



Northern Ireland Environment Agency
Gníomhaireacht Comhshaoil Thuaisceart Éireann
Norlin Airlan Environment Agency

www.daera-ni.gov.uk

Your Reference

Our reference: AE2-24-151082

Department of Infrastructure Planning Group
DFIPlanninggroup@infrastructure-ni.gov.uk

19 November 2024

NIEA Lisburn

17 Antrim Road

Tonagh

Lisburn

BT28 3AL

Telephone: 028 9056 9604

Email: planningresponse.team@daera-ni.gov.uk

Dear DfI,

DAERA NIEA Rebuttal of Curraghinalt 33kV Connection Project Statement of Case October 2024

I refer to the issuing of the recent Statement of Cases with regards to the above.

We are pleased to provide comments and advice on the key environmental considerations for the Northern Ireland Environment Agency (NIEA) within DAERA.

For your convenience we have provided our comments under the following topic heading:

- Natural Environment Division – Countryside, Coast & Landscapes
- Natural Environment Division – Connecting People to Nature - Landscapes
- Natural Environment Division – Conservation Designation & Protection and Biodiversity & Wildlife Unit
- Regulation and Enforcement Division – Water Management Unit

Yours sincerely,

Planning Response Team

Sustainability at the heart of a living, working, active landscape valued by everyone.



An Agency within the Department of
Agriculture, Environment
and Rural Affairs
www.daera-ni.gov.uk

Gníomhaireacht de chuid na Roinne
Talmhaíochta, Comhshaoil
agus Gnóthaí Tuaithe

An Agency w/in the Department o
Fairmin, Environment
an' Kintra Matthers

INVESTORS IN PEOPLE
We invest in people Standard

DAERA NIEA Natural Environment Division (NED) Rebuttal of Curraghinalt 33kV Connection Project Statement of Case October 2024

DAERA NIEA Natural Environment Division: Countryside, Coast and
Landscape (CC&L) Planning Branch: Development Management
Team

Date: 18 November 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.

Sustainability at the heart of a living, working, active landscape valued by everyone.



An Agency within the Department of
Agriculture, Environment
and Rural Affairs
www.daera-ni.gov.uk

Gníomhaireacht de chuid na Roinne
Talmhaíochta, Comhshaoil
agus Gnóthaí Tuaithe

An Agency w/in the Department o
Fairmin, Environment
an' Kintra Matthers

INVESTORS IN PEOPLE
We invest in people Standard

1. **Executive Summary**

1.1. This rebuttal relates solely to potential impacts to Northern Ireland Priority Habitats (NIPH) and protected, non-aquatic species along the route the proposed powerlines within the Fermanagh & Omagh District Council and Derry City & Strabane District Council areas.

1.2. DAERA NIEA Natural Environment Division (NED) confirms receipt of the Curraghinalt 33kV Connection Project Statement of Case October 2024 by RPS, which includes the following associated documents:

- Appendix A: Technical Report 5: Terrestrial Ecology & Ornithology
- Appendix C: Outline CEMP

1.3. NED has also considered Environmental Statement for Curraghinalt 33kV Connection Project May 2021 (2021 ES), which was prepared by RPS.

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 Owenkillev River SAC crossing will be via a duct directionally drilled under the river.

3. **Birds**

3.1. NED confirms receipt of Appendix A Technical Report 5 Terrestrial Ecology & Ornithology which presents the findings of the updated bird surveys which were carried out in 2022 and 2024.

3.2. 2021 ES Volume 1 Chapter 7 Terrestrial Ecology presents the results of the breeding wader surveys that were carried out in 2018, 2019 and 2020. NED notes that a single Snipe was observed displaying and was confirmed to be present at one location along the route of the proposed development in 2018 and another location nearby 2019, but no breeding waders were observed in 2020.

3.3. The updated breeding bird surveys followed the same methodology as used in the surveys for the 2021 ES. No breeding waders were observed in 2022 or 2024.

***Sustainability** at the heart of a living, working, active landscape valued by everyone.*



3.4. NED is content that the updated surveys do not draw new or different conclusions to those presented in the 2021 ES. NED considers it unlikely that there will be significant ornithological issues associated with this proposal.

3.5. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.12 Birds and the conditions set out in Section 12 of this rebuttal document are included in any planning approval, NED has no concerns regarding adverse impacts to Birds.

4. Bats

4.1. NED confirms receipt of Appendix A Technical Report 5 Terrestrial Ecology & Ornithology which presents the findings of the updated Bat Survey, comprising Potential Roost Feature (PRF) inspections in 2022 and 2023

4.2. 2021 ES Volume 1 Chapter 7 Terrestrial Ecology presents the results of the Bat Survey, which included Ground-level Potential Roost Assessments and PRF inspections, which was carried out in 2020 in relation to both LA10/2019/1386/F and LA11/2019/1000/F planning applications

4.3. It is unclear from Technical Report 5 if a licence was in place to undertake a PRF inspection. However, the NIEA wildlife officer did not raise any concerns with the survey submitted.

4.4. The original EclA included a Ground Level Roost Suitability assessment and an enhanced PRF Inspection Roost Suitability assessment in 2020. No evidence of bats was discovered and some PRFs were downgraded. The PRF Inspection Roost Suitability was repeated in 2022 and 2023. One negligible tree and two moderate trees could not be accessed during 2023 due to heightened concerns regarding surveyor health & safety, although these trees were covered during the 2022 surveys.

4.5. The 2022 and 2023 surveys followed the methodology used in previously submitted surveys (2019) to assess the potential impact (to roosting bats) of the loss of trees associated with this proposed development.

4.6. The surveys submitted are an update of previously accepted surveys and conditions on site have not changed significantly.

***Sustainability** at the heart of a living, working, active landscape valued by everyone.*



4.7. NED's previous response stated that NED was content that, provided all recommended mitigation measures were implemented, significant impacts on the local bat population were unlikely.

5. Otters

5.1. NED confirms receipt of Appendix A Technical Report 5 Terrestrial Ecology & Ornithology which presents the findings of the otter surveys undertaken at the proposed infrastructure site in 2023 in order to update the original survey conducted by RPS in 2018 and 2020.

5.2. 2021 ES Volume 1 Chapter 7 Terrestrial Ecology presents the results of the extended phase 1 habitat survey carried out in March 2018 and December 2020 inform to the baseline conditions for otter.

5.3. NED is satisfied that proportionate survey effort was carried out with a suitable methodology and that the results from the surveys are acceptable.

5.4. NED direct the Commissioner to Paragraph 1.3 and Section 5 of the NIEA NED Countryside, Coast and Landscape Planning Branch Statement of Case for the powerlines which provides advice on otters.

5.5. As the recent otter survey indicates, no additional evidence of otters has been recorded along the route of the proposed development during updated surveys carried out in 2023. NED notes that the oCEMP states that Pre-Construction Protected Species Survey will be carried out by the ECoW. NED considers that NIEA NED Countryside, Coast and Landscape Planning Branch Statement of Case advice for otters remains valid in relation to otters.

6. Badgers

6.1. NED confirms receipt of Appendix A Technical Report 5 Terrestrial Ecology & Ornithology which presents the findings of the of the badger survey undertaken along the proposed power line connections route in 2023.

6.2. 2021 ES Volume 1 Chapter 7 Terrestrial Ecology presents the results of the badger surveys which were carried out between March 2018 and December 2020 in relation to both LA10/2019/1386/F and LA11/2019/1000/F planning applications.

***Sustainability** at the heart of a living, working, active landscape valued by everyone.*



6.3. NED is satisfied that proportionate survey effort was carried out with a suitable methodology and that the results from the surveys are acceptable.

6.4. NED direct the commissioner to paragraph 1.4 and Section 6 of the NIEA NED, Countryside, Coast and Landscape Planning Branch – SOC Input for Dfl for the two powerline applications which provides advice on badgers.

6.5. Provided the proposed mitigations are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.9 Badger and the conditions set out in Section 12 of this rebuttal document are included in any planning approval, NED has no concerns regarding adverse impacts to badgers.

7. Common Lizard

7.1. NED confirms receipt of Appendix A Technical Report 5 Terrestrial Ecology & Ornithology which presents the findings of the common lizard surveys undertaken along the proposed power line connections route in 2022 and 2023 by RPS.

7.2. 2021 ES Volume 1 Chapter 7 Terrestrial Ecology presents the results of the common lizard surveying which was carried out in September 2020 in relation to both LA10/2019/1386/F and LA11/2019/1000/F planning applications.

7.3. NED would highlight that Technical Report 5: Section 3.9 Common Lizard: Table 3-6 references Larval Web Surveys in 2020, 2022 and 2023, as opposed to the visual inspection and artificial refugia surveys referenced in the methodology. The data, however, corresponds correctly to the information set out in Technical Report 5: Appendix A Ecology Survey Report: Section 2.11 Common Lizard: Table 2-3 which details the number of lizards observed during the common lizard surveys.

7.4. NED is content that Technical Report 5: Section 2 Methodology references licence holders for both the 2022 and 2023 common lizard survey periods. NED is satisfied that proportionate survey effort was carried out with a suitable methodology and that the results from the surveys are acceptable.

7.5. NED directs the Commissioner to Paragraph 1.5 and Section 7 of the NIEA NED, Countryside, Coast and Landscape Planning Branch – SOC Input for Dfl for the two powerline applications which provides advice on common lizard.

***Sustainability** at the heart of a living, working, active landscape valued by everyone.*



7.6. Provided the proposed mitigation are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.11 Common Lizard and the conditions set out in Section 12 of this rebuttal document are included in any planning approval, NED has no concerns regarding adverse impacts to common lizards.

8. Smooth Newts

8.1. NED confirms receipt of Appendix A Technical Report 5 Terrestrial Ecology & Ornithology which presents the findings of the smooth newt surveys undertaken along the proposed power line connections route in 2022 and 2023 in order to update the 2020 newt surveys.

8.2. 2021 ES Volume 1 Chapter 7 Terrestrial Ecology presents the results of the smooth newt surveying carried out between May and June 2020 in relation to both LA10/2019/1386/F and LA11/2019/1000/F planning applications.

8.3. It is unclear from Technical Report 5 Terrestrial Ecology & Ornithology if a wildlife licence was in place to survey for newt presence and abundance as required by NIEA survey specifications which states:

A protected species licence to survey for newt presence and abundance must be obtained from the NIEA Wildlife Team before commencement of the survey.

8.4. NED is satisfied that proportionate survey effort was carried out with a suitable methodology and that the results from the surveys are acceptable.

8.5. NED directs the Commissioner to Paragraph 1.6 and Section 8 of the NIEA NED, Countryside, Coast and Landscape Planning Branch – SOC Input for DfI for the two powerline applications which provides advice on smooth newt.

8.6. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.10 Smooth Newt and the conditions set out in Section 12 of this rebuttal document are included in any planning approval, NED has no concerns regarding adverse impacts to smooth newts.

9. Marsh Fritillary, Pine Marten and Red Squirrel

9.1. NED confirms receipt of Appendix A Technical Report 5 Terrestrial Ecology & Ornithology which presents the findings of the updated surveys for Marsh Fritillary, pine
Sustainability at the heart of a living, working, active landscape valued by everyone.



marten and red squirrel which were carried out in 2022 and 2023 in order to update information about these species in relation to both LA10/2019/1386/F and LA11/2019/1000/F planning applications.

9.2. 2021 ES Volume 1 Chapter 7 presents the results of Marsh Fritillary, pine marten and red squirrel surveys completed in 2020 in relation to both LA10/2019/1386/F and LA11/2019/1000/F planning applications.

9.3. NED is satisfied that proportionate survey effort was carried out for these species with a suitable methodology and that the results from the surveys are acceptable

9.4. A single Marsh Fritillary larval web was recorded in habitat along the route of the Proposed Development in 2019. There were no marsh fritillary larval webs recorded in suitable habitat along the route of the Proposed Development in 2020, 2022 or 2023.

9.5. While no specific licence is referenced in Technical Report 5, NED is content that Section 2 Methodology of TR5 (page 2 [25]) references licence holders for both the 2022 and 2023 Marsh Fritillary larval web surveys.

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

9.7. No evidence of pine marten or red squirrel was recorded along the route of the Proposed Development. NED has no concerns regarding impacts to these two species.

9.8. NED directs the Commissioner to Paragraph 1.7 and Section 9 of the NIEA NED, Countryside, Coast and Landscape Planning Branch – SOC Input for DfI for the two powerline applications which provides advice on Marsh Fritillary.

10. **Invasive Species**

10.1. NED confirms receipt of Appendix A Technical Report 5 Terrestrial Ecology & Ornithology and Appendix C Outline CEMP. NED notes that this Technical Report does not provide updated information in relation to invasives species found within the zone of influence.

10.2. 2021 ES Volume 1 Chapter 7 Terrestrial Ecology presents the results of the extended Phase 1 Habitat Survey which was carried out in March 2018 and December 2020 which included a survey for invasive species.

***Sustainability** at the heart of a living, working, active landscape valued by everyone.*



10.3. Japanese Knotweed has been located at several locations and NED would direct the Commissioner to Paragraphs 10.1 and 10.2 of NIEA NED Countryside, Coast and Landscape Planning Branch Statement of Case for the powerline applications which provides advice on invasive species.

10.4. NED notes that Himalayan Balsam was also located at several locations. This species is listed as a Widely Spread Species in the Invasive Alien Species (Enforcement and Permitting) Order (Northern Ireland) 2019. As a result, NED Countryside, Coast and Landscape Planning Branch has passed this information to the NIEA Invasive Species team who will provide management advice to the registered land owner.

11. Northern Ireland Priority Habitats

11.1. 2021 ES Volume 1 Chapter 7 Terrestrial Ecology presents the results of the extended Phase 1 Habitat Survey which was carried out in March 2018 and December 2020 along the route of the Proposed Development within a 100m ecological survey corridor centred on the route of the OHL and UGC, where the route traverses open countryside. A more detailed Phase 2 Vegetation Survey was conducted on complex blanket bog habitats to define the vegetation communities present and to determine if the blanket bog was considered active. The results of these surveys are set out in 2021 ES Chapter 7 Terrestrial Ecology and Ornithology.

11.2. NED notes that the Phase 1 Habitat Survey was ground truthed and updated in 2023 by RPS in accordance with CIEEM Advice Note on the Lifespan of Ecological Reports & Surveys and in line with NIEA survey specifications. The results of this survey is set out in Appendix A Technical Report 5: Terrestrial Ecology & Ornithology of the Curraghinalt 33kV Connection Project Statement of Case October 2024

11.3. NED is satisfied that proportionate survey effort was carried out with a suitable methodology and that the results from the surveys are acceptable.

11.4. NED notes that no significant changes were found in relation to habitats along the route of the proposed development during updated surveys carried out in 2023.

11.5. NED directs the Commissioner to Paragraph 1.9 and Section 11 Northern Ireland Priority Habitats of the CC&L Statement of Case for the powerline applications which provide advice on Northern Ireland Priority Habitats.

***Sustainability** at the heart of a living, working, active landscape valued by everyone.*



11.6. Provided the proposed mitigation measures are implemented as described in ES 2021 Chapter 7 Terrestrial Ecology and Ornithology Section 7.5.3 Northern Ireland Priority Habitats and the conditions set out in Section 12 of this rebuttal document are included in any planning approval, NED has no concerns regarding adverse impacts to Northern Ireland Priority Habitats.

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.

***Sustainability** at the heart of a living, working, active landscape valued by everyone.*



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 2017 ES Volume 3 Appendix C9). 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.

12.4. There shall be no development activity, including any vegetation clearance, during the bird breeding season (1 March to 31 August inclusive) within the Craignagapple survey area or within 500m of the previously used Kestrel nest site in the Slievemore survey area.

Reason: To avoid potential disturbance to breeding Snipe, Red Grouse and Kestrel.

Sustainability at the heart of a living, working, active landscape valued by everyone.



12.5. No vegetation clearance or removal of hedgerows, trees or shrubs shall take place between 1 March and 31 August inclusive, unless a competent ecologist has undertaken a detailed check for active bird nests immediately before clearance, and provided written confirmation that no nests are present or that birds will be harmed and there are appropriate measures in place to protect nesting birds. Any such written confirmation shall be submitted to the Planning Authority within 6 weeks of works commencing.

Reason: To protect breeding birds.

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 ***Sustainability at the heart of a living, working, active landscape valued by everyone.***



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 common lizard (*Lacerta vivipara*);
- b) damage or destroy, or obstruct access to, any structure or place which common lizards use for shelter or protection;

Sustainability at the heart of a living, working, active landscape valued by everyone.



- 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.

13.5. 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 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.

13.6. 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 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;

Sustainability at the heart of a living, working, active landscape valued by everyone.



- 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.

13.7. 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

Sustainability at the heart of a living, working, active landscape valued by everyone.



- 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

Sustainability at the heart of a living, working, active landscape valued by everyone.



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.

Sustainability at the heart of a living, working, active landscape valued by everyone.



An Agency within the Department of
**Agriculture, Environment
and Rural Affairs**
www.daera-ni.gov.uk

Gníomhaireacht de chuid na Roinne
**Talmhaíochta, Comhshaoil
agus Gnóthaí Tuaithe**

An Agency w/in the Department o
**Fairmin, Environment
an' Kintra Matthers**

INVESTORS IN PEOPLE
We invest in people Standard

DAERA NIEA Natural Environment Division: Connecting People to Nature (CPtN) – Landscapes

Date: 18 November 2024

Planning Reference No: LA10/2019/1386/F; LA11/2019/1000/F

Considerations

NED confirms receipt of the following document:

Curraghinalt 33KV Connection Project: Statement of Case: Technical Report 'Landscape and Visual Impact Assessment' RPS V.01 October 2024.

We have considered the following 8 sections within the above Technical Report (TR):-

1. METHODOLOGY
2. BASELINE ENVIRONMENT
3. CONSIDERATION OF CHANGES TO BASELINE DATA
4. IMPACTS WITHOUT MITIGATION
5. PROPOSED MITIGATION MEASURES
6. CUMULATIVE IMPACTS/ INTERACTIONS / TRANSBOUNDARY IMPACTS
7. CONSULTATION RESPONSES AND SUBMISSIONS
8. CONCLUSIONS

1.0 Context for our reply: The Technical Report was considered alongside Chapter 5.0 Landscape and Visual, and associated Appendices of the ES, previously submitted to the Department for Infrastructure ('DfI') on 1st June 2021. We have taken cognisance that the Technical Report also contains additional environmental information within Section 3 (Consideration of Changes to Baseline) following a review of the Fermanagh & Omagh District Council and Derry City and Strabane District Council Plan Strategy and draft Plan Strategy respectively. All other additional information set out below has also be assessed.

2.0 Methodology: We acknowledge that best practice was followed in relation to the methodology used for the landscape and visual assessment of the project as set out in Section 5.3 of the Landscape and Visual Chapter, with methodology and approach to the assessments developed from and carried out in accordance with best practice guidance described in the following documents.

- Guidelines for Landscape and Visual Impact Assessment, Third Edition (The Landscape Institute and Institute of Environmental Management & Assessment, 2013) (GLVIA3);

***Sustainability** at the heart of a living, working, active landscape valued by everyone.*



An Agency within the Department of
**Agriculture, Environment
and Rural Affairs**
www.daera-ni.gov.uk

Gníomhaireacht de chuid na Roinne
**Talmhaíochta, Comhshaoil
agus Gnóthaí Tuaithe**

An Agency w/in the Department o
**Fairmin, Environment
an' Kintra Matthers**

INVESTORS IN PEOPLE
We invest in people Standard

- Technical Guidance Note 06/19 Visual Representation of Development Proposals (The Landscape Institute, 2019).
- Technical Guidance Note 2/19 Residential Visual Amenity Assessment (The Landscape Institute, 2019)

3.0 Additional Baseline Information:

3.1.1 Local Development Plans: We have considered the additional baseline information, relevant to landscape and visual assessment, which references the Fermanagh & Omagh District Council (FODC) and Derry City and Strabane District Council (DCSDC) Local Development Plans which have, since the submission of the EIA in June 2022, both been updated since the submission of the ES, on 1st June 2021.

3.1.2 FODC introduced new policies relating to development within the Sperrin Area of Outstanding Natural Beauty (Policy L01), Special Countryside Areas (SCA) (Policy L02) and Areas of High Scenic Value (AoHSV) (Policy L03), all of which RPS have assessed to a satisfactory degree.

3.1.3 DCSDC published a draft Plan Strategy in December 2019. RPS has confirmed that their LVIA associated with the proposed development is in line with the Landscape Character Review undertaken by Derry and Strabane District Council as part of their LDP review process. The Landscape Character Review also identified the Sperrin AONB as being intrinsically important to the council area, and new area designations including an Special Countryside Area (SCA), Area of High Landscape Importance (AHLI) and a Wind Energy Conservation Area (WECA).

3.1.4 We would concur with RPS's position that the inclusion of the new designations does not alter the predictions reported in Chapter 5.0 of the ES, as the designations do not alter the perception of the character or components of the landscape, but rather further protect such areas from inappropriate development.

3.2 Review of Residential Visual Impact Assessment: Other additional information assessed include a review of the residential visual impact assessment following a survey undertaken by RPS in August 2024 to confirm receptor numbers. During the review of the residential receptors within the study area, an additional 20 residential receptors were identified. We are satisfied with RPS's assessment and findings of this assessment.

3.3 Way Marked Trails: We would concur with RPS's assessment in relation to the predicted visual impacts for Way Marked Trails such as the Ulster way, Vinegar Hill Loop or for scenic trails such as the Central Sperrins Scenic Route or for the numerous cycling trails that occur within the study area, including Tourist routes and the Sperrin Sculpture Trail i.e. the impacts would not be significant.

Sustainability at the heart of a living, working, active landscape valued by everyone.



3.4 The Northern Ireland Regional Landscape Character Assessment (NIRLCA): An assessment of the proposed development on the Regional Landscape Character areas has been undertaken by RPS. The impact on the regional landscape character has been assessed for the 3 RLCAs of relevance ie:- Foyle Valley RLCA, Sperrin RLCA and the Carrickmore Plateau and Pomeroy Hills RLCA and the conclusions drawn satisfactorily i.e. the impacts would not be significant.

4.0 Previous point of discussion between the then DAERA NIEA Protected Landscapes Team and RPS re VP 02: We accept RPS's assessment that Vp 02 – Curly Hill Road would not have 'negligible' impacts but rather minor to moderate, localised and not significant impacts during the operational phase of the Proposed Development.

5.0 Section 7 Consultation Responses and Submissions: We would have no comment in relation to Section 7 as this is outside our remit with regards to this submission.

6.0 Our consideration of 'The Conclusions' of the TR:

The main potential impacts identified have been assessed as being with regard to:- landscape character (both regional and local); the Sperrin AONB; visual amenity including specifically residential visual amenity and whilst travelling through the landscape; way-marked trails including the Sperrin Sculpture Trail and cumulative impacts including transboundary impacts. We would broadly agree with the conclusions arrived at by RPS.

Sustainability at the heart of a living, working, active landscape valued by everyone.



An Agency within the Department of
**Agriculture, Environment
and Rural Affairs**
www.daera-ni.gov.uk

Gníomhaireacht de chuid na Roinne
**Talmhaíochta, Comhshaoil
agus Gnóthaí Tuaithe**

An Agency w/in the Department o
**Fairmin, Environment
an' Kintra Matthers**

INVESTORS IN PEOPLE
We invest in people Standard

DAERA NIEA Natural Environment Division: Conservation Designation and Protection (CDP), Biodiversity and Wildlife Unit (BWU)

Date: 18 November 2024

Planning Reference No: LA10/2019/1386/F & LA11/2019/1000/F

Explanatory note

NED acknowledge receipt of RPS – SOC 5 – Appendix A Technical Report 5 Terrestrial Ecology & Ornithology, RPS – SOC 6 – Appendix A Technical Report 6 Fisheries & Aquatic Ecology, RPS - SOC 7 – Appendix A Technical Report 7 Water Quality, RPS - SOC 9 – Appendix A Technical Report 9 Air Quality and RPS - SOC 17 – Appendix C OCEMP.

1. Designated Site Considerations

- 1.1. NED CDP/BWU refer to RPS – SOC 5 – Appendix A Technical Report 5 Terrestrial Ecology & Ornithology and note Appendix B Shadow Habitats Regulations Assessment (sHRA) Addendum provides details of underground cable construction methods which have been assessed as part of the sHRA.
- 1.2. NED CDP/BWU refer to RPS – SOC 6 – Appendix A Technical Report 6 Fisheries & Aquatic Ecology and note updates to the methodology for installation of the cable as of October 2024 in Table 1. NED draws attention to page 4, section 3.1.1. where it states:

“Fine sediment (grain size <2mm) is a major cause of negative environmental impacts during the construction phase associated with infrastructure installation at watercourse crossings. Fish species such as Brown trout and Atlantic salmon are highly vulnerable to suspended and deposited sediment in spawning and nursery habitats. Suspended sediment can lower water clarity, reduce prey capture efficiency and affect respiration rates by clogging fish gills. Sediment deposited on the riverbed can reduce the quality of riverbed physical

Sustainability at the heart of a living, working, active landscape valued by everyone.



habitat by infilling of cobbles and pebbles and have indirect negative effects on fish growth and survival by reducing habitat quality of the invertebrate species that fish prey upon.”

- 1.3. NED CDP/BWU agree that sediment can be a cause of negative environmental impacts, particularly for salmonid species including Brown Trout and Atlantic Salmon, both of which are highly vulnerable to sediment in spawning and nursery habitats. This is further emphasised on page 8; table 3 where Atlantic salmon are classified as very high in sensitivity with potential effect of sediment release.

Table 3 (reproduced from Table 8.19; Chapter 8). Construction Phase OHL downstream sensitive watercourses - Magnitude and Significance of Effects without Mitigation. Note that the assessment takes into account the crossing method.

Site ID	Key Species	Sensitivity	Potential Effect	Magnitude of Effect	Significance without Mitigation
ST14	SAC/ ASSI; Annex II Salmon & Lamprey spp. present; Trout present.	Very High	Sediment release	Moderate	Large
			Release of other pollutants	Major	Very Large
ST15	Annex II Salmon & Lamprey spp. present; Trout present.	Very High	Sediment release	Moderate	Large
			Release of other pollutants	Major	Very Large

- 1.4. With this in mind, NED CDP/BWU have concerns regarding the findings on page 12 section 5.2 Cumulative Impacts. It is highlighted that the proposed Curraghinalt Mine Project, Planning Reference No: LA10/2017/1249/F, was considered under cumulative impacts.
- 1.5. It is stated that upon reviewing the information within case officer reports, relevant ES’s, and Chapters accessed through the NI Planning Portal, the potential for significant cumulative effects on the Glenmornan and Owenkillew catchments, or on watercourses downstream such as the River Mourne and the River Foyle and Tributaries SAC, was ruled out.
- 1.6. NED CDP/BWU have raised considerable concerns with proposed water

Sustainability at the heart of a living, working, active landscape valued by everyone.



quality discharge standards linked to Planning Reference No: LA10/2017/1249/F. Of particular relevance when considering cumulative impacts relating to this application is the proposed discharge threshold of 50mg/l TSS.

- 1.7. This discharge standard is known to negatively affect juvenile Atlantic Salmon and could result in a direct reduction in available habitat within the SAC and thus a reduction in range of the species. This would be contrary to the conservation objectives of the site and therefore a breach of the Habitats Regulations.
- 1.8. NED CDP/BWU therefore have concerns on the ability of RPS to accurately assess the potential cumulative impact of LA10/2017/1249/F based on the proposed standards.
- 1.9. NED CDP/BWU refer to RPS - SOC 7 – Appendix A Technical Report 7 Water Quality and note mitigation has been proposed to offset potential significant effects of the proposed development in relation to designated sites with reference made to the OCEMP.
- 1.10. NED CDP/BWU refer to RPS - SOC 9 – Appendix A Technical Report 9 Air Quality and note the predicted construction traffic numbers do not exceed the IAQM thresholds for any individual road during the construction phase of this project. Therefore, construction-vehicle exhaust emissions have not been assessed specifically and have been scoped out of further assessment. During operation there are no significant increases in traffic associated with the proposed development and as such the operational phase emissions can be screened out of the assessment.
- 1.11. NED CDP/BWU refer to RPS - SOC 17 – Appendix C OCEMP and acknowledge detailed mitigation measures which will be applied during the construction, operational and decommissioning stage. In principal NED are content with the mitigation measures proposed within the OCEMP, however, request the additional measures i.e. covering of stockpiles, incorporation of

Sustainability at the heart of a living, working, active landscape valued by everyone.



additional silt fencing/curtains, pre-commencement surveys, watercourse specific construction methodology and mitigation outlined in the SoC provided by Lough Agency (dated, 18/10/2024) are incorporated and should inform the Final CEMP.

1.12. Given the expanse and intricate nature of the proposed works NED advise the following condition should be considered in relation to designated sites:

- NED request that the appointed contractor submits the final Construction Environmental Management Plan (CEMP) and finalised layout design including a site drainage plan for review prior to works commencing. This should reflect and detail all the mitigation, and avoidance measures to be employed as outlined in the RPS - SOC 17 – Appendix C OCEMP and Loughs Agency SoC (dated, 18/10/2024) and all additional submitted information.

Sustainability at the heart of a living, working, active landscape valued by everyone.



An Agency within the Department of
**Agriculture, Environment
and Rural Affairs**
www.daera-ni.gov.uk

Gníomhaireacht de chuid na Roinne
**Talmhaíochta, Comhshaoil
agus Gnóthaí Tuaithe**

An Agency w/in the Department o
**Fairmin, Environment
an' Kintra Matthers**

INVESTORS IN PEOPLE
We invest in people Standard

Northern Ireland Environment Agency (NIEA) Regulation & Enforcement Division (RED): Water Management Unit (WMU)

Input to the Department for infrastructure (Dfi) Rebuttal Submission for Curraghinalt Project (Dalradian) Conjoined Public Local Inquiry.

Date: 18 November 2024

1. In response to a request from the Department for Infrastructure (Dfi) for statutory consultees to provide input to the Dfi Rebuttal Submission, 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.

Sustainability at the heart of a living, working, active landscape valued by everyone.



An Agency within the Department of
**Agriculture, Environment
and Rural Affairs**
www.daera-ni.gov.uk

Gníomhaireacht de chuid na Roinne
**Talmhaíochta, Comhshaoil
agus Gnóthaí Tuaithe**

An Agency wí'ín the Department o
**Fairmin, Environment
an' Kintra Matthers**

INVESTORS IN PEOPLE
We invest in people Standard

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.

4. Water Management Unit submitted information, dated October 2024, to be included in the Department for Infrastructure's (DFI) Statement of Case for the above named component of the Curraghinalt Project (Dalradian) Public Local Inquiry. This information is still valid.

5. No additional information is being submitted by Water Management Unit at the Rebuttal Submission stage. Key issues with regard to water quality and water quantity are addressed within the NIEA Rebuttal Evidence for Public Local Inquiry components 2021/WHR01, 2021/WHR02, 2024/WHR01 and 2024/WHR02.

Sustainability at the heart of a living, working, active landscape valued by everyone.



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.

6. 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.
7. 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.
8. Water Management Unit submitted information, dated October 2024, to be included in the Department for Infrastructure's (DFI) Statement of Case for the above named component of the Curraghinaft Project (Dalradian) Public Local Inquiry. This information is still valid.
9. No additional information is being submitted by Water Management Unit at the Rebuttal Submission stage. Key issues with regard to water quality and water quantity are addressed within the NIEA Rebuttal Evidence for Public Local Inquiry components 2021/WHR01, 2021/WHR02, 2024/WHR01 and 2024/WHR02.

***Sustainability** at the heart of a living, working, active landscape valued by everyone.*

