

**SCOTTISH HYDRO ELECTRIC TRANSMISSION PLC: CONSTRUCTION OF APPROXIMATELY 13.3 KM OF 275KV 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: LAND SOUTH OF DALMALLY AND EAST OF CLADICH (REF: 22/01298/S37)**

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## **1.0 EXECUTIVE SUMMARY**

**1.1** The Committee, at its meeting on 28 September 2022, considered a report of handling in respect of the above proposal being an 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. The report of handling is attached as Appendix 1. Members agreed, on behalf of the Council, as Planning Authority, to object to this proposal. The matter is subject to a Public Local Inquiry (PLI). National Planning Framework 4 (NPF4) was only available as a consultation draft and not complete at the time this matter was considered by members in September 2022. It is now expected that Scottish Ministers will adopt and publish NPF4 on 13 February 2023 meaning that it will be in force and National Planning Framework 3 and Scottish Planning Policy will be superseded from that date and time. Given that there is a material change in circumstances since members made their decision in September 2022, it considered appropriate to bring this matter back to members for their consideration.

## **1.2 Recommendations**

Members are invited to:

**1.2.1** Note that NPF4 will be in force on 13 February 2023;

**1.2.2** Note that this is a material change in circumstances since members made their decision in September 2022, and it considered appropriate to bring this matter back to members for their consideration;

- 1.2.3** Note that it is considered the application of NPF4 in this matter, once assessed may alter the Council's prospects for success in the Public Local Inquiry; and
- 1.2.4** Request the Council's Development Service to provide a report to the next meeting of the committee in March 2023.

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## **2.0 INTRODUCTION**

**2.1** The Committee, at its meeting on 28 September 2022 considered a report of handling in respect of the above proposal being an 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. The report of handling is attached as Appendix 1.

## **3.0 RECOMMENDATIONS**

**3.1.1** Note that NPF4 will be in force on 13 February 2023;

**3.2.2** Note that this is a material change in circumstances since members made their decision in September 2022, and it considered appropriate to bring this matter back to members for their consideration;

**3.2.3** Note that it is considered the application of NPF4 , once assessed, may alter the Council's prospects for success in the Public Local Inquiry; and

**3.2.4** Request the Council's Development Service to provide a report to the next meeting of the committee.

## 4.0 DETAIL

4.1 The Committee, at its meeting on 28 September 2022 as Planning Authority, to object to this proposal for the following reasons and that the Scottish Government be notified accordingly and noted that this would instigate the requirement for a Public Local Inquiry: The proposal will have adverse landscape and visual impacts (including cumulative) within an Area of Panoramic Quality, and in particular from the Duncan Ban Monument, and is therefore inconsistent with the provisions of:

LDP DM1 – Development within the Development Management Zone;

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

LDP 6 – Supporting the Sustainable Growth of Renewables;

LDP 9 – Development Setting, Layout and Design;

SG LDP ENV 13 – Development Impact on Areas of Panoramic Quality; and

SG LDP ENV 16(a) – Development Impact on Listed Buildings; of the Argyll and Bute Local Development Plan.

4.2 The matter is now subject to a Public Local Inquiry (PLI). National Planning Framework 4 (NPF4) was only available as a consultation draft and not in force at the time this matter was considered by PPSL in September 2022. It is expected that Scottish Ministers will adopt and publish NPF4 on 13 February 2023 meaning that it will be in force and National Planning Framework 3 and Scottish Planning Policy will be superseded from that date and time. The PLI will then consider this matter in light of NPF4. Members were not in a position to consider NPF4 when forming their decision and, due to this material change in circumstances, it considered appropriate to bring this matter back to members for their consideration

4.3 The report of handling at appendix 1 made reference to the various relevant planning policies including the draft NPF4. At the time of the Committee's decision the draft NPF4 Policy had very limited weighting and could not be afforded significant weighting. Subsequently NPF4 has been subject to considerable revision prior to being published and laid before the Scottish Parliament in November, 2022. It has now been approved and will be formally adopted on 13<sup>th</sup> February, 2023 from which point it must be afforded Development Plan status. NPF4 has the effect that all strategic development plans and any supplementary guidance issued in connection with them cease to have effect on the date it comes into effect. From 13 February, NPF4 will be a part of the development plan and while little weight could previously be given to it in its draft form, it should now be considered as a significant material

consideration. Legal advice on the overall position has been obtained from Counsel and it is considered the application of NPF4 in this matter, once assessed, may alter the Council's prospects for success in the Public Local Inquiry.

- 4.4 The principal objection made by members was in relation to adverse landscape and visual effects on the Area of Panoramic Quality (APQ) and in particular from the Duncan Ban Monument. Historic Environment Scotland, as statutory consultee, raised no objection in relation to its national heritage interests. Its consultation response of 2 August 2022 did not refer to the Duncan Ban Monument at all. NatureScot also raised no objection in relation to the APQ. While that is the case, it was open to members to consider this in terms of local considerations while noting that a draft NPF4 was in existence. That draft was not complete and has been subject since then to substantial change. As such it was not possible for members to fully consider matters in the light of the now completed and adopted NPF4 which will be considered by the PLI.

## **5.0 CONCLUSION**

- 5.1 The Committee, at its meeting on 28 September 2022, considered a report of handling in respect of the above proposal. Members agreed, on behalf of the Council, as Planning Authority, to object to this proposal. The matter is subject to a Public Local Inquiry (PLI). NPF4 is a material change in circumstances since members made their decision in September 2022, and it considered appropriate to bring this matter back to members for their consideration.

## **6.0 IMPLICATIONS**

- 6.1 Policy - It is for members to determine this matter in accordance with current planning policy;
- 6.2 Financial - The Council will incur expenses in conducting a PLI and may in the event it is unsuccessful incur an award of expenses against it.
- 6.3 Legal - It is considered the application of NPF4 the application of NPF4, once assessed, may alter the Council's prospects for success in the Public Local Inquiry
- 6.4 HR - None at present
- 6.5 Fairer Scotland Duty:
- 6.5.1 Equalities - protected characteristics – None at present
- 6.5.2 Socio-economic Duty– None at present
- 6.5.3 Islands – None at present
- 6.6 Climate Change– None at present
- 6.7 Risk - In accordance with legal and financial risk above
- 6.8 Customer Service – None at present

**Douglas Hendry**

**Executive Director with responsibility for Legal & Regulatory Support**

**February 2023**

David Logan – Head of Legal and Regulatory Support

**For further information contact:** Susan Mair/Peter Bain

Email: [Peter.Bain@argyll-bute.gov.uk](mailto:Peter.Bain@argyll-bute.gov.uk)

[Susan.Mair@argyll-bute.gov.uk](mailto:Susan.Mair@argyll-bute.gov.uk)

Tel: 01546 604204

## **APPENDICES**

Appendix 1 Report of Handling