and energy used, nature and quantity of the materials and natural resources (including water, land, soil and biodiversity) used;

(d) an estimate, by type and quantity, of expected residues and emissions (such as water, air, oil and subsoil pollution, noise, vibration, light, heat, radiation) and quantities and types of waste produced during the construction and operational phases.

2. A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the applicant or appellant which are relevant to the proposed development and its specific characteristics and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.

3. A description of the relevant aspects of the current state of the environment (baseline scenario) and an outline of the likely evolution thereof without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the basis of the availability of environmental information and scientific knowledge.

4. A description of the factors specified in regulation 4(2) likely to be significantly affected by the development: population, human health, biodiversity (for example fauna and flora), land (for example land take), soil (for example organic matter, erosion, compaction, sealing), water (for example hydromorphological changes, quantity and quality), air, climate (for example greenhouse gas emissions, impacts relevant to adaptation), material assets, cultural heritage, including architectural and archaeological aspects, and landscape.

[F96]**5.** A description of the likely significant effects of the development on the environment resulting from, inter alia—

(a) the construction and existence of the development, including, where relevant, demolition works;

(b) the use of natural resources in particular land, soil, water and biodiversity, considering as far as possible the sustainable availability of these resources;

(c) the emission of pollutants, noise, vibration, light, heat and radiation, the creation of nuisances and the disposal and recovery of waste,

(d) the risks to human health, cultural heritage or the environment (for example due to accidents or disasters);

(e) the cumulation of effects with other existing and/or approved projects, taking into account any existing environmental problems relating to areas of particular environmental importance likely to be affected or the use of natural resources;

(f) the impact of the project on climate (for example the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change;

(g) the technologies and the substances used.

The description of the likely significant effects on the factors specified in regulation 4(2) should cover the direct effects and any indirect, secondary, cumulative, transboundary, short-term, medium-term and long-term, permanent and temporary, positive and negative effects of the development. This description should take into account the environmental protection objectives established **[**F97at European Union level as they were immediately before IP completion day (including in particular those established under Council Directive 92/43/EEC[F98] and Directive 2009/147/EC[F99]) or at national level**]**.

F96 Words in Sch. 4 para. 5 substituted in earlier amending provision S.I. 2019/245, reg. 6(16)(a)

F97 Words in Sch. 4 para. 5 substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(16)(a)** (as amended (31.12.2020) by The Environmental Assessments and Town and Country Planning (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2020 (S.I. 2020/1324), regs. 1(2), **2(3)**); 2020 c. 1, Sch. 5 para. 1(1)

F98 Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora O.J. L 206, 22/07/1992 pp. 7–50.

F99 Directive 2009/147/EC of the European Parliament and of the Council of 30 November 2009 on the conservation of wild birds O.J. L 20, 26/1/2010, pp. 7–25.

6. A description of the forecasting methods or evidence used to identify and assess the effects on the environment, including details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

7. A description of the measures envisaged to avoid, prevent, reduce or, if possible, offset any identified significant adverse effects on the environment and, where appropriate, of any proposed monitoring arrangements (for example the preparation of a post-project analysis). That description should explain the extent, to which significant adverse effects on the environment are avoided, prevented, reduced or offset, and should cover both the construction and operational phases.

8. A description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters which are relevant to the project concerned. Relevant information available and obtained through risk assessments pursuant to **[**F100retained EU law such as any law which implemented**]** Directive 2012/18/EU of the European Parliament and of the Council or Council Directive 2009/71/Euratom or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of **[**F101any law which implemented**]** the Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

F100 Words in Sch. 4 para. 8 substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(16)(b)(i)**; 2020 c. 1, Sch. 5 para. 1(1)

F101 Words in Sch. 4 para. 8 inserted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(16)(b)(ii)**; 2020 c. 1, Sch. 5 para. 1(1)

9. A non-technical summary of the information provided under paragraphs 1 to 8.

10. A reference list detailing the sources used for the descriptions and assessments included in the environmental statement.

SCHEDULE 5

Regulation 39(3)

Local Development Orders

1. In a case to which this Schedule has effect, these Regulations apply, subject to the following modifications.

2. Regulations 3, 9, 10, 12, 13, 20 and 21 do not apply.

3. In regulation 5—

(a) paragraph (2)(a) does not apply;

(b) in paragraph (2)(b) and (5), for "relevant" read "local";

(c) read as if paragraphs (10) and (16) were omitted.

4. Regulation 11 applies as if references to—

(a) an application, or an application for planning permission, are to a proposal for a local development order;

(b) a relevant planning authority, are to the local planning authority to whom it would fall to make the local development order;

(c) the applicant, are to the local planning authority proposing the order; and

(d) the EIA application, are to a proposal for a local development order for EIA development.

5. Regulation 14 is to be read as if it provided—

"**Scoping opinions**

14.—(1) Where a proposed local development order is EIA development, the local planning authority may state its opinion as to the scope and level of detail of the information to be provided in the environmental statement ("a scoping opinion").

(2) Before issuing a scoping opinion under paragraph (1) the local planning authority must prepare—

(a) a plan sufficient to identify the land;

(b) a brief description of the nature and purpose of the development including its location and technical capacity;

(c) its likely significant effects on the environment; and

(d) such other information or representations as the local planning authority may wish to provide or make.

(3) A local planning authority must not adopt a scoping opinion until they have consulted the consultees.

(4) Before adopting a scoping opinion the local planning authority must take into account—

(a) the information prepared by the authority about the proposed development in accordance with paragraph (2);

(b) the specific characteristics of the particular development;

(c) the specific characteristics of development of the type concerned; and

(d) the environmental features likely to be affected by the development.

(5) A local planning authority may ask the Welsh Ministers under regulation 15(1) to make a direction as to the information to be provided in the environmental statement ("scoping direction")."

6. Regulation 15 is to be read as if it provided—

"**Scoping directions**

15.—(1) A request made under this paragraph pursuant to regulation 14must include—

(a) the information referred to in regulation 14(2)(a)(i) to (iii); and

(b) any representations that the local planning authority wish to make.

(2) If the Welsh Ministers consider that the information provided pursuant to paragraph (1) is insufficient to make a scoping direction, the Welsh Ministers must give notice to the local planning authority.

(3) The notice must set out any points on which additional information is required.

(4) The Welsh Ministers must—

(a) consult the consultees before making a scoping direction in response to a request under paragraph (1), and

(b) make a direction and send a copy to the local planning authority, within 5 weeks beginning with the date of receipt of that request or such longer period as may be reasonably required.

(5) Before making a scoping direction the Welsh Ministers must take into account the matters specified in regulation 14(4)."

7. Regulation 16 is to be read as if it provided—

"**Procedure to facilitate preparation of environmental statements**

16.—(1) A local planning authority which intend to prepare an environmental statement may enquire of a consultee whether the consultee has any information which the consultee or the local planning authority consider relevant to the preparation of the environmental statement.

(2) If the consultee has such information it must treat the enquiry by the authority as a request for information by the local planning authority under regulation 5(1) of the Environmental Information Regulations 2004 [F102]."

F102 S.I. 2004/3391.

8. Regulation 17 is to be read as if—

(a) paragraphs (1) and (2) were omitted;

(b) in paragraph (3)(d), for "applicant or appellant" it read "local planning authority";

(c) in paragraph (4)—

(i) in sub-paragraph (a), "or the Welsh Ministers, as appropriate," were omitted; and

(ii) in sub-paragraph (b), for "applicant" it read "local planning authority".

9. Regulation 18 is to be read as if it provided—

"**Procedure where an environmental statement is prepared in relation to a local development order**

18.—(1) Where a statement, referred to as an "environmental statement", has been prepared in relation to EIA development for which a local planning authority propose to grant planning permission by a local development order, the local planning authority must—

(a) send a copy of the statement to the consultees and inform them that they may make representations; and

(b) notify any particular person of whom the authority are aware, who is likely to be affected by, or has an interest in, the application and who is unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, of an address in the locality in which the land is situated where a copy of the statement may be obtained and the address to which representations may be sent.

(2) The local planning authority must not make the local development order until the expiry of 30 days from the last date on which a copy of the statement was served in accordance with this regulation."

10. Regulation 19 is to be read as if—

(a) paragraph (1) were omitted;

(b) paragraph (2) read—

"(2) The local planning authority must publish by local advertisement a notice stating—

(a) the name and address of the local planning authority;

(b) the address or location and the nature of the development referred to in the proposed local development order;

(c) that a copy of the draft order and of any plan or other documents accompanying it together with a copy of the environmental statement may be inspected by members of the public at all reasonable hours;

(d) an address in the locality in which the land is situated at which those documents may be inspected, and the latest date on which they are available for inspection (being a date not less than 30 days from the date on which the notice is published);

(e) details of a website maintained by or on behalf of the relevant planning authority on which the environmental statement and other documents may be inspected, and the latest date on which they will be available for access (being a date not less than 30 days from the date on which the notice is published);

(f) an address (whether or not the same as that given under sub-paragraph (d)) in the locality in which the land is situated at which copies of the statement may be obtained;

(g) that copies may be obtained there so long as stocks last;

(h) if a charge is to be made for a copy, the amount of the charge; and

(i) that any person wishing to make representations about the order should make them before the latest date in accordance with sub-paragraph (d) or (e), to the local planning authority.";

(c) paragraph (3) were omitted;

(d) in paragraph (4), "applicant" read "local planning authority"; and

(e) paragraphs (6) to (8) were omitted.

11. Regulation 22 is to be read as if it provided—

"**Availability of copies of environmental statements**

22. The local planning authority must ensure that a reasonable number of copies of the statement referred to as the environmental statement prepared in relation to EIA development for which the authority propose to grant planning permission by a local development order, are available at—

(a) their principal office during normal office hours; and

(b) at such other places within their area as they consider appropriate; and the environmental statement can be accessed at the website referred to in the notice required under regulation 19(2)(e)."

12. Regulation 24 is to be read as if—

(a) paragraph (1) read—

"(1) Where an environmental statement has been prepared and the local planning authority are of the opinion that, in order to satisfy the requirements of regulation 17(3) it is necessary for the statement to be supplemented with additional information which is directly relevant to reaching a reasoned conclusion on the likely significant effects of the proposed development in order to be an environmental statement, the authority must ensure that additional information is provided, and such information is referred to in these Regulations as "further information" ("*gwybodaeth bellach*").";

(b) paragraph (3) read—

"(3) The local planning authority must publish by local advertisement a notice stating—

(a) the name and address of the authority;

(b) the address or location and the nature of the development referred to in the proposed local development order;

(c) that further information is available in relation to an environmental statement which has already been provided;

(d) that a copy of the further information may be inspected by members of the public at all reasonable hours;

(e) an address in the locality in which the land is situated at which the further information may be inspected, and the latest date on which it is available for inspection (being a date not less than 30 days from the date on which the notice is published);

(f) details of a website maintained by or on behalf of the authority on which the environmental statement and other documents may be inspected, and the latest date on which they are available for access (being a date not less than 30 days from the date on which the notice is published);

(g) an address (whether or not the same as that given under sub-paragraph (e)) in the locality in which the land is situated at which copies of the further information may be obtained;

(h) that copies may be obtained there so long as stocks last;

(i) if a charge is to be made for a copy, the amount of the charge;

(j) that any person wishing to make representations about the further information should make them before the latest date specified in accordance with sub-paragraphs (e) and (f), to the authority; and

(k) the address to which representations should be sent.";

(c) paragraph (4) read—

"(4) The local planning authority must send a copy of the further information and any other information to each person to whom, in accordance with these Regulations, the statement to which it relates was sent and to the Welsh Ministers.";

(d) paragraphs (5) and (6) were omitted;

(e) paragraph (7) read—

"(7) Where information is provided under paragraph (1) the local planning authority must not make the local development order before the expiry of 30 days after the latest of—

(a) the date on which the further information was sent to all persons to whom the statement to which it relates was sent;

(b) the date that notice of it was published in a local newspaper; or

(c) the date that notice of it was published on a website.";

(f) in paragraph (8)—

(i) instead of "The applicant or appellant who provides" it read "The local planning authority providing"; and

(ii) in sub-paragraph (a), after "number of copies of the" it read "further information or other".

13. Regulation 25 is to be read as if in paragraph (1) "an application or appeal" read "whether to make a local development order".

14. Regulation 27 is to be read as if paragraphs (1) and (2) read—

"(1) Where particulars of a draft local development order are placed on Part 3 of the register, the local planning authority must take steps to secure that there is also placed on that Part a copy of any relevant—

(a) screening opinion;

(b) screening direction;

(c) scoping opinion;

(d) direction under regulation 5(4) or (5);

(e) statement referred to as the environmental statement including any further information;

(f) statement of reasons accompanying any of the above.

(2) Where the relevant planning authority adopt a screening opinion or scoping opinion, or receive a copy of a screening direction before a local development order is made, the local planning authority must take steps to secure that a copy of the opinion or direction and any accompanying statement of reasons is made available for public inspection at all reasonable hours at the place where the appropriate register (or relevant section of that register) is kept."

15. Regulation 28 is to be read as if paragraph (1) read—

"(1) Where a local planning authority make a local development order granting permission for EIA development, they must prepare a statement setting out the information specified in paragraph (2)."

16. Regulation 29 is to be read as if—

(a) in paragraph (1) for "Where an EIA application is determined by a local planning authority" it read "Where a local planning authority adopt a local development order granting permission for development which constitutes EIA development";

(b) paragraph (2) was omitted; and

(c) in paragraph (3) the reference to "relevant planning authority" read "local planning authority".

17. Regulation 56 is to be read as if—

(a) paragraph (1)(a) read—

"(a) it comes to the attention of the Welsh Ministers that EIA development proposed to be carried out in Wales for which a local planning authority propose to grant planning permission by a local development order is likely to have significant effects on the environment in **[**F103an**]** EEA State; or"; and

(b) in paragraphs (3) and (6), instead of "application" it read "proposed local development order".

F103 Word in Sch. 5 para. 17(a) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(17)**; 2020 c. 1, Sch. 5 para. 1(1)

SCHEDULE 6

Regulation 40

Section 97 and 102 Orders under the 1990 Act

1. In a case to which this Schedule has effect, these Regulations apply subject to the following modifications.

2. Regulations 3, 7(2), 9, 10, 12(1), (2) and (8), 13 and 21 do not apply.

3. In this Schedule and in the application of these Regulations by this Schedule, references to the "relevant planning authority" are to the local planning authority to whom it would fall to make the section 97 order or the section 102 order, whether or not they are the initiating body.

4. Regulation 5 is to be read as if—

(a) paragraph (2)(a) does not apply;

(b) in paragraph (2)(b), for "relevant" read "local";

(c) paragraph (10) is omitted.

5. Regulations 8, 11 and 12(3) to (8) apply as if references to—

(a) an application or an application for planning permission, are to a proposal for a section 97 order or a section 102 order;

(b) the applicant are to the initiating body; and

(c) an EIA application, are to a proposal for a section 97 order or a section 102 order granting or modifying planning permission for EIA development.

6. Regulation 12(8) is to be read as if "by refusing planning permission or subsequent consent" read "by refusing to make or confirm the section 97 or section 102 order".

7. Regulation 14 and its heading are to be read as if they provided—

"**Scoping opinions and scoping directions**

14.—(1) Where a proposed section 97 order or section 102 order permit or require EIA development, the initiating body may state its opinion as to the scope and level of detail of the information to be provided in the environmental statement.

(2) Before issuing a scoping opinion or scoping direction under paragraph (1) the initiating body must include—

(a) a plan sufficient to identify the land;

(b) a brief description of the nature and purpose of the development including its location and technical capacity;

(c) its likely significant effects on the environment; and

(d) such other information or representations as the initiating body may wish to provide or make.

(3) An initiating body must not adopt a scoping opinion or scoping direction until they have consulted the consultees.

(4) Before adopting a scoping opinion or scoping direction the initiating body must take into account—

(a) the information prepared by the initiating body about the proposed development in accordance with paragraph (2);

(b) the specific characteristics of the particular development;

(c) the specific characteristics of development of the type concerned; and

(d) the environmental features likely to be affected by the development.

(5) A local planning authority may ask the Welsh Ministers under regulation 15(1) to make a direction as to the information to be provided in the environmental statement.

(6) If the Welsh Ministers make a scoping direction of their own volition or at the request of a third party, they must send a copy to the local planning authority which initiated the order."

8. Regulation 15 is to be read as if it provided—

"**Scoping directions**

15.—(1) A request made under this paragraph pursuant to regulation 14 must include—

(a) the information referred to in regulation 14(2); and

(b) any representations that the local planning authority wishes to make.

(2) If the Welsh Ministers consider that the information provided pursuant to paragraph (1) is insufficient to make a scoping direction, the Welsh Ministers must give notice to the local planning authority.

(3) The notice must set out any points on which additional information is required.

(4) The Welsh Ministers must—

(a) consult the consultees before making a scoping direction in response to a request under paragraph (1), and

(b) make a direction and send a copy to the local planning authority, within 5 weeks beginning with the date of receipt of that request or such longer period as may be reasonably required.

(5) Before making a scoping direction the Welsh Ministers must take into account the matters specified in regulation 14(4)."

9. Regulation 16 is to be read as if it provided—

"**16.**—(1) An initiating body which intends to prepare an environmental statement may consult with a consultee in order to determine whether the consultee has any information

which the consultee or the initiating body considers relevant to the preparation of the environmental statement.

(2) If the consultee has such information, the consultee must treat the consultation by the initiating body as a request for information by the local planning authority under regulation 5(1) of the Environmental Information Regulations 2004 [F104].”

F104 S.I. 2004/3391.

10. Regulation 17 is to be read as if—

(a) Paragraph (1)is omitted;

(b) in paragraph (3)(d), for “applicant or appellant” it read “initiating body”;

(c) in paragraph (4)(b), for “applicant or appellant” it read “initiating body”.

11. Regulation 18 is to be read as if it provided—

“**18.**—(1) Where a statement, referred to as an environmental statement, has been prepared by an initiating body in relation to development which is related to a section 97 order or section 102 order, that body must—

(a) send a copy of the draft section 97 order or draft section 102 order and the statement to the consultees and inform them that they may make representations; and

(b) notify any particular person of whom the body is aware and who is likely to be affected by, or has an interest in, the draft order and unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, of—

(i) the address of the office of the initiating body where a copy of the draft order and statement may be obtained; and

(ii) the address to which representations may be sent.

(2) The initiating body must not make the order until after the expiry of 30 days from the last date on which a copy of the statement was publicised in accordance with this regulation or regulation 19.

(3) When the local planning authority prepare an environmental statement, they must send to the Welsh Ministers, within 14 days after sending the statement to the consultees, one copy of each of any relevant screening opinion, statement of reasons and draft order, in electronic and paper format unless otherwise agreed in writing.”

12. Regulation 19 is to be read as if—

(a) paragraph (1) were omitted;

(b) paragraph (2) read—

“(2) The initiating body must publish by local advertisement a notice stating—

(a) the name and address of the initiating body;

(b) the address or location and the nature of the development referred to in the proposed section 97 order or section 102 order;

(c) that a copy of the draft order and of any plan or other documents accompanying it together with a copy of the environmental statement may be inspected by members of the public at all reasonable hours;

(d) the address of the office of the initiating body at which those documents may be inspected, and the latest date on which they will be available for inspection

(being a date not less than 30 days from the date on which the notice is published);

(e) details of a website maintained by or on behalf of the relevant planning authority on which further information or any other information may be inspected and the latest date on which they are available for access (being a date not less than 30 days from the date on which the notice is published);

(f) an address (whether or not the same as that given under sub-paragraph (d)) of the office of the initiating body at which copies of the statement may be obtained;

(g) that copies may be obtained there so long as stocks last;

(h) if a charge is to be made for a copy, the amount of the charge; and

(i) that any person wishing to make representations about the order should make them before the date specified in accordance with sub-paragraph (d), to the initiating body.";

(c) paragraph (3) were omitted;

(d) in paragraph (4), "applicant" read "initiating body"; and

(e) paragraphs (6) to (8) were omitted.

13. Regulation 20 is to be read as if it provided—

"**20.** Where a local planning authority submits a section 97 order or a section 102 order to the Welsh Ministers for confirmation, the authority must also submit one copy of any environmental statement and any further information."

14. Regulation 22 is to be read as if it provided—

"**22.**—(1) Where the initiating body is the local planning authority, they must ensure that a reasonable number of copies of the statement referred to as the environmental statement prepared in relation to development in relation to which the authority propose to make a section 97 order or section 102 order are available at—

(a) their principal office during normal office hours; and

(b) at such other places within their area as they consider appropriate.

(2) Where the initiating body is the Welsh Ministers, they must send to the local planning authority who would be responsible for determining an application for planning permission in respect of the development covered by the proposed section 97 order or section 102 order, a copy of the environmental statement prepared in relation to the proposed order.

(3) When the local planning authority receive a copy of an environmental statement pursuant to paragraph (2), they must ensure that a reasonable number of copies of the statement are available at—

(a) their principal office during normal office hours; and

(b) at such other places within their area as they consider appropriate."

15. Regulation 24 must be read as if—

(a) paragraph (1) read—

"(1) Where—

(a) an environmental statement has been prepared; and a section 97 order or section 102 order is submitted to the Welsh Ministers for confirmation; and

(b) the Welsh Ministers consider that it is necessary for the statement to contain additional information directly relevant to reaching a reasoned

conclusion on the likely significant effects of the development in order to be an environmental statement, the Welsh Ministers must notify the relevant planning authority; and that authority must ensure that the additional information is provided; and such additional information is referred to in these Regulations as "further information" ("*gwybodaeth bellach*").";

(b) paragraph (3) read—

"(3) The initiating body must publish by local advertisement a notice stating—

(a) the name and address of the relevant planning authority;

(b) the address or location and the nature of the development referred to in the proposed section 97 order or section 102 order;

(c) that further information is available in relation to an environmental statement which has already been provided;

(d) that a copy of the further information may be inspected by members of the public at all reasonable hours;

(e) the address of the office of the initiating body at which the further information may be inspected, and the latest date on which it is available for inspection (being a date not less than 30 days from the date on which the notice is published);

(f) details of a website maintained by or on behalf of the authority on which the other information may be inspected and the latest date on which it is available for access (being a date not less than 30 days from the date on which the notice is published);

(g) the address (whether or not the same as that given under sub-paragraph (e)) of the office of the initiating body at which copies of the further information may be obtained;

(h) that copies may be obtained there so long as stocks last;

(i) if a charge is to be made for a copy, the amount of the charge;

(j) that any person wishing to make representations about the further information should make them to the authority before the latest date specified in accordance with sub-paragraphs (e) and (f);

(k) the address to which representations should be sent.";

(c) paragraph (4) read—

"(4) The local planning authority must send a copy of the further information to each person to whom, in accordance with these Regulations, the statement to which it relates was sent, and to the Welsh Ministers.";

(d) paragraphs (5) and (6) were omitted;

(e) paragraph (7) read—

"(7) Where information is provided under paragraph (1) or any other information is provided the Welsh Ministers must not confirm the section 97 order or section 102 order before the expiry of 30 days after the latest of—

(a) the date on which the further information was sent to all persons to whom the statement to which it relates was sent;

(b) the date that notice of it was published in a local newspaper; or

(c) the date that notice of it was published on a website.";

(f) in paragraph (8)—

(i) "The applicant or appellant who provides" read "The local planning authority providing"; and

(ii) in sub-paragraph (a), after "number of copies of the" and before "information", it read "further".

16. Regulation 25(1) is to be read as if—

(a) "an application or appeal" read "whether to make or confirm a section 97 or section 102 order"; and

(b) "submitted" read "prepared".

17. Regulation 27 is to be read as if it read—

"**27.**—(1) Each local planning authority must keep a record containing a copy of every section 97 order and section 102 order relating to their area, together with a statement of the reasons for making the order; and the authority must take steps to secure that there is also placed on that record a copy of any relevant—

(a) screening opinion;

(b) screening direction;

(c) scoping opinion;

(d) direction under regulation 5(4) or (5);

(e) statement referred to as the environmental statement, including any further information;

(f) statement of reasons accompanying any of the above.

(2) Where the local planning authority adopt a screening opinion or scoping opinion, or receive a copy of a screening direction or scoping direction before a section 97 order or a section 102 order is made, the authority must take steps to secure that a copy of the opinion or direction and any accompanying statement of reasons is made available for public inspection at all reasonable hours at the place where the record is kept.

(3) Copies of the documents referred to in paragraph (2) must remain so available for a period of two years from the date on which they are placed on the record."

18. Regulation 28 is to be read as if paragraph (1) read—

"(1) Where an initiating body makes a section 97 or section 102 order granting permission for EIA development, they must prepare a statement setting out the information specified in paragraph (2)."

19. Regulation 29 is to be read as if it provided—

"**29.**—(1) In this regulation, "decision" ("*penderfyniad*means, in relation to an order which takes effect under section 97(7) of the 1990 Act, the decision to make the order and otherwise, the decision to confirm the section 97 order or the section 102 order.

(2) Where a section 97 order or a section 102 order permitting or requiring EIA development takes effect, the Welsh Ministers must—

(a) notify the relevant planning authority when the order is made or confirmed; and

(b) other than in relation to section 97 orders which take effect without being confirmed by the Welsh Ministers [F105], provide the authority with a statement containing the information in paragraph (3)(c).

(3) Where a section 97 order or a section 102 order permitting or requiring EIA development takes effect, the relevant planning authority must—

(a) inform the public of the decision, by local advertisement, or by such other means as are reasonable in the circumstances; and

(b) make available for public inspection at the place where the record of section 97 orders and section 102 orders is kept, a statement containing—

(i) the content of the decision and any conditions attached to it;

(ii) the main reasons and considerations on which the decision is based including, if relevant, information about the participation of the public;

(iii) a description, where necessary, of the main measures to avoid, reduce and, if possible, offset the major adverse effects of the development permitted or required by the order; and

(iv) information regarding the right to challenge the validity of the decision and the procedures for doing so."

F105 *See* section 99(7) of the 1990 Act in relation to orders confirmed by the Welsh Ministers.

20. Regulation 56 is to be read as if—

(a) "decision" has the same meaning as in regulation 29 as modified by paragraph 19;

(b) in paragraph (1)(a) read—

"(a) it comes to the attention of the Welsh Ministers that EIA development proposed to be carried out in Wales, which an initiating body proposes to require or permit by a section 97 order or a section 102 order is likely to have significant effects on the environment in **[**F106an**]** EEA State; or"; and

(c) in paragraphs (3) and (6), instead of "application" it read "proposed section 97 order or section 102 order".

F106 Word in Sch. 6 para. 20(b) substituted (31.12.2020) by The Environmental Assessment of Plans and Programmes and the Environmental Impact Assessment (Miscellaneous Amendments) (Wales) (EU Exit) Regulations 2019 (S.I. 2019/245), regs. 1(2)(3), **6(18)**; 2020 c. 1, Sch. 5 para. 1(1)

SCHEDULE 7

Regulation 41

Functions under Section 141 of the 1990 Act

1. In a case to which this Schedule has effect, these Regulations apply subject to the following modifications.

2. Regulations 3, 7(2), 8 to 13, 18 and 21 do not apply.

3. In this Schedule and in the application of other regulations by this Schedule, references to—

(a) the "applicant" ("*y ceisydd*") are to—

(i) the applicant for planning permission which has previously been determined;

(ii) the mineral planning authority in the case of an order under paragraph 1 of Schedule 9 to the 1990 Act;

(iii) the initiating body in respect of a section 97 or 102 order; or

(iv) a person who may apply for planning permission if the Welsh Ministers exercised their functions under section 141(3) of the 1990 Act;

(b) the "application" ("*y cais*") are to—

(i) the proposal to grant or modify planning permission;

(ii) the proposal for a section 97 or section 102 order;

(iii) the application for planning permission which would be required for the development in question following any direction under section 141(3) of the 1990 Act.

4.—(1) Where, on consideration of a purchase notice it appears to the Welsh Ministers that—

(a) the relevant application is, or would be, a Schedule 1 application or a Schedule 2 application; and

(b) the development in question—

(i) has not been the subject of a screening opinion or screening direction; or

(ii) has been the subject of a screening opinion or direction before planning permission was granted or modified to the effect that it is not EIA development; and

(c) the relevant application is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations paragraphs (3) and (4) of regulation 7 apply as if the request for confirmation of the purchase notice were a request made by the applicant pursuant to regulation 6(8).

(2) Where regulation 7(3) applies by virtue of paragraph (1), the Welsh Ministers must, where and insofar as necessary to ensure that the applicant has provided, in the case of—

(a) applications where no screening opinion or direction has been made, the information referred to in regulation 6(2); and

(b) other applications, the information referred to in regulation 6(3),

make a request for additional information before issuing a screening direction.

5. Where it appears to the Welsh Ministers that the relevant application is an EIA application and is not accompanied by a statement referred to by the applicant as an environmental statement for the purposes of these Regulations, they must—

(a) notify the applicant that the submission of an environmental statement is required; and

(b) send a copy of that notification to the relevant planning authority (if they are not the applicant).

6.—(1) Where the applicant proposes to submit an environmental statement, these Regulations apply to the applicant and relevant application—

(a) as they apply to appellants and appeals, in the cases of proposed actions under section 141 of the 1990 Act—

(i) to grant planning permission;

(ii) to revoke or amend the conditions attached to a planning permission;

(iii) to direct that, if an application for planning permission were made, it must be granted; and

(b) as they apply to the initiating body and a proposed section 97 order or a proposed section 102 order, in the cases of proposed actions under section 141 of the 1990 Act—

(i) to revoke or amend conditions attaching to such an order;

(ii) to amend such an order.

(2) Where the applicant proposes to submit an environmental statement the applicant must comply with the provisions of article 12(7A) [F107] of the 2012 Order (publicity for applications for

planning permission) as if the environmental statement had been submitted in relation to a planning application falling within article 12(2) of the 2012 Order and as if, in article 12(7A) to the 2012 Order the references to an application for planning permission were to a proposal to act under section 141(2) or (3) of the 1990 Act.

(3) Where the Welsh Ministers are aware that any particular person is or is likely to be affected by, or has an interest in, the application, who is unlikely to become aware of it by means of electronic publication, a site notice or by local advertisement, they must notify the applicant of any such person.

(4) An applicant who receives a notification under paragraph 5 of this Schedule, may within 21 days beginning with the date of the notification, confirm to the Welsh Ministers in writing that an environmental statement will be provided.

(5) If the applicant does not write in accordance with paragraph (4), at the end of the 21 days the Welsh Ministers must not take action under section 141(2) or (3) of the 1990 Act.

F107 Article 12(7A) is inserted in the 2012 Order by paragraph 1(3)(h) of Schedule 9 to these Regulations.

7. Where—

(a) a notification has been given under paragraph 6(3), and

(b) the applicant does not submit an environmental statement and comply with regulation 19(6),

the Welsh Ministers must determine the matter only by confirming or refusing to confirm the purchase notice.

8. Where it appears to the Welsh Ministers that the environmental information already before them—

(a) is adequate to assess the environmental effects of the development which is the subject of the proposed action under section 141(2) or (3) of the 1990 Act, they must take that information into consideration in their decision;

(b) is not adequate to assess the environmental effects of the development, they must serve a notice seeking further information in accordance with regulation 24(1); and

regulations 14 to 17 and 19 to 28 of these Regulations apply to the applicant and application—

(i) as they apply to appellants and appeals in the case of—

(aa) a proposal to grant planning permission;

(bb) a proposal to revoke or amend the conditions attached to a planning permission; or

(cc) a proposal to direct that, if an application for planning permission were made, it must be granted; and

(ii) as they apply to the initiating body and a proposed section 97 order or a proposed section 102 order in the case of—

(aa) a proposal to revoke or amend conditions attaching to such an order; or

(bb) a proposal to amend such an order; and

(iii) as if references to the "relevant planning authority" were to the local planning authority who would determine any application for planning permission for the development in question were such an application to be submitted.

SCHEDULE 8

Regulation 55(2)

ROMP Applications

Modification of provisions on prohibition of granting planning permission or subsequent consent

1. Regulation 3 (prohibition on granting planning permission or subsequent consent without consideration of environmental information) is to be read as if, after "for EIA development" it read "pursuant to a ROMP application"[F108].

F108 For the meaning of "ROMP" and "ROMP application" *see* regulation 55(1).

Modification of provisions on application to local planning authority without an environmental statement

2. In the case of a ROMP application, regulation 11(4) (application made to a local planning authority without an environmental statement) is to be read as if—

(a) "21 days" read "6 weeks"; and

(b) after "the notification", it read ", or within such other period as may be agreed with the authority in writing".

Disapplication of regulations and modifications of provisions on application referred to or appealed to the Welsh Ministers without an environmental statement

3.—(1) In the case of a ROMP application, regulations 11(6) and (8), 12(7) and (8), 13(8) and (9) and 61 do not apply.

(2) In the case of a ROMP application, regulation 12(6) (application referred to the Welsh Ministers without an environmental statement) and regulation 13(7) (appeal to the Welsh Ministers without an environmental statement) are to be read as if—

(a) "21 days" read "6 weeks"; and

(b) after "the notification" they read ", or within such other period as may be agreed with the Welsh Ministers in writing".

Substitution of references to section 78 of the 1990 Act right of appeal and modification of provisions on appeal to the Welsh Ministers without an environmental statement

4.—(1) In the case of a ROMP application, in regulations 13(1) and 20(1)(b), for the references to "section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions)" read—

"paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act or paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal)".

(2) In the case of a ROMP application, read regulation 13(2) (appeal to the Welsh Ministers without an environmental statement) as if ", except by refusing planning permission or subsequent consent," were omitted.

Modification of provisions on preparation, publicity and procedures on submission of environmental statements

5.—(1) In the case of a ROMP application, in regulations 14(10) and 15(9), for the words "an application for planning permission or a subsequent application for" read "a ROMP application which relates to another planning permission which authorises".

(2) In the case of a ROMP application, in regulation 18 (procedure where an environmental statement is submitted to a local planning authority) for paragraph (4) read—

> "(4) Where an applicant submits an environmental statement to the authority in accordance with paragraph (1), the provisions of article 12 of and Schedule 3 to the 2012 Order (publicity for applications for planning permission) apply to a ROMP application under paragraph—
>
> (a) 2(2) of Schedule 2 to the 1991 Act, and
>
> (b) 6(1) of Schedule 14 to the 1995 Act [F109],
>
> as they apply to a planning application falling within paragraph (3A) [F110] of article 12 of the 2012 Order except that for the references in the notice in Schedule 3 to the 2012 Order to "planning permission" there is substituted "determination of the conditions to which a planning permission is to be subject" and that the notice must refer to the relevant provisions of the 1991 Act or 1995 Act pursuant to which the application is made."

(3) In the case of a ROMP application, in regulation 19 (publicity where an environmental statement is submitted after the planning application)—

(a) in paragraph (2)(a) for the words "that an application is being made for planning permission or subsequent consent" read—

> "that an application is being made for determination of the conditions to which a planning permission is to be subject, the relevant provisions of the 1991 Act or 1995 Act pursuant to which the application is made";

(b) for paragraph (7) read—

> "(7) Where an applicant indicates that the applicant proposes to provide such a statement and in such circumstances as are mentioned in paragraph (1), the relevant mineral planning authority, the Welsh Ministers or the inspector, as the case may be, must suspend consideration of the application or appeal until the date specified by the authority or the Welsh Ministers for submission of the environmental statement and compliance with paragraph (6); and must not determine the application or appeal during the period of 30 days beginning with the last date on which the statement and the other documents mentioned in paragraph (6) are published in accordance with this regulation."

(4) In the case of a ROMP application, in regulation 20(1) (provision of copies of environmental statements and further information for the Welsh Ministers on referral or appeal)—

(a) in sub-paragraph (a) for "section 77 of the 1990 Act (reference of applications to Secretary of State)" read "paragraph 7(1) of Schedule 2 to the 1991 Act, paragraph 13(1) of Schedule 13 to the 1995 Act or paragraph 8(1) of Schedule 14 to the 1995 Act"; and

(b) in sub-paragraph (b), for "section 78 of the 1990 Act (right to appeal against planning decisions and failure to take such decisions)", read "paragraph 5(2) of Schedule 2 to the 1992 Act, paragraph 11(1) of Schedule 13 to the 1995 Act or paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal)".

(5) In the case of a ROMP application, in regulation 22 (availability of copies of environmental statements) after "the 2012 Order" read "(as applied by regulation 18(5) or by paragraph 9(5) of Schedule 13 to the 1995 Act),".

(6) In the case of a ROMP application, in regulation 24 (further information and evidence in respect of environmental statements)—

(a) in paragraph (3)(a) for the words "applicant for planning permission or subsequent consent or the appellant (as the case may be)" read—

> "person who has applied for or who has appealed in relation to the determination of the conditions to which the planning permission is to be subject, the relevant provisions of the 1991 Act or 1995 Act pursuant to which the application is made";

(b) in paragraph (7)(a) after the words "application or appeal" read "until the date they specify for submission of the further information".

(7) In regulation 25 (consideration of whether planning permission should be granted), in paragraph (1)(d) read as if "if planning permission or subsequent consent is to be granted" were omitted.

F109 The provisions of the 2012 Order apply to applications under paragraph 9(1) of Schedule 13 to the 1995 Act by virtue of paragraph 9(5) of that Schedule.

F110 Paragraph (3A) is inserted in the 2012 Order by paragraph 1(3)(c) of Schedule 9 to these Regulations.

Modification of provisions on application to the High Court and giving of directions

6.—(1) In the case of a ROMP application, for regulation 59 (application to the High Court) read—

"**Application to the High Court**

59. For the purposes of Part 12 of the 1990 Act (validity of certain decisions), the reference in section 288 of the 1990 Act, as applied by paragraph 9(3) of Schedule 2 to the 1991 Act, paragraph 16(4) of Schedule 13 to the 1995 Act or paragraph 9(4) of Schedule 14 to the 1995 Act, to action of the Welsh Ministers not being within the powers of the 1990 Act must be taken to extend to the determination of a ROMP application by the Welsh Ministers in contravention of regulation 3."

(2) The direction making power in article 18(2) of the 2012 Order applies to ROMP development as it applies to development in respect of which a planning application is made.

Suspension of minerals development

7.—(1) Where the authority, the Welsh Ministers or an inspector are dealing with a ROMP application or an appeal arising from a ROMP application and notify the applicant or appellant, as the case may be, that—

(a) the submission of an environmental statement is required under regulation 11(1), 12(3) or 13(5), then such notification must specify the period within which the environmental statement and compliance with regulation 19(6) are required; or

(b) a statement should contain additional information under regulation 24(1), then such notification must specify the period within which that information is to be provided.

(2) Subject to paragraph (3), the planning permission to which the ROMP application relates may only authorise any minerals development (unless the Welsh Ministers have made a screening direction to the effect that ROMP development is not EIA development) if the applicant or the appellant has—

(a) written to the relevant mineral planning authority or Welsh Ministers within the 6 week or other period agreed pursuant to regulations 11(3) and 11(4), 12(4) and 12(6) or 13(7);

(b) submitted an environmental statement and complied with regulation 19(6) within the period specified by the authority or the Welsh Ministers in accordance with paragraph (1) or within such extended period as is agreed in writing;

(c) provided additional information within the period specified by the authority, the Welsh Ministers or an inspector in accordance with paragraph (1) or within such extended period as is agreed in writing; or

(d) where a notification under regulation 6(5), 7(3), 14(3) or 15(3) has been received, provided the additional information requested within 21 days beginning with the date of the notification, or within such extended period as may be agreed in writing.

(3) Where paragraph (2) applies, the planning permission may not authorise any minerals development from the end of—

(a) the relevant period specified in or agreed pursuant to regulations 11(3) and 11(4), 12(4) and 12(6) or 13(7); and

(b) the period specified or agreed in writing as referred to in paragraph (2)(b), (c), and (d),

until the applicant has complied with all of the provisions referred to in paragraph (2) which are relevant to the application or appeal in question.

(4) Particulars of the suspension of minerals development and the date when that suspension ends must be entered in the appropriate part of the register [F111] as soon as reasonably practicable.

(5) Paragraph (2) does not affect any minerals development carried out under the planning permission before the date of suspension of minerals development.

(6) For the purposes of paragraphs (2) to (5), "minerals development" ("*datblygiad mwynau*") means development consisting of the winning and working of minerals, or involving the depositing of mineral waste.

F111 *See* paragraph 8(2) of this Schedule.

Determination of conditions and right of appeal on non-determination

8.—(1) Where it falls to a mineral planning authority to determine a Schedule 1 or a Schedule 2 application, paragraph 2(6)(b) of Schedule 2 to the 1991 Act, paragraph 9(9) of Schedule 13 to the 1995 Act or paragraph 6(8) of Schedule 14 to the 1995 Act do not have effect so as to treat the authority as having determined the conditions to which any relevant planning permission is to be subject unless either—

(a) the authority has adopted a screening opinion; or

(b) the Welsh Ministers have made a screening direction to the effect that the ROMP development in question is not EIA development;

(2) Where it falls to a mineral planning authority or the Welsh Ministers to determine a Schedule 1 or a Schedule 2 application—

(a) section 69 of the 1990 Act (register of applications, etc), and any provisions of the 2012 Order made by virtue of that section, have effect with any necessary amendments as if references to applications for planning permission included ROMP applications under paragraph 9(1) of Schedule 13 to the 1995 Act and paragraph 6(1) of Schedule 14 to the 1995 Act [F112]; and

(b) where the authority is not the authority required to keep the register, the authority must provide the authority required to keep it with such information and documents as that authority requires to comply with section 69 of the 1990 Act as applied by paragraph (a), with regulation 27 as applied by regulation 55, and with paragraph 7(4) of this Schedule.

(3) Where it falls to the mineral planning authority or the Welsh Ministers to determine an EIA application made under paragraph 2(2) of Schedule 2 to the 1991 Act, paragraph 4(4) of that Schedule does not apply.

(4) Where it falls to the mineral planning authority to determine an EIA application, the authority must give notice of their determination of the ROMP application within 16 weeks beginning with the date of receipt by the authority of the ROMP application or such extended period as may be agreed in writing between the applicant and the authority.

(5) For the purposes of paragraph (4), a ROMP application is received by the mineral planning authority when they receive—

(a) a document referred to by the applicant as an environmental statement for the purposes of these Regulations;

(b) any documents required to accompany that statement; and

(c) any additional information which the authority has notified the applicant that the environmental statement should contain.

(6) Where paragraph (1) applies—

(a) paragraph 5(2) of Schedule 2 to the 1991 Act, paragraph 11(1) of Schedule 13 to the 1995 Act and paragraph 9(1) of Schedule 14 to the 1995 Act (right of appeal) have effect as if there were also a right of appeal to the Welsh Ministers where the mineral planning authority have not given notice of their determination of the ROMP application in accordance with paragraph (4); and

(b) paragraph 5(5) of Schedule 2 to the 1991 Act, paragraph 11(2) of Schedule 13 to the 1995 Act and paragraph 9(2) of Schedule 14 to the 1995 Act (right of appeal) have effect as if they also provide for notice of appeal to be made within 6 months from the expiry of the 16 week or other period agreed pursuant to paragraph (4).

(7) In determining for the purposes of—

(a) paragraphs 2(6)(b) of Schedule 2 to the 1991 Act, 9(9) of Schedule 13 to the 1995 Act and 6(8) of Schedule 14 to the 1995 Act (determination of conditions); or

(b) paragraph 5(5) of Schedule 2 to the 1991 Act, paragraph 11(2) of Schedule 13 to the 1995 Act and paragraph 9(2) of Schedule 14 to the 1995 Act (right of appeal) as applied by paragraph 8(6)(b) of this Schedule,

the time which has elapsed without the mineral planning authority giving the applicant notice of their determination in a case where the authority have notified an applicant in accordance with regulation 11(1) that the submission of an environmental statement is required and the Welsh Ministers have given a screening direction in relation to the ROMP development in question no account may be taken of any period before the issue of the direction.

F112 These provisions apply to applications under paragraph 2(2) of Schedule 2 to the 1991 Act as they are applied by paragraph 9 of Schedule 2 to the 1991 Act.

ROMP application by a mineral planning authority

9.—(1) Where a mineral planning authority propose to make or makes a ROMP application which is a Schedule 1 or a Schedule 2 application to the Welsh Ministers under regulation 11 (other consents) of the General Regulations [F113], these Regulations apply to that application or proposed application as they apply to a ROMP application referred to the Welsh Ministers under paragraph 7(1) of Schedule 2 to the 1991 Act, paragraph 13(1) of Schedule 13 to the 1995 Act or paragraph 8(1) of Schedule 14 to the 1995 Act (reference of applications to the Welsh Ministers) subject to the following modifications—

(a) subject to paragraph (2), regulations 6 to 11, 13, 14, 15, 18 (except for the purposes of regulations 21(3) and (4)), 20 and 29(1) do not apply;

(b) in regulation 5 (general provisions relating to screening), paragraphs (4) and (5) do not apply;

(c) regulation 12(3) (application referred to the Welsh Ministers without an environmental statement), applies as if "and must send a copy of that notification to the relevant planning authority" were omitted;

(d) in regulation 16 (procedure to facilitate preparation of environmental statements)—

(i) in paragraph (3)(b) "11(4)(a), 12(6) or 13(7)" read "12(6)";

(ii) read paragraph (4) as if "the relevant planning authority and" and "authority or" in both places where it occurs were omitted;

(e) in regulation 19(2) (publicity where an environmental statement is submitted after the planning application)—

(i) sub-paragraph (a) read as if "and the name and address of the relevant planning authority" were omitted;

(ii) read as if sub-paragraph (b) provided—

"(b) the date on which the application was made and that it has been made to the Welsh Ministers under regulation 11 of the General Regulations;";

(f) read regulation 21(2) (procedure where an environmental statement is submitted to the Welsh Ministers), as if "and to the relevant planning authority" were omitted;

(g) in regulation 24(3) (further information and evidence in respect of environmental statements)—

(i) read sub-paragraph (a) as if "and the name and address of the relevant planning authority" were omitted;

(ii) read sub-paragraph (b) as if it provided—

"(b) the date on which the application was made and that it has been made to the Welsh Ministers under regulation 11 of the General Regulations;"; and

(h) regulations 25 (consideration of whether planning permission should be granted), 27 (availability of opinions, directions etc. for inspection), 28(1) (information to accompany decisions) and 29(2) (duties to inform the public and the Welsh Ministers of final decisions) apply as if the references to a relevant planning authority were references to a mineral planning authority.

(2) A mineral planning authority minded to make a ROMP application to the Welsh Ministers under regulation 11 of the General Regulations may request the Welsh Ministers to make a screening direction, and paragraphs (3) to (6) of regulation 7 apply to such a request as they apply to a request made pursuant to regulation 6(8) except as if in paragraph (5) ", and may request the relevant planning authority to provide such information as they can on any of those points" were omitted.

(3) A request under paragraph (2) must be accompanied by—

(a) a plan sufficient to identify the land;

(b) a description of the nature and purpose of the ROMP development, including in particular—

(i) a description of the physical characteristics of the whole development and, where relevant, of demolition works;

(ii) a description of the location of the development, with particular regard to the environmental sensitivity of geographical areas likely to be affected;

(c) a description of the aspects of the environment likely to be significantly affected by the development;

(d) a description of any likely significant effects, to the extent of the information available on those effects, of the proposed development on the environment resulting from—

(i) the expected residues and emissions and the production of waste, where relevant; and

(ii) the use of natural resources, in particular soil, land, water and biodiversity; and

(e) such other information as the authority may wish to provide including any features of the proposed development or any measures envisaged to avoid or prevent what might otherwise have been significant adverse effects on the environment.

(4) An authority making a request under paragraph (2) must send to the Welsh Ministers any additional information they may request to enable them to make a direction.

F113 Regulation 11 was amended by S.I. 1999/1810 and S.I. 1999/1892.

ROMP applications: duty to make a prohibition order after two years suspension of permission

10.—(1) This paragraph applies if, in relation to a minerals development—

(a) a period of 2 years beginning with the suspension date has expired, and

(b) the steps specified in paragraph 7(2) have yet to be taken.

(2) The "suspension date" is the date on which the suspension of the power to authorise minerals development (within the meaning of paragraph 7(6)) begins.

(3) Paragraph 3 of Schedule 9 to the 1990 Act (prohibition of resumption of mineral working) [F114] has effect in relation to any part of a site as it has effect in relation to the whole site.

(4) Sub-paragraph (1) of that paragraph has effect as if from "the mineral planning authority may by order" to the end read—

"the mineral planning authority—

(i) must by order prohibit the resumption of the winning and working or the depositing; and

(ii) may in the order impose, in relation to the site, any such requirement as is specified in sub-paragraph (3)."

(5) In sub-paragraph (2)(a) and (b) of that paragraph, references to winning and working or depositing are to be read as references to winning and working or depositing for which permission is not suspended by virtue of paragraph 7(3).

(6) Paragraph 4(7) of Schedule 9 to the 1990 Act has effect as if "have effect" read "authorise that development".

F114 Paragraph 3 was amended by the 1991 Act, Schedule 1, paragraph 15(6).

SCHEDULE 9

Regulation 64

Amendments to other instruments

The Town and Country Planning (Development Management Procedure) (Wales) Order 2012

1.—(1) The 2012 Order is amended in accordance with this paragraph.

(2) In article 2(1)—

(a) omit the definitions of "EIA application" ("*cais AEA*"), "EIA development" ("*datblygiad AEA*"), "environmental information" ("*gwybodaeth amgylcheddol*") and "environmental statement" ("*datganiad amgylcheddol*");

(b) in the relevant places, insert—

(i) "any other information" ("*unrhyw wybodaeth arall*") has the meaning in the EIA Regulations;

(ii) "EIA application" ("*cais* AEA") has the meaning in the EIA Regulations;

(iii) "EIA development" ("*datblygiad* AEA") has the meaning in the EIA Regulations;

(iv) "EIA Regulations" ("*Rheoliadau* AEA") means the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017;

(v) "environmental information" ("*gwybodaeth amgylcheddol*") has the meaning in the EIA Regulations;

(vi) "environmental statement" ("*datganiad amgylcheddol*") has the meaning in the EIA Regulations;

(vii) "further information" ("*gwybodaeth* bellach") has the meaning in the EIA Regulations;

(viii) "Schedule 1 development" ("*datblygiad Atodlen* 1") and "Schedule 2 development" ("*datblygiad Atodlen* 2") have the meanings in the EIA Regulations;

(ix) "scoping opinion" ("*barn gwmpasu*") has the meaning in the EIA Regulations; and

(x) "scoping direction" ("*cyfarwyddyd cwmpasu*") has the meaning in the EIA Regulations.

(3) In article 10(4), after "planning permission", insert " other than EIA applications ".

(4) In article 12 [F115]—

(a) in paragraph (2), for "In" substitute " Subject to paragraph (3A), in ";

(b) omit paragraph (2)(a);

(c) after paragraph (3), insert—

"(3A) In the case of an EIA application, the local planning authority must publicise the application in accordance with the requirements of paragraph (7A) and, where the environmental statement is submitted with the application, by giving requisite notice—

(a) by site display in at least one place on or near the land to which the application relates for not less than 30 days; and

(b) by publication of the notice in a newspaper circulating in the locality in which the land to which the application relates is situated.";

(d) in paragraph (4), for "paragraph (4A)" substitute " paragraph (3A) or (4A) ";

(e) in paragraph (4A), for "(2)(a) or (c)", substitute " (2)(c) or (3A) ";

(f) in paragraph (5), after "paragraph (2),", insert " paragraph (3A), ";

(g) in paragraph (6), after "or (5)(a)", insert " , or before the period of 30 days referred to in paragraph (3A)(a), ";

(h) in paragraph (7), after "planning permission", insert " other than EIA applications "; and

(i) after paragraph (7) insert—

"(7A) The local planning authority must ensure it maintains a website for the purpose of publicising EIA applications and the following information must be published on the website—

(a) the address or location of the proposed development;

(b) a description of the proposed development;

(c) the fact that the development is subject to an environmental impact assessment procedure;

(d) the environmental statement, any relevant scoping opinion or scoping direction and any further information or any other information;

(e) in accordance with the Freedom of Information Act 2000 and the Data Protection Act 1998, the main reports and advice issued to the authority at the time the information is published (if any);

(f) in accordance with the Environmental Information Regulations 2004 [F116], information other than that required under any other sub-paragraph which is relevant to the decision and which only becomes available after the time the information required by this paragraph was first published;

(g) where, when and the means by which the application and the environmental statement may be inspected;

(h) how copies of the environmental statement may be obtained and the cost of such copies;

(i) the date by which any representations about the application must be made, which must not be before the last day of the period of 30 days beginning with the last date on which the environmental statement is published either on the website, in accordance with paragraph (3A) or in accordance with regulation 19 of the EIA Regulations;

(j) other details of the arrangements for public participation in the decision-making procedure including a description of the procedure for the publication of any additional information subsequently submitted by the applicant;

(k) how representations may be made about the application;

(l) details of the person or body responsible for taking the decision;

(m) that, in the case of a householder application or a minor commercial application, in the event of an appeal that proceeds by way of the expedited procedure, any representations made about the application will be passed to the Welsh Ministers and there will be no opportunity to make further representations."

(5) In article 14(4)(b), for "21 days" in both places it occurs, substitute " 30 days in the case of an EIA application or 21 days in any other case ".

(6) In article 15A(2) [F117], after "21 days" insert " , or 30 days in the case of an EIA application, in either case ".

(7) In article 15C after "21 days" insert " , or 30 days in the case of an EIA application, in either case ".

(8) In article 16 after "14 days" in both places where it occurs, insert " , (or 30 days in the case of an EIA application), ".

(9) In article 18(2), for "the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016", substitute " the EIA Regulations ".

(10) In article 21—

(a) in paragraph (1)(a), after "21 days", insert " , or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case "; and

(b) in paragraph (1)(c), after "14 days", insert " , or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case ".

(11) In article 22—

(a) in paragraph (6)(a), after "21 days" insert " or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case "; and

(b) in paragraph (6)(c), after "14 days" insert " or, in the case of an EIA application accompanied by an environmental statement 30 days, in either case ".

(12) Omit article 24(2).

(13) In article 27—

(a) in paragraph (5)(b), for "28 days", insert " 30 days ";

(b) in paragraph (6)(b)(iii) for "28 days" insert " 30 days ";

(c) in paragraph (6)(c)(iii), for "28 days" insert "30 days;

(d) in paragraph (7)(a) and (c) for "28 days" substitute "30 days; and

(e) in paragraph (13)(b), for "the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016", substitute " the EIA Regulations ".

(14) In Schedule 3, in the notice under article 12(3) of application for planning permission—

(a) after "ARTICLE 12(3)" insert " OR 12(3A) ";

(b) after "until all reasonable hours until (f)…" insert " (fa) " and at the end of the notice after note (f) insert as note (fa)—

"(fa) details of the website on which the environmental statement and any other documents may be inspected";

(c) after "at a charge of (h)*…" insert " (ha) " and at the end of the notice after note (h) insert as note (ha)—

"(ha) the website where any other information received from the applicant in respect of the proposed development is published"; and

(d) in note (f) for "date", substitute— "date:

"(i) in the case of an EIA application, giving a period of 30 days beginning with the later of the date on which the notice is first displayed on or near the site, the date the notice is first published in a newspaper or the date the information required to be published on the website of the local planning authority pursuant to article 12(7) is so published; or

(ii) in any other case,".

F115 Article 12 has been amended by articles 2 and 5(a) of S.I. 2015/1330 (W. 123) and by articles 2 and 10(2) of S.I. 2016/59 (W. 29).

F116 S.I. 2004/3391.

F117 Article 15A(2) was inserted by articles 2 and 7 of S.I. 2015/1330 (W. 123). It was further amended by articles 2 and 10(5)(b) of S.I. 2016/59 (W. 29).

Developments of National Significance (Procedure) (Wales) Order 2016

2.—(1) The 2016 Order is amended in accordance with this paragraph.

(2) In article 2—

(a) in the definition of "the EIA Regulations" ("*y Rheoliadau AEA*"), for "2016", substitute " 2017 "; and

(b) in the relevant places, insert—

(i) " "EIA development" ("*datblygiad AEA* ") has the meaning in the EIA Regulations;";

(ii) " "Schedule 1 development" ("*datblygiad Atodlen 1*") and "Schedule 2 development" ("*datblygiad Atodlen 2*") have the meanings in the EIA Regulations;";

(iii) " "scoping direction" ("*cyfarwyddyd cwmpasu*") has the meaning in the EIA Regulations;";

(iv) " "scoping opinion" ("*barn gwmpasu*") has the meaning in the EIA Regulations;".

(3) In article 18—

(a) after paragraph (3)(b), insert—

"(ba) in the case of an application accompanied by an environmental statement—

(i) the fact that the development is subject to an environmental impact assessment procedure;

(ii) the environmental statement, any relevant scoping direction, and any further information or any other information;

(iii) in accordance with the Freedom of Information Act 2000 and the Data Protection Act 1998, the main reports and advice issued to the Welsh Ministers at the time the information is published (if any);

(iv) in accordance with the Environmental Information Regulations 2004 [F118], information other than that required under any other sub-paragraph which is relevant to the decision and which only becomes available after the time the information required by this paragraph was first published;

(v) how copies of the environmental statement may be obtained and the cost of such copies;

(vi) other details of the arrangements for public participation in the decision-making procedure including a description of the procedure for the publication of any additional information subsequently submitted by the applicant;

(vii) details of the authority responsible for taking the decision;";

(b) in paragraph (3)(c), after "received", insert " which, in the case of an application accompanied by an environmental statement, must not be before the last day of the period of 30 days beginning on the latest date on which the application has been publicised in accordance with article 18(2), (3) or 19(2) ";

(c) in paragraph (4), in the appropriate place, insert—

""further information" ("*gwybodaeth bellach*") and "any other information" ("*unrhyw wybodaeth arall*") have the same meanings as the EIA Regulations;".

(4) In article 19—

(a) in paragraph (2), for "21 days" substitute " 30 days, in the case of an application accompanied by an environmental statement, and 21 days in any other case ";

(b) in paragraph (5), for "21 days" substitute " 21 or 30 days, as appropriate, ".

(5) In article 22(4)(b), after "21 days" insert " , or in the case of an application accompanied by an environmental statement 30 days, ".

(6) In article 23(2)(a), for "21 days", substitute " 30 days, in the case of an application accompanied by an environmental statement and 21 days in any other case, in either case ".

(7) In article 29, omit paragraphs (4) and (5).

(8) In the form in Schedule 4—

(a) after "+The application is accompanied by an Environmental Statement", insert " +The proposed development is likely to have significant effects in another EEA State ";

(b) in note j)—

(i) for "21" substitute " 30 "; and

(ii) after "publication", insert " , or in the case of an application which is not required to be accompanied by an environmental statement in accordance with the EIA Regulations, that period must 21 days ".

F118 S.I. 2004/3391.

SCHEDULE 10

Regulation 66

Consequential amendments

The Town and Country Planning (General Permitted Development) Order 1995

1.—(1) The Town and Country Planning (General Permitted Development) Order 1995 [F119] is amended as follows.

(2) In article 3—

(a) in paragraph (10), for "2016", substitute " 2017 "; and

(b) in paragraphs (10) and (11)—

(i) for "regulation 4(8)" substitute " regulation 5(11) ";

(ii) for "regulation 6(6)" substitute " regulation 7(6) "; and

(iii) for "regulation 4(4)" substitute " regulation 5(4) ".

F119 S.I. 1995/418 to which there are amendments not relevant to these Regulations.

The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999

2.—(1) The Public Gas Transporter Pipe-line Works (Environmental Impact Assessment) Regulations 1999 [F120] are amended as follows.

(2) In regulation 2(1), for the definition of "the 2016 EIA Regulations" substitute—

""the 2017 Regulations" means the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017;".

(3) In regulation 4(3)—

(a) in sub-paragraph (b), for "regulation 6(6)" substitute " regulation 7(6) "; and

(b) for "2016" (in both places where it occurs) substitute " 2017 ".

F120 S.I. 1999/1672.

The Planning (National Security Directions and Appointed Representatives) (Wales) Regulations 2006

3.—(1) The Planning (National Security Directions and Appointed Representatives) (Wales) Regulations 2006 [F121] are amended as follows.

(2) In the definition of "EIA application" ("*cais Asesiad o'r Effaith Amgylcheddol*") in regulation 6(8), for "2016", substitute " 2017 ".

F121 S.I. 2006/1387 (W. 137).

EXPLANATORY NOTE

(This note is not part of the Regulations)

[F122][F123]These Regulations revoke and restate with amendments the provisions of the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2016 ("the 2016 Regulations"). The 2016 Regulations consolidated and updated earlier instruments which implemented Council Directive 85/337/EEC ("the 1985 Directive") on the assessment of the effects of certain public and private projects on the environment in relation to town and country planning in Wales.

[F124][F125]The 1985 Directive has been replaced by Directive 2011/92/EU ("the Directive") of the European Parliament and of the Council of 13 December 2011 on the assessment of the effects of certain public and private projects on the environment . The Directive has been amended by EU Directive 2014/52/EU .

[F126]The Regulations impose procedural requirements in relation to the granting of planning permission under the Town and Country Planning Act 1990 .

All development in Schedule 1 requires an environmental impact assessment ("EIA"). Development in column 1 of the table in Schedule 2 which is either to be carried out in a sensitive area or satisfies a threshold or criterion in column 2 requires an EIA if it is likely to have significant effects on the environment.

The main amendments to the 2016 Regulations are:

Environmental impact assessment

Regulation 3 is requires an EIA to be carried out before consent is given to development likely to have significant effects on the environment ("EIA development").

New regulation 4 describes the environmental impact assessment process.

Screening

The screening process is amended. Regulation 6(2) and (3) require certain information to be provided by the person seeking planning permission, taking into account the selection criteria in Schedule 3.

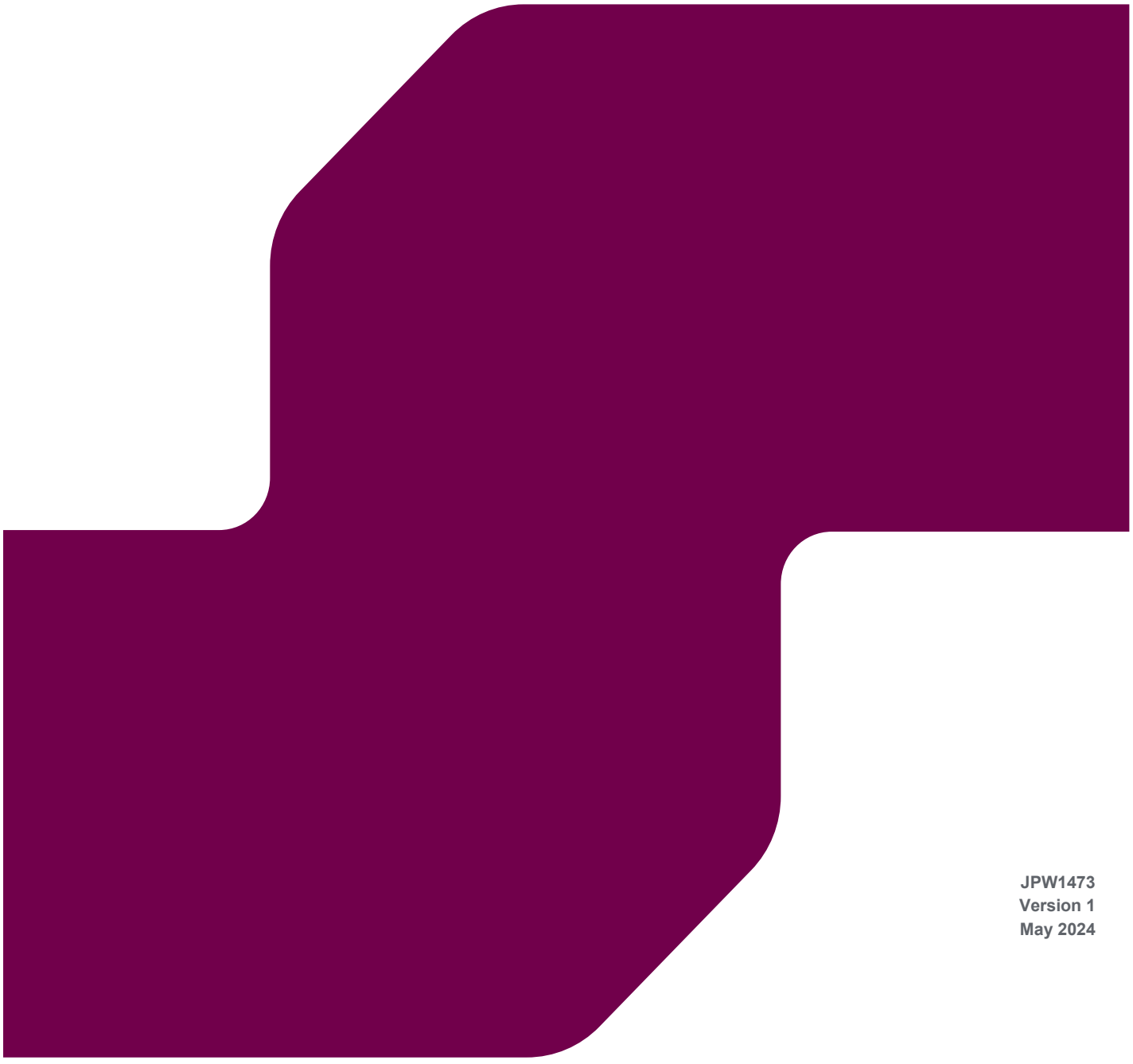
In accordance with regulation 5(8), when making a screening decision, the decision-maker must now take into account that information, the available results of other environmental assessments as well as the selection criteria in Schedule 3. Those selection criteria are amended.
When the decision-maker adopts a screening decision they must state the main reasons for the decision in addition to other new matters, in accordance with regulation 5(9).
Regulations 6(6) and 7(6) require screening decisions to be made at the latest within 90 days from the date of the submission of all the relevant information unless there are exceptional circumstances and regulation 7(7) applies.
Scoping
Regulation 14(2) makes changes to the nature of the information which a person must provide with a request for a scoping opinion. Paragraph (6) requires the body making the scoping decision to take additional information into account before adopting the scoping decision.
Environmental statements
The information required to be included in an environmental statement has been expanded by regulation 17(3) and Schedule 4. Regulations 4(4) and 17(4) contain new requirements in relation to environmental statements.
The decision whether to grant planning permission
Regulation 25 makes detailed provision as to the procedure that the decision-maker must follow when determining whether to grant planning permission for a development in relation to which an environmental statement has been submitted. Paragraph (2) contains a requirement for the decision-maker's conclusion on the significant effects of the development to be up-to-date at the time that it makes its decision whether to grant planning permission. Paragraph (4) details the matters the decision-maker must consider in relation to potential remedial action and monitoring measures.
Regulation 28 sets out the information which must be provided with a decision on whether to grant planning permission.
Publicity and consultation
F127 Regulation 19(2)(e) and amendments made to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 by paragraph 1(3)(c) of Schedule 9 provide for a minimum public consultation period of 30 days.
Regulation 29(1)(d) makes provision for enhanced information to be provided to the public after a decision is made in relation to whether to grant planning permission for EIA development.
Penalties and enforcement
Regulation 43 contains the duty on local planning authorities to have regard to the need to secure compliance with the requirements and objectives of the Directive in the exercise of their enforcement functions.
Other requirements
Regulation 19 and amendments made to the Town and Country Planning (Development Management Procedure) (Wales) Order 2012 by paragraph 1(3)(h) of Schedule 9 require the environmental statement and other documents to be available electronically for inspection.
F128 Regulation 26 is a requirement to coordinate, where appropriate, an EIA under these Regulations with any assessment under regulation 61 of the Conservation of Habitats and Species Regulations 2010 .
Regulation 58 makes provision to secure that there is no conflict of interest and that there is an appropriate separation of functions when the decision-maker is also the body requiring planning permission. The specific provisions relating to development by a local planning authority have been removed.
Similar amendments have been made to the processes in Part 7 (Developments of National Significance), Part 9 (Restrictions on Grants of Permission), Part 10 (Unauthorised Development) and Part 11 (ROMP Applications).
A regulatory impact assessment has been prepared in relation to these Regulations. Copies may be obtained from Planning Division, The Welsh Government, Cathays Park, Cardiff, CF10 3NQ and on the website at https://www.wales.gov.uk.

Changes to legislation:
There are currently no known outstanding effects for the The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017.

Appendix 1.4
Author Competency

PLAS POWER SOLAR AND ENERGY STORAGE PROJECT

Environmental Impact Assessment Report
Appendix 1.4 Statement of Expertise



JPW1473
Version 1
May 2024

Document status

Version	Purpose of document	Authored by	Reviewed by	Approved by	Review date
1	For Consultation	EA	AL	AL	25/09/2023

Approval for issue

Andrew Lucas	[redacted]	25/09/2023

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1 STATEMENT OF EXPERTISE

RPS

EIA Management

1.1 RPS is a member of the Institute of Environmental Management and Assessments (IEMAs) Environmental Impact Assessment (EIA) Quality Mark. This means that RPS adheres to the following quality mark commitments.

- EIA Management – We commit to using effective project control and management processes to deliver quality in the EIAs we co-ordinate and the Environmental Statements/EIA Reports we produce.
- EIA Team Capabilities – We commit to ensuring that all out EIA staff have the opportunity to undertake regular and relevant continuing professional development.
- EIA Regulatory Compliance – We commit to delivering Environmental Statements/EIA Reports that meet the requirements established within the appropriate UK EIA Regulations.
- EIA Context and Influence – We commit to ensuring that all EIAs we co-ordinate are effectively scoped and that we will transparently indicate how the EIA process, and any consultation undertaken, influenced the development proposed and any alternatives considered.
- EIA Content – We commit to undertaking assessments that include: a robust analysis of the relevant baseline; assessment and transparent evaluation of impact significance; and an effective description of measures designed to monitor and manage significant effects.
- EIA Presentation – We commit to deliver Environmental Statements/EIA Reports that set out environmental information in a transparent and understandable manner.
- Improving EIA Practice – We commit to enhance the profile of good quality EIA by working with IEMA to deliver a mutually agreed set of activities, on an annual basis, and by making appropriate examples of our work available to the wider EIA community.

Topic Authors

Landscape and Visual Impact

1.2 RPS has been at the forefront of landscape consultancy for over 25 years, providing advice and solutions upon the sustainable development of the urban and rural environment for the benefit of community, commerce and the environment. RPS has extensive experience in the assessment of effects on landscape and visual resources for developments in rural locations. These projects include Nationally Significant Infrastructure Projects and other large-scale renewable energy developments.

1.3 The LVIA ES chapter was completed by Katie Hegmann (Senior Landscape Architect).

1.4 Katie plays a key role within the Landscape Planning Team. She takes lead in managing and working within multi-disciplinary project teams, supervising large-scale project budgets, and works on projects of various scales within different sectors. She provides Landscape Planning Support, including LVIA for EIA, for a broad spectrum of disciplines including; renewable energy schemes, major infrastructure and commercial projects, residential and leisure development.

1.5 Katie regularly provides landscape architecture support on various developments, including; detailed planting design, tender/contractual process, product procurement, overall site works support and project management. Within her work, Katie develops good working relationships within

the design team. She has positive experience of consulting with Planning/AONB Officers to provide essential aid with gaining planning permission, helping to address concerns directly to encourage a positive outcome. She produces work for Public Inquiries and advises at public consultations and pre-application meetings. She strives to produce sustainable, multi-functional designs.

1.6 The LVIA ES chapter was peer reviewed by Paul Ellis (Technical Director).

1.7 Paul is an experienced landscape architect who has worked in the discipline for over 32 years co-ordinating and managing the landscape architectural input to a wide range of multi-discipline projects. He has extensive experience in the preparation of Landscape and Visual Impact Assessments for Environmental Statements. The advice and design development input provided by Paul have lead to the successful consent and implementation of schemes in challenging environments, either within or adjacent to nationally designated landscapes/seascapes. Paul will ensure that the outcome of the assessment will play an important role in the iterative design process to provide a solution for the Project to minimise effects on the fabric and character of the site and its context. Paul is familiar with the consultation process with both statutory and non-statutory consultees, providing support at public exhibitions. He has appeared as an expert witness at public inquiries, hearings and DCO examinations.

Biodiversity

1.8 The Biodiversity ES chapter was completed by Georgia Kelly (Senior Ecologist). Georgia is an Associate member of the Chartered Institute of Ecology and Environmental Management and has over 10 years' experience in ecological consultancy. Georgia has provided ecological support for a a number of solar projects as the ecology project manager.

1.9 The Biodiversity ES chapter was peer reviewed by Tim Oliver (Technical Director). Tim is a full member of the Chartered Institute of Ecology and Environmental Management and has over 23 years' experience in ecological consultancy with long standing experience in a wide range of sectors including energy and renewables. Tim has a strong understanding of the ecology requirements within an EIA through his involvement as the ecology project manager on a range of schemes, from small-scale industrial and mixed-use schemes to National Significant Infrastructure Projects.

Historic Environment

1.10 The Historic Environment baseline assessments and ES chapter have been undertaken by Philip Bethell (BA (Hons), MCIfA) (Senior Associate Director). Philip prepared the ES chapter and the archaeological desk-based assessment. He has undertaken a considerable number of similar assessments, contributing to Environmental Statements both as author of baseline studies and of ES chapters. Philip is a member of the Chartered Institute for Archaeologists, with over 40 years' experience in the archaeology/heritage sector.

1.11 The Heritage ES chapter has been reviewed by Richard Smalley BA(Hons) FSA MCIfA AssocIHBC, Deputy Operations Director - Heritage at RPS.

Hydrology and Hydrogeology

1.12 The Hydrology and Hydrogeology ES chapter (together with the FCA and Drainage Strategy) has been prepared by Tamsin Jones (Senior Consultant). Tamsin has 6 years of experience in the industry and has worked on a range of solar farms from small-scale to complex schemes with multiple renewable facilities and buildings. Tamsin has worked on greenfield sites with similar drainage requirements and understands requirements for these rural areas. Tamsin is a Member grade of the Chartered Institution of Water and Environmental Management.

1.13 The Hydrology and Hydrogeology ES chapter has been peer reviewed by Jonathan Morley (Technical Director). Jonathan Morley is an experienced project manager and has authored

numerous ES Chapters and FCA's. Jonathan has particular technical expertise in the energy sector and has project managed numerous Nationally Significant Infrastructure projects.

Climate Change

1.14 Alice Paynter (BSc (Hons), PIEMA) is a Senior Consultant in the RPS EIA and Sustainability team. She is experienced in the assessment of greenhouse gases and climate change within the context of EIA for an array of developments, predominantly energy infrastructure (largely solar farms, battery storage projects, and offshore wind farms) in addition to industrial and residential developments.

1.15 The Climate Change ES chapter has been reviewed by Andrew Tasker (BSc, MSc), an Associate Director at RPS. He is also a member of the IEMA Working Group and co-author of the updated Greenhouse Gases in EIA Guidance document. Andrew is experienced in the preparation of climate change impact assessments for a variety of renewable power, infrastructure, and other development projects. Further, he has extensive technical knowledge in the principles of sustainability including corporate responsibility, Building Research Establishment Environmental Assessment Method, and climate change. He provides advice and technical expertise across all work stages supporting development projects and organisations through key milestones.

Soils

1.16 The soils and agriculture chapter has been written by Tony Kernon. Tony is a Chartered Surveyor and a Fellow of the British Institute of Agricultural Consultants and has over 35 years experience in assessing the effects of development proposals on agricultural land, soils and farm businesses. He has been involved with many solar farm proposals, including numerous of national significance.