

REPORT TO: Planning Committee

MEETING DATE: Wednesday 26 June 2019

BY: Depute Chief Executive
(Partnerships and Community Services)

SUBJECT: Application for Planning Permission for Consideration

Application No. **19/00184/PM**

Proposal Extension to the existing 400kV Substation and associated works

Location **Crystal Rig Substation
Dunbar
East Lothian**

Applicant SP Transmission Plc

RECOMMENDATION Consent Granted

PLANNING ASSESSMENT

As the area of the application site is greater than 2 hectares, the development proposed in this application is, under the provisions of The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, defined as a major development and thus it cannot be decided through the Council's Scheme of Delegation. The application is therefore brought before the Planning Committee for a decision.

As a statutory requirement of major development type proposals this development proposal was the subject of a Proposal of Application Notice (Ref: 17/00003/PAN) and thus of community consultation prior to this application for planning permission being made to the Council.

As an outcome of that and as a statutory requirement for dealing with major development type applications a pre-application consultation report is submitted with this application. The report informs that a total of 4 people attended the two day pre-application public exhibition held at Spott village hall. The public were also invited to make representation to SPEN until 16th June 2017. Comments and questions related to:

- o Confirmation as to reason for proposed new planning applications;
- o Confirmation of timescale for any comments regarding the proposals to SPEN;
- o Confirmation that information on the SPEN project website included the Environmental Appraisal;
- o Review of the amount of material to be removed from site;
- o Confirmation that two access routes are to be used- one for construction

- o purposes only and the other for operational purposes only;
- o Comment made that the Traffic Management Plan must be adhered to during the construction period;
- o Comment made regarding the requirement for the repair of roads following the works; and
- o Comment made regarding the proposals for the reinstatement of surrounding ground following the development works.

The development for which planning permission is now sought is of the same character as that which was the subject of the community engagement undertaken through the statutory pre-application consultation of the proposal.

This application relates to land to the north, south and west of the existing electricity substation that serves the Crystal Rig wind farm, and which substation was granted planning permission (07/00660/FUL) in September 2007. The electrical substation is located on the lower north-eastern slopes of Friardykes Dod, adjacent to an existing line of pylons that passes through the Crystal Rig site. The substation has a rectangular footprint and contains an access road, two buildings and electricity transformation equipment.

The application site is within the Lammermuir Hills but is not contained within any Special Landscape Area as defined within the adopted East Lothian Local Development Plan 2018.

The application site straddles the East Lothian/Scottish Borders Councils border. The southern part of the proposed extension to the existing electricity substation is located within the authority area of Scottish Borders Council.

A section of a right of way, which runs on a north to south alignment, is located some 15 metres to the west of the application site.

In June 2012 planning permission (Ref: 12/00347/P) was granted for a southern extension to the existing electricity substation. The extension to the electricity substation was promoted to enable the proposed Aikengall II wind farm to connect into the national electricity grid. Development of the proposed extension has not yet commenced.

In June 2013 planning permission (Ref: 12/00922/PM) was granted for the formation of onshore electrical transmission infrastructure between Thorntonloch beach and the existing electrical sub-station located within the Crystal Rig wind farm, over a distance of some 12.3km. The approved development includes a new electricity substation that would be located some 10 metres to the north of the existing sub-station located within the Crystal Rig wind farm. Applications 15/00634/PM and 19/00285/PM were subsequently approved in November 2015 and June 2019 respectively for variation of conditions to this proposal. This consent has been implemented and relates to the onshore electrical transmission infrastructure required to link the Neart na Gaoithe offshore wind farm to Chrystal Rig Sub Station and the national grid.

In October 2014 Mainstream Renewable Power Limited received consent under Section 36 of the Electricity Act 1989 for the erection of an off-shore wind farm, to be known as the Neart Na Gaoithe wind farm. It would be located some 28km northeast of Dunbar and some 32km northeast of North Berwick. Development of the off-shore wind farm has not yet commenced.

In June 2015, planning permission (Ref: 15/00390/P) was approved for the renewal of planning permission 12/00347/P to allow the extension to the electricity substation

compound including associated boundary.

Planning permission (Ref: 13/00756/PM) was granted in December 2013 for an extension to the existing 400kV Substation and associated works. This permission has not been implemented and has subsequently lapsed.

Through separate planning application, which was submitted to Scottish Borders Council, planning permission (Ref: 13/01084/FUL) was approved in November 2013 for the part of the proposed substation extension located within the authority area of Scottish Borders Council.

Planning permission is now sought through this application for an extension to the existing electricity substation approved through the grant of planning permission 07/00660/FUL and for associated works including the formation of an earth bund similar to the development proposed under planning permission 13/00756/PM.

The proposed extension to the existing electricity substation is promoted in order to connect the proposed Neart Na Goithe off-shore wind farm and its substation to the National Grid.

The application site has an area of some 9.0 hectares and consists of open rough grassland. Of this, some 1.3 hectares of the site would comprise the extended substation compound. The site slopes down from southwest to northeast.

The proposed extension to the substation would be on land to the west of the existing substation. Since the approval of planning permission, new electrical engineering safety clearance standards have been introduced. These require that the electrical compound area forming part of the Substation Extension be increased in size. This results in an increase overall of 5m in width x 7m in length from the previously approved development. In addition, the proposed development construction method has identified the requirement for enlarged temporary compound areas primarily for the storage of material and management of ground and surface water in accordance with best practice guidelines and SEPA advice.

The extended sub station would be enclosed by a 2.74 metres high fence. The finished level of the substation would be some 4 metres higher than the level of the existing substation. It would contain general switchgear equipment, the maximum height of which would be 12.5 metres. A 3.0 metres wide road would be formed around the inside of the perimeter of the compound.

Substantial cut and fill works would be required to achieve the finished ground level for the proposed sub-station extension. Some of the excavated material would be used to form a 10 metre wide earth bund, with a maximum height of 20 metres, to the north, south and west of the proposed substation extension. The earth bund would be graded into the existing ground surrounding the site.

Through separate planning application, which was submitted to Scottish Borders Council in February 2019, planning permission (Ref: 19/00263/FUL) was sought for the part of the proposed substation extension located within the authority area of Scottish Borders Council. Planning permission 19/00263/FUL was granted in April 2019.

The Council's Policy and Projects Officer advises that the proposal has been subject to a Screening Direction from the Scottish Government. This Screening Direction is valid provided the proposal remains within the parameters described in the Screening Report.

Under the provisions of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the proposed development falls within the category of a Schedule 2 Development, being one that may require the submission of an Environmental Impact Assessment (EIA). Schedule 3 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 sets out the selection criteria for screening whether a Schedule 2 development requires an EIA. On 18th February 2019 the Scottish Government issued a formal screening opinion to the applicant's legal adviser. The screening opinion concludes that it is the Scottish Government's view that the proposed development is not likely to have a significant effect on the environment such that consideration of environmental information is required before any grant of planning permission. It is therefore the opinion of the Scottish Government that there is no requirement for the proposed development to be the subject of an EIA.

Notwithstanding this, an Environmental Appraisal Report has been submitted with the planning application. It contains chapters on landscape and visual assessment, ecology assessment, archaeology and cultural heritage assessment and hydrology assessment.

A Design and Access Statement has been submitted with the planning application. The Statement provides information on the principles and approach that have guided the design process.

Information has also been submitted with the application stating that the development described within the planning permission falls within the scope of national development number 4, as defined within National Planning Framework 3 (NPF3). National development status is recognition of the national significance of the approved development as part of the wider Neart na Gaoithe Offshore Wind Farm. Such developments are needed to help deliver the spatial strategy in NPF3 and as such, the need for the proposed development is established.

Section 25 of the Town and Country Planning (Scotland) Act 1997 requires that the application be determined in accordance with the development plan, unless material considerations indicate otherwise.

The development plan is the approved South East Scotland Strategic Development Plan (SESplan) and the adopted East Lothian Local Development Plan 2018.

There are no relevant policies of the approved South East Scotland Strategic Development Plan (SESplan). Policies DC1 (Rural Diversification), NH1 (Protection of Internationally Designated Sites), T2 (General Transport Impact), DP1 (Landscape Character) and DP2 (Design) of the adopted East Lothian Local Development Plan 2018 are relevant to the determination of the planning application.

Material to the determination of the application is the Scottish Government's policy on renewable energy given in Scottish Planning Policy: June 2014.

Scottish Planning Policy on a low carbon place highlights the commitment to support the development of a diverse range of electricity generation from renewable energy technologies - including the expansion of renewable energy generation capacity.

No letters of representation have been received in respect of this planning application.

East Lammermuir Community Council were consulted on this application but have not provided any comments on it.

The proposed extension to the existing substation is an essential component to enable the proposed Neart na Gaoithe wind farm to connect into the national electricity grid. Given that Scottish Ministers have now formally granted approval for the Neart na Gaoithe wind farm, there is an operational justification for the onshore electrical transmission infrastructure having to be formed in this particular countryside location, consistent with the provisions of Policy DC1 of the adopted East Lothian Local Development Plan 2018. Moreover, East Lothian Council, by previously granting planning permission 13/00756/PM, has already accepted the principle of an extension to the existing substation.

The site proposed for the substation extension is set on the lower part of the hilly slopes on which the Crystal Rig Phase II wind farm is located. The proposed substation extension would be seen in relation to the existing electrical substation and turbines, pylons and overhead power lines that form part of the Crystal Rig Phase II wind farm. When seen in this context, the proposed substation extension would not appear as an incongruous or alien feature. Whilst the finished level of the substation compound would be some 4 metres higher than the level of the existing substation, it, together with the general switchgear equipment to be installed in it, would be lower than the existing sloping ground to the west of the application site. This, together with the earth bund that would be formed to the north, south and west of the proposed substation extension, would further help to integrate it into its landscape setting. The proposed substation extension would not harm the landscape character and visual amenity of this part of the Lammermuir Hills.

The Council's Landscape Policy Officer has also commented on the application. They have stated that in terms of long distance views the proposed substation has topographical containment from Watch Law to the north, Bransly Hill to the east and Lamb Hill to the west and Spartleton Edge to the south. They have further stated that given the currently proposed extended sub station represents an increase of 5m in width and 7m in length over what was previously approved, the scale of what is being proposed is insubstantial. They have however commented that the scale of the construction compound is substantial and have concerns that the proposal would lead to adverse landscape and visual impacts. In this regard however, it has been acknowledged by the Landscape Policy Officer that the site is topographically contained in long distance views, and within close views, and would be seen in the context of the existing substation, pylons, access roads, and wind turbines. As such, it would not be reasonable to refuse, or to limit the size of the proposed construction compound.

Nevertheless, the Landscape Policy Officer has recommended a condition be added to any consent if issued requiring details of a scheme of landscaping to be submitted prior to works commencing on site. The landscaping would help to absorb the development into its surroundings. A further condition was also recommended requiring the applicant to undertake surveys in order to reinstate the soils and flora after construction and to tie the ground works from the proposed substation seamlessly in with those approved for the proposed substation to the north east approved under 19/00285/PM. This would however be an unreasonable requirement, as the applicant has advised there is an easement of access between the sites and the applicant cannot control levels of land outside the boundary of the site.

On the consideration of landscape and visual impact, the proposed development is consistent with Policies DP1 and DP2 of the adopted East Lothian Local Development Plan 2018.

The Council's Biodiversity Officer has responded to confirm that they have no objections to make on the proposal.

Although the application site is some distance from the Tweed Special Area of Conservation(SAC) it is possible that suspended solids generation during the construction period could be washed into the nearby Tay and Mossy Burns and transported downstream; thereby affecting the protected features of the SAC including atlantic salmon and otter. The two burns converge approximately 1.5km south of the substation and continue as Tay Burn for approximately 0.6km to its confluence with West Burn. West Burn flows for approximately 1.2km before becoming the Bothwell Water, which is part of the River Tweed SAC.

Policy NH1 of the adopted East Lothian Local Development Plan 2018 states development proposals unconnected to the conservation management of a Natura 2000 or Ramsar site, that are assessed by the competent authority as likely to have a significant effect on the integrity of a Natura 2000 site or Ramsar site (including proposals outwith the boundary of the designated site) will be subject to Appropriate Assessment. Applicants for such development must provide any information requested by the competent authority to enable it to carry out the Appropriate Assessment.

Where the Appropriate Assessment cannot rule out adverse effects upon the integrity of a Natura 2000 or Ramsar site, the proposal will only be permitted where:

- a) there are imperative reasons of over-riding public interest and there are no alternative solutions; and
- b) compensatory measures are provided to ensure that the overall coherence of the Natura 2000 network is protected.

Candidate Natura 2000 sites will be treated as if they were already designated.

In this case, potential impacts on the qualifying interests of the Tweed SAC and its species include a decrease in water quality due to suspended solids in construction site runoff, which may occur during the construction phase.

Where a planning proposal may affect an SPA, a Habitats Regulations Appraisal (HRA) must be carried out, to determine whether the proposal will have any 'likely significant effect' on the designated site. Where a 'likely significant effect' is identified, the competent authority (in this case East Lothian Council) must complete an Appropriate Assessment to assess any adverse effect on the integrity of the Tweed SAC.

In this case, the proposal has a 'likely significant effect' on the Tweed SAC and East Lothian Council as competent authority has carried out Appropriate Assessment. The Assessment notes that the proposal is not related to the conservation management of the SAC. It further notes that a decrease in water quality due to suspended solids in construction site runoff may occur during the construction phase was identified as a potential impact.

The Appropriate Assessment concludes that provided that specified mitigation set out in the CEMP submitted by the applicant are implemented, the proposal will not have an adverse impact on the integrity of the SAC or its qualifying features. Additionally, no in-combination effects are anticipated from other developments. Considering these factors, it is concluded that the proposal will not affect the integrity or the conservation objectives of the site. No further assessment is therefore required.

Therefore, subject to conditions ensuring that the mitigation measures are secured, the proposal complies with Policy NH1 of the adopted East Lothian Local Development Plan

2018.

Scottish Natural Heritage have been consulted on the application. They make no comment on the application.

The onshore substation extension is promoted to specifically serve the proposed Neart Na Gaoithe wind farm. It would be prudent to require that the extension and other associated works be decommissioned if the wind farm were to be approved, constructed, and thereafter decommissioned. This can be secured through a condition attached to a grant of planning permission for the proposed development. In this regard, and to ensure that the land is restored back to its present form, the condition should also require the applicant to submit to the Planning Authority an accurate topographical survey of the existing application site.

Scottish Borders Council were consulted on this planning application, as a small proportion of the application site is within their authority area. They do not object to the proposed substation extension, stating that have recently granted consent for development works associated with the extended substation which are were within Scottish Borders administrative area. They have however recommended that the development is suitably decommissioned once the operational life of the substation ceases. They would advocate that the operator works concurrently with ELC and SBC to ensure that decommissioning is handled appropriately for this cross authority development.

On this matter, Scottish Borders Council did not require the applicant to provide a financial bond in respect of site restoration. Nor was one required in respect of previous planning permission 15/00390/FUL. In the circumstances, it would be unreasonable to require the provision of a financial bond in this case.

The proposed substation extension would be located at a considerable distance away from residential properties in the area. It would not give rise to a harmful loss of privacy or amenity to any residential property. The Council's Senior Environmental and Consumer Services Manager raises no objection to the proposed development.

The Council's Road Services raise no objection to the proposed substation extension, being satisfied that it would have no significant adverse risk for road safety. They have however recommended that a Construction Method Statement be submitted to and approved by the Planning Authority in order to minimise the impact of construction activity in the interests of the amenity of the area, as well as a dilapidation/ condition survey of access roads. These requirements, which could be secure by a conditional grant of planning permission, would be consistent with previous planning permission 13/00756/PM.

Subject to the imposition of the recommended conditions the proposed development is consistent with Policy T2 of the adopted East Lothian Local Development Plan 2018.

Scottish Water were consulted on this application and have commented to confirm that they do not wish to object to the proposal. They have however stated that the applicant should be made aware that the site is not currently serviced by water or waste water infrastructure.

The Scottish Environment Protection Agency (SEPA) has commented on the application to state that they are satisfied that the development has minimised impact on potential areas of Groundwater Dependent Terrestrial Ecosystems (GWDTE) and that hydrological pathways will be maintained or will be disrupted for only a short time. They

are satisfied with the outline plan for the drainage. As such, no objection is raised with regards to ecology as well as surface water run-off and foul drainage.

However, SEPA had objected to the proposal on the grounds of development on the peat soils given that the results of peat probing have not been presented. They state that while a full peat survey is not required throughout the full site, they do think a peat survey is required where the NVC survey indicates peat habitat and where infrastructure is proposed. This would enable SEPA to assess whether deep peat areas have been avoided. They further state, that using soil for the proposed on-site bund is acceptable as it is deemed as part of a landscaping feature for the soil reuse associated for the planning. However, if it is actual peat this would not be acceptable and the development area should exclude development on actual peat i.e. over 0.5m. However, following further discussions between the applicant, SEPA and the Council, the above objection has now been withdrawn on the understanding that a condition would be attached to any planning permission granted requiring details of a peat survey to be submitted to and approved by the Local Planning Authority following further consultation with SEPA, prior to works commencing on site. The wording of this condition has been agreed by the applicant and SEPA and the objection is therefore withdrawn.

RECOMMENDATION

That planning permission be granted subject to the following conditions:

- 1 No development shall take place until there has been submitted to and approved in writing by the Planning Authority a scheme of landscaping. The scheme shall provide details of : existing and proposed levels, the height and slopes of any mounding on or recontouring of, the site; tree and shrub sizes, species, habitat, siting, planting distances and a programme of planting, thinning and a long term landscape management plan. The scheme shall include indications of all existing trees and hedgerows on the land, details of any to be retained, and measures for their protection in the course of development.

All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Planning Authority gives written consent to any variation.

Reason:

In order to ensure the implementation of a landscaping scheme to enhance the appearance of the development in the interests of the amenity of the area.

- 2 There shall be no lighting installed within the application site unless prior written approval is given for it by the Planning Authority.

Reason:

To safeguard the character and appearance of the area.

- 3 A Construction Method Statement to minimise the impact of construction activity on the amenity of the area shall be submitted to and approved by the Planning Authority prior to the commencement of development. The Construction Method Statement shall recommend mitigation measures to control noise, dust, construction traffic and shall include hours of construction work.

The recommendations of the Construction Method Statement shall be implemented prior to the commencement of development.

Reason:

To minimise the impact of construction activity in the interests of the amenity of the area.

- 4 A detailed dilapidation/ condition survey of the access route, as shown in the docketed drawing entitled 'Figure 1- Construction Access/ Egress Route', from the Thurston Mains junction of the A1 trunk road to the private access road of the Crystal Rig wind farm, and a full/ non destructive

assessment of its existing pavement (including a deflectograph analysis) shall be jointly undertaken by the applicant and East Lothian Council's Transportation Division; (i) no more than one month prior to the date of commencement of the development hereby approved, and (ii) no more than one month after the completion of the development hereby approved. Any damage identified during the joint inspections and agreed by the joint inspectors to be attributable to vehicles which are associated with the construction of the development hereby approved, shall be repaired and/or resurfaced by the applicant in compliance with specifications and requirements for that approved by the Council as Roads Authority and at no cost to the Council as Roads Authority. In each case any such repair and/or resurfacing shall be completed within 3 months from the date of the Council's approval of the specifications and requirements.

Reason:

In the interests of road safety.

- 5 Prior to the commencement of development hereby approved, a topographical survey of the existing application site, showing 1 metre contours with 5 metre contour intervals highlighted, shall be submitted to and approved in advance by the Planning Authority.

Within 24 months of the permanent cessation of generation at the offshore Neart Na Gaoithe offshore wind farm, a decommissioning and site restoration plan (the 'Demolition and Restoration Scheme') shall be submitted to and approved in writing by the Planning Authority. The Demolition and Restoration Scheme shall include details of:

- (i) Details of site restoration;
- (ii) Management and timing of works;
- (iii) Environmental management provisions; and
- (iv) A traffic management plan to address any traffic impact issues during the decommissioning period.

It shall also show the topography of the restored land being generally similar to the topography of the existing application site, as shown in the the approved topographical survey of the existing application site.

The Demolition and Restoration Scheme shall be implemented in its entirety, unless otherwise agreed with the Planning Authority in writing.

Reason:

To ensure that the application site is satisfactorily restored in the interests of the amenity of the area.

- 6 Prior to the commencement of development, a peat survey shall be submitted to the Planning Authority, covering the areas on the site where peat habitats have been identified within the National Vegetation Classification survey and where infrastructure is proposed. The survey shall provide probing results and demonstrate that deep peat areas have been avoided. The peat survey shall be carried out in accordance with SEPA's guidance on 'Development on Peat' and the joint publication 'Good Practice during Wind Farm Construction', and shall thereafter be approved in writing by the Planning Authority following further consultation with SEPA.

Development shall thereafter be carried out in accordance with the peat survey so approved.

Reason:

In the interests of preserving the character of the area.

- 7 Prior to works commencing on site, a site-specific Construction and Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Local Planning Authority prior to works commencing on the site. This CEMP shall include details of;

- a) Site water management, including erosion, sediment and SuDS controls which shall be agreed upon by relevant parties prior to construction. The CEMP should also incorporate the appropriate Guidance for Pollution Prevention (GPP), published by SEPA, which must be adhered to by construction operatives. This management should restrict discharges to rates less than the 1 in 1-year greenfield runoff rate during mean annual flow (and low flow) conditions. The 1 in 1-year greenfield runoff rates represent the maximum allowable release rates at the discharge locations;
- b) Discharge to grassland or vegetated channels to encourage additional sediment removal between the discharge locations and the receiving watercourse by filtration (as water passes through vegetation) and sedimentation (as water is slowed by vegetation);
- c) Additional silt management controls (such as settlement tanks or chemical dosing) shall

be used where removal of smaller particle sizes is required;

d) A suitably qualified Ecological Clerk of Works must be appointed prior to construction to implement the agreed CEMP;

e) A Site Waste Management Plan (SWMP) must be completed and must outline the requirements for management of any waste, with specific reference to soils/stone/peat from excavations; and

f) Spill kits shall be present on site and located at strategic locations (i.e. high-risk areas). Operatives shall be fully trained in emergency spill response.

Reason:

In order to prevent a decrease in water quality due to suspended solids in construction site runoff may occur during the construction phase and prevent adverse impacts on the Tweed Special Area of Conservation.