Cardiff Council – planning application 26/00109/HYB (Cardiff East Park and Ride data centre)

The Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 (EIA Regs) apply to this planning application. The public relies on the LPA to comply with the Regulations in order that the public is encouraged and is able to have effective participation in the process.

Regulation 58 of the EIA Regs states:

> **Objectivity and bias**
>
> **58.**—(1) Where a local planning authority or the Welsh Ministers have a duty under these Regulations, they must perform that duty in an objective manner and so as not to find themselves in a situation giving rise to a conflict of interest.
>
> (2) Where a local planning authority, or the Welsh Ministers are acting as a developer and that authority or the Welsh Ministers, as the case may be, are also responsible for determining their own proposal, that authority or the Welsh Ministers, as the case may be, must make appropriate administrative arrangements to ensure that there is a functional separation between those persons who seek or require permission for development and the persons responsible for determining that proposal.

The Regulations do not appear to deal specifically with the situation where the LPA is also the owner of the land and likely to have an interest either in the rental income, the sale price, the terms of any proposed transaction. Some terms have been published: the ES (Chapter 3) and the Non-Technical Summary record that Curtis Hall was selected as preferred bidder in 2020 and that the bridge and road link are to be delivered in lieu of a land receipt, a matter reported to Cabinet on 20 May 2021[1]. The full terms of any lease or sale are not published. The Cabinet report also records that the land was marketed to deliver "a logistics centre with ancillary retail, whilst retaining the full existing Park & Ride capacity on site"; that "Completion of the disposal is subject to planning"; and that, if planning permission is granted, "a further independent valuation will be undertaken to determine if any capital receipt over and above the cost of the bridge and road link should be forthcoming to the Council" (paragraphs 6, 24 and 27). Do the Heads of Terms allow a data centre and gas-fired energy centre in place of the logistics centre for which the land was marketed? And, since completion of the sale depends on planning permission, what arrangements has the Council made to keep its interest as landowner separate from its duty as planning authority?

The Council will be under an obligation to maximise the benefit received from letting or selling the land. At the same time the Council is under various obligations to comply with the EIA Regs. These obligations, properly dealt with, might impact on the value of the land.

Although the EIA Regs do not purport to set out obligations or processes to follow where a conflict of interest is objectively present, the public would have been assisted by knowing about the administrative arrangements to ensure that there is a functional separation and that the application is conducted in an efficient and transparent fashion.

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[1] Cardiff Council, Cabinet, 20 May 2021, agenda item 9, 'Llanrumney Regeneration Scheme – Statutory Public Consultation and Land Disposal Update', paragraphs 6, 7 and 24 to 27 (public reports pack, pages 359 to 363): https://cardiff.moderngov.co.uk/documents/g4316/Public%20reports%20pack%2020th-May-2021%2014.00%20Cabinet.pdf?T=10&LLL=0

Some issues

- There has been confusion over the arrangements for and number of consultations on the ES. Potentially these began on 12 February, 19 March, 30 July, 7 October.
- There is a question mark over the periods allowed for consultations both in respect of the time allowed and the holiday periods covered.
- The claim by the Applicant that there was an effective scoping exercise has never been corrected on the register.
- It seems the LPA has never recorded whether the material added to the ES since January 2026 is "further information" or "any other information" under Regulation 24 of the EIA Regs, so that it can be publicised and examined as that regulation requires.
- The lack of transparency over the administrative arrangements referred to above.
- Possible failure to comply with Regulation 27 of the EIA Regs.
- Possible failure to comply with Regulation 4(4) of the EIA Regs relating to access to sufficient expertise to examine the environmental statement.
- I remind us that Welsh Law on enforcement was explained by the Minister, Lesley Griffiths AM Cabinet Secretary for Environment and Rural Affairs on the 24 April 2017 in her Explanatory Memorandum to the Town and Country Planning (Environmental Impact Assessment) (Wales) Regulations 2017 that the requirement of Article 10a of the 2011 Directive (as introduced by the 2014 Directive) for penalties for infringements is met in part through the criminal justice system: an intentionally false certificate made for gain "would constitute the offence of fraud by false representation", so that "legislation is already in place to provide a system of penalties for false or misleading information in EIA applications" (Appendix 1, Art 10a, pages 23 to 24). No allegations are made in this document. The memorandum also says that, for unauthorised development, enforcement under the Town and Country Planning Act is at the discretion of local authorities, but that discretion "cannot over-ride the requirements of the EIA Directive".

Scoping Issues

There is no scoping opinion for the data centre application.

The ES relies on Cardiff's opinion SC/21/00018/MJR of 26 May 2022, a file we were unable to access on the LPA's register. The copy included in the ES demonstrates the formal nature of a scoping application.

We understand that opinion was given on a request 'for commercial development' (shops, drive-thrus, warehousing) and appears in the ES only as Appendix 1.2 to the ES. The ES itself admits that the data centre is 'not materially the same' as that scheme, and says that not seeking a new opinion 'has been discussed with CC officers during pre-application meetings and was considered to be acceptable'. Notes of that meeting do not appear on the Register which is disappointing in view of the lack of logic it may demonstrate.

The importance of that discussion is clear and failure to include a note of the reasons for coming to their decision is considered to be a lack of the transparency to be expected in a case like this and a potential breach of Regulations 14 and 27 of the EIA Regs.

A pre-application discussion is not a scoping opinion. Regulation 14 of the EIA Regs demonstrates the formal nature of scoping:-

> ***Scoping opinions***

14.—*(1) A person who is minded to make an EIA application may ask the relevant planning authority* ***[****or specified person****]*** *to state their opinion as to the scope and level of detail of the information to be provided in the environmental statement ("scoping opinion").*

(2) A request under paragraph (1) must include—

(a)in relation to an application for planning permission—

(i)a plan sufficient to identify the land;

(ii)a brief description of the nature and purpose of the development including its location and technical capacity;

(iii)its likely significant effects on the environment; and

(iv)such other information or representations as the person making the request may wish to provide or make;

….

(4) An authority ***[****or specified person****]*** *must not adopt a scoping opinion in response to a request under paragraph (1) until they have consulted the consultees, but must, subject to paragraph (5), within 8 weeks beginning with the date of receipt of that request or such longer period as may be agreed in writing with the person who made the request, adopt a scoping opinion and send a copy to the person who made the request.*

….

It is apparent that Scoping is a formal process, not a chat. There is nothing to show any formal process in this application. The claim by the Applicant should have been corrected at an early stage and the necessary Reg 24 process followed.

Scoping is optional.

The Applicant could have made a formal application for scoping but chose not to. The Applicant needs to deal with all of the requirements in the EIA Regs for a properly constituted ES. Failing to obtain an opinion is not in itself unlawful, but consequences follow.

The failure to correct this important assertion by the Applicant might support the view that the LPA does agree with the claim. However, if that is the case then Regulation 27 seems to be important:

Availability of opinions, directions etc. for inspection

27.—*(1) Where particulars of a planning application or a subsequent application are placed on Part 1 of the register, the relevant planning authority must take steps to secure that there is also placed on that Part a copy of any—*

(a)screening opinion;

(b)screening direction;

(c)scoping opinion;

(d)scoping direction;

(e)notification given under regulation 11(1), 12(3) or 13(5);

(f)direction under regulation 5(4) or (5);

(g)environmental statement, including any further information and any other information;

(h)statement of reasons accompanying any of the above.

(2) Where the relevant planning authority—

(a)adopt a screening opinion or scoping opinion; or

(b)receive a request under regulation 14(1) or 15(1), or a copy of a screening direction, scoping direction, or direction under regulation 5(4) before an application is made for planning permission ***[****, infrastructure consent****]*** *or subsequent consent for the development in question,*

the authority must take steps to secure that a copy of the opinion, request, or direction and any accompanying statement of reasons are made available for public inspection *at all reasonable hours at the place where the appropriate register (or relevant part of that register)* ***[****or appropriate infrastructure register****]*** *is kept. [*Our emphasis]

We suggest that either there has been no scoping agreement or the LPA is at fault in not adding sufficient (if any) material to the Register.

Time issues

Although I will refer to consultations I am far from convinced that any consultation has taken place as the public have been invited to comment in a quite informal way.

On each of the many occasions when a *consultation* might have been started the assessment of the time that was reasonable for members of the public to respond was limited to the minimum period of 30 days.

The first call for comments appeared in the Western Mail on 12 February 2026. On the face of it the call for comments was meant to be a *consultation* as the period was 30 days rather than the 21 days normally seen. Things went wrong for that *consultation* as much more material was added to the ES within days of the call.

30 days is a minimum period for a consultation pursuant to the EIA Regs, not a norm. This period is found in the EIA Regs and the 2014 EIA Directive, from which the Regulations derive. The Aarhus Convention, which still binds the UK, requires 'reasonable time-frames' giving the public sufficient time to prepare and participate effectively. The courts have long held that consultation must allow adequate time for an intelligent response.

No matter how brief and simple material might be, it is 30 days minimum. In the experience of these authors it is usual for an ES consultation to be a minimum of 12 weeks. If the ES is particularly lengthy, raising difficult issues and sited in an area of deprivation then the period might be longer than 12 weeks. It is normally recognised that people will not be used to the sort of material they are expected to understand and analyse.

There is no material on the Register to explain the thinking behind the LPA's assessment that 30 days is sufficient for residents to participate effectively. This appears to be an oversight.

Unfortunately the stated period became otiose when significant additional information was filed by the Applicant and added to the Register on 25 February 2026. In effect, the public that had been considering the papers have had their time wasted as it was not a consultation under the Regulations and the information was inadequate and altered.

Almost as an aside, the *consultation* that began on the 19 March 2026 ran across the Easter bank holidays (Good Friday 3 April and Easter Monday 6 April 2026). Statutory periods run in calendar

days, so the period was not legally shortened, but the holidays reduced the working days on which people could get advice or reach Council offices.

Background

The history of this application includes the following:

	Date	Event	Period	Comment
1	5 Dec 2025 to 12 Jan 2026 (letters 2 Dec)	Pre-application consultation (statutory, applicant-run)	about 5 weeks, over Christmas	Private website, 444 page views; 246 responses, mostly on the loss of the park and ride. NRW warned it would object without information on energy, fuel, batteries and firewater.
2	16 Jan 2026	Application received; validated 27 Jan		Applicant expected a decision by 18 April 2026.
3	12 Feb 2026	Western Mail notice (ES)	30 days	ES Volumes I to III; replaced chapters filed 25 Feb.
4	19 Mar 2026	Western Mail notice	30 days	After the flood chapter and modelling were replaced.
5	17 Apr 2026	Revised air quality report, HIA addendum, energy assessment and others filed	none advertised	Applicant said these do not trigger regulation 24, and Chapter 4 of the ES was not updated.
6	30 Jul 2026	Press notice (ES Addendum)	to 29 Aug (30 days)	Addendum covers ecology and flood only; says no change to air quality.
7	10 Sep 2026	Generator air quality note (Maple Fields)	none advertised	
8	6 to 7 Oct 2026	Combined air quality note, noise note, water datasheet, compliance and covering letters; site notice and neighbour letters	neighbours 14 days (to 21 Oct); site notice 21 days (to 28 Oct)	No newspaper notice recorded. Site notice marked 'discretionary'.

The plant was described as 47 MW in February, modelled at about 57 MW and then at 115.5 MW, and in October became seven turbines on 'duty/standby' feeding a steam turbine.
The generator type changed, the cooling system changed from evaporative to closed loop, and the conclusions on health effects reversed.
Nobody could comment on the project as a whole in any one period.
None of the statutory consultees' responses (Shared Regulatory Services, Natural Resources Wales, Welsh Water, the Health Board, the Fire and Rescue Service, the drainage authority) is on the register. The public can see only the applicant's summaries of them. The Regulations do not expressly require consultee responses to be placed on the register, but they form part of the environmental information the Council must examine under regulation 25. Why are they not published?
In my view that is 'any other information' within regulation 24, so a 21-day site notice without a newspaper advertisement does not meet the inadequate minimum.

On my count the register holds 1,331 documents.
Just 59 of the technical documents run to 2,599 pages and about 790,000 words, and there are a lot more technical documents (flood, drainage, transport, ecology). At an ordinary reading speed that is more than 50 hours of reading before any checking, for a lay community with no technical budget!

Screening

No screening opinion is needed for this application, and its absence is not a defect.

Under regulation 5(2)(a), development becomes EIA development when the applicant submits a statement it calls an environmental statement, as happened here. The site was screened in 2021 (SC/21/00006/MJR, 'EIA required') for the commercial scheme.

Two related points are worth making.

The ES places the project in Schedule 2, paragraph 10(a) ('industrial estate development project'). That describes the land use, not the main source of effects: a gas-fired generating station of up to 49.9 MW with 40 diesel generators falls more naturally under the energy industry heading of Schedule 2 (installations for the production of electricity and steam). And the register should contain the screening and scoping documents that apply (regulation 27); it holds the 2022 opinion only as an ES appendix.

The misclassification matters because it shows how the project was framed from the start: as a building development with some plant, not as a power station with a data centre attached.

Major accidents and disasters: not assessed

Regulation 4(3)(b) requires the assessment to include 'the expected effects deriving from the vulnerability of the proposed development to risks of major accidents and disasters', where relevant, and Schedule 4 paragraph 8 requires a description of them. The ES contains no such assessment. Its general assumptions say instead that 'the Site or adjacent properties will not be the subject of any unforeseen events of a severe nature'. It is worrying that the Applicant’s case may be based on unrealistic, unsubstantiated assumptions.

This topic is plainly relevant here because:-

- the site is in Flood Zones 2 and 3 (zone C2), the very reason the 2022 opinion asked for the topic to be scoped in;
- the scheme includes a gas turbine plant fed from the high-pressure gas network, two diesel generators at the energy centre, 40 diesel generators at the data centre with their fuel stores, transformers and, according to the Design and Access Statement and utilities report, battery systems;
- Natural Resources Wales told the applicant at the pre-application stage that it would object unless it received detailed proposals on the energy arrangements, fuel storage, battery fire risk and the containment of contaminated firewater, including the risk of fire if batteries are flooded;

- the applicant's answer to NRW defers fuel and firewater measures to reserved matters ('could be incorporated'), and its own Habitats Regulations report notes that battery firewater could carry pollutants to the Severn Estuary sites;
- the October 2026 drone strikes and fires at Yandex data centres in Russia show that a fire in a building full of electronics, fuel and batteries is not a remote theoretical event (the context of war is different, but the fire load is the point).

The applicant's summary says South Wales Fire and Rescue Service 'does not raise matters requiring further technical input'. That response is not something I could find on the register.

The question of leaving environmental issues to conditions is moot. Such conditions cannot/should not be considered without the results of the EIA process.

Does the ES comply with regulation 4, regulation 17 and Schedule 4?

Regulation 17 sets out what is required of an ES but it does not purport to be definitive of all matters that might need to be included. It does however set a minimum content:-

> ***17.***—*(1) An EIA application must be accompanied by an environmental statement for the purposes of these Regulations but this is subject to paragraph (2).*
>
> *(2) Where regulation 9(1) and (2) apply, paragraph (1) does not apply.*
>
> *(3) An environmental statement is a statement which includes at least—*
>
> *(a)a description of the proposed development comprising information on the site, design, size and other relevant features of the development;*
>
> *(b)a description of the likely significant effects of the proposed development on the environment;*
>
> *(c)a description of any features of the proposed development, or measures envisaged in order to avoid, prevent or reduce and, if possible, offset likely significant adverse effects on the environment;*
>
> *(d)a description of the reasonable alternatives studied by the applicant or appellant, which are relevant to the proposed development and its specific characteristics, and an indication of the main reasons for the option chosen, taking into account the significant effects of the development on the environment;*
>
> *(e)a non-technical summary of the information referred to in sub-paragraphs (a) to (d); and*
>
> *(f)any additional information specified in Schedule 4 relevant to the specific characteristics of the particular development or type of development and to the environmental features likely to be significantly affected.*
>
> *(4) An environmental statement must—*
>
> *(a)be prepared by persons who in the opinion of the relevant planning authority or the Welsh Ministers, as appropriate, have sufficient expertise to ensure the completeness and quality of the statement;*

(b)contain a statement by or on behalf of the applicant or appellant describing the expertise of the person who prepared the environmental statement;
(c)where a scoping opinion or direction has been issued in accordance with regulation 14 or 15, be based on the most recent scoping opinion or direction issued (so far as the proposed development remains materially the same as the proposed development which was the subject of that opinion or direction);
(d)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; and
*(e)take into account other relevant environmental assessments required under **[[**assimilated**]** law**]** or any other provision of domestic legislation, with a view to avoiding duplication of assessment.*

It is important that the ES complies with this as Regulation 3 prevents planning permission being granted for EIA development unless an EIA has been carried out, and that assessment depends on an ES that meets regulation 17.

This regulation requires the ES to be prepared by persons with sufficient expertise.

Competency

This is set out in the Applicant's document "Cardiff East Park and Ride, Llanrumney Environmental Statement Appendix 1.4: Competency Statement" dated November 2025.

No claim for previous involvement in the specialist area of Data Centres appears to be claimed for any expert in this document.

The very first paragraph of this statement holds out an issue. It references the English Law, the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) (English Regs), instead of Welsh Law, set out above.

The English Regs explain "These Regulations implement the Directive in respect of the town and country planning system in England only". Using the correct Law seems to be a basic requirement if demonstrating competency.

The LPA has not yet added to the Register the details of their 'opinion' made to satisfy Regulation 17(4)(a). Adding to the Register would at least be in the spirit of Regulation 27.

The following is a paragraph copied from the WSP Flood Consequences Assessment Standalone Summary (filed 6 October 2026; the same wording appears in ES Volume I Part 3) with the heading "LIMITATIONS".

> *WSP has prepared this report in accordance with the instructions of their client, Curtis Hall Ltd, for their sole and specific use relating solely to the above site. Any person who uses any information contained herein does so at their own risk and shall hold WSP harmless in any event. Whilst this report was prepared using the reasonable skill and*

care ordinarily exercised by engineers practicing under similar circumstances and reasonable checks have been made on data sources and the accuracy of the data, WSP accepts no liability in relation to the report should any data, information or condition be incorrect or have been concealed, withheld, misrepresented or otherwise not fully disclosed to WSP. In any event, WSP shall not be liable for any loss or damages arising under or in connection to the use of this report.

The role of WSP seems to be qualified to an extent that might need explaining before the LPA can comply with Regulation 17(4)(a). On the face of the limitations:

- The public cannot rely upon it for any purpose;
- The report is "*in accordance with the instructions of their client, Curtis Hall Ltd"*. Bearing in mind the limitations added the instructions seem to be important to (perhaps) explain and limit the usefulness of the report and releasing the instructions should be a part of their transparency;
- There is no assessment of the possibility that has been raised by WSP that "*any data, information or condition be incorrect or have been concealed, withheld, misrepresented or otherwise not fully disclosed to WSP"*.
- The concluding assertion that *"WSP shall not be liable for any loss or damages arising under or in connection to the use of this report"* is inappropriate when WSP knows that the report is being used by the Applicant (is the Applicant allowed to do this) and disclosed to the LPA who will be making important decisions including decisions on the environment and how if at all the health of people might be impacted. Rhetorically I ask why an expert believes that they can produce a report with no responsibility and why the expert(s) feel the need to exclude any responsibility.
- Ditto for the members of the public expected to rely upon the report as if it is objective and records not only material to assist the Applicant but all contrary material and opinions against the Applicant's interest.

There appear to be discrepancies across the ES, the most serious are considered to be:

- No consistent description of the development. The ES describes a 47 MW energy centre in one chapter and a 49.9 MW centre of seven gas turbines plus a steam unit, 'only 6' running at a time, in the next. Later documents give five duty and two standby turbines. The ES does not describe the battery storage, the 21-metre stacks or the cooling system finally proposed.
- No assessment of major accidents, and no assessment of noise from the 40 diesel generators, which was excluded from the ES on the basis that they run only between 10:00 and 16:00 on weekdays. That cannot be true of an emergency.
- No figures for water use or heat in the ES. The applicant told Welsh Water in April that potable water demand 'cannot be determined with certainty'.
- The ES's own air quality chapter still records a 'significant' effect from generator testing and advises residents to stay indoors during emergencies, while later notes outside the ES say the opposite. The applicant has stated that none of its updates triggers regulation 24 and that Chapter 4 'has not been updated'. The public is left to reconcile five documents, the 'paper chase' the House of Lords said an ES must not be.
- The ES applies the English regime in places: Appendix 1.1 maps the English regulation numbers and refers to the 'Secretary of State'; the competency statement cites the English

regulation 18(5)(b); the air quality reports rely on England's $PM_{2.5}$ targets and the English NPPF; the socio-economic chapter uses the English Use Class E(g), which does not exist in Wales. No part of the ES mentions the Environment (Air Quality and Soundscapes) (Wales) Act 2024.

My view is that the ES as it stands does not meet regulation 17(3) and (4)(d), and that the Council cannot lawfully reach the 'reasoned conclusion' the Regulations require until it obtains a consolidated ES under regulation 24 and publicises it. The courts have said that defects in an ES can usually be cured through consultation and further information, but not where the document is so deficient that it cannot properly be called an ES. The missing major accidents assessment, the missing generator noise assessment and the contradictory project description are, taken together, a respectable argument that this ES is in that territory.

Comparing the reports: what the changes say about expertise

Later is a list of more than twenty contradictions or apparent errors between the documents.

Some are typographical, but several go to the heart of the assessment:

- the generator model (Caterpillar in the air quality work, Cummins in the noise work);
- the emissions class ('3g' in December, giving significant effects, '2g' in April, giving none);
- turbines modelled at more than twice the permitted capacity 'in error';
- carbon monoxide emissions given the same figure as nitrogen oxides;
- a steam turbine modelled as if it burned fuel; and
- noise background measured in September 2021 while the air quality team rejected 2020 to 2022 data as distorted by Covid.

The competency statement names air quality authors different from those named on the air quality reports, and identifies no expert in noise, combustion engineering or major accidents.

Regulation 17(4)(a) leaves it to the Council to decide whether the authors have sufficient expertise to ensure the completeness and quality of the environmental statement, and regulation 4(4) requires the Council to have or obtain sufficient expertise to examine it. Nothing on the register shows whether the Council has satisfied itself on either point, or whether it has obtained an independent review of the ES. Has it, and if so, will that review be published?

Welsh law and process, and Planning and Environment Decisions Wales

The governing law is the 2017 Wales EIA Regulations and the Development Management Procedure (Wales) Order 2012.

The Welsh Government's Development Management Manual (section 6.2) and the old Welsh Office Circular 11/99 are the Welsh guidance; the ES cites Circular 11/99 but not the Manual. The Manual also says that where a proposal is EIA development the draft ES material must be made available at the pre-application stage; the report says draft documents were on the project website, but it does not say whether the draft ES was among them.

Planning and Environment Decisions Wales (PEDW) does not decide this application unless the Welsh Ministers call it in. If they do, a PEDW inspector would hold an inquiry and could require further information under regulation 24. Two points arise for the Ministers:

- Consent route. Under section 2 of the Infrastructure (Wales) Act 2024, a generating station expected to have an installed generating capacity of between 50 and 350 MW is a Significant Infrastructure Project for the Welsh Ministers, not the Council. The regime replaced Developments of National Significance from December 2025. The applicant's October note presents seven turbines plus a steam turbine, with electronic interlocks that stop more than five running at once, as keeping the installed capacity within 49.9 MW 'as defined in the Infrastructure (Wales) Act 2024'.
- A possible inference is that installed capacity ordinarily means the plant installed, not the output a control system allows. Seven turbines of 8.18 MW plus a steam turbine is well over 50 MW installed. Whether interlocks can keep a station below the threshold is a question of law that the Welsh Ministers should be asked to answer before the Council proceeds.

Was the early ES deliberately thin?

The evidence cannot show intent, and it is not necessary to allege it: the Regulations require completeness whatever the reason for a gap. What the record does show is a pattern in which the most contentious elements were described lightly at first:

- the description of development in the application and the notices refers to 'a data centre and associated buildings, structures …' and never mentions a gas-fired generating station;
- the ES describes the energy centre as 'possible' and 'temporary', with details for reserved matters, while also presenting the scheme as 'gas-free' and using 'direct evaporative Air Handling Units';
- battery storage appears in the Design and Access Statement and the utilities report but not in the ES;
- major accidents and noise were left out despite the 2022 opinion;
- water figures appeared only in October 2026, in a document marked 'Privileged and Confidential'.

Put neutrally: the early ES did not contain information that the applicant's own documents show was available or foreseeable, and that the Regulations require. Whether that was deliberate does not matter to the legal consequence.

Overall

In my view there are several points that could found a legal challenge if permission were granted on the present material:

- no assessment of major accidents and disasters, contrary to regulation 4(3)(b) and Schedule 4 paragraph 8;
- an ES whose description and conclusions have been overtaken by later documents, without regulation 24 publicity;

- the likelihood that no consultation has yet taken place on the project as a whole;
- alternatively, inadequate consultation periods took place;
- the case for asking the Council to stop, consolidate and re-consult for at least three months is strong; and
- whether the energy centre falls to be consented by the Welsh Ministers.

The ES against Schedule 4, paragraph by paragraph

Schedule 4	What is required	What the ES does	Gap
1. Description	Physical characteristics; operational characteristics including energy demand and use, materials and natural resources (water, land, soil, biodiversity); residues and emissions (air, water, noise, vibration, light, heat), and waste.	Data centre of 150 MW utility capacity and 'B8 storage and distribution' use; energy centre of 47 MW (Ch. 3) or 49.9 MW (Ch. 4).	No water figures; no heat output; no gas consumption; no battery storage; stacks not shown on the parameter plans or assessed in the landscape chapter; cooling system later changed. The climate chapter assumes a continuous demand of 210 MW, yet the gas plant that is to supply the site until the grid connection is limited to 49.9 MW; the documents do not explain how the difference is met.
2. Alternatives	Reasonable alternatives studied, with reasons for the choice and a comparison of effects.	No alternative sites ('subject to planning' ownership); 'do nothing'; the extant 2024 permission.	No alternatives for energy supply (waiting for the grid, phasing, batteries, no on-site combustion), cooling or generator technology.
3. Baseline	Current state and likely evolution.	Air quality from 2024 monitoring and Defra maps; noise from measurements in September 2021.	No on-site air monitoring. Noise data more than four years old, taken during the Covid period that the air quality team rejected as unrepresentative.
4. Factors	Population and human health, biodiversity, land, soil, water, air, climate, material assets, heritage, landscape and their interaction.	Health is dealt with in an appendix HIA and addendum.	No quantified health assessment against WHO 2021 guidelines; health data in the HIA addendum (respiratory admissions about 15% above the Welsh rate) not carried into the air quality conclusions.
5. Effects	Direct, indirect, cumulative, short and long term, including vulnerability to climate change.	Cumulative schemes within 1 km (Chapter 1) or 3 km (Appendix 1.3).	No other data centres or energy plants considered. The climate chapter finds 'Moderate adverse' (significant) effects, up to 3% of the proposed seventh carbon budget. Author's inference: it applies the carbon factor for burning a kilowatt-hour of gas to each kilowatt-hour of electricity used; turbines convert only part of the gas energy

Schedule 4	What is required	What the ES does	Gap
			to electricity, so this understates emissions in the gas years.
6. Methods and difficulties	Forecasting methods; difficulties and uncertainties.	'No particular additional limitations or difficulties' (Addendum).	Uses PPW Edition 11 (2021) in air quality, noise and landscape work, though Edition 12 (2024) applies; WHO 2009 night noise guidelines rather than the 2018 environmental noise guidelines; no reference to the 2024 Welsh Air Quality Act.
7. Mitigation and monitoring	Measures to avoid, prevent, reduce or offset significant adverse effects.	Mostly deferred to conditions and reserved matters, including fuel and firewater containment.	Mitigation for significant effects cannot lawfully be left wholly to later approval in an outline EIA case where the effects have not been assessed.
8. Major accidents and disasters	Expected significant adverse effects from vulnerability to major accidents and disasters, and the measures to prevent or mitigate them.	Said to be 'scoped out with agreement'.	Not assessed. Contrary to the 2022 opinion and NRW's pre-application advice.
9. Non-technical summary	Summary of the above.	Feb and July 2026 versions.	Still says 47 MW; claims 'gas-free buildings'; omits the 'significant' black-start finding from its list of significant effects; text columns run together in places.
10. References	Sources used.	Partly given.	Several references are to English instruments.

How the documents contradict each other

Topic	Document A	Document B	Why it matters
Energy centre capacity	47 MW (ES Ch. 3, NTS Feb and Jul 2026, Planning Statement)	49.9 MW (ES Ch. 4, Sustainability Statement); ~57 MW modelled (Dec 2025); 115.5 MW modelled 'in error' (Apr 2026)	The size of the plant is the core of the air and climate assessments and of the consent route.
Turbine set-up	'Only 6' of 7 turbines run at once (ES Ch. 4)	5 duty plus 2 standby feeding a steam turbine, enforced by interlocks (6 Oct 2026); 20 MW turbines (utilities report)	Three different plants have been described.

Topic	Document A	Document B	Why it matters
Steam turbine	Modelled with 'the same emission rate' as a gas turbine (ES Ch. 4)	In combined cycle a steam turbine burns no fuel	Author's inference: a modelling error that suggests unfamiliarity with the plant.
Emission figures	NOx 0.662 g/s per turbine	CO also 0.662 g/s, with mixed units (ES Ch. 4)	Author's inference: apparent copying error.
Diesel generator model	Caterpillar 3516B (air quality)	Cummins C2500D5A (noise)	The two assessments are of different machines.
Generator emissions class	'3g' (Dec 2025): black-start testing 'significant'	'2g' (Apr 2026): 'not significant'	The conclusion depends on a specification the outline permission would not fix.
Emergency running	More than 30 minutes would exceed the NO2 limit; residents to stay indoors (ES Ch. 4 and NTS)	72-hour cut gives up to about 1,000 µg/m³ (five times the limit) but 'not significant' by probability (Sept 2026)	The only recorded outage lasted 80 hours, longer than the 72 modelled.
When generators are used	Standby generators 'will be used after July 2033' (ES Ch. 4, Oct note)	Generators required for continuous power (elsewhere)	Before 2033 the resilience of the data centre is not described.
Generator noise	Excluded: runs under 72 hours a year, 10:00 to 16:00 weekdays (noise report)	Emergency running can happen at any time; 116 dB(A) sound power each	No noise assessment of the loudest plant on site.
Noise baseline	Measured 13 to 22 September 2021 (noise)	2020 to 2022 rejected as Covid-affected (air quality)	Inconsistent methods across the ES.
Energy centre duration	July 2028 to July 2033 (air quality)	2028 to 2031 inclusive (climate chapter)	Climate emissions understated if the shorter period is used.
Cooling	'Direct evaporative AHUs' (ES Ch. 3, Sustainability Statement, Jan energy assessment)	Closed loop, 'nothing evaporates' (Apr energy assessment, Oct datasheet); adiabatic assist still undecided	Water use and Legionella risk depend on the choice; the ES was not updated.
Water	Below a single household; 'tens of litres a week'	Peak allowance 300 m³/day including 150 m³/day top-up (same datasheet)	Welsh Water and NRW cannot assess capacity or abstraction.
Gas	'Delivery of gas-free buildings and Data Centre uses' (ES Ch. 3, NTS)	Gas turbines for up to five years	The NTS misleads lay readers.
Policy	PPW Edition 12	PPW Edition 11 (air	Addendum says there have been 'no

Topic	Document A	Document B	Why it matters
	(transport, ecology)	quality, noise, landscape)	amendments to legislation or policy'.
Legal framework	Wales EIA Regulations 2017 cited	English regulation numbers, 'Secretary of State' (App. 1.1); English reg. 18(5)(b) (App. 1.4); English Use Class E(g) (Ch. 7); England PM2.5 targets (air quality)	The compliance checklist was built on the wrong statute.
Authors	Air quality authors named in the competency statement	Different names on the air quality reports	The expertise statement does not describe the people who did the work.
Ecology author	Delta Simons (Table 1.5)	WSP (Chapter 5)	Minor, but adds to the pattern.
Scoping	MAD and noise 'scoped out with agreement' (App. 1.1; 2022 ES Ch. 1)	2022 opinion says both should be scoped in	The ES misstates its own scoping basis.
Heights	Plot 8 (energy centre) in Height Zone 4, up to 3 m (ES Ch. 3); energy centre building 8 m in the model	Stacks 21 m above ground (air quality); landscape chapter does not mention stacks	Author's inference: the stacks are outside the parameters assessed for visual impact.
Cumulative area	1 km (ES Ch. 1)	3 km (App. 1.3)	No other data centres or power plants considered under either.

Information the public does not have

- The consultees' responses: Shared Regulatory Services (air quality and noise), Natural Resources Wales, Welsh Water, Cardiff and Vale Health Board, South Wales Fire and Rescue Service, the drainage authority and the Council's own ecology, trees and urban design officers. Only the applicant's summaries are published.
- The Welsh Ministers' holding direction and its reasons.
- The pre-application notes said to record agreement that no new scoping opinion was needed and that major accidents and noise could be left out.
- The final plant: number and type of turbines, generator make and emissions class, stack heights, fuel storage volumes, battery capacity.
- Water: source, annual volume, peak abstraction, the chosen cooling system, and the quantity and destination of glycol and other wastewater tankered off site.
- Heat: how much waste heat (likely in the order of the full 120 to 150 MW load) and where it goes.
- Grid: whether and when the 150 MW connection will be available; National Grid's response was 'still pending' in November 2025.

- Gas: annual gas use and the resulting emissions for the energy centre years.
- Environmental permit: whether the combustion plant (above 50 MW thermal input in aggregate, as the consultants themselves note) will need an NRW permit and how that fits the planning decision.
- Health: exposure at the schools, homes and care home measured against WHO 2021 guidelines; the Health Board's comments.
- Fire: any fire strategy and firewater containment calculation.
- On-site monitoring data: none was collected for air or for current noise.