



The Planning Inspectorate Yr Arolygiaeth Gynllunio

The Planning Act 2008

Abergelli Power Project

Examining Authority's Report
of Findings and Conclusions

and

Recommendation to the Secretary of State for
Business Energy & Industrial Strategy

Examining Authority

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10 July 2019

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ERRATA SHEET – Abergelli Power Project – EN010069

**Examining Authority's Report of Findings and Conclusions and
Recommendation to the Secretary of State for the Department of Energy
and Climate Change, dated 10 July 2019**

**Corrections agreed by the Examining Authority prior to a decision being
made**

Page No.	Paragraph	Error	Correction
51	4.12.6	It has the quote from para 4.12.8 cut and pasted into it more than once	
57	4.14.17	I am satisfied that the AQD will be met by the proposed emissions	I am satisfied that the proposed emissions complied with the AQD
82	6.1.9	I am satisfied that the AQD will be met by the proposed emissions	I am satisfied that the proposed emissions complied with the AQD

OVERVIEW

File Ref: EN010069

The application, dated 25 May 2018, was made under section 37 of the Planning Act 2008 and was received in full by The Planning Inspectorate (The Inspectorate) on 25 May 2018.

The Applicant is Abergelli Power Limited (incorporated in England and Wales with number 05562053).

The application was accepted for examination on 21 June 2018.

The examination of the application began on 10 October 2018 and was completed on 10 April 2019.

The development proposed comprises an Open Cycle Gas Turbine (OCGT) peaking power generating station (the "Power Generation Plant") and new connections to the gas and electricity networks on land adjacent to the Felindre Gas Compressor Station at Abergelli Farm, Felindre, Swansea SA5 7NN (the "Project").

The Proposed Development requires a connection to the gas transmission system and an electrical connection to distribute to the network. The development of these connections do not form part of the application. However, the application includes provision in the DCO for the Compulsory Acquisition (CA) and or Temporary Possession (TP) of land for a gas and an electrical connection alignment and related powers to facilitate the development.

Summary of Recommendation:

The Examining Authority recommends that the Secretary of State should make the Order in the form attached.

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1. INTRODUCTION

1.1. INTRODUCTION TO THE EXAMINATION

- 1.1.1. The Application for Abergelli Power Gas Fired Generating Station (the Proposed Development) [APP-002] was submitted by Abergelli Power Limited (the Applicant) to the Inspectorate on 25 May 2018 under section 31 of the Planning Act 2008 (PA 2008) and accepted for Examination under section 55 of the PA 2008 on 21 June 2018 [PD-002].
- 1.1.2. The Proposed Development comprises an OCGT peaking power generating station (the "Power Generation Plant") and new connections to the gas and electricity networks on land adjacent to the Felindre Gas Compressor Station at Abergelli Farm, Felindre, Swansea SA5 7NN.
- 1.1.3. The Applicant's project is split into three different elements which are described below, which together form the "Proposed Development". These elements are referred to as the Power Generation Plant, the Gas Connection, and the Electrical Connection.
- 1.1.4. The three main elements of the Project comprise:
- An OCGT peaking power generating station, fuelled by natural gas and capable of providing a rated electrical output of up to 299 Megawatts (MW). The Power Generation Plant comprises:
 - Generating Equipment including one Gas Turbine Generator with one exhaust gas flue stack and Balance of Plant (BOP) (together referred to as the "Generating Equipment") which are located within the "Generating Equipment Site";
 - An Access Road to the Project Site from the B4489 which lies to the west, formed by upgrading an existing access road between the B4489 junction and the Swansea North Substation (the "Substation") and constructing a new section of access road from the Substation to the Generating Equipment Site;
 - A temporary construction compound for the storage of materials, plant and equipment as well as containing site accommodation and welfare facilities, temporary car parking and temporary fencing (the "Laydown Area"). A small area within the Laydown Area will be retained permanently (the "Maintenance Compound");
 - Ecological Mitigation Area – area for ecological enhancement within the Project Site Boundary; and
 - Permanent parking and drainage to include: a site foul, oily water and surface water drainage system.
 - A Gas Connection in the form of a new Above Ground Installation (AGI) and underground gas connection (the "Gas Pipeline") to bring natural gas to the Generating Equipment from the National Gas Transmission System; and

- An Electrical Connection in the form of a new underground electrical cable to export power from the Generating Equipment to the National Grid Electricity Transmission System (NGETS).

- 1.1.5. The Applicant is applying for a Development Consent Order ("DCO") under the PA2008 for powers to construct, operate and maintain the Power Generation Plant (the "authorised development").
- 1.1.6. Separately, the Applicant has applied to the City and County of Swansea (CCS) for planning permission under the Town and Country Planning Act 1990 ("TCPA 1990") for consent to develop the Gas Connection and Electrical Connection¹. The application for a DCO does not include in the list of works any development required for the Gas Connection or the Electrical Connection.
- 1.1.7. The location of the Proposed Development is shown in ES Figure 1.1 [APP-021] and Land Plans [APP-057]. The site lies within the administrative City and County of Swansea Council (CCS) and is wholly in Wales.
- 1.1.8. The legislative tests for whether the Proposed Development is a Nationally Significant Infrastructure Project (NSIP) were considered by the SoS for the Department for Communities and Local Government (DCLG) in its decision to accept the application for Examination in accordance with section 55 of PA2008 [PD-002].
- 1.1.9. On this basis, the Inspectorate agreed with the Applicant's view stated in the application form [APP-002] that the proposed development is an NSIP as it consists of the construction of generating station in Wales with a capacity of more than 50 megawatts, is within s14 (1) (a) and 15 (1) of PA2008, and so requires development consent in accordance with s31 of PA2008. The Proposed Development therefore meets the definition of an NSIP set out in s14(1)(a) and 15 (1) of PA2008.

1.2. APPOINTMENT OF THE EXAMINING AUTHORITY

- 1.2.1. On 26 July 2018, I was appointed as the Examining Authority (ExA) for the application under s78 and s79 of PA2008 [PD-004].

1.3. THE PERSONS INVOLVED IN THE EXAMINATION

- 1.3.1. The persons involved in the Examination were:
- Persons who were entitled to be Interested Parties (IP) because they had made a Relevant Representation (RR) or were a Statutory Party who requested to become an IP.
 - Affected Persons (AP) who were affected by a Compulsory Acquisition (CA) and / or Temporary Possession (TP) proposal made as part of the application and objected to it at any stage in the Examination.

¹ Planning permission granted for gas and electrical connections on 6 December 2018.

1.4. THE EXAMINATION AND PROCEDURAL DECISIONS

1.4.1. The Examination began on 10 October 2018 and concluded on 10 April 2019.

1.4.2. The principal components of and events around the Examination are summarised below. A fuller description, timescales and dates can be found in Appendix A.

The Preliminary Meeting

1.4.3. On 12 September 2018, I wrote to all IPs, Statutory Parties and Other Persons under Rule 6 of the Infrastructure Planning (Examination Procedure) Rules 2010 (EPR) (The Rule 6 Letter) inviting them to the Preliminary Meeting (PM) and a DCO Hearing [PD-005], outlining:

- the arrangements and agenda for the PM;
- notification of Hearing to be held in the early stage of the Examination;
- agenda(s) for any early Hearing;
- an Initial Assessment of the Principal Issues (IAPI);
- the draft Examination Timetable;
- availability of RRs and application documents; and
- the ExA's procedural decisions.

1.4.4. The PM took place on 10 October 2018 at The Village Hotel, Langdon Road, Swansea SA1 8QY. An audio recording [EV-002] and a note of the meeting [EV-001] were published on the Inspectorate's National Infrastructure website².

1.4.5. My procedural decisions and the Examination Timetable took full account of matters raised at the PM. They were provided in the Rule 8 Letter [PD-005(2)], dated 17 October 2018.

1.4.6. Arrangements for those who wished to participate through the medium of Welsh included that:

- Submissions in Welsh be welcomed both orally and in writing and accepted into the Examination;
- A translator providing a simultaneous translation service was available at the PM, all Hearings and the Accompanied Site Inspection (ASI) to allow all those present to participate in Welsh if they wished.

1.4.7. I am satisfied that a full opportunity to participate in the Examination through the medium of Welsh was provided. As matters transpired, no submissions were made in Welsh and no requests were made to use the facilities provided by the simultaneous translation service.

² <https://infrastructure.planninginspectorate.gov.uk/projects/wales/abergelli-power/?ipcsection=docs>

Key Procedural Decisions

- 1.4.8. Most of the procedural decisions set out in the Rule 8 Letter related to matters that were confined to the procedure of the Examination and did not bear on the ExA's consideration of the planning merits of the Proposed Development. Further, they were complied with by the Applicant and relevant IPs. The decisions can be obtained from the Rule 8 Letter [PD-005(2)] and so there is no need to reiterate them here.

Site Inspections

- 1.4.9. Site Inspections are held in PA2008 Examinations to ensure that I had an adequate understanding of the Proposed Development within its site and surroundings and its physical and spatial effects.
- 1.4.10. Where the matters for inspection can be viewed from the public domain and there are no other considerations such as personal safety or the need for the identification of relevant features or processes, an Unaccompanied Site Inspection (USI) is held. Where an inspection must be made on land requiring consent to access, there are safety or other technical considerations and / or there are requests made to accompany an inspection, an ASI is held.
- 1.4.11. I held the following USI:
- USI, 15 August 2018 in order for the ExA to familiarise himself with the Proposed Development and the surrounding area (Annex F of [PD-005]).
- A site note providing a procedural record of the USI can be found in the Examination Library under the above reference.
- 1.4.12. I held the following ASI:
- ASI1, Friday 14 December 2018 to view the site from the surrounding countryside [EV-008].
- 1.4.13. The itinerary for the ASI can be found in the Examination Library under the above reference.
- 1.4.14. I have had regard to the information and impressions obtained during its site inspections in all relevant sections of this Report.

Hearing Processes

- 1.4.15. Hearings are held in PA2008 Examinations in two main circumstances:
- To respond to specific requests from persons who have a right to be heard - in summary terms:
 - where persons affected by CA and/or TP proposals (AP) object and request to be heard at a Compulsory Acquisition Hearing (CAH); and / or
 - where IPs request to be heard at an Open Floor Hearing (OFH).

- To address matters where the ExA considers that a Hearing is necessary to inquire orally into matters under examination, typically because they are complex, there is an element of contention or disagreement, or the application of relevant law or policy is not clear.
- 1.4.16. I held a number of Hearings to ensure the thorough examination of the issues raised by the application.
- 1.4.17. Issue Specific Hearings (ISH) under s91 of PA2008 were held at The Village Hotel, Langdon Road, Swansea SA1 8QY, a location approximately 9 km from the application site and the residences of the majority of IPs.
- 1.4.18. ISHs were held on the subject matter of the draft DCO on:
- ISH1, 10 October 2018 [EV-003];
 - ISH2, 13 December 2018 [EV-011].
- 1.4.19. An ISH was held on the subject matters of Environmental Matters on:
- ISH3, 13 December 2018 [EV-012].
- 1.4.20. A CAH was held under s92 of PA2008 at The Village Hotel, Langdon Road, Swansea SA1 8QY on:
- CAH1, 12 December 2018 [EV-009].

All persons affected by CA and/or TP proposals (AP) were provided with an opportunity to be heard. I also used the Hearing to examine the Applicant's case for CA and TP in the round.

- 1.4.21. An OFH was held under s93 of PA2008 at The Village Hotel, Langdon Road, Swansea SA1 8QY on the evening of 12 December 2018 [EV-010]. All IPs were provided with an opportunity to be heard on any important and relevant subject matter that they wished to raise.

Written Processes

- 1.4.22. The Examination under PA2008 is primarily a written process, in which I have had regard to written material forming the application and arising from the Examination. All of this material is recorded in the Examination Library (Appendix B) and published on the project website. Individual document references to the Examination Library in this report are enclosed in square brackets [] and hyperlinked to the original document held online. For this reason, this Report does not contain extensive summaries of all documents and representations, although full regard has been had to them in the ExA's conclusions. I have considered all important and relevant matters arising from them.
- 1.4.23. Key written sources are set out further below.

Relevant Representations

- 1.4.24. Twenty-six Relevant Representations (RR) were received by the Inspectorate [RR-001 to RR-026]. All makers of RRs received the Rule 6 Letter and were provided with an opportunity to become involved in the Examination as IPs. All RRs have been fully considered by the ExA. The issues that they raise are considered in Chapter 4 of this Report.

Written Representations and Other Examination Documents

- 1.4.25. The Applicant and IPs and Other Persons were provided with opportunities to:
- make Written Representations (WR) by Deadline1 (DL1);
 - comment on WRs made the Applicant and other IPs by DL2 and DL3;
 - summarise their oral submissions in writing by DL3 and DL5;
 - make other written submissions requested or accepted by the ExA; and
 - comment on documents issued for consultation by the ExA by DL5 including:
 - A Report on Implications for European Sites (RIES) [PD-008] published on 4 March 2019.
- 1.4.26. All WRs and other examination documents have been fully considered by the ExA. The issues that they raise are considered in Chapters 4, 7 and 8 of this Report.

Local Impact Report

- 1.4.27. A Local Impact Report (LIR) is a report made by a relevant Local Authority (LA) giving details of the likely impact of the Proposed Development on the authority's area (or any part of that area) that has been invited and submitted to the ExA under s60 PA2008.
- 1.4.28. One LIR was received by the ExA from CCS [REP1-021].
- 1.4.29. The LIR has been taken fully into account by the ExA in all relevant Chapters of this Report.

Statements of Common Ground

- 1.4.30. A Statement of Common Ground (SoCG) is a statement agreed between the Applicant and one or more IPs, recording matters that are agreed between them.
- 1.4.31. By the end of the Examination, the following bodies had concluded SoCGs with the Applicant:
- Between the Applicant and Natural Resources Wales (NRW) [REP2-009];
 - Between the Applicant and NGETS [REP6-008];
 - Between the Applicant and NGT [REP6-009];

- Between the Applicant and Dŵr Cymru/Welsh Water [REP5-006];
- Between the Applicant and Wynne Watkins/Redisplay Limited [REP4-021] unsigned;
- Between the Applicant and CCS [REP3-010] incomplete and
- Between the Applicant and Michael Edwards [REP4-020] unsigned.

1.4.32. The SoCG with Wynne Watkins/Redisplay Limited and Michael Edwards remained unsigned due to:

- Objections to the CA Powers;
- Disagreement on alternatives; and
- Gas and electrical connections being integral to the Proposed Development.

1.4.33. The SoCG remained incomplete with CCS due to outstanding differences regarding a:

- Decommissioning bond; and
- Time limit for operation.

1.4.34. The SoCGs have been taken fully into account by the ExA in all relevant Chapters of this Report.

Written Questions

1.4.35. I asked 2 rounds of Written Questions (WQ):

- First WQ (ExQ1) [PD-005(3)] and procedural decisions were set out in the Rule 8 letter [PD-005(2)], dated 17 October 2018.
- Second WQ (ExQ2) [PD-006] were issued on 11 January 2019.

1.4.36. All responses to the ExA WQ have been fully considered and taken into account in all relevant Chapters of this Report.

Requests to Join and Leave the Examination

1.4.37. There were no requests to join the Examination by persons who were not already IPs at or after the PM.

1.4.38. During the Examination, as a consequence of discussion at Hearings and/or discussions between relevant IPs/APs/Other Persons and the Applicant, the following persons wrote to the ExA to inform it that their issues were settled and their representations were withdrawn:

- Western Power Distribution (WPD) [AS-010] withdrew their representations as they had agreed Protective Provisions with the Applicant. The ExA accepted their withdrawal as an IP.
- Abergelli Solar Limited [REP6-011] withdrew their representations as they had reached agreement with the Applicant and had agreed Protective Provisions with the Applicant. The ExA accepted their withdrawal as an IP.

- NGETS and NGG [REP6-013] withdrew their representations as they had agreed Protective Provisions with the Applicant. The ExA accepted their withdrawal as an IP.

1.5. ENVIRONMENTAL IMPACT ASSESSMENT

- 1.5.1. The Proposed Development is development for which an Environmental Impact Assessment (EIA) is required (EIA development).
- 1.5.2. On 26 June 2014, the Applicant submitted a Scoping Report to the Secretary of State (SoS) under Regulation 8 of the Infrastructure Planning (EIA) Regulations 2009 (SI 2263) (as amended) (the EIA Regulations) in order to request an opinion about the scope of the ES to be prepared (a Scoping Opinion) [APP-035]. It follows that the Applicant is deemed to have notified the SoS under Regulation 6(1)(b) of the EIA Regulations that it proposes to provide an ES in respect of the Project.
- 1.5.3. On 1 August 2014 the Inspectorate provided a Scoping Opinion [APP-035]. Therefore, in accordance with Regulation 4(2)(a) of the EIA Regulations, the Proposed Development was determined to be EIA development, and the application was accompanied by an ES dated 25 May 2018 [APP-016-APP-044].
- 1.5.4. On 3 July 2018 and 2 August 2018, the Applicant provided the Inspectorate with certificates confirming that s56 and s59 of PA2008 and Regulation 13 of the EIA Regulations had been complied with.
- 1.5.5. Consideration is given to the adequacy of the ES and matters arising from it in Chapter 4 of this Report.

1.6. HABITATS REGULATIONS ASSESSMENT

- 1.6.1. The Proposed Development is development for which a Habitats Assessment Regulations (HRA) Report or Reports has been provided [APP-066].
- 1.6.2. Consideration is given to the adequacy of the HRA Report, associated information and evidence and the matters arising from it in Chapters 5 and 6 of this Report.

1.7. UNDERTAKINGS, OBLIGATIONS AND AGREEMENTS

- 1.7.1. By the end of the Examination, the following bodies had entered into formal undertakings, obligations and agreements with the Applicant that are important and relevant considerations for the SoS:
- CCS [REP6-007];
- 1.7.2. The s106 covered:
- an education scheme;
 - local supply chain initiative; and
 - footpath improvements.

1.7.3. On the 9 April 2019 the Applicant stated:

"Attached is the section 106 agreement, signed by the City and County of Swansea and the Applicant. The document is currently with the land owner for execution, and completion will then take place. The attached document is submitted as the Applicant does not anticipate having the completed document prior to the end of the Examination. The Applicant will submit a copy of the completed agreement as soon as possible, which the Secretary of State will be able to take into account when considering whether to grant development consent" [AS-011].

1.7.4. These undertakings, obligations and agreements have been taken fully into account by the ExA in all relevant Chapters of this Report.

1.8. OTHER CONSENTS

1.8.1. The Application documentation and questions during this Examination have identified the following consents that the Proposed Development has obtained or must obtain, in addition to Development Consent under PA2008 [APP-058]. The latest position on these is recorded below:

- **Electricity generation licence Electricity Act 1989 Office of Gas and Electricity Markets (OFGEM)** Required at the operational stage of the Project in relation to generating activities. An application for a generation licence has been submitted;
- **Planning permission for Gas Connection (gas pipeline and AGI) Town and Country Planning Act 1990** CCS Ref. No: 2018/2020/FUL Received: Mon 17 Sep 2018 Validated: Tue 25 Sep 2018 Status: Granted 6 December 2018;
- **Planning permission for Electrical Connection Town and Country Planning Act 1990 and Town and Country Planning (General Permitted Development) Order 1995.** CCS Ref. No: 2018/2021/FUL Received: Mon 17 Sep 2018 Validated: Tue 25 Sep 2018 Status: Granted 6 December 2018;
- **Planning and Advanced Reservation Capacity Agreement (PARCA) For the supply of natural gas to the power plant-** Commercial Agreement with National Grid to be progressed after the DCO application [APP-009];
- **Bilateral Connection Agreement To connect the Project to the National Electricity Transmission System** - Commercial Agreement National Grid. A Transmission Entry Capacity (TEC) offer was made by National Grid to the Applicant on 23 February 2018. It is anticipated that this will be entered in to post submission of the DCO Application but prior to the commencement of the Examination. The Bilateral Connection Agreement and Construction Agreement with National Grid Electricity Transmission PLC (the Connection Agreement) sets out the agreement regarding the connection of the Power Generation Plant to the National Electricity Transmission System. This agreement is discussed in more detail in the Grid Connection Statement [APP-006];
- **Building Regulation approval Buildings Regulations 2010** CCS Applications will be made following grant of the DCO if the regulated activities are confirmed to be required within the Order Land;

- **Environmental Permit (EP) Operation of the Power Generation Plant, Environmental Permitting (England and Wales) Regulations 2016** - An EP will be required to operate the Power Generation Plant. NRW issued the permit for this development on Friday 18 January 2019;
- **European Protected Species Licence Conservation of Habitats and Species Regulations 2010** - If required following the pre-construction ecological constraints survey (secured under the requirements in Schedule 2 to the draft Order) following grant of the DCO, discussions with NRW would be commenced and any licence application progressed at that point. No protected species licences are currently anticipated to be required;
- **Health and Safety related consents Health and Safety at Work Act 1974 and subsidiary legislation (including the Pressure Systems Safety Regulations 2000)** Applications to be made by the contractor before construction commences as appropriate to Health and Safety Executive (HSE);
- **Network Exit Agreement Technical and operational conditions for the connection point** - Commercial Agreement with National Grid to be progressed in the second half of 2019;
- **Authorisation for drainage works in connection with a ditch may be required for the realignment of the drainage ditches at the Power Generation Plant Site. Land Drainage Act 1991** - First-tier Property Tribunal Applications to be made by the contractor before construction commences as appropriate;
- **Permit for transport of abnormal loads For delivery by road of loads that fall outside standard practice (if required) Road Vehicles (Authorisation of Special Types) (General) Order 2003 or with authorisation from the Secretary of State under the Road Traffic Act 1988** - Appropriate applications, in accordance with the Construction Transport Management Plan Appendix 3.3a [APP-036], will be made by the contractor in advance of the delivery of abnormal loads;
- **Permit to emit CO₂ Greenhouse Gas Emissions Trading Scheme Regulations 2012** - Applications will be made to NRW to ensure compliance with the 2012 Regulations (which require any operator that carries out a 'regulated activity', including combustion of fuels, to have a permit). The application will be progressed in parallel with the EP application;
- **Safety Regulations Compliance - Pipelines Safety Regulations 1996 Gas Safety (Management) Regulations** - Application to HSE will be made by the contractor before construction of the Gas General Connection commences;
- **Section 61 consent Control of noise on construction sites Control of Pollution Act 1974** - Applications may be made to CCS, if required, by the contractor a minimum of 28 days before construction commences; and
- **Temporary Road Traffic Orders and other Street Works Consents Road Traffic Regulations Act 1984, New Roads and Street Works Act 1991, Traffic Management Act 2004** - Where necessary in respect of the regulation of traffic in order to progress any street works (to the extent not provided for in the Order). To be

taken forward in consultation with the Local Highway and Street Works Authorities after the Order has been made.

- 1.8.2. In relation to the outstanding consents recorded above, the ExA has considered the available information bearing on these and, without prejudice to the exercise of discretion by future decision-makers, has concluded that there are no apparent impediments to the implementation of the Proposed Development, should the SoS grant the Application.

1.9. STRUCTURE OF THIS REPORT

- 1.9.1. The structure of this report is as follows:

- **Chapter 1** introduces the reader to the Application, the processes used to carry out the Examination and make this Report.
- **Chapter 2** describes the site and its surrounds, the Proposed Development, its planning history and that of related projects.
- **Chapter 3** records the legal and policy context for the SoS' decision.
- **Chapter 4** sets out the planning issues that arose from the Application and during the Examination.
- **Chapter 5** considers effects on European Sites and Habitats Regulations Assessment (HRA).
- **Chapter 6** sets out the balance of planning considerations arising from Chapters 4 and 5, in the light of the factual, legal and policy information in Chapters 1 to 3.
- **Chapter 7** sets out the ExA's examination of CA and TP proposals.
- **Chapter 8** considers the implications of the matters arising from the preceding chapters for the Development Consent Order (DCO).
- **Chapter 9** summarises all relevant considerations and sets out the ExA's recommendation to the SoS.

- 1.9.2. This report is supported by the following Appendices:

- **Appendix A** – the Examination Events
- **Appendix B** – the Examination Library
- **Appendix C** – list of Abbreviations
- **Appendix D** – the Recommended DCO

2. THE PROPOSAL AND THE SITE

2.1. THE APPLICATION AS MADE

2.1.1. The Applicant (Abergelli Power Limited) submitted an application for development consent under the PA2008 for a gas fired generating station, with a rated electrical output of up to 299 megawatts ("MW"), at Abergelli Farm, near Felindre in Swansea, Wales [APP-002].

2.1.2. A brief description of the elements that comprise the Project is set out below. More detail on these elements can be found in Chapter 3 of the ES [APP-042].

Power Generation Plant

2.1.3. The Power Generation Plant includes the Generating Equipment, Laydown Area, Access Road, Ecological Mitigation Area and permanent parking and drainage, as explained further below.

2.1.4. Schedule 1 to the draft Order sets out the formal description of the Power Generation Plant. These works are shown on the Works Plans [APP-053].

2.1.5. The location of the Power Generation Plant is shown on the Land Plans [APP-057] and the various components that comprise the Power Generation Plant are shown on the Works Plans [APP-053].

Generating Equipment

2.1.6. One Gas Turbine Generator would be used to generate up to 299MW, with an emission flue stack which would be between 35m and 45m in height. The Generating Equipment would also be composed of:

- an electrical transformer compound;
- a natural gas receiving station;
- an emergency generator;
- water tanks;
- control room;
- fin-fan coolers; and
- support buildings and structures.

Laydown Area

2.1.7. A temporary Laydown Area during construction will be provided for the storage of materials, plant and equipment as well as containing site accommodation and welfare facilities, temporary car parking and temporary fencing. The Laydown Area will be provided adjacent to the Generating Equipment Site. A small permanent area within the Laydown Area is required for maintenance during the operational phase of the Proposed Development.

Access Road

- 2.1.8. An Access Road to the Generating Equipment Site from the B4489 will be formed by upgrading an existing access road between the B4489 junction and the Substation and constructing a new section of road from the Substation to the Generating Equipment Site.

Ecological Mitigation Area

- 2.1.9. An area has been allocated within the Order Land as mitigation for habitat loss from permanent land take resulting from the construction and operation of the Project.

Car Parking

- 2.1.10. During construction, adequate car parking would be provided within the Laydown Area. During operation, car parking for operational and maintenance staff would be provided within the Generating Equipment Site.

Lighting and Security Fencing

- 2.1.11. Lighting columns would be erected around the perimeter of the Generating Equipment in order to provide security lighting and lighting for safe working in dark conditions. The lighting columns would be approximately 8 m in height and regularly spaced around the perimeter of the Generating Equipment Site.

Drainage

- 2.1.12. The Project will require a site foul water drainage system, and an oily water drainage system. A surface water drainage system will also be required to adequately drain the site and prevent ponding. To prevent inundation of the Project Site from surface runoff, cut off drainage ditches will be placed around the uphill site perimeter.
- 2.1.13. The Proposed Development is described in Schedule 1, Part 1 of the recommended DCO (Appendix D). In Wales, the PA2008 makes only the most limited provision for consent to be given for works not ancillary to the Proposed Development that would comprise associated development for the purposes of PA2008.
- 2.1.14. All the proposed works that the Applicant considers should be viewed as either integral or ancillary to the development are described in the Explanatory Memorandum (EM)[APP-013].
- 2.1.15. Paragraph 9 of the EM [APP-013] explains that the DCO does not seek consent for any associated development, as all aspects of the authorised development are considered by the Applicant to be integral to the scheme, a matter to which I return in paragraphs from 2.1.19 – 2.1.26 below.

Electrical Connection & Gas Connection

- 2.1.16. The Electrical Connection and Gas Connection comprise development for which planning permission has been granted on the 6 December 2018 under the TCPA1990 and Town and Country Planning (General Permitted Development) Order 1995 for the Gas Connection and the Electrical Connection respectively. Development consent is not sought for the Electrical Connection and Gas Connection within the DCO.

Electrical Connection

- 2.1.17. The Electrical Connection will comprise a new underground electrical cable connection to export electricity from the Generating Equipment into the NETS at the Substation. This will consist of a 400kV cable, approximately 900 m in length, from the Generating Equipment Site to a Gas Insulated Switchgear (GIS) bay within the Substation [APP-006].

Gas Connection

- 2.1.18. The Gas Connection will comprise a new underground gas pipeline connection to bring natural gas to the Generating Equipment from the existing high-pressure gas network National Transmission System. The Gas Connection will be composed of an AGI comprising of a Pipeline Inspection Gauge ("PIG") Pipeline Trap Facility ("PTF") alongside a Minimum Offtake Connection ("MOC"), and a Gas Pipeline laid to the gas receiving station in the Generating Equipment Site [APP-009].

Integral, associated and ancillary development

- 2.1.19. I consider that the works applied for are part of the generating station and would be integral and ancillary parts of the NSIP. No works applied for have a purpose other than the construction and/or operation and decommissioning of the proposed development and without them the generating station would not be able to be constructed and operate.
- 2.1.20. Mr Richard Price of Loxley Solicitors, acting on behalf of a number of AP's, argued that the access road (Work No.2) part of the application should be considered to be associated development [REP3-017]. Mr Price argued that the DCO as currently drafted is defective and therefore invalid as both the electrical connection and gas connection should be included as integral to the Project. This was a matter that I raised at the ISHs into the DCO [EV-003 and EV-011] and is addressed in the Applicant's summary of oral submissions [REP3-004] [REP3-005].
- 2.1.21. I also note that the DCO includes CA, TP and related powers relating to land that is required for the electrical and gas connection alignment. However, I am conscious that the approach taken in framing these provisions is consistent with that taken in several made Orders in Wales (outlined in Chapter 3 below at Section 3.7). This was a matter that I put to the Applicant and was discussed at the first ISH into the DCO [EV-003]. Having considered the matters raised, I agree with the approach

outlined by the Applicant in its oral submissions at that Hearing [EV-003] [REP3-004] and I am content that it is appropriate to provide for CA, TP and related powers relating to such land because their inclusion in the Order land is a reflection of the terms of section 122 of the PA 2008, which permits CA to be sought over land, including where the land is required for the NSIP or is to facilitate or is incidental to the NSIP development.

2.1.22. The fact that the electrical connection is on the similar route to the access route does not indicate that the electrical connection must be integral. I believe that this reflects the Applicant's design process. It is sensible that the electrical connection and access routes are along similar routes and I consider this to assist in minimising, for example, the environmental effects and the extent to which it is necessary to use land not in control of the Applicant.

2.1.23. The Applicant argued that there is no direct access to the site from the public highway and given the large plant and volume of construction equipment required to construct the Proposed Development, it would not be possible to construct the development without first constructing a suitable route to site. The Applicant stated:

"the route designed is a permanent route as it is a critical part of the operation of the generating station that access is available for operational, maintenance and safety reasons at all times" [REP3-004].

2.1.24. The Applicant argued that the newly constructed section over which rights are sought serves no other purpose than facilitating the construction and operation of the generating station. The Applicant stated:

"the plant will require scheduled maintenance during its lifetime, which will require access for plant and machinery and may require removal of large items for servicing or repair" [REP3-004].

2.1.25. In the event of unscheduled maintenance, the Applicant stated:

"they may need to remove plant from the site for maintenance or repair and a suitable access road is integral to this occurring. The access road will then be needed for the decommissioning of the power generation plant" [REP3-004].

2.1.26. The Applicant argued that without a suitable access in place at all times, the Generating Equipment cannot operate to generate electricity, which is the function of the generating station and the reason it is an NSIP [REP3-005].

2.1.27. The Applicant has included only the elements of its proposed development within the description of the authorised development in the DCO which are part of/integral to the generating station which is the NSIP under section 15 of the Act. However, in determining which development could be included in the application, the Applicant has had regard to the provisions of Section 115 of the PA 2008 and also the

Guidance on associated development. The Electrical Connection and the Gas Connection are not included in the authorised development, as they are considered by the Applicant not to be integral to the NSIP, applying the reasoning employed by the SoS in several previous decisions including in relation to Hirwaun Power and the Wrexham Gas Fired Generating Stations.

- 2.1.28. As such, I am content that no associated development within the meaning of s115(2)(a) of PA2008 is included within the application.

The Project Site and Surrounding Area

- 2.1.29. The Project is located on open agricultural land approximately 2 km north of junction 46 of the M4 within the administrative boundary of the CCS. It is approximately 3 km to the north of the city of Swansea, approximately 1 km south-east of Felindre and 1.4 km north of Llangyfelach (Figure 1.1 of [APP-024]).
- 2.1.30. The current land use is predominantly agricultural, with sheep and horse grazing. The agricultural land classification is 3b [EV-004]³. The western extent of the Project Site encompasses parts of the Substation (comprising a 400 kV and 132 kV substation) and the existing access road leading to the Substation and Felindre Gas Compressor Station from the B4489 [APP-052].
- 2.1.31. Ground levels at the Project Site vary from approximately 146m above ordnance datum (AOD) at the highest point in the north-west corner at Rhyd-y-pandy Road to approximately 80 m AOD along the southern perimeter, with ground levels generally falling in a southerly and south easterly direction. The land within the Generating Equipment Site is at approximately 90 m AOD (Figure 3.1 of [APP-024]).
- 2.1.32. There are no residential dwellings located within the Project Site boundary. Most of the Proposed Development site is improved grassland but there are areas of marshy grassland in the south eastern part of the Generating Equipment Site. There are parts of a Site of Importance for Nature Conservation (SINC) within the Project Site (Lletty-Morfil SINC). A block of broadleaved woodland, classified as Ancient Woodland, and a SINC lie to the east. There are also further blocks of Ancient Woodland, also classified as SINC, to the west surrounding the Substation, Felindre Gas Compressor Station, and the existing access road leading to these facilities from the B4489 (Figure 3.6a, 6.3 and 7.1 of [APP-024]).
- 2.1.33. Within the Proposed Development site there are springs, with their associated streams and drainage ditches which discharge into the Afon Llan. The Afon Llan links with the Afon Lliw and the River Loughor, which discharges into Carmarthen Bay. There are no Main Rivers within the Project Site (Figure 9.1 of [APP-024]).

³ <https://gov.wales/sites/default/files/publications/2018-02/agricultural-land-classification-frequently-asked-questions.pdf>

- 2.1.34. The Generating Equipment Site is located primarily within fields used for grazing, bounded by a mixture of drainage ditches, fencing and poor-quality hedgerows with substantial gaps in them. The Generating Equipment Site and Laydown Area are both crossed by a soft surface horse training track known as 'the gallops', which runs diagonally north-west to south-east (Figure 1.2 of [APP-024]).
- 2.1.35. The area surrounding the Proposed Development site is, at present, predominantly rural in character, although there is the Felindre Park and Share facility to the south and a substantial amount of utility infrastructure in the area, some of which cross the Project Site. The National Gas Transmission System, a Water Main and an Oil Pipeline cross the Project Site and there is also a network of electricity pylons, underground utilities and overhead lines which lead to and from the Substation. The Felindre Water Treatment Works is located to the northwest, while the Cefn Betingau Solar Park and Abergelli Solar Farm are located to the east of Project Site. A further two solar parks are built in the vicinity, Rhyd-y-pandy solar park and Abergelli Farm (Figures 3.5 and 4.1 of [APP-024]).
- 2.1.36. The location maps and plans submitted with the application were:
- Environmental Figures [APP-024];
 - Site Location Plan [APP-050];
 - Existing Site Layout Plan [APP-051];
 - Land Plan [APP-057];
 - Works Plan [APP-053]; and
 - Rights of Way, Streets and Access Plan [APP-054].

2.2. THE APPLICATION AS EXAMINED

- 2.2.1. Changes to the key application documents, including the wording of the proposed DCO, were submitted and updated during the Examination. The changes seek to address points raised by IPs and my questions; and to reflect improved information and changes arising during the Examination. These included matters such as clarity and/or discrepancies within the DCO and other environmental matters.
- 2.2.2. The Applicant also submitted a range of updated, revised and additional information, which is detailed in [REP6-002], Annex 1: Table 1 Guide to the DCO Application Documents.
- 2.2.3. This table provides a guide to all documents submitted as part of the Abergelli Power DCO Application. This table was a live document and was updated at each Examination Deadline when new or revised documents were submitted to the Inspectorate, to provide a record of the latest version of all documents.
- 2.2.4. The DCO draws a very clear distinction between the Order limits and the Order land [REP6-003]. The Order limits are tightly defined, to encompass land on which the authorised development, the Power Station Complex would be delivered, alongside the land needed temporarily for

construction processes related to the Power Station Complex. The Order limits are defined in Article 2(1) as follows:

"Order limits" means the limits shown on the works plans."

2.2.5. Reference to the Work Plans [APP-053] clearly identifies the limited extent of land, outlined in green on those plans, that comprises land within the Order limits. This in turn is the location of the Works Nos. 1 (A-F) to 4 identified in Schedule 1 to the DCO, and these are the sum total of the works sought to be authorised by the DCO in order to deliver the generating station.

2.2.6. In contrast, the Order land is more broadly defined so as to, effectively, include the Order limits as a subset of it, but also including that additional land on which all other powers sought by the Applicant would be exercised, including the CA of land and rights for the proposed gas connection alignment, the electrical connection alignment and the TP of land for the construction of these. The Order land is defined in Article 2(1) as follows:

"Order land" means the land which is required for, or is required to facilitate, or is incidental to, or is affected by, the authorised development shown on the land plans and described in the book of reference."

2.2.7. Reference to the Land Plans [APP-057] clearly identifies the significantly greater extent of land, outlined in red on those plans, that comprises the Order land. This is elaborated on further in Chapter 8 of this report.

2.2.8. I have remained aware throughout the Examination of the need to consider whether changes to the application documents have changed it to a point where it became a different application and whether the SoS would have power therefore under s114 of PA2008 to make a DCO having regard to the development consent applied for.

2.2.9. 'Planning Act 2008: Guidance for the Examination of applications for development consent' (March 2015), provides guidance at paragraphs 109 to 115 in relation to changing an application post Acceptance⁴. The view expressed by the Government during the passage of the Localism Act was that s114(1) places the responsibility for making a DCO on the decision-maker and does not limit the terms in which it can be made⁵.

2.2.10. Having considered this context throughout the Examination, it is clear that the changes to the application (primarily consisting of document updating) have not resulted in significant change to that which was

⁴ [Planning Act 2008: Guidance for the examination of applications for development consent](#), DCLG (2015)

⁵ [Correspondence from Bob Neill MP, Parliamentary Under Secretary of State to Sir Michael Pitt, Chair, Infrastructure Planning Commission](#), DCLG (28 November 2011).

applied for. The changes taken into account in reaching this conclusion are documented in [REP6-002] and in the chapters below of this Report.

- 2.2.11. It follows that the SoS has the power to make the DCO as discussed in Chapter 8 and provided in Appendix D to this report.

2.3. RELEVANT PLANNING HISTORY

- 2.3.1. Section 3.7 of the Applicant's Planning Statement briefly outlines the planning history associated with the site of the Proposed Development [APP-007].

Project Site

- 2.3.2. Abergelli Farm has previously been subject to a series of planning applications for mineral extraction, an electricity generation facility, inert landfill and other commercial activities.

- 2.3.3. Swansea City Waste Disposal Company Ltd gained planning permission for the excavation and removal of inert material from landfill site and restoration at Abergelli Farm in February 2003 (CCS Ref: 2002/0312), approximately 100 m to the west of the Project Site. An application to amend Condition 1 of this consent to allow the excavation and removal of inert material until 31st December 2010 (2007/0907) was submitted in December 2007, however the application was undetermined, and the works have ceased.

- 2.3.4. Abergelli Glas Ltd gained planning permission for a 10 MW solar farm, inverter substations and 2.4m high fencing at land at Abergelli Farm, adjacent to the north-east of the Project Site, in May 2013 (CCS Ref: 2013/0135):

"This consent has since been the subject to several applications to vary or remove conditions attached to a previous permission. The first was submitted to reduce the number of buildings, solar panels, height of fence, height of framework and to omit the met mast (CCS Ref:2014/1313/NMA) and was granted permission on 28/10/2014. A subsequent application was submitted in September 2014 (2014/1335/DOC) seeking to discharge condition 5 of permission 2013/0135. The application was granted in December 2014. The consent for the solar farm has been implemented and the solar farm is operational" [APP-007].

- 2.3.5. In October 2015, planning permission was refused for an "Emergency standby electricity generation facility comprising:

- modern modular diesel generator units (up to 14 in total);
- transformers, diesel storage tanks;
- boundary treatment including acoustic screening;
- access improvements; and
- associated works"

at land adjacent to the west of the Project Site (CCS Ref: 2015/1716).

The application was refused on the basis that, in the Council's view, the positive benefits of the development would not outweigh the visual harm to the countryside caused by it". [APP-007]

Surrounding Area

- 2.3.6. The area surrounding Abergelli Farm is predominantly rural but is characterised by a substantial amount of utilities and energy infrastructure. In August 2008, National Grid Electricity Transmission (NGETS) gained planning permission for the construction of a new 400kV electricity substation at land adjacent to the Project Site, at Heol Llangyfelach in Felindre (CCS Ref:2007/2733):

"The substation incorporated a GIS building with separate Super Grid Transformers (SGT), associated infrastructure works and a Sealing End Compound (SEC). Subsequently, the proposals were modified, and planning permission was granted for the amended scheme in November 2008 (CCS Ref: 2008/1685) with the GIS building to be 60m long x 15m wide x 13.5m high" [APP-007].

- 2.3.7. In association with the 400kV electricity substation, planning permission was granted for an overhead electricity line diversion in April 2008 (CCS Ref: 2007/2827). In July 2010 an amendment to the November 2008 permission (CCS reference 2008/1685) was granted relating to the construction of an amenity building (CCS Ref: 2010/0539). The permission has been implemented.

- 2.3.8. Good Energy Brynwhilach Solar Park Ltd gained planning permission in November 2014 for the construction of a 12.69 MW solar park at land at Brynwhilach, Felindre Road, adjacent to the southern boundary of the Project Site (CCS Ref: 2014/1022):

"The solar park consists of up to 47,000 PV panels, 8 inverter/transformer stations, 2 substations, storage container, new access tracks, and security fencing. Several applications have recently been granted including amendments to the height and slope of the panels, amendments to the design of substations and storage containers, relocation of the compound area and security fencing, the use of less fields, a reduction in the solar arrays, and a reduction in the number of transformer stations to 4. Pre-commencement conditions have been discharged (CCS Refs 2015/1987 & 2017/0507/DOC) indicating that the permission has been implemented" [APP-007].

- 2.3.9. A 9 MW solar park, consisting of 135,000 PV panels, 9 inverter/transformer cabins and a single control building at land at Cefn Betingau Farm, approximately 1.5 km to the southeast of the Project Site, was granted planning permission in August 2013 (CCS Ref: 2013/0865):

"Several condition applications have been discharged relating to this application (CCS Ref. 2013/1739, 2015/0617 & 2015/0807). Several applications have also been submitted including an application to replace fencing, and an application granted in January 2017, for amendments to

Swales, layout, fencing and access, and installation of a storage container and satellite system. (CCS Ref.2016/3484/NMA). The permission has been implemented and the solar farm is operational” [APP-007].

- 2.3.10. I believe that none of the above planning permissions have any implications for the control of the DCO. No previous NSIP applications have been submitted relating to or affecting the site of the Proposed Development.

3. LEGAL AND POLICY CONTEXT

3.1. INTRODUCTION

- 3.1.1. This chapter sets out the relevant legal and policy context for the application which was taken into account and applied by the ExA in carrying out its examination and in making its findings and recommendations to the SoS.
- 3.1.2. The Applicant's Planning Statement [APP-007] sets out the policy position in relation to the Proposed Development. The document includes an assessment of the project against the policy requirements of National Policy Statements (NPS) EN-1, EN-2, EN-4⁶ and EN-5⁷.
- 3.1.3. The Regulatory and Policy Background chapter 2 of the ES [APP-042] also sets out the policy position, with specific focus on international obligations, the national policy context and the local policy context. Individual chapters of the ES provide specific policy background relating to particular topics.
- 3.1.4. City and County Swansea Council's (CCS) LIR [REP1-021] includes the CCS position on applicable development plan policies and other local strategies.

3.2. THE PLANNING ACT 2008

- 3.2.1. The application is for a Development Consent Order (DCO) under the PA2008. It is for an NSIP, namely an OCGT generating station with an electrical output of up to 299MWe [APP-002]. The components of the Proposed Development are set out in Chapter 2 of this report.
- 3.2.2. This application is for an NSIP as it includes *"the construction or extension of a generating station"* (s14(1)(a) of the PA2008, with a gross electrical output in excess of 50MW, that meets the provisions set out in s15(2) of PA2008. Section 104 of PA2008 applies:

"[...]in relation to an application for an order granting development consent if a national policy statement has effect in relation to development of the description to which the application relates."
- 3.2.3. Section 104(3) requires the SoS to decide the application in accordance with any relevant NPSs that have effect in relation to this application, subject to certain exceptions as specified in subsections 104(4) to (8). Details of the specific NPSs that apply to this project are set out below.
- 3.2.4. Section 104(2) of PA2008 sets out the matters to which the SoS must have regard in deciding an application submitted in accordance with PA2008. In summary, the matters set out in s104(2) are any relevant

⁶ Of relevance in respect of the assessment of the Gas Connection only and not directly applicable to the Power Generation Plant to which the DCO Application relates.

⁷ Of relevance in respect of the assessment of the Electrical Connection only and not directly applicable to the Power Generation Plant to which the DCO Application relates.

NPS, any LIR, any matters prescribed in relation to the development, and any other matters the SoS thinks are both important and relevant to the decision.

3.2.5. S104(3) requires the SoS to decide the application in accordance with any relevant NPS, except to the extent that one or more of the exceptions in subsections (4) to (8) applies, creating a presumption in favour of NPS compliant development. The exceptions are that SoS is satisfied as follows:

- deciding the application in accordance with any relevant NPS would lead to the United Kingdom being in breach of any of its international obligations;
- deciding the application in accordance with any relevant NPS would lead to the SoS being in breach of any duty imposed on her/him by or under any enactment;
- deciding the application in accordance with any relevant NPS would be unlawful by virtue of any enactment;
- the adverse impact of the proposed development would outweigh its benefits; and/ or
any condition prescribed for deciding an application otherwise than in accordance with a NPS is met.

This report sets out my findings, conclusions and recommendations taking these matters fully into account and applying the approach set out in s104 of PA2008.

3.3. NATIONAL POLICY STATEMENTS

3.3.1. NPSs set out Government policy on different types of national infrastructure development. I consider that the NPSs relevant to this case are:

- EN-1: Overarching National Policy Statement for Energy;
- EN-2: Fossil Fuel and Electricity Generating Infrastructure;
- EN-4: Gas supply infrastructure and gas and oil pipelines; and
- EN-5: Electricity Networks Infrastructure.

3.3.2. These were produced by the Department for Energy and Climate Change (DECC), which is now the Department for Business, Energy and Industrial Strategy (BEIS). The NPSs were designated by the SoS for Energy and Climate Change on 19 July 2011.

3.3.3. These four NPSs form the primary policy context for this examination. This report sets out my findings, conclusions and recommendations taking these matters fully into account and applying the approach set out in s104 of PA2008. The purpose and broad content of these NPSs is summarised here. However, particular and subject specific consideration of policy arising from them is provided where necessary in the remainder of this report below, particularly in Chapter 4.

EN-1: Overarching National Policy Statement for Energy

- 3.3.4. EN-1 sets out the Government's policy for delivery of major energy infrastructure projects. EN-1 states that:
- 'the UK needs all the types of energy infrastructure covered by the NPS's in order to achieve energy security at the same time as dramatically reducing greenhouse gas emissions' (paragraph 3.3.1).*
- It also states that applications for development consent should be assessed *'on the basis that the Government has demonstrated that there is a need for those types of infrastructure' (paragraph 3.1.3)*
- 3.3.5. EN-1 sets out general principles and generic impacts to be taken into account in considering applications for energy NSIPs. Generic impacts of particular relevance to this application include impacts on air quality and emissions, biodiversity, historic environment, landscape and visual, traffic and transport, environmental, social and economic benefits and adverse impacts at national, regional and local levels.
- 3.3.6. The NPS requires account to be taken of:
- the potential benefits of the proposed development to meeting the need for energy infrastructure, job creation and any long term or wider benefits; and
 - potential adverse impacts, including any long-term and cumulative adverse impacts, as well as measures to avoid, reduce or compensate for any adverse impacts.

EN-2: Fossil Fuel and Electricity Generating Infrastructure

- 3.3.7. EN-2 sets out the factors which influence the development of sites for fossil fuel power stations and the criteria which Government requires to be met by them. These include explanations of the Government's approach to subject matters raised by this application, including the selection of gas combustion technology, Combined Heat and Power (CHP), CCR, climate change adaptation and consideration of good design. In terms of the impacts of gas generating stations, EN-2 re-iterates the policy in EN-1 and adds the need to consider impacts of air emissions, landscape and visual, noise and vibration and water quality and resources.

EN-4: Gas supply infrastructure and gas and oil pipelines

- 3.3.8. EN-4 sets out matters that bear on the consenting of the gas connection alignment for the Proposed Development, rather than the Proposed Development itself. The Proposed Development will require a gas supply and a connection to gas transmission infrastructure [APP-009]. The DCO that has been applied for contains powers that relate to the CA and TP of land required for the gas connection alignment (land ancillary to the development) but does not provide development consent for the gas connection alignment. This is because a gas connection alignment is

associated development of a nature that, in Wales, a DCO may not provide for (s115 of PA2008).

- 3.3.9. Whilst I am not examining an application to provide development consent for a gas pipeline, this Examination has had to consider whether the powers in the DCO relating to the CA and TP of land for the development of the gas connection alignment are appropriate. In undertaking its assessment in the ES [APP-042] submitted with the application, the Applicant has taken the view that EN-4 is relevant to these circumstances and has drawn my attention to it [APP-007]. No Interested Parties (IPs) have argued that it was not relevant. Having considered this position, I agree with the Applicant that NPS EN-4 is relevant, but note that its relevance must be confined to the assessment of the effects of CA and TP of land for a gas connection alignment, and the appropriateness of draft DCO provisions applicable to such land. It does not provide the primary decision-making framework for the application before the SoS.

EN-5: Electricity networks infrastructure

- 3.3.10. EN-5 sets out matters that bear on the consenting of electricity network infrastructure, which can include above ground electricity lines that form part of the distribution system, with a nominal voltage expected to be 132kV or above. The Proposed Development requires to be connected to the grid to export electricity [APP-006]. The DCO that has been applied for contains powers that relate to the CA and TP of land required for the electrical connection alignment (land ancillary to the development) but does not provide development consent for the electrical connection alignment. As with the proposed gas connection, the electrical connection is associated development of a nature that, in Wales, a DCO may not provide for.
- 3.3.11. Whilst I am not examining an application to provide development consent for an electrical connection, this Examination has had to consider whether the powers in the DCO relating to the CA and TP of land for the development of the electrical connection alignment are appropriate. In undertaking its assessment in the ES submitted with the application, the Applicant has taken the view that EN-5 is relevant to these circumstances and has drawn my attention to it. No Interested Parties (IP) have argued that it was not relevant. Having considered this position, I agree with the Applicant that NPS EN-5 is relevant, but note that its relevance must be confined to the assessment of the effects of CA and TP of land for an electrical connection alignment, and the appropriateness of draft DCO provisions applicable to such land. It does not provide the primary decision-making framework for the application before the SoS.

3.4. WELSH LEGISLATION, POLICY AND GUIDANCE

Wales Act 2017

- 3.4.1. Under the Wales Act 2017 (WA2017) the construction or extension of electricity generating stations (not generating energy from wind), in Wales, up to a capacity of 350 MW was removed from the NSIP regime

under the PA 2008, as from 01 April 2019. However, as this application was made in May 2018, it is to be decided by the SoS under the PA2008.

- 3.4.2. The WA2017 contains a provision under section 43, to resolve a previous anomaly in the consenting process around associated developments. The anomaly resulted from the PA2008 regime excluding approval for associated development for large electricity generating station projects in Wales. Previously, for such projects, although the consenting process for the main project was via the NSIP process, the associated development consenting responsibility lay with the relevant Welsh local planning authority. This has now changed with the commencement of section 43 of the Wales Act 2017 which aligns the responsibility for granting consent for associated development for energy projects and the responsibility for granting consent for the main project.

Government of Wales Act 2006

- 3.4.3. The Government of Wales Act 2006 enables the Welsh Government (WG) to make legislation which then applies in Wales. The legislation must be within the legislative competence of the WG, i.e. relate to the devolved matters which are set out as a series of broad headings, or 'subjects', which include:

- Environment: matters such as environmental protection, countryside, open spaces, nature conservation, habitats, coast and marine environment;
- Local government, including areas of local authorities which includes their boundaries of jurisdiction for matters such as development control and enforcement; and
- Town and country planning.

- 3.4.4. Some matters which would otherwise be encompassed by these broad headings are:

- *"...not devolved including development consent application under PA2008 (Government of Wales Act, Schedule 7, paragraph 18)."*

Planning (Wales) Act 2015

- 3.4.5. The Planning (Wales) Act 2015 is relevant to this Examination as it bears on the operations of actors within the planning system in Wales (including local planning authorities) and I have taken its content into account.

Wellbeing of Future Generations (Wales) Act 2015

- 3.4.6. The Wellbeing of Future Generations (Wales) Act 2015 is relevant to this Examination as it places sustainability and wellbeing duties on the operations of actors within the planning system in Wales (including NRW and local planning authorities) and I have taken its content into account.

Historic Environment (Wales) Act 2016

- 3.4.7. The Historic Environment (Wales) Act 2016 is relevant to this Examination as it places duties on the operations of actors within the planning system in Wales (including Cadw, local planning authorities and applicants) and I have taken its content into account.

Environment (Wales) Act 2016

- 3.4.8. The Environment (Wales) Act 2016 is relevant to this Examination as it places duties on the operations of actors within the planning system in Wales (including NRW and local planning authorities), which include a duty to co-operate and I have taken its content into account.

Equality Act 2010 (Statutory Duties) Wales Regulations 2011

- 3.4.9. Section 153 of the Equality Act 2010 enables the Welsh Ministers to impose duties on certain Welsh public authorities through regulations.
- 3.4.10. The Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011, enables the better performance of duties under s149(1) of the Equality Act 2010 in Wales, which are to have due regard to the need:
- to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under that Act;
 - to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
 - to foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Planning Policy Wales (PPW)

- 3.4.11. Land use planning policies for Wales are set out in the WG document PPW. PPW is supported by a series of Technical Advice Notes (TAN) listed below.
- 3.4.12. The WG consulted on a draft Edition 10 of PPW between February and May 2018. On December 5th 2018, the WG released their 10th edition of PPW following consultations on the proposed changes. The new PPW builds on the objectives set out in the Well-being for Future Generations (Wales) Act 2015 (WBFGA) and has been restructured to reflect the new legislative framework, and the five ways of working have been fully incorporated into the WG's long-term vision for land use planning.
- 3.4.13. As with previous editions, PPW Edition 10 is supplemented by a series of TANs and policy clarification letters. Edition 10 of PPW reinforces the WG's objectives in respect of the transition to a low carbon economy and the recognition of securing energy from a mix of energy sources [APP-007].
- 3.4.14. PPW does not contain specific policies for nationally significant infrastructure projects. The framework for this is set out in the NPSs which also apply in Wales. However, PPW and the TANs may be both

important and relevant in the determination of this application (see Chapter 4).

- 3.4.15. PPW sets out the land use planning policies of the WG and indicates that the WG is committed to playing its part in meeting the UK's required target of 15% of energy being from renewables by 2020 (paragraph 12.8.1). It seeks to deliver an energy programme which contributes to reducing carbon emissions as part of the approach to tackling climate change whilst enhancing the well-being of the people and communities of Wales, as outlined in Energy Wales: A Low Carbon Transition (see below paragraph 3.4.20).
- 3.4.16. Policies on subject matters raised by an application in Wales are clearly capable of being important and relevant considerations in the determination of an NSIP application and it is on this basis that I have considered PPW policy.

Technical Advice Notes (TAN)

- 3.4.17. The TANs and Minerals Technical Advice Notes (MTAN) produced by the WG provide further guidance on specific planning topics. The content of the following TANs are capable of being important and relevant in the consideration of this application and have been considered:
- TAN 5: Nature Conservation and Planning (2009);
 - TAN 6: Planning for Sustainable Rural Communities (2010);
 - TAN 11: Noise (1997);
 - TAN 12: Design (2014);
 - TAN 15: Development and Flood Risk (2004);
 - TAN 18: Transport (2007);
 - TAN 20: Planning and the Welsh Language (2013);
 - TAN 21: Waste (2014);
 - TAN 23: Economic Development (2014);
 - MTAN 1: Aggregates (2004); and
 - MTAN 2: Coal (2009).

Wales Spatial Plan 2008 – People, Places, Futures

- 3.4.18. The Wales Spatial Plan 2008 (WSP2008) sets out cross-cutting national spatial priorities and provides the context and direction of travel for Local Development Plans (LDP). It identifies six sub-regions in Wales without defining hard boundaries, reflecting the different linkages involved in daily activities. The plan places Swansea into the Swansea Bay - Waterfront and Western Valleys region (Chapter 20). It identifies Swansea as a key settlement of national importance, a competitive knowledge based economy and a key driver for growth in the region. I have considered relevant content from the WSP2008.
- 3.4.19. The National Development Framework (NDF) consultation draft was considered during the Examination and drawn to the attention of the Applicant and IPs (paragraph 4.2.44 of [APP-007]). It was not considered to materially differ from the WSP or to materially affect the policy environment for the proposed development when compared to the

WSP. However, if the NDF is approved before the SoS' decision, it may be necessary to consult the Applicant and IPs further on the final form of policy in Chapter A, which applies to the Swansea Bay - Waterfront and Western Valleys region in which the Proposed Development is located.

Welsh Government Energy and Climate Change Policies

3.4.20. I have considered the following WG energy and climate change policies:

- Energy Wales: A Low Carbon Transition (2012);
- The Climate Change Strategy for Wales (2010); and
- Prosperity for All: A Low Carbon Wales (2019). Prosperity for All: A Low Carbon Wales, sets out 100 policies and proposals to meet the 2020 carbon emissions targets (see Section 4.8 below).

3.4.21. These documents are relevant in subject matter terms.

3.4.22. On the 29 April 2019 the Welsh Government declared a climate emergency. The Welsh Government has committed to achieving a carbon neutral public sector by 2030 and to coordinating action to help other areas of the economy to make a decisive shift away from fossil fuels, involving academia, industry and the third sector. This was after the close of the examination for this DCO and it will be a matter for the Secretary of State to consider in their final decision on the DCO.

3.5. EUROPEAN LAW AND RELATED UK REGULATIONS

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

3.5.1. The EIA Directive defines the procedure by which information about the environmental effects of a project is collected and taken into account by the relevant decision-making body before consent is granted for a development. It applies to a wide range of public and private projects, which are defined in Annexes I and II of the Directive.

3.5.2. The proposed development falls to be considered under the UK legislation related to 2011/92/EU: the Infrastructure Planning (EIA) Regulations 2009 (as amended) as discussed further below. The most recent EIA Directive is 2014/52/EU, which entered into force on 15 May 2014. The 2014 Directive was transposed into domestic UK law on the 16 May 2017.

Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations)

3.5.3. The current EIA legislation for NSIP cases is the Infrastructure Planning (EIA) Regulations 2017 (the 2017 EIA Regulations). They revoke the Infrastructure Planning (EIA) Regulations 2009 (the 2009 EIA

Regulations) subject to transitional provisions in Regulation 37 of the 2017 EIA Regulations. The Applicant maintained that the transitional provisions applied to the application and hence had complied with the relevant provisions of the 2009 EIA Regulations in the pre-application period (paragraph 2.4.10 of [APP-007]).

- 3.5.4. The 2017 EIA Regulations came into force on 16 May 2017, thus one year before the application was made. Nevertheless, Regulation 37(2)(a)(ii) of the 2017 EIA Regulations states that the 2009 EIA Regulations will continue to apply to any application for an order granting development consent or subsequent consent where before the commencement of the 2017 Regulations, the Applicant had requested the SoS to adopt a scoping opinion defined by the 2009 EIA Regulations.
- 3.5.5. The Applicant requested a scoping opinion from the SoS on 26 June 2014, and that opinion was adopted by the Inspectorate (the Inspectorate) on behalf of the SoS on 1 August 2014. I am thus satisfied that for this Application, the provisions in Regulation 37(2)(a)(ii) of the 2017 EIA Regulations apply, and accordingly should be considered against the 2009 EIA Regulations.
- 3.5.6. The EIA Regulations establish the minimum information to be supplied by the Applicant within an ES, as well as information that an ExA can request as being reasonably justified given the circumstances of the case. Part 2 of Schedule 4 represents the minimum requirements for an ES under the EIA Regulations, and this is reinforced by Regulation 3(2), which sets out the core duty of the decision-maker in making a decision on EIA Development. Regulation 3(2) of the EIA Regulations states:
- "...the decision-maker must not make an order granting development consent unless it has first taken the environmental information into consideration, and it must state in its decision that it has done so."*
- 3.5.7. The proposed development is EIA development under Schedule 2 of the EIA Regulations. The Applicant has provided an ES [APP-016 to APP-042] as part of the submitted application.
- 3.5.8. In reaching my conclusions and recommendation I have taken the environmental information as defined in Regulation 3(2) (including the ES and all other information on the environmental effects of the development) (see Chapters 4 to 6 of this report) into consideration.

Council Directive 2008/50/EC on ambient air quality and cleaner air for Europe (the Air Quality Directive)

- 3.5.9. The Air Quality Directive (AQD) came into force on 11 June 2008. The Directive consolidates four directives and one Council decision into a single directive on air quality. Under the AQD Member States are required to assess ambient air quality with respect to sulphur dioxide, nitrogen dioxide and nitrogen monoxide, particulate matter (PM₁₀ and PM_{2.5}), lead, benzene and carbon monoxide (CO). The Directive set

limiting values for compliance and establishes control actions where these are exceeded. It is transposed into UK statute through regulations made under the Environment Act 1995 (EA1995).

- 3.5.10. Part IV of EA1995 requires all local authorities in the UK to review and assess air quality in their area. If any standards are being exceeded or are unlikely to be met by the required date, then that area should be designated an Air Quality Management Area and the LA must draw up and implement an Air Quality Action Plan aimed at reducing levels of the pollutant.
- 3.5.11. The relevance of this Directive to this application is set out directly in Chapter 4 of this report.

Environmental Permitting Regulations (England and Wales) Regulations 2016 (as amended)

- 3.5.12. The EP (England and Wales) Regulations 2016 (as amended) apply to all new installations and transpose the requirements of the EU Industrial Emissions Directive (IED) (European Commission, 2010) into UK legislation. As the Proposed Development falls within s1 Combustion Activity under the EP Regulations, and EP would be required before the Proposed Development commences operation.
- 3.5.13. Under the IED and Environment Permitting Regulations, the operator of an installation covered by the IED is required to employ Best Available Techniques (BAT) for the prevention or minimisation of emissions to the environment, to ensure a high level of protection of the environment as a whole. Generating stations exceeding 50 MW thermal input such as the Proposed Development are covered by the IED and EPR.
- 3.5.14. The relevance of these Directives and Regulations to this application is set out directly in Chapters 4 and 5 of this report.

Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora (the Habitats Directive)

- 3.5.15. The Habitats Directive (together with Council Directive 2009/147/EC on the conservation of wild birds ('the Birds Directive')) forms the cornerstone of Europe's nature conservation policy. It is built around two pillars: the Natura 2000 network of protected sites and the strict system of species protection. The Directive protects over 1,000 animals and plant species and over 200 habitat types (for example: special types of forests; meadows; wetlands; etc.) which are of European importance. It requires designation of areas as Special Areas of Conservation (SAC).
- 3.5.16. The Habitats and Birds Directives are transposed into UK law through the Conservation of Habitats and Species Regulations 2017 in respect of the terrestrial environment and territorial waters out to 12 nautical miles; and through The Conservation of Offshore Marine Habitats and Species Regulations 2017 for UK offshore waters.

- 3.5.17. The relevance of this Directive to this application is set out directly in Chapter 5 (HRA) of this report, but it is considered elsewhere as required.

Council Directive 2009/147/EC on the conservation of wild birds (the Wild Birds Directive)

- 3.5.18. The Birds Directive is a comprehensive scheme of protection for all wild bird species naturally occurring in the European Union (EU). The directive recognises that habitat loss and degradation are the most serious threats to the conservation of wild birds. It therefore places great emphasis on the protection of habitats for endangered as well as migratory species. It requires classification of areas as Special Protection Areas (SPA) comprising all the most suitable territories for these species. Since 1994 all SPAs form an integral part of the Natura 2000 ecological network.
- 3.5.19. The Birds Directive bans activities that directly threaten birds, such as the deliberate killing or capture of birds, the destruction of their nests and taking of their eggs, and associated activities such as trading in live or dead birds. It requires Member States to take the requisite measures to maintain the population of species of wild birds at a level which corresponds, in particular, to ecological, scientific, and cultural requirements while taking account of economic and recreational requirements.
- 3.5.20. The relevance of this Directive to this application is set out directly in Chapter 5 (HRA) of this report, but it is considered elsewhere as required.

The Conservation of Habitats and Species Regulations 2017 (as amended) ('the Habitats Regulations')

- 3.5.21. The Habitats Regulations provide domestic force to the Habitats Directive and the Wild Birds Directive and provide the cornerstone on which the practice of HRA is undertaken in England and Wales. Their relevance to this application is set out directly in Chapter 5 (HRA) of this report, but they are considered elsewhere as required.

Council Directive 2000/60/EC (as amended) A framework for Community action in the field of water policy (the Water Framework Directive)

- 3.5.22. The Water Framework Directive (WFD) establishes a framework for water policy, managing the quality of receiving waters. The directive is concerned with water management. Amongst other objectives, it requires EU Member States to prevent the deterioration of surface water bodies, groundwater bodies and their ecosystems and improve the quality of surface and groundwater bodies by progressively reducing pollution and by restoration.

- 3.5.23. The WFD is transposed into law in England and Wales by The Water Environment (Water Framework Directive) (England and Wales) Regulations 2017.
- 3.5.24. In implementing the directive, NPS EN-1 states at paragraph 5.15.3 that an ES should describe:
- "the existing physical characteristics of the water environment (including quantity and dynamics of flow) affected by the proposed project and any impact of physical modifications to these characteristics; and any impacts of the proposed project on water bodies or protected areas under the Water Framework Directive."*
- 3.5.25. Consideration of water quality and management is contained in Chapter 4 of this report.

3.6. OTHER LEGAL PROVISIONS

United Nations Environment Programme (UNEP) Convention on Biological Diversity 1992

- 3.6.1. As required by Regulation 7 of the Infrastructure Planning (Decisions) Regulations 2010, I have had regard to this Convention in its consideration of the likely impacts of the proposed development and appropriate objectives and mechanisms for mitigation and compensation. In particular, I find that compliance with UK provisions on EIA and transboundary matters with regard to impacts on biodiversity referred to in this Chapter, satisfies the requirements of the Convention.
- 3.6.2. The UK Government ratified the Convention in June 1994. Responsibility for the UK contribution to the Convention lies with the Department for Environment, Food and Rural Affairs (DEFRA) which promotes the integration of biodiversity into policies, projects and programmes within Government and beyond.
- 3.6.3. This is of relevance to biodiversity, biological environment, ecology, HRA and EIA matters, which are considered in Chapters 4 and 5 of this report.

National Parks and Access to the Countryside Act 1949 (as amended)

- 3.6.4. The National Parks and Access to the Countryside Act 1949 provides the framework for the establishment of National Parks and Areas of Outstanding Natural Beauty (AONB). It also establishes powers to declare National Nature Reserves (NNR) and for local authorities to establish Local Nature Reserves (LNR).
- 3.6.5. National Parks and AONBs have statutory protection in order to conserve and enhance their natural beauty including landform, geology, plants, animals, landscape features and the rich pattern of human settlement over the ages.
- 3.6.6. It has been considered in Chapter 4 of this report.

The Wildlife and Countryside Act 1981 (as amended)

- 3.6.7. The Wildlife and Countryside Act 1981 is the primary legislation which protects animals, plants, and certain habitats in the UK. The Act provides for the notification and confirmation of Sites of Special Scientific Interest (SSSI). These sites are identified for their flora, fauna, geological or physiographical features by the Statutory Nature Conservation Bodies (SNCB) in the UK. The SNCB for Wales is NRW.
- 3.6.8. The Act provides for and protects wildlife; nature conservation, countryside protection and National Parks; and Public Rights of Way (PRoW).
- If a species protected under the Act is likely to be affected by development, a protected species licence will be required from NRW.
 - Sites protected under the Act (including (SSSI) must also be considered.
 - The effects of development on the PRoW network is also relevant.
- 3.6.9. This has relevance to consideration of impacts on SSSI and on protected species and habitats.
- 3.6.10. I discuss all of these matters in Chapters 4 and 5 of this report.

Countryside and Rights of Way Act 2000 (the CRoW Act)

- 3.6.11. The CRoW Act brought in measures to further protect AONB and improved provisions for the protection and management of SSSI.
- 3.6.12. In the present case, this is relevant to the examination of effects and mitigation in relation to the consideration of possible impacts on the North East Gower and Cockett Valley AONB and on SSSI. These matters are considered in Chapter 4 of this report.

Natural Environment and Rural Communities Act 2006 (the NERC Act)

- 3.6.13. The NERC Act makes provision for bodies concerned with the natural environment and rural communities in connection with wildlife sites, SSSI, National Parks and the Broads. It includes a duty that every public body must, in exercising its functions, have regard so far as is consistent with the proper exercising of those functions to the purpose of biodiversity. In complying with this, regard must be given to the UNEP Convention on Biological Diversity of 1992.
- 3.6.14. This is of relevance to biodiversity, biological environment and ecology and landscape matters arising from the Proposed Development and reported in Chapters 4 and 5 of this report.

Climate Change Act 2008

- 3.6.15. The Climate Change Act 2008 is the basis for the UK's approach to tackling and responding to climate change. It requires that emissions of carbon dioxide and other greenhouse gases are reduced and that climate change risks are prepared for. The Act also establishes the framework to deliver on these requirements.
- 3.6.16. The Act supports the UK's commitment to urgent international action to tackle climate change.
- 3.6.17. The Climate Change Act commits the UK government by law to reducing greenhouse gas emissions by at least 80% of 1990 levels by 2050⁸. This includes reducing emissions from the devolved administrations (Scotland, Wales and Northern Ireland), which currently account for about 20% of the UK's emissions. The 80% target was based on advice from the Climate Change Committee's (CCC) 2008 report, '*Building a low-carbon economy*'.⁹
- 3.6.18. This is of relevance to biodiversity (Section 4.16), flood risk (Section 4.17), air quality (Section 4.14) and operational matters arising from the Proposed Development and reported in Chapters 4 and 5 of this report.
- 3.6.19. After the close of the examination the Climate Change Act was amended by Statutory Instrument 1056 (2019)¹⁰ to a 100% net zero target by 2050. The recommendations in this report have not taken account of this change due to the timing and it will be a matter for the Secretary of State to consider in their final decision.

3.7. MADE DEVELOPMENT CONSENT ORDERS

- 3.7.1. Consideration has been given to the made Hirwaun Gas Fired Generating Station Order (SI2015/1574) (the Hirwaun Order) and Wrexham Gas Fired Generating Station Order (SI2017/766) (the Wrexham Order). The Hirwaun Order provides for a simple cycle gas turbine generating station where the Applicant is also a Drax Group Company, as in the current application. The Applicant's approach to the drafting of the DCO in this application has been closely informed by the drafting approach taken in the Hirwaun and Wrexham Orders [APP-013]. I have taken the view that in circumstances where there is no necessity to amend provisions to address legislative and policy requirements, matters arising from representations and local circumstances, the drafting approach taken in the Hirwaun and Wrexham Orders should correctly form the starting point for my recommended draft DCO.

⁸ The 100% amendment which was introduced after the close of examination is noted and this is a matter for the SoS to consider.

⁹ <https://www.theccc.org.uk/tackling-climate-change/the-legal-landscape/the-climate-change-act/>

¹⁰ http://www.legislation.gov.uk/ukxi/2019/1056/pdfs/ukxi_20191056_en.pdf

3.7.2. Consideration has also been given to the following made Orders in Wales:

- Port Talbot Steelworks Generating Station Order (SI 2015/1984);
- Swansea Bay Tidal Generating Station Order (SI 2015/1386) (as amended);
- South Hook CHP Plant Order (SI 2014/2846);
- Clocaenog Forest Wind Farm Order (SI 2014/2441); and
- Brechfa Forest West Wind Farm Order (SI 2013/586) (as amended),

This is primarily to provide a context within which to consider the approach to be taken to the type of development that can be described as integral and associated development in Wales, and to the proper relationship between associated development and CA and TP powers in a DCO applying to land and development in Wales.

3.8. TRANSBOUNDARY EFFECTS

3.8.1. The SoS has carried out the following Transboundary Screening:

- First screening – 22 August 2014 following the Applicant's request for a scoping opinion [OD-001].
- Second screening – 7 November 2018 following acceptance of the Application for examination.

3.8.2. Under Regulation 24 of the Infrastructure Planning (EIA) Regulations 2009 (as amended) (the EIA Regulations) and on the basis of the information available from the Applicant, the SoS decided on 22 August 2014 that the proposed development is not likely to have significant effects on the environment in another European Economic Area (EEA) State. This decision remained unchanged following the second screening on 7 November 2018.

3.8.3. In reaching this view the SoS has applied the precautionary approach explained in the Inspectorate Advice Note 12 Transboundary Impacts Consultation. Transboundary issues consultation under Regulation 24 of the EIA Regulations was therefore not considered necessary.

3.9. OTHER RELEVANT POLICY STATEMENTS

3.9.1. I have taken other relevant Government policy into account, including:

- The Energy White Paper: Meeting the Challenge (May 2007);
- UK Low Carbon Transition Plan (2009);
- National Strategy for Climate and Energy (July 2009);
- UK Renewable Energy Strategy (July 2009); and
- The National Infrastructure Plan (updated 2019)¹¹.

3.10. LOCAL IMPACT REPORTS

¹¹ <https://www.nic.org.uk/assessment/national-infrastructure-assessment/executive-summary/>

- 3.10.1. Section 104(2) of PA2008 states that in deciding the application the SoS must have regard to any LIR within the meaning of s60(3) of that Act.
- 3.10.2. There is a requirement under s60(2) of PA2008 to give notice in writing to each LA falling under s56A inviting them to submit LIRs. This notice was given on 12 September 2018 [PD-005].
- 3.10.3. An LIR was submitted by CCS on 9 November 2018 [REP1-021].
- 3.10.4. The LIR is structured in that it considers the various chapters of the Applicant's ES in relation to the council's policies. For example, issues such as transport, noise, air quality, ecology, landscape and visual impact are considered.
- 3.10.5. The LIR is considered in all Chapters from 4 - 9 of this report.

3.11. THE DEVELOPMENT PLAN

- 3.11.1. The LIR [REP1-021] identifies that, for the purposes of s38(6) of the Planning and Compulsory Purchase Act 2004, the development plan for the area of the application site comprises the CCS (UDP) (Adopted November 2008).
- 3.11.2. The development plan policies cited by CCS in their LIR [REP1-021] as being relevant to the proposed development are no longer relevant.
- 3.11.3. At the start of the Examination CCS was in the process of preparing its new LDP, which upon adoption would replace the UDP as the key planning policy document for CCS up to 2025.
- 3.11.4. CCS submitted the Deposit LDP to the Welsh Ministers for independent examination on 28 July 2017. Following formal acceptance on 4 August 2017, the Welsh Ministers appointed Inspectors to conduct the independent examination and to assess the soundness of the LDP. Examination Hearings commenced on 6 February 2018 and ran until late March 2018.
- 3.11.5. On 31 January 2019 the Inspectors issued their report to CCS. The report concluded that, subject to the recommended Matters Arising Changes (MAC) and Inspectors' Matter Arising Changes (IMAC) set out in Appendices A and B, the Swansea LDP 2010 – 2025 (LDP) provides an appropriate basis for the planning of the County up to 2025. The Council has sufficient evidence to support the strategy and has shown that it has a realistic prospect of being delivered. A number of changes are needed to make the Plan sound and meet statutory requirements.
- 3.11.6. On 28 February 2019 the Council adopted the "Swansea Local Development Plan 2010-2025". The Plan became operative on that date and now forms the development plan for Swansea, providing an up to date planning framework to guide and inform development proposals. The LDP supersedes the UDP, with immediate effect [REP4-022 to 026].

- 3.11.7. The LDP vision will be delivered through a series of strategic objectives relating to “Enhancing Communities, Facilities & Infrastructure”, “Delivering Economic Growth and Prosperity”, and “Fostering a High Quality Environment”. Those which are relevant to the Proposed Development are set out below [REP1-021]:
- *Facilitate the provision of appropriate infrastructure to support communities and businesses;*
 - *Encourage appropriate development of low carbon and renewable energy resources and energy infrastructure;*
 - *Support the safeguarding and sustainable use of natural resources where appropriate;*
 - *Support development that positions Swansea as an economically competitive place and an economic driver for the City Region;*
 - *Facilitate growth and diversification of the local economy and an increase in high value, skilled employment;*
 - *Promote a sustainable development strategy that avoids significant adverse environmental impacts and respects environmental assets;*
 - *Maintain and enhance green infrastructure networks;*
 - *Support measures to minimise the causes and consequences of climate change; and*
 - *Promote good design that is locally distinct, sustainable, innovative and sensitive to location.”*
- 3.11.8. Where appropriate planning issues have been assessed against the LDP policies as detailed in Chapter 4 below.
- 3.11.9. I have considered whether the Proposed Development gives rise to important and relevant impacts arising in neighbouring local government areas. However, having taken into account the absence of LIRs from any neighbouring authorities and my own inspections [EV-008] of the setting of the application site, I have concluded that it is not necessary to consider policies from any neighbouring authority development plans.
- 3.11.10. As stated in paragraph 4.1.5 of NPS EN-1, if there is any conflict between the above documents and an NPS then the NPS takes precedence because of the national significance of the infrastructure. The SoCG between the Applicant and CCS [REP3-010] agrees that the range of UK, Wales and local policy designations and evidence as set out in Chapter 2 of the ES [APP-042] has been appropriately stated.

3.12. THE SECRETARY OF STATE’S POWERS TO MAKE A DCO

- 3.12.1. I remained aware throughout the Examination of the need to consider whether changes to the application had changed it to a point where it became a different application and whether the SoS would have power therefore under s.114 of PA2008 to make a DCO having regard to the development consent applied for.
- 3.12.2. 'Planning Act 2008: Guidance for the examination of applications for development consent' Department of Communities and Local

Government (March 2015), provides guidance at paragraphs 109 to 115 in relation to changing an application post acceptance³. The view expressed by the Government during the passage of the Localism Act was that s114(1) places the responsibility for making a DCO on the decision-maker and does not limit the terms in which it can be made.

- 3.12.3. Having considered this context throughout the Examination, I am content that the changes to the application, primarily consisting of technical revisions to the DCO as applied for, do not constitute so material a change as to constitute a new application different to that which was applied for. I am therefore of the view that the SoS has the power to make the DCO as recommended in Chapter 9 and provided in Appendix D to this report.

4. THE PLANNING ISSUES

4.1. INTRODUCTION

- 4.1.1. This chapter commences by listing the main issues in the Examination. I then outline the sources of information I have used to consider the policy and factual issues raised by the Proposed Development, within the framework provided by PA2008. It continues to set out a framework within which individual issues for examination have arisen. It explains how that framework has evolved during the Examination. It then applies that framework to analyse and reach conclusions on individual issues. The individual conclusions feed forward into the balanced conclusion on the case for development, set out in Chapter 6.

4.2. MAIN ISSUES IN THE EXAMINATION

- 4.2.1. I made an Initial Assessment of Principal Issues (IAPI)¹² in preparation for the PM. The IAPI was published as Annex B to the Rule 6 Letter on 12 September 2018 [PD-005].
- 4.2.2. The IAPI identified the issues raised by the application and the written submissions available at that time as follows:
- CA;
 - Design, Layout and Visibility;
 - DCO;
 - Economic and Social Impacts;
 - Environmental Impact Assessment (EIA);
 - Environmental Issues;
 - Habitats, Ecology and Nature Conservation;
 - Historic Environment;
 - Operational; and
 - Transport and Traffic.
- 4.2.3. The list of issues in the IAPI was set out (as is conventional) in alphabetic order, with no implications as to relative significance.
- 4.2.4. The IAPI list of issues was discussed at the PM as to its content but none arose directly there [PD-006]. As the Examination progressed, inevitable differences in the relative significance of issues emerged, as did groupings of issues around common themes.

4.3. ISSUES ARISING IN WRITTEN AND ORAL SUBMISSIONS

- 4.3.1. Twenty-six RRs were made [RR-001 to 026] and have been considered. RRs were made by statutory authorities, utility providers, CCS, Neath Port Talbot County Borough Council, Mawr Ward Councillor, Betws Community Council, Llangyfelach Community Council, local residents,

¹² PA2008 s88(1).

Swansea Friends of the Earth, and businesses located in the vicinity of the Proposed Development.

- 4.3.2. Participants in the Examination have been provided with the opportunity to make WR at Examination DL1, to comment on them at DL2 and to respond in writing to my questions and to matters arising at Hearings, over seven deadlines (DL1 – DL7). Twenty-nine such documents were submitted.
- 4.3.3. Statements of Common Ground (SoCG) have been provided and are taken into account as follows:
- Between the Applicant and NRW [REP2-009];
 - Between the Applicant and NGETS [REP6-008];
 - Between the Applicant and NGT [REP6-009];
 - Between the Applicant and Dŵr Cymru/Welsh Water [REP5-006];
 - Between the Applicant and Wynne Watkins/Redisplay Limited [REP4-021];
 - Between the Applicant and CCS [REP3-010] and
 - Between the Applicant and Michael Edwards [REP4-020].
- 4.3.4. Oral submissions were also made at Hearings as documented in Chapter 1 of this report above and have been taken into account.

Conclusion

- 4.3.5. The matters raised in RRs, WRs and responses to my questions, in SoCG and to matters arising at Hearings have been responded to in my framework of issues set out in Section 4.11 below and are taken into account in the remainder of this report to the extent that they are important and relevant¹³.

4.4. ISSUES ARISING IN LOCAL IMPACT REPORT

- 4.4.1. One LIR was submitted by CCS [REP1-021], at DL1 of the Examination. I was conscious CCS may wish to review its LIR within the Examination period taking account of matters drawn to its attention (for example as raised in RRs) and so made provision in the Examination timetable [PD-006] pursuant to PA2008 s60 for that to occur by DL2. The content of the LIR is a matter specifically required to be considered by the SoS in making a decision on this application¹⁴.
- 4.4.2. The LIR provided information on the following matters:
- the extant development plan in 2018;
 - emerging policies in the LDP;
 - national planning policy;
 - planning history;
 - design
 - transport;

¹³ PA2008 s104(2)(d)

¹⁴ PA2008 s104(2)(b)

- climate change;
- heritage;
- the water environment;
- air quality;
- noise and vibration;
- ecology;
- landscape and visual impact assessment;
- trees; and
- adequacy of the draft DCO.

4.4.3. No important and relevant issues were raised in the LIR that gave rise to in-principle breaches of relevant NPS policy. At section 21 of the LIR [REP1-021], CCS raised the need to include two further Requirements into the DCO:

- Time limits on operation and
- The need for a decommissioning bond.

4.4.4. Both of these matters are addressed in Chapter 8.

4.4.5. Advice was provided on the matters to be addressed in requirements and this is taken fully into account in the remainder of this report.

4.4.6. The LIR [REP1-021] identified that CCS was in the process of preparing its LDP, which upon adoption would replace the UDP as the key planning policy document for CCS up to 2025.

4.4.7. On 28 February 2019 the Council adopted the "Swansea Local Development Plan 2010-2025". The Plan became operative on that date and now forms the development plan for Swansea, providing an up to date planning framework to guide and inform development proposals. The LDP supersedes the UDP, with immediate effect [REP4-022 to 026].

4.4.8. Where appropriate planning issues have been assessed against the LDP policies as detailed in Chapter 4 below.

4.5. CONFORMITY WITH NATIONAL POLICY STATEMENTS

4.5.1. The legislative and policy framework applicable within this Chapter is summarised at a high level in Chapter 3 above. Individual references to relevant policy detail are also drawn out in the individual subject matter sections of this Chapter below.

4.5.2. The primary sources of policy are NPS EN-1, EN-2, EN-4¹⁵ (in respect of a land requirement for the gas connection alignment only) and EN-5¹⁶ (in respect of a land requirement for the electrical connection alignment only) and all relevant elements of these have been considered¹⁷.

4.5.3. I have undertaken my reasoning on the Proposed Development and hence frame my recommendation on planning merits, noting that the SOS:

*'must decide the application in accordance with any relevant national policy statement'*¹⁸

except to the extent that a legislated exception applies¹⁹. Whilst individual policy references are addressed below, in general terms I observe that none of the legislated exceptions to the application of relevant NPS policy was found to apply. It follows therefore that the application is recommended to be decided wholly within the framework of relevant NPS policy.

4.5.4. The requirements of legislation other than PA2008 are identified and applied as required. Policy other than policy arising from the NPS is capable of being important and relevant and has been identified as applicable and is analysed below as required²⁰. However, again it should be highlighted that no analysis of policy arising from outside the relevant NPSs has given rise to considerations that bear against the application of NPS policy as allowable under PA2008²¹.

4.6. CONFORMITY WITH CCS LOCAL DEVELOPMENT PLAN

4.6.1. This chapter addresses conformity with development plan policies within the local policy framework provided by the LDP [REP4-022 to 026]. That being noted, the local policy framework is not the primary policy framework applicable to the decision on this application, which falls to be determined in terms of compliance with NPS policy, subject to consideration of the local policy framework. The proposals could be considered necessary infrastructure development (LDP Policy CV 2 section VII) if they comply with the remaining policies of the LDP.

¹⁵ Of relevance in respect of the assessment of the Gas Connection only and not directly applicable to the Power Generation Plant to which the DCO Application relates.

¹⁶ Of relevance in respect of the assessment of the Electrical Connection only and not directly applicable to the Power Generation Plant to which the DCO Application relates

¹⁷ PA2008 s104(2)(a)

¹⁸ PA2008 s104(3)

¹⁹ PA2008 s104(4) to (8)

²⁰ PA2008 s104(2)(d)

²¹ PA2008 s104(4) to (8)

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

"i. Reduce carbon emissions;

ii. Protect and increase carbon sinks;

iii. Adapt to the implications of climate change at both a strategic and detailed design level;

iv. Promote energy and resource efficiency and increase the supply of renewable and low carbon energy;

v. Avoid unnecessary flood risk by assessing the implications of development proposals within areas susceptible to flooding and preventing development that unacceptably increases risk, and

vi. Maintain ecological resilience" [REP1-021].

4.6.3. ER-1 goes on to state:

"that a core function of the Plan is to ensure that all development in the County is sustainable, taking full account of the implications of reducing resource use and addressing climate change" [REP1-021].

Climate change impacts were considered throughout each of the individual ES topic chapters and summarised in Chapter 15 of the ES [APP-042].

4.6.4. No other examination participants specifically requested my consideration of harm to or breaches of the local policy framework. For these reasons, whilst full consideration has been provided to the material referred to me, I have not provided detailed analysis against the local policy framework in the remainder of this chapter, unless there is an issue of compliance that requires to be analysed in order for a decision on this application to be made.

4.7. ENVIRONMENTAL PERMITTING REGIME

4.7.1. As stated above in Chapter 3 of this Report, the Proposed Development falls within Schedule 1 Part 2 (Combustion Activity) under the Environmental Permitting (EP) (England and Wales) Regulations 2016, elements of the Proposed Development will require an EP). This is made separately and independently to NRW, who are the competent authority to issue and regulate EPs. For the purposes of this Report, I have identified the process of applying for the EP as the EP regime.

4.7.2. The NRW in its RR [RR-025] confirmed that that an EP is required for:

- The operation of the proposed OCGT power station, which must use Best Available Technology (BAT). Conditions will be applied, and if they cannot be met the EP will be refused;

- The discharge to surface water and groundwater arising from dewatering activities as part of the construction phase, including discharge of sewage effluent from septic tanks; and
- Air quality and noise emissions.

4.7.3. NRW confirmed [RR-025] and updated at Deadline 1 [REP1-004] that an application to NRW was duly made on 2 September 2018, and this was confirmed in the SoCG between the Applicant and NRW [REP2-002]. The NRW Permitting Team received no responses to their 'Minded to Approve' public consultation and therefore issued the Permit for this development on 18 January 2019.

4.8. THE NEED FOR THE DEVELOPMENT AND ALTERNATIVES

4.8.1. The Proposed Development is an NSIP as set out in s14 and s15 of the PA2008 (as amended). The need for the development is covered in NPS EN-1, paragraph 3.1, which states that such applications should be assessed on the basis that the Government has demonstrated that there is a need for this type of infrastructure and that substantial weight should be given to its contribution to satisfying this need. Paragraphs 3.6.1 and 3.6.2 of the same NPS state that:

"there is also a need for a mix of energy sources including fossil fuels to meet demand in a flexible manner, which will help in the transition to a low-carbon economy".

4.8.2. The Welsh Governments 'Prosperity for All: Transition to a Low Carbon Wales (2019)' states on page 65:

"Gas will also have an important transitional role in power generation."

4.8.3. Fossil fuel generation is recognised as playing a vital role in providing reliable energy supplies and providing flexibility in response to changes in supply and demand and diversity in the energy mix. EN-1 recognises that fossil fuel plants produce carbon dioxide (CO₂) and sets a requirement that new plant over 300MW have to be constructed Carbon Capture Ready (CCR) so that Carbon Capture and Storage (CCS) can be retrofitted to the plant at a later date if required. The maximum capacity of the proposed plant is 299MW, defined in the draft DCO as the gross electrical power as measured at the terminals of the generator.

4.8.4. Chapter 2 of the ES [APP-042] sets out the Applicant's case for the need for the Proposed Development, which broadly relies on NPS EN-1 to support its position. An RR was received from Swansea Friends of the Earth which questioned the issue of need [RR-007]. Swansea Friends of the Earth made no further submissions to the examination.

4.8.5. The Proposed Development could be considered necessary infrastructure development (LDP Policy CV 2 section VII) if they comply with the remaining policies of the LDP.

- 4.8.6. Paragraph 4.4.2 of NPS EN-1 requires the Applicant to consider alternatives to the Proposed Development and explain how the application was arrived at.
- 4.8.7. In accordance with Schedule 4, Part 2 of the 2009 EIA Regulations, Chapter 5 of the ES [APP-042] presented an outline of alternatives studied by the Applicant in terms of other locations for the Proposed Development, as well as gas connection routes, technologies, and potential designs.
- 4.8.8. I deemed further examination of alternative locations for the Proposed Development as necessary, because the existing site is greenfield land. I asked three WQ in ExQ1 [PD-005(3)]. This was followed by further questions at the ISH on Environmental Matters [EV-012].
- 4.8.9. RRs and WRs questioned the locations and choices advanced by the Applicant for the Proposed Development.
- 4.8.10. The unsigned SoCG between the Applicant and CCS submitted at Deadline 3 [REP3-010] agrees the position on need, principle and alternatives. In addition, the parties agree that the final version of the DCO submitted at Deadline 6 [REP6-003] and which forms the Recommended DCO (in Appendix D), adequately secures that matters concerning the final design, external lighting, highway access, means of enclosure and site security.

Conclusion

- 4.8.11. Taking these matters into consideration, I am satisfied that the need for the Proposed Development is established through the NPS and in Welsh Government Policy²². I am also satisfied that the alternative options for the siting of the proposed OCGT have been rigorously tested by the Applicant. The requirements of NPS EN-1 and the EIA Regulations in this regard have been met.
- 4.8.12. I am satisfied that the capacity of the Proposed Development as defined in the draft DCO is below the threshold at which it should be designed to be CCR. I am also satisfied that consideration has been given to design and to alternatives to the development as required by EN-1. I consider specific impacts of the Proposed Development in the following sections before reaching my conclusions on the Application as a whole.

4.9. ENVIRONMENTAL IMPACT ASSESSMENT

- 4.9.1. As is recorded in Chapter 1 of this Report and for reasons set out there, the application is EIA development. This section records the documents comprised in the ES and changes to those documents provided during the Pre-examination and Examination stages. It also records the environmental management documents proposed to be used by the Applicant in tandem with DCO provisions to secure the construction and

²² Prosperity for All: Transition to a Low Carbon Wales (2019).

operation of the Proposed Development and the application of mitigation within the worst-case parameters (the Rochdale Envelope) assessed in the ES.

- 4.9.2. This Section concludes on the question of whether the submitted ES and EIA process provide an adequate basis for decision-making by the SoS.

The Submitted ES

- 4.9.3. An ES was provided with the application documents. The documents comprising the ES are [APP-016 to 044].

Environmental Management Documents

- 4.9.4. The ES is supported by the following existing and intended environmental management documents [APP-036]:

- Outline Construction Environment Management Plan (OCEMP) Appendix 3.1[APP-036];
- Mitigation Register Appendix A in OCEMP [APP-036];
- Outline Surface Water Management Plan (OSWMP) Appendix 3.2 [APP-036];
- Outline Construction Traffic Management Plan (OCTMP)Appendix 3.3a [APP-036];
- Construction Site Travel Plan (CSTP) Appendix 3.3 b [APP-036];
- (LEMS) Appendix 3.4 [APP-036]; and
- Outline Lighting Strategy (OLS) Appendix 3.5 [APP-036].

- 4.9.5. These documents are defined and secured in the DCO. For all of these documents, the final versions of specific plans under the frameworks they set will be prepared by the Applicant in consultation with CCS and NRW and be submitted to CCS to be approved.

The Applicable Regulations

- 4.9.6. The EIA Directive²³ is transposed into law for NSIPs in England and Wales by The Infrastructure Planning (EIA) Regulations 2017 (the 2017 EIA Regulations), which came into force on 16 May 2017.

- 4.9.7. Regulation 37 of the 2017 EIA Regulations revokes the Infrastructure Planning (EIA) Regulations 2009 (the 2009 EIA Regulations), subject to transitional provisions for certain applications in Regulation 37(2). This regulation provides that the 2009 Regulations continue to apply in circumstances where the Applicant has:

'requested the Secretary of State or the relevant authority to adopt a scoping opinion (as defined in the 2009 Regulations) in respect of the development to which the application relates' before the commencement of the 2017 Regulations²⁴.

²³ Directive 85/337/EEC was amended three times and codified by 2011/92/EU, which has itself been amended by 2014/52/EU

²⁴ 2017 EIA Regulations, Regulation 37(2) (a)(ii)

- 4.9.8. This case is proceeding under the 2009 EIA Regulations as discussed in Chapter 3 of this report.

An Adequate Environmental Impact Assessment Process and Environmental Statement

- 4.9.9. The LIR [REP1-021] raised concerns about the adequacy of the EIA process and the ES. These concerns were addressed and allayed in the SoCG [REP3-010]. The scope and parameters of the assessment of effects on tourism were not agreed, as CCS considers these were too restrictive. The Socio-economic Chapter Clarificatory Note (Annex B of the SoCG [REP1-003]) explains the rationale adopted by the Applicant in determining the scope and parameters of the tourism business survey and the assessment of tourism effects, both presented in Chapter 14 of the ES [APP-042].
- 4.9.10. The ES, together with the other information submitted by the Applicant during the Examination, is adequate and it meets the requirements under the EIA Regulations. A full account has been taken of all environmental information in the assessment of the application and in the recommendation to the SoS.

4.10. HABITATS REGULATIONS ASSESMENT

- 4.10.1. As is recorded in Chapter 1 of this Report and for reasons set out there, the application is subject to HRA. This Section sets out the documents submitted to support the HRA process for this application.
- 4.10.2. The Proposed Development is one that has been identified as giving rise to the potential for LSE on European sites and hence is subject to HRA. As is conventional in ExA Recommendation Reports to inform SoS decisions prepared under the PA2008, a separate record of considerations relevant to HRA has been set out in Chapter 5 of this report below.
- 4.10.3. However, at this point in this chapter it is necessary to record that I have considered all documentation relevant to HRA as required by section 4.3 of NPS EN-1, and I have taken it into account in the conclusions reached here and in the Planning Balance (Chapter 6 below). Further, project design and mitigation proposals included in the ES and secured in the Recommended DCO have been fully considered for HRA purposes.

4.11. ENVIRONMENTAL EFFECTS ISSUES

- 4.11.1. The following sections of this Chapter address the following issues that are relevant to the environmental effects of the Proposed Development:
- Landscape and Visual Effects;
 - Design;
 - Air Quality;
 - Noise and Vibration;
 - Habitats, Ecology and Nature Conservation;
 - Water Quality and Resources and Flood Risk;

- Geology, Ground Conditions and Hydrogeology;
- Traffic, Transport and Access;
- Historic Environment;
- Economic and Social Impacts;
- CHP Readiness; and
- Other matters.

4.12. LANDSCAPE AND VISUAL EFFECTS

Issues

- 4.12.1. At government level, NRW provides statutory advice to the WG on landscape matters and pays particular regard to designated landscapes. NRW's SoCG [REP2-009] made clear that it had no outstanding concerns on the Proposed Development in respect of landscape and visual methodology and assessment. NRW agreed that the outline LEMS (revision 4) [REP4-008] is an appropriate way of agreeing the site landscape proposals including new planting to help screen the Proposed Development and reinstatement of existing vegetation. This outline Strategy was originally submitted as part of the DCO Application [APP-036], and the final Strategy will need to be approved by CCS before implementation secured via Requirement 9.
- 4.12.2. CCS in its LIR [REP1-021] concluded:
- 'The proposed development would have a significant impact on the local landscape character during construction and operation arising from the loss of fields, extensive ground re-profiling and would be a noticeable alteration in the landscape, more apparent as a result of its solid mass. It is appreciated that the development has been sited as far as practicable to reduce its impact (within the site) and there is other energy infrastructure in the surroundings.*
- CCS considers that the scheme would not have a significant adverse effect on the character and quality of the wider landscape. However, there would be a moderate adverse effect on the local landscape character of the project site itself and views from surrounding footpaths/properties.'*
- 4.12.3. Several IPs raised issues in relation to visual impact and its effect on their properties:
- David Edwards [RR-001];
 - Claire Thatcher [RR-020] and
 - Llangyfelach Community Council [RR-021] raised concerns about visual effects
- 4.12.4. I asked NRW, the Applicant and CCS a number of key questions about the landscape and visual effects of the Proposed Development during construction and operation in ExQs1 [PD-005(3)] and ExQs2 [PD-006]. I also raised it as a specific agenda item (item 7.2), at the Environmental Matters ISH [EV-012]. Of the 3 IPs identified above none made any further submissions following their Relevant Representations.

Policy considerations

4.12.5. Policies relevant to landscape and visual impacts are set out in NPS EN-1, EN-2 and EN-4 and CCS LDP policies PS2, ER1, ER5 and EU1 [REP4-023].

4.12.6. In relation to the generating station development, a degree of adverse landscape and visual impact is acknowledged to be unavoidable. Paragraph 5.9.8 of EN-1 states that:

'[v]irtually all nationally significant energy infrastructure projects will All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places. All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places. This is amplified by paragraph 5.9.15 which says:

'The scale of such projects means that they will often be visible within many miles of the site of the proposed infrastructure. The [SoS] should judge whether any adverse impact on the landscape would be so damaging that it is not offset by the benefits (including need) of the project.'

4.12.7. Paragraph 2.6.5 of EN-2 acknowledges that:

'[i]t is not possible to eliminate the visual impacts associated with a fossil fuel generating station'.

4.12.8. Planning Policy Wales, Chapter 6 details Welsh Government policy on landscape²⁵. At paragraph 6.3.3 it states:

"All the landscapes of Wales are valued for their intrinsic contribution to a sense of place, and local authorities should protect and enhance their special characteristics, whilst paying due regard to the social, economic, environmental and cultural benefits they provide, and to their role in creating valued places."

4.12.9. Local landscape designations (set out within development plans) must be taken into account and harm should be mitigated where possible but are not seen as justifying a reason for refusal, and the SoS must consider whether the project evidences good design (EN-1 paragraphs 5.9.14 - 17).

²⁵ <https://gov.wales/sites/default/files/publications/2019-02/planning-policy-wales-edition-10.pdf>

- 4.12.10. Criterion (i) of LDP Policy PS 2 requires regard to be had to important elements of local heritage, culture, landscape, townscape, views and vistas.
- 4.12.11. LDP Policy ER 5 states that development will not be permitted that would have a significant adverse effect on the character and quality of the landscape and setting of the County and goes on to outline 3 Special Landscape Areas. However, the site is not located within a designated Special Landscape Area under this policy.
- 4.12.12. Criterion iii. a) of LDP Policy EU1 requires the siting, design, layout, type of installation and materials used to not have a significant adverse effect on the characteristics and features of the proposed location although this is not considered strictly applicable as the site is not for a low-carbon development.
- 4.12.13. To the north, the Project Site is located a Landscape Protection Area i.e. Mawr Uplands, where LDP Policy ER5 applies. LDP Policy ER 5 states that:
- *"development will not be permitted that would have a significant adverse effect on the character and quality of the landscape and setting of the County".*
- 4.12.14. Within Special Landscape Areas, including the Mawr Uplands to the north of the Project Site, priority will be given to protecting, managing and enhancing the character and quality of the area [REP4-022].

Applicant's response

- 4.12.15. Chapter 11 of the ES (landscape and visual impact) [APP-042] describes the siting and design measures taken to minimise landscape and visual impact. Embedded and additional mitigation measures in respect of landscape and visual impacts are described in sections 3.1 and 4.1-4.9 of the Outline LEMS Revision 4 [REP4-008]
- 4.12.16. The Applicant stated that:
- "the primary focus of the landscape and ecology mitigation is habitat creation and landscape planting which will be accommodated within the Project Site Boundary alongside the protection and enhancement of existing habitats. The Applicant anticipated that existing planting within the Project Site would be retained and protected where possible"* [APP-042].
- 4.12.17. ES Figure 3.6 [APP-024] identifies the woodland and trees to be retained and the areas of new habitat and planting. The overall construction working methods to be implemented during the construction phase are outlined in the outline CEMP (Revision 2) [REP4-010], outline SWMP (Appendix 3.2) [APP-036] and OLS (Appendix 3.5) [APP-036] and are secured via corresponding Requirements in schedule 2 of the DCO [REP6-003].

- 4.12.18. The Applicant acknowledges that that the Proposed Development will result in significant adverse effects during construction and operation for some visual receptors e.g. footpaths, properties, including some residential properties with views towards the vertical elements of the Scheme across an undulating landscape (Viewpoints 9, 14, 15, 16 and 17 [APP-045][APP-046] but does not view these as being contrary to policy [APP-007] at page 134.
- 4.12.19. In response to ExQs1 1.9.11 [PD-005(3)] the Applicant provided further explanation regarding their conclusion that no significant cumulative landscape effects would result from the Project. The Applicant stated that:
- "the Project alone can result in significant residual operational effects and not necessarily result in a significant cumulative effect. This is because the cumulative assessment considers the additional effect of the Project on the landscape character in conjunction with the other cumulative developments (the cumulative baseline)" [REP1-010].*
- 4.12.20. Mitigation proposed and secured in the DCO includes:
- Requirement 2 Detailed Design of the DCO framing maximum scale and height;
 - Requirement 3 requiring submission of a landscape management plan in which the proposed landscape mitigations would be addressed;
 - Requirement 17 CEMP; and
 - Requirement 26 requiring a night lighting scheme.
- 4.12.21. The Applicant views these as policy compliant and sufficient taken together to provide all mitigation necessary to address adverse landscape and visual effects. The Applicant considered that all residual effects are considered to be appropriate within the framework provided by policy [APP-007].

ExA conclusions

- 4.12.22. I have given very careful consideration to landscape and visual impact considerations. As part of the Examination, I have undertaken an unaccompanied (Annex F [PD-005]) and accompanied site inspections [EV-008] to key receptor locations. I have used my site inspections to gain an appreciation of the concerns raised in representations and to test the adequacy of policy responses made by the Applicant in the EIA and design processes.
- 4.12.23. Overall, the Project would have a significant visual impact seen from close to the site. However, the effect would be within an existing and developing industrialised setting and the Applicant explained that the additional effect from other development was not significant [REP1-010]. In my view harm would be avoided through appropriate mitigation proposals. The consequence in terms of cumulative landscape effects of the Project's introduction into this existing developed setting is considered not to be significant.

- 4.12.24. Control of these aspects would be the responsibility of CCS through the draft DCO [REP6-003]:
- Requirement 2 Detailed Design of the DCO framing maximum scale and height;
 - Requirement 3 requiring submission of a landscape management plan in which the proposed landscape mitigations would be addressed;
 - Requirement 17 CEMP; and
 - Requirement 26 requiring a night lighting scheme.
- 4.12.25. Following the ExA's amendment of Requirements 2 and 3 related to the control of design and appropriate mitigation, and given the evidence presented, the Proposed generally accords with Paragraph 5.9.8 of EN-1, PPW Section 6.3 and policy in the CCS LDP with respect to design (PS 2), layout and visibility (ER 5 and EU 1). I conclude that the Proposed Development as provided for in the Recommended DCO represents good design in landscape and visual terms and will be policy compliant.

4.13. DESIGN

Issues

- 4.13.1. A number of IPs raised design issues directly and indirectly in relation to visual impact:
- Claire Thatcher [RR-020] and Llangyfelach Community Council [RR-021] raised concerns about visual effects; and
 - CCS raised design issues directly in their LIR [REP1-021].
- 4.13.2. Design encompasses matters of layout, scale, form, massing, height, density, colour, materials and specific detailing. Poor design not only detracts from the character and appearance of an area but can harm neighbours' quality of life.
- 4.13.3. CCS point to the design and siting and location LDP Policy PS 2 on Placemaking and Place Management and states that development must enhance the quality of places and spaces and respond positively to aspects of local context and character that contribute towards a sense of place. The design, layout and orientation of proposed buildings, and the spaces between them, must provide for an attractive, legible and safe environment, and ensure that no significant adverse impacts would be caused to people's amenity [REP1-021].

Policy considerations

- 4.13.4. S10(3)(b) of PA2008 requires the SoS to have regard to the desirability of achieving good design when considering whether the correct siting and design decisions have been taken about energy infrastructure development. EN-2 paragraph 2.3.15 highlights the need to consider the principles established in NPS EN-1 section 4.5 in this regard.
- 4.13.5. NPS EN-1 advises in paragraph 4.5.4 that Applicants 'should be able to demonstrate in their application documents how the design process was conducted and how the proposed design evolved'. EN-1 acknowledges in

paragraph 4.2.7 that '*it may not be possible at the time of the application for development consent for all aspects of the proposal to have been settled in precise detail*'. In these circumstances paragraph 4.2.8 of NPS EN-1 requires Applicants to assess the maximum extent (i.e. the realistic worst case) of the proposed development. This approach underpins the Rochdale envelope approach described at paragraph 4.9.1 above.

- 4.13.6. Technical Advice Notes (TAN) 12²⁶ and 22²⁷. TAN 12 endorses the commitment to good design and sets out the requirement for a Design and Access Statement. TAN 22 requires design and access statements to demonstrate how the development will meet or exceed sustainable building standards and reduce its carbon footprint.

Applicant's response

- 4.13.7. The Applicant points to Chapter 3, Section 3.4 of the ES [APP-042] and the Design Principles Statement [APP-048] as explaining and justifying the design approach to the Proposed Development. As explained above, a Rochdale envelope approach has been pursued and assessment in the ES proceeds on that basis. This in turn means that a number of design outcomes are expressed in parametric terms and can be varied in the scheme as finally constructed. However, worst case adverse effects have been assessed and the following mitigation is provided:

- Requirement 2 subsections (4) and (5) ensure that the Council would have further consideration of the detailed design of the proposal and ensure it complies with the Design Principles document Statement; and
- Requirement 3 provides similarly for the provision and maintenance of landscaping.

ExA conclusions

- 4.13.8. The Design Principles Statement [APP-048] draws together the findings of the various documents as they relate to design and establish firm and deliverable commitments to good design to guide the detailed design. These commitments are secured by a requirement in the DCO to the effect that implementation is undertaken in compliance with the Design Principles Statement i.e. Requirement 2(5). Overall, it is considered that the site context has been comprehensively appraised as explained within the application and set out below. I am encouraged by the design approach to the Project. This has been secured in the draft DCO Requirements 2 and 3 and by the limits set on opportunities for subsequent change in Requirement 29 [REP6-003]. The design approach

²⁶ Technical Advice Note (TAN) 12: Design (2009).

<http://wales.gov.uk/topics/planning/policy/tans/tan12/>

²⁷ Technical Advice Note 22: Sustainable Buildings (2010).

<http://wales.gov.uk/topics/planning/policy/tans/tan22/?lang=en>

accords with the aims of NPS EN-1, TAN 12 and 22 and CCS LDP Policies EU1 and PS2. Given the evidence presented, I am content that a satisfactory design is likely to emerge.

4.14. AIR QUALITY

Issues

- 4.14.1. There were no government or agency concerns expressed about the performance of the Proposed Development in air quality and emissions terms take on its own or cumulatively / in combination with other developments. Specifically, NRW was satisfied with the proposed air quality and emission performance of the Proposed Development and that that the Applicant had applied the correct assessment process [REP1-004].
- 4.14.2. A number of IP's did raise concerns about air quality in their RRs [RR-001], [RR-003 to 005], [RR-007], [RR-015 to 017] and [RR-020 to 021]. Mr Rasbridge raised the issue of "temperature inversions" at the site of the Proposed Development [REP3-018].
- 4.14.3. The NRW Permitting Team received no responses to their 'Minded to Allow' public consultation and therefore issued the permit for the Proposed Development on 18 January 2019. A copy of the issued permit can be found on the NRW website at the following link:
<https://naturalresources.wales/permits-and-permissions/permit-applicationsconsultations-and-decisions/final-permit-decisions-for-sites-under-industrialemissions-directive/south-west-wales/drax-abergelli/?lang=en>.
- 4.14.4. I asked NRW, the Applicant and CCS a number of key questions about the air quality and emissions performance of the Proposed Development in operation in ExQs1 [PD-005(3)] and ExQs2 [PD-006].

Policy considerations

- 4.14.5. The AQD is applicable.
- 4.14.6. Paragraph 5.2.1 of EN-1 acknowledges that infrastructure development can have adverse effects on air quality. Paragraph 4.10.1 of EN-1 states that:

'Issues relating to discharges or emissions from a proposed project which affect air quality, water quality, land quality and the marine environment, or which include noise and vibration may be subject to separate regulation under the pollution control framework or other consenting and licensing regimes'.
- 4.14.7. Section 4.13 of EN-1 advises how Applicants should approach an assessment of how schemes could have an effect on the health and well-being of human beings for each element of the proposed development. Paragraph 4.13.1 of EN-1 provides that:

'Energy production has the potential to impact on the health and wellbeing of the population',

- 4.14.8. It advises that Applicants should assess these effects for each element of the proposed project and identify measures to avoid, reduce or compensate for these impacts as appropriate.
- 4.14.9. Section 4.14 of EN-1 highlights the need for consideration of sources of emissions which could constitute a potential nuisance under Section 79(1) of the Environmental Protection Act 1990.
- 4.14.10. Section 2.5 of EN-2 confirms that the guidance contained in EN-1 should be followed in respect of emissions from fossil fuel generating stations.
- 4.14.11. Chapter 6: Air quality of the ES [APP-042] provides detailed information on European legislation and Welsh regulations on air quality and sets out the national standards for the protection of human health and vegetation.

Applicant's response

- 4.14.12. ES Chapters 6 and 15 [APP-042] and Appendix 6.1 [APP-044] assessed the potential effects of the Proposed Development on ambient air quality. This included the effects of the following pollutants:
- oxides of nitrogen (NO_x) and (CO) emitted from the gas turbines via the Stack during operation; and
 - NO_x and particulate matter (PM₁₀ and PM_{2.5}) associated with vehicle movements during construction, operation and decommissioning of the proposed development.
- 4.14.13. The Applicant identified no relevant exceedances are predicted and so no air quality measures over and above those provided for in the DCO are necessary. CCS raised an issue about internal stack diameter not being secured in the DCO. The Applicant confirmed air quality modelling was not based on internal stack diameter and it was agreed that internal stack diameter does not need to be secured in the DCO [EV-004].
- 4.14.14. The Applicant's assessment did specifically consider the potential for temperature inversion to affect the dispersion of emissions, and the Applicant does not consider that the local meteorological conditions will prevent appropriate dispersion at the Proposed Development site [REP4-005].
- 4.14.15. The effects of the Project on climate change from emissions have been assessed in Chapter 6: Air Quality. The Applicant stated at paragraph 15.4.1 that:

"The Project's carbon emissions are considered marginal in relation to overall UK emissions and, therefore, considering current policy, impacts on climate change from carbon dioxide emissions are not considered significant."

ExA conclusions

- 4.14.16. Whilst air quality was raised by a number of IP's due to concerns about emissions and dispersal, NRW as the relevant regulator has been clear that it sees no reason why the Proposed Development should not be fully compliant with all relevant policies and standards. NRW has issued an EP for operation to meet NRW requirements on the 18 January 2019.
- 4.14.17. I am satisfied that the AQD will be met by the proposed emissions. I am also satisfied that relevant EN-1 and EN-2 policy and Welsh Government policy in particular climate change obligations will be met and the LDP policies ER1 on climate change and RP3.

4.15. NOISE AND VIBRATION

Issues

- 4.15.1. This topic engages with noise and vibration arising from construction, operation and decommissioning activities arising from the Proposed Development. It only engages with the gas connection alignment and the electricity connection alignment to the extent necessary to address cumulative impact considerations.
- 4.15.2. No in principle concerns were raised about noise and vibration by government agencies, specifically NRW or by CCS, on the basis that mitigation embedded in the draft DCO would be provided. CCS did raise some concerns regarding the rating levels set out in Table 3 of Requirement 25 and by the start-up and shut down periods of half an hour each side of the working day in Requirement 23 [REP1-021].
- 4.15.3. Following further explanation from the Applicant [REP2-003], CCS were satisfied that the approach taken by the Applicant is considered to be acceptable given the rationale for the ratings was explained and as a result, CCS do not consider that the levels indicated would result in any noise issues to surrounding properties [REP4-027].
- 4.15.4. CCS reconsidered their position in respect of a shut-down period and withdrew their objection to the incorporation of a shut-down period within the DCO, for the specified time indicated [REP4-017]. CCS were satisfied with the inclusion of the items of equipment indicated which would be cross referenced in the CEMP [REP4-010].
- 4.15.5. At the end of the Examination, the start-up period was still a matter of contention between CCS and the Applicant.
- 4.15.6. General concerns about noise were raised by a number of local resident and community IPs as follows:
- Mr Michael Edwards [RR-001];
 - Mawr Ward councillor [RR-004];
 - Mr Rasbridge [RR-005];
 - Mr Mark Adams [RR-016];
 - Alyson Adams [RR-017]; and
 - Claire Thatcher [RR-020].

- 4.15.7. I asked the Applicant and CCS several questions about the noise emissions of the Proposed Development in operation in ExQs1 [PD-005(3)] and ExQs2 [PD-006].

Policy considerations

- 4.15.8. Section 5.11 of NPS EN-1 notes that excessive noise can result in adverse effects on a range of receptors including human life, wildlife and biodiversity. Paragraph 5.11.9 of EN-1 states that development consent should not be granted unless significant adverse noise impacts on health and quality of life are avoided and other adverse impacts are mitigated and minimised. The paragraph also advises that the decision maker must be satisfied that, where possible, proposals contribute to improvements to health and quality of life through the effective management and control of noise.
- 4.15.9. Section 2.7 of NPS EN-2 observes that fossil fuel generating stations can generate noise.
- 4.15.10. TAN 11 Noise, provides advice on how the planning system can be used to minimise the adverse impact of noise without placing unreasonable restrictions on development or adding unduly to the costs and administrative burdens of business. It outlines some of the main considerations which local planning authorities should take into account in drawing-up development plan policies and when determining planning applications for development which will either generate noise or be exposed to existing noise sources.
- 4.15.11. CCS LDP policy RP2 seeks to protect public health and amenity and safeguard the environment from adverse noise effects. [REP4-025].

Applicant's response

- 4.15.12. ES Chapter 7 (noise and vibration) [APP-042] and [APP-043] sets out an assessment of the noise and vibration impacts of the Proposed Development. A key finding there is that the Proposed Development would be constructed and would operate in an acoustic context provided by the embedded mitigation.
- 4.15.13. The Applicant stated that:

"due to the application of embedded mitigation there are no more than minor adverse noise and vibration effects at all Noise Sensitive Receptors (NSRs) during the construction phase, which are not significant. Therefore, no further additional mitigation or monitoring measures are required"[APP-042].
- 4.15.14. The Applicant concluded that at night, there is predicted to be at worst, minor adverse effects, with the exception of Noise Sensitive Receptor 1 (NSR 1):

"The ambient sound level at NSR 1 after inclusion of the Generation Equipment produces a moderate significance of effect due to the pre-

existing high ambient levels at that location. However, the addition of the power station noise causes the ambient level at NSR 1 to increase by only 1 dB” [APP-042].

- 4.15.15. The Applicant considered such an increase would not be considered to be significant therefore the impact of the scheme on the sound environment is negligible. The Applicant therefore concluded that the effect of the operation of the Generation Equipment is therefore not significant.
- 4.15.16. The DCO was amended for Deadline 1 [REP1-015] to include a definition of "shut down period" and "start-up period" to define the activities that can be carried out during the period set out in Requirement 23 of the draft DCO.
- 4.15.17. The Applicant explained that during the start-up period, normal construction works would not be taking place. This was intended to allow construction workers to arrive on site, attend toolbox talks and collect their PPE [REP4-010].
- 4.15.18. The Applicant has proposed the following mitigation in the DCO to address operational-related noise impacts:
- Requirement 25 sets limits for the control of noise in the operational phase.

ExA conclusions

- 4.15.19. I am content that the measures described in the ES and secured in the Recommended DCO (Appendix D) are sufficient to ensure compliance with the NPS and LDP policies identified in this section during the construction period.
- 4.15.20. Construction noise effects are appropriately regulated in the CEMP (R17). The definition of start up in Article 2:
- "start-up period" means the period set out in requirement 23 during which construction workers may arrive at site, sign in, don personal protective equipment, attend safety and other briefings and mobilise on site but during which no plant or machinery may be operated;"*
- is sufficiently clear to allay any concerns regarding noisy activities between 07:30 and 08:00.
- 4.15.21. Requirement 25 control of noise in the operational phase will ensure that noise levels at receptors would be acceptable. I am persuaded that the Requirement 25 will appropriately manage operational noise, that levels at relevant receptors (local dwellings) should not become non-compliant as a consequence of the development, but that action through the COPA 1974 regime will be sufficient to address any exceedances that do occur [REP1-021].
- 4.15.22. Given the evidence presented, I believe that noise and vibration issues have been addressed adequately and meets the requirements specified in 5.11 of NPS EN-1, TAN 11 and CCS LDP Policy RP 2.

4.16. BIODIVERSITY ISSUES

4.16.1. NRW in their Relevant Representation [RR-025] on 2 August 2018 raised specific concerns regarding:

- Bats;
- Water Voles/Otters; and
- Lighting.

4.16.2. Under Requirement 11(2), NRW requested that reference should be included on the need to obtain a European Protected Species (EPS) licence (under the Conservation of Habitats and Species Regulations 2017) if any roosting bats are found on site and affected by the development [REP1-026].

4.16.3. Water Vole and Otter Table 8.14 of the ES [APP-042] notes that:

"Habitat management will be undertaken to reduce the quality of the habitats for burrow/holts/couch creation".

4.16.4. NRW requested full details of the habitat that Water Voles and Otters may be displaced into, must be provided as part of the mitigation proposals. Additionally, alternative habitat must be suitable for the species and available to colonise in advance of being displaced. NRW noted that this detail is to be included within Requirements 3 and 9 (Ecological Management Plan) [REP1-026].

4.16.5. Requirement 8 refers to pre-construction ecological constraints surveys in relation to Water Vole and Otters, which NRW welcomed. NRW pointed out that any licensing requirements under The Protection Act 1992 however should be obtained from NRW's licensing department [REP1-026].

4.16.6. NRW pointed out that the OLS provided includes details of how lighting will be controlled across the site, and the outline LEMP [APP-036] does provide some detail on the proposed dark corridors. NRW stated that the lighting strategy will need to include a lighting plan which, along with the above, confirms the location of the lights, their specifications, where light spill measures will be deployed (e.g. hoods, cowls, timers, details of any lights on timing) and anticipated light spill. NRW noted that the provision of a lighting scheme has been included as separate DCO requirements for the construction phase under Requirement 17 (CEMP), and for the operational phase under Requirement 26 (Control of Artificial Light Emissions During Operation) [REP1-026].

4.16.7. Section 1.3 of NRW's WR [REP1-026], advised that:

"Details on any culverting and re-routing of watercourses, and riparian habitat retention/reinstatement will be required, as well as the measures that will be put in place to ensure that protected species can continue to

move along the watercourses. These should be provided within the appropriate DCO Requirements."

- 4.16.8. CCS considered that further information is required in order to adequately assess the mitigation measures and requested additional information in an updated LEMS [APP-036], which includes both mitigation measures and biodiversity enhancement measures. CCS maintained that these should seek to deliver a net ecological gain rather than simply being designed to only achieve damage limitation and/or like for like replacement [REP1-021].
- 4.16.9. CCS noted that the Outline LEMS [APP-036] seeks to illustrate the mitigation that has been incorporated into the landscape design. However, CCS believed that detail was lacking regarding the Ecological Mitigation Area in terms of how exactly it will be enhanced to mitigate for the loss of a variety of habitats. Apart from ponds and embedded landscape planting, it was unclear what other newly created habitats will be provided in mitigation. CCS also commented that an updated Invasive Non-native Species (INNS) survey would be required as part of the pre construction checks [REP1-021].
- 4.16.10. CCS considered that additional mitigation/ enhancement measures and clarification would be required to ensure that the scheme is acceptable in terms of its ecological impact [REP1-021].
- 4.16.11. A number of IPs raised general concerns about biodiversity:
- Peter Rasbridge [RR-005];
 - Wynne Watkins [RR-014] and
 - Kirsty Dando Thomas [RR-015].
- 4.16.12. I asked the Applicant, NRW and CCS a number of questions about the biodiversity and habitat effects of the Proposed Development in ExQs1 [PD-005(3)] and ExQs2 [PD-006]. It was also raised as a specific agenda item (Item 7.6) at the Environmental Matters ISH [EV-012].

Policy considerations

- 4.16.13. Section 4.3 of NPS EN-1 provides policy relevant to HRA. It is considered and responses to it are set out in Chapter 5 below.
- 4.16.14. Paragraph 5.3.3 of EN-1 states that an ES should clearly set out:
- 'any effects on internationally, nationally and locally designated sites of ecological or geological conservation importance, on protected species and on habitats and other species identified as being of principal importance for the conservation of biodiversity'.*
- 4.16.15. Paragraph 5.3.4 of EN-1 also requires the Applicant to:
- 'show how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests'.*

- 4.16.16. Impacts on the hierarchy of designated sites, European and nationally protected species and ancient woodlands are a key concern of NPS EN-1 in section 5.3. NRW initially raised concerns about the possibility of harm to protected species [RR-025].
- 4.16.17. NPS EN-2 contains no specific policy on natural environment impacts specific to gas generating stations.
- 4.16.18. NPS EN-4 section 2.21 seeks proposals for the reinstatement of land surface and avoidance or mitigation of natural environment harms in the consenting of a pipeline, but in this case, these are matters for the gas connection alignment planning permissions from CCS.
- 4.16.19. TAN 5 Nature Conservation and Planning provides advice about how the land use planning system should contribute to protecting and enhancing biodiversity and geological conservation.
- 4.16.20. CCS LDP policies ER1, ER 2, ER 8, ER 9, ER 10 and ER 11 are all relevant to biodiversity and habitats effects from the Proposed Development [REP4-025].

Applicant's response

- 4.16.21. Chapter 8 of the ES [APP-042] contained the biodiversity assessment and has identified ecological designated sites, habitats, species or ecosystems which may be affected by the Proposed Development and assessed the likelihood of significant effects. The chapter also considers potential effects from air quality, noise, water, landscape, and lighting on ecological receptors. A desk-based study has been undertaken for a 2 km radius for nationally designated sites (SSSI, SINCE) and 10 km for internationally designated sites (Ramsar, SAC, SPA). Designated sites for the 2 km and 10 km radius are illustrated in Figures 8.1-8.3 [APP-021].
- 4.16.22. The following ecological surveys [APP-016, 017, 038, 039 and 041] have been undertaken by the Applicant to establish the ecological baseline:
- Habitat survey;
 - Great crested newt survey;
 - Reptile survey;
 - Otter and water vole survey;
 - Dormouse survey;
 - Hedgerow;
 - Badger survey; and,
 - Bat roost assessment and activity survey.
- 4.16.23. Further to the embedded mitigation described in Section 3.11 of the ES [APP-042], the following additional mitigation will also be implemented:
- Ecological enhancement measures such as replacement habitats where possible via the Outline Landscape and Ecology Mitigation Plan (LEMP) secured via R3 and R9;

- Outline LEMS secured via R3 and R9;
- Surface Water Management Plan secured via R7; and
- Pre-construction surveys secured via R8.
- Updated INNS surveys and remedial action secured via R10.

4.16.24. The Applicant noted that roles and responsibilities for biodiversity management and protection are included within Section 2.1 of the CEMP [APP-036]. Ecological management is presented throughout the LEMS [REP1-016]. The CEMP and LEMS are secured by Requirements 17 and 9 respectively. Each point suggested for inclusion is detailed below, with reference to where within each of these two documents it is covered [REP2-003]:

- *"Risk assessment of potentially damaging construction activities is located within the pre-construction surveys and watching briefs in the LEMS [REP1-016] Appendices A-G;*
- *Identification of biodiversity protection zones are located within each relevant Appendix A-G of the LEMS [REP1-016];*
- *Practical measures and method statements are located within the LEMS [REP1- 016] Appendices A-G and throughout the CEMP [APP-036];*
- *The location and timing of sensitive works to avoid harm to biodiversity features is located within each relevant Appendix A-G of the LEMS [REP1-016];*
- *The times during construction when a specialist ecologist needs to be present on the site to oversee works are located within each relevant Appendix A-G of the LEMS [REP1-016];*
- *Responsible lines of communication are located within the CEMP Section 2.1 and CEMP Appendix A: Mitigation Register;*
- *The role and responsibilities on site of an ecological clerk of works is located within Section 2.1 of the CEMP [APP-036]and each relevant Appendix A-G of the LEMS [REP1-016]; and*
- *Use of protective fences, exclusion barriers and warning signs will be provided in the finalised LEMS, if required."*

4.16.25. The finalised LEMS will include:

- Aims and objectives of management;
- Prescriptions for management options;
- Details of the body or organisation responsible for implementation of the plan; and
- Reporting and implementation of remedial measures.

4.16.26. The Applicant argued it not possible to provide specific details as requested by NRW and CCS, as this is subject to confirmed start dates of construction, and contractor(s), in addition to the approval of CCS prior to construction commencing [REP2-003].

4.16.27. The Applicant pointed out that [REP2-003]:

"The Ecological Mitigation Area includes an area of marshy and acid grassland which will be created by reducing/removing the grazing on site thereby allowing the native botanical species to regenerate. The area will

grade into an area of native scrub which will in turn grade into native tree species that will form the western boundary, linking trees lines in the north to the Afon Llan in the south, as illustrated in the Landscape and Ecology Mitigation Plan (LEMP) ES Figure 3.6 [APP-021]. The finalised LEMS will include planting schedules, stocking densities and heights of trees. Standard techniques will be used to ensure survival of planted stock and monitoring to replace any areas of poor uptake."

4.16.28. The Applicant has amended Requirement 8 to require that pre-construction surveys are repeated where construction of the relevant work has not started within 2 years of the date of the survey. The Applicant considers that this provides sufficient certainty and robustness to address the concerns raised by CCS.

4.16.29. At paragraph 15.4.1 of the ES [APP-042] states:

"Examples of the potential ecological consequences of climate change include the shifting of species ranges, loss of species at the limits of their ranges, eventual disruption of ecological processes, and damage to the wider functioning of ecosystems. However, these effects can be lessened on species through the strengthening of ecological networks to allow species to migrate as the climate changes. The proposed ecological mitigation (see Chapter 8: Ecology) and landscaping scheme (see Chapter 11: Landscape and Visual Effects) for this Project seeks to strengthen connectivity in the wider area and would therefore contribute to the efforts to provide opportunities for species to migrate as the climate changes."

4.16.30. The Applicant identified no residual significant effects for each component of the Proposed Development, or as a whole, due to the embedded mitigation inherent within the design and the additional mitigation measures such as replacement habitats where possible via the LEMP (secured via Requirement 3 and Requirement 9), LEMS (secured via Requirement 3 and Requirement 9) and pre-construction surveys (secured via Requirement 8).

ExA conclusions

4.16.31. Given the evidence presented, I consider that biodiversity and nature conservation issues (including climate change) have been adequately assessed, and that the requirements of NPS EN-1 and TAN 5 are met.

4.16.32. CCS expressed its satisfaction with the LEMS Revision 4 [REP4-008] in Appendix D of [REP5-007].

The ExA is satisfied that NRW and CCS concerns regarding effects on biodiversity have been dealt with adequately by the Applicant via DCO Requirements 3, 7, 8, 9 and 10.

4.17. WATER QUALITY AND RESOURCES AND FLOOD RISK

Issues

- 4.17.1. NRW [RR-025] did not express concerns on water environment matters.
- 4.17.2. Dŵr Cymru / Welsh Water [RR-023] raised the following specific concerns for the potential impact on:
- Lower Lliw Reservoir;
 - Felindre Water Treatment Works;
 - Water quality and resources;
 - The structural integrity of DCC assets and apparatus;
 - DC's statutory rights of access to its watermains and associated apparatus;
 - DC's ability to fulfil its statutory obligations; and
 - DC's land and associated rights.
- 4.17.3. CCS [REP1-021] in their LIR did not express concerns on water environment matters. They concluded:

"The Council does not consider that the development raises any significant flooding or drainage issues that cannot be mitigated and the proposals are therefore considered to comply with emerging LDP policies in this regard."

Policy considerations

- 4.17.4. The WFD is applicable to the Proposed Development.
- 4.17.5. Section 5.15 of EN-1 advises that, where effects on the water environment are likely, an assessment of the existing status of, and impacts of a development on water quality, water resources and physical characteristics of the water environment should be undertaken. Construction mitigation measures through a CEMP and operational mitigation through the design of (amongst other things) a drainage scheme are encouraged.
- 4.17.6. Section 5.7 requires applications to be accompanied by a Flood Risk Assessment (FRA) (a Level 2 Flood Consequence Assessment in Wales).
- 4.17.7. TAN 15 Development and Flood Risk, provides technical guidance which supplements the policy set out in Planning Policy Wales in relation to development and flooding. It advises on development and flood risk as this relates to sustainability principles, and provides a framework within which risks arising from both river and coastal flooding, and from additional run-off from development in any location, can be assessed.
- 4.17.8. Policy RP 4 of the CCS LDP safeguards water quality from pollution associated with new development.

Applicant's response

- 4.17.9. An assessment of the Likely Significant Effects (LSE) on water quality, water resources and flood risk has been undertaken in Chapter 9 of ES [APP-042]. The study area adopted with respect to the water quality and water resources extends beyond the Project Site Boundary as illustrated in Figures 9.1 and 9.2 [APP-021]. The study area therefore includes the

area within the Project Site Boundary and a potential zone of influence (ZoI) which is defined as a distance over which significant effects on important water receptors/features can reasonably have the potential to occur. In this case, from the perspective of water receptors/features, this is defined as a 1 km buffer ZoI around the Project Site Boundary.

- 4.17.10. The Applicant undertook a desk study and Project Site walkover which identified a number of receptors (waterbodies) within 1 km of the Project Site Boundary, including the Afon Llan and its tributaries, ponds within the Project Site Boundary and several SINCs. The Loughor Estuary/Bury Inlet SAC is located 7 km from the Project Site Boundary. No part of the Generating Equipment Site is located within a flood risk zone, as designated by NRW. However, a small area on the periphery of the Generating Equipment Site's eastern boundary is within Zone B (previous evidence of historical flooding) of the TAN15 Development Advice Maps.
- 4.17.11. The Applicant at paragraph 15.4.1 of the ES states [APP-042]:
- "The topic of climate change has also been addressed in Appendix 9.1: Flood Consequences Assessment, which considers flood risk at the Project Site. An allowance has been made for climate change (predicted more frequent and/or more severe rainfall events than historically has been the case) in the attenuation storage calculations of 20% above the 1 in 100 year flood event. This will mean sizing of culverts in the drainage design to allow for these potential more severe rainfall events. The impacts on climate change from flooding are therefore not considered significant."*
- 4.17.12. The Applicant stated that:
- "no residual significant effects have been identified for each component of the Project, or the Project as whole due to the embedded mitigation inherent within the design. The Applicant concluded that no additional mitigation is required"* [APP-042].
- 4.17.13. In addition, NRW have agreed with the conclusions of the FCA [AS-009] and WFD Screening Assessment [APP-040] as part of their consultation responses to the 2018 PEIR [RR-025].
- 4.17.14. Dŵr Cymru / Welsh Water and the Applicant resolved all their specific concerns for the potential impact of the Proposed Development on their assets in a signed SoCG [REP5-006] before the end of the examination.
- 4.17.15. Requirements 2, 6, 7, 17 and 19 of the draft DCO [REP6-003] put in place mechanisms to manage water quality and resources during design, construction and operation.

ExA conclusions

- 4.17.16. A SoCG between Dŵr Cymru / Welsh Water and the Applicant [REP5-006 at sections 3.1-3.2] records all outstanding matters about the design and operation of the surface water works raised by Dŵr Cymru / Welsh Water as having been resolved to that body's satisfaction.

- 4.17.17. The ExA considers that the water quality and resource issues (including climate change) have been addressed adequately and meets the requirements of NPS EN-1 and TAN 15.
- 4.17.18. The requirements of WFD have been addressed adequately.

4.18. GEOLOGY, GROUND CONDITIONS AND HYDROGEOLOGY

Issues

- 4.18.1. CCS in their LIR [REP1-021] state the Proposed Development is located on land identified as safeguarded "Coal Resources" and "Sand and Gravel" resource. LDP Policy RP 12 applies. LDP Policy RP 12 states that:
- "The extraction of mineral resources will be permitted where they satisfy the following criteria: i. It can be demonstrated that there is a requirement for the mineral to meet the need of society either nationally, regionally or locally, and the need cannot be met from secondary or recycled materials or existing reserves;"*
- 4.18.2. CCS requested a full assessment of the potential mineral resources and the impact of the proposal on sterilising the mineral resource [REP1-021].
- 4.18.3. No other IPs raised this as an issue in their submissions to the examination.
- 4.18.4. I asked the Applicant and CCS a number of questions about the potential for the sterilisation of coal and aggregate reserves by the Proposed Development in ExQs1 [PD-005(3)]. It was also raised under specific agenda items (Items 8.2 and 9.2) at the Environmental ISH [EV-012].

Policy considerations

- 4.18.5. Paragraph 5.3.4 of NPS EN-1 requires the applicant to show how the project has taken advantage of opportunities to conserve and enhance geological conservation interests.
- 4.18.6. Policies RP 12 and RP 13 of the LDP are mineral safeguarding specific policies, and require assessment of coal, sand and gravel extraction [REP4-023].

Applicant's response

- 4.18.7. The Project is located within areas identified as mineral reserves within the CCS LDP, as shown on ES Figure 2.1 [APP-021]. Almost all of the land enclosed by the Order Limits for the Proposed Development is within an area of allocated coal reserves, the only exception being the existing access road from the B4489 (Work No 2).

- 4.18.8. Construction and operation of the Proposed Development would result in the sterilisation of coal mineral resources beneath the footprint during the operational lifespan. The Applicant stated:

"the mineral resource will remain intact and would be available to future generations beyond the lifespan of the development. Additionally, the extraction of coal by underground mining methods is not likely to be acceptable based on the existing NGG and electricity infrastructure that are located in the local area" [REP1-010].

- 4.18.9. The Applicant agreed that a Minerals Resource Survey will be undertaken before construction which is secured by Requirement 15 (Mineral Resources Survey) and Requirement 28 requires the Applicant to have regard to the outcome of the mineral resources survey when preparing the decommissioning plan).

ExA conclusions

- 4.18.10. I am satisfied that Requirement 15 addresses CCS concerns and is compliant with LDP Policies R 12 and R13.
- 4.18.11. I am satisfied that an adequate assessment of Geology, Ground Conditions, and Hydrogeology has been undertaken and that it meets the requirements of section 5.3 of EN-1.

4.19. TRAFFIC, TRANSPORT AND ACCESS

Issues

- 4.19.1. Royal Mail [RR-010] was concerned that its future ability to provide an efficient mail sorting and delivery service to the public in accordance with its statutory obligations may be adversely affected by the construction and operation of this proposed new Power Station. In order to address this, Royal Mail requested that:
- a. *"The forthcoming DCO application offers a requirement that Royal Mail is pre-consulted by Abergelli Power Limited on any proposed road closures/ diversions/ alternative access arrangements, hours of working and the content of the final Constriction Traffic Management Plan (CTMP).*
 - b. *The forthcoming DCO application offers a requirement that the final CTMP includes provision for a mechanism to inform major road users about works affecting the local network (with particular regard to Royal Mail's distribution facilities in the vicinity of the DCO application site)".*
- 4.19.2. Concerns about traffic and transportation were raised by local resident and community IPs as follows:
- Mawr Ward Councillor [RR-004] had concerns that the construction traffic would have a significant impact upon local residents;

- Michael Edwards [RR-011] believed the Applicant failed to consider alternatives for the access road. The access road crosses Mr Edwards land; and
- Mark Adams [RR-016] had general concerns about traffic.

4.19.3. I asked the Applicant and CCS a number of questions about the traffic impacts of the Proposed Development in ExQs1 [PD-005(3)].

Policy considerations

4.19.4. Section 5.13 of EN-1 identifies the traffic and transport effects that can arise from energy infrastructure developments. Paragraph 5.13.3 of EN-1 calls for the assessment of transport and traffic conditions using methodologies agreed with the relevant national and local highways and transportation authorities and for the securing of mitigation to address adverse effects.

4.19.5. At paragraph 2.5 of TAN 18 Transport Planning it states:

"To achieve a more sustainable pattern of development it is necessary to understand the interactions and linkages between land use and transport and devise integrated strategies, objectives and policies at the national, regional and local levels. At regional level, collaborative work by local authorities is seen in area work for the Wales Spatial Plan (WSP) and through Regional Transport Plans (RTPs). At local level, this means ensuring that strategies, objectives and policies in community strategies, development plans, health, social care and well-being strategies and other relevant strategies and plans are consistent, complementary and integrated."

Applicant's response

4.19.6. ES Chapter 12 Traffic [APP-042] considers the impacts of traffic generated by the Proposed Development. The assessment confirms that there will be some temporary adverse effects in relation to increased Heavy Goods Vehicle (HGV) movements during the construction period.

4.19.7. An Outline CTMP (ES Appendix 3.3a, [APP-036]) provides measures to manage construction traffic and minimise adverse impacts. The Outline CTMP (ES Appendix 3.3a, APP-036) section "Local Services" (para 3.3.9) includes the commitment that during the construction period the contractor and haulage company will make all reasonable efforts to work with local service providers, including Royal Mail, to ensure that disruption caused by Abnormal Indivisible Load (AIL) deliveries is avoided [REP1-010].

4.19.8. The CTMP is secured via Requirement 21 of the draft Development Consent Order [REP6-003] "Construction Traffic Management Plan". The DCO, through Requirement 21 and the CTMP, therefore secures consultation with Royal Mail, as sought by them.

- 4.19.9. A transport assessment has been undertaken by the Applicant and identifies effects to the highway network, road safety and accessibility (Chapter 12 of the ES, [APP-042]). Significant effects have been predicted during the construction and decommissioning phase from the Project, although these would be temporary.
- 4.19.10. An Outline CEMP (ES Appendix 3.1, [APP-036]) and OCTMP (ES Appendix 3.3a, [APP-036]) have been prepared. These are strategic documents that set out best practice methods to minimise environmental impacts during construction and the management of material movements and interactions with the surrounding road network during the various stages of the construction process.
- 4.19.11. An Outline Construction Staff Travel Plan (CSTP) (ES Appendix 3.3b, [APP-036]) has also been prepared to outline the management of staff movements during the various stages of the construction process. These preliminary documents will be finalised and adopted by the Contractor for implementation on site, once the content has been agreed with CCS.
- 4.19.12. The Applicant argued that there is no requirement for an Applicant to provide environmental information on every alternative suggested by an interested party. The Applicant believes they have complied with the requirements of the Infrastructure Planning (EIA) Regulations 2009 to provide information on the:

"main alternatives studied by the Applicant and an indication of the main reasons for the Applicant's choice, taking into account the environmental effects".

ExA conclusions

- 4.19.13. Whilst concerns were expressed in representations, I am content that the Proposed Development does not give rise to substantial traffic and transportation impacts. It should also be recorded that in comparison with other issues raised in the Examination, the levels of concern raised about these issues were not high.
- 4.19.14. I am satisfied that the traffic and transportation assessment set out in the ES is sound. I am satisfied that the mitigation measures including a CTMP secured under Requirement 21, the regulation of construction hours under Requirement 23 and the preparation of the CSTP (secured via Requirement 22) will mitigate the adverse effects of the Proposed Development to the extent required to meet NPS EN-1 paragraph 5.13.3 and TAN 18.

4.20. HISTORIC ENVIRONMENT

Issues

- 4.20.1. The Proposed Development contains no historic assets although one scheduled monument, one listed building and 26 non-scheduled monuments are present within the 1 km study area, and 16 Scheduled Monuments, 54 Listed Buildings (all grades), two Conservation Areas and

three Registered Historic Parks and Gardens are present within the 5 km study area (Figures 13.1 and 13.2 [APP-024]).

- 4.20.2. CCS concluded that subject to Requirement 13 Archaeology being included within DCO in line with paragraph 16.29 of the LIR [REP1-021], and subject to any CADW comments that are submitted directly to the ExA, the proposal is considered to comply with the LDP policies HC1, HC2 and PS2.
- 4.20.3. CADW agreed with the conclusions of the Preliminary Environmental Impact Report (PEIR) on the impact of the proposal to the historic assets identified within the study area [APP-061]. It did not make any submissions to the examination.
- 4.20.4. I asked the Applicant and CCS a number of questions about the historic environment impacts of the Proposed Development in ExQs1 [PD-005(3)]. I undertook an ASI, on 14 December 2018 to view the site from the surrounding countryside [EV-008].

Policy considerations

- 4.20.5. NPS EN-1 sets out policy for the historic environment at section 5.8. No issues of non-compliance were raised and so, whilst considered, this policy is not discussed in detail. NPS EN-2 raises no historic built environment issues that are particular to gas combustion plant. NPS EN-4 similarly raises nothing particular for the gas connection alignment, noting also that operation development there is not within this application.
- 4.20.6. The purpose of TAN 24 Historic Environment is to provide guidance on how the planning system considers the historic environment during development plan preparation and decision making on planning and Listed Building Consent (LBC) applications.

Applicant's response

- 4.20.7. The potential effects from the Project on the historic environmental resource of the Proposed Development and surrounding area were assessed in Chapter 13 of the ES [APP-042]. A 1 km study area for the desk-based assessment of historic assets and further consultation with CCS and Glamorgan-Gwent Archaeological Trust (GGAT) was undertaken as illustrated in Figure 13.2 [APP-024].
- 4.20.8. The Applicant prepared a Zone of Theoretical Visibility (ZTV) based on the realistic worst-case scenario of a 45 m stack was prepared for the landscape and visual chapter and has informed the assessment of designated historic assets. The study area for the assessment of designated historical assets is 5 km [APP-024].
- 4.20.9. No residual significant effects have been identified for each component of the Proposed Development, or cumulatively due to the embedded mitigation inherent within the design.

ExA conclusions

- 4.20.10. Policy on the assessment of the historic environment within EN-1 and TAN 24 has been followed by the Applicant.
- 4.20.11. In my view there is minimal potential for residual effects on the setting of historic assets within the Study Areas. A programme of archaeological mitigation prior to construction, secured via Requirement 13 [REP6-003], combined with the distance to sensitive receptors and local topography will mean that these residual effects are unlikely to be significant.

4.21. ECONOMIC AND SOCIAL IMPACTS

Issues

- 4.21.1. CCS accepted [REP1-021] the overall conclusions of Chapter 14 of the ES [APP-042]. The scope and parameters of the assessment of effects on tourism were not agreed, as CCS considers these were too restrictive [REP3-010].
- 4.21.2. No other submissions were made by IPs on this issue.
- 4.21.3. I asked the Applicant a number of questions about the socio-economic impacts of the Proposed Development in ExQs1 [PD-005(3)].

Policy considerations

- 4.21.4. Paragraph 3.2.1 of NPS EN-1 identifies the generally positive socioeconomic effects derived from electricity generation to meet nationally identified energy needs at the national level. Paragraph 5.12.1 of EN1 identifies that there may be local impacts that are both positive and adverse.
- 4.21.5. Paragraph 15.12.6 of NPS EN-1 requests the SoS to have regard to the potential socio-economic impacts of new energy infrastructure identified by the Applicant and from any other sources that he considers to be both relevant and important. Paragraph 15.12.7 emphasises that in view of the need for electricity generation infrastructure, 'limited weight is to be given to assertions of socioeconomic impacts that are not supported by evidence'. Paragraph 15.12.8 asks the SoS to consider 'any relevant positive provisions the developer has made or is proposing to make to mitigate impacts'.
- 4.21.6. TAN 23 Economic Development, at paragraph 1.1.1 states:

"It is important that the planning system recognises the economic aspects of all development and that planning decisions are made in a sustainable way which balance social, environmental and economic considerations."

Applicant's response

- 4.21.7. Chapter 14 of the ES [APP-042] provides an assessment of the likely socio-economic effects on the labour market, tourism economy, and

community infrastructure arising from the Proposed Development. The socio-economic study area is based on drive time catchment areas from the Proposed Development.

- 4.21.8. The Applicant identified the 'local area' as being within a 30-minute drive time; 'wider area' within a 45-minute drive time; and 'wider region' within a 60-minute drive time. This study area has identified a readily available labour force, with a high number of manual labourers.
- 4.21.9. The tourism / business survey study area is limited to a 10 km radius of the Project as this is where the majority of impacts are anticipated. A desk-based study was undertaken which identified a limited number of tourist attractions within the site, which are the Cwm Clydach Nature Reserve, National Cycle Route 43 and the Teamforce Paintball and Laser Tag Activity Centre.
- 4.21.10. The Socio-economic Chapter Clarificatory Note (Annex B of the SoCG [REP1-003]) explains the rationale adopted by the Applicant in determining the scope and parameters of the tourism business survey and the assessment of tourism effects, both presented in Chapter 14 of the ES [APP-042].
- 4.21.11. The Applicant considered that the Proposed Development will not have any significant adverse effects on tourism and recreation receptors in the area during construction or operation. Beneficial employment effects can however be enhanced through linkages with job centres, colleges, employability programmes and engagement with local construction firms and other supply chain companies [APP-042]

ExA conclusions

- 4.21.12. I have concluded that the Applicant has had adequate regard to the socio-economic impacts of the proposal and has provided sufficient evidence to support its assertions on the impacts.
- 4.21.13. Given the evidence presented, the I conclude that the proposal has adequately addressed the requirements of EN-1 and TAN 23 and would not have significant deleterious effects socially or economically. It also has the potential to support economic development in the area in line with the policies of CCS which weighs positively in the overall balance for the Proposed Development.

4.22. COMBINED HEAT AND POWER (CHP) READINESS

Issues

- 4.22.1. As a matter of policy, an application of this nature is required to be CHP ready. No IPs raised any concerns regarding CHP readiness during the course of the examination.

Policy considerations

- 4.22.2. Paragraph 4.6.6 of NPS EN-1 states that:

'Under guidelines issued by DECC (then DTI) [now BEIS] in 2006 any application to develop a thermal generating station under Section 36 of the Electricity Act 1989 must either include CHP or contain evidence that the possibilities for CHP have been fully explored to inform the [Secretary of State's] consideration of the application ... The same principle applies to any thermal power station which is the subject of an application for development consent under the Planning Act 2008.'

4.22.3. EN-1 (at paragraph 4.6.8) states:

"If the proposal is for thermal generation without CHP, the Applicant should:

Explain why CHP is not economically or practically feasible for example if there is a more efficient means of satisfying a nearby domestic heat demand;

Provide details of any potential future heat requirements in the area that the station could meet; and

Detail the provisions in the proposed scheme for ensuring any potential heat demand in the future can be exploited."

4.22.4. Since publication of the CHP Guidance, NRW has published its own 'CHP Ready Guidance for Combustion and Energy from Waste Plants' (2014) (CHP-R Guidance). This guidance states (in Section 1.2) that:

"When consulted by the Planning Authorities on relevant consent applications for new plants, Natural Resources Wales will highlight the need for the plant to be CHP or CHP-R and will make reference to this CHP-R Guidance. Where a DCO is required, Natural Resources Wales will additionally comment on the results of the CHP Assessment."

Applicant's response

4.22.5. The CHP Technical Note Appendix 5.1 submitted with the application [APP-037] identifies that OCGT technology has been selected for the Project. The Technical Note on CHP summarises why further investigation into use of waste heat is not being undertaken and provides evidence as to why the proposed thermal generating station should be excluded from being CHP-Ready.

4.22.6. The Applicant argues that there are four prohibitive barriers to the application of CHP for the Project [APP-037]:

- 1) "There is no existing regional heat market. From local searches, there are no suitable heat users of applicable scale available and no heat users able to accept the unpredictable supply of heat available.*
- 2) No potential future heat requirements in the area have been identified and none that would match the operational pattern of a Peaking Plant.*
- 3) The intermittent and peaking modes of operation of OCGT are incompatible with the likely continuous demands of heat users. Because of the lack of applicable heat demands, provisions in the*

proposed scheme for exploiting any potential heat demand in the future can be excluded.

- 4) *OCGT plants do not produce steam as part of the electricity generating process and therefore the provision of CHP capability would require the addition of steam raising plant resulting in an increased capacity tariff (£/kW/year) and additional technical challenges."*

ExA conclusions

- 4.22.7. I am content that the Applicant's Technical Note on CHP [APP-037] demonstrates that the Proposed Development does not need to undertake further investigation of CHP for the proposed thermal generating station and provides evidence as to why the proposed thermal generating station should be excluded from being CHP- Ready. This is sufficient to ensure that the requirement of NPS EN-1 paragraph 4.6.8 is met.

4.23. OTHER MATTERS

- 4.23.1. I have given consideration to all other matters arising from the application documentation and raised in representations. I confirm that there are no other matters that appear to be important and relevant to the SoS decision that would indicate against the grant of development consent or would indicate a need to change the DCO.

5. FINDINGS AND CONCLUSIONS IN RELATION TO HABITATS REGULATIONS ASSESSMENT

5.1. INTRODUCTION

- 5.1.1. The SoS is the competent authority for the purposes of the Habitats Directive²⁸ and the Habitats Regulations²⁹. Regulation 63 of the Habitats Regulations states that if an application proposal is likely to have a significant effect on a European Site designated under the Habitats Regulations³⁰ (either alone or in-combination with other plans or projects), then the competent authority must undertake an appropriate assessment of the implications for that site in view of its conservation objectives.
- 5.1.2. Section 4.3 of NPS EN-1 describes the approach that should be taken by the decision-maker in relation to the Habitats Regulations. For the purposes of land-use planning, PPW states that potential Special Protection Areas (SPA), candidate Special Areas of Conservation (cSAC) and listed Ramsar sites should be afforded the same protection as classified SPAs and designated SACs.
- 5.1.3. Consent for the Proposed Development can only be granted if the competent authority's appropriate assessment concludes that the integrity of European sites would not be adversely affected, subject to Regulation 64 (considerations of overriding public interest).
- 5.1.4. With an aim to ensure that the SoS has such information as may reasonably be required to carry out their duties as the competent authority, throughout the Examination evidence has been sought from the Applicant and the relevant IPs through written questions and ISHs. I issued a Report on the Implications for European Sites (RIES) [PD-008] on the 4 March 2019.
- 5.1.5. Consultation on the RIES was undertaken between 4 March 2019 and 4 April 2019. The RIES was issued to ensure that IPs, including NRW, had been consulted formally on Habitats Regulations matters. This process may be relied on by the SoS for the purposes of Regulation 63(3) of the Habitats Regulations.

²⁸ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as codified) (the 'Habitats Directive').

²⁹ The Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations').

³⁰ Sites of Community Importance (SCIs), Special Areas of Conservation (SACs), candidate SACs, Special Protection Areas (SPAs); and under UK policy, potential SPAs and listed Ramsar sites.

5.2. PROJECT LOCATION

- 5.2.1. As described in Chapter 2 above, the Proposed Development comprises a OCGT power station with an electrical generation capacity of up to 299MW. The necessary consent(s) for the gas and electrical connections will be sought separately from the DCO Application.
- 5.2.2. The Proposed Development is located near to the village of Felindre, Swansea. It is not located within or adjacent to any European sites. However, the Afon Llan lies adjacent to the southern extent of the Proposed Development boundary and is a tributary of the Afon Lliw, which flows into Camarthen Bay and Estuaries SAC and Burry Inlet SPA and Ramsar.
- 5.2.3. The Applicant identified two impact pathways for potential effects to European sites. These pathways were: through changes to water quality from construction activities affecting Carmarthen Bay and Estuaries SAC and Burry Inlet SPA and Ramsar; and changes in air quality from operational aerial emissions of nitrogen oxides (NOx) from the power station affecting Crymlyn Bog SAC and Ramsar, Carmarthen Bay and Estuaries SAC and Burry Inlet SPA and Ramsar through nitrogen deposition and/or acidification. In addition, impacts from increased transport related emissions to air were considered in-combination with other plans and projects. The Applicant's No Significant Effects Report (NSER) took into consideration all European sites within 10km of the Proposed Development, specifically the proposed location of the stack, on the grounds of the likely geographical extent of the potential effects identified.

5.3. HRA IMPLICATIONS OF THE PROJECT

- 5.3.1. The Applicant provided a NSER entitled 'The Abergelli Power Gas Fired Generating Station Order: No Significant Effects Report' [APP-066] with the DCO application. The SoS considered that the information provided in the NSER was sufficient to accept the application for Examination on 21 June 2018 [PD-002].
- 5.3.2. The Proposed Development is not connected with or necessary to the management for nature conservation of any of the European site(s) considered within the Applicant's assessment.
- 5.3.3. As noted above, the Applicant scoped their assessment by identifying European sites within 10km of the Proposed Development. The European sites considered in the NSER are listed in Table 2.1 of the RIES [PD-008]. In response to my FWQ 1.6.18 [PD-005(3)] NRW [REP1-026] confirmed that they considered the 10km study area acceptable and that the correct sites and features had been identified. This response also confirmed that the appropriate LSE had been identified and that they were in agreement with the scope and methodology of the in-combination assessment presented in the NSER.

- 5.3.4. NRW did not identify any other UK European site or European site features that could be affected by the Proposed Development. No other European sites and features have been identified as being potentially affected by the Proposed Development by any other party.

5.4. ASSESSMENT OF LIKELY SIGNIFICANT EFFECTS (LSE)

- 5.4.1. The Applicant's NSER [APP-066] identified the following European site(s) (and features) for which the UK is responsible for inclusion within the assessment:

- Crymlyn Bog SAC
- Crymlyn Bog Ramsar
- Carmarthen Bay and Estuaries SAC
- Burry Inlet SPA
- Burry Inlet Ramsar

- 5.4.2. The designated features of these sites that were considered in the Applicant's assessment are listed in Table 2.1 of the RIES [PD-008].

- 5.4.3. The NSER considered effects from the Application proposal both alone and in-combination with other plans and projects. The plans and projects screened for in-combination effects are listed in Annex 1 of the RIES [PD-016]. The gas and electrical connections were considered as part of the Proposed Development for the purposes of the assessment of effects on European sites in the Applicant's NSER [APP-066]. No concerns were raised by IPs during the Examination about the scope of the Applicant's in-combination assessment. In response to my FWQ NRW [REP1-026] and CCS [REP1-024] confirmed agreement with the scope of the in-combination assessment.

- 5.4.4. The Applicant concluded that the Application proposal would not be likely to lead to significant effects on any European sites either alone or in combination with other plans or projects [APP-066]. This was on the grounds that:

- Water quality – the dilution factor that would occur between the Proposed Development and the hydrologically linked European Sites will result in negligible pollution impacts.
- Air quality – the increase in atmospheric concentrations of NO_x associated with the Proposed Development are forecast to be below the Critical Level. The increased rate of nitrogen deposition associated with the Proposed Development is subsequently calculated to be negligible as a percentage of the Critical Loads (thresholds under which effects should not arise) for the European sites' habitats.
- In-combination effects – no water quality inputs during construction have been identified which could act in combination with other plans and projects. Operational wastewater discharges are expected to be so small as to be immeasurable in combination with other plans and projects. For air quality no LSE from traffic emissions would arise given the low contribution to traffic flows from the Proposed

Development and the distance between affected roads and the European sites. No other point source emissions were identified which could act in combination with the Proposed Development.

- 5.4.5. In response to my FWQ during the examination, minor discrepancies in the NSER submitted at application were addressed by the Applicant who provided an updated NSER [REP1-011], submitted to the ExA on 9 November 2018. The updated NSER did not change any of the conclusions in relation to LSE put forward by the Applicant.
- 5.4.6. As reported in Section 5.1 of the RIES [PD-008], clarification was sought during the Examination as to whether the conclusions of the assessment of LSE would be affected should avoidance and mitigation measures for the protection of watercourses and water quality described in the NSER not be in place. The clarification was sought following the *People Over Wind, Peter Sweetman v Coillte Teoranta (2018)* ('the Sweetman Judgement') issued on 12 April 2018. This ruled that mitigation measures (referred to in the judgement as measures which are intended to avoid or reduce effects) should be assessed within the framework of an appropriate assessment 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 at the point of determining LSE (normally referred to as the HRA screening stage). In its response to FWQ [REP1-010] the Applicant stated that the conclusions of the NSER would not be affected and clarified that the mitigation measures were not intended to reduce or avoid effects on the European sites. The Applicant stated that these measures are proposed to protect local watercourses during construction and to control operational discharges in order to meet criteria applicable to the Environmental Permitting Regulations.
- 5.4.7. I further explored the approach taken by the Applicant in relation to the mitigation measures in the assessment of LSE at the Environmental Matters ISH held on 13th December 2018. The Applicant [REP3-006] records NRW as being in agreement with this position. No further representation was made separately by NRW on this matter. The findings of no LSE are also recorded as being accepted by CCS [REP3-006]. Both NRW [REP1-026] and CCS [REP1-024] confirmed agreement with the findings of the NSER prior to the ISH.
- 5.4.8. Other questions were raised in my FWQ around the assessment of impacts from construction dust, traffic emissions, and the conclusion of no LSE in relation to Crymlyn Bog SAC and Ramsar site where the background level of nitrogen deposition is stated in the ES [APP-042] and in the NSER [APP-066] as already in exceedance of the Critical Load. The NSER [APP-066] concludes that the contribution of the Proposed Development is so small that there would be a negligible increase against the Critical Loads for the SAC and Ramsar site habitats. The Applicant provided responses to these questions to clarify the assessments undertaken and the evidence that supports the conclusion of no LSE [REP1-10]. NRW confirmed agreement with the Applicant's conclusions and expressed their opinion that the conservation objectives of Crymlyn

Bog SAC would not be affected [REP1-026]. No other parties had any further comment.

- 5.4.9. Following the publication of the RIES [PD-008] the Applicant [REP6-002], NRW [REP7-006], and CCS [REP7-005] confirmed that they had no comments on its content and were not seeking any amendments.

5.5. HRA CONCLUSIONS

- 5.5.1. Drawing from the information provided in the application, with specific reference to the ES and the NSER together, and taking full account of the responses to relevant written questions and oral questions at ISHs into account, I have summarised my understanding of HRA-relevant matters in the RIES [PD-008]. Consultation on the RIES in turn raised no new relevant or important issues or concern that runs against the conclusion of no likely significant effects on European Sites as set out in the NSER. Having taken all of this information into account, I am clear that the SoS has sufficient information available to discharge his obligations under the Habitat Regulations. The evidence suggests the Proposed Development does not give rise to any likely significant effects on European Sites, having applied the precautionary principle and on the basis that there is no reasonable remaining scientific doubt about them.

6. CONCLUSION ON THE CASE FOR DEVELOPMENT CONSENT

6.1. INTRODUCTION

6.1.1. This Chapter provides a balanced evaluation of the planning merits of the Proposed Development. It does so in the light of the legal and policy context set out in Chapter 3 and individual applicable legal and policy requirements identified in Chapters 4 and 5 above. It applies relevant law and policy to the application in the context of the evidence and issues set out in Chapter 4. Whilst HRA has been documented separately in Chapter 5, relevant evidence and issues set out in that chapter are taken fully into account.

6.1.2. In relation to the granting of development consent, I have reached several conclusions, as set out in the following paragraphs.

Need and Alternatives

6.1.3. The Applicant's approach to the need for the Proposed Development is established through the NPS. I am also satisfied that the alternative options for the siting of the proposed OCGT have been rigorously tested by the Applicant. The requirements of NPS EN-1, Climate Change Act 2008, Welsh Government policy contained in "Prosperity for All: A Low Carbon Wales, 2019" and the EIA Regulations in this regard have been met.

The Environmental Statement

6.1.4. The ES, together with the other information submitted by the Applicant during the Examination, is adequate and it meets the requirements under the EIA Regulations. A full account has been taken of all environmental information in the assessment of the application and in the recommendation to the SoS.

The Electricity Connection

6.1.5. The development of the electricity connection does not form part of the Application and planning permission has already been granted for it under the TCPA 1990 by CCS. The DCO does provide for the CA and TP of land required for the electricity connection alignment and provide related powers for the undertaker to facilitate the development of the consented alignment. To the limited extent appropriate to consideration of land alone and powers alone and not dealing with development consent, the proposed electricity connection alignment broadly complies with NPS policies EN-1 and EN5.

The Gas Connection

6.1.6. The development of the gas connection does not form part of the Application and planning permission has already been granted for it under the TCPA 1990 by CCS. The DCO does provide for the CA and TP

of land required for the gas connection alignment and provide related powers for the undertaker to facilitate the development of the consented alignment. To the limited extent appropriate to consideration of land alone and powers alone and not dealing with development consent, the proposed gas connection alignment broadly complies with NPS policies EN-1 and EN4.

Landscape and visual impacts

- 6.1.7. The Proposed Development would have a significant visual impact seen from close to the site. However, the effect would be within an existing and developing industrialised setting. In my view harm would be avoided through appropriate mitigation proposals. The Applicant has sought to mitigate both landscape and visual harm and the level of harm is anticipated by NPS policies and so it does not weigh against the development. The Proposed Development generally accords with policy in EN-1, EN-2, EN-4, EN-5, Planning Policy Wales and with the CCS LDP with respect to design (PS 2), layout and visibility (ER 5 and EU 1). I conclude that the Proposed Development as provided for in the recommended DCO represents good design in landscape and visual terms and therefore this consideration is neutral.

Design

- 6.1.8. The Proposed Development represents good design, providing overall a balanced and sustainable design response to its site and setting. It is considered that the site context has been comprehensively appraised. The design approach accords with the aims of NPS EN-1, TAN 12 and CCS LDP Policies EU1 and PS2. Given the evidence presented, this consideration is neutral.

Air quality and emissions

- 6.1.9. NRW as the relevant regulator has been clear that it sees no reason why the Proposed Development should not be fully compliant with all relevant policies and standards. NRW has issued an EP for operation of the Proposed Development to meet NRW requirements on 18 January 2019. I am satisfied that the AQD will be met by the proposed emissions. The Proposed Development accords with EN-1 and EN-2 and Welsh Government (including climate change) and with LDP policies ER1 Climate Change and RP3. This consideration will be neutral.

Noise and vibration

- 6.1.10. Given the evidence presented, the I consider that noise and vibration issues have been addressed adequately and meet the requirements specified in 5.11 of NPS EN-1, TAN 11 and CCS LDP Policy RP2. This aspect is neutral.

Biodiversity, ecology and natural environment (including HRA)

- 6.1.11. The Proposed Development will cause limited harm in biodiversity, ecology and natural environment terms and avoids harm to European Sites. Given the evidence presented, I consider that biodiversity and nature conservation issues (including climate change) have been adequately assessed, and that the requirements of NPS EN-1 and TAN 5 are met. In tandem with the proposed landscape mitigation i.e. Landscape and Ecology Mitigation Strategy (LEMS), the net effect of the landscape and ecological measures is neutral.

Water environment

- 6.1.12. The ExA considers that the water quality and resource issues (including climate change) have been addressed adequately and meets the requirements of NPS EN-1, TAN 15 and WFD. This consideration is neutral.

Geology, Ground Conditions, and Hydrogeology

- 6.1.13. An adequate assessment of Geology, Ground Conditions, and Hydrogeology has been undertaken. This consideration is neutral.

Transportation and traffic

- 6.1.14. There will be minor adverse traffic impacts largely associated with construction. The mitigation measures including a CTMP secured under Requirement 21, the regulation of construction hours under Requirement 23 and the preparation of the CSTP (secured via Requirement 22) will mitigate the adverse effects of the Proposed Development to the extent required to meet NPS EN-1 paragraph 5.13.3 and TAN 18. This consideration is neutral.

Historic environment

- 6.1.15. The Proposed Development will not harm known historic assets and the site has been well selected to avoid harm. It may affect unknown (archaeological) assets. However, the Applicant has sought to mitigate this effect and in doing so has complied with NPS Policies EN-1 and EN-2 and TAN 24. There is minimal potential for residual effects on the setting of historic assets within the Study Areas. A programme of archaeological mitigation prior to construction, secured via Requirement 13 [REP6-003], combined with the distance to sensitive receptors and local topography will mean that these residual effects are unlikely to be significant. This consideration is neutral.

Socio-economic effects

- 6.1.16. I conclude that the proposal has adequately addressed the requirements of EN-1 and TAN 23 and would not have significant deleterious effects socially or economically. It also has the potential to support economic development in the area in line with the policies of the local authority and to create a net beneficial assessment at both the national and local levels. This consideration is positive.

Combined heat and power (CHP) readiness

- 6.1.17. I am content that the Applicant's Technical Note on CHP [APP-037] demonstrates that the Proposed Development does not need to undertake further investigation of CHP for the proposed thermal generating station and provides evidence as to why the proposed thermal generating station should be excluded from being CHP- Ready. This is sufficient to ensure that the requirement of NPS EN-1 paragraph 4.6.8 is met. This consideration is neutral.

Other matters

- 6.1.18. There are no other matters important and relevant to the outcome that require to be taken into account by the SoS in considering the planning balance.

6.2. THE PLANNING BALANCE

- 6.2.1. There are no adverse impacts of sufficient weight to argue against the DCO being made. The Proposed Development would result in less than significant harm to interests and these in turn have been mitigated as required by NPS policy. I conclude that the limited harm done is outweighed by the substantial benefit from the provision of energy to meet the need identified in NPS EN-1 and Welsh Government policy and by the other benefits of the application as summarised above. I further conclude that there is no breach of NPS or Welsh Government policy overall.
- 6.2.2. For the reasons set out in the preceding chapters and summarised above, I conclude that the Proposed Development is acceptable in principle in planning terms. I carry this conclusion forward to my consideration of CA and TP proposals and objections to these in Chapter 7 and in Chapter 8 below.

7. COMPULSORY ACQUISITION AND RELATED MATTERS

7.1. INTRODUCTION

- 7.1.1. The application subject to examination included proposals for the CA and TP of land and rights over land. This chapter records the examination of those proposals and related issues.

7.2. THE REQUEST FOR COMPULSORY ACQUISITION AND TEMPORARY POSSESSION POWERS

- 7.2.1. The application draft Development Consent Order (DCO) [APP-014] and all subsequent versions submitted by the Applicant included provisions intended to authorise CA of both land and rights. Powers for the TP of land were also sought.
- 7.2.2. On this basis, the application was accompanied by a Book of Reference (BoR) [APP-011], Land Plans [APP-057], a Statement of Reasons (SoR) [APP-010] and a Funding Statement (FS) [APP-012]. Taken together, these documents set out the land and rights sought by the Applicant together with the reasons for their requirement and the basis under which compensation would be funded. As is normal, the Examination and due diligence processes led to changes to some of this documentation. By the close of the Examination, the most up-to date versions were as follows:
- BoR Revision [AS-002];
 - SoR Annex 2 of cover letter [REP6-002];
 - Land Plans remained as submitted with the application, but relevant matters were addressed in later evidence which is recorded individually below; [APP-057]; and
 - FS [APP-012] also remained as submitted with the application, but relevant matters were addressed in later evidence which is recorded individually below.
- 7.2.3. These documents taken together form the basis of the analysis in this Chapter. References to the BoR and the Land Plans in this Chapter from this point should be read as references to the latest revisions cited above.
- 7.2.4. Land over which CA and / or TP powers are sought is referred to in this Chapter as the Order land.
- ### **7.3. THE PURPOSES FOR WHICH LAND IS REQUIRED**
- 7.3.1. The purposes for which the CA and TP powers are required are set out in the BoR [AS-002] and SoR [APP-010], as augmented by relevant additional evidence discussed below.
- 7.3.2. The combination of CA and TP powers are sought to support four main development outcomes:

- For the primary development and use of a generating station;
- For the formation of a land corridor for an electrical connection alignment;
- For the formation of a land corridor for the access road alignment; and
- For the formation of a land corridor for a gas connection alignment, between the generating station and the existing gas transmission network at Rhyd-y-pandy Road and which is necessary to enable gas to be supplied to the generating station. As is recorded in paragraphs 2.1.16 above, planning permission for the electrical and gas connection has already been granted by CCS.

- 7.3.3. The Applicant is seeking CA powers to secure certain lands, rights and interests within the Order Limits in order to facilitate the Project.
- 7.3.4. The land over which CA powers are sought in respect of acquisition of the freehold is shown edged red and shaded pink on the Land Plans [APP-057]. This land is described in more detail in the Book of Reference [AS-002]. Article 19 of the DCO is relied upon in respect of this land.
- 7.3.5. The land over which the compulsory acquisition of new rights and imposition of restrictions are sought is shown edged red and shaded blue on the Land Plans [APP-057]. This land is described in more detail in the Book of Reference [AS-002]. Article 23 of the DCO is relied upon in respect of this land.
- 7.3.6. The land over which TP and use is sought, pursuant to Articles 29 and 30 of the DCO, is shown edged red and shaded yellow on the Land Plans [APP-057]. This land is described in more detail in the Book of Reference [AS-002]. Articles 29 and 30 of the DCO are relied upon in respect of this land.
- 7.3.7. It must be noted that the draft DCO includes CA and TP powers relevant to the construction of the proposed electrical and gas connection alignment. When the application was made a DCO could not provide consent for associated development relating to a generating station in Wales. For this reason, I asked the Applicant and IPs for views on the legal basis under which a DCO might appropriately include CA and TP powers for elements which might be associated development, where the associated development itself was not provided for [EV-004].

Crown Land

- 7.3.8. The Applicant states in the BoR [APP-011] that no Crown Land is included in or affected by the CA or TP powers.

Special Category Land

- 7.3.9. No land belonging to the National Trust, open space, common land or field garden allotment is included in or affected by the CA or TP powers [APP-011].

7.4. LEGISLATIVE REQUIREMENTS

- 7.4.1. CA powers can only be granted if the conditions set out in sections 122 and 123 of the PA2008, together with relevant guidance in *"Guidance Related to Procedures for the Compulsory Acquisition of Land"*, DCLG, September 2013 (the DCLG CA Guidance) are met.
- 7.4.2. Section 122 (2) requires that the land subject to CA must be required for the development to which the development consent relates or must be required to facilitate or be incidental to the development. In respect of land required for the development, the land to be taken must be no more than is reasonably required and be proportionate.³¹
- 7.4.3. Section 122(3) requires that there must be a compelling case in the public interest to acquire the land compulsorily, which means that the public benefit derived from the CA must outweigh the private loss that would be suffered by those whose land is affected. In balancing public interest against private loss, CA must be justified in its own right. But this does not mean that the CA proposal can be considered in isolation from the wider consideration of the merits of the project. There must be a need for the Proposed Development and there must be consistency and coherency in the decision-making process about the request for CA powers and for the Proposed Development as a whole.
- 7.4.4. Section 123 requires that one of three procedural conditions in subsections (2) to (4) must be met by the application proposal, namely:
- (2) The condition is that the application for the order included a request for Compulsory Acquisition of the land to be authorised.
 - (3) The condition is that all persons with an interest in the land consent to the inclusion of the provision.
 - (4) The condition is that the prescribed procedure has been followed in relation to the land.
- 7.4.5. It should be stated from the outset that I am satisfied that the condition in sub-section (2) is met.
- 7.4.6. A number of general considerations also have to be addressed, either as a result of following the applicable guidance or in accordance with legal duties on decision-makers:
- All reasonable alternatives to CA must have been explored;
 - The Applicant must have a clear idea of how it intends to use the land subject to CA powers;
 - The Applicant must be able to demonstrate that funds are available to meet the compensation liabilities that might flow from the exercise of CA powers; and
 - The decision-maker must be satisfied that the purposes stated for the CA are legitimate and sufficiently justify the inevitable interference with the human rights of those affected.

³¹ DCLG CA Guidance

- 7.4.7. These matters were tested in the Examination and are reported on further below.
- 7.4.8. Further to paragraph 2 of Schedule 5 to PA2008, TP powers are capable of being within the scope of a DCO. PA2008 and the associated DCLG CA Guidance do not contain the same level of detail and tests to be met in relation to the granting of TP powers, as by definition such powers do not seek to permanently deprive or amend a person's interests in land. Further, such powers tend to be ancillary and contingent to the application proposal as a whole: only capable of proceeding if the primary development is justified.
- 7.4.9. I take all relevant legislation and guidance into account in my reasoning below and relevant conclusions are drawn at the end of this Chapter

7.5. EXAMINATION OF THE CA AND TP CASE

- 7.5.1. My examination of the application included consideration of all submitted written material relevant to CA and TP. I asked WQ of the Applicant about the justification for the powers sought [PD-005(3)] [PD-006], I held a CA Hearing (CAH)[EV-004] [EV-009] and I requested inspections of land subject to CA and TP requests [EV-008]. I describe these processes below.

Written process

- 7.5.2. ExQ1 First Written Questions [PD-005(3)] included questions relevant to CA and TP, which can be summarised as addressing the following issues:

- The state of play on objections;
- Questions about FS;
- Gas and electrical connection agreements;

- 7.5.3. ExQ2 Second Written Questions [PD-006] requested the Applicant to provide an updated record of progress on all outstanding CA and TP matters.

Hearings

- 7.5.4. I provided for a CAH at which I asked oral questions of the Applicant and APs representative. The CAH was held on the 12 December 2018 [EV-004] [EV-009]. This Hearing provided an opportunity to be heard for any person objecting to the grant of CA or TP powers.

- 7.5.5. My oral questions sought information about:

- Matters not clear from WRs and question responses;
- Drafting queries on relevant Articles in the draft DCO;
- Provisions to secure mitigation land;
- Need for and approach to TP rights and the final extent of temporary as opposed to permanent rights;
- Funding and guarantees in respect of payment of compensation;
- Human Rights Act tests;

- Progress on negotiations with affected landowners;
- Need to acquire rights and consideration of alternatives;
- Book of Reference;
- Protective provisions in relation to statutory undertakers and others;
- and
- The basis for a compelling case in the public interest.

7.5.6. I provided APs and their representatives with an opportunity to comment on the process and progress of negotiations and whether they had any concerns with respect to the rights sought. I provided statutory undertakers with an opportunity to comment on rights sought and on the provisions in the draft DCO. These opportunities included the opportunity to be heard at the CAH ([EV-004] [EV-009]).

Accompanied Site Inspection (ASI)

7.5.7. I conducted an ASI at which I entered onto private land with consent, to inspect the proposed access road alignment and the electrical connection alignment. Interested parties (IP) and AP were provided with an opportunity to nominate land for inclusion in this inspection.

7.5.8. The ASI took place on 14 December 2018 [EV-008]. Its purpose in part was to inspect land subject to CA and TP proposals associated with the construction and operation of the access road and electrical connection. This land is subject to an objection to CA and TP. The ASI entered Maeseglwys Farm plots 13, 13A, 13B, 14, 15, 17A and 17B to view land in the ownership of Mr Michael Edwards. Mr Wynne Watkins an AP, who owns plots 18, 18A, 18B, 21 and 24 also accompanied us.

The ASI provided me with an understanding of the location and condition of all of the plots, subject to CA and TP powers, which were subject to objection.

7.6. CONSIDERATION OF CA AND TP ISSUES

7.6.1. This section sets out the Applicant's general case for CA and TP and responses from objectors to it. It then records the consideration of all remaining aspects of the CA and TP cases, including the consideration of individual objections and of land in respect of which there was no formal outstanding objection to CA and TP.

7.6.2. Finally, the section considers a range of technical matters relevant to CA, including the availability and adequacy of funds, statutory undertakers and protective provisions.

THE APPLICANT'S CASE

7.6.3. The Applicant's general case for CA and TP is based on the land requirement for the construction and operation of the generating station, together with land required for the gas connection and electrical connection.

- 7.6.4. Whilst the Application does not apply for development consent in respect of the Gas Connection or the Electrical Connection, the draft Order does include, pursuant to section 122(2)(b) of the PA 2008, powers for the CA of the necessary land and rights over land required for the Gas Connection and Electrical Connection [APP-010].
- 7.6.5. The Gas Connection consists of the AGI (with new permanent access) and the Pipeline. The Pipeline would follow an approximate north-south route corridor of approximately 1.4 km in length, to bring natural gas from the existing high-pressure National Transmission System gas network adjacent to Rhyd-y-pandy Road (in the north of the Project Site) to the Generating Equipment Site [APP-057]. The gas connection alignment as proposed benefits from a planning permission granted by CCS under the Town and Country Planning Act 1990.
- 7.6.6. The Electrical Connection would follow an east-west route corridor of approximately 900 metres in length, to connect the Generating Equipment to the National Electricity Transmission System at the Swansea North Substation via a 400kV underground cable [APP-057]. The electrical connection alignment as proposed benefits from a grant of planning permission by CCS under the Town and Country Planning Act 1990.

Alternatives

- 7.6.7. The DCLG CA Guidance requires (at paragraph 20) that:
- *'The promoter should be able to demonstrate to the satisfaction of the decision-maker that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored...'*
- 7.6.8. The Applicant's approach to the consideration of alternatives for the generating station site is set out in Chapter 4 above. Summarising from that explanation, the Applicant was clear that a range of potential generating station locations was reviewed and the application site was chosen because it enabled the development of OCGT plant with access to the gas transmission network and in a location where electricity could be exported to the distribution network, on land where there was a planning history and local policy support for an industrial scale of development.
- 7.6.9. A detailed explanation of the site alternatives evaluation for the access road alignment was provided by the Applicant in its summary of oral submissions to the CAH on 12 December 2018 (Annex 5 of [REP3-005]). In summary, that evidence addressed the selection of the alignment to meet the following criteria:
- Route efficiency (minimisation of length); and
 - Avoidance of impact on natural and historic environment assets i.e. ancient woodland [REP4-016].
- 7.6.10. An evaluation of possible access road alignments had been undertaken, from which the Applicant concluded that the selected alignment was most

feasible alignment in which an access road could be provided between the generating station site and B4489. The Applicant considered that the alternatives proposed by the Objectors at the CAH are not suitable for the reasons described above [REP3-005].

- 7.6.11. The Applicant concluded that Option 2 routes are suitable for AIL movements without road widening and the use of the route by HGVs will have minimal impact as there are no dwellings nearby. Option 2 routes also avoid the need to run parallel to the Dŵr Cymru / Welsh Water main, being able to cross at a single location using a bridge [REP3-005].
- 7.6.12. The Applicant considered that Options 2A, 2B1 and 2C would require loss of Ancient Woodland and loss of habitat, something that Option 2B2 avoids. There are also other technical reasons why Option 2C is challenging and may not be permitted by National Grid [REP3-005].
- 7.6.13. The Applicant considered that its selection of Option 2B2 in the Application is a robust and appropriate access route, and that the Applicant has properly had regard to a range of considerations, including impact on land ownerships, environmental effects, consultation, as well as technical feasibility and interfaces with surrounding utility infrastructure in reaching its decision on its preferred route [REP3-005].
- 7.6.14. The Applicant maintained that the existing National Grid access is purposefully constructed to HGV manoeuvring standards. The Applicant argued that the existing access route is secure, manageable in terms of marshalling and has already been used to carry similar loads and vehicles. The Applicant argued that it would not seem appropriate to discount this fit-for-purpose route in favour of major construction works in rural area on routes which are not as direct or commodious, and which all also require the use of third-party land.

The scale of the proposed development, micro-siting and the minimisation of land-take

- 7.6.15. The Applicant explained that the land required for the construction of the generating station has been identified precisely. It was committed to a minimisation of land-take for the CA of rights within the proposed access road alignment by ensuring that land only required for construction processes but not subject to an operational requirement is subject to TP powers only (coloured yellow [APP-057]).
- 7.6.16. Within the main generating station and AGI site, this approach is unlikely to affect the distribution of land in respect of which CA of the freehold is sought and where rights only or TP is required.
- 7.6.17. The Applicant is seeking agreement to acquire land and rights where possible.

OBJECTORS' GENERAL CASE

- 7.6.18. The Objectors' (Mr Michael Edwards, Mr Wynne Watkins and Redisplay Limited all represented by Loxley Solicitors) general case against CA and

TP was that the proposed access road alignment was chosen based on a flawed consultation and optioneering exercise. The Objectors submit that alternative access arrangements are available to the Applicant which would result in significantly less harm and the CA of the rights in the Objectors' land is not justified [REP3-016].

- 7.6.19. The original consultation for the Scheme was carried out in 2014 when two access options were put forward. Option 2 was chosen on the back of that consultation exercise with the main justification, as set out in the SoR, being that the majority of the public consulted in 2014 supported Option 2.
- 7.6.20. The Objectors submit that, in taking forward the Project in 2018, the Applicant should have considered all of the options available to it, including Route Option 1, especially given that 4 years have passed since the previous consultation exercise.
- 7.6.21. The Objectors submit the process was flawed as the Applicant should have considered all of the alternatives in 2018. The 2018 consultation exercise did not have adequate regard to a reasonable alternative route which would not have required the CA of the Objectors' land interest.
- 7.6.22. In response to the Objectors' WR, the Applicant has sought to justify the said option route selection process. The Applicant confirms the status of Ancient Woodland in terms of its high value status and protection in planning terms as a key factor in the selection of the option route corridor [REP2-002].
- 7.6.23. The various routes of the sub-options are significant to the Objectors as between them, they vary substantially in terms of interference with the Objectors' land and interest. This is illustrated in the plan attached at Appendix 1 of the Applicant's Response to WR [REP2-002].
- 7.6.24. The plan indicates quite a large area classified as "Ancient Woodland Site of Unknown Category" as well as stressing its importance – this is shown tinted brown on the Plan. The Objectors point out that the vast majority of the area classified as Ancient Woodland Site is occupied by the existing National Grid Station; it is developed and in fact there are only a small number of trees within the area shown tinted brown on the Plan [REP3-016].
- 7.6.25. The Objectors submit that the process for selecting the sub-option routes was based on incorrect assumptions and is essentially flawed. Given the consequences for the Objectors, there were clear reasonable alternatives open to the Applicant which would have avoided any Ancient Woodland and which would substantially reduce the impact on the Objectors' property interest [REP3-016].
- 7.6.26. The Objectors submit that the Applicant has not sufficiently demonstrated that they have complied with the DCLG Guidance in that they have not properly explored all reasonable alternatives, including modifications to the Project. That Guidance is referred to at page 27 of the SoR [APP-010].

- 7.6.27. The Objectors submit that the Applicant has not met the requirements of Section 122 of the PA2008 and in that the Applicant cannot justify that all of the land is required for the development or to facilitate or is incidental to that development.
- 7.6.28. In large part, these concerns relate to the treatment of alternatives which are addressed in Chapter 4 (section 4.8) above, or to the specific effects of CA or TP on individual's land, addressed in detailed terms below.

EXA CONCLUSION

- 7.6.29. I set out my general conclusions on the CA and TP case here, although it should be recorded that these conclusions have been informed and fully take into account my considerations arising from individual detailed cases and technical considerations set out further below from paragraph 7.6.33 to 7.6.69
- 7.6.30. For reasons broadly articulated in Chapter 4 above, I am satisfied that the Applicant has undertaken a thorough evaluation of siting options for the Proposed Development. This has included a thorough evaluation of alternatives, from which I am clear that, given the basic suitability of the site to host a development of this type in land use and policy terms, and due to the combination of the nearby availability of a gas grid connection and distribution network capacity for electricity export, the application site has been appropriately selected. Specifically, I make clear in that chapter that, for CA purposes, I do not see a basis for an alternative access road alignment within the site.
- 7.6.31. I have reviewed the proposed use of land on the generating station site and noted that the needs for plant and mitigation measures provide a clear explanation of the need for all the land proposed to be subject to permanent acquisition. A basis for the extent of land required temporarily to support the construction process and for ongoing rights has also been explained [APP-010]. I am satisfied that land subject to CA and TP for the proposed generation station has been minimised and that all reasonable alternatives to CA have been explored. I agree that the land sought for the generating station is land that is required for the purposes of s122 (2)(a) PA2008 and that, subject to and taking account of my detailed reasoning on individual plots below, it meets the test set out in that section.
- 7.6.32. I have also considered the land subject to CA and TP proposals for the access road alignment. Here, given that I agree that the selected generating station site is appropriate there are then a limited range of access road alignment options that can be pursued. I agree that the chosen access road alignment represents the best outcome from a thorough evaluation of alternatives and that it minimises land-take and adverse environmental effects [REP4-016]. I consider that the land sought for the access road alignment is land that is required for the purposes of s122 (2)(b) PA2008 and that, subject to and taking account

of my detailed reasoning on individual plots below, it meets the test set out in that section.

PROGRESS ON CA AND TP PROPOSALS

7.6.33. In my FWQs, I established a process for logging outstanding objections relevant to CA and TP [PD-005(3)]. The Applicant's response to my FWQs [REP1-010] and its later Objection Schedule Annex 4 [REP6-002] identified that there were seven APs viewed as having outstanding objections to CA and / or TP. These were:

- WPD;
- Mr Michael Edwards;
- Mr Wynne Watkins;
- Redisplay Limited;
- Abergelli Solar Limited;
- National Grid Gas; and
- National Grid Electrical Transmission

7.6.34. Progress on each of these objections through the Examination is recorded below.

Western Power Distribution (South Wales) plc (WPD)

Location: Throughout the Order Land

Interests Permanent: 3, 3A, 3B, 10, 12, 16, 18, 19, 20, 21, 22, 24.

Temporary: 7C, 13A, 16A, 18A, 18B, 19A

Status: statutory undertaker objector (withdrawn).

7.6.35. WPD [RR-006] made representations in respect of the CA of land, rights and TP at Abergelli, and sought to negotiate protective provisions.

7.6.36. The first draft protective provisions and side agreements were issued to WPD on 21 May 2018. The protective provisions and side agreement have now been agreed and were submitted to the Examination in the revised draft DCO at DL3. The side agreement has been signed and dated on 22 January 2019. [REP6-002].

7.6.37. On the 23 January 2019 WPD confirmed that it had agreed protective provisions with the Applicant and that it wishes to withdraw its representations in respect of the application [AS-010].

7.6.38. To the extent that this was an objection to which s127 PA2008 was relevant, I am content that this objection is withdrawn and is therefore not engaged. The remaining circumstances do not raise any issues that indicate against the approval of the CA provisions sought by the Applicant. I am content that there are no further outstanding concerns in relation to the interests of WPD as recorded above and particularly in

relation to the protective provisions in Part 4 of Schedule 11 to the DCO that require to be considered by the SoS.

- 7.6.39. The Applicant has included powers to extinguish any right or remove any apparatus (contained in Article 31³² of the draft DCO [REP6-003]) but made subject to the protective provisions in Schedule 11. Given the protective provisions are agreed in Schedule 11, the SoS can be satisfied that any extinguishment or removal would be necessary for the purpose of carrying out the authorised development (s138).

National Grid Gas (NGG) plc

Location: Throughout the Order Land

Interests Permanent: 2, 6, 16, 19, 23

Temporary: 6A, 6B, 16A, 19A

Status: statutory undertaker objector (withdrawn).

- 7.6.40. NGG Plc [RR-024] made representations in respect of the CA of land, rights and TP at Abergelli, and sought to negotiate protective provisions.
- 7.6.41. The first draft protective provisions and side agreements were issued to NGG on 23 May 2018. Statements of Common Ground (one for each statutory undertaker) were sent to NGG on 12 September 2018 and were updated and submitted at DL1. The protective provisions and side agreement have now been agreed. The side agreement is in the process of being signed [REP6-002].
- 7.6.42. On the 21 March 2019 NGG confirmed that it had agreed protective provisions with the Applicant and that it wishes to withdraw its representations in respect of the application [REP6-013].
- 7.6.43. To the extent that this was an objection to which s127 PA2008 was relevant, I am content that this objection is withdrawn and is therefore not engaged. The remaining circumstances do not raise any issues that indicate against the approval of the CA provisions sought by the Applicant. I am content that there are no further outstanding concerns in relation to the interests of NGG as recorded above and particularly in relation to the protective provisions in Part 3 of Schedule 11 to the DCO that require to be considered by the SoS.
- 7.6.44. The Applicant has included powers to extinguish any right or remove any apparatus (contained in Article 31³³ of the draft DCO [REP6-003]) but made subject to the protective provisions in Schedule 11. Given the protective provisions are agreed in Schedule 11, the SoS can be satisfied that any extinguishment or removal would be necessary for the purpose of carrying out the authorised development (s138).

³² Article 31 of the ExA's recommended DCO Appendix D

³³ Article 29 of the ExA's recommended DCO Appendix D

National Grid Electricity Transmission Systems (NGETS) plc

Location: Throughout the Order Land

Interests Permanent: 6, 10, 13, 14, 15, 16, 18, 19, 20, 21, 24

Temporary: 6A, 6B, 16A, 18A, 18B, 19A

Status: statutory undertaker objector (withdrawn).

- 7.6.45. NGETS [RR-024] made representations in respect of the CA of land, rights and TP at Abergelli, and sought to negotiate protective provisions.
- 7.6.46. The first draft protective provisions and side agreements were issued to NGETS on 23 May 2018. Statements of Common Ground (one for each statutory undertaker) were sent to NGETS on 12 September 2018 and were updated and submitted at DL1. The protective provisions and side agreement have now been agreed. The side agreement is in the process of being signed [REP6-002].
- 7.6.47. On the 21 March 2019 NGETS confirmed that it had agreed protective provisions with the Applicant and that it wishes to withdraw its representations in respect of the application [REP6-013].
- 7.6.48. To the extent that this was an objection to which s127 PA2008 was relevant, I am content that this objection is withdrawn and is therefore not engaged. The remaining circumstances do not raise any issues that indicate against the approval of the CA provisions sought by the Applicant. I am content that there are no further outstanding concerns in relation to the interests of NGETS as recorded above and particularly in relation to the protective provisions in Part 3 of Schedule 11 to the DCO that require to be considered by the SoS.
- 7.6.49. The Applicant has included powers to extinguish any right or remove any apparatus (contained in Article 31³⁴ of the draft DCO [REP6-003]) but made subject to the protective provisions in Schedule 11. Given the protective provisions are agreed in Schedule 11, the SoS can be satisfied that any extinguishment or removal would be necessary for the purpose of carrying out the authorised development (s138).

Abergelli Solar Limited (ASL)

Location: Throughout the Order Land

Interests Permanent: 2, 3, 3A, 3B, 4, 5, 6,

Temporary: 4A, 5A, 5B, 6A, 6B, 7C.

Status: statutory undertaker representor.

- 7.6.50. ASL [RR-018] made a representation in respect of an underground electrical cable and fibre optic communications cable owned by ASL which

³⁴ Article 29 of the ExA's recommended DCO Appendix D

connects two sections of the Abergelli Solar Farm which will be crossed by the Applicant's Gas Pipeline for the Project.

- 7.6.51. The first draft protective provisions and side agreements were issued to ASL on 22 May 2018.
- 7.6.52. The protective provisions and side agreement have now been agreed and the protective provisions were submitted to the examination in the revised draft DCO at DL5. The side agreement has been signed and dated on 13 March 2019.
- 7.6.53. On the 13 March 2019 ASL confirmed that it had agreed protective provisions with the Applicant and that it wishes to withdraw its representations in respect of the application [REP6-011].
- 7.6.54. To the extent that this was an objection to which s127 PA2008 was relevant, I am content that this objection is withdrawn and is therefore not engaged. The remaining circumstances do not raise any issues that indicate against the approval of the CA provisions sought by the Applicant. I am content that there are no further outstanding concerns in relation to the interests of Abergelli Solar Limited as recorded above and particularly in relation to the protective provisions in Part 6 of Schedule 11 to the DCO that require to be considered by the SoS.
- 7.6.55. The Applicant has included powers to extinguish any right or remove any apparatus (contained in Article 31³⁵ of the draft DCO [REP6-003]) but made subject to the protective provisions in Schedule 11. Given the protective provisions are agreed in Schedule 11, the SoS can be satisfied that any extinguishment or removal would be necessary for the purpose of carrying out the authorised development (s138).

Mr Michael Edwards

Location: Access road and electrical connection alignment,

Interests:

Freehold: 12.

Permanent: 13, 14, 15, 17.

Temporary: 13A, 13B, 17A, 17B.

Status: objector.

- 7.6.56. Mr Michael Edwards [RR-011] objected in respect of the CA of freehold, rights and TP of land at Maes-eglwys farm for the access road and electrical connection alignment. Mr Edwards lives in a house on the farm. Even if the generating station was correctly sited, he was not convinced that it was necessary to locate the access road alignment where it was located and therefore that it was necessary for it to pass

³⁵ Article 29 of the ExA's recommended DCO Appendix D

through his land. He believed there were in his view other siting options which are described in paragraphs 7.6.16-7.6.28 above.

7.6.57. The Applicant detailed their case for the chosen access road alignment in paragraphs 7.6.9-7.6.14 above.

7.6.58. No agreement has been reached between the parties. A meeting was held by the Applicant's land agent with Mr Edwards and his land agent on 27 April 2018 to commence discussion in relation to the proposed land acquisition. Further dialogue was held between land agents to review principles of valuation to acquire the rights by negotiation [REP6-002]:

- Carter Jonas (the Applicant's Land Agent) discussed the offer to be made with the owner's agent on 2 May 2018;
- A fully termed written offer was made by the Applicant to Mr Edwards on 18 May 2018;
- On 6 June 2018 Carter Jonas enquired with Mr Edwards land agent if any progress had been made with respect to a counter offer or proposal;
- Further meetings were held between land agents with the Applicant in attendance on 24 September and 10 October 2018 to progress discussions;
- Following the meetings, the owner's agent provided comparable evidence by email on 2 November 2018 and inviting the Applicant to revise the offers made;
- Some clarification of the evidence was exchanged between the Applicant and Mr Edwards land agent on 20 November 2018;
- Carter Jonas the Applicants land agent sent a full response on the valuation matters raised on 14 December 2018 with an indication of further points of detail and information to be discussed by the parties;
- A revised offer for an option agreement was made by the Applicant to Mr Edwards' agent on 16 January 2019 and with clarification on the areas of land affected by the easement rights that the Applicant would wish to document. This improved offer was subsequently rejected by the agent on 22 January; and
- Carter Jonas submitted a request on 22 January for a counter offer to be made to better inform ongoing negotiations [REP6-002].

7.6.59. I viewed the access road alignment proposal in this location on my ASI [EV-008] in the company of Mr Edwards and Mr Wynne Watkins the two APs. The access roads width has been minimised to 15m and has been co-located with the electrical connection to minimise land take. The siting of the access road is such that there will be no significant effect on the farm's operation.

7.6.60. Following my site inspection, it became clear that there was no feasible alternative to the location of the access road alignment on this land. For reasons I have set out in Section 4.8 above and in paragraphs 7.6.7 – 7.6.32, I am satisfied that the Applicant has undertaken a full and fair appraisal of siting options and that Mr Edwards' concerns cannot reasonably be addressed by locating the access road on other land. On balance therefore, I am content that the Applicant has demonstrated the

case for CA and TP as proposed in this location (see paragraphs 7.6.29-7.6.32 above).

Mr Wynne Watkins

Location: Access road and electrical connection alignment,

Interests:

Permanent: 18, 21, 22, 23, 24.

Temporary: 18A, 18B.

Status: objector.

- 7.6.61. Mr Wynne Watkins [RR-011] objected in respect of the CA of rights and TP of land between the gas compressor site and the B4489, for the access road and electrical connection alignment. Even if the generating station was correctly sited, he was not convinced that it was necessary to locate the access road alignment where it was located and therefore that it was necessary for it to pass through his land. He believed there were in his view other siting options which are described in paragraphs 7.6.16-7.6.28 above.
- 7.6.62. The Applicant detailed their case for the chosen access road alignment in paragraphs 7.6.9-7.6.14 above.
- 7.6.63. No agreement has been reached between the parties. A meeting was held with Mr Watkins and his land agent on 27 April 2018 to commence discussion in relation to the proposed land acquisition:
- A fully termed written offer was made by the Applicant to Mr Watkins on 18 May 2018;
 - Carter Jonas the Applicant's land agent received correspondence from the owner's land agent on 7 August 2018 confirming that the heads of terms (HoT) proposed in the offer made on 18 May 2018 were not acceptable to the owner and a counter offer was submitted;
 - Carter Jonas wrote to the owner's agent on 3 September 2018 to confirm the rights being sought under the DCO and requested evidence of comparable transactions to support the counter offer made;
 - A further meeting was held between land agents with the Applicant in attendance on 24 September 2018;
 - Comparable evidence was submitted to Carter Jonas on 6 November 2018 by the owner's agent;
 - Carter Jonas sent a full response on the valuation matters raised on 14 December 2018 with an indication of further points of detail and information to be discussed by the parties;
 - A revised offer was submitted by the Applicant to Mr Watkins' agent on 16 January 2019 which also clarified the extent of land areas affected by the Applicant's proposed easement requirement;
 - This improved offer was subsequently rejected by the owners agent on 4 February 2019;

- Carter Jonas submitted a request on 5 February 2019 for a counter offer to be made to better inform ongoing negotiations; and
- An email was sent on 19 February 2019 by the owner's agent to request a further revised offer from the Applicant [REP6-002].

7.6.64. I viewed the access road alignment proposal in this location on my ASI [EV-008]. The access roads width has been minimised to 15m and has been co-located with the electrical connection to minimise land take. The siting of the access road is such that there will be no significant effect on the farm's operation.

7.6.65. Following my site inspection, it became clear that there was no feasible alternative to the location of the access road alignment on this land. For reasons I have set out in Section 4.8 above and in paragraphs 7.6.7 – 7.6.32, I am satisfied that the Applicant has undertaken a full and fair appraisal of siting options and that Mr Watkins' concerns cannot reasonably be addressed by locating the access road on other land. On balance therefore, I am content that the Applicant has demonstrated the case for CA and TP as proposed in this location (see paragraphs 7.6.29-7.6.32 above).

Redisplay Limited

Location: Access road and electrical connection alignment,

Interests:

Permanent: 18, 21, 22, 23, 24.

Temporary: 18A, 18B. Status: objector.

7.6.66. Redisplay Limited [RR-012] objected in respect of the CA of rights and TP of land between the gas compressor site and the B4489, for the access road and electrical connection alignment. Even if the generating station was correctly sited, they were not convinced that it was necessary to locate the access road alignment where it was located and therefore that it was necessary for it to pass through their land. Redisplay Limited believed there were in its view other siting options which are described in paragraphs 7.6.16-7.6.28 above.

7.6.67. The Applicant detailed their case for the chosen access road alignment in paragraphs 7.6.9-7.6.14 above.

7.6.68. No agreement has been reached between the parties. A meeting was held with Mr Watkins and his land agent (Mr Watkins is the ultimate beneficial owner of Redisplay Ltd) on 27 April 2018 to commence discussion in relation to the proposed land acquisition:

- A fully termed written offer was made by the Applicant to Mr Watkins on or around 18 May 2018;
- The owner's agent wrote to Carter Jonas on 7 August 2018 in response to the offer made on 18 May 2018, confirming that the HoTs submitted with the offer were not accepted;

- A counter offer was made and Carter Jonas requested in an e-mail dated 3 September 2018 comparable evidence to support the proposal made;
- A further meeting was held between land agents with the Applicant in attendance on 24 September 2018;
- A revised term sheet and offer was issued to the owner's agent on 6 December 2018 which was acknowledged by the owner's agent; and
- A further email was sent on 19 February 2019 by the owner's agent to decline the revised offer of 6 December 2018 and request a further revised offer from the Applicant. [REP6-002].

7.6.69. I viewed the access road alignment proposal in this location on my ASI [EV-008]. The access roads width has been minimised to 15m and has been co-located with the electrical connection to minimise land take. The siting of the access road is such that there will be no significant effect on Redisplay's operation.

7.6.70. Following my site inspection, it became clear that there was no feasible alternative to the location of the access road alignment on this land. For reasons I have set out in Section 4.8 above and paragraphs 7.6.7 - 7.6.32, I am satisfied that the Applicant has undertaken a full and fair appraisal of siting options and that Redisplay Limited's concerns cannot reasonably be addressed by locating the access road on other land. On balance therefore, I am content that the Applicant has demonstrated the case for CA and TP as proposed in this location (see paragraphs 7.6.29-7.6.32 above).

AVAILABILITY AND ADEQUACY OF FUNDS

7.6.71. I examined the availability and adequacy of funds for CA and TP compensation and am satisfied by the evidence in the submitted FS [APP-012] that the Applicant has sufficient access to funds to meet any likely compensation liabilities. The FS set out details of the resources of Drax (the Applicant's parent company) which would be available to fund the project including funding for CA.

7.6.72. The adequacy of funding was not raised by any AP or other interested parties during the course of the examination.

7.6.73. Article 34 of the DCO version 6 [REP6-003] states:

- *"(1)The undertaker must not exercise the powers conferred by the provisions referred to in paragraph (2) in relation to any land unless it has first put in place either— (a) a guarantee and the amount of that guarantee has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or (b) an alternative form of security and the amount of that security for that purpose has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land."*

7.6.74. Article 34(1) provides that the provisions in Articles 19, 23, 24 26, 28, 29, 30 and 31 (together comprise those provisions from which certain compensation liabilities might arise) must not be exercised until either Article 34(1)(a) or (b) has been satisfied:

(a) a guarantee and the amount of that guarantee has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land; or

(b) an alternative form of security and the amount of that security for that purpose has been approved by the Secretary of State in respect of the liabilities of the undertaker to pay compensation under this Order in respect of the exercise of the relevant power in relation to that land.

7.6.75. Article 34 does not specify the precise form of any guarantee or by whom it would be held. However, that is a matter for determination by the SoS if and at the time Article 34(1)(a) or (b) come to be discharged.

7.6.76. I am satisfied that Article 34 provides a robust means whereby the necessary funding can be guaranteed. I am satisfied that, further to the SoS' discharge of either Article 34(1) (a) or (b), the guaranteed funding will be held by a means that is accessible to persons entitled to compensation.

HUMAN RIGHTS ACT 1998 CONSIDERATIONS

7.6.77. In the SoR [REP6-002] the Applicant noted that it had sought to minimise the amount of land over which it required CA powers. It considered that there would be a significant public benefit from the grant of the DCO which could only be realised if the DCO was accompanied by the grant of CA powers. It concluded that the significant public benefits outweighed the effects on persons who own property within the Order land.

7.6.78. In relation to Article 6 the Applicant stated that there have been opportunities to make representations during the preparation of the application and owners of land had been consulted. There had been the opportunity to make representations during the course of the Examination.

7.6.79. In the Applicant's view any infringement of the Convention rights as a result of the inclusion of CA powers in the DCO was proportionate and legitimate and in accordance with national and European law. There was a compelling case in the public interest for the exercise of these powers of CA. The Applicant concluded that it would appropriate and proportionate for the Secretary of State to make the DCO, including the grant of CA powers.

7.6.80. Article 1 of the First Protocol (relating to the rights of those whose property is to be compulsorily acquired and whose peaceful enjoyment of property is to be interfered with) is engaged. I am satisfied that the

proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest.

- 7.6.81. Article 6 entitles APs to a fair and public hearing of their objections and is engaged. My provision of a CAH [EV-004] has enabled any AP who wished to be heard to be heard fully, fairly and in public.

TECHNICAL MATTERS: PA2008, SS127 TO 132

- 7.6.82. I addressed the legislative requirements of PA2008 applicable to CA and TP in my FWQs [PD-005(3)]. These were followed up as required in the CA Hearing. The Applicant's response to my FWQs [REP1-010] provided the following information relevant to CA and TP:

- There are several entities that are statutory undertakers subject to s127 PA2008. Where there is an outstanding objection from such an entity, this is identified and considered in my discussion of individual objections above (see Annex 3 Table 3 of SoR [REP6-002]).
- The National Trust does not own any Order land and so s130 PA2008 does not apply.
- Consistent with Part 5 of the BoR [AS-002] which confirms the absence of special category land, there is no proposal to acquire any land forming part of a common, open space or fuel or field garden allotment subject to the operation of s131 PA2008, or rights over such land subject to the operation of s132 PA2008.
- Nothing in respect of these positions changed during the remaining examination period and therefore I am satisfied of the following matters:
 - s127 of PA2008 require consideration as identified and recommended in my consideration of individual objections above;
 - s130 PA2008 does not apply and requires no further consideration by the SoS; and
 - ss131 and 132 PA2008 do not apply and require no further consideration by the SoS.

THE EXA'S OVERALL CA AND TP CONCLUSIONS

- 7.6.83. My approach to the question whether and what CA powers I should recommend to the SoS to grant has been to apply the relevant sections of the PA2008, notably s122 and s123, the DCLG CA Guidance and the Human Rights Act 1998; and, in the light of the representations received and the evidence submitted, to consider whether a compelling case has been made in the public interest, balancing the public interest against private loss. Whilst TP powers are not subject to the same tests, these are sought for construction related works and form an integrated part of the land package for the Proposed Development. I have examined the need for and extent of the TP land as set out in the DCO.
- 7.6.84. PA2008 s122 sets out the purposes for which CA may be authorised. In the light of the DCLG CA Guidance, it is necessary to consider whether the Applicant has justified its proposals for the CA of the land. I am satisfied that the legal interests in all the plots of land included in the

BoR and shown on the Land Plans would be required for both the principal development and for land required to facilitate that provision. The requirements of s122(2) (a) and (b) of PA2008 are therefore met for the purposes of the generating station development.

7.6.85. For the purposes of PA2008 s122(3) I conclude that:

- the development for which the land is sought would be in accordance with national policy as set out in the relevant NPSs and development consent should be granted;
- the NPSs identify a national need for electricity generating capacity of the type that is the subject of the application;
- there is a need to secure the land and rights required and to construct the development within a reasonable commercial timeframe, and the development represents a significant public benefit to weigh in the balance;
- the private loss to those affected has been mitigated through:
 - the selection of the land;
 - co-location of the access road and electrical connection;
 - minimisation of the access road width; and
 - the minimisation of the extent of the rights and interests proposed to be acquired;
- the Applicant has explored all reasonable alternatives to the CA of the rights and interests sought; and
- secure funding would be available to enable the CA following the DCO being made and a guarantee of its availability is proposed in the DCO.

7.7. CONCLUSIONS

7.7.1. The case for CA powers requires to be based on the case for the development overall. I have shown in Chapter 6 that I have reached the view that development consent should be granted. As I have set out above, I am satisfied that the CA powers sought by the Applicant are justified and should be granted because I have concluded that there is a compelling case in the public interest for land and interests to be compulsorily acquired and therefore the proposal would comply with PA2008 s122(3).

7.7.2. Turning to PA2008 s123, for reasons that I set out at the outset of this Chapter, I consider that the condition in subsection (2) is met and therefore that the CA powers sought can be granted. I also consider that the TP powers sought in the DCO are necessary and should be granted. I am satisfied that the proposed interference with individuals' rights would be lawful, necessary, proportionate and justified in the public interest.

8. DRAFT DEVELOPMENT CONSENT ORDER AND RELATED MATTERS

8.1. INTRODUCTION

- 8.1.1. The application draft Development Consent Order (DCO) (Revision 0) [APP-014] and an EM [APP-013] were submitted by the Applicant as part of the application for development consent. The EM describes the purpose of the draft DCO as originally submitted, with each of its articles and schedules.
- 8.1.2. The application draft DCO was broadly based on the Model Provisions (MPs) (the now-repealed Infrastructure Planning (Model Provisions) (England and Wales) Order 2009), but departed from those clauses to draw upon drafting used in made Orders for similar development under the PA2008 [APP-034]. Building on this foundation, it was closely modelled on the drafting approach taken to the Hirwaun Gas Fired Generating Station Order 2015 (SI No 1574/2015) (the Hirwaun Order). The Hirwaun Order was applied for by an Applicant in the same group of companies as the current Applicant and for a similar development i.e. an equivalently scaled gas fired generating station. The application draft DCO and the Hirwaun Order contain significant elements of shared purpose, structure and drafting.
- 8.1.3. This Chapter provides an overview of the changes made to the DCO during the Examination process, between the application draft DCO and a final preferred draft DCO submitted by the Applicant at DL6 [REP6-003] (Revision 6). It then considers those changes in order to arrive at the Recommended DCO in Appendix D to this report.
- 8.1.4. The following sections of this chapter:
- report on the processes that I used to examine the draft DCO and its progress through the Examination;
 - report on the structure of the draft DCO;
 - briefly summarise changes made to the DCO during the Examination up to DL6 that were not the subject of contention (where, following consultation and dialogue as necessary, the Applicant and relevant IPs supported the changes);
 - report in more detail on those changes that were the subject of contending submissions in WR and or Hearings;
 - address the relationship between the DCO and other consents and legal agreements;
 - address the provision of a defence against nuisance in the DCO; and
 - ExA conclusions.

8.2. EXAMINATION OF THE DCO

- 8.2.1. My review of the application versions of the draft DCO (Revision 0) [APP-014] and the EM [APP-013] commenced before the formal start of the Examination. I documented matters arising from the application versions during the pre-examination period, as part of my preparation for the

examination. My Rule 6 Letter [PD-005] was accompanied by a schedule of matters for examination relating to the draft DCO [PD-005, Annexes B, C, E, G and H], made available to the Applicant and IPs before the start of the Examination. This process enabled me to hold the first Issue Specific Hearing (ISH) on the DCO on 10 October 2018 [EV-003] [EV-005]. Matters for examination arising from the DCO and progress on them were tracked throughout the Examination, using a further ISH on the DCO, held on the 13 December 2018 [EV-011].

8.2.2. The Applicant updated the draft DCO several times during the Examination, responding to issues raised by IPs and by me, through both WR and as a consequence of the Hearing processes. At each revision, the Applicant submitted a clean copy and a copy showing tracked changes from the previous clean copy version. When significant changes were made a schedule was provided detailing the change and the reasoning.

8.2.3. The key issues raised through all the Revisions were:

- Is there a need for a time limit for generating station operation Requirement [REP1-023] [REP3-012];
- Is there a need for a bond for decommissioning Requirement [REP1-023] [REP3-012];
- Discharging, Monitoring and Enforcement payment by the Applicant [REP1-023] [REP3-012]; and
- A contention that the Applicant has incorrectly interpreted and consequently applied the DCLG Guidance on Associated Development [REP3-017].

8.2.4. The Discharging, Monitoring and Enforcement payment [REP1-023] [REP3-012] issue was resolved to the satisfaction of CCS when they acknowledged that the removal of the fees section from Schedule 12 paragraph 3, was acceptable given that a Planning Performance Agreement has been agreed between parties in respect to application submission fees [REP6-012].

8.2.5. The versions of the draft DCO submitted by the Applicant during the Examination were as follows:

- Revision 1 [REP1-013] (clean copy) and [REP1-014] (tracked changes) was submitted in response to matters raised in the DCO ISH on 10 October 2018. A schedule of changes was also provided [REP1-015];
- Revision 2 [REP2-005] (clean copy) and [REP2-006] (tracked changes) was submitted in response to matters raised in discussions with IPs, from ExQ1 and WRs at DL1. A schedule of changes was also provided [REP2-007];
- Revision 3 [REP3-002] (clean copy) and [REP3-003] (tracked changes) was submitted with minor changes;
- Revision 4 [REP4-002] (clean copy) and [REP4-003] (tracked changes) was submitted in response to matters raised at the DCO ISH on 13 December 2018 [EV-011]. A schedule of changes was also provided [REP4-004];

- Revision 5 [REP5-004] (clean copy) and [REP5-005] (tracked changes) was submitted with minor changes; and
- Revision 6 DCO [REP6-003] (clean copy), [REP6-004] (tracked changes) at DL6. A schedule of changes was also provided [REP6-006].

8.2.6. No comments were received from any local resident or community-based IPs on any Revision of the DCO.

8.2.7. Unless specifically indicated otherwise, all references to provisions in the draft DCO in this chapter are based on the Applicant's final preferred draft Revision 6 DCO [REP6-003].

8.3. STRUCTURE OF THE DRAFT DCO

8.3.1. The draft DCO closely mirrors the structure and drafting approach taken in the Hirwaun Order.

8.3.2. The structure of the draft DCO (taken from the Applicant's preferred draft revision 6 DCO [REP6-003]) can be summarised as follows:

Articles

- PART 1 PRELIMINARY
 - 1. Citation and commencement
 - 2. Interpretation
- PART 2 PRINCIPAL POWERS
 - 3. Development consent etc. granted by the Order
 - 4. Maintenance of authorised development
 - 5. Operation of authorised development
 - 6. Benefit of this Order
 - 7. Consent to transfer benefit of the Order
- PART 3 STREETS
 - 8. Power to alter layout etc. of streets
 - 9. Street works
 - 10. Construction and maintenance of new or altered means of access
 - 11. Temporary prohibition or restriction of use of streets
 - 12. Stopping up of Streets
 - 13. Access to works
 - 14. Agreements with street authorities
 - 15. Traffic Regulation
- PART 4 SUPPLEMENTAL POWERS
 - 16. Discharge of water
 - 17. Authority to survey and investigate the land
 - 18. Removal of human remains
- PART 5 POWERS OF ACQUISITION
 - 19. Compulsory acquisition of land

- 20. Compulsory acquisition of land – incorporation of the mineral code
- 21. Statutory authority to override easements and other rights
- 22. Time limit for exercise of authority to acquire land compulsorily
- 23. Compulsory acquisition of rights etc.
- 24. Private rights
- 25. Application of the Compulsory Purchase (Vesting Declarations) Act 1981
- 26. Acquisition of subsoil only
- 27. Modification of Part 1 of the Compulsory Purchase Act 1965
- 28. Rights under or over streets
- 29. Temporary use of land in connection with the carrying out of the authorised development
- 30. Temporary use of land for maintaining the authorised development
- 31. Statutory undertakers
- 32. Apparatus and rights of statutory undertakers in streets
- 33. Recovery of costs of new connections
- 34. Funding
- PART 6 OPERATIONS
 - 35. Felling or lopping of trees and removal of hedgerows
- PART 7 MISCELLANEOUS AND GENERAL
 - 36. Application of landlord and tenant law
 - 37. Operational land for the purposes of the 1990 Act
 - 38. Defence to proceedings in respect of statutory nuisance
 - 39. Protective provisions
 - 40. Certification of plans etc.
 - 41. Service of notices
 - 42. Procedure in relation to certain approvals
 - 43. Arbitration
 - 44. Application and modification of legislative provisions
- SCHEDULE 1 — AUTHORISED DEVELOPMENT
- SCHEDULE 2 — REQUIREMENTS
- SCHEDULE 3 — STREETS SUBJECT TO PERMANENT AND TEMPORARY ALTERATION OF LAYOUT
 - PART 1 — PERMANENT ALTERATION OF LAYOUT
 - PART 2 — TEMPORARY ALTERATION OF LAYOUT
- SCHEDULE 4 — STREETS SUBJECT TO STREET WORKS
- SCHEDULE 5 — ACCESS
 - PART 1 — THOSE PARTS OF ACCESSES TO BE MAINTAINED AT THE PUBLIC EXPENSE
 - PART 2 — THOSE PARTS OF ACCESSES TO BE MAINTAINED BY THE STREET AUTHORITY
 - PART 3 — THOSE WORKS TO RESTORE TEMPORARY ACCESSES WHICH WILL BE MAINTAINED AT THE PUBLIC EXPENSE
 - PART 4 — THOSE WORKS TO RESTORE TEMPORARY ACCESSES WHICH WILL BE MAINTAINED BY THE STREET AUTHORITY

- SCHEDULE 6 — TEMPORARY PROHIBITION OR RESTRICTION OF THE USE OF STREETS
- SCHEDULE 7 — STREETS TO BE STOPPED UP
- SCHEDULE 8 — MODIFICATION OF COMPENSATION AND COMPULSORY PURCHASE ENACTMENTS FOR CREATION OF NEW RIGHTS AND IMPOSITION OF NEW RESTRICTIONS
- SCHEDULE 9 — LAND OF WHICH TEMPORARY POSSESSION MAY BE TAKEN
- SCHEDULE 10 — REMOVAL OF HEDGEROWS
- SCHEDULE 11 — PROTECTIVE PROVISIONS
 - PART 1 — FOR THE PROTECTION OF ELECTRICITY, GAS, WATER AND SEWERAGE UNDERTAKERS
 - PART 2 — FOR THE PROTECTION OF OPERATORS OF ELECTRONIC COMMUNICATIONS CODE NETWORKS
 - PART 3 — FOR THE PROTECTION OF NATIONAL GRID
 - PART 4 — FOR THE PROTECTION OF WESTERN POWER DISTRIBUTION (SOUTH WALES) PLC
 - PART 5 — FOR THE PROTECTION OF DŴR CYMRU CYFYNGEDIG
 - PART 6 — FOR THE PROTECTION OF ABERGELLI SOLAR LIMITED
 - PART 7 — FOR THE PROTECTION OF WALES AND WEST UTILITIES LIMITED
- SCHEDULE 12 — PROCEDURE FOR DISCHARGE OF REQUIREMENTS

8.3.3. I am content that the structure of the DCO is fit for purpose and I do not recommend any changes to the structure as outlined above.

8.4. OPERATION OF THE DRAFT DCO

8.4.1. It is important to describe the approaches taken to drafting certain provisions of the DCO, that are particular to its circumstances. These are described not because I am recommending changes to them, but due to the fact that they are somewhat different from the approaches taken in other similar DCOs.

8.4.2. The DCO draws a very clear distinction between the Order limits and the Order land [REP6-003]. I briefly addressed this in paragraphs 2.2.4 - 2.2.7 of this report.

8.4.3. The Order limits are tightly defined, to encompass land on which the authorised development, the Power Station Complex would be delivered, alongside the land needed temporarily for construction processes related to the Power Station Complex. The Order limits are defined in Article 2(1) as follows:

"Order limits" means the limits shown on the works plans."

8.4.4. Reference to the Work Plans [APP-053] clearly identifies the limited extent of land, outlined in green on those plans, that comprises land within the Order limits. This in turn is the location of the Works Nos. 1 (A-F) to 4 identified in Schedule 1 to the DCO, and these are the sum total of the works sought to be authorised by the DCO in order to deliver the generating station.

- 8.4.5. In contrast, the Order land is more broadly defined so as to, effectively, include the Order limits as a subset of it, but also including that additional land on which all other powers sought by the Applicant would be exercised, including the CA of land and rights for the proposed gas connection alignment, the electrical connection alignment and the TP of land for the construction of these. The Order land is defined in Article 2(1) as follows:
- "Order land" means the land which is required for, or is required to facilitate, or is incidental to, or is affected by, the authorised development shown on the land plans and described in the book of reference."*
- 8.4.6. Reference to the Land Plans [APP-057] clearly identifies the significantly greater extent of land, outlined in red on those plans, that comprises the Order land.
- 8.4.7. This distinction is significant, because in turn, the DCO provides its beneficiary, the undertaker, with a significant suite of rights over the Order land, in addition to development consent for the Power Station Complex in the Order limits. It does so because powers relevant to matters such as CA, TP, access and street works, drainage, surveys, tree and hedgerow works are not conferred by the separate TCPA1990 planning permissions that has been granted by CCS for the gas and electrical connection alignments (granted 6 December 2018). These powers do not provide the development consent for the gas and electrical connection alignment, but nevertheless are necessary to enable the alignments to be developed in due course.
- 8.4.8. Where the definition of the Order land refers to '*land which is required for, or is required to facilitate, or is incidental to, or is affected by, the authorised development*', it is seeking to entrain within its definition the land outside the Order limits on which these powers to assist the delivery of the gas and electrical connection alignments are sought. Similar formulations are then found in the body of the DCO, the purpose of which is to ensure that powers relevant to the delivery of the gas and electrical connection alignments are not constrained to the tightly defined Order limits but also apply as necessary to the broader area of the Order land.
- 8.4.9. For example, in Article 9 (Street works), there is a provision that:
- "The undertaker may, for the purposes of the authorised development, enter on so much of any of the streets specified in Schedule 4 (streets subject to street works) as is within the Order land ..."*
- in order to exercise the power donated by the Article. The purpose of this drafting is to ensure that, if needs be, the relevant power is available for use to support the delivery of the consented gas and electrical connection alignments on the Order land, in addition to the development of the Power Station Complex within the Order limits. Similar formulations are found for the same purpose within Article 11 (temporary prohibition or restriction of use of streets), Article 13 (access to works), Article 15 (traffic regulation), Article 16 (discharge of water), Article 17 (authority

to survey and investigate the land), Article 21 (statutory authority to override easements and other rights), Article 28 (rights under or over streets), Article 29 (temporary use of land for carrying out the authorised development) and Article 35 (felling or lopping of trees and removal of hedgerows).

- 8.4.10. The overarching reason for all of these provisions is to ensure that the DCO provides the undertaker with the powers that it needs to implement the separate TCPA1990 planning permission for the gas and electrical connection alignments granted on the 6 December 2018 by CCS. The DCO cannot itself provide development consent for those alignments because it is not within the powers of a DCO in Wales, applied for on the date that this application was made, to include such development as associated development (s115 PA2008).
- 8.4.11. I have given very careful consideration throughout the Examination to the appropriateness of and relationship between these approaches to the '*Order limits*', the '*Order land*' and '*authorised development*'. I have considered the interaction between this drafting approach and applicable policy and no issues have arisen that indicate against it. I have considered whether this approach causes any uncertainty about the scope of works or the extent of the assessed Rochdale Envelope and have concluded that it does not. Similarly, I have considered the interaction between this drafting approach and the matters raised in representations. I have also reviewed the approach taken alongside that taken in other DCOs in Wales identified in Chapter 3 Section 3.7 above. I have found no matters that lead me to recommend that this approach ought to be changed.

8.5. UNCONTENTIOUS MATTERS

- 8.5.1. The examination of the DCO proceeded throughout the Examination period in a collaborative and constructive manner. Two Issue Specific DCO Hearings were conducted, following which the Applicant advanced draft revisions to respond to representations, my questions and oral discussions [REP1-015] [REP2-007] [REP6-006].
- 8.5.2. The change control process between the application draft DCO up to the Revision 6 DCO [REP6-003] was fully documented by the Applicant in a process that is recorded in paragraph 8.2.5 above. A substantial number of revisions were proposed, but these were all to address comprehension, clarity or interpretation and to address good practice in drafting. The document references included there [REP6-006] enable all uncontentious changes up to Version 6 to be tracked. On that basis, I do not record them here, providing only a general record that, subject to consideration of the contentious and unresolved technical matters that I address in the following sections of this Chapter, I am content that the aggregate of changes made up to the Revision 6 DCO appropriately addressed all of the issues that arose in the Examination.
- 8.5.3. As part of that change process, I am content that all performance standards necessary to meet applicable NPS and other important and

relevant policies as identified in Chapters 3 and 4 above are now met in the preferred draft DCO. I am also content that the mitigation that requires security in the DCO has been provided.

- 8.5.4. By DL7, there were only three outstanding sets of concerns that the Applicant had not then fully absorbed into its preferred draft DCO:
- Need for a time limit for generating station operation Requirement [REP1-023] [REP3-012];
 - Need for a bond for decommissioning Requirement [REP1-023] [REP3-012]; and
 - The Applicant has incorrectly interpreted and consequently applied the DCLG Guidance on Associated Development [REP3-017].
- 8.5.5. These matters are addressed further in Section 8.6 below.

8.6. CONTENTIOUS MATTERS

- 8.6.1. The following section reports on changes to the draft DCO that were the subject of substantial negotiation, and written and / or oral submissions during the Examination process. Matters at issue were as follows:
- The Applicant has incorrectly interpreted and consequently applied the DCLG Guidance on Associated Development [REP3-017].
 - Need for a time limit for generating station operation Requirement [REP1-023] [REP3-012]; and
 - Need for a bond for decommissioning Requirement [REP1-023] [REP3-012].

The Applicant has incorrectly interpreted and consequently applied the DCLG Guidance on Associated Development [REP3-017]

- 8.6.2. Mr Richard Price of Loxley Solicitors acting on behalf of three APs, argued that the access road (Work No.2) part of the application should be considered to be associated development [REP3-017]. Mr Price argued that the DCO as currently drafted is defective and therefore invalid as both the electrical connection and gas connection should be included as integral to the Project.
- 8.6.3. This was a matter that I raised at the ISHs into the DCO [EV-003 and EV-011] and is addressed in the Applicant's summary of oral submissions [REP3-004] [REP3-005]. For the reasons I have detailed in paragraphs 2.1.19 – 2.1.26 above I am content that no associated development within the meaning of s115(2) of PA2008 is included within the application.

Need for an operational time limit for generating station operation Requirement [REP1-023] [REP3-012]

- 8.6.4. CCS consider that a time limit for the duration of the consent should be included within the DCO [REP1-021].
- 8.6.5. CCS argued that the Proposed Development has a design life of 25 years and this is stated throughout the ES [APP-042] and several management plans are written to last for the duration of the project based on this design life. In addition, the project has been designed for this design life, for example in terms of the attenuation requirements for surface water discharge which may not be adequately sized to cope with longer durations if the power station is still in operation in 75 years time for example. As stated at paragraph 21.1 of the LIR [REP1-021]:
- "The Council are therefore of the opinion that there should be a requirement limiting the lifetime of this Order for 25 years as has been assessed in the Environmental Statement."*
- 8.6.6. CCS went on to state at paragraph 21.3 of the LIR:
- "21.3 The Environmental Statement is misleading if no mechanism is put in place to limit the duration of the Project in that it refers throughout to the 25-year lifetime. If a limit is not included in the DCO, then it could still be operational permanently, even more likely given the current definition of the term "maintain" set out in Article 2 of the Order. The impacts have been assessed in the main as non-permanent and any reasonable reader would consider this to be the lifetime of the plant."*
- 8.6.7. CCS believe that without this time limit, it is considered that the environmental considerations have been misrepresented and the assessment reached inaccurate.
- 8.6.8. This was a matter that I raised at the ISHs into the DCO [EV-003 and EV-011] and in ExQ2. CCS in response to a WQ were unable to point to any made DCO where such a time limit had been imposed³⁶ [REP4-026].
- 8.6.9. The Applicant addressed CCS concerns in the Applicant's response to the LIR [REP2-003] and in its summary of oral submissions [REP1-012] [REP3-004] [REP3-005].
- 8.6.10. The Applicant considered it was not necessary to impose a time limit for the operation of the plant. The selection of the 25 years was a realistic period included in the ES to provide a basis in which the assessment can be done to allow the assessments to be carried out. At DL1, the Applicant provided a sensitivity analysis to demonstrate, on a topic by topic basis, that if the operational life of the project were to exceed 25 years, the conclusions in the ES would still remain the same (Appendix 7 of [REP1-012]).
- 8.6.11. NRW at both of the DCO ISHs confirmed that the operation of the Proposed Development would be subject to regulatory control via an EP to be granted under the EP Operation of the Power Generation Plant,

³⁶ A time limit was imposed in the North Wales Wind Farms Connection DCO – 30 years – at requirement 19 of that DCO.

Environmental Permitting (England and Wales) Regulations 2016. NRW issued the permit for this development on 18 January 2019 which would be reviewed annually. The Permit contained no operational time limit [EV-003] [EV-011].

- 8.6.12. The Applicant provided a post Hearing note on the ISH Hearing on Environmental Matters [EV-006] held on 13 December 2018 [REP3-004]. The Applicant stated that:

"25 years operational life is the basis of the assessment and this is outlined in section 4.7 of the ES. This section outlines that the assumptions and limitations of the ES include the use of a 25-year life span as a reasonable worst case, as it is based on the design life of the equipment (which is the manufacturers' expectation of how long the equipment will last subject to maintenance and normal operation), for the basis of assessment.

Out of the topics contained within the ES which relate to operational effects, these primarily relate to landscape and emissions to air, land and water. Regarding emissions to air, there are two points to consider which are:

1. At all time, the Project will be regulated by the EP, which is reviewed annually, and the operator will be expected to comply with BAT which requires continual improvement in performance.

2. If there are changes in the legislative framework, then the operators will have to comply with those via the permit as the appropriate regulatory regime. The DCO will not do this."

- 8.6.13. CCS maintained their concern about the open nature of the DCO and that an operational time limit should be included on the permission [REP5-007].
- 8.6.14. I take the view that the EP will provide the operational control mechanisms in relation to any emissions and also require these emissions to be reduced should new legislation so provide.
- 8.6.15. I agree with the Applicant that the assessment of 25 years provides a worst case scenario for the EIA, but the sensitivity analysis provided as Appendix 7 of [REP1-012] response demonstrates that should the Applicant have assessed a 35 year scenario, there are no identified changes to the assessments or significance of effects for each of the Chapters 6-14. It is my view that the conclusions of the ES [APP-042] are valid for an operational lifetime of the project of 35 years or longer as in the case of drainage.
- 8.6.16. I believe that the approach taken is consistent with other EIAs undertaken for projects of this type, such as Wrexham Gas Fired Power Generating Station, where the ES assumed the same 25 years duration as used in the current application. The Wrexham project has been granted development consent with no time limit on operation. It is my opinion, that the assessment in the ES is robust and adequate.

8.6.17. I believe there is no necessity for the draft DCO to contain a Requirement for an operational time limit because:

- the EP will provide the operational control mechanisms in relation to any emissions and also require these emissions to be reduced should new legislation be imposed as confirmed by NRW;
- the approach taken is consistent with other EIAs undertaken for projects of this type; and
- that the assessment in the ES is robust and adequate.

Need for a bond for decommissioning Requirement [REP1-023] [REP3-012]

8.6.18. CCS consider that a decommissioning bond should be included within the DCO [REP1-021].

8.6.19. CCS argued that Requirement 27(2) [REP1-003] stated that '*the site shall be decommissioned subject to obtaining the necessary consents*', it is not considered that the enforcement regime is sufficiently robust to ensure the demolition of this project given the current anticipated demolition cost of circa £2,000,000. CCS suggested that an indicative schedule of what these necessary consents are if the building was to be decommissioned in the current climate should be provided to gain a better understanding of these and the likelihood of obtaining these within a reasonable timeframe. CCS argued that it is also unclear what would happen in the event of the company entering liquidation which is why the Council have suggested a bond is introduced to ensure the Proposed Development is decommissioned.

8.6.20. The Applicant explained that it does not consider that it is necessary to provide a bond or other financial security for future decommissioning costs. The Applicant argued that Requirement 27 [REP1-003] provides a clear and enforceable mechanism to secure the carrying out of the necessary decommissioning works within a fixed period from the plant ceasing to operate.

8.6.21. This was a matter that I raised at the ISHs into the DCO [EV-003 and EV-011] and is addressed in the Applicant's summary of oral submissions [REP3-004] [REP3-005].

8.6.22. The Applicant made amendments to the draft requirement to add in further detail requested by CCS as to the required content of the decommissioning strategy (which is intended to be similar in detail to the way the CEMP requirement is drafted) [REP1-014] (Requirement 27 referred to above became Requirement 28 in [REP6-003]).

8.6.23. The Applicant argued that the enforcement mechanisms in the PA2008 are stringent. Criminal liability is an immediate consequence of a breach of Requirement 28. The obligation to decommission and the liability for it sits with the undertaker and cannot pass to a third party without the consent of the SoS (save to an already regulated gas or electricity licence holder). The Applicant argued that the Proceeds of Crime Act 2002 also allows local authorities to seek to recover the profits accruing to

businesses and individuals who breach planning control, and part of the money recovered is retained by the relevant local planning authority. The Applicant provided evidence how this has been used successfully by planning authorities recently to recover substantial sums via confiscation orders in a list of examples is set out in Appendix 8 of [REP1-012].

8.6.24. The Applicant pointed out that there is no national policy requirement for decommissioning bonds to be offered by Applicants. Neither NPS EN-1 nor NPS EN-2 requires an Applicant to provide financial security for decommissioning costs for energy projects of this nature. Furthermore, there is no other UK Government or WG policy in relation to the provision of financial security for decommissioning gas fired generating stations. PPW does not include any relevant policy on financial security for decommissioning and remediation. The adopted CCS local plan and the now adopted development plan do not contain any policies which would require the Applicant to offer a decommissioning bond [REP4-026].

8.6.25. In response to my WQ 2.0.2, CCS stated that it is not aware of any DCOs granted for gas generating stations or electricity transmission projects which have required financial security to be put in place for the costs of decommissioning the development. CCS confirmed that PPW contains no policies at all which refer to NSIPs, and the CCS adopted development plan is from 2008, prior to the PA2008 coming into force. CCS noted that PPW does consider mining and the legacy of disused mining sites [REP4-026].

8.6.26. CCS stated in Appendix A of [REP6-012] that:

"The Applicant suggests that the research cited by CCS into "The Restoration and Aftercare of Coal and Aggregates Workings" in 2009 is not relevant to the decommissioning of a nationally significant energy generating station as it relates to coal and aggregates and there is no comparable evidence with regards to decommissioning of power generating plants.

CCS is fully aware that the research relates to coal and aggregates and not energy development but the principles and lessons learned from this approach are clearly applicable to this proposal as there are several similarities which are listed below. This research is therefore both a relevant consideration and important."

8.6.27. I am satisfied that the Applicant has considered decommissioning impacts adequately in its ES [APP-042].

8.6.28. I believe there is no necessity for the draft DCO to contain a Requirement for a decommissioning bond because:

- Requirement 28 [REP6-003] provides a clear and enforceable mechanism to secure the carrying out of the necessary decommissioning works for Work No. 1 within a fixed period from the plant ceasing to operate;
- the approach taken is consistent with other made DCOs for projects of this type; and

- that the assessment in the ES is robust and adequate.

8.7. LEGAL AGREEMENTS AND OTHER CONSENTS

8.7.1. The Applicant, CCS and Sarah Ann Marina Llewellyn have agreed a draft section 106 Agreement under the 1990 Act in Schedules 1-3 of [REP6-007]. I briefly addressed this matter earlier in this report at Section 1.7. The s106 contains obligations relating to the following matters:

- Education Scheme;
- Supply Chain Initiative; and
- Footpath Improvements.

8.7.2. On the 9 April 2019 the Applicant stated:

"Attached is the section 106 agreement, signed by the City and County of Swansea and the Applicant. The document is currently with the land owner for execution, and completion will then take place. The attached document is submitted as the Applicant does not anticipate having the completed document prior to the end of the Examination. The Applicant will submit a copy of the completed agreement as soon as possible, which the Secretary of State will be able to take into account when considering whether to grant development consent" [AS-011].

8.7.3. The matters covered by the section 106 agreement are important and relevant and have been accorded appropriate weight in this report. The tests for the acceptability of planning obligations are that they should be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. I consider that the obligations within the section 106 Agreement satisfy these tests.

8.7.4. I consider that all legal formalities for a valid s106 agreement have been met in the deed and that all persons with an interest in the land it applies to have executed it and that, therefore, the s106 agreement is enforceable against them and their successors in title. However, I would advise the SoS only grants consent if he first receives a completed (dated) s106 agreement in identical terms to the agreed draft, properly executed by ALL parties holding an interest in the relevant land.

8.7.5. The other consents necessary to deliver the Proposed Development are recorded and discussed at Section 1.8 of this report above. None give rise to any concerns for the drafting of the DCO that were matters of contention or relevant to breaches of applicable policy and require to be addressed here.

8.7.6. I have considered the other consents recorded in Section 1.8 of this report. Without prejudice to the exercise of discretion by other authorities, and again excepting the matters arising from the gas and electrical connection alignment consents that I discuss in Section 1.8 above, I am content that none indicate a significant barrier to the Proposed Development or a provide a reason why the DCO should not be made by the SoS in the form set out in Appendix D.

8.8. STATUTORY NUISANCE

- 8.8.1. The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP) regulation 5(2)(f) requires that that an application must be accompanied by.... *"a statement whether the proposal engages one or more of the matters set out in section 79(1) [...] of the Environmental Protection Act 1990 and, if so how the Applicant proposes to mitigate or limit them"*. This obligation has been discharged in the Statement of Engagement (SoE) Section 79 of the Environmental Protection Act submitted with the application [APP-060].
- 8.8.2. Having reviewed the SoE in the light of matters raised in representations, I am content that the Applicant has appropriately identified the scope of potential nuisance sources from the construction and operation of the Proposed Development. I am also content that the Applicant has provided appropriate mitigation for foreseeable nuisance types and secured this in the DCO, via the requirements and references to the CEMP R17, Dust Management Plan (DMP) R18, CTMP R21 and the Surface Water Management Plan (SWMP) R7. The SoE concludes that with the applied and secured mitigation, the risk of nuisance occurring will be negligible. I agree with this conclusion.
- 8.8.3. Article 38 of the DCO contains a defence to proceedings in respect of statutory nuisance of a type that is commonly provided for NSIPs. The drafting is based on the Model Provisions. I agree that the necessary steps to reduce the risk of nuisance events have been taken and that this provision is not a buffer against the consequences of poor practice. It exists and is an appropriate provision against circumstances where unforeseen but unavoidable nuisance occurs. Having regard to NPS EN-1 section 4.14 in the light of the information in the SoE and the mitigation security provided in the DCO, I see no need to recommend changes to the proposed defence provision.

8.9. CONCLUSIONS

- 8.9.1. I have considered all iterations of the draft DCO as provided by the Applicant from the application version Revision 0 to Revision 6 and considered the degree to which the final preferred draft Revision 6 DCO [REP6-003] has addressed outstanding matters. The Appendix D DCO is identical to the Applicant's Revision 6.
- 8.9.2. I am satisfied that the requirements included in the draft DCO as amended during the course of the Examination provide mitigation for potential adverse effects identified in the ES and address issues raised by me and IPs during the course of the Examination.
- 8.9.3. Taking all matters raised in this Chapter and all matters relevant to the DCO raised in the remainder of this report fully into account, I recommend that if the SoS is minded to make the DCO, it should be made in the form set out in Appendix D.

9. SUMMARY OF FINDINGS AND CONCLUSIONS

9.1. INTRODUCTION

9.1.1. In relation to s104 of PA2008, I conclude in summary that:

- making the recommended DCO would be in accordance with:
 - NPSs EN-1, EN-2 and (to the limited extent of its application to an ancillary land requirement) EN-4 and EN-5;
 - the Welsh Governments "Prosperity for All: A Low Carbon Wales, 2019, where the need for gas energy generation is acknowledged as part of the energy generation suite required to transition to a low carbon Wales;
 - would also be in accordance with Planning Policy Wales and supporting TANS;
 - the Climate Change Act, 2008 which is the basis for the UK's approach to tackling and responding to climate change. It requires that emissions of carbon dioxide and other greenhouse gases are reduced and that climate change risks are prepared for; and
 - the CCS local development plan and other relevant policy, all of which have been considered in this report;
- I have had regard to the LIR produced by CCS in making this recommendation;
- in making the DCO, the SoS would be fulfilling his duties under the relevant EU Directives as transposed into UK law by regulation, as well as the biodiversity duty under the NERC Act 2006;
- whilst the SoS is the competent authority under the Habitats Regulations, I conclude that the evidence suggests that the Proposed Development would not adversely affect European Sites, species or habitats, and I have taken this into account in reaching my recommendation;
- the SoS should only grant consent if he first receives a completed (dated) s106 agreement in identical terms to the agreed draft, properly executed by all parties holding an interest in the relevant land;
- with regard to all other matters and representations received, I have found no important and relevant matters that would individually or collectively lead to a different recommendation to that below;
- the Proposed Development would have no adverse effects that would outweigh its benefits; and
- there is nothing to indicate that the application should be decided other than in accordance with the relevant NPSs.

9.1.2. In relation to the application for CA and TP powers within the recommended DCO, I conclude in summary terms that:

- the Proposed Development for which the land and rights are sought would be in accordance with national policy, as set out in the NPSs;
- the NPSs identify a national need for electricity generating capacity, which includes capacity sourced from gas combustion;

- the need to secure the land and rights required, and to construct the Proposed Development within a reasonable commercial timeframe, represent a significant public benefit;
- the private loss to those affected:
 - is mitigated through the choice of the application land;
 - the co-location of the access road with the electrical connection;
 - minimising the width of the access road; and
 - the limitation to the minimum extent possible of the rights and interests proposed to be acquired;
- the Applicant has explored all reasonable alternatives to the CA of land, rights and interests sought and there are no alternatives that ought to be preferred;
- adequate and secure funding would be available to enable CA within the statutory period following the Order being made; and
- the proposed interference with the human rights of individuals would be for legitimate purposes that would justify such interference in the public interest and to a proportionate degree.

9.2. CONSIDERATION OF FINDINGS AND CONCLUSIONS

- 9.2.1. Considering all of the above factors together, there is a compelling case in the public interest for the CA powers sought in respect of the CA land shown on the Land Plans. I conclude that the Proposed Development would comply with s122(2) and s122(3) of PA2008.

9.3. RECOMMENDATION

- 9.3.1. For all of the above reasons and in the light of my findings and conclusions on important and relevant matters set out in the report, I conclude that the case for the development has been made and that development consent should be given through a DCO in the form attached at Appendix D.

APPENDIX A: THE EXAMINATION

APPENDIX B: EXAMINATION LIBRARY

APPENDIX C: LIST OF ABBREVIATIONS

APPENDIX D: THE RECOMMENDED DCO



The Planning Inspectorate Yr Arolygiaeth Gynllunio

Deddf Cynllunio 2008

Prosiect Pŵer Abergelli

Adroddiad yr Awdurdod Archwilio
ar Ganfyddiadau a Chasgliadau

a'r

Argymhelliad i'r Ysgrifennydd Gwladol dros
Fusnes, Ynni a Strategaeth Ddiwydiannol

Awdurdod Archwilio

Martin Broderick BSc MPhil FIEMA

10 Gorffennaf 2019

Mae'r dudalen hon yn wag yn fwriadol

TROSOLWG

Cyf y Ffeil: EN010069

Gwnaed y cais, dyddiedig 25 Mai 2018, o dan adran 37 Deddf Cynllunio 2008 ac fe'i derbyniwyd yn llawn gan yr Arolygiaeth Gynllunio (yr Arolygiaeth) ar 25 Mai 2018.

Yr Ymgeisydd yw Abergelli Power Limited (sydd wedi'i gorffori yng Nghymru a Lloegr â rhif 05562053).

Derbyniwyd y cais i'w archwilio ar 21 Mehefin 2018.

Dechreuodd yr archwiliad o'r cais ar 10 Hydref 2018 ac fe'i cwblhawyd ar 10 Ebrill 2019.

Mae'r datblygiad a gynigir yn cynnwys gorsaf cynhyrchu pŵer brig (yr "Orsaf Cynhyrchu Pŵer") Tyrbin Nwy Cylch Agored (OCGT) a chysylltiadau newydd â'r rhwydweithiau nwy a thrydan ar dir gerllaw Gorsaf Cywasgydd Nwy Felindre yn Fferm Abergelli, Felindre, Abertawe SA5 7NN (y "Prosiect").

Mae'r Datblygiad Arfaethedig yn golygu bod angen cysylltiad â'r system trosglwyddo nwy a chysylltiad trydanol i ddosbarthu i'r rhwydwaith. Nid yw datblygu'r cysylltiadau hyn yn rhan o'r cais. Fodd bynnag, mae'r cais yn cynnwys darpariaeth yn y Gorchymyn Caniatâd Datblygu (DCO) ar gyfer Caffael Gorfodol (CA) a/neu Feddiant Dros Dro (TP) mewn perthynas â thir ar gyfer alinio cysylltiad trydanol a phwerau cysylltiedig i hwyluso'r datblygiad.

Crynodeb o'r Argymhelliad:

Mae'r Awdurdod Archwilio yn argymhell y dylai'r Ysgrifennydd Gwladol wneud y Gorchymyn ar y ffurf atodedig.

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1. CYFLWYNIAD

1.1. CYFLWYNIAD I'R ARCHWILIAD

- 1.1.1. Cyflwynwyd y Cais ar gyfer Gorsaf Cynhyrchu Pŵer sy'n Rhedeg ar Nwy Abergelli (y Datblygiad Arfaethedig) [APP-002] gan Abergelli Power Limited (yr Ymgeisydd) i'r Arolygiaeth ar 25 Mai 2018 o dan adran 31 Deddf Cynllunio 2008 (PA 2008) ac fe'i derbyniwyd i'w Archwilio o dan adran 55 PA 2008 ar 21 Mehefin 2018 [PD-002].
- 1.1.2. Mae'r Datblygiad Arfaethedig yn cynnwys gorsaf cynhyrchu pŵer brig (yr "Orsaf Cynhyrchu Pŵer") OCGT a chysylltiadau newydd â'r rhwydweithiau nwy a thrydan ar dir gerllaw Gorsaf Cywasgydd Nwy Felindre yn Fferm Abergelli, Felindre, Abertawe SA5 7NN.
- 1.1.3. Mae prosiect yr Ymgeisydd wedi'i rannu'n dair elfen wahanol a ddisgrifir isod sydd, gyda'i gilydd, yn ffurfio'r "Datblygiad Arfaethedig". Cyfeirir at yr elfennau hyn fel yr Orsaf Cynhyrchu Pŵer, y Cysylltiad Nwy, a'r Cysylltiad Trydanol.
- 1.1.4. Mae tair prif elfen y Prosiect yn cynnwys:
- Gorsaf cynhyrchu pŵer brig OCGT, sy'n rhedeg ar nwy naturiol ac sy'n gallu darparu allbwn trydanol wedi'i raddio o hyd at 299 Megawat (MW). Mae'r Orsaf Cynhyrchu Pŵer yn cynnwys:
 - Offer Cynhyrchu sy'n cynnwys un Generadur Tyrbin Nwy gydag un stac fflw nwy gwacáu a Chydbwysedd Safle (BOP) (y cyfeirir atynt gyda'i gilydd fel yr "Offer Cynhyrchu") sydd wedi'u lleoli o fewn y "Safle Offer Cynhyrchu";
 - Ffordd Fynediad i Safle'r Prosiect o'r B4489 sydd wedi'i lleoli i'r gorllewin, a ffurfir trwy uwchraddio ffordd fynediad bresennol rhwng cyffordd y B4489 ac Is-orsaf Gogledd Abertawe (yr "Is-orsaf") ac adeiladu rhan newydd o ffordd fynediad o'r Is-orsaf i'r Safle Offer Cynhyrchu;
 - Cyfadeilad adeiladu dros dro i storio deunyddiau, peiriannau ac offer, yn ogystal â chynnwys llety a chyfleusterau lles y safle, lleoedd parcio dros dro a ffens dros dro (yr "Ardal Baratoi"). Bydd ardal fach o fewn yr Ardal Baratoi yn cael ei chadw'n barhaol (y "Cyfadeilad Cynnal a Chadw");
 - Ardal Lliniaru Ecolegol – ardal ar gyfer gwelliannau ecolegol o fewn Ffin Safle'r Prosiect; a
 - Parcio a draenio parhaol i gynnwys: system draenio dŵr brwnt, dŵr olewog a dŵr wyneb o'r safle.
 - Cysylltiad Nwy ar ffurf Gosodiad newydd ar y Tir (AGI) a chysylltiad nwy tanddaear (y "Biblinell Nwy") i ddod â nwy naturiol i'r Offer Cynhyrchu o'r System Trosglwyddo Nwy Genedlaethol; a
 - Chysylltiad Trydanol ar ffurf cebl trydanol tanddaear newydd i allforio pŵer o'r Offer Cynhyrchu i System Trosglwyddo Trydan y Grid Cenedlaethol (NGETS).

- 1.1.5. Mae'r Ymgeisydd yn gwneud cais am Orchymyn Caniatâd Datblygu ("DCO") o dan PA2008 ar gyfer pwerau i adeiladu, gweithredu a chynnal yr Orsaf Cynhyrchu Pŵer (y "datblygiad awdurdodedig").
- 1.1.6. Ar wahân, mae'r Ymgeisydd wedi gwneud cais i Ddinas a Sir Abertawe (CCS) am ganiatâd cynllunio o dan Ddeddf Cynllunio Gwlad a Thref 1990 ("TCPA 1990") ar gyfer caniatâd i ddatblygu'r Cysylltiad Nwy a'r Cysylltiad Trydanol¹. Nid yw'r rhestr o waith yn y cais am DCO yn cynnwys unrhyw ddatblygiad sy'n ofynnol ar gyfer y Cysylltiad Nwy na'r Cysylltiad Trydanol.
- 1.1.7. Dangosir lleoliad y Datblygiad Arfaethedig yn ES Ffigur 1.1 [APP-021] a Chynlluniau Tir [APP-057]. Mae'r safle o fewn ardal weinyddol Cyngor Dinas a Sir Abertawe (CCS) ac mae'n gyfan gwbl yng Nghymru.
- 1.1.8. Ystyriwyd y profion deddfwriaethol i bennu a yw'r Datblygiad Arfaethedig yn Brosiect Seilwaith o Arwyddocâd Cenedlaethol (NSIP) gan y SoS ar gyfer yr Adran Cymunedau a Llywodraeth Leol (DCLG) yn ei benderfyniad i dderbyn y cais i'w Archwilio yn unol ag adran 55 PA2008 [PD-002].
- 1.1.9. Ar y sail hon, cytunodd yr Arolygiaeth â barn yr Ymgeisydd a nodwyd ar y ffurflen gais [APP-002], sef bod y datblygiad arfaethedig yn NSIP gan ei fod yn cynnwys adeiladu gorsaf gynhyrchu yng Nghymru sydd â chapasiti o fwy na 50 megawat, ei fod o fewn a14 (1) (a) a 15 (1) PA2008, ac felly bod arno angen caniatâd datblygu yn unol ag a31 PA2008. Felly, mae'r Datblygiad Arfaethedig yn bodloni'r diffiniad o NSIP fel y'i hamlinellir yn a14(1)(a) a 15 (1) PA2008.

1.2. PENODI'R AWDURDOD ARCHWILIO

- 1.2.1. Ar 26 Gorffennaf 2018, fe'm penodwyd yn Awdurdod Archwilio (ExA) ar gyfer y cais o dan a78 ac a79 PA2008 [PD-004].

1.3. YR UNIGOLION A FU'N RHAN O'R ARCHWILIAD

- 1.3.1. Yr unigolion a fu'n rhan o'r Archwiliad oedd:
- Unigolion yr oedd hawl ganddynt i fod yn Bartïon â Buddiant (IP) oherwydd eu bod wedi gwneud Cynrychiolaeth Berthnasol (RR) neu oherwydd eu bod yn Barti Statudol a oedd wedi gofyn am fod yn IP.
 - Unigolion yr Effeithir Arnynt (AP) gan gynnig Caffael Gorfodol (CA) a / neu Feddiant Dros Dro (TP) a wnaed yn rhan o'r cais ac a oedd wedi'i wrthwynebu ar unrhyw adeg yn ystod yr Archwiliad.

1.4. YR ARCHWILIAD A PHENDERFYNIADAU GWEITHDREFNOL

¹ Rhoddwyd caniatâd cynllunio ar gyfer cysylltiadau nwy a thrydanol ar 6 Rhagfyr 2018.

- 1.4.1. Dechreuodd yr Archwiliad ar 10 Hydref 2018 a daeth i ben ar 10 Ebrill 2019.
- 1.4.2. Crynhoir prif elfennau a digwyddiadau'r Archwiliad isod. Rhoddir disgrifiad llawnach, graddfeydd amser a dyddiadau yn Atodiad A.

Y Cyfarfod Rhagarweiniol

- 1.4.3. Ar 12 Medi 2018, ysgrifennais at yr holl IPs, Partïon Statudol ac Unigolion Eraill o dan Reol 6 Rheolau Cynllunio Seilwaith (Gweithdrefn Archwilio) 2010 (EPR) (y Llythyr Rheol 6) i'w gwahodd i'r Cyfarfod Rhagarweiniol (PM) a Gwrandawriad DCO [PD-005], gan amlinellu:
- trefniadau ac agenda'r PM;
 - hysbysiad o Wrandawriad i'w gynnal yn gynnar yn ystod yr Archwiliad;
 - agenda/agendâu ar gyfer unrhyw Wrandawriad cynnar;
 - Asesiad Cychwynnol o'r Prif Faterion (IAPI);
 - Amserlen Archwiliad ddrafft;
 - argaeledd RRs a dogfennau'r cais; a
 - phenderfyniadau gweithdrefnol yr ExA.
- 1.4.4. Cynhaliwyd y PM ar 10 Hydref 2018 yng Ngwesty'r Village, Heol Langdon, Abertawe SA1 8QY. Cyhoeddwyd recordiad sain [EV-002] a nodyn o'r cyfarfod [EV-001] ar wefan Seilwaith Cenedlaethol yr Arolygiaeth².
- 1.4.5. Rhoddodd fy mhenderfyniadau gweithdrefnol ac Amserlen yr Archwiliad ystyriaeth lawn i faterion a godwyd yn y PM. Fe'u darparwyd yn y Llythyr Rheol 8 [PD-005(2)], dyddiedig 17 Hydref 2018.
- 1.4.6. Roedd y trefniadau ar gyfer y rhai a ddymunai gymryd rhan trwy gyfrwng y Gymraeg yn cynnwys y canlynol:
- Roedd cyflwyniadau Cymraeg llafar ac ysgrifenedig yn cael eu croesawu a'u derbyn i'r Archwiliad;
 - Roedd cyfieithydd a oedd yn darparu gwasanaeth cyfieithu ar y pryd ar gael yn y PM, pob Gwrandawriad ac yn yr Archwiliad Safle gyda Chwmni (ASI) i ganiatáu i'r holl rai a oedd yn bresennol gymryd rhan yn Gymraeg os oeddent yn dymuno.
- 1.4.7. Rwyf yn fodlon y rhoddwyd cyfle llawn i gymryd rhan yn yr Archwiliad trwy gyfrwng y Gymraeg. Fel y digwyddodd, ni wnaed unrhyw gyflwyniadau yn Gymraeg ac ni wnaed unrhyw geisiadau i ddefnyddio'r cyfleusterau a ddarparwyd gan y gwasanaeth cyfieithu ar y pryd.

Penderfyniadau Gweithdrefnol Allweddol

- 1.4.8. Roedd y rhan fwyaf o'r penderfyniadau gweithdrefnol a amlinellwyd yn y Llythyr Rheol 8 yn ymwneud â materion a oedd yn gyfyngedig i weithdrefn yr Archwiliad ac nid oeddent yn berthnasol i ystyriaeth yr ExA

² <https://infrastructure.planninginspectorate.gov.uk/projects/wales/abergelli-power/?ipcsection=docs>

o rinweddau cynllunio'r Datblygiad Arfaethedig. At hynny, cydymffurfiwyd â nhw gan yr Ymgeisydd ac IPs perthnasol. Gellir gweld y penderfyniadau yn y Llythyr Rheol 8 [PD-005(2)] ac felly nid oes angen eu hailadrodd yma.

Archwiliadau Safle

- 1.4.9. Cynhelir Archwiliadau Safle yn rhan o Archwiliadau PA2008 i sicrhau bod gennyf ddealltwriaeth ddigonol o'r Datblygiad Arfaethedig o fewn ei safle a'i amgylchedd a'i effeithiau ffisegol a gofodol.
- 1.4.10. Lle y gellir gweld y materion i'w harchwilio o'r parth cyhoeddus ac nid oes unrhyw ystyriaethau eraill fel diogelwch personol neu'r angen i amlygu nodweddion neu brosesau perthnasol, cynhelir Archwiliad Safle Digwmni (USI). Lle mae'n rhaid cynnal archwiliad ar dir y mae angen caniatâd i gael mynediad ato, lle mae ystyriaethau diogelwch neu dechnegol eraill a / neu lle y gofynnir am gael bod yn bresennol yn ystod archwiliad, cynhelir ASI.
- 1.4.11. Cynhaliais yr USI canlynol:
- USI, 15 Awst 2018 er mwyn i'r ExA ymglyfarwyddo â'r Datblygiad Arfaethedig a'r ardal amgylchynol (Atodiad F [PD-005]).
- Gellir gweld nodyn safle sy'n rhoi cofnod gweithdrefnol o'r USI yn Llyfrgell yr Archwiliad o dan y cyfeirnod uchod.
- 1.4.12. Cynhaliais yr ASI canlynol:
- ASI1, Dydd Gwener 14 Rhagfyr 2018 i weld y safle o'r cefn gwlad amgylchynol [EV-008].
- 1.4.13. Mae'r amserlen deithio ar gyfer yr ASI i'w gweld yn Llyfrgell yr Archwiliad o dan y cyfeirnod uchod.
- 1.4.14. Rwyf wedi ystyried yr holl wybodaeth ac argraffiadau a gafwyd yn ystod yr archwiliadau safle ym mhob adran berthnasol o'r Adroddiad hwn.

Prosesau Gwrandawriad

- 1.4.15. Cynhelir Gwrandawiadau yn rhan o Archwiliadau PA2008 am ddau brif reswm:
- I ymateb i geisiadau penodol gan unigolion sydd â hawl i gael eu clywed – yn gwyno:
 - pan fydd unigolion yr effeithir arnynt gan gynigion CA a/neu TP (AP) yn gwrthwynebu ac yn gofyn am gael eu clywed mewn Gwrandawriad Caffael Gorfodol (CAH); a / neu
 - pan fydd IPs yn gofyn am gael eu clywed mewn Gwrandawriad Llawr Agored (OFH).
 - I fynd i'r afael â materion y mae'r ExA yn credu bod angen cynnal Gwrandawriad i'w harchwilio ar lafar, a hynny fel arfer oherwydd eu

bod yn gymhleth, bod elfen o ddadlau neu anghytuno, neu nad yw cymhwysiad cyfraith berthnasol neu bolisi perthnasol yn eglur.

- 1.4.16. Cynhaliais nifer o Wrandawiadau i sicrhau bod y materion a godwyd gan y cais yn cael eu harchwilio'n drylwyr.
- 1.4.17. Cynhaliwyd Gwrandawiadau Mater Penodol (ISH) o dan a91 PA2008 yng Ngwesty'r Village, Heol Langdon, Abertawe SA1 8QY, sydd oddeutu 9 km o safle'r cais a phreswylfeydd mwyafrif yr IPs.
- 1.4.18. Cynhaliwyd ISHs ar faterion yn ymwneud â'r DCO drafft ar:
- ISH1, 10 Hydref 2018 [EV-003];
 - ISH2, 13 Rhagfyr 2018 [EV-011].
- 1.4.19. Cynhaliwyd ISH ar Faterion Amgylcheddol ar:
- ISH3, 13 Rhagfyr 2018 [EV-012].
- 1.4.20. Cynhaliwyd CAH o dan a92 PA2008 yng Ngwesty'r Village, Heol Langdon, Abertawe SA1 8QY ar:
- CAH1, 12 Rhagfyr 2018 [EV-009].

Rhoddwyd cyfle i'r holl unigolion yr effeithir arnynt gan gynigion CA a/neu TP (AP) gael eu clywed. Defnyddiais y Gwrandawriad i archwilio achos yr Ymgeisydd dros CA a TP yn gyffredinol hefyd.

- 1.4.21. Cynhaliwyd OFH o dan a93 PA2008 yng Ngwesty'r Village, Heol Langdon, Abertawe SA1 8QY gyda'r nos ar 12 Rhagfyr 2018 [EV-010]. Rhoddwyd cyfle i'r holl IPs gael eu clywed ar unrhyw faterion pwysig a pherthnasol yr oeddent eisiau eu codi.

Prosesau Ysgrifenedig

- 1.4.22. Proses ysgrifenedig yn bennaf yw'r Archwiliad o dan PA2008, lle'r wyf wedi rhoi ystyriaeth i ddeunydd ysgrifenedig sy'n ffurfio'r cais ac yn codi o'r Archwiliad. Cofnodir yr holl ddeunydd hwn yn Llyfrgell yr Archwiliad (Atodiad B) ac fe'i cyhoeddir ar wefan y prosiect. Mae cyfeiriadau yn yr adroddiad hwn at ddogfennau unigol yn Llyfrgell yr Archwiliad wedi'u hamgáu mewn cromfachau sgwâr [] a cheir hyperddolen i'r ddogfen wreiddiol a gedwir ar-lein. Am y rheswm hwn, nid yw'r Adroddiad hwn yn cynnwys crynodebau helaeth o'r holl ddogfennau a chynrychiolaethau, er y rhoddwyd ystyriaeth lawn iddynt yng nghasgliadau'r ExA. Rwyf wedi ystyried yr holl faterion pwysig a pherthnasol sy'n codi ohonynt.
- 1.4.23. Amlinellir ffynonellau ysgrifenedig allweddol ymhellach isod.

Cynrychiolaethau Perthnasol

- 1.4.24. Derbyniwyd chwech ar hugain o Gynrychiolaethau Perthnasol (RR) gan yr Arolygiaeth [RR-001 i RR-026]. Cafodd pawb a luniodd RR Lythyr Rheol 6 a rhoddwyd cyfle iddynt gymryd rhan yn yr Archwiliad fel IP. Mae'r ExA wedi rhoi ystyriaeth lawn i bob RR. Ystyrir y materion a godwyd ynddynt ym Mhennod 4 yr Adroddiad hwn.

Cynrychiolaethau Ysgrifenedig a Dogfennau Eraill yr Archwiliad

- 1.4.25. Rhoddwyd cyfleoedd i'r Ymgeisydd ac IPs ac Unigolion Eraill:
- wneud Cynrychiolaethau Ysgrifenedig (WR) erbyn Terfyn Amser 1 (DL1);
 - gwneud sylwadau ar WRs a wnaed gan yr Ymgeisydd ac IPs eraill erbyn DL2 a DL3;
 - crynhoi eu cyflwyniadau llafar yn ysgrifenedig erbyn DL3 a DL5;
 - gwneud cyflwyniadau ysgrifenedig eraill y gofynnwyd amdanynt neu a dderbyniwyd gan yr ExA; a
 - gwneud sylwadau ar ddogfennau a gyhoeddwyd ar gyfer ymgynghoriad gan yr ExA erbyn DL5, gan gynnwys:
 - Adroddiad ar y Goblygiadau i Safleoedd Ewropeaidd (RIES) [PD-008] a gyhoeddwyd ar 4 Mawrth 2019.
- 1.4.26. Mae'r holl WRs a dogfennau eraill yr archwiliad wedi cael eu hystyried yn llawn gan yr ExA. Ystyrir y materion a godir ynddynt ym Mhenodau 4, 7 ac 8 yr Adroddiad hwn.

Adroddiad ar yr Effaith Leol

- 1.4.27. Adroddiad ar yr Effaith Leol (LIR) yw adroddiad a luniwyd gan Awdurdod Lleol (ALI) perthnasol sy'n rhoi manylion am effaith debygol y Datblygiad Arfaethedig ar ardal yr awdurdod (neu unrhyw ran o'r ardal honno) sydd wedi cael ei wahodd a'i gyflwyno i'r ExA o dan a60 PA2008.
- 1.4.28. Cafodd yr ExA un LIR gan CCS [REP1-021].
- 1.4.29. Mae'r LIR wedi cael ei ystyried yn llawn gan yr ExA yn holl Benodau perthnasol yr Adroddiad hwn.

Datganiadau Tir Cyffredin

- 1.4.30. Mae Datganiad Tir Cyffredin (SoCG) yn ddatganiad y cytunwyd arno rhwng yr Ymgeisydd ac un IP neu fwy, sy'n cofnodi materion y maen nhw'n cytuno arnynt.
- 1.4.31. Erbyn diwedd yr Archwiliad, roedd y cyrff canlynol wedi cwblhau SoCGs gyda'r Ymgeisydd:
- Rhwng yr Ymgeisydd a Cyfoeth Naturiol Cymru (CNC) [REP2-009];
 - Rhwng yr Ymgeisydd ac NGETS [REP6-008];
 - Rhwng yr Ymgeisydd ac NGT [REP6-009];

- Rhwng yr Ymgeisydd a Dŵr Cymru [REP5-006];
- Rhwng yr Ymgeisydd a Wynne Watkins/Redisplay Limited [REP4-021] heb ei lofnodi;
- Rhwng yr Ymgeisydd a CCS [REP3-010] anghyflawn; a
- Rhwng yr Ymgeisydd a Michael Edwards [REP4-020] heb ei lofnodi.

1.4.32. Roedd y SoCGs gyda Wynne Watkins/Redisplay Limited a Michael Edwards yn parhau i fod heb eu llofnodi oherwydd:

- Gwrthwynebiadau i'r Pwerau CA;
- Anghytundeb ynglŷn â dewisiadau amgen; ac
- Y ffaith bod cysylltiadau nwy a thrydan yn rhan annatod o'r Datblygiad Arfaethedig.

1.4.33. Roedd y SoCG gyda CCS yn parhau i fod yn anghyflawn oherwydd gwahaniaethau heb eu datrys ynglŷn â:

- Bond datgomisiynu; a
- Therfyn amser ar gyfer gweithredu.

1.4.34. Mae'r ExA wedi rhoi ystyriaeth lawn i'r SoCGs yn holl Benodau perthnasol yr Adroddiad hwn.

Cwestiynau Ysgrifenedig

1.4.35. Gofynnais 2 gyfres o Gwestiynau Ysgrifenedig (WQ):

- Amlinellwyd yr WQ cyntaf (ExQ1) [PD-005(3)] a phenderfyniadau gweithdrefnol yn y llythyr Rheol 8 [PD-005(2)], dyddiedig 17 Hydref 2018.
- Cyhoeddwyd yr ail WQ (ExQ2) [PD-006] ar 11 Ionawr 2019.

1.4.36. Mae'r holl ymatebion i WQ yr ExA wedi cael eu hystyried yn llawn yn holl Benodau perthnasol yr Adroddiad hwn.

Ceisiadau i Ymuno â'r Archwiliad a'i Arael

1.4.37. Ni chafwyd unrhyw geisiadau i ymuno â'r Archwiliad gan unigolion nad oeddent eisoes yn IPs ar adeg y PM neu ar ôl hynny.

1.4.38. Yn ystod yr Archwiliad, o ganlyniad i drafodaeth mewn Gwrandawriadau a/neu drafodaethau rhwng IPs/APs/Unigolion Eraill perthnasol a'r Ymgeisydd, ysgrifennodd yr unigolion canlynol at yr ExA i roi gwybod iddo fod eu materion wedi'u datrys a'u bod yn tynnu eu cynrychiolaethau yn ôl:

- Tynnodd Western Power Distribution (WPD) [AS-010] ei gynrychiolaethau yn ôl gan ei fod wedi cytuno ar Ddarpariaethau Amddiffynnol gyda'r Ymgeisydd. Derbyniodd yr ExA ei gais i dynnu'n ôl fel IP.
- Tynnodd Abergelli Solar Limited [REP6-011] ei gynrychiolaethau yn ôl gan ei fod wedi dod i gytundeb gyda'r Ymgeisydd ac wedi cytuno ar

Ddarpariaethau Amddiffynnol gyda'r Ymgeisydd. Derbyniodd yr ExA ei gais i dynnu'n ôl fel IP.

- Tynnodd NGETS ac NGG [REP6-013] eu cynrychiolaethau yn ôl gan eu bod wedi cytuno ar Ddarpariaethau Amddiffynnol gyda'r Ymgeisydd. Derbyniodd yr ExA eu ceisiadau i dynnu'n ôl fel IP.

1.5. ASESU EFFEITHIAU AMGYLCHEDDOL

- 1.5.1. Mae'r Datblygiad Arfaethedig yn ddatblygiad y mae angen cynnal Asesiad o Effeithiau Amgylcheddol (AEA) ar ei gyfer (datblygiad AEA).
- 1.5.2. Ar 26 Mehefin 2014, cyflwynodd yr Ymgeisydd Adroddiad Cwmpasu i'r Ysgrifennydd Gwladol (SoS) o dan Reoliad 8 Rheoliadau Cynllunio Seilwaith (AEA) 2009 (Offeryn Statudol (OS) 2263) (fel y'u diwygiwyd) (y Rheoliadau AEA) i ofyn am farn ynglŷn â chwmpas y Datganiad Amgylcheddol (ES) a oedd i'w baratoi (Barn Gwmpasu) [APP-035]. Mae'n dilyn y tybir bod yr Ymgeisydd wedi rhoi gwybod i'r SoS o dan Reoliad 6(1)(b) y Rheoliadau AEA ei fod yn bwriadu darparu ES mewn perthynas â'r Prosiect.
- 1.5.3. Ar 1 Awst 2014, darparodd yr Arolygiaeth Farn Gwmpasu [APP-035]. Felly, yn unol â Rheoliad 4(2)(a) y Rheoliadau AEA, penderfynwyd bod y Datblygiad Arfaethedig yn ddatblygiad AEA, a chyflwynwyd ES gyda'r cais dyddiedig 25 Mai 2018 [APP-016-APP-044].
- 1.5.4. Ar 3 Gorffennaf 2018 a 2 Awst 2018, rhoddodd yr Ymgeisydd dystysgrifau i'r Arolygiaeth yn cadarnhau y cydymffurfiwyd ag a56 ac a59 PA2008 a Rheoliad 13 y Rheoliadau AEA.
- 1.5.5. Rhoddir ystyriaeth i ddigonolrwydd yr ES a materion sy'n codi ohono ym Mhenod 4 yr Adroddiad hwn.

1.6. ASESAD RHEOLIADAU CYNEFINOEDD

- 1.6.1. Mae'r Datblygiad Arfaethedig yn ddatblygiad y darparwyd Adroddiad neu Adroddiadau Asesiad Rheoliadau Cynefinoedd (HRA) ar ei gyfer [APP-066].
- 1.6.2. Rhoddir ystyriaeth i ddigonolrwydd yr Adroddiad HRA, gwybodaeth a thystiolaeth gysylltiedig a'r materion sy'n codi ohono ym Mhenodau 5 a 6 yr Adroddiad hwn.

1.7. YMGYMERIADAU, RHWYMEDIGAETHAU A CHYTUNDEBAU

- 1.7.1. Erbyn diwedd yr Archwiliad, roedd y cyrff canlynol wedi llunio ymgymeriadau, rhwymedigaethau a chytundebau ffurfiol gyda'r Ymgeisydd sy'n ystyriaethau pwysig a pherthnasol i'r SoS:
- CCS [REP6-007];
- 1.7.2. Roedd y cytundeb a106 yn cynnwys:
- cynllun addysg;

- menter cadwyn gyflenwi leol; a
- gwelliannau llwybr troed.

1.7.3. Ar 9 Ebrill 2019, dywedodd yr Ymgeisydd:

"Atodir y cytundeb adran 106, wedi'i lofnodi gan Ddinas a Sir Abertawe a'r Ymgeisydd. Mae'r ddogfen gyda'r tirfeddiannwr i'w gweithredu ar hyn o bryd, ac yna bydd yn cael ei chwblhau. Cyflwynir y ddogfen atodedig gan nad yw'r Ymgeisydd yn disgwyl cael y ddogfen wedi'i chwblhau cyn diwedd yr Archwiliad. Bydd yr Ymgeisydd yn cyflwyno copi o'r cytundeb wedi'i gwblhau cyn gynted â phosibl, y bydd yr Ysgrifennydd Gwladol yn gallu ei ystyried wrth benderfynu p'un ai rhoi caniatâd datblygu" [AS-011].

1.7.4. Mae'r ymgymeriadau, y rhwymedigaethau a'r cytundebau hyn wedi cael eu hystyried yn llawn gan yr ExA ym mhob Pennod perthnasol o'r Adroddiad hwn.

1.8. CYDSYNIADAU ERAILL

1.8.1. Mae dogfennau'r Cais a chwestiynau yn ystod yr Archwiliad hwn wedi amlygu'r cydsyniadau canlynol y mae'r Datblygiad Arfaethedig wedi'u cael neu y mae'n rhaid iddo eu cael, yn ogystal â Chaniatâd Datblygu o dan PA2008 [APP-058]. Cofnodir isod y sefyllfa ddiweddaraf o ran y rhain:

- **Trwydded cynhyrchu trydan, Deddf Trydan 1989, Swyddfa'r Marchnadoedd Nwy a Thrydan (OFGEM)** Mae'n ofynnol ar gam gweithredu'r Prosiect mewn perthynas â gweithgareddau cynhyrchu. Mae cais am drwydded cynhyrchu wedi cael ei gyflwyno;
- **Caniatâd cynllunio ar gyfer Cysylltiad Nwy (piblinell nwy ac AGI), Deddf Cynllunio Gwlad a Thref 1990** CCS Rhif Cyf.: 2018/2020/FUL Derbyniwyd: Dydd Llun 17 Medi 2018 Dilyswyd: Dydd Mawrth 25 Medi 2018 Statws: Rhoddwyd caniatâd ar 6 Rhagfyr 2018;
- **Caniatâd cynllunio ar gyfer Cysylltiad Trydan, Deddf Cynllunio Gwlad a Thref 1990, Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995.** CCS Rhif Cyf.: 2018/2021/FUL Derbyniwyd: Dydd Llun 17 Medi 2018 Dilyswyd: Dydd Mawrth 25 Medi 2018 Statws: Rhoddwyd caniatâd ar 6 Rhagfyr 2018;
- **Cytundeb Cynllunio a Chapasiti Neilltuedig Uwch (PARCA) ar gyfer cyflenwi nwy naturiol i'r orsaf bŵer** – Cytundeb Masnachol â'r Grid Cenedlaethol i gael ei symud ymlaen ar ôl y cais DCO [APP-009];
- **Cytundeb Cysylltiad Dwyochrog i gysylltu'r Prosiect â'r System Trosglwyddo Trydan Genedlaethol** – Cytundeb Masnachol â'r Grid Cenedlaethol. Gwnaeth y Grid Cenedlaethol gynnig Capasiti Trosglwyddo (TEC) i'r Ymgeisydd ar 23 Chwefror 2018. Disgwylir i hwn gael ei lunio ar ôl i'r Cais DCO gael ei gyflwyno ond cyn i'r Archwiliad ddechrau. Mae'r Cytundeb Cysylltiad Dwyochrog a'r Cytundeb Adeiladu gyda National Grid Electricity Transmission PLC (y Cytundeb Cysylltu) yn amlinellu'r cytundeb ynglŷn â chysylltu'r Orsaf Cynhyrchu Pŵer â'r System Trosglwyddo Trydan Genedlaethol.

Trafodir y cytundeb hwn yn fanylach yn Natganiad y Grid Cenedlaethol [APP-006];

- **Cymeradwyaeth Rheoliad Adeiladu, Rheoliadau Adeiladu 2010** CCS Gwneir ceisiadau ar ôl i'r DCO gael ei ganiatáu os cadarnheir bod angen y gweithgareddau a reoleiddir o fewn Tir y Gorchymyn;
- **Trwydded Amgylcheddol (EP) ar gyfer Gweithredu'r Orsaf Cynhyrchu Pŵer, Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016** – Bydd angen EP i weithredu'r Orsaf Cynhyrchu Pŵer. Rhoddodd CNC drwydded ar gyfer y datblygiad hwn ddydd Gwener 18 Ionawr 2019;
- **Trwydded Rhywogaethau a Warchodir gan Ewrop, Rheoliadau Cadwraeth Cynefinoedd a Rhywogaethau 2010** – Pe byddai angen yn dilyn yr arolwg cyfyngiadau ecolegol cyn-adeiladu (a sicrhair o dan y gofynion yn Atodlen 2 y Gorchymyn drafft) ar ôl i'r DCO gael ei ganiatáu, byddai trafodaethau'n cael eu dechrau â CNC a byddai unrhyw gais am drwydded yn cael ei symud ymlaen ar yr adeg honno. Ni ddisgwylir y bydd angen unrhyw drwyddedau rhywogaethau arbennig ar hyn o bryd;
- **Cydsyniadau sy'n ymwneud ag Iechyd a Diogelwch, Deddf Iechyd a Diogelwch yn y Gwaith 1974 ac is-ddeddfwriaeth (gan gynnwys Rheoliadau Diogelwch Systemau Pwysedd 2000)** Ceisiadau i'w gwneud gan y contractwr cyn i'r gwaith adeiladu ddechrau fel y bo'n briodol i'r Awdurdod Gweithredol Iechyd a Diogelwch (HSE);
- **Cytundeb Gadael Rhwydwaith, Amodau technegol a gweithredol ar gyfer y pwynt cysylltu** – Cytundeb Masnachol â'r Grid Cenedlaethol i'w symud ymlaen yn ystod ail hanner 2019;
- **Mae'n bosibl y bydd angen awdurdodiad ar gyfer gwaith draenio mewn cysylltiad â ffos i ailalinio'r ffosydd draenio ar Safle'r Orsaf Cynhyrchu Pŵer. Deddf Draenio Tir 1991** – Ceisiadau Tribiwnlys Eiddo Haen Gyntaf i'w gwneud gan y contractwr cyn i'r gwaith adeiladu ddechrau, fel y bo'n briodol;
- **Trwydded cludo llwythi anghyffredin ar gyfer danfon llwythi ar y ffyrdd sydd y tu allan i arfer safonol (os bydd angen), Gorchymyn Cerbydau Ffyrdd (Awdurdodi Mathau Arbennig) (Cyffredinol) 2003 neu gydag awdurdodiad gan yr Ysgrifennydd Gwladol o dan Ddeddf Traffig Ffyrdd 1988** – Bydd ceisiadau priodol, yn unol â'r Cynllun Rheoli Trafnidiaeth Adeiladu Atodiad 3.3a [APP-036], yn cael eu gwneud gan y contractwr cyn danfon llwythi anghyffredin;
- **Trwydded i allyrru CO₂, Rheoliadau'r Cynllun Masnachu Allyriadau Nwyon Tŷ Gwydr 2012** – Bydd ceisiadau'n cael eu gwneud i CNC i sicrhau y cydymffurfir â Rheoliadau 2012 (sy'n mynnu bod unrhyw weithredwr sy'n cynnal 'gweithgarwch a reoleiddir', gan gynnwys hylosgi tanwydd, yn meddu ar drwydded). Bydd y cais yn cael ei symud ymlaen ar yr un pryd â'r cais EP;
- **Cydymffurfio â Rheoliadau Diogelwch – Rheoliadau Diogelwch Piblinellau 1996, Rheoliadau Diogelwch Nwy (Rheoli)** – Bydd y contractwr yn gwneud cais i'r HSE cyn i waith ddechrau ar adeiladu'r Cysylltiad Nwy Cyffredinol;

- **Cydsyniad Adran 61, Rheoli sŵn ar safleoedd adeiladu, Deddf Rheoli Llygredd 1974** – Caiff y contractwr wneud ceisiadau i CCS, os bydd angen, o leiaf 28 niwrnod cyn i'r gwaith adeiladu ddechrau; a
- **Gorchymynion Traffig Ffyrdd Dros Dro a Chydsyniadau Gwaith Stryd eraill, Deddf Rheoliadau Traffig Ffyrdd 1984, Deddf Ffyrdd Newydd a Gwaith Stryd 1991, Deddf Rheoli Traffig 2004** – Lle y bo'r angen o ran rheoleiddio traffig er mwyn gwneud unrhyw waith stryd (i'r graddau na ddarperir ar ei gyfer yn y Gorchymyn). I'w symud ymlaen mewn ymgynghoriad â'r Awdurdodau Priffyrdd a Gwaith Stryd Lleol ar ôl i'r Gorchymyn gael ei wneud.

1.8.2. O ran y cydsyniadau sy'n weddill a gofnodir uchod, mae'r ExA wedi ystyried y wybodaeth sydd ar gael sy'n berthnasol i'r rhain a, heb beryglu gallu'r rhai a fydd yn gwneud penderfyniadau yn y dyfodol i arfer disgresiwn, mae wedi dod i'r casgliad nad oes rhwystrau amlwg rhag gweithredu'r Datblygiad Arfaethedig, pe byddai'r SoS yn caniatáu'r Cais.

1.9. STRWYTHUR YR ADRODDIAD HWN

1.9.1. Mae strwythur yr adroddiad hwn fel a ganlyn:

- Mae **Pennod 1** yn cyflwyno'r darlennydd i'r Cais, a'r prosesau a ddefnyddiwyd i gynnal yr Archwiliad a llunio'r Adroddiad hwn.
- Mae **Pennod 2** yn disgrifio'r safle a'i amgylchedd, y Datblygiad Arfaethedig, ei hanes cynllunio a hanes cynllunio prosiectau cysylltiedig.
- Mae **Pennod 3** yn cofnodi'r cyd-destun cyfreithiol a pholisi ar gyfer penderfyniad yr SoS.
- Mae **Pennod 4** yn amlinellu'r materion cynllunio a gododd o'r Cais ac yn ystod yr Archwiliad.
- Mae **Pennod 5** yn ystyried effeithiau ar Safleoedd Ewropeaidd a'r Asesiad Rheoliadau Cynefinoedd (HRA).
- Mae **Pennod 6** yn amlinellu'r cydbwysedd ystyriaethau cynllunio sy'n codi o Benodau 4 a 5, yng ngoleuni'r wybodaeth ffeithiol, gyfreithiol a pholisi ym Mhenodau 1 i 3.
- Mae **Pennod 7** yn amlinellu archwiliad yr ExA o gynigion CA a TP.
- Mae **Pennod 8** yn ystyried goblygiadau'r materion sy'n codi o'r penodau blaenorol i'r Gorchymyn Caniatâd Datblygu (DCO).
- Mae **Pennod 9** yn crynhoi'r holl ystyriaethau perthnasol ac yn amlinellu argymhelliad yr ExA i'r SoS.

1.9.2. Ategir yr adroddiad hwn gan yr Atodiadau canlynol:

- **Atodiad A** – Digwyddiadau'r Archwiliad
- **Atodiad B** – Llyfrgell yr Archwiliad
- **Atodiad C** – Rhestr o Fyrfoddau
- **Atodiad Ch** – y DCO Argymhelliad

2. Y CYNNIG A'R SAFLE

2.1. Y CAIS FEL Y'I GWNAED

- 2.1.1. Cyflwynodd yr Ymgeisydd (Abergelli Power Limited) gais am ganiatâd datblygu o dan PA2008 ar gyfer gorsaf gynhyrchu sy'n rhedeg ar nwy, gydag allbwn trydanol wedi'i raddio o hyd at 299 megawat ("MW"), yn Fferm Abergelli, ger Felindre yn Abertawe, Cymru [APP-002].
- 2.1.2. Rhoddir isod ddisgrifiad byr o'r elfennau sy'n ffurfio'r Prosiect. Mae mwy o fanylion am yr elfennau hyn ar gael ym Mhennod 3 yr ES [APP-042].

Yr Orsaf Cynhyrchu Pŵer

- 2.1.3. Mae'r Orsaf Cynhyrchu Pŵer yn cynnwys Offer Cynhyrchu, Ardal Baratoi, Ffordd Fynediad, Ardal Lliniaru Ecolegol a pharcio a draenio parhaol, fel yr esbonnir ymhellach isod.
- 2.1.4. Mae Atodlen 1 y Gorchymyn drafft yn rhoi'r disgrifiad ffurfiol o'r Orsaf Cynhyrchu Pŵer. Dangosir y gwaith hwn ar y Cynlluniau Gwaith [APP-053].
- 2.1.5. Dangosir lleoliad yr Orsaf Cynhyrchu Pŵer ar y Cynlluniau Tir [APP-057] a dangosir yr amryw rannau sy'n ffurfio'r Orsaf Cynhyrchu Pŵer ar y Cynlluniau Gwaith [APP-053].

Offer Cynhyrchu

- 2.1.6. Byddai un Generadur Tyrbin Nwy yn cael ei ddefnyddio i gynhyrchu hyd at 299MW, gyda stac ffliw allyriadau a fyddai rhwng 35m a 45m o uchder. Byddai'r Offer Cynhyrchu hefyd yn cynnwys:

- cyfadeilad newidydd trydanol
- gorsaf dderbyn nwy naturiol;
- generadur argyfwng;
- tanciau dŵr;
- ystafell reoli;
- oeryddion aer asgellog; ac
- adeiladau a strwythurau ategol.

Ardal Baratoi

- 2.1.7. Bydd Ardal Baratoi dros dro yn cael ei darparu yn ystod y cyfnod adeiladu i storio deunyddiau, peiriannau ac offer, yn ogystal â chynnwys llety a chyfleusterau lles y safle, lleoedd parcio dros dro a ffens dros dro. Darperir yr Ardal Baratoi gerllaw'r Safle Offer Cynhyrchu. Bydd angen i ardal fach o fewn yr Ardal Baratoi gael ei chadw'n barhaol ar gyfer cynnal a chadw yn ystod cyfnod gweithredol y Datblygiad Arfaethedig.

Ffordd Fynediad

- 2.1.8. Bydd Ffordd Fynediad i'r Safle Offer Cynhyrchu o'r B4489 yn cael ei ffurfio trwy uwchraddio ffordd fynediad bresennol rhwng cyffordd y B4489 a'r Is-orsaf ac adeiladu rhan newydd o ffordd o'r Is-orsaf i'r Safle Offer Cynhyrchu.

Ardal Lliniaru Ecolol

- 2.1.9. Mae ardal wedi'i dyrannu o fewn Tir y Gorchymyn i liniaru ar gyfer cynefin a gollir yn sgil meddiannu tir yn barhaol i adeiladu a gweithredu'r Prosiect.

Parcio Ceir

- 2.1.10. Yn ystod y cyfnod adeiladu, byddai digon o leoedd parcio'n cael eu darparu o fewn yr Ardal Baratoi. Yn ystod y cyfnod gweithredu, byddai lleoedd parcio i staff gweithredol a staff cynnal a chadw yn cael eu darparu o fewn y Safle Offer Cynhyrchu.

Goleuadau a Ffens Ddiogelwch

- 2.1.11. Byddai colofnau golau'n cael eu codi o amgylch perimedr yr Offer Cynhyrchu er mwyn darparu goleuadau diogelwch a goleuadau i weithio'n ddiogel mewn amodau tywyll. Byddai'r colofnau golau oddeutu 8 m o uchder ac wedi'u gosod ar bellter rheolaidd oddi wrth ei gilydd o amgylch perimedr y Safle Offer Cynhyrchu.

Draenio

- 2.1.12. Bydd angen system draenio dŵr brwnt ar gyfer safle'r Prosiect, a system draenio dŵr olewog. Yn ogystal, bydd angen system draenio dŵr wyneb i ddraenio'r safle'n ddigonol ac atal pyllau rhag ffurfio. Er mwyn atal Safle'r Prosiect rhag cael ei orlifo â dŵr ffo wyneb, bydd ffosydd draenio atal llif yn cael eu gosod o amgylch perimedr y safle sy'n mynd i fyny.
- 2.1.13. Disgrifir y Datblygiad Arfaethedig yn Atodlen 1, Rhan 1 y DCO argymelledig (Atodiad Ch). Yng Nghymru, mae PA2008 yn gwneud darpariaeth gyfyngedig iawn yn unig am roi caniatâd i waith nad yw'n atodol i'r Datblygiad Arfaethedig a fyddai'n gyfystyr â datblygiad cysylltiedig at ddibenion PA2008.
- 2.1.14. Disgrifir yr holl waith arfaethedig y mae'r Ymgeisydd yn credu y dylai gael ei ystyried naill ai'n rhan annatod neu atodol o'r datblygiad yn y Memorandwm Esboniadol (EM)[APP-013].
- 2.1.15. Mae paragraff 9 yr EM [APP-013] yn esbonio nad yw'r DCO yn ceisio caniatâd ar gyfer unrhyw ddatblygiad cysylltiedig, gan fod yr Ymgeisydd o'r farn bod pob agwedd ar y datblygiad awdurdodedig yn hanfodol i'r cynllun. Dychwelaf at y mater hwn ym mharagraffau 2.1.19 – 2.1.26 isod.

Cysylltiad Trydanol a Chysylltiad Nwy

- 2.1.16. Mae'r Cysylltiad Trydanol a'r Cysylltiad Nwy yn ddatblygiadau y rhoddwyd caniatâd cynllunio ar eu cyfer ar 6 Rhagfyr 2018 o dan TCPA1990 a Gorchymyn Cynllunio Gwlad a Thref (Datblygu Cyffredinol a Ganiateir) 1995 ar gyfer y Cysylltiad Nwy a'r Cysylltiad Trydanol, yn ôl eu trefn. Ni cheisir caniatâd ar gyfer y Cysylltiad Trydanol a'r Cysylltiad Nwy o fewn y DCO.

Cysylltiad Trydanol

- 2.1.17. Bydd y Cysylltiad Trydanol yn cynnwys cysylltiad cebl trydanol tanddaear newydd i allforio trydan o'r Offer Cynhyrchu i'r NETS yn yr Is-orsaf. Bydd hyn yn cynnwys cebl 400kV, tua 900 m o hyd, o'r Safle Offer Cynhyrchu i fae Switshis wedi'u Hinswleiddio â Nwy (GIS) o fewn yr Is-orsaf[APP-006].

Cysylltiad Nwy

- 2.1.18. Bydd y Cysylltiad Nwy yn cynnwys cysylltiad piblinell nwy tanddaear newydd i ddod â nwy naturiol i'r Offer Cynhyrchu o System Drosglwyddo Genedlaethol y rhwydwaith nwy pwysedd uchel presennol. Bydd y Cysylltiad Nwy ar ffurf AGI sy'n cynnwys Cyfleuster Gosod a Chodi Dyfais Archwilio Piblinell ("PTF") ar gyfer Dyfais Archwilio Piblinell ("PIG") ochr yn ochr â Chysylltiad Tynnu Lleiaf ("MOC"), a Phiblinell Nwy a osodir i'r is-orsaf derbyn nwy yn y Safle Offer Cynhyrchu [APP-009].

Datblygiad hanfodol, cysylltiedig ac atodol

- 2.1.19. Ystyriaf fod y gwaith y gwnaed cais amdano yn rhan o'r orsaf gynhyrchu ac y byddai'n rhan hanfodol ac atodol o'r NSIP. Nid oes gan unrhyw waith y gwnaed cais amdano ddiben heblaw am adeiladu a/neu weithredu a datgomisiynu'r datblygiad arfaethedig a, hebddo, ni fyddai'r orsaf gynhyrchu'n gallu cael ei hadeiladu a gweithredu.
- 2.1.20. Dadleuodd Mr Richard Price o Gyfreithwyr Loxley, a oedd yn gweithredu ar ran nifer o APs, y dylai'r rhan o'r cais sy'n ymwneud â'r ffordd fynediad (Gwaith Rhif 2) gael ei hystyried yn ddatblygiad cysylltiedig [REP3-017]. Dadleuodd Mr Price fod y DCO yn ddiffygiol fel y mae wedi'i lunio ar hyn o bryd, ac felly'n annilys, oherwydd y dylai'r cysylltiad trydanol a'r cysylltiad nwy gael eu cynnwys fel rhannau hanfodol o'r Prosiect. Codais y mater hwn yn yr ISHS ynglŷn â'r DCO [EV-003 ac EV-011] ac ymdrinnir ag ef yng nghrynodeb yr Ymgeisydd o gyflwyniadau llafar [REP3-004] [REP3-005].
- 2.1.21. Nodaf hefyd fod y DCO yn cynnwys pwerau CA, TP a phwerau cysylltiedig yn ymwneud â thir sy'n ofynnol ar gyfer alinio'r cysylltiad trydanol a nwy. Fodd bynnag, rwyf yn ymwybodol bod y dull a ddefnyddiwyd i lunio'r darpariaethau hyn yn gyson â hwnnw a ddefnyddiwyd mewn sawl Gorchymyn a wnaed yng Nghymru (a amlinellir ym Mhennod 3 isod yn Adran 3.7). Codais y mater hwn gyda'r Ymgeisydd ac fe'i trafodwyd yn

yr ISH cyntaf ynglŷn â'r DCO [EV-003]. Ar ôl ystyried y materion a godwyd, cytunaf â'r dull a amlinellwyd gan yr Ymgeisydd yn ei gyflwyniadau llafar yn y Gwrandawriad hwnnw [EV-003] [REP3-004], ac rwyf yn fodlon ei bod yn briodol darparu ar gyfer pwerau CA, TP a phwerau cysylltiedig sy'n ymwneud â thir o'r fath oherwydd bod cynnwys y pwerau hyn yn y Gorchymyn yn adlewyrchu telerau adran 122 PA 2008, sy'n caniatáu ceisio CA dros dir, gan gynnwys lle mae'r tir yn ofynnol ar gyfer NSIP neu i hwyluso'r datblygiad NSIP neu'n atodol iddo.

- 2.1.22. Nid yw'r ffaith bod y cysylltiad trydanol ar lwybr tebyg i'r llwybr mynediad yn golygu ei bod yn rhaid bod y cysylltiad trydanol yn hanfodol. Credaf fod hyn yn adlewyrchu proses ddylunio'r Ymgeisydd. Mae'n synhwyrol i'r cysylltiad trydanol a'r llwybrau mynediad fod ar hyd llwybrau tebyg ac ystyriaf fod hyn yn lleihau, er enghraifft, yr effeithiau amgylcheddol a'r graddau y bydd angen defnyddio tir nad yw o fewn rheolaeth yr Ymgeisydd.
- 2.1.23. Dadleuodd yr Ymgeisydd nad oes mynediad uniongyrchol i'r safle o'r briffordd gyhoeddus ac, o ystyried y peiriannau mawr a faint o offer adeiladu y bydd eu hangen i adeiladu'r Datblygiad Arfaethedig, ni fyddai'n bosibl adeiladu'r datblygiad heb adeiladu llwybr addas i'r safle yn gyntaf. Dywedodd yr Ymgeisydd:
- "mae'r llwybr a ddyluniwyd yn llwybr parhaol gan ei bod yn rhan hollbwysig o weithredu'r orsaf gynhyrchu fod mynediad ar gael am resymau gweithredol, cynnal a chadw a diogelwch bob amser"* [REP3-004].
- 2.1.24. Dadleuodd yr Ymgeisydd nad yw'r rhan newydd ei hadeiladu y ceisir hawliau drosti yn ateb unrhyw ddiben arall heblaw am hwyluso'r broses o adeiladu a gweithredu'r orsaf gynhyrchu. Dywedodd yr Ymgeisydd:
- "bydd angen gwneud gwaith cynnal a chadw wedi'i drefnu ar yr orsaf yn ystod ei hoes, sy'n golygu y bydd angen darparu mynediad ar gyfer offer a pheiriannau ac a allai olygu bod angen symud eitemau mawr oddi yno i roi gwasanaeth iddynt a'u hatgyweirio"* [REP3-004].
- 2.1.25. Pe byddai angen gwneud gwaith cynnal a chadw heb ei drefnu, dywedodd yr Ymgeisydd:
- "mae'n bosibl y bydd angen symud offer oddi ar y safle i'w gynnal a'i gadw neu ei atgyweirio, ac mae ffordd fynediad addas yn hollbwysig er mwyn i hyn ddigwydd. Yna, bydd angen y ffordd fynediad i ddatgomisiynu'r orsaf cynhyrchu pŵer"* [REP3-004].
- 2.1.26. Dadleuodd yr Ymgeisydd os na fydd ffordd fynediad addas ar gael bob amser, ni all yr Offer Cynhyrchu weithredu i gynhyrchu trydan, sef swyddogaeth yr orsaf gynhyrchu a'r rheswm pam y mae'n NSIP [REP3-005].
- 2.1.27. Mae'r Ymgeisydd wedi cynnwys yr elfennau hynny o'i ddatblygiad arfaethedig yn y disgrifiad o'r datblygiad awdurdodedig yn y DCO sy'n rhan o'r orsaf gynhyrchu/yn allweddol iddi yn unig, sef yr NSIP o dan

adran 15 y Ddeddf. Fodd bynnag, wrth benderfynu pa ddatblygiad y gellid ei gynnwys yn y cais, mae'r Ymgeisydd wedi ystyried darpariaethau Adran 115 PA 2008 a hefyd y Canllawiau ar ddatblygiad cysylltiedig. Nid yw'r Cysylltiad Trydanol a'r Cysylltiad Nwy wedi'u cynnwys yn y datblygiad awdurdodedig, gan nad yw'r Ymgeisydd o'r farn eu bod yn rhan annatod o'r NSIP, yn ôl y rhesymeg a ddefnyddiwyd gan yr SoS mewn sawl penderfyniad blaenorol, gan gynnwys mewn perthynas â Gorsaf Gynhyrchu Hirwaun Power a Gorsaf Gynhyrchu sy'n Rhedeg ar Nwy Wrecsam.

- 2.1.28. Fel y cyfryw, rwyf yn fodlon nad oes unrhyw ddatblygiad cysylltiedig o fewn ystyr a115(2)(a) PA2008 wedi'i gynnwys yn y cais.

Safle'r Prosiect a'r Ardal Amgylchynol

- 2.1.29. Mae'r Prosiect wedi'i leoli ar dir amaethyddol agored oddeutu 2 km i'r gogledd o gyffordd 46 yr M4 o fewn ffin weinyddol CCS. Mae oddeutu 3 km i'r gogledd o ddinas Abertawe, oddeutu 1 km i'r de-ddwyrain o Felindre ac 1.4 km i'r gogledd o Langyfelach (Ffigur 1.1 [APP-024]).
- 2.1.30. Tir amaethyddol ydyw yn bennaf ar hyn o bryd, ac mae defaid a cheffylau'n pori arno. Y dosbarthiad tir amaethyddol yw 3b [EV-004]³. Mae pen gorllewinol Safle'r Prosiect yn cynnwys rhannau o'r Is-orsaf (sef is-orsaf 400 kV ac 132 kV) a'r ffordd fynediad bresennol sy'n arwain at yr Is-orsaf a Gorsaf Cywasgu Nwy Felindre o'r B4489 [APP-052].
- 2.1.31. Mae lefel y ddaear ar Safle'r Prosiect yn amrywio o oddeutu 146m uwchlaw'r seilnod ordnans (AOD) ar y pwynt uchaf yn y gornel ogledd-orllewinol yn Rhyd-y-pandy Road i oddeutu 80 m AOD ar hyd y perimedr deheuol, ac mae lefel y ddaear yn disgyn i gyfeiriad deheuol a de-ddwyreiniol at ei gilydd. Mae'r tir o fewn y Safle Offer Cynhyrchu oddeutu 90 m AOD (Ffigur 3.1 [APP-024]).
- 2.1.32. Nid oes unrhyw anheddau preswyl wedi'u lleoli o fewn ffin Safle'r Prosiect. Mae'r rhan fwyaf o safle'r Datblygiad Arfaethedig yn laswelltir wedi'i wella, ond mae ardaloedd o laswelltir corsiog wedi'u lleoli yn rhan dde-ddwyreiniol y Safle Offer Cynhyrchu. Mae rhannau o Safle o Bwysigrwydd Cadwraeth Natur (SINC) o fewn Safle'r Prosiect (SINC Lletty-Morfil). Mae bloc o goetir llydanddail, a ddosberthir yn Goetir Hynafol, a SINC i'r dwyrain. Yn ogystal, mae blociau eraill o Goetir Hynafol, a ddosberthir yn SINCs hefyd, i'r gorllewin o amgylch yr Is-orsaf, Gorsaf Cywasgu Nwy Felindre, a'r ffordd fynediad bresennol sy'n arwain at y cyfleusterau hyn o'r B4489 (Ffigur 3.6a, 6.3 a 7.1 [APP-024]).
- 2.1.33. Mae tarddelli o fewn safle'r Datblygiad Arfaethedig, gyda'u nentydd a'u ffosydd draenio cysylltiedig sy'n gollwng i Afon Llan. Mae Afon Llan yn cysylltu ag Afon Lliw ac Afon Llchwyr, sy'n gollwng i Fae Caerfyrddin.

³ <https://gov.wales/sites/default/files/publications/2018-02/agricultural-land-classification-frequently-asked-questions.pdf>

Nid oes unrhyw Brif Afonydd o fewn Safle'r Prosiect (Ffigur 9.1 [APP-024]).

- 2.1.34. Mae'r Safle Offer Cynhyrchu wedi'i leoli'n bennaf o fewn caeau a ddefnyddir ar gyfer pori, wedi'u ffinio gan gymysgedd o ffosydd draenio, ffensys a gwrychoedd o ansawdd gwael â bylchau mawr ynddynt. Mae llwybr hyfforddi ceffylau ag arwyneb meddal a adwaenir fel 'the gallops' yn croesi'r Safle Offer Cynhyrchu a'r Ardal Baratoi yn groeslinol o'r gogledd-orllewin i'r de-ddwyrain (Ffigur 1.2 o [APP-024]).
- 2.1.35. Ar hyn o bryd, mae'r ardal o amgylch safle'r Datblygiad Arfaethedig yn wledig ei chymeriad yn bennaf, er bod cyfleuster Parcio a Rhannu Felindre i'r de yn ogystal â chryn dipyn o seilwaith cyfleustodau yn yr ardal, y mae rhai ohonynt yn croesi Safle'r Prosiect. Mae'r System Trosglwyddo Nwy Genedlaethol, Prif Bibell Ddŵr a Phiblinell Olew yn croesi Safle'r Prosiect ac mae hefyd rhwydwaith o beilonau trydan, cyfleustodau tanddaear a llinellau uwchben sy'n arwain i'r Is-orsaf ac oddi yno. Mae Gwaith Trin Dŵr Felindre wedi'i leoli i'r gogledd-orllewin, ac mae Parc Solar Cefn Betingau a Fferm Solar Abergelli i'r dwyrain o Safle'r Prosiect. Mae dau barc solar arall wedi'u hadeiladu yn y cyffiniau, sef parc solar Rhyd-y-pandy a Fferm Abergelli (Ffigurau 3.5 a 4.1 [APP-024]).
- 2.1.36. Cyflwynwyd y mapiau a'r cynlluniau lleoliad canlynol gyda'r cais:
- Ffigurau Amgylcheddol [APP-024];
 - Cynllun Lleoliad Safle [APP-050];
 - Cynllun Gosodiad Safle Presennol [APP-051];
 - Cynllun Tir [APP-057];
 - Cynllun Gwaith [APP-053]; a
 - Chynllun Hawliau Tramwy, Strydoedd a Mynediad [APP-054].

2.2. Y CAIS FEL Y'I HARCHWILIWYD

- 2.2.1. Cyflwynwyd a diweddarwyd newidiadau i'r dogfennau cais allweddol, gan gynnwys geiriad y DCO arfaethedig, yn ystod yr Archwiliad. Mae'r newidiadau'n ceisio mynd i'r afael â phwyntiau a godwyd gan IPs a'm cwestiynau i; ac i adlewyrchu gwybodaeth well a newidiadau a gododd yn ystod yr Archwiliad. Roedd y rhain yn cynnwys materion fel eglurder a/neu anghysondebau o fewn y DCO a materion amgylcheddol eraill.
- 2.2.2. Yn ogystal, cyflwynodd yr Ymgeisydd ystod o wybodaeth wedi'i diweddarau a'i diwygio, a gwybodaeth ychwanegol, a fanylir yn [REP6-002], Atodiad 1: Tabl 1 Canllaw i Ddogfennau'r Cais DCO.
- 2.2.3. Mae'r tabl hwn yn ganllaw i'r holl ddogfennau a gyflwynwyd yn rhan o Gais DCO Abergelli Power. Roedd y tabl hwn yn ddogfen fyw ac fe'i diweddarwyd ar adeg pob Terfyn Amser Archwiliad pan gyflwynwyd dogfennau newydd neu ddiwygiedig i'r Arolygiaeth, i ddarparu cofnod o fersiwn ddiweddaraf pob dogfen.
- 2.2.4. Mae'r DCO yn gwahaniaethu'n glir iawn rhwng terfynau'r Gorchymyn a thir y Gorchymyn [REP6-003]. Mae terfynau'r Gorchymyn wedi'u

diffinio'n gaeth, i gynnwys tir y byddai'r datblygiad awdurdodedig a Chyfadeilad yr Orsaf Bŵer yn cael eu darparu arno, ochr yn ochr â'r tir y mae ei angen dros dro ar gyfer prosesau adeiladu sy'n gysylltiedig â Chyfadeilad yr Orsaf Bŵer. Diffinnir terfynau'r Gorchymyn yn Erthygl 2(1) fel a ganlyn:

Mae "terfynau'r Gorchymyn" yn golygu'r terfynau a ddangosir ar y cynlluniau gwaith."

2.2.5. Mae cyfeirio at y Cynlluniau Gwaith [APP-053] yn dangos yn glir graddau cyfyngedig y tir, a amlinellir yn wyrdd ar y cynlluniau hynny, sy'n cynrychioli tir o fewn terfynau'r Gorchymyn. Yn ei dro, dyma leoliad Gwaith Rhifau 1 (A-F) i 4 a amlygir yn Atodlen 1 y DCO, a dyma gyfanswm y gwaith y ceisir ei awdurdodi gan y DCO er mwyn darparu'r orsaf gynhyrchu.

2.2.6. Mewn cyferbyniad, mae tir y Gorchymyn wedi'i ddiffinio'n fwy bras er mwyn, i bob pwrpas, cynnwys terfynau'r Gorchymyn fel is-set ohono, ond hefyd cynnwys y tir ychwanegol hwnnw y byddai'r holl bwerau eraill a geisir gan yr Ymgeisydd yn cael eu harfer arno, gan gynnwys CA o ran tir a hawliau ar gyfer aliniad arfaethedig y cysylltiad nwy, aliniad y cysylltiad trydanol a TP o ran tir ar gyfer adeiladau'r rhain. Diffinnir tir y Gorchymyn yn Erthygl 2(1) fel a ganlyn:

Mae "tir y Gorchymyn" yn golygu'r tir sy'n ofynnol ar gyfer, neu sy'n ofynnol i hwyluso, neu sy'n atodol i, neu yr effeithir arno gan, y datblygiad awdurdodedig a ddangosir ar y cynlluniau tir ac a ddisgrifir yn y llyfr cyfeirio."

2.2.7. Mae cyfeirio at y Cynlluniau Tir [APP-057] yn dangos yn glir y graddau mwy o lawer o dir, a amlinellir yn goch ar y cynlluniau hynny, sy'n cynrychioli tir y Gorchymyn. Ymhelaethir ar hyn ymhellach ym Mhennod 8 yr adroddiad hwn.

2.2.8. Rwyf wedi bod yn ymwybodol drwy gydol yr Archwiliad o'r angen i ystyried a yw newidiadau i'r dogfennau cais wedi ei newid i'r graddau y byddai'n gais gwahanol ac a fyddai gan yr SoS bŵer, felly, o dan a114 PA2008 i wneud DCO o ystyried y caniatâd datblygu y gwneir cais amdano.

2.2.9. Mae 'Deddf Cynllunio 2008: Canllawiau ar gyfer archwilio ceisiadau am ganiatâd datblygu' (Mawrth 2015) yn rhoi arweiniad ym mharagraffau 109 i 115 ynglŷn â newid cais ar ôl iddo gael ei Dderbyn⁴. Y farn a fynegwyd gan y Llywodraeth wrth i'r Ddeddf Lleoliaeth gael ei phasio oedd bod a114(1) yn gosod y cyfrifoldeb am wneud DCO ar y penderfynwr, ac nad yw'n cyfyngu ar y termau y gellir ei wneud ynddynt⁵.

⁴ [Deddf Cynllunio 2008: Canllawiau ar gyfer archwilio ceisiadau am ganiatâd datblygu](#), DCLG (2015)

⁵ [Gohebiaeth gan Bob Neill AS, Is-Ysgrifennydd Gwladol Seneddol i Syr Michael Pitt, Cadeirydd, y Comisiwn Cynllunio Seilwaith](#), DCLG (28 Tachwedd 2011).

2.2.10. Ar ôl ystyried y cyd-destun hwn drwy gydol yr Archwiliad, mae'n amlwg nad yw'r newidiadau i'r cais (sef diweddaru dogfennau yn bennaf) wedi arwain at newid arwyddocaol i hwnnw y gwnaed cais amdano. Cofnodir y newidiadau a ystyriwyd wrth ddod i'r casgliad hwn yn [REP6-002] ac ym mhenodau isod yr Adroddiad hwn.

2.2.11. Mae'n dilyn bod gan yr SoS bŵer i wneud y DCO fel y trafodir ym Mhennod 8 ac a ddarperir yn Atodiad Ch yr adroddiad hwn.

2.3. HANES CYNLLUNIO PERTHNASOL

2.3.1. Mae Adran 3.7 Datganiad Cynllunio'r Ymgeisydd yn rhoi amlinelliad byr o'r hanes cynllunio sy'n gysylltiedig â safle'r Datblygiad Arfaethedig [APP-007].

Safle'r Prosiect

2.3.2. Mae Fferm Abergelli wedi bod yn destun cyfres o geisiadau cynllunio blaenorol ar gyfer echdynnu mwynau, cyfleuster cynhyrchu trydan, safle tirlenwi anadweithiol a gweithgareddau masnachol eraill.

2.3.3. Cafodd Swansea City Waste Disposal Company Ltd ganiatâd cynllunio i gloddio am ddeunydd anadweithiol a'i symud ymaith o safle tirlenwi ac adfer yn Fferm Abergelli ym mis Chwefror 2003 (Cyf CCS: 2002/0312), oddeutu 100 m i'r gorllewin o Safle'r Prosiect. Cyflwynwyd cais i ddiwygio Amod 1 y caniatâd hwn i ganiatáu ar gyfer cloddio am ddeunydd anadweithiol a'i symud ymaith hyd at 31 Rhagfyr 2010 (2007/0907) ym mis Rhagfyr 2007, ond ni phenderfynwyd ar y cais, ac mae'r gwaith wedi dod i ben.

2.3.4. Cafodd Abergelli Glas Ltd ganiatâd cynllunio ar gyfer fferm solar 10 MW, is-orsafoedd gwrthdroyddion a ffens 2.4m o uchder ar dir yn Fferm Abergelli, wrth ymyl gogledd-ddwyrain Safle'r Prosiect, ym mis Mai 2013 (Cyf CCS: 2013/0135):

"Mae'r caniatâd hwn wedi bod yn destun sawl cais i amrywio neu ddileu amodau sy'n gysylltiedig â chaniatâd blaenorol. Cyflwynwyd y cyntaf i leihau nifer yr adeiladau, paneli solar, uchder y ffens, uchder y fframwaith a hepgor y mast meteorolegol (Cyf CCS:2014/1313/NMA) ac fe'i caniatawyd ar 28/10/2014. Cyflwynwyd cais dilynol ym mis Medi 2014 (2014/1335/DOC) i geisio rhyddhau amod 5 caniatâd 2013/0135. Caniatawyd y cais ym mis Rhagfyr 2014. Mae'r caniatâd ar gyfer y fferm solar wedi cael ei weithredu ac mae'r fferm solar ar waith" [APP-007].

2.3.5. Ym mis Hydref 2015, gwrthodwyd caniatâd cynllunio ar gyfer "Cyfleuster cynhyrchu trydan wrth gefn mewn argyfwng yn cynnwys:

- unedau generadu diesel modiwlaid modern (hyd at gyfanswm o 14);
- newidyddion, tanciau storio diesel;
- triniaeth ffin gan gynnwys sgrinio acwstig;
- gwelliannau mynediad; a
- gwaith cysylltiedig"

ar dir wrth ymyl gorllewin Safle'r Prosiect (Cyf CCS: 2015/1716).

Gwrthodwyd y cais gan nad oedd y Cyngor o'r farn y byddai buddion cadarnhaol y datblygiad yn drech na'r niwed gweledol y byddai'n ei achosi i gefn gwlad". [APP-007]

Yr Ardal Amgylchynol

- 2.3.6. Mae'r ardal o amgylch Fferm Abergelli yn wledig yn bennaf ond fe'i nodweddir gan gryn dipyn o seilwaith cyfleustodau ac ynni. Ym mis Awst 2008, cafodd System Trosglwyddo Trydan y Grid Cenedlaethol (NGETS) ganiatâd cynllunio i adeiladu is-orsaf drydan 400kV newydd ar dir gerllaw Safle'r Prosiect, ar Heol Llangyfelach yn Felindre (Cyf CCS:2007/2733):

"Roedd yr is-orsaf yn cynnwys adeilad GIS gyda Newidyddion Uwch Grid (SGT) ar wahân, gwaith seilwaith cysylltiedig a Safle Pen Selio (SEC). Addaswyd y cynigion wedi hynny, a rhoddwyd caniatâd cynllunio i'r cynllun diwygiedig ym mis Tachwedd 2008 (Cyf CCS: 2008/1685) gyda'r adeilad GIS i fod yn 60m o hyd x 15m o led x 13.5m o uchder" [APP-007].

- 2.3.7. Mewn cysylltiad â'r is-orsaf drydan 400kV, rhoddwyd caniatâd cynllunio ar gyfer gwyro llinell drydan uwchben ym mis Ebrill 2008 (Cyf CCS: 2007/2827). Ym mis Gorffennaf 2010, caniatwyd diwygiad i ganiatâd mis Tachwedd 2008 (Cyf CCS 2008/1685) yn ymwneud ag adeiladu adeilad amwynder (Cyf CCS: 2010/0539). Mae'r caniatâd wedi cael ei weithredu.

- 2.3.8. Cafodd Good Energy Brynwhilach Solar Park Ltd ganiatâd cynllunio ym mis Tachwedd 2014 i adeiladu parc solar 12.69 MW ar dir ym Mrynwhilach, Felindre Road, wrth ymyl ffin ddeheuol Safle'r Prosiect (Cyf CCS: 2014/1022):

"Mae'r parc solar yn cynnwys hyd at 47,000 o baneli ffotofoltäig (PV), 8 gorsaf gwrthdroyddion/newidyddion, 2 is-orsaf, cynhwysydd storio, llwybrau mynediad newydd, a ffens ddiogelwch. Mae sawl cais wedi cael ei ganiatáu'n ddiweddar, gan gynnwys diwygiadau i uchder a goled y paneli, diwygiadau i ddyluniad is-orsafoedd a chynhwysyddion storio, adleoli adeilad y cyfadeilad a'r ffens ddiogelwch, defnyddio llai o gaeau, llai o araeau solar, a lleihau nifer y gorsafoedd newidyddion i 4. Mae amodau cyn-gychwyn wedi cael eu rhyddhau (Cyf CCS 2015/1987 a 2017/0507/DOC) sy'n dangos bod y caniatâd wedi cael ei weithredu" [APP-007].

- 2.3.9. Rhoddwyd caniatâd cynllunio ar gyfer parc solar 9 MW, yn cynnwys 135,000 o baneli PV, 9 caban gwrthdroyddion/newidyddion ac un adeilad rheoli ar dir yn Fferm Cefn Betingau, oddeutu 1.5 km i'r de-ddwyrain o Safle'r Prosiect, ym mis Awst 2013 (Cyf CCS: 2013/0865):

"Mae sawl cais ynglŷn ag amodau wedi cael ei ryddhau mewn perthynas â'r cais hwn (Cyf CCS: 2013/1739, 2015/0617 a 2015/0807). Mae sawl cais wedi cael ei gyflwyno hefyd, gan gynnwys cais i amnewid ffens, a chais a ganiatwyd ym mis Ionawr 2017 ar gyfer diwygiadau i bantiau,

gosodiad, ffens a mynediad, a gosod cynhwysydd storio a system loeren (Cyf CCS: 2016/3484/NMA). Mae'r caniatâd wedi cael ei weithredu ac mae'r fferm solar ar waith" [APP-007].

- 2.3.10. Nid wyf o'r farn bod gan unrhyw un o'r caniatadau cynllunio uchod unrhyw oblygiadau i reoli'r DCO. Nid oes unrhyw geisiadau NSIP blaenorol wedi cael eu cyflwyno sy'n ymwneud â safle'r Datblygiad Arfaethedig neu'n effeithio arno.

3. CYD-DESTUN CYFREITHIOL A PHOLISI

3.1. CYFLWYNIAD

- 3.1.1. Mae'r bennod hon yn amlinellu'r cyd-destun cyfreithiol a pholisi perthnasol ar gyfer y cais a ystyriwyd ac a gymhwyswyd gan yr ExA wrth gynnal ei archwiliad a gwneud ei ganfyddiadau a'i argymhellion i'r SoS.
- 3.1.2. Mae Datganiad Cynllunio'r Ymgeisydd [APP-007] yn amlinellu'r sefyllfa bolisi o ran y Datblygiad Arfaethedig. Mae'r ddogfen yn cynnwys asesiad o'r prosiect yn erbyn gofynion polisi Datganiadau Polisi Cenedlaethol (NPS) EN-1, EN-2, EN-4⁶ ac EN-5⁷.
- 3.1.3. Mae pennod 2 yr ES [APP-042] sy'n ymwneud â Chefnidir Rheoleiddiol a Pholisi yn amlinellu'r sefyllfa bolisi hefyd, gan ganolbwyntio'n benodol ar rwymedigaethau rhyngwladol, y cyd-destun polisi cenedlaethol a'r cyd-destun polisi lleol. Mae penodau unigol o'r ES yn rhoi'r cefndir polisi penodol i bynciau penodol.
- 3.1.4. Mae LIR Dinas a Sir Abertawe (CCS) [REP1-021] yn cynnwys safbwynt CCS ar bolisiau perthnasol y cynllun datblygu a strategaethau lleol eraill.

3.2. DEDDF CYNLLUNIO 2008

- 3.2.1. Mae'r cais am Orchymyn Caniatâd Datblygu (DCO) o dan PA2008. Mae ar gyfer NSIP, sef gorsaf gynhyrchu OCGT ag allbwn trydanol o hyd at 299MWe [APP-002]. Amlinellir rhannau'r Datblygiad Arfaethedig ym Mhennod 2 yr adroddiad hwn.
- 3.2.2. Mae'r cais hwn ar gyfer NSIP oherwydd ei fod yn cynnwys "*adeiladu neu ymestyn gorsaf gynhyrchu*" (a14(1)(a) PA2008, gydag allbwn trydanol gros o fwy na 50MW, sy'n bodloni'r darpariaethau a osodir yn a15(2) PA2008. Mae adran 104 PA2008 yn gymwys:

"[...]o ran cais am orchymyn sy'n rhoi caniatâd datblygu os yw datganiad polisi cenedlaethol mewn grym mewn perthynas â datblygiad o'r disgrifiad y mae'r cais yn ymwneud ag ef."
- 3.2.3. Mae adran 104(3) yn mynnu bod yr SoS yn penderfynu ar y cais yn unol ag unrhyw NPSs perthnasol sydd mewn grym o ran y cais hwn, yn amodol ar rai eithriadau a bennir yn is-adrannau 104(4) i (8). Nodir isod fanylion yr NPSs penodol sy'n berthnasol i'r prosiect hwn.
- 3.2.4. Mae adran 104(2) PA2008 yn amlinellu'r materion y mae'n rhaid i'r SoS roi ystyriaeth iddynt wrth benderfynu ar gais a gyflwynwyd yn unol â PA2008. I grynhoi, y materion a amlinellir yn a104(2) yw unrhyw NPS perthnasol, unrhyw LIR, unrhyw faterion a ragnodir mewn perthynas â'r

⁶ Yn berthnasol o ran yr asesiad o'r Cysylltiad Nwy yn unig ac nid yn uniongyrchol berthnasol i'r Orsaf Cynhyrchu Pŵer y mae'r Cais DCO yn ymwneud ag ef.

⁷ Yn berthnasol o ran yr asesiad o'r Cysylltiad Trydan yn unig ac nid yn uniongyrchol berthnasol i'r Orsaf Cynhyrchu Pŵer y mae'r Cais DCO yn ymwneud ag ef.

datblygiad, ac unrhyw faterion eraill y mae'r SoS yn credu eu bod yn bwysig ac yn berthnasol i'r penderfyniad.

3.2.5. Mae a104(3) yn mynnu bod yr SoS yn penderfynu ar y cais yn unol ag unrhyw NPS perthnasol, ac eithrio i'r graddau bod un neu fwy o'r eithriadau yn is-adrannau (4) i (8) yn berthnasol, gan greu rhagdybiaeth o blaid datblygiad sy'n cydymffurfio ag NPS. Yr eithriadau yw bod yr SoS yn fodlon fel a ganlyn:

- y byddai penderfynu ar y cais yn unol ag unrhyw NPS perthnasol yn golygu y byddai'r Deyrnas Unedig yn torri unrhyw un o'i rhwymedigaethau rhyngwladol;
- y byddai penderfynu ar y cais yn unol ag unrhyw NPS perthnasol yn golygu y byddai'r SoS yn torri unrhyw ddyletswydd a osodwyd arno gan neu o dan unrhyw ddeddfiad;
- y byddai penderfynu ar y cais yn unol ag unrhyw NPS perthnasol yn anghyfreithlon trwy gyfrwng unrhyw ddeddfiad;
- y byddai effaith niweidiol y datblygiad arfaethedig yn drech na'i fuddion; a/ neu fod unrhyw amod a ragnodir ar gyfer penderfynu ar gais heblaw yn unol ag NPS yn cael ei fodloni.

Mae'r adroddiad hwn yn amlinellu fy nghanfyddiadau, fy nghasgliadau a'm hargymhellion sy'n rhoi ystyriaeth lawn i'r materion hyn ac sy'n defnyddio'r ymagwedd a nodir yn a104 PA2008.

3.3. DATGANIADAU POLISI CENEDLAETHOL

3.3.1. Mae NPSs yn amlinellu polisi'r Llywodraeth ar wahanol fathau o ddatblygiad seilwaith cenedlaethol. Ystyriaf mai'r NPSs sy'n berthnasol i'r achos hwn yw:

- EN-1: Datganiad Polisi Cenedlaethol Trosfwaol ar Ynni;
- EN-2: Seilwaith Cynhyrchu Trydan a Thanwydd Ffosil;
- EN-4: Seilwaith Cyflenwi Nwy a Phiblinellau Nwy ac Olew; ac
- EN-5: Seilwaith Rhwydweithiau Trydan.

3.3.2. Cynhyrchwyd y rhain gan yr Adran Ynni a Newid Hinsawdd (DECC), sef yr Adran Busnes, Ynni a Strategaeth Ddiwydiannol (BEIS) bellach. Dynodwyd yr NPSs gan yr SoS dros Ynni a Newid Hinsawdd ar 19 Gorffennaf 2011.

3.3.3. Mae'r pedwar NPS hyn yn ffurfio'r prif gyd-destun polisi ar gyfer yr archwiliad hwn. Mae'r adroddiad hwn yn amlinellu fy nghanfyddiadau, fy nghasgliadau a'm hargymhellion sy'n rhoi ystyriaeth lawn i'r materion hyn ac sy'n defnyddio'r ymagwedd a nodir yn a104 PA2008. Crynhoir diben a chynnwys cyffredinol yr NPSs hyn yma. Fodd bynnag, rhoddir ystyriaeth arbennig a phenodol i bwnc i bolisiau sy'n codi ohonynt lle y bo'r angen yng ngweddill yr adroddiad hwn isod, ac yn enwedig ym Mhennod 4.

EN-1: Datganiad Polisi Cenedlaethol Trosfwaol ar Ynni

- 3.3.4. Mae EN-1 yn amlinellu polisi'r Llywodraeth ar gyfer cyflawni prosiectau seilwaith ynni mawr. Mae EN-1 yn datgan:

'bod angen i'r Deyrnas Unedig gael yr holl fathau o seilwaith ynni yr ymdrinnir â nhw gan yr NPSs i gyflawni sicrwydd ynni ar yr un pryd â lleihau allyriadau nwyon tŷ gwydr yn sylweddol' (paragraff 3.3.1).

Mae hefyd yn datgan y dylai ceisiadau am ganiatâd datblygu gael eu hasesu *'ar y sail bod y Llywodraeth wedi dangos bod angen y mathau hynny o seilwaith' (paragraff 3.1.3)*

- 3.3.5. Mae EN-1 yn amlinellu egwyddorion cyffredinol ac effeithiau generig i'w pwysu a'u mesur wrth ystyried ceisiadau am NSIPs ynni. Mae effeithiau generig sy'n arbennig o berthnasol i'r cais hwn yn cynnwys effeithiau ar ansawdd aer ac allyriadau, bioamrywiaeth, yr amgylchedd hanesyddol, tirwedd a gweledol, traffig a thrafnidiaeth, amgylcheddol, buddion cymdeithasol ac economaidd ac effeithiau niweidiol ar lefelau cenedlaethol, rhanbarthol a lleol.
- 3.3.6. Mae'r NPS yn mynnu bod ystyriaeth yn cael ei rhoi i:
- fuddion posibl y datblygiad arfaethedig o ran bodloni'r angen am seilwaith ynni, creu swyddi ac unrhyw fuddion tymor hir neu ehangach; ac
 - effeithiau niweidiol posibl, gan gynnwys unrhyw effeithiau niweidiol tymor hir a chronnol, yn ogystal â mesurau i osgoi, lleihau neu wneud iawn am unrhyw effeithiau niweidiol.

EN-2: Seilwaith Cynhyrchu Trydan a Thanwydd Ffossil

- 3.3.7. Mae EN-2 yn amlinellu'r ffactorau sy'n dylanwadu ar ddatblygu safleoedd ar gyfer gorsafoedd pŵer tanwydd ffosil a'r meini prawf y mae'r Llywodraeth yn mynnu eu bod yn eu bodloni. Mae'r rhain yn cynnwys esboniadau o ymagwedd y Llywodraeth at faterion a godwyd gan y cais hwn, gan gynnwys y dechnoleg hylosgi nwy a ddewiswyd, Gwres a Phŵer Cyfunedig (CHP), parodrwydd i ddal carbon (CCR), addasu i'r newid yn yr hinsawdd ac ystyried dylunio da. O ran effeithiau gorsafoedd cynhyrchu nwy, mae EN-2 yn ailadrodd y polisi yn EN-1 ac yn ychwanegu'r angen i ystyried effeithiau allyriadau aer, tirwedd a gweledol, sŵn a dirgryniad ac ansawdd ac adnoddau dŵr.

EN-4: Seilwaith Cyflenwi Nwy a Phiblinellau Nwy ac Olew

- 3.3.8. Mae EN-4 yn amlinellu materion sy'n berthnasol i ganiatáu aliniad y cysylltiad nwy ar gyfer y Datblygiad Arfaethedig, yn hytrach na'r Datblygiad Arfaethedig ei hun. Bydd angen i'r Datblygiad Arfaethedig gael cyflenwad nwy a chysylltiad â'r seilwaith trosglwyddo nwy [APP-009]. Mae'r DCO y gwnaed cais amdano yn cynnwys pwerau sy'n ymwneud â CA a TP o ran tir sy'n ofynnol ar gyfer aliniad y cysylltiad nwy (tir sy'n atodol i'r datblygiad) ond nid yw'n rhoi caniatâd datblygu ar

gyfer aliniad y cysylltiad nwy. Y rheswm am hyn yw oherwydd bod aliniad cysylltiad nwy yn ddatblygiad cysylltiedig o fath na chaiff DCO ddarparu ar ei gyfer yng Nghymru (a115 PA2008).

- 3.3.9. Er nad wyf yn archwilio cais i roi caniatâd datblygu ar gyfer piblinell nwy, bu'n rhaid i'r Archwiliad hwn ystyried p'un a yw'r pwerau yn y DCO sy'n ymwneud â CA a TP o ran tir ar gyfer datblygu aliniad y cysylltiad nwy yn briodol. Wrth gynnal ei asesiad yn yr ES [APP-042] a gyflwynwyd gyda'r cais, mae'r Ymgeisydd wedi mynegi'r farn bod EN-4 yn berthnasol i'r amgylchiadau hyn ac wedi tynnu fy sylw ato [APP-007]. Nid yw'r un o'r Partïon â Buddiant (IPs) wedi dadlau nad oedd yn berthnasol. Ar ôl ystyried y safbwynt hwn, cytunaf â'r Ymgeisydd fod NPS EN-4 yn berthnasol, ond nodaf fod rhaid i'w berthnasedd fod yn gyfyngedig i asesu effeithiau CA a TP o ran tir ar gyfer aliniad cysylltiad nwy, a phriodoldeb darpariaethau'r DCO drafft sy'n berthnasol i dir o'r fath. Nid yw'n darparu'r prif fframwaith penderfynu ar gyfer y cais sydd gerbron yr SoS.

EN-5: Seilwaith Rhwydweithiau Trydan

- 3.3.10. Mae EN-5 yn amlinellu materion sy'n berthnasol i ganiatáu seilwaith rhwydwaith trydan, sy'n gallu cynnwys llinellau trydan uwchben y ddaear sy'n ffurfio rhan o'r system ddosbarthu, gyda foltedd enwol y disgwylir iddo fod yn 132kV neu uwch. Mae'n ofynnol i'r Datblygiad Arfaethedig gael ei gysylltu â'r grid i allforio trydan [APP-006]. Mae'r DCO y gwnaed cais amdano yn cynnwys pwerau sy'n ymwneud â CA a TP o ran tir sy'n ofynnol ar gyfer aliniad y cysylltiad trydanol (tir sy'n atodol i'r datblygiad) ond nid yw'n rhoi caniatâd datblygu ar gyfer aliniad y cysylltiad trydanol. Yn yr un modd â'r cysylltiad nwy arfaethedig, mae'r cysylltiad trydanol yn ddatblygiad cysylltiedig o fath na chaiff DCO ddarparu ar ei gyfer yng Nghymru.
- 3.3.11. Er nad wyf yn archwilio cais i roi caniatâd datblygu ar gyfer cysylltiad trydanol, bu'n rhaid i'r Archwiliad hwn ystyried p'un a yw'r pwerau yn y DCO sy'n ymwneud â CA a TP o ran tir ar gyfer datblygu aliniad y cysylltiad trydanol yn briodol. Wrth gynnal ei asesiad yn yr ES a gyflwynwyd gyda'r cais, mae'r Ymgeisydd wedi mynegi'r farn bod EN-5 yn berthnasol i'r amgylchiadau hyn ac wedi tynnu fy sylw ato. Nid yw'r un o'r Partïon â Buddiant (IPs) wedi dadlau nad oedd yn berthnasol. Ar ôl ystyried y safbwynt hwn, cytunaf â'r Ymgeisydd fod NPS EN-5 yn berthnasol, ond nodaf fod rhaid i'w berthnasedd fod yn gyfyngedig i asesu effeithiau CA a TP o ran tir ar gyfer aliniad cysylltiad trydanol, a phriodoldeb darpariaethau'r DCO drafft sy'n berthnasol i dir o'r fath. Nid yw'n darparu'r prif fframwaith penderfynu ar gyfer y cais sydd gerbron yr SoS.

3.4. DEDDFWRIAETH, POLISI A CHANLLAWIAU SY'N BERTHNASOL I GYMRU

Deddf Cymru 2017

- 3.4.1. O dan Ddeddf Cymru 2017 (WA2017), dilëwyd adeiladu neu ymestyn gorsafoedd cynhyrchu trydan (nad ydynt yn cynhyrchu ynni o'r gwynt), yng Nghymru, hyd at gapasiti o 350 MW, o'r gyfundrefn NSIP o dan PA 2008, ar 01 Ebrill 2019. Fodd bynnag, oherwydd bod y cais hwn wedi cael ei wneud ym mis Mai 2018, mae'n rhaid i'r SoS benderfynu arno o dan PA2008.
- 3.4.2. Mae WA2017 yn cynnwys darpariaeth o dan adran 43 i ddatrys anghysondeb blaenorol yn y broses ganiatáu yn ymwneud â datblygiadau cysylltiedig. Roedd yr anghysondeb yn deillio o'r ffaith bod cyfundrefn PA2008 yn eithrio cymeradwyaeth am ddatblygiad cysylltiedig ar gyfer prosiectau gorsaf cynhyrchu trydan mawr yng Nghymru. Yn flaenorol, ar gyfer prosiectau o'r fath, er bod y broses ganiatáu ar gyfer y prif brosiect trwy'r broses NSIP, yr awdurdod cynllunio lleol perthnasol yng Nghymru oedd yn gyfrifol am ganiatáu datblygiad cysylltiedig. Mae hyn wedi newid bellach yn sgil cychwyn adran 43 Deddf Cymru 2017, sy'n cysoni'r cyfrifoldeb am roi caniatâd am ddatblygiad cysylltiedig ar gyfer prosiectau ynni a'r cyfrifoldeb am roi caniatâd ar gyfer y prif brosiect.

Deddf Llywodraeth Cymru 2006

- 3.4.3. Mae Deddf Llywodraeth Cymru 2006 yn galluogi Llywodraeth Cymru (LIC) i wneud deddfwriaeth sy'n berthnasol yng Nghymru. Mae'n rhaid i'r ddeddfwriaeth fod o fewn gallu deddfwriaethol LIC, h.y. ymwneud â'r materion datganoledig a amlinellir fel cyfres o benawdau cyffredinol, neu 'bynciau', sy'n cynnwys:
- Yr amgylchedd: materion fel gwarchod yr amgylchedd, cefn gwlad, mannau agored, cadwraeth natur, cynefinoedd, yr arfordir a'r amgylchedd morol;
 - Llywodraeth leol, gan gynnwys ardaloedd awdurdodau lleol sy'n cynnwys eu ffiniau awdurdodaeth ar gyfer materion fel rheoli datblygu a gorfodi; a
 - Chynllunio gwlad a thref.

- 3.4.4. Mae rhai materion a fyddai wedi'u cynnwys yn y penawdau cyffredinol hyn fel arall:

- *"...heb eu datganoli gan gynnwys cais am ganiatâd datblygu o dan PA2008 (Deddf Llywodraeth Cymru, Atodlen 7, paragraff 18)."*

Deddf Cynllunio (Cymru) 2015

- 3.4.5. Mae Deddf Cynllunio (Cymru) 2015 yn berthnasol i'r Archwiliad hwn gan ei fod yn berthnasol i weithrediadau cyfranogwyr o fewn y system gynllunio yng Nghymru (gan gynnwys awdurdodau cynllunio lleol), ac rwyf wedi ystyried ei chynnwys.

Deddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015

- 3.4.6. Mae Deddf Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015 yn berthnasol i'r Archwiliad hwn gan ei fod yn gosod dyletswyddau cynaliadwyedd a

llesiant ar weithrediadau cyfranogwyr o fewn y system gynllunio yng Nghymru (gan gynnwys CNC ac awdurdodau cynllunio lleol), ac rwyf wedi ystyried ei chynnwys.

Deddf yr Amgylchedd Hanesyddol (Cymru) 2016

- 3.4.7. Mae Deddf yr Amgylchedd Hanesyddol (Cymru) 2016 yn berthnasol i'r Archwiliad hwn gan ei fod yn gosod dyletswyddau ar weithrediadau cyfranogwyr o fewn y system gynllunio yng Nghymru (gan gynnwys Cadw, awdurdodau cynllunio lleol ac ymgeiswyr), ac rwyf wedi ystyried ei chynnwys.

Deddf yr Amgylchedd (Cymru) 2016

- 3.4.8. Mae Deddf yr Amgylchedd (Cymru) 2016 yn berthnasol i'r Archwiliad hwn gan ei fod yn gosod dyletswyddau ar weithrediadau cyfranogwyr o fewn y system gynllunio yng Nghymru (gan gynnwys CNC ac awdurdodau cynllunio lleol), sy'n cynnwys dyletswydd i gydweithio, ac rwyf wedi ystyried ei chynnwys.

Rheoliadau Deddf Cydraddoldeb 2010 (Dyletswyddau Statudol) (Cymru) 2011

- 3.4.9. Mae adran 153 Deddf Cydraddoldeb 2010 yn galluogi Gweinidogion Cymru i osod dyletswyddau ar rai awdurdodau cyhoeddus yng Nghymru trwy reoliadau.
- 3.4.10. Mae Rheoliadau Deddf Cydraddoldeb 2010 (Dyletswyddau Statudol) (Cymru) 2011 yn galluogi cyflawni dyletswyddau'n well o dan a149(1) Deddf Cydraddoldeb 2010 yng Nghymru, sef rhoi sylw dyledus i'r angen i:
- ddileu gwahaniaethu, aflonyddu, erledigaeth ac unrhyw fath arall o ymddygiad a waherddir gan neu o dan y Ddeddf honno;
 - hyrwyddo cyfle cyfartal rhwng pobl sy'n rhannu nodwedd warchodedig berthnasol a phobl nad ydynt yn rhannu'r nodwedd warchodedig honno; a
 - meithrin cysylltiadau da rhwng pobl sy'n rhannu nodwedd warchodedig berthnasol a phobl nad ydynt yn rhannu'r nodwedd warchodedig honno.

Polisi Cynllunio Cymru (PPW)

- 3.4.11. Amlinellir polisiâu cynllunio defnydd tir ar gyfer Cymru yn nogfen PPW LIC. Ategir PPW gan gyfres o Nodiadau Cyngor Technegol (TAN) a restrir isod.
- 3.4.12. Ymgynghorodd LIC ar Argraffiad 10 drafft o PPW rhwng mis Chwefror a mis Mai 2018. Ar 5 Rhagfyr 2018, rhyddhaodd LIC 10fed argraffiad PPW yn dilyn ymgynghoriadau ar y newidiadau arfaethedig. Mae'r PPW newydd yn ychwanegu at yr amcanion a amlinellir yn Neddff Llesiant Cenedlaethau'r Dyfodol (Cymru) 2015 (WBFGA) ac wedi cael ei ailstrwythuro i adlewyrchu'r fframwaith deddfwriaethol newydd, ac mae'r

pum ffordd o weithio wedi cael eu cynnwys yn llawn yng ngweledigaeth tymor hir LIC ar gyfer cynllunio defnydd tir.

- 3.4.13. Yn yr un modd ag argraffiadau blaenorol, ategir Argraffiad 10 PPW gan gyfres o TANs a llythyrau egluro polisi. Mae Argraffiad 10 PPW yn atgyfnerthu amcanion LIC o ran newid i economi carbon isel a chydabod sicrhau ynni o gymysgedd o ffynonellau ynni [APP-007].
- 3.4.14. Nid yw PPW yn cynnwys polisiâu penodol ar gyfer prosiectau seilwaith o arwyddocâd cenedlaethol. Mae'r fframwaith ar gyfer hyn wedi'i amlinellu yn yr NPSs sydd hefyd yn berthnasol yng Nghymru. Fodd bynnag, gallai PPW a'r TANs fod yn bwysig ac yn berthnasol wrth benderfynu ar y cais hwn (gweler Pennod 4).
- 3.4.15. Mae PPW yn amlinellu polisiâu cynllunio defnydd tir LIC ac yn dangos bod LIC wedi ymrwymo i gyfrannu at gyrraedd targed gofynnol y Deyrnas Unedig o sicrhau bod 15% o ynni'n dod o ffynonellau adnewyddadwy erbyn 2020 (paragraff 12.8.1). Mae'n ceisio cyflawni rhaglen ynni sy'n cyfrannu at leihau allyriadau carbon yn rhan o'r ymagwedd at fynd i'r afael â'r newid yn yr hinsawdd ar yr un pryd â gwella llesiant pobl a chymunedau Cymru, fel yr amlinellir yn Ynni Cymru: Newid Carbon Isel (gweler isod, paragraff 3.4.20).
- 3.4.16. Mae'n amlwg bod polisiâu ar bynciau a godir gan gais yng Nghymru yn gallu bod yn ystyriaethau pwysig a pherthnasol wrth benderfynu ar gais NSIP, a dyma'r sail yr wyf wedi ystyried polisi PPW arni.

Nodiadau Cyngor Technegol (TANs)

- 3.4.17. Mae'r TANs a'r Nodiadau Cyngor Technegol Mwynau (MTANs) a gynhyrchwyd gan LIC yn rhoi arweiniad ychwanegol ar bynciau cynllunio penodol. Gall cynnwys y TANs canlynol fod yn bwysig ac yn berthnasol wrth ystyried y cais hwn, ac maent wedi cael eu hystyried:
- TAN 5: Cadwraeth Natur a Chynllunio (2009);
 - TAN 6: Cynllunio ar gyfer Cymunedau Gwledig Cynaliadwy (2010);
 - TAN 11: Sŵn (1997);
 - TAN 12: Dylunio (2014);
 - TAN 15: Datblygu a Pherygl o Lifogydd (2004);
 - TAN 18: Trafnidiaeth (2007);
 - TAN 20: Cynllunio a'r Iaith Gymraeg (2013);
 - TAN 21: Gwastraff (2014);
 - TAN 23: Datblygu Economaidd (2014);
 - MTAN 1: Agregau (2004); ac
 - MTAN 2: Glo (2009).

Cynllun Gofodol Cymru 2008 – Pobl, Llefydd, Dyfodol

- 3.4.18. Mae Cynllun Gofodol Cymru 2008 (WSP2008) yn amlinellu blaenoriaethau gofodol cenedlaethol trawsbynciol ac yn darparu'r cyd-destun a'r cyfeiriad ar gyfer Cynlluniau Datblygu Lleol (CDLlau). Mae'n amlygu chwe is-ranbarth yng Nghymru heb ddiffinio ffiniau caeth, sy'n

adlewyrchu'r gwahanol gysylltiadau sy'n ymwneud â gweithgareddau dyddiol. Mae'r cynllun yn gosod Abertawe yn rhanbarth Bae Abertawe – y Glannau a'r Cymoedd Gorllewinol (Pennod 20). Mae'n amlygu Abertawe fel anheddiad allweddol o bwysigrwydd cenedlaethol, economi gystadleuol sy'n seiliedig ar wybodaeth a sbardunwr allweddol ar gyfer twf yn y rhanbarth. Rwyf wedi ystyried cynnwys perthnasol o WSP2008.

- 3.4.19. Ystyriwyd ymgynghoriad drafft y Fframwaith Datblygu Cenedlaethol (FfDC) yn ystod yr Archwiliad a thynnwyd sylw'r Ymgeisydd ac IPs ato (paragraff 4.2.44 [APP-007]). Ni ystyriwyd ei fod yn sylweddol wahanol i WSP nac yn effeithio'n sylweddol ar yr amgylchedd polisi ar gyfer y datblygiad arfaethedig o'i gymharu ag WSP. Fodd bynnag, os cymeradwyir y FfDC cyn penderfyniad yr SoS, fe allai fod angen ymgynghori â'r Ymgeisydd ac IPs ymhellach ar ffurf derfynol y polisi ym Mhenod A sy'n berthnasol i ranbarth Bae Abertawe – y Glannau a'r Cymoedd Gorllewinol lle y mae'r Datblygiad Arfaethedig wedi'i leoli.

Polisïau Llywodraeth Cymru ar Ynni a'r Newid yn yr Hinsawdd

- 3.4.20. Rwyf wedi ystyried y polisïau canlynol gan LIC ar ynni a'r newid yn yr hinsawdd:
- Ynni Cymru: Newid Carbon Isel (2012);
 - Strategaeth Cymru ar y Newid yn yr Hinsawdd (2010); a
 - Ffyniant i Bawb: Cymru Carbon Isel (2019). Mae Ffyniant i Bawb: Cymru Carbon Isel yn amlinellu 100 o bolisïau a chynigion i gyrraedd targedau allyriadau carbon 2020 (gweler Adran 4.8 isod).
- 3.4.21. Mae'r dogfennau hyn yn berthnasol o ran pynciau.
- 3.4.22. Ar 29 Ebrill 2019, cyhoeddodd Llywodraeth Cymru argyfwng hinsawdd. Mae Llywodraeth Cymru wedi ymrwymo i gyflawni sector cyhoeddus carbon niwtral erbyn 2030 a chydlynu camau gweithredu i helpu meysydd eraill o'r economi i symud yn bendant oddi wrth danwydd ffosil, gan gynnwys y byd academiaidd, diwydiant a'r trydydd sector. Roedd hyn ar ôl diwedd yr archwiliad ar gyfer y DCO hwn a bydd yn fater i'r Ysgrifennydd Gwladol ei ystyried wrth wneud ei benderfyniad terfynol ar y DCO.

3.5. CYFRAITH EWROPEAIDD A RHEOLIADAU CYSYLLTIEDIG Y DEYRNAS UNEDIG

Cyfarwyddeb y Cyngor 2011/92/EU ar asesu effeithiau prosiectau cyhoeddus a phreifat penodol ar yr amgylchedd (y Gyfarwyddeb AEA)

- 3.5.1. Mae'r Gyfarwyddeb AEA yn diffinio'r weithdrefn a ddefnyddir gan y corff penderfynu perthnasol i gasglu gwybodaeth am effeithiau amgylcheddol prosiect a'i hystyried cyn rhoi caniatâd ar gyfer datblygiad. Mae'n berthnasol i ystod eang o brosiectau cyhoeddus a phreifat, a ddiffinnir yn Atodiadau I a II y Gyfarwyddeb.

- 3.5.2. Mae'n rhaid i'r datblygiad arfaethedig gael ei ystyried o dan ddeddfwriaeth y Deyrnas Unedig sy'n gysylltiedig â 2011/92/EU: Rheoliadau Cynllunio Seilwaith (AEA) 2009 (fel y'u diwygiwyd), a drafodir ymhellach isod. Y Gyfarwydddeb AEA fwyaf diweddar yw 2014/52/EU, a ddaeth i rym ar 15 Mai 2014. Troswyd Cyfarwydddeb 2014 yn gyfraith ddomestig y Deyrnas Unedig ar 16 Mai 2017.

Rheoliadau Cynllunio Seilwaith (Asesu Effeithiau Amgylcheddol) 2017 (y Rheoliadau AEA)

- 3.5.3. Y ddeddfwriaeth AEA bresennol ar gyfer achosion NSIP yw Rheoliadau Cynllunio Seilwaith (AEA) 2017 (Rheoliadau AEA 2017). Maen nhw'n dirymu Rheoliadau Cynllunio Seilwaith (AEA) 2009 (Rheoliadau AEA 2009) yn amodol ar ddarpariaethau trosiannol yn Rheoliad 37 Rheoliadau AEA 2017. Honnodd yr Ymgeisydd fod y darpariaethau trosiannol yn berthnasol i'r cais ac felly ei fod wedi cydymffurfio â darpariaethau perthnasol Rheoliadau AEA 2009 yn ystod y cyfnod cyn-ymgeisio (paragraff 2.4.10 [APP-007]).
- 3.5.4. Daeth Rheoliadau AEA 2017 i rym ar 16 Mai 2017, sef blwyddyn cyn i'r cais gael ei wneud. Er hynny, mae Rheoliad 37(2)(a)(ii) Rheoliadau AEA 2017 yn datgan y bydd Rheoliadau AEA 2009 yn parhau i fod yn berthnasol i unrhyw gais am orchymyn sy'n rhoi caniatâd datblygu neu ganiatâd dilynol lle'r oedd yr Ymgeisydd, cyn i Rheoliadau 2017 ddechrau, wedi gofyn i'r SoS fabwysiadu barn gwmpasu a ddiffiniwyd gan Rheoliadau AEA 2009.
- 3.5.5. Gofynnodd yr Ymgeisydd am farn gwmpasu gan yr SoS ar 26 Mehefin 2014, a mabwysiadwyd y farn honno gan yr Arolygiaeth (yr Arolygiaeth) ar ran yr SoS ar 1 Awst 2014. Felly, o ran y Cais hwn, rwyf yn fodlon bod darpariaethau Rheoliad 37(2)(a)(ii) Rheoliadau AEA 2017 yn berthnasol, ac y dylent gael eu hystyried yn erbyn Rheoliadau AEA 2009.
- 3.5.6. Mae'r Rheoliadau AEA yn pennu'r lleiafswm gwybodaeth sydd i'w chyflenwi gan yr Ymgeisydd o fewn ES, yn ogystal â'r wybodaeth y gall ExA ofyn amdani gyda chyfiawnhad rhesymol o ystyried amgylchiadau'r achos. Mae Rhan 2 Atodlen 4 yn nodi'r gofynion lleiaf ar gyfer ES o dan y Rheoliadau AEA, ac atgyfnerthir hyn gan Rheoliad 3(2), sy'n amlinellu dyletswydd graidd y penderfynwr wrth wneud penderfyniad ar Ddatblygiad AEA. Yn ôl Rheoliad 3(2) y Rheoliadau AEA:
- "...mae'n rhaid i'r penderfynwr beidio â gwneud gorchymyn sy'n rhoi caniatâd datblygu oni bai ei fod wedi ystyried y wybodaeth amgylcheddol yn gyntaf, ac mae'n rhaid iddo ddatgan yn ei benderfyniad ei fod wedi gwneud hynny."*
- 3.5.7. Mae'r datblygiad arfaethedig yn ddatblygiad AEA o dan Atodlen 2 y Rheoliadau AEA. Mae'r Ymgeisydd wedi darparu ES [APP-016 to APP-042] yn rhan o'r cais a gyflwynwyd.
- 3.5.8. Wrth ddod i'm casgliadau a'm hargymhelliad, rwyf wedi ystyried y wybodaeth amgylcheddol fel y'i diffiniwyd yn Rheoliad 3(2) (gan gynnwys

yr ES a'r holl wybodaeth arall am effeithiau amgylcheddol y datblygiad) (gweler Penodau 4 i 6 yr adroddiad hwn).

Cyfarwyddeb y Cyngor 2008/50/EC ar ansawdd aer yr amgylchedd ac aer glanach ar gyfer Ewrop (y Gyfarwyddeb Ansawdd Aer)

- 3.5.9. Daeth y Gyfarwyddeb Ansawdd Aer (AQD) i rym ar 11 Mehefin 2008. Mae'r Gyfarwyddeb yn cydgrynhoi pedair cyfarwyddeb ac un penderfyniad y Cyngor yn un gyfarwyddeb ar ansawdd aer. O dan yr AQD, mae'n ofynnol i Aelod-wladwriaethau asesu ansawdd aer yr amgylchedd o ran sylffwr deuocsid, nitrogen deuocsid a nitrogen monocsid, deunydd gronynnol (PM₁₀ a PM_{2.5}), plwm, bensen a charbon monocsid (CO). Mae'r Gyfarwyddeb yn gosod gwerthoedd cyfyngol ar gyfer cydymffurfio ac yn sefydlu camau rheoli lle y ceir gormodiant. Mae wedi'i throsi'n statud y Deyrnas Unedig trwy reoliadau a wnaed o dan Ddeddf yr Amgylchedd 1995 (EA1995).
- 3.5.10. Mae Rhan IV EA1995 yn mynnu bod pob awdurdod lleol yn y Deyrnas Unedig yn adolygu ac asesu ansawdd aer yn ei ardal. Os ceir gormodiant o ran unrhyw safonau neu os ydynt yn annhebygol o gael eu cyflawni erbyn y dyddiad gofynnol, dylai'r ardal honno gael ei dynodi'n Ardal Rheoli Ansawdd Aer ac mae'n rhaid i'r Awdurdod Lleol (ALI) lunio a gweithredu Cynllun Gweithredu Ansawdd Aer i geisio lleihau lefelau'r llygrydd.
- 3.5.11. Amlinellir perthnasedd y Gyfarwyddeb hon i'r cais hwn yn uniongyrchol ym Mhennod 4 yr adroddiad hwn.

Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016 (fel y'u diwygiwyd)

- 3.5.12. Mae Rheoliadau Trwyddedu Amgylcheddol (EP) (Cymru a Lloegr) 2016 (fel y'u diwygiwyd) yn berthnasol i bob gosodiad newydd ac yn trosi gofynion Cyfarwyddeb Allyriadau Diwydiannol (IED) yr Undeb Ewropeaidd (y Comisiwn Ewropeaidd, 2010) yn ddeddfwriaeth y Deyrnas Unedig. Gan fod y Datblygiad Arfaethedig o fewn a1 Gweithgarwch Hylosgi o dan y Rheoliadau EP, byddai angen EP cyn i'r Datblygiad Arfaethedig ddechrau gweithredu.
- 3.5.13. O dan yr IED a'r Rheoliadau Trwyddedu Amgylcheddol, mae'n ofynnol i weithredwr gosodiad sy'n dod o dan yr IED ddefnyddio'r Technegau Gorau sydd Ar Gael (BAT) i atal neu leihau allyriadau i'r amgylchedd, er mwyn sicrhau lefel uchel o amddiffyniad i'r amgylchedd yn gyffredinol. Mae gorsafoedd cynhyrchu sydd ag allbwn thermol o fwy na 50 MW, fel y Datblygiad Arfaethedig, yn dod o dan yr IED a'r EPR.
- 3.5.14. Amlinellir perthnasedd y Cyfarwyddbau a'r Rheoliadau hyn i'r cais hwn yn uniongyrchol ym Mhenodau 4 a 5 yr adroddiad hwn.

Cyfarwyddeb y Cyngor 92/43/EEC ar warchod cynefinoedd naturiol ac anifeiliaid a phlanhigion gwyllt (y Gyfarwyddeb Cynefinoedd)

- 3.5.15. Y Gyfarwyddeb Cynefinoedd (ynghyd â Chyfarwyddeb y Cyngor 2009/147/EC ar warchod adar gwyllt ('y Gyfarwyddeb Adar')) yw canolbwynt polisi cadwraeth natur Ewrop. Mae wedi'i seilio ar ddau brif gonglfaen: rhwydwaith Natura 2000 o safleoedd a warchodir a'r system fanwl o warchod rhywogaethau. Mae'r Gyfarwyddeb yn gwarchod mwy na 1,000 o rywogaethau anifeiliaid a phlanhigion a mwy na 200 o fathau o gynefinoedd (er enghraifft: mathau arbennig o fforestydd; dolydd; gwlyptiroedd; ac ati) sydd o bwysigrwydd Ewropeaidd. Mae'n mynnu bod ardaloedd yn cael eu dynodi'n Ardaloedd Cadwraeth Arbennig (ACAau).
- 3.5.16. Mae'r Cyfarwyddebau Cynefinoedd ac Adar wedi'u trosi'n gyfraith y Deyrnas Unedig trwy Reoliadau Cadwraeth Cynefinoedd a Rhywogaethau 2017 o ran yr amgylchedd daearol a dyfroedd tiriogaethol hyd at 12 môr-filltir; a thrwy Reoliadau Cadwraeth Cynefinoedd a Rhywogaethau Morol Alltraeth 2017 ar gyfer dyfroedd alltraeth y Deyrnas Unedig.
- 3.5.17. Amlinellir perthnasedd y Gyfarwyddeb hon i'r cais hwn yn uniongyrchol ym Mhennod 5 (HRA) yr adroddiad hwn, ond fe'i hystyrir mewn mannau eraill fel y bo'r angen.

Cyfarwyddeb y Cyngor 2009/147/EC ar warchod adar gwyllt (y Gyfarwyddeb Adar Gwyllt)

- 3.5.18. Mae'r Gyfarwyddeb Adar yn gynllun cynhwysfawr sy'n gwarchod yr holl rywogaethau adar gwyllt sy'n bodoli'n naturiol yn yr Undeb Ewropeaidd (UE). Mae'r Gyfarwyddeb yn cydnabod mai colli a diraddio cynefin yw'r bygythiadau mwyaf difrifol i warchod adar gwyllt. Felly, mae'n rhoi pwyslais mawr ar warchod cynefinoedd ar gyfer rhywogaethau sydd mewn perygl yn ogystal â rhywogaethau mudol. Mae'n mynnu bod ardaloedd sy'n cynnwys yr holl diriogaethau mwyaf addas i'r rhywogaethau hyn yn cael eu dosbarthu'n Ardaloedd Gwarchodaeth Arbennig (AGAau). Ers 1994, mae pob AGA yn rhan annatod o rwydwaith ecolegol Natura 2000.
- 3.5.19. Mae'r Gyfarwyddeb Adar yn gwahardd gweithgareddau sy'n bygwth adar yn uniongyrchol, fel lladd neu ddal adar yn fwriadol, dinistrio eu nythod a chymryd eu hwyau, a gweithgareddau cysylltiedig fel masnachu mewn adar byw neu farw. Mae'n mynnu bod Aelod-wladwriaethau yn cymryd camau angenrheidiol i gynnal y boblogaeth rhywogaethau adar gwyllt ar lefel sy'n cyd-fynd, yn arbennig, â gofynion ecolegol, gwyddonol a diwylliannol, ar yr un pryd ag ystyried gofynion economaidd a hamdden.
- 3.5.20. Amlinellir perthnasedd y Gyfarwyddeb hon i'r cais hwn yn uniongyrchol ym Mhennod 5 (HRA) yr adroddiad hwn, ond fe'i hystyrir mewn mannau eraill fel y bo'r angen.

Rheoliadau Cadwraeth Cynefinoedd a Rhywogaethau 2017 (fel y'u diwygiwyd) ('y Rheoliadau Cynefinoedd')

- 3.5.21. Mae'r Rheoliadau Cynefinoedd yn rhoi grym domestig i'r Gyfarwydddeb Cynefinoedd a'r Gyfarwydddeb Adar Gwyllt ac yn gonglfaen ar gyfer cyflawni'r HRA yng Nghymru a Lloegr. Amlinellir eu perthnasedd i'r cais hwn yn uniongyrchol ym Mhennod 5 (HRA) yr adroddiad hwn, ond fe'u hystyrir mewn mannau eraill fel y bo'r angen.

Cyfarwydddeb y Cyngor 2000/60/EC (fel y'i diwygiwyd) Fframwaith ar gyfer gweithredu cymunedol ym maes polisi dŵr (y Gyfarwydddeb Fframwaith Dŵr)

- 3.5.22. Mae'r Gyfarwydddeb Fframwaith Dŵr (WFD) yn sefydlu fframwaith ar gyfer polisi dŵr, gan reoli ansawdd dyfroedd derbyn. Mae'r gyfarwydddeb yn ymwneud â rheoli dŵr. Ymhlith amcanion eraill, mae'n mynnu bod Aelod-wladwriaethau'r UE yn atal dirywiad cyrff dŵr wyneb a chyrff dŵr daear a'u hecosystemau, ac yn gwella ansawdd cyrff dŵr wyneb a dŵr daear trwy leihau llygredd yn gynyddol a thrwy adfer.
- 3.5.23. Mae'r WFD wedi'i throsi'n gyfraith yng Nghymru a Lloegr gan Reoliadau Amgylchedd Dŵr (Cyfarwydddeb Fframwaith Dŵr) (Cymru a Lloegr) 2017.
- 3.5.24. Wrth weithredu'r gyfarwydddeb, mae NPS EN-1 yn datgan ym mharagraff 5.15.3 y dylai ES ddisgrifio:

"nodweddion ffisegol presennol yr amgylchedd dŵr (gan gynnwys maint a dynameg llif) y mae'r prosiect arfaethedig yn effeithio arnynt ac unrhyw effaith o ganlyniad i addasiadau ffisegol i'r nodweddion hyn; ac unrhyw effeithiau ar gyrff dŵr neu ardaloedd a warchodir o dan y Gyfarwydddeb Fframwaith Dŵr o ganlyniad i'r prosiect arfaethedig."

- 3.5.25. Ystyrir ansawdd dŵr a rheoli dŵr ym Mhennod 4 yr adroddiad hwn.

3.6. DARPARIAETHAU CYFREITHIOL ERAILL

Confensiwn Rhaglen Amgylcheddol y Cenhedloedd Unedig (UNEP) ar Amrywiaeth Fiolegol 1992

- 3.6.1. Fel sy'n ofynnol gan Reoliad 7 Rheoliadau Cynllunio Seilwaith (Penderfyniadau) 2010, rwyf wedi rhoi sylw i'r Confensiwn hwn wrth ystyried effeithiau tebygol y datblygiad arfaethedig ac amcanion a dulliau priodol ar gyfer lliniaru a digolledu. Yn arbennig, deuaif i'r casgliad bod cydymffurfio â darpariaethau'r Deyrnas Unedig ar faterion AEA a thrawsffiniol o ran effeithiau ar fioamrywiaeth y cyfeirir atynt yn y Bennod hon, yn bodloni gofynion y Confensiwn.
- 3.6.2. Cadarnhawyd y Confensiwn gan Lywodraeth y Deyrnas Unedig ym mis Mehefin 1994. Adran yr Amgylchedd, Bwyd a Materion Gwledig (DEFRA) sy'n gyfrifol am gyfraniad y Deyrnas Unedig at y Confensiwn, sy'n

hyrwyddo integreiddio bioamrywiaeth mewn polisïau, prosiectau a rhaglenni o fewn y Llywodraeth a thu hwnt.

- 3.6.3. Mae hyn yn berthnasol i fioamrywiaeth, yr amgylchedd biolegol, ecoleg a materion HRA ac AEA, a ystyrir ym Mhenodau 4 a 5 yr adroddiad hwn.

Deddf Parciau Cenedlaethol a Mynediad i Gefn Gwlad 1949 (fel y'i diwygiwyd)

- 3.6.4. Mae Deddf Parciau Cenedlaethol a Mynediad i Gefn Gwlad 1949 yn darparu'r fframwaith ar gyfer sefydlu Parciau Cenedlaethol ac Ardaloedd o Harddwch Naturiol Eithriadol (AHNE). Mae hefyd yn sefydlu pwerau i ddatgan Gwarchodfeydd Natur Cenedlaethol (NNR) ac i awdurdodau lleol sefydlu Gwarchodfeydd Natur Lleol (LNR).
- 3.6.5. Rhoddir gwarchodaeth statudol i Barciau Cenedlaethol ac AHNEau er mwyn gwarchod a gwella eu harddwch naturiol, gan gynnwys tirffurf, daeareg, planhigion, anifeiliaid, nodweddion tirwedd a phatrwm cyfoethog anheddiad dynol ar hyd yr oesoedd.
- 3.6.6. Fe'i hystyriwyd ym Mhennod 4 yr adroddiad hwn.

Deddf Bywyd Gwylt a Chefn Gwlad 1981 (fel y'i diwygiwyd)

- 3.6.7. Deddf Bywyd Gwylt a Chefn Gwlad 1981 yw'r brif ddeddfwriaeth sy'n gwarchod anifeiliaid, planhigion a rhai cynefinoedd yn y Deyrnas Unedig. Mae'r Ddeddf yn darparu ar gyfer hysbysu am Safleoedd o Ddiddordeb Gwyddonol Arbennig (SoDdGAau) a'u cadarnhau. Amlygir y safleoedd hyn oherwydd eu planhigion, eu hanifeiliaid neu eu nodweddion daearegol neu ffisiograffigol gan y Cyrff Cadwraeth Natur Statudol (SNCB) yn y Deyrnas Unedig. Yr SNCB ar gyfer Cymru yw CNC.
- 3.6.8. Mae'r Ddeddf yn darparu ar gyfer ac yn gwarchod bywyd gwylt; cadwraeth natur, gwarchod cefn gwlad a Pharciau Cenedlaethol; a Hawliau Tramwy Cyhoeddus (PRoW).
- Os yw datblygiad yn debygol o effeithio ar rywogaeth a warchodir o dan y Ddeddf, bydd angen trwydded rhywogaeth a warchodir gan CNC.
 - Mae'n rhaid ystyried safleoedd a warchodir o dan y Ddeddf (gan gynnwys SoDdGA) hefyd.
 - Mae effeithiau datblygiad ar y rhwydwaith PRoW yn berthnasol hefyd.
- 3.6.9. Mae hyn yn berthnasol i ystyried effeithiau ar SoDdGA ac ar rywogaethau a chynefinoedd a warchodir.
- 3.6.10. Trafodaf yr holl faterion hyn ym Mhenodau 4 a 5 yr adroddiad hwn.

Deddf Cefn Gwlad a Hawliau Tramwy 2000 (Deddf CRow)

- 3.6.11. Cyflwynodd y Ddeddf CRow fesurau i warchod AHNEau ymhellach a gwell darpariaethau ar gyfer gwarchod a rheoli SoDdGAau.
- 3.6.12. O ran yr achos presennol, mae hyn yn berthnasol i archwilio effeithiau a mesurau lliniaru wrth ystyried effeithiau posibl ar AHNE Gogledd-ddwyrain Gŵyr a Chwm Cocyd ac ar SoDdGA. Ystyrir y materion hyn ym Mhennod 4 yr adroddiad hwn.

Deddf yr Amgylchedd Naturiol a Chymunedau Gwledig 2006 (Deddf NERC)

- 3.6.13. Mae'r Ddeddf NERC yn darparu ar gyfer cyrff sy'n ymwneud â'r amgylchedd naturiol a chymunedau gwledig mewn cysylltiad â safleoedd bywyd gwyllt, SoDdGAau, Parciau Cenedlaethol a'r Broads. Mae'n cynnwys dyletswydd y mae'n rhaid i bob corff cyhoeddus ei hystyried, wrth arfer ei swyddogaethau, i'r graddau sy'n gyson ag arfer y swyddogaethau hynny'n briodol at ddiben bioamrywiaeth. Wrth gydymffurfio â hyn, mae'n rhaid ystyried Confensiwn UNEP ar Amrywiaeth Fiolegol 1992.
- 3.6.14. Mae hyn yn berthnasol i faterion bioamrywiaeth, yr amgylchedd biolegol ac ecoleg a thirwedd sy'n codi o'r Datblygiad Arfaethedig, ac adroddir arnynt ym Mhenodau 4 a 5 yr adroddiad hwn.

Deddf Newid yn yr Hinsawdd 2008

- 3.6.15. Deddf Newid yn yr Hinsawdd 2008 yw'r sail ar gyfer ymagwedd y Deyrnas Unedig at fynd i'r afael â'r newid yn yr hinsawdd ac ymateb iddo. Mae'n mynnu bod allyriadau carbon deuocsid a nwyon tŷ gwydr eraill yn cael eu lleihau a bod paratodau'n cael eu gwneud ar gyfer risgiau newid yn yr hinsawdd. Mae'r Ddeddf hefyd yn sefydlu'r fframwaith i gyflawni'r gofynion hyn.
- 3.6.16. Mae'r Ddeddf yn cefnogi ymrwymiad y Deyrnas Unedig i gymryd camau rhyngwladol brys i fynd i'r afael â'r newid yn yr hinsawdd.
- 3.6.17. Mae'r Ddeddf Newid yn yr Hinsawdd yn ymrwymo llywodraeth y Deyrnas Unedig yn ôl y gyfraith i leihau allyriadau nwyon tŷ gwydr 80% o leiaf o lefelau 1990 erbyn 2050⁸. Mae hyn yn cynnwys lleihau allyriadau o'r gweinyddiaethau datganoledig (yr Alban, Cymru a Gogledd Iwerddon), sy'n cyfrif am oddeutu 20% o allyriadau'r Deyrnas Unedig ar hyn o bryd. Roedd y targed 80% wedi'i seilio ar gyngor o adroddiad 2008 y Pwyllgor Newid yn yr Hinsawdd (CCC), sef '*Adeiladu economi carbon isel*'.⁹
- 3.6.18. Mae hyn yn berthnasol i faterion bioamrywiaeth (Adran 4.16), perygl llifogydd (Adran 4.17), ansawdd aer (Adran 4.14) a gweithredol sy'n codi

⁸ Nodir y diwygiad 100% a gyflwynwyd ar ôl i'r archwiliad hwn ddod i ben, ac mae hyn yn fater i'r SoS ei ystyried.

⁹ <https://www.theccc.org.uk/tackling-climate-change/the-legal-landscape/the-climate-change-act/>

o'r Datblygiad Arfaethedig ac yr adroddir arnynt ym Mhenodau 4 a 5 yr adroddiad hwn.

- 3.6.19. Ar ôl i'r archwiliad ddod i ben, diwygiwyd y Ddeddf Newid yn yr Hinsawdd gan Offeryn Statudol 1056 (2019)¹⁰ i darged sero net o 100% erbyn 2050. Nid yw'r argymhellion yn yr adroddiad hwn wedi ystyried y newid hwn o ganlyniad i'r amseriad, a bydd yn fater i'r Ysgrifennydd Gwladol i'w ystyried wrth wneud ei benderfyniad terfynol.

3.7. GORCHMYNION CANIATÂD DATBLYGU A WNAED

- 3.7.1. Ystyriwyd Gorchymyn Gorsaf Gynhyrchu sy'n Rhedeg ar Nwy Hirwaun (SI2015/1574) (Gorchymyn Hirwaun) a Gorchymyn Gorsaf Gynhyrchu sy'n Rhedeg ar Nwy Wrecsam (SI2017/766) (Gorchymyn Wrecsam) a wnaed. Mae Gorchymyn Hirwaun yn darparu ar gyfer gorsaf gynhyrchu tyrbin nwy cylch syml lle mae'r Ymgeisydd hefyd yn Gwmni Grŵp Drax, fel sy'n wir o ran y cais presennol. Mae dull yr Ymgeisydd o lunio'r DCO yn y cais hwn wedi cael ei lywio'n fanwl gan y dull llunio a ddefnyddiwyd ar gyfer Gorchmynion Hirwaun a Wrecsam [APP-013]. Mewn amgylchiadau lle nad oes angen diwygio darpariaethau i fynd i'r afael â gofynion deddfwriaethol a pholisi, materion sy'n codi o gynrychiolaethau ac amgylchiadau lleol, rwyf o'r farn ei bod yn briodol i'r dull llunio a ddefnyddiwyd ar gyfer Gorchmynion Hirwaun a Wrecsam fod yn fan cychwyn ar gyfer fy DCO drafft argymelledig.

- 3.7.2. Rhoddwyd ystyriaeth i'r Gorchymynion canlynol a wnaed yng Nghymru hefyd:

- Gorchymyn Gorsaf Gynhyrchu Gwaith Dur Port Talbot (SI 2015/1984);
- Gorchymyn Gorsaf Gynhyrchu Llanw Bae Abertawe (SI 2015/1386) (fel y'i diwygiwyd);
- Gorchymyn Gwaith Gwres a Phŵer Cyfunedig (CHP) South Hook (SI 2014/2846);
- Gorchymyn Fferm Wynt Coedwig Clocaenog (SI 2014/2441); a
- Gorchymyn Fferm Wynt Gorllewin Coedwig Brechfa (SI 2013/586) (fel y'i diwygiwyd).

Diben hyn yn bennaf yw darparu cyd-destun ar gyfer ystyried y dull i'w ddefnyddio o ran y math o ddatblygiad y gellir ei ddisgrifio'n ddatblygiad hanfodol a chysylltiedig yng Nghymru, a'r berthynas briodol rhwng datblygiad cysylltiedig a phwerau CA a TP mewn DCO sy'n berthnasol i dir a datblygiad yng Nghymru.

3.8. EFFEITHIAU TRAWSFFINIOL

- 3.8.1. Mae'r SoS wedi cynnal yr ymarferion Sgrinio Trawsffiniol canlynol:

- Ymarfer sgrinio cyntaf – 22 Awst 2014 yn dilyn cais yr Ymgeisydd am farn gwmpasu [OD-001].

¹⁰ http://www.legislation.gov.uk/ukxi/2019/1056/pdfs/ukxi_20191056_en.pdf

- Ail ymarfer sgrinio – 7 Tachwedd 2018 ar ôl i'r Cais gael ei dderbyn i'w archwilio.

3.8.2. O dan Reoliad 24 Rheoliadau Cynllunio Seilwaith (AEA) 2009 (fel y'u diwygiwyd) (y Rheoliadau AEA) ac ar sail y wybodaeth a oedd ar gael gan yr Ymgeisydd, penderfynodd yr SoS ar 22 Awst 2014 nad yw'r datblygiad arfaethedig yn debygol o gael effeithiau arwyddocaol ar yr amgylchedd yn un o Aelod-wladwriaethau eraill yr Ardal Economaidd Ewropeaidd (EEA). Nid oedd y penderfyniad hwn wedi newid ar ôl yr ail ymarfer sgrinio ar 7 Tachwedd 2018.

3.8.3. Wrth ddod i'r casgliad hwn, mae'r SoS wedi defnyddio'r ymagwedd ragofalus a esbonnir yn Nodyn Cyngor 12 yr Arolygiaeth ar Ymgynghori ar Effeithiau Trawsffiniol. Felly, ni ystyriwyd bod angen ymgynghori ar faterion trawsffiniol o dan Reoliad 24 y Rheoliadau AEA.

3.9. DATGANIADAU POLISI ERAILL PERTHNASOL

3.9.1. Rwyf wedi ystyried polisiau eraill perthnasol y Llywodraeth, gan gynnwys:

- Y Papur Gwyn ar Ynni: Ateb yr Her (Mai 2007);
- Cynllun Newid Carbon Isel y Deyrnas Unedig (2009);
- Strategaeth Genedlaethol ar gyfer yr Hinsawdd ac Ynni (Gorffennaf 2009);
- Strategaeth Ynni Adnewyddadwy y Deyrnas Unedig (Gorffennaf 2009); a'r
- Cynllun Seilwaith Cenedlaethol (diweddarwyd yn 2019)¹¹.

3.10. ADRODDIADAU AR YR EFFAITH LEOL

3.10.1. Mae adran 104(2) PA2008 yn datgan bod rhaid i'r SoS ystyried unrhyw Adroddiad ar yr Effaith Leol (LIR) o fewn ystyr a60(3) y Ddeddf honno wrth benderfynu ar y cais.

3.10.2. O dan a60(2) PA2008, mae'n ofynnol rhoi hysbysiad ysgrifenedig i bob ALL sy'n dod o dan a56A, a'i wahodd i gyflwyno LIR. Rhoddwyd yr hysbysiad hwn ar 12 Medi 2018 [PD-005].

3.10.3. Cyflwynwyd LIR gan CCS ar 9 Tachwedd 2018 [REP1-021].

3.10.4. Mae'r LIR wedi'i strwythuro mewn ffordd sy'n ystyried penodau amrywiol ES yr Ymgeisydd mewn perthynas â pholisiau'r cyngor. Er enghraifft, ystyrir materion fel trafndiaeth, sŵn, ansawdd aer, ecoleg, a'r effaith dirweddol a gweledol.

3.10.5. Ystyrir yr LIR ym mhob Pennod o 4 - 9 yn yr adroddiad hwn.

3.11. Y CYNLLUN DATBLYGU

¹¹ <https://www.nic.org.uk/assessment/national-infrastructure-assessment/executive-summary/>

- 3.11.1. Yn ôl yr LIR [REP1-021], at ddibenion a38(6) Deddf Cynllunio a Phrynu Gorfodol 2004, y cynllun datblygu ar gyfer ardal safle'r cais yw Cynllun Datblygu Unedol (CDU) CCS (a fabwysiadwyd ym mis Tachwedd 2008).
- 3.11.2. Nid yw polisiâu'r cynllun datblygu a ddyfynnwyd gan CCS yn ei LIR [REP1-021] fel rhai sy'n berthnasol i'r datblygiad arfaethedig yn berthnasol mwyach.
- 3.11.3. Ar ddechrau'r Archwiliad, roedd CCS wrthi'n paratoi ei Gynllun Datblygu Lleol (CDLI) newydd, a fyddai, ar ôl iddo gael ei fabwysiadu, yn disodli'r CDU fel y ddogfen polisi cynllunio allweddol ar gyfer CCS hyd at 2025.
- 3.11.4. Cyflwynodd CCS y CDLI Adnau i Weinidogion Cymru i'w archwilio'n annibynnol ar 28 Gorffennaf 2017. Ar ôl iddo gael ei dderbyn yn ffurfiol ar 4 Awst 2017, penododd Gweinidogion Cymru Arolygwyr i gynnal yr archwiliad annibynnol ac i asesu cadernid y CDLI. Dechreuodd Gwrandawiaidau'r Archwiliad ar 6 Chwefror 2018 gan barhau tan yn hwyr ym mis Mawrth 2018.
- 3.11.5. Ar 31 Ionawr 2019, rhoddodd yr Arolygwyr eu hadroddiad i CCS. Daeth yr adroddiad i'r casgliad, yn amodol ar y Materion sy'n Arwain at Newidiadau (MAC) a Materion yr Arolygwyr sy'n Arwain at Newidiadau (IMAC) argymelledig a amlinellir yn Atodiadau A a B, bod CDLI Abertawe 2010 – 2025 (y CDLI) yn darparu sail briodol ar gyfer cynllunio yn y Sir hyd at 2025. Mae gan y Cyngor ddigon o dystiolaeth i gefnogi'r strategaeth ac mae wedi dangos bod ganddo debygolrwydd realistig o gael ei gyflawni. Mae angen gwneud nifer o newidiadau i wneud y Cynllun yn gadarn a bodloni gofynion statudol.
- 3.11.6. Ar 28 Chwefror 2019, mabwysiadodd y Cyngor "Gynllun Datblygu Lleol Abertawe 2010-2025". Daeth y Cynllun i rym ar y diwrnod hwnnw a dyna yw'r cynllun datblygu ar gyfer Abertawe bellach, sy'n darparu fframwaith cynllunio cyfredol i arwain a llywio cynigion datblygu. Mae'r CDLI yn disodli'r CDU, a hynny ar unwaith [REP4-022 to 026].
- 3.11.7. Bydd gweledigaeth y CDLI yn cael ei chyflawni trwy gyfres o amcanion strategol sy'n ymwneud â "Gwella Cymunedau, Cyfleusterau a Seilwaith", "Sicrhau Twf Economaidd a Ffyniant", a "Meithrin Amgylchedd o Ansawdd Uchel". Amlinellir y rhai sy'n berthnasol i'r Datblygiad Arfaethedig isod [REP1-021]:
- *Hwyluso darparu seilwaith priodol i gefnogi cymunedau a busnesau;*
 - *Annog datblygu adnoddau ynni a seilwaith ynni carbon isel ac adnewyddadwy yn briodol;*
 - *Cefnogi diogelu adnoddau naturiol a'u defnyddio'n gynaliadwy lle y bo'n briodol;*
 - *Cefnogi datblygiad sy'n gwneud Abertawe yn lle sy'n gystadleuol yn economaidd ac yn ysgogwr economaidd ar gyfer y Dinas-ranbarth;*
 - *Hwyluso twf ac arallgyfeirio'r economi leol a chynnydd mewn cyflogaeth fedrus o werth uchel;*

- *Hyrwyddo strategaeth datblygu cynaliadwy sy'n osgoi effeithiau amgylcheddol niweidiol arwyddocaol ac yn parchu asedau amgylcheddol;*
- *Cynnal a gwella rhwydweithiau seilwaith gwyrdd;*
- *Cefnogi mesurau i leihau achosion a chanlyniadau'r newid yn yr hinsawdd gymaint â phosibl; a*
- *Hyrwyddo dyluniad da sy'n unigryw yn lleol, yn gynaliadwy, yn arloesol ac yn ystyriol o leoliad."*

3.11.8. Lle y bo'n briodol, aseswyd materion cynllunio yn erbyn polisiau'r CDLI fel y manylir ym Mhennod 4 isod.

3.11.9. Rwyf wedi ystyried a yw'r Datblygiad Arfaethedig yn arwain at effeithiau pwysig a pherthnasol mewn ardaloedd llywodraeth leol cyfagos. Fodd bynnag, o ystyried absenoldeb LIRs gan unrhyw awdurdodau cyfagos a'm harchwiliadau fy hun [EV-008] o leoliad safle'r cais, rwyf wedi dod i'r casgliad nad oes angen ystyried polisiau unrhyw gynlluniau datblygu gan awdurdodau cyfagos.

3.11.10. Fel y nodir ym mharagraff 4.1.5 NPS EN-1, os oes gwrthdaro rhwng y dogfennau uchod ac NPS, yr NPS fydd drechaf oherwydd arwyddocâd cenedlaethol y seilwaith. Mae'r SoCG rhwng yr Ymgeisydd a CCS [REP3-010] yn cytuno bod yr ystod o dystiolaeth a dynodiadau polisi sy'n berthnasol i'r Deyrnas Unedig, Cymru ac yn lleol, fel y'u hamlinellir ym Mhennod 2 yr ES [APP-042], wedi cael eu datgan yn briodol.

3.12. PWERAU'R YSGRIFENNYDD GWLADOL I WNEUD DCO

3.12.1. Drwy gydol yr Archwiliad, roeddwn yn ymwybodol o'r angen i ystyried a oedd newidiadau i'r cais wedi'i newid i'r graddau ei fod yn gais gwahanol a ph'un a fyddai gan yr SoS bŵer, felly, o dan a.114 PA2008 i wneud DCO o ystyried y caniatâd datblygu y gwnaed cais amdano.

3.12.2. Mae 'Deddf Cynllunio 2008: Canllawiau ar gyfer archwilio ceisiadau am ganiatâd datblygu', gan yr Adran Cymunedau a Llywodraeth Leol (Mawrth 2015), yn rhoi arweiniad ym mharagraffau 109 i 115 ynglŷn â newid cais ar ôl iddo gael ei Dderbyn³. Y farn a fynegwyd gan y Llywodraeth wrth i'r Ddeddf Lleoliaeth gael ei phasio oedd bod a114(1) yn gosod y cyfrifoldeb am wneud DCO ar y penderfynwr, ac nad yw'n cyfyngu ar y termau y gellir ei wneud ynddynt.

3.12.3. Ar ôl ystyried y cyd-destun hwn drwy gydol yr Archwiliad, rwyf yn fodlon nad yw'r newidiadau i'r cais (sef diwygiadau technegol i'r DCO y gwnaed cais amdano yn bennaf) yn cynrychioli newid mor arwyddocaol sy'n gyfystyr â chais newydd sy'n wahanol i hwnnw y gwnaed cais amdano. Felly, rwyf o'r farn bod gan yr SoS bŵer i wneud y DCO fel yr argymhellir ym Mhennod 9 ac a ddarperir yn Atodiad Ch yr adroddiad hwn.

4. Y MATERION CYNLLUNIO

4.1. CYFLWYNIAD

- 4.1.1. Mae'r bennod hon yn dechrau trwy restru'r prif faterion yn yr Archwiliad. Yna, amlinellaf y ffynonellau gwybodaeth a ddefnyddiais i ystyried y materion polisi a ffeithiol a godir gan y Datblygiad Arfaethedig, o fewn y fframwaith a ddarperir gan PA2008. Mae'n mynd ymlaen i osod fframwaith y mae materion unigol i'w harchwilio wedi codi ynddo. Mae'n esbonio sut mae'r fframwaith hwnnw wedi esblygu yn ystod yr Archwiliad. Yna, mae'n cymhwyso'r fframwaith hwnnw i ddadansoddi materion unigol a dod i gasgliadau arnynt. Mae'r casgliadau unigol yn bwydo ymlaen i'r casgliad cytbwys ar yr achos dros y datblygiad, a amlinellir ym Mhennod 6.

4.2. Y PRIF FATERION YN YR ARCHWILIAD

- 4.2.1. Cynhaliais Asesiad Cychwynnol o'r Prif Faterion (IAPI)¹² yn barod ar gyfer y Cyfarfod Rhagarweiniol (PM). Cyhoeddwyd yr IAPI fel Atodiad B i'r Llythyr Rheol 6 ar 12 Medi 2018 [PD-005].
- 4.2.2. Mae'r IAPI yn amlygu'r materion a godwyd gan y cais a'r cyflwyniadau ysgrifenedig a oedd ar gael bryd hynny fel a ganlyn:
- CA;
 - Dyluniad, Gosodiad ac Amlygrwydd;
 - DCO;
 - Effeithiau Economaidd a Chymdeithasol;
 - Asesu Effeithiau Amgylcheddol (AEA);
 - Materion Amgylcheddol;
 - Cynefinoedd, Ecoleg a Chadwraeth Natur;
 - Yr Amgylchedd Hanesyddol;
 - Gweithredol; a
 - Thrafnidiaeth a Thraffig.
- 4.2.3. Gosodwyd y rhestr o faterion yn yr IAPI yn nhrefn yr wyddor (yn ôl yr arfer), heb unrhyw oblygiadau o ran arwyddocâd cymharol.
- 4.2.4. Trafodwyd cynnwys rhestr o faterion yr IAPI yn y PM, ond ni chododd yr un ohonynt yn uniongyrchol yno [PD-006]. Wrth i'r Archwiliad symud ymlaen, daeth gwahaniaethau anorfod o ran arwyddocâd cymharol materion i'r amlwg, ac felly hefyd grwpiau o faterion ar themâu cyffredin.

4.3. MATERION A GODODD MEWN CYFLWYNIADAU YSGRIFENEDIG A LLAFAR

- 4.3.1. Cyflwynwyd chwech ar hugain o Gynrychiolaethau Perthnasol (RRs) [RR-001 i 026] a rhoddwyd ystyriaeth iddynt. Cyflwynwyd RRs gan awdurdodau statudol, darparwyr cyfleustodau, CCS, Cyngor Bwrdeistref Sirol Castell-nedd Port Talbot, Cyngorydd Ward Mawr, Cyngor Cymuned

¹² PA2008 a88(1).

Betws, Cyngor Cymuned Llangyfelach, preswylwyr lleol, Cyfeillion y Ddaear Abertawe, a busnesau wedi'u lleoli yng nghyffiniau'r Datblygiad Arfaethedig.

- 4.3.2. Rhoddwyd cyfle i'r rhai a gymerodd ran yn yr Archwiliad wneud Cynrychiolaethau Ysgrifenedig (WR) erbyn Terfyn Amser 1 (DL1) yr Archwiliad, i wneud sylwadau arnynt erbyn DL2 ac i ymateb i'm cwestiynau i a materion a gododd mewn Gwrandawiadau, erbyn saith terfyn amser (DL1 – DL7). Cyflwynwyd naw ar hugain o ddogfennau o'r fath.
- 4.3.3. Darparwyd Datganiadau Tir Cyffredin (SoCG) ac fe'u hystyrir fel a ganlyn:
- Rhwng yr Ymgeisydd a CNC [REP2-009];
 - Rhwng yr Ymgeisydd ac NGETS [REP6-008];
 - Rhwng yr Ymgeisydd ac NGT [REP6-009];
 - Rhwng yr Ymgeisydd a Dŵr Cymru [REP5-006];
 - Rhwng yr Ymgeisydd a Wynne Watkins/Redisplay Limited [REP4-021];
 - Rhwng yr Ymgeisydd a CCS [REP3-010]; a
 - Rhwng yr Ymgeisydd a Michael Edwards [REP4-020].
- 4.3.4. Gwnaed cyflwyniadau llafar yn ystod Gwrandawiadau hefyd, fel y cofnodwyd ym Mhennod 1 yr adroddiad hwn uchod, a rhoddwyd ystyriaeth iddynt.

Casgliad

- 4.3.5. Ymatebwyd i'r materion a godwyd mewn RRs, WRs ac ymatebion i'm cwestiynau i, mewn SoCG ac i faterion a gododd mewn Gwrandawiadau yn fy fframwaith o faterion a amlinellir yn Adran 4.11 isod, ac fe'u hystyrir yng ngweddill yr adroddiad hwn i'r graddau eu bod yn bwysig ac yn berthnasol¹³.

4.4. MATERION SY'N CODI YN YR ADRODDIAD AR YR EFFAITH LEOL

- 4.4.1. Cyflwynwyd un LIR gan CCS [REP1-021], erbyn DL1 yr Archwiliad. Roeddwn yn ymwybodol y gallai CCS ddymuno adolygu ei LIR yn ystod cyfnod yr Archwiliad i ystyried materion a ddygwyd i'w sylw (er enghraifft, a godwyd mewn RRs), ac felly neilltuais le yn amserlen yr Archwiliad [PD-006] yn unol â PA2008 a60 i hynny ddigwydd erbyn DL2. Mae cynnwys yr LIR yn fater y mae'n ofynnol i'r SoS ei ystyried yn benodol wrth benderfynu ar y cais hwn¹⁴.
- 4.4.2. Darparodd yr LIR wybodaeth am y materion canlynol:
- y cynllun datblygu a oedd yn bodoli yn 2018;
 - polisiau a oedd yn dod i'r amlwg yn y CDLI;

¹³ PA2008 a104(2)(d)

¹⁴ PA2008 a104(2)(b)

- polisi cynllunio cenedlaethol;
- hanes cynllunio;
- dyluniad;
- trafnidiaeth;
- newid yn yr hinsawdd;
- treftadaeth;
- yr amgylchedd dŵr;
- ansawdd aer;
- sŵn a dirgryniad;
- ecoleg;
- asesiad o'r effaith dirweddol a gweledol;
- coed; a
- digonolrwydd y DCO drafft.

4.4.3. Ni chodwyd unrhyw faterion pwysig a pherthnasol yn yr LIR a arweiniodd at dorri polisi NPS perthnasol mewn egwyddor. Yn adran 21 yr LIR [REP1-021], nododd CCS fod angen i ddau Ofyniad arall gael eu cynnwys yn y DCO:

- Terfynau amser ar weithredu; a'r
- Angen am fond datgomisiynu.

4.4.4. Ymdrinnir â'r ddau fater hyn ym Mhennod 8.

4.4.5. Rhoddwyd cyngor ar y materion sydd i dderbyn sylw mewn gofynion, ac ystyrir hyn yn llawn yng ngweddill yr adroddiad hwn.

4.4.6. Amlygodd yr LIR [REP1-021] fod CCS wrthi'n paratoi ei CDLI, a fyddai, a fyddai, ar ôl iddo gael ei fabwysiadu, yn disodli'r CDU fel y ddogfen polisi cynllunio allweddol ar gyfer CCS hyd at 2025.

4.4.7. Ar 28 Chwefror 2019, mabwysiadodd y Cyngor "Gynllun Datblygu Lleol Abertawe 2010-2025". Daeth y Cynllun i rym ar y diwrnod hwnnw a dyna yw'r cynllun datblygu ar gyfer Abertawe bellach, sy'n darparu fframwaith cynllunio cyfredol i arwain a llywio cynigion datblygu. Mae'r CDLI yn disodli'r CDU, a hynny ar unwaith [REP4-022 to 026].

4.4.8. Lle y bo'n briodol, mae materion cynllunio wedi cael eu hasesu yn erbyn polisiâu'r CDLI fel y manylir ym Mhennod 4 isod.

4.5. **CYDYMFFURFIO Â DATGANIADAU POLISI CENEDLAETHOL**

4.5.1. Crynhoir y fframwaith deddfwriaethol a pholisi sy'n berthnasol o fewn y Bennod hon yn fanwl ym Mhennod 3 uchod. Yn ogystal, gwneir cyfeiriadau unigol at fanylion polisiâu perthnasol yn yr adrannau ar bynciau unigol yn y Bennod hon isod.

4.5.2. Y prif ffynonellau polisi yw NPS EN-1, EN-2, EN-4¹⁵ (o ran gofyniad tir ar gyfer aliniad y cysylltiad nwy yn unig) ac EN-5¹⁶ (o ran gofyniad tir ar gyfer aliniad y cysylltiad trydanol yn unig), ac ystyriwyd holl elfennau perthnasol y rhain¹⁷.

4.5.3. Rwyf wedi ystyried y Datblygiad Arfaethedig ac, felly, wedi llunio fy argymhelliad ar sail rhinweddau cynllunio, gan nodi bod rhaid i'r SoS:

*'benderfynu ar y cais yn unol ag unrhyw ddatganiad polisi cenedlaethol perthnasol'*¹⁸

heblaw i'r graddau bod eithriad deddfwriaethol yn berthnasol¹⁹. Er yr ymdrinnir â chyfeiriadau polisi unigol isod, yn gyffredinol, sylwaf na chanfuwyd bod yr un o'r eithriadau deddfwriaethol i gymhwyso polisi NPS perthnasol yn gymwys. Mae'n dilyn, felly, yr argymhellir i'r cais gael ei benderfynu'n gyfan gwbl o fewn fframwaith polisi NPS perthnasol.

4.5.4. Amlygir a chymhwysir gofynion deddfwriaeth heblaw am PA2008 fel sy'n ofynnol. Mae polisiâu heblaw am bolisiâu sy'n codi o'r NPS yn gallu bod yn bwysig ac yn berthnasol. Amlygwyd y polisiâu hyn fel y bo'n berthnasol ac fe'u dadansoddir isod fel y bo'n ofynnol²⁰. Fodd bynnag, unwaith eto, dylid pwysleisio nad oes unrhyw ddadansoddiad o bolisi y tu hwnt i'r NPSs perthnasol wedi arwain at ystyriaethau sy'n pwyso yn erbyn cymhwyso polisi NPS fel a ganiateir o dan PA2008²¹.

4.6. CYDYMFFURFIO Â CHYNLLUN DATBLYGU LLEOL CCS

4.6.1. Mae'r bennod hon yn mynd i'r afael â chydymffurfio â pholisiâu'r cynllun datblygu o fewn y fframwaith polisi lleol a ddarperir gan y CDLI [REP4-022 i 026]. Er hynny, nid y fframwaith polisi lleol yw'r prif fframwaith polisi sy'n berthnasol i'r penderfyniad ar y cais hwn, sydd i'w benderfynu yn nhermau cydymffurfio â pholisi NPS, yn amodol ar ystyried y fframwaith polisi lleol. Gellid ystyried bod y cynigion yn ddatblygiad seilwaith angenrheidiol (Polisi CV 2 adran VII y CDLI) os ydynt yn cydymffurfio â gweddill polisiâu'r CDLI.

4.6.2. Mae Polisi ER 1 y CDLI ar Newid yn yr Hinsawdd yn mynnu bod cynigion datblygu'n ystyried yr egwyddorion canlynol i liniaru yn erbyn effeithiau'r newid yn yr hinsawdd, addasu i'w effeithiau, a sicrhau cydnherthedd:

¹⁵ Yn berthnasol o ran yr asesiad o'r Cysylltiad Nwy yn unig ac nid yn uniongyrchol berthnasol i'r Orsaf Cynhyrchu Pŵer y mae'r Cais DCO yn ymwneud ag ef.

¹⁶ Yn berthnasol o ran yr asesiad o'r Cysylltiad Trydanol yn unig ac nid yn uniongyrchol berthnasol i'r Orsaf Cynhyrchu Pŵer y mae'r Cais DCO yn ymwneud ag ef.

¹⁷ PA2008 a104(2)(a)

¹⁸ PA2008 a104(3)

¹⁹ PA2008 a104(4) to (8)

²⁰ PA2008 a104(2)(d)

²¹ PA2008 a104(4) to (8)

"i. Lleihau allyriadau carbon;

ii. Gwarchod a chynyddu dalfeydd carbon;

iii. Addasu i oblygiadau'r newid yn yr hinsawdd ar lefel strategol a dylunio manwl;

iv. Hyrwyddo effeithlonrwydd ynni ac adnoddau a chynyddu'r cyflenwad ynni adnewyddadwy a charbon isel;

v. Osgoi perygl llifogydd diangen trwy asesu goblygiadau cynigion datblygu o fewn ardaloedd sy'n agored i lifogydd ac atal datblygiad sy'n cynyddu'r risg yn annerbyniol, a

vi. Chynnal cydnerthedd ecolegol" [REP1-021].

4.6.3. Mae ER-1 yn mynd ymlaen i ddatgan:

"un o swyddogaethau craidd y Cynllun yw sicrhau bod pob datblygiad yn y Sir yn gynaliadwy, gan roi ystyriaeth lawn i oblygiadau lleihau'r defnydd o adnoddau a mynd i'r afael â'r newid yn yr hinsawdd" [REP1-021].

Ystyriwyd effeithiau'r newid yn yr hinsawdd ym mhob un o benodau pwnc unigol yr ES, ac fe'u crynhoir ym Mhennod 15 yr ES [APP-042].

4.6.4. Nid oedd yr un o'r partïon eraill a gymerodd ran yn yr archwiliad wedi gofyn yn benodol i mi ystyried niwed i'r fframwaith polisi lleol neu achosion o'i dorri. Am y rhesymau hyn, er y rhoddwyd ystyriaeth lawn i'r deunydd a gyfeiriwyd ataf, nid wyf wedi rhoi dadansoddiad manwl yn erbyn y fframwaith polisi lleol yng ngweddill y bennod hon, oni bai bod mater cydymffurfio y mae angen ei ddadansoddi er mwyn gallu gwneud penderfyniad ar y cais hwn.

4.7. Y GYFUNDREFN TRWYDDEDU AMGYLCHEDDOL

4.7.1. Fel y nodwyd uchod ym Mhennod 3 yr Adroddiad hwn, mae'r Datblygiad Arfaethedig o fewn Atodlen 1 Rhan 2 (Gweithgarwch Hylosgi) o dan Reoliadau Trwyddedu Amgylcheddol (EP) (Cymru a Lloegr) 2016, ac felly bydd angen EP ar elfennau o'r Datblygiad Arfaethedig. Gwneir hyn ar wahân ac yn annibynnol i CNC, sef yr awdurdod cymwys i roi a rheoleiddio EPs. At ddibenion yr Adroddiad hwn, rwyf wedi cyfeirio at y broses o wneud cais am yr EP fel y gyfundrefn EP.

4.7.2. Yn ei RR [RR-025], cadarnhaodd CNC fod angen EP ar gyfer:

- Gweithredu'r orsaf bŵer OCGT arfaethedig, y mae'n rhaid iddi ddefnyddio'r Dechnoleg Orau sydd Ar Gael (BAT). Gosodir amodau, ac os na ellir eu bodloni bydd yr EP yn cael ei gwrthod;
- Gollyngiadau i ddŵr wyneb a dŵr daear sy'n deillio o weithgareddau disbyddu yn rhan o'r cam adeiladu, gan gynnwys gollwng elifion carthion o danciau septig; ac
- Allyriadau sŵn ac ansawdd aer.

- 4.7.3. Cadarnhaodd CNC [RR-025], a diweddarodd erbyn Terfyn Amser 1 [REP1-004], fod cais i CNC wedi'i wneud yn briodol ar 2 Medi 2018, a chadarnhawyd hyn yn y SoCG rhwng yr Ymgeisydd a CNC [REP2-002]. Ni chafodd Tîm Trwyddedu CNC unrhyw ymatebion i'w ymgynghoriad cyhoeddus 'O Blaid Cymeradwyo', ac felly rhoddodd y Drwydded ar gyfer y datblygiad hwn ar 18 Ionawr 2019.

4.8. YR ANGEN AM Y DATBLYGIAD A DEWISIADAU AMGEN

- 4.8.1. Mae'r Datblygiad Arfaethedig yn NSIP, fel yr amlinellir yn a14 ac a15 PA2008 (fel y'i diwygiwyd). Ymdrinnir â'r angen am y datblygiad yn NPS EN-1, paragraff 3.1, sy'n datgan y dylai ceisiadau o'r fath gael eu hasesu ar y sail bod y Llywodraeth wedi dangos bod angen y math hwn o seilwaith ac y dylid rhoi pwys sylweddol i'w gyfraniad at fodloni'r angen hwn. Mae paragraffau 3.6.1 a 3.6.2 yr un NPS yn datgan y canlynol:

"mae hefyd angen cymysgedd o ffynonellau ynni, gan gynnwys tanwydd ffosil, i fodloni'r galw mewn modd hyblyg, a fydd yn helpu i newid i economi carbon isel".

- 4.8.2. Mae cynllun Llywodraeth Cymru 'Ffyniant i Bawb: Cymru Carbon Isel (2019)' yn datgan ar dudalen 65:

"Bydd gan nwy rôl bontio bwysig ym maes cynhyrchu pŵer hefyd."

- 4.8.3. Cydnabyddir bod cynhyrchu tanwydd ffosil yn cyflawni swyddogaeth hollbwysig wrth ddarparu cyflenwadau ynni dibynadwy a hyblygrwydd mewn ymateb i newidiadau o ran y cyflenwad a'r galw ac amrywiaeth y cymysgedd ynni. Mae EN-1 yn cydnabod bod gweithfeydd tanwydd ffosil yn cynhyrchu carbon deuocsid (CO₂) ac mae'n gosod gofyniad bod rhaid i weithfeydd newydd dros 300MW gael eu hadeiladu'n Barod i Ddal Carbon (CCR) fel y gellir ôl-osod cyfleusterau Dal a Storio Carbon ynddynt yn ddiweddarach os bydd angen. Capasiti mwyaf yr orsaf arfaethedig yw 299MW, a ddiffinnir yn y DCO drafft fel y pŵer trydanol gros fel y'i mesurir wrth derfynellau'r generadur.

- 4.8.4. Mae Pennod 2 yr ES [APP-042] yn cyflwyno achos yr Ymgeisydd dros yr angen am y Datblygiad Arfaethedig, sy'n dibynnu'n fras ar NPS EN-1 i gefnogi ei safbwynt. Cafwyd RR gan Gyfeillion y Ddaear Abertawe a gododd amheuan ynglŷn â'r angen [RR-007]. Ni wnaeth Cyfeillion y Ddaear Abertawe unrhyw gyflwyniadau eraill i'r archwiliad.

- 4.8.5. Gellid ystyried bod y Datblygiad Arfaethedig yn ddatblygiad seilwaith angenrheidiol (Polisi CV 2 adran VII y CDLI) os yw'n cydymffurfio â gweddill polisiau'r CDLI.

- 4.8.6. Mae paragraff 4.4.2 NPS EN-1 yn mynnu bod yr Ymgeisydd yn ystyried dewisiadau amgen yn lle'r Datblygiad Arfaethedig ac yn esbonio sut y penderfynwyd ar y cais.

- 4.8.7. Yn unol ag Atodlen 4, Rhan 2 Rheoliadau AEA 2009, cyflwynodd Pennod 5 yr ES [APP-042] amlinelliad o'r dewisiadau amgen a archwiliwyd gan yr Ymgeisydd o ran lleoliadau eraill ar gyfer y Datblygiad Arfaethedig, yn ogystal â llwybrau cysylltu nwy, technolegau, a dyluniadau posibl.
- 4.8.8. Ystyriais fod angen archwilio lleoliadau amgen ar gyfer y Datblygiad Arfaethedig ymhellach, oherwydd bod y safle presennol yn dir maes glas. Gofynnais dri WQ yn ystod ExQ1 [PD-005(3)]. Dilynwyd hyn gan gwestiynau ychwanegol yn yr ISH ar Faterion Amgylcheddol [EV-012].
- 4.8.9. Cododd RRs ac WRs amheuan ynglŷn â'r lleoliadau a'r dewisiadau a gynigiwyd gan yr Ymgeisydd ar gyfer y Datblygiad Arfaethedig.
- 4.8.10. Mae'r SoCG heb ei lofnodi rhwng yr Ymgeisydd a CCS a gyflwynwyd erbyn Terfyn Amser 3 [REP3-010] yn cytuno â'r safbwynt ar angen, egwyddor a dewisiadau amgen. Yn ogystal, mae'r partïon yn cytuno bod fersiwn derfynol y DCO a gyflwynwyd erbyn Terfyn Amser 6 [REP6-003] ac sy'n ffurfio'r DCO Argymelledig (yn Atodiad Ch), yn sicrhau'n ddigonol materion yn ymwneud â'r dyluniad terfynol, goleuadau allanol, mynediad o'r briffordd, dull amgáu a diogelwch y safle.

Casgliad

- 4.8.11. O ystyried y materion hyn, rwyf yn fodlon bod yr angen am y Datblygiad Arfaethedig wedi'i sefydlu trwy'r NPS a Pholisi Llywodraeth Cymru²². Rwyf hefyd yn fodlon bod y dewisiadau amgen ar gyfer lleoli'r OCGT arfaethedig wedi cael eu profi'n drylwyr gan yr Ymgeisydd. Mae gofynion NPS EN-1 a'r Rheoliadau AEA wedi'u bodloni yn hyn o beth.
- 4.8.12. Rwyf yn fodlon bod capasiti'r Datblygiad Arfaethedig, fel y'i diffinnir yn y DCO drafft, islaw'r trothwy sy'n golygu y dylai gael ei ddylunio'n CCR. Rwyf hefyd yn fodlon bod ystyriaeth wedi'i rhoi i ddyluniad ac i ddewisiadau amgen i'r datblygiad fel sy'n ofynnol gan EN-1. Ystyriaf effeithiau penodol y Datblygiad Arfaethedig yn yr adrannau canlynol cyn dod i'm casgliadau ar y Cais yn ei gyfanrwydd.

4.9. ASESU EFFEITHIAU AMGYLCHEDDOL

- 4.9.1. Fel y cofnodwyd ym Mhennod 1 yr Adroddiad hwn ac am resymau a nodwyd yno, mae'r cais yn ddatblygiad AEA. Mae'r adran hon yn cofnodi'r dogfennau a gynhwysir yn yr ES a newidiadau i'r dogfennau hynny a ddarparwyd yn ystod y camau Cyn-archwiliad ac Archwiliad. Mae hefyd yn cofnodi'r dogfennau rheoli amgylcheddol y mae'r Ymgeisydd yn bwriadu eu defnyddio ar y cyd â darpariaethau DCO i sicrhau bod y Datblygiad Arfaethedig yn cael ei adeiladu a'i weithredu, a bod mesurau lliniaru'n cael eu cymhwyso o fewn y paramedrau achos gwaethaf (Amlen Rochdale) a aseswyd yn yr ES.

²² Ffyniant i Bawb: Cymru Carbon Isel (2019).

- 4.9.2. Mae'r Adran hon yn gorffen trwy ystyried a yw'r ES a gyflwynwyd a'r broses AEA yn darparu sail ddigonol i'r SoS wneud penderfyniad.

Yr ES a Gyflwynwyd

- 4.9.3. Darparwyd ES gyda dogfennau'r cais. Y dogfennau sy'n ffurfio'r ES yw [APP-016 i 044].

Dogfennau Rheoli Amgylcheddol

- 4.9.4. Ategir yr ES gan y dogfennau rheoli amgylcheddol canlynol sydd eisoes yn bodoli ac yn yr arfaeth [APP-036]:
- Cynllun Rheoli Amgylchedd Adeiladu Amlinellol (OCEMP) Atodiad 3.1 [APP-036];
 - Cofrestr Mesurau Lliniaru, Atodiad A yn OCEMP [APP-036];
 - Cynllun Rheoli Dŵr Wyneb Amlinellol (OSWMP) Atodiad 3.2 [APP-036];
 - Cynllun Rheoli Traffig Adeiladu Amlinellol (OCTMP) Atodiad 3.3a [APP-036];
 - Cynllun Teithio Safle Adeiladu (CSTP) Atodiad 3.3 b [APP-036];
 - Strategaeth Liniaru Tirwedd ac Ecoleg (LEMS) Atodiad 3.4 [APP-036];
 - Strategaeth Oleuadau Amlinellol (OLS) Atodiad 3.5 [APP-036].
- 4.9.5. Mae'r dogfennau hyn wedi'u diffinio a'u sicrhau yn y DCO. Ar gyfer pob un o'r dogfennau hyn, bydd fersiynau terfynol cynlluniau penodol o dan y fframweithiau a osodir ganddynt yn cael eu paratoi gan yr Ymgeisydd mewn ymgynghoriad â CCS a CNC, ac fe'u cyflwynir i CCS i'w cymeradwyo.

Y Rheoliadau Perthnasol

- 4.9.6. Mae'r Gyfarwydddeb AEA²³ wedi'i throsi'n gyfraith ar gyfer NSIPs yng Nghymru a Lloegr gan Reoliadau Cynllunio Seilwaith (AEA) 2017 (Rheoliadau AEA 2017), a ddaeth i rym ar 16 Mai 2017.
- 4.9.7. Mae Rheoliad 37 Rheoliadau AEA 2017 yn dirymu Rheoliadau Cynllunio Seilwaith (AEA) 2009 (Rheoliadau AEA 2009), yn amodol ar ddarpariaethau trosiannol ar gyfer rhai ceisiadau yn Rheoliad 37(2). Mae'r rheoliad hwn yn darparu bod Rheoliadau 2009 yn parhau i fod yn berthnasol mewn amgylchiadau lle mae'r Ymgeisydd wedi:

'gofyn i'r Ysgrifennydd Gwladol neu'r awdurdod perthnasol fabwysiadu barn gwmpasu (fel y'i diffinnir yn Rheoliadau 2009) mewn perthynas â'r datblygiad y mae'r cais yn berthnasol iddo' cyn i Reoliadau 2017 ddechrau²⁴.

²³ Diwygiwyd Cyfarwydddeb 85/337/EEC tair gwaith ac fe'i codeiddiwyd gan 2011/92/EU, sydd ei hun wedi cael ei ddiwygio gan 2014/52/EU

²⁴ Rheoliadau AEA 2017, Rheoliad 37(2) (a)(ii)

- 4.9.8. Mae'r achos hwn yn symud ymlaen o dan Reoliadau AEA 2009, fel y trafodwyd ym Mhennod 3 yr adroddiad hwn.

Proses Asesu Effeithiau Amgylcheddol a Datganiad Amgylcheddol Digonol

- 4.9.9. Cododd yr LIR [REP1-021] bryderon ynglŷn â digonolrwydd y broses AEA a'r ES. Ymdriniwyd â'r pryderon hyn ac fe'u tawelwyd yn y [REP3-010]. Ni chytunwyd ar gwmpas a pharamedrau'r asesiad o effeithiau ar dwristiaeth, gan fod CCS o'r farn bod y rhain yn rhy gyfyngol. Mae'r Nodyn Eglurhaol ar y Bennod Economaidd-gymdeithasol (Atodiad B y SoCG [REP1-003]) yn esbonio'r sail resymegol a ddefnyddiwyd gan yr Ymgeisydd wrth bennu cwmpas a pharamedrau'r arolwg busnes twristiaeth a'r asesiad o effeithiau ar dwristiaeth, y cyflwynwyd yn ddau ym Mhennod 14 yr ES [APP-042].
- 4.9.10. Mae'r ES, ynghyd â'r wybodaeth arall a gyflwynwyd gan yr Ymgeisydd yn ystod yr Archwiliad, yn ddigonol ac mae'n bodloni'r gofynion o dan y Rheoliadau AEA. Rhoddwyd ystyriaeth lawn i'r holl wybodaeth amgylcheddol wrth asesu'r cais ac yn yr argymhelliad i'r SoS.

4.10. ASESIAD RHEOLIADAU CYNEFINOEDD

- 4.10.1. Fel y'i cofnodir ym Mhennod 1 yr Adroddiad hwn ac am y rhesymau a amlinellir yno, mae'r cais yn destun HRA. Mae'r Adran hon yn amlinellu'r dogfennau a gyflwynwyd i gefnogi'r broses HRA ar gyfer y cais hwn.
- 4.10.2. Mae'r Datblygiad Arfaethedig yn un yr amlygwyd y gallai arwain at LSE ar safleoedd Ewropeaidd, ac felly mae'n destun HRA. Yn ôl yr arfer mewn Adroddiadau Argymhelliad ExA i lywio penderfyniadau SoS a baratoir o dan PA2008, mae cofnod ar wahân o ystyriaethau sy'n berthnasol i HRA wedi'i nodi ym Mhennod 5 yr adroddiad hwn isod.
- 4.10.3. Fodd bynnag, ar yr adeg hon yn y bennod, mae angen cofnodi fy mod wedi ystyried yr holl ddogfennau sy'n berthnasol i'r HRA fel sy'n ofynnol gan adran 4.3 NPS EN-1, ac fy mod wedi eu hystyried yn y casgliadau y daethpwyd iddynt yma ac yn y Cydbwysedd Cynllunio (Pennod 6 isod). At hynny, mae cynigion ar gyfer dylunio'r prosiect a mesurau lliniaru sydd wedi'u cynnwys yn yr ES a'u sicrhau yn y DCO Argymelledig wedi cael eu hystyried yn llawn at ddibenion HRA.

4.11. MATERION EFFEITHIAU AMGYLCHEDDOL

- 4.11.1. Mae adrannau canlynol y Bennod hon yn mynd i'r afael â'r materion canlynol sy'n berthnasol i effeithiau amgylcheddol y Datblygiad Arfaethedig:

- Effeithiau Tirweddol a Gweledol;
- Dyluniad;
- Ansawdd Aer;
- Sŵn a Dirgryniad;
- Cynefinoedd, Ecoleg a Chadwraeth Natur;
- Ansawdd ac Adnoddau Dŵr a Pherygl Llifogydd;

- Daeareg, Amodau'r Ddaear a Hydroddaeareg;
- Traffig, Trafnidiaeth a Mynediad;
- Yr Amgylchedd Hanesyddol;
- Effeithiau Economaidd a Chymdeithasol;
- Parodrwydd CHP; a
- Materion eraill.

4.12. EFFEITHIAU TIRWEDDOL A GWELEDOL

Materion

- 4.12.1. Ar lefel y llywodraeth, mae CNC yn rhoi cyngor statudol i LIC ar faterion tirwedd ac yn rhoi ystyriaeth benodol i dirweddau dynodedig. Eglurodd SoCG CNC [REP2-009] nad oedd ganddo unrhyw bryderon heb eu datrys ynglŷn â'r Datblygiad Arfaethedig o ran y fethodoleg a'r asesiad tirweddol a gweledol. Cytunodd CNC fod yr LEMS amlinellol (diwygiad 4) [REP4-008] yn ffordd briodol o gytuno ar gynigion tirwedd y safle, gan gynnwys plannu newydd i helpu i sgrinio'r Datblygiad Arfaethedig ac adfer llystyfiant sydd eisoes yn bodoli. Cyflwynwyd y Strategaeth amlinellol hon yn wreiddiol yn rhan o'r Cais DCO [APP-036], a bydd angen i'r Strategaeth derfynol gael ei chymeradwyo gan CCS cyn iddi gael ei gweithredu trwy Ofyniad 9.
- 4.12.2. Daeth CCS i'r casgliad canlynol yn ei LIR [REP1-021]:
- 'Byddai'r datblygiad arfaethedig yn cael effaith arwyddocaol ar gymeriad y dirwedd leol yn ystod y camau adeiladu a gweithredu o ganlyniad i golli caeau ac ailbroffilio'r ddaear yn helaeth, a byddai'n newid y dirwedd yn sylweddol, a fyddai'n fwy amlwg o ganlyniad i'w fâs solet. Sylweddolir bod y datblygiad wedi cael ei leoli mor bell â phosibl i leihau ei effaith (o fewn y safle) a bod seilwaith ynni arall yn y cyffiniau.*
- Nid yw CCS o'r farn y byddai'r cynllun yn cael effaith niweidiol arwyddocaol ar gymeriad ac ansawdd y dirwedd ehangach. Fodd bynnag, byddai effaith niweidiol gymedrol ar gymeriad tirwedd leol safle'r prosiect ei hun a golygfeydd o lwybrau troed/ eiddo amgylchynol.'*
- 4.12.3. Cododd sawl IP faterion yn ymwneud â'r effaith weledol a'i heffaith ar eu heiddo:
- David Edwards [RR-001];
 - Claire Thatcher [RR-020] a
 - Chyngor Cymuned Llangyfelach [RR-021] a gododd bryderon ynglŷn ag effeithiau gweledol.
- 4.12.4. Gofynnais nifer o gwestiynau allweddol am effeithiau tirweddol a gweledol y Datblygiad Arfaethedig yn ystod y camau adeiladu a gweithredu i CNC, yr Ymgeisydd a CCS yn ExQs1 [PD-005(3)] ac ExQs2 [PD-006]. Codais y mater hefyd fel eitem agenda benodol (eitem 7.2) yn yr ISH ar Faterion Amgylcheddol ISH [EV-012]. Nid oedd yr un o'r 3 IP a nodir uchod wedi gwneud cyflwyniadau eraill yn dilyn eu Cynrychiolaethau Perthnasol.

Ystyriaethau polisi

- 4.12.5. Amlinellir polisïau sy'n berthnasol i effeithiau tirweddol a gweledol yn NPS EN-1, EN-2 ac EN-4, ac ym mholisïau PS2, ER1, ER5 ac EU1 CDLI CCS [REP4-023].
- 4.12.6. O ran datblygiad yr orsaf gynhyrchu, cydnabyddir nad oes modd osgoi rhywfaint o effaith dirweddol a gweledol niweidiol. Mae paragraff 5.9.8 EN-1 yn datgan:
- 'Mae holl dirweddau Cymru'n cael eu gwerthfawrogi am eu cyfraniad hanfodol at synnwyr o le, a dylai awdurdodau lleol warchod a gwella eu nodweddion arbennig, gan dalu sylw dyledus i'r manteision cymdeithasol, economaidd, amgylcheddol a diwylliannol maent yn eu darparu, a'u rôl o ran creu lleoedd sy'n cael eu gwerthfawrogi. Ymhelaethir ar hyn ym mharagraff 5.9.15, sy'n datgan:*
- 'Mae graddau prosiectau o'r fath yn golygu y bydd modd i'w gweld yn aml o fewn sawl milltir o safle'r seilwaith arfaethedig. Dylai'r SoS farnu a fyddai unrhyw effaith niweidiol ar y dirwedd mor niweidiol fel na fyddai'n cael ei gwrthbwysu gan fuddion y prosiect (gan gynnwys yr angen amdano).'*
- 4.12.7. Mae paragraff 2.6.5 EN-2 yn cydnabod:
- 'nid yw'n bosibl dileu'r effeithiau gweledol sy'n gysylltiedig â gorsaf cynhyrchu tanwydd ffosil'.*
- 4.12.8. Mae Polisi Cynllunio Cymru, Pennod 6, yn manylu ar bolisi Llywodraeth Cymru ar dirwedd²⁵. Yn ôl paragraff 6.3.3:
- "Mae holl dirweddau Cymru'n cael eu gwerthfawrogi am eu cyfraniad hanfodol at synnwyr o le, a dylai awdurdodau lleol warchod a gwella eu nodweddion arbennig, gan dalu sylw dyledus i'r manteision cymdeithasol, economaidd, amgylcheddol a diwylliannol maent yn eu darparu, a'u rôl o ran creu lleoedd sy'n cael eu gwerthfawrogi."*
- 4.12.9. Mae'n rhaid ystyried dynodiadau tirwedd lleol (a amlinellir mewn cynlluniau datblygu) a dylid lliniaru niwed lle y bo'n bosibl, ond ni ystyrir eu bod yn cyfiawnhau rheswm dros wrthod, ac mae'n rhaid i'r SoS ystyried a yw'r prosiect yn dangos tystiolaeth o ddyluniad da (EN-1 paragraffau 5.9.14 - 17).
- 4.12.10. Mae maen prawf (i) Polisi PS 2 y CDLI yn mynnu bod ystyriaeth yn cael ei rhoi i elfennau pwysig o dreftadaeth leol, diwylliant, tirwedd, treflun a golygfeydd.
- 4.12.11. Mae Polisi ER 5 y CDLI yn datgan na chaniateir datblygiad a fyddai'n cael effaith niweidiol arwyddocaol ar gymeriad ac ansawdd tirwedd a lleoliad y Sir, ac mae'n mynd ymlaen i amlinellu 3 Ardal Tirwedd Arbennig. Fodd

²⁵ <https://llyw.cymru/sites/default/files/publications/2018-12/polisi-cynllunio-cymru-rhifyn-10.pdf>

bynnag, nid yw'r safle wedi'i leoli o fewn Ardal Tirwedd Arbennig ddynodedig o dan y polisi hwn.

- 4.12.12. Mae maen prawf iii. a) Polisi EU1 y CDLI yn mynnu nad yw'r lleoliad, y dyluniad, y cynllun a'r math o osodiad a deunyddiau a ddefnyddir yn cael effaith niweidiol arwyddocaol ar nodweddion y lleoliad arfaethedig, er na ystyrir bod hyn yn gwbl berthnasol gan nad yw'r safle ar gyfer datblygiad carbon isel.
- 4.12.13. I'r gogledd, mae Safle'r Prosiect wedi'i leoli mewn Ardal Gwarchod Tirwedd h.y. Ucheldiroedd Mawr, lle mae Polisi ER5 y CDLI yn berthnasol. Mae Polisi ER5 y CDLI yn datgan:
- *"ni chaniateir datblygiad a fyddai'n cael effaith niweidiol arwyddocaol ar gymeriad ac ansawdd y dirwedd a lleoliad y Sir".*
- 4.12.14. O fewn Ardaloedd Tirwedd Arbennig, gan gynnwys Ucheldiroedd Mawr i'r gogledd o Safle'r Prosiect, rhoddir blaenoriaeth i warchod, rheoli a gwella cymeriad ac ansawdd yr ardal [REP4-022].

Ymateb yr Ymgeisydd

- 4.12.15. Mae Pennod 11 yr ES (effaith dirweddol a gweledol) [APP-042] yn disgrifio'r mesurau lleoli a dylunio a gymerwyd i leihau'r effaith dirweddol a gweledol gymaint â phosibl. Disgrifir mesurau lliniaru ymgorfforedig ac ychwanegol sy'n ymwneud ag effeithiau tirweddol a gweledol yn adrannau 3.1 a 4.1-4.9 Diwygiad 3 yr LEMS Amlinellol [REP4-008]
- 4.12.16. Dywedodd yr Ymgeisydd:
- "prif ffocws y mesurau lliniaru tirwedd ac ecoleg yw creu cynefin a phlannu tirweddol o fewn Ffin Safle'r Prosiect ochr yn ochr â gwarchod a gwella cynefinoedd sydd eisoes yn bodoli. Roedd yr Ymgeisydd yn disgwyl y byddai llystyfiant a oedd eisoes wedi'i blannu o fewn Safle'r Prosiect yn cael ei gadw a'i warchod lle y bo'n bosibl" [APP-042].*
- 4.12.17. Mae Ffigur 3.6 yr ES [APP-024] yn amlygu'r coetir a'r coed sydd i'w cadw a'r ardaloedd cynefin a phlannu newydd. Nodir y dulliau gwaith adeiladu cyffredinol sydd i'w defnyddio yn ystod y cam adeiladu yn y CEMP amlinellol (Diwygiad 2) [REP4-010], yr SWMP amlinellol (Atodiad 3.2) [APP-036] a'r OLS (Atodiad 3.5) [APP-036], ac fe'u sicrhair trwy Ofynion cyfatebol yn atodlen 2 y DCO [REP6-003].
- 4.12.18. Mae'r Ymgeisydd yn cydnabod y bydd y Datblygiad Arfaethedig yn arwain at effeithiau niweidiol arwyddocaol yn ystod y camau adeiladu a gweithredu ar rai derbynyddion gweledol e.e. llwybrau troed, eiddo, gan gynnwys rhai eiddo preswyl sydd â golygfeydd tuag at elfennau fertigol y Cynllun ar draws tirwedd donnog (Golygfannau 9, 14, 15, 16 a 17 [APP-045][APP-046], ond nid yw o'r farn bod y rhain yn groes i bolisi [APP-007] ar dudalen 134.

- 4.12.19. Mewn ymateb i ExQs1 1.9.11 [PD-005(3)], rhoddodd yr Ymgeisydd esboniad pellach o'i gasgliad na fyddai'r Prosiect yn arwain at effeithiau cronol arwyddocaol ar y dirwedd. Dywedodd yr Ymgeisydd:
- "gall y Prosiect ar ei ben ei hun arwain at effeithiau gweithredol gweddilliol arwyddocaol ac nid, o reidrwydd, arwain at effaith gronol arwyddocaol. Y rheswm am hyn yw oherwydd bod yr asesiad cronol yn ystyried effaith ychwanegol y Prosiect ar gymeriad y dirwedd ar y cyd â'r datblygiadau cronol eraill (y llinell sylfaen gronol)"* [REP1-010].
- 4.12.20. Mae'r mesurau lliniaru a gynigir ac a sicrhair yn y DCO yn cynnwys:
- Gofyniad 2 Dyluniad Manwl y DCO sy'n nodi'r raddfa a'r uchder mwyaf;
 - Gofyniad 3 sy'n mynnu bod cynllun rheoli tirwedd yn cael ei gyflwyno a fyddai'n mynd i'r afael â'r mesurau lliniaru tirwedd arfaethedig;
 - Gofyniad 17 CEMP; a
 - Gofyniad 26 sy'n mynnu cynllun goleuo yn y nos.
- 4.12.21. Mae'r Ymgeisydd o'r farn bod y rhain yn cydymffurfio â pholisi ac yn ddigonol, o'u hystyried gyda'i gilydd, i ddarparu'r holl fesurau lliniaru sy'n angenrheidiol i fynd i'r afael ag effeithiau tirweddol a gweledol niweidiol. Roedd yr Ymgeisydd o'r farn bod yr holl effeithiau gweddilliol yn briodol o fewn y fframwaith a ddarperir gan bolisi [APP-007].

Casgliadau'r ExA

- 4.12.22. Rwyf wedi rhoi ystyriaeth ofalus iawn i faterion yn ymwneud â'r effaith dirweddol a gweledol. Yn rhan o'r Archwiliad, rwyf wedi cynnal archwiliadau safle digwmni (Atodiad F [PD-005]) a gyda chwmni [EV-008] â lleoliadau derbynnyddion allweddol. Rwyf wedi defnyddio fy archwiliadau safle i ddeall y pryderon a godwyd mewn cynrychiolaethau ac i brofi digonolrwydd yr ymatebion polisi a wnaed gan yr Ymgeisydd yn yr AEA a'r prosesau dylunio.
- 4.12.23. Yn gyffredinol, byddai'r Prosiect yn cael effaith weledol arwyddocaol o'i weld yn agos i'r safle. Fodd bynnag, byddai'r effaith o fewn lleoliad diwydiannol presennol ac sy'n datblygu, ac esboniodd yr Ymgeisydd nad oedd yr effaith ychwanegol o ddatblygiad arall yn arwyddocaol [REP1-010]. Yn fy marn i, byddai modd osgoi niwed trwy gynigion lliniaru priodol. Ni ystyrir y byddai effeithiau tirweddol cronol yn sgil cyflwyno'r Prosiect i'r lleoliad hwn sydd eisoes wedi'i ddatblygu yn arwain at ganlyniad arwyddocaol.
- 4.12.24. Byddai CCS yn gyfrifol am reoli'r agweddau hyn trwy'r DCO drafft [REP6-003]:
- Gofyniad 2 Dyluniad Manwl y DCO sy'n nodi'r raddfa a'r uchder mwyaf;
 - Gofyniad 3 sy'n mynnu bod cynllun rheoli tirwedd yn cael ei gyflwyno a fyddai'n mynd i'r afael â'r mesurau lliniaru tirwedd arfaethedig;
 - Gofyniad 17 CEMP; a
 - Gofyniad 26 sy'n mynnu cynllun goleuo yn y nos.

- 4.12.25. Yn dilyn diwygiad yr ExA i Ofynion 2 a 3 sy'n ymwneud â rheoli dylunio a mesurau lliniaru priodol, ac o ystyried y dystiolaeth a gyflwynwyd, mae'r Datblygiad Arfaethedig yn cyd-fynd yn gyffredinol â Pharagraff 5.9.8 EN-1, PPW Adran 6.3 a pholisïau CDLI CCS sy'n ymwneud â dylunio (PS 2), gosodiad a gwelededd (ER 5 ac EU 1). Deuaf i'r casgliad bod y Datblygiad Arfaethedig, fel y darperir ar ei gyfer yn y DCO Argymelledig, yn cynrychioli dyluniad da yn dirweddol ac yn weledol ac y bydd yn cydymffurfio â pholisïau.

4.13. DYLUNIO

Materion

- 4.13.1. Cododd nifer o IPs faterion dylunio yn uniongyrchol ac yn anuniongyrchol o ran yr effaith weledol:
- Cododd Claire Thatcher [RR-020] a Chyngor Cymuned Llangyfelach [RR-021] bryderon ynglŷn ag effeithiau gweledol; a
 - Chododd CCS faterion dylunio yn uniongyrchol yn ei LIR [REP1-021].
- 4.13.2. Mae dylunio yn cynnwys materion yn ymwneud â gosodiad, graddfa, ffurf, mäs, uchder, dwysedd, lliw, deunyddiau a manylion penodol. Mae dyluniad gwael nid yn unig yn tynnu oddi ar gymeriad a golwg ardal ond yn gallu niweidio ansawdd bywyd cymdogion.
- 4.13.3. Mae CCS yn cyfeirio at ddyluniad, lleoli a lleoliad ym Mholisi PS 2 y CDLI ar Ffurfio a Rheoli Lle, ac yn datgan bod rhaid i ddatblygiad wella ansawdd lleoedd a mannau ac ymateb yn gadarnhaol i agweddau ar gyddestun a chymeriad lleol sy'n cyfrannu at ymdeimlad o le. Mae'n rhaid i ddyluniad, gosodiad a chyfeiriad adeiladau arfaethedig, a'r lle rhyngddynt, ddarparu ar gyfer amgylchedd atyniadol, eglur a diogel, a sicrhau na fyddai unrhyw effeithiau niweidiol arwyddocaol yn cael eu hachosi i amwynder pobl [REP1-021].

Ystyriaethau polisi

- 4.13.4. Mae a10(3)(b) PA2008 yn mynnu bod yr SoS yn ystyried dymunoldeb cyflawni dyluniad da wrth ystyried a yw'r penderfyniadau lleoli a dylunio cywir wedi cael eu gwneud ynglŷn â datblygiad seilwaith ynni. Mae EN-2 paragraff 2.3.15 yn amlygu'r angen i ystyried yr egwyddorion a sefydlir yn NPS EN-1 adran 4.5 yn hyn o beth.
- 4.13.5. Mae NPS EN-1 yn cynghori ym mharagraff 4.5.4 y dylai Ymgeiswyr 'allu dangos yn eu dogfennau cais sut y cynhaliwyd y broses ddylunio a sut yr esblygodd y dyluniad arfaethedig'. Mae EN-1 yn cydnabod ym mharagraff 4.2.7 *'efallai na fydd yn bosibl ar adeg y cais i ganiatâd datblygu ar gyfer pob agwedd ar y cynnig fod wedi'i benderfynu'n fanwl'*. Yn yr amgylchiadau hyn, mae paragraff 4.2.8 NPS EN-1 yn mynnu bod Ymgeiswyr yn asesu graddau mwyaf (h.y. achos gwaethaf realistig) y datblygiad arfaethedig. Mae'r ymagwedd hon yn ategu'r ymagwedd amlen Rochdale a ddisgrifir ym mharagraff 4.9.1 uchod.

- 4.13.6. Nodiadau Cyngor Technegol (TAN) 12²⁶ a 22²⁷. Mae TAN 12 yn cefnogi'r ymrwymiad i ddylunio da ac yn gosod gofyniad am Ddatganiad Dylunio a Mynediad. Mae TAN 22 yn mynnu bod datganiadau dylunio a mynediad yn dangos sut y bydd y datblygiad yn bodloni neu'n rhagori ar safonau adeiladu cynaliadwy ac yn lleihau ei ôl troed carbon.

Ymateb yr Ymgeisydd

- 4.13.7. Mae'r Ymgeisydd yn dweud bod Pennod 3, Adran 3.4 yr ES [APP-042] a'r Datganiad Egwyddorion Dylunio [APP-048] yn esbonio ac yn cyfiawnhau'r ymagwedd ddylunio at y Datblygiad Arfaethedig. Fel yr esboniwyd uchod, defnyddiwyd ymagwedd amlen Rochdale ac mae'r asesiad yn yr ES yn symud ymlaen ar y sail honno. Mae hyn, yn ei dro, yn golygu bod nifer o ganlyniadau dylunio wedi'u mynegi mewn termau parametrig a gellir eu hamrywio yn y cynllun a adeiladir yn derfynol. Fodd bynnag, mae'r effeithiau niweidiol achos gwaethaf wedi cael eu hasesu a darperir y mesurau lliniaru canlynol:

- Mae Gofyniad 2 is-adrannau (4) a (5) yn sicrhau y byddai'r Cyngor yn rhoi ystyriaeth bellach i ddyluniad manwl y cynnig ac yn sicrhau ei fod yn cydymffurfio â'r ddogfen Datganiad Egwyddorion Dylunio; ac
- Mae Gofyniad 3 yn ymdrin mewn modd tebyg â darparu a chynnal a chadw tirwedd.

Casgliadau'r ExA

- 4.13.8. Mae'r Datganiad Egwyddorion Dylunio [APP-048] yn dwyn ynghyd canfyddiadau'r amryw ddogfennau fel y bônt yn berthnasol i ddylunio ac yn sefydlu ymrwymadau cadarn a chyflawnadwy o ran dylunio da i lywio'r dyluniad manwl. Mae'r ymrwymadau hyn wedi'u sicrhau trwy ofyniad yn y DCO sy'n mynnu gweithredu yn unol â'r Datganiad Egwyddorion Dylunio h.y. Gofyniad 2(5). At ei gilydd, ystyrir bod cyddestun y safle wedi cael ei arfarnu'n gynhwysfawr fel yr esbonnir yn y cais ac yr amlinellir isod. Rwyf wedi'm calonogi gan yr ymagwedd ddylunio at y Prosiect. Sicrhawyd hyn yng Ngofynion 2 a 3 y DCO drafft a chan y terfynau a osodir ar gyfleoedd i newid yn ddilynol yng Ngofyniad 29 [REP6-003]. Mae'r ymagwedd ddylunio yn cyd-fynd â nodau NPS EN-1, TAN 12 a 22 a Pholisïau EU1 a PS2 CDLI CCS. O ystyried y dystiolaeth a gyflwynwyd, rwyf yn fodlon bod dyluniad boddhaol yn debygol o ymddangos.

4.14. ANSAWDD AER

²⁶ Nodyn Cyngor Technegol (TAN) 12: Dylunio (2009).

<https://gweddill.gov.wales/topics/planning/policy/tans/tan12/?skip=1&lang=cy>

²⁷ Nodyn Cyngor Technegol 22: Adeiladau Cynaliadwy (2010).

<http://wales.gov.uk/topics/planning/policy/tans/tan22/?lang=en>

Materion

- 4.14.1. Ni fynegwyd unrhyw bryderon gan y llywodraeth nac asiantaethau ynglŷn â pherfformiad y Datblygiad Arfaethedig o ran ansawdd aer ac allyriadau, o'i ystyried ar ei ben ei hun neu'n gronol / ar y cyd â datblygiadau eraill. Yn benodol, roedd CNC yn fodlon ar berfformiad ansawdd aer ac allyriadau arfaethedig y Datblygiad Arfaethedig a bod yr Ymgeisydd wedi defnyddio'r broses asesu gywir [REP1-004].
- 4.14.2. Cododd nifer o IPs bryderon ynglŷn ag ansawdd aer yn eu RRs [RR-001], [RR-003 i 005], [RR-007], [RR-015 i 017] ac [RR-020 i 021]. Cyfeiriodd Mr Rasbridge at "wryiadau tymheredd" yn safle'r Datblygiad Arfaethedig [REP3-018].
- 4.14.3. Ni chafodd Tîm Trwyddedu CNC unrhyw ymatebion i'w ymgynghoriad cyhoeddus 'O Blaid Caniatáu', felly rhoddodd y drwydded ar gyfer y Datblygiad Arfaethedig ar 18 Ionawr 2019. Mae copi o'r drwydded a roddwyd ar gael ar wefan CNC trwy'r ddolen ganlynol:
<https://naturalresources.wales/permits-and-permissions/permit-applicationsconsultations-and-decisions/final-permit-decisions-for-sites-under-industrialemissions-directive/south-west-wales/drax-aber-gelli/?lang=en>.
- 4.14.4. Gofynnais nifer o gwestiynau i CNC, yr Ymgeisydd a CCS ynglŷn â pherfformiad y Datblygiad Arfaethedig pan fyddai ar waith o ran ansawdd aer ac allyriadau yn ExQs1 [PD-005(3)] ac ExQs2 [PD-006].

Ystyriaethau polisi

- 4.14.5. Mae'r AQD yn berthnasol.
- 4.14.6. Mae paragraff 5.2.1 EN-1 yn cydnabod bod datblygiad seilwaith yn gallu cael effeithiau niweidiol ar ansawdd aer. Yn ôl paragraff 4.10.1 EN-1:
'Gallai materion sy'n ymwneud â gollyngiadau neu allyriadau o brosiect arfaethedig sy'n effeithio ar ansawdd aer, ansawdd dŵr, ansawdd tir a'r amgylchedd morol, neu sy'n cynnwys sŵn a dirgryniad, fod yn destun rheoleiddio ar wahân o dan y fframwaith rheoli llygredd neu gyfundrefnau cydsynio a thrwyddedu eraill'.
- 4.14.7. Mae adran 4.13 EN-1 yn cynghori sut y dylai Ymgeiswyr fynd ati i asesu sut y gallai cynlluniau effeithio ar iechyd a lles pobl ar gyfer pob elfen o'r datblygiad arfaethedig. Yn ôl paragraff 4.13.1 EN-1:
'Mae cynhyrchu ynni yn gallu effeithio ar iechyd a lles y boblogaeth'.
- 4.14.8. Mae'n cynghori y dylai Ymgeiswyr asesu'r effeithiau hyn ar gyfer pob elfen o'r prosiect arfaethedig ac amlygu mesurau i osgoi, lleihau neu wneud iawn am yr effeithiau hyn, fel y bo'n briodol.
- 4.14.9. Mae adran 4.14 EN-1 yn amlygu'r angen i ystyried ffynonellau allyriadau a allai fod yn niwsans posibl o dan Adran 79(1) Deddf Diogelu'r Amgylchedd 1990.

- 4.14.10. Mae adran 2.5 EN-2 yn cadarnhau y dylid dilyn y canllawiau a gynhwysir yn EN-1 o ran allyriadau o orsafoedd cynhyrchu tanwydd ffosil.
- 4.14.11. Mae Pennod 6: Ansawdd Aer yr ES [APP-042] yn rhoi gwybodaeth fanwl am ddeddfwriaeth Ewropeaidd a rheoliadau Cymru ar ansawdd aer ac yn gosod y safonau cenedlaethol ar gyfer diogelu iechyd pobl a llystyfiant.

Ymateb yr Ymgeisydd

- 4.14.12. Roedd Penodau 6 a 15 [APP-042] ac Atodiad 6.1 [APP-044] yr ES yn asesu effeithiau posibl y Datblygiad Arfaethedig ar ansawdd aer yr amgylchedd. Roedd hyn yn cynnwys effeithiau'r llygryddion canlynol:
- ocsidau nitrogen (NO_x) a (CO) a allyrrir o'r tyrbinau nwy trwy'r stac yn ystod gweithredu; ac
 - NO_x a deunydd gronynnol (PM₁₀ a PM_{2.5}) sy'n gysylltiedig â symudiadau cerbydau yn ystod camau adeiladu, gweithredu a datgomisiynu'r datblygiad arfaethedig.
- 4.14.13. Nododd yr Ymgeisydd na ragwelir unrhyw ormodiant perthnasol, ac felly nid oes angen unrhyw fesurau ansawdd aer yn ychwanegol at y rhai a ddarperir yn y DCO. Amlygodd CCS nad oedd diamedr mewnol y stac wedi'i sicrhau yn y DCO. Cadarnhaodd yr Ymgeisydd nad oedd modelu ansawdd aer wedi'i seilio ar ddiamedr mewnol y stac, a chytunwyd nad oes angen sicrhau diamedr mewnol y stac yn y DCO [EV-004].
- 4.14.14. Rhoddodd asesiad yr Ymgeisydd ystyriaeth benodol i'r potensial i wyriadau tymheredd effeithio ar wasgariad allyriadau, ac nid yw'r Ymgeisydd o'r farn y bydd yr amodau meteorolegol lleol yn atal gwasgariad priodol yn safle'r Datblygiad Arfaethedig [REP4-005].
- 4.14.15. Aseswyd effeithiau'r Prosiect ar y newid yn yr hinsawdd o ran allyriadau ym Mhennod 6: Ansawdd Aer. Dywedodd yr Ymgeisydd ym mharagraff 15.4.1:

"Ystyrir bod allyriadau carbon y Prosiect yn ymylol o ran allyriadau cyffredinol y Deyrnas Unedig ac, felly, o ystyried y polisi presennol, ni ystyrir bod yr effeithiau ar y newid yn yr hinsawdd yn arwyddocaol o ran allyriadau carbon deuocsid."

Casgliadau'r ExA

- 4.14.16. Er bod nifer o IPs wedi cyfeirio at ansawdd aer o ganlyniad i bryderon ynglŷn ag allyriadau a gwasgaru, mae CNC, sef y rheoleiddiwr perthnasol, wedi pwysleisio nad yw'n gweld unrhyw reswm pam na ddylai'r Datblygiad Arfaethedig gydymffurfio'n llawn â'r holl bolisiau a safonau perthnasol. Rhoddodd CNC EP ar gyfer gweithredu i fodloni gofynion CNC ar 18 Ionawr 2019.
- 4.14.17. Rwyf yn fodlon y bydd yr allyriadau arfaethedig yn bodloni'r AQD. Rwyf hefyd yn fodlon y bydd polisiau perthnasol EN-1 ac EN-2 a pholisiau Llywodraeth Cymru, yn enwedig ar rwymedigaethau yn ymwneud â'r

newid yn yr hinsawdd, ynghyd â Pholisïau ER1 y CDLI ar newid yn yr hinsawdd ac RP3, yn cael eu bodloni.

4.15. SŴN A DIRGRYNIAD

Materion

- 4.15.1. Mae'r pwnc hwn yn ymwneud â sŵn a dirgryniad sy'n deillio o weithgareddau adeiladu, gweithredu a datgomisiynu'r Datblygiad Arfaethedig. Mae'n ymwneud ag aliniad y cysylltiad nwy ac aliniad y cysylltiad trydanol i'r graddau y bo angen yn unig i fynd i'r afael ag ystyriaethau yn ymwneud â'r effaith gronnol.
- 4.15.2. Ni chodwyd unrhyw bryderon mewn egwyddor ynglŷn â sŵn a dirgryniad gan asiantaethau'r llywodraeth, yn benodol CNC, na chan CCS, ar y sail y byddai'r mesurau lliniaru sydd wedi'u hymgorffori yn y DCO drafft yn cael eu darparu. Cododd CCS rai pryderon ynglŷn â'r lefelau graddio a osodir yn Nhabl 3 Gofyniad 25 a'r cyfnodau cychwyn a diffodd hanner awr ar bob pen o'r diwrnod gwaith yng Ngofyniad 23 [REP1-021].
- 4.15.3. Yn dilyn esboniad pellach o'r sail resymegol i'r graddfeydd gan yr Ymgeisydd [REP2-003], roedd CCS yn fodlon bod yr ymagwedd a ddefnyddiwyd gan yr Ymgeisydd yn dderbyniol ac, o ganlyniad, nid yw CCS o'r farn y byddai'r lefelau a nodwyd yn arwain at unrhyw faterion yn ymwneud â sŵn ar gyfer eiddo amgylchynol [REP4-027].
- 4.15.4. Ailystyriodd CCS ei safbwynt o ran cyfnod diffodd, a thynnodd ei wrthwynebiad yn ôl i gynnwys cyfnod diffodd yn y DCO, am y cyfnod penodol a nodwyd [REP4-017]. Roedd CCS yn fodlon ar gynnwys yr eitemau offer a nodwyd a fyddai'n cael eu croesgyfeirio yn y CEMP [REP4-010].
- 4.15.5. Ar ddiwedd yr Archwiliad, roedd y cyfnod cychwyn yn parhau i fod yn asgwrn cynnen rhwng CCS a'r Ymgeisydd.
- 4.15.6. Codwyd pryderon cyffredinol ynglŷn â sŵn gan nifer o breswylwyr lleol ac IPs cymunedol, fel a ganlyn:
- Mr Michael Edwards [RR-001];
 - Cynghorydd Ward Mawr [RR-004];
 - Mr Rasbridge [RR-005];
 - Mr Mark Adams [RR-016];
 - Alyson Adams [RR-017]; a
 - Claire Thatcher [RR-020].
- 4.15.7. Gofynnais sawl cwestiwn i'r Ymgeisydd a CCS ynglŷn ag allyriadau sŵn y Datblygiad Arfaethedig pan fyddai ar waith yn ExQs1 [PD-005(3)] ac ExQs2 [PD-006].

Ystyriaethau polisi

- 4.15.8. Mae adran 5.11 NPS EN-1 yn nodi bod sŵn gormodol yn gallu arwain at effeithiau niweidiol ar amrywiaeth o dderbynyddion, gan gynnwys bywyd dynol, bywyd gwyllt a bioamrywiaeth. Mae paragraff 5.11.9 EN-1 yn datgan na ddylid rhoi caniatâd datblygu oni bai bod effeithiau sŵn niweidiol arwyddocaol ar iechyd ac ansawdd bywyd yn cael eu hosgoi a bod effeithiau niweidiol eraill yn cael eu lliniaru a'u lleihau i'r eithaf. Mae'r paragraff hefyd yn cynghori bod rhaid i'r sawl sy'n gwneud y penderfyniad fod yn fodlon, lle y bo'n bosibl, bod cynigion yn cyfrannu at welliannau i iechyd ac ansawdd bywyd trwy reoli sŵn yn effeithiol.
- 4.15.9. Mae adran 2.7 NPS EN-2 yn nodi bod gorsafoedd cynhyrchu tanwydd ffosil yn gallu cynhyrchu sŵn.
- 4.15.10. Mae TAN 11: Sŵn yn rhoi cyngor ar sut y gellir defnyddio'r system gynllunio i leihau effaith niweidiol sŵn i'r eithaf heb osod cyfyngiadau afresymol ar ddatblygiad nac ychwanegu'n ddiangen at gostau a baich gweinyddol busnes. Mae'n amlinellu rhai o'r prif ffactorau y dylai awdurdodau cynllunio lleol eu hystyried wrth lunio polisiau cynllun datblygu ac wrth benderfynu ar geisiadau cynllunio ar gyfer datblygiad a fydd naill ai'n cynhyrchu sŵn neu'n agored i ffynonellau sŵn presennol.
- 4.15.11. Mae polisi RP2 CDLI CCS yn ceisio diogelu iechyd ac amwynder y cyhoedd a diogelu'r amgylchedd rhag effeithiau sŵn niweidiol. [REP4-025].

Ymateb yr Ymgeisydd

- 4.15.12. Mae Pennod 7 (sŵn a dirgryniad) yr ES [APP-042] ac [APP-043] yn amlinellu asesiad o effeithiau sŵn a dirgryniad y Datblygiad Arfaethedig. Un o'r canfyddiadau allweddol yw y byddai'r Datblygiad Arfaethedig yn cael ei adeiladu ac yn gweithredu mewn cyd-destun acwstig a ddarperir gan y mesurau lliniaru ymgorfforedig.
- 4.15.13. Dywedodd yr Ymgeisydd:
- "o ganlyniad i gymhwyso mesurau lliniaru ymgorfforedig, bydd sŵn a dirgryniad yn cael effaith niweidiol fach yn unig ar yr holl Dderbynyddion sy'n Sensitif i Sŵn (NSRs) yn ystod y cam adeiladu, nad yw'n arwyddocaol. Felly, nid oes angen mesurau lliniaru neu fonitro ychwanegol"* [APP-042].
- 4.15.14. Daeth yr Ymgeisydd i'r casgliad, yn y nos, y rhagwelir y bydd yr effeithiau niweidiol yn fach, ar eu gwaethaf, heblaw o ran Derbynydd sy'n Sensitif i Sŵn 1 (NSR 1):
- "Bydd y lefel sŵn amgylchynol yn NSR 1 ar ôl cynnwys yr Offer Generadu yn cynhyrchu effaith o arwyddocaâd cymedrol o ganlyniad i'r lefelau amgylchynol uchel sydd eisoes yn bodoli yn y lleoliad hwnnw. Fodd bynnag, bydd ychwanegu sŵn yr orsaf bŵer yn achosi i'r lefel amgylchynol yn NSR 1 gynyddu 1 dB yn unig"* [APP-042].
- 4.15.15. Nid oedd yr Ymgeisydd o'r farn y byddai cynnydd o'r fath yn arwyddocaol, felly mae effaith y cynllun ar yr amgylchedd sŵn yn

ddibwys. O ganlyniad, daeth yr Ymgeisydd i'r casgliad nad yw effaith gweithredu'r Offer Generadu yn arwyddocaol.

- 4.15.16. Diwygiwyd y DCO erbyn Terfyn Amser 1 [REP1-015] i gynnwys diffiniad o "gyfnod diffodd" a "chyfnod cychwyn" i ddiffinio'r gweithgareddau y gellir eu cynnal yn ystod y cyfnod a osodir yng Ngofyniad 23 y DCO drafft.
- 4.15.17. Esboniodd yr Ymgeisydd na fyddai gwaith adeiladu arferol yn cael ei wneud yn ystod y cyfnod cychwyn. Diben hyn oedd caniatáu i weithwyr adeiladu gyrraedd y safle, mynd i sesiynau briffio blwch offer a chasglu eu cyfarpar diogelu personol (PPE) [REP4-010].
- 4.15.18. Mae'r Ymgeisydd wedi cynnig y mesur lliniaru canlynol yn y DCO i fynd i'r afael ag effeithiau sŵn sy'n gysylltiedig â gweithredu:
- Mae Gofyniad 25 yn gosod terfyn ar gyfer rheoli sŵn yn ystod y cam gweithredol.

Casgliadau'r ExA

- 4.15.19. Rwyf yn fodlon bod y mesurau a ddisgrifir yn yr ES ac a sicrhau yn y DCO Argymelledig (Atodiad Ch) yn ddigonol i sicrhau cydymffurfiaeth â'r NPS a pholisïau'r CDLI a amlygwyd yn yr adran hon yn ystod y cyfnod adeiladu.
- 4.15.20. Rheoleiddir effeithiau sŵn adeiladu yn briodol yn y CEMP (R17). Mae'r diffiniad o gychwyn yn Erthygl 2:
- "Mae "cyfnod cychwyn" yn golygu'r cyfnod a neilltuir yng ngofyniad 23 pryd y caiff gweithwyr adeiladu gyrraedd y safle, mewngofnodi, gwisgo cyfarpar diogelu personol, mynd i sesiynau briffio diogelwch a sesiynau briffio eraill, a symud o gwmpas y safle, ond ni cheir gweithredu unrhyw offer na pheiriannau;"*
- yn ddigon eglur i liniaru unrhyw bryderon ynglŷn â gweithgareddau swmlyd rhwng 07:30 ac 08:00.
- 4.15.21. Bydd Gofyniad 25 ar reoli sŵn yn ystod y cam gweithredol yn sicrhau y byddai lefelau sŵn wrth dderbynyddion yn dderbyniol. Fe'm darbwyllwyd y bydd Gofyniad 25 yn rheoli sŵn gweithredol yn briodol, ac na ddylai lefelau wrth dderbynyddion perthnasol (anheddu lleol) beidio â chydymffurfio o ganlyniad i'r datblygiad, ond y bydd camau gweithredu trwy gyfundrefn COPA 1974 yn ddigonol i fynd i'r afael ag unrhyw ormodiant sy'n digwydd [REP1-021].
- 4.15.22. O ystyried y dystiolaeth a gyflwynwyd, credaf fod materion sŵn a dirgryniad wedi derbyn sylw'n ddigonol a'u bod yn bodloni'r gofynion a nodir yn 5.11 NPS EN-1, TAN 11 a Pholisi RP 2 CDLI CCS.

4.16. MATERION BIOAMRYWIAETH

- 4.16.1. Yn ei Gynrychiolaeth Berthnasol [RR-025] ar 2 Awst 2018, cododd CNC bryderon penodol ynglŷn ag:
- Ystlumod;
 - Llygod y Dŵr/Dyfrgwn; a
 - Goleuadau.
- 4.16.2. O dan Ofyniad 11(2), gofynnodd CNC i gyfeiriad gael ei gynnwys at yr angen i gael trwydded Rhywogaeth a Warchodir gan Ewrop (EPS) (o dan Reoliadau Cadwraeth Cynefinoedd a Rhywogaethau 2017) os canfyddir unrhyw ystlumod sy'n clwydo ar y safle ac y bydd y datblygiad yn effeithio arnynt [REP1-026].
- 4.16.3. Mae Tabl Llygod y Dŵr a Dyfrgwn 8.14 yr ES [APP-042] yn nodi:
- "Bydd camau rheoli cynefin yn cael eu cynnal i leihau ansawdd y cynefinoedd ar gyfer creu tyllau/gwalau/lle i orwedd".*
- 4.16.4. Mynnodd CNC fod manylion llawn y cynefin y gallai Llygod y Dŵr a Dyfrgwn gael eu dadleoli iddo yn cael eu darparu yn rhan o'r cynigion lliniaru. Yn ogystal, mae'n rhaid i gynefin amgen fod yn addas i'r rhywogaethau ac ar gael i'w gytrefu cyn iddynt gael eu dadleoli. Nododd CNC fod y manylyn hwn i'w gynnwys yng Ngofynion 3 a 9 (Cynllun Rheoli Ecolegol) [REP1-026].
- 4.16.5. Mae Gofyniad 8 yn cyfeirio at arolygon cyfyngiadau ecolegol cyn-adeiladu o ran Llygod y Dŵr a Dyfrgwn, a groesawyd gan CNC. Fodd bynnag, nododd CNC y dylai unrhyw ofynion trwyddedu o dan Ddeddf Diogelu 1992 gael eu sicrhau gan adran drwyddedu CNC [REP1-026].
- 4.16.6. Nododd CNC fod yr OLS a ddarparwyd yn cynnwys manylion ynglŷn â sut y bydd golau'n cael ei reoli ar draws y safle, ac mae'r LEMP amlinellol [APP-036] yn rhoi rhai manylion am y coridorau tywyll arfaethedig. Dywedodd CNC y bydd angen i'r strategaeth oleuo gynnwys cynllun goleuo sydd, ynghyd â'r uchod, yn cadarnhau lleoliad y goleuadau, eu manylebau, ble y bydd mesurau gollyngiad golau'n cael eu defnyddio (e.e. lwferau, cyflau, amseryddion, manylion unrhyw oleuadau sy'n gweithredu yn ôl amserydd) a'r gollyngiad golau disgwylidig. Nododd CNC fod darparu cynllun goleuo wedi cael ei gynnwys fel gofynion DCO ar wahân ar gyfer y cam adeiladu o dan Ofyniad 17 (CEMP), ac ar gyfer y cam gweithredol o dan Ofyniad 26 (Rheoli Allyriadau Golau Artiffisial yn ystod Gweithredu) [REP1-026].
- 4.16.7. Cynghorodd adran 1.3 WR CNC [REP1-026]:
- "Bydd angen manylion am osod unrhyw gwlfertau ac ailgyfeirio cyrsiau dŵr, a chadw/adfer cynefin glannau afon, yn ogystal â'r mesurau a fydd yn cael eu rhoi ar waith i sicrhau bod rhywogaethau a warchodir yn gallu parhau i symud ar hyd y cyrsiau dŵr. Dylai'r rhain gael eu darparu o fewn y Gofynion DCO priodol."*
- 4.16.8. Roedd CCS o'r farn bod angen mwy o wybodaeth i asesu'r mesurau lliniaru'n ddigonol, a gofynnodd am wybodaeth ychwanegol mewn LEMS

wedi'i diweddarau [APP-036], sy'n cynnwys mesurau lliniaru a mesurau gwella bioamrywiaeth. Honnodd CCS y dylai'r rhain geisio cyflawni enillion ecolegol net yn hytrach na chael eu dylunio'n unig i gyfyngu ar niwed a/neu amnewid yn uniongyrchol [REP1-021].

- 4.16.9. Nododd CCS fod yr LEMS amlinellol [APP-036] yn ceisio dangos y mesurau lliniaru sydd wedi cael eu cynnwys wrth ddylunio'r dirwedd. Fodd bynnag, nid oedd CCS yn credu bod digon o fanylion ynglŷn â'r Ardal Lliniaru Ecolegol o ran sut yn union y bydd yn cael ei gwella i liniaru ar gyfer colli amrywiaeth o gynefinoedd. Heblaw am byllau a phlannu tirwedd ymgorfforedig, nid oedd yn eglur pa gynefinoedd eraill a fydd yn cael eu creu o'r newydd trwy'r mesurau lliniaru. Dywedodd CCS hefyd y byddai angen arolwg Rhywogaethau Estron Goresgynnol (INNS) wedi'i ddiweddarau yn rhan o'r gwiriadau cyn-adeiladu [REP1-021].
- 4.16.10. Roedd CCS o'r farn y byddai angen eglurhad a mesurau lliniaru/ gwella ychwanegol i sicrhau bod y cynllun yn dderbyniol o ran ei effaith ecolegol [REP1-021].
- 4.16.11. Cododd nifer o IPs bryderon cyffredinol ynglŷn â bioamrywiaeth:
- Peter Rasbridge [RR-005];
 - Wynne Watkins [RR-014] a
 - Kirsty Dando Thomas [RR-015].
- 4.16.12. Gofynnais nifer o gwestiynau i'r Ymgeisydd, CNC a CCS am effeithiau'r Datblygiad Arfaethedig ar fioamrywiaeth a chynefinoedd yn ExQs1 [PD-005(3)] ac ExQs2 [PD-006]. Codwyd y mater hefyd fel eitem agenda benodol (Eitem 7.6) yn yr ISH ar Faterion Amgylcheddol [EV-012].

Ystyriaethau polisi

- 4.16.13. Mae adran 4.3 NPS EN-1 yn darparu polisi sy'n berthnasol i HRA. Fe'i hystyrir a rhoddir ymatebion iddo ym Mhennod 5 isod.
- 4.16.14. Mae paragraff 5.3.3 EN-1 yn datgan y dylai ES nodi'n eglur:
- 'unrhyw effeithiau ar safleoedd o bwysigrwydd cadwraeth ecolegol neu ddaearegol a ddynodwyd yn rhyngwladol, yn genedlaethol ac yn lleol, ar rywogaethau a warchodir ac ar gynefinoedd a rhywogaethau eraill yr amlygwyd eu bod yn bwysig iawn ar gyfer cadwraeth bioamrywiaeth'.*
- 4.16.15. Mae paragraff 5.3.4 EN-1 hefyd yn mynnu bod yr Ymgeisydd yn:
- 'dangos sut mae'r prosiect wedi achub ar gyfleoedd i warchod a gwella buddiannau cadwraeth bioamrywiaeth a daearegol'.*
- 4.16.16. Mae adran 5.3 NPS EN-1 yn canolbwyntio ar yr effeithiau ar hierarchaeth safleoedd dynodedig, rhywogaethau a warchodir gan Ewrop ac yn genedlaethol a choetiroedd hynafol. Cododd CNC bryderon i ddechrau ynglŷn â'r posibilrwydd o niwed i rywogaethau a warchodir [RR-025].
- 4.16.17. Nid yw NPS EN-2 yn cynnwys polisi penodol ynglŷn ag effeithiau ar yr amgylchedd naturiol sy'n benodol i orsafoedd cynhyrchu nwy.

- 4.16.18. Mae adran 2.21 NPS EN-4 yn ceisio cynigion ar gyfer adfer wyneb y ddaear ac osgoi neu liniaru niwed i'r amgylchedd naturiol wrth ganiatáu piblinell. Fodd bynnag, yn yr achos hwn, mae'r rhain yn faterion i'r caniatadau cynllunio ar gyfer aliniad y cysylltiad nwy gan CCS.
- 4.16.19. Mae TAN 5 Cadwraeth Natur a Chynllunio yn rhoi cyngor ar sut y dylai'r system cynllunio defnydd tir gyfrannu at warchod a gwella cadwraeth bioamrywiaeth a daearegol.
- 4.16.20. Mae polisiau ER1, ER 2, ER 8, ER 9, ER 10 ac ER 11 CDLI CCS oll yn berthnasol i effeithiau'r Datblygiad Arfaethedig ar fioamrywiaeth a chynefinoedd [REP4-025].

Ymateb yr Ymgeisydd

- 4.16.21. Mae Pennod 8 yr ES [APP-042] yn cynnwys yr asesiad bioamrywiaeth ac mae'n amlygu safleoedd, cynefinoedd, rhywogaethau neu ecosystemau dynodedig y gallai'r Datblygiad Arfaethedig effeithio arnynt, ac yn asesu tebygolrwydd effeithiau arwyddocaol. Mae'r bennod hefyd yn ystyried effeithiau posibl ar dderbynyddion ecolegol o ganlyniad i ansawdd aer, sŵn, dŵr, tirwedd a goleuadau. Cynhaliwyd astudiaeth ddesg ar gyfer radiws 2 km ar gyfer safleoedd a ddynodwyd yn genedlaethol (SoDdGA, SINC) a 10 km ar gyfer safleoedd a ddynodwyd yn rhyngwladol (Ramsar, ACA, AGA). Dangosir safleoedd a ddynodwyd ar gyfer y radiws 2 km a 10 km yn Ffigurau 8.1-8.3 [APP-021].
- 4.16.22. Mae'r Ymgeisydd wedi cynnal yr arolygon ecolegol canlynol [APP-016, 017, 038, 039 a 041] i sefydlu'r llinell sylfaen ecolegol:
- Arolwg cynefinoedd;
 - Arolwg madfallod dŵr cribog;
 - Arolwg ymlusgiaid;
 - Arolwg dyfrgwn a llygod y dŵr;
 - Arolwg pathewod;
 - Gwrychoedd;
 - Arolwg moch daear; ac,
 - Asesiad ac arolwg gweithgarwch clwydi ystlumod.
- 4.16.23. Yn ogystal â'r mesurau lliniaru ymgorfforedig a ddisgrifir yn Adran 3.11 yr ES [APP-042], bydd y mesurau lliniaru ychwanegol canlynol yn cael eu gweithredu hefyd:
- Mesurau gwella ecolegol fel amnewid cynefin, lle y bo'n bosibl, trwy'r Cynllun Lliniaru Tirwedd ac Ecoleg (LEMP) amlinellol a sicrheir trwy R3 ac R9;
 - LEMS amlinellol a sicrheir trwy R3 ac R9;
 - Cynllun Rheoli Dŵr Wyneb a sicrheir trwy R7; ac
 - Arolygon cyn-adeiladu a sicrheir trwy R8.
 - Arolygon INNS wedi'u diweddarau a chamau unioni a sicrheir trwy R10.
- 4.16.24. Nododd yr Ymgeisydd fod rolau a chyfrifoldebau ar gyfer rheoli a gwarchod bioamrywiaeth wedi'u cynnwys yn Adran 2.1 y CEMP [APP-

036]. Cyflwynir rheolaeth ecolegol drwy gydol yr LEMS [REP1-016]. Sicrheir y CEMP a'r LEMS trwy Ofynion 17 a 9, yn ôl eu trefn. Manylir ar bob pwynt a awgrymwyd i'w gynnwys isod, gan gyfeirio at ble yr ymdrinnir ag ef yn y ddwy ddogfen hyn [REP2-003]:

- *"Bod asesiad risg o weithgareddau adeiladu a allai fod yn niweidiol yn cael ei leoli yn yr arolygon cyn-adeiladu a'r briffiau gwyllo yn yr LEMS [REP1-016] Atodiadau A-G;*
- *Bod parthau gwarchod bioamrywiaeth a amlygwyd yn cael eu lleoli ym mhob Atodiad A-G perthnasol o'r LEMS [REP1-016];*
- *Bod mesurau ymarferol a datganiadau o ddull yn cael eu lleoli yn yr LEMS [REP1-016] Atodiadau A-G a thrwy gydol y CEMP [APP-036];*
- *Bod lleoliad ac amseriad gwaith sensitif i osgoi niweidio nodweddion bioamrywiaeth yn cael eu lleoli ym mhob Atodiad A-G perthnasol o'r LEMS [REP1-016];*
- *Bod yr adegau yn ystod y cam adeiladu pan fydd angen i ecolegydd arbenigol fod yn bresennol ar y safle i oruchwylio'r gwaith yn cael eu lleoli ym mhob Atodiad A-G perthnasol o'r LEMS [REP1-016];*
- *Bod llinellau cyfathrebu cyfrifol yn cael eu lleoli yn y CEMP Adran 2.1 a'r CEMP Atodiad A: Cofrestr Mesurau Lliniaru;*
- *Bod rôl a chyfrifoldebau clerc gwaith ecolegol ar y safle yn cael eu lleoli o fewn Adran 2.1 y CEMP [APP-036] ac ym mhob Atodiad A-G perthnasol o'r LEMS [REP1-016]; a*
- *Bydd ffensys amddiffynnol, rhwystrau allgáu ac arwyddion rhybudd yn cael eu darparu yn yr LEMS derfynol, os bydd angen."*

4.16.25. Bydd yr LEMS derfynol yn cynnwys:

- Nodau ac amcanion rheoli;
- Amodau ar gyfer opsiynau rheoli;
- Manylion y corff neu'r sefydliad sy'n gyfrifol am weithredu'r cynllun; ac
- Adrodd am fesurau adfer a'u gweithredu.

4.16.26. Dadleuodd yr Ymgeisydd nad yw'n bosibl darparu manylion penodol, fel y gofynnwyd gan CNC a CCS, gan fod hyn yn dibynnu ar gadarnhau dyddiadau dechrau adeiladu, a chontractwr/contractwyr, yn ogystal â chymeradwyaeth CCS cyn i waith adeiladu ddechrau [REP2-003].

4.16.27. Nododd yr Ymgeisydd [REP2-003]:

"Mae'r Ardal Lliniaru Ecolegol yn cynnwys ardal o laswelltir corsïog ac asidig a fydd yn cael ei chreu trwy leihau/dileu pori ar y safle, gan felly ganiatáu i'r rhywogaethau botanegol brodorol adfywio. Bydd yr ardal yn newid i fod yn ardal o brysgwydd brodorol a fydd, yn ei dro, yn newid yn rhywogaethau coed brodorol a fydd yn ffurfio'r ffin orllewinol, gan gysylltu llinellau'r coed yn y gogledd ag Afon Llan yn y de, fel y dangosir yn y Cynllun Lliniaru Tirwedd ac Ecoleg (LEMP) ES Ffigur 3.6 [APP-021]. Bydd yr LEMS derfynol yn cynnwys amserlenni plannu, dwysedd stocio ac uchder coed. Defnyddir technegau safonol i sicrhau bod y stoc a blennir yn goroesi ac yn cael ei monitro fel bod unrhyw stoc nad yw'n ymsefydlu'n dda yn cael ei hamnewid."

- 4.16.28. Mae'r Ymgeisydd wedi diwygio Gofyniad 8 i fynnu bod arolygon cyn-adeiladu'n cael eu hailadrodd lle nad yw'r gwaith perthnasol wedi dechrau o fewn 2 flynedd o ddyddiad yr arolwg. Mae'r Ymgeisydd o'r farn bod hyn yn darparu digon o sicrwydd a chadernid i fynd i'r afael â'r pryderon a godwyd gan CCS.
- 4.16.29. Yn ôl paragraff 15.4.1 yr ES [APP-042]:
- "Mae enghreifftiau o ganlyniadau ecolegol posibl y newid yn yr hinsawdd yn cynnwys newid i wasgariad rhywogaethau, colli rhywogaethau ar eithafion eu gwasgariad, amharu ar brosesau ecolegol yn y pen draw, a niwed i weithrediad ehangach ecosystemau. Fodd bynnag, gellir lleihau'r effeithiau hyn ar rywogaethau trwy gryfhau rhwydweithiau ecolegol i ganiatáu i rywogaethau fudo wrth i'r hinsawdd newid. Mae'r mesurau lliniaru ecolegol (gweler Pennod 8: Ecoleg) a'r cynllun tirweddu (gweler Pennod 11: Effeithiau Tirweddol a Gweledol) arfaethedig ar gyfer y Prosiect hwn yn ceisio cryfhau cysylltedd yn yr ardal ehangach, ac felly byddent yn cyfrannu at yr ymdrechion i ddarparu cyfleoedd i rywogaethau fudo wrth i'r hinsawdd newid."*
- 4.16.30. Ni amlygodd yr Ymgeisydd unrhyw effeithiau arwyddocaol gweddilliol ar gyfer pob elfen o'r Datblygiad Arfaethedig, nac yn ei gyfanrwydd, o ganlyniad i'r mesurau lliniaru ymgorfforedig sy'n rhan annatod o'r dyluniad a'r mesurau lliniaru ychwanegol, fel cynefinoedd cyfnewid, lle y bo'n bosibl, trwy'r LEMP (a sicrheir trwy Ofyniad 3 a Gofyniad 9), yr LEMS (a sicrheir trwy Ofyniad 2 a Gofyniad 9) ac arolygon cyn-adeiladu (a sicrheir trwy Ofyniad 8).

Casgliadau'r ExA

- 4.16.31. O ystyried y dystiolaeth a gyflwynwyd, ystyriaf fod materion cadwraeth bioamrywiaeth a natur (gan gynnwys y newid yn yr hinsawdd) wedi cael eu hasesu'n ddigonol, a bod gofynion NPS EN-1 a TAN 5 wedi'u bodloni.
- 4.16.32. Mynegodd CCS ei fodlonrwydd â Diwygiad 4 yr LEMS [REP4-008] yn Atodiad D [REP5-007].

Mae'r ExA yn fodlon bod pryderon CNC a CCS ynglŷn â'r effeithiau ar fioamrywiaeth wedi derbyn sylw'n ddigonol gan yr Ymgeisydd trwy Ofynion 3, 7, 8, 9 a 10 y DCO.

4.17. ANSAWDD AC ADNODDAU DŴR A PHERYGL LLIFOGYDD

Materion

- 4.17.1. Ni fynegodd CNC [RR-025] bryderon ynglŷn â materion amgylchedd dŵr.
- 4.17.2. Cododd Dŵr Cymru [RR-023] y pryderon penodol canlynol ynglŷn â'r effaith bosibl ar:
- Gronfa Ddŵr Lliw Isaf;
 - Gwaith Trin Dŵr Felindre;

- Ansawdd ac adnoddau dŵr;
- Cyfanrwydd strwythurol asedau a chyfarpar DC;
- Hawliau mynediad statudol DC i'w brif bibellau dŵr a'i gyfarpar cysylltiedig;
- Gallu DC i gyflawni ei rwymedigaethau statudol; a
- Hawliau tir a chysylltiedig DC.

4.17.3. Ni fynegodd CCS bryderon ynglŷn â materion amgylchedd dŵr yn ei LIR [REP1-021]. Daeth i'r casgliad:

"Nid yw'r Cyngor o'r farn bod y datblygiad yn codi unrhyw faterion arwyddocaol o ran llifogydd neu ddraenio na ellir eu lliniaru, ac felly ystyrir bod y cynigion yn cydymffurfio â pholisïau'r CDLI sy'n dod i'r amlwg yn hyn o beth."

Ystyriaethau polisi

4.17.4. Mae'r WFD yn berthnasol i'r Datblygiad Arfaethedig.

4.17.5. Mae adran 5.15 EN-1 yn cynghori, lle mae effeithiau ar yr amgylchedd dŵr yn debygol, y dylai asesiad gael ei gynnal o statws presennol ansawdd dŵr, adnoddau dŵr a nodweddion ffisegol yr amgylchedd dŵr, ac effeithiau datblygiad arnynt. Anogir mesurau lliniaru adeiladu trwy CEMP a mesurau lliniaru gweithredol trwy ddylunio cynllun draenio (ymhlith pethau eraill).

4.17.6. Mae adran 5.7 yn mynnu bod Asesiad o Berygl Llifogydd (FRA) (Asesiad o Ganlyniadau Llifogydd Lefel 2 yng Nghymru) yn cael ei gyflwyno gyda cheisiadau.

4.17.7. Mae TAN 15: Datblygu a Pherygl o Llifogydd yn rhoi arweiniad technegol sy'n ategu'r polisi a amlinellir ym Mholisi Cynllunio Cymru o ran datblygu a llifogydd. Mae'n cynghori ar ddatblygu a pherygl llifogydd fel y bo'n berthnasol i egwyddorion cynaliadwyedd, ac yn darparu fframwaith ar gyfer asesu risgiau sy'n codi o lifogydd afonol ac arfordirol, ac o ddŵr ffo ychwanegol o ddatblygiad mewn unrhyw leoliad.

4.17.8. Mae Polisi RP 4 CDLI CCS yn diogelu ansawdd dŵr rhag llygredd sy'n gysylltiedig â datblygiad newydd.

Ymateb yr Ymgeisydd

4.17.9. Cynhaliwyd asesiad o'r Effeithiau Arwyddocaol Tebygol (LSE) ar ansawdd dŵr, adnoddau dŵr a pherygl llifogydd ym Mhennod 9 yr ES [APP-042]. Mae'r ardal a astudiwyd o ran ansawdd dŵr ac adnoddau dŵr yn ymestyn y tu hwnt i Ffin Safle'r Prosiect, fel y dangosir yn Ffigurau 9.1 a 9.2 [APP-021]. Felly, mae'r ardal a astudiwyd yn cynnwys yr ardal o fewn Ffin Safle'r Prosiect a pharth dylanwad (ZoI) posibl, a ddiffinnir fel pellter y gellid disgwyl yn rhesymol i effeithiau arwyddocaol ddigwydd ar dderbynyddion/nodweddion dŵr pwysig. Yn yr achos hwn, o ran derbynyddion/nodweddion dŵr, fe'i diffinnir fel ZoI clustogol o 1 km o amgylch Ffin Safle'r Prosiect.

- 4.17.10. Cynhaliodd yr Ymgeisydd astudiaeth ddesg ac arolwg ar droed o amgylch Safle'r Prosiect a amlygodd nifer o dderbynyddion (cyrff dŵr) o fewn 1 km o Ffin Safle'r Prosiect, gan gynnwys Afon Llan a'i hisafonydd, pyllau o fewn Ffin Safle'r Prosiect a sawl SINC. Mae ACA Aber Afon Llŵchwr/Cilfach Tywyn wedi'i lleoli 7 km o Ffin Safle'r Prosiect. Nid oes unrhyw ran o'r Safle Offer Cynhyrchu wedi'i lleoli o fewn parth perygl llifogydd, fel y'i dynodwyd gan CNC. Fodd bynnag, mae ardal fach ar gyrion ffin ddwyreiniol y Safle Offer Cynhyrchu o fewn Parth B (tystiolaeth flaenorol o lifogydd hanesyddol) ar Fapiau Cyngor Datblygu TAN15.
- 4.17.11. Ym mharagraff 15.4.1 yr ES, mae'r Ymgeisydd yn dweud [APP-042]:
- "Ymdriniwyd â'r newid yn yr hinsawdd hefyd yn Atodiad 9.1: Asesiad o Ganlyniadau Llifogydd, sy'n ystyried perygl llifogydd ar Safle'r Prosiect. Ystyriwyd y newid yn yr hinsawdd (rhagwelir digwyddiadau glawiad amlach a/neu fwy difrifol nag a fu yn y gorffennol) yng nghyfrifiadau storio pyllau arafu o 20% uwchlaw'r digwyddiad llifogydd 1 mewn 100 mlynedd. Bydd hyn yn golygu bod angen i'r dyluniad draenio wneud cwlfertau'n ddigon mawr i ganiatáu am y digwyddiadau glawiad hyn a allai fod yn fwy difrifol. Felly, ni ystyrir bod yr effeithiau ar y newid yn yr hinsawdd o ganlyniad i lifogydd yn arwyddocaol."*
- 4.17.12. Dywedodd yr Ymgeisydd:
- "ni amlygwyd unrhyw effeithiau arwyddocaol gweddilliol ar gyfer pob elfen o'r Prosiect, na'r Prosiect yn ei gyfanrwydd, o ganlyniad i'r mesurau lliniaru ymgorfforedig sy'n rhan annatod o'r dyluniad. Daeth yr Ymgeisydd i'r casgliad nad oes angen unrhyw fesurau lliniaru ychwanegol" [APP-042].*
- 4.17.13. Yn ogystal, mae CNC wedi cytuno â chasgliadau'r FCA [AS-009] ac Asesiad Sgrinio'r WFD [APP-040] yn rhan o'i ymatebion ymgynghori i PEIR 2018 [RR-025].
- 4.17.14. Datrysodd Dŵr Cymru a'r Ymgeisydd eu holl bryderon penodol ynglŷn ag effaith bosibl y Datblygiad Arfaethedig ar eu hasedau mewn SoCG llofnodedig [REP5-006] cyn diwedd yr archwiliad.
- 4.17.15. Mae Gofynion 2, 6, 7, 17 a 19 y DCO drafft [REP6-003] yn rhoi dulliau ar waith i reoli ansawdd ac adnoddau dŵr yn ystod y camau dylunio, adeiladu a gweithredu.

Casgliadau'r ExA

- 4.17.16. Mae SoCG rhwng Dŵr Cymru a'r Ymgeisydd [REP5-006 yn adrannau 3.1-3.2] yn cofnodi'r holl faterion a oedd yn weddill ynglŷn â dyluniad a gweithrediad y gwaith dŵr wyneb a godwyd gan Dŵr Cymru sydd wedi cael eu datrys er boddhad y corff hwnnw.
- 4.17.17. Mae'r ExA o'r farn bod y materion ansawdd ac adnoddau dŵr (gan gynnwys y newid yn yr hinsawdd) wedi derbyn sylw'n ddigonol ac yn bodloni gofynion NPS EN-1 a TAN 15.

4.17.18. Mae gofynion yr WFD wedi derbyn sylw'n ddigonol.

4.18. DAEAREG, AMODAU'R DDAEAR A HYDRODAEAREG

Materion

4.18.1. Yn ei LIR [REP1-021], mae CCS yn dweud bod y Datblygiad Arfaethedig wedi'i leoli ar dir a amlygwyd yn adnodd "Adnoddau Glo" a "Thywod a Gro" a ddiogelir. Mae Polisi RP 12 y CDLI yn berthnasol. Mae Polisi RP 12 y CDLI yn datgan:

"Caniateir echdynnu adnoddau mwynau lle y bodlonir y meini prawf canlynol: i. Gellir dangos bod angen y mwyn i fodloni angen cymdeithas naill ai'n genedlaethol, yn rhanbarthol neu'n lleol, ac ni ellir bodloni'r angen hwnnw trwy ddeunyddiau eilaidd neu wedi'u hailgylchu na chronfeydd wrth gefn presennol;"

4.18.2. Gofynnodd CCS am asesiad llawn o'r adnoddau mwynau posibl ac effaith y cynnig ar sterileiddio'r adnodd mwynau [REP1-021].

4.18.3. Nid oedd unrhyw IPs eraill wedi codi hyn fel mater yn eu cyflwyniadau i'r archwiliad.

4.18.4. Gofynnais nifer o gwestiynau i'r Ymgeisydd a CCS yn ExQs1 [PD-005(3)] ynglŷn â'r posibilrwydd y gallai'r Datblygiad Arfaethedig sterileiddio cronfeydd wrth gefn glo ac agregau. Codwyd y mater hefyd mewn eitemau agenda penodol (Eitemau 8.2 a 9.2) yn yr ISH Amgylcheddol [EV-012].

Ystyriaethau polisi

4.18.5. Mae paragraff 5.3.4 NPS EN-1 yn mynnu bod yr ymgeisydd yn dangos sut mae'r prosiect wedi achub ar gyfleoedd i warchod a gwella buddiannau cadwraeth daearegol.

4.18.6. Mae polisiau RP 12 ac RP 13 y CDLI yn ymwneud yn benodol â diogelu mwynau, ac yn mynnu bod asesiad yn cael ei gynnal o echdynnu glo, tywod a gro [REP4-023].

Ymateb yr Ymgeisydd

4.18.7. Mae'r Prosiect wedi'i leoli o fewn ardaloedd a amlygwyd yn gronfeydd mwynau wrth gefn yn CDLI CCS, fel y dangosir yn yr ES Ffigur 2.1 [APP-021]. Mae bron yr holl dir sydd o fewn Terfynau'r Gorchymyn ar gyfer y Datblygiad Arfaethedig o fewn ardal o gronfeydd glo wrth gefn, heblaw am y ffordd fynediad bresennol o'r B4489 (Gwaith Rhif 2).

4.18.8. Byddai adeiladu a gweithredu'r Datblygiad Arfaethedig yn arwain at sterileiddio adnoddau mwynau glo o dan yr ôl troed yn ystod yr oes weithredol. Dywedodd yr Ymgeisydd:

"bydd yr adnodd mwynau'n aros yn gyfan a byddai ar gael i genedlaethau'r dyfodol y tu hwnt i oes y datblygiad. Yn ogystal, nid yw echdynnu glo trwy ddulliau cloddio tanddaear yn debygol o fod yn

dderbyniol o ganlyniad i'r seilwaith NGG a thrydan presennol sydd wedi'i leoli yn yr ardal leol" [REP1-010].

- 4.18.9. Cytunodd yr Ymgeisydd y bydd Arolwg Adnodd Mwynau yn cael ei gynnal cyn adeiladu, a sicrhew trwy Ofyniad 15 (Arolwg Adnoddau Mwynau), ac mae Gofyniad 28 yn mynnu bod yr Ymgeisydd yn ystyried canlyniad yr arolwg adnoddau mwynau wrth baratoi'r cynllun datgomiisydd.

Casgliadau'r ExA

- 4.18.10. Rwyf yn fodlon bod Gofyniad 15 yn mynd i'r afael â phryderon CCS a'i fod yn cydymffurfio â Pholisïau R12 ac R13 y CDLI.
- 4.18.11. Rwyf yn fodlon bod asesiad digonol o Ddaear, Amodau'r Ddaear a Hydroddaear wedi cael ei gynnal a'i fod yn bodloni gofynion adran 5.3 EN-1.

4.19. TRAFFIG, TRAFNIDIAETH A MYNEDIAD

Materion

- 4.19.1. Roedd y Post Brenhinol [RR-010] yn pryderu y gallai adeiladu a gweithredu'r Orsaf Bŵer newydd arfaethedig hon gael effaith niweidiol ar ei allu i ddarparu gwasanaeth didoli a dosbarthu post effeithlon i'r cyhoedd yn y dyfodol yn unol â'i rwymedigaethau statudol. I fynd i'r afael â hyn, gofynnodd y Post Brenhinol am y canlynol:
- a. "Bod y cais DCO sydd i ddod yn cynnig gofyniad bod Abergelli Power Limited yn ymgynghori â'r Post Brenhinol o flaen llaw ynglŷn ag unrhyw fwriad o gau ffyrdd/ dargyfeiriadau/ trefniadau mynediad amgen, oriau gwaith a chynnwys y Cynllun Rheoli Traffig Adeiladu (CTMP) terfynol.*
- b. Bod y cais DCO sydd i ddod yn cynnig gofyniad bod y CTMP terfynol yn cynnwys darpariaeth ar gyfer dull o roi gwybod i ddefnyddwyr ffyrdd pwysig am waith sy'n effeithio ar y rhwydwaith lleol (gan roi sylw penodol i gyfleusterau dosbarthu'r Post Brenhinol yng nghyffiniau safle'r cais DCO)".*
- 4.19.2. Codwyd pryderon ynglŷn â thraffig a thrafnidiaeth gan breswylwyr lleol ac IPs cymunedol, fel a ganlyn:
- Roedd Cynghorydd Ward Mawr [RR-004] yn pryderu y byddai'r traffig adeiladu'n cael effaith arwyddocaol ar breswylwyr lleol;
 - Roedd Michael Edwards [RR-011] yn credu nad oedd yr Ymgeisydd wedi ystyried dewisiadau amgen ar gyfer y ffordd fynediad. Mae'r ffordd fynediad yn croesi tir Mr Edwards; ac
 - Roedd gan Mark Adams [RR-016] bryderon cyffredinol ynglŷn â thraffig.
- 4.19.3. Gofynnais nifer o gwestiynau i'r Ymgeisydd a CCS am effeithiau'r Datblygiad Arfaethedig ar draffig yn ExQs1 [PD-005(3)].

Ystyriaethau polisi

4.19.4. Mae adran 5.13 EN-1 yn amlygu'r effeithiau ar draffig a thrafnidiaeth sy'n gallu deillio o ddatblygiadau seilwaith ynni. Mae paragraff 5.13.3 EN-1 yn galw am asesu amodau trafndiaeth a thraffig gan ddefnyddio methodolegau y cytunwyd arnynt â'r awdurdodau priffyrdd a thrafnidiaeth cenedlaethol a lleol perthnasol, ac am sicrhau mesurau lliniaru i fynd i'r afael ag effeithiau niweidiol.

4.19.5. Mae paragraff 2.5 TAN 18 ar Gynllunio Trafnidiaeth yn datgan:

"Er mwyn sicrhau patrwm datblygu mwy cynaliadwy mae angen deall y rhyngweithio a'r cysylltiadau rhwng defnydd tir a thrafnidiaeth a llunio strategaethau, amcanion a pholisïau integredig yn genedlaethol, rhanbarthol a lleol. Yn rhanbarthol, gwelir gwaith cydweithredol gan awdurdodau lleol mewn gwaith ardal ar gyfer Cynllun Gofodol Cymru (CGC) a thrwy Gynlluniau Trafnidiaeth Rhanbarthol (CTRh). Yn lleol, mae hyn yn golygu sicrhau bod strategaethau, amcanion a pholisïau mewn strategaethau cymunedol, cynlluniau datblygu, strategaethau iechedd, gofal cymdeithasol a lles a strategaethau a chynlluniau perthnasol eraill yn gyson, yn gydategol ac yn integredig."

Ymateb yr Ymgeisydd

4.19.6. Mae Pennod 12 Traffig yr ES [APP-042] yn ystyried effeithiau traffig a gynhyrchir gan y Datblygiad Arfaethedig. Mae'r asesiad yn cadarnhau y bydd rhai effeithiau niweidiol dros dro yn sgil mwy o symudiadau Cerbydau Nwyddau Trwm (HGV) yn ystod y cyfnod adeiladu.

4.19.7. Mae CTMP Amlinellol (ES Atodiad 3.3a, [APP-036]) yn darparu mesurau i reoli traffig a lleihau effeithiau niweidiol i'r eithaf. Mae'r adran "Gwasanaethau Lleol" (paragraff 3.3.9) yn y CTMP Amlinellol (ES Atodiad 3.3a, APP-036) yn cynnwys ymrwymiad y bydd y contractwr a'r cwmni cludo nwyddau yn gwneud pob ymdrech resymol i weithio gyda darparwyr gwasanaethau lleol, gan gynnwys y Post Brenhinol, yn ystod y cyfnod adeiladu i sicrhau bod aflonyddu a achosir gan ddanfoniadau Llwythi Anwahanadwy Anghyffredin (AIL) yn cael ei osgoi [REP1-010].

4.19.8. Sicrheir y CTMP trwy Ofyniad 21 y Gorchymyn Caniatâd Datblygu drafft [REP6-003] "Cynllun Rheoli Traffig Adeiladu". Felly, mae'r DCO, trwy Ofyniad 21 a'r CTMP, yn sicrhau yr ymgynghorir â'r Post Brenhinol, yn unol â'u dymuniad.

4.19.9. Mae asesiad trafndiaeth wedi cael ei gynnal gan yr Ymgeisydd ac mae'n amlygu effeithiau ar y rhwydwaith priffyrdd, diogelwch ar y ffyrdd a hygyrchedd (Pennod 12 yr ES, [APP-042]). Rhagwelwyd y bydd y Prosiect yn cael effeithiau arwyddocaol yn ystod y cam adeiladu a datgomisiynu, er y byddai'r rhain dros dro.

4.19.10. Mae CEMP Amlinellol (ES Atodiad 3.1, [APP-036]) ac OCTMP (ES Atodiad 3.3a, [APP-036]) wedi cael eu paratoi. Dogfennau strategol yw'r rhain sy'n amlinellu dulliau arfer gorau o leihau effeithiau amgylcheddol gymaint â phosibl yn ystod y cam adeiladu, a rheoli symudiadau a

rhyngweithiau deunyddiau â'r rhwydwaith ffyrdd amgylchynol yn ystod camau amrywiol y broses adeiladu.

4.19.11. Mae Cynllun Teithio Staff Adeiladu Amlinellol (CSTP) (ES Atodiad 3.3b, [APP-036]) wedi cael ei baratoi hefyd i amlinellu sut y bydd symudiadau staff yn cael eu rheoli yn ystod camau amrywiol y broses adeiladu. Bydd y dogfennau rhagarweiniol hyn yn cael eu cwblhau'n derfynol a'u mabwysiadu gan y Contractwr i'w gweithredu ar y safle, pan fydd y cynnwys wedi cael ei gytuno â CCS.

4.19.12. Dadleuodd yr Ymgeisydd nad oes angen iddo ddarparu gwybodaeth amgylcheddol am bob dewis amgen a awgrymwyd gan barti â buddiant. Mae'r Ymgeisydd o'r farn ei fod wedi cydymffurfio â gofynion Rheoliadau Cynllunio Seilwaith (AEA) 2009 i ddarparu gwybodaeth am y:

"prif ddewisiadau amgen a astudiwyd gan yr Ymgeisydd a syniad o'r prif resymau dros ddewis yr Ymgeisydd, gan ystyried yr effeithiau amgylcheddol".

Casgliadau'r ExA

4.19.13. Er y mynegwyd pryderon mewn cynrychiolaethau, rwyf yn fodlon nad yw'r Datblygiad Arfaethedig yn arwain at effeithiau sylweddol ar draffig a thrafnidiaeth. Dylid hefyd cofnodi, o gymharu â materion eraill a godwyd yn yr Archwiliad, nad oedd lefel y pryder a godwyd ynglŷn â'r materion hyn yn uchel.

4.19.14. Rwyf yn fodlon bod yr asesiad traffig a thrafnidiaeth a amlinellir yn yr ES yn gadarn. Rwyf yn fodlon y bydd y mesurau lliniaru, gan gynnwys CTMP a sicrhau o dan Ofyniad 21, rheoleiddio oriau adeiladu o dan Ofyniad 23 a pharatoi'r CSTP (a sicrhau trwy Ofyniad 22) yn lliniaru effeithiau niweidiol y Datblygiad Arfaethedig i'r graddau sy'n ofynnol i fodloni NPS EN-1 paragraff 5.13.3 a TAN 18.

4.20. YR AMGYLCHEDD HANESYDDOL

Materion

4.20.1. Nid yw'r Datblygiad Arfaethedig yn cynnwys unrhyw asedau hanesyddol, er bod un heneb gofrestredig, un adeilad rhestredig a 26 heneb anghofrestredig yn bresennol o fewn yr ardal astudio 1 km, a bod 16 Heneb Gofrestredig, 54 Adeilad Rhestredig (pob gradd), dwy Ardal Gadwraeth a thri Pharc a Gardd Hanesyddol Cofrestredig yn bresennol o fewn yr ardal astudio 5 km (Ffigurau 13.1 a 13.2 [APP-024]).

4.20.2. Daeth CCS i'r casgliad, ar yr amod bod Gofyniad 13 Archaeoleg yn cael ei gynnwys yn y DCO yn unol â pharagraff 16.29 yr LIR [REP1-021], ac yn amodol ar unrhyw sylwadau gan CADW a gyflwynir yn uniongyrchol i'r ExA, yr ystyrir bod y cynnig yn cydymffurfio â pholisïau HC1, HC2 a PS2 y CDLI.

4.20.3. Roedd CADW yn cytuno â chasgliadau'r Adroddiad Rhagarweiniol ar yr Effaith Amgylcheddol (PEIR) ynglŷn ag effaith y cynnig ar yr asedau

hanesyddol a amlygwyd yn yr ardal astudio [APP-061]. Ni wnaeth unrhyw gyflwyniadau i'r archwiliad.

- 4.20.4. Gofynnais nifer o gwestiynau am effeithiau'r Datblygiad Arfaethedig ar yr amgylchedd hanesyddol i'r Ymgeisydd a CCS yn ExQs1 [PD-005(3)]. Cynhaliais ASI, ar 14 Rhagfyr 2018, i weld y safle o'r cefn gwlad amgylchynol [EV-008].

Ystyriaethau polisi

- 4.20.5. Mae NPS EN-1 yn amlinellu'r polisi ar gyfer yr amgylchedd hanesyddol yn adran 5.8. Ni chodwyd unrhyw faterion yn ymwneud â diffyg cydymffurfio, felly, er y rhoddwyd ystyriaeth i'r polisi hwn, ni thrafodir ef yn fanwl. Nid yw NPS EN-2 yn codi unrhyw faterion yn ymwneud â'r amgylchedd adeiledig hanesyddol sy'n benodol i waith hylosgi nwy. Yn yr un modd, nid yw NPS EN-4 yn codi unrhyw beth penodol ynglŷn ag aliniad y cysylltiad nwy, gan nodi hefyd nad yw datblygiad gweithredol yno o fewn y cais hwn.
- 4.20.6. Diben TAN 24: Yr Amgylchedd Hanesyddol yw rhoi arweiniad ar sut mae'r system gynllunio'n ystyried yr amgylchedd hanesyddol wrth baratoi cynllun datblygu a phenderfynu ar geisiadau cynllunio a Chaniatâd Adeilad Rhestredig (LBC).

Ymateb yr Ymgeisydd

- 4.20.7. Aseswyd effeithiau posibl y Prosiect ar adnodd amgylchedd hanesyddol y Datblygiad Arfaethedig a'r ardal amgylchynol ym Mhenod 13 yr ES [APP-042]. Cynhaliwyd asesiad desg o asedau hanesyddol ar draws ardal astudio 1 km ynghyd ag ymgynghoriad pellach â CCS ac Ymddiriedolaeth Archaeolegol Morgannwg-Gwent (GGAT), fel y dangosir yn Ffigur 13.2 [APP-024].
- 4.20.8. Paratôdd yr Ymgeisydd Barth Gwelededd Damcaniaethol (ZTV) wedi'i seilio ar y senario achos gwaethaf realistig o stac 45 m ar gyfer y bennod ar effeithiau tirweddol a gweledol, a llywiodd hyn yr asesiad o asedau hanesyddol dynodedig. Yr ardal astudio ar gyfer asesu asedau hanesyddol dynodedig yw 5 km [APP-024].
- 4.20.9. Ni amlygwyd unrhyw effeithiau arwyddocaol gweddilliol ar gyfer pob elfen o'r Datblygiad Arfaethedig, nac yn gronol o ganlyniad i'r mesurau lliniaru sydd wedi'u hymgorffori yn y dyluniad.

Casgliadau'r ExA

- 4.20.10. Mae'r Ymgeisydd wedi dilyn y polisi ar asesu'r amgylchedd hanesyddol o fewn EN-1 a TAN 24.
- 4.20.11. Yn fy marn i, nid oes llawer o botensial am effeithiau gweddilliol ar leoliad asedau hanesyddol yn yr Ardaloedd Astudio. Bydd rhaglen o fesurau lliniaru archaeolegol cyn adeiladu, a sicrhau trwy Ofyniad 13 [REP6-003], ynghyd â'r pellter i dderbynyddion sensitif a'r dopograffeg leol, yn golygu bod yr effeithiau gweddilliol hyn yn annhebygol o fod yn arwyddocaol.

4.21. EFFEITHIAU ECONOMAIDD A CHYMDEITHASOL

Materion

- 4.21.1. Derbyniodd CCS [REP1-021] gasgliadau cyffredinol Pennod 14 yr ES [APP-042]. Ni chytunwyd ar gwmpas a pharmedrau'r asesiad o effeithiau ar dwristiaeth, gan fod CCS o'r farn bod y rhain yn rhy gyfyngol [REP3-010].
- 4.21.2. Ni wnaed unrhyw gyflwyniadau eraill gan IPs ar y mater hwn.
- 4.21.3. Gofynnais nifer o gwestiynau am effeithiau economaidd-gymdeithasol y Datblygiad Arfaethedig i'r Ymgeisydd yn ExQs1 [PD-005(3)].

Ystyriaethau polisi

- 4.21.4. Mae paragraff 3.2.1 NPS EN-1 yn nodi'r effeithiau economaidd-gymdeithasol cadarnhaol, ar y cyfan, sy'n deillio o gynhyrchu trydan i fodloni anghenion ynni a amlygwyd yn genedlaethol ar lefel genedlaethol. Mae paragraff 5.12.1 EN1 yn nodi y gallai fod effeithiau lleol sy'n gadarnhaol ac yn niweidiol.
- 4.21.5. Mae paragraff 15.12.6 NPS EN-1 yn gofyn i'r SoS ystyried effeithiau economaidd-gymdeithasol posibl seilwaith ynni newydd a amlygwyd gan yr Ymgeisydd ac o unrhyw ffynonellau eraill sy'n berthnasol ac yn bwysig yn ei farn ef. Mae paragraff 15.12.7 yn pwysleisio, o ystyried yr angen am seilwaith cynhyrchu trydan, 'dylid rhoi pwys cyfyngedig i honiadau ynghylch effeithiau economaidd-gymdeithasol nad ydynt wedi'u hategu gan dystiolaeth'. Mae paragraff 15.12.8 yn gofyn i'r SoS ystyried 'unrhyw ddarpariaethau cadarnhaol perthnasol y mae'r datblygwr wedi'u gwneud neu'n bwriadu eu gwneud i liniaru'r effeithiau'.
- 4.21.6. Mae paragraff 1.1.1 TAN 23 ar Ddatblygu Economaidd yn datgan:
"Mae'n bwysig bod y system gynllunio'n cydnabod yr agweddau economaidd ar bob datblygiad a bod penderfyniadau cynllunio'n cael eu gwneud mewn ffordd gynaliadwy gan bwyso a mesur ystyriaethau cymdeithasol, amgylcheddol ac economaidd."

Ymateb yr Ymgeisydd

- 4.21.7. Mae Pennod 14 yr ES [APP-042] yn asesu effeithiau economaidd-gymdeithasol tebygol y Datblygiad Arfaethedig ar y farchnad lafur, yr economi dwristiaeth a seilwaith cymunedol. Mae'r ardal astudio economaidd-gymdeithasol wedi'i seilio ar ddalgylchoedd amser gyrru o'r Datblygiad Arfaethedig.
- 4.21.8. Amlygodd yr Ymgeisydd fod yr 'ardal leol' o fewn amser gyrru 30 munud; bod yr 'ardal ehangach' o fewn amser gyrru 45 munud; a bod y 'rhanbarth ehangach' o fewn amser gyrru 60 munud. Mae'r ardal astudio hon wedi amlygu gweithlu sydd ar gael yn rhwydd, sy'n cynnwys nifer uchel o lafurwyr.

- 4.21.9. Mae ardal astudio'r arolwg twristiaeth / busnes wedi'i chyfyngu i radiws 10 km o'r Prosiect, oherwydd dyma lle y disgwylir mwyafrif yr effeithiau. Cynhaliwyd astudiaeth ddesg a amlygodd nifer gyfyngedig o atyniadau i dwristiaid o fewn y safle, sef Gwarchodfa Natur Cwm Clydach, Llwybr Beicio Cenedlaethol 43 a Chanolfan Weithgareddau Pledu Paent a Thag Laser Teamforce.
- 4.21.10. Mae'r Nodyn Esboniadol ar y Bennod Economaidd-gymdeithasol (Atodiad B y SoCG [REP1-003]) yn esbonio'r sail resymegol a ddefnyddiwyd gan yr Ymgeisydd wrth bennu cwmpas a pharamedrau'r arolwg busnes twristiaeth ac asesu effeithiau twristiaeth; cyflwynir y ddau ym Mhennod 14 yr ES [APP-042].
- 4.21.11. Nid oedd yr Ymgeisydd yn credu y bydd y Datblygiad Arfaethedig yn cael unrhyw effeithiau niweidiol arwyddocaol ar dderbynyddion twristiaeth a hamdden yn yr ardal yn ystod y camau adeiladu a gweithredu. Fodd bynnag, gellir gwella effeithiau buddiol ar gyflogaeth trwy gysylltiadau â chanolfannau gwaith, colegau, rhaglenni cyflogadwyedd ac ymgysylltu â chwmnïau adeiladu lleol a chwmnïau eraill y gadwyn gyflenwi [APP-042].

Casgliadau'r ExA

- 4.21.12. Rwyf wedi dod i'r casgliad bod yr Ymgeisydd wedi rhoi ystyriaeth ddigonol i effeithiau economaidd-gymdeithasol y cynnig a'i fod wedi darparu tystiolaeth ddigonol i ategu ei honiadau ynglŷn â'r effeithiau.
- 4.21.13. O ystyried y dystiolaeth a gyflwynwyd, deuaf i'r casgliad bod y cynnig wedi mynd i'r afael â gofynion EN-1 a TAN 23 yn ddigonol ac na fyddai'n cael effeithiau niweidiol arwyddocaol yn gymdeithasol nac yn economaidd. Gallai hefyd gefnogi datblygu economaidd yn yr ardal yn unol â pholisïau CCS, sy'n ffactor cadarnhaol yn y cydbwysedd cyffredinol o blaid y Datblygiad Arfaethedig.

4.22. PARODRWYDD AR GYFER GWRES A PHŴER CYFUNEDIG (CHP)

Materion

- 4.22.1. Fel mater o bolisi, mae angen i gais o'r math hwn fod yn barod ar gyfer CHP. Ni chododd unrhyw IP bryderon ynglŷn â pharodrwydd ar gyfer CHP yn ystod yr archwiliad.

Ystyriaethau polisi

- 4.22.2. Mae paragraff 4.6.6 NPS EN-1 yn datgan:

'O dan ganllawiau a gyhoeddwyd gan DECC (sef DTI bryd hynny) [BEIS erbyn hyn] yn 2006, mae'n rhaid i unrhyw gais i ddatblygu gorsaf gynhyrchu thermol o dan Adran 36 Deddf Trydan 1989 naill ai gynnwys CHP neu gynnwys tystiolaeth bod y posibilïadau ar gyfer CHP wedi cael eu harchwilio'n llawn i lywio ystyriaeth [yr Ysgrifennydd Gwladol] o'r cais ... Mae'r un egwyddor yn berthnasol i unrhyw orsaf bŵer thermol sy'n destun cais am ganiatâd datblygu o dan Ddeddf Cynllunio 2008.'

4.22.3. Mae EN-1 (ym mharagraff 4.6.8) yn datgan:

"Os yw'r cynnig ar gyfer cynhyrchu thermol heb CHP, dylai'r Ymgeisydd:

Esbonio pam nad yw CHP yn bosibl yn economaidd neu'n ymarferol, er enghraifft, os oes dull mwy effeithlon o fodloni galw cyfagos am wres domestig;

Darparu manylion unrhyw ofynion gwres posibl yn yr ardal yn y dyfodol y gallai'r orsaf eu bodloni; a

Manylu ar y darpariaethau yn y cynllun arfaethedig i sicrhau y gellir manteisio ar unrhyw alw posibl am wres yn y dyfodol."

4.22.4. Ers i'r Canllawiau CHP gael eu cyhoeddi, mae CNC wedi cyhoeddi ei ganllawiau ei hun, sef 'Canllawiau Parodrwydd ar gyfer CHP o ran Hylosgi ac Ynni o Orsafoedd Gwastraff' (2014) (Canllawiau CHP-R). Mae'r canllawiau hyn yn dweud (yn Adran 1.2):

"Pan fydd yr Awdurdodau Cynllunio yn ymgynghori ag ef ynglŷn â cheisiadau caniatâd perthnasol am orsafoedd newydd, bydd Cyfoeth Naturiol Cymru yn amlygu'r angen i'r orsaf fod yn CHP neu'n CHP-R a bydd yn cyfeirio at y Canllawiau CHP-R hyn. Pan fydd angen DCO, bydd Cyfoeth Naturiol Cymru yn gwneud sylwadau ar ganlyniadau'r Asesiad CHP hefyd."

Ymateb yr Ymgeisydd

4.22.5. Mae'r Nodyn Technegol CHP yn Atodiad 5.1 a gyflwynwyd gyda'r cais [APP-037] yn nodi bod technoleg OCGT wedi cael ei dewis ar gyfer y Prosiect. Mae'r Nodyn Technegol ar CHP yn crynhoi pam nad oes ymchwiliad pellach i'r defnydd o wres gwastraff yn cael ei gynnal, ac mae'n rhoi tystiolaeth o'r rheswm pam y dylai'r orsaf gynhyrchu thermol arfaethedig gael ei heithrio o Barodrwydd ar gyfer CHP.

4.22.6. Mae'r Ymgeisydd yn dadlau bod pedwar rhwystr sy'n atal cymhwyso CHP ar gyfer y Prosiect [APP-037]:

- 1) *"Nid oes marchnad wres ranbarthol yn bodoli ar hyn o bryd. Mae chwiliadau lleol yn dangos nad oes defnyddwyr gwres addas ar gael ar raddfa berthnasol ac nad oes defnyddwyr gwres a fyddai'n gallu derbyn y cyflenwad anrhagweladwy o wres a fyddai ar gael.*
- 2) *Ni amlygwyd unrhyw ofynion posibl am wres yn yr ardal yn y dyfodol, nac unrhyw rai a fyddai'n cyfateb i batrwm gweithredol Gorsaf Galw Uchel.*
- 3) *Mae moddau gweithredu ysbeidiol a galw uchel OCGT yn anghydnaws â gofynion defnyddwyr gwres, sy'n debygol o fod yn barhaus. Oherwydd diffyg gofynion gwres perthnasol, gellir eithrio darpariaethau yn y cynllun arfaethedig ar gyfer manteisio ar unrhyw alw posibl am wres yn y dyfodol.*
- 4) *Nid yw gorsafoedd OCGT yn cynhyrchu ager yn rhan o'r broses cynhyrchu trydan, ac felly byddai angen ychwanegu offer cynhyrchu ager i ddarparu gallu CHP, a fyddai'n arwain at dariff capasiti uwch (£/kW/blwyddyn) a heriau technegol ychwanegol."*

Casgliadau'r ExA

- 4.22.7. Rwyf yn fodlon bod Nodyn Technegol yr Ymgeisydd ar CHP [APP-037] yn dangos nad oes angen i'r Datblygiad Arfaethedig ymchwilio i CHP ymhellach ar gyfer yr orsaf gynhyrchu thermol arfaethedig, a'i fod yn darparu tystiolaeth o'r rheswm pam y dylai'r orsaf gynhyrchu thermol arfaethedig gael ei heithrio o Barodrwydd ar gyfer CHP. Mae hyn yn ddigonol i sicrhau bod gofyniad NPS EN-1 paragraff 4.6.8 yn cael ei fodloni.

4.23. MATERION ERAILL

- 4.23.1. Rwyf wedi ystyried yr holl faterion eraill sy'n codi o ddogfennau'r cais ac a godwyd mewn cynrychiolaethau. Cadarnhaf nad oes unrhyw faterion eraill sy'n ymddangos yn bwysig ac yn berthnasol i benderfyniad yr SoS a fyddai'n pwysu yn erbyn rhoi caniatâd datblygu neu a fyddai'n awgrymu bod angen newid y DCO.

5. CANFYDDIADAU A CHASGLIADAU MEWN PERTHYNAS AG ASESIAID RHEOLIADAU CYNEFINOEDD

5.1. CYFLWYNIAD

- 5.1.1. Yr SoS yw'r awdurdod cymwys at ddibenion y Gyfarwydddeb Cynefinoedd²⁸ a'r Rheoliadau Cynefinoedd²⁹. Mae Rheoliad 63 y Rheoliadau Cynefinoedd yn datgan os yw cynnig mewn cais yn debygol o gael effaith arwyddocaol ar Safle Ewropeaidd a ddynodwyd o dan y Rheoliadau Cynefinoedd³⁰ (naill ai ar ei ben ei hun neu ar y cyd â chynlluniau neu brosiectau eraill), mae'n rhaid i'r awdurdod cymwys gynnal asesiad priodol o'r goblygiadau i'r safle hwnnw o ystyried ei amcanion cadwraeth.
- 5.1.2. Mae adran 4.3 NPS EN-1 yn disgrifio'r ymagwedd y dylid ei dilyn gan y penderfynwr mewn perthynas â'r Rheoliadau Cynefinoedd. At ddibenion cynllunio defnydd tir, mae PPW yn datgan y dylai Ardaloedd Gwarchodaeth Arbennig (AGA) posibl, Ardaloedd Cadwraeth Arbennig ymgeisiol (cSAC) a safleoedd Ramsar rhestredig gael yr un amddiffyniad ag AGAau dosbarthedig ac ACAau dynodedig.
- 5.1.3. Gellir rhoi caniatâd i'r Datblygiad Arfaethedig dim ond os yw asesiad priodol yr awdurdod cymwys yn dod i'r casgliad na fyddai effaith niweidiol ar gyfanrwydd safleoedd Ewropeaidd, yn amodol ar Rheoliad 64 (ystyriaethau er budd cyhoeddus tra phwysig).
- 5.1.4. Gyda'r nod o sicrhau bod gan yr SoS gymaint o wybodaeth ag y gellid bod ei hangen yn rhesymol i gyflawni ei ddyletswyddau fel yr awdurdod cymwys, ceisiwyd tystiolaeth drwy gydol yr Archwiliad gan yr Ymgeisydd a'r IPs perthnasol trwy gwestiynau ysgrifenedig ac ISHs. Cyhoeddais Adroddiad ar y Goblygiadau ar gyfer Safleoedd Ewropeaidd (RIES) [PD-008] ar 4 Mawrth 2019.
- 5.1.5. Ymgynghorwyd ar yr RIES rhwng 4 Mawrth 2019 a 4 Ebrill 2019. Cyhoeddwyd yr RIES i sicrhau bod IPs, gan gynnwys CNC, wedi cael eu hymgyngori'n ffurfiol ar faterion yn ymwneud â'r Rheoliadau Cynefinoedd. Gall yr SoS ddibynnu ar y broses hon at ddibenion Rheoliad 63(3) y Rheoliadau Cynefinoedd.

²⁸ Cyfarwydddeb y Cyngor 92/43/EEC 21, Mai 1992, ar gadwraeth cynefinoedd naturiol ac anifeiliaid a phlanhigion gwyllt (fel y'i codeiddiwyd) ('y Gyfarwydddeb Cynefinoedd').

²⁹ Rheoliadau Cadwraeth Cynefinoedd a Rhywogaethau 2017 (y 'Rheoliadau Cynefinoedd').

³⁰ Safleoedd o Bwysigrwydd Cymunedol (SCIs), Ardaloedd Cadwraeth Arbennig (ACAau), ACAau ymgeisiol, Ardaloedd Gwarchodaeth Arbennig (AGAau); ac, o dan bolisi'r Deyrnas Unedig, AGAau posibl a safleoedd Ramsar rhestredig.

5.2. LLEOLIAD Y PROSIECT

- 5.2.1. Fel y disgrifiwyd ym Mhennod 2 uchod, y Datblygiad Arfaethedig yw gorsaf bŵer OCGT â chapasiti cynhyrchu trydanol o hyd at 299MW. Ceisir y caniatad(au) angenrheidiol ar gyfer y cysylltiadau nwy a thrydanol ar wahân i'r Cais DCO.
- 5.2.2. Mae'r Datblygiad Arfaethedig wedi'i leoli ger pentref Felindre, Abertawe. Nid yw wedi'i leoli o fewn na gerllaw unrhyw safleoedd Ewropeaidd. Fodd bynnag, mae Afon Llan gerllaw pen deheuol ffin y Datblygiad Arfaethedig ac mae'n un o isafonydd Afon Lliw, sy'n llifo i ACA Bae ac Aberoedd Caerfyrddin ac AGA a Ramsar Cilfach Tywyn.
- 5.2.3. Amlygodd yr Ymgeisydd ddwy ffordd bosibl y gallai'r Datblygiad Arfaethedig effeithio ar safleoedd Ewropeaidd, sef: trwy newidiadau i ansawdd dŵr o ganlyniad i weithgareddau adeiladu a allai effeithio ar ACA Bae ac Aberoedd Caerfyrddin ac AGA a Ramsar Cilfach Tywyn; a newidiadau i ansawdd aer o ganlyniad i allyrru ocsidau nitrogen (NOx) i'r aer o'r orsaf bŵer tra'i bod yn gweithredu, a allai effeithio ar ACA a Ramsar Cors Crymlyn, ACA Bae ac Aberoedd Caerfyrddin ac AGA a Ramsar Cilfach Tywyn trwy ddyddodion nitrogen a/neu asideiddio. Yn ogystal, ystyriwyd effeithiau mwy o allyriadau i'r aer o ganlyniad i drafnidiaeth ar y cyd â chynlluniau a phrosiectau eraill. Ystyriodd Adroddiad Dim Effeithiau Arwyddocaol (NSER) yr Ymgeisydd yr holl safleoedd Ewropeaidd o fewn 10km o'r Datblygiad Arfaethedig, ac yn benodol lleoliad arfaethedig y stac, ar sail ehangder daearyddol tebygol yr effeithiau posibl a amlygwyd.

5.3. GOBLYGIADAU HRA Y PROSIECT

- 5.3.1. Darparodd yr Ymgeisydd NSER, sef 'Gorchymyn Gorsaf Gynhyrchu sy'n Rhedeg ar Nwy Abergelli Power: Adroddiad Dim Effeithiau Arwyddocaol' [APP-066], gyda'r cais DCO. Roedd yr SoS o'r farn bod y wybodaeth a ddarparwyd yn yr NSER yn ddigonol i dderbyn y cais i'w Archwilio ar 21 Mehefin 2018 [PD-002].
- 5.3.2. Nid yw'r Datblygiad Arfaethedig yn gysylltiedig â rheolaeth unrhyw rai o'r safle(oedd) Ewropeaidd a ystyriwyd o fewn asesiad yr Ymgeisydd o safbwynt cadwraeth natur, nac yn angenrheidiol ar gyfer hynny.
- 5.3.3. Fel y nodwyd uchod, cwmpasodd yr Ymgeisydd ei asesiad trwy amlygu safleoedd Ewropeaidd o fewn 10km o'r Datblygiad Arfaethedig. Rhestrir y safleoedd Ewropeaidd a ystyriwyd yn yr NSER yn Nhabl 2.1 yr RIES [PD-008]. Mewn ymateb i'm FWQ 1.6.18 [PD-005(3)], cadarnhaodd CNC [REP1-026] ei fod o'r farn bod yr ardal astudio 10km yn dderbyniol a bod y safleoedd a'r nodweddion cywir wedi cael eu hamlygu. Roedd yr ymateb hwn hefyd yn cadarnhau bod yr LSE priodol wedi cael eu hamlygu a'i fod yn cytuno â chwmpas a methodoleg yr asesiad ar y cyd a gyflwynwyd yn yr NSER.

- 5.3.4. Ni amlygodd CNC unrhyw safle Ewropeaidd arall na nodweddion eraill safle Ewropeaidd yn y Deyrnas Unedig y gallai'r Datblygiad Arfaethedig effeithio arnynt. Nid oedd unrhyw barti arall wedi amlygu unrhyw safleoedd a nodweddion Ewropeaidd eraill y gallai'r Datblygiad Arfaethedig effeithio arnynt.

5.4. ASESIAID O EFFEITHIAU ARWYDDOCAOL TEBYGOL (LSE)

- 5.4.1. Amlygodd NSER yr Ymgeisydd [APP-066] y safle(oedd) (a'r nodweddion) Ewropeaidd canlynol y mae'r Deyrnas Unedig yn gyfrifol amdanynt i'w cynnwys yn yr asesiad:

- ACA Cors Crymlyn
- Ramsar Cors Crymlyn
- ACA Bae ac Aberoedd Caerfyrddin
- AGA Cilfach Tywyn
- Ramsar Cilfach Tywyn

- 5.4.2. Rhestrir nodweddion dynodedig y safleoedd hyn a ystyriwyd yn asesiad yr Ymgeisydd yn Nhabl 2.1 yr RIES [PD-008].

- 5.4.3. Ystyriodd yr NSER effeithiau cynnig y Cais yn unigol ac ar y cyd â chynlluniau a phrosiectau eraill. Rhestrir y cynlluniau a'r prosiectau a sgriniwyd ar gyfer effeithiau ar y cyd yn Atodiad 1 yr RIES [PD-016]. Ystyriwyd y cysylltiadau nwy a thrydanol yn rhan o'r Datblygiad Arfaethedig at ddibenion yr asesiad o effeithiau ar safleoedd Ewropeaidd yn NSER yr Ymgeisydd [APP-066]. Ni chododd IPs unrhyw bryderon yn ystod yr Archwiliad ynglŷn â chwmpas asesiad ar y cyd yr Ymgeisydd. Mewn ymateb i'm FWQ, cadarnhaodd CNC [REP1-026] a CCS [REP1-024] eu bod yn cytuno â chwmpas yr asesiad ar y cyd.

- 5.4.4. Daeth yr Ymgeisydd i'r casgliad na fyddai cynnig y Cais yn debygol o arwain at effeithiau arwyddocaol ar unrhyw safleoedd Ewropeaidd yn unigol nac ar y cyd â chynlluniau neu brosiectau eraill [APP-066]. Roedd hyn ar y seiliau canlynol:

- Ansawdd dŵr – bydd y ffactor gwanhau a fyddai'n digwydd rhwng y Datblygiad Arfaethedig a'r safleoedd Ewropeaidd sydd wedi'u cysylltu'n hydrolegol yn arwain at effeithiau llygredd dibwys.
- Ansawdd aer – rhagwelir y bydd y cynnydd mewn crynodiadau NOx atmosfferig sy'n gysylltiedig â'r Datblygiad Arfaethedig islaw'r Lefel Gritigol. O ganlyniad, cyfrifir y bydd y gyfradd dyddodi nitrogen uwch sy'n gysylltiedig â'r Datblygiad Arfaethedig yn ddibwys fel canran o'r Llwythi Critigol (trothwyon na ddylai effeithiau fynd yn uwch na nhw) ar gyfer cynefinoedd y safleoedd Ewropeaidd.
- Effeithiau ar y cyd – ni amlygwyd unrhyw fewnbynnau ansawdd dŵr yn ystod y cam adeiladu a allai weithredu ar y cyd â chynlluniau a phrosiectau eraill. Disgwylir i ollyngiadau dŵr gwastraff gweithredol fod mor fach fel na ellir eu mesur ar y cyd â chynlluniau a phrosiectau eraill. O ran ansawdd aer, ni fyddai unrhyw LSE yn codi o ganlyniad i allyriadau traffig o ystyried cyfraniad isel y Datblygiad Arfaethedig at

lif traffig a'r pellter rhwng y ffyrdd yr effeithir arnynt a'r safleoedd Ewropeaidd. Ni amlygwyd unrhyw darddleoedd allyriadau eraill a allai weithredu ar y cyd â'r Datblygiad Arfaethedig.

- 5.4.5. Mewn ymateb i'm FWQ yn ystod yr archwiliad, aeth yr Ymgeisydd i'r afael â mân anghysondebau yn yr NSER a gyflwynwyd, a darparodd NSER wedi'i ddiweddarau [REP1-011], a gyflwynwyd i'r ExA ar 9 Tachwedd 2018. Nid oedd yr NSER wedi'i ddiweddarau yn newid unrhyw un o'r casgliadau mewn perthynas ag LSE a gyflwynwyd gan yr Ymgeisydd.
- 5.4.6. Fel yr adroddwyd yn Adran 5.1 yr RIES [PD-008], ceisiwyd eglurhad yn ystod yr Archwiliad ynglŷn â ph'un a fyddai effaith ar gasgliadau'r asesiad o LSE pe na byddai'r mesurau osgoi a lliniaru ar gyfer gwarchod cyrsiau dŵr ac ansawdd dŵr a ddisgrifir yn yr NSER ar waith. Ceisiwyd yr eglurhad yn dilyn dyfarniad *People Over Wind, Peter Sweetman v Coillte Teoranta (2018)* ('Dyfarniad Sweetman') a gyhoeddwyd ar 12 Ebrill 2018. Dyfarnodd hyn y dylai mesurau lliniaru (y cyfeiriwyd atynt yn y dyfarniad fel mesurau y bwriedir iddynt osgoi neu leihau effeithiau) gael eu hasesu o fewn fframwaith asesiad priodol, ac ni chaniateir ystyried mesurau y bwriedir iddynt osgoi neu leihau effeithiau niweidiol y cynllun neu'r prosiect ar safle Ewropeaidd ar adeg penderfynu ar LSE (y cyfeirir ati fel arfer fel y cam sgrinio HRA). Yn ei ymateb i FWQ [REP1-010], dywedodd yr Ymgeisydd na fyddai hyn yn effeithio ar gasgliadau'r NSER ac eglurodd na fwriadwyd i'r mesurau lliniaru leihau neu osgoi effeithiau ar y safleoedd Ewropeaidd. Dywedodd yr Ymgeisydd y cynigir y mesurau hyn i warchod cyrsiau dŵr lleol yn ystod y cam adeiladu ac i reoli gollyngiadau gweithredol er mwyn bodloni meini prawf sy'n berthnasol i'r Rheoliadau Trwyddedu Amgylcheddol.
- 5.4.7. Archwiliais ymhellach yr ymagwedd a ddefnyddiwyd gan yr Ymgeisydd mewn perthynas â'r mesurau lliniaru wrth asesu LSE yn yr ISH ar Faterion Amgylcheddol a gynhaliwyd ar 13 Rhagfyr 2018. Mae'r Ymgeisydd [REP3-006] yn cofnodi bod CNC yn cytuno â'r safbwynt hwn. Ni wnaeth CNC gynrychiolaeth bellach ar wahân ynglŷn â'r mater hwn. Cofnodwyd hefyd bod CCS yn derbyn y canfyddiad o ddim LSE [REP3-006]. Cadarnhaodd CNC [REP1-026] a CCS [REP1-024] eu bod yn cytuno â chanfyddiadau'r NSER cyn yr ISH.
- 5.4.8. Codwyd cwestiynau yn fy FWQ ynglŷn ag asesu effeithiau o lwch adeiladu, allyriadau traffig, a'r casgliad o ddim LSE o ran ACA a safle Ramsar Cors Crymlyn, lle y dywedir yn yr ES [APP-042] ac yn yr NSER [APP-066] bod lefel gefndirol y dyddodion nitrogen eisoes yn fwy na'r Llwyth Critigol. Mae'r NSER [APP-066] yn dod i'r casgliad bod cyfraniad y Datblygiad Arfaethedig mor fach fel y byddai cynnydd dibwys i'r Llwythi Critigol ar gyfer cynefinoedd yr ACA a'r safle Ramsar. Rhoddodd yr Ymgeisydd ymatebion i'r cwestiynau hyn i egluro'r asesiadau a gynhaliwyd a'r dystiolaeth sy'n ategu'r casgliad o ddim LSE [REP1-10]. Cadarnhaodd CNC ei fod yn cytuno â chasgliadau'r Ymgeisydd a mynegodd ei farn na fyddai effaith ar amcanion cadwraeth ACA Cors Crymlyn [REP1-026]. Ni wnaeth unrhyw bartïon eraill unrhyw sylwadau pellach.

- 5.4.9. Yn dilyn cyhoeddi'r RIES [PD-008], cadarnhaodd yr Ymgeisydd [REP6-002], CNC [REP7-006], a CCS [REP7-005] nad oedd ganddynt unrhyw sylwadau ar ei gynnwys ac nad oeddent yn ceisio unrhyw ddiwygiadau.

5.5. CASGLIADAU HRA

- 5.5.1. O ystyried y wybodaeth a ddarparwyd yn y cais, gan gyfeirio'n benodol at yr ES a'r NSER gyda'i gilydd, a rhoi ystyriaeth lawn i'r ymatebion i gwestiynau ysgrifenedig perthnasol a chwestiynau llafar yn yr ISHs, rwyf wedi crynhoi fy nealltwriaeth o faterion sy'n berthnasol i'r HRA yn yr RIES [PD-008]. Yn ei dro, nid oedd yr ymgynghoriad ar yr RIES wedi codi unrhyw faterion na phryderon newydd perthnasol na phwysig sy'n tynnu'n groes i'r casgliad o ddim effeithiau arwyddocaol tebygol ar safleoedd Ewropeaidd, fel yr amlinellir yn yr NSER. Ar ôl ystyried yr holl wybodaeth hyn, rwyf yn fodlon bod digon o wybodaeth ar gael i'r SoS i'w alluogi i gyflawni ei rwymedigaethau o dan y Rheoliadau Cynefinoedd. Mae'r dystiolaeth yn awgrymu nad yw'r Datblygiad Arfaethedig yn arwain at unrhyw effeithiau arwyddocaol tebygol ar safleoedd Ewropeaidd, ar ôl cymhwyso'r egwyddor ragofalus ac ar y sail nad oes amheuaeth wyddonol resymol yn weddill ynglŷn â nhw.

6. CASGLIAD AR YR ACHOS DROS GANIATÂD DATBLYGU

6.1. CYFLWYNIAD

- 6.1.1. Mae'r Bennod hon yn rhoi gwerthusiad cytbwys o rinweddau cynllunio'r Datblygiad Arfaethedig. Mae'n gwneud hynny yng ngoleuni'r cyd-destun cyfreithiol a pholisi a amlinellir ym Mhennod 3 a gofynion cyfreithiol a pholisi perthnasol unigol a amlygir ym Mhenodau 4 a 5 uchod. Mae'n cymhwyso cyfraith a pholisi perthnasol i'r cais yng nghyd-destun y dystiolaeth a'r materion a amlinellir ym Mhennod 4. Er yr ymdriniwyd â'r HRA ar wahân ym Mhennod 5, rhoddir ystyriaeth lawn i dystiolaeth a materion perthnasol a amlinellir yn y bennod honno.
- 6.1.2. O ran rhoi caniatâd datblygu, rwyf wedi dod i sawl casgliad, a amlinellir yn y paragraffau canlynol.

Angen a Dewisiadau Amgen

- 6.1.3. Mae ymagwedd yr Ymgeisydd at yr angen am y Datblygiad Arfaethedig wedi'i sefydlu trwy'r NPS. Rwyf hefyd yn fodlon bod yr Ymgeisydd wedi profi'r dewisiadau amgen ar gyfer lleoli'r OCGT arfaethedig yn drwyadl. Yn hyn o beth, mae gofynion NPS EN-1, Deddf Newid yn yr Hinsawdd 2008, polisi Llywodraeth Cymru a gynhwysir yn "Ffyniant i Bawb: Cymru Carbon Isel, 2019" a'r Rheoliadau AEA wedi cael eu bodloni.

Y Datganiad Amgylcheddol

- 6.1.4. Mae'r ES, ynghyd â'r wybodaeth arall a gyflwynwyd gan yr Ymgeisydd yn ystod yr Archwiliad, yn ddigonol ac yn bodloni gofynion y Rheoliadau AEA. Rhoddwyd ystyriaeth lawn i'r holl wybodaeth amgylcheddol wrth asesu'r cais ac yn yr argymhelliad i'r SoS.

Y Cysylltiad Trydan

- 6.1.5. Nid yw datblygu'r cysylltiad trydan yn rhan o'r Cais, ac mae CCS eisoes wedi rhoi caniatâd cynllunio ar ei gyfer o dan TCPA 1990. Mae'r DCO yn darparu ar gyfer CA a TP o ran tir sy'n ofynnol ar gyfer aliniad y cysylltiad trydan ac yn darparu pwerau cysylltiedig i'r ymgymwrwr hwyluso datblygu'r aliniad a ganiatawyd. I'r graddau cyfyngedig sy'n briodol i ystyried tir yn unig a phwerau yn unig, a heb ymdrin â chaniatâd datblygu, mae aliniad arfaethedig y cysylltiad trydan yn cydymffurfio â pholisïau EN-1 ac EN5 ym NPS at ei gilydd.

Y Cysylltiad Nwy

- 6.1.6. Nid yw datblygu'r cysylltiad nwy yn rhan o'r Cais, ac mae CCS eisoes wedi rhoi caniatâd cynllunio ar ei gyfer o dan TCPA 1990. Mae'r DCO yn darparu ar gyfer CA a TP o ran tir sy'n ofynnol ar gyfer aliniad y cysylltiad nwy ac yn darparu pwerau cysylltiedig i'r ymgymwrwr hwyluso datblygu'r aliniad a ganiatawyd. I'r graddau cyfyngedig sy'n briodol i ystyried tir yn unig a phwerau yn unig, a heb ymdrin â chaniatâd datblygu, mae aliniad

arfaethedig y cysylltiad nwy yn cydymffurfio â pholisïau EN-1 ac EN4 yr NPS at ei gilydd.

Effeithiau tirweddol a gweledol

- 6.1.7. Byddai'r Datblygiad Arfaethedig yn cael effaith weledol arwyddocaol o'i weld yn agos i'r safle. Fodd bynnag, byddai'r effaith o fewn lleoliad diwydiannol presennol ac sy'n datblygu. Yn fy marn i, byddai modd osgoi niwed trwy gynigion lliniaru priodol. Mae'r Ymgeisydd wedi ceisio lliniaru niwed tirweddol a gweledol, a rhagwelir lefel y niwed gan bolisïau NPS, felly nid yw'n pwyso yn erbyn y datblygiad. Yn gyffredinol, mae'r Datblygiad Arfaethedig yn cyd-fynd â pholisïau EN-1, EN-2, EN-4, EN-5, Polisi Cynllunio Cymru a CDLI CCS o ran dylunio (PS 2), gosodiad a gwelededd (ER 5 ac EU 1). Deuaf i'r casgliad bod y Datblygiad Arfaethedig, fel y darperir ar ei gyfer yn y DCO argymelledig, yn cynrychioli dyluniad da o safbwynt tirweddol a gweledol, ac felly bod yr ystyriaeth hon yn niwtral.

Dylunio

- 6.1.8. Mae'r Datblygiad Arfaethedig yn cynrychioli dyluniad da, gan ddarparu dyluniad cytbwys a chynaliadwy, at ei gilydd, mewn ymateb i'w safle a'i leoliad. Ystyrir bod cyd-destun y safle wedi cael ei arfarnu'n gynhwysfawr. Mae'r ymagwedd ddylunio'n cyd-fynd â nodau NPS EN-1, TAN 12 a Pholisïau EU1 a PS2 CDLI CCS. O ystyried y dystiolaeth a gyflwynwyd, mae'r ystyriaeth hon yn niwtral.

Ansawdd aer ac allyriadau

- 6.1.9. Mae CNC, sef y rheoleiddiwr perthnasol, wedi datgan yn eglur nad yw'n gweld unrhyw reswm pam na ddylai'r Datblygiad Arfaethedig gydymffurfio'n llawn â'r holl bolisïau a safonau perthnasol. Rhoddodd CNC EP ar gyfer gweithredu'r Datblygiad Arfaethedig i fodloni gofynion CNC ar 18 Ionawr 2019. Rwyf yn fodlon y bydd yr AQD yn cael ei bodloni gan yr allyriadau arfaethedig. Mae'r Datblygiad Arfaethedig yn cyd-fynd â pholisïau EN-1 ac EN-2 a Llywodraeth Cymru (gan gynnwys y newid yn yr hinsawdd), ac â pholisïau ER1 Newid yn yr Hinsawdd ac RP3 y CDLI. Bydd yr ystyriaeth hon yn niwtral.

Sŵn a dirgryniad

- 6.1.10. O ystyried y dystiolaeth a gyflwynwyd, credaf fod materion yn ymwneud â sŵn a dirgryniad wedi derbyn sylw'n ddigonol a'u bod yn bodloni'r gofynion a nodir yn 5.11 NPS EN-1, TAN 11 a Pholisi RP2 CDLI CCS. Mae'r agwedd hon yn niwtral.

Bioamrywiaeth, ecoleg a'r amgylchedd naturiol (gan gynnwys HRA)

- 6.1.11. Bydd y Datblygiad Arfaethedig yn achosi niwed cyfyngedig i fioamrywiaeth, ecoleg a'r amgylchedd naturiol, ac mae'n osgoi niweidio safleoedd Ewropeaidd. O ystyried y dystiolaeth a gyflwynwyd, credaf fod materion yn ymwneud â bioamrywiaeth a chadwraeth natur (gan

gynnwys y newid yn yr hinsawdd) wedi cael eu hasesu'n ddigonol, a bod gofynion NPS EN-1 a TAN 5 wedi'u bodloni. Ochr yn ochr â'r mesurau lliniaru tirwedd arfaethedig h.y. y Strategaeth Liniaru Tirwedd ac Ecoleg (LEMS), mae gwir effaith y mesurau tirwedd ac ecolegol yn niwtral.

Yr amgylchedd dŵr

- 6.1.12. Mae'r ExA o'r farn bod materion yn ymwneud ag ansawdd ac adnoddau dŵr (gan gynnwys y newid yn yr hinsawdd) wedi derbyn sylw'n ddigonol a'u bod yn bodloni gofynion NPS EN-1, TAN 15 a'r WFD. Mae'r ystyriaeth hon yn niwtral.

Daeareg, Amodau'r Ddaear, a Hydroddaeareg

- 6.1.13. Mae asesiad digonol wedi cael ei gynnal o Ddaeareg, Amodau'r Ddaear, a Hydroddaeareg. Mae'r ystyriaeth hon yn niwtral.

Trafnidiaeth a thraffig

- 6.1.14. Bydd effeithiau niweidiol bach ar draffig yn gysylltiedig ag adeiladu yn bennaf. Bydd y mesurau lliniaru, gan gynnwys CTMP a sicrhwr o dan Ofyniad 21, rheoleiddio oriau adeiladu o dan Ofyniad 23 a pharatoi'r CSTP (a sicrhwr trwy Ofyniad 22) yn lliniaru effeithiau niweidiol y Datblygiad Arfaethedig i'r graddau sy'n ofynnol i fodloni NPS EN-1 paragraff 5.13.3 a TAN 18. Mae'r ystyriaeth hon yn niwtral.

Yr amgylchedd hanesyddol

- 6.1.15. Ni fydd y Datblygiad Arfaethedig yn niweidio asedau hanesyddol hysbys, ac mae'r safle wedi cael ei ddewis yn dda i osgoi niwed. Fe allai effeithio ar asedau (archaeolegol) anhysbys. Fodd bynnag, mae'r Ymgeisydd wedi ceisio lliniaru'r effaith hon ac, wrth wneud hynny, mae wedi cydymffurfio â Pholisïau EN-1 ac EN-2 yr NPS a TAN 24. Nid oes llawer o botensial am effeithiau gweddilliol ar leoliad asedau hanesyddol yn yr Ardaloedd Astudio. Bydd rhaglen o fesurau lliniaru archaeolegol cyn adeiladu, a sicrhwr trwy Ofyniad 13 [REP6-003], ynghyd â'r pellter i dderbynyddion sensitif a'r dopograffeg leol yn golygu bod yr effeithiau gweddilliol hyn yn annhebygol o fod yn arwyddocaol. Mae'r ystyriaeth hon yn niwtral.

Effeithiau economaidd-gymdeithasol

- 6.1.16. Deuaf i'r casgliad bod y cynnig wedi rhoi sylw priodol i ofynion EN-1 a TAN 23, ac na fyddai'n cael effeithiau niweidiol arwyddocaol yn gymdeithasol nac yn economaidd. Gallai hefyd gefnogi datblygu economaidd yn yr ardal yn unol â pholisïau'r awdurdod lleol a chreu asesiad buddiol net ar lefel genedlaethol a lleol. Mae'r ystyriaeth hon yn gadarnhaol.

Parodrwydd ar gyfer gwres a phŵer cyfunedig (CHP)

- 6.1.17. Rwyf yn fodlon bod Nodyn Technegol yr Ymgeisydd ar CHP [APP-037] yn dangos nad oes angen i'r Datblygiad Arfaethedig ymchwilio i CHP

ymhellach ar gyfer yr orsaf gynhyrchu thermol arfaethedig, a'i fod yn darparu tystiolaeth o'r rheswm pam y dylai'r orsaf gynhyrchu thermol arfaethedig gael ei heithrio o Barodrwydd ar gyfer CHP. Mae hyn yn ddigonol i sicrhau bod gofyniad NPS EN-1 paragraff 4.6.8 yn cael ei fodloni. Mae'r ystyriaeth hon yn niwtral.

Materion eraill

- 6.1.18. Nid oes unrhyw faterion eraill sy'n bwysig ac yn berthnasol i'r canlyniad y mae angen i'r SoS eu hystyried wrth bwysu a mesur y cydbwysedd cynllunio.

6.2. Y CYDBWYSEDD CYNLLUNIO

- 6.2.1. Nid oes unrhyw effeithiau niweidiol sy'n ddigon pwysig i ddadlau yn erbyn gwneud y DCO. Byddai'r Datblygiad Arfaethedig yn arwain at niwed llai nag arwyddocaol i fuddiannau ac mae'r rhain, yn eu tro, wedi cael eu lliniaru fel sy'n ofynnol gan bolisiâu NPS. Deuaf i'r casgliad bod y niwed cyfyngedig yn cael ei wrthbwysu gan y budd sylweddol a ddaw yn sgil darparu ynni i fodloni'r angen a amlygir yn NPS EN-1 a pholisi Llywodraeth Cymru a chan fuddion eraill y cais, fel y'u crynhoir uchod. Deuaf i'r casgliad hefyd nad oes achos o dorri NPS na pholisi Llywodraeth Cymru yn gyffredinol.
- 6.2.2. Am y rhesymau a amlinellwyd yn y penodau blaenorol ac a grynhoir uchod, deuaf i'r casgliad bod y Datblygiad Arfaethedig yn dderbyniol mewn egwyddor o safbwynt cynllunio. Dygaf y casgliad hwn ymlaen wrth ystyried cynigion CA a TP a gwrthwynebiadau i'r rhain ym Mhennod 7 a Phennod 8 isod.

7. CAFFAEL GORFODOL A MATERION CYSYLLTIEDIG

7.1. CYFLWYNIAD

- 7.1.1. Roedd y cais sy'n destun archwiliad yn cynnwys cynigion ar gyfer CA a TP o ran tir a hawliau dros dir. Mae'r bennod hon yn cofnodi'r archwiliad o'r cynigion hyn a materion cysylltiedig.

7.2. Y CAIS AM BWERAU CAFFAEL GORFODOL A MEDDIANT DROS DRO

- 7.2.1. Roedd Gorchymyn Caniatâd Datblygu (DCO) drafft y cais [APP-014] a phob fersiwn ddilynol a gyflwynwyd gan yr Ymgeisydd yn cynnwys darpariaethau a fwriadwyd i awdurdodi CA o ran tir a hawliau. Ceisiwyd pwerau ar gyfer TP o ran tir hefyd.
- 7.2.2. Ar y sail hon, cyflwynwyd Llyfr Cyfeirio (BoR) [APP-011], Cynlluniau Tir [APP-057], Datganiad o Resymau (SoR) [APP-010] a Datganiad Cyllido (FS) [APP-012] gyda'r cais. O'u hystyried gyda'i gilydd, mae'r dogfennau hyn yn amlinellu'r tir a'r hawliau a geisir gan yr Ymgeisydd ynghyd â'r rhesymau pam y mae eu hangen a'r sail ar gyfer ariannu iawndal. Yn ôl yr arfer, arweiniodd prosesau'r Archwiliad a diwydrwydd dyladwy at newidiadau i rai o'r dogfennau hyn. Erbyn diwedd yr Archwiliad, roedd y fersiynau mwyaf cyfredol fel a ganlyn:
- BoR Diwygiad [AS-002];
 - SoR Atodiad 2 llythyr eglurhaol [REP6-002];
 - Arhosodd y Cynlluniau Tir fel y'u cyflwynwyd gyda'r cais, ond ymdriniwyd â materion perthnasol mewn tystiolaeth ddiweddarach a gofnodir yn unigol isod; [APP-057]; ac
Arhosodd yr FS [APP-012] fel y'i cyflwynwyd gyda'r cais hefyd, ond ymdriniwyd â materion perthnasol mewn tystiolaeth ddiweddarach a gofnodir yn unigol isod.
- 7.2.3. Mae'r dogfennau hyn, o'u hystyried gyda'i gilydd, yn sail i'r dadansoddiad yn y Bennod hon. Dylid darllen cyfeiriadau at y BoR a'r Cynlluniau Tir o hyn ymlaen yn y Bennod hon fel cyfeiriadau at y fersiynau diweddaraf a nodir uchod.
- 7.2.4. Cyfeirir at dir y ceisir pwerau CA a / neu TP drosto yn y Bennod hon fel tir y Gorchymyn.

7.3. Y DIBENION Y MAE ANGEN TIR AR EU CYFER

- 7.3.1. Amlinellir y dibenion y mae angen y pwerau CA a TP ar eu cyfer yn y BoR [AS-002] a'r SoR [APP-010], fel yr ymhelaethir gan dystiolaeth ychwanegol berthnasol a drafodir isod.
- 7.3.2. Ceisir y cyfuniad o bwerau CA a TP i gefnogi pedwar prif ganlyniad datblygu:

- Ar gyfer prif ddatblygiad gorsaf gynhyrchu a defnydd ohoni;
- I ffurfio coridor tir ar gyfer aliniad cysylltiad trydanol;
- I ffurfio coridor tir ar gyfer aliniad ffordd fynediad; ac
- I ffurfio coridor tir ar gyfer aliniad cysylltiad nwy, rhwng yr orsaf gynhyrchu a'r rhwydwaith trosglwyddo nwy presennol yn Rhyd-y-pandy Road ac sy'n angenrheidiol i alluogi nwy i gael ei gyflenwi i'r orsaf gynhyrchu. Fel y cofnodir ym mharagraffau 2.1.16 uchod, mae CCS eisoes wedi rhoi caniatâd cynllunio ar gyfer y cysylltiad trydanol a nwy.

- 7.3.3. Mae'r Ymgeisydd yn ceisio pwerau CA i sicrhau tiroedd, hawliau a buddiannau penodol o fewn Terfynau'r Gorchymyn i hwyluso'r Prosiect.
- 7.3.4. Mae'r tir y ceisir pwerau CA drosto o ran caffael y rhydd-ddaliad wedi'i ddangos ag ymyl coch ac wedi'i liwio'n binc ar y Cynlluniau Tir [APP-057]. Disgrifir y tir hwn yn fanylach yn y Llyfr Cyfeirio [AS-002]. Dibynnir ar Erthygl 19 y DCO mewn perthynas â'r tir hwn.
- 7.3.5. Mae'r tir y ceisir caffael hawliau newydd a gosod cyfyngiadau drosto'n orfodol wedi'i ddangos ag ymyl coch ac wedi'i liwio'n las ar y Cynlluniau Tir [APP-057]. Disgrifir y tir hwn yn fanylach yn y Llyfr Cyfeirio [AS-002]. Dibynnir ar Erthygl 23 y DCO mewn perthynas â'r tir hwn.
- 7.3.6. Mae'r tir y ceisir TP drosto a defnydd ohono, yn unol ag Erthyglau 29 a 30 y DCO, wedi'i ddangos ag ymyl coch ac wedi'i liwio'n felyn ar y Cynlluniau Tir [APP-057]. Disgrifir y tir hwn yn fanylach yn y Llyfr Cyfeirio [AS-002]. Dibynnir ar Erthyglau 29 a 30 y DCO mewn perthynas â'r tir hwn.
- 7.3.7. Mae'n rhaid nodi bod y DCO drafft yn cynnwys pwerau CA a TP sy'n berthnasol i adeiladu aliniad arfaethedig y cysylltiad trydanol a nwy. Pan wnaed y cais, ni allai DCO roi caniatâd ar gyfer datblygiad cysylltiedig yn ymwneud â gorsaf gynhyrchu yng Nghymru. Am y rheswm hwn, gofynnais i'r Ymgeisydd ac IPs am eu barn ar y sail gyfreithiol y gellid ei defnyddio er mwyn i DCO gynnwys pwerau CA a TP yn briodol ar gyfer elfennau a allai fod yn ddatblygiad cysylltiedig, lle na ddarparwyd ar gyfer y datblygiad cysylltiedig ei hun [EV-004].

Tir y Goron

- 7.3.8. Mae'r Ymgeisydd yn datgan yn y BoR [APP-011] nad yw'r pwerau CA na TP yn cynnwys unrhyw Dir y Goron nac yn effeithio arno.

Tir Categori Arbennig

- 7.3.9. Nid yw'r pwerau CA na TP yn cynnwys nac yn effeithio ar unrhyw dir sy'n perthyn i'r Ymddiriedolaeth Genedlaethol, man agored, tir comin na rhandir gardd gae [APP-011].

7.4. GOFYNION DEDDFWRIAETHOL

- 7.4.1. Gellir rhoi pwerau CA dim ond os bodlonir yr amodau a amlinellir yn adrannau 122 a 123 PA2008, ynghyd â'r canllawiau perthnasol yn *"Canllawiau yn Ymwneud â Gweithdrefnau ar gyfer Caffael Tir yn Orfodol"*, DCLG, mis Medi 2013 (Canllawiau CA y DCLG).
- 7.4.2. Yn ôl adran 122 (2), mae'n rhaid i dir sy'n destun CA fod yn angenrheidiol ar gyfer y datblygiad y mae'r caniatâd datblygu yn ymwneud ag ef neu fod yn angenrheidiol i hwyluso'r datblygiad neu'n gysylltiedig ag ef. O ran tir sy'n angenrheidiol ar gyfer y datblygiad, rhaid i'r tir sydd i'w gymryd beidio â bod yn fwy nag sy'n rhesymol angenrheidiol a rhaid iddo fod yn gymesur.³¹
- 7.4.3. Yn ôl adran 122(3), mae'n rhaid bod achos cymhellol er budd y cyhoedd i gaffael y tir yn orfodol, sy'n golygu bod rhaid i'r budd i'r cyhoedd sy'n deillio o'r CA fod yn drech na'r golled breifat a fyddai'n cael ei dioddef gan y rhai yr effeithir ar eu tir. Wrth gydbwysu budd y cyhoedd yn erbyn colled breifat, mae'n rhaid bod modd cyfiawnhau CA ynddo'i hun. Ond nid yw hyn yn golygu y gellir ystyried y cynnig CA ar wahân i ystyried rhinweddau'r prosiect yn ehangach. Mae'n rhaid bod angen am y Datblygiad Arfaethedig ac mae'n rhaid bod cysondeb a chydlynïad yn y broses benderfynu am y cais am bwerau CA ac am y Datblygiad Arfaethedig yn ei gyfanrwydd.
- 7.4.4. Mae adran 123 yn mynnu bod rhaid i gynnig y cais fodloni un o'r tri amod gweithdrefnol yn is-adrannau (2) i (4), sef:
- (2) Yr amod yw bod y cais am y gorchymyn yn cynnwys cais i awdurdodi Caffael y tir yn Orfodol.
 - (3) Yr amod yw bod yr holl bobl sydd â buddiant yn y tir yn cydsynio i gynnwys y ddarpariaeth.
 - (4) Yr amod yw bod y weithdrefn ragnodedig wedi cael ei dilyn o ran y tir.
- 7.4.5. Dylid nodi o'r cychwyn fy mod yn fodlon bod yr amod yn is-adran (2) wedi'i fodloni.
- 7.4.6. Mae'n rhaid mynd i'r afael â nifer o ystyriaethau cyffredinol hefyd, naill ai o ganlyniad i ddilyn y canllawiau perthnasol neu yn unol â dyletswyddau cyfreithiol ar benderfynwyr:
- Mae'n rhaid bod yr holl ddewisiadau amgen rhesymol yn lle CA wedi cael eu harchwilio;
 - Mae'n rhaid bod gan yr Ymgeisydd gynllun eglur ar gyfer sut y mae'n bwriadu defnyddio'r tir sy'n destun pwerau CA;
 - Mae'n rhaid bod yr Ymgeisydd yn gallu dangos bod arian ar gael i fodloni'r rhwymedigaethau iawndal a allai ddeillio o arfer pwerau CA; ac
 - Mae'n rhaid i'r penderfynwr fod yn fodlon bod y dibenion a nodwyd ar gyfer y CA yn ddilys ac yn rhoi cyfiawnhad digonol i'r ymyrraeth anochel â hawliau dynol y rhai yr effeithir arnynt.

³¹ Canllawiau CA y DCLG

- 7.4.7. Profwyd y materion hyn yn yr Archwiliad ac adroddir arnynt ymhellach isod.
- 7.4.8. Yn dilyn ymlaen o baragraff 2 Atodlen 5 PA2008, mae pwerau TP yn gallu bod y fewn cwmplas DCO. Nid yw PA2008 a Chanllawiau CA cysylltiedig y DCLG yn cynnwys yr un faint o fanylion a phrofion i'w bodloni o ran rhoi pwerau TP, gan fod natur pwerau o'r fath yn golygu nad ydynt yn ceisio amddifadu unigolyn o'i fuddiannau mewn tir neu newid ei fuddiannau mewn tir yn barhaol. At hynny, mae pwerau o'r fath yn tueddu i fod yn atodol ac yn ddibynnol ar gynnig y cais yn ei gyfanrwydd: gallant fynd ymlaen dim ond os oes cyfiawnhad i'r prif ddatblygiad.
- 7.4.9. Ystyriaif yr holl ddeddfwriaeth a chanllawiau perthnasol wrth ymresymu isod, a deuir i gasgliadau perthnasol ar ddiwedd y Bennod hon.

7.5. ARCHWILIO'R ACHOS CA A TP

- 7.5.1. Wrth archwilio'r cais, ystyriaif yr holl ddeunydd ysgrifenedig a gyflwynwyd a oedd yn berthnasol i CA a TP. Gofynnais WQ i'r Ymgeisydd ynglŷn â'r cyfiawnhad dros y pwerau a geisir [PD-005(3)] [PD-006], cynhaliais Wrandawriad CA (CAH)[EV-004] [EV-009] a gofynnais am archwiliadau o dir sy'n destun ceisiadau CA a TP [EV-008]. Disgrifiaf y prosesau hyn isod.

Y broses ysgrifenedig

- 7.5.2. Roedd y Cwestiynau Ysgrifenedig Cyntaf ExQ1 [PD-005(3)] yn cynnwys cwestiynau a oedd yn berthnasol i CA a TP, a gellir eu crynhoi trwy ddweud eu bod yn mynd i'r afael â'r materion canlynol:
- Y sefyllfa o ran gwrthwynebiadau;
 - Cwestiynau am FS;
 - Cytundebau cysylltiad nwy a thrydanol.
- 7.5.3. Roedd yr Ail Gwestiynau Ysgrifenedig ExQ2 [PD-006] yn gofyn i'r Ymgeisydd ddarparu cofnod wedi'i ddiweddarau o gynnydd yr holl faterion CA a TP a oedd heb eu datrys.

Gwrandawriadau

- 7.5.4. Darparais ar gyfer CAH, lle y gofynnais gwestiynau llafar i'r Ymgeisydd a chynrychiolydd APs. Cynhaliwyd y CAH ar 12 Rhagfyr 2018 [EV-004] [EV-009]. Rhoddodd y Gwrandawriad hwn gyfle i unrhyw unigolyn a oedd yn gwrthwynebu rhoi pwerau CA neu TP gael ei glywed.
- 7.5.5. Roedd fy nghwestiynau llafar yn ceisio gwybodaeth am y canlynol:
- Materion nad oeddent yn eglur o WRs ac ymatebion i gwestiynau;
 - Ymholiadau drafftio ynglŷn ag Erthyglau perthnasol yn y DCO drafft;
 - Darpariaethau i sicrhau tir lliniaru;
 - Yr angen am hawliau TP a'r ymagwedd atynt, a graddau terfynol hawliau dros dro yn hytrach na hawliau parhaol;
 - Cyllid a gwarantau o ran talu iawndal;

- Profion y Ddeddf Hawliau Dynol;
- Cynnydd ar drafodaethau â thirfeddianwyr yr effeithir arnynt;
- Yr angen i gaffael hawliau ac ystyried dewisiadau amgen;
- Y Llyfr Cyfeirio;
- Darpariaethau amddiffynnol o ran ymgwymerwyr statudol ac eraill; a'r Sail i achos cymhellol er budd y cyhoedd.

7.5.6. Rhoddais gyfle i APs a'u cynrychiolwyr wneud sylwadau ar y broses a chynnydd trafodaethau a ph'un a oedd ganddynt unrhyw bryderon ynglŷn â'r hawliau a geisir. Rhoddais gyfle i ymgwymerwyr statudol wneud sylwadau am yr hawliau a geisir a'r darpariaethau yn y DCO drafft. Roedd y cyfleoedd hyn yn cynnwys y cyfle i gael eu clywed yn y CAH ([EV-004] [EV-009]).

Archwiliad Safle gyda Chwmni (ASI)

7.5.7. Cynhaliats ASI pryd y cefais fynediad i dir preifat gyda chaniatâd i archwilio aliniad arfaethedig y ffordd fynediad ac aliniad y cysylltiad trydanol. Rhoddwyd cyfle i bartïon â buddiant (IP) ac AP enwebu tir i'w gynnwys yn yr archwiliad hwn.

7.5.8. Cynhaliwyd yr ASI ar 14 Rhagfyr 2018 [EV-008]. Diben hyn yn rhannol oedd archwilio tir sy'n destun cynigion CA a TP sy'n gysylltiedig ag adeiladu a gweithredu'r ffordd fynediad a'r cysylltiad trydanol. Mae'r tir yn destun gwrthwynebiad i CA a TP. Ymwelodd yr ASI â lleiniau 13, 13A, 13B, 14, 15, 17A a 17B Fferm Maes-eglwys i weld tir sydd ym mherchenogaeth Mr Michael Edwards. Daeth Mr Wynne Watkins gyda ni hefyd, sef AP sy'n berchen ar leiniau 18, 18A, 18B, 21 a 24.

Rhoddodd yr ASI ddealltwriaeth i mi o leoliad a chyflwr yr holl leiniau y ceisiwyd pwerau CA a TP ar eu cyfer a oedd yn destun gwrthwynebiad.

7.6. YSTYRIED MATERION CA A TP

7.6.1. Mae'r adran hon yn amlinellu achos cyffredinol yr Ymgeisydd dros CA a TP ac ymatebion gan wrthwynebwyr iddo. Yna, mae'n cofnodi ystyriaeth o'r holl agweddau sy'n weddill ar yr achosion CA a TP, gan gynnwys ystyried gwrthwynebiadau unigol a thir nad oedd gwrthwynebiad ffurfiol yn weddill iddo o ran CA a TP.

7.6.2. Yn olaf, mae'r adran yn ystyried amrywiaeth o faterion technegol sy'n berthnasol i CA, gan gynnwys argaeledd a digonolrwydd cyllid, ymgwymerwyr statudol a darpariaethau amddiffynnol.

ACHOS YR YMGEISYDD

7.6.3. Mae achos cyffredinol yr Ymgeisydd dros CA a TP wedi'i seilio ar y tir sy'n angenrheidiol i adeiladu a gweithredu'r orsaf gynhyrchu, ynghyd â'r tir sy'n angenrheidiol ar gyfer y cysylltiad nwy a'r cysylltiad trydanol.

7.6.4. Er nad yw'r Cais yn gofyn am ganiatâd datblygu ar gyfer y Cysylltiad Nwy na'r Cysylltiad Trydanol, mae'r Gorchymyn drafft yn cynnwys, yn unol ag adran 122(2)(b) PA 2008, pwerau ar gyfer CA o ran y tir sy'n

angenrheidiol a'r hawliau dros dir sy'n ofynnol ar gyfer y Cysylltiad Nwy a'r Cysylltiad Trydanol [APP-010].

7.6.5. Mae'r Cysylltiad Nwy yn cynnwys yr AGI (gyda mynediad parhaol newydd) a'r Biblinell. Byddai'r Biblinell yn dilyn llwybr oddeutu 1.4 km o hyd o'r gogledd i'r de yn fras, i ddod â nwy naturiol o'r rhwydwaith nwy System Drosoglwyddo Genedlaethol pwysedd uchel presennol gerllaw Rhyd-y-pandy Road (yng ngogledd Safle'r Prosiect) i'r Safle Offer Cynhyrchu [APP-057]. Mae gan aliniad y cysylltiad nwy, fel y'i cynigiwyd, ganiatâd cynllunio a roddwyd gan CCS o dan Ddeddf Cynllunio Gwlad a Thref 1990.

7.6.6. Byddai'r Cysylltiad Trydanol yn dilyn llwybr oddeutu 900 metr o hyd o'r dwyrain i'r gorllewin, i gysylltu'r Offer Cynhyrchu â'r System Trosglwyddo Trydan Genedlaethol yn Is-orsaf Gogledd Abertawe trwy gebl tanddaear 400kV [APP-057]. Mae gan aliniad y cysylltiad trydanol, fel y'i cynigiwyd, ganiatâd cynllunio a roddwyd gan CCS o dan Ddeddf Cynllunio Gwlad a Thref 1990.

Dewisiadau amgen

7.6.7. Mae Canllawiau CA y DCLG yn mynnu (ym mharagraff 20):

- *'Dylai'r hyrwyddwr allu dangos er boddhad y penderfynwr bod yr holl ddewisiadau amgen rhesymol yn lle caffael gorfodol (gan gynnwys addasiadau i'r cynllun) wedi cael eu harchwilio...'*

7.6.8. Amlinellir ymagwedd yr Ymgeisydd at ystyried dewisiadau amgen ar gyfer safle'r orsaf gynhyrchu ym Mhennod 4 uchod. Gan grynhoi o'r esboniad hwnnw, eglurodd yr Ymgeisydd fod ystod o leoliadau posibl ar gyfer yr orsaf gynhyrchu wedi cael eu hadolygu, a dewiswyd safle'r cais oherwydd ei fod yn galluogi datblygu gorsaf OCGT â mynediad i'r rhwydwaith trosglwyddo nwy a'i fod mewn lleoliad lle y gellid allforio trydan i'r rhwydwaith dosbarthu, ar dir lle'r oedd hanes cynllunio a chefnogaeth trwy bolisiau lleol i ddatblygiad ar raddfa ddiwydiannol.

7.6.9. Rhoddodd yr Ymgeisydd esboniad manwl o'r gwerthusiad o safleoedd amgen ar gyfer aliniad y ffordd fynediad yn ei grynoded o gyflwyniadau llafar i'r CAH ar 12 Rhagfyr 2018 (Atodiad 5 [REP3-005]). I grynhoi, aeth y dystiolaeth honno i'r afael â dewis yr aliniad i fodloni'r meini prawf canlynol:

- Effeithlonrwydd y llwybr (lleihau ei hyd gymaint â phosibl); ac
- Osgoi effaith ar asedau'r amgylchedd naturiol a hanesyddol h.y. coetir hynafol [REP4-016].

7.6.10. Cynhaliwyd gwerthusiad o aliniadau posibl y ffordd fynediad, a daeth yr Ymgeisydd i'r casgliad mai'r aliniad a ddewiswyd oedd yr aliniad mwyaf ymarferol lle y gellid darparu ffordd fynediad rhwng safle'r orsaf gynhyrchu a'r B4489. Roedd yr Ymgeisydd o'r farn bod y dewisiadau amgen a gynigiwyd gan y Gwrthwynebwyr yn y CAH yn anaddas am y rhesymau a ddisgrifir uchod [REP3-005].

- 7.6.11. Daeth yr Ymgeisydd i'r casgliad bod llwybrau Opsiwn 2 yn addas i symudiadau AIL heb ledu'r ffordd ac y bydd defnydd o'r llwybr gan HGVs yn cael effaith leiafswmionol gan nad oes anheddau gerllaw. Mae llwybrau Opsiwn 2 hefyd yn osgoi'r angen i redeg yn gyfochrog â phrif bibell ddŵr Dŵr Cymru, gan fod modd croesi mewn un man gan ddefnyddio pont [REP3-005].
- 7.6.12. Roedd yr Ymgeisydd o'r farn y byddai Opsiynau 2A, 2B1 a 2C yn golygu bod angen colli Coetir Hynafol a chynefin, sef rhywbeth y mae Opsiwn 2B2 yn ei osgoi. Yn ogystal, mae rhesymau technegol eraill pam mae Opsiwn 2C yn heriol ac efallai na fyddai'n cael ei ganiatáu gan y Grid Cenedlaethol [REP3-005].
- 7.6.13. Roedd yr Ymgeisydd o'r farn bod ei ddewis o Opsiwn 2B2 yn y Cais yn llwybr mynediad cadarn a phriodol, a'i fod wedi rhoi ystyriaeth briodol i ystod o ffactorau, gan gynnwys yr effaith ar berchenogaeth dir, effeithiau amgylcheddol, ymgynghori, yn ogystal ag ymarferoldeb technegol a'r cydgysylltiad â seilwaith cyfleustodau amgylchynol wrth ddod i'w benderfyniad ar ei lwybr a ffeirir [REP3-005].
- 7.6.14. Honnodd yr Ymgeisydd fod llwybr mynediad presennol y Grid Cenedlaethol wedi'i adeiladu'n fwriadol i fod yn addas i safonau symudiadau HGV. Dadleuodd yr Ymgeisydd fod y llwybr mynediad presennol yn ddiogel, yn ymarferol o ran trefnu ac eisoes wedi cael ei ddefnyddio i gludo llwythi a cherbydau tebyg. Dadleuodd yr Ymgeisydd na fyddai'n ymddangos yn briodol diystyru'r llwybr hwn sy'n addas i'r diben o blaid gwaith adeiladu mawr mewn ardal wledig ar ffyrdd nad ydynt mor uniongyrchol nac mor hwylus, ac sydd oll hefyd yn gofyn am ddefnyddio tir trydydd parti.

Graddfa'r datblygiad arfaethedig, microleoli a lleihau faint o dir a gymerir i'r eithaf

- 7.6.15. Esboniodd yr Ymgeisydd fod y tir sy'n angenrheidiol i adeiladu'r orsaf gynhyrchu wedi cael ei amlygu'n fanwl gywir. Roedd wedi ymrwymo i leihau faint o dir a gymerir i'r eithaf ar gyfer caffael hawliau yn orfodol o fewn aliniad arfaethedig y ffordd fynediad. Roedd yn bwriadu gwneud hyn trwy sicrhau bod tir sy'n angenrheidiol ar gyfer prosesau adeiladu yn unig ond nad yw'n destun gofyniad gweithredol yn cael ei geisio ar gyfer pwerau TP yn unig (wedi'i liwio'n felyn [APP-057]).
- 7.6.16. O fewn safle'r brif orsaf gynhyrchu a'r AGI, mae'r ymagwedd hon yn annhebygol o effeithio ar ddosbarthiad tir y ceisir caffael ei rydd-ddaliad yn orfodol ac y mae angen hawliau yn unig neu TP mewn perthynas ag ef.
- 7.6.17. Mae'r Ymgeisydd yn ceisio cytundeb i gaffael tir a hawliau lle y bo'n bosibl.

ACHOS CYFFREDINOL GWRTHWYNEBWYR

- 7.6.18. Achos cyffredinol y Gwrthwynebwyr (Mr Michael Edwards, Mr Wynne Watkins a Redisplay Limited, a gynrychiolwyd i gyd gan Gyfreithwyr Loxley) yn erbyn CA a TP oedd bod aliniad arfaethedig y ffordd fynediad wedi cael ei ddewis yn seiliedig ar ymgynghoriad diffygiol ac ymarfer opsiuneiddio. Mae'r Gwrthwynebwyr yn honni bod trefniadau mynediad amgen ar gael i'r Ymgeisydd a fyddai'n achosi cryn dipyn yn llai o niwed ac nad oes cyfiawnhad i gaffael hawliau dros dir y Gwrthwynebwyr yn orfodol [REP3-016].
- 7.6.19. Cynhaliwyd yr ymgynghoriad gwreiddiol ynglŷn â'r Cynllun yn 2014 pan gynigiwyd dau opsiwn mynediad. Dewiswyd Opsiwn 2 yn dilyn yr ymarfer ymgynghori hwnnw. Y prif gyfiawnhad, fel y'i nodwyd yn yr SoR, oedd bod mwyafrif aelodau'r cyhoedd yr ymgynghorwyd â nhw yn 2014 yn cefnogi Opsiwn 2.
- 7.6.20. Mae'r Gwrthwynebwyr yn honni, wrth symud y Prosiect yn ei flaen yn 2018, y dylai'r Ymgeisydd fod wedi ystyried yr holl opsiynau sydd ar gael iddo, gan gynnwys Opsiwn Llwybr 1, yn enwedig o ystyried bod 4 blynedd wedi mynd heibio ers yr ymarfer ymgynghori blaenorol.
- 7.6.21. Mae'r Gwrthwynebwyr yn honni bod y broses yn ddiffygiol oherwydd y dylai'r Ymgeisydd fod wedi ystyried yr holl ddewisiadau amgen yn 2018. Nid oedd ymarfer ymgynghori 2018 wedi rhoi ystyriaeth ddigonol i lwybr amgen rhesymol na fyddai wedi golygu bod angen caffael buddiant tir y Gwrthwynebwyr yn orfodol.
- 7.6.22. Wrth ymateb i WR y Gwrthwynebwyr, mae'r Ymgeisydd wedi ceisio cyfiawnhau'r broses a ddefnyddiwyd i ddewis yr opsiwn ar gyfer llwybr. Mae'r Ymgeisydd yn cadarnhau gwerth uchel Coetir Hynafol a'r amddiffyniad a roddir iddo o safbwynt cynllunio fel ffactor allweddol wrth ddewis yr opsiwn ar gyfer llwybr [REP2-002].
- 7.6.23. Mae llwybrau amrywiol yr is-opiynau yn arwyddocaol i'r Gwrthwynebwyr oherwydd, rhyngddynt, maen nhw'n amrywio'n sylweddol o ran amharu ar dir a buddiannau'r Gwrthwynebwyr. Dangosir hyn yn y cynllun sydd wedi'i atodi yn Atodiad 1 Ymateb yr Ymgeisydd i WR [REP2-002].
- 7.6.24. Mae'r cynllun yn dangos ardal eithaf mawr a ddosberthir yn "Safle Coetir Hynafol o Gategori Anhysbys" yn ogystal â phwysleisio ei bwysigrwydd – fe'i dangosir wedi'i lliwio'n frown ar y Cynllun. Mae'r Gwrthwynebwyr yn nodi bod mwyafrif helaeth yr ardal a ddosberthir yn Safle Coetir Hynafol wedi'i meddiannu gan Orsaf bresennol y Grid Cenedlaethol; mae wedi'i datblygu ac, mewn gwirionedd, nifer fach o goed yn unig sydd o fewn yr ardal a liwiwyd yn frown ar y Cynllun [REP3-016].
- 7.6.25. Mae'r Gwrthwynebwyr yn honni bod y broses ar gyfer dewis y llwybrau is-opiwn wedi'i seilio ar dybiaethau anghywir a'i bod yn ddiffygiol yn ei hanfod. O ystyried y canlyniadau i'r Gwrthwynebwyr, roedd dewisiadau amgen rhesymol ac eglur ar gael i'r Ymgeisydd a fyddai wedi osgoi unrhyw Goetir Hynafol ac a fyddai'n lleihau'r effaith ar fuddiannau eiddo'r Gwrthwynebwyr yn sylweddol [REP3-016].

- 7.6.26. Mae'r Gwrthwynebwyr yn honni nad yw'r Ymgeisydd wedi dangos yn ddigonol ei fod wedi cydymffurfio â Chanllawiau'r DCLG gan nad yw wedi archwilio'r holl ddewisiadau amgen rhesymol yn briodol, gan gynnwys addasiadau i'r Prosiect. Cyfeirir at y Canllawiau hynny ar dudalen 27 y SoR [APP-010].
- 7.6.27. Mae'r Gwrthwynebwyr yn honni nad yw'r Ymgeisydd wedi bodloni gofynion Adran 122 PA2008 ac, oherwydd hynny, ni all yr Ymgeisydd gyfiawnhau bod yr holl dir yn angenrheidiol ar gyfer y datblygiad neu i hwyluso'r datblygiad hwnnw neu'n gysylltiedig ag ef.
- 7.6.28. I raddau helaeth, mae'r pryderon hyn yn ymwneud â'r driniaeth o ddewisiadau amgen, yr ymdrinnir â nhw ym Mhennod 4 (adran 4.8) uchod, neu effeithiau penodol CA neu TP ar dir unigolyn, yr ymdrinnir â nhw'n fanwl isod.

CASGLIAD YR EXA

- 7.6.29. Cyflwynaf fy nghasgliadau cyffredinol ar yr achos CA a TP yma, er y dylid cofnodi bod y casgliadau hyn wedi cael eu llywio gan achosion manwl unigol ac ystyriaethau technegol a amlinellir ymhellach isod o baragraff 7.6.33 i 7.6.69, ac yn rhoi ystyriaeth lawn iddynt.
- 7.6.30. Am resymau a fynegir yn fras ym Mhennod 4 uchod, rwyf yn fodlon bod yr Ymgeisydd wedi cynnal gwerthusiad trylwyr o opsiynau lleoli ar gyfer y Datblygiad Arfaethedig. Mae hyn wedi cynnwys gwerthusiad trylwyr o ddewisiadau amgen. O ystyried addasrwydd sylfaenol y safle i gynnal datblygiad o'r math hwn o safbwynt defnydd tir a pholisi, ac oherwydd bod cysylltiad â'r grid nwy a chapasiti rhwydwaith dosbarthu ar gyfer allforio trydan ar gael yn agos, mae'n amlwg i mi fod safle'r cais wedi cael ei ddewis yn briodol. Yn benodol, egluraf yn y bennod honno, at ddibenion CA, nad wyf yn gweld sail i aliniad ffordd fynediad amgen o fewn y safle.
- 7.6.31. Rwyf wedi adolygu'r defnydd arfaethedig o dir ar safle'r orsaf gynhyrchu ac wedi nodi bod yr anghenion am offer a mesurau lliniaru yn rhoi esboniad eglur o'r angen am yr holl dir y bwriedir ei gaffael yn barhaol. Esboniwyd y sail ar gyfer faint o dir sy'n angenrheidiol dros dro i hwyluso'r broses adeiladu ac ar gyfer hawliau parhaus hefyd [APP-010]. Rwyf yn fodlon bod y tir sy'n destun CA a TP ar gyfer yr orsaf gynhyrchu arfaethedig wedi cael ei leihau i'r eithaf a bod pob dewis amgen rhesymol yn lle CA wedi cael ei archwilio. Cytunaf fod y tir a geisir ar gyfer yr orsaf gynhyrchu yn dir sy'n angenrheidiol at ddibenion a122 (2)(a) PA2008 ac, yn amodol ar fy rhesymu manwl ar leiniau unigol isod ac o ystyried hynny, ei fod yn bodloni'r prawf a nodir yn yr adran honno.
- 7.6.32. Rwyf hefyd wedi ystyried y tir sy'n destun cynigion CA a TP ar gyfer aliniad y ffordd fynediad. O ystyried fy mod yn cytuno bod y safle a ddewiswyd ar gyfer yr orsaf gynhyrchu yn briodol, ystod gyfyngedig o opsiynau sydd ar gael ar gyfer aliniad ffordd fynediad. Cytunaf mai'r aliniad a ddewiswyd ar gyfer y ffordd fynediad yw'r canlyniad gorau o werthusiad trylwyr o ddewisiadau amgen a'i fod yn lleihau faint o dir a

gymerir ac effeithiau amgylcheddol niweidiol i'r eithaf [REP4-016]. Ystyriaif fod y tir a geisir ar gyfer aliniad y ffordd fynediad yn dir sy'n angenrheidiol at ddibenion a122 (2)(b) PA2008 ac, yn amodol ar fy rhesymu manwl ar leiniau unigol isod ac o ystyried hynny, ei fod yn bodloni'r prawf a nodir yn yr adran honno.

CYNNYDD AR GYNIGION CA A TP

7.6.33. Yn fy FWQs, sefydlais broses ar gyfer cofnodi gwrthwynebiadau heb eu datrys sy'n berthnasol i CA a TP [PD-005(3)]. Amlygodd ymateb yr Ymgeisydd i'm FWQs [REP1-010] a'i Atodiad Gwrthwynebiadau, Atodiad 4 [REP6-002] diweddarach, fod gan saith AP wrthwynebiadau heb eu datrys i CA a / neu TP, sef:

- WPD;
- Mr Michael Edwards;
- Mr Wynne Watkins;
- Redisplay Limited;
- Abergelli Solar Limited;
- National Grid Gas; a
- National Grid Electrical Transmission

7.6.34. Cofnodir isod gynnydd ar bob un o'r gwrthwynebiadau hyn trwy'r Archwiliad.

Western Power Distribution (South Wales) plc (WPD)

Lleoliad: Ar draws Tir y Gorchymyn drwyddo draw

Buddiannau Parhaol: 3, 3A, 3B, 10, 12, 16, 18, 19, 20, 21, 22, 24.

Dros Dro: 7C, 13A, 16A, 18A, 18B, 19A

Statws: gwrthwynebwr sy'n ymgwymerwr statudol (tynnwyd yn ôl).

7.6.35. Gwnaeth WPD [RR-006] gynrychiolaethau ynglŷn â CA o ran tir, hawliau a TP yn Abergelli, a cheisiodd negodi darpariaethau amddiffynnol.

7.6.36. Rhoddwyd y darpariaethau amddiffynnol a'r cytundebau ochr drafft cyntaf i WPD ar 21 Mai 2018. Mae'r darpariaethau amddiffynnol a'r cytundeb ochr wedi cael eu cytuno erbyn hyn ac fe'u cyflwynwyd i'r Archwiliad yn y DCO drafft diwygiedig erbyn DL3. Llofnodwyd a dyddiwyd y cytundeb ochr ar 22 Ionawr 2019. [REP6-002].

7.6.37. Ar 23 Ionawr 2019, cadarnhaodd WPD ei fod wedi cytuno ar ddarpariaethau amddiffynnol gyda'r Ymgeisydd a'i fod eisiau tynnu ei gynrychiolaethau'n ôl mewn perthynas â'r cais [AS-010].

7.6.38. I'r graddau bod hwn yn wrthwynebiad yr oedd a127 PA2008 yn berthnasol iddo, rwyf yn fodlon bod y gwrthwynebiad hwn wedi'i dynnu'n ôl ac felly nad yw'n weithredol. Nid yw'r amgylchiadau sy'n weddill yn

codi unrhyw faterion sy'n awgrymu na ddylid cymeradwyo'r darpariaethau CA a geisir gan yr Ymgeisydd. Rwyf yn fodlon nad oes unrhyw bryderon ychwanegol sy'n weddill o ran buddiannau WPD fel y'u cofnodir uchod ac, yn arbennig, o ran y darpariaethau amddiffynnol yn Rhan 4 Atodlen 11 y DCO y mae angen i'r SoS eu hystyried.

- 7.6.39. Mae'r Ymgeisydd wedi cynnwys pwerau i ddiddymu unrhyw hawl neu ddileu unrhyw gyfarpar (a gynhwysir yn Erthygl 31³² y DCO drafft [REP6-003]), ond fe'u gwneir yn amodol ar y darpariaethau amddiffynnol yn Atodlen 11. O ystyried bod y darpariaethau amddiffynnol wedi'u cytuno yn Atodlen 11, gall yr SoS fod yn fodlon y byddai unrhyw ddiddymiad neu ddilead yn angenrheidiol at ddiben cynnal y datblygiad awdurdodedig (a138).

National Grid Gas (NGG) plc

Lleoliad: Ar draws Tir y Gorchymyn drwyddo draw

Buddiannau Parhaol: 2, 6, 16, 19, 23

Dros Dro: 6A, 6B, 16A, 19A

Statws: gwrthwynebwr sy'n ymgymwrwr statudol (tynnwyd yn ôl).

- 7.6.40. Gwnaeth NGG Plc [RR-024] gynrychiolaethau ynglŷn â CA o ran tir, hawliau a TP yn Abergelli, a cheisiodd negodi darpariaethau amddiffynnol.
- 7.6.41. Rhoddwyd y darpariaethau amddiffynnol a'r cytundebau ochr drafft cyntaf i NGG ar 23 Mai 2018. Anfonwyd Datganiadau Tir Cyffredin (un ar gyfer pob ymgymwrwr statudol) at NGG ar 12 Medi 2018 ac fe'u diweddarwyd a'u cyflwynwyd erbyn DL1. Mae'r darpariaethau amddiffynnol a'r cytundeb ochr wedi cael eu cytuno erbyn hyn. Mae'r cytundeb ochr yn y broses o gael ei lofnodi [REP6-002].
- 7.6.42. Ar 21 Mawrth 2019, cadarnhaodd NGG ei fod wedi cytuno ar ddarpariaethau amddiffynnol gyda'r Ymgeisydd a'i fod eisiau tynnu ei gynrychiolaethau'n ôl mewn perthynas â'r cais [REP6-013].
- 7.6.43. I'r graddau bod hwn yn wrthwynebiad yr oedd a127 PA2008 yn berthnasol iddo, rwyf yn fodlon bod y gwrthwynebiad hwn wedi'i dynnu'n ôl ac felly nad yw'n weithredol. Nid yw'r amgylchiadau sy'n weddill yn codi unrhyw faterion sy'n awgrymu na ddylid cymeradwyo'r darpariaethau CA a geisir gan yr Ymgeisydd. Rwyf yn fodlon nad oes unrhyw bryderon ychwanegol sy'n weddill o ran buddiannau NGG fel y'u cofnodir uchod ac, yn arbennig, o ran y darpariaethau amddiffynnol yn Rhan 3 Atodlen 11 y DCO y mae angen i'r SoS eu hystyried.
- 7.6.44. Mae'r Ymgeisydd wedi cynnwys pwerau i ddiddymu unrhyw hawl neu ddileu unrhyw gyfarpar (a gynhwysir yn Erthygl 31³³ y DCO drafft [REP6-

³² Erthygl 31 DCO argymelledig yr ExA, Atodiad Ch

³³ Erthygl 29 DCO argymelledig yr ExA, Atodiad Ch

003]) ond fe’u gwneir yn amodol ar y darpariaethau amddiffynnol yn Atodlen 11. O ystyried bod y darpariaethau amddiffynnol wedi’u cytuno yn Atodlen 11, gall yr SoS fod yn fodlon y byddai unrhyw ddiddymiad neu ddilead yn angenrheidiol at ddiben cynnal y datblygiad awdurdodedig (a138).

National Grid Electricity Transmission Systems (NGETS) plc

Lleoliad: Ar draws Tir y Gorchymyn drwyddo draw

Buddiannau Parhaol: 6, 10, 13, 14, 15, 16, 18, 19, 20, 21, 24

Dros Dro: 6A, 6B, 16A, 18A, 18B, 19A

Statws: gwrthwynebwr sy’n ymgymwrwr statudol (tynnwyd yn ôl).

- 7.6.45. Gwnaeth NGETS [RR-024] gynrychiolaethau ynglŷn â CA o ran tir, hawliau a TP yn Abergelli, a cheisiodd negodi darpariaethau amddiffynnol.
- 7.6.46. Rhoddwyd y darpariaethau amddiffynnol a’r cytundebau ochr drafft cyntaf i NGETS ar 23 Mai 2018. Anfonwyd Datganiadau Tir Cyffredin (un ar gyfer pob ymgymwrwr statudol) at NGETS ar 12 Medi 2018 ac fe’u diweddarwyd a’u cyflwynwyd erbyn DL1. Mae’r darpariaethau amddiffynnol a’r cytundeb ochr wedi cael eu cytuno erbyn hyn. Mae’r cytundeb ochr yn y broses o gael ei lofnodi [REP6-002].
- 7.6.47. Ar 21 Mawrth 2019, cadarnhaodd NGETS ei fod wedi cytuno ar ddarpariaethau amddiffynnol gyda’r Ymgeisydd a’i fod eisiau tynnu ei gynrychiolaethau’n ôl mewn perthynas â’r cais [REP6-013].
- 7.6.48. I’r graddau bod hwn yn wrthwynebiad yr oedd a127 PA2008 yn berthnasol iddo, rwyf yn fodlon bod y gwrthwynebiad hwn wedi’i dynnu’n ôl ac felly nad yw’n weithredol. Nid yw’r amgylchiadau sy’n weddill yn codi unrhyw faterion sy’n awgrymu na ddylid cymeradwyo’r darpariaethau CA a geisir gan yr Ymgeisydd. Rwyf yn fodlon nad oes unrhyw bryderon ychwanegol sy’n weddill o ran buddiannau NGETS fel y’u cofnodir uchod ac, yn arbennig, o ran y darpariaethau amddiffynnol yn Rhan 3 Atodlen 11 y DCO y mae angen i’r SoS eu hystyried.
- 7.6.49. Mae’r Ymgeisydd wedi cynnwys pwerau i ddiddymu unrhyw hawl neu ddileu unrhyw gyfarpar (a gynhwysir yn Erthygl 31³⁴ y DCO drafft [REP6-003]) ond fe’u gwneir yn amodol ar y darpariaethau amddiffynnol yn Atodlen 11. O ystyried bod y darpariaethau amddiffynnol wedi’u cytuno yn Atodlen 11, gall yr SoS fod yn fodlon y byddai unrhyw ddiddymiad neu ddilead yn angenrheidiol at ddiben cynnal y datblygiad awdurdodedig (a138).

Abergelli Solar Limited (ASL)

³⁴ Erthygl 29 DCO argymelledig yr ExA, Atodiad Ch

Lleoliad: Ar draws Tir y Gorchymyn drwyddo draw

Buddiannau Parhaol: 2, 3, 3A, 3B, 4, 5, 6,

Dros Dro: 4A, 5A, 5B, 6A, 6B, 7C.

Statws: cynrychiolydd sy'n ymgymrwyr statudol.

- 7.6.50. Gwnaeth ASL [RR-018] gynrychiolaeth ynglŷn â chebl trydanol a chebl cyfathrebu ffeibr optig tanddaear y mae ASL yn berchen arnynt sy'n cysylltu dwy ran o Fferm Solar Abergelli y bydd Piblinell Nwy'r Ymgeisydd ar gyfer y Prosiect yn eu croesi.
- 7.6.51. Rhoddwyd y darpariaethau amddiffynnol a'r cytundebau ochr drafft cyntaf i ASL ar 22 Mai 2018.
- 7.6.52. Mae'r darpariaethau amddiffynnol a'r cytundeb ochr wedi cael eu cytuno erbyn hyn a chyflwynwyd y darpariaethau amddiffynnol i'r archwiliad yn y DCO drafft diwygiedig erbyn DL5. Llofnodwyd a dyddiwyd y cytundeb ochr ar 13 Mawrth 2019.
- 7.6.53. Ar 13 Mawrth 2019, cadarnhaodd ASL ei fod wedi cytuno ar ddarpariaethau amddiffynnol gyda'r Ymgeisydd a'i fod eisiau tynnu ei gynrychiolaethau'n ôl mewn perthynas â'r cais [REP6-011].
- 7.6.54. I'r graddau bod hwn yn wrthwynebiad yr oedd a127 PA2008 yn berthnasol iddo, rwyf yn fodlon bod y gwrthwynebiad hwn wedi'i dynnu'n ôl ac felly nad yw'n weithredol. Nid yw'r amgylchiadau sy'n weddill yn codi unrhyw faterion sy'n awgrymu na ddylid cymeradwyo'r darpariaethau CA a geisir gan yr Ymgeisydd. Rwyf yn fodlon nad oes unrhyw bryderon ychwanegol sy'n weddill o ran buddiannau Abergelli Power Limited fel y'u cofnodir uchod ac, yn arbennig, o ran y darpariaethau amddiffynnol yn Rhan 6 Atodlen 11 y DCO y mae angen i'r SoS eu hystyried.
- 7.6.55. Mae'r Ymgeisydd wedi cynnwys pwerau i ddiddymu unrhyw hawl neu ddileu unrhyw gyfarpar (a gynhwysir yn Erthygl 31³⁵ y DCO drafft [REP6-003]) ond fe'u gwneir yn amodol ar y darpariaethau amddiffynnol yn Atodlen 11. O ystyried bod y darpariaethau amddiffynnol wedi'u cytuno yn Atodlen 11, gall yr SoS fod yn fodlon y byddai unrhyw ddiddymiad neu ddilead yn angenrheidiol at ddiben cynnal y datblygiad awdurdodedig (a138).

Mr Michael Edwards

Lleoliad: Aliniad y ffordd fynediad a'r cysylltiad trydanol.

Buddiannau:

Rhydd-ddaliad: 12.

Parhaol: 13, 14, 15, 17.

³⁵ Erthygl 29 DCO argymelledig yr ExA, Atodiad Ch

Dros Dro: 13A, 13B, 17A, 17B.

Statws: gwrthwynebwr.

- 7.6.56. Roedd Mr Michael Edwards [RR-011] yn gwrthwynebu CA o ran rhydd-ddaliad, hawliau a TP o ran tir yn fferm Maes-eglwys ar gyfer aliniad y ffordd fynediad a'r cysylltiad trydanol. Mae Mr Edwards yn byw mewn tŷ ar y fferm. Hyd yn oed os oedd yr orsaf gynhyrchu wedi'i lleoli'n gywir, nid oedd wedi'i ddarbwylllo bod angen i aliniad y ffordd fynediad gael ei leoli yn y man lle'r oedd wedi'i leoli, ac felly bod angen iddo fynd trwy ei dir ef. Credai fod dewisiadau lleoli eraill ar gael a ddisgrifir ym mharagraffau 7.6.16-7.6.28 uchod.
- 7.6.57. Cyflwynodd yr Ymgeisydd ei achos dros yr aliniad a ddewiswyd ar gyfer y ffordd fynediad ym mharagraffau 7.6.9-7.6.14 uchod.
- 7.6.58. Nid yw'r partïon wedi dod i gytundeb. Cynhaliodd asiant tir yr Ymgeisydd gyfarfod â Mr Edwards a'i asiant tir ef ar 27 Ebrill 2018 i gychwyn trafodaeth ynglŷn â'r caffaeliad tir arfaethedig. Cynhaliwyd trafodaethau pellach rhwng yr asiantiaid tir i adolygu egwyddorion prisio i gaffael yr hawliau trwy negodi [REP6-002]:
- Trafododd Carter Jonas (Asiant Tir yr Ymgeisydd) y cynnig a oedd i'w wneud gydag asiant y perchennog ar 2 Mai 2018;
 - Gwnaeth yr Ymgeisydd gynnig ysgrifenedig â thelerau llawn i Mr Edwards ar 18 Mai 2018;
 - Ar 6 Mehefin 2018, holodd Carter Jones asiant tir Mr Edwards a oedd unrhyw gynnydd wedi'i wneud o ran gwrthgynnig neu gynnig;
 - Cynhaliwyd cyfarfodydd eraill rhwng yr asiantiaid tir, gyda'r Ymgeisydd yn bresennol, ar 24 Medi a 10 Hydref 2018 i symud y trafodaethau ymlaen;
 - Yn dilyn y cyfarfodydd, rhoddodd asiant y perchennog dystiolaeth gymaradwy trwy neges e-bost ar 2 Tachwedd 2018 a gwahoddodd yr Ymgeisydd i ddiwygio'r cynigion a wnaed;
 - Cysylltodd yr Ymgeisydd ac asiant tir Mr Edwards â'i gilydd i egluro'r dystiolaeth ar 20 Tachwedd 2018;
 - Anfonodd Carter Jonas, sef asiant tir yr Ymgeisydd, ymateb llawn i'r materion prisio a godwyd ar 14 Rhagfyr 2018, gan nodi manylion a gwybodaeth ychwanegol i'w trafod gan y partïon;
 - Gwnaeth yr Ymgeisydd gynnig diwygiedig ar gyfer cytundeb opsiwn i asiant Mr Edwards ar 16 Ionawr 2019 ac a oedd yn egluro'r ardaloedd o dir yr effeithir arnynt gan yr hawliau hawddfaint y byddai'r Ymgeisydd eisiau eu cofnodi. Gwrthodwyd y cynnig gwell hwn gan yr asiant ar 22 Ionawr; a
 - Chyflwynodd Carter Jonas gais ar 22 Ionawr i wrthgynnig gael ei wneud i lywio trafodaethau parhaus yn well [REP6-002].
- 7.6.59. Gwelais y cynnig ar gyfer aliniad y ffordd fynediad yn y lleoliad hwn yn ystod fy ASI [EV-008] yng nghwmni Mr Edwards a Mr Wynne Watkins, sef y ddau AP. Mae lled y ffordd fynediad wedi cael ei leihau i 15m ac mae wedi'i chydleoli â'r cysylltiad trydanol i leihau faint o dir a gymerir i'r eithaf. Mae lleoliad y ffordd fynediad yn golygu na fydd effaith arwyddocaol ar weithrediad y fferm.

- 7.6.60. Yn dilyn fy archwiliad safle, daeth i'r amlwg nad oedd dewis amgen ymarferol ar gyfer lleoli aliniad y ffordd fynediad ar y tir hwn. Am y rhesymau a roddwyd gennyf yn Adran 4.8 uchod ac ym mharagraffau 7.6.7 – 7.6.32, rwyf yn fodlon bod yr Ymgeisydd wedi cynnal arfarniad llawn a theg o opsiynau lleoli ac na ellir mynd i'r afael â phryderon Mr Edwards yn rhesymol trwy leoli'r ffordd fynediad ar dir arall. Felly, at ei gilydd, rwyf yn fodlon bod yr Ymgeisydd wedi dangos yr achos dros CA a TP fel y'u cynigir yn y lleoliad hwn (gweler paragraffau 7.6.29-7.6.32 uchod).

Mr Wynne Watkins

Lleoliad: Aliniad y ffordd fynediad a'r cysylltiad trydanol.

Buddiannau:

Parhaol: 18, 21, 22, 23, 24.

Dros Dro: 18A, 18B.

Statws: gwrthwynebwr.

- 7.6.61. Roedd Mr Wynne Watkins [RR-011] yn gwrthwynebu CA o ran hawliau a TP o ran tir rhwng safle'r cywasgydd nwy a'r B4489, ar gyfer aliniad y ffordd fynediad a'r cysylltiad trydanol. Hyd yn oed os oedd yr orsaf gynhyrchu wedi'i lleoli'n gywir, nid oedd wedi'i ddarbwylllo bod angen i aliniad y ffordd fynediad gael ei leoli yn y man lle'r oedd wedi'i leoli, ac felly bod angen iddo fynd trwy ei dir ef. Credai fod dewisiadau lleoli eraill ar gael a ddisgrifir ym mharagraffau 7.6.16-7.6.28 uchod.
- 7.6.62. Cyflwynodd yr Ymgeisydd ei achos dros yr aliniad a ddewiswyd ar gyfer y ffordd fynediad ym mharagraffau 7.6.9-7.6.14 uchod.
- 7.6.63. Nid yw'r partïon wedi dod i gytundeb. Cynhaliwyd cyfarfod â Mr Watkins a'i asiant tir ar 27 Ebrill 2018 i gychwyn trafodaeth ynglŷn â'r caffaeliad tir arfaethedig:
- Gwnaeth yr Ymgeisydd gynnig ysgrifenedig â thelerau llawn i Mr Watkins ar 18 Mai 2018;
 - Cafodd Carter Jonas, sef asiant tir yr Ymgeisydd, ohebiaeth gan asiant tir y perchennog ar 7 Awst 2018 yn cadarnhau nad oedd penawdau'r telerau (HoT) a gynigiwyd yn y cynnig a wnaed ar 18 Mai 2018 yn dderbyniol i'r perchennog, a chyflwynwyd gwrthgynnig;
 - Ysgrifennodd Carter Jonas at asiant y perchennog ar 3 Medi 2018 i gadarnhau'r hawliau a geisir o dan y DCO ac i ofyn am dystiolaeth o drafodion cymaradwy i gefnogi'r gwrthgynnig a wnaed;
 - Cynhaliwyd cyfarfod arall rhwng yr asiantiaid tir, gyda'r Ymgeisydd yn bresennol, ar 24 Medi 2018;
 - Cyflwynwyd dystiolaeth gymaradwy i Carter Jonas ar 6 Tachwedd 2018 gan asiant y perchennog;
 - Anfonodd Carter Jonas ymateb llawn i'r materion prisio a godwyd ar 14 Rhagfyr 2018, gan nodi manylion a gwybodaeth ychwanegol i'w trafod gan y partïon;

- Cyflwynodd yr Ymgeisydd gynnig diwygiedig i asiant Mr Watkins ar 16 Ionawr 2019 a oedd hefyd yn egluro faint o dir y byddai gofyniad hawddfrait arfaethedig yr Ymgeisydd yn effeithio arno;
- Gwrthodwyd y cynnig gwell hwn gan asiant y perchennog ar 4 Chwefror 2019;
- Cyflwynodd Carter Jonas gais ar 5 Chwefror 2019 i wrthgynnig gael ei wneud i lywio trafodaethau parhaus yn well; ac
- Anfonodd asiant y perchennog neges e-bost ar 19 Chwefror 2019 i ofyn am gynnig diwygiedig arall gan yr Ymgeisydd [REP6-002].

7.6.64. Gwelais y cynnig ar gyfer aliniad y ffordd fynediad yn y lleoliad hwn yn ystod fy ASI [EV-008]. Mae lled y ffordd fynediad wedi cael ei leihau i 15m ac mae wedi'i chydleoli â'r cysylltiad trydanol i leihau faint o dir a gymerir i'r eithaf. Mae lleoliad y ffordd fynediad yn golygu na fydd effaith arwyddocaol ar weithrediad y fferm.

7.6.65. Yn dilyn fy archwiliad safle, daeth i'r amlwg nad oedd dewis amgen ymarferol ar gyfer lleoli aliniad y ffordd fynediad ar y tir hwn. Am y rhesymau a roddwyd gennyf yn Adran 4.8 uchod ac ym mharagraffau 7.6.7 – 7.6.32, rwyf yn fodlon bod yr Ymgeisydd wedi cynnal arfarniad llawn a theg o opsiynau lleoli ac na ellir mynd i'r afael â phryderon Mr Watkins yn rhesymol trwy leoli'r ffordd fynediad ar dir arall. Felly, at ei gilydd, rwyf yn fodlon bod yr Ymgeisydd wedi dangos yr achos dros CA a TP fel y'u cynigir yn y lleoliad hwn (gweler paragraffau 7.6.29-7.6.32 uchod).

Redisplay Limited

Lleoliad: Aliniad y ffordd fynediad a'r cysylltiad trydanol.

Buddiannau:

Parhaol: 18, 21, 22, 23, 24.

Dros Dro: 18A, 18B. Statws: gwrthwynebwr.

7.6.66. Roedd Redisplay Limited [RR-012] yn gwrthwynebu CA o ran hawliau a TP o ran tir rhwng safle'r cywasgydd nwy a'r B4489, ar gyfer aliniad y ffordd fynediad a'r cysylltiad trydanol. Hyd yn oed os oedd yr orsaf gynhyrchu wedi'i lleoli'n gywir, nid oedd wedi'i ddarbwylllo bod angen i aliniad y ffordd fynediad gael ei leoli yn y man lle'r oedd wedi'i leoli, ac felly bod angen iddo fynd trwy ei dir ef. Credai Redisplay Limited fod dewisiadau lleoli eraill ar gael a ddisgrifir ym mharagraffau 7.6.16-7.6.28 uchod.

7.6.67. Cyflwynodd yr Ymgeisydd ei achos dros yr aliniad a ddewiswyd ar gyfer y ffordd fynediad ym mharagraffau 7.6.9-7.6.14 uchod.

7.6.68. Nid yw'r partïon wedi dod i gytundeb. Cynhaliwyd cyfarfod â Mr Watkins a'i asiant tir (Mr Watkins yw prif berchennog llesiannol Redisplay Ltd) ar 27 Ebrill 2018 i gychwyn trafodaeth ynglŷn â'r caffaeliad tir arfaethedig:

- Gwnaeth yr Ymgeisydd gynnig ysgrifenedig â thelerau llawn i Mr Watkins ar neu o gwmpas 18 Mai 2018;

- Ysgrifennodd asiant y perchennog at Carter Jonas ar 7 Awst 2018 mewn ymateb i'r cynnig a wnaed ar 18 Mai 2018, yn cadarnhau na dderbyniwyd yr HoTs a gyflwynwyd gyda'r cynnig;
- Gwnaed gwrthgynnig ac, mewn neges e-bost dyddiedig 3 Medi 2018, gofynnodd Carter Jonas am dystiolaeth gymaradwy i gefnogi'r cynnig a wnaed;
- Cynhaliwyd cyfarfod arall rhwng yr asiantiaid tir, gyda'r Ymgeisydd yn bresennol, ar 24 Medi 2018;
- Rhoddwyd taflen delerau a chynnig diwygiedig i asiant y perchennog ar 6 Rhagfyr 2018 a gydnabuwyd gan asiant y perchennog; ac
- Anfonodd asiant y perchennog neges e-bost arall ar 19 Chwefror 2019 i wrthod y cynnig diwygiedig a roddwyd ar 6 Rhagfyr 2018 ac i ofyn am gynnig diwygiedig arall gan yr Ymgeisydd. [REP6-002].

7.6.69. Gwelais y cynnig ar gyfer aliniad y ffordd fynediad yn y lleoliad hwn yn ystod fy ASI [EV-008]. Mae lled y ffordd fynediad wedi cael ei leihau i 15m ac mae wedi'i chydleoli â'r cysylltiad trydanol i leihau faint o dir a gymerir i'r eithaf. Mae lleoliad y ffordd fynediad yn golygu na fydd effaith arwyddocaol ar weithrediad Redisplay.

7.6.70. Yn dilyn fy archwiliad safle, daeth i'r amlwg nad oedd dewis amgen ymarferol ar gyfer lleoli aliniad y ffordd fynediad ar y tir hwn. Am y rhesymau a roddwyd gennyf yn Adran 4.8 uchod ac ym mharagraffau 7.6.7 – 7.6.32, rwyf yn fodlon bod yr Ymgeisydd wedi cynnal arfarniad llawn a theg o opsiynau lleoli ac na ellir mynd i'r afael â phryderon Redisplay Limited yn rhesymol trwy leoli'r ffordd fynediad ar dir arall. Felly, at ei gilydd, rwyf yn fodlon bod yr Ymgeisydd wedi dangos yr achos dros CA a TP fel y'u cynigir yn y lleoliad hwn (gweler paragraffau 7.6.29-7.6.32 uchod).

ARGAELEDD A DIGONOLRWYDD CYLLID

7.6.71. Archwiliais argaeledd a digonolrwydd cyllid ar gyfer iawndal CA a TP, ac rwyf yn fodlon o'r dystiolaeth yn yr FS a gyflwynwyd [APP-012] bod gan yr Ymgeisydd fynediad digonol at gyllid i fodloni unrhyw rwymedigaethau iawndal. Roedd yr FS yn manylu ar adnoddau Drax (rhiant-gwmni'r Ymgeisydd) a fyddai ar gael i ariannu'r prosiect, gan gynnwys cyllid ar gyfer CA.

7.6.72. Ni chodwyd digonolrwydd cyllid gan unrhyw AP na phartïon eraill â buddiant yn ystod yr archwiliad.

7.6.73. Mae Erthygl 34 y DCO, fersiwn 6 [REP6-003], yn datgan:

- *"(1) Rhaid i'r ymgymwrwr beidio ag arfer y pwerau a roddir gan y darpariaethau y cyfeirir atynt ym mharagraff (2) o ran unrhyw dir oni bai ei fod wedi sefydlu, yn gyntaf, naill ai— (a) gwarant, a bod swm y warant honno wedi cael ei gymeradwyo gan yr Ysgrifennydd Gwladol o ran rhwymedigaethau'r ymgymwrwr i dalu iawndal o dan y Gorchymyn hwn mewn perthynas ag arfer y pŵer perthnasol o ran y tir hwnnw; neu (b) math arall o sicrwydd, a bod swm y sicrwydd hwnnw at y diben hwnnw wedi cael ei gymeradwyo gan yr Ysgrifennydd Gwladol o ran rhwymedigaethau'r ymgymwrwr i dalu*

iawndal o dan y Gorchymyn hwn mewn perthynas ag arfer y pŵer perthnasol o ran y tir hwnnw.”.

- 7.6.74. Yn ôl Erthygl 34(1), rhaid peidio ag arfer y darpariaethau yn Erthyglau 19, 23, 24, 26, 28, 29, 30 a 31 (sydd, gyda'i gilydd, yn ffurfio'r darpariaethau hynny y gallai rhai rhwymedigaethau iawndal godi ohonynt) hyd nes bod Erthygl 34(1)(a) neu (b) wedi cael ei bodloni:

(a) gwarant, a bod swm y warant honno wedi cael ei gymeradwyo gan yr Ysgrifennydd Gwladol o ran rhwymedigaethau'r ymgymwrwr i dalu iawndal o dan y Gorchymyn hwn mewn perthynas ag arfer y pŵer perthnasol o ran y tir hwnnw; neu

(b) math arall o sicrwydd, a bod swm y sicrwydd hwnnw at y diben hwnnw wedi cael ei gymeradwyo gan yr Ysgrifennydd Gwladol o ran rhwymedigaethau'r ymgymwrwr i dalu iawndal o dan y Gorchymyn hwn mewn perthynas ag arfer y pŵer perthnasol o ran y tir hwnnw.

- 7.6.75. Nid yw Erthygl 34 yn nodi'r union fath o warant na chan bwy y byddai'n cael ei dal. Fodd bynnag, mae hwnnw'n fater i'w benderfynu gan yr SoS os a phan ddaw'r adeg i ryddhau Erthygl 34(1)(a) neu (b).

- 7.6.76. Rwyf yn fodlon bod Erthygl 34 yn darparu modd cadarn o warantu'r cyllid angenrheidiol. Rwyf yn fodlon, ar ôl i'r SoS ryddhau naill ai Erthygl 34(1) (a) neu (b), y bydd y cyllid gwarantedig yn cael ei ddal trwy fodd sy'n hygyrch i bobl sydd â hawl i gael iawndal.

YSTYRIAETHAU DEDDF HAWLIAU DYNOL 1998

- 7.6.77. Yn y SoR [REP6-002], nododd yr Ymgeisydd ei fod wedi ceisio lleihau faint o dir yr oedd angen bwerau CA drosto i'r eithaf. Credai y byddai caniatáu'r DCO yn arwain at fudd sylweddol i'r cyhoedd, a allai gael ei wireddu dim ond pe byddai pwerau CA yn cael eu rhoi gyda'r DCO. Daeth i'r casgliad bod y buddion sylweddol i'r cyhoedd yn drech na'r effeithiau ar unigolion sy'n berchen ar eiddo o fewn tir y Gorchymyn.
- 7.6.78. O ran Erthygl 6, dywedodd yr Ymgeisydd y bu cyfleoedd i wneud cynrychiolaethau yn ystod y broses o baratoi'r cais ac yr ymgynghorwyd â thirfeddianwyr. Bu cyfle i wneud cynrychiolaethau yn ystod yr Archwiliad.
- 7.6.79. Roedd yr Ymgeisydd o'r farn bod unrhyw dresmasiad ar hawliau'r Confensiwn o ganlyniad i gynnwys pwerau CA yn y DCO yn gymesur ac yn ddilys ac yn unol â chyfraith genedlaethol ac Ewropeaidd. Roedd achos cymhellol er budd y cyhoedd dros arfer y pwerau CA hyn. Daeth yr Ymgeisydd i'r casgliad y byddai'n briodol ac yn gymesur i'r Ysgrifennydd Gwladol wneud y DCO, gan gynnwys rhoi pwerau CA.
- 7.6.80. Mae Erthygl 1 y Protocol Cyntaf (sy'n ymwneud â hawliau'r rhai y bwriedir caffael eu heiddo'n orfodol a thresmasu ar eu mwynhad tawel o'u heiddo) wedi'i gweithredu. Rwyf yn fodlon y byddai'r tresmasiad arfaethedig ar hawliau unigolion yn gyfreithlon, yn angenrheidiol ac yn gyfiawnadwy er budd y cyhoedd.

- 7.6.81. Mae Erthygl 6 yn rhoi'r hawl i APs gael gwrandawriad teg a chyhoeddus o'u gwrthwynebiadau, ac mae wedi'i gweithredu. Trwy ddarparu CAH [EV-004], rwyf wedi galluogi unrhyw AP a oedd eisiau cael ei glywed i gael ei glywed yn llawn, yn deg ac yn gyhoeddus.

MATERION TECHNEGOL: PA2008, ADRANNAU 127 I 132

- 7.6.82. Ymdriniais â gofynion deddfwriaethol PA2008 sy'n berthnasol i CA a TP yn fy FWQs [PD-005(3)]. Ymhelaethwyd ar y rhain fel y bo'r angen yn y Gwrandawriad CA. Rhoddodd ymateb yr Ymgeisydd i'm FWQs [REP1-010] y wybodaeth ganlynol sy'n berthnasol i CA a TP:

- Mae sawl endid sy'n ymgwymerwyr statudol sy'n ddarostyngedig i a127 PA2008. Lle mae gwrthwynebiad heb ei ddatrys gan endid o'r fath, amlygir ac ystyrir hyn yn fy nhrefnfaeth o wrthwynebiadau unigol uchod (gweler Atodiad 3 Tabl 3 y SoR [REP6-002]).
- Nid yw'r Ymddiriedolaeth Genedlaethol yn berchen ar unrhyw dir y Gorchymyn, ac felly nid yw a130 PA2008 yn berthnasol.
- Yn gyson â Rhan 5 y BoR [AS-002], sy'n cadarnhau absenoldeb tir categori arbennig, nid oes cynnig i gaffael unrhyw dir sy'n ffurfio rhan o dir comin, man agored na rhandir gardd danwydd neu ardd gae sy'n ddarostyngedig i weithrediad a131 PA2008, na hawliau dros dir o'r fath sy'n ddarostyngedig i weithrediad a132 PA2008.
- Nid oedd unrhyw beth yn ymwneud â'r sefyllfaoedd hyn wedi newid yn ystod gweddill cyfnod yr archwiliad, felly rwyf yn fodlon ar y materion canlynol:
 - bod angen ystyried a127 PA2008 fel yr amlygwyd ac yr argymhellwyd yn fy ystyriaeth o wrthwynebiadau unigol uchod;
 - nid yw a130 PA2008 yn berthnasol ac nid oes angen i'r SoS ei hystyried ymhellach; ac
 - nid yw adrannau 131 a 132 PA2008 yn berthnasol ac nid oes angen i'r SoS eu hystyried ymhellach.

CASGLIADAU CYFFREDINOL YR EXA AR CA A TP

- 7.6.83. Wrth ystyried p'un a ddylwn argymhell y dylai'r SoS roi pwerau CA, a pha rai, defnyddiais adrannau perthnasol PA2008, sef a122 ac a123 yn benodol, Canllawiau CA y DCLG a Deddf Hawliau Dynol 1998; ac, yng ngoleuni'r cynrychiolaethau a dderbyniwyd a'r dystiolaeth a gyflwynwyd, ystyriais b'un a wnaed achos cymhellol er budd y cyhoedd, gan gydbwysu budd y cyhoedd yn erbyn colled breifat. Er nad yw pwerau TP yn ddarostyngedig i'r un profion, fe'u ceisir ar gyfer gwaith sy'n gysylltiedig ag adeiladu ac maen nhw'n rhan annatod o'r pecyn tir ar gyfer y Datblygiad Arfaethedig. Rwyf wedi archwilio'r angen am y tir TG a'i ehangder fel y'i hamlinellir yn y DCO.
- 7.6.84. Mae a122 PA2008 yn amlinellu'r dibenion y ceir awdurdodi CA ar eu cyfer. Yng ngoleuni Canllawiau CA y DCLG, mae angen ystyried a yw'r Ymgeisydd wedi cyfiawnhau ei gynigion ar gyfer CA o ran y tir. Rwyf yn fodlon y byddai'r buddiannau cyfreithiol yn yr holl leiniau tir sydd wedi'u cynnwys yn y BoR ac a ddangosir ar y Cynlluniau Tir yn angenrheidiol ar

gyfer y prif ddatblygiad ac ar gyfer tir sy'n ofynnol i hwyluso'r ddarpariaeth honno. Felly, bodlonir gofynion a122(2) (a) a (b) PA2008 at ddibenion y datblygiad gorsaf gynhyrchu.

7.6.85. At ddibenion a122(3) PA2008, deuaf i'r casgliad:

- y byddai'r datblygiad y ceisir y tir ar ei gyfer yn cyd-fynd â pholisi cenedlaethol fel y'i hamlinellir yn yr NPSs perthnasol, ac y dylai caniatâd datblygu gael ei roi;
- bod yr NPSs yn amlygu angen cenedlaethol am gapasiti cynhyrchu trydan o'r math y mae'r cais yn ymwneud ag ef;
- bod angen sicrhau'r tir a'r hawliau sy'n ofynnol ac adeiladu'r datblygiad o fewn graddfa amser fasnachol resymol, a bod y datblygiad yn cynrychioli budd sylweddol i'r cyhoedd i'w ystyried yn y cydbwysedd;
- bod y golled breifat i'r rhai yr effeithir arnynt wedi cael ei lliniaru trwy'r canlynol:
 - y tir a ddewiswyd;
 - cydleoli'r ffordd fynediad a'r cysylltiad trydanol;
 - lleihau lled y ffordd fynediad i'r eithaf; a
 - lleihau graddau'r hawliau a'r buddiannau y bwriedir eu caffael i'r eithaf;
- bod yr Ymgeisydd wedi archwilio'r holl ddewisiadau amgen rhesymol yn lle'r CA a geisir o ran hawliau a buddiannau; ac
- y byddai cyllid sicr ar gael i alluogi'r CA ar ôl i'r DCO gael ei wneud, a bod gwarant ei fod ar gael yn cael ei chynnig yn y DCO.

7.7. CASGLIADAU

7.7.1. Mae angen i'r achos dros bwerau CA gael ei seilio ar yr achos dros y datblygiad yn gyffredinol. Rwyf wedi dangos ym Mhennod 6 fy mod wedi dod i'r casgliad y dylai caniatâd datblygu gael ei roi. Fel yr wyf wedi'i amlinellu uchod, rwyf yn fodlon bod cyfiawnhad i'r pwerau CA a geisir gan yr Ymgeisydd ac y dylent gael eu rhoi oherwydd fy mod wedi dod i'r casgliad bod achos cymhellol er budd y cyhoedd i'r tir a'r buddiannau gael eu caffael yn orfodol, ac felly y byddai'r cynnig yn cydymffurfio ag a122(3) PA2008.

7.7.2. Gan droi at a123 PA2008, am y rhesymau a roddais ar ddechrau'r Bennod hon, credaf fod yr amod yn is-adran (2) wedi'i fodloni ac felly y gellir rhoi'r pwerau CA a geisir. Credaf hefyd fod y pwerau TP a geisir yn y DCO yn angenrheidiol ac y dylent gael eu rhoi. Rwyf yn fodlon y byddai'r tresmasiad arfaethedig ar hawliau unigolion yn gyfreithlon, yn angenrheidiol, yn gymesur ac yn gyfiawnadwy er budd y cyhoedd.

8. GORCHYMYN CANIATÂD DATBLYGU DRAFFT A MATERION CYSYLLTIEDIG

8.1. CYFLWYNIAD

- 8.1.1. Cyflwynwyd Gorchymyn Caniatâd Datblygu (DCO) drafft y cais (Diwygiad 0) [APP-014] ac EM [APP-013] gan yr Ymgeisydd yn rhan o'r cais am ganiatâd datblygu. Mae'r EM yn disgrifio diben y DCO drafft fel y'i cyflwynwyd yn wreiddiol, gyda phob un o'i erthyglau a'i atodlenni.
- 8.1.2. Roedd DCO drafft y cais wedi'i seilio'n fras ar y Darpariaethau Model (MPs) (Gorchymyn Cynllunio Seilwaith (Darpariaethau Model) (Cymru a Lloegr) 2009 sydd wedi'i ddiddymu erbyn hyn), ond gwrodd oddi wrth y cymalau hynny i ddefnyddio dull drafftio a welir mewn Gorchymynion a wnaed ar gyfer datblygiad tebyg o dan PA2008 [APP-034]. Gan adeiladu ar y sylfaen hon, fe'i modelwyd yn agos ar y dull drafftio a ddefnyddiwyd ar gyfer Gorchymyn Gorsaf Gynhyrchu sy'n Rhedeg ar Nwy Hirwaun 2015 (OS Rhif 1574/2015) (Gorchymyn Hirwaun). Gwnaed y cais am Orchymyn Hirwaun gan Ymgeisydd yn yr un grŵp o gwmnïau â'r Ymgeisydd presennol ac am ddatblygiad tebyg h.y. gorsaf gynhyrchu sy'n rhedeg ar nwy ar raddfa gyfatebol. Mae elfennau arwyddocaol o DCO drafft y cais a Gorchymyn Hirwaun yn debyg o ran diben, strwythur a drafftio.
- 8.1.3. Mae'r Bennod hon yn rhoi trosolwg o'r newidiadau a wnaed i'r DCO yn ystod y broses Archwilio, rhwng DCO drafft y cais a'r DCO drafft terfynol a ffefrir a gyflwynwyd gan yr Ymgeisydd erbyn DL6 [REP6-003] (Diwygiad 6). Yna mae'n ystyried y newidiadau hynny er mwyn cyrraedd y DCO Argymelledig yn Atodiad Ch yn adroddiad hwn.
- 8.1.4. Mae'r adrannau canlynol o'r bennod hon:
- yn adrodd ar y prosesau a ddefnyddiais i archwilio'r DCO drafft a'i gynnydd trwy'r Archwiliad;
 - yn adrodd ar strwythur y DCO drafft;
 - yn rhoi crynodeb byr o'r newidiadau a wnaed i'r DCO yn ystod yr Archwiliad hyd at DL6 nad oeddent yn destun dadl (lle, yn dilyn ymgynghori a thrafodaeth fel y bo'r angen, yr oedd yr Ymgeisydd ac IPs perthnasol yn cefnogi'r newidiadau);
 - yn adrodd yn fanylach ar y newidiadau hynny a oedd yn destun cyflwyniadau ymrysongar mewn WR a / neu Wrandawiadau;
 - yn mynd i'r afael â'r berthynas rhwng y DCO a chydysniadau a chytundebau cyfreithiol eraill;
 - yn mynd i'r afael â darparu amddiffyniad yn erbyn niwsans yn y DCO; a
 - chasgliadau'r ExA.

8.2. ARCHWILIO'R DCO

- 8.2.1. Dechreuodd fy adolygiad o fersiynau DCO drafft y cais (Diwygiad 0) [APP-014] a'r EM [APP-013] cyn i'r Archwiliad ddechrau'n ffurfiol. Cofnodais faterion a oedd yn codi o fersiynau'r cais yn ystod y cyfnod

cyn-archwilio, wrth baratoi ar gyfer yr archwiliad. Roedd fy Llythyr Rheol 6 [PD-005] yn cynnwys atodlen materion i'w harchwilio yn ymwneud â'r DCO drafft [PD-005, Atodiadau B, C, E, G a H], a oedd ar gael i'r Ymgeisydd ac IPs cyn i'r Archwiliad ddechrau. Galluogodd y broses hon i mi gynnal y Gwrandawriad Mater Penodol (ISH) cyntaf ar y DCO ar 10 Hydref 2018 [EV-003] [EV-005]. Olrheiniwyd materion i'w harchwilio a oedd yn codi o'r DCO, a chynnydd arnynt, drwy gydol yr Archwiliad gan ddefnyddio ISH arall ar y DCO a gynhaliwyd ar 13 Rhagfyr 2018 [EV-011].

8.2.2. Diweddarodd yr Ymgeisydd y DCO drafft sawl gwaith yn ystod yr Archwiliad, gan ymateb i faterion a godwyd gan IPs a gennyf i, trwy WR ac o ganlyniad i'r prosesau Gwrandawriad. Ar adeg pob diwygiad, cyflwynodd yr Ymgeisydd gopi glân a chopi yn dangos newidiadau wedi'u holrhain o'r fersiwn copi glân flaenorol. Pan wnaed newidiadau arwyddocaol, darparwyd atodlen yn manylu ar y newid a'r rhesymeg.

8.2.3. Y materion allweddol a godwyd yn yr holl Ddiwygiadau oedd:

- A oes angen Gofyniad ynglŷn â therfyn amser ar gyfer gweithredu'r orsaf gynhyrchu [REP1-023] [REP3-012];
- A oes angen Gofyniad ynglŷn â bond ar gyfer datgomisiynu [REP1-023] [REP3-012];
- Taliad Cyflawni, Monitro a Gorfodi gan yr Ymgeisydd [REP1-023] [REP3-012]; a
- Honiad bod yr Ymgeisydd wedi dehongli, ac felly cymhwyso, Canllawiau'r DCLG ar Ddatblygiad Cysylltiedig yn anghywir [REP3-017].

8.2.4. Datryswyd y mater yn ymwneud â thaliad Cyflawni, Monitro a Gorfodi [REP1-023] [REP3-012] er boddhad CCS pan gydnabu bod dileu'r adran ffioedd o Atodlen 12, paragraff 3, yn dderbyniol o ystyried bod Cytundeb Perfformiad Cynllunio wedi cael ei gytuno rhwng partïon o ran ffioedd cyflwyno cais [REP6-012].

8.2.5. Roedd y fersiynau o'r DCO drafft a gyflwynwyd gan yr Ymgeisydd yn ystod yr Archwiliad fel a ganlyn:

- Cyflwynwyd Diwygiad 1 [REP1-013] (copi glân) a [REP1-014] (newidiadau wedi'u holrhain) mewn ymateb i faterion a godwyd yn yr ISH ar y DCO ar 10 Hydref 2018. Darparwyd rhestr o newidiadau hefyd [REP1-015];
- Cyflwynwyd Diwygiad 2 [REP2-005] (copi glân) a [REP2-006] (newidiadau wedi'u holrhain) mewn ymateb i faterion a godwyd mewn trafodaethau ag IPs, o ExQ1 ac WRs erbyn DL1. Darparwyd rhestr o newidiadau hefyd [REP2-007];
- Cyflwynwyd Diwygiad 3 [REP3-002] (copi glân) a [REP3-003] (newidiadau wedi'u holrhain) gyda mân newidiadau;
- Cyflwynwyd Diwygiad 4 [REP4-002] (copi glân) a [REP4-003] (newidiadau wedi'u holrhain) mewn ymateb i faterion a godwyd yn yr ISH ar y DCO ar 13 Rhagfyr 2018 [EV-011]. Darparwyd rhestr o newidiadau hefyd [REP4-004];

- Cyflwynwyd Diwygiad 5 [REP5-004] (copi glân) a [REP5-005] (newidiadau wedi'u holrhain) gyda mân newidiadau; a
- Chyflwynwyd Diwygiad 6 DCO [REP6-003] (copi glân), [REP6-004] (newidiadau wedi'u holrhain) erbyn DL6. Darparwyd rhestr o newidiadau hefyd [REP6-006].

8.2.6. Ni chafwyd unrhyw sylwadau gan unrhyw breswylwyr lleol nac IPs cymunedol ar unrhyw Ddiwygiad o'r DCO.

8.2.7. Oni nodir yn benodol fel arall, mae'r holl gyfeiriadau at ddarpariaethau yn y DCO drafft yn y bennod hon wedi'u seilio ar Ddiwygiad 6 y DCO drafft, sef y fersiwn derfynol a ffefrir gan yr Ymgeisydd [REP6-003].

8.3. STRWYTHUR Y DCO DRAFFT

8.3.1. Mae'r DCO drafft yn adlewyrchu strwythur a dull drafftio Gorchymyn Hirwaun yn agos.

8.3.2. Gellir crynhoi strwythur y DCO drafft (a gymerwyd o ddiwygiad 6 y DCO drafft a ffefrir gan yr Ymgeisydd [REP6-003]) fel a ganlyn:

Erthyglau

- RHAN 1 RHAGARWEINIOL
 - 1. Enwi a chychwyn
 - 2. Dehongli
- RHAN 2 PRIF BWERAU
 - 3. Caniatâd datblygu, ac ati, a roddir gan y Gorchymyn
 - 4. Cynnal a chadw'r datblygiad awdurdodedig
 - 5. Gweithredu'r datblygiad awdurdodedig
 - 6. Budd y Gorchymyn hwn
 - 7. Caniatâd i drosglwyddo budd y Gorchymyn
- RHAN 3 STRYDOEDD
 - 8. Pŵer i newid gosodiad, ac ati, strydoedd
 - 9. Gwaith stryd
 - 10. Adeiladu a chynnal a chadw dull mynediad newydd neu wedi'i newid
 - 11. Gwahardd neu gyfyngu ar ddefnyddio strydoedd dros dro
 - 12. Cau strydoedd
 - 13. Mynediad i waith
 - 14. Cytundebau ag awdurdodau stryd
 - 15. Rheoleiddio traffig
- RHAN 4 PWERAU ATODOL
 - 16. Gollyngiad dŵr
 - 17. Awdurdod i arolygu ac archwilio'r tir
 - 18. Symud gweddillion dynol ymaith
- RHAN 5 PWERAU CAFFAEL
 - 19. Caffael tir yn orfodol

- 20. Caffael tir yn orfodol – cynnwys y cod mwynau
- 21. Awdurdod statudol i drechu hawddfreintiau a hawliau eraill
- 22. Terfyn amser i arfer yr awdurdod i gaffael tir yn orfodol
- 23. Caffael hawliau, ac ati, yn orfodol
- 24. Hawliau preifat
- 25. Cymhwyso Deddf Prynu Gorfodol (Datganiadau Breinio) 1981
- 26. Caffael isbridd yn unig
- 27. Addasu Rhan 1 Deddf Prynu Gorfodol 1965
- 28. Hawliau o dan neu dros strydoedd
- 29. Defnydd dros dro o dir mewn cysylltiad â chynnal y datblygiad awdurdodedig
- 30. Defnydd dros dro o dir i gynnal a chadw'r datblygiad awdurdodedig
- 31. Ymgwymerwyr statudol
- 32. Cyfarpar a hawliau ymgwymerwyr statudol mewn strydoedd
- 33. Adennill costau cysylltiadau newydd
- 34. Cyllid
- RHAN 6 GWEITHREDIADAU
 - 35. Cwmpo neu docio coed a thynnu gwrychoedd ymaith
- RHAN 7 AMRYWIOL A CHYFFREDINOL
 - 36. Cymhwyso cyfraith landlord a thenant
 - 37. Tir gweithredol at ddibenion Deddf 1990
 - 38. Amddiffyniad i achosion yn ymwneud â niwsans statudol
 - 39. Darpariaethau amddiffynnol
 - 40. Ardystio cynlluniau ac ati
 - 41. Cyflwyno hysbysiadau
 - 42. Y weithdrefn yn ymwneud â chymeradwyaethau penodol
 - 43. Cymrodeddu
 - 44. Cymhwyso ac addasu darpariaethau deddfwriaethol
- ATODLEN 1 — DATBLYGIAD AWDURDODEDIG
- ATODLEN 2 - GOFYNION
- ATODLEN 3 — STRYDOEDD Y BYDD EU GOSODIAD YN CAEL EI NEWID YN BARHAOL A DROS DRO
 - RHAN 1 — NEWID GOSODIAD YN BARHAOL
 - RHAN 2 — NEWID GOSODIAD DROS DRO
- ATODLEN 4 – STRYDOEDD SY’N DESTUN GWAITH STRYD
- ATODLEN 5 – MYNEDIAD
 - RHAN 1 — Y RHANNAU HYNFY O FYNEDFEYDD SYDD I’W CYNNAL TRWY WARIANT CYHOEDDUS
 - RHAN 2 — Y RHANNAU HYNFY O FYNEDFEYDD SYDD I’W CYNNAL GAN YR AWDURDOD STRYD
 - RHAN 3 — Y GWAITH HYNFY I ADFER MYNEDFEYDD DROS DRO A FYDD YN CAEL EU CYNNAL TRWY WARIANT CYHOEDDUS
 - RHAN 4 — Y GWAITH HYNFY I ADFER MYNEDFEYDD DROS DRO A FYDD YN CAEL EU CYNNAL GAN YR AWDURDOD STRYD

- ATODLEN 6 — GWAHARDD NEU GYFYNGU AR DDEFNYDDIO STRYDOEDD DROS DRO
- ATODLEN 7 — STRYDOEDD SYDD I'W CAU
- ATODLEN 8 — ADDASU DEDDFIADAU IAWNDAL A PHRYNU GORFODOL I GREU HAWLIAU NEWYDD A GOSOD CYFYNGIADAU NEWYDD
- ATODLEN 9 — TIR Y CEIR EI FEDDIANNU DROS DRO
- ATODLEN 10 — TYNNU GWRYCHOEDD YMAITH
- ATODLEN 11 — DARPARIAETHAU AMDDIFFYNNOL
 - RHAN 1 — I AMDDIFFYN YMGYMERWYR TRYDAN, NWY, DŴR A CHARTHFFOSIAETH
 - RHAN 2 — I AMDDIFFYN GWEITHREDWYR RHWYDWEITHIAU COD CYFATHREBU ELECTRONIG
 - RHAN 3 — I AMDDIFFYN Y GRID CENEDLAETHOL
 - RHAN 4 — I AMDDIFFYN WESTERN POWER DISTRIBUTION (SOUTH WALES) PLC
 - RHAN 5 — I AMDDIFFYN DŴR CYMRU CYFYNGEDIG
 - RHAN 6 — I AMDDIFFYN ABERGELLI SOLAR LIMITED
 - RHAN 7 — I AMDDIFFYN WALES AND WEST UTILITIES LIMITED
- ATODLEN 12 — Y WEITHDREFN AR GYFER CYFLAWNI GOFYNION

8.3.3. Rwyf yn fodlon bod strwythur y DCO yn addas i'r diben ac nid wyf yn argymhell unrhyw newidiadau i'r strwythur fel y'i hamlinellir uchod.

8.4. GWEITHREDU'R DCO DRAFFT

8.4.1. Mae'n bwysig disgrifio'r dulliau a ddefnyddiwyd i ddrafftio darpariaethau penodol yn y DCO, sy'n benodol i'w amgylchiadau. Disgrifir y rhain nid oherwydd fy mod yn argymhell newidiadau iddynt, ond oherwydd eu bod ychydig yn wahanol i'r dulliau a ddefnyddiwyd mewn DCOs eraill tebyg.

8.4.2. Mae'r DCO yn gwahaniaethu'n glir iawn rhwng terfynau'r Gorchymyn a thir y Gorchymyn [REP6-003]. Ymdriniais â hyn yn fyr ym mharagraffau 2.2.4 -2.2.7 yr adroddiad hwn.

8.4.3. Mae terfynau'r Gorchymyn wedi'u diffinio'n gaeth, i gynnwys tir y byddai'r datblygiad awdurdodedig a Chyfadeilad yr Orsaf Bŵer yn cael eu darparu arno, ochr yn ochr â'r tir y mae ei angen dros dro ar gyfer prosesau adeiladu sy'n gysylltiedig â Chyfadeilad yr Orsaf Bŵer. Diffinnir terfynau'r Gorchymyn yn Erthygl 2(1) fel a ganlyn:

Mae "terfynau'r Gorchymyn" yn golygu'r terfynau a ddangosir ar y cynlluniau gwaith."

8.4.4. Mae'r Cynlluniau Gwaith [APP-053] yn amlygu'n glir y tir cyfyngedig, a amlinellir mewn gwyrdd ar y cynlluniau hynny, sy'n cynrychioli tir o fewn terfynau'r Gorchymyn. Dyma leoliad Gwaith Rhif 1 (A-F) i 4 a amlygir yn Atodlen 1 y DCO, a dyma'r cyfan o'r gwaith y ceisir ei awdurdodi gan y DCO i gyflawni'r orsaf gynhyrchu.

8.4.5. Mewn cyferbyniad, mae tir y Gorchymyn wedi'i ddiffinio'n fwy bras er mwyn, i bob pwrpas, cynnwys terfynau'r Gorchymyn fel is-set ohono,

ond hefyd cynnwys y tir ychwanegol hwnnw y byddai'r holl bwerau eraill a geisir gan yr Ymgeisydd yn cael eu harfer arno, gan gynnwys CA o ran tir a hawliau ar gyfer aliniad arfaethedig y cysylltiad nwy, aliniad y cysylltiad trydanol a TP o ran tir ar gyfer adeiladau'r rhain. Diffinnir tir y Gorchymyn yn Erthygl 2(1) fel a ganlyn:

Mae "tir y Gorchymyn" yn golygu'r tir sy'n ofynnol ar gyfer, neu sy'n ofynnol i hwyluso, neu sy'n atodol i, neu yr effeithir arno gan, y datblygiad awdurdodedig a ddangosir ar y cynlluniau tir ac a ddisgrifir yn y llyfr cyfeirio."

- 8.4.6. Mae'r Cynlluniau Tir [APP-057] yn amlygu'n glir yr ardal fwy o lawer o dir, a amlinellir yn goch ar y cynlluniau hynny, sy'n cynrychioli tir y Gorchymyn.
- 8.4.7. Mae'r gwahaniaeth hwn yn arwyddocaol oherwydd, yn ei dro, mae'r DCO yn rhoi cyfres o hawliau dros dir y Gorchymyn i'w fuddiolwr, sef yr ymgwymerwr, yn ogystal â chaniatâd datblygu ar gyfer Cyfadeilad yr Orsaf Bŵer yn nherfynau'r Gorchymyn. Mae'n gwneud hynny oherwydd nid yw pwerau sy'n berthnasol i faterion fel CA, TP, mynediad a gwaith stryd, draenio, arolygon, a gwaith coed a gwrychoedd yn cael eu rhoi trwy'r caniatadau cynllunio ar wahân o dan TCPA1990 a roddwyd gan CCS ar gyfer aliniadau'r cysylltiad nwy a thrydanol (a roddwyd ar 6 Rhagfyr 2018). Nid yw'r pwerau hyn yn rhoi'r caniatâd datblygu ar gyfer aliniad y cysylltiad nwy a thrydanol, ond maen nhw'n angenrheidiol i alluogi'r aliniadau i gael eu datblygu maes o law.
- 8.4.8. Lle mae'r diffiniad o dir y Gorchymyn yn cyfeirio at '*dir sy'n ofynnol ar gyfer, neu sy'n ofynnol i hwyluso, neu sy'n atodol i, neu yr effeithir arno gan, y datblygiad awdurdodedig*', mae'n ceisio cynnwys yn ei ddiffiniad y tir y tu allan i derfynau'r Gorchymyn y ceisir y pwerau hyn drosto er mwyn cynorthwyo i ddarparu aliniadau'r cysylltiad nwy a thrydanol. Ceir datganiadau tebyg yng nghorff y DCO, a'u diben yw sicrhau nad yw pwerau sy'n berthnasol i ddarparu aliniadau'r cysylltiad nwy a thrydanol wedi'u cyfyngu i derfynau'r Gorchymyn sydd wedi'u diffinio'n gaeth, ond eu bod hefyd yn berthnasol i ardal ehangach tir y Gorchymyn, fel y bo'r angen.
- 8.4.9. Er enghraifft, yn Erthygl 9 (Gwaith stryd), ceir darpariaeth sy'n datgan:

"Caiff yr ymgwymerwr, at ddibenion y datblygiad awdurdodedig, gael mynediad i unrhyw un o'r strydoedd a nodir yn Atodlen 4 (strydoedd sy'n destun gwaith stryd) sydd o fewn tir y Gorchymyn ..."

er mwyn arfer y pŵer a roddir gan yr Erthygl. Diben y dull drafftio hwn yw sicrhau, os bydd angen, bod y pŵer perthnasol ar gael i'w ddefnyddio i gynorthwyo i ddarparu aliniadau'r cysylltiad nwy a thrydanol a ganiatawyd ar dir y Gorchymyn, yn ogystal â datblygu Cyfadeilad yr Orsaf Bŵer o fewn terfynau'r Gorchymyn. Ceir datganiadau tebyg at yr un diben yn Erthygl 11 (gwahardd neu gyfyngu ar ddefnyddio strydoedd dros dro), Erthygl 13 (mynediad i waith), Erthygl 15 (rheoleiddio traffig), Erthygl 16 (gollyngiad dŵr), Erthygl 17 (awdurdod i arolygu ac archwilio'r tir), Erthygl 21 (awdurdod statudol i drechu hawddfreintiau a hawliau

eraill), Erthygl 28 (hawliau o dan neu dros strydoedd), Erthygl 29 (defnydd dros dro o dir i gynnal y datblygiad awdurdodedig) ac Erthygl 35 (cwmpo neu docio coed a thynnu gwrychoedd ymaith).

8.4.10. Y prif reswm am yr holl ddarpariaethau hyn yw sicrhau bod y DCO yn darparu'r pwerau y mae eu hangen ar yr ymgymwrwr i weithredu'r caniatâd cynllunio ar wahân o dan TCPA1990 ar gyfer aliniadau'r cysylltiad nwy a thrydanol a roddwyd ar 6 Rhagfyr 2018 gan CCS. Ni all y DCO ei hun roi caniatâd datblygu ar gyfer yr aliniadau hynny oherwydd nid yw o fewn pwerau DCO yng Nghymru, yr ymgeisiwyd amdano ar y dyddiad y gwnaed y cais hwn, i gynnwys datblygiad o'r fath fel datblygiad cysylltiedig (a115 PA2008).

8.4.11. Rwyf wedi rhoi ystyriaeth ofalus iawn drwy gydol yr Archwiliad i briodoldeb yr ymagweddau hyn at '*derfynau'r Gorchymyn*', '*tir y Gorchymyn*' a '*datblygiad awdurdodedig*', a'r berthynas rhyngddynt. Rwyf wedi ystyried y cydgysylltiad rhwng y dull drafftio hwn a pholisi perthnasol, ac nid oes unrhyw faterion wedi codi sy'n pwyso yn ei erbyn. Rwyf wedi ystyried a yw'r dull hwn yn achosi unrhyw ansicrwydd ynglŷn â chwmpas y gwaith neu raddau'r Amlen Rochdale a aseswyd, ac rwyf wedi dod i'r casgliad nad yw'n achosi unrhyw ansicrwydd. Yn yr un modd, rwyf wedi ystyried y cydgysylltiad rhwng y dull drafftio hwn a'r materion a godwyd mewn cynrychiolaethau. Rwyf hefyd wedi adolygu'r dull a ddefnyddiwyd ochr yn ochr â'r dull a ddefnyddiwyd mewn DCOs eraill yng Nghymru, a amlygwyd ym Mhennod 3 Adran 3.7 uchod. Nid wyf wedi canfod unrhyw faterion sy'n peri i mi argymhell y dylai'r dull hwn gael ei newid.

8.5. MATERION ANNADLEUOL

8.5.1. Symudodd yr archwiliad o'r DCO yn ei flaen drwy gydol cyfnod yr Archwiliad mewn modd cydweithrediadol ac adeiladol. Cynhaliwyd dau Wrandawriad Mater Penodol ar y DCO, ac yn dilyn hynny cyflwynodd yr Ymgeisydd ddiwygiadau drafft i ymateb i gynrychiolaethau, fy nghwestiynau a thrafodaethau llafar [REP1-015] [REP2-007] [REP6-006].

8.5.2. Cofnodwyd y broses rheoli newid rhwng DCO drafft y cais hyd at Ddiwygiad 6 y DCO [REP6-003] yn llawn gan yr Ymgeisydd mewn proses a gofnodir ym mharagraff 8.2.5 uchod. Cynigiwyd nifer sylweddol o ddiwygiadau, ond diben y rhain i gyd oedd mynd i'r afael â dealltwriaeth, eglurder neu ddehongliad, ac i gydymffurfio ag arfer da o ran drafftio. Mae'r cyfeiriadau at ddogfennau a gynhwysir yno [REP6-006] yn golygu y gellir olrhain yr holl newidiadau annadleuol hyd at Fersiwn 6. Oherwydd hynny, ni chofnodaf nhw yma, a rhoddaf gofnod cyffredinol yn unig, yn amodol ar ystyried y materion technegol dadleuol sydd heb eu datrys yr ymdriniaf â nhw yn adrannau canlynol y Bennod hon, fy mod yn fodlon bod crynswth y newidiadau a wnaed hyd at Ddiwygiad 6 y DCO wedi mynd i'r afael yn briodol â'r holl faterion a gododd yn yr Archwiliad.

8.5.3. Yn rhan o'r broses newid honno, rwyf yn fodlon bod yr holl safonau perfformiad sy'n angenrheidiol i fodloni polisiâu NPS perthnasol a pholisiâu eraill pwysig a pherthnasol, fel y'u nodir ym Mhenodau 3 a 4

uchod, wedi'u bodloni bellach yn y DCO drafft a ffeirir. Rwyf hefyd yn fodlon bod y mesurau lliniaru y mae angen eu sicrhau yn y DCO wedi cael eu darparu.

8.5.4. Erbyn DL7, dim ond tair set o bryderon heb eu datrys nad oedd yr Ymgeisydd wedi'u cynnwys yn llawn yn ei DCO drafft a ffeirir:

- Yr angen am Ofyniad ynglŷn â therfyn amser ar gyfer gweithredu'r orsaf gynhyrchu [REP1-023] [REP3-012];
- Yr angen am Ofyniad ynglŷn â bond ar gyfer datgomisiynu [REP1-023] [REP3-012]; a
- Bod yr Ymgeisydd wedi dehongli, ac felly cymhwyso, Canllawiau'r DCLG ar Ddatblygiad Cysylltiedig yn anghywir [REP3-017].

8.5.5. Ymdrinnir â'r materion hyn ymhellach yn Adran 8.6 isod.

8.6. MATERION DADLEUOL

8.6.1. Mae'r adran ganlynol yn adrodd ar newidiadau i'r DCO drafft a oedd yn destun negodi sylweddol, a chyflwyniadau ysgrifenedig a / neu lafar yn ystod proses yr Archwiliad. Y materion yr anghytunwyd arnynt oedd:

- Bod yr Ymgeisydd wedi dehongli, ac felly cymhwyso, Canllawiau'r DCLG ar Ddatblygiad Cysylltiedig yn anghywir [REP3-017].
- Yr angen am Ofyniad ynglŷn â therfyn amser ar gyfer gweithredu'r orsaf gynhyrchu [REP1-023] [REP3-012]; ac
- Yr angen am Ofyniad ynglŷn â bond ar gyfer datgomisiynu [REP1-023] [REP3-012].

Bod yr Ymgeisydd wedi dehongli, ac felly cymhwyso, Canllawiau'r DCLG ar Ddatblygiad Cysylltiedig yn anghywir [REP3-017]

8.6.2. Dadleuodd Mr Richard Price o Loxley Solicitors, a oedd yn gweithredu ar ran tri AP, y dylai'r rhan o'r cais sy'n ymwneud â'r ffordd fynediad (Gwaith Rhif 2) gael ei hystyried yn ddatblygiad cysylltiedig [REP3-017]. Dadleuodd Mr Price fod y DCO yn ddiffygiol fel y mae wedi'i lunio ar hyn o bryd, ac felly'n annilys, oherwydd y dylai'r cysylltiad trydanol a'r cysylltiad nwy gael eu cynnwys fel rhannau hanfodol o'r Prosiect.

8.6.3. Codais y mater hwn yn yr ISHs ynglŷn â'r DCO [EV-003 ac EV-011] ac ymdrinnir ag ef yng nghrynodeb yr Ymgeisydd o gyflwyniadau llafar [REP3-004] [REP3-005]. Am y rhesymau a roddwyd gennyf ym mharagraffau 2.1.19 – 2.1.26 uchod, rwyf yn fodlon nad oes unrhyw ddatblygiad cysylltiedig o fewn ystyr a115(2) PA2008 wedi'i gynnwys yn y cais.

Yr angen am Ofyniad ynglŷn â therfyn amser ar gyfer gweithredu'r orsaf gynhyrchu [REP1-023] [REP3-012]

- 8.6.4. Mae CCS o'r farn y dylai terfyn amser ar gyfer hyd y caniatâd gael ei gynnwys yn y DCO [REP1-021].
- 8.6.5. Dadleuodd CCS fod gan y Datblygiad Arfaethedig oes ddylunio o 25 mlynedd a bod hyn wedi'i ddatgan yn yr ES drwyddo draw [APP-042] a bod sawl cynllun rheoli wedi'i ysgrifennu i bara am hyd y prosiect yn seiliedig ar yr oes ddylunio hon. Yn ogystal, mae'r prosiect wedi cael ei gynllunio ar gyfer yr oes ddylunio hon, er enghraifft o ran y gofynion arafu ar gyfer gollyngiadau dŵr wyneb na fyddent, o bosibl, yn ddigon mawr i ymdopi â chyfnod hwy pe byddai'r orsaf bŵer yn parhau i weithredu ymhen 75 mlynedd, er enghraifft. Fel y dywedir ym mharagraff 21.1 yr LIR [REP1-021]:
- "Mae'r Cyngor, felly, o'r farn y dylai fod gofyniad sy'n cyfyngu ar oes y Gorchymyn hwn am 25 mlynedd, fel yr aseswyd yn y Datganiad Amgylcheddol."*
- 8.6.6. Aeth CCS ymlaen i ddweud, ym mharagraff 21.3 yr LIR:
- "21.3 Mae'r Datganiad Amgylcheddol yn gamarweiniol os na roddir dull ar waith i gyfyngu ar hyd y Prosiect, gan ei fod yn cyfeirio drwyddo draw at yr oes 25 mlynedd. Os nad oes terfyn yn cael ei gynnwys yn y DCO, gallai barhau i weithredu'n barhaol, sydd hyd yn oed yn fwy tebygol o ystyried y diffiniad presennol o'r term "cynnal" a nodir yn Erthygl 2 y Gorchymyn. Mae'r effeithiau wedi cael eu hasesu'n bennaf fel rhai nad ydynt yn barhaol, a byddai unrhyw ddarllenydd rhesymol yn credu bod hyn yn golygu oes yr orsaf."*
- 8.6.7. Heb y terfyn amser hwn, mae CCS yn credu bod yr ystyriaethau amgylcheddol wedi cael eu camgyfleu a bod yr asesiad a wnaed yn anghywir.
- 8.6.8. Codais y mater hwn yn yr ISHs ynglŷn â'r DCO [EV-003 ac EV-011] ac yn ExQ2. Mewn ymateb i WQ, nid oedd CCS yn gallu cyfeirio at unrhyw DCO a wnaed lle y gosodwyd terfyn amser o'r fath³⁶ [REP4-026].
- 8.6.9. Ymdriniodd yr Ymgeisydd â phryderon CCS yn ymateb yr Ymgeisydd i'r LIR [REP2-003] ac yn ei grynoded o gyflwyniadau llafar [REP1-012] [REP3-004] [REP3-005].
- 8.6.10. Nid oedd yr Ymgeisydd yn credu bod angen gosod terfyn amser ar gyfer gweithredu'r orsaf. Roedd dewis 25 mlynedd yn gyfnod realistig i'w gynnwys yn yr ES i ddarparu sail i ganiatáu i'r asesiadau gael eu cynnal. Erbyn DL1, darparodd yr Ymgeisydd ddadansoddiad sensitifrwydd i ddangos, ar gyfer pob pwnc, pe byddai oes weithredol y prosiect yn fwy na 25 mlynedd, y byddai'r casgliadau yn yr ES yn aros yr un fath (Atodiad 7 [REP1-012]).
- 8.6.11. Yn y ddau ISH ar y DCO, cadarnhaodd CNC y byddai gweithrediad y Datblygiad Arfaethedig yn destun rheolaeth reoleiddiol trwy EP a fyddai'n

³⁶ Gosodwyd terfyn amser yn DCO Cysylltiad Ffermydd Gwynt Gogledd Cymru – 30 mlynedd – yng ngofyniad 19 y DCO hwnnw.

cael ei rhoi o dan EP Gweithredu'r Orsaf Cynhyrchu Pŵer, Rheoliadau Trwyddedu Amgylcheddol (Cymru a Lloegr) 2016. Rhoddodd CNC y drwydded ar gyfer y datblygiad hwn, a fyddai'n cael ei hadolygu'n flynyddol, ar 18 Ionawr 2019. Nid oedd y Drwydded yn cynnwys terfyn amser gweithredu [EV-003] [EV-011].

- 8.6.12. Darparodd yr Ymgeisydd nodyn ôl-wrandawriad ar y Gwrandawriad ISH ar Faterion Amgylcheddol [EV-006] a gynhaliwyd ar 13 Rhagfyr 2018 [REP3-004]. Dywedodd yr Ymgeisydd:

"Oes weithredol 25 mlynedd yw'r sail i'r asesiad, ac amlinellir hyn yn adran 4.7 yr ES. Mae'r adran hon yn nodi bod tybiaethau a chyfyngiadau'r ES yn cynnwys defnyddio rhychwant oes 25 mlynedd fel achos gwaethaf rhesymol, gan ei fod wedi'i seilio ar oes ddylunio'r offer (sef pa mor hir y mae'r gweithgynhyrchwyr yn disgwyl i'r offer bara, yn amodol ar gynnal a chadw a gweithredu arferol), fel sail i'r asesiad.

O ran y pynciau a gynhwysir yn yr ES sy'n ymwneud ag effeithiau gweithredol, mae'r rhain yn ymwneud yn bennaf â'r dirwedd ac allyriadau i'r aer, y tir a'r dŵr. O ran allyriadau i'r aer, mae dau bwynt i'w hystyried, sef:

1. Bydd y Prosiect bob amser yn cael ei reoleiddio gan yr EP, a adolygir yn flynyddol, a disgwylir i'r gweithredwr gydymffurfio â'r BAT sy'n mynnu gwelliant parhaus mewn perfformiad.

2. Os oes newidiadau i'r fframwaith deddfwriaethol, bydd rhaid i'r gweithredwyr gydymffurfio â'r rheiny trwy'r drwydded fel y gyfundrefn reoleiddiol briodol. Ni fydd y DCO yn gwneud hyn."

- 8.6.13. Pwysleisiodd CCS ei bryder ynglŷn â natur agored y DCO ac y dylai terfyn amser gweithredu gael ei gynnwys yn y caniatâd [REP5-007].

- 8.6.14. Credaf y bydd yr EP yn darparu'r dulliau rheoli gweithredol mewn perthynas ag unrhyw allyriadau a hefyd yn mynnu bod yr allyriadau hynny'n cael eu lleihau pe byddai deddfwriaeth newydd yn darparu ar gyfer hynny.

- 8.6.15. Cytunaf â'r Ymgeisydd fod yr asesiad 25 mlynedd yn darparu senario achos gwaethaf ar gyfer yr AEA, ond mae'r dadansoddiad sensitifrwydd a ddarparwyd fel Atodiad 7 [REP1-012] yr ymateb yn dangos pe byddai'r Ymgeisydd wedi asesu senario 35 mlynedd, nad oes unrhyw newidiadau wedi'u hamlygu i'r asesiadau nac arwyddocâd effeithiau ar gyfer pob un o Benodau 6-14. Credaf fod casgliadau'r ES [APP-042] yn ddilys ar gyfer oes weithredol o 35 mlynedd neu hwy, fel yn achos draenio, ar gyfer y prosiect.

- 8.6.16. Credaf fod yr ymagwedd a ddefnyddiwyd yn gyson ag AEAu eraill a gynhaliwyd ar gyfer prosiectau o'r math hwn, fel Gorsaf Cynhyrchu Pŵer sy'n Rhedeg ar Nwy Wrecsam, lle'r oedd yr ES yn tybio'r un oes 25 mlynedd ag a ddefnyddir yn y cais presennol. Rhoddwyd caniatâd datblygu i brosiect Wrecsam heb derfyn amser ar weithredu. Yn fy marn i, mae'r asesiad yn yr ES yn gadarn ac yn ddigonol.

- 8.6.17. Nid wyf yn credu bod angen i'r DCO drafft gynnwys Gofyniad ynglŷn â therfyn amser ar gyfer gweithredu oherwydd:
- bydd yr EP yn darparu'r dulliau rheoli gweithredol mewn perthynas ag unrhyw allyriadau a hefyd yn mynnu bod yr allyriadau hynny'n cael eu lleihau pe byddai deddfwriaeth newydd yn cael ei chyflwyno, fel y cadarnhawyd gan CNC;
 - bod yr ymagwedd a ddefnyddiwyd yn gyson ag AEAau eraill a gynhaliwyd ar gyfer prosiectau o'r math hwn; a
 - bod yr asesiad yn yr ES yn gadarn ac yn ddigonol.

Yr angen am Ofyniad ynglŷn â bond ar gyfer datgomisiynu [REP1-023] [REP3-012]

- 8.6.18. Mae CCS o'r farn y dylai bond datgomisiynu gael ei gynnwys yn y DCO [REP1-021].
- 8.6.19. Dadleuodd CCS fod Gofyniad 27(2) [REP1-003] yn dweud '*bydd y safle'n cael ei ddatgomisiynu yn amodol ar gael y cydsyniadau angenrheidiol*', ac ni ystyrir bod y gyfundrefn orfodi'n ddigon cadarn i sicrhau bod y prosiect hwn yn cael ei ddymchwel o ystyried y gost ddymchwel bresennol a ragwelir, sef oddeutu £2,000,000. Awgrymodd CCS y dylid darparu rhestr ddangosol o'r cydsyniadau angenrheidiol hyn pe byddai'r adeilad yn cael ei ddatgomisiynu yn yr hinsawdd bresennol er mwyn cael dealltwriaeth well ohonynt a'r tebygolrwydd o'u sicrhau o fewn graddfa amser resymol. Dadleuodd CCS nad oedd yn eglur ychwaith beth fyddai'n digwydd pe byddai'r cwmni'n diddymu, a dyna pam mae'r Cyngor wedi awgrymu bod bond yn cael ei gyflwyno i sicrhau bod y Datblygiad Arfaethedig yn cael ei ddatgomisiynu.
- 8.6.20. Esboniodd yr Ymgeisydd nad yw'n credu bod angen darparu bond na sicrwydd ariannol arall ar gyfer costau datgomisiynu yn y dyfodol. Dadleuodd yr Ymgeisydd fod Gofyniad 27 [REP1-003] yn darparu dull eglur y gellir ei orfodi i sicrhau bod y gwaith datgomisiynu angenrheidiol yn cael ei wneud o fewn cyfnod penodol o'r adeg pan fo'r orsaf yn rhoi'r gorau i weithredu.
- 8.6.21. Codais y mater hwn yn yr ISHs ynglŷn â'r DCO [EV-003 ac EV-011] ac ymdrinnir ag ef yng nghrynodeb yr Ymgeisydd o gyflwyniadau llafar [REP3-004] [REP3-005].
- 8.6.22. Gwnaeth yr Ymgeisydd ddiwygiadau i'r gofyniad drafft i ychwanegu mwy o fanylion, yn unol â chais CCS, ynglŷn â chynnwys gofynnol y strategaeth ddatgomisiynu (y bwriedir i'w manylion fod yn debyg i'r ffordd y mae'r gofyniad CEMP wedi'i ddrafftio) [REP1-014] (daeth Gofyniad 27 y cyfeirir ato uchod yn Ofyniad 28 yn [REP6-003]).
- 8.6.23. Dadleuodd yr Ymgeisydd fod y dulliau gorfodi yn PA2008 yn llym. Mae torri Gofyniad 28 yn arwain yn syth at atebolrwydd troseddol. Mae'r rhwymedigaeth i ddatgomisiynu a'r atebolrwydd amdano yn perthyn i'r ymgymwrwr, ac ni all eu trosglwyddo i drydydd parti heb ganiatâd yr SoS (heblaw i ddeiliad trwydded nwy neu drydan sydd eisoes yn cael ei reoleiddio). Dadleuodd yr Ymgeisydd fod Deddf Enillion Troseddau 2002

hefyd yn caniatáu i awdurdodau lleol geisio adennill elw sy'n cronni i fusnesau ac unigolion sy'n torri rheolaeth gynllunio, a bod rhan o'r arian a adennillir yn cael ei gadw gan yr awdurdod cynllunio lleol perthnasol. Darparodd yr Ymgeisydd dystiolaeth o sut mae hyn wedi cael ei ddefnyddio'n llwyddiannus gan awdurdodau cynllunio yn ddiweddar i adennill symiau sylweddol trwy orchmynion atafaelu mewn rhestr o enghreifftiau a roddir yn Atodiad 8 [REP1-012].

8.6.24. Nododd yr Ymgeisydd nad oes gofyniad polisi cenedlaethol i Ymgeiswyr gynnig bondiau datgomiynu. Nid yw NPS EN-1 nac NPS EN-2 yn mynnu bod Ymgeisydd yn darparu sicrwydd ariannol ar gyfer costau datgomiynu prosiectau ynni o'r math hwn. At hynny, nid oes polisi arall gan Lywodraeth y Deyrnas Unedig na LIC sy'n ymwneud â darparu sicrwydd ariannol ar gyfer datgomiynu gorsafoedd cynhyrchu sy'n rhedeg ar nwy. Nid yw PPW yn cynnwys unrhyw bolisi perthnasol ar sicrwydd ariannol ar gyfer datgomiynu ac adfer. Nid yw cynllun lleol mabwysiedig CCS a'r cynllun datblygu sydd bellach wedi'i fabwysiadu yn cynnwys unrhyw bolisiau a fyddai'n mynnu bod yr Ymgeisydd yn cynnig bond datgomiynu [REP4-026].

8.6.25. Wrth ymateb i'm WQ 2.0.2, dywedodd CCS nad yw'n ymwybodol o unrhyw DCOs a roddwyd ar gyfer gorsafoedd cynhyrchu nwy na phrosiectau trosglwyddo trydan sydd wedi mynnu bod sicrwydd ariannol yn cael ei sefydlu ar gyfer costau datgomiynu'r datblygiad. Cadarnhaodd CCS nad yw PPW yn cynnwys unrhyw bolisiau o gwbl sy'n cyfeirio at NSIPs, a bod cynllun datblygu mabwysiedig CCS yn dyddio o 2008, cyn i PA2008 ddod i rym. Nododd CCS fod PPW yn ystyried mwyngloddio ac etifeddiaeth safleoedd mwyngloddio segur [REP4-026].

8.6.26. Dywedodd CCS, yn Atodiad A [REP6-012]:

"Mae'r Ymgeisydd yn awgrymu nad yw gwaith ymchwil y cyfeiriodd CCS ato ynglŷn ag "Adfer ac Ôl-ofal Gwaith Glo ac Agregau" yn 2009 yn berthnasol i ddatgomiynu gorsaf cynhyrchu ynni o arwyddocâd cenedlaethol gan ei fod yn ymwneud â glo ac agregau, ac nid oes dystiolaeth gymaradwy o ran datgomiynu gorsafoedd cynhyrchu pŵer.

Mae CCS yn llwyr ymwybodol bod y gwaith ymchwil yn ymwneud â glo ac agregau ac nid datblygiad ynni, ond mae'r egwyddorion a'r gwersi a ddysgwyd o'r ymagwedd hon yn amlwg yn berthnasol i'r cynnig hwn gan fod sawl tebygrwydd a restrir isod. Felly, mae'r gwaith ymchwil hwn yn ystyriaeth berthnasol ac yn bwysig."

8.6.27. Rwyf yn fodlon bod yr Ymgeisydd wedi ystyried effeithiau datgomiynu yn ddigonol yn ei ES [APP-042].

8.6.28. Nid wyf yn credu bod angen i'r DCO drafft gynnwys Gofyniad ynglŷn â bond datgomiynu oherwydd:

- bod Gofyniad 28 [REP6-003] yn darparu dull eglur y gellir ei orfodi i sicrhau bod y gwaith datgomiynu angenrheidiol ar gyfer Gwaith Rhif 1 yn cael ei wneud o fewn cyfnod penodol o'r adeg pan fo'r orsaf yn rhoi'r gorau i weithredu;

- bod yr ymagwedd a ddefnyddiwyd yn gyson â DCOs eraill a wnaed ar gyfer prosiectau o'r math hwn; a
- bod yr asesiad yn yr ES yn gadarn ac yn ddigonol.

8.7. CYTUNDEBAU CYFREITHIOL A CHYDSYNIADAU ERAILL

8.7.1. Mae'r Ymgeisydd, CCS a Sarah Ann Marina Llewellyn wedi cytuno ar Gytundeb adran 106 drafft o dan Ddeddf 1990 yn Atodlenni 1-3 [REP6-007]. Ymdriniais â'r mater hwn yn fyr yn gynharach yn yr adroddiad hwn yn Adran 1.7. Mae'r cytundeb a106 yn cynnwys rhwymedigaethau yn ymwneud â'r materion canlynol:

- Cynllun Addysg;
- Menter Cadwyn Gyflenwi; a
- Gwelliannau Llwybr Troed.

8.7.2. Ar 9 Ebrill 2019, dywedodd yr Ymgeisydd:

"Atodir y cytundeb adran 106, wedi'i lofnodi gan Ddinas a Sir Abertawe a'r Ymgeisydd. Mae'r ddogfen gyda'r tirfeddiannwr i'w gweithredu ar hyn o bryd, ac yna bydd yn cael ei chwblhau. Cyflwynir y ddogfen atodedig gan nad yw'r Ymgeisydd yn disgwyl cael y ddogfen wedi'i chwblhau cyn diwedd yr Archwiliad. Bydd yr Ymgeisydd yn cyflwyno copi o'r cytundeb wedi'i gwblhau cyn gynted â phosibl, y bydd yr Ysgrifennydd Gwladol yn gallu ei ystyried wrth benderfynu p'un ai rhoi caniatâd datblygu" [AS-011].

8.7.3. Mae'r materion yr ymdrinnir â nhw yn y cytundeb adran 106 yn bwysig ac yn berthnasol, a rhoddwyd pwys priodol iddynt yn yr adroddiad hwn. Y profion ar gyfer derbynioldeb rhwymedigaethau cynllunio yw y dylent fod yn angenrheidiol i wneud y datblygiad yn dderbyniol o safbwynt cynllunio; yn uniongyrchol gysylltiedig â'r datblygiad; ac yn gysylltiedig yn deg ac yn rhesymol â'r datblygiad o ran graddfa a math. Ystyriaaf fod y rhwymedigaethau yn y Cytundeb adran 106 yn bodloni'r profion hyn.

8.7.4. Ystyriaaf fod yr holl ffurfioldebau cyfreithiol ar gyfer cytundeb a106 dilys wedi cael eu bodloni yn y weithred a bod pawb sydd â buddiant yn y tir y mae'n berthnasol iddo wedi ei weithredu ac, felly, y gellir gorfodi'r cytundeb a106 yn eu herbyn nhw a'u holynwyr yn y teitl. Fodd bynnag, cynghorwn yr SoS i roi caniatâd dim ond os yw'n derbyn cytundeb a106 wedi'i gwblhau (dyddiedig) yn gyntaf sydd â'r un telerau yn union â'r drafft cytunedig, wedi'i weithredu'n briodol gan yr HOLL bartïon sy'n dal buddiant yn y tir perthnasol.

8.7.5. Cofnodir a thrafodir y cydsyniadau eraill sy'n angenrheidiol i gyflawni'r Datblygiad Arfaethedig yn Adran 1.8 yr adroddiad hwn uchod. Nid yw'r un ohonynt yn codi unrhyw bryderon ynglŷn â drafftio'r DCO sy'n faterion dadleuol neu'n ymwneud ag achosion o dorri polisi perthnasol y mae angen ymdrin â nhw yma.

8.7.6. Rwyf wedi ystyried y cydsyniadau eraill a gofnodwyd yn Adran 1.8 yr adroddiad hwn. Heb atal awdurdodau eraill rhag arfer disgresiwn ac,

unwaith eto, ac eithrio'r materion sy'n codi o'r cydsyniadau ar gyfer aliniad cysylltiad nwy a thrydanol a drafodaf yn Adran 1.8 uchod, rwyf yn fodlon nad yw'r un ohonynt yn rhwystr arwyddocaol rhag y Datblygiad Arfaethedig nac yn rheswm pam na ddylai'r SoS wneud y DCO ar y ffurf a amlinellir yn Atodiad Ch.

8.8. NIWSANS STATUDOL

8.8.1. Mae rheoliad 5(2)(f) Rheoliadau Cynllunio Seilwaith (Ceisiadau: Ffurflenni a Gweithdrefn Ragnodedig) 2009 (yr APFP) yn mynnu bod rhaid i gais gael ei gyflwyno gyda.... *"datganiad ynglŷn â ph'un a yw'r cynnig yn ysgogi un neu fwy o'r materion a amlinellir yn adran 79(1) [...] Deddf Diogelu'r Amgylchedd 1990 ac, os felly, sut mae'r Ymgeisydd yn bwriadu eu lliniaru neu gyfyngu arnynt"*. Mae'r rhwymedigaeth hon wedi cael ei chyflawni yn y Datganiad Ymgysylltu (SoE), Adran 79 y Ddeddf Diogelu'r Amgylchedd, a gyflwynwyd gyda'r cais [APP-060].

8.8.2. Ar ôl ystyried yr SoE yng ngoleuni materion a godwyd mewn cynrychiolaethau, rwyf yn fodlon bod yr Ymgeisydd wedi amlygu cwmpas ffynonellau niwsans posibl yn briodol o ganlyniad i adeiladu a gweithredu'r Datblygiad Arfaethedig. Rwyf hefyd yn fodlon bod yr Ymgeisydd wedi darparu mesurau lliniaru priodol ar gyfer mathau rhagweladwy o niwsans ac wedi sicrhau hyn yn y DCO, trwy'r gofynion a'r cyfeiriadau at y CEMP R17, y Cynllun Rheoli Llŵch (DMP) R18, y CTMP R21 a'r Cynllun Rheoli Dŵr Wyneb (SWMP) R7. Mae'r SoE yn dod i'r casgliad y bydd perygl niwsans yn ddibwys o ganlyniad i'r mesurau lliniaru a geisir ac a sicheir. Cytunaf â'r casgliad hwn.

8.8.3. Mae Erthygl 38 y DCO yn cynnwys amddiffyniad yn erbyn achos o niwsans statudol o fath a ddarperir yn gyffredin mewn NSIPs. Mae wedi'i ddrafftio yn seiliedig ar y Darpariaethau Model. Cytunaf fod y camau angenrheidiol i leihau perygl digwyddiadau niwsans wedi cael eu cymryd ac nad yw'r ddarpariaeth hon yn clustogi yn erbyn canlyniadau arfer gwael. Mae'n bodoli ac mae'n ddarpariaeth briodol yn erbyn amgylchiadau lle mae niwsans annisgwyl na ellir ei osgoi yn digwydd. O ystyried NPS EN-1, adran 4.14, yng ngoleuni'r wybodaeth yn yr SoE a'r sicrwydd lliniaru a ddarperir yn y DCO, nid wyf yn credu bod angen argymhell newidiadau i'r amddiffyniad arfaethedig a ddarperir.

8.9. CASGLIADAU

8.9.1. Rwyf wedi ystyried pob fersiwn o'r DCO drafft a ddarparwyd gan yr Ymgeisydd o fersiwn Diwygiad 0 y cais i Ddiwygiad 6, ac wedi ystyried i ba raddau y mae'r DCO drafft terfynol a ffefrir, sef Diwygiad 6 [REP6-003], wedi mynd i'r afael â materion a oedd heb eu datrys. Mae DCO Atodiad Ch yn union yr un fath â Diwygiad 6 yr Ymgeisydd.

8.9.2. Rwyf yn fodlon bod y gofynion sydd wedi'u cynnwys yn y DCO drafft fel y'i diwygiwyd yn ystod yr Archwiliad yn lliniaru effeithiau niweidiol posibl a amlygwyd yn yr ES ac yn mynd i'r afael â materion a godwyd gennyf i ac IPs yn ystod yr Archwiliad.

- 8.9.3. Ar ôl rhoi ystyriaeth lawn i'r holl faterion a godwyd yn y Bennod hon a'r holl faterion sy'n berthnasol i'r DCO a godwyd yng ngweddill yr adroddiad hwn, argymhellaf os yw'r SoS o'r farn y dylid gwneud y DCO, y dylai gael ei wneud ar y ffurf a amlinellir yn Atodiad Ch.

9. CRYNODEB O GANFYDDIADAU A CHASGLIADAU

9.1. CYFLWYNIAD

- 9.1.1. O ran a104 PA2008, deufaf i'r casgliad:

- y byddai gwneud y DCO argymelledig yn cyd-fynd ag:
 - NPSs EN-1, EN-2 ac (i'r graddau cyfyngedig y mae ei gymhwysiad yn berthnasol i ofyniad tir ategol) EN-4 ac EN-5;
 - cynllun Llywodraeth Cymru 'Ffyniant i Bawb: Cymru Carbon Isel, 2019, sy'n cydnabod yr angen am gynhyrchu ynni nwy yn rhan o'r cymysgedd cynhyrchu ynni sy'n ofynnol i newid i Gymru carbon isel;
 - byddai hefyd yn cyd-fynd â Pholisi Cynllunio Cymru a TANs ategol;
 - Deddf Newid yn yr Hinsawdd 2008, sy'n sail i ymagwedd y Deyrnas Unedig at fynd i'r afael â'r newid yn yr hinsawdd ac ymateb iddo. Mae'n mynnu bod allyriadau carbon deuocsid a nwyon tŷ gwydr eraill yn cael eu lleihau a bod paratodau'n cael eu gwneud ar gyfer y risgiau sy'n gysylltiedig â'r newid yn yr hinsawdd; a
 - chynllun datblygu lleol CCS a pholisïau eraill perthnasol, sydd oll wedi cael eu hystyried yn yr adroddiad hwn;
- rwyf wedi ystyried yr LIR a gynhyrchwyd gan CCS wrth wneud yr argymhelliad hwn;
- wrth wneud y DCO, byddai'r SoS yn cyflawni ei ddyletswyddau o dan Gyfarwydddebau perthnasol yr Undeb Ewropeaidd fel y'u troswyd yn gyfraith y Deyrnas Unedig trwy reoliadau, yn ogystal â'r ddyletswydd bioamrywiaeth o dan Ddeddf NERC 2006;
- er bod yr SoS yn awdurdod cymwys o dan y Rheoliadau Cynefinoedd, deufaf i'r casgliad bod y dystiolaeth yn awgrymu na fyddai'r Datblygiad Arfaethedig yn cael effaith niweidiol ar safleoedd, rhywogaethau na chynefinoedd Ewropeaidd, ac rwyf wedi ystyried hyn wrth wneud fy argymhelliad;
- y dylai'r SoS roi caniatâd dim ond os yw'n derbyn cytundeb a106 wedi'i gwblhau (dyddiedig) yn gyntaf sydd â'r un telerau yn union â'r drafft cytunedig, wedi'i weithredu'n briodol gan yr holl bartïon sy'n dal buddiant yn y tir perthnasol;
- o ran yr holl faterion eraill a'r holl gynrychiolaethau eraill a dderbyniwyd, nid wyf wedi canfod unrhyw faterion pwysig a pherthnasol a fyddai, yn unigol neu gyda'i gilydd, yn arwain at argymhelliad gwahanol i hwnnw isod;
- ni fyddai'r Datblygiad Arfaethedig yn cael unrhyw effeithiau niweidiol a fyddai'n drech na'i fuddiannau; ac

- nid oes unrhyw beth i awgrymu y dylid penderfynu ar y cais heblaw yn unol â'r NPSs perthnasol.

9.1.2. O ran y cais am bwerau CA a TP yn y DCO argymelledig, deufaf i'r casgliad:

- y byddai'r Datblygiad Arfaethedig y ceisir y tir a'r hawliau ar ei gyfer yn cyd-fynd â pholisi cenedlaethol, fel yr amlinellir yn yr NPSs;
- bod yr NPSs yn amlygu angen cenedlaethol am gapasiti cynhyrchu trydan, sy'n cynnwys capasiti sy'n deillio o hylosgi nwy;
- bod yr angen i sicrhau'r tir a'r hawliau sy'n angenrheidiol, ac i adeiladu'r Datblygiad Arfaethedig o fewn graddfa amser fasnachol resymol, yn cynrychioli budd sylweddol i'r cyhoedd;
- bod y golled breifat i'r rhai yr effeithir arnynt:
 - wedi'i lliniaru trwy'r tir a ddewiswyd ar gyfer y cais;
 - cydleoli'r ffordd fynediad a'r cysylltiad trydanol;
 - lleihau lled y ffordd fynediad i'r eithaf; a
 - lleihau graddau'r hawliau a'r buddiannau y bwriedir eu caffael i'r eithaf;
- bod yr Ymgeisydd wedi archwilio'r holl ddewisiadau amgen rhesymol yn lle'r CA a geisir o ran tir, hawliau a buddiannau, ac nid oes dewisiadau amgen y dylid eu ffafrio;
- y byddai cyllid digonol a sicr ar gael i alluogi CA o fewn y cyfnod statudol ar ôl i'r DCO gael ei wneud; ac
- y byddai'r tresmasiad arfaethedig ar hawliau dynol unigolion at ddibenion dilys a fyddai'n cyfiawnhau tresmasiad o'r fath er budd y cyhoedd ac i raddau cymesur.

9.2. YSTYRIED Y CANFYDDIADAU A'R CASGLIADAU

9.2.1. O ystyried yr holl ffactorau uchod gyda'i gilydd, mae achos cymhellol er budd y cyhoedd dros y pwerau CA a geisir o ran y tir CA a ddangosir ar y Cynlluniau Tir. Deufaf i'r casgliad y byddai'r Datblygiad Arfaethedig yn cydymffurfio ag a122(2) ac a122(3) PA2008.

9.3. ARGYMHELLIAD

9.3.1. Am yr holl resymau uchod ac yng ngoleuni fy nghanfyddiadau a'm casgliadau ar faterion pwysig a pherthnasol a amlinellir yn yr adroddiad, deufaf i'r casgliad bod yr achos dros y datblygiad wedi cael ei wneud ac y dylai caniatâd datblygu gael ei roi trwy DCO ar y ffurf a atodir yn Atodiad Ch.

ATODIAD A: YR ARCHWILIAD

ATODIAD B: LLYFRGELL YR ARCHWILIAD

ATODIAD C: RHESTR BYRFODDAU

ATODIAD CH: Y DCO ARGYMELLEDIG