



Department for
Business, Energy
& Industrial Strategy

Department for Business,
Energy & Industrial Strategy

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Our Ref: EN010069

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Dear Sir or Madam,

PLANNING ACT 2008

APPLICATION FOR THE ABERGELLI POWER PROJECT DEVELOPMENT CONSENT ORDER

1. Introduction

1.1 I am directed by the Secretary of State for Business, Energy and Industrial Strategy (“the Secretary of State”) to advise you that consideration has been given to the report dated 10 July 2019 of the Examining Authority (“the ExA”), Martin Broderick, who conducted an examination into the application (“the Application”) submitted on 25 May 2018 by Abergelli Power Limited (“the Applicant”) for a Development Consent Order (“the Order”) under section 37 of the Planning Act 2008 (“the 2008 Act”) for the Abergelli Power Project Generating Station (“the Development”).

1.2 The Application was accepted for examination on 21 June 2018. The examination began on 10 October 2018 and was completed on 10

April 2019. A number of changes were made to the Application during the examination. The details of these changes were made available to interested parties and examined by the ExA [ER 2.2.1 – 2.2.11].

1.3 The Order, as applied for, would grant development consent for the construction and operation of a gas fired Open Cycle Gas Turbine (“OCGT”) generating station with a gross electrical generating capacity of up to 299 Megawatts (“MW”) located on land adjacent to the Felindre Gas Compressor Station at Abergelli Farm, Felindre, Swansea SA5 7NN. There are three main elements:

(i) A OCGT fuelled by natural gas and capable of providing a rated electrical output of up to 299MW. The Power Generation Plant comprises:

- Generating Equipment including one Gas Turbine Generator with one exhaust gas flue stack between 35m and 45m in height and Balance of Plant (together referred to as the “Generating Equipment”) which are located within the “Generating Equipment Site”;
 - An Access Road to the Generating Equipment 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 as a maintenance compound);
 - Ecological Mitigation Area – area for ecological enhancement within the Development Site Boundary; and
 - Permanent parking and drainage to include: a site foul, oily water and surface water drainage system;
- which together form “the Development”.

(ii) A new gas connection in the form of an above ground installation (“AGI”) and underground gas pipeline connection. This is to bring natural gas to the Generating Equipment from the National Gas Transmission System; and

- (iii) A new electrical connection via a 400kV underground electrical cable to export power from the Generating Equipment to the National Grid Electricity Transmission System.

1.4 The Applicant has already obtained planning permission for the new electrical and gas connections and so they are not included in the Application for development consent. However, powers of Compulsory Acquisition and/or Temporary possession of land for the gas and the electrical connection alignment and related powers are sought in the Application to facilitate the Development. The Applicant applied to the City and County of Swansea (“Swansea Council”) for separate planning permission for a gas and an electrical connection under the Town and Country Planning Act 1990. This was granted by Swansea Council on 6 December 2018.

1.5 Published alongside this letter on the Planning Inspectorate’s website¹ is a copy of the ExA’s Report of Findings and Conclusions and Recommendation to the Secretary of State (“the ExA’s Report”). The ExA’s findings and conclusions are set out in Chapters 4-6 of the ExA’s Report, and the ExA’s summary of conclusions and recommendation is at Chapter 9.

2. Summary of the ExA’s Report and Recommendation

2.1 The ExA assessed and tested a range of issues during the Examination, which are set out in the ExA’s Report under the following broad headings:

- Legal and Policy Context: including the Planning Act 2008 and relevant National Policy Statements (“NPS”); Welsh Legislation, policy and guidance; European Law and related UK Regulations, other legal provisions; made Development Consent Orders; transboundary effects, other relevant policy statements; Local Impact Reports (“LIR”); the Local Development Plan (“LDP”); and the Secretary of State’s powers to make the Order (Chapter 3);
- The main planning issues arising from the application and during examination (Chapter 4);
- Findings and Conclusions in relation to Habitats Regulations Assessment (Chapter 5);
- Conclusions on the case for Development Consent (Chapter 6);
- Compulsory Acquisition and Related Matters (Chapter 7); and
- Draft Development Consent Order and Related Matters (Chapter 8).

¹ <https://infrastructure.planninginspectorate.gov.uk/projects/wales/abergelli-power/>

2.2 For the reasons set out in the Summary of Findings and Conclusions (Chapter 9) of the ExA's Report, the ExA recommends that the Order be made in the form set out in Appendix D to the ExA's Report [ER 9.3.1].

2.3 The Secretary of State notes that the ExA drew to her attention the fact that changes to the key application documents were made during Examination. The changes were primarily to the wording in the draft Order to address points raised by Interested Parties ("IPs") and the ExA's questions, and to reflect improved information and changes arising during the Examination including matters such as clarity and/or discrepancies within the Order and other environmental matters. The ExA concluded that the changes did not result in any material difference in the Development that was applied for. The Secretary of State agrees with the ExA in respect of this matter.

3. Summary of the Secretary of State's Decision

3.1 The Secretary of State has decided under section 114 of the 2008 Act to make, with minor modifications, an Order granting development consent for the proposals in the Application. The Order also includes powers relating to the compulsory acquisition of freehold and temporary possession of land for the primary development and use of a generating station, and for the formation of a land corridor for a separate electrical and gas connection alignment to the generating station. This letter is a statement of reasons for the Secretary of State's decision for the purposes of section 116 of the 2008 Act and the notice and statement required by regulation 23(2) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ("the 2009 Regulations")².

4. Secretary of State's Consideration of the Application

4.1 The Secretary of State has considered the ExA's Report and all other material considerations. The Secretary of State's consideration of the ExA's Report is set out in the following paragraphs. All numbered references, unless otherwise stated, are to paragraphs of the ExA Report.

4.2 The Secretary of State has had regard to the LIR submitted by Swansea Council, LDP, environmental information as defined in regulation 2(1) of the 2009 Regulations and to all other matters which are considered to be important and relevant to the Secretary of State's decision as required by section 104 of the 2008 Act. In making the decision, the Secretary of State has complied with all applicable legal

² S.I. 2009/2263.

duties and has not taken account of any matters which are not relevant to the decision.

4.3 The Secretary of State notes that 26 Relevant Representations (“RRs”) were made and have been considered fully by the ExA [RR-001-RR-026]. Those making the representations were able to become involved in the Examination as IPs. RRs were made by statutory authorities, utility providers, Swansea Council, Neath Port Talbot County Borough Council, Mawr Ward Councillor, Betws Community Council, Llangyfelach Community Council, local residents, Swansea Friends of the Earth, and businesses located in the vicinity of the Development. During the Examination RRs relating to compulsory acquisition and temporary possession powers were withdrawn by the following IPs: Western Power Distribution (protective provisions agreed with the Applicant); Abergelli Solar Limited (protective provisions agreed with the Applicant); and National Grid Transmission and National Grid Gas (together “National Grid”) (protective provisions agreed with the Applicant). Written representations, responses to questions and oral submissions made during the Examination were also taken into account by the ExA.

4.4 Except as indicated otherwise in the paragraphs below, the Secretary of State agrees with the findings, conclusions and recommendations of the ExA’s Report, and the reasons for the Secretary of State’s decision are those given by the ExA in support of his conclusions and recommendations.

National Policy Statements (“NPSs”), Need for the Development and Examination of Alternatives

4.5 NPS EN-1 (the Overarching NPS for Energy), acknowledges the potential impact of electricity generating developments but notes that a balancing exercise must be carried out to weigh the public benefits of those developments and any harm caused. As noted by the ExA, EN-1 indicates that the Secretary of State should start with a presumption in favour of granting consent to applications for energy Nationally Significant Infrastructure Projects unless any more specific and relevant policies set out in the relevant NPSs clearly indicate that consent should be refused.

4.6 After having regard to the comments of the ExA set out in Chapter 6 of the ExA’s Report, and in particular the conclusions both on the need for the Development and examination of alternatives and the case for development consent in Chapters 4 and 6, the Secretary of State is satisfied that in the absence of any adverse effects which are unacceptable in planning terms, making the Order would be consistent

with energy NPSs EN-1, EN-2 (the NPS for Fossil Fuel Electricity Generating Infrastructure) and (to the limited extent of its application to an ancillary land requirement), EN-4 (the NPS for Gas Supply Infrastructure and Gas and Oil Pipelines) and EN-5 (the NPS for Electricity Networks Infrastructure. Taken together, these NPSs set out a national need for development of new nationally significant electricity generating infrastructure of the type proposed by the Applicant. The Secretary of State is also satisfied that the requirements of the Climate Change Act 2008, Welsh Government policy and the Swansea Council LDP and other relevant policy have been met. The ExA concludes that given the substantial positive benefits by meeting national need for additional electricity generation capacity identified in EN-1, the benefits of granting the Development outweigh any localised adverse effects and recommended that development consent should be granted. The Secretary of State agrees with the ExA's conclusion.

Carbon Capture Readiness ("CCR")

4.7 As set out in NPSs EN-1 and EN-2, in order to ensure that no foreseeable barriers exist to retrofitting carbon capture and storage equipment on combustion generating stations, all applications for commercial scale fossil fuel generating stations with a gross generating capacity of 300MW or more have to be 'Carbon Capture Ready'. Applicants are required to demonstrate that their proposed development complies with guidance issued by the Secretary of State in November 2009³ or any successor to it.

4.8 As this Application seeks consent for a generating station with an output of no more than 299MW, the Secretary of State is satisfied that this is not a development to which the CCR requirement applies.

Combined Heat and Power ("CHP")

4.9 NPSs EN-1 and EN-2, require that any application to develop a thermal generating station under the 2008 Act, must include either CHP or contain evidence that opportunities for CHP have been fully explored where the proposal is for a generating station without CHP. The Secretary of State notes the Applicant's CHP technical note Appendix 5.1 summarises why further investigation into the use of waste heat has not been undertaken and provides evidence the Development should be excluded from being CHP-Ready. The ExA is content that the Applicant's technical note demonstrates the generating station does not need to

³ Carbon Capture Readiness A guidance note for Section 36 Applications URN09D/810
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/43609/Carbon_capture_readiness_-_guidance.pdf

undertake further investigation of CHP and provides evidence as to why the Development should be excluded from being CHP-Ready. He concludes this is sufficient to ensure that the requirement of EN-1 paragraph 4.6.8 is met and the Development, therefore, complies with the guidance and with the relevant provisions in the NPSs. The Secretary of State agrees with this view.

5. Issues outstanding at close of Examination

Statements of Common Ground

5.1 The Secretary of State notes that Statements of Common Ground were completed between the Applicant and each of: Natural Resources Wales, National Grid (gas and transmission) and Welsh Water, however at the end of Examination, three Statements of Common Ground were incomplete or unsigned.

Swansea Council

5.2 The Statement of Common Ground between the Applicant and Swansea Council remained incomplete due to outstanding differences regarding inclusion of (i) a decommissioning bond and (ii) a time limit for operation in the Order. There is no UK Government or Welsh Government policy in relation to the provision of financial security for decommissioning gas fired generating stations. The ExA was satisfied that the Applicant has considered decommissioning impacts adequately and there is no need for a decommissioning bond given that Requirement 28 in Schedule 2 to the Order provides a clear and enforceable mechanism to secure the carrying out of any necessary decommissioning works.

5.3 With regard to the inclusion of a time limit within the Order, limiting the lifetime of the Development to 25 years as assessed in the Environmental Statement (“ES”), the ExA concludes there is no need for an operational time limit to be included because the conclusions of the ES are valid for an operational lifetime of the Development of 35 years, or longer as in the case of drainage.

5.4 The Secretary of State must be satisfied that potential emissions from the Development can be adequately regulated under the Environmental Permitting Regulations 2016, as outlined in paragraph 4.10.7 of EN-1. The ExA is content that the Environmental Permit issued on 18 January 2019 by Natural Resources Wales (to be reviewed annually), will provide the operational control mechanisms in relation to any emissions and also require these emissions to be reduced, should new legislation be imposed. The ExA considers the approach taken by

the Applicant is consistent with other Environmental Impact Assessments taken for other projects of this type, and that the assessment in the ES is robust and adequate. The Secretary of State agrees with the ExA on both these issues and that the Environmental Permit will provide adequate regulatory control for the operation of the Development.

Other Unsigned Statements of Common Ground

5.5 Two Statements of Common Ground remained unsigned between the Applicant and (i) Wynne Watkins/Redisplay Limited and (ii) Michael Edwards. The reasons these remained unsigned were due to objections to compulsory acquisition and temporary possession powers relating to land that is required for the access road and electrical and gas connection. As these agreements were still outstanding at the close of Examination, the Secretary of State consulted with the Applicant on 26 July 2019 seeking a status update. The response of 9 August 2019 confirmed that after the close of Examination there were further discussions between the Applicant and affected parties with a view to seeking an agreement for the acquisition of the relevant interests within the Order land. However, the Applicant had not reached such an agreement with these parties although the Statements of Common Ground have been updated by the Applicant to reflect the additional correspondence between parties. These updated Statements of Common Ground were provided to the Secretary of State.

5.6 The ExA is satisfied that the Applicant did demonstrate that all possible alternative options for the connection alignments were considered and rejected, and that the chosen option for the proposed road siting was the only possible siting for the site. He also concluded that the inclusion of these powers was appropriate and that this approach was consistent with other previous Orders for development consent in Wales. The Secretary of State agrees with the ExA on this issue.

Section 106 Agreement

5.7 By the end of Examination, Swansea Council had entered into and signed a section 106 Agreement [REP6-007] with the Applicant. However, this remained with Sarah Ann Marina Llewellyn (the landowner) for execution. The section 106 Agreement (under the Town and Country Planning Act 1990) covers (i) an education scheme; (ii) local supply chain initiative; and (iii) footpath improvements. The ExA in his conclusions advised that the Secretary of State should only grant consent if she first receives a completed (dated) section 106 agreement in identical terms to the agreed draft, properly executed by all parties holding an interest in the relevant land. The Secretary of State wrote to the Applicant on 26 July 2019 to seek confirmation that the section 106 Agreement had been

completed with Swansea Council and Sarah Ann Marina Llewellyn and that if so, a copy should be provided to the Secretary of State. The Applicant's response of 9 August 2019 confirmed that a section 106 agreement had been signed by all parties but in a form different to that seen by the ExA in respect to footpath improvements. The Applicant requested an extension of time for the section 106 agreement to be returned from the landowner and then completed. However, shortly thereafter, a copy of the section 106 Agreement signed by all parties was provided to the Secretary of State on 16 August 2019. The Secretary of State has considered the changes to the signed section 106 agreement against that examined by the ExA and concludes the changes are not substantial enough to cast doubt on the ExA's recommendation.

Welsh Government, the UK Government and Climate Change

5.8 On 29 April 2019 the Welsh Government declared a climate emergency and set out its ambition to achieving a carbon neutral public sector by 2030 and to co-ordinating action to help make a decisive shift away from fossil fuels. On 26 June 2019, the UK Government announced a new carbon reduction 'net zero' target for 2050 - resulting in an amendment to the Climate Change Act 2008 (reducing the net UK carbon account for 2050 from 80% to 100% below the 1990 baseline). These took place after the close of the Examination of the Order so were not considered by the ExA, although the ExA has considered the Welsh Government's and the UK's energy and climate change policies relevant to this Order during the examination, including the Welsh Government's 'Prosperity for All: Transition to a Low Carbon Wales (2019)'. The ExA considers it will be for the Secretary of State to consider this matter in her final decision on the Order. The Secretary of State consulted the Welsh Government on 26 July 2019 requesting confirmation whether any of its policies that are relevant to the Application had changed as a result of its climate emergency declaration.

5.9 The Welsh Government responded on 9 August 2019 stating that its first statutory delivery plan for decarbonisation in Wales 'Prosperity for All: Transition to a Low Carbon Wales (2019)' was published in March 2019 and that the declaration of April 2019 set out an ambition, for which it intended to work with stakeholders to understand how this might be achieved. The Secretary of State has concluded therefore that this indicates that there has been no change in Welsh Government policy since the publication of the March 2019 paper, nor have there been any amendments of the energy NPSs. She considers therefore that as the ExA has considered all relevant Welsh policy during the examination, and given that, despite the amendment to the Climate Change Act 2008, there

have been no subsequent changes to legislation or policy and that the energy NPSs continue to form the basis for decision-making under the Planning Act 2008, approval of the application would not itself be incompatible with the Welsh Government's declaration of 29 April 2019 nor the amendment to the Climate Change Act.

6. Other Matters

Landscape and Visual Effects

6.1 The ExA notes [ER 4.12.6] that EN-1 sets out that "virtually all nationally significant energy infrastructure projects will have effects on the landscape". Local landscape designations (set out within LDPs) must be taken into account and harm should be mitigated. When considering these sites, the Secretary of State must consider whether the Development evidences good design. Natural Resources Wales who provide statutory advice to Government on landscape matters, has no outstanding concerns in respect of landscape and visual methodology and assessment.

6.2 Swansea Council in its LIR concluded that the Development would have a significant impact on the local landscape character during construction and operation, but 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. Three IPs raised issues about visual impact and its effect on their properties, but none made further submissions to the examination following their RRs. The ExA's conclusions on visual impacts and landscape design is that the Development would have a significant visual impact seen from close to the site but the effect would be within an existing and developing industrialised setting and the additional effect from other development was not significant. In terms of cumulative landscape effects of the Development's introduction into this existing developed setting is considered not to be significant. The Secretary of State sees no reason to disagree with the EXA's conclusions on this.

Air Quality

6.3 Natural Resources Wales as the relevant regulator is satisfied with the proposed air quality and emission performance of the Development and that the Applicant had applied the correct assessment process. It sees no reason why the Development should not be fully compliant with all relevant policies and standards. A number of IPs did raise concerns about air quality in their RRs. However, the Natural Resources Wales

Permitting Team received no response to their 'Minded to Allow' public consultation and issued an Environmental Permit to the Applicant on 18 January 2019.

6.4 The Applicant has assessed the potential of the Development on ambient air quality, and included the effects of pollutants: Oxides of Nitrogen ("NOx") and Carbon Monoxide emitted from the gas turbines via the Stack during operation; and NOx and particulate matter (PM10 and PM2.5) associated with vehicle movements during construction, operation and decommissioning of the Development. The Applicant identified that no relevant exceedances are predicted and so no air quality measures over and above those provided for in the Order are necessary. The ExA is satisfied that the proposed emissions will comply with the Air Quality Directive 2008. He is also content that climate change resilience has been built into the Development and the relevant NPSs EN-1 and EN-2, Welsh Government policy on climate change obligations and the LDP policies ER1 on climate change and RP3 will be met. The Secretary of State sees no reason to disagree with this view.

Noise and Vibration

6.5 No in principle concerns were raised about noise and vibration by government agencies, specifically Natural Resources Wales or by Swansea Council, on the basis that mitigation embedded in the draft Order would be provided for the noise and vibration arising from construction, operation and decommissioning activities arising from the Development. The ExA concluded that given the evidence presented, he considered that noise and vibration issues have been addressed adequately and meets the requirements specified in paragraph 5.11 of EN-1, Welsh Government's TAN 11 and Swansea Council LDP Policy RP2. The Secretary of State sees no reason to disagree with this view.

Water quality and resources and flood risk

6.6 Natural Resources Wales did not express concerns on water environment matters, and Swansea Council in their LIR did not express concerns either. Swansea Council concluded that they do not consider that the Development raises any significant flooding or drainage issues that cannot be mitigated and the proposals therefore are considered to comply with the emerging LDP.

6.7 Welsh Water [RR-023] raised specific concerns for the potential impact on the Lower Lliw Reservoir, Felindre Water Treatment Works, Water quality and resources, and the structural integrity of Welsh Water's assets and apparatus. Welsh Water and the Applicant have resolved all

their specific concerns for the potential impact of the Development on their assets in a signed Statement of Common Ground before the end of Examination. The ExA concludes that the requirements in the Water Framework Directive 2010 have been addressed by the Applicant and that the water quality and resource issues (including climate change) have been addressed adequately and meet the requirements of EN-1 and Welsh Government's TAN15. The Secretary of State accepts the ExA's view.

Geology, Ground conditions and hydrogeology

6.8 The Development is located within areas identified as mineral reserves within the Swansea Council LDP and almost all of the land enclosed by the Order limits for the Development is within an area of allocated coal reserves, the only exception being the existing access road from the B4489. Swansea Council requested a full assessment of the potential mineral resources and the impact of the Development on sterilising the mineral resource. The Applicant confirmed that the mineral resource will remain intact and would be available to future generations beyond the lifespan of the development. However, construction and operation of the Development would result in sterilisation during the operational lifespan. The ExA is satisfied that Requirement 15 in the Order addresses Swansea Council's concerns and is compliant with LDP Policies R12 and R13. He is also 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. The Secretary of State concurs with this view.

Historic Environment

6.9 The Development contains no historic assets although one scheduled monument, one listed building and 26 non-scheduled monuments are present within the 1km 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 5km study area. Swansea Council concluded that subject to Requirement 13 Archaeology being included within the Order and subject to any comments submitted directly to the ExA by CADW (the Welsh Government's historic environment service), the proposal is considered to comply with the LDP policies HC1, HC2 and PS2. CADW agreed with the conclusions of the preliminary Environmental Impact Report in respect to the impact of the Development to the historic assets identified within the study area, but did not make any submissions to the Examination. No issues on non-compliance with EN-1 were raised, and EN-2 raises no historic built

environment issues that are particular to gas combustion plant. EN-4 similarly raises nothing particular for the gas connection alignment. The ExA concludes there is minimal potential for residual effects on the setting of historic assets within the Study Areas and a programme of archaeological mitigation prior to construction is secured via Requirement 13 in the Order. The Secretary of State has no reason to disagree with this view.

Economic and social impacts

6.10 Paragraph 3.2.1 of EN-1 identifies the generally positive socio-economic effects derived from electricity generation to meet nationally identified energy needs at the national level. Swansea Council considered that the scope and parameters of the Applicant's assessment of effects on tourism were not agreed and were too restrictive [REP3-010]. The Applicant considered that the 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. The ExA 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. The proposal adequately addresses the requirements of EN-1 and Welsh Government's TAN23 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 Swansea Council which weighs positively in the overall balance for the Development. The Secretary of State has no reason to disagree with this view.

Habitats Regulations Assessment

6.11 The Development is not directly connected with, or necessary to, the management of a Natura 2000 site. Therefore, under regulation 63 of the Conservation of Habitats and Species Regulations 2017 ("the Habitats Regulations"), the Secretary of State is required (as Competent Authority) to consider whether the Development would be likely, either alone or in combination with other plans and projects, to have a significant effect on a Natura 2000 site. If likely significant effects cannot be ruled out, the Secretary of State must undertake an Appropriate Assessment ("AA") addressing the implications for the Natura 2000 site in view of its conservation objectives. This process is collectively known as a Habitats Regulations Assessment ("HRA"). In light of any such assessment, the Secretary of State may grant development consent only if it has been

ascertained that the Development will not, either on its own or in combination with other plans or projects, adversely affect the integrity of such a site unless there are no feasible alternatives or imperative reasons of overriding public interest apply.

6.12 The Secretary of State notes that the Development is not located within or adjacent to any Natura 2000 sites. However, the Examination identified the potential for Natura 2000 sites located further away to be affected. The ExA records that the Applicant used a 10km radius from the Development to identify Natura 2000 sites affected through changes to water quality from foul waste/wastewater produced by the Development, changes in air quality from operational aerial emissions of NO_x, nitrogen deposition and/or acidification; and changes to air quality from increased transport emissions. Due to the 10km limit, no transboundary sites were taken forward for assessment. The use of a 10km radius follows air emission guidance published by the Department for Environment, Food & Rural Affairs (“DEFRA”) and the Environment Agency (“EA”). Five sites were identified within this radius:

- Crymlyn Bog Special Area of Conservation (“SAC”);
- Crymlyn Bog Ramsar site;
- Carmarthen Bay and Estuaries SAC;
- Burry Inlet Special Protection Area (“SPA”); and
- Burry Inlet Ramsar site;

6.13 The Secretary of State has considered the conservation objectives for each of the above sites against the Applicant’s assessment of each of the potential impact pathways:

- **Water quality:** considering the low quantity of treated foul waste/wastewater likely to be generated from the Development and hydrologically linked Natura 2000 sites, the Secretary of State considers any changes to water quality at those Natura 2000 sites are predicted to be negligible and immeasurable with other plans or projects.
- **Point source emissions during operation:** NO_x emissions are forecasted to be below significant levels outlined in the above-mentioned air emissions guidance produced by DEFRA and the EA. With regard to nitrogen deposition and acidification, it is noted that significance levels at one site – Crymlyn Bog SAC – is already in exceedance of the relevant significance level. However, the

habitats present at that site are not expected to respond to the small increase in nitrogen deposition from the Development. For all other sites, nitrogen deposition and acidification are forecasted to be below significant levels outlined in the air emissions guidance and no other point source emissions were identified which could act in combination with the Development.

- **Transport related emissions:** All roads within 200 metres of the above listed Natura 2000 sites are forecast to receive only a nominal short term change in vehicle flows as a result of the construction and operation of the Development. No other plans or projects that have the potential to contribute to local pollutant concentrations in this way are located within 200 metres of any of the above listed Natura 2000 sites.

6.14 The Secretary of State notes that a number of mitigation measures have been proposed by the Applicant to avoid local environmental effects. She agrees with the inclusion of these measures, but whilst they strengthen the above conclusions, they are not intended or necessary to avoid significant effects on Natura 2000 sites.

6.15 The Secretary of State concludes on the basis of the above, that the Development, alone and in-combination, is not likely to have a significant effect on any Natura 2000 site and that an AA is not required. This conclusion is consistent with the advice provided during the examination by the Statutory Nature Conservation Body, Natural Resources Wales and the recommendation made by the ExA.

Biodiversity

6.16 The ExA's Report [4.16.21] states that Chapter 8 of the ES contained the biodiversity assessment, and has identified ecological designated sites protected species and habitats or ecosystems which may be affected by the Development and assessed the likelihood of significant effects. The Chapter considers potential effects from air quality, noise, water, landscape and light on ecological receptors. Ecological surveys were undertaken on:

- Habitats;
- Great crested newts;
- Reptiles;
- Otter and water voles;
- Dormouse;
- Hedgerows;

- Badgers; and
- Bat roost (assessment and activity survey).

6.8 The ExA is satisfied that Natural Resources Wales and Swansea Council's concerns regarding effects on biodiversity have been dealt with adequately by the Applicant via Order Requirements 3, 7, 8, 9 and 10. The Secretary of State agrees.

Compulsory Acquisition

6.17 The purposes for which the Applicant is seeking Compulsory Acquisition and Temporary Possession powers are to support three main development outcomes. These are:

- For the primary development and use of a generating station;
- For the formation of a land corridor for an electrical connection alignment; and
- For the formation of a land corridor for a gas connection alignment, between the generating station and the existing gas transmission network which is necessary to enable gas to be supplied to the generating station.

6.18 The Applicant has confirmed that no Crown land is included in or is affected by the proposed compulsory acquisition or temporary possession powers sought in the Order, and there is no special category land belonging to the National Trust, open space, common land or field garden allotment.

6.19 The Planning Act 2008, together with related case-law and guidance, sets out that compulsory acquisition can only be granted if certain conditions are met. The relevant conditions are:

- the land is required for the development to which the consent relates, or is required to facilitate or is incidental to that development. The land required to be taken must be no more than is reasonably required and be proportionate (Section 122(2) of the Planning Act 2008 refers);
- there must be a compelling case in the public interest (Section 122(3) of the 2008 Act refers);
- there must be a need for the project to be carried out;
- there must be consistency and coherence in the decision-making process;

- all reasonable alternatives to compulsory acquisition have been explored;
- the applicant has a clear idea of how it intends to use the land and can demonstrate that funds are available to pay for the acquisition; and
- that the Secretary of State is satisfied that the purposes stated for the acquisition are legitimate and sufficient to justify the inevitable interference with the human rights of those affected.

6.20 Seven affected parties during the Examination had outstanding objections to compulsory acquisition or temporary possession powers but as noted at 5.1 above, four were withdrawn, leaving remaining objections by Mr Michael Edwards, Mr Wynne Watkins and Redisplay Limited. The land subject to compulsory acquisition and temporary possession proposals is associated with the construction and operation of the access road and electrical connection alignment:

- **Mr Michael Edwards** objected in respect of land at Maes-Eglwys Farm for the access road and electrical connection alignment (Freehold: plot 12, Permanent: 13, 14, 15 and 17; Temporary: 13A, 13B, 17A and 17B). The ExA was satisfied in regard to Mr Edwards' land, that the access road width has been minimised to 15m and has been co-located with the electrical connection to minimise land take and that the siting of the access road is such that there will be no significant effect on the farm's operation. He is satisfied Mr Edwards' concerns cannot be reasonably addressed by locating the access road on other land and on balance, is content the Applicant has demonstrated the case for compulsory acquisition and temporary possession in this location.
- **Mr Wynne Watkins** objected in respect of land between the gas compressor site and the B4489 for the access road and electrical connection alignment (Permanent: 18, 21, 22, 23 and 24; Temporary: 18A, 18B). The ExA was satisfied in regard to Mr Watkins' land that the access road 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. He is satisfied the Applicant has undertaken a full and fair appraisal of siting options and that Mr Watkins concerns cannot be reasonably addressed by locating the access road on other land. On balance he is content the

Applicant has demonstrated the case for compulsory acquisition and temporary possession in this location.

- **Redisplay Limited** objected in respect of the compulsory acquisition of rights and temporary possession of land between the gas compressor site and the B4489 for the access road and electrical connection alignment (Permanent: 18, 21, 22, 23 and 24; Temporary: 18A, and 18B). As with Mr Watkins above, the ExA is satisfied in regard to Redisplay Limited's land that the siting of the access road has no significant effect on Redisplay's operation and is content the Applicant has demonstrated the case for compulsory acquisition and temporary possession in this location.

6.21 The ExA has examined the availability and adequacy of funds for compulsory acquisition and temporary possession compensation and is satisfied by the evidence in the submitted Financial Statement [APP-012] that the Applicant has sufficient access to funds to meet any likely compensation liabilities. The ExA is satisfied that Article 34 in the Order provides a robust means whereby the necessary funding can be guaranteed.

6.22 In conclusion, the ExA is satisfied that the compulsory acquisition powers sought by the Applicant are justified and should be granted because there is a compelling case in the public interest for the land and interests to be compulsorily acquired having balanced the public interest against private loss. He notes that whilst temporary possession 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 Development. He is satisfied that the legal interests in all the plots of land included in the Book of Reference and shown on the Land Plans would be required for both the principal development and for land required to facilitate that provision. The ExA is satisfied that the land sought for the generating station is land that is required for the purposes of section 122(2)(a) of the 2008 Act and it meets the test set out in that section, and the land sought for the access road alignment is land that is required for the purposes of section 122(2)(b) of the 2008 Act and that, subject to and taking account of his reasoning on individual plots, it meets the test set out in that section.

6.23 The ExA is satisfied that the inclusion of these powers is appropriate and that this approach was consistent with other previous Orders for development consent in Wales. He has considered the proposed interference with individuals' rights on all compulsory acquisition and

temporary possession powers sought by the Applicant and is satisfied that these would be lawful, necessary, proportionate and justified in the public interest. The Secretary of State agrees with the ExA's conclusions.

Climate Change Act 2008

6.24 As noted above, after the close of the examination the Climate Change Act 2008 was amended by Statutory Instrument to reduce greenhouse gas emissions from at least 80% to a 100% net zero target by 2050. The Development will contribute to UK emissions as it is not fitted with carbon capture equipment. However, the ExA is of the view that the Environmental Permit will provide the operational control mechanisms in relation to any emissions. The Secretary of State is satisfied that the Environmental Permit rather than the Order is the appropriate mechanism to do this, and also require those emissions to be reduced should new legislation be imposed as confirmed by Natural Resources Wales. If there are changes in the legislative framework, leading to a reduction in permissible emissions, then the Environmental Permit provides a means by which such changes may be implemented.

The Planning Balance

6.25 The Secretary of State notes that the ExA considered the planning balance in drawing his conclusion on whether the Application should be granted [ER 6.2.1.- 6.2.2]. The Secretary of State further notes, the ExA considered there are no adverse impacts of sufficient weight to argue against the Order being made and that the Development would result in less than significant harm to interests, and these in turn have been mitigated as required by NPS policy. The ExA concludes that the limited harm done is outweighed by the substantial benefit from the provision of energy to meet the need for gas generation as part of the generation suite required to transition to low carbon Wales - as identified in EN-1 and Welsh Government policy, and by the other benefits of the Application summarised in the ExA's report. He further concludes that there is no breach of NPS or Welsh Government policy overall. The Secretary of State agrees with the ExA's conclusions in respect of the planning balance for the Development.

7. General Considerations

Human Rights Act 1998

7.1 The Secretary of State has considered the potential infringement of human rights by the Development, in relation to the European Convention on Human Rights, including any infringement of the Convention as a result of the inclusion of compulsory acquisition powers in the Order. She

considers that any interference with human rights arising from implementation of the Development is proportionate and legitimate, and strikes a fair balance between the rights of the individual and the public interest, and, that compensation would be available in respect of any quantifiable loss. The Secretary of State agrees with the ExA's conclusion that there is no disproportionate or unjustified interference with human rights so as to conflict with the provisions of the Human Rights Act 1998. She has no reason to believe, therefore, that the grant of the Order would give rise to any unjustified interference so as to conflict with the provisions of the Human Rights Act 1998.

Equality Act 2010

7.2 The Equality Act 2010 includes a public sector “general equality duty”. This requires public authorities to have due regard in the exercise of their functions to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited under the Act; advance equality of opportunity between people who share a protected characteristic and those who do not; and foster good relations between people who share a protected characteristic and those who do not in respect of the following “protected characteristics”: age; gender; gender reassignment; disability; marriage and civil partnerships⁴; pregnancy and maternity; religion and belief; and race. This matter has been considered by the Secretary of State who has concluded that there was no evidence of any harm, lack of respect for equalities, or disregard to equality issues.

Natural Environment and Rural Communities Act 2006

7.3 The Secretary of State, in accordance with the duty in section 40(1) of the Natural Environment and Rural Communities Act 2006, must have regard to the purpose of conserving biodiversity, and in particular to the United Nations Environmental Programme Convention on Biological Diversity of 1992, when granting development consent.

7.4 The Secretary of State is of the view that the ExA's report, together with the environmental impact analysis, considers biodiversity sufficiently to inform her in this respect. In reaching the decision to give consent to the Development, the Secretary of State has had due regard to conserving biodiversity.

⁴ In respect of the first statutory objective (eliminating unlawful discrimination etc.) only.

8. Secretary of State's conclusions and decision

8.1 For the reasons given in this letter, the Secretary of State considers that there is a compelling case for granting development consent. Given the national need for such development, as set out in the relevant NPSs referred to above, the Secretary of State does not believe that this is outweighed by the Development's potential adverse impacts, as mitigated by the proposed terms of the Order.

8.2 The Secretary of State has therefore decided to accept the ExA's recommendation to make the Order granting development consent [ER 8.2], to include minor modifications made by her officials and to grant the compulsory acquisition of freehold and temporary possession of land sought by the Applicant as recommended by the ExA. In reaching this decision, the Secretary of State confirms regard has been given to the ExA's Report, the LIR submitted by Swansea Council and to all other matters which are considered important and relevant to the Secretary of State's decision, as required by section 104 (decisions in cases where National Policy Statement has effect) of the 2008 Act. The Secretary of State confirms for the purposes of regulation 3(2) of the 2009 Regulations that an environmental impact assessment has been carried out in respect of the application and that the environmental information, as defined in regulation 2(1) of those Regulations, has been taken into consideration.

9. Modifications to the Order by the Secretary of State

9.1 The Secretary of State has made the following modifications to the Order recommended by the ExA:

(i) Part 3 - Streets: a compensation provision has been inserted into article 11 (temporary prohibition or restriction of use of streets). It is presumed that this was omitted from the Order in error as this provision is included in the model clauses and the Applicant's Explanatory Memorandum suggests that the intention was to include it;

(ii) Part 4 – Supplemental powers: the provision in relation to human remains and burial grounds (was article 18) has been removed. There are no known burial grounds within the Order limits. Provision for any archaeological remains should be included in the written scheme of archaeological investigation.

(iii) Part 5 – Powers of Acquisition: the funding provision, article 33 (was article 34), has been amended to include article 20 (statutory right to override easements) in the provisions listed in paragraph (2). This is to ensure that when the Applicant provides a funding guarantee or security it covers all forms of compensation resulting from the compulsory acquisition;

(iv) Part 7 – Miscellaneous and General: article 42 (was article 43) (arbitration) has been amended to remove paragraph (2). There is no evidence that the Secretary of State has previously failed to appoint an arbitrator on request. This removal is consistent with similar provisions that have been included in Orders made by the Secretary of State recently in respect of other similar generating stations; and

(v) Schedule 2 – Requirements: paragraphs 10 (invasive species survey and remediation) and 13 (archaeology) have been amended due to discrepancies between the Order and the Explanatory Memorandum.

9.2 In addition to the above, the Secretary of State has made various changes to the Order which do not materially alter its effect, including changes to conform with the current practice for statutory instruments (for example, modernisation of language), changes in the interests of clarity and consistency and changes to ensure that the Order has the intended effect.

10. Challenge to decision

10.1 The circumstances in which the Secretary of State's decision may be challenged are set out in the note attached at the Annex to this letter.

11. Publicity for decision

11.1 The Secretary of State's decision on this Application is being publicised as required by section 116 of the 2008 Act and regulation 23 of the 2009 Regulations.

Yours sincerely

GARETH LEIGH
Head of Energy Infrastructure Planning

LEGAL CHALLENGES RELATING TO APPLICATIONS FOR DEVELOPMENT CONSENT ORDERS

Under section 118 of the Planning Act 2008, an Order granting development consent, or anything done, or omitted to be done, by the Secretary of State in relation to an application for such an Order, can be challenged only by means of a claim for judicial review. A claim for judicial review must be made to the Planning Court during the period of 6 weeks beginning with the day after the day on which the Order is published. The decision documents are being published on the date of this letter on the Planning Inspectorate website at the following address:

These notes are provided for guidance only. A person who thinks they may have grounds for challenging the decision to make the Order referred to in this letter is advised to seek legal advice before taking any action. If you require advice on the process for making any challenge you should contact the Administrative Court Office at the Royal Courts of Justice, Strand, London, WC2A 2LL (0207 947 6655)



Department for
Business, Energy
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19 Medi 2019

Annwyl Syr neu Fadam,

DEDDF CYNLLUNIO 2008

CAIS AM ORCHYMYN CANIATÂD DATBLYGU PROSIECT PŴER ABERGELLI

1. Rhagymadrodd

1.1 Fe'm cyfarwyddwyd gan yr Ysgrifennydd Gwladol dros Fusnes, Ynni a Strategaeth Ddiwydiannol ("yr Ysgrifennydd Gwladol") i'ch hysbysu bod ystyriaeth wedi'i rhoi i'r adroddiad dyddiedig 10 Gorffennaf 2019 gan yr Awdurdod Archwilio ("yr ExA"), Martin Broderick, a gynhaliodd archwiliad i'r cais ("y Cais") a gyflwynwyd ar 25 Mai 2018 gan Abergelli Power Limited ("y Ceisydd ") am Orchymyn Caniatâd Datblygu ("y Gorchymyn") o dan adran 37 o Ddeddf Cynllunio 2008 ("Deddf 2008") ar gyfer Gorsaf Gynhyrchu Prosiect Pŵer Abergelli ("y Datblygiad").

1.2 Derbyniwyd y Cais i'w archwilio ar 21 Mehefin 2018. Dechreuodd yr archwiliad ar 10 Hydref 2018 ac fe'i cwblhawyd ar 10 Ebrill 2019. Gwnaed nifer o newidiadau i'r Cais yn ystod yr archwiliad. Trefnwyd bod

manylion y newidiadau hyn ar gael i'r rhai sydd â buddiant yn hyn o beth ac fe'u harchwiliwyd gan yr ExA [ER 2.2.1 – 2.2.11].

1.3 Byddai'r Gorchymyn, fel y gwnaed cais amdano, yn rhoi caniatâd datblygu i adeiladu a gweithredu gorsaf gynhyrchu Tyrbin Nwy Cylch Agored ("OCGT") a gâi ei redeg ar nwy gyda chapasiti cynhyrchu trydanol gros o hyd at 299 Megawat ("MW") ar dir cyfagos i Orsaf Cywasgydd Nwy Felindre ar Fferm Abergelli, Felindre, Abertawe SA5 7NN. Ceir tair prif elfen:

(i) OCGT yn rhedeg ar nwy naturiol ac yn gallu darparu cyfradd allbwn trydan o hyd at 299MW. Mae'r Cyfarpar Cynhyrchu Pŵer yn cynnwys:

- Offer Cynhyrchu gan gynnwys un Generadur Tyrbin Nwy ac iddo un simnai ffliw nwy gwacáu rhwng 35m a 45m o uchder a Gweddill y Cyfarpar (y cyfeirir ato gyda'i gilydd fel yr "Offer Cynhyrchu") sydd wedi'u lleoli o fewn "Safle'r Offer Cynhyrchu";
- Ffordd Fynediad i Safle'r Offer Cynhyrchu o'r B4489 sy'n gorwedd i'r gorllewin, a ffurfir drwy uwchraddio ffordd fynediad bresennol rhwng cyffordd y B4489 ac Is-orsaf Gogledd Abertawe (yr "Is-orsaf") ac adeiladu adran newydd o ffordd fynediad o'r Is-orsaf i Safle'r Offer Cynhyrchu;
- Lloc adeiladu dros dro i storio deunyddiau, cyfarpar ac offer yn ogystal â chynnwys llety'r safle a chyfleusterau lles, maes parcio dros dro i geir a ffensys dros dro (yr "Ardal Ollwng"). Bydd adran fach o fewn yr Ardal Ollwng yn cael ei chadw'n barhaol fel lloc cynnal a chadw);
- Ardal Liniaru Ecolegol – ardal at wella'r ecoleg o fewn Ffin y Safle Datblygu; a
- Maes parcio a draeniau parhaol i gynnwys: safle dŵr budr, dwr olewog a system ddraenio dŵr wyneb; sydd gyda'i gilydd yn ffurfio "y Datblygiad".

(ii) Cysylltiad nwy newydd ar ffurf gosodiad uwchben y ddaear ("AGI") a chysylltiad pibell nwy tanddaearol. Diben hyn yw dod â nwy naturiol i'r Offer Cynhyrchu o'r System Trawsyrru Nwy Genedlaethol; a

(iii) Cysylltiad trydan newydd drwy gebl trydan tanddaearol 400kV i allforio pŵer o'r Offer Cynhyrchu i System Trawsyrru Trydan y

Grid Cenedlaethol.

1.4 Mae'r Ceisydd eisoes wedi sicrhau caniatâd cynllunio i'r cysylltiadau trydan a nwy newydd ac felly nid yw'r rhain wedi'u cynnwys yn y Cais am ganiatâd datblygu. Er hynny, mae yna gais am bwerau Prynu Gorfodol a/neu feddiant dros dro ar y tir er mwyn alinio'r cysylltiadau nwy a thrydan a phwerau perthynol yn y Cais er mwyn hwyluso'r Datblygiad. Gwnaeth y Ceisydd gais i Gyngor Dinas a Sir Abertawe ("Cyngor Abertawe") am ganiatâd cynllunio ar wahân ar gyfer cysylltiad nwy a thrydan o dan Ddeddf Cynllunio Gwlad a Thref 1990. Cafodd y cais ei ganiatáu gan Gyngor Abertawe ar 6 Rhagfyr 2018.

1.5 Ochr yn ochr â'r llythyr hwn ar wefan yr Arolygiaeth Gynllunio,¹ mae copi wedi'i gyhoeddi o adroddiad yr ExA ar y Canfyddiadau a'r Casgliadau ac Argymhellion i'r Ysgrifennydd Gwladol (Adroddiad yr ExA"). Nodir canfyddiadau a chasgliadau'r ExA ym Mhenodau 4-6 o Adroddiad yr ExA, ac mae crynodeb yr ExA o'r casgliadau a'r argymhellion i'w gael ym Mhennod 9.

2. Crynodeb o Adroddiad ac Argymhelliad yr ExA

2.1 Asesodd a phrofodd yr ExA amrediad o faterion yn ystod yr Archwiliad, a nodir yn Adroddiad yr ExA o dan y penawdau bras a ganlyn:

- Y Cyd-destun Cyfreithiol a Pholisi: gan gynnwys Deddf Cynllunio 2008 a'r Datganiadau Polisi Cenedlaethol ("NPS") perthnasol; deddfwriaeth, polisi a chanllawiau Cymru; y Gyfraith Ewropeaidd a Rheoliadau perthynol y Deyrnas Unedig, darpariaethau cyfreithiol eraill; Gorchmynion Caniatâd Datblygu a wnaed; effeithiau trawsffiniol, datganiadau polisi perthnasol eraill; Adroddiadau ar yr Effeithiau Lleol ("LIR"); y Cynllun Datblygu Lleol ("LDP"); a phwerau'r Ysgrifennydd Gwladol i wneud y Gorchymyn (Pennod 3);
- Y prif faterion cynllunio yn codi o'r Cais ac yn ystod yr Archwiliad (Pennod 4);
- Canfyddiadau a Chasgliadau ynglŷn â'r Asesiad Rheoliadau Cynefinoedd (Pennod 5);
- Casgliadau ynghylch yr achos o blaid Caniatâd Datblygu (Pennod 6);
- Prynu Gorfodol a Materion Perthynol (Pennod 7); a

¹ <https://infrastructure.planninginspectorate.gov.uk/projects/wales/abergelli-power/>

- Gorchymyn Caniatâd Datblygu drafft a Materion Perthynol (Pennod 8).

2.2 Am y rhesymau a nodir yn y Crynodeb o'r Canfyddiadau a'r Casgliadau (Pennod 9) yn Adroddiad yr ExA, mae'r ExA yn argymhell y dylai'r Gorchymyn gael ei wneud ar y ffurf a nodir yn Atodiad D i Adroddiad yr ExA [ER 9.3.1].

2.3 Mae'r Ysgrifennydd Gwladol yn nodi bod yr ExA wedi tynnu ei sylw at y ffaith bod newidiadau yn nogfennau allweddol y Cais wedi'u gwneud yn ystod yr Archwiliad. Roedd y newidiadau'n ymwneud yn bennaf â geiriad y Gorchymyn drafft i fynd i'r afael â phwyntiau a godwyd gan Bartïon sydd â Buddiant ("IPs") a chwestiynau'r ExA, ac i adlewyrchu gwell gwybodaeth a newidiadau a gododd yn ystod yr Archwiliad gan gynnwys materion fel eglurder a/neu anghysondebau yn y Gorchymyn a materion amgylcheddol eraill. Daeth yr ExA i'r casgliad nad oedd y newidiadau wedi arwain at unrhyw wahaniaeth o sylwedd yn y Datblygiad y gwnaed cais amdano. Mae'r Ysgrifennydd Gwladol yn cytuno â'r ExA ynglŷn â'r mater hwn.

3. Crynodeb o Benderfyniad yr Ysgrifennydd Gwladol

3.1 Mae'r Ysgrifennydd Gwladol wedi penderfynu o dan adran 114 o Ddeddf 2008 y bydd yn gwneud, gyda mân addasiadau, Orchymyn yn rhoi caniatâd datblygu i'r cynigion yn y Cais. Mae'r Gorchymyn hefyd yn cynnwys pwerau sy'n ymwneud â phrynu gorfodol ar gyfer meddiant rhydd-ddaliol a meddiant dros dro ar dir at ddatblygu a defnyddio gorsaf gynhyrchu yn y lle cyntaf, ac i ffurfio coridor tir ar gyfer alinio cysylltiad trydan a nwy ar wahân i'r orsaf gynhyrchu. Mae'r llythyr hwn yn ddatganiad o'r rhesymau dros benderfyniad yr Ysgrifennydd Gwladol at ddibenion adran 116 o Ddeddf 2008 a'r hysbysiad a'r datganiad sy'n ofynnol o dan reoliad 23(2) o Reoliadau Cynllunio Seilwaith (Asesu Effaith Amgylcheddol) 2009 ("Rheoliadau 2009").²

4. Ystyriaeth yr Ysgrifennydd Gwladol ar y Cais

4.1 Mae'r Ysgrifennydd Gwladol wedi ystyried Adroddiad yr ExA a'r holl ystyriaethau perthnasol eraill. Mae ystyriaeth yr Ysgrifennydd Gwladol ar Adroddiad yr ExA wedi'i nodi yn y paragraffau a ganlyn. Mae'r holl gyfeiriadau â rhif, oni nodir yn wahanol, yn gyfeiriadau at baragraffau yn Adroddiad yr ExA.

² O.S. 2009/2263

4.2 Mae'r Ysgrifennydd Gwladol wedi rhoi sylw i'r LIR a gyflwynwyd gan Gyngor Abertawe, yr LDP, gwybodaeth amgylcheddol fel y'i diffinnir yn rheoliad 2(1) o Reoliadau 2009 a phob mater arall y bernir ei fod yn bwysig a pherthnasol i benderfyniad yr Ysgrifennydd Gwladol fel sy'n ofynnol o dan adran 104 o Ddeddf 2008. Wrth wneud y penderfyniad, mae'r Ysgrifennydd Gwladol wedi cydymffurfio â'r holl ddyletswyddau cyfreithiol perthnasol ac nid yw wedi cymryd i ystyriaeth unrhyw faterion nad ydynt yn berthnasol i'r penderfyniad.

4.3 Mae'r Ysgrifennydd Gwladol yn nodi bod 26 o Sylwadau Perthnasol ("RRs") wedi'u gwneud a'u bod wedi'u hystyried yn llawn gan yr ExA [RR-001-RR-026]. Roedd y rhai a gyflwynodd y sylwadau yn cael cymryd rhan yn yr Archwiliad fel IPs. Cafwyd RRs oddi wrth awdurdodau statudol, darparwyr cyfleustodau, Cyngor Abertawe, Cyngor Bwrdeistref Sirol Castell-nedd Port Talbot, Cynghorydd Ward Mawr, Cyngor Cymuned Betws, Cyngor Cymuned Llangyfelach, trigolion lleol, Cyfeillion y Ddaear Abertawe, a busnesau yng nghyffiniau'r Datblygiad. Yn ystod yr Archwiliad cafodd RRs ynglŷn â phrynu gorfodol a phwerau meddiannu dros dro eu tynnu'n ôl gan yr IPs a ganlyn: Western Power Distribution (darpariaethau amddiffynnol wedi'u cytuno gyda'r Ceisydd); Abergelli Solar Limited (darpariaethau amddiffynnol wedi'u cytuno gyda'r Ceisydd); a National Grid Transmission and National Grid Gas (gyda'i gilydd "National Grid") (darpariaethau amddiffynnol wedi'u cytuno gyda'r Ceisydd). Cafodd sylwadau ysgrifenedig, ymatebion i gwestiynau a chyflwyniadau llafar a wnaed yn ystod yr arholiad eu hystyried gan yr ExA hefyd.

4.4 Ac eithrio fel y nodir fel arall yn y paragraffau isod, mae'r Ysgrifennydd Gwladol yn cytuno â chanfyddiadau, casgliadau ac argymhellion Adroddiad yr ExA, a'r rhesymau dros benderfyniad yr Ysgrifennydd Gwladol yw'r rhai a roddwyd gan yr ExA i ategu ei gasgliadau a'i argymhellion yntau.

Datganiadau Polisi Cenedlaethol (NPSs"), yr Angen am y Datblygiad ac Archwilio Dewisiadau Amgen

4.5 Mae NPS EN-1 (yr NPS Cyffredinol ar gyfer Ynni) yn cydnabod effaith bosibl datblygiadau cynhyrchu trydan ond yn nodi bod rhaid cynnal ymarfer cydbwysu i bwysu a mesur manteision cyhoeddus y datblygiadau hynny ac unrhyw niwed a achosir. Fel y nodwyd gan yr ExA, mae EN-1 yn nodi y dylai'r Ysgrifennydd Gwladol ddechrau gyda rhagdybiaeth o blaid rhoi caniatâd i geisiadau am Brosiectau Seilwaith Cenedlaethol eu Harwyddocâd ar gyfer ynni oni bai bod unrhyw bolisiau

mwy penodol a pherthnasol a nodir yn yr NPSs yn nodi'n glir y dylid gwrthod caniatâd.

4.6 Ar ôl rhoi sylw i sylwadau'r ExA a nodir ym Mhennod 6 o Adroddiad yr ExA, ac yn benodol y casgliadau ar yr angen am y Datblygiad a'r Archwiliad ar ddewisiadau amgen a'r achos o blaid caniatâd datblygu ym Mhenodau 4 a 6, mae'r Ysgrifennydd Gwladol yn fodlon, yn niffyg unrhyw effeithiau andwyol sy'n annerbyniol o ran cynllunio, y byddai gwneud y Gorchymyn yn gyson ag NPSs ynni EN-1, EN-2 (yr NPS ar gyfer Seilwaith Cynhyrchu Trydan â Thanwydd Ffosil) ac (i'r graddau cyfyngedig y mae'n gymwys i'r angen am dir atodol), EN-4 (yr NPS ar gyfer Seilwaith Cyflenwi Nwy a Phiblinellau Nwy ac Olew) ac EN-5 (yr NPS ar gyfer Seilwaith Rhwydweithiau Trydan).

Gyda'i gilydd, mae'r NPSs hyn yn nodi angen cenedlaethol i ddatblygu seilwaith cynhyrchu trydan newydd sy'n arwyddocaol yn genedlaethol o'r math a gynigir gan y Ceisydd. Mae'r Ysgrifennydd Gwladol hefyd yn fodlon bod gofynion Deddf Newid Hinsawdd 2008, polisi Llywodraeth Cymru ac LDP Cyngor Abertawe a pholisïau perthnasol eraill wedi'u bodloni. Mae'r ExA yn dod i'r casgliad, o gofio'r manteision cadarnhaol sylweddol a geir drwy fodloni'r angen cenedlaethol am gapasiti cynhyrchu trydan ychwanegol a nodir yn EN-1, fod manteision caniatáu'r datblygiad yn drech nag unrhyw effeithiau andwyol lleol ac argymhellodd y dylai caniatâd datblygu gael ei roi. Mae'r Ysgrifennydd Gwladol yn cytuno â chasgliad yr ExA.

Parodrwydd i Ddal Carbon ("CCR")

4.7 Fel y nodir yn NPSs EN-1 ac EN-2, er mwyn sicrhau nad oes yna rwystrau rhagweladwy yn atal cyfarpar dal a storio carbon rhag cael eu hôl-ffitio ar orsafoedd cynhyrchu hylosgi, mae'n rhaid i bob cais am orsaf cynhyrchu tanwydd ffosil ar raddfa fasnachol sydd â chapasiti cynhyrchu o 300MW neu fwy fod yn 'barod i ddal carbon'. Mae'n ofynnol i geiswyr ddangos bod eu datblygiad arfaethedig yn cydymffurfio â chanllawiau a gyhoeddwyd gan yr Ysgrifennydd Gwladol ym mis Tachwedd 2009³ neu unrhyw olynydd i'r canllawiau hynny.

4.8 Gan fod y Cais hwn yn gofyn am ganiatâd i orsaf gynhyrchu heb fod yn fwy na 299MW, mae'r Ysgrifennydd Gwladol yn fodlon nad yw hyn yn ddatblygiad y mae'r gofyniad ynglŷn â CCR yn gymwys iddo.

³ Carbon Capture Readiness A guidance note for Section 36 Applications URN09D/810
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/43609/Carbon_capture_readiness_guidance.pdf

Gwres a Phŵer Cyfun ("CHP")

4.9 Mae NPSs EN-1 ac EN-2 yn ei gwneud yn ofynnol i unrhyw gais i ddatblygu gorsaf gynhyrchu thermol o dan Ddeddf 2008 gynnwys naill ai CHP neu dystiolaeth bod y cyfleoedd ar gyfer CHP wedi'u harchwilio'n llawn os yw'r cynnig yn gynnig ar gyfer gorsaf gynhyrchu heb CHP. Mae'r Ysgrifennydd Gwladol yn nodi bod nodyn technegol y Ceisydd ar CHP, Atodiad 5.1, yn crynhoi pam na wnaed rhagor o ymchwil i'r defnydd o wres gwastraff ac yn darparu tystiolaeth pam y dylid eithrio'r datblygiad rhag bod yn barod ar gyfer CHP. Mae'r ExA yn fodlon bod nodyn technegol y Ceisydd yn dangos nad oes angen i'r orsaf gynhyrchu ymchwilio ymhellach i CHP a'i fod yn darparu tystiolaeth pam y dylai'r datblygiad gael ei eithrio rhag bod yn barod ar gyfer CHP. Mae'n dod i'r casgliad bod hyn yn ddigon i sicrhau bod y gofyniad ym mharagraff 4.6.8 o EN-1 wedi'i fodloni a bod y Datblygiad, felly, yn cydymffurfio â'r canllawiau ac â'r darpariaethau perthnasol yn yr NPSs. Mae'r Ysgrifennydd Gwladol yn cytuno â'r farn hon.

5. Materion heb eu datrys ar ddiwedd yr Archwiliad

Datganiadau Tir Cyffredin

5.1 Mae'r Ysgrifennydd Gwladol yn nodi bod Datganiadau Tir Cyffredin wedi'u cwblhau rhwng y Ceisydd a phob un o'r canlynol: Cyfoeth Naturiol Cymru, y Grid Cenedlaethol (nwy a thrawsyrro) a Dŵr Cymru, ond ar ddiwedd yr Archwiliad, roedd tri Datganiad Tir Cyffredin yn anghyflawn neu heb eu llofnodi.

Cyngor Abertawe

5.2 Roedd y Datganiad Tir Cyffredin rhwng y Ceisydd a Chyngor Abertawe yn dal yn anghyflawn oherwydd gwahaniaethau heb eu datrys o ran cynnwys (i) bond datgomisiynu a (ii) terfyn amser ar gyfer gweithredu yn y Gorchymyn. Does dim polisi gan Lywodraeth y Deyrnas Unedig na Llywodraeth Cymru ynghylch darparu sicrwydd ariannol ar gyfer datgomisiynu gorsafoedd cynhyrchu nwy. Roedd yr ExA yn fodlon bod y Ceisydd wedi ystyried effeithiau datgomisiynu yn ddigonol ac nad oedd angen bond datgomisiynu o gofio bod gofyniad 28 yn Atodlen 2 i'r Gorchymyn yn darparu mecanwaith clir a gorfodadwy i sicrhau bod unrhyw waith datgomisiynu angenrheidiol yn cael ei gyflawni.

5.3 O ran cynnwys terfyn amser yn y Gorchymyn, yn cyfyngu oes y Datblygiad i 25 mlynedd fel y'i haseswyd yn y Datganiad Amgylcheddol ("ES"), mae'r ExA yn casglu nad oes angen cynnwys terfyn amser

gweithredol am fod casgliadau'r ES yn ddilys am oes weithredol i'r Datblygiad o 35 o flynyddoedd, neu'n hirach fel yn achos y draenio.

5.4 Rhaid i'r Ysgrifennydd Gwladol fod yn fodlon y gall allyriadau posibl o'r Datblygiad gael eu rheoleiddio'n ddigonol o dan Reoliadau Trwyddedu Amgylcheddol 2016, fel yr amlinellir ym mharagraff 4.10.7 o EN-1. Mae'r ExA yn fodlon y bydd y Drwydded Amgylcheddol a ddyroddwyd ar 18 Ionawr 2019 gan Gyfoeth Naturiol Cymru (i'w hadolygu'n flynyddol) yn darparu'r mecanweithiau rheoli gweithredol ynglŷn ag unrhyw allyriadau a hefyd yn ei gwneud yn ofynnol i'r allyriadau hynny gael eu lleihau, os bydd ddeddfwriaeth newydd yn cael ei gosod. Mae'r ExA o'r farn bod y dull a gymerwyd gan y Ceisydd yn gyson ag Aseidiadau Effaith Amgylcheddol eraill a wnaed ar gyfer prosiectau eraill o'r math hwn, a bod yr asesiad yn yr ES yn gadarn ac yn ddigonol. Mae'r Ysgrifennydd Gwladol yn cytuno â'r ExA ar y ddau fater hyn ac y bydd y Drwydded Amgylcheddol yn darparu rheolaeth reoleiddiol ddigonol dros weithredu'r Datblygiad.

Datganiadau Tir Cyffredin eraill sydd heb eu llofnodi

5.5 Roedd dau Ddatganiad Tir Cyffredin yn dal heb eu llofnodi rhwng y Ceisydd ac (i) Wynne Watkins/Redisplay Limited a (ii) Michael Edwards. Roedd y rhesymau dros beidio â'u llofnodi yn deillio o wrthwynebiadau i bwerau prynu gorfodol a phwerau meddiannu dros dro ynglŷn â thir y mae ei angen ar gyfer y ffordd fynediad a'r cysylltiad trydan a nwy. Gan fod y cytundebau hyn yn dal heb eu gwneud ar ddiwedd yr Archwiliad, ymgynghorodd yr Ysgrifennydd Gwladol â'r Ceisydd ar 26 Gorffennaf 2019 gan ofyn am ddiweddariad statws. Cadarnhaodd yr ymateb ar 9 Awst 2019 fod trafodaethau pellach wedi'u cynnal rhwng y Ceisydd a'r partïon yr effeithir arnynt, ar ôl i'r Archwiliad gael ei gau, gyda'r bwriad o geisio cytundeb i sicrhau'r buddiannau perthnasol o fewn tir y Gorchymyn. Er hynny, doedd y Ceisydd ddim wedi dod i gytundeb o'r fath â'r partïon hyn er bod y Datganiadau Tir Cyffredin wedi'u diweddarau gan y Ceisydd i adlewyrchu'r ohebiaeth ychwanegol rhwng y partïon. Mae'r Datganiadau Tir Cyffredin diweddaraf hyn wedi'u rhoi i'r Ysgrifennydd Gwladol.

5.6 Mae'r ExA yn fodlon bod y Ceisydd wedi dangos bod yr holl opsiynau amgen posibl ar gyfer yr aliniadau cyswllt wedi'u hystyried ac wedi'u gwrthod, ac mai'r opsiwn a ddewiswyd ar gyfer safle'r ffordd arfaethedig oedd yr unig leoliad posibl ar gyfer y safle. Daeth i'r casgliad hefyd fod cynnwys y pwerau hyn yn briodol a bod y dull hwn o weithredu yn gyson â Gorchymynion blaenorol eraill ar gyfer caniatâd datblygu yng

Nghymru. Mae'r Ysgrifennydd Gwladol yn cytuno â'r ExA ar y mater hwn.

Cytundeb Adran 106

5.7 Erbyn diwedd yr Archwiliad, roedd Cyngor Abertawe wedi gwneud ac wedi llofnodi cytundeb adran 106 [REP6-007] gyda'r Ceisydd. Er hynny, rodd hyn yn dal yn nwylo Sarah Ann Marina Llewellyn (y tiffeddiannwr) i'w weithredu. Mae'r cytundeb adran 106 (o dan Ddeddf Cynllunio Gwlad a Thref 1990) yn cynnwys (i) cynllun addysg; (ii) menter cadwyn gyflenwi leol; a (iii) gwelliannau i lwybrau troed. Dywedodd yr ExA yn ei gasgliadau na ddylai'r Ysgrifennydd Gwladol roi caniatâd oni bai ei bod yn gyntaf wedi cael cytundeb adran 106 wedi'i gwblhau (wedi'i ddyddio) yn yr un telerau yn union â'r drafft cytûn, a hwnnw wedi'i weithredu'n briodol gan bob parti sydd â buddiant yn y tir perthnasol. Ysgrifennodd yr Ysgrifennydd Gwladol at y Ceisydd ar 26 Gorffennaf 2019 i ofyn am gadarnhad bod cytundeb adran 106 wedi'i gwblhau gyda Chyngor Abertawe a Sarah Ann Marina Llewellyn ac os felly, dylid darparu copi i'r Ysgrifennydd Gwladol.

Cadarnhaodd ymateb y Ceisydd ar 9 Awst 2019 fod cytundeb adran 106 wedi'i lofnodi gan bob parti, ond mewn ffurf wahanol i'r hyn a welwyd gan yr ExA o ran gwelliannau i lwybrau troed. Gofynnodd y Ceisydd am estyniad amser i'r cytundeb adran 106 gael ei ddychwelyd gan y tiffeddiannwr a'i gwblhau wedyn. Er hynny, yn fuan wedyn, cafodd copi o cytundeb adran 106 a lofnodwyd gan bob parti ei ddarparu i'r Ysgrifennydd Gwladol ar 16 Awst 2019. Mae'r Ysgrifennydd Gwladol wedi ystyried y newidiadau i'r cytundeb adran 106 a lofnodwyd o'i gymharu â'r hyn a archwiliwyd gan yr ExA ac mae'n dod i'r casgliad nad yw'r newidiadau'n ddigon sylweddol i fwrw amheuaeth ar argymhelliad yr ExA.

Llywodraeth Cymru, Llywodraeth y Deyrnas Unedig a Newid Hinsawdd

5.8 Ar 29 Ebrill 2019 datganodd Llywodraeth Cymru argyfwng o ran yr hinsawdd gan nodi ei huchelgais o sicrhau sector cyhoeddus carbon niwtral o 2030 ymlaen a chydlynu camau i helpu i symud i ffwrdd yn bendant oddi wrth danwyddau ffosil. Ar 26 Mehefin 2019, cyhoeddodd Llywodraeth y Deyrnas Unedig darged 'sero net' newydd ar gyfer lleihau carbon erbyn 2050 – gan arwain at ddiwygiad i Ddeddf Newid Hinsawdd 2008 (lleihau cyfrif carbon net y Deyrnas Unedig ar gyfer 2050 o 80% i 100% islaw llinell sylfaen 1990). Digwyddodd y rhain ar ôl i'r Archwiliad o'r Gorchymyn gau ac felly ni chawsant eu hystyried gan yr ExA, er bod yr ExA wedi ystyried polisïau ynni a newid hinsawdd Llywodraeth Cymru a Llywodraeth y Deyrnas Unedig sy'n berthnasol i'r Gorchymyn hwn yn

ystod yr Archwiliad, gan gynnwys dogfen Llywodraeth Cymru 'Ffyniant i Bawb: Cymru Carbon Isel (2019)'. Mae'r ExA o'r farn mai mater i'r Ysgrifennydd Gwladol yw ystyried y mater hwn a hynny yn ei phenderfyniad terfynol ar y Gorchymyn. Ymgynghorodd yr Ysgrifennydd Gwladol â Llywodraeth Cymru ar 26 Gorffennaf 2019 yn gofyn am gadarnhad a oedd unrhyw rai o'i pholisïau sy'n berthnasol i'r cais wedi newid o ganlyniad i'w datganiad o argyfwng yn yr hinsawdd.

5.9 Ymatebodd Llywodraeth Cymru ar 9 Awst 2019 gan ddweud bod ei chynllun cyflawni statudol cyntaf ar gyfer datgarboneiddio yng Nghymru 'Ffyniant i Bawb: Cymru Carbon Isel (2019)' wedi'i gyhoeddi ym mis Mawrth 2019 a bod datganiad Ebrill 2019 yn nodi uchelgais, yr oedd yn bwriadu gweithio tuag ato gyda rhanddeiliaid er mwyn deall sut y gellid ei gyflawni. Mae'r Ysgrifennydd Gwladol wedi casglu felly fod hyn yn dangos na fu unrhyw newid ym mholisi Llywodraeth Cymru ers cyhoeddi papur Mawrth 2019, ac na fu unrhyw ddiwygiadau i'r NPSs ar ynni. Mae o'r farn felly, gan fod yr ExA wedi ystyried yr holl bolisïau Cymreig perthnasol yn ystod yr Archwiliad, ac o gofio na fu unrhyw newidiadau dilynol mewn deddfwriaeth na pholisi, er gwaethaf y diwygiad i Ddeddf Newid Hinsawdd 2008, a bod yr NPSs ar ynni yn dal i ffurfio'r sail ar gyfer penderfyniadau o dan Ddeddf Cynllunio 2008, na fyddai cymeradwyo'r Cais ei hun yn anghydnaws â datganiad Llywodraeth Cymru ar 29 Ebrill 2019 na'r diwygiad i'r Ddeddf Newid Hinsawdd.

6. Materion Eraill

Effeithiau ar y Dirwedd ac Effeithiau Gweledol

6.1 Mae'r ExA yn nodi [ER 4.12.6] bod EN-1 yn nodi hyn: "virtually all nationally significant energy infrastructure projects will have effects on the landscape". Mae'n rhaid i ddynodiadau tirwedd lleol (a nodir mewn LDPs) gael eu cymryd i ystyriaeth a dylai niwed gael ei liniaru. Wrth ystyried y safleoedd hyn, rhaid i'r Ysgrifennydd Gwladol ystyried a yw'r Datblygiad yn rhoi tystiolaeth o ddylunio da. Nid oes gan Gyfoeth Naturiol Cymru, sy'n darparu cyngor statudol i'r Llywodraeth ar faterion tirwedd, unrhyw bryderon sydd heb eu datrys o ran y fethodoleg a'r asesiad ynglŷn â'r effeithiau ar y dirwedd a'r effeithiau gweledol.

6.2 Daeth Cyngor Abertawe yn ei LIR i'r casgliad y byddai'r Datblygiad yn cael effaith arwyddocaol ar gymeriad y dirwedd leol yn ystod y gwaith adeiladu a gweithredu, ond roedd yn sylweddoli bod y Datblygiad wedi'i leoli cyn belled ag y bo'n ymarferol er mwyn lleihau ei effaith (yn y safle) a bod yna seilwaith ynni arall yn yr amgylchoedd. Cododd tri o'r IPs

faterion ynglŷn ag effaith weledol a'i effaith ar eu heiddo nhw, ond ni wnaeth yr un ohonynt gyflwyniadau pellach i'r Archwiliad yn dilyn eu RRs. Casgliad yr ExA ar effeithiau gweledol a dylunio'r dirwedd yw y byddai'r Datblygiad yn cael effaith weledol arwyddocaol yn agos i'r safle ond y byddai'r effaith honno o fewn lleoliad diwydiannol presennol a datblygol ac nad oedd yr effaith ychwanegol o ddatblygiadau eraill yn arwyddocaol. O ran effeithiau cronol ar y dirwedd drwy ddod â'r Datblygiad i'r lleoliad hwn sydd wedi'i ddatblygu eisoes, nid yw'n cael ei ystyried yn arwyddocaol. Nid yw'r Ysgrifennydd Gwladol yn gweld unrhyw reswm dros anghytuno â chasgliadau'r ExA yn hyn o beth.

Ansawdd Aer

6.3 Mae Cyfoeth Naturiol Cymru, sef y rheoleiddiwr perthnasol, yn fodlon ar berfformiad arfaethedig y Datblygiad o ran ansawdd aer ac allyriadau ac yn fodlon bod y Ceisydd wedi defnyddio'r broses asesu gywir. Nid yw'n gweld rheswm pam na ddylai'r Datblygiad gydymffurfio'n llawn â'r holl bolisiau a safonau perthnasol. Cododd nifer o IPs bryderon am ansawdd aer yn eu RRs. Er hynny, ni chafodd Tîm Trwyddedu Cyfoeth Naturiol Cymru unrhyw ymateb i'w ymgynghoriad cyhoeddus 'Yn bwriadu caniatáu' ac fe roddodd Drwydded Amgylcheddol i'r Ceisydd ar 18 Ionawr 2019.

6.4 Mae'r Ceisydd wedi asesu potensial y Datblygiad o ran ansawdd aer amgylchynol, gan gynnwys effeithiau llygryddion: Ocsidau Nitrogen ("NOx") a Charbon Monocsid a gâi eu hallyrru o'r tyrbinau nwy drwy'r simnai wrth weithredu; ac NOx a deunydd gronynnol (PM10 a PM2.5) sy'n gysylltiedig â symudiadau cerbydau wrth adeiladu, gweithredu a datgomiynu'r Datblygiad. Nododd y Ceisydd na ragwelir unrhyw ormodedd perthnasol ac felly nid oes angen mesurau ansawdd aer yn ychwanegol at y rhai y darperir ar eu cyfer yn y Gorchymyn. Mae'r ExA yn fodlon y bydd yr allyriadau arfaethedig yn cydymffurfio â Chyfarwyddeb Ansawdd Aer 2008. Mae hefyd yn fodlon bod gwytnwch rhag newid yn yr hinsawdd wedi'i gynnwys yn y Datblygiad ac y bydd yr NPSs perthnasol EN-1 ac EN-2, polisiau Llywodraeth Cymru ar rwymedigaethau newid hinsawdd a pholisiau'r LDP, sef ER1 ar newid hinsawdd ac RP3, yn cael eu bodloni. Nid yw'r Ysgrifennydd Gwladol yn gweld unrhyw reswm dros anghytuno â'r farn hon.

Sŵn a Dirgrynu

6.5 Ni chodwyd unrhyw bryderon mewn egwyddor ynghylch sŵn a dirgryniad gan asiantaethau'r llywodraeth, yn benodol Cyfoeth Naturiol Cymru, na chan Gyngor Abertawe, ar y sail y byddai mesurau lliniaru sydd wedi'u cynnwys yn y Gorchymyn drafft yn cael eu darparu ar gyfer

y sŵn a'r dirgryniad sy'n deillio o'r gweithgareddau adeiladu, gweithredu a datgomisiynu sy'n deillio o'r Datblygiad. Daeth yr ExA i'r casgliad, o gofio'r dystiolaeth a gyflwynwyd, ei fod o'r farn bod materion yn ymwneud â sŵn a dirgryniad wedi cael sylw digonol ac yn bodloni'r gofynion a nodir ym mharagraff 5.11 o EN-1, TAN 11 Llywodraeth Cymru a pholisi RP2 yn LDP Cyngor Abertawe. Nid yw'r Ysgrifennydd Gwladol yn gweld unrhyw reswm dros anghytuno â'r farn hon.

Ansawdd ac adnoddau dŵr a pherygl llifogydd

6.6 Ni fynegodd Cyfoeth Naturiol Cymru bryderon ar faterion yn ymwneud â'r amgylchedd dŵr, ac ni wnaeth Cyngor Abertawe fynegi pryderon ychwaith yn ei LIR. Daeth Cyngor Abertawe i'r casgliad nad yw o'r farn bod y datblygiad yn codi unrhyw faterion sylweddol o safbwynt llifogydd neu ddraenio na ellir eu lliniaru a bernid felly fod y cynigion yn cydymffurfio â'r LDP sy'n dechrau dod i'r amlwg.

6.7 Cododd Dŵr Cymru [RR-023] bryderon penodol ynghylch effaith bosibl ar Gronfa Ddŵr Lliw Isaf, Gwaith Trin Dŵr Felindre, ansawdd ac adnoddau dŵr, a chywirdeb strwythurol asedau a chyfarpar Dŵr Cymru. Mae Dŵr Cymru a'r Ceisydd wedi datrys eu holl bryderon penodol am effaith bosibl y Datblygiad ar eu hasedau mewn Datganiad Tir Cyffredin a lofnodwyd cyn diwedd yr Archwiliad. Daeth yr ExA i'r casgliad bod y Ceisydd wedi mynd i'r afael â'r gofynion yng Nghyfarwydddeb Fframwaith Dŵr 2010 a bod y materion ynglŷn ag ansawdd ac adnoddau dŵr (gan gynnwys newid hinsawdd) wedi cael sylw digonol ac yn bodloni gofynion EN-1 a TAN15 Llywodraeth Cymru. Mae'r Ysgrifennydd Gwladol yn derbyn barn yr ExA.

Daeareg, Cyflwr y Tir a Hydroddaeareg

6.8 Mae'r Datblygiad wedi'i leoli mewn ardaloedd a ddynodwyd fel cronfeydd mwynau yn LDP Cyngor Abertawe ac mae bron y cyfan o'r tir a amgaeir gan derfynau'r Gorchymyn ar gyfer y Datblygiad mewn ardal o gronfeydd glo dynodedig, a'r unig eithriad yw'r ffordd fynediad bresennol o'r B4489. Gofynnodd Cyngor Abertawe am asesiad llawn o'r adnoddau mwynol posibl ac effaith y Datblygiad ar sterileiddio'r adnodd mwynol. Cadarnhaodd y Ceisydd y bydd yr adnodd mwynol yn aros yn gyfan ac y byddai ar gael i genedlaethau'r dyfodol y tu hwnt i oes y Datblygiad.

Er hynny, byddai adeiladu a gweithredu'r Datblygiad yn arwain at sterileiddio yn ystod yr oes weithredol. Mae'r ExA yn fodlon bod Gofyniad 15 yn y Gorchymyn yn ymdrin â phryderon Cyngor Abertawe ac yn cydymffurfio â pholisïau R12 ac R13 yn yr LDP. Mae hefyd yn

fodlon bod asesiad digonol o Ddaeareg, Cyflwr y Tir a Hydroddaeareg wedi'i wneud a'i fod yn bodloni gofynion adran 5.3 o EN-1. Mae'r Ysgrifennydd Gwladol yn cytuno â'r farn hon.

Yr Amgylchedd Hanesyddol

6.9 Nid yw'r Datblygiad yn cynnwys unrhyw asedau hanesyddol er bod un heneb gofrestredig, un adeilad rhestredig a 26 o henebion heb eu cofrestru yn bresennol yn yr ardal astudio 1km, ac er bod 16 o henebion cofrestredig, 54 o adeiladau rhestredig (pob gradd), dwy Ardal Gadwraeth a thri Pharc a Gardd Hanesyddol Cofrestredig yn bresennol yn yr ardal astudio 5km. Daeth Cyngor Abertawe i'r casgliad bod y cynnig yn cydymffurfio â pholisïau HC1, HC2 a PS2 yn yr LDP, cyhyd ag y cynhwysir Gofyniad 13, Archaeoleg, yn y Gorchymyn ac yn ddarostyngedig i unrhyw sylwadau a gyflwynir yn uniongyrchol i'r ExA gan Cadw (gwasanaeth amgylchedd hanesyddol Llywodraeth Cymru. Cytunodd Cadw â chasgliadau'r Adroddiad rhagarweiniol ar yr Effaith Amgylcheddol o safbwynt effaith y Datblygiad ar yr asedau hanesyddol a nodwyd yn yr ardal astudio, ond ni wnaeth unrhyw gyflwyniad i'r Archwiliad.

Ni chodwyd unrhyw faterion yn ymwneud â diffyg cydymffurfio ag EN-1, ac nid yw EN-2 yn codi unrhyw faterion amgylchedd adeiledig hanesyddol sy'n benodol i safleoedd hylosgi nwy. Yn yr un modd nid yw EN-4 yn codi dim byd arbennig o ran aliniad y cysylltiad nwy. Mae'r ExA yn casglu nad oes fawr o botensial ar gyfer effeithiau gweddilliol ar gefndir asedau hanesyddol yn yr ardaloedd astudio a bod rhaglen o waith lliniaru archaeolegol cyn adeiladu wedi'i sicrhau drwy gyfrwng Gofyniad 13 yn y Gorchymyn. Does gan yr Ysgrifennydd Gwladol ddim rheswm dro anghytuno â'r farn hon.

Effeithiau Economaidd a Chymdeithasol

6.10 Mae paragraff 3.2.1 o EN-1 yn nodi'r effeithiau cymdeithasol-economaidd cadarnhaol yn gyffredinol sy'n deillio o gynhyrchu trydan i ddiwallu anghenion ynni a nodwyd yn genedlaethol ar y lefel genedlaethol. Roedd Cyngor Abertawe o'r farn nad oedd cytundeb ar rychwant a pharamedrau asesiad y Ceisydd o effeithiau ar dwristiaeth a'u bod yn rhy gyfyngol [REP3-010]. Roedd y Ceisydd o'r farn na chaiff y Datblygiad unrhyw effeithiau andwyol sylweddol ar dderbynyddion twristiaeth a hamdden yn yr ardal yn ystod y gwaith adeiladu neu weithredu. Er hynny, gall effeithiau buddiol o ran cyflogaeth gael eu gwella drwy gysylltiadau â chanolfannau gwaith, colegau, rhaglenni cyflogadwyedd ac ymgysylltu â chwmnïau adeiladu lleol a chwmnïau eraill yn y gadwyn gyflenwi. Daeth yr ExA i'r casgliad bod y Ceisydd wedi

rhoi sylw digonol i effeithiau cymdeithasol-economaidd y cynnig ac wedi darparu digon o dystiolaeth i ategu ei haeriadau ar yr effeithiau. Mae'r cynnig yn mynd i'r afael yn ddigonol â gofynion EN-1 a TAN23 Llywodraeth Cymru ac ni châi effeithiau niweidiol sylweddol yn gymdeithasol nac yn economaidd. Mae ganddo hefyd y potensial i ategu datblygiad yr economi yn yr ardal yn unol â pholisïau Cyngor Abertawe sy'n elfen gadarnhaol yng nghydbwysedd cyffredinol y Datblygiad. Does gan yr Ysgrifennydd Gwladol ddim rheswm i anghytuno â'r farn hon.

Asesiad Rheoliadau Cynefinoedd

6.11 Does gan y Datblygiad ddim cysylltiad uniongyrchol â rheoli unrhyw safle Natura 2000, ac nid yw'n angenrheidiol at reoli safle o'r fath ychwaith. Felly, o dan Reoliad 63 o Reoliadau Cadw Cynefinoedd a Rhywogaethau 2017 ("y Rheoliadau Cynefinoedd"), mae'n ofynnol i'r Ysgrifennydd Gwladol (fel yr Awdurdod Cymwys) ystyried a fyddai'r Datblygiad yn debygol, naill ai ar ei ben ei hun neu mewn cyfuniad â chynlluniau a phrosiectau eraill, o gael effaith arwyddocaol ar safle Natura 2000. Os na ellir diystyru effeithiau arwyddocaol tebygol, rhaid i'r Ysgrifennydd Gwladol gynnal Asesiad Priodol ("AA") gan fynd i'r afael â'r goblygiadau ar gyfer safle Natura 2000 o gofio'i amcanion cadwraeth. Gelwir y broses hon gyda'i gilydd yn Asesiad Rheoliadau Cynefinoedd ("HRA"). Yng ngoleuni unrhyw asesiad o'r fath, ni chaiff yr Ysgrifennydd Gwladol roi caniatâd datblygu oni chanfuwyd na fydd y datblygiad, naill ai ar ei ben ei hun neu mewn cyfuniad â chynlluniau neu brosiectau eraill, yn cael effaith andwyol ar gyfanrwydd safle o'r fath oni bai nad oes dewisiadau eraill ymarferol neu oni bai bod rhesymau sy'n ymwneud â'r budd cyhoeddus yn drech na phopeth arall.

6.12 Mae'r Ysgrifennydd Gwladol yn nodi nad yw'r Datblygiad wedi'i leoli o fewn unrhyw safleoedd Natura 2000 neu'n gyfagos iddynt. Er hynny, nododd yr Archwiliad y potensial i effeithio ar safleoedd Natura 2000 ymhellach i ffwrdd. Mae'r ExA yn cofnodi bod y Ceisydd wedi defnyddio radiws 10km o'r Datblygiad i nodi safleoedd Natura 2000 yr effeithid arnynt drwy newidiadau i ansawdd dŵr o wastraff budr/dŵr gwastraff a gynhyrchid gan y Datblygiad, newidiadau mewn ansawdd aer o allyriadau gweithredol i'r awyr o NOx, dyddodi nitrogen a/neu asideiddio; a newidiadau yn ansawdd aer o'r cynnydd mewn allyriadau o drafnidiaeth. Oherwydd y terfyn 10km, nid aethpwyd ymlaen i asesu unrhyw safleoedd trawsffiniol. Mae defnyddio radiws 10km fel hyn yn dilyn y canllawiau ar allyriadau aer a gyhoeddwyd gan Adran yr Amgylchedd, Bwyd a Materion Gwledig ("DEFRA") ac Asiantaeth yr Amgylchedd ("EA"). Nodwyd pum safle o fewn y radiws hwn:

- Ardal Cadwraeth Arbennig (“ACA”) Cors Crymlyn;
- Safle Ramsar Cors Crymlyn;
- ACA Bae Caerfyrddin a’i Aberoedd;
- Ardal Gwarchodaeth Arbennig (“AGA”) Cilfach Tywyn; a
- Safle Ramsar Cilfach Tywyn;

6.13 Mae'r Ysgrifennydd Gwladol wedi ystyried amcanion cadwraeth pob un o'r safleoedd uchod o'u cymharu ag asesiad y Ceisydd o bob un o'r llwybrau effaith posibl:

- **Ansawdd dŵr:** o gofio swm bach y gwastraff budr/dŵr gwastraff wedi'i drin sy'n debygol o gael ei gynhyrchu gan y Datblygiad a'r safleoedd Natura 2000 sydd â chysylltiad hydrolegol, mae'r Ysgrifennydd Gwladol o'r farn y rhagwelir y bydd unrhyw newidiadau yn ansawdd dŵr y safleoedd Natura 2000 hynny yn ddibwys ac yn anfesuradwy gyda chynlluniau neu brosiectau eraill.
- **Allyriadau o ffynonellau penodol yn ystod y gweithredu:** Rhagwelir y bydd yr allyriadau NOx islaw'r lefelau arwyddocaol a amlinellir yn y canllawiau ar allyriadau aer uchod a gynhyrchwyd gan DEFRA ac Asiantaeth yr Amgylchedd. O ran dyddodi nitrogen ac asideiddio, nodir bod y lefelau arwyddocâd ar un safle – ACA Cors Crymlyn – eisoes yn uwch na'r lefel arwyddocâd perthnasol. Er hynny, ni ddisgwylir i'r cynefinoedd sy'n bresennol ar y safle hwn ymateb i'r cynnydd bach yn y dyddodiad nitrogen o'r Datblygiad. Yn achos pob safle arall, rhagwelir y bydd y dyddodi nitrogen a'r asideiddio yn is na'r lefelau a amlinellir yn y canllawiau allyriadau aer ac ni nodwyd unrhyw allyriadau o ffynonellau penodol eraill a allai weithredu ar y cyd â'r Datblygiad.
- **Allyriadau yn gysylltiedig â thrafnidiaeth:** Rhagwelir mai newid bach am gyfnod byr yn unig a welir ar bob ffordd o fewn 200 metr i'r safleoedd Natura 2000 a restrir uchod o ran llifoedd cerbydau o ganlyniad i adeiladu a gweithredu'r Datblygiad. Does dim cynlluniau na phrosiectau eraill sydd â'r potensial i gyfrannu at grynodiadau llygryddion lleol fel hyn wedi'u lleoli o fewn 200 metr i unrhyw un o'r safleoedd Natura 2000 a restrwyd uchod.

6.14 Mae'r Ysgrifennydd Gwladol yn nodi bod nifer o fesurau lliniaru wedi'u cynnig gan y Ceisydd i osgoi effeithiau amgylcheddol lleol. Mae'n cytuno â chynnwys y mesurau hyn, ond er eu bod yn cryfhau'r

casgliadau uchod, nid ydynt wedi'u bwriadu nac yn angenrheidiol i osgoi effeithiau sylweddol ar safleoedd Natura 2000.

6.15 Ar sail yr uchod, daeth yr Ysgrifennydd Gwladol i'r casgliad nad yw'r Datblygiad, ar ei ben ei hun nac mewn cyfuniad, yn debygol o gael effaith arwyddocaol ar unrhyw safle Natura 2000 ac nad oes angen AA. Mae'r casgliad hwn yn gyson â'r cyngor a roddwyd yn ystod yr Archwiliad gan y corff cadwraeth natur statudol, Cyfoeth Naturiol Cymru, a'r argymhelliad a wnaed gan yr ExA.

Bioamrywiaeth

6.16 Mae Adroddiad yr ExA [4.16.21] yn dweud bod Pennod 8 o'r ES yn cynnwys yr asesiad bioamrywiaeth, a'i fod wedi nodi safleoedd ecolegol, rhywogaethau a chynefinoedd neu ecosystemau dynodedig a warchodir ac y gallai'r Datblygiad effeithio arnynt ac yn asesu'r tebygolrwydd y ceid effeithiau arwyddocaol. Mae'r Bennod yn ystyried effeithiau posibl o ran ansawdd aer, sŵn, dŵr, tirwedd a golau ar dderbynyddion ecolegol. Cynhaliwyd arolygon ecolegol ar y canlynol:

- Cynefinoedd;
- Madfallod dŵr cribog;
- Ymlusgiaid;
- Dyfrgwn a llygod dŵr;
- Pathewod;
- Gwrychoedd;
- Moch daear; a
- Man clwydo ystlumod (asesiad ac arolwg o'r gweithgarwch).

6.8 Mae'r ExA yn fodlon bod pryderon Cyfoeth Naturiol Cymru a Chyngor Abertawe ynglŷn ag effeithiau ar fioamrywiaeth wedi'u trafod yn ddigonol gan y Ceisydd drwy gyfrwng Gofynion 3, 7, 8, 9 a 10 yn y Gorchymyn. Mae'r Ysgrifennydd Gwladol yn cytuno.

Prynu Gorfodol

6.17 Y dibenion y mae'r Ceisydd yn ceisio pwerau prynu gorfodol a phwerau meddiannu dros dro ar eu cyfer yw ategu tri phrif amcan datblygu, sef:

- Ddatblygu a defnyddio gorsaf gynhyrchu yn y lle cyntaf;
- Ffurfio coridor tir ar gyfer alinio cysylltiad trydanol; a
- Ffurfio coridor tir ar gyfer alinio cysylltiad nwy, rhwng yr orsaf gynhyrchu a'r rhwydwaith trawsyrru nwy presennol sy'n angenrheidiol i alluogi nwy i gael ei gyflenwi i'r orsaf gynhyrchu.

6.18 Mae'r Ceisydd wedi cadarnhau nad oes dim o dir y Goron wedi'i gynnwys yn y pwerau prynu gorfodol arfaethedig na'r pwerau meddiant dros dro y gofynnir amdanynt yn y Gorchymyn, ac nad oes dim tir categori arbennig yn perthyn i'r Ymddiriedolaeth Genedlaethol, man agored, tir comin na rhandir gardd gae.

6.19 Mae Deddf Cynllunio 2008, ynghyd â'r gyfraith achosion a'r canllawiau perthynol, yn nodi mai dim ond os bodlonir amodau penodol y gellir caniatáu prynu gorfodol. Yr amodau perthnasol yw:

- bod angen y tir ar gyfer y datblygiad y mae'r caniatâd yn ymwneud ag ef, neu yn angenrheidiol i hwyluso'r datblygiad neu'n atodol i'r datblygiad. Ni ddylai'r tir y mae angen ei gymryd fod yn fwy na'r hyn sy'n rhesymol angenrheidiol a dylai fod yn gymesur (mae Adran 122(2) o Ddeddf Cynllunio 2008 yn cyfeirio at hyn);
- bod rhaid bod achos llethol er budd y cyhoedd (mae adran 122(3) o Ddeddf 2008 yn cyfeirio at hyn);
- bod rhaid bod angen i'r prosiect gael ei gyflawni;
- bod rhaid cael cysondeb a chydlyniad yn y broses o wneud penderfyniadau;
- bod pob dewis arall rhesymol yn lle prynu gorfodol wedi'i ystyried;
- bod gan y Ceisydd syniad clir o sut mae'n bwriadu defnyddio'r tir a'i fod yn gallu dangos bod arian ar gael i dalu am y prynu; a
- bod yr Ysgrifennydd Gwladol yn fodlon bod y dibenion a nodwyd ar gyfer y prynu yn ddilys ac yn ddigonol i gyfiawnhau'r ymyrraeth anochel â hawliau dynol y rhai yr effeithir arnynt.

6.20 Yn ystod yr Archwiliad roedd gan saith parti yr effeithid arnynt wrthwynebiadau o hyd i bwerau prynu gorfodol neu bwerau meddiannu dros dro ond fel y nodwyd yn 5.1 uchod, tynnwyd pedwar yn ôl, gan adael y gwrthwynebiadau a oedd heb eu datrys gan Mr Michael Edwards, Mr Wynne Watkins a Redisplay Limited. Mae'r tir sydd i'w brynu'n orfodol neu sydd i'w feddiannu dros dro yn gysylltiedig ag adeiladu a gweithredu'r ffordd fynediad a'r aliniad ar gyfer y cysylltiad trydan:

- Gwrthwynebodd **Mr Michael Edwards** mewn perthynas â thir ar Fferm Maes-Eglwys ar gyfer y ffordd fynediad ac aliniad y cysylltiad trydan (Rhydd-ddaliad: plot 12, Parhaol: 13, 14, 15 a 17; Dros dro: 13A, 13B, 17A a 17B). Roedd yr ExA yn fodlon, o ran tir Mr Edwards, fod lled y ffordd fynediad wedi'i leihau i 15m a'i fod

wedi'i chydleoli gyda'r cysylltiad trydan i leihau'r tir a gymerir a bod lleoliad y ffordd fynediad yn golygu na fydd dim effaith arwyddocaol ar waith y fferm. Mae'n fodlon nad oes modd rhesymol mynd i'r afael â phryderon Mr Edwards drwy leoli'r ffordd fynediad ar dir arall ac, ar y cyfan, mae'n fodlon bod y Ceisydd wedi dangos yr achos o blaid prynu gorfodol a meddiant dros dro yn y lleoliad hwn.

- Gwrthwynebodd **Mr Wynne Watkins** mewn perthynas â thir rhwng safle'r cywasgydd nwy a'r B4489 ar gyfer y ffordd fynediad ac aliniad y cysylltiad trydan (Parhaol: 18, 21, 22, 23 a 24; Dros dro: 18A, 18B). Roedd yr ExA yn fodlon, o ran tir Mr Watkins, fod lled y ffordd fynediad wedi'i leihau i 15m a'i bod wedi'i chydleoli gyda'r cysylltiad trydan i leihau'r tir a gymerir. Mae lleoliad y ffordd fynediad yn golygu na fydd dim effaith arwyddocaol ar waith y fferm. Mae'n fodlon bod y Ceisydd wedi cynnal gwerthusiad llawn a theg o'r opsiynau lleoli ac nad oes modd mynd i'r afael yn rhesymol â phryderon Mr Watkins drwy leoli'r ffordd fynediad ar dir arall. Ar y cyfan, mae'n fodlon bod y Ceisydd wedi dangos yr achos o blaid prynu gorfodol a meddiant dros dro yn y lleoliad hwn.
- Gwrthwynebodd **Redisplay Limited** mewn perthynas â phrynu hawliau'n orfodol a meddiant dros dro ar dir rhwng safle'r cywasgydd nwy a'r B4489 ar gyfer y ffordd fynediad ac aliniad y cysylltiad trydan (Parhaol: 18, 21, 22, 23 a 24; Dros dro: 18A, a 18B). Fel yn achos Mr Watkins uchod, mae'r ExA yn fodlon o ran tir Redisplay Limited nad yw lleoliad y ffordd fynediad yn cael dim effaith arwyddocaol ar waith Redisplay ac mae'n fodlon bod y Ceisydd wedi dangos yr achos o blaid prynu gorfodol a meddiant dros dro yn y lleoliad hwn

6.21 Mae'r ExA wedi archwilio argaeledd a digonolrwydd yr arian ar gyfer prynu gorfodol a digolledu am feddiant dros dro ac mae wedi'i fodloni gan y dystiolaeth yn y Datganiad Ariannol a gyflwynwyd [APP-012] fod gan y Ceisydd ddigon o fynediad at arian i dalu unrhyw rwymedigaethau digolledu tebygol. Mae'r ExA yn fodlon bod Erthygl 34 yn y Gorchymyn yn darparu dull cadarn o warantu'r cyllid angenrheidiol.

6.22 I gloi, mae'r ExA yn fodlon bod yna gyfiawnhad dros y pwerau prynu gorfodol y mae'r Ceisydd yn gofyn amdanynt ac y dylid caniatáu hynny am fod achos llethol er budd y cyhoedd i'r tir a'r buddiannau gael eu prynu'n orfodol ar ôl mantoli'r budd cyhoeddus yn erbyn y golled

breifat. Er nad yw pwerau meddiant dros dro yn dod o dan yr un profion, mae'n nodi bod y rhain yn cael eu ceisio ar gyfer gwaith sy'n gysylltiedig ag adeiladu a'u bod yn ffurfio rhan integredig o'r pecyn tir ar gyfer y datblygiad. Mae'n fodlon y byddai angen y buddiannau cyfreithiol yn yr holl blotiau o dir a gynhwysir yn y Llyfr Cyfeirio ac a ddangosir ar y Planiau Tir ar gyfer y prif ddatblygiad ac ar gyfer y tir y mae ei angen i hwyluso'r ddarpariaeth honno. Mae'r ExA yn fodlon bod y tir a geisir ar gyfer yr orsaf gynhyrchu yn dir sy'n ofynnol at ddibenion adran 122(2)(a) o Ddeddf 2008 a'i fod yn bodloni'r prawf a nodir yn yr adran honno, a bod y tir a geisir ar gyfer aliniad y ffordd fynediad yn dir y mae ei angen at ddibenion adran 122(2)(b) o Ddeddf 2008 a'i fod, yn ddarostyngedig i'w resymu ar blotiau unigol a chan gymryd y rhesymu hwnnw i ystyriaeth, yn bodloni'r prawf a nodir yn yr adran honno.

6.23 Mae'r ExA yn fodlon bod cynnwys y pwerau hyn yn briodol a bod y dull hwn o weithredu yn gyson â Gorchmynion blaenorol eraill ar gyfer caniatâd datblygu yng Nghymru. Mae wedi ystyried yr ymyrraeth arfaethedig â hawliau unigolion yn yr holl bwerau prynu gorfodol a'r pwerau meddiannu dros dro a geisir gan y Ceisydd ac mae'n fodlon y byddai'r rhain yn gyfreithlon, yn angenrheidiol, yn gymesur ac yn gyfiawn er budd y cyhoedd. Mae'r Ysgrifennydd Gwladol yn cytuno â chasgliadau'r ExA.

Deddf Newid Hinsawdd 2008

6.24 Fel y nodwyd uchod, ar ôl i'r Archwiliad gau, diwygiwyd Deddf Newid Hinsawdd 2008 drwy Offeryn Statudol i leihau allyriadau nwyon tŷ gwydr o 80% o leiaf i darged sero net o 100% erbyn 2050. Bydd y datblygiad yn cyfrannu at allyriadau'r Deyrnas Unedig gan nad yw wedi ei ffitio â chyfarpar dal carbon. Er hynny, mae'r ExA o'r farn y bydd y Drwydded Amgylcheddol yn darparu'r mecanweithiau rheoli gweithredol mewn perthynas ag unrhyw allyriadau. Mae'r Ysgrifennydd Gwladol yn fodlon mai'r Drwydded Amgylcheddol yn hytrach na'r Gorchymyn yw'r mecanwaith priodol i wneud hyn, ac mae hefyd yn ei gwneud yn ofynnol i'r allyriadau hynny gael eu lleihau os bydd deddfwriaeth newydd yn cael ei gosod fel y cadarnhawyd gan Gyfoeth Naturiol Cymru. Os ceir newidiadau yn y fframwaith deddfwriaethol, a fydd yn arwain at leihad yn yr allyriadau a ganiateir, yna mae'r Drwydded Amgylcheddol yn fodd i weithredu'r newidiadau hynny.

Cydbwysedd Cynllunio

6.25 Mae'r Ysgrifennydd Gwladol yn nodi bod yr ExA wedi ystyried y cydbwysedd cynllunio wrth ddod i'w gasgliad ynghylch a ddylid caniatáu'r Cais [ER 6.2.1.-6.2.2]. Mae'r Ysgrifennydd Gwladol yn nodi

ymhellach, fod yr ExA o'r farn nad oes effeithiau anffafriol digon pwysig i ddadlau yn erbyn gwneud y Gorchymyn ac y byddai'r datblygiad yn arwain at niwed llai nag arwyddocaol i fuddiannau, a bod y rhain yn eu tro wedi'u lliniaru fel sy'n ofynnol o dan bolisi'r NPS. Daeth yr ExA i'r casgliad bod y niwed cyfyngedig a wneir yn llai na'r budd sylweddol drwy ddarparu ynni i ddiwallu'r angen i gynhyrchu nwy fel rhan o'r gyfres o ddulliau cynhyrchu y mae eu hangen er mwyn pontio i Gymru carbon isel – fel y nodir yn EN-1 ac ym mholisi Llywodraeth Cymru, a thrwy fuddion eraill y Cais a grynhoir yn adroddiad yr ExA. Daeth i'r casgliad hefyd nad yw polisi'r NPS na pholisi Llywodraeth Cymru yn cael eu torri'n gyffredinol. Mae'r Ysgrifennydd Gwladol yn cytuno â chasgliadau'r ExA o ran cydbwysedd cynllunio'r Datblygiad.

7. Ystyriaethau Cyffredinol

Deddf Hawliau Dynol 1998

7.1 Mae'r Ysgrifennydd Gwladol wedi ystyried y posibilrwydd o dorri hawliau dynol drwy gyfrwng y Datblygiad, mewn perthynas â'r Confensiwn Ewropeaidd ar Hawliau Dynol, gan gynnwys unrhyw dorri ar y Confensiwn o ganlyniad i gynnwys pwerau prynu gorfodol yn y Gorchymyn. Mae hi o'r farn bod unrhyw ymyrraeth â hawliau dynol sy'n deillio o weithredu'r Datblygiad yn gymesur ac yn gyfreithlon, ac yn taro cydbwysedd teg rhwng hawliau'r unigolyn a budd y cyhoedd, ac y byddai iawndal ar gael mewn perthynas ag unrhyw golled fesuradwy. Mae'r Ysgrifennydd Gwladol yn cytuno â chasgliad yr ExA nad oes ymyrraeth anghymesur nac ymyrraeth heb gyfiawnhad â hawliau dynol a fyddai'n gwrthdaro â darpariaethau Deddf Hawliau Dynol 1998. Nid oes rheswm ganddi dros gredu, felly, y byddai caniatáu'r Gorchymyn yn arwain at unrhyw ymyrraeth na ellir ei gyfiawnhau, a fyddai'n gwrthdaro â darpariaethau Ddeddf Hawliau Dynol 1998.

Deddf Cydraddoldeb 2010

7.2 Mae Deddf Cydraddoldeb 2010 yn cynnwys "dyletswydd cydraddoldeb gyffredinol" ar gyfer y sector cyhoeddus. Mae hon yn ei gwneud yn ofynnol i awdurdodau cyhoeddus roi sylw priodol wrth arfer eu swyddogaethau i'r angen i ddileu gwahaniaethu anghyfreithlon, aflonyddu ac erledigaeth ac unrhyw ymddygiad arall a waherddir o dan y Ddeddf; hyrwyddo cyfle cyfartal rhwng pobl sy'n rhannu nodwedd warchoddedig a'r rhai nad ydynt; a meithrin cysylltiadau da rhwng pobl sy'n rhannu nodwedd warchoddedig a'r rhai nad ydynt a hynny mewn perthynas â'r "nodweddion gwarchoddedig" a ganlyn: oedran; rhyw

aillbennu rhywedd; anabledd; priodasau a phartneriaethau sifil;⁴ beichiogrwydd a mamolaeth; crefydd a chred; a hil. Mae'r mater hwn wedi'i ystyried gan yr Ysgrifennydd Gwladol, sydd wedi dod i'r casgliad nad oedd tystiolaeth o unrhyw niwed, diffyg parch at gydraddoldebau, na diystyru materion cydraddoldeb.

Deddf yr Amgylchedd Naturiol a Chymunedau Gwledig 2006

7.3 Rhaid i'r Ysgrifennydd Gwladol, yn unol â'r ddyletswydd yn Adran 40(1) o Ddeddf yr Amgylchedd Naturiol a Chymunedau Gwledig 2006, roi sylw i ddiben diogelu bioamrywiaeth, ac yn benodol i Gonfensiwn Rhaglen Amgylcheddol y Cenhedloedd Unedig ar Amrywiaeth Biolegol 1992, wrth roi caniatâd datblygu.

7.4 Mae'r Ysgrifennydd Gwladol o'r farn bod adroddiad yr ExA, ynghyd â'r dadansoddiad o'r effaith amgylcheddol, yn ystyried bioamrywiaeth yn ddigonol i arwain yr Ysgrifennydd Gwladol yn hyn o beth. Wrth ddod i'r penderfyniad i roi caniatâd i'r Datblygiad, mae'r Ysgrifennydd Gwladol wedi rhoi sylw dyledus i gadw bioamrywiaeth.

8. Casgliadau a phenderfyniad yr Ysgrifennydd Gwladol

8.1 Am y rhesymau a roddir yn y llythyr hwn, mae'r Ysgrifennydd Gwladol o'r farn bod achos cymhellol dros roi caniatâd datblygu. O gofio'r angen cenedlaethol am ddatblygiadau o'r fath, fel y nodir yn yr NPSs perthnasol y cyfeirir atynt uchod, nid yw'r Ysgrifennydd Gwladol yn credu bod effeithiau niweidiol posibl y Datblygiad, fel y cânt eu lliniaru gan delerau arfaethedig y Gorchymyn, yn drech na hyn.

8.2 Gan hynny, mae'r Ysgrifennydd Gwladol wedi penderfynu derbyn argymhelliad yr ExA i wneud y Gorchymyn yn rhoi caniatâd datblygu [ER 8.2], cynnwys mân newidiadau a wnaed gan ei swyddogion a chaniatáu prynu'n orfodol y tir rhydd-ddaliadol a meddiant dros dro ar dir a geisir gan y Ceisydd fel yr argymhellir gan yr ExA. Wrth ddod i'r penderfyniad hwn, mae'r Ysgrifennydd Gwladol yn cadarnhau bod sylw wedi'i roi i Adroddiad yr ExA, yr LIR a gyflwynwyd gan Gyngor Abertawe a phob mater arall y bernir eu bod yn bwysig ac yn berthnasol i benderfyniad yr Ysgrifennydd Gwladol, fel sy'n ofynnol o dan Adran 104 (penderfyniadau mewn achosion pan fo'r Datganiad Polisi Cenedlaethol yn effeithiol) o Ddeddf 2008. Mae'r Ysgrifennydd Gwladol yn cadarnhau at ddibenion rheoliad 3(2) o Reoliadau 2009 fod asesiad o'r effaith amgylcheddol wedi'i gynnal mewn perthynas â'r Cais a bod yr wybodaeth

⁴ Mewn perthynas â'r amcan statudol cyntaf yn unig (dileu gwahaniaethu anghyfreithlon etc.).

amgylcheddol, fel y'i diffinnir yn rheoliad 2(1) o'r Rheoliadau, wedi'i hystyried.

9. Addasiadau i'r Gorchymyn gan yr Ysgrifennydd Gwladol

9.1 Mae'r Ysgrifennydd Gwladol wedi gwneud y newidiadau a ganlyn yn y Gorchymyn a argymhellwyd gan yr ExA:

(i) Rhan 3 - Strydoedd: mae darpariaeth ynghylch digolledu wedi'i mewnosod yn Erthygl 11 (gwahardd dros dro neu gyfyngu ar ddefnyddio strydoedd). Rhagdybir bod hyn wedi'i hepgor o'r Gorchymyn drwy gamgymeriad gan fod y ddarpariaeth hon wedi'i chynnwys yn y cymalau enghreifftiol a chan fod Memorandwm Esboniadol y Ceisydd yn awgrymu bod yna fwriad i'w chynnwys;

(ii) Rhan 4 – Pwerau atodol: mae'r ddarpariaeth ynglŷn â gweddillion dynol a mynwentydd (erthygl 18 cynt) wedi'i dileu. Does dim mynwentydd hysbys o fewn terfynau'r Gorchymyn. Dylid cynnwys darpariaeth ar gyfer unrhyw weddillion archaeolegol yn y cynllun ymchwilio archaeolegol ysgrifenedig.

(iii) Rhan 5 – Pwerau prynu: mae'r ddarpariaeth ynghylch cyllid, erthygl 33 (erthygl 34 cynt), wedi'i diwygio i gynnwys erthygl 20 (hawl statudol i ddiystyru hawddfrentiau) yn y darpariaethau a restrir ym mharagraff (2). Y rheswm am hyn yw er mwyn sicrhau, pan fo'r Ceisydd yn darparu gwarant neu sicrwydd ynghylch cyllid, fod y warant neu'r sicrwydd yn cynnwys pob math o iawndal sy'n deillio o'r prynu gorfodol;

(iv) Rhan 7 – Amrywiol a Chyffredinol: mae erthygl 42 (43 cynt) (cymrodeddu) wedi'i diwygio i ddileu paragraff (2). Does dim tystiolaeth bod yr Ysgrifennydd Gwladol wedi methu'n flaenorol â phenodi cymrodeddwr ar gais. Mae dileu hyn yn gyson â darpariaethau tebyg sydd wedi'u cynnwys mewn Gorchymynion a wnaed gan yr Ysgrifennydd Gwladol yn ddiweddar mewn cysylltiad â gorsafoedd cynhyrchu tebyg eraill; a

(v) Atodlen 2 – Gofynion: mae paragraffau 10 (rhywogaethau ymledol a gwaith adfer) a 13 (archaeoleg) wedi'u diwygio oherwydd anghysondebau rhwng y Gorchymyn a'r Memorandwm Esboniadol.

9.2 Yn ychwanegol at yr uchod, mae'r Ysgrifennydd Gwladol wedi gwneud amryw o newidiadau i'r Gorchymyn nad ydynt yn newid ei effaith

yn sylweddol, gan gynnwys newidiadau i gydymffurfio â'r arferion presennol ynglŷn ag offerynnau statudol (er enghraifft, moderneiddio iaith), newidiadau er lles eglurder a chysondeb a newidiadau er mwyn sicrhau bod y Gorchymyn yn creu'r effaith a fwriadwyd.

10. Herio'r penderfyniad

10.1 Mae'r amgylchiadau lle y gellir herio penderfyniad yr Ysgrifennydd Gwladol wedi'u nodi yn y nodyn a atodir yn yr Atodiad i'r llythyr hwn.

11. Cyhoeddusrwydd i'r penderfyniad

11.1 Mae cyhoeddusrwydd yn cael ei roi i benderfyniad yr Ysgrifennydd Gwladol ar y Cais hwn fel sy'n ofynnol o dan Adran 116 o Ddeddf 2008 a rheoliad 23 o Reoliadau 2009.

Yn gywir

GARETH LEIGH
Pennaeth Cynllunio Seilwaith Ynni

**HERIAU CYFREITHIOL YNGLŷN Â CHEISIADAU AM ORCHMYNION
CANIATÂD DATBLYGU**

O dan adran 118 o Ddeddf Cynllunio 2008, dim ond drwy gais am adolygiad barnwrol y gellir herio Gorchymyn sy'n rhoi caniatâd datblygu, neu unrhyw beth a wnaed, neu a hepgorwyd, gan yr Ysgrifennydd Gwladol mewn perthynas â chais am Orchymyn o'r fath. Rhaid i gais am adolygiad barnwrol gael ei wneud i'r Llys Cynllunio yn ystod y cyfnod o 6 wythnos sy'n dechrau drannoeth y diwrnod y cyhoeddir y Gorchymyn. Mae dogfennau'r penderfyniad yn cael eu cyhoeddi ar ddyddiad y llythyr hwn ar wefan yr Arolygiaeth Gynllunio yn y cyfeiriad canlynol:

Fel canllawiau yn unig y darperir y nodiadau hyn. Cynghorir person sy'n credu y gallai fod sail dros herio'r penderfyniad i wneud y Gorchymyn y cyfeirir ato yn y llythyr hwn i geisio cyngor cyfreithiol cyn cymryd unrhyw gamau. Os oes arnoch angen cyngor ar y broses o wneud unrhyw her dylech gysylltu â Swyddfa'r Llys Gweinyddol yn y Llysoedd Cyfiawnder Brenhinol, Strand, Llundain, WC2A 2LL (0207 947 6655)