

**EN010069: Cais gan Abergelli Power Ltd am Orchymyn yn Rhoi Caniatâd Cynllunio ar gyfer Gorsaf Gynhyrchu Pŵer Nwy Abergelli Power (y cais)**

**Agenda'r gwrandawriad: Gwrandawriad Caffael Gorfodol<sup>1</sup>**

**Deddf Cynllunio 2008 (fel y'i diwygiwyd) Rheolau Cynllunio Seilwaith (Gweithdrefn Archwilio) 2010**

Mae'r ddogfen hon yn gosod allan yr agenda ar gyfer y Gwrandawriad Caffael Gorfodol.

**Lleoliad:** Gwesty'r Village, Heol Langdon, Abertawe, SA1 8QY

**Dyddiad:** Dydd Mercher 12 Rhagfyr 2018

**Amser:** 10:00 (drysau'n agor 09:30)

**Cymryd rhan yn y gwrandawriad**

Cynhelir gwrandawiadau Caffael Gorfodol os bydd un Unigolyn yr Effeithir Arno<sup>2</sup> yn gofyn am hyn. Fodd bynnag, yn yr achos hwn, mae'r Awdurdod Archwilio wedi penderfynu cynnal gwrandawriad Caffael Gorfodol ac mae'r Awdurdod Archwilio wedi cynnwys hyn o fewn amserlen yr archwiliad.

Cynhelir y gwrandawriad Caffael Gorfodol<sup>3</sup> er mwyn sicrhau archwiliad digonol o'r darpariaethau a osodir allan yn y Gorchymyn Caniatâd Datblygu (DCO), sydd â'r nod o awdurdodi caffael tir yn orfodol ac asesu p'un a yw'r amodau sy'n ymwneud â'r tir sydd ei angen ar gyfer datblygu, neu sydd eu hangen i hwyluso'r datblygiad hwnnw neu sy'n gysylltiedig â'r datblygiad hwnnw, yn cael eu bodloni, a ph'un a oes achos cymhellol er budd y cyhoedd dros gaffael y tir yn orfodol.

Canllaw yn unig yw'r agenda hon. Nid yw wedi'i chynllunio i fod yn gyfyngol nac yn gynhwysfawr. Gallai'r Awdurdod Archwilio ychwanegu materion eraill i'w hystyried neu newid y drefn ar gyfer ystyried materion. Os bydd hyn yn digwydd, bydd yr Awdurdod Archwilio yn ceisio dyrannu digon o amser i unrhyw faterion ychwanegol gael eu hystyried yn briodol.

Os bydd ystyried y materion yn cymryd llai o amser nag a ragwelwyd, gall yr Awdurdod Archwilio ddod â'r gwrandawriad i ben ar ôl i'r holl gyfraniadau perthnasol gael eu gwneud, ac ar ôl gofyn ac ymateb i bob cwestiwn.

Os bydd angen ymdrin â materion ychwanegol, neu os bydd angen ystyried unrhyw gyflwyniadau ymhellach, mae'n bosibl y bydd angen gohirio'r gwrandawriad a pharhau mewn eisteddiad dilynol.

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<sup>1</sup> A92 Deddf Cynllunio 2008 (fel y'i diwygiwyd)

<sup>2</sup> Sef yr unigolion hynny sy'n berchen ar y tir y cynigir ei gaffael yn orfodol neu yr ymyrrir â'r tir hwnnw fel arall drwy ddefnyddio pwerau gorfodol.

<sup>3</sup> A92 Deddf Cynllunio 2008 (fel y'i diwygiwyd)

Mae'r Awdurdod Archwilio yn cydnabod y gall gwrandawiadau eraill gyfrannu gwybodaeth a thystiolaeth a fydd yn cael eu defnyddio i gefnogi argymhelliad mewn perthynas â Chaffael Gorfodol.

Bydd y gwrandawriad yn parhau hyd nes y bydd pob Unigolyn yr Effeithir Arno a phob Parti â Buddiant arall wedi gwneud eu sylwadau ac wedi ymateb i archwiliad yr Awdurdod Archwilio o'r materion yn unol â'r agenda a osodir.

Bydd pob Parti â Buddiant sydd wedi nodi dymuniad i siarad yn cael ei wahodd i ddod ymlaen i roi eu tystiolaeth ac ymateb i gwestiynau gan yr Awdurdod Archwilio ac eraill o dan arweiniad yr Awdurdod Archwilio. Bydd yr Awdurdod Archwilio yn arwain pob sesiwn yn y gwrandawriad, a gynhelir trwy gyflwyno a phrofi tystiolaeth, yn gyffredinol mewn fformat holi ac ateb. Hefyd, bydd gan yr Ymgeisydd gyfle i gyflwyno ei dystiolaeth mewn ymateb i achos pob parti o fewn ardal yr awdurdod perthnasol ac ymateb i gwestiynau gan yr Awdurdod Archwilio ac eraill sy'n bresennol yn y gwrandawiadau.

Gwahoddir pob Parti â Buddiant i fynychu'r gwrandawriad, ond caiff Unigolion yr Effeithir Arnynt, y caiff eu buddiant/buddiannau mewn tir eu heffeithio o dan gynigion Caffael Gorfodol, eu gwahodd yn benodol i fod yn bresennol. Mae'n bosibl y bydd yr Awdurdod Archwilio yn penderfynu caniatáu i un Parti groesholi Parti arall ar lafar lle mae anghytundeb clir rhwng y Partion dan sylw er mwyn sicrhau bod y sylwadau'n cael eu profi'n ddigonol, neu er mwyn sicrhau bod gan Barti gyfle teg i gyflwyno ei achos.

Gofynnir i'r sawl sy'n mynychu'r gwrandawriad nodi mai eitem gynnar ar yr agenda yw ymdrin ag unrhyw geisiadau i holi person sy'n gwneud sylwadau llafar yn uniongyrchol o dan adran 94(4)(a) Deddf Cynllunio 2008.

Cymerir egwylliau yn ystod y gwrandawriad yn ôl cyfarwyddyd yr Awdurdod Archwilio.

Dylai pob Parti nodi y rhoddir yr agenda isod er mwyn cynorthwyo a darparu fframwaith ar gyfer y gwrandawriad hwn a rhoi pwyntiau trafod ac nid yw'n cyfyngu'r Awdurdod Archwilio i bynciau penodol. Yn ystod y trafodaethau, mae'n bosibl y bydd yr Awdurdod Archwilio yn dymuno codi materion eraill sy'n deillio o gyflwyniadau a dilyn llinellau ymchwilio nad ydynt ar yr agendâu.

## AGENDA

### 1. CYFLWYNIAD A DIBEN Y GWRANDAWIAD

### 2. CYFLWYNO'R PARTIÖN SY'N CYMRYD RHAN

### 3. CEISIADAU I HOLI'N UNIONGYRCHOL PERSON SY'N GWNEUD SYLWADAU LLAFAR O DAN A94 DEDDF CYNLLUNIO 2008.

### 4. ADRODDIAD GAN YR YMGEISYDD AR Y SEFYLLFA MEWN PERTHYNAS Â:

- Statws presennol y trafodaethau ag unigolion yr effeithir arnynt;
- Unigolion categori 1 a 2;
- Unigolion categori 3<sup>4</sup>;
- Tir a chyfarpar Ymgwymerwyr Statudol mewn perthynas â gofynion a127 ac a138 Deddf Cynllunio 2008; a
- Darpariaethau Amddiffynnol.

### 5. SYLWADAU LLAFAR GAN UNIGOLION YR EFFEITHIR ARNYNT SY'N BRESENNOL A/NEU WEDI'U CYNRYCHIOLI'N FFURFIOL

Gall y rhain gynnwys mater darpariaethau amddiffynnol.

- Unigolion yr effeithir arnynt<sup>5</sup> sy'n dymuno gwneud sylwadau llafar; ac
- Unigolion categori 3 sy'n dymuno gwneud sylwadau llafar.

### 6. SEFYDLU BOD ANGEN Y TIR AR GYFER Y DATBLYGIAD Y MAE'R CANIATÂD DATBLYGU YN BERTHNASOL IDDO NEU FOD ANGEN Y TIR AR GYFER HWYLUO'R DATBLYGIAD HWNNW NEU EI FOD YN ANHEPGOR IDDO, A'I FOD AT DDIBEN CYFREITHLON, GAN GYNNWYS:

Y ffordd y mae'r Ymgeisydd yn bwriadu defnyddio'r tir y cynigir ei gaffael, gan gynnwys y defnydd a wneir o'r tir yn y pen draw lle gwnaed cais am Gaffael Gorfodol, er enghraifft, ar fwy o dir na'r hyn sy'n ofynnol ar gyfer y gwaith neu i ddarparu hyblygrwydd wrth wneud penderfyniadau:

- Anhepgor – yr Ymgeisydd i grynhoi pam y credir bod y ffordd fynediad yn anhepgor i'r datblygiad;
- P'un a yw'r amodau statudol mewn perthynas â'r hawl i arfer Caffael Gorfodol fel y gosodir allan yn a122 a a123 Deddf Cynllunio 2008 yn cael eu bodloni mewn egwyddor ac mewn perthynas â lleiniau unigol;
- P'un a yw'r dibenion y ceisir pwerau Caffael Gorfodol ar eu cyfer yn cydymffurfio ag adran 122(2) Deddf Cynllunio 2008;
- P'un a yw'r tir yn angenrheidiol ar gyfer y datblygiad y mae'r caniatâd datblygu yn ymwneud ag ef;
- P'un a yw'r tir yn angenrheidiol ar gyfer hwyluso'r datblygiad neu ei fod yn gysylltiedig â'r datblygiad;

<sup>4</sup> Sef yr unigolion hynny na chynigir caffael eu tir yn orfodol ond y gallai eu tir/eiddo gael ei effeithio gan adeiladu neu ddefnydd y datblygiad a gynigir fel y ceir posibilrwydd y gallent hawlio iawndal (adran 57(4) Deddf Cynllunio 2008 (fel y'i diwygiwyd))

<sup>5</sup> Yr unigolion hynny y cynigir caffael eu tir yn orfodol neu yr ymyrrir â'r tir hwnnw fel arall drwy ddefnyddio pwerau gorfodol.



# The Planning Inspectorate Yr Arolygiaeth Gynllunio

- P'un a byddai'r cynnig yn cydymffurfio â *Deddf Cynllunio 2008: Canllawiau ar geisiadau datblygu cysylltiedig ar gyfer prosiectau seilwaith mawr* (Cyhoeddwyd gan yr Adran Cymunedau a Llywodraeth Leol mis Ebrill 2013) a *Deddf Cynllunio 2008: Canllawiau yn ymwneud â gweithdrefnau ar gyfer Caffael tir yn Orfodol* (Cyhoeddwyd gan yr Adran Cymunedau a Llywodraeth Leol mis Medi 2013);
- Yr achos dros geisio pwerau meddiant dros dro.

## **7. SEFYLDU ACHOS CYMHELLOL ER BUDD Y CYHOEDD DROS GAFFAEL TIR YN ORFODOL; GAN GYNNWYS:**

Gan ystyried adran 122(3) Deddf Cynllunio 2008, p'un a oes achos cymhellol er budd y cyhoedd dros gaffael y tir yn orfodol.

- Yr angen er budd y cyhoedd i'r prosiect gael ei weithredu;
- Y golled breifat i'r sawl a effeithir gan y Caffael Gorfodol; ac
- Ym mhle y ceir cydbwysedd er bydd y cyhoedd.

## **8. SEFYDLU YR ARCHWILIWYD POB DEWIS AMGEN RHESYMOL I GAFFAEL GORFODOL, GAN GYNNWYS:**

Pa ystyriaeth a roddwyd i bob dewis amgen i Brynu Gorfodol? A oes unrhyw gamau llai a allai fodloni'r angen a nodir?

- Caffael drwy gytundeb; a'r
- Defnydd o ddulliau amgen i gyflawni'r rheolaeth ofynnol dros y tir.

## **9. SEFYDLU BOD YR YMYRRAETH A GYNIGIR Â HAWLIAU'R SAWL SYDD Â BUDDIANT YN Y TIR YN ANGENRHEIDIOL AC YN GYMESUR, GAN GYNNWYS CYFEIRIO AT BROTocol 1, ERTHYGL 1 AC ERTHYGL 8 Y CONFENSIWN EWROPEAIDD AR HAWLIAU DYNOL, GAN GYNNWYS:**

- Pa ystyriaeth a roddwyd i Erthygl 8 y Confensiwn Ewropeaidd ar Hawliau Dynol ac Erthygl 1 y Protocol Cyntaf;
- Graddau'r pwysigrwydd a roddir i ddefnydd presenol y tir y cynigir ei gaffael, gan gynnwys;
- Effaith y Caffael Gorfodol ar weithrediad busnesau amaethyddol neu fusnesau eraill a effeithir gan y ceisiadau am Gaffael Gorfodol;
- Y pwys a roddir i'r posibilrwydd o dorri hawliau'r Confensiwn yn erbyn y manteision cyhoeddus posibl os gwneir y DCO;
- P'un a oes unrhyw ddyletswyddau o dan y Ddeddf Cydraddoldeb sy'n berthnasol i'r cais, ac os felly, sut mae'r rhain wedi cael eu trin.

**10. SEFYDLU BOD CYFLE RHESYMOL Y DAW'R CYLLID GOFYNNOL AR GAEL AR GYFER CAFFAEL; GAN GYNNWYS:**

- Costau caffael ac iawndal; a
- Pha sicrwydd a gynigir i sicrhau y gellir talu costau caffael tir a hawliau pe bai'r cais DCO yn cael ei gymeradwyo, e.e. gwarant gan riant-gwmni.

**11. DARPARIAETHAU'R GORCHYMYN CANIATÂD DATBLYGU DRAFFT**

Gwahoddir yr Ymgeisydd i osod allan yn gryno:

- Pa erthyglau'r DCO sy'n ymwneud â phwerau Caffael Gorfodol;
- P'un a yw'r DCO yn eithrio 'r defnydd o ddarparu iawndal neu'n addasu'r defnydd o ddarparu iawndal y tu hwnt i'r hyn sy'n angenrheidiol i alluogi'r defnydd o ddarparu iawndal;
- Sut y bydd darpariaethau amddiffynnol yn cael eu cynnwys yn llawn a ph'un a yw'r rhain ar ffurf foddhaol a gytunir â'r partïon perthnasol.

**12. UNRHYW FATERION PERTHNASOL ERAILL**

**13. SYLWADAU I GLOI.**

**EN010069: Application by Abergelli Power Ltd for an Order Granting Development Consent for Abergelli Power Gas Fired Generating Station (the application)**

**Hearing agenda: Compulsory Acquisition Hearing<sup>1</sup>**

**Planning Act 2008 (as amended) Infrastructure Planning (Examination Procedure) Rules 2010**

This document sets out the agenda for the Compulsory Acquisition Hearing.

**Venue:** The Village Hotel, Langdon Road, Swansea, SA1 8QY

**Date:** Wednesday 12 December 2018

**Time:** 10:00 (doors open from 09:30)

**Participation in the hearing**

Compulsory Acquisition hearings are held if one Affected Person (AP)<sup>2</sup> requests this. However, in this instance the Examining Authority (ExA) has decided to hold a Compulsory Acquisition hearing and the ExA has included this within the examination timetable.

The Compulsory Acquisition hearing<sup>3</sup> is being held to ensure adequate examination of the provisions set out within the Development Consent Order (DCO), which seeks to authorise the Compulsory Acquisition of land and to assess whether the conditions relating to the land being required for the development, or required to facilitate or be incidental to that development, are met and whether there is a compelling case in the public interest for the land to be acquired compulsorily.

This agenda is for guidance only. It is not designed to be exclusive or exhaustive. The ExA may add other matters for consideration or alter the order in which matters are considered. If this occurs, the ExA will seek to allocate sufficient time to any additional matters to allow proper consideration of each.

Should the consideration of the issues take less time than anticipated, the ExA may conclude the hearing as soon as all relevant contributions have been made, and all questions have been asked and responded to.

If there are additional matters to be dealt with, or any submissions that require further consideration, there may be a need to adjourn the hearing and continue at a subsequent sitting.

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<sup>1</sup> S92 Planning Act 2008 (as amended)

<sup>2</sup> Those persons whose land is proposed to be compulsorily acquired or otherwise interfered with by the use of compulsory powers.

<sup>3</sup> S92 Planning Act 2008 (as amended)

The ExA recognises that other hearings may contribute information and evidence which will be used in support of a recommendation in respect of Compulsory Acquisition.

The hearing will run until all APs and other Interested Parties (IPs) have made their representations and responded to the ExA's exploration of the matters in accordance with the agenda set.

Each IP who has indicated a wish to speak will be invited to come forward to give their evidence and respond to questions from the ExA and others under the guidance of the ExA. The ExA will lead each hearing session which will be by presentation and testing of evidence, and broadly in a question and answer format. The Applicant will also be given an opportunity to present their evidence in response to each party's case within the relevant authority area and respond to questions from the ExA and others present at the hearings.

All IPs are invited to attend the hearing, however APs whose land interest(s) are affected under Compulsory Acquisition proposals are specifically invited to attend. The ExA may decide to allow oral cross-questioning of one Party by another where there is clear disagreement between the Parties in question to ensure adequate testing of the representations, or to ensure that a Party has a fair chance to put their case.

Those attending the hearing are asked to note that an early item on the agenda is to deal with any requests to question a person making oral representations directly under section 94(4)(a) of the Planning Act 2008.

Breaks will be taken during the hearing as directed by the ExA.

All Parties should note that the agenda given below is to assist and provide a framework for this hearing and give discussion points and does not constrain the ExA to particular topics. The ExA may wish to raise other matters arising from submissions and pursue lines of inquiry in the course of the discussions which are not on the agendas.

## AGENDA

### 1. INTRODUCTION AND PURPOSE OF HEARING

### 2. INTRODUCTION OF THE PARTICIPATING PARTIES

### 3. REQUESTS TO QUESTION A PERSON MAKING ORAL REPRESENTATIONS DIRECTLY UNDER S94 OF THE PLANNING ACT 2008 (PA 2008).

### 4. REPORT FROM THE APPLICANT ON THE POSITION IN RESPECT OF:

- Current status of negotiations with affected persons
- Category 1 and 2 persons;
- Category 3<sup>4</sup> persons;
- Statutory Undertakers' land and apparatus in relation to the requirements of s127 and s138 of PA 2008; and
- Protective Provisions.

### 5. ORAL REPRESENTATIONS FROM AFFECTED PERSONS PRESENT AND/OR FORMALLY REPRESENTED

These may include the issue of protective provisions.

- Affected persons<sup>5</sup> who wish to make oral representations; and
- Category 3 persons wishing to make oral representations.

### 6. TO ESTABLISH THAT THE LAND IS REQUIRED FOR THE DEVELOPMENT TO WHICH THE DEVELOPMENT CONSENT RELATES OR THAT IT IS REQUIRED TO FACILITATE, OR IS INTEGRAL TO, THAT DEVELOPMENT AND IS FOR A LEGITIMATE PURPOSE, INCLUDING:

How the Applicant intends to use the land which it is proposed to acquire, including the eventual use of land where Compulsory Acquisition has been applied for, for example, on land larger than that required for the work or to provide flexibility in decision making:

- Integral – the Applicant to summarise why it believes that the access road is integral to the development;
- Whether the statutory conditions in relation to the right to exercise CA as set out in s122 and s123 of PA2008 are met in principle and in relation to individual plots;
- Whether the purposes for which the Compulsory Acquisition powers are sought comply with section 122(2) of the PA 2008;
- Is the land required for the development to which the development consent relates;
- Is the land required to facilitate or is incidental to the proposed development;

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<sup>4</sup> Those persons whose land is not proposed to be compulsorily acquired but whose land/property may be affected by the construction or use of the proposed development such that they may be able to make claims for compensation (section 57(4) Planning Act 2008 (as amended))

<sup>5</sup> Those persons whose land is proposed to be compulsorily acquired or otherwise interfered with by the use of compulsory powers.



- Whether the proposal would comply with the *Planning Act 2008: Guidance on associated development applications for major infrastructure projects* (Published by Department for Communities and Local Government April 2013) and the *Planning Act 2008: Guidance related to procedures for the Compulsory Acquisition of land* (Published by Department for Communities and Local Government September 2013);
- The case for seeking powers of temporary possession.

**7. TO ESTABLISH A COMPELLING CASE IN THE PUBLIC INTEREST FOR THE LAND TO BE ACQUIRED COMPULSORILY; INCLUDING:**

Having regard to section 122(3) of the PA 2008, whether there is a compelling case in the public interest for the land to be acquired compulsorily?

- The need in the public interest for the project to be carried out;
- The private loss to those affected by Compulsory Acquisition; and
- Where does the balance of the public interest lie.

**8. TO ESTABLISH THAT ALL REASONABLE ALTERNATIVES TO COMPULSORY ACQUISITION HAVE BEEN EXPLORED; INCLUDING:**

What consideration has been given to all reasonable alternatives to Compulsory Acquisition? Whether there are any lesser steps that could meet the identified need?

- Acquisition by agreement; and
- The use of alternative methods to achieve the required control over land.

**9. TO ESTABLISH THAT THE PROPOSED INTERFERENCE WITH THE RIGHTS OF THOSE WITH AN INTEREST IN THE LAND IS NECESSARY AND PROPORTIONATE, INCLUDING WITH REFERENCE TO PROTOCOL 1, ARTICLE 1 AND ARTICLE 8 OF THE EUROPEAN CONVENTION ON HUMAN RIGHTS, INCLUDING:**

- What regard has been had to Article 8 of the European Convention on Human Rights and Article 1 of the First Protocol;
- The degree of importance attributed to the existing uses of the land proposed to be acquired including;
- The effect of Compulsory Acquisition on the operation of agricultural and other businesses affected by applications for Compulsory Acquisition;
- The weighing of any potential infringement of Convention rights against the potential public benefits if the DCO is made;
- Whether there are any Equality Act duties relevant to the application and, if so, how have these been addressed?

**10. TO ESTABLISH THAT THERE IS A REASONABLE PROSPECT OF THE REQUISITE FUNDS FOR ACQUISITION BECOMING AVAILABLE; INCLUDING:**

- Costs of acquisition and compensation; and
- What security is being proposed to ensure that the costs of acquisition of land and rights can be met in the event that the DCO application is approved e.g. parent company guarantee.

**11. THE DRAFT DEVELOPMENT CONSENT ORDER PROVISIONS**

The Applicant will be invited to set out in summary form:

- Which articles of the DCO engage Compulsory Acquisition powers;
- Whether the DCO excludes the application of a compensation provision or modifies the application of a compensation provision beyond that necessary to enable the compensation provision to be applied;
- How protective provisions would be fully incorporated and whether these are in a satisfactory form that is agreed with relevant parties.

**12. ANY OTHER RELEVANT MATTERS**

**13. CLOSING REMARKS.**