



**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON
6 SEPTEMBER 2016**

**SUBJECT: ELECTRICITY ACT SECTION 37 CONSULTATION FOR A
PROPOSED 132KV OVERHEAD TRANSMISSION LINE FROM
DORENELL WINDFARM TO BLACKHILLOCK SUBSTATION,
KEITH FOR SCOTTISH HYDRO ELECTRIC TRANSMISSION PLC**

**BY: CORPORATE DIRECTOR (ECONOMIC DEVELOPMENT,
PLANNING AND INFRASTRUCTURE)**

1. REASON FOR REPORT

- 1.1 This report asks the Committee to consider a proposed response to a request for consultation from the Scottish Government – Local Energy and Consents Unit for an overhead 132kV electricity transmission line under Section 37 of the Electricity Act 1989 (which includes a deemed planning permission) between the consented (but not yet constructed) wind farm at Dorenell, Cabrach and the national grid electricity substation at Blackhillock, Keith.
- 1.2 This report is submitted to Committee in terms of Section III (D) (1) of the Council's Scheme of Administration relating to exercising the functions of the Council as Planning Authority.

2. RECOMMENDATION

- 2.1 **It is recommended that the Committee:-**
 - i) **consider and note the contents of this report including the conclusions made about the planning merits of the development, as detailed in Section 3 of the report;**
 - ii) **agree that, where taking into account the Moray Local Development Plan (MLDP) 2015 and all relevant material considerations including the presence of an existing Section 36 consent for Dorenell windfarm, The Moray Council raises no objection to the Section 37 application, subject to the conditions set out in Appendix 1 of the report; and**
 - iii) **instruct the Head of Development Services to advise the Local Energy and Consents Unit of the decision of this Committee by 6 September 2016.**

3. BACKGROUND

- 3.1 The Scottish Government consented in December 2011 a 177mW windfarm, consisting of 59 x 126m turbines at Glen Fiddich Estate, south east of Dufftown. This large windfarm, known as Dorenell windfarm, requires suitable infrastructure to transmit its output approximately 23km northward to the national grid hub at Blackhillock, Keith. Given the output of the windfarm, this means that a substantial 132kV transmission line is required, which automatically takes it into the need for an 1989 Electricity Act, Section 37 consent to be determined by Scottish Ministers. Following an Environmental Impact Assessment (EIA) screening consultation request with The Moray Council and others, Scottish Ministers confirmed in July 2016 that the Section 37 application would not constitute an EIA development.
- 3.2 The proposal before Committee relates to the provision by Scottish Hydro Electric Transmission plc of an overhead 132kV powerline with 6 wires supported by a new design of support system in the form of grey polyurethane composite pole structure. Two poles, braced together by steel cross bars, would form each structure. Depending upon topography, the structures would be placed 180m apart along the 23km route. The proposed route is set out in **Appendix 2**. In the past 132kV lines have been supported by the more familiar 27m high steel lattice pylons but this project seeks to use a less invasive line suspension system.
- 3.3 In support of the application, the applicants have submitted a voluntary Environmental Appraisal. This appraisal covered the topics of Landscape and Visual, Terrestrial Ecology, Water Environment and Soils, Ornithology, Cultural Heritage and Land Use and Recreation. It concludes that there would be no major or significant effects from the proposal as the route has sought to avoid any direct impact on environmental or heritage designations. Where appropriate, mitigation has been suggested to minimise or prevent unacceptable negative impacts.
- 3.4 A key issue contained within the Environmental Appraisal was the type of transmission system. The options considered beyond the composite poles now proposed were to use more conventional steel pylons (normally 27m in height), two lines of 15m high timber poles or to underground the cable route. Undergrounding the cable was scoped out at an early stage due to cost, topographic and technical limitations. Had this option been taken forward it would also have led to the most invasive impact in terms of excavation, disturbance to the ground and future limitations on land use. The use of wooden poles would have resulted in two parallel lines, with poles approximately every 80 metres and poles approximately 15m in height each carrying 3 lines. These poles would have been far more frequent in the landscape being spaced at only 80m apart and would have required more maintenance, resulting in a far higher number of poles and foundations being required than the more distantly spaced composite pole option.

- 3.5 The more familiar steel lattice pylons while adopting a similar spacing to the composite poles, are more visually intrusive (as larger and taller structures), require larger foundations and are more time consuming to erect than the new composite pole system.
- 3.6 The Environmental Appraisal also demonstrates how the proposed route was appraised and how the various route options were subject of public consultation and exhibitions. Feedback from this consultation directly influenced the route finally submitted. Looking at the various alignment options and present constraints, the route chosen does seek to mitigate and minimise the overall effects.
- 3.7 Issues such as the impact on landscape (inclusive of the Areas of Great Landscape Value (AGLV), impact on the cultural heritage (such as Auchindoun Castle) and loss of forestry - raised some concern. The choice of final route and transmission method have however sought to minimise the impact on the various headings covered in the Environmental Appraisal as set out in paragraph 3.3 above. The proposed composite poles, delivered to the primary compound in 4m lengths then assembled, will be installed into their foundation pads by helicopter. The disruption to the local road network and ground disruption will be less than any of the other transmission options. The foundations and spacing distance between structures will also minimise the amount of resources used compared to the size or frequency of wooden pole or steel pylon foundations. It is noted that the route would result in the loss of forestry plantation at the southern end of the development site, close to Carn Chrom. As the applicant has been in discussion with the Forestry Commission who own this forest, it is presumed that consultation directly between the Forestry Commission and the Local Energy and Consents Unit will occur as part of the Section 37 process and establish what compensatory planting arrangements are required if necessary to comply with Moray Local Development Plan (MLDP) 2015 Policy ER2.
- 3.8 Taking into consideration the above matters and the relevant policies of the MLDP 2015, such as *IMP1 Developer Requirements*, *E7 (AGLV) ER2 Local Nature Conservation and Biodiversity and impacts upon the wider landscape* and *ED7 Rural Business Proposals*, it is considered that the proposal would comply with the MLDP 2015, subject to the conditions recommended.

4. **SUMMARY OF IMPLICATIONS**

(a) Moray 2026: A Plan for the Future and Moray Corporate Plan 2015 - 2017

Facilitate sustainable economic growth.

(b) Policy and Legal

The applications are made for consent under Section 37 of the Electricity Act 1989 to Scottish Government. If consented, planning permission is deemed to be granted for the development. For planning purposes proposals require to be determined in accordance with the development plan unless material considerations indicate otherwise. If granted by Scottish Government, the responsibility for the discharge of (planning) conditions attached to the formal decision to grant consent will pass to The Moray Council.

(c) Financial Implications

If The Moray Council determines to object to the proposal, a Public Inquiry would be arranged by Scottish Government. The Moray Council would be expected to attend and participate in the Inquiry process, including any pre-inquiry arrangements with resultant costs, including Officer, Legal Representation and Consultant costs where required/appropriate.

(d) Risk Implications

If the Council decide not to respond within the agreed period (6 September 2016) it would be open to Scottish Government to proceed and determine the application.

If deciding to object, the outcome of any Public Inquiry held to consider this proposed development is uncertain: it might uphold and support the Council's decision to object, but equally the objection could be dismissed and consent granted for the development.

(e) Staffing Implications

In the event of a Public Inquiry, staff time and resources (Planning and Legal Officers) will be required for preparation and attendance at any Inquiry.

(f) Property

None.

(g) Equalities

None.

(h) Consultations

The Corporate Director (Economic Development Planning & Infrastructure), the Development Management Manager, the Legal Services Manager (Property & Contracts), the Equal Opportunities

Officer, Principal Planning Officer (Planning and Development), Contaminated Land Officer (Environmental Health), Transportation Manager and Darren Westmacott (Committee Services Officer) have been consulted, and comments received have been incorporated into the report.

5. **CONCLUSION**

5.1 The planning merits have been considered relative to MLDP 2015 policy and relevant material considerations, including planning history. Notwithstanding the Local Plan policies, significant weight as a material consideration has to be attached to the presence of the consented, but as yet unconstructed, Dorenell wind farm the transmission line would serve. The focus of assessment is whether the type of transmission and the proposed route are acceptable, rather than whether it should exist at all. Consideration has been given to the route submitted and the use of 24m high composite poles and Officers are satisfied that the submitted option complied with MLDP 2015 policies and would provide the least disruptive option for transmission between the windfarm and the national grid.

5.2 As such, in responding to the request for consultation, it would be appropriate for The Moray Council to advise the Scottish Government that it wishes to raise NO OBJECTION to the proposed 132kV overhead transmission line, subject to the conditions identified being applied to the Section 37 application.

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Background Papers: N/A

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