

**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: 22/01329/S37 (ECU000004493)

Planning Hierarchy: Major Application (Section 37 Consultation)

Applicant: Scottish Power Energy Networks (SPEN) on behalf of Scottish Power Transmission (SPT)

Proposal: Temporary Transmission Line Diversion, Erection of Two Temporary Towers and One Permanent Tower (Link Tower from proposed SSEN 13.3km Power Line to existing Scottish Power High Voltage Network)

Site Address: Land Approx 2km East Of Dalmally

DECISION ROUTE

(i) Section 37 of the Electricity Act 1989

(A) THE APPLICATION

Section 37 of the Electricity Act 1989

This application seeks to erect a link tower between the existing Scottish Power Energy Network (SPEN) and the proposed 13.3 kilometre (km), 275 kilovolt (kV), double circuit overhead line (OHL), between a proposed substation at Creag Dhubh to the existing Scottish Power Energy Networks (SPEN) 275 kV OHL that runs from Dalmally to Inverarnan,

SSEN's proposed OHL from Creag Dhubh to Dalmally is functionally interdependent on SPT's proposed terminal tower (YW17R). The SPT terminal tower will facilitate connection of the new SSEN OHL to the transmission network and will also form part of SPT's existing YW route between Dalmally and Windyhill.

The legislative framework does not allow the transfer of a Section 37 consent to another electricity operator, hence the requirement for two Section 37 applications. Given the interconnected relationship between the two proposals, the SPEN and SSEN Section 37 applications are accompanied by the same EIA.

The proposed development would primarily comprise;

- 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

(ii) Other associated works

- Formation of new and upgraded vehicular access points
- 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 is a joint EIA with the main 13.3 Km Line. This has been referenced in the Officer Report for 22/01298/S37 and given that this application is only for a single tower it is not intended to provide extensive commentary within this separate report.

(B) RECOMMENDATION:

It is recommended that no objection to the proposals be raised

(C) HISTORY: No.

However pre application consultation and scoping submitted to Energy Consents Unit under S37 process. Full details of these procedures are contained on the ECU website with the Councils Scoping response available to view under REF 21/00286/SCOPE.

For clarity, this is a procedure to advise the ECU on matters which should be included in the EIA submissions in consultation with other external stakeholders and not the expression of any opinion by the Planning Authority on whether the proposals would be acceptable or not.

Linking the proposed 13.3km line to the existing SPEN line has always formed part of the overall infrastructure project. A previous option to build a switching Station at Glen Lochy is no longer promoted as a tower link is now proposed.

(D) CONSULTATIONS:

Members are requested to note that as this is a Section 37 proposal the consultation responses have been 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.

Officers also take this opportunity to clarify that many of the external consultees have responded to both this and the associated S37 application by SSEN as a single response

These responses have been set out in the related report 22/01298/S37 which Officers have already presented to Members and therefore it is not considered expedient or necessary to repeat these comments as the single tower proposal has not raised any issues as a separate proposal.

(E) PUBLICITY: N/A Section 37 Consultation

(F) REPRESENTATIONS: Yes

All known representations in respect of S37 Consent applications have been set out in the report for 22/01298/S37 and Officers would refer Members to this.

(G) SUPPORTING INFORMATION

Has the application been the subject of:

- (i) **Environmental Statement:** Yes. However Members are requested to note that no EIA would be required for the erection of the single link transmission tower and two temporary towers on their own, which is what this S37 relates to. The applicants have sought to ensure details of the overall proposals are included in each application submission. Although an EIA has been submitted for this S37 it is essentially an EIA for 22/01298/S37 previously reported.

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
- (iii) **A design or design/access statement:** Refer to EIA Report and 22/01298/S37
- (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

(H) PLANNING OBLIGATIONS

- (i) **Is a Section 75 agreement required:** No

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- (I) **Has a Direction been issued by Scottish Ministers in terms of Regulation 30, 31 or 32:** No
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(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 10 – Maximising our Resources and Reducing our Consumption

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 12 – Development Impact on National Scenic Areas (NSAs)

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

SG LDP ENV 14 –Landscape

SG LDP ENV 15 –Development Impact on Historic Gardens and Designed Landscapes

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
- 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: EIA submitted (Schedule 1 joint development with 22/01298/S37)

(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

Officers consider that overall the landscape, ecological, historic environment and other potential effects have been appropriately mitigated in defining the proposed development, 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 on such applications.

In conclusion, it is therefore 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 overall joint proposals. No specific landscape issues are identified in respect of this single tower and Officers are in agreement with this evaluation.

Appropriate mitigation for the proposed link tower 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 on such applications.

The proposals are considered to be in accordance with the objectives and policies as set out in the LDP and wider planning policy framework.

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

(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: 14.9.22

Fergus Murray Head of Development and Economic Growth

CONDITIONS AND REASONS RELATIVE TO S37 CONSULTATION REF. NO.22/01329/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. 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 Scottish Natural Heritage. This shall provide for a pre-construction survey 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.

4. 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.

5. 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.

6. No development shall take place within the development site 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.

7. 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 impacts are considered and also that the sharing of borrow pit locations to reduce traffic impacts are properly considered. Any traffic management plan shall include the consideration and if required evaluation of cumulative impact analysis and borrow pit use to source local materials associated with the construction of the project. 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.

8. 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.

9. 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.

10. 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.

APPENDIX A – RELATIVE TO APPLICATION NUMBER: 22/01329/S37

PLANNING LAND USE AND POLICY ASSESSMENT

This proposal for a single new tower is intrinsically linked to the 13.3km proposed line of 22/1298/S37 for which a detailed Officer report has previously been provided, it has been linked to this through the submitted joint EIA and it will not proceed unless S37 Consent is granted for this larger proposal, Members are directed to the overall evaluation of the proposals set out in Appendix A of the accompanying report for 22/01298/S37 for more detailed evaluation.

Officers do not consider that the single permanent link tower proposed as part of this separate application raises any issues not already addressed in the accompanying report for 22/01298/S37 and Officers would refer them to this in respect of evaluating the application against the criteria set out below.

The proposal is therefore considered to be in accordance with the policy objectives as set out in the LDP and wider policy framework.

- A. Settlement Strategy**
- B. Location, Nature and Design of Proposed Development**
- C. Landscape Character and Potential Impact on Settlements**
- D. Natural Environment (Biodiversity and Ornithology)**
- E. Impact on Woodland**
- F. Historic Environment and Archaeological Matters**
- G. Water Environment**
- H. Potential Visual and Noise impacts on Noise Sensitive Receptors (NSR)**
- I. Road Network and Associated Transport Matters.**
- J. Other Key Policy Matters**
- K. Conclusion**

Given the matters set out in report 22/01298/S37, It is therefore recommended that no objection be raised to the current proposals.