



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

# DNS: EIA Scoping Direction

## 3264571: Y Bryn Windfarm

08/03/2021

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**This Scoping Direction is provided on the basis of the information submitted to the Planning Inspectorate on 11 January 2021, in addition to consultation responses received. The advice does not prejudice any recommendation made by an Inspector or any decision made by the Welsh Ministers in relation to the development, and does not preclude the Inspector from subsequently requiring further information to be submitted with the submitted DNS application under Regulation 24 of [The Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017](#) (as amended) (“The 2017 Regulations”).**

## 1. Introduction

The Planning Inspectorate (“the Inspectorate”) received a request under [Regulation 33](#) of the 2017 Regulations for a Scoping Direction in relation to a proposed development for a proposed wind farm development incorporating battery energy storage by Y Bryn Wind Farm Limited.

The request was accompanied by a Scoping Report (SR) [[‘2021-01-11 - Scoping Report’](#)] that outlines the proposed scope of the Environmental Statement (ES) for the proposed development.

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

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

## 2. Site Description

The site is comprised of two blocks (the Bryn block to the south of the B4282 in the Margam Forest area and the Penhydd block to the north in the Michaelston Forest area) in the vicinity of Bryn and Maesteg. Further detail is available in Section 3 of the SR.

## 3. Proposed Development

The proposal is for a windfarm and battery storage, and the SR (Section 3) indicates that it is currently envisaged to comprise the following elements, although these may change in the final design:

- up to 26 turbines of up to 250 m maximum tip height and indicative up to 170 m rotor diameters, and
- associated crane hardstandings;
- transformers housed adjacent to turbines;
- onsite access tracks plus underground cable runs alongside;
- an onsite sub-station building;

- construction compound(s);
- battery storage;
- one or more permanent anemometry masts (at up to the hub height of the turbines); and
- borrow pits.

The scope of the EIA should include all elements of the development which are included in the final design, both permanent and temporary, and this Scoping Direction is written on that basis.

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

#### 4. Consultation

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

- Neath Port Talbot County Borough Council (NPTCBC) – Relevant Local Planning Authority
- Bridgend County Borough Council (BCBC) – Relevant Local Planning Authority
- Natural Resources Wales (NRW)
- Cadw
- Dŵr Cymru
- Welsh Government: Planning Directorate
- Health & Safety Executive (HSE)

The Planning Inspectorate was contacted by Swansea Council (SC) and Vale of Glamorgan Council, who wished to submit comments regarding landscape and visual impacts. The Inspectorate accepted the comments.

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

#### 5. Environmental Impact Assessment Approach

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

As the assessments are made, consideration should be given to whether standalone topic chapters would be necessary for topics that are currently proposed to be considered as

part of other chapters, particularly if it is apparent that there are significant effects and a large amount of information for a particular topic.

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

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

### 5.1 Baseline

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

### 5.2 Reasonable Alternatives

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

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

### 5.3 Currency of Environmental Information

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

The ES should include a chapter setting out the overarching methodology for the assessment, which clearly distinguishes effects that are 'significant' from 'non-significant' effects. Any departure from that methodology should be described in individual aspect

assessment chapters. Where professional judgement has been applied this should be clearly stated.

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

#### 5.4 Cumulative Effects

Based on the information set out in the scoping request, the approach to the assessment of cumulative impact is considered largely appropriate. Effects deemed individually not significant from the assessment, could cumulatively be significant, so inclusion criteria based on the most likely significant effects from this type of development may prove helpful when identifying what other developments should be accounted for. The criteria may vary from topic to topic. The Planning Inspectorate agrees that each aspect should consider cumulative effects as relevant.

Best practice is to include proportionate information relating to projects that are not yet consented, dependent on the level of certainty of them coming forward.

All of the other developments considered should be documented and the reasons for inclusion or exclusion should be clearly stated. Professional judgement should be used to avoid excluding other development that is close to threshold limits but has characteristics likely to give rise to a significant effect; or could give rise to a cumulative effect by virtue of its proximity to the proposed development. Similarly, professional judgement should be applied to other development that exceeds thresholds but may not give rise to discernible effects. The process of refinement should be undertaken in consultation with NPTCBC, BCBC and other consultees, where appropriate. Additional projects to be included in the cumulative impact assessment are included in Appendix 1 of this Direction, where relevant.

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

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

#### 5.5 Mitigation

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

#### 5.6 Population and Human Health

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

## 5.7 Transboundary Effects

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

## 6. Environmental Impact Assessment Aspects

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

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

### 6.1 Aspects Scoped In

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

- Ecology**
- Ornithology**
- Landscape and Visual Impact**
- Hydrology, geology and hydrogeology**
- Air Quality (pending additional information)**
- Cultural Heritage**
- Traffic and Transport**
- Noise**
- Forestry**
- Socio-economics**
- Health and public safety**
- Aviation and Existing Infrastructure**

The ES should also include the following, where relevant: waste and major accidents.

### 7. Table 1: The Planning Inspectorate's Comments

ID	Reference in Scoping Report	Issue	Comment
	<b>Description of the Development</b>		
ID.1	3.1.2	Description of the development	The SR contains few details regarding the description of the development. The Planning Inspectorate notes that borrow pits are listed at paragraph 3.1.2 but they are not described in the documentation submitted. It is also noted that an indicative rotor diameter is provided. The ES should include a detailed description of the development. Worst case (i.e. for example maximum rotor diameter) should be identified and used consistently throughout the assessment. Each chapter should clearly state the worst case scenario used in the assessment. Borrow pits (if present) will have to be clearly identified, including expected borrowed material, as well as restoration proposal and final land contours, to be shown with appropriate cross-sections plans. Relevant aspects of the ES should consider whether construction material is won on site or imported, as appropriate, including the production of waste.
ID.2	3.1.2	Construction	The SR does not contain any detail on construction. The ES will have to include a full section on construction methods and management. This should form the base of the assessment for each relevant aspect.
ID.3	3.1.2	Micrositing	The SR does not include any information on micrositing. The Applicant is reminded that the ES should include enough information to ensure that the decision maker is satisfied that the proposed development will not generate significant effects greater than the ones assessed in the ES. Although a level of tolerance is accepted, the ES should be prepared using clearly identified worst case scenarios, as appropriate.
ID.4	3.3	Grid connection	Paragraph 3.3.1 states that "grid connection works may fall outside the scope of the EIA" The proposed development connection to the National Grid <b>must</b> be considered as part of the EIA, where appropriate, and should be included in the assessment of the relevant aspects. The level of the



ID	Reference in Scoping Report	Issue	Comment
			assessment will depend on whether the connection will be part of the development or whether consent will be sought separately.
	<b>Consultations</b>		
ID.5	Q1	Approach to consultation	The Applicant is reminded that the SR approach to consultation with meetings and public exhibitions within local community venues may not be possible in the foreseeable future. Thus, a more diversified approach may be necessary. The Applicant will have to satisfy themselves that the level of community consultation is adequate. Should face to face events not be possible, the Applicant should propose alternative methods to engage with the local public.
	<b>Approach to EIA</b>		
ID.6	5.4.4	Definition of Significant effect	The Applicant is reminded that recognised standard guidance has been produced by relevant professional and public bodies to define significant effects when conducting technical assessments. Paragraph 5.4.4 states that the assessment team will ensure that a consistent approach is applied where suitable to prevent undue weight being given to a particular discipline to the detriment of another. The Planning Inspectorate is unsure of the meaning of this statement. Each aspect (discipline) considered should present a clearly defined methodology following the appropriate most up to date guidance and consultations. Significant effects should be identified using the appropriate methodology. The Inspectorate does not consider that significant effects identified within the assessment of one aspect would cause any detriment to other aspects.
ID.7	Table 5.2	Significant effects	As per comment above, technical guidelines are available and should be followed when conducting the assessment. To limit the assessment to identified major and major / moderate significant impacts is not acceptable as general practice. Each technical assessment should define what is

ID	Reference in Scoping Report	Issue	Comment
			considered significant, which may not be limited to a major impact. See also BCBC comment on this approach at Appendix 1.
ID.8	Q2	Approach to EIA	The Applicant states that the intention is to focus on significant effects and scope out likely not significant effects. This statement is confusing as the EIA process is designed to identify significant effects. The assessment methodology should define the thresholds used in the definition of what is significant and what is not. Mitigation measures should be proposed to reduce the significance of such effects. The Planning Inspectorate therefore cannot comment on Q2 and draws the Applicants' attention to the comments above in relation to the general approach to the EIA and NPTCBC at Appendix 1.
<b>Applicant's proposed Aspects proposed to be scoped out</b>			
ID.9	No aspect is proposed to be scoped out. However, the Planning Inspectorate notes that some aspects required to be addressed, under the terms of the EIA Regulations (Wales) 2017, are not mentioned in the SR. These are discussed below.		
ID.10	Air Quality	It is assumed that the Applicant wishes to scope out this aspect from the EIA on the basis that during operations the wind farm will not generate emissions, and that standard construction methods for dust suppression will be sufficient to ensure no significant impacts on air quality. However, the Inspectorate notes that the information provided to date does not consider whether there are nature conservation designated sites along the proposed construction traffic route which could be affected by the emissions generated by construction traffic, in particular HGVs. Additional information is required regarding construction traffic emissions and location of any ecological sensitive receptors before this aspect could be scoped out.	
ID.11	Climate Change	The SR does not address the impact of the project on climate and the vulnerability of the project to climate change, contrary to the requirements of the EIA Regulations (Wales) 2017. It is however noted that peat may be present on site and that the Applicant intends to include a Carbon Balance Assessment. It is also noted that the assessment will address climate change in the assessment of the Flood Risk. Therefore, the ES will not require a dedicated chapter to climate change. However, it is recommended that climate change is addressed, where relevant, within other chapters including ecology and ornithology.	

ID	Reference in Scoping Report	Issue	Comment
ID.12	Waste		The SR does not address the impact of generation and deposition of waste, contrary to the requirements of the EIA Regulations (Wales) 2017. However, the Inspectorate notes that the construction and decommissioning of the proposed development has the potential to generate waste which will require disposal in light of the proposal to win construction material on site using borrow pits. Therefore, the ES should consider the generation and disposal of waste within an appropriate section.
ID.13	Major Accidents and Disasters.		It is noted that battery storage is proposed. At this stage it is not clear which type of batteries are proposed. The Inspectorate notes that there is a potential fire risk associated with certain types of batteries such as lithium-ion and that safety measures are required in the design to minimise the risk of fire. The Inspectorate considers this to be part of the EIA process in line with Schedule 4 of the EIA Regulations (Wales) 2017. Additionally, the site is located within an area at risk of unmapped historic coal mining (see comment below) which could lead to major accidents, considering the scale of the development. The ES should ensure that risks of accidents are accounted for and mitigated in line with Schedule 4.
<b>Ecology</b>			
ID.14	10.2.1	Guidance	The Bat Conservation Trust. (2012). Bat surveys: good practice guidelines. Second edition. Bat Conservation Trust, London is not the most up to date guidance. The third edition should be used in the assessment.
ID.15	10.4.4	Non-statutory Designated Sites	NPTCBC (Appendix 1) noted that some of the non-statutory designated sites are not listed in the SR. The ES should include all relevant designated sites.
ID.16	10.4.10	Habitats	The Applicant's attention is drawn to NRW's comment regarding inaccuracies in the woodland description. The Applicant is recommended to contact the Forestry Land Management Team.
ID.17	10.5.3	Data search and consultations	Paragraph 10.5.3 of the SR states that the additional data search and consultations are not necessary to determine the ecological survey programme planned for 2021 as a precautionary approach will be followed. The Applicant's attention is drawn to NRW and NPTCBC comments in relation to the proposed survey effort. Generally speaking, both consultees highlight some deficiencies in the survey effort, in particular in relation to the suboptimal timing of the Phase 1 habitat survey already conducted,

ID	Reference in Scoping Report	Issue	Comment
			which could have led to misinterpretation of the importance of the existing habitats. As both NPTCBC and NRW Operational Land Management Team have a deep knowledge of the area, it is recommended that a more robust approach to survey is agreed with the relevant consultees. In particular, NPTCBC highlighted that Table 10.4 is missing some features listed in Section 7 of the of the Environment Wales Act which are known to be present on site.
ID.18	10.5.4	Designated sites to be scoped out	At this stage not enough information has been provided to scope out any of the statutory designated sites within 10 km. It is noted that Eglwys Nunydd Site of Special Scientific Interest (SSSI) has been omitted. Additionally, it is not clear why Bryn Tip LNR is scoped out but Bryn Tip SINC is scoped in, when the designation refers to the same site and features.
ID.19	10.5.10	NVC survey	Paragraph 10.5.10 states that the NVC survey will target those areas of potential conservation value highlighted in Table 10.4 that lie within 250m of proposed infrastructure. It is not clear which infrastructures the paragraph refers to; the Planning Inspectorate assumes it refers to any part of the site which will be subject to construction activities. The Applicant's attention is drawn to NPTCBC comments regarding missing areas of conservation value within Table 10.4.
ID.20	10.5.12	Bat surveys	See NRW and NPTCBC comments at Appendix 1.
ID.21	10.5.16	Great Crested Newts (GCN) survey	The Applicant is reminded that the Habitat Suitability Index (HSI) is not a mean to establish GCN presence / absence. All pond and standing water bodies within 500 m of proposed permanent infrastructures and 250 m of temporary construction areas should be surveyed. The Applicant is also reminded that if a population assessment is required, the surveys should be conducted during the optimal time.
ID.22	10.5.19	Fish survey	The Planning Inspectorate agrees that a survey recording fish species within the site boundary will not be necessary.

ID	Reference in Scoping Report	Issue	Comment
ID.23	10.6.1	Embedded mitigation	The SR states that bogs have been avoided for turbine placements. The Ecology section does not include any information on peat, which supports Groundwater Dependent Terrestrial Ecosystems (GWDTEs). All areas of deep peat (>50 cm) should be avoided for any infrastructure or construction areas placement, including borrow pits.
ID.24	10.7.5	Invertebrates	It is proposed to scope out invertebrates from the ecological assessment. However, NPTCBC states that there are numerous records of notable invertebrates species such as Small Pearl Bordered Fritillary and Small Heath. Therefore, appropriate surveys should be undertaken targeting invertebrates (and these species in particular) at the appropriate time of the year. The relevant local planning authorities should agree the survey methodology prior to survey commencement and results should be discussed with them.
ID.25	10.7.6	Communication of results	Biodiversity and conservation officers at BCBC and NPTCBC should also be included in the regular communication.
ID.26	Q5	Statutory and non - statutory designated sites	See comment above
ID.27	Q6	Methodology	See comments above
ID.28	Q7	Mitigation	It is not possible to comment on the level of mitigation without the results of the survey to be undertaken in 2021. It is noted that no specific enhancement measures are proposed, and this should be addressed in the ES.
	<b>Ornithology</b>		
ID.29	11.3.22	Surveys limitation	The Planning Inspectorate agrees with NRW that, due to the limitation of the first year breeding bird survey, the second year survey should be spread evenly throughout the breeding season in order to capture seasonal variations.

ID	Reference in Scoping Report	Issue	Comment
ID.30	11.3.22	Vantage Points (VP)	A large part of the site is not covered by VP and the SR does not include the rationale for this choice. The ES should explain why a large part of the site was not surveyed.
ID.31	11.3.25	Collision Risk Modelling (CRM)	See NRW comment regarding applying a correction factor to the CRM to compensate for the limitations of the first year surveys.
ID.32	11.3.29	Breeding birds surveys	See NPTCBC comments on passerines at Appendix 1.
ID.33	11.5.10	Golden Plover	See NPTCBC comment at Appendix 1. It is not agreed to scope out golden plover from the EIA.
ID.34	11.5.37	Secondary Raptor Species	See NPTCBC comment at Appendix 1. It is not agreed to scope out secondary raptor species from the EIA.
ID.35	11.5.44	Passerines	Based on the information provided in the SR, it is not possible to scope out potential displacement of passerines assessment from the EIA, as the limited breeding bird survey conducted at year 1 is not robust enough to exclude significant effects.
ID.36		Cumulative impacts	The SR does not contain any information in relation to cumulative impact assessment. The ES should address this.
ID.37	Q8	VP coverage	See comment above. With the limited information provided at this stage regarding the final location of the turbines, it is not clear why large areas of the site were not covered by VPs.
ID.38	Q9	Second year surveys	See comments above.
ID.39	Q10	Features scoped out	See comments above.
ID.40	Q11	Features considered	The Planning Inspectorate has no comment on the features considered.
ID.41	Q12	Habitat Regulation Assessment	The Planning Inspectorate agrees that the identified Natura 2000 site is correct.
ID.42	Q13	Mitigation	Without the results of the surveys, it is not possible to comment on the adequacy of the mitigation measures.
<b>Landscape and Visual Impact Assessment</b>			

ID	Reference in Scoping Report	Issue	Comment
ID.43	Q14	Maximum hub height	The overall scale of the proposed turbines should be assessed as worst case scenario, including the height and swept area of the blades and scale of hub/column.
ID.44	Q15	Study area	Based on the information provided in the SR, it is agreed that the proposed study area is adequate.
ID.45	12.3	Scope of the Assessment	The Planning Inspectorate notes that seascape is not considered in the SR. However, due to the scale and nature of the proposed development and size of the proposed turbines, seascape assessment should be included in the assessment.
ID.46	Table 12.1	View Points	NRW, NPTCBC, BCBC, Swansea and Vale of Glamorgan Councils have requested additional viewpoints. These should be included in the ES.
ID.47	12.3.12	Residential Visual Amenity Assessment (RVAA)	See BCBC comment at Appendix 1 regarding the RVAA study area. Due to the scale of the proposed development, the study area should be expanded.
ID.48	Q16	View Points and RVAA	See comments above.
ID.49	Table 12.8 & Q17	Cumulative impacts	See consultees comments at Appendix 1 regarding additional wind turbines and wind farm projects to be included.
ID.50	Q18	Approach to the assessment	Due to the request to include additional viewpoints in the assessment, the Applicant should consider adding additional photomontages. This should be discussed and agreed with the relevant consultation bodies.
ID.51	Q19	Enhancement measures	The Planning Inspectorate has no comments at this stage on enhancement measures.
<b>Hydrology, geology and hydrogeology</b>			
ID.52	13.2.1	Water Framework Directive (WFD)	The ES should include enough information to conclude that the proposed development does not prevent achieving WFD objectives.
ID.53	13.3	Survey work	A survey should be undertaken on site to map all the water features present.

ID	Reference in Scoping Report	Issue	Comment
ID.54	13.4.7	Statutory and non-statutory designated sites	Although it is agreed that Margam Moors SSSI and Cwm du Woodlands SSSI are not hydrologically linked to the proposed development, Eglwys Nunydd Reservoir SSSI and Bryn Tip LNR cannot be scoped out for the reason that their designations is not for hydrology. Designated features may be susceptible to hydrological changes and thus potential impacts to the two designated sites need to be considered in the ES.
ID.55	13.4.10	Site Hydrology	See NRW comment at Appendix 1 in relation to a reservoir located within the site boundary.
ID.56	13.4.14	Flood Risk	See NRW comment at Appendix 1 in relation to Flood Risk.
ID.57	13.4.25	Peat survey	See NRW comment at Appendix 1 in relation to peat survey.
ID.58	13.4.28	Historic mining works	Due to the presence of Coal Measures within the site boundaries, the Applicant is advice that there is a risk of unmapped historic coal mining. A Risk assessment should be provided as part of the ES and the Applicant is recommended to contact the Coal Authority.
ID.59	Q20	Methodology	See comments above
ID.60	Q21	Enhancement measures	The Planning Inspectorate has no comments at this stage on enhancement measures.
<b>Cultural Heritage</b>			
ID.61	14.2.1	Data sources	The Applicant should note that the relevant consultation body is the Glamorgan Gwent Archaeological Trust (GGAT).
ID.62	14.3.20	ASIDOHL2	See BCBC comments on the ASIDOHL2 methodology at Appendix 1.
ID.63	Q22	Approach to the assessment	The Planning Inspectorate recommend that GGAT is engaged in consultation to agree the proposed methodology and the cumulative impact study area
ID.64	Q23	Mitigation	It is not possible to comment on mitigation/enhancement measures until the assessment has been conducted.
<b>Traffic and Transport</b>			



ID	Reference in Scoping Report	Issue	Comment
ID.65	15.2	Methodology	See BCBC comment at Appendix 1
	<b>Noise</b>		
ID.66	16.2 & Q27	Methodology	The Planning Inspectorate notes that the SR mentions that construction noise will be assessed using BS5228:2019. The ES should include a full assessment of construction activities and traffic, if relevant, and the methodology and criteria used in the assessment. Additionally, the ES should identify potential impacts generated by construction noise on sensitive receptors, including ecological protected species. The noise assessment of the construction phase should include mitigation measures, for example construction timing, to avoid significant disturbance during breeding bird season, if appropriate.
ID.67	16.2 & Q24 – Q25 – Q26	Methodology	The Planning Inspectorate draws the Applicant's attention to the detailed response from the BCBC Health Officer in relation to the use of ETSU-R-97 limits and the potential impact of the proposed development alone and in combination. The Planning Inspectorate agrees with BCBC's comments and notes that NPTCBC is also in agreement.
ID.68	16.2.16	Scope of the assessment	The Planning Inspectorate notes that the SR does not mention the potential impact of the operation phase of the proposal on ecological protected species. The noise assessment should include mitigation measures to avoid significant effects on ecological sensitive receptors, where appropriate.
	<b>Forestry</b>		
ID.69	17.1 Q18 & Q19	Approach to the assessment	The Planning Inspectorate has no comment on forestry and draws the Applicant's attention to the comments included in Appendix 1.
	<b>Socio – Economic</b>		
ID.70	18.2 - Q30	Methodology	The Planning Inspectorate has no comment on the socio-economic impact and draws the Applicant's attention to the comments included in Appendix 1.
	<b>Health and Public Safety</b>		

ID	Reference in Scoping Report	Issue	Comment
ID.71	19.1 & Q1	Shadow Flicker	The Planning Inspectorate disagrees that shadow flicker could be scoped out at this stage. The scale of the proposed development is such that the general rule of 10 rotor diameter distance from sensitive properties may not be enough to ensure that a significant effect will not be generated. More evidence is required to establish the impact of the proposal alone and in combination on sensitive properties. See also comments at Appendix 1.
ID.72	19.2	Ice Throw	The Planning Inspectorate agrees that ice throw can be scoped out of the EIA.
ID.73	19.3	Lighting	The Planning Inspectorate agrees that lighting can be scoped out of the EIA.
<b>Aviation &amp; Other Existing infrastructures</b>			
ID.74	Q32- Q33	Methodology	The Planning Inspectorate has no comment on aviation and draws the Applicant's attention to the comments included in Appendix 1.

## 8. Other Matters

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

### 8.1 Habitats Regulation Assessment

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

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

Where it is effective to cross refer to sections of the ES in the HRA, a clear and consistent approach should be adopted.

The Planning Inspectorate's guidance for Nationally Significant Infrastructure Projects – [Advice Note 10: Habitat Regulations Assessment relevant to Nationally Significant Infrastructure Projects](#) may prove useful when considering what information to provide to allow the Welsh Ministers to undertake AA.

### 8.2 SuDS Consent

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

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

On [24 February 2020](#), the Welsh Government published the [National Development Framework](#) (NDF). The NDF has development plan status, forming the highest tier of the development plan hierarchy in Wales. Planning Policy Wales has been updated to [edition 11](#). TAN 8 was revoked on the same date.