

Agenda Item	<b>7.5</b>
Report No	<b>PLS/010/20</b>

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee

**Date:** 28 January 2020

**Report Title:** 19/05091/S37: Scottish Hydro Electric Transmission PLC  
Land 2290m North West of Keepers House, Dalarossie, Tomatin

**Report By:** Area Planning Manager – South

### Purpose/Executive Summary

**Description:** Install and keep installed a new 1,500 m 132 kilovolt (kV) overhead line (OHL) of approximately 1,500 metres in length to connect the consented Glen Kyllachy Wind Farm to the National Grid

**Ward:** 19 – Inverness South

**Development category:** National Development

**Reason referred to Committee:** Consultation on application from Scottish Government on application under the Electricity Act for a national development.

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

### Recommendation

Members are asked to agree the recommendation to **Raise No Objection** as set out in section 11 of the report.

## **1. PROPOSED DEVELOPMENT**

- 1.1 The Highland Council has been consulted by the Scottish Government's Energy Consents and Deployment Unit on an application made under Section 37 of the Electricity Act 1989 (as amended) for the construction and operation of a new 132kV overhead transmission line (OHL) to connect Glen Kyllachy Wind Farm to the national grid. This application comes under the category of "National Development" as set out in the Scottish Government's third National Planning Framework Plan (NPF3).
- 1.2 The development will comprise of 21 Trident "H" formation wooden poles. The line will start at the Glen Kyllachy Wind Farm substation and end with a wooden pole in the forested area to the north west of the Tomatin Substation. From here the connection will be completed via an underground cable. The underground cable does not require consent under the Electricity Act 1989 and is permitted development.
- 1.3 The OHL follows the route of the haul road for the Tomatin substation. This will be used for construction purposes and no other supporting infrastructure is required.
- 1.4 The application is for the line to be sited and contained within Limits of Deviation (LOD). The LOD are designed to allow flexibility in the final siting of individual towers to reflect topographical, engineering and environmental constraints. The following parameters have been identified for the LOD:-
  - 50m horizontal LOD either side of the proposed OHL alignment; and
  - Maximum vertical LOD of 18m (maximum pole height 18m, minimum pole height 10m).
- 1.5 The applicant notified members of the public about the proposed development as part of the consultation on the Tomatin Substation in July 2015. The applicant also attended a meeting of the Strathdearn Community Council in September 2019 to make them aware of the current proposal. The applicant has advised that no representations have been made to them about the line from the Community Council or from members of the public.
- 1.6 In bringing forward the proposal the applicant has considered three alternative alignment options to the preferred route as presented in the application. Based on the information contained within the Environmental Appraisal the preferred route is the shortest length of overhead line and has the least impact on the receiving environment.
- 1.7 The application is supported by an Environmental Appraisal which considers the proposals implications for: ecology; ornithology; water environment; soils; landscape and visual; forestry; and cultural heritage. Scottish Ministers determined that an Environmental Impact Assessment Report is not required.

## **2. SITE DESCRIPTION**

- 2.1 The site is located to 2km north of Garbole and 5.8km to the west of Tomatin and is accessed via the existing construction access which joins the public road network on the A9(T). The nearest house is over 1km away.

- 2.2 The site comprises an area of forestry which was cleared to deliver the haul road for the Tomatin Substation. The Allt a Mharcaidh watercourse is to the east of the site and the line will also cross the Allt Chaillich watercourse.

### 3. PLANNING HISTORY

- 3.1 16.09.2019 19/03360/SCRE EIA Not Required (determined by Scottish Ministers)

### 4. PUBLIC PARTICIPATION

- 4.1 As a Section 37 application the public participation process is managed by the Energy Consents Unit. No public comments were received by Energy Consents Unit or The Highland Council.

### 5. CONSULTATIONS

#### Consultations undertaken by The Highland Council

- 5.1 **Strathdearn Community Council** did not respond to the application.
- 5.2 **Environmental Health** do not object to the application. It sets out that given the nearest noise sensitive property is over 1km away that it is unlikely that construction noise will be a significant issue. It request that the noise impact of construction activities are given consideration. It notes that the applicant has confirmed that there are no known private water supplies likely to be impacted by the proposed development.
- 5.3 **Flood Risk Management Team** do not object to the application.
- 5.4 **Transport Planning Team** do not object to the application. It notes that due to the use of the A9(T) as the construction access, the implications for the local road network are minimal as the construction traffic is off road.

#### **Consultations undertaken by Energy Consents Unit**

- 5.5 **Marine Scotland Science** do not object to the application. It supports the mitigation measures in relation to control of sediment during construction and it recommends that the Ecological Clerk of Works carries out regular inspections of the watercourses. It requests that the potential cumulative impacts on water quality and fish populations are considered.
- 5.6 **Royal Air Force** do not object to the application.
- 5.7 **Scottish Forestry** object to the application. It seeks clarity on the amount of compensatory planting which will be provided. In particular it is concerned that the 12.78ha of forestry removed for the access route for the Tomatin substation has not been considered in the applicants baseline. Clarification is also sought on the overall cumulative impacts of the proposed development.

5.8 **Transport Scotland** do not object to the application. It considers that it is unlikely that the traffic generated during construction will have an environmental impact on the trunk road network.

## **6. DEVELOPMENT PLAN POLICY**

The following policies are relevant to the assessment of the application

### **6.1 Highland Wide Local Development Plan 2012**

28 - Sustainable Design  
30 - Physical Constraints  
51 - Trees and Development  
56 - Travel  
57 - Natural, Built & Cultural Heritage  
58 - Protected Species  
59 - Other important Species  
60 - Other Importance Habitats  
61 - Landscape  
69 - Electricity Transmission Infrastructure

### **6.2 Inner Moray Firth Local Development Plan 2015**

No Specific Policies Apply

### **6.3 Highland Council Supplementary Planning Policy Guidance**

Construction Environmental Management Process for Large Scale Projects  
(August 2010)  
Trees, Woodlands and Development (Jan 2013)

## **7. OTHER MATERIAL POLICY CONSIDERATIONS**

### **7.1 Scottish Government Planning Policy and Guidance**

Scottish Planning Policy (2014)  
National Planning Framework 3 (2014)  
Control of Woodland Removal Policy (2009)

## **8. PLANNING APPRAISAL**

8.1 The application has been submitted to the Scottish Government for approval under Section 37 of the Electricity Act 1989 (as amended). Should Ministers approve the development, it will receive deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended). While not a planning application, the Council processes S37 applications in the same way as a planning application as a consent under the Electricity Act will carry with it deemed planning permission.

## **Determining Issues**

- 8.2 The determining issues for the Council as planning authority responding to this consultation are:
- do the proposals accord with the development plan?
  - if they do accord, are there any compelling reasons for not approving them?
  - if they do not accord, are there any compelling reasons for approving them?

## **Planning Considerations**

- 8.3 The key considerations in this case are:
- a) compliance with the development plan and other planning policy;
  - b) Roads and transport;
  - c) Landscape and visual impact;
  - d) Water environment;
  - e) Natural heritage;
  - f) Built and cultural heritage;
  - g) Construction impacts;
  - h) any other material considerations.

## **Development plan/other planning policy**

- 8.4 The Development Plan comprises both the adopted Highland-wide Local Development Plan (HwLDP) and Inner Moray Firth Local Development Plan.
- 8.5 The principal HwLDP policy on which the application requires to be assessed is Policy 69 (Electricity Transmission Infrastructure).
- 8.6 The Development Plan supports the broad principle of energy development. Policy 69 specifically highlights that the “Council will have regard to their level of strategic significance in transmitting electricity from areas of generation to areas of consumption.” “It will support proposals which are assessed as not having unacceptable impact on the environment including natural, built and cultural heritage features.” Where development is assessed as not having unacceptable significant impact on the environment, then the proposal would accord with the Development Plan.
- 8.7 Scotland’s Third National Planning Framework (NPF- 3) is the spatial expression of the Government’s Economic Strategy and plans for investment in infrastructure. In doing so it identifies a series of national developments, which includes a High Voltage Electricity Transmission Network. The current application falls into the category of National Development as it is a new 132 kilovolt (kv) onshore electricity transmission cable and supporting pylons. Whilst identification of a project as “national development” establishes a need for the project, all necessary

assessments and consents are still required for such development. Appropriate levels of mitigation would still be expected to help avoid or reduce environmental effects and demonstrate “no adverse effect” on the integrity of European protected sites.

- 8.8 An aim of the planning system is to achieve the right development in the right place; not to allow development at any cost. SPP introduces a presumption in favour of development that contributes to sustainable development. The connection of approved renewable energy projects to the grid, which would be enabled by this project, advances its sustainable development credentials. The expansion of the grid transmission network in the north of Scotland not only is a short-term economic construction boost, but also a long-term infrastructural benefit to the area. A priority of the Scottish Energy Strategy (2107) is to champion Scotland’s renewable energy potential, creating new jobs and supply chain opportunities.
- 8.9 The Development Plan contains a number of further policy tests that must be taken into account in determining a response to this application; in particular matters related to layout, design, place-making and infrastructure provision. If there are no significant impacts arising from these matters, then the application should be supported.

### **Roads and transport**

- 8.10 The applicant is to use existing access tracks in place for the construction of Tomatin substation. The impact on the road network is limited due to the nature of the development. The wood poles would be installed via a wide-tracked excavators and some additional stone may require to be imported into the site as backfill for the foundations. The applicant has stated that there would be no surplus material to remove from the site.
- 8.11 There are no anticipated implications for the local road network as a result of the proposed development. Transport Scotland do not consider there will be implications for the trunk road network unless abnormal loads are required.

### **Landscape and visual impact**

- 8.12 The proposal sits within the Rolling Uplands (Inverness) Landscape Character Type as identified in the SNH National Landscape Character Assessment (LCA) (2019). The LCA considers that power lines that cross this landscape character type introduce strong lines, divide spaces and indicate scale.
- 8.13 The applicant has undertaken a proportionate Landscape and Visual Impact Assessment within the Environmental Appraisal. In doing so it has considered the impacts of the proposed development on receptors at 4 view points within a study area of 1km from the proposed alignment of the proposed OHL.
- 8.14 Having taken into account the proposed mitigation by design, the applicant has not identified any significant effects arising from the proposed development. The mitigation by design includes:

- location of the line within an existing forestry area;
- height of the poles being limited to no more than 18m (in line with the limits of deviation);
- no additional permanent or temporary tracks.

- 8.15 The Zone of Theoretical Visibility (ZTV) of the OHL is limited due to the topography of the area. It is accepted that the mitigation by design significantly limits any potential significant effects. The applicant has not identified any landscape or visual impacts above minor in scale.
- 8.16 Viewpoint 1 on the Forest Track which leads to the development is where the visual impact will be greatest. Here receptors would be within 200m of the proposed line and other OHLs would be visible but at some distance. Given the proximity of the receptor (recreational users of the outdoors) to the proposed line and the relative amount of time which the line will be visible, it is considered that the applicant has slightly underplayed the impacts of the proposed line from this viewpoint. It is however accepted that the way in which the line moves into the forested area does mitigate its impact. On balance, the applicants' assessment from this viewpoint is accepted.
- 8.17 There will be no visibility for receptors at Viewpoint 2 due to the forestry in the area. If all of the commercial plantation were to be removed there is limited theoretical visibility from this viewpoint. There is no visibility due to topography at viewpoint 3.
- 8.18 For receptors at Viewpoint 4 (the road linking Gaich and Tomatin, the proposed line would be seen in the context of the existing OHLs in the area. Emerging at a point where the forestry was recently felled, the proposed line would be visible to road users over a short distance. Trees will be replanted in this area in due course which will screen the proposed line. Given the short distance of the line that will be visible and the amount of time it will be visible for, it is not considered that the visual impact would be greater than a minor impact.
- 8.19 Based on the methodology set out in the Environmental Appraisal, the appraisal of the landscape and visual impacts of the line is considered reasonable. Further out of the considered route alignments this route will have the least visual impact given its location within a forested area and the undergrounding of a length of the line. No significantly adverse landscape or visual impacts are likely to be experienced by receptors as a result of the proposed transmission line.

### **Water environment**

- 8.20 No issues related to flood risk or drainage have been identified.
- 8.21 Marine Scotland Science has identified that the watercourses surrounding the site feed the River Findhorn which is important for salmon and trout. As a result, Marine Scotland Science would like to ensure that the applicant considers the cumulative impact of the construction of the proposed development with construction of others in the area. This can be secured as part of the Construction Environment Management Document.

- 8.22 Water quality can be impacted by construction in proximity of a watercourse. Although the applicant is not working within or adjacent to the watercourse during the construction of the proposed OHL, Marine Scotland Science recommend that the appointed Ecological Clerk of Works regularly inspects the watercourses in proximity of the site for evidence of sediment release, particularly in periods of heavy rain.

### **Natural Heritage**

- 8.23 Within the applicant's proposed limits of deviation, there is potential for felling of up to 1.91ha of commercial forestry to accommodate the proposed development. The applicant has committed to minimising the amount of felling required and is seeking to ensure no trees are removed to accommodate the proposed development. To do so they are seeking to microsite the poles supporting the line within the limits of deviation.
- 8.24 The felled corridor of trees where the line is proposed was permitted by Scottish Forestry to accommodate the temporary haul road for Tomatin substation. The felling was permitted on the basis it would be replanted. Scottish Forestry have objected to this application as they do not consider that the applicant has appropriately calculated the required level of compensatory planting. The applicants' calculation for compensatory planting does not take into consideration this previously felled area. Based on the Control of Woodland Removal Policy and the interpretation notes published in 2019, those trees previously removed do need to be included within the calculation. An appropriately worded condition to ensure all of the removed woodland is compensated can be secured by condition.
- 8.25 The Environmental Appraisal identifies that there is potential of disruption to red squirrel and wood ants during the construction period. Mitigation is proposed in the form of pre-commencement protected species surveys and employment of an Ecological Clerk of Works to ensure any required mitigation is implemented. These matters can be secured via condition.
- 8.26 Potential effects on ornithology (goshawk, black grouse and breeding birds) during the construction period have been identified by the applicant. The impacts are largely limited to disturbance from construction related activities, however there is the potential for bird nests to be destroyed during ground clearance works. The applicant considers that through employment of good practice on the site, including avoidance of ground clearance works within the bird breeding season, and implementation of any mitigation identified by the Ecological Clerk of Works the construction impacts can be avoided. The applicant has not identified any significant risks during the construction period. If the mitigation is secured by condition, the applicant's assessment can be accepted.



## **Built and Cultural Heritage**

- 8.27 The applicant has undertaken an assessment of built and cultural heritage of an “inner” and “outer” study area. Within the “inner” study area lies the Minshag former township. This lies within the forested area and approximately 500m from the proposed development. The proposed development will not have an impact on the former township or its setting. It is not anticipated that there will be impacts on any other features of historical or cultural importance.

## **Construction impacts**

- 8.28 The applicant has sought working hours of 0700-1900 seven days a week. Environmental Health have advised that these hours are longer hours than would normally be applied under the Control of Pollution Act. Given the distance between the proposed development and noise sensitive receptors extended working hours, as proposed by the applicant is considered acceptable.
- 8.29 By using best practice construction management, the anticipated impacts on local communities and residential properties in proximity to the development. A Construction Environmental Management Document, inclusive of a recreational access management plan and construction traffic management plan, can be secured by condition.

## **Other material considerations**

- 8.30 There are no other material considerations.

## **9. CONCLUSION**

- 9.1 The proposed over head transmission line will connect the permitted Glen Kyllachy Wind Farm to the national grid and forms part of the delivery of a fit for purpose transmission network, facilitating the move to net zero. Subject to the application of appropriate conditions, in particular in relation to compensatory planting, it is considered the impact of the proposed development can be managed.
- 9.2 The Highland Council has determined its response to this application against the policies set out in the Development Plan, principally Policy 68. Given the above analysis the application would be seen to accord with the Development Plan.
- 9.3 Schedule 9 of the Electricity Act requires sets out what an applicant shall do in relation of the preservation of amenity. It is considered that the proposal has had regard to the desirability of preserving natural beauty but through the design process has mitigated the effects of the development in relation to the effects on the natural beauty of the countryside.
- 9.4 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

## 10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

## 11. RECOMMENDATION

**Action required before decision issued** N

**Subject to the above**, it is recommended that the Council should **RAISE NO OBJECTION**, subject to the following:

### Conditions and Reasons

1. All poles shall be constructed in the locations, and to the height, shown in table 3.1 of the 2019 Environmental Appraisal. The location of the poles may be adjusted within the following Limits of Deviation:

no pole shall be positioned more than 50m on the horizontal axis of the proposed overhead line alignment;  
no pole shall be more than a height of 18m above ordinance datum inclusive of all steel work and insulators.

No later than one month after the date of Final Commissioning, an updated Site Layout Plan must be submitted to the planning authority showing the final position of the overhead line, all poles and associated infrastructure forming part of the Development. The plan should also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW or planning authority's approval, as applicable.

**Reason:** To control environmental impacts while taking account of local ground conditions.

2. No work or development associated with the proposed development shall take places outwith the hours of 0700 – 1900 Monday to Sunday, unless otherwise approved in advance in writing by the planning authority.

**Reason:** To ensure that construction activity is carried out within defined timescales to control impact on amenity.

3. Prior to final commissioning of the Development a compensatory planting plan shall be submitted to and, following consultation with Scottish Forestry, approved in writing by the planning authority. The Compensatory Planting Plan must provide for

compensatory planting for all areas of woodland removed as a direct result of the development, and those areas of land which were to be replanted as a result of the proposed development. The scheme shall include must include as a minimum:

- a. details of the proposed compensatory planting, including:
  - i. The location of any and all area(s) to be planted; and
  - ii. The landowners and occupiers of the land to be planted; and
- b. detail of the associated timescales for implementing the compensatory planting including any phasing;
- c. proposals for the maintenance, for a minimum period of 10 years, and establishment of the Replanting Scheme, including the frequency of checks, suitable triggers for any necessary replacement planting (including timing of the aforementioned planting), fencing, ground preparation and drainage
- d. proposals for reporting to the planning authority and Scottish Forestry on the implementation of the Replanting Scheme.

The approved Plan shall be implemented in full, unless otherwise agreed in writing by the planning authority after consultation with Scottish Forestry.

**Reason:** To comply with Scottish Government Policy on Woodland Removal.

4. There shall be no Commencement of Development until a finalised Construction Environmental Management Document is submitted to and agreed in writing by the planning authority in consultation with SEPA and other appropriate consultees as appropriate. The document shall include provision for:
  - a. An updated Schedule of Mitigation (SM).
  - b. Processes to control / action changes from the agreed Schedule of Mitigation.
  - c. The following specific Construction and Environmental Management Plans (CEMPs):
    - i. Method of construction of the pole foundations;
    - ii. details showing no work within the watercourse or within 6m of the top of the bank of the watercourse;
    - iii. Residual Forest Waste Management Plan;
    - iv. Water Quality Management Plan - highlighting drainage provisions including monitoring / maintenance regimes, water crossings, surface water drainage management (SUDs) and development and storage of material buffers (50m minimum) from water features;
    - v. Public Water Supply Protection Measures Plan;
    - vi. Pollution Prevention Plan
    - vii. Site Waste Management Plan
    - viii. Construction Noise Mitigation Plan.
    - ix. Species Protection Plan(s): - including red squirrel, goshawk and wood ant.

- d. A pre-construction survey for legally protected species is carried out at an appropriate time of year for the species, at a maximum of 12 months preceding commencement of construction, and that a watching brief is then implemented by the Environmental Clerk of Works (ECOW) during construction. The area that is surveyed should include all areas directly affected by construction plus an appropriate buffer to identify any species within disturbance distance of construction activity and to allow for any micro-siting needs;
- e. An Access Management Plan for recreational users of the outdoors. This shall detail all areas where access rights apply at present, how access will be managed during the construction process and all areas where access rights will apply following final commissioning of the development;
- f. A Construction Traffic Management Plan showing the final construction traffic route(s) via the A9(T) Road.

Provision of a communication plan to ensure all contractors are aware of the possible presence of protected species frequenting the Site and the laws relating to their protection;

Unless otherwise agreed in writing by the planning authority the development shall then proceed in accordance with the approved CEMD.

**Reason:** To secure the final detailed information on the delivery of all on-site mitigation projects and to protect the environment from the construction and operation of the development.

- 5. Prior to commencement of any development or works, a Site Construction Decommissioning and Restoration Method Statement shall be submitted to and approved in writing by the Planning Authority. The Statement shall highlight restoration/ reinstatement of the working areas not required during the operation of the Development, including temporary access tracks required for construction only, storage areas, laydown areas, and other temporary construction areas. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation.

The approved Statement shall be implemented in full within 12 months of the final commissioning of the development.

**Reason:** To ensure the restoration of the site following construction to limit the environmental impacts of the development.

- 6. There shall be no Commencement of Development unless the planning authority has approved in writing the terms of appointment of an Environmental Clerk of Works (ECoW) who shall be independent of the applicant . The terms of appointment shall;
  - a. Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the environmental appraisal and other information lodged in support of the application, the Construction and Environmental Management Plan approved in accordance with condition [4], and other plans approved (“the ECoW works”);

- b. Require the EcoW to report to the Company's nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
- c. Require the ECoW to submit a report to the planning authority summarising works undertaken on site and effectiveness or otherwise of mitigation set out in the Environmental Appraisal. In doing so the ECoW will be required to monitor watercourses within and in vicinity of the site for signs of sediment from the construction works following final commissioning of the line and completion of post site construction restoration works;
- d. Have power to stop the job / activities being undertaken within the Site when a breach or potential breach of environmental legislation occurs to allow for a briefing of the concern to the Company's nominated construction project manager; and
- e. Require the ECoW to report to the planning authority any incidences of non-compliance with the ECoW Works at the earliest practical opportunity.

The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved.

**Reason:** To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development.

Designation: Area Planning Manager – South  
Author: Simon Hindson  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans: Plan 1 - Figure 3.1 – Proposed Woodpole Location  
Plan 2 - Figure 3.2 – Limit of Deviation  
Plan 3 - Figure 3.3 – Site Access