

## Asesiad o

## Ddatganiad Amgylcheddol

gan Clive Sproule BSc MSc MSc  
MRTPI MIEEnvSci CEnv

Arolygydd a benodir gan Weinidogion Cymru

Dyddiad: 26/08/2020

## Assessment of

## Environmental Statement

by Clive Sproule BSc MSc MSc  
MRTPI MIEEnvSci CEnv

an Inspector appointed by the Welsh Ministers

Date: 26/08/2020

**Application Ref: 3234121 – The Morlais Demonstration Zone Order**

**Site address: Areas within the offshore Order limits and the onshore Order limits of the Morlais Demonstration Zone Order, Anglesey**

- The Environmental Statement which is the subject of this assessment has been submitted in relation to the above application.
- The application is made under section 6 of the Transport and Works Act 1992 ('TWA') for an Order under sections 3 and 5 of the Act.
- The application, submitted on 16 September 2019, is made by Menter Môn Morlais Limited.

### Introduction

1. An initial assessment of the Environmental Statement ('ES'), issued in December 2019, found that the environmental information submitted with the application required additional information for it to constitute an ES for the purposes of the application received. As such, the application had failed to provide: *"the data required to identify and assess the main effects which the proposed works are likely to have on the environment"* to meet Rule 11(c) of Statutory Instrument 2006 No.1466 - *Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006*; and, *"...include the information reasonably required for reaching a reasoned conclusion on the significant effects of the development on the environment, taking into account current knowledge and methods of assessment..."* to meet Regulation 17 (4)(d) of Statutory Instrument 2017 No. 567 - *The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017*.
2. The additional information required included that in relation to: the focus within the submitted hydrodynamic report; missing information regarding migratory fish and other species; and, the basis of the noise propagation modelling. Further environmental information ('FEI') was provided in March 2020. It includes document no. MOR/RHDHV/DOC/0107, which provides an overview of the FEI.

### Comments received in relation to the FEI

3. An opportunity was provided for comments on the FEI and twenty parties responded to the consultation. A number of objections referred to the possible effects of the Order works on, for example, biodiversity and navigation, and include concerns regarding the basis of the assessments carried out.

4. Natural Resources Wales ('NRW') is the principal adviser to Welsh Government on the environment and its natural resources, and is the body considering the application (ref. ORML1938) for a marine licence in relation to works that are the subject of this Transport and Works Act Order ('TWAo') application. NRW has confirmed that the FEI addressed many of its concerns regarding the ES, and that it will come to a view on whether the ES is considered to be 'complete' through the parallel marine licensing process.<sup>1</sup>
5. NRW's letter in response to the consultation on the FEI has an Annex that sets out matters that NRW considers need to be addressed prior to determination of the TWAo application. These matters are classified within the Annex as "*Significant concerns*", "*Insufficient information to allow us to provide advice*" and "*Potential to easily resolve*". Matters falling within the first two classifications clearly have the potential to result in a finding that the ES (and the FEI) fails to meet the relevant rule and regulation referred to at the beginning of this decision.
6. A Pre-inquiry Meeting ('PIM') was held on 22 November 2019. During the PIM, the potential need for the FEI was addressed and the applicant stated its position that the associated concerns regarding the ES were matters of professional judgement. While the FEI has been provided, it is my understanding that the applicant retains its position. Therefore, at this stage, there remain areas of difference between the applicant and other parties in relation to whether the ES, and the FEI, provides sufficient environmental information.
7. A number of parties have referred to the submission of additional environmental information to the marine licensing process. However, that material has yet to be provided for this TWAo application.
8. Whether, or not, the ES and FEI provides sufficient environmental information to properly inform a decision on the TWAo application remains a contested matter that will be heard during the inquiry that is expected to be held later this year. As a consequence, this decision is based on the information available at this point and is conditional on the outcome of the inquiry, and that outcome will follow the testing of the evidence and cases within it.

## **Conclusion**

9. The applicant has stated its view that the areas of difference in relation to the ES are matters of professional judgement and has provided FEI. Matters relevant to the environmental information provided by the ES, and FEI, are still contested in this case. Therefore, while the FEI has been supplied for the ES currently to be considered to provide sufficient environmental information, this conclusion is conditional on the outcome of the TWAo inquiry.

*Clive Sproule*

INSPECTOR

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<sup>1</sup> NRW's letter in response to the consultation on the FEI i.e. document FEI - REP004

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**Cais cyf: 3234121 – Gorchymyn Parth Arddangos Morlais**

**Cyfeiriad y safle: Ardaloedd o fewn terfynau alltraeth y Gorchymyn a therfynau atraeth y Gorchymyn ar gyfer Gorchymyn Parth Arddangos Morlais, Ynys Môn**

- Cyflwynwyd y Datganiad Amgylcheddol sy'n destun i'r asesiad hwn mewn perthynas â'r cais uchod.
- Gwneir y cais o dan adran 6 Deddf Trafnidiaeth a Gweithfeydd 1992 ar gyfer Gorchymyn o dan adrannau 3 a 5 y Ddeddf.
- Gwneir y cais, a gyflwynwyd ar 16 Medi 2019, gan Menter Môn Morlais Limited.

### Cyflwyniad

1. Canfu asesiad cychwynnol o'r Datganiad Amgylcheddol ('DA'), a gyhoeddwyd ym mis Rhagfyr 2019, fod angen gwybodaeth ychwanegol ar y wybodaeth amgylcheddol a gyflwynwyd gyda'r cais er mwyn iddi fod yn gyfystyr â DA at ddibenion y cais a dderbyniwyd. Fel y cyfryw, nid oedd y cais wedi darparu: "*y data sydd ei angen i nodi ac asesu'r prif effeithiau y mae'r gwaith arfaethedig yn debygol o'u cael ar yr amgylchedd*" i fodloni Rheol 11(c) o Offeryn Statudol 2006 Rhif 1466 - Rheolau Trafnidiaeth a Gweithfeydd (Gweithdrefn Geisiadau a Gwrthwynebiadau) (Cymru a Lloegr) 2006; a, "*cynnwys y wybodaeth sydd ei hangen yn rhesymol i ddod i gasgliad rhesymegol ar effeithiau sylweddol y datblygiad ar yr amgylchedd, gan ystyried gwybodaeth gyfredol a dulliau asesu...*" i fodloni Rheoliad 17 (4)(d) o Offeryn Statudol 2017 Rhif 567 - Rheoliadau Cynllunio Gwlad a Thref (Asesu Effeithiau Amgylcheddol)(Cymru) 2017.
2. Roedd y wybodaeth ychwanegol roedd ei hangen yn cynnwys gwybodaeth yn ymwneud â'r canlynol: y ffocws yn yr adroddiad hydrodynamig a gyflwynwyd; gwybodaeth goll yn ymwneud â physgod mudol a rhywogaethau eraill; a sail y modelau lledaenu sŵn. Darparwyd gwybodaeth amgylcheddol bellach ym mis Mawrth 2020. Mae'n cynnwys dogfen rhif MOR/RHDHV/DOC/0107, sy'n rhoi trosolwg o'r wybodaeth amgylcheddol bellach.

### Sylwadau a dderbyniwyd mewn perthynas â'r wybodaeth amgylcheddol bellach

3. Darparwyd cyfle i roi sylwadau ar y wybodaeth amgylcheddol bellach, ac ymatebodd ugain o bartïon i'r ymgynghoriad. Roedd nifer o wrthwynebiadau'n cyfeirio at effeithiau posibl gwaith y Gorchymyn ar, er enghraifft, bioamrywiaeth a mordwyo, ac yn cynnwys pryderon ynghylch sail yr asesiadau a gynhaliwyd.

4. Cyfoeth Naturiol Cymru ('CNC') yw'r prif ymgynghorydd i Lywodraeth Cymru ar yr amgylchedd a'i adnoddau naturiol, a dyma'r corff sy'n ystyried y cais (cyf. ORML1938) am drwydded morol yn ymwneud â'r gwaith sy'n destun i'r cais am Orchymyn Trafnidiaeth a Gweithfeydd. Mae CNC wedi cadarnhau bod y wybodaeth amgylcheddol bellach wedi mynd i'r afael â llawer o'i bryderon ynghylch y DA, ac y bydd yn llunio barn ar b'un a ystyrir bod y DA yn 'gyflawn' ai peidio drwy'r broses trwyddedu morol cyfochrog<sup>1</sup>.
5. Mae llythyr CNC sy'n ymateb i'r ymgynghoriad ar y wybodaeth amgylcheddol bellach yn cynnwys Atodiad sy'n amlinellu'r materion y mae CNC o'r farn y mae angen mynd i'r afael â nhw cyn penderfynu ar y cais am Orchymyn Trafnidiaeth a Gweithfeydd. Mae'r materion hyn wedi'u dosbarthu yn yr Atodiad fel "*Pryderon sylweddol*", "*Gwybodaeth annigonol i'n galluogi i roi cyngor*" a "*Posibilrwydd o ddatrys yn rhwydd*". Mae'n amlwg bod gan faterion sy'n disgyn i'r ddau ddosbarthiad cyntaf y potensial i arwain at ganfod nad yw'r DA (a'r wybodaeth amgylcheddol bellach) yn bodloni'r rheol a'r rheoliad y cyfeirir atynt ar ddechrau'r penderfyniad hwn.
6. Cynhaliwyd Cyfarfod Cyn-ymchwiliad ar 22 Tachwedd 2019. Yn ystod y cyfarfod, aethpwyd i'r afael â'r angen posibl am y wybodaeth amgylcheddol bellach, a chrybwyllodd yr ymgeisydd ei safbwynt bod y pryderon cysylltiedig mewn perthynas â'r DA yn faterion o farn broffesiynol. Er y darparwyd y wybodaeth amgylcheddol bellach, rwy'n deall mai dyma safbwynt yr ymgeisydd o hyd. Felly, ar hyn o bryd, mae meysydd o anghytundeb o hyd rhwng yr ymgeisydd a phartïon eraill o ran p'un a yw'r DA, a'r wybodaeth amgylcheddol bellach, yn rhoi digon o wybodaeth amgylcheddol.
7. Mae nifer o bartïon wedi cyfeirio at gyflwyno gwybodaeth amgylcheddol ychwanegol i'r broses trwyddedu morol. Fodd bynnag, hyd yn hyn, ni ddarparwyd y deunydd hwnnw ar gyfer y cais hwn am Orchymyn Trafnidiaeth a Gweithfeydd.
8. Mae p'un a yw'r DA a'r wybodaeth amgylcheddol bellach yn darparu gwybodaeth amgylcheddol ddigonol i lywio penderfyniad ar y cais am Orchymyn Trafnidiaeth a Gweithfeydd yn briodol ai peidio yn fater dadleuol a fydd yn cael ei glywed yn ystod yr ymchwiliad, y disgwylir ei gynnal yn nes ymlaen y flwyddyn hon. O ganlyniad, mae'r penderfyniad hwn wedi'i seilio ar y wybodaeth sydd ar gael ar hyn o bryd, ac mae'n amodol ar ganlyniad yr ymchwiliad, a bydd y canlyniad hwnnw'n dilyn profi'r dystiolaeth a'r achosion oddi mewn iddi.

## Casgliad

9. Mae'r ymgeisydd wedi datgan ei farn bod y meysydd o anghytundeb mewn perthynas â'r DA yn faterion o farn broffesiynol, ac mae wedi darparu gwybodaeth amgylcheddol bellach. Mae materion sy'n berthnasol i'r wybodaeth amgylcheddol a ddarparwyd gan y DA, a'r wybodaeth amgylcheddol bellach, yn cael eu dadlau o hyd yn yr achos hwn. Felly, er y darparwyd gwybodaeth amgylcheddol bellach er mwyn ystyried bod y DA yn darparu gwybodaeth amgylcheddol ddigonol, mae'r casgliad hwn yn amodol ar ganlyniad ymchwiliad y Gorchymyn Trafnidiaeth a Gweithfeydd.

*Clive Sproule*

AROLYGYDD

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<sup>1</sup> Llythyr CNC yn ymateb i'r ymgynghoriad ar y wybodaeth amgylcheddol bellach h.y. dogfen FEI – REP004