



Milltown Airfield, Innes Estate, Moray, Photovoltaic Solar Farm

Section 36C, Electricity Act, Screening Request



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1.0 Introduction

Elgin Energy Esco seeks to vary a section 36 consent made under the Electricity Act (1989) under section 36C of the same Act. The original consent for this was issued on 25 May 2018. The variation sought is to increase the duration of the consent from 30 years to 40 years. Varying the consent in this way will also require Scottish Ministers to make a new Direction under section 57 (2ZA) of the Town and Country Planning (Scotland) Act 1997 (as amended). No other variations are requested under this variation application.

As set out in Regulation 10 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, where Scottish Ministers have before them an application for Electricity Act consent that is either Schedule 1 development or Schedule 2 development under the relevant Regulations, and where the proposed development has not been the subject of a screening opinion, and where the application is not accompanied by an EIA report, Ministers must adopt a screening opinion in respect of the proposed development.

This application is for Schedule 2 development, and has neither been formally screened yet nor is accompanied by an EIA report. The original development that this application seeks to vary was screened by Scottish Ministers in April 2017 and was considered not to need to be accompanied by a full environmental statement. The negative Screening opinion noted however that "should the scale, character, location or environmental impact potential of the proposed development change at any point in the future; a reassessment of any EIA procedures may be required". A copy of the original Screening Opinion is included as an appendix to this application.

While the only component of the proposed development that this variation application seeks to alter is the duration of the consent, it is acknowledged that this could constitute a change in the character of the proposed development. Accordingly this document is set out as an EIA screening request, that considers the likely impact of the development if the variation application was in due course to be supported and a variation under section 36C made.

Given the currently consented project was originally screened under the 2000 Regulations, Screening Checklists considering the proposed development against the Schedule 3 criteria of both the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000, and the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 have also been included for completeness as appendices.

2.0 Background

2.1 Regulation 7 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 states that where the Scottish Ministers adopt a screening opinion in respect of a Schedule 2 development, it must be accompanied by a written statement giving, with reference to the criteria set out in Schedule 3 as are relevant to the development, the main reasons for their conclusion as to whether the development is, or is not, EIA development. Schedule 2 itself contains a list of projects which may require EIA if defined thresholds are breached and it is considered that significant effects on the environment are likely. The current project whether varied or remaining as consented already under section 36 is a Schedule 2 project as it will provide a change to a “generating station” and may have significant adverse effects on the environment.

2.2 The proposals continue to be to install approximately 200,000 solar PV modules totalling more than 50 MW of installed capacity. In addition to the installed modules, the development will also require the installation of a series of inverter substations, a primary substation, a security deer fence and a series of pole mounted CCTV cameras.

2.3 We consider that the project to develop the site as a solar PV array does not require EIA. This is the case whether the project is granted for 30 years as is currently consented, or for 40 years as proposed under this variation application. While the introduction of the modules and ancillary structures and boundary enclosures will result in some changes to the physical attributes of the site, it is not considered that ‘significant adverse effects on the environment’ are likely.

3.0 EIA Regulations

3.1 Schedule 3

3.1.1 As noted above, Schedule 3 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 contains a list of criteria against which any Schedule 2 project is to be assessed for the purposes of screening. By assessing these projects against the Schedule 3 criteria it is considered that a determination can be made as to whether the proposed development would result in significant adverse effects on the environment, and consequently require EIA.

3.2.1 Regulation 7 of the Regulations requires that when making a determination as to whether Schedule 2 development is EIA development, the Scottish Ministers must in all cases take into account such of the selection criteria set out in schedule 3 as are relevant to the development. As in this case where a request for a screening opinion has been made under Regulation 8(1) of the 2017 Regulations, Scottish Ministers must base their determination on the information provided in accordance with regulation 8(2). In this regard, this document and the screening checklists submitted as part of this variation application are considered to comprise the requisite information set out in Regulation 8(2).

Turning to Schedule 3 of the 2017 Regulations, the Schedule sets out a series of criteria to be considered in relation to the proposals under three broad headings. These headings comprise: the characteristics of the development, the location of the development, and the characteristics of the potential impact. These broad headings are exactly the same as those listed under Schedule 3 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000, which were the Regulations against which the original project was assessed. They are also the same headings as used under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017.

While no guidance document has yet been published in relation to how the 2017 Electricity Works Regulations ought to be interpreted, some years ago the Scottish Government published 'Guidance on the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000' to assist potential applicants in understanding how these earlier Regulations operate. Paragraph 3.1.6 of this document notes that the question that must be asked by the body engaged in screening for EIA under the Electricity Act is "can this particular development be considered to be likely to have significant effects on the environment?". It is considered that a similar approach ought to be taken under these newer Regulations.

3.2.2 Scottish Government Planning Advice Note 1/2017 offers further guidance on how the EIA process should work in respect of Planning Applications under the Planning Act. This may also be a useful comparator when considering how the 2017 Electricity Works Regulations should be interpreted. The PAN suggests that Planning Authorities may wish to consider the use of some form of checklist to aid this determination, and to evidence that appropriate cognisance has been taken of the various matters that could result in a likely 'significant effect'. While there is a lack of direct equivalent advice in relation to Electricity Act applications, it seems appropriate to complete a screening checklist for this proposal, given the same matters for consideration are identified in each of the Regulations mentioned here. Accordingly two adapted checklists considering the current variation proposals against both the 2000 and the 2017 Electricity Works Regulations have been included as appendices to this screening request in order to assist in the assessment exercise.

The next 3 Sections of this screening request considers the current proposed varied development in the context of the three broad headings set out earlier in this Section and found in Schedule 3 of the current EIA Regulations.

4.0 Characteristics of the Development

4.1.1 The application proposes the erection of approximately 200,000 fixed solar panels in rows, mounted on a framework system and are supported on poles typically driven or screw-anchored into the ground to a depth of 1 – 1.5 metres. This preferred method means that more intrusive foundations (eg. concrete) are not necessary.

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4.1.2 In general terms a solar PV array works by capturing energy via the photovoltaic panels and sending this energy to inverter substations as DC current. The inverter substations convert it to AC current and send it to the primary substation. The primary substation then connects to the regional or national grid where the usable electricity is distributed.

4.1.3 The primary substation for the array would be located on the southwest side of the site. The dimensions of the primary substation will be typically 7 metres x 2.5 metres x 3 metres high. Approximately 50 PV inverter substations would also need to be positioned throughout the site. The inverter substations are also typically 7 metres x 3 metres x 2.5 metres high. Each of the inverters will ideally be positioned alongside the existing runway/airfield roads that criss-cross the site at present.

4.1.4 Both the inverter substations and the Primary substation will have a slight monopitch roof and would be painted a recessive colour such as green. Both structures are comparable in scale to a portacabin type structure.

4.1.5 In addition to the proposed inverter substations and primary substation, the site also needs to be made secure. To ensure security, a 2.4 metre high deer fence consisting of wire mesh and wooden fence posts will be mounted around each section of the site. The fences would also be designed to have small gaps of 10 cm along the bottom to allow for the continued movement of small mammals so as not to cut off foraging routes across the site. CCTV cameras mounted on top of 3 metre high poles will be positioned at regular intervals along the perimeters of the site and along internal roads and former runways. All of the CCTV cameras will be directed into the site.

4.1.6 The banks of solar panels would be arranged in lines, referred to as 'arrays' or 'strings'. Each string would be mounted on a rack with a distance of approximately 3m - 6m between each string to avoid any shadowing occurring from one panel to another and to allow for access for maintenance. The maximum height of these solar arrays above ground level will be approximately 2.8 metres. The panels will be tilted at approximately 25 degrees from the horizontal, are fixed in place, and are orientated to face south towards the sun.

4.1.7 As noted above, ground stakes will be used to anchor the panels into the ground. The stakes are removed by drawing upwards and come out of the ground with minimal disturbance. This is the preferred method of securing the solar panels as it requires minimal equipment on site, minimal physical ground disturbance, are least visually intrusive, is the best option from an environmental perspective and is the most efficient with regard to materials and installation time.

4.1.8 Construction of the array is relatively short with all the panels being erected in situ within a projected construction period of 16 weeks. The vehicles that will be required for this will be conventional trucks which will transport the equipment to the site. It is proposed that the construction timing will be restricted to 8am to 6pm Monday to Friday. During the operational period infrequent visits (typically every 2-3 months) will be carried out by a maintenance engineer using a car or a van.

4.1.9 The site is considered to be well-screened from a relatively small number of nearby houses by well-established roadside landscaping. To supplement this further, it is intended to use additional landscaping around parts of the site perimeter. Generally speaking, the site is visually interpreted from public vistas as being a man-made incursion on the Laich of Moray. The overall perception of the airfield site is as an area with a heavily modified, brownfield appearance.

4.1.10 Throughout the proposed operational period of 40 years the site would continue to be used in part for agricultural purposes as sheep will be able to graze the areas beneath the modules. Biodiversity across the site will be enhanced through the use of a grass and wildflower seed mix to encourage a varied range of flora beneath the modules, while local wildlife will be enhanced through the introduction of wide ecological corridors, bird boxes and bug hotels.

4.1.11 The proposed development will be connected to the grid likely by new underground cables running from the new on-site primary substation to the existing Elgin 132/33kV substation, approximately 6 kilometres west of the airfield. A number of public road and third party options are currently being considered.

5.0 Location of the Development

5.1 The development site extends to approximately 114 hectares and is situated on a large, flat, previously developed site that lies at the centre of an area that is bounded by Lhanbryde, Elgin, Lossiemouth and Kingston. The site is also enclosed to the north, east and south by well-established woodland.

5.2 There are no Special Areas of Conservation, Ramsar sites, National Scenic Areas, Special Protection Areas or Sites of Special Scientific Interest on or near the site. There are also no special landscape designations on or near the site

5.3 A desk-top assessment of the site indicates that there are no listed buildings, Scheduled Monuments or Gardens and Designed Landscapes within the proposals site. There are however two noticeable clusters of listed buildings to the south east and south west of the proposals site centred around Innes House with its designed landscape and Leuchars House. Both clusters will be screened from the site by well-established woodland, and both have acted as neighbours to the military airfield and signal station for many decades. There is also a further B listed building at Inchbroom House to the north. However this property is largely screened from the site by established roadside trees, and in any event lies approximately a kilometre from the edge of the proposed development.

5.4 A Phase 1 Geo-Environmental Desk Study Report has assessed the site for any contaminated land legacy. The desk based study identified that there was a historic landfill site located to the north of the proposal site, and that there was also a historic fuel storage area to the south east of the airfield. However, neither of these deposits lie on the proposals site itself and the report notes that neither are within influencing distance of the site. The potential risk to the identified human, building and environmental receptors from on-site contamination and off-site contamination sources has been assessed as being 'low'.

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5.5 The site lies to the east of the B9013 which links Lossiemouth to the A96 east of Elgin. In the south west of the site, the panels will be closest to the road for a distance of perhaps 200 metres. The closest the development will come to the road however is 50 metres, as a generous set back has been designed into the plans to ensure that any impact on residential properties or passing motorists is fully minimised. This approach is further enhanced by the proposal to plant a thoughtfully designed landscaping belt alongside the road at the south-west part of the site.

5.6 More generally, the detailed landscape assessment that was undertaken of the site when it was considered under the section 36 application has concluded that the low lying topography and surrounding woodland combine to restrict long distance views across the landscape. When considered alongside the visual legacy of the man-made airfield, it is considered that if constructed, the proposed development will not be 'read' as forming an incongruous component in the surrounding countryside.

5.7 The documents that were submitted in support of the original section 36 application comprised the following: a Landscape and Visual Appraisal, a Desk based Assessment and Historic Asset Appraisal, a Construction Traffic Management Statement, a Glint and Glare Assessment, a Flood Risk Assessment, a Phase 1 Geo-Environmental Desk Study Report, a Design and Access Statement, a Tree Survey Report and a Phase 1 Habitat Survey. This comprehensive suite of documents examined in depth all of the constraints affecting the site and the wider area in the vicinity of the site. The site's location is not considered to be one that is sensitive.

6.0 Characteristics of the potential Impact

6.1 As noted above, the erstwhile Scottish Government Guidance on the Electricity Works EIA regulations (2000) states that the question that must be asked in determining whether EIA is required is: "can this particular development be considered to be likely to have significant effects on the environment?" While it is acknowledged that the original development that was granted consent under section 36 was screened under an earlier iteration of the EIA Regulations, it was nevertheless screened against very similar qualifying criteria. Crucially, given this earlier project did not require an Environmental Statement, it is material to consider whether the extension of the duration of this consent on its own is likely to create a significant effect on the environment that was not considered to be present when the development was for only 30 years.

6.2 As noted earlier, in order to assist in the assessment of the current proposals against both the current and superseded EIA regulations, two new EIA checklists based on those produced by the Scottish Government to assist with screening for Planning applications have been completed and attached as appendices to this screening request. In addition the EIA checklist originally submitted with the screening request for the consented development has also been included to offer a comparison. The checklists highlight that the type of impacts likely from a 'generating station' will essentially be the same for 30 years as they would be for 40 years.

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6.3 In locational terms, it is relevant to acknowledge that the establishment of the solar PV array for whatever duration will introduce a new component to the locality. However, as evidenced through the original screening opinion issued by Scottish Ministers in April 2017, such a new component was not considered to be likely to have significant effects on the environment. It is considered that this logic would hold for 50 years as well as for 30 years.

6.4 It is also relevant when considering the characteristics of the potential impact on the host landscape, to examine the landscape capacity study undertaken in 2012 by Alison Grant and Carol Anderson on behalf of the Moray Council. While the document was produced principally to assist in assessing wind energy proposals, it also represents the latest evaluation of Moray's different landscapes and their characteristics. Within this document, the proposed development site is within the 'Coastal farmland' landscape character area (LCA). This particular LCA is evaluated under the 'perceptual qualities' section of the study as being "a well-settled and highly managed landscape with no sense of wildness or other strong perceptual qualities."

6.5 The modern visual interpretation of this area is therefore of an efficient rural landscape that has been largely sculpted and organised by human activity. We consider that such a landscape can absorb the type of development proposed without having significant effects on the environment whether for 30 years or for 40 years. The consent already secured for this site adheres to the existing field boundaries, retains the existing road network within the former airfield, and allows additional boundary planting to become established over the lifetime of the consent. Given this context it is considered that the proposed varied development will have no significant adverse effects on the environment

6.6 The host landscape is not considered to be sensitive and can absorb the type of development proposed. It is not considered that the extended longevity (the key characteristic of the proposed variation) of solar development on this site will translate in time as a matter that could have significant effects on the environment at this location.

7.0 Conclusion

7.1 When the potential impact of the matters set out in schedule 3 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 are assessed with regard to this proposal, it is not considered that the proposed development requires EIA.

7.2 The proposed extension to the duration of the consent granted in 2018 under section 36 of the Electricity Act will have an impact upon the host landscape surrounding the application site. However, the full reversibility and human scale of the proposed development, the absorption capacity of the surrounding landscape to accept man-made development, and the relative lack of any significant cultural or natural heritage interests on or immediately adjacent to the site which are likely to be adversely affected, mean that the proposed development whether for a permitted period of 30 years or 40 years is unlikely to have a significant environmental impact.

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7.3 We would therefore respectfully ask that an opinion is returned from the Moray Council confirming that no Environmental Impact Assessment is required. This would then allow the Energy Consents Unit to begin assessing the variation application itself.