

29 September 2021



Alan Brogan
Scottish Government Energy Consents Unit
5 Atlantic Quay
Broomielaw
Glasgow
G2 8LU

Angus Dodds
E: adodds@savills.com
DL: +44 (0) 131 344 0893

Wemyss House
8 Wemyss Place
Edinburgh EH3 6DH
T: +44 (0) 131 247 3700
F: +44 (0) 131 247 3724
savills.com

Dear Mr Brogan

Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013: Application under section 36C of the Electricity Act 1989 seeking Direction to vary deemed Planning Permission under Section 57(2ZA) of the Town and Country Planning (Scotland) Act (as amended) in respect of section 36 consent for the Milltown Airfield solar PV array at the former Milltown Airfield, between Lhanbryde and Lossiemouth in the Moray Council Planning Authority area.

By its letter of 25 May 2018, Scottish Ministers granted consent under section 36 of the Electricity Act 1989 (the 's36 consent') together with a direction under section 57 (2) of the Town and Country Planning (Scotland) Act 1997 (the deemed permission) granting permission for the PV array at the former Milltown Airfield north of Lhanbryde, Moray.

Milltown Solar PV Ltd (the applicant) was assigned the relevant consent and deemed planning permission for this project from Elgin Energy EsCo Ltd on 7 September 2021. The applicant now seeks a variation under Section 36C of the Electricity Act 1989. Following Regulation 3 of the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013, it seeks to extend the duration of the consent (from 30 years to 40 years) originally described on page 7 of the decision letter dated 25th May 2018 (see appendix 2). The applicant also seeks a direction under s57 (2ZA) of the Town and Country Planning (Scotland) Act 1997, varying condition 14 of the deemed permission (also see Appendix 2) also to extend the duration of the consent (from 30 years to 40 years).

For the avoidance of doubt, no other variations are sought to the extant consent and deemed planning permission. The purpose of this application is to vary the deemed planning permission only. Therefore no Direction is sought to issue a completely new deemed planning permission, and no additional time for commencement of the development is being sought under this application.

This application under s36C and s57(2ZA) is hereinafter referred to as the 'variation application'.

The variation sought is to:

- a.) Increase the duration of the consent from 30 years to 40 years

As required by Regulation 3 (1)(d)(i) of the 2013 Regulations, Appendix 1 of this letter provides a draft of the variation which it is proposed should be made to the relevant section 36 consent if this variation application was to be approved. As required by Regulation 3 (1)(d)(iii) Appendix 2 is a copy of the original s.36 consent, as well as a copy of the original section 57 direction given on grant of the section 36 consent and detailing the original list of conditions to the deemed planning permission. The schedule of conditions is contained within annex 2 of the document.

As explained above, condition 14 of the deemed planning permission will require to be altered by this variation application. As required by Regulation 3(2)(b)(i) of the 2013 Regulation, a draft of the proposed

Offices and associates throughout the Americas, Europe, Asia Pacific, Africa and the Middle East.

Savills (UK) Limited. Chartered Surveyors. Regulated by RICS.

A subsidiary of Savills plc. Registered in England No. 2605138. Registered office: 33 Margaret Street, London, W1G 0JD



section 57 direction is provided as part of this variation application. This draft is presented as Appendix 3 of this submission. Appendix 3 makes reference to the proposed change as being the 'Proposed varied Development'. For the avoidance of doubt, all other conditions to the s.36 consent and deemed permission will remain the same.

As required by Regulation 3 (1)(b) of the 2013 Regulations, Appendix 9 provides a Location Plan for the site.

Reason for seeking the variation

Under section 36C(4), the relevant Regulations state that Scottish Ministers must have regard to the Applicant's reasons for seeking a variation to the s36 consent. Similarly Regulation 3(1)(c) and 3(2)(a) of the 2013 Regulations also requires that applicants explain why it is that the Section 36 consent should be varied, and why it is that a new section 57 direction should be made. Appendix 4 of this submission sets out in full detail why an extension to the duration of the Consent is being sought. In summary however, the reasons for seeking the proposed variations to the relevant s36 consent are stated below:

Since the application was granted in May 2018, considerable momentum has gathered behind the urgent need for further action to be taken on climate change. In April 2019, Scotland's First Minister declared a 'Global Climate Emergency'. On 29 June 2019 the Moray Council also declared a climate emergency. This declaration was followed by the Council announcing a target of net-zero carbon emissions by 2030 with respect to council activities, and a commitment to develop and adopt a Climate Change Strategy.

Large scale Solar PV is now a proven technology and a significant and positive contribution to the energy supply. There is no technical reason for discontinuing this plant after 30 years given the low levels of degradation of the equipment. The additional 10 years therefore reduces unnecessary waste, maximises the benefits of the renewable energy infrastructure, and provides security of supply, all contributing to efforts to address the Climate Emergency.

In this case there are considered to be no additional environmental impacts as a consequence of extending the life of the permission. There will be positive economic impacts however in the form of continued employment to monitor the operation and provide maintenance of the plant, as well as through the payment of ongoing business rates.

As noted above, a draft of the proposed s57 (2ZA) direction is provided in Appendix 3 of this submission, with the suggested wording of an amended condition 14. The Proposed variation would amend Condition 14 from its form on page 14 (Annex 2 of Part 2) of the original S36 consent letter (see appendix 2).

EIA Screening

As you may recall in March 2017 an EIA Screening request was made on behalf of the applicants to Scottish Ministers under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000. This Screening request sought the view of Ministers as to whether the original section 36 project was to be considered as EIA development. The response received in April 2017 (the Screening opinion), confirmed that it was not considered as an EIA project under the relevant Regulations.

Since the March 2017 Screening request was issued to Ministers, new, updated Regulations have been published. The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 are now the EIA regulations for projects of this kind.

An EIA Screening request is also made concurrently with this submission under regulation 8 (1) of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (as amended) ("the Regulations"). The request is included as Appendix 4 to this submission. Following advice from Lesley Tosun, in advance of this submission we submitted this updated EIA Screening request directly to the Moray Council on 30 September 2020, and received their response on 20 November 2020. The response received

confirmed its view that the amended proposal is not considered an EIA project. This response is included as Appendix 7 to this submission.

For the purposes of screening the proposed varied development, the original Screening Request from March 2017 was revisited in advance of submission to the Moray Council with an update included taking into account any change likely as a result of the proposed varied development. This document is included here as Appendix 4. Similarly an updated EIA Screening checklist has also been produced as Appendix 5 to this submission to illustrate how the proposed varied development addresses each of the matters set out in Schedule 3 of the 2000 EIA Regulations. Finally, for completeness, an EIA screening checklist has also been completed as Appendix 6 of this submission, assessing the proposed varied development against each of the matters set out in Schedule 3 of the 2017 EIA Regulations.

Scottish Ministers EIA Considerations

As noted above this application for a variation to the S36 consent includes a draft of the proposed variations to the s36 consent (appendix 1) along with a draft of the proposed section 57(2ZA) direction (Appendix 3). A copy of this variation application will be served on The Moray Council in accordance with Regulation 4(2)(b) of the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013, as amended (“the 2013 Regulations”) (Appendix 10).

The application will also be advertised in accordance with Regulation 4(2)(c) of the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 as follows:

- Northern Scot: 1 October and 8 October 2021
- Edinburgh Gazette: 5 October and 8 October 2021
- The Herald: 8 October 2021

A copy of the advert is enclosed with this letter (Appendix 8)

Finally for the avoidance of doubt, notice of the application has also been served in accordance with Regulation 4(2)(d) of the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 on the owner and occupier of the land to which this variation application relates (Appendices 11 and 12).

On the basis of the information provided in this variation application and in the supporting documents, the Applicant requests that the Scottish Ministers grant the variation application, make the proposed variations to the relevant s36 consent, and makes the section 57 (2ZA) Direction sought, subject to such other Directions or conditions as the Scottish Ministers consider to be appropriate.

Yours sincerely

Angus Dodds
MRTPI