

Curraghinalt Project (Dalradian) Public Local Inquiry

Statement Of Case input for Department for Infrastructure (DFI), from NIEA as a Statutory Consultee to the Planning Process for Applications:

- LA10/2019/1386/F
- LA11/2019/1000/F

CONTENTS		
SECTION	TITLE	PAGE No.
	SOC INPUT FOR DFI	
1	NIEA NED Countryside, Coast and Landscape Planning Branch – Input to DFI SOC	2
2	NIEA NED Biodiversity and Wildlife Unit & Conservation Designation and Protection Branch – Input to DFI SOC	21
3	NIEA NED Connecting People to Nature Team – Input to DFI SOC	23
4	NIEA RED Drinking Water Inspectorate – Input to DFI SOC	33
5	NIEA RED Water Management Unit – Input to DFI SOC	36

SECTION 1

NIEA NED Countryside, Coast and Landscape Planning Branch – Input to DFI SOC for :

1. Powerline applications.

LA10/2019/1386/F & LA11/2019/1000/F

Statement of Case for Dalradian Gold Mine Conjoined Public Inquiry: 33kV power line Applications in Fermanagh & Omagh and Derry City & Strabane District Council areas

DAERA NIEA Natural Environment Division: Countryside Coast and Landscape: Development Management Team

Date: October 2024

1. **2021/C006** – a Public Local Inquiry for planning application LA10/2019/1386/F for a 33kV power line (overhead line and underground cable) within the Fermanagh & Omagh District Council area.
2. **2021/C007** – a Public Local Inquiry for planning application LA11/2019/1000/F on behalf of NIE Networks for a 33kV power overhead line and underground cable) within the Derry City & Strabane District Council area.

1. Executive Summary

1.1. The proposed development has the potential to cause disturbance to birds breeding along the powerline route. Mitigation measures are proposed to minimise impacts to birds breeding along the route of the powerline. NED is satisfied that the proposed development will have no significant adverse impact on local bird populations, but recommend that the mitigation measures listed in Section 4 of ES 2021 Volume 3 Appendix 7.4: Ecological Survey for Birds are fully implemented to prevent disturbance of breeding birds and maintain the availability of nest sites.

1.2. Bat roost assessment and roost inspection surveys of trees along the route of the powerline were undertaken in 2019. Trees with suitability for roosting bats were identified within or immediately adjacent to the Working Area of the Proposed Development, although no evidence of bats or bat roosts was confirmed in any of these trees during PRF Inspection Surveys. Mitigation measures are proposed to minimise potential impacts to bats. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.6 Bats, NED have no concerns regarding adverse impacts to bats.

1.3. The Extended Phase 1 Habitat Survey included an assessment of the potential for otters and otter habitat along the powerline route. No otter underground holts or above ground couches recorded within the 100m survey corridor, but otter activity was recorded at three watercourses traversed by the powerline. Mitigation measures are proposed to minimise impacts to otters. Provided the proposed mitigation and compensation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.7 Otter, NED have no concerns regarding adverse impacts to otters.

1.4. An Ecological Survey for Badger was carried out between March 2018 and December 2020. A number of badger setts were recorded within 25m of the working corridor. The works have the potential to result in damage to badger setts, temporary disturbance to badger foraging habitat and temporary disturbance from noise. Mitigation measures are proposed to minimise impacts to badgers. Provided the proposed mitigation measures are implemented as described in ES 2021

Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.9 Badger, NED have no concerns regarding adverse impacts to badgers.

1.5. The Extended Phase 1 Habitat Survey included an assessment of the potential for common lizards along the powerline route. Common lizard was confirmed at four locations. Mitigation measures are proposed to minimise impacts to common lizards. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7 7.5.11 Common Lizard, NED have no concerns regarding adverse impacts to Common Lizards.

1.6. A smooth newt survey was carried out in 2020. Two ponds along the route were considered to have potential for newts. Although no newts were recorded during the newt surveys, DNA analysis indicated the presence of newts within one of the ponds. Mitigation measures are proposed to minimise impacts to smooth newts. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7 7.5.10 Smooth Newt, NED have no concerns regarding adverse impacts to smooth newts.

1.7. The Extended Phase 1 Habitat Survey identified Devil's-bit Scabious at seven locations along the route of the proposed powerline route that had the potential to provide suitable habitat for Marsh Fritillary butterflies. Marsh Fritillary larval webs were confirmed at two of these locations in 2019 and a single Marsh Fritillary larval web was recorded within the 80m Working Area. Specific mitigation measures will be implemented at the two locations where Marsh Fritillary larval webs were confirmed. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7 7.5.8 Marsh Fritillary, NED have no concerns regarding adverse impacts to Marsh Fritillary.

1.8. The non-native invasive species, Japanese Knotweed and Himalayan Balsam, are present within along the route of the proposed powerline. NED is content that sufficient mitigation measures are proposed in the ES 2021 and Invasive Non-Native Species Method Statement in the OCEMP to prevent the

spread of these invasive species. NED recommends that all mitigation measures proposed in the ES are included in the final CEMP.

1.9. The proposed works have the potential to have an impact on a number of NIPHs which are present along the powerline working corridor, including woodlands, rush-pastures, heathlands, blanket bog and rivers. Mitigation measures are proposed to minimise impacts to these NIPHs, and states that a total of 293m² of blanket bog, wet modified bog and upland fens, flushes and swamps and 42m² of upland heathland will be lost due to the proposed development. It is proposed to compensate for the loss and damage to these small areas of NIPH through habitat creation and restoration/enhancement of existing peatland habitats on land within the control of Dalradian Gold Ltd at the site of the associated proposed Curraghinalt mine.

Conditions and Informatives

1.10. Recommended conditions and informatives aimed at ensuring implementation of mitigation and compensation measures to minimise impacts to Northern Ireland Priority Habitats and Protected Species are provided to inform a planning decision for the proposed powerline developments.

2. Powerline Site Description

2.1. The predominant land use along the powerline route is rough grazing land with hedgerows and trees on the lower slopes and exposed ground with scattered trees on the steeper slopes, but also includes broadleaf woodlands and farmland bounded by hedgerows, and wet modified bog. The Owenkillew River SAC crossing will be via a duct directionally drilled under the river.

3. Birds

3.1. The 2018, 2019 and 2020 bird surveys recorded 10 bird species along the powerline route. Of these, snipe was the only wader species to show signs of breeding. Kestrel was the only raptor species to show evidence of breeding behaviour at a small stand of conifers on the Glenforan Road, but there was no

evidence of the birds being present at the site in 2020. Red grouse was recorded at several locations and confirmed breeding at Mullydoo in 2020.

3.2. Breeding bird surveys will be carried out along the route during the breeding season to ensure compliance with the Wildlife (Northern Ireland) Order 1985.

3.3. NED is satisfied that the proposed development will have no significant adverse impact on local bird populations but recommend that the mitigation measures listed in Section 4 of ES 2021 Volume 3 Appendix 7.4: Ecological Survey for Birds are fully implemented to prevent disturbance of breeding birds and maintain the availability of nest sites.

4. Bats

4.1. Bat roost assessment and roost inspection surveys of trees along the route of the powerline were undertaken in 2019. A total of 21 trees with low suitability and 12 trees with moderate suitability for roosting bats were identified within or immediately adjacent to the Working Area of the Proposed Development. There was no evidence of bats and no bat roosts confirmed in any of these trees during PRF Inspection Surveys.

4.2. No sections of hedgerow will be removed, so connectivity for bats will not be impacted.

4.3. Maintenance of the powerline will require vegetation management which will be carried out on foot using hand-operated equipment.

4.4. Mitigation measures are proposed to minimise potential impacts to bats. The ECoW will carry out a Pre-Construction PRF Inspection Survey under licence on the 12 trees with moderate roost potential immediately prior to pre-construction clearance works to confirm the continued absence of bats. The 12 trees will be felled immediately provided no bats are present.

4.5. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.6 Bats, NED have no concerns regarding adverse impacts to bats.

5. Otters

5.1. The Extended Phase 1 Habitat Survey included an assessment of the potential for otters and otter habitat along the powerline route.

5.2. No otter underground holts or above ground couches were recorded within the 100m survey corridor, so pre-construction site clearance and construction works will not result in destruction or damage to holts or couches. Otter activity was recorded at three watercourses traversed by the powerline. No disturbance is considered likely because otters are unlikely to be active in daylight hours when construction and maintenance activities will be carried out.

5.3. Mitigation measures are proposed to minimise impacts to otters. A Pre-Construction Protected Species Survey will be carried out by the ECoW to provide the most up to date information and to confirm the continued absence of otter within the site.

5.4. Provided the proposed mitigation and compensation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.7 Otter, NED have no concerns regarding adverse impacts to otters.

6. Badgers

6.1. An Ecological Survey for Badger was carried out on a number of occasions between March 2018 and December 2020.

6.2. Pre-construction site clearance and construction works will take place within 25m several badger setts as referenced in Annex I Confidential Ecological Survey for Badger. The works have the potential to result in damage to badger setts, temporary disturbance to badger foraging habitat and temporary disturbance from noise. Mitigation measures are proposed to minimise impacts to badgers.

6.3. A Pre-Construction Protected Species Survey will be carried by the ECoW to provide the most up to date information and update the status of badger setts in order to inform the need for derogation licences immediately prior to pre-construction site clearance and construction works.

6.4. Prior to the commencement of construction works, 25m Ecological Exclusion Zones (EEZ) will be set up around badger setts within the 80m Working Area. No access, vehicles, storage or stockpiling of materials will be allowed within the EEZs. The ECoW will supervise the erection of each EEZ and monitor badger activity throughout construction.

6.5. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.9 Badger, NED have no concerns regarding adverse impacts to badgers.

7. Common Lizard

7.1. The Extended Phase 1 Habitat Survey included an assessment of the potential for common lizard along the powerline route. Common lizard was confirmed at four locations along the route of the proposed powerline.

7.2. Mitigation measures are proposed to minimise impacts to common lizards.

7.3. All areas with potential to provide suitable habitat for common lizard will be hand searched by the ECoW immediately prior to pre-construction site clearance and construction works. Any features that have potential to provide refugia for lizards will be disassembled by hand and placed outside the Working Area, and EEZs will be set up around larger features to prevent machinery access. All works will be carried out on foot.

7.4. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7 7.5.11 Common Lizard, NED have no concerns regarding adverse impacts to Common Lizards.

8. Smooth Newts

8.1. A smooth newt survey was carried out under NIEA licence in 2020. Two ponds along the route were considered to have potential for newts. Although no newts were recorded during the newt surveys, DNA analysis indicated the presence of newts within one of the ponds. A series of standing water features including one main feature and three adjacent depressions that intermittently hold water following

prolonged periods of rainfall were also recorded. Mitigation measures are proposed to minimise impacts to smooth newts.

8.2. The 80m Working Area will be reduced to a 10m Working Area around the standing water features. An EEZ will be set up around four features with potential to provide habitat for smooth newt to prevent machinery access. All stringing works will be carried out on foot. All construction works around the standing water features will be supervised by an ECoW. The habitat will be hand searched by the ECoW immediately prior to pre-construction site clearance and construction works. Any objects that have potential to provide refugia for smooth newt will be disassembled by hand and placed outside the Working Area.

8.3. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7 7.5.10 Smooth Newt, NED have no concerns regarding adverse impacts to smooth newts.

9. Marsh Fritillary

9.1. The Extended Phase 1 Habitat Survey identified Devil's-bit Scabious at seven locations along the route of the proposed powerline route that had the potential to provide suitable habitat for Marsh Fritillary butterflies. Marsh Fritillary larval webs were confirmed at two of these locations in 2019 and a single Marsh Fritillary larval web was recorded within the 80m Working Area.

9.2. The 80m Working Area will be reduced to a 10m Working Area in all seven locations with potential to provide suitable habitat for Marsh Fritillary. Specific mitigation measures will be implemented at the two locations where Marsh Fritillary larval webs were confirmed: EEZs will be set up around Marsh Fritillary habitat where there will be no machinery access; all stringing works will be carried out on foot; all construction works within marsh fritillary habitat will be supervised by an ECoW.

9.3. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7 7.5.8 Marsh Fritillary, NED have no concerns regarding adverse impacts to Marsh Fritillary.

10. Invasive Species

10.1. The non-native invasive species, Japanese Knotweed and Himalayan Balsam, are present within along the route of the proposed powerline.

10.2. NED is content that sufficient mitigation measures are proposed in the ES 2021 and Invasive Non-Native Species Method Statement in the OCEMP to prevent the spread of these invasive species. NED recommends that all mitigation measures proposed in the ES are included in the final CEMP.

11. Northern Ireland Priority Habitats

11.1. An Extended Phase 1 Habitat Survey was conducted along the powerline route within a 100m survey corridor. A more detailed Phase 2 Vegetation Survey was conducted on more complex blanket bog habitats to define the vegetation communities present and to determine if the blanket bog was considered active.

11.2. A number of Northern Ireland Priority Habitats (NIPHs) are present along the powerline working corridor:

11.2.1. Oak Woodland

11.2.2. Mixed Ashwoods

11.2.3. Wet Woodland.

11.2.4. Purple Moor-grass and Rush Pasture

11.2.5. Lowland Heathland

11.2.6. Upland Heathland

11.2.7. Blanket Bog

11.2.8. Rivers

11.3. Mitigation measures are proposed to minimise impacts to NIPHs along the route of the powerline.

11.4. However, the Second Environmental Statement (ES) 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.3 Northern Ireland Priority Habitats (ES) states that a total of 293m² of blanket bog, wet modified bog and upland fens,

flushes and swamps and 42m² of upland heathland will be lost due to the proposed development. It is proposed to compensate for the loss and damage to these small areas of NIPH through habitat creation and restoration/enhancement of existing peatland habitats on land within the control of Dalradian Gold Ltd at the site of the associated proposed Curraghinalt mine.

11.5. Provided the proposed mitigation measures are implemented as described in Second Environmental Statement (ES) 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7 7.5.3 Northern Ireland Priority Habitats, and a condition is included in the decision notice to require the implementation of the compensatory measures at the proposed Curraghinalt mine site, NED have no concerns regarding adverse impacts to NIPHS from the powerline proposal.

12. Conditions Without Prejudice

12.1. No development activity, including ground preparation or vegetation clearance, shall take place until a final Construction and Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority. The approved CEMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved CEMP, unless otherwise agreed in writing by the Planning Authority. The CEMP shall include the following:

- a) Construction methodology and timings of works
- b) Pollution Prevention Plan; including suitable buffers between the location of all construction works, storage of excavated spoil and construction materials, any refuelling, storage of oil/fuel, concrete mixing and washing areas and any watercourses or surface drains present on or adjacent to the site
- c) Site Drainage Management Plan; including Sustainable Drainage Systems (SuDS), foul water disposal and silt management measures
- d) Peat/Spoil Management Plan; including identification of peat/spoil storage areas, management and handling of peat/spoil and details of the reinstatement of excavated peat/spoil

- e) Water Quality Monitoring Plan
- f) Environmental Emergency Plan
- g) Mitigation measures as detailed in the Environmental Statement and Outline Construction Environmental Management Plan;
- h) Details of the appointment of an Ecological Clerk of Works (ECoW) to oversee all works and implementation of mitigation measures and their roles and responsibilities

Reason: To protect Northern Ireland priority habitats and protected and priority species, to ensure implementation of mitigation measures identified within the Environmental Statement.

12.2. No development activity, including ground preparation or vegetation clearance, shall take place until a Protected Species Management Plan (PSMP) has been submitted to and approved in writing by the Planning Authority. The approved PSMP shall be implemented in accordance with the approved details and all works on site shall conform to the approved PSMP, unless otherwise agreed in writing by the Planning Authority. The PSMP shall include the following:

- a) Details of updated surveys for protected species prior to works commencing using appropriate methodology
- b) Details of appropriate mitigation for protected species to be implemented during the site preparation, construction and operational phases, including timing of works, wildlife corridors, buffer zones and/or fencing
- c) Details of appropriate monitoring of impacts to protected species during construction works
- d) Details of appropriate measures to be followed should monitoring indicate potential impacts to protected/priority species and/or potential breaches of wildlife legislation

Reason: To mitigate for impacts on protected/priority species using the site.

12.3. No development activity, including ground preparation or vegetation clearance, shall take place until a final Ecological Mitigation and Management Plan (EMMP), has been submitted to and agreed with the Department (see Appendix C9 of the ES for the mine site - SLR, September 2017- Application Reference LA10/2017/1249/F). The final EMMP shall clearly show the location of the 670m² area of compensation for habitat losses associated with the powerlines which shall be in addition to the compensation proposed for habitat loss associated with the mine site (Application Reference LA10/2017/1249/F). The final EMMP shall also detail the management prescriptions, monitoring and surveillance for this additional area. The EMMP shall be carried out as agreed.

Reason: To ensure that adequate compensation measures specific to Northern Ireland priority habitat loss from the powerlines are secured and implemented.

13. Informatives

13.1. The applicant's attention is drawn to the following Standing Advice for Pollution Prevention Guidance, Sustainable Drainage Systems and Discharges to the Water Environment. Standing advice notes are available at <https://www.daera-ni.gov.uk/articles/standing-advice-0>

13.2. The applicant's attention is drawn to The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), under which it is an offence:

- a) Deliberately to capture, injure or kill a wild animal of a European protected species, which includes all species of bat and the otter (*Lutra lutra*);
- b) Deliberately to disturb such an animal while it is occupying a structure or place which it uses for shelter or protection;
- c) Deliberately to disturb such an animal in such a way as to be likely to -
 - i. Affect the local distribution or abundance of the species to which it belongs;
 - ii. Impair its ability to survive, breed or reproduce, or rear or care for its young; or
 - iii. Impair its ability to hibernate or migrate;

d) Deliberately to obstruct access to a breeding site or resting place of such an animal; or

e) To damage or destroy a breeding site or resting place of such an animal.

To avoid any breach of The Conservation (Natural Habitats, etc) Regulations (Northern Ireland) 1995 (as amended), all mature trees and/or buildings which require works should be surveyed for the presence of bats by an experienced bat worker or surveyor within 48 hours prior to removal, felling, lopping or demolition. All survey work should be carried out according to the Bat Conservation Trust Good Practice Guidelines (<http://www.bats.org.uk>).

If there is evidence of bat and/or otter activity on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Clare House, 303 Airport Road West, Belfast BT3 9ED. Tel. 028 9056 9558.

13.3. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

a) kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the badger (*Meles meles*);

b) damage or destroy, or obstruct access to, any structure or place which badgers use for shelter or protection;

c) damage or destroy anything which conceals or protects any such structure;

d) disturb a badger while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

Any works within 25 metres of a badger sett will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Team,

Northern Ireland Environment Agency, Clare House, 303 Airport Road West, Belfast BT3 9ED. Tel. 028 9056 9558.

Any blasting or piling within 100 metres of a badger sett will require a wildlife licence to be obtained from NIEA. Licence applications should be made to the Wildlife Team, Northern Ireland Environment Agency, Clare House, 303 Airport Road West, Belfast BT3 9ED. Tel. 028 9056 9558.

13.4. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- a) kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the smooth or common newt (*Lissotriton vulgaris*, formerly *Triturus vulgaris*);
- b) damage or destroy, or obstruct access to, any structure or place which newts use for shelter or protection;
- c) damage or destroy anything which conceals or protects any such structure;
- d) disturb a newt while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of newts on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Clare House, 303 Airport Road West, Belfast BT3 9ED. Tel. 028 9056 9558.

13.5. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- a) kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the red squirrel (*Sciurus vulgaris*);

- b) damage or destroy, or obstruct access to, any structure or place which red squirrels use for shelter or protection;
- c) damage or destroy anything which conceals or protects any such structure;
- d) disturb a red squirrel while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of red squirrel on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Clare House, 303 Airport Road West, Belfast BT3 9ED. Tel. 028 9056 9558.

13.6. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- a) kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the common lizard (*Lacerta vivipara*);
- b) damage or destroy, or obstruct access to, any structure or place which common lizards use for shelter or protection;
- c) damage or destroy anything which conceals or protects any such structure;
- d) disturb a common lizard while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is evidence of common lizard on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Clare House, 303 Airport Road West, Belfast BT3 9ED. Tel. 028 9056 9558.

13.7. The applicant's attention is drawn to Article 10 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- a) kill, injure or take any wild animal included in Schedule 5 of this Order, which includes the Marsh Fritillary butterfly (*Euphydryas aurinia*);
- b) damage or destroy, or obstruct access to, any structure or place which Marsh Fritillary use for shelter or protection;
- c) damage or destroy anything which conceals or protects any such structure;
- d) disturb a Marsh Fritillary while it is occupying a structure or place which it uses for shelter or protection.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

If there is any evidence of a marsh fritillary colony on the site, all works should cease immediately and further advice sought from the Wildlife Team, Northern Ireland Environment Agency, Clare House, 303 Airport Road West, Belfast BT3 9ED. Tel. 028 9056 9558.

13.8. The applicant's attention is drawn to Article 4 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence to intentionally or recklessly:

- a) kill, injure or take any wild bird; or
- b) take, damage or destroy the nest of any wild bird while that nest is in use or being built; or
- c) at any other time take, damage or destroy the nest of any wild bird included in Schedule A1; or
- d) obstruct or prevent any wild bird from using its nest; or
- e) take or destroy an egg of any wild bird; or
- f) disturb any wild bird while it is building a nest or is in, on or near a nest containing eggs or young; or

g) disturb dependent young of such a bird.

Any person who knowingly causes or permits to be done an act which is made unlawful by any of these provisions shall also be guilty of an offence.

It is therefore advised that any tree or hedgerow loss or vegetation clearance should be kept to a minimum and removal should not be carried out during the bird breeding season (e.g. between 1st March and 31st August).

13.9. The applicant's attention is drawn to Article 15 of the Wildlife (Northern Ireland) Order 1985 (as amended) under which it is an offence for any person to plant or otherwise cause to grow in the wild any plant which is included in Part II of Schedule 9 of the Order, which includes Japanese Knotweed (*Fallopia japonica*). This highly invasive plant species has been recorded on site and control measures must be taken to ensure that any works do not cause it to spread either on or off the site.

Any soil, containing Japanese Knotweed plant or seed material, which is removed off site, is classified as controlled waste under the Controlled Waste Regulations (Northern Ireland) 2002 (as amended). The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002 (as amended) places a duty of care on 'anyone who produces, imports, stores, transports, treats, recycles or disposes of waste to take the necessary steps to keep it safe and to prevent it from causing harm, especially to the environment or to human health'. In the case of Japanese Knotweed it is the duty of the waste producer to inform the licensed waste carrier and licensed landfill site that the controlled waste material contains Japanese Knotweed as part of the waste transfer process.

13.10. The applicant's attention is drawn to Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019. Himalayan Balsam (*Impatiens glandulifera*) must not intentionally be brought into the Union; kept; bred; transported to, from or within the United Kingdom, unless for the transportation to facilities in the context of eradication; placed on the market; used or exchanged; permitted to reproduce, grown or cultivated; or released into the environment. This highly invasive plant species has been recorded on site

and control measures must be taken to ensure that any works do not cause it to spread either on or off the site.

Any soil, containing Himalayan Balsam plant or seed material, which is removed off site, is classified as controlled waste under the Controlled Waste Regulations (Northern Ireland) 2002 (as amended). The Controlled Waste (Duty of Care) Regulations (Northern Ireland) 2002 (as amended) places a duty of care on 'anyone who produces, imports, stores, transports, treats, recycles or disposes of waste to take the necessary steps to keep it safe and to prevent it from causing harm, especially to the environment or to human health'. In the case of Himalayan Balsam, it is the duty of the waste producer to inform the licensed waste carrier and licensed landfill site that the controlled waste material contains Himalayan Balsam as part of the waste transfer process.

13.11. The applicant's attention is drawn to the Welfare of Animals Act (Northern Ireland) 2011 which indicates that it is an offence to cause unnecessary suffering to any animal. There are wild animals such as foxes and rabbits present on site. To avoid any breach of the Act through entombment or injury to animals on site the applicant should ensure that best practice techniques are applied during construction works. Advice on working with wildlife is available from the CIRIA online knowledge base at www.ciria.org

SECTION 2

NIEA NED Biodiversity and Wildlife Unit & Conservation Designation and Protection Branch – Input to DFI SOC:

1. Powerline applications.

Northern Ireland Environment Agency (NIEA)

Natural Environment Division

Date: July 2024

Grid Connection Statement of Case:

Conservation Designation and Protection Branch

Conservation, Designation and Protection have nothing further to add in relation to the advice provided for consideration of potential impacts on designated sites from planning application LA10/2019/1386/F and LA11/2019/1000/F.

The following recommendations are still applicable from the previous response:

- NED are content with the details and mitigation provided in the Outline Construction Environmental Management Plan, the Environmental Statement (both date received 01/06/2021) and sHRA (date stamped 08/06/2021) and unless there is a substantial change to these documents, are content if the measures are implemented they will mitigate against any potential impacts on the protected sites.
- Should ground investigations determine that the nature of strata is not suitable in a certain location for HDD, and open-cut technique will be required, NED should be re-consulted prior to commencement of the open-cut UGC installation works.

SECTION 3

NIEA NED Connecting People to Nature Team – Input to DFI SOC:

1. Powerline applications.

DAERA NIEA Natural Environment Division

Statement of Case for Public Inquiry

Planning ref: Planning Reference:

- **LA10/2019/1386/F**

Proposal: 33kV power line involving both construction of above ground 33kV overhead line supported by wooden poles and underground 33kV cable laid below ground level in ducts, to serve Curraghinalt mine (currently under consideration planning application LA10/2017/1249/F). 33kV connection is c37.9 km in length, comprising of c26.9 km of overhead line supported by single and double wooden pole sets and c11 km of underground cabling. c 15.1 km of the powerline is within the Fermanagh & Omagh District Council area comprising of c 8.2 km of overhead line supported by single and double wooden pole sets and c 6.9 km of underground cabling. (Amended Drawing & Pole Schedule)

Location: 737m NW of 56 Mullydoo Road Greencastle through townlands of Crockanboy Teebane West Casorna Rousky Drumlea Garvagh Meenadoo Trinamadan and Culvacullion NW of 24 Meenadoo Road Culvacullion Gortin. ending at 785m

- **LA11/2019/1000/F**

Proposal: 33kV power line involving both construction of above ground 33kV overhead line supported by wooden poles and underground 33kV cable laid below ground level in ducts, to serve Curraghinalt mine (currently under consideration planning application LA10/2017/1249/F). 33kV connection is c37.9 km in length, comprising of c26.9 km of overhead line supported by single and double wooden pole sets and c11 km of underground cabling. c 22.8 km of the powerline is within the Derry City & Strabane District Council area comprising of c 18.7km of overhead line

supported by single and double wooden pole sets and c 4.1 km of underground cabling. (Amended Drawing & Pole Schedule)

Location: Adjoining 89 Woodend Road Ballymagorry through townlands of Ballymagorry Woodend Milltown Ballee Holly-hill Kennaghan Owenreagh Knockanbrack Lagvittal KnockInarvoer Craignagapple Lagavadder Ballykeery Craigtuke Meendamp Balix Upper Letterbrat Glencoppogagh (Main Portion) Aghalane and Lisnacraight ending at 681m NW of 24 Meenadoo Road Culvacullion Gortin.

Countryside Coast & Landscape

Connecting People to Nature Team

Date: 08/05/2024

1. Remit

NIEA NED Connecting People to Nature Team's remit in terms of the planning process is to make strategic comment on regionally significant proposals within AONBs or the WHS and its Distinctive Landscape Setting or on proposals outside these designations which are likely to have significant landscape and visual effects on those designations.

2. Précis of position

NIEA NED Connecting People to Nature Team consider that the scale and nature of this proposal, which is located in the south of the Sperrin AONB, would not have an overall significant effect on the visual amenity and landscape character of the AONB. It would, however, have a number of localised significant impacts on individual residential properties.

3. Position in relation to relevant planning policies

3.1: The Regional Development Strategy (RDS)

The Regional Development Strategy (RDS) 2035 recognises the importance of conserving local identity and distinctive landscape character. We would broadly agree with the agent's Landscape & Visual Impact Assessment (LVIA) in terms of route selection and mitigation where possible.

Position: We would have no objection to the proposal in relation to the RDS 2035.

3.2: The Strategic Planning Policy Statement (SPPS) 2015

The Strategic Planning Policy Statement (SPPS) 2015 states under the heading Natural Heritage: Regional Strategic Policy:

National Designations

“6.187 Development proposals in AONBs must be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife, and be in the accordance with relevant plan policies.” The powerlines and posts are of an appropriate design, size and scale for the locality and the route selection has been planned to have the least impact (although there still would be significant local impacts on residential properties in some instances).

Position: We would have no objection to the proposal in relation to the Strategic Planning Policy Statement (SPPS) 2015.

3.3: PPS2 Natural Heritage (which applies to LA11/2019/1000/F)

PPS2 Natural Heritage Policy NH6 states that:

“Planning permission for new development within an AONB will only be granted where it is of an appropriate design, size and scale for the locality and all of the following criteria are met:

- (a) the siting and scale of the proposal is sympathetic to the special character of the AONB in general and of the particular locality
- (c) the proposal respects: local materials, design and colour

The explanatory paragraphs 5.14 and 5.15 refer:-

Paragraph 5.14: This policy requires development proposals in Areas of Outstanding Natural Beauty (AONB) to be sensitive to the distinctive special character of the area and the quality of their landscape, heritage and wildlife.”

Paragraph 5.15: The quality, character and heritage value of the landscape of an AONB lies in their tranquillity, cultural associations, distinctiveness, conservation interest, visual appeal and amenity value”.

Position: We would have no objection to the proposal in relation to PPS2 Natural Heritage Policy NH6 given that the powerlines and posts are of an appropriate design, size and scale for the locality and the route selection is appropriate.

3.4 The Fermanagh and Omagh District Council (FODC) Local Development Plan 2030

The Proposal in relation to the Sperrin AONB Policy

Policy L01 – Development within the Sperrin Area of Outstanding Natural Beauty

Policy states “Development proposals which adversely affect or work to erode the distinctive special character including landscape character, visual amenity, natural, historic or cultural heritage of the Sperrin AONB, its views or setting, when considered individually or cumulatively alongside existing or approved development, will not be permitted. Account must be taken of the Landscape Character Assessments and any other relevant guidance including an AONB Management Plan and local design guides. Development proposals must be accompanied by a Landscape and Visual Impact Assessment.”

The proposal is located largely within the local Landscape Character Area (LCA) 24: South Sperrin as identified in the NILCA 1999 which states that “There is a strong sense of rural character and tranquillity in the vicinity of the proposal.”

At a strategic level, the site is contained largely within RLCA 7 ‘Sperrins’ within the Northern Ireland Regional Landscape Character Assessment 2016 (NIRLCA). This

publication describes the Sperrins as the principal mountain range of the northwest and that it contains some of the wildest and most rugged terrain in Northern Ireland. While valleys may be populated, the hill areas are sparsely settled with a high degree of remoteness and tranquillity. The mountains and glens have significant wildness and character arising from their inaccessibility. It states that “There has been historical extraction of gold in the Sperrins, and exploratory work has been undertaken to investigate commercial mining. Should this be expanded into a large-scale operation, the impacts of industrial plant, noise, excavation and lorry movements on local tranquillity would need to be very carefully considered.”

Position: We would consider that the impacts of the 33Kv power line would not be contrary to this policy as it would not adversely affect or work to erode the distinctive special character including landscape character, visual amenity, natural, historic or cultural heritage of the Sperrin AONB, its views or setting, when considered individually or cumulatively alongside existing or approved development. Account has been taken of the landscape character and the application accompanied by a Landscape and Visual Impact Assessment.

4. Route Selection

It would appear from the detail provided by the agent in the ES information that the route with the least impact on the Sperrin AONB has been chosen and this is broadly acceptable.

Our preference from a visual integration and landscape character perspective is always that cabling should be underground where feasible. Although we accept that this has been considered, with partial undergrounding in sections, the impact of the poles and lines across the landscape will often be particularly evident at a localised level. Photomontages such as Figure 5.6 VP02 Curlyhill Road submitted show evidence of this. We are, however, overall content with the ‘Route Selection Study and Corridor Definition’ and ‘Route Selection and Detail Line Design’ sections of the ES.

5. The impact of the proposal on the Sperrin AONB

The Nature Conservation and Amenity Lands Order (NI) 1985 empowers the Department to designate as an AONB any area considered to be of such outstanding natural beauty that it is desirable that its distinctive character and special scenic

quality be conserved. The Sperrin AONB was designated on the 11th August 2008. The 3 main criteria for the designation were that the AONB should:-

- i. comprise a landscape of such outstanding natural beauty as merits protection and enhancement as part of the national heritage:
- ii. exhibit a coherent identity and landscape characteristics which are distinctive to the area;
- iii. justify special planning and management attention to protect, enhance and care for the area's landscape qualities and heritage.

We would agree with the agent's overall assessment that, on balance, the Sperrin AONB will not be impacted upon to a significant degree by the proposal.

We do not, however, agree with the summation that "The predicted magnitude of change in the landscape resource is judged to be negligible during the operational phase." Whilst poles, transmission lines and sub-stations are undoubtedly a feature in the landscape, they are more so around settlements and urban and peri-urban settings. Both visual amenity and landscape character would be altered in some locations negatively by the addition of these features, depending on the visual receptor and the nature of the view (transient, static, partial etc) across the AONB landscape. In our opinion the impact will not be negligible on either the AONB or in some localities. It is not always the case that vegetation cover and topography will screen the proposal or that it will be read in combination with other overhead lines – the agent's submitted photomontages illustrate this well. This doesn't change our overall position however.

Position: We advise that the nature and scale and location of this proposal is not likely to have a significant adverse effect on this part of the AONB given that the powerlines and posts are of an appropriate design, size and scale for the locality and the route selection is appropriate. There will, however, be localised impacts.

6. Impact on Residential Properties

Whilst we may accept the overall assessment conclusion that on balance the proposal will not impact significantly on the AONB, as designated, it nevertheless does not mean that individual properties will not be adversely impacted upon nor that

the residents' perception of impact will be different than the applicant/agent. We would, for example, highlight the impact of the proposal on both visual amenity and landscape character as illustrated in Figure 5.6 VP02 Curlyhill Road – see below



Figure 5.6 VP02 Curlyhill Road

ES Vol 3 – Landscape and Visual – App 5.1 & 5.2 states “Of the 213 individual properties and clusters of properties identified and assessed against the ZTV associated with the Proposed Development, 120 are predicted to experience no change in view, 72 are predicted to experience a minor change in view and 21 are predicted to experience a minor to moderate alteration to views, with all predicted effects judged to be not significant.” The NTS also states in relation to the 21 properties “Such impacts have been assessed as not significant as existing views from these properties are often expansive in nature and the Proposed Development is readily absorbed within the view or perceived as a minor addition to the view.”

Position: As the agent observes in their methodology such assessments attempt to combine the objective and subjective. Perception of additional visual clutter and man-made lines and poles will differ from visual receptor to visual receptor depending on their particular sensitivities. Individual residents may consider the agent’s minor to be a moderate impact or a moderate to be a high impact and therefore significant.

Overall impact on the landscape character of the Sperrin AONB

In terms of potential impacts on the landscape character within the AONB, we would wish to highlight the following points:-

The proposal is located largely within the local Landscape Character Area (LCA) 24: South Sperrin as identified in the NILCA 1999. This states that “This landscape would be sensitive to the expansion of commercial forestry and to any large scale development, particularly relating to mineral extraction, which would be prominent in views from the surrounding ridges.”

At a strategic level, the site is contained largely within RLCA 7 ‘Sperrins’ within the Northern Ireland Regional Landscape Character Assessment 2016 (NIRLCA). This publication describes the Sperrins as the principal mountain range of the northwest and that it contains some of the wildest and most rugged terrain in Northern Ireland. While valleys may be populated, the hill areas are sparsely settled with a high degree of remoteness and tranquillity. The mountains and glens have significant wildness and character arising from their inaccessibility.

Position: We have considered the agent’s LVIA in relation to the potential impacts on the open, rural nature and tranquillity of the area. We would consider that, although there would be localised impacts, the overall impacts of this proposal would not be significantly adverse in terms of their influence on landscape character of this area within the Sperrin AONB.

Conclusion

The connector route stretches across 37.9 kms to the south of the Sperrin AONB (26.9 kms overhead and 11.0 kms underground) and there will be a loss of vegetation, grassland, moorland and open space as a result of construction. Initial impacts during the construction phase would include gaps in hedgerows, tree removal and the creation of temporary areas of bare earth, which combined with new lines and posts would have a minor to moderate adverse impact on both the visual amenity and landscape character of the area. The impact on visual amenity and landscape character will lessen as restoration and mitigation works mature over time.

Our overall consideration is that the proposal would not unduly undermine the Sperrin AONB designation as a whole although it should be acknowledged that there may be localised significant impacts on visual amenity.

Section 4

NIEA Drinking Water Inspectorate – Input to DFI SOC:

1. Powerline applications.

Northern Ireland Environment Agency (NIEA)

Drinking Water Inspectorate

Advice Note for DFI Statement of Case

Planning Ref No: LA10/2019/1386/F / LA11/2019/1000/F

Date: May 2024

DAERA is a statutory consultee to the planning process under the Planning Order (Northern Ireland) 2015. As part of DAERA's role as statutory consultee, the Drinking Water Inspectorate (DWI) of Northern Ireland provide technical advice and recommendations in relation to drinking water quality and sufficiency.

LA10/2019/1386/F

DWI are content that our previous consultation response, dated 02 September 2021, adequately sets out our current position;

DWI recommend a conditioned permission were the details of a scoping exercise undertaken along the length of the proposed development is provided to ensure no non-registered / non-monitored private water supplies will be adversely affected. The applicant should continue engagement with NI Water in considering the locations and potential impacts on surface water sources used for abstracting the public water supply, particularly in relation to the construction phase where the water courses may be dammed on occasion. A development should not impact on the quality or sufficiency of the public water supply. This response and condition should be considered alongside the DAERA Regulation Unit Land and Groundwater Team response.

LA11/2019/1000/F

DWI are content that our previous consultation response, dated 02 September 2021, adequately sets out our current position;

DWI recommend a conditioned permission were the details of a scoping exercise undertaken along the length of the proposed development is provided to ensure no non-registered / non-monitored private water supplies will be adversely affected. The applicant should continue engagement with NI Water in considering the locations and potential impacts on surface water sources used for abstracting the public water supply, particularly in relation to the construction phase where the water courses

may be dammed on occasion. A development should not impact on the quality or sufficiency of the public water supply. This response and condition should be considered alongside the DAERA Regulation Unit Land and Groundwater Team response.

Section 5

NIEA RED Water Management Unit – Input to DFI SOC:

1. Powerline applications.

Northern Ireland Environment Agency (NIEA) Resource Efficiency Division: Water Management Unit

Input to the Department for infrastructure (Dfi) Statement of Case for Curraghinalt Project (Dalradian) Conjoined Public Local Inquiry.

Date: October 2024

1. In response to a request from the Department for Infrastructure (Dfi), dated 12 March 2024, for statutory consultees to provide input to the Dfi Statement of Case, for the above named project, NIEA Water Management Unit has prepared the following comments, in relation to the following two components of the Curraghinalt Project (Dalradian) conjoined Public Local inquiry:

- **2021/C007** – a Public Local Inquiry for planning application LA11/2019/1000/F on behalf of NIE Networks for a 33kV power overhead line and underground cable) within the Derry City & Strabane District Council area.
- **2021/C006** – a Public Local Inquiry for planning application LA10/2019/1386/F for a 33kV power line (overhead line and underground cable) within the Fermanagh & Omagh District Council area.

2021/C007 – a Public Local Inquiry for planning application LA11/2019/1000/F on behalf of NIE Networks for a 33kV power overhead line and underground cable) within the Derry City & Strabane District Council area.

2. NIEA Water Management Unit has contributed to 3 DAERA planning consultation responses in relation to application LA10/2019/1000/F, dated:

- 15 July 2020.
- 1 March 2021.
- 2 September 2021.

3. The Water Management Unit consultation response for LA10/2019/1000/F, set out in the most recent DAERA planning consultation response correspondence, dated 2 September 2021, is still valid and stands on its own merits. It is therefore not addressed any further in this document, other than to summarise the stated position as follows: Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided, are content subject to:

- Conditions
- Any relevant statutory permissions are obtained.
- The applicant referring and adhering to standing advice.
- The applicant noting the advice contained in the explanatory note.

2021/C006 – a Public Local Inquiry for planning application LA10/2019/1386/F for a 33kV power line (overhead line and underground cable) within the Fermanagh & Omagh District Council area.

4. NIEA Water Management Unit has contributed to 3 DAERA planning consultation responses in relation to application LA10/2019/1386/F, dated:

- 15 July 2020.
- 26 February 2021.
- 2 September 2021.

5. The Water Management Unit consultation response for LA10/2019/1386/F, set out in the most recent DAERA planning consultation response correspondence, dated 2 September 2021, is still valid and stands on its own merits. It is therefore not addressed any further in this document, other than to summarise the stated position: Water Management Unit has considered the impacts of the proposal on the surface water environment and on the basis of the information provided, are content subject to:

- Conditions
- Any relevant statutory permissions are obtained.
- The applicant referring and adhering to standing advice.
- The applicant noting the advice contained in the explanatory note.