



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

# DNS: EIA Scoping Direction

## 3247619: Elwy Solar Farm

03/06/2020

**Contents**

1. Introduction ..... 2

2. Site Description..... 2

3. Proposed Development..... 3

4. Consultation ..... 3

5. Environmental Impact Assessment Approach ..... 4

    5.1 Reasonable Alternatives ..... 4

    5.2 Currency of Environmental Information..... 4

    5.3 Cumulative Effects..... 5

    5.4 Mitigation..... 5

    5.5 Population and Human Health..... 5

    5.6 Transboundary Effects..... 6

6. Environmental Impact Assessment Topics..... 6

    6.1 Aspects scoped in..... 6

        Landscape and Visual Impact Assessment (LVIA)..... 6

        Ecology and Nature Conservation..... 6

        Transport and Traffic (construction only)..... 6

        Human Health..... 6

        Air Quality (construction only) ..... 6

        Risk of Major Accidents..... 6

Table 1: The Planning Inspectorate’s Comments..... 7

7. Other Matters ..... 12

    7.1 Habitats Regulation Assessment ..... 12

    7.2 Well-being of Future Generations Act..... 12

    7.3 SuDS Consent..... 13

    7.4 Rochdale Envelope ..... 13

**Prepared by:**  
 G. Bazzoni PIEMA MA  
 I. Gwilym BSc MSc

**This Scoping Direction is provided on the basis of the information submitted to the Planning Inspectorate on 8 April 2020, in addition to consultation responses received. The advice does not prejudice any recommendation made by an Inspector or any decision made by the Welsh Ministers in relation to the development, and does not preclude the Inspector from subsequently requiring further information to be submitted with the submitted DNS application under Regulation 24 of [The Town and Country Planning \(Environmental Impact Assessment\) \(Wales\) Regulations 2017](#) (“The 2017 Regulations”).**

## 1. Introduction

The Planning Inspectorate (“the Inspectorate”) received a request under Regulation 33 of the 2017 Regulations for a Scoping Direction in relation to a proposed development for a solar farm, battery energy storage and associated infrastructure generating up to 62MW at Gwernigrion Farm, St Asaph in the County of Denbighshire.

The request was accompanied by a Scoping Report (SR) ([DNS/3247619-000008](#)) that outlines the proposed scope of the Environmental Statement (ES) for the proposed development.

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

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

## 2. Site Description

The Site comprises 117.47 ha of agricultural land near to the city of St Asaph, approximately 2 km east of Bodelwyddan and 2.5 km south of Rhuddlan. The Site is located within the administrative boundary of Denbighshire County Council.

The Site is located to the north of the A55 and to the west of the A525. There are a number of trees and hedgerows present across the site along with several ponds. An area of Ancient Semi Natural Woodland is located within the site to the north-west of Gwernigrion Farm House.

The Site is intersected by a several of Public Rights of Ways. It is not subject to any statutory designations relating to its environmental or historic value. However, the Grade II Listed Gwernigrion Farmhouse and its Grade II\* Listed Dovecote is excluded from but surrounded by the application site.

### 3. Proposed Development

The likely description of development according to the SR is "*Construction of a solar farm and energy storage hybrid park, together with all associated works, equipment and necessary infrastructure*".

The elements included as part of the scheme and associated works, equipment and necessary infrastructure are listed in the SR: Photovoltaic (PV) arrays; inverter and transformer blocks; Battery Storage Facility; Boundary fencing; CCTV system; access tracks; Storage container; communications and monitoring equipment; vehicular accesses; and a temporary construction compound.

The scope of the EIA should include all elements of the development as identified in the SR, both permanent and temporary, and this Scoping Direction is written on that basis.

The ES should describe all aspects of the development, including dimensions of infrastructure, and materials and resources used during construction, operation and decommissioning. Paragraphs 2.12 and 2.18 of the SR gives a brief description of the temporary construction compound, with more detail to be included in the ES. The Planning Inspectorate expects to see details of how the temporary compound site would be restored after the construction phase.

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

### 4. Consultation

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

- Denbighshire County Council (DCC)
- Natural Resources Wales (NRW)
- Cadw

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

It is noted that DCC could not complete the technical consultations in time due to the unprecedented circumstances caused by the national lockdown in response to the Covid-19 outbreak. The Planning Inspectorate recommends that the Applicant liaise with the relevant technical consultees at DCC. Should it be necessary, following discussions with the LPA, it is open to the applicant to request an updated Scoping Direction.

## 5. Environmental Impact Assessment Approach

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

As the assessments are made, consideration should be given to whether standalone topic chapters would be necessary for topics that are currently proposed to be considered as part of other chapters, particularly if it is apparent that there are significant effects and a large amount of information for a particular topic.

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

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

### 5.1 Reasonable Alternatives

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

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

### 5.2 Currency of Environmental Information

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

The ES should include a chapter setting out the overarching methodology for the assessment, which clearly distinguishes effects that are 'significant' from 'non-significant' effects. Any departure from that methodology should be described in individual aspect assessment chapters. Where professional judgement has been applied this should be clearly stated.

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

### 5.3 Cumulative Effects

The SR does not provide a list of other developments to be considered as part of the cumulative impacts. This limits the extent of the comments that could be provided at this stage.

Effects deemed individually not significant from the assessment, could cumulatively be significant, so inclusion criteria based on the most likely significant effects from this type of development may prove helpful when identifying what other developments should be accounted for. The criteria may vary from topic to topic.

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

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

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

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

### 5.4 Mitigation

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

### 5.5 Population and Human Health

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

### 5.6 Transboundary Effects

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

## 6. Environmental Impact Assessment Topics

This section contains the Inspectorate's specific comments on the scope and level of detail of information to be provided in the Applicant's ES. The comments provided refer to the description of the development, the Environmental Impact Assessment process, structure of the ES and any other matter deemed relevant in the preparation of the ES. Environmental topics or features are not scoped out unless specifically addressed and justified by the Applicant and confirmed as being scoped out by the Inspectorate. In accordance with Regulation 17(4)(c) the ES should be based on this Scoping Direction in so far as the Proposed Development remains materially the same as the Proposed Development described in the Applicant's SR.

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

### 6.1 Aspects scoped in

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

**Landscape and Visual Impact Assessment (LVIA)**

**Ecology and Nature Conservation**

**Transport and Traffic (construction only)**

**Human Health**

**Air Quality (construction only)**

**Risk of Major Accidents**

**Table 1: The Planning Inspectorate's Comments**

ID	Reference	Issue	Comment
	<b>Description of the Development</b>		
ID.1	2.11	Elements of the Proposed Development	No dimensions or parameters associated with the elements of the solar area are presented in the SR. The Applicant is reminded that although a level of tolerance is accepted, the ES should be prepared using a clearly identified worst case scenario, as appropriate and that final design should not lead to greater likely significant effects than identified in the ES. See also comments from DCC <b>at Appendix 1</b> .
ID.2	2.11	Transport Access	The SR states that the main access will be into the south eastern boundary of the Site from St Asaph Road (A525). An additional access has been proposed into the north eastern site boundary. The SR states this will be for construction purposes only. The SR does not clarify whether the northern access will require improvement works. The ES should clearly describe the access and the potential effects associated with its construction.
ID.3	2.11	Battery Storage Facility	The SR states that a battery storage facility comprising either a single compound or multiple smaller battery installations will be incorporated in the Proposed Development. The ES should include a clear description of the battery storage facility and a single solution should be presented in the ES. Significant effects associated with the battery storage facility (See Comment ID.14 in relation to Risk of Major Accidents) should be considered in the assessment, if appropriate.
ID.4	2.16	Grid Connection	The ES should consider the effects of the grid connection to the electricity network. Paragraph 2.16 states that the connection will be part of the Proposed Development. The Applicant should clearly consider the effects of the underground cabling and Horizontal Directional Drilling (HDD). If the intention is to apply for consent separately, it should be noted that following <a href="#">amendments</a> to The Developments of National Significance (Specified Criteria and Prescribed Secondary Consents) (Wales) Regulations 2016, an electric line above ground of up to 132kV associated with a DNS Generating Station is specified as a DNS in itself.

ID	Reference	Issue	Comment
<b>Aspects proposed to be scoped out</b>			
ID.5	Table 1	Population and Transport	<p>Based on the information provided, the Inspectorate agrees that effects on population in terms of demographic changes can be scoped out. However, the SR appears to include transport and access within this aspect. The SR states at Table 1 that construction and operational traffic can be adequately addressed as part of the planning application process through standalone technical reports. The Applicant is reminded that where mitigation is required to ensure that residual effects are not significant, that the detail of measures and how they will be implemented should be clearly set out in the ES. The information presented in the SR does not clarify this point, and there is limited information in terms of the proposed access improvement works and construction traffic. Therefore, the Inspectorate does not agree that transport can be scoped out of the ES at this time, as the Applicant has not presented up to date information regarding the potential impact of the Proposed Development on traffic and transport during construction, as has been done with other aspects.</p> <p>The Applicant should include a proportional section on this aspect. If after further work has been conducted, they consider that it should be scoped out, it is open to them to request an updated Scoping Direction.</p> <p><b>Transport and Traffic is therefore scoped in to the ES.</b></p>
ID.6	Table 1	Human Health	<p>The Applicant proposes to scope out Human Health on the ground that where potential effects have been identified in relation to pollution and nuisances it is unlikely that the Proposed Development would cause a significant effect as appropriate management measures will be included as part of a Construction Management Plan. This statement however is not supported by any additional information. The Inspectorate expects that where mitigation is required to ensure that residual effects are not significant, that these details are set out in the ES. The Inspectorate understands that there are residential properties in the vicinity of the Proposed Development which may be impacted, and agrees</p>

ID	Reference	Issue	Comment
			with DCC (see <b>Appendix 1</b> ) that this aspect cannot be scoped out at this stage.  <b>Human Health is therefore scoped in to the ES.</b>
ID.7	Table 1	Land	The Inspectorate agrees that this aspect can be scoped out.
ID.8	Table 1	Soil	The Inspectorate agrees that this aspect can be scoped out.
ID.9	Table 1	Water	Based on the comments received by NRW and DCC and the Applicant's intention to submit a Flood Consequence Assessment with the Application, the Inspectorate agrees to scope this aspect out.
ID.10	Table 1	Air Quality	The Applicant proposes to scope out Air Quality on the basis that during operation the solar farm will not generate emissions, and that standard construction methods for dust suppression will be sufficient to ensure no significant impacts on air quality. However, the Inspectorate notes that the information provided to date does not consider whether there are nature conservation designated sites along the proposed construction traffic route which could be affected by the emissions generated by construction traffic, in particular HGVs. Additional information is required regarding construction traffic emissions and location of any ecological sensitive receptors before this aspect could be scoped out.  <b>Air Quality is therefore scoped in to the ES.</b>
ID.11	Table 1	Climatic Factors	The Inspectorate agrees that this aspect can be scoped out.
ID.12	Table 1	Material Assets	The Inspectorate agrees that this aspect can be scoped out.
ID.13	Table 1	Cultural Heritage	The inspectorate notes the comments submitted by Cadw and DCC. The Inspectorate draws the Applicant's attention to Cadw's comment ( <b>Appendix</b>

ID	Reference	Issue	Comment
			<b>1)</b> regarding the review of the scale of the impact on heritage assets at a later stage. The Inspectorate agrees that this aspect can be scoped out.
ID.14	Table 1	Risk of Major Accidents	<p>It is noted that the proposal may include energy storage capacity on Site. At this stage it is not clear which type of batteries are proposed. The Inspectorate notes that there is a potential fire risk associated with certain types of batteries such as lithium-ion and that safety measures are required in the design to minimise the risk of fire. The Inspectorate considers this to be part of the EIA process in line with Schedule 4 of the EIA Regulations (Wales) 2017. The Proposed Development should include adequate measures to ensure that an isolated fire would not become widespread and lead to a major incident. The Applicant may consider the submission of a Battery Safety Management Plan confirming that the risks are understood, accounted for and mitigated as far as practicable, in agreement with relevant consultees. The Applicant is reminded of the responsibilities set by the Regulatory Reform (Fire Safety) Order 2005. The ES should ensure that risks of accidents are accounted for and mitigated in line with Schedule 4.</p> <p><b>Risk of Major Accidents is therefore scoped in to the ES.</b></p>
	<b>LVIA</b>		
ID.15	3.19	Study Area	The Inspectorate notes the SR states an initial study area of 5 km radius. The SR does not provide the dimension of the panels and other structure on Site and therefore it is not possible to understand whether the Study Area is appropriate. Justification for the selection of the Study will need to be provided in the ES.
ID.16	3.22	Landscape Assessment methodology	Paragraph 3.22 of the SR states that the Applicant propose to omit the identified National Landscape Character Areas from the assessment. These should be included in the EIA process.
ID.17	3.23- 3.26	Photomontages	The Inspectorate draws the Applicant attention to NRW comment (Appendix 1) regarding the need for photomontages. The SR does not include the production of photomontages. The Applicant should liaise with the relevant authorities to identify an appropriate methodology.

ID	Reference	Issue	Comment
ID.18	3.27	Cumulative Impacts	The SR does not provide which schemes will be considered in the ES as part of the cumulative impacts. The Inspectorate recommends that the Applicant engages with the relevant authorities to agree which schemes should be considered as part of the cumulative assessment.
<b>Biodiversity</b>			
ID.19	3.34	Great Crested Newt Surveys	The Inspectorate highlights the comments made by NRW in their response to the Scoping consultation and advises the Applicant to liaise with NRW about ongoing survey work. We note the SR explains that further ecological surveys for breeding birds and Great Crested Newts will have due regard to government advice in respect to Coronavirus which may restrict travel. If the Applicant has any queries about implications of the restrictions as government advice changes over time, then they can contact the Inspectorate.

## 7. Other Matters

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

### 7.1 Habitats Regulation Assessment

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

As identified in paragraph 3.37 of the SR, there are several statutory designated sites in the surrounding area that will need consideration. When considering whether or not significant effects are likely, applicants should ensure that their rationale is consistent with the [CJEU finding](#) that mitigation measures (referred to in the judgment as measures which are intended to avoid or reduce effects) should be assessed within the framework of an AA and that it is not permissible to take account of measures intended to avoid or reduce the harmful effects of the plan or project on a European site when determining whether an AA is required ('screening'). The screening stage must be undertaken on a precautionary basis without regard to any proposed integrated or additional avoidance or reduction measures. Where the likelihood of significant effects cannot be excluded, on the basis of objective information the competent authority must proceed to carry out an AA to establish whether the plan or project will affect the integrity of the European site, which can include at that stage consideration of the effectiveness of the proposed avoidance or reduction measures.

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

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

### 7.2 Well-being of Future Generations Act

The Well-being of Future Generations (Wales) Act 2015 places a duty on public bodies to carry out sustainable development. It is the responsibility of the decision maker to ensure that the planning system contributes towards the delivery of sustainable development and improves the social, economic, environmental and cultural well-being of Wales. Under the Well-being Act, the planning system is required to deliver an improvement in all four aspects of well-being: social, economic, environmental and cultural. In order to demonstrate that appropriate consideration has been given to the Well-being goals and sustainable development principle in the decision-making process, public bodies are required to have regard to the 'five ways of working' contained in the Well-being Act. These require consideration of: involvement; collaboration; integration; prevention; and long term factors. It will be for each decision-making body to demonstrate how they have operated in this manner. Whilst not a legislative requirement, as part of the application documentation, the applicant may wish to

consider submitting a statement to illustrate their view on how proposed developments contribute to the goals set by the Well-being Act.

### **7.3 SuDS Consent**

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

### **7.4 Rochdale Envelope**

Whilst this approach may be appropriate for the pre-application Environmental Impact Assessment work, it should be noted that a DNS application is an application for full planning permission under the Town and Country Planning Act 1990 (as amended). It is therefore not possible to submit a DNS application with as much uncertainty over what is proposed as is acceptable for an Outline application, or for a Development Consent Order under the Planning Act 2008.