

**ARGYLL AND BUTE COUNCIL  
DEVELOPMENT AND ECONOMIC GROWTH**

**PLANNING, PROTECTIVE SERVICES AND LICENSING COMMITTEE**

**UPDATE ON RECENT SCOTTISH MINISTERS SECTION 37 DECISION RELATED TO  
PROPOSED 275KV TRANSMISSION LINE FROM DALMALLY TO CREAG DHUBH**

---

**OUR REFERENCE: 22/01298/S37**

**ECU REFERENCE: ECU00002199**

**DPEA REFERENCE: WIN-130-1**

**CASE DETAIL: CONSTRUCTION OF APPROX 13.3KM OF 275KV OVERHEAD  
LINE (OHL) FROM BETWEEN CREAG DHUBH SUBSTATION SITE  
AND SCOTTISH POWER ENERGY NETWORKS (SPEN) 275KV  
TRANSMISSION LINE THAT RUNS FROM DALMALLY TO  
INVERARNAN.**

**SITE ADDRESS: LAND SOUTH OF DALMALLY AND EAST OF CLADDICH**

**APPLICANT: SCOTTISH HYDRO ELECTRIC TRANSMISSION PLC**

**STATUS: APPROVED BY SCOTTISH MINISERS ON 21<sup>ST</sup> AUGUST 2024**

---

**1. INTRODUCTION**

- 1.1 In Scotland, any application to construct or operate an 275Kv overhead line requires the consent of Scottish Ministers under Section 37 of the Electricity Act 1989. Any ministerial authorisation given includes a 'deemed planning permission' and in these circumstances there is then no requirement for a planning application to be made to the Council as Planning Authority. The Council's role in this process is one of a consultee along with various other consultation bodies. It is open to the Council to either support or object to the proposal, and to recommend conditions it would wish to see imposed if authorisation is given by the Scottish Government.
- 1.2 Argyll & Bute Council objected to this application, and consequently, a Public Inquiry was required to determine the proposals. In this instance Members determined that the Planning Authority should object to the proposals due to the unacceptable impacts on the landscape and visual impact of the proposed Development on Argyll and Bute Council designated Area of Panoramic of Quality, effects on views from the Duncan Ban MacIntyre Monument; effects on the landscape setting of Kilchurn Castle; and effects arising from the loss of ancient woodland.
- 1.3 The reporter held a pre-examination meeting on 10 February 2023 to consider the arrangements and procedures for the public inquiry. Hearing sessions were held between 19 and 22 June 2023. The report of that inquiry ("PI Report") was received by Scottish Ministers on 23 November 2023. The decision was issued on 24 August 2024.
- 1.4 This report summarises the decision made by Scottish Ministers to APPROVE Section 37 consent and deemed planning permission for the transmission line concerned.

## 2. RECOMMENDATION

2.1 Members are asked to note the contents of the report.

## 3. REPORTERS CONCLUSIONS AND RECOMMENDATION TO SCOTTISH MINISTERS

### **Reporter's Conclusions (Extracts from Public Inquiry Report)**

- 3.1 As a recently adopted policy document that relates directly to the subject matter of this section 37 application, I agree with the applicant that the Scottish Government's Onshore Wind Policy Statement (OWPS) of December 2022 should be afforded substantial weight.
- 3.2 Taking all of the submissions into account, I regard the OWPS as strongly supportive in principle of onshore wind energy generation (and by implication this proposed development). I note that it concludes that "Deployment of onshore wind is mission-critical for meeting our climate targets.". I find its introduction of a 20 GW target emphasises the importance that the Scottish Government places on this source of electricity, which also reflects the Climate Change Committee's predictions about the future importance and distribution of onshore wind generation across the UK.
- 3.3 The proposed development would enable the connection of two generation schemes that already have section 37 consent (Blarghour and Tangy iv), removing the impediment to those two schemes contributing to the Scottish Government's drive for more onshore wind energy. I am not convinced that the fact that the proposed development would have the capacity to accommodate further (as yet unapproved) generating proposals undermines the support it can draw from Scottish Government policy, as there is no evidence to indicate that Scottish Government's strong in-principle support for onshore wind has been exhausted in this part of Argyll by those existing consents.
- 3.4 The Fourth National Planning Framework (NPF4) seeks, among other things, to address this issue, by providing explicit instruction on the weight to be given to the climate and nature crises, and detailed policy support for renewable energy development and associated infrastructure. One of the six outcomes to which NPF4 is legally obliged to contribute is: "meeting any targets relating to the reduction of emissions of greenhouse gases." Another requires: "securing positive effects for biodiversity.
- 3.5 My conclusion is that significant weight needs to be given to both crises and that, in order to do that, it needs to be determined whether the proposal would be likely to assist or hinder efforts to address them. For reasons I have explained earlier in this report, I have no doubt that the proposal's likely effect on the climate crisis would be positive.
- 3.6 With regard to the nature crisis, the loss of ancient woodland would have a negative effect. While the applicant proposes not only compensation for this effect but also positive enhancement measures that should ensure a net biodiversity benefit, these would take a significant period of time to become established. It is often argued that the greatest contributor to the nature crisis is rising global temperatures. However, I have insufficient evidence to give that argument any significant weight.

- 3.7 My conclusion is that the proposed biodiversity enhancement measures would, in the long term, be likely to benefit the nature crisis. However, as it would have a temporary (but long term) adverse effect on biodiversity, this undermines some of the positive weight that the proposal would otherwise draw from its positive contribution to the climate crisis.
- 3.8 Transmission infrastructure's National Development status, recognises the national significance of such development and its importance in delivering NPF4's spatial strategy. NPF4 confirms that such designation means the principle of development does not need to be agreed in later consenting processes such as a section 37 application.
- 3.9 I concluded in the "other matters" section of this report that, due to separation distances and screening, the only historic asset that could have its setting materially affected by the proposal is the Duncan Ban Monument, a category B listed building. Having considered the likely effect on its setting, I concluded that this would not be significantly affected. My conclusion in respect of policy 7 is that the proposal would comply with its requirements.
- 3.10 My conclusion is that significant effects on the character of this landscape type would be limited to the immediate vicinity of the proposal, where the greater scale of the proposed towers when compared with mature trees and other existing landscape features, and their engineered appearance, could be fully appreciated. Beyond a distance of around 800 metres (and less in some locations due to screening) I predict that, existing human influences within the landscape and its large scale would enable the development to be accommodated without significant change to its character.
- 3.11 The North Argyll Area of Panoramic Quality (the APQ) is a local landscape designation in the LDP which covers two extensive land areas separated by Loch Etive. The LDP confirms that the aim of APQ designation is to protect locally important landscapes within Argyll and Bute from damaging development that would diminish their very high scenic value. According to the LDP, these areas are important not only for their physical landforms and scenic value, but also for the environmental assets that they represent, which could potentially be destroyed or damaged by even a relatively small, insensitive development.
- 3.12 In locations very close to the proposed OHL, anyone walking or mountain / gravel biking would certainly have their experience impaired by the development's adverse visual effect. However, there is no evidence to suggest that the line of the proposal runs close to any routes of particular importance for such activities. Indeed, I found it difficult to access the immediate vicinity of much of the proposed OHL by mountain bike due to the absence of suitable tracks.
- 3.13 I appreciate that there is a risk that adding additional large-scale infrastructure to a locality where that is already present, could breach a tipping point beyond which there was harm to the qualities that are particularly valued by recreational users. However, the evidence does not persuade me that the effect of this proposal would come close to such a tipping point. On the contrary, I am satisfied that the overall recreational attractiveness of this location would be minimally affected by what is now proposed. ....Consequently, I predict no significant effect on this special quality.
- 3.14 In accordance with Schedule 9 of the 1989 Act, in preparing my advice and recommendations to Ministers (and as related in this report) I have had regard to the desirability of preserving natural beauty of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and

objects of architectural, historic or archaeological interest. I have also had regard to the requirement to avoid, as far as possible, to causing injuries to fisheries or to the stock of fish in any waters.

- 3.15 I have also considered whether the applicant has satisfied the further requirement of Schedule 9 to do what it reasonably can to mitigate any effect on any such flora, fauna, features, sites, buildings or objects. 481. For the reasons I have set out in this report, I am satisfied that the applicant has satisfied these Schedule 9 requirements. I am also satisfied that what is proposed is consistent with the applicant's duty under section 9 of the Act to develop and maintain an efficient, co-ordinated and economical system of electricity transmission.

#### Reporters Recommendation to the Scottish Ministers

- 3.16 The Reporter recommended that consent should be granted under section 37 of the Electricity Act 1989 and planning permission should be deemed to be granted under section 57 of the Town and Country Planning (Scotland) Act 1997 (as amended), subject to the conditions listed in Appendix 1.

#### **4.0 The Scottish Ministers' Conclusions** (extracts)

##### Reasoned Conclusions on the Impacts of the Proposals

- 4.1 Having considered the Application, the EIA report, responses from consultees, and Scottish Government policies, Ministers consider that the main determining issues are:
- the environmental impacts of the proposed Development including landscape and visual effects;
  - the consideration of alternatives;
  - the extent to which the proposed Development accords with and is supported by Scottish Government policies; and
  - the contribution the proposed Development will make to realising the wider benefits of renewable electricity generation connection to the national grid.
- 4.2 The Scottish Ministers are satisfied and content with the information contained within Chapter 8 of the EIAR for the Landscape Visual Impact Assessment ("LVIA") and the responses from both the Planning Authority and NatureScot. There are two locations (Visual Point 11 – Duncan Ban monument and Visual Point 19 – Cladich Steading) where a significantly adverse visual impact would be experienced. The Scottish Ministers accept that harm would be caused to the visual amenity of those visiting the Duncan Ban monument, and at Cladich Steading, however given the scale of the proposal, the Scottish Ministers consider the incidence of significant landscape and visual effects will be low and localised.
- 4.3 Additionally, the Scottish Ministers believe the effects on the character of the Craggy Uplands – Argyll Landscape Character Type would only be significant within close proximity of the site and would therefore also be localised. Scottish Ministers are content that consideration has been given to the most sensitive landscape and visual receptors during the routing and design stage, as such any impacts have been minimised.
- 4.4 The Scottish Ministers agree with the findings and conclusions of the reporters that the proposed Development would have significant adverse effects in landscape and visual terms. The Scottish Ministers note the reporters' conclusion at paragraphs 182- 184

that although there would be significant landscape effects, these would be predominantly low and localised.

- 4.5 The Scottish Ministers agree with the reporter's findings in paragraphs 319 to 324 of the Report that effects on cultural heritage and archaeology would be, at worst, moderate and not significant.
- 4.6 With regard to ancient woodland, the Development would result in approximately 7.59 hectares of ancient woodland being lost, of which 5.68 hectares is native broadleaves, and the remaining 1.91 hectares comprising of mixed scrubland, plantation woodland, and open ground. Compensatory planting shall be carried out by the Company ensuring no net loss of woodland as a result of the proposed Development in line with the Scottish Government Policy on Control of Woodland Removal, which has been included as a condition within this consent. It is acknowledged that a long-term residual adverse effect would remain until such time as the proposed replacement broadleaf woodland areas were fully established and functional (which could be at least 80 years)
- 4.7 The reporter also considered (paragraphs 234-275) five alternative routes put forward by the third-party objector group No More Pylons, (NMP) who suggested that further alternatives merited consideration.
- 4.8 The reporter noted that the route for the Development was determined by the Company following a period of extensive stakeholder consultation consideration of the concerns raised by stakeholders. The Company also gave appropriate consideration to undergrounding by undertaking a feasibility study and commissioning a Cable Route Report.
- 4.9 Following consideration of NMP's alternatives, the reporter concluded that these alternatives were highly constrained by engineering, health and safety, environmental, and economic factors. The Company is obliged to strike the correct balance between economic, technical and environmental considerations, and the reporter concluded in this context that their consideration of alternatives was reasonable, thorough and in accordance with legal obligations.
- 4.10 The proposed Development will provide the resilience necessary to maintain secure and reliable supplies of energy to homes and businesses as our energy transition takes place. It will also support the connection of a significant amount of renewable energy generation to the national electricity system, making an important contribution to reducing our reliance on fossil fuels. Scottish Ministers conclude that the proposed Development is supported by the Energy Strategy. The Draft Scottish Energy Strategy and Just Transition Plan 2023 signals that strong support from the Scottish Government for upgraded transmission infrastructure remains.
- 4.11 The Scottish Ministers consider the Development would not accord with policy 6(b)(i) of NPF4 due to the proposed loss of ancient woodland, and (of less significance), policy 14 due to it causing some localised amenity harm and failing to improve the quality of the area. However, it would satisfy the requirements of all other development plan policies and would benefit from being a national development in NPF4 and from the support that is given within NPF4 to developments that contribute to renewable energy generation and greenhouse gas emissions reduction. Therefore, the Scottish Ministers conclude that the Development is, overall, in accordance with and supported by NPF4.
- 4.12 The Scottish Ministers conclude that there will be some significant adverse environmental effects, including the localised significant adverse landscape and visual

effects and temporary but long-term adverse effects arising from the loss of ancient woodland. There are no other likely significant residual environmental effects. Mitigation measures are proposed, and Scottish Ministers have secured these by conditions attached to this consent. Scottish Ministers conclusion is that the benefits of the proposal outweigh the adverse effects it would have. The Scottish Ministers are satisfied having regard to current knowledge and methods of assessment that this reasoned conclusion is up to date.

- 4.13 Scotland's energy policies and planning policies are all material considerations when weighing up the proposed Development. NPF4 make it clear that low carbon energy deployment, maintaining security of electricity supply, and electricity system resilience remain a priority of the Scottish Government. These are matters which should be afforded significant weight in favour of the proposed Development. The Scottish Ministers conclude, for the reasons set out above, that the proposed Development is supported by Scottish Government policies

#### The Scottish Ministers Determination

- 4.14 Subject to the conditions set out in Annex 2 - Part 1, the Scottish Ministers grant consent under section 37 of the Electricity Act 1989 to install and keep installed above ground the overhead electric line (as described in Annex 1).
- 4.15 Subject to the conditions set out in Annex 2 - Part 2, the Scottish Ministers direct that planning permission be deemed to be granted under section 57(2) of the Town and Country Planning (Scotland) Act 1997 in respect of the Development described in Annex 1. 92. The consent may, at any time after the expiry of a period of six months from the date of the consent, be varied or revoked by the Scottish Ministers under section 37 (3)(b) of the Act
- 4.16 The Reporters Inquiry Report and Scottish Ministers decision and all other submissions can be viewed on the DPEA (Directorate of Planning Environmental Appeals) website at the following link:

[Scottish Government - DPEA - Case Details \(scotland.gov.uk\)](https://www.scotland.gov.uk/topics/dpea/case-details)

## **5.0 IMPLICATIONS**

Policy: None  
Financial: None.  
Personnel: None  
Equal Opportunities: None

**Author:** David Moore **Date:** 5<sup>th</sup> September 2024

**Fergus Murray**  
**Head of Development and Economic Growth**