

Annex B - EIA Screening Opinion

September 2022



05 September 2022

Our Ref. : 21/01639/SCREEN
Your Ref. :

Contact: Mr D Moore
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Dear Sirs,

The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. Request for EIA Screening Opinion by Argyll and Bute Council

APPLICANT : Scottish and Southern Electricity Networks
ADDRESS : An Suidhe Windfarm, Inveraray
PROPOSAL : Erection of a 275kV gas insulated switchgear substation

I refer to your request for Environmental Impact Assessment screening advice in relation to a proposed 132/275Kv substation construction. You seek the views of the Council on your suggestion that no EIA should be required to be prepared in respect of the proposals.

Scottish and Southern Electricity Networks intends to submit an application for planning permission under the Town and Country Planning (Scotland) Act 1997 (as amended) to construct and operate a 132 / 275 kilovolts (kV) substation.

The anticipated planning application is a National Development as defined under the Hierarchy Regulations 2008 and National Planning Framework 3 (NPF3) where it is identified within national development 4 - High Voltage Electricity Network (where the proposed new substation and electricity transmission cables would exceed the minimum threshold of 132kV)

It is noted that some components of the proposed development will be subject to Section 37 of the Electricity Act 1989 as follows

- :
- o Approximately six new towers will be required to make the connection into and out of the proposed substation;*
 - o Potential for short term temporary overhead line diversions during construction;*
 - o Temporary works areas (where possible, the main site compound will be shared with the substation above); and*
 - o Dismantling of redundant towers, approximately six*

These are subject to a separate screening process undertaken by the Energy Consents Unit and therefore do not form part of this screening opinion response.

The Proposed Development is located approximately 4 km south west of Inveraray and is accessed from the A83 (Grid Ref 204861 705524, see Figure 1). The site is approximately 300 metres west of Douglas Water and upslope of the existing substation. The Proposed Development is in an area of commercial forestry with low conservation value as well as an area of semi-natural broadleaved woodland with higher ecological importance. It is situated upslope of the Douglas Water river valley.

The Proposed Development involves the removal of up to 8 ha of commercial forestry and semi-natural broadleaved woodland. Category B listed Claonairigh House and of two non designated heritage assets are within approximately 1 km and 2 km, respectively. Inveraray Castle Garden and Designed Landscape is over 3 km to the east. The closest residential receptor is approximately 700 m downslope.

The proposed development (maximum total area 8 ha) is stated to comprise the following main elements:

- Site clearance, including construction of access tracks and site compound and tree harvesting;
- Creation of a level platform;
- Erection of a security fence;
- Foundations, including construction of site drainage and Sustainable Urban Drainage Systems;
- Erection of buildings;
- Installation of electrical plant;

The screening submission further clarifies that the components of the proposed development subject to Planning submissions are:

- Air-insulated switchgear (AIS) up to a maximum height of 15 m together with site services and control equipment.
- The site would be surrounded by a 2.4m high security fence of palisade construction with CCTV surveillance.
- Substations are not generally illuminated, other than sensor-activated security lighting for night-time access. Floodlights would be installed but only used in the event of a fault during the hours of darkness;
- Formation of the new access; and
- Temporary site compounds and construction laydown areas.

The screening report dated August 2021 confirms the following at paragraph 1.2;

The following studies and surveys have also been undertaken by the project team and have been used to inform this Screening Request:

- *Ecological desktop study;*
- *Phase 1 extended habitat survey;*
- *Cultural heritage desk and field study*

These studies have been submitted as supporting the case that following evaluation of potential environmental impacts no EIA is required in this instance. SSEN anticipate that construction of the Proposed Development would take place over an approximately 30 month period, following the granting of consents, with an anticipated start date of Summer 2023. Construction activities would in general be undertaken during daytime periods. This would involve work between approximately 07:00 to 19:00 on week days and 07:00 to 18:00 on Saturdays, with an option to extend via prior agreement with Argyll and Bute Council.

Regulation 8(3) allows the developer to include a description of any measures envisaged to avoid or prevent potential significant adverse effects on the environment. As discussed above, the potential for significant effects from this proposal is considered unlikely however SHE Transmission is proposing the following measures to further minimise any potential effects as part our standard working procedures:

- Undertake further environmental survey work to understand the potential for impacts and allow key issues to be taken into account during construction;
- SHE Transmission has developed Species Protection Plans (SPPs) for construction works that may negatively impact upon protected species, including birds. The SPPs outline the procedures that must be followed where there is a potential for protected species to be present. Each SPP outlines the responsibilities of the Applicant and its Contractors, legislative protection for the protected species, best practice measures to follow and an approved methodology for carrying out certain mitigation activities. This suite of SPPs has been approved by SNH and would be adopted where relevant to the project;
- SHE Transmission has developed General Environmental Management Plans (GEMPs) relating to activities and issues likely to be encountered. These plans contain both general and specific guidance and should be incorporated into EMPs where appropriate;
- A Construction Environment Management Plan (CEMP) would be developed by the successful contractor during the pre-construction phase. The principal objective of this document is to provide information on the proposed infrastructure and to aid in avoiding, minimising and controlling adverse environmental impacts associated with the Proposed Development. Furthermore, this document will aim to define good practice as well as specific actions required to implement mitigation identified in the Environmental Appraisal, the planning process and / or other licencing or consenting processes. Mitigation measures relevant to the overhead line will be incorporated into the relevant CEMP for the project. The CEMP would be updated during the pre-construction phase and would form part of the contract documents between the Applicant and the appointed construction contractor;
- Advice from an Ecological Clerk of Works (ECoW), as required, on site specific issues during the construction of the Proposed Development;
- The timing of construction activities would in general be undertaken during daytime periods to limit disruption to the local residents;
- The consideration of appropriate landscape mitigation measures (e.g. opportunities for screen planting and mounding) to mitigate localised visual effects, the design of which would be determined following a full landscape and visual assessment; and
- Site restoration measures specific to the proposal to ensure that disturbed ground is reinstated as quickly as possible on completion of the works.

An additional briefing note clarifying further why SSEN consider the proposals should not be subject to an EIA were submitted on 28.9.21. In this they state that:

SHE Transmission is of the opinion that the Argyll substations should not be screened as EIA Developments for the following reasons:

- Substation development is not listed within any of the categories of development contained in either Schedule 1 or Schedule 2 of the EIA Regulations. In particular, it does not fall within the description of any of the projects listed in paragraph 3 of Schedule 2, which are specific to the energy industry;
- It also does not fall naturally within any of descriptions of the projects listed in the categories of "Other projects" or "Infrastructure projects" in paragraphs 11 and 10, respectively, of Schedule 2; and
- Consequently, based on our interpretation of the relevant provisions of the 2011 Regulations, substation development would not be treated as EIA development.



Circular 1/2017 relating to the 2017 Regulations clarifies that the overarching purpose of the Regulations, and therefore what must be considered when undertaking a screening evaluation is;

28. In each case, the basic question to be asked is: 'Would this particular development be likely to have significant effects on the environment?' That will be a matter of professional judgement for the planning authority, based on the information provided by the developer. On receipt of a screening request, the planning authority should therefore consider whether the proposed development is likely to have significant effects on the environment by virtue of factors such as its nature, size or location, taking into account the selection criteria in Schedule 3

Paragraph 32 Continues:

32. In the majority of cases, it will however be necessary to consider the characteristics of the proposed development in combination with its proposed location in order to identify the potential for interactions between it and its environment and therefore to determine whether there are likely to be significant environmental effects. In determining whether a particular development is likely to have such effects, authorities must take account of the selection criteria in Schedule 3 to the Regulations ([Annex A](#) refers). Three categories of criteria are listed:-

- 1. Characteristics of the development*
- 2. Location of the development*
- 3. Characteristics of the potential impact*

Paragraphs 37 & 38 Provide further advice;

37. The relationship between a proposed development and its location is a crucial consideration. For any given development proposal, the more environmentally sensitive the location, the more likely it is that the effects will be significant and will require EIA. Certain designated sites are defined in Regulation 2(1) as 'sensitive areas' and the thresholds/criteria in the second column of Schedule 2 do not apply there. All developments of a type listed in Schedule 2 to be located in such areas must be screened for the need for EIA. The 'sensitive areas' are:

- Sites of Special Scientific Interest*
- Land subject to Nature Conservation Orders*
- European Sites ^[4]*
- National Scenic Areas*
- World Heritage Sites*
- Scheduled Monuments*
- National Parks*
- Marine Protected Areas*

38. For the purposes of reaching a screening determination, special considerations will apply to all of these sensitive areas, and regard should also be given to any connectivity where a proposal is located close to, but not in, a sensitive area. In certain cases other statutory and non-statutory designations which are not included in the definition of 'sensitive areas,' but which are nonetheless environmentally sensitive, may also be relevant in determining whether EIA is required, such as local landscape or biodiversity designations.

Is the Development considered to Fall within Schedule 1

The Council considers that the proposals do not fall within Schedule 1.

Is the development considered to fall within Schedule 2

Having examined the detail of Schedule 2 of the regulations, the Planning Authority has carefully considered such matters given the requirement not to have an overly limiting interpretation of



developments which could, as a matter of planning judgement, fall within Schedule 2 even if they are not specifically listed within the schedule.

That a development proposal is not specifically listed or identified in Schedule 2 is not, in itself, a clear determinant that it cannot be considered to fall within schedule 2 and there is case law advice that in interpreting such matters a Planning Authority is able to use its judgement.

The Planning Authority has considered carefully whether the proposed substation can, as a matter of planning judgement, be considered to fall within Schedule 2 of the Regulations and commentary on this is provided below in respect of the classes of development considered.

Schedule 2 Part 3 Energy Industry

In respect of Energy Developments, it is noted that in terms of electricity undertakings overhead lines have been included (transmission of electrical energy by overhead cables) but substations are not referenced. In respect of the other referenced development types it is considered that nothing of the same character and operational characteristics as that proposed is referenced, and therefore on balance and as a matter of planning judgement it is considered that it would not be appropriate to include substations within the type of developments set out in this class.

Schedule 2 Part 10 Infrastructure Projects

Having considered the type, nature, extent and permanence of any ongoing impacts caused by the development and the characteristics of its operation, it is not considered appropriate to determine the proposal falls within Schedule Part 10. In reaching this opinion officers note that the types of development outlined at Part 10 all have considerable activity levels associated with their continued operation as a characteristic of the development which in itself has potential to have adverse and ongoing environmental impacts.

The substation proposal is considered to be of a different character, in that post construction very little ongoing operational activity is required. Such ongoing operational activity and overall impact will be of a significantly lesser scale to the types of development set out in Part 10. It is therefore not considered reasonable to seek to define the current proposals as falling within any of the classes of development at Part 10 of Schedule 2.

Schedule 2 Part 11 Other Projects

The proposal is also not considered to fall within Part 11 "other projects" as again the operational characteristics of the substation are not similar to the types of development listed.

Such matters have been given due consideration in reaching the determination that having regard to these general criteria, the development does not fall to be considered, given the circumstances of this proposal, to fall within Schedule 2.

However it is also necessary to consider the nature and extent of the relationship of the substation proposal to the other proposed developments in the area associated with the wider infrastructure upgrade proposals the applicant has.

Project Splitting

In case law with regard to the EIA Directive, the Court has systematically stressed that the purpose of the directive cannot be circumvented by the splitting of projects. Where several projects, taken together, may have significant effects on the environment, their environmental impact should be assessed as a whole.

Circular 1/2017 in respect of considering cumulative effects states:



44. Each application (or request for a screening opinion) should be considered for EIA on its own merits. The development should be judged on the basis of what is proposed by the applicant.

45. In determining whether significant effects are likely, planning authorities should have regard to the cumulative effects of the project under consideration, together with any effects from existing or approved development. Generally, it would not be feasible to consider the cumulative effects with other applications which have not yet been determined, since there can be no certainty that they will receive planning permission. However, there could be circumstances where 2 or more applications for development should be considered together. Such circumstances are likely to be where the applications in question are not directly in competition with one another so that both or all of them might be approved, and where the overall combined environmental impact of the proposals might be greater or have different effects than the sum of the separate parts.

The stated purpose of the development is to connect the existing 132 kV overhead line from Taynult to Inveraray to a proposed new 275 kV overhead line to Dalmally, which will be the subject of a separate application under Section 37 of the Electricity Act 1989. This development being part of a number of infrastructure proposals to maintain “an efficient, coordinated and economical electrical transmission system”.

Officers are content, having taken legal advice on these matters, that although there is clearly some operational linkage between the proposed substation and the larger and wider S37 transmission proposals in the area, the relationship between the substation and the S37 transmission line (which will require EIA) is capable of being separated as a matter of Planning Judgement.

Officers are also reassured by the confirmation that the EIA to be undertaken in respect of the S37 Transmission Line application(s) to the Scottish Ministers from Dalmally to Creag Dhubh and Creag Dhubh to Inveraray will examine the cumulative impacts of both the line and the associated substation (s).

Overall Conclusions

As the proposal has been determined not to fall within Schedule 1 or Schedule 2 of the 2017 EIA Regulations, **The Planning Authority therefore determines that no EIA is required in this instance.**

Although it is considered that in this instance an EIA will not be required, the scale and nature of the development, and the quality and sensitivity of its landscape setting is such that an Environmental Appraisal should be submitted with any planning application which should address the following matters:

- Landscape and Visual Amenity (an LVIA will be required with appropriate visualisations from agreed VP's, particularly from the Cruachan Dam and Hills/Ridge behind and to the east);
- Bare land ZTV (noted that one has been provided with screening documents)
- Land Use designations material to the proposal;
- Ecology and Nature Conservation surveys;
- Ornithology surveys;
- Cultural Heritage;
- Forestry;(updated felling schedules)
- Proposed landscaping and screening to substation compound
- Design of SuDS proposals to promote biodiversity
- Traffic and Transport; (A Transportation Plan will be required for routing of traffic associated with transporting any large plant and construction materials)
- Hydrology, Hydrogeology and Soils: (A detailed Peat survey should be submitted with any necessary mitigation/management proposals associated with the development in its entirety).
- Amenity and Health (Noise and Vibration and Electromagnetic Fields);

- Recreation and Tourism; (footpaths and access for recreation users of the woodland)
- A design and access statement
- Construction methodology and waste plan to include noise assessment in respect of construction methodology should any protected species or sensitive receptors be identified within the locality of the proposal that could be adversely impacted by construction noise.

It is noted that commentary on some of these matters has already been provided as part of the screening submission (or commitment to provide such information at an appropriate stage).

Please do not hesitate to contact me should you wish further clarification in respect of any of the above matters.

Yours faithfully

David Moore

Senior Planning Officer
Major Applications Team
Helensburgh and Lomond