

**Argyll and Bute Council
Development and Economic Growth**

Delegated or Committee Planning Application Report and Report of handling relating to application for consent to the Scottish Ministers under section 37 of the Electricity Act 1989 along with a request for a direction that planning permission be deemed to be granted under section 57 (2) of the Town and Country Planning (Scotland) Act 1997.

Reference No: 22/01298/S37 (ECU000002199)

Planning Hierarchy: Major Application (Section 37 Consultation)

Applicant: Scottish Hydro Electric Transmission Plc

Proposal: Construction of approximately 13.3 km of 275 kV Over Head Line (OHL) from between a proposed substation at Creag Dhubh to the existing Scottish Power Energy Networks (SPEN) 275 kV OHL that runs from Dalmally to Inverarnan.

Site Address: Land South Of Dalmally and East of Cladich

DECISION ROUTE

(i) Section 37 of the Electricity Act 1989

(A) THE APPLICATION

Section 37 of the Electricity Act 1989

Application for consent to construct and operate a 13.3 kilometre (km), 275 kilovolt (kV), double circuit overhead line (OHL), supported by some 48 lattice steel towers between a proposed substation at Creag Dhubh to the existing Scottish Power Energy Networks (SPEN) 275 kV OHL that runs from Dalmally to Inverarnan, near Succoth Glen, via a Tie-In connection.

Members are requested to note that in Scotland, any proposal to install and keep installed an overhead electric line, requires the consent of Scottish Ministers under sections 37 of the Electricity Act 1989. Such applications are processed on behalf of the Scottish Ministers by the Energy Consents Unit ("ECU") Scottish Government - Energy Consents.

Section 57(2) of the Town and Country Planning (Scotland) Act 1997 also allows the Scottish Ministers, on granting consent under Section 37, to direct that planning permission for that development shall be deemed to be granted, subject to such conditions (if any) as may be specified in the direction.

The proposed development would primarily comprise;

- A 13.3 km double circuit 275 kV OHL, supported by lattice steel towers between a proposed substation at Creag Dhubh to the existing SPEN 275 kV OHL that runs from Dalmally to Inverarnan, near Glen Lochy (Succoth Glen);

(ii) Other associated works

- Formation of new and upgraded vehicular access points to public roads
- Formation of new and upgrading of access tracks
- Construction of temporary and permanent water crossings
- Formation of tower working areas
- Other ancillary and associated operations

An EIA has been submitted in support of the application which will be referenced in the Officer Report. The applicants clarify in their submissions that the overall project will also involve the following separate application submissions:

- A Tie-In connection involving the proposed OHL being connected to the existing Scottish Power Energy Networks (SPEN) 275 kV OHL, known as the YW route, via a new terminal tower (T48/YW17R) located between existing SPEN Towers YW17 and YW18, from the proposed T47.(this is subject to a separate S37 Application to the Scottish Ministers REF: ECU00004493 and consultation to the Planning Authority REF:22/01329/S37).

This application is subject to a separate report presented to PPSL at this meeting (REF: 22/01329/S37), however it is intrinsically linked to the current proposals as it facilitates the connection of the proposed 13.3km high voltage line into the wider high voltage transmission network. For clarity a separate S37 application by Scottish Power Energy Networks (SPEN) been required as SSEN has no remit to apply for any works SPEN infrastructure.

The proposed Creag Dhubh substation, referenced in the submissions, and to which the line is proposed to connect at its southern end, is the subject of a separate application for planning permission. (Ref 22/00782/PP. Valid 19.8.22). This will be determined by the Planning Authority and not the Scottish Ministers.

(B) RECOMMENDATION:

It is recommended that no objection to the proposals be raised.

(C) HISTORY: Yes.

Scoping response submitted to Energy Consents Unit under S37 process. Full details of these procedures and submissions from all consultees are contained on the ECU website with the Council's Scoping response available to view under REF 21/00286/SCOPE.

For clarity, this is a procedure to advise the ECU on matters which the Planning Authority (and other consultees) considers should be included in the EIA submissions and not the expression of any opinion by the Planning Authority on whether future S37 proposals would be considered acceptable or not.

(D) CONSULTATIONS:

Members are requested to note that as this is a Section 37 proposal the consultation responses are required to be sent to the Energy Consents Unit (ECU) who undertake this exercise as the determining authority and not to the Planning Authority as this is not an application for Planning Permission. A link to the ECU website is set out below which will provide a reference for all submissions by third parties and other external consultees:

[Scottish Government - Energy Consents Unit - Application Details](#)

Officers also take this opportunity to clarify some of the external consultees have responded to both this and the associated single link tower S37 application by SPEN as a single response.

A summary of the responses sent to the ECU to the overall project by other external consultees is set out below.

Nature Scot (Dated 22.8.22). No Objection.

- We note and welcome the various mitigation and compensation proposed which will help reduce impacts on protected species and priority habitats.*
- We would welcome further discussion on the Construction Environmental Management Plan (CEMP), mitigation, species protection plans or habitat management plans, as appropriate, post determination. We would also be happy to advise further on protected mammal licencing if required.*
- The proposed development would not result in significant effects on the qualities of the Loch Etive Mountains and Ben Lui Wild Land Areas (WLA 09 and WLA 06) and therefore would not raise issues of National Importance.*
- Glen Etive and Glen Fyne Special Protection Area (SPA) - Golden eagle (Aquila chrysaetos), breeding*
The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently, the Scottish Government, as the competent authority is required to consider the effect of the proposal on the SPA before it can be consented (commonly known as Habitats Regulations Appraisal). To help you do this we advise that, in our view, based on the information provided and our current knowledge, the proposal will not adversely affect the integrity of the site. The appraisal we carried out considered the impact of the proposals on the following factors: We note that there was no flight activity very close to or crossing the line route. However, T18-T23 approximately follows the edge of the SPA. This leads us to a Natura appraisal conclusion of 'likely significant effect but no adverse effect on site integrity'.
- We agree with the assessments made in relation to other designations in the area and are satisfied that no significant impacts on designated sites is likely to occur.*

Historic Environment Scotland (HES) (Dated 02.8.22) – No Objection

This is a joint response for ECU references: ECU00002199 and ECU00004493 Sufficient information is provided in the EIA Reports for us to come to a conclusion as to the level of impact on heritage assets covered by our interests. Whilst the proposals will have an adverse impact on the settings of SM4019 Auchtermally or Uachdar Mhaluidh, deserted township and SM5149 Dychlie, deserted crofts in particular, we have concluded that the development proposal does not raise issues of national interest sufficient to warrant an objection for our historic environment interests.

RSPB (Dated 22.07.22) – No Objection

RSPB Scotland does not object to the above application, and consider that most mitigation measures proposed in Environmental Impact assessment Report (EIAR) Volume 2,

*Chapter 7 (to be delivered via Species Protection Plans, and monitored by the Ecological Clark of Works (ECoW)) and the Outline Habitat Management Plan are broadly satisfactory. However, we ask that additional mitigation is considered to further reduce the Proposed Development's impact on protected species and habitats, and to secure net biodiversity gain; notably for Schedule 1/1A and A1 White-tailed eagles *Haliaeetus albicilla*, UK Biodiversity Action Plan Black grouse *Lyrurus tetrix* and Ancient/native woodland with associated lichen assemblages.*

SEPA (Dated 13.7.22) - No Objection.

A condition should be applied requiring a finalised detailed Peat Management Plan (PMP), to be agreed with the planning authority in consultation with SEPA prior to the commencement of development. The finalised plan should be update as a result of any further post-consent survey work and detailed design and should include further information relating to peat disturbance and reuse from permanent tracks and proposals for temporary peat storage. To minimise impacts on the water environment the finalised route of the proposed access track should be amended from that shown in the application at the following locations, which should be reflected in the finalised PMP:

- Between T19 and T20, where the track should not run along the side of the watercourse and a larger buffer should be observed and then a more perpendicular crossing of the watercourse made.*
- Near T25, where the configuration of the track should be amended so that the junction is not on top of a water feature.*
- Between T23 and T24, where the track should not run along the side of the watercourse, a larger buffer should be observed and then a more perpendicular crossing of the watercourse made.*
- At the spur to T20, where the track should be moved further away from the watercourse.*
- Between T28 and T29, where the track should be realigned to avoid crossing the same watercourse twice. 2.*

A condition should be applied requiring the works to be carried out in line with the Schedule of Mitigation, outline Construction Environmental Management Plan and General Environmental Management Plans

A condition should be applied requiring the development and implementation of a finalised Habitat Management Plan. It should be based on the outline version submitted with the application and deliver at least 9.26 ha of peatland habitat restoration in the areas identified in section 4.4 of the Outline Peat Management Plan. 4.

A condition requiring watercourse crossings 7, 11, 17 and 18 to be of single-span bridge design; all other permanent new or replacement crossings shall be oversized bottomless arched culverts unless there is a small undefined channel where an oversized closed culvert is acceptable.

A condition should be applied requiring site reinstatement and removal of temporary works within a given timeframe of the works being completed.

Transport Scotland (Dated 14.7.22) - No Objection.

Notwithstanding the issues noted, following a review of Transport Scotland's data and noting the assessment approach adopted, the traffic data applied is considered to be sufficient for the purposes of this assessment

Scottish Forestry (Dated 29.6.22) - No Objection.

As with previous projects, forest design and wider felling need to be taken into account, with similar landscape work being completed as per Inveraray Crossaig. In addition, the hydrology of development felling in context with the normal forest activity needs to be considered in relation to any sensitive waters, including Loch Awe.

Specific Comments:

1. LT29 alignment options. I am content with the description of GL5 diversion decision, which, despite a slightly increased impact on coniferous woodland, does minimise the effect on the Ancient Woodland.

2. Glen Lochy Switching Station

3. Creag Dhubh Substation

The minor alterations proposed at Glen Lochy and Creag Dhubh, do not appear to have any additional impacts on woodlands than the previous proposals, and so I have no further comments to make.

Scottish Water (Dated 15.7.22) - No Objection

A review of our records indicates that there are no Scottish Water drinking water catchments or water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected by the proposed activity.

Internal Consultation Responses:

Biodiversity Officer (Dated 5.8.22) - No Objection.

"I note that the CEMP will be overseen by an ECoW, I ask that Toolbox Talks are included along with the Habitat Management and Restoration Plans. I also note that Pre- Start ecological surveys are to be conducted along with mitigation for species including ornithological interest. I look forward to having sight of the Biodiversity Net Gain assessment report when it becomes available"

Area Roads Engineer (Dated 23.8.22) - No objection

I confirm that Roads have no objection to the proposed, subject to submission and approval, of the documents listed, prior to construction/ extraction works are undertaken.

- *A Timber Transport Management Plan (TTMP)*
- *The Construction Transport Management Plan (CTMP) & control measures therein*

Furthermore, all access roads should be constructed in accordance with the appropriate vehicle speed/ visibility splay. All access road works undertaken should be in accordance with Standard Construction Details 001 & 004, for access roads adjoining adopted roads.

Drainage and Flooding Advisor (Dated 19.8.22) – No Objection.

It is recommended that planning conditions to the effect of the following be attached to any consent granted for this application:

- 1. Watercourse crossings should be designed such that post-development channel capacity is the same or greater than pre-development channel capacity.*
- 2. Surface water drainage should be designed in accordance with CIRIA C753 and ensure that post development surface water runoff does not exceed the pre-development surface*

water runoff. The surface water drainage should be in operation prior to the start of construction.

Conservation Officer (Dated 9.9.22) - No Objection.

On the basis of the information provided the pylons will be visible from the listed McIntyre monument and will have an adverse impact on its setting. However the proposed siting of the pylons are at a sufficient distance from the listed monument and are set within a valley so would not be visible on a skyline. Overall I would not consider the impact to be significant and I would not object to the proposal.

(E) PUBLICITY: N/A Section 37 Consultation

(F) REPRESENTATIONS: Yes

All representations in respect of S37 Consent applications require to be submitted to the ECU and not the Council who are only a consultee and not the determining authority. However members are requested to note the following information from the ECU and Council website. (A link to the ECU website has been previously provided in this report).

At time of preparing this report Objections have been submitted to the ECU by the following parties;

- Sue Rawcliffe, (E-mail address) Dated 18.8.22, 08.09.22 and 9.9.22.

Members are requested to note that this objector refers to a petition of 215 signatures which now been submitted to the ECU. This has also been provided to Officers on 9.9.22 as there are some delays with the ECU website making objections visible.

It was requested by Ms Rawcliffe that this not be put on the Council public access website for data protection reasons and the fact that it was a submission for the ECU. Officers have agreed to this and can confirm a list of 215 individuals has been provided objecting to the proposals on the following criteria.

We, the undersigned wish to make representation in relation to the Section 37 applications ECU00002199 Creag Dhubh to Dalmally 275kV Overhead Line Connection and EC00004493 North Argyll Tie-in on the following grounds:

1. ***The applicant, SSEN, has failed to adequately consider alternatives.***
2. ***The applicant has failed to engage in any meaningful way with the local community.***
3. ***There will be significant environmental impacts.***
4. ***The cumulative impact of this alongside other developments will seriously impact on our community's future sustainability.***

A separate letter of objection has also been provided on 9.9.22 sent to the ECU which is also on the Councils Public Access system. It was agreed this could be placed on public access.

- Mr John Strickland, Cladich More, Cladich, Dalmally Dated 21.8.22
- Richard Field, Colluska House Dalmally

A link to the public representations on the ECU website is provided below to allow Members to view any representations received after the writing of this report. These are found in “Documents- Public Representations”

[Scottish Government - Energy Consents Unit - Application Details](#)

(i) Summary of issues raised by Objectors

1. Failure to underground OHL not acceptable/ alternatives not considered appropriately
2. Impact of huge pylons unacceptable on attractive and important landscape. Will result in industrial scale development in the landscape
3. Proposals will cause significant environmental damage.
4. The area should be a national park and is targeted as it lacks this designation
5. Pylons widely believed to cause cancer
6. The pylons will have an adverse impact on tourism and the local economy

In respect of the visual impact of the pylons and related matters, these are addressed within the Officer report and in consultation responses. In respect of the other matters raised Officers would comment as follows.

Point 1 – The EIA Report at Chapter 2, 3.1 – 3.4.5 provides a comprehensive summary of the design evolution and alternatives considered in reaching the current routing proposal. Officers are content that the proposal represents an acceptable network solution when balanced against wider Planning Policy Priorities as set out in more detail elsewhere within this report and the routing limitations set out on the EIA.

Point 4 - The area is, as a matter of fact, not within a designated National Park and therefore this Statutory Designation and the tests required in respect of development within national parks is not material to this determination.

Point 5 - Health concerns associated with pylons is not considered by Officer to be a matter which has any substantive materiality to the consideration of the application under planning considerations and is a matter for Scottish Ministers and appropriate health experts to consider whether there is any merit in these medical allegations.

Point.6 -There is no provided or referenced evidence to support the contention that the construction of pylons adversely impacts upon tourism within an area.

Glenorchy and Innishail Community Council (Dated 2.8.22) – Object to proposals for the following reasons;

- Environmental Statement is flawed
- The Community council accept and understand the need to upgrade the SSEN infrastructure but SSEN have not looked sufficiently at alternative routes and options to reduce environmental impacts contrary to LDP2 policies, Single Outcome agreement and Community Plan.
- Proposals will industrialise the landscape of Argyll and Bute
- No meaningful Community Consultation has been undertaken
- Aarhouse Conversion has not been followed by SSEN

This was initially submitted to the Planning Authority and not the Scottish Ministers as should have been the case. It has however been passed on by Officers and the ECU has acknowledged receipt and confirmed to the Community Council that its objections will be considered by the Scottish Ministers before reaching a decision.

All of the above objections are matters for the Scottish Ministers to consider in reaching a decision under Section 37 of the Electricity Act 1989 and to give such weight as they consider appropriate to all the issues raised.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

(i) **Environmental Statement:** Yes. The following matters are addressed in the EIA:

- Biodiversity;
- Ornithology;
- Landscape Character and Visual Impact;
- Cultural Heritage;
- Hydrology, Hydrogeology, Geology and Soils;
- Forestry;
- Noise and Vibration; and
- Traffic and Transport;

The EIA has also considered the potential for cumulative environmental impacts arising as a result of the Proposed Development in-combination with other reasonably foreseeable schemes (inter cumulative effects), as well as the combined or synergistic effects caused by the combination of a number of effects from the Proposed Development on a particular receptor (intra cumulative effects). This is primarily in respect of potential Landscape Impacts and also potential cumulative traffic impacts in respect of the Roads Network.

The EIA report evaluates potential impacts and proposed mitigation with reference made to a number of supporting technical appendices which provide further detail on all of the above matters.

(ii) **An appropriate assessment under the Conservation (Natural Habitats) Regulations 1994:** No (This is a matter for the ECU to address)

(iii) **A design or design/access statement:** Refer to EIA Report and Planning Statement

(iv) **A report on the impact of the proposed development e.g. Retail impact, transport impact, noise impact, flood risk, drainage impact etc:**

Refer to EIA Report, Technical Appendices and Figures.

(H) PLANNING OBLIGATIONS

(i) Is a Section 75 agreement required: No

(I) Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32: No

(J) Section 25 of the Act; Development Plan and any other material considerations over and above those listed above which have been taken into account in the assessment of the application

(i) List of all Development Plan Policy considerations taken into account in assessment of the application.

Argyll and Bute Local Development Plan adopted March 2015

LDP STRAT 1 – Sustainable Development

LDP DM1 – Development within the Development Management Zones

LDP 3 – Supporting the Protection, Conservation and Enhancement of our Environment

LDP 5 – Supporting the Sustainable Growth of Our Economy

LDP 6 - Supporting the Sustainable Growth of Renewables

LDP 9 – Development Setting, Layout and Design

LDP 11 – Improving our Connectivity and Infrastructure

Supplementary Guidance

SG LDP ENV 1 – Development Impact of Habitats, Species and Our Biodiversity (i.e. biological diversity)

SG LDP ENV 2 – Development Impact on European Sites

SG LDP ENV 4 – Development Impact on Sites of Special Scientific Interest (SSSIs) and National Nature Reserves

SG LDP ENV 6 – Development Impact on Trees / Woodland

SG LDP ENV 11 – Protection of Soil and Peat Resources

SG LDP ENV 13 –Development Impact on Areas of Panoramic Quality (APQs)

SG LDP ENV 14 –Landscape

SG LDP ENV 16(a) – Development Impact on Listed Buildings

SG LDP ENV 19 –Development Impact on Scheduled Ancient Monuments

SG LDP ENV 20 – Development Impact on Sites of Archaeological Importance

SG LDP REN 3 – Other (Non-Wind) Forms of Renewable Energy Related Development

SG LDP SERV 6 – Private Water Supplies and Water Conservation

SG LDP TRAN 4 – New and Existing, Public Roads and Private Access Regimes

SG LDP TRAN 5 – Off-Site Highway Improvements

(ii) List of all other material planning considerations taken into account in the assessment of the application, having due regard to Annex A of Circular 4/2009.

- NPP3 (Draft NPP4)

- Argyll and Bute Energy Action Plan
- Argyll and Bute Landscape Wind Energy Capacity Study (Capacity Study 2017);
- SNH (1996) Landscape Assessment of Argyll and the Firth of Clyde (Review No78)
- SNH (2009) Loch Lomond and The Trossachs National Park Landscape Character Assessment.
- Argyll and Bute Woodland and Forestry Strategy
- Scottish Government Policy Document on Control of Woodland Removal

Argyll and Bute proposed Local Development Plan 2 (November 2019) – The unchallenged policies and proposals within LDP2 may be afforded significant material weighting in the determination of planning applications at this time as the settled and unopposed view of the Council. Elements of the LDP2 which have been identified as being subject to unresolved objections still require to be subject of Examination by a Scottish Government appointed Reporter and cannot be afforded significant material weighting at this time. The provisions of LDP2 that may be afforded significant weighting in the determination of this application are listed below:

Policy 19 – Scheduled Monuments
 Policy 39 – Construction Standards for Private Access
 Policy 41 – Off Site Highway Improvements
 Policy 58 – Private Water Supplies and Water Conservation

(K) Is the proposal a Schedule 2 Development not requiring an Environmental Impact Assessment: No. EIA required and submitted (Schedule 1 Development)

(L) Has the application been the subject of statutory pre-application consultation (PAC): No

(M) Has a sustainability check list been submitted: No

(N) Does the Council have an interest in the site: No

(O) Requirement for a hearing (PAN41 or other): No

(P) Assessment and summary of determining issues and material considerations

The EIA submitted with the application examines landscape and other impacts associated with the proposals and concludes that some significant landscape impact will occur, these

are however localised in nature and the overall development proposals will not have a significant landscape impact and is therefore acceptable.

It is accepted in the submission that some localised significant visual impact will occur, and in particular from VP 11 looking south from the Duncan Ban Monument. Officers agree with the applicant's view that the extent and level of impact is not sufficient to raise objection to the overall proposals as the supportive National and Local policy framework, which are supportive of such major grid infrastructure development necessary for renewable energy transmission and the nationally important benefits these will bring to meeting climate change targets and in promoting sustainable development.

Although some significant localised landscape effects will take place as identified in the EIA, these are considered largely unavoidable with an infrastructure project of this scale. The Council is supportive of delivering this renewable energy related infrastructure upgrade within its Renewable Energy Action Plan under TC1 and the proposals represent essential National Infrastructure supported in NPP3 and draft NPP4.

Importantly, NatureScot have not raised objection on landscape, ornithology or ecological grounds and have expressed that they are in general agreement with the EIA evaluation and conclusions. Officers can identify no reasons to depart from the findings and conclusions of NatureScot, and therefore consider that the overall proposals are considered acceptable in respect of landscape, ornithology and ecological impacts. The Council's Biodiversity Officer also raises no objections.

In respect of potential impacts upon cultural and historic assets, and the acknowledged impacts within the EIA documents, HES have raised no objection to the proposals. Again Officers can identify no reason to depart from the views of the expert consultee on such matters. The Council's Conservation Advisor has raised no objections to the impact of the proposed towers on the setting of the Category B Listed Duncan Bann monument.

Transport Scotland raises no objection to the proposals, (including evaluating potential cumulative impacts on the Trunk Roads Network) The Area Roads manager also raises no objections to the proposals.

Officers consider that overall the landscape, ecological, historic environment, Transportation and other potential effects have been appropriately addressed and mitigated in defining the proposed route, where a balanced judgement on competing interests must be reached. Appropriate mitigation can be secured through the imposition of conditions by the Scottish Ministers in line with the proposals set out within the EIA, and within the consultation responses submitted to the ECU by other consultees set out in this Report (and on the ECU website) as is normal practice for S37 applications.

In conclusion, it is therefore considered that the proposals are in accordance with the overall LDP policies and objectives and it is recommended that no objection be raised to the current S37 proposal.

(Q) Is the proposal consistent with the Development Plan: Yes

(R) Reasons why no objection to the proposal should be raised

The EIA submitted with the application examines landscape and other impacts associated with the proposals and concludes that some significant landscape impact will occur, these are however localised in nature and the overall development proposals will not have a significant landscape impact and is therefore acceptable.

It is agreed by Officers that the overall scheme is acceptable in terms of landscape impact. In respect of the localised significant impacts identified in the EIA, it is the opinion of Officers that these are not sufficiently harmful to justify objecting to the current proposals, and do not outweigh the economic and sustainability benefits associated with the delivery of this nationally important infrastructure project which will transfer renewably generated energy to the grid.

Although some significant localised landscape effects will take place as identified in the EIA, these are considered largely unavoidable with an infrastructure project of this scale. The Council is supportive of delivering this renewable energy related infrastructure upgrade within its Renewable Energy Action Plan under TC1 and the proposals represent important National Infrastructure supported in NPP3 and draft NPP4.

Officers consider that overall the landscape, ecological, historic environment, transportation and other effects have been appropriately mitigated in defining the proposed route, where a balanced judgement on competing interests must be reached. Appropriate mitigation can be secured through the imposition of conditions by the Scottish Ministers in line with the proposals set out within the EIA, or within the consultation responses submitted to the ECU by other consultees set out in this Report and on the ECU website.

In conclusion, it is therefore recommended that no objection be raised to the current S37 proposals

(S) Reasoned justification for a departure to the provisions of the Development Plan

N/A

(T) Need for notification to Scottish Ministers or Historic Scotland: S37 Consultation

Author of Report: David Moore

Date: 12.9.22

Reviewing Officer: Sandra Davies

Date: 13.9.22

Fergus Murray Head of Development and Economic Growth

CONDITIONS AND REASONS RELATIVE TO S37 CONSULTATION REF. NO.22/01298/S37

Suggested Planning Conditions

1. The development shall be implemented in accordance with the details specified on the submitted Section 37 Application and associated Environmental Impact Assessment unless as otherwise agreed in writing by the Planning Authority.

Reason: For the purpose of clarity, to ensure that the development is implemented in accordance with the approved details.

2. No development shall commence unless and until the Planning Authority has approved in writing the terms of appointment by the company of an independent and suitably qualified environmental consultant to assist the planning authority in monitoring compliance with the terms of the deemed permission and conditions attached to this consent, The terms of appointment shall:
 - Impose a duty to monitor compliance with the terms of the deemed planning permission and conditions attached to this consent
 - Require the environmental consultant to submit a monthly report to the planning authority summarising the works undertaken on site; and
 - Require the environmental consultant to report to the Planning Authority any incidences of non-compliance with the terms of the deemed planning permission and conditions attached to this consent at the earliest practical opportunity

The environmental consultant shall be appointed on the approved terms throughout the period of commencement of development to completion of post construction restoration works.

Reason: To enable the development to be suitably monitored to ensure compliance with the consent issued.

3. There shall be no transmission of electricity through the 275kV line until a woodland planting scheme to compensate for the removal of existing woodland ("the Replanting Scheme") has been submitted to and approved in writing by the Scottish Ministers in consultation with Forestry Commission Scotland and the Planning Authority.

The Replanting Scheme submitted for approval must include;

- a. details of the location of the area to be planted;
- b. details of land owners and occupiers of the land to be planted;
- c. the nature, design and specification of the proposed woodland to be planted;
- d. details of all Necessary Consents for the Replanting Scheme and timescales within which each shall be obtained;
- e. the phasing and associated timescales for implementing the Replanting Scheme;
- f. proposals for the maintenance and establishment of the Replanting Scheme, including; annual checks; replacement planting; fencing; ground preparation; and drainage; and proposals for reporting to the Scottish Ministers on compliance with timescales for obtaining the Necessary Consents and thereafter implementation of the Replanting Scheme.

The approved Replanting Scheme (or, as the case may be, an amended Replanting Scheme as approved in accordance with paragraph 5) shall thereafter be implemented in full and in accordance with the phasing and timescales set out therein, unless otherwise agreed in writing by Scottish Ministers after consultation with Forestry Commission Scotland and the Planning Authority.

Reason: To ensure appropriate compensatory re-planting is secured in accordance with the requirements of SG LDP ENV 6

4. Unless otherwise agreed in writing by the Scottish Ministers, the development will not be commissioned to supply electricity on a commercial basis until all relevant necessary consents for implementation of the Replanting Scheme in accordance with the phasing and timescales set out therein have been obtained. The Company shall submit details of any amended Replanting Scheme to the Scottish Ministers for approval and in this case-
 - (a) The development will not be commissioned to supply electricity on a commercial basis until a Compensatory Replanting Scheme has been approved in writing by the Scottish Ministers in consultation with Forestry Scotland and the Planning Authority;
 - (b) Unless otherwise agreed in writing by the Scottish Ministers, the development will not be commissioned to supply electricity on a commercial basis until all necessary consents for the compensatory replanting scheme have been obtained.

Reason: To ensure appropriate compensatory re-planting is secured in accordance with the requirements of SG LDP ENV 6

5. No development shall be commenced on site until an updated Species Protection Plan has been submitted to and has been approved in writing by the Council as Planning Authority in consultation with NatureScot. This shall provide for updated pre-construction surveys to identify any presence of European Protected Species on or adjacent to the construction site, shall detail any mitigation required in terms of the timing of construction works and shall detail any other avoidance or mitigation proposed in response to any protected species likely to be affected by construction activities. The development shall be implemented in accordance with the requirements of the duly approved Species Protection Plan.

Reason: in the interests of nature conservation and to ensure updated surveys are provided.

6. No development shall be commenced until a full site specific Construction Environmental Management Plan has been submitted to and has been approved in writing by the Council as Planning Authority in consultation with the Scottish Environment Protection Agency. This shall address requirements arising from the construction and reinstatement phases of the development, shall inform the production of construction method statements, and shall specify the siting of working areas, soil management practices, measures to prevent pollution of watercourses, environmental site monitoring and noise mitigation measures where identified to be required. The development shall be implemented in accordance with the requirements of any approved Construction Procedures Handbook, copies of which shall be maintained available on site for the duration of construction works.

Reason: In the interests of pollution and noise control.

7. For the duration of construction and dismantling works, cultural heritage assets falling within the construction corridor, as identified within the Environmental Appraisal, shall be temporarily fenced off from construction activities. Where such assets are specifically protected by designation as Scheduled Ancient Monuments, the fencing in that event shall enclose a 20 metre buffer around the extent of the

scheduled area. Details of such measures shall be submitted to the Planning Authority for approval in consultation with Historic Environment Scotland.

Reason: In order to prevent damage to the historic environment.

8. No development shall take place within the development site as outlined in red on the approved plan until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which has been submitted by the applicant, agreed by the West of Scotland Archaeology Service, and approved by the Planning Authority. Thereafter the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Planning Authority in agreement with the West of Scotland Archaeology Service”.

Reason: In the interests of archaeology.

9. Prior to development commencing, a Traffic Management Plan shall be submitted for the written approval of the Council as Planning Authority in consultation with the Council's roads engineers. This shall detail approved access routes, agreed operational practices (including avoidance of convoy movements, specifying conduct in use of passing places, identification of turning areas, reporting of verge damage) and shall provide for the provision of an appropriate Code of Practice to drivers of construction and delivery vehicles.

This Traffic Management plan shall also evaluate and include potential cumulative impacts associated with other consented developments in the area to ensure cumulative traffic impacts are considered and also that the use and/or sharing of borrow pit locations to reduce traffic impacts are properly considered. Any traffic management plan shall include the evaluation of cumulative impact analysis of consented or reasonably foreseeable proposals which could also impact upon the capacity and safety of the road network. This shall be subject to consideration by both the Planning Authority and Transport Scotland. The development shall thereafter be implemented in accordance with any approved Traffic Management Plan unless with the written agreement of the appropriate roads authority.

Reason: In the interests of road safety and the integrity and functioning of the roads network.

10. Prior to development commencing details of the layout and construction of the access points proposed to facilitate access for construction on all roads shall be agreed with the Council's roads engineers and Transport Scotland where the access is to a trunk road. All construction will require to be in accordance with the Council's standard junction details; the required standard detail in each case being dictated by the proposed usage of the access point. Minor accesses where the existing roadside fence is closer to the carriageway than 2m will require a bound surface extending to a point 2m back from the carriageway edge. Where the existing roadside fence is 2m or further from the edge of the carriageway, the bound surface shall extend to 5m back from the edge of carriageway. All accesses will be a minimum of 3m wide. Where accesses are proposed to be used more extensively they shall be 4.5m wide, and for the main compounds and depots they shall be 6m wide. Accesses serving main compounds and depots shall be constructed in accordance with roads engineers drawing SD08/001a. All new and extended passing places will be constructed to a minimum standard of roads engineers drawing SD08/003a, and where longer passing places are necessary, SD08/003a will be used for extrapolation.

Reason: In the interests of road safety.

11. Details and/or compliance with the following matters/actions require to be submitted and approved in consultation with the Area Roads Engineer prior to the commencement of development or as otherwise may be agreed in writing with the planning authority through an approved Traffic Management Plan;
- a. All bridges, culverts and walls along the route to be inspected and the condition recorded before and after the project.
 - b. The routes used to be inspected and the condition recorded prior to use. Video recording is required. Survey to be submitted to Roads & Amenity Services prior to any work starting on site.
 - c. Any use of temporary signage to be approved by Roads & Amenity Services.
 - d. All access points from the public road to be constructed in accordance with the Council's standard details. The required standard detail will be relevant to the proposed usage.
 - e. All accesses to be surfaced in a bound material.
 - f. Minor accesses where the roadside fence is closer to the public road than 2.00 metres the bound surface will extend to a point 2.00 metres back from the carriageway edge. Where the existing roadside fence is 2.00 metres or further from the edge of public road the bound surface will extend 5.00 metres from edge of public road.
 - g. All accesses will be 3.00 metres wide. Where accesses are used more extensively they will be 5.50 metres wide and for main compounds and depots they will be 6.00 metres wide. Main compounds and depots will be constructed in accordance with standard detail drawing ref: SD 08/001 Rev a.
 - h. All new and extended passing places shall be constructed to the required standard. The minimum required standard will be SD 08/003 Rev a. Where longer passing places are necessary SD 08/003 Rev a will be used for extrapolation.
 - i. Where it is necessary to culvert the roadside ditches the minimum pipe size will be 450 mm diameter. All roadside culverts to be agreed in writing with Roads & Amenity Services prior to installation. All pipes to be twin wall polypropylene or similar approved. Headwall details to be agreed with Roads & Amenity Services.
 - j. A code of practice for drivers both on the site and for delivery drivers. The code of practice will detail how drivers should proceed at passing places, how they should allow following traffic to pass, avoid running in convoy, keep away from verges, locations where turning is possible, report verge damage they have caused so that it can be repaired, no parking on verges which cause obstructions; these are the minimum contents of the code of practice, further development will be required. All deliveries to the site will have instruction provided to the drivers relating to the Code of Practice, specific routes to follow etc.
 - k. Should any Argyll & Bute Council road suffer unacceptable damage, the Council will consider imposing restrictions to preserve the route.

Reason: In the interests of road safety.

12. The applicant shall demonstrate that the wholesomeness and sufficiency of the private water supplies in the vicinity of the development shall not be compromised by the proposed development prior to the commencement of the development.

If during, or on completion of the works, surrounding private water supplies are effected or deemed not suitable, it shall be the responsibility of the applicant to ensure that any damage to said water supplies is rectified and addressed to ensure that the water supplies to the properties meet at least the standards which were in place prior to works of this S37 consent being implemented.

Reason: In order to provide adequate protection of the private water supplies in the vicinity of the proposed development.

- 13 Watercourse crossings should be designed such that post-development channel capacity is the same or greater than pre-development channel capacity.

Surface water drainage should be designed in accordance with CIRIA C753 and ensure that post development surface water runoff does not exceed the pre-development surface water runoff. The surface water drainage should be in operation prior to the start of construction.

Reason: To ensure flooding and drainage matters are properly addressed in the implementation of the scheme.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 22/01298/S37

PLANNING LAND USE AND POLICY ASSESSMENT

A. Settlement Strategy

The Proposed Development forms part of this strategy and aims to reinforce the existing transmission network connections in the Argyll region, to enable renewable energy projects to connect to the GB transmission network and to ensure security of supply. Infrastructure for the transportation of low carbon electricity is essential to delivering the Scottish Government target for the equivalent of 50% of Scotland's heat, transport, and electricity consumption to be supplied from renewable sources. This is why enabling the transition to a low carbon economy remains the applicant's main strategic purpose

The original transmission network in Argyll and Bute was constructed over 60 years ago and designed to transmit electricity to consumers in rural areas of low-density population. As the UK strives for Net Zero (achieving a balance between the greenhouse gases emitted into the atmosphere and those taken out), the applicant has seen a significant increase in generator connection applications in Argyll and Kintyre in the last 18 months, predominantly in renewable generation. In terms of this renewable generation, there are infrastructure requirements needed to connect generators to the applicant's transmission network. Officers are content that the principle of large scale infrastructure of this type is in accordance with Plan policy as point of principle in terms of scale and location of development for the reasons set out below.

The applicants clarify in their supporting Planning Statement, at para 1.3.1 that:

- *The Proposed Development is identified within Annex A of National Planning Framework 3 (NPF3) as a National Development under the class of development noted as “new and / or upgraded onshore electricity transmission cabling of or in excess of 132 kilovolts and supporting pylons”.*
- *The Proposed Development is for an extension to the OHL infrastructure in the region enabling increased capacity from 132kV to 275kV and connection to the wider SPEN network to enable renewable connections and transmission of energy to the wider GB network.*
- *The Proposed Development will contribute to security of supply and provide increased and more resilient infrastructure capacity to facilitate renewable energy connections in the wider area – all of which forms vital elements to deliver network and grid infrastructure required to deliver the Government's legally binding targets for net zero emissions and renewable energy electricity generation objectives.*
- *The Proposed Development will be delivered in such a way that it is environmentally acceptable and will include a co-ordinated and scheme of landscaping and screening to the site.*

The proposals are accepted by Officers to represent major and nationally important infrastructure proposals as recognised in NPF3. The routing of the proposal through countryside locations is in accordance with normal land-use associated with such essential energy infrastructure and therefore the location of the proposals outside settlements in countryside locations is in accordance with the objectives of LDP STRAT 1, LDP DM1 and Policy LDP 11.

B. Location, Nature and Design of Proposed Development

The proposed towers are designed to safely carry the necessary energy loadings and are of a similar design to those used throughout the UK for such a function. The new OHL will not only provide electricity to town and settlements in Argyll but also export electrical energy associated with the many renewable energy generators in the area. Paragraph 2.3.4 of the Planning Statement confirms that the key components of the application are for 48 self-supporting fabricated galvanised steel lattice towers, L8(C) series that are on average 50 m high and separated by an average distance of 280 m. The spacing (span length) between towers and the tower height would vary depending on environment and engineering constraints with maximum height of 60 m and maximum span length of 350.

In respect of the design of the proposed towers, there are the approved and commonly used towers throughout the UK to undertake high voltage transmission upgrades and reflect those previously approved under 18/01700/S7 for the Inveraray to Crossaig high Voltage upgrade.

The proposals are therefore considered to comply with the general requirements of policies LDP3 and LDP 9 in respect of their design and appearance as these are commonly found structures throughout the UK in countryside locations.

C. Landscape Character and Potential Impact on Settlements

The landscape encompassing the proposed development is typified by a complex series of irregular dramatic topographical mountains with rocky outcrops to low-lying hollows and glens. Loch Awe is a key water feature and in the south east, the northern shores of Loch Fyne extend partially into the study area. Areas of broadleaved woodland are present across lower hill sides and along the shoreline of Loch Awe. Commercial forestry is a dominant feature in the landscape and a main land use.

- Visual receptors. Including residents of Dalnally and Cladich, which will have full or partial views of the OHL, individual properties, tourists, walkers and cyclists.
- Designated landscapes: Including the Loch Lomond and the Trossachs National Park (LLTNP), and Areas of Panoramic Quality (APQs).
- Non-designated landscapes: Including Wild Land Areas (WLAs) and Gardens and Designed Landscapes (GDLs).

The applicant's contend in their submission that:

The main source of impact would be from the proposed towers and construction of new temporary and permanent access tracks. These require the removal of commercial forestry, heather moorland, and other vegetation. Careful routeing of the Proposed Development during the design stage mitigated these effects by endeavouring to avoid the most sensitive landscape and visual receptors to minimise potential significant landscape and visual effects. There would be direct, significant residual effects on the fabric and host landscape character within the immediate area of the OHL steel lattice towers during construction and operation. These significant effects would be highly localised, and the level of effect would reduce substantially over a short distance from the proposed development.

Officers agree that this is fair summary of the operations proposed and the main elements of potential landscape and visual impacts which will be associated with the towers and any permanent access tracks retained for maintenance.

The EIA concludes that although significant localised effects occur, the overall OHL will not have significant environmental or landscape effects, subject to suggested mitigation

as set out within the EIA. However, the applicants clarify in submissions that: *Significant adverse residual visual effects were identified at one VP location which relates directly to Historic Environment/Cultural Heritage matters.* (This is VP11 and relates to views from and potential impact upon the Duncan Ban Monument)

The applicants also identify and list the following locations where visual impacts will occur as set out in Figure 11.7 of the submissions

- *visual impact will also be significant for cars driving alongside the northern boundary, on the B840. The wayleave will be visible to car travellers for a moderate period of time.*
- *The visual impact will be most important where the powerline crosses the A819 as the wayleave will be directly perpendicular to the road. The sight of the wayleave will however only be visible for a short period of time, reducing the significance of the visual impact.*
- *The A819 crosses the property from north to south and will cross the wayleave.*
- *The wayleave will be visible for a moderate period of time to cars driving south, increasing the significance of the visual impact. The power line will be visually prominent in this rolling landscape*
- *Management felling for the sub-station will be visible for cars driving north on the A819 and for cars driving alongside the B840.*

Officers are in agreement with this overall conclusion in considering the OHL proposal in its entirety and the most likely viewpoints where it will be most prominent in the landscape. Clearly the power line will also be visible from surrounding high points to a greater or lesser degree and the ZTV information provided in the EIA at Figure 8.1b. However in many of these longer views Officers are of the opinion that the receiving landscape is of a scale and nature to successfully absorb the impacts of the towers without significant adverse impact occurring. The proposals are therefore considered to accord with SG LDP ENV 14

Officers consider in respect of impact on settlements that the towers, although they will clearly be visible from some residential properties and areas around settlements, any likely impacts will be acceptable. In respect of Dalmlally the new towers will integrate with the existing power lines where the proposed new line and existing line will connect. Members should note that previous proposals to construct a switching station at this location no longer form part of the S37 application proposals. Towers of this type and scale are not unusual on the periphery of rural settlements where high voltage grid is required and therefore the proposals are considered to be acceptable.

Potential Cumulative Impacts

Throughout the discussions associated with this, and other projects that Officers are aware of, there has been a clear requirement for potential cumulative impacts of the proposals to be considered as part of any evaluation. The applicants have taken this on board and provided cumulative impact evaluation as part of the EIA submission. This evaluates not only the potential impact of this development in isolation, but also other proposals either existing or proposed which could cumulatively lead to the current proposals having an unacceptable and significant impact on the landscape.

At 8.4.75 the applicants confirm that:

For the purposes of the LVIA, and in order to keep the assessment proportionate, only those cumulative developments associated with electricity transmission, and which are considered likely to contribute to significant cumulative effects when the Proposed Development is introduced have been taken forward in the cumulative assessment.

This is accepted by Officer as a reasonable basis to evaluate potential cumulative impacts. Table 8.7 Lists those other developments which have been considered as part of the evaluation exercise. Cumulative impacts associated with commercial forestry felling have also been incorporated in this exercise.

Paragraph 8.6.39 clarifies that *“The location and geographical extent of LCTs within the Study Area are presented on Figure 8.3a (EIAR Volume 3a). A detailed description of each of these LCTs is presented in TA 8.2 and a detailed residual effects assessment is presented in TA 8.4 (EIAR Volume 4)”*

Detailed commentary and evaluation on such matters is contained within the EIA in Volume 2- Chapter 8. In respect of the evaluation of these matters NatureScot, who advise on such Landscape Impact matters, has not raised objections to the proposals in respect of cumulative impacts.

Officers consider that the evaluation contained within the EIA document at Vol 2 Ch 8 represents a fair evaluation of the nature of potential impacts, their potential significance having regard to the permanent nature of the proposal, the sensitivity and characteristics of the receiving landscape.

Of perhaps most significance in terms of potential Landscape Impacts for A&B is the fact that the proposals is set within an identified APQ. The full alignment of the Proposed Development, and the majority of the central and northern portions of the study area are located within the North Argyll APQ.

The applicants accept that;

The landscape within the APQ is sparsely settled. Where settlement occurs, it is mainly concentrated along the edges of Loch Awe and within glens, as the uplands and high tops are relatively inaccessible, rugged and in some places relatively wild. These contrasts between landscape types and scales are some of the characteristics that add to the scenic quality of the area.... The sensitivity of the landscape designation is considered high as it has a high value and a high susceptibility to the type of development proposed.

The EIA evaluates construction effects and also potential phasing crossover. However in Officers opinion the most important matter is the operational cumulative visual impacts of the proposals and not the construction phase of the development where these would be temporary.

Chapter 2, Paragraphs 8.6.40 to 8.6.87 clarifies the LVIA evaluation which has been undertaken by the applicants which seeks to identify those areas and interests who would be to some degree impacted by the visual appearance of the proposals, and in combination with other potential developments in the area.

The applicants fairly conclude at para 8.7.3 that:

There would be direct, significant effects on the fabric and host landscape character area within the immediate area of the OHL steel lattice towers during construction and operation. The removal of vegetation cover, modest changes to the landform (OHL tower foundations) and the direct loss of coniferous forestry to facilitate the construction and operation of the Proposed Development would alter the landscape within close proximity

to the proposed alignment and increase the presence of transmission infrastructure within the landscape. Significant effects associated with these aspects of the Proposed Development would be highly localised, and would reduce substantially over a short distance from the alignment route. The localised removal of vegetation cover, whilst directly impacting on the fabric of the landscape within the alignment corridor, would not detract from, or significantly alter, the distinct pattern of landscape structure that characterises the wider landscape. Operational effects would be mitigated through the implementation of the mitigation specified in Section 8.5.11: Mitigation and the measures recorded in Chapter 15: Schedule of Mitigation (EIAR Volume 2).

Continuing at para 8.7.5;

The Argyll and Bute Area of Panoramic Quality would be directly affected by the Proposed Development; however, these impacts would be highly localised, quickly reducing with distance, due to intervening forestry and woodland. The Proposed Development would be visible from Ardanaiseig House GDL. However, given the extent of backclothing and intervening elements such as forestry it would result in a discernible change within the view, and is not anticipated to exert such an influence upon the qualifying features of the GDL to the extent they would be impacted, or their enjoyment diminished. The Proposed Development would be visible from isolated parts of the Loch Etive Mountains and Ben Lui WLAs; however the development would not be out of character with the existing view from these locations. Therefore, the magnitude of impact would be Negligible and the residual effect would be Moderate/Minor and not significant.

They continue at para 8.7.7:

The views towards the Proposed Development from several scattered residential properties would be seen at varying distances, and within the context of an expansive diverse landscape. As the Proposed Development routes through dense commercial forestry, a large proportion of the Proposed Developments towers would be screened in views, particularly those provided from the A819 and at Cladich. From more distant locations along the western extent of Loch Awe, properties would have long distance views of the Proposed Development, those properties situated at lower elevations would be subjected to filtered/restricted views. However, those properties at a higher elevation would view the Proposed Development as a new notable element within the hillside, albeit at a distance and backclothed by the surrounding topography and land cover.

In respect of views the surrounding roads network para 8.7.8 states:

The main routes (A85, A819 and B8077) and other minor transport routes were included within the detailed assessment process. No significant residual effects were identified. Of the many recreational routes within the LVIA Study Area, only one Duncan Ban MacIntyre core path (C450) would be subjected to locally significant effects as a result of the Proposed Development. Significant effects are not predicted on the amenity of any other core path due to a combination over distance and intervening landscape features, such as coniferous forestry and woodland vegetation and the generally backclothed appearance of the Proposed Development.

At para 8.7.12 the applicants fairly accept that

Any development of the scale and type proposed has potential to cause some significant landscape and visual effects. The Proposed Development is no different in this regard. However, it is apparent from the limited number of significant effects identified in respect of the Proposed Development in Section 8.5.20: Residual Construction Effects and Section 8.5.34: Residual Operational Effect, and the preceding summary, that the siting and design of the Proposed Development has proven to be effective in minimising such significant effects.

Officers and NatureScot are in agreement with these overall conclusions in respect of potential landscape impacts associated with the proposals and therefore although some localised significant impacts will occur, these are not considered to outweigh the policy support for such necessary and nationally important infrastructure development.

D. Natural Environment (Biodiversity and Ornithology)

The submitted EIA has considered potential impacts and their associated effects on ecological features (including designated nature conservation sites, habitats, and protected species) as well as on birds and bird related features (including sites designated for breeding birds and other protected bird species) in line with Chartered Institute of Ecology and Environmental Management (CIEEM) guidance. Baseline conditions have been collected through desk-based review of existing information, consultation with relevant statutory and non-statutory bodies and habitat and protected species surveys been collected through desk-based review of existing information, consultation with relevant statutory and non-statutory bodies and habitat and protected species surveys.

The EIA confirms that:

The dominant habitats are coniferous woodland plantation, wet modified bog and semi-improved acid grassland. Potential Groundwater Dependent Terrestrial Ecosystems (GWDTEs) were recorded throughout the field survey area. Protected species surveys identified the presence of Bat Roost Potential (BRP) trees, badger meles, water vole amphibius, otter Lutra lutra, pine marten Martes martes, red squirrel Sciurus vulgaris, common lizard Zootoca vivipara, common frog Rana temporaria, and common toad Bufo bufo.

The EIA acknowledges that significant impacts will occur, but concludes that the proposed mitigation measures proposed satisfactorily address these. The applicants state that:

Without the application of mitigation, significant effects would likely include, felling approximately 12.62 ha of Ancient Woodland, degradation of peatland habitats (wet heath and flushes), removal of trees with BRP, degradation of water vole and otter habitat. Following the application of mitigation, such as native woodland retention measures, on-site and offsite compensatory planting, peatland restoration, habitat reinstatement, a Construction Environmental Management Plan (CEMP), pollution prevention measures, and inspection of BRP trees to be felled, no significant residual effects are predicted. Following completion of the Proposed Development (including reinstatement work), residual adverse effects are anticipated for the long term (approximately 10 to 20 years) until woodland has re-established. Woodland planting for Ancient Woodland is not a like-for-like replacement as Ancient Woodland is an irreplaceable resource. Compensatory planting areas are likely to establish as functional young woodland over at least 50 years. However, it would take far longer to provide a comparable offset for the loss of Ancient Woodland. As a result, a long-term significant adverse residual effect would remain for the loss of Ancient Woodland until such time as the replacement woodland areas are fully established and functional (from 80-100 years). Significant cumulative adverse effects are also predicted on Ancient Woodland between the surrounding cumulative developments and the Proposed Development.

In respect of Ornithology the submission confirms that the Glen Etive and Glen Fyne Special Protection Area (SPA), which is designated for Golden Eagle (*Aquila chrysaetos*), borders the proposed development, for approximately 1 km, between towers 18 and 23 near Achlian Farm. The closest point to the SPA is 40 m, between Towers 20 and 21.

The EIA confirms that the proposed development runs between two golden eagle territories, one with an active nest location to the north and another with an active nest to

the south east. These territories have potential connectivity with the Proposed Development. Surveys recorded low levels of golden eagle flight activity and no significant impacts on the species, or the SPA are predicted. Field surveys recorded black grouse leks at five locations within the Ornithological Field Survey Area and territories were identified of white tailed eagle and hen harrier as well as likely territories of goshawk and honey buzzard. (Members are requested to note that detailed information in respect of these matters has been submitted to the Council on a confidential basis to protect the nest locations of the eagles. This is in accordance with established practice on such sensitive information).

In respect of Ornithology the applicants conclude in their non-technical summary that Impacts on these features would be mitigated by adhering to Species Protection Plans and monitoring to be undertaken by the Ecological Clerk of Works. A section of line marking is required to avoid collision risk on white-tailed eagle. No significant residual impacts or cumulative impacts on ornithological features are predicted.

The Council's Biodiversity Officer raises no objections to the proposals and comments as follows:

I note that no Invasive Non-Native Species have been recorded, I am aware that Rhododendron ponticum is present in the wider area, along the main road and in some areas of the surrounding land, I ask that applicant includes INNS in their pre-start checks and if found create exclusion zones whilst implementing an eradication plan.

She continues;

"I note that the CEMP will be overseen by an ECoW, I ask that Toolbox Talks are included along with the Habitat Management and Restoration Plans. I also note that Pre- Start ecological surveys are to be conducted along with mitigation for species including ornithological interest. I look forward to having sight of the Biodiversity Net Gain assessment report when it becomes available"

NatureScot have also raised no objection to the proposals with their full consultation response available on the ECU website.

It is considered that all ecological and biodiversity and ornithology related considerations have been appropriately addressed within the submitted EIA and can adequately addressed by the imposition of appropriate conditions by the Scottish Ministers on any grant of consent

E. Impact on Woodland

The EIA forestry assessment has considered potential impacts and their associated effects on the forestry resource, forest management and forest access during construction and operation.

The applicants have confirmed that a desk study has been undertaken comprised consultation with Scottish Forestry and landowners and review of existing forest data provided by the landowners on woodland type (species/age class) and the existing woodland management regime. Field surveys were undertaken to confirm the extent of woodland areas affected by the Proposed Development and assess the current woodland characteristics. In total, approximately 7.92 km of the 13.3 km Proposed Development is within woodland and associated open ground, where tree clearance is required to form an Operational Corridor.

The EIA submission confirms that three woodland habitat types were identified during surveys (areas provided in brackets show the identified woodland areas e.g. areas to be felled):

- Broadleaved semi natural woodland (12.62 ha)
- Broadleaved plantation woodland (0.36 ha)
- Coniferous plantation woodland (51.19 ha)

The native broadleaved woodland areas are identified on the Scottish Government's Ancient Woodland Inventory. The routing and alignment process sought to avoid woodland where possible, while taking account of other environmental, technical and cost constraints. The Proposed Development would pass through 7.92 km of woodland, and potentially impact on up to 64.17 ha of woodland.

The applicants submit that;

The loss of predominately low sensitivity coniferous woodland (51.19 ha) equates to approximately 0.03% of the regional resource (Argyll & Bute Council area). The Proposed Development would result in an impact on up to 12.98 ha of more sensitive ancient semi-natural woodland, of which 12.62 ha is categorised as semi-natural woodland. In the context of the regional resource, 12.62 ha would equate 0.04% loss. The effects of woodland removal, in forestry terms, were assessed as not significant, due to the low magnitude of change in the context of the regional resource, and the low to medium sensitivity of the types of woodland present in the study area. The effect on the ancient semi-natural woodland of mixed native broadleaves classification were assessed as significant based on the impact of a noticeable change over a limited area. No mitigation is deemed necessary to address the direct woodland loss in forestry terms.

The felling of this amount of woodland with no compensatory planting would be considered contrary to Supplementary policy LDP ENV 6 which clarifies that:

Argyll and Bute Council will also resist development likely to have an adverse impact on trees by ensuring through the development management process that adequate provision is made for the preservation of and where appropriate the planting of new woodland/trees, including compensatory planting and management agreements.

To address these matters the applicants have confirmed that:

...SSEN Transmission is committed to seeking to reduce the ecological effects that would arise through the loss of ancient semi-natural woodland through the sensitive management of the Operational Corridor. No significant effects on forest access were identified. The development of compensatory planting scheme agreements will be progressed with landowners within the regional land boundary of Argyll & Bute Council. This is to mitigate the woodland removal of the Proposed Development to meet the Scottish Government's CoWRP objective of no net loss of woodland. On this basis the Applicant will replant the area quantity (64.17 ha) of woodland that will be removed for the Proposed Development.

Scottish Forestry, in their consultation response to the ECU dated 31.8.22 have confirmed that subject to the imposition of appropriate conditions to ensure compensatory planting, and the provision of Overhead Line Woodland Reports to minimise impacts on woodlands through best practice in respect of tree removal is provided they raise no objections to the proposals. The Council's Biodiversity Officer has also confirmed that she has no objection to the proposals.

F. Historic Environment and Archaeological Matters

As this is a S37 application the ECU has also consulted Historic Environment Scotland (HES) in respect of the proposals in a similar manner to consulting the Planning Authority. As HES are the statutory advisor in respect of such matters their views on the application are substantive material consideration in respect of evaluating the current proposals.

In their consultation response dated 2.8.22 found on the ECU website ([Application - HES Consultation Response - 02 August 2022 - Creag Dhubh to Dalmally.pdf](#)) they comment that:

Whilst the proposals will have an adverse impact on the settings of SM4019 Auchtermally or Uachdar Mhaluidh, deserted township and SM5149 Dychlie, deserted crofts in particular, we have concluded that the development proposal does not raise issues of national interest sufficient to warrant an objection for our historic environment interests

.... Our view is that the proposals do not raise historic environment issues of national significance and therefore we do not object. Our decision not to object should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance

Officers see no reason to depart from the conclusions of HES as set out in their consultation response.

It is clarified that from VP11 Duncan Ban McIntyre monument, the proposed development would be visible in views to the south/ southeast. The full Title of this Category B listed Building is Duncan Ban McIntyre Monument Beacon Hill and the Listed building reference is LB12167.

Officers agree with the evaluation of the applicants advisors that the scale and proximity of the line to views from this Category B Listed Building bring potential adverse impacts both in views from the monument outwards to the SW in terms of landscape impacts as this is a dominant view westward towards Loch Awe, but also, for the purposes of Cultural Heritage evaluation, as being potentially viewed as being within the setting of the Listed Building. HES have not referenced the potential impact on the Duncan Ban Monument in their response and have clarified that the potential impact on the setting of a category B Listed Building is not within their remit on such applications and is a matter for the Planning Authority

Although officers consider there will be some adverse impact upon the setting of the Duncan Ban monument, this is considered not to be of such significance as to merit recommending an objection be raised to the proposals. The Council's Conservation Advisor has commented that:

On the basis of the information provided the pylons will be visible from the listed McIntyre monument and will have an adverse impact on its setting. However the proposed siting of the pylons are at a sufficient distance from the listed monument and are set within a valley so would not be visible on a skyline. Overall I would not consider the impact to be significant and I would not object to the proposal.

In respect of archaeological matters further more detailed consideration of the actual works required within specific locations will be necessary to ensure any requests for Archaeological access is proportionate and reasonable to the circumstances of the location. This will be informed by the CEMP, where details of the exact location, and construction details of the proposals will be clarified. A standard condition can therefore address these matters ensuring that WOSAS approve necessary investigatory works in advance of any development commencing.

G. Water Environment

No consultees have raised objection to the proposals and SEPA, Scottish Water and the Council's Flooding advisor are all content that subject to appropriate conditions and mitigation measures that the proposals are acceptable. It is not considered that the proposal raises any significant issues in respect of the water environment.

H Potential Noise impacts on Noise Sensitive Receptors (NSR)

It is considered that the use of appropriate noise control and mitigation measures can be used to ensure that no unacceptable impact would occur to sensitive receptors. These should be incorporated into the CEMP in respect of the details of construction proposals and identified mitigation requirements as is normal practice in respect of such development over such a long length with multiple construction sites.

The primary concern in respect of the proposals is related to the construction phase which represents a temporary period and therefore further discussions and agreement on these matters will be undertaken through the CEMP and site specific construction procedures to be approved.

Some tower locations will be sufficiently distant from a NSR to not require specific limitation, where others, and depending on whether rock breaking is required, may require the imposition of more stringent limitations and specific mitigation measures. All noise controls and mitigation measures will be included in the CEMP, including agreed hours of construction. These controls will be determined in consultation with Environmental Protection Officers.

However given the scale of the proposals, the length of the new OHL, and the extensive works to form access tracks, the Energy Consents Unit is requested to seek further input from WOSAS before making any favourable determination of this application to ensure Archaeological matters are properly addressed, and if considered necessary an appropriate condition is imposed.

I. Road Network and Associated Transport Matters.

The Area Roads Engineer has raised no objection to the proposals subject to the imposition of conditions requiring the submission and approval of Traffic Assessment in respect of both woodland removal and also the construction phase of the project to include details of junction designs to ensure road safety.

Transport Scotland have also not raised any objection to the proposals provided a detailed evaluation of the potential impacts of the proposals on the Trunk Road Network as set out below:

OBSERVATION 9: The estimated construction trips do not exceed the applied IEMA thresholds of a 10% increase in general traffic or a 30% increase in HGV traffic on either the A83(T) or A85(T). It is noted that both of these thresholds are forecast to be exceeded on the A819, however, this is regarded as a matter for consideration by the Local Authority.
OBSERVATION 10: Should the volume of construction material required to be transported to site exceed that assessed, where this would alter assessment conclusions, the assessment is required to be updated and outcomes issued for consideration by Transport Scotland

The EIAR notes that "the source of construction materials is unconfirmed at this stage". However, it is assumed that construction traffic (HGVs and staff) will approach the sites from the north and south via the A85(T) and A83(T) respectively, to route onto the A819.

Cumulative Impacts The EIAR includes analysis of the cumulative effects of the following consented and proposed developments which would use the same public roads as the Proposed Development during construction:

- *Blarghour Wind Farm (Consented)* – The EIAR advises that construction of the wind farm is anticipated to begin well ahead of construction for the Proposed Development. Therefore, the peak traffic generating months will not coincide with those for the Proposed Development. Consequently, any cumulative traffic impact will remain below the worst-case scenario assessed within the EIAR. It is highlighted that a CTMP will be implemented for the wind farm to minimise and manage effects within the study area and communication will take place between the construction sites to minimise effects and ensure that larger traffic generating activities...are phased to avoid overlap where practicable.

- *Meteorological Mast, Ladyfield Cottage (Consented)* – The EIAR advises that the traffic impact associated with the construction of the meteorological mast is anticipated to be negligible and the construction programme is not anticipated to overlap with the Proposed Development. Therefore, cumulative traffic impacts are not anticipated.

- *Creag Dhubh to Inveraray 275 kV OHL (Proposed)* – The EIAR advises that no details on the predicted traffic generation for the Creag Dhubh to Inveraray OHL are available as this is only at pre-application stage. However, it is the same Applicant as for the Proposed Development and it is advised that the potential cumulative effects would be managed collectively in accordance with each project's Construction Environmental Management Plan (CEMP) and CTMP to ensure no significant traffic and transport related effects arise.

- *Creag Dhubh 132 / 275 kV Substation (Proposed)* – The EIAR advises that construction of the Creag Dhubh Substation would be undertaken in parallel with the construction of the Proposed Development and that there will be potential in-combination effects as a result of increased traffic movements in the study area. The substation construction phase will take 30 months and peak traffic generation month will occur in months 4 to 6, with 54 two-way daily HGV trips. The cumulative peak month will occur in months 1 to 3 of the Proposed Development construction phase (months 7 to 9 of the substation construction phase) with 111 daily two-way HGVs within the study area. Cumulative staff trips will equate to a maximum of 300 two-way car trips per day within the study area (assuming no car sharing). The cumulative impact of the two simultaneous developments is anticipated to result in an increase in total traffic levels along the A85(T) and A83(T) of more than 10% at the sensitive receptors of Dalmally and Inveraray respectively, and an increase of over 30% in HGV levels on the A83(T). Increases in total traffic and HGV traffic would also exceed the IEMA 10% and 30% thresholds respectively on the A819 and B840. As such, the EIAR presents a full assessment of environmental effects for the cumulative impact on the A83(T) and A85(T), as well as the local road links.

Severance impacts are not considered to be significant, given the layout and topography of Dalmally and Inveraray. The study area is approximately 40km in length. Assuming a two-way 40km trip for each of the construction vehicles during the two construction phases, an increased accident risk of 0.67 Personal Injury Accidents per year has been estimated. This is considered to be both minor and significant. Other effects are considered to be negligible or minor and not significant.

OBSERVATION 11: The estimated cumulative construction trips exceed the IEMA thresholds of a 10% increase in general traffic on both the A83(T) and A85(T) and a 30% increase in HGV traffic on the A83(T). From the perspective of Transport Scotland, the results of the full assessment of effects are considered to be acceptable.

Noting the observations set out in this response, based on the information provided, Transport Scotland would offer no objections to Application ECU00002199, subject to the application of the following conditions to any consent that may be awarded: 1. No development shall commence until a Construction Traffic Management Plan (CTMP) and

Phased Delivery Plan have been prepared and approved in writing by the Local Authority, in consultation with Transport Scotland as the trunk roads authority. - Reason: To minimise interference with the safety and free flow of the traffic on the trunk road, to ensure the safety of pedestrians and cycle users using the trunk road and adjacent facilities, and to be consistent with current guidance and best practice. 2. All vehicles transporting construction material to and from the proposed development shall be sheeted. - Reason: To ensure that material from the site is not deposited on the trunk road to the detriment of road safety. 3. The development shall not become operational until vehicle wheel cleansing facilities have been installed and brought into operation on the site, the design and siting of which shall be subject to the prior approval of the Local Authority, in consultation with Transport Scotland as the trunk roads authority. - Reason: To ensure that material from the site is not deposited on the trunk road to the detriment of road safety. 4. Prior to any decommissioning of the development, a Decommissioning Plan shall be prepared and approved in writing by the Local Authority, in consultation with Transport Scotland as the trunk roads authority. - Reason: To minimise interference with the safety and free flow of the traffic on the trunk road.

As there are a number of other developments which could potentially be granted permission in addition to those listed in the cumulative assessment (i.e. Cruachan 2 - S36) Officers are aware that potential cumulative impact upon the road network is an important issue. Officers therefore consider that in granting any permissions for further major infrastructure development in the Dalmally/Inveraray/Crossaig areas there is a need to understand potential roads impacts and the potential construction stage overlap which could place demand on the roads network. A condition requiring the submission of an updated cumulative impact assessment as part of any Transportation Assessment submission is required and a condition to this effect has been proposed.

Members are requested to note for their general information that Roads and Planning Officers are currently commencing discussions on this matter with SSEN, and also with Transport Scotland and the Energy Consents Unit to ensure that co-ordinated Transportation Assessments are produced, and at an appropriate stage in the application process, which accurately reflect any potential cumulative impacts on the trunk and local road network.

j. Other Key Policy Matters

It is considered material to note that the current proposal is not a planning application but an application under S37 of the 1989 Electricity Act. This is an important matter due to the fact that Schedule 9 of the Electricity Act makes clear that the following determining factors are paramount to the S37 determination and in determining whether objection should be raised by the Planning Authority.

The requirements when formulating Schedule 9 'relevant proposals' are that it:

“(a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geographical or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and

(b) shall do what [it] reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or any such flora, fauna, features, sites, buildings or objects.” (Electricity Act, 1989, Schedule 9 (1(1)).

Under Schedule 9 'relevant proposals', in the case of electricity distribution, mean any proposals:

“... b) for the installation (whether above or below ground) of an electric line; or (c) for the execution of any other works for or in connection with the transmission or supply of electricity.” (Schedule 9, 1(3))

The proposed development in facilitating the provision of a high voltage line to transmit energy created by renewable development is nationally important as recognised in NPPG 3 which clarifies that:

4. An Enhanced High Voltage Energy Transmission Network is needed to facilitate renewable electricity development and its export. The specific projects required for this network are set out in the Electricity Networks Strategy Group, and will continue to evolve as new opportunities emerge.Improvements to the distribution network are also important to many remote rural areas. We support the provision of new infrastructure, whilst acknowledging that full consideration of routes and development components will be required at the consenting stage.As part of this national development, we want to see planning enabling development of onshore links to support offshore renewable energy development. A strategy for the marine grid, connecting with the onshore network, will help to provide greater clarity on the offshore projects required.

In addition the Argyll and Bute Renewable Energy Action Plan clarifies that:

This Renewable Energy Action Plan has been developed to assist Argyll and Bute realise its vision for the development of renewable energy:....Argyll and the Islands will be at the heart of renewable energy development in Scotland by taking full advantage of its unique and significant mix of indigenous renewable resources and maximising the opportunities for sustainable economic growth for the benefits of its communities and Scotland.

More specifically the Action Plan under Ref TC1 specifically supports the current proposals and seeks to:

Ensure the grid is fit for purpose to meet renewable energy opportunities – Inveraray-Crossaig overhead line replacement, Northern Argyll substation, overhead line to Taynuilt and submarine cable replacement programme

Although none of the above would make an unacceptable development acceptable, it is recognised by officers that essential major infrastructure projects such as is proposed cannot be delivered without some impacts, including some significant localised impacts, for particular areas. However, in reaching a determination on such matters it is essential that the wider policy support for such proposals are taken into consideration and “weighed in the balance” in determining whether an objection to the current proposals is appropriate.

National Policy Framework

As this is an application under S37 of the Electricity Act related to NPP3 delivery and Nationally Important objectives in respect of the energy transmission network there are a number of policy documents material to the consideration of the proposal. Officers are content that the Planning Statement submitted with the application gives a fair and comprehensive summary of the overall policy context and therefore it is not proposed to repeat this in detail. However Officers would wish to highlight the following main points set out in the submissions and agreed by officers:

- *The Proposed Development is identified within Annex A of National Planning Framework 3 (NPF3) as a National Development under the class of development noted as “new and / or upgraded onshore electricity transmission cabling of or in excess of 132 kilovolts and supporting pylons”.*
- *The Proposed Development is for an extension to the OHL infrastructure in the region enabling increased capacity from 132kV to 275kV and connection to the*

wider SPEN network to enable renewable connections and transmission of energy to the wider GB network.

- o The Proposed Development will contribute to security of supply and provide increased and more resilient infrastructure capacity to facilitate renewable energy connections in the wider area – all of which forms vital elements to deliver network and grid infrastructure required to deliver the Government's legally binding targets for net zero emissions and renewable energy electricity generation objectives.*
- o The Proposed Development will be delivered in such a way that it is environmentally acceptable and will include a co-ordinated and scheme of landscaping and screening to the site.*

It is considered that this “high level” national policy support for renewable infrastructure and the Council's policy support for such necessary, renewable energy related infrastructure is a significant material consideration in reaching a determination in this instance.

K. Conclusion

Although some significant localised landscape effects will take place as identified in the EIA, these are considered largely unavoidable with an infrastructure project of this scale. The Council is supportive of delivering this renewable energy related infrastructure upgrade within its Renewable Energy Action Plan under TC1 and the proposals represent important National Infrastructure supported in NPP3.

The EIA submitted with the application examines landscape and other impacts associated with the proposals and concludes that some significant landscape impact will occur, these are however localised in nature and the overall development proposals will not have a significant landscape impact and is therefore acceptable.

It is accepted in the submission that some localised significant visual impact will occur, and in particular from VP 11 looking south from the Duncan Ban Monument. Officers agree with the applicants view that the extent and level of impact is not sufficient to raise objection to the overall proposals as the supportive National and Local policy framework, which are supportive of such major grid infrastructure development necessary for renewable energy transmission and the nationally important benefits these will bring to meeting climate change targets and in promoting sustainable development.

Although some significant localised landscape effects will take place as identified in the EIA, these are considered largely unavoidable with an infrastructure project of this scale. The Council is supportive of delivering this renewable energy related infrastructure upgrade within its Renewable Energy Action Plan under TC1 and the proposals represent essential National Infrastructure supported in NPP3 and draft NPP4.

Importantly, NatureScot have not raised objection on landscape, ornithology or ecological grounds and have expressed that they are in general agreement with the EIA evaluation and conclusions. Officers can identify no reasons to depart from the findings and conclusions of NatureScot, and therefore consider that the overall proposals are considered acceptable in respect of landscape, ornithology and ecological impacts. The Councils Biodiversity Officer also raises no objections.

In respect of potential impacts upon cultural and historic assets, and the acknowledged impacts within the EIA documents, HES have raised no objection to the proposals. Again Officers can identify no reason to depart from the views of the expert consultee on such matters. The Councils Conservation Advisor has raised no objections to the impact of the proposed towers on the setting of the Category B Listed Duncan Bann monument.

Transport Scotland raises no objection to the proposals, (including evaluating potential cumulative impacts on the Trunk Roads Network) The Area Roads manager also raises no objections to the proposals.

Substantial tree felling is proposed and Officers agree with the Scottish Forestry that appropriate conditions require to be imposed to secure appropriate compensatory planting for the woodland to be felled to facilitate the current proposals, and that this replanting should be within the Argyll and Bute Area. It is noted that the applicants have committed to ensuring that compensatory planting is provided. Should land not be found to accommodate the planting in agreement with landowners, funds should be made available through to ACT to ensure the delivery of Community Woodland initiatives within the Argyll Area has been the implemented solution in respect of 18/01700/S37.

Officers consider that overall the landscape, ecological, historic environment, Transportation and other potential effects have been appropriately addressed and mitigated in defining the proposed route, where a balanced judgement on competing interests must be reached. Appropriate mitigation can be secured through the imposition of conditions by the Scottish Ministers in line with the proposals set out within the EIA, or within the consultation responses submitted to the ECU by other consultees set out in this Report (and on the ECU website) as is normal practice for S37 applications.

In conclusion, it is therefore recommended that no objection be raised to the current S37 proposal.