

E: Craig.cross@gov.scot

Jamie Scott
Pegasus Group
By email only

By email only to: jamie.scott@pegasusgroup.co.uk

Our ref: ECU00005049

16th December 2024

Dear Jamie Scott

ELECTRICITY ACT 1989

**THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)
REGULATIONS 2017**

SCREENING OPINION OF THE SCOTTISH MINISTERS

**IN RESPECT OF THE PROPOSED APPLICATION FOR CONSENT UNDER SECTION 36
OF THE ELECTRICITY ACT 1989 TO CONSTRUCT AND OPERATE THE PROPOSED
BISHOPS DAL BATTERY ENERGY STORAGE SYSTEM ON LAND LOCATED SOUTH OF
A697 HATCHEDNIZE, SCOTTISH BORDERS, SCOTLAND, TD12 4LU.**

Thank you for your request dated 2nd July 2024 requesting a screening opinion in respect of a proposed application under section 36 of the Electricity Act 1989 (“the Electricity Act”) to construct and operate a battery energy storage system with a generating capacity of approximately 150 megawatts (MW), comprising of battery-based electricity storage containers and ancillary development including transformers, containers, access, perimeter fencing and control room.

Background

The proposed development as described briefly above is entirely within the planning authority area of Scottish Borders council (“the Planning Authority”).

The proposal requires to be screened by the Scottish Ministers in accordance with regulation 7 of the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 (“the Regulations”). Following a request for a screening opinion made under regulation 8(1), Scottish Ministers are required to adopt an opinion as to whether the proposed development is or is not EIA development.

The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017

The Regulations set out at 8(2) the information that must accompany a request to the Scottish Ministers to adopt a screening opinion. Scottish Ministers consider that the information included in the screening request and documents supporting the request is sufficient to meet the requirements set out in regulation 8(2), and that the submitted information has been compiled taking into account the selection criteria in schedule 3 of the Regulations.

Statutory Consultation

Under regulation 8(5) of the Regulations, Scottish Ministers are required to consult the Planning Authority within whose land the proposed development is situated. The Planning Authority was consulted on 3rd July 2024 and responded on 27th November 2024 advising that, in their view, the proposed development does not constitute EIA development and therefore any application for construction and operation of the development described in the screening request does not need to be accompanied by an EIA report. A copy of the Planning Authority’s response is annexed to this screening opinion (**Annex A**).

Scottish Ministers’ Considerations

EIA development is defined in the Regulations, in respect of an application, as a proposed development, which is either Schedule 1 development, or Schedule 2 development likely to have significant effects on the environment by virtue of factors such as its nature, size or location. The proposed development constitutes Schedule 2 development in terms of the Regulations.

In adopting a screening opinion as to whether Schedule 2 development is EIA development, the Scottish Ministers must in all cases take into account such of the selection criteria in Schedule 3 of the Regulations as are relevant to the proposed development, and the available results of any relevant assessment.

Scottish Ministers have taken the selection criteria in Schedule 3 and all the information submitted in respect of the screening request in account and taken account of the views of the Planning Authority. Scottish Ministers adopt the opinion that **the proposal does not constitute EIA development, and that the application submitted for this development does not require to be accompanied by an EIA report.**

In accordance with regulation 7(2), this opinion is accompanied by the following written statement with reference to the relevant selection criteria within Schedule 3 of the Regulations. In accordance with the Regulations, a copy of the screening opinion has been sent to the Planning Authority.

Written Statement

Characteristics of Development

The development covers approximately 11.2 hectares. The proposed development will provide approximately 150 megawatts in capacity, comprising roughly 94 containers depending on the size proposed. The main element of the battery energy storage system would be multiple battery storage enclosures (BSE) units, the equipment would be sited on a gravel and asphalt finish to suit detailed earthing design, with appropriate surface water drainage, the compound would be enclosed by security fencing and an underground cable will connect the Development to the Eccles Substation. The development is aware of other planning proposals in relation to battery schemes and any future application shall consider the cumulative effect of these proposals. There would be some natural resources used in the construction of the development, but nothing that would be unusual or out of character for a development of this nature. There will be a measure of construction waste consistent with a development of this type, but this is not considered likely to be significant, and very little operational waste is anticipated. There will be a measure of construction waste, pollution, and nuisances consistent with development of this type, but this is not considered likely to be significant, and operational waste is anticipated but could be controlled through appropriately worded planning conditions during the construction and operation of the proposed development. The development has low anticipated risk of accidents or disasters or to human health.

Location of Development

The land is currently used for agriculture, the agricultural land classification for this site is Class 2 - Land capable of producing a wide range of crops. Woodland areas are located to the west, south and east of the development, There are a number of Sites of Special Scientific Interest (SSSI) within a 5-kilometre radius of the proposed development including The Hirsell (SSSI) and the river Tweed (SSSI), however impacts on these sites from the proposed development are unlikely as the proposed development is located at distance, The proposed development is not in close proximity to a World Heritage Site. The nearest scheduled monument is The Mount, motte-and-bailey castle which is approximately within 2km east of the site boundary and the nearest Listed Buildings are located more than 1km from the site. However, mitigation on visual effects of the proposed development will be provided through on-site landscape planting. The site does not lie within a 'sensitive area' and would not give rise to any significant effects.

Characteristics of the Potential Impact

Visibility of the development is not predicted to extend widely due to location and will be limited by topography and woodland, There are likely to be few visual receptors. The developer has proposed landscaping and ecological mitigation where required. There are no likely significant effects on biodiversity, landscape, cultural heritage, or material assets, taking into account the size and scale of the development and its location relative to potential receptors. Any effects that would arise would occur primarily during the construction phase, with some effects continuing during the operational period, these would be limited to localised visual effects. The site is proposed to be returned to its existing state at the end of their life. It is considered given the low level of impacts expected, that cumulative effects with other existing or approved development are unlikely. Mitigations will be imposed to reduce the impact of the development.

Features of the proposed development and measures proposed to avoid or prevent significant effects

The developer has proposed provision of landscaping and ecological mitigation where required. Security fencing will be installed around the perimeter of the development and acoustic fencing will be installed to mitigate noise. Appropriate siting, design and screening will avoid non-significant landscape and visual effects. An Agricultural Land Classification assessment will accompany the subsequent full application along with assessment reports, including Construction Management Plans and Landscape and Visual Assessment. The site is proposed to be returned to its existing state at the end of their life.

This screening opinion does not constitute pre-application advice and is provided without prejudice to the assessment of any future application under section 36 of the Electricity Act 1989.

Yours sincerely

Craig Cross

A member of the staff of the Scottish Government

(Cc: Scottish Borders council)

(Annex A)

From: [Shearer, Scott](#)
To: [Econsents Admin](#)
Subject: [OFFICIAL] Section 36 Screening request for Bishops Dal Battery Energy Storage System (BESS) ECU00005049
Date: 27 November 2024 12:55:22

FAO: Carolanne Brown

Dear Carolanne,

Regulation 8 of the Electricity Works (Environmental Impact Assessment) (Scotland)

Regulations 2017 (the regulations)

Screening Opinion Request for the development of a Battery Energy Storage System (BESS) in excess of 50MW to south of A697 Hatchednize, Scottish Borders

Your Ref; ECU00005049

It has been brought to my attention that a response from Scottish Borders Council has not yet been issued for this consultation. Please accept our apologies for this, we have now carried out a screening exercise and would comment as follows;

I refer to your request for a Screening Opinion under the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 for the above development and would respond as follows:

The proposed development is not listed a Schedule 1 development under the above EIA regulations. Against Schedule 2, the development meets the definition of an **Energy industry** development under section 3 (a) within Column 1 of the Schedule 2 table. The site area of the proposal exceeds the threshold listed Column 2 for section 3 (a) developments and therefore, the development is required to be screened.

The site not located within area which is designated as a 'Sensitive Area' by the EIA regulations. The requirement for an EIA is dependent on whether or not the Council as Planning Authority considered that the proposed development is likely to have significant effects on the environment by virtue of factors such as its nature, size or location, taking into account the selection criteria in Schedule 3 (Annex A of Circular 1/2007) and the results of any relevant assessment.

Considering the information submitted with the request and having regards to the selection criteria contained in Schedule 3 of the regulations relating to; the characteristics of the development, the location of the development and the characteristics of the potential impact as well as any proposed mitigation measures, it is the view of the Council as planning authority that the impacts of the proposal **would not require to be subject of an Environmental Impact Assessment.** Nevertheless, due to the large scale of the development and its location, this proposal will still be required to thoroughly consider its environmental impact as part of any prospective planning application. In particular, the following environmental information should be provided:

- Proportionate LVIA to illustrate visual impact from key public locations within the surrounding environment, this should include a cumulative landscape and visual impacts against other BESS proposals and their associated infrastructure
- Proportionate Ecological Appraisal, include any relevant checking surveys
- Transport Statement
- Noise Assessment, including assessment of cumulative noise
- Hydrological assessments which includes the responds to impact of the development on adjacent water courses.
SUDS details
- I trust that this is of assistance.

Kind regards,

Scott

Scott Shearer

Principal Planning Officer (Local Review and Major Development)

Planning Housing and Related Services Scottish

Borders Council tel: 01835 826732

e-mail: sshearer@scotborders.gov.uk

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