

## **CURRAGHINALT 33KV CONNECTION PROJECT**

**LA10/2019/1386/F - NIE Networks (PAC Ref: C006) &  
LA11/2019/1000/F - NIE Networks (PAC Ref: C007)**

# **Statement of Case**

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**STATEMENT OF CASE**

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## EXECUTIVE SUMMARY

### 1.0 Introduction & Background to Applications

This Statement of Case (“SOC”) is submitted in support of a hearing under Section 26 of the Planning Act (Northern Ireland) 2011 (“the Act”) in relation to planning applications (LA10/2019/1386/F [PAC Ref: C006] & LA11/2019/1000/F [PAC Ref: C007]) for the 33kV power line connection to serve Curraghinalt mine (LA10/2017/1249/F [PAC Ref: C005]) (“the Proposed Development”) as set out in Appendix B of the Statement.

The Department requested that the PAC conduct Public Local Inquiries to consider representations made in respect of the planning applications and other consenting applications related to the ‘Curraghinalt Project’. The Department did not issue any opinion on whether the planning applications that are subject to this SOC should be approved or refused.

### 2.0 Project Description & Location

The Proposed Development seeks to connect the existing NIE Networks Strabane substation to a substation building at the mine site proposed as part of application LA10/2017/1249/F. The Proposed Development is a 33kV connection which is c37.9 km in length, comprising of c26.9 km of overhead line (OHL) supported by single and double wooden pole sets and c11 km of underground cabling (UGC). The Proposed Development straddles two district council areas with c.22.8km being located in Derry City & Strabane District Council (‘DCSDC’) area and c.15.1km within Fermanagh & Omagh District Council (‘FODC’) area.

All of the Proposed Development, with the exception of c4.3km emanating from Strabane Main, falls within the Sperrin Area of Outstanding Natural Beauty (AONB).

The overhead line design is a mix of single and double (“H”) wood pole structures which are supported by stays at points where the overhead line route changes direction or terminates. Each wooden pole will have a 200mm head diameter. The pole heights will range from 11-20m, with the H pole consisting of 2 poles braced together 1.8m apart and a steel cross arm supporting the 3 phase conductors.

### 3.0 EIA & HRA

The Department issued a determination letter on 8<sup>th</sup> December 2020, confirming that it was of the opinion that the proposed development would be likely to have significant environmental effects and that accordingly an Environmental Statement was required. NIE Networks confirmed its acceptance of that determination on 22<sup>nd</sup> December 2020.

The Environmental Statement (ES), including a shadow HRA was submitted on 1<sup>st</sup> June 2021.

Following submission of the ES, DAERA requested clarification on a number of issues and that clarification was submitted on 27<sup>th</sup> August 2021 (included at Appendix D to this report).

The Applicant has made a number of changes to the construction methodologies to be employed in the delivery of the Proposed Development as reflected in the updated Project Description (Appendix B to this Report) and in an updated OCEMP (Appendix C) along with a review of Alternatives considered (Appendix A, Technical Report 2).

Detailed reviews of the clarification information and the amended construction methodologies are provided in the relevant Technical Reports (“TRs”) supporting this SOC.

### 4.0 Area Plan & Other Material Considerations

Section 6 (4) of the Act gives the local development plan primacy in the context of making a planning determination under the Act. Regard must be had to the plan and the determination must be made in accordance with it unless material considerations indicate otherwise.

In that context the key policy considerations are:

- Strategic Planning Policy Statement (SPPS)
- FODC LDP 2030 adopted Plan Strategy
- Omagh Area Plan 1987-2002
- Strabane Area Plan 2001

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- DCSDC LDP 2032 draft Plan Strategy
- Retained planning policy including Planning Strategy for Rural Northern Ireland and Planning Policy Statements in respect of that portion of the Proposed Development falling within the DCSDC area.

Paragraph 3.8 of the Strategic Planning Policy Statement (SPPS) confirms that planning authorities should be guided by the principle that “sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.”

While the draft Plan Strategy of DCSDC LDP 2032 is a material consideration, given that the draft Plan Strategy was subject to objections, and the final version of the Strategy has not yet been adopted, and we are not aware of the PAC recommendations in that regard, the weight to be applied to its draft policies should not be significant or determining weight.

### **Comments from Statutory Bodies**

With the exception of responses received from NIEA Natural Environment Division (NED) and the Chief Executive Offices of both councils, none of the expert statutory consultees have raised any objection to the Proposed Development.

NED has recorded some concerns in relation to the methodology used in the LVIA and raised some issues in respect of the conclusions of the LVIA regarding the significance of the predicted visual impacts. The responses from the Chief Executive offices of both councils have also recorded their Members' concerns in relation to potential visual impacts on the Sperrin AONB.

As set out in Appendix A, Technical Report 3, the LVIA has been reconsidered, utilising the methodology proposed by NED. The outcome does not change, and the conclusion remains that the Proposed Development does not give rise to unacceptable impacts on the character of the AONB or on residential visual amenity. In that context the Proposed Development complies with SPPS policy on development in the countryside (para. 6.77), PPS2 and policies L01 and L02 of FODC LDP as well as draft Policy NE5 of DCSDC LDP.

DCSDC also raises concerns that the proposal is contrary to SPPS policy on tourism (para. 6.262) and also that the council believes harm will be caused to designated sites, protected species and habitats.

A Tourism Impact Assessment has been prepared and is submitted as Additional Environmental Information in this SOC, as summarised in TR4. The assessment concludes that tourism activity in both Council areas affected by the Proposed Development takes place at a considerable remove from the proposed distribution line and found no evidence for, and no likelihood of, an outcome that would significantly compromise tourism value in the area. The Proposed Development therefore complies with SPPS policy, Policy TOU 1 of FODC LDP and draft Policy TOU 1 of DCSDC LDP on safeguarding tourism assets.

### **Policy on Utilities/Infrastructure**

As confirmed in Chapter 11 (Population & Human Health) of the ES, in Appendix A, Technical Report 8 and endorsed by the consultation responses received from the Environmental Health Departments of both councils, the electric and magnetic field strength associated with the Proposed Development is compliant with the 1998 International Commission on Non-Ionizing Radiation Protection guidelines (“the ICNIRP guidelines”). The Proposed Development therefore complies with the SPPS (paragraph 6.250) and relevant provisions of Policy PU02 of Fermanagh & Omagh LDP and draft Policy UT 1 of DCSDC LDP.

Further, the Proposed Development complies with Policy PU02 in that the route selection and design has sought to avoid the most sensitive landscapes within the AONB and does not give rise to any unacceptable impacts on landscape character.

The Proposed Development is also consistent with draft Policy UT 1 in that it does not result in unacceptable loss of residential amenity and, while the Proposed Development cannot avoid a location within the AONB, the application is supported by sufficient information to demonstrate that impacts on landscape and natural heritage features have been thoroughly considered and mitigated by design.

The Proposed Development also complies with Policy PSU 8 and PSU 11 which apply to development in DCSDC area in that the Proposed Development is the result of a thorough assessment, evaluation and balancing of a combination of environmental, technical and landownership/availability issues informed by walk over surveys/site visits and detailed assessments, navigating through the AONB as far as possible using lower slopes where a 33kV power line would be less conspicuous in the landscape and the LVIA has concluded that the impacts would be minor, localised and not significant.

### 5.0 Conclusions

As demonstrated in the ES, in the responses received from statutory consultees and in the Technical Reports in Appendix A, the Proposed Development is appropriately designed, respects the existing rural character, will integrate into its setting and will not result in unacceptable impacts on the region's built, natural or cultural heritage features.

the Proposed Development does not result in any unacceptable environmental impacts and therefore complies with prevailing planning policy. The Proposed Development constitutes sustainable development which should be permitted, in that, having regard to the local development plan and all other material considerations, the Proposed Development will not cause demonstrable harm to interests of acknowledged importance.



## 1.0 INTRODUCTION

### 1.1 Background to Planning Applications

- 1.1.1 This Statement of Case (“SOC”) is submitted in support of a hearing under Section 26 of the Planning Act (Northern Ireland) 2011 (“the Act”) in relation to planning applications (LA10/2019/1386/F [PAC Ref: C006] & LA11/2019/1000/F [PAC Ref: C007]) for the 33kV power line connections to serve Curraghinalt mine (LA10/2017/1249/F [PAC Ref: C005]) (“the Proposed Development”) as set out in Appendix B of the Statement.
- 1.1.2 The Department subsequently requested that the PAC conduct Public Local Inquiries to consider representations made in respect of the planning applications and other consenting applications related to the ‘Curraghinalt Project’.
- 1.1.3 In making the request for Public Local Inquiries, the Department did not issue any opinion on whether the planning applications that are subject to this SOC should be approved or refused.

### 1.2 Site Location & Project Description

- 1.2.1 The Proposed Development seeks to connect the existing NIE Networks Strabane substation to a substation building at the mine site proposed as part of application LA10/2017/1249/F.
- 1.2.2 The proposed 33kV connection is c37.9 km in length, comprising of c26.9 km of overhead line (OHL) supported by single and double wooden pole sets and c11 km of underground cabling. The location of the Proposed Development is presented in Plate 1.1 below:



Figure 1: Proposed Development Location

### 1.3 Environmental Impact Assessment

- 1.3.1 The Department issued a determination letter on 8<sup>th</sup> December 2020, confirming that it was of the opinion that the proposed development would be likely to have significant environmental effects and that accordingly an Environmental Statement was required.
- 1.3.2 NIE Networks confirmed its acceptance of that determination on 22<sup>nd</sup> December 2020.
- 1.3.3 The Environmental Statement (ES), including a shadow HRA was submitted on 1<sup>st</sup> June 2021, comprising:



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- Volume I contains ES Chapters 1-18
- Volume II contains Drawings & Figures
- Volume III contains associated Appendices to accompany all Chapters
- Non-Technical Summary.

- 1.3.4 The drawing package for the Proposed Development is included in Volume II, Technical Planning Drawings of the ES and the revised drawing pack accompanying this submission is included in the updated OCEMP (Appendix C to this SOC) along with a review of Alternatives considered (Appendix A, Technical Report 2).
- 1.3.5 Following submission of the ES, DAERA requested clarification on a number of issues. That clarification was submitted on 27<sup>th</sup> August 2021.
- 1.3.6 The Applicant has made a number of changes to the construction methodologies to be employed in the delivery of the Proposed Development as reflected in the updated Project Description (Appendix B to this SOC) and in an updated OCEMP (Appendix C).
- 1.3.7 Detailed reviews of the clarification information and the amended construction methodologies are provided in the relevant Technical Reports (“TRs”) supporting this SOC.

## 2.0 RESPONSE TO DFI CONSULTATION

### 2.1 Consultations Issued

2.1.1 The Department issued consultations in respect of the Proposed Development. Consultations were issued to the following:

- Department for Infrastructure (DfI) Roads
- Northern Ireland Tourist Board
- NI Water
- Health & Safety Executive for Northern Ireland
- Foyle Carlingford Irish Lights Commission (Loughs Agency)
- Department for Agriculture Environment & Rural Affairs (DAERA) Planning Response Team
- DfI Rivers Agency
- DCAL Inland Fisheries; S.E.S; the Department's Economics Branch
- Department for Communities (DfC) Historic Environment Division
- Geological Survey
- Shared Environmental Services
- Chief Executive Fermanagh & Omagh DC
- Environmental Health Department Fermanagh & Omagh DC
- Chief Executive Derry City & Strabane DC
- Environmental Health Department Derry City & Strabane DC
- The Royal Society for Protection of Birds.

### 2.2 Consultations Responses

2.2.1 The main points emerging from the consultation responses are summarised below.

2.2.2 NIEA Natural Environment Division (NED) has recorded some concerns in relation to the methodology used in the LVIA and raised some issues in respect of the conclusions of the LVIA regarding the significance of the predicted visual impacts. The responses from the Chief Executive offices of both councils have also recorded their Members' concerns in relation to potential visual impacts on the Sperrins AONB.

2.2.3 The NED issues are addressed in Technical Report 3 which demonstrates that utilising the methodology proposed by NED does not change the outcome of the LVIA. Further, as clarified in Appendix A, Technical Report 3, the viewpoint referenced in the response received (Vp 02 – Curly Hill Road) does not reference 'negligible' impacts but rather identifies minor to moderate, localised and not significant impacts during the operational phase of the Proposed Development. Of the 213 residential properties/clusters assessed, 21 were predicted to experience minor to moderate visual impact and were brought forward for further assessment. That further assessment concluded that the impacts experienced would be insignificant in the context of existing views and the considered assessment that, in those contexts, the Proposed Development (additional timber poles) became absorbed within the view or visible elements of the view were either filtered in available views by build form, existing vegetation or perceived as a minor addition to the view. Therefore, the Proposed Development complies with prevailing planning policy.

2.2.4 The assessment has been carried out by Chartered Landscape Architects with considerable experience in carrying out such impact assessments, using an accredited methodology and the expert assessor stands over the conclusions of the assessment and confirms that provides a balanced and proportionate assessment of the Proposed Development.

2.2.5 The response from Derry City & Strabane DC also raises concerns that the proposal is contrary to SPPS policy on tourism (para. 6.262) and also that the council believes harm will be caused to designated sites, protected species and habitats.

2.2.6 A Tourism Impact Assessment has been prepared and is submitted as Additional Environmental Information in this SOC. The findings are summarised in Technical Report 14. The assessment concludes that tourism activity in both Council areas affected by the Proposed Development takes place at a considerable remove from the proposed distribution line and found no evidence for, and no likelihood of, an outcome that would significantly compromise tourism value in the area. The

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Proposed Development complies with the relevant SPPS policies.

- 2.2.7 All other statutory consultees have confirmed that they are content that the Proposed Development will not give rise to any unacceptable impacts and the applications can therefore be approved subject to appropriate conditions. The Applicant has no difficulty with any of the recommended conditions.

## 3.0 PLANNING POLICY CONSIDERATIONS

### 3.1 Introduction

3.1.1 This section should be read in conjunction with Technical Report 1 in Appendix A of this SOC.

### 3.2 The Regional Development Strategy 2035

3.2.1 The proposal complies with the Regional Development Strategy 2035 (RDS) generally and, in particular, regional objectives RG5 which seeks to deliver a sustainable and secure energy supply.

3.2.2 The Proposed Development has been carefully planned and assessed to avoid unacceptable adverse environmental effects. The ES confirms that there are no unacceptable impacts arising in respect of the natural and cultural heritage interests. Although there is very limited scope for the project to enhance the built or natural environment, the Proposed Development will deliver compensatory works to restore 670m<sup>2</sup> of heath habitat which significantly exceeds the amount of such habitat lost (385.84m<sup>2</sup>). The Proposed Development therefore complies with RG11: Conserve, protect and, where possible, enhance our built heritage and our natural environment.

### 3.3 Strategic Planning Policy Statement (SPPS) for Northern Ireland - Planning for Sustainable Development

3.3.1 This Proposed Development comprises sustainable development, that is development ‘*meeting the needs of the present without compromising the ability of future generations to meet their own needs.*’ This definition is currently reflected in the RDS 2035 and is supported by the SPPS.

3.3.2 The SPPS recognises that: “*For the planning system furthering sustainable development in the long-term public interest requires the integration and balancing of complex social, economic and environmental factors when plan-making and decision-taking.*”

3.3.3 Paragraph 3.7 of the SPPS confirms that: “*Furthering sustainable development also means ensuring the planning system plays its part in supporting the Executive and wider government policy and strategies in efforts to address any existing or potential barriers to sustainable development. This includes strategies, proposals and future investment programmes for key transportation, water and sewerage,1 telecommunications and energy infrastructure (including the electricity network).*”

3.3.4 Paragraph 3.8 of the SPPS confirms that planning authorities should be guided by the principle that “sustainable development should be permitted, having regard to the local development plan and all other material considerations, unless the proposed development will cause demonstrable harm to interests of acknowledged importance.” (emphasis added).

3.3.5 Whilst paragraph 3.9 of the SPPS directs that planning authorities will also be guided by the precautionary approach that, where there are significant risks of damage to the environment, its protection will generally be paramount, unless there are imperative reasons of overriding public interest, in this instance the ES and the Technical Reports demonstrate that the Proposed Development does not give rise to significant risk of damage to the environment, so the precautionary principle is not engaged.

3.3.6 The Proposed Development complies with all other relevant SPPS policy considerations in that:

- **EMF:** As confirmed in Chapter 11 (Population & Human Health) of the ES, the electric and magnetic field strength associated with the Proposed Development is compliant with the 1998 International Commission on Non-Ionizing Radiation Protection guidelines (“the ICNIRP guidelines”), as required by the SPPS (paragraph 6.250).
- **Development in the countryside:** As demonstrated in the ES, in the responses received from statutory consultees and in the Technical Reports in Appendix A, the Proposed Development is appropriately designed, respects the existing rural character, will integrate into its setting and will not result in unacceptable impacts on the region’s built, natural or cultural heritage features.
- **Archaeology & built heritage:** As confirmed in the HED response (22<sup>nd</sup> July 2021), the Proposed Development reflects the SPPS strategic objectives for archaeology and built heritage

in that it will not adversely affect archaeological remains of local importance or their settings; appropriate measures are built into the CEMP to identify and mitigate potential archaeological impacts of the development.

- **Flood Risk:** The Proposed Development complies with the relevant regional strategic objectives for the management of flood risk in that, as confirmed by DfI Rivers (6<sup>th</sup> July 2021), the proposals incorporate measures that will ensure it will not increase the risk of flooding on the site or elsewhere. The Proposed Development is therefore compliant with SPPS policy in respect of flooding considerations.
- **Natural Heritage:** The Proposed Development complies with the SPPS policies on natural heritage in that NED (2<sup>nd</sup> September 2021), Loughs Agency (9<sup>th</sup> July 2021) and SES (14<sup>th</sup> October 2021) have all confirmed that they are content that no unacceptable impacts will arise in respect of nature conservation considerations, subject to implementation of the mitigation measures set out in their suggested planning conditions.
- The NED and council concerns in respect of the methodology employed in the LVIA have been addressed in the LVIA Technical Report 3. An assessment of the Proposed Development upon the Northern Ireland Regional Landscape Character Assessment ('NIRLCA') Landscape Character areas has been undertaken and confirms that the impact of the Proposed Development on the 3 Regional Landscape Character Areas ('RLCAs') (Foyle Valley RLCA, Sperrin RLCA and Carrickmore RLCA) is predicted to be negligible to minor and not significant. It therefore confirms that the outcome of the LVIA is unchanged, and no unacceptable landscape and visual impacts arise.
- **Tourism:** The Proposed Development complies with the SPPS regional strategic objectives for tourism including safeguarding tourism assets from inappropriate development through protection of the many diverse features of the built and natural heritage in that the Landscape & Visual Impact Assessment (ES, Chapter 5 & Appendix A Technical Report 3) confirms that no significant landscape effects have been predicted to occur within the Sperrins AONB and no significant visual impacts have been predicted to occur 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. Further, a Tourism Impact Assessment has been prepared and is submitted as Additional Environmental Information in this SOC. The findings, summarised in Technical Report 14, found no evidence for, and no likelihood of, an outcome that would significantly compromise tourism value in the area.

### 3.4 Area Plan Considerations

- 3.4.1 Section 6 (4) of the Act gives the local development plan primacy in the context of making a planning determination under the Act. Regard must be had to the plan and the determination must be made in accordance with it unless material considerations indicate otherwise.
- 3.4.2 The Proposed Development is presented for determination in two separate applications given that it straddles two council areas - Fermanagh and Omagh District Council and Derry City and Strabane District Council – which were submitted to the Councils before being called-in by the Department under Section 29 of the Act.
- 3.4.3 The SPPS provided for a transitional period to operate until a Plan Strategy for the whole of the council area has been adopted. During the transitional period planning authorities will apply existing policy contained within the retained policy documents listed in the SPPS together with the SPPS. Any relevant supplementary and best practice guidance also continue to apply<sup>1</sup>.
- 3.4.4 Where a council adopts its Plan Strategy, retained policy ceases to have effect in the district of that council and is not material from that date, whether the planning application has been received before or after that date. However, during the transitional period, any existing departmental development

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<sup>1</sup>The Planning (Local Development Plan) Regulations (Northern Ireland) 2015 (as amended)

plan continues to operate as the local development plan for the area for which it was made and where a plan strategy has been adopted, the local development plan is taken to be the departmental development plan and the plan strategy read together. In practice this means that development that accords with an up-to-date development plan should be approved and proposed development that conflicts with an up-to-date development plan should be refused, unless other material considerations indicate otherwise (SPPS, para 3.8).

### Fermanagh & Omagh Council Area

3.4.5 Application LA10/2019/1386/F falls in the Fermanagh & Omagh Council District and the Plan Strategy for Fermanagh & Omagh LDP 2030 was adopted on 16 March 2023. The Plan Strategy introduces a number of relevant policies, including **Policy PU02- Overhead Electricity Lines** provides for a presumption in favour of overhead lines subject to compliance with conditions. The Proposed Development complies with Policy PU02 in that, as demonstrated in the ES and the Technical Reports in this statement it is designed to:

- a) As far as possible, avoid sensitive locations and features and to integrate with the existing features in the landscape.
- b) Have no unacceptable impacts on residential amenity or other sensitive receptors.
- c) Comply with the ICNIRP guidelines.

3.4.6 The Council has designated **Special Countryside Areas (SCAs)** which are deemed to be exceptional landscapes, wherein landscape quality and unique amenity value is such that they require protection from inappropriate development. The High Summits of the Sperrins forms one SCA and **Policy L02** applies. A short portion of the OHL (850m) passes through the SCA and this has been assessed in the LVIA as updated in Appendix A Technical Report 3. The assessment demonstrates that the Proposed Development complies with L02 in that it does not threaten the landscape character and unique amenity value of the area given that impacts are minor, localised and not significant. Similarly, the assessment confirms compliance with Policy L01 which applies in the wider AONB, in that the Proposed Development will 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.



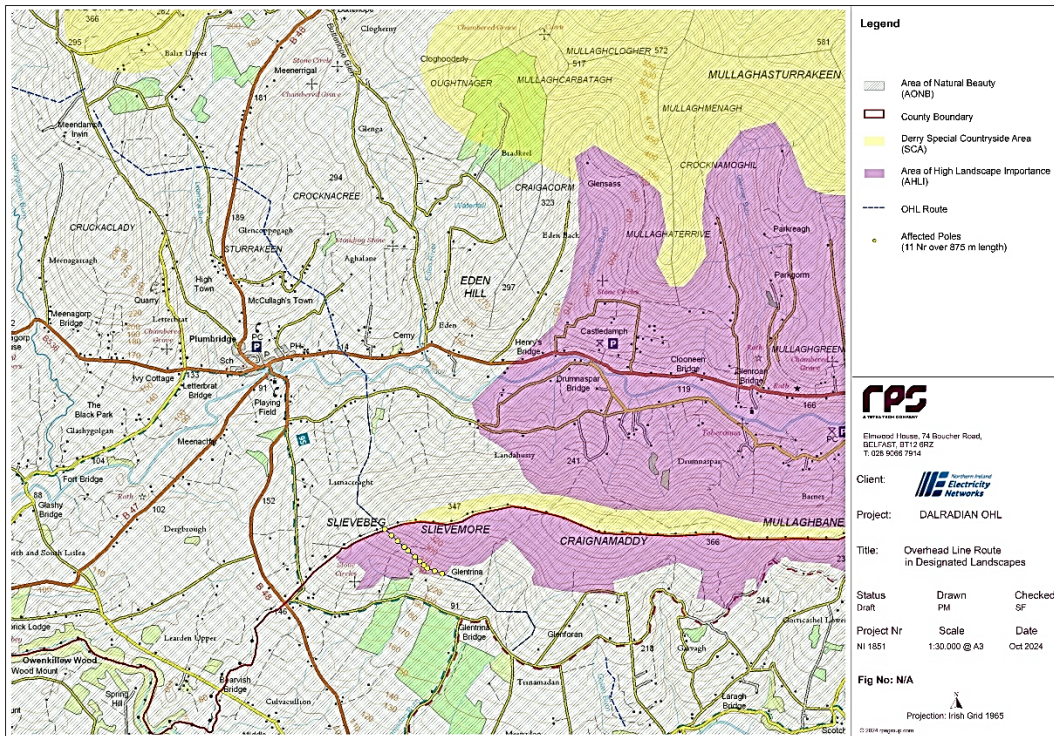


Figure 2: Location of Proposed Development relative to LDP Landscape Designations

3.4.7 The Natural Environment policies of the Plan Strategy (NE01-NE03) reflect the policies of PPS2. As confirmed in section 2 above, NED, SES and the Loughs Agency all confirm that the Proposed Development will not give rise to unacceptable impacts on natural heritage interests.

**Derry City & Strabane District Council**

3.4.8 Planning application LA11/2019/1000/F falls within Derry City & Strabane District Council area. The Council published a draft Plan Strategy in December 2019, subject to a schedule of changes in November 2021 and to an Independent Examination in September 2023 and, therefore, the draft Plan Strategy is a material consideration. However, given that the draft Plan Strategy, and specifically Policy UT 1 as set out below, was subject to objections from the Applicant, and the final version of the Strategy has not yet been adopted, and we are not aware of the PAC recommendations in that regard, the weight to be applied to draft policies should not be significant or determining weight. The extant development plan in that context is the Strabane Area Plan 2001, adopted in 1991. The Plan identified the Sperrin AONB on the district map, but the rural planning policy has since been superseded by the SPPS, A Planning Strategy for Rural Northern Ireland and retained Planning Policy Statements.

3.4.9 In the draft Plan Strategy, **Policy UT1 Electricity & Gas Infrastructure** proposes a presumption in favour of new or upgrading of existing electrical infrastructure where it is demonstrated that the proposals comply with specified conditions that:

- There is no unacceptable loss of residential amenity or harm to public safety.
- Any proposal is designed and sited to minimise impact (minimise poles, pylons, wires and other apparatus) on visual amenity. Consideration has been given to undergrounding certain sections of electricity lines / equipment that are in designated areas, on prominent ridges or very visible locations close to public roads, or that would cause / exacerbate visual clutter. In such locations, the applicant must demonstrate to the Council’s satisfaction that this undergrounding option is not feasible, or would cause unacceptable impacts to natural and / or historic assets.
- The proposal does not adversely affect natural heritage features.



- Applications for such proposals in designated areas of high landscape value such as the Sperrin AONB, Special Countryside Areas, Areas of High Landscape Importance or on features of Natural and / or Historic environment will be required to submit a Statement detailing how they have considered and mitigated for any potential landscape / visual amenity impact.
- New developments or upgrades do not affect existing energy infrastructure.
- Proposals for development of power lines comply with ICNIRP guidelines.

- 3.4.10 This should be contrasted with an exclusionary policy where planning permission will not be granted, unless developments meet certain hurdles as exceptions to the policy.
- 3.4.11 The ES through Chapter 3 (Alternatives), Chapter 5 (Landscape & Visual), Chapter 6 (Cultural Heritage), Chapter 7 (Terrestrial Ecology & Ornithology), Chapter 8 (Fisheries & Aquatic Ecology) and Chapter 11(Population & Health), along with Technical Reports prepared as part of the Statement of Case and the responses received from relevant statutory bodies confirm that the Proposed Development complies with Policy UT 1 and its objectives in that the application is supported by sufficient information to demonstrate that impacts on landscape and natural heritage features have been thoroughly considered and mitigated by design.
- 3.4.12 Where the Proposed Development is found to result in loss of priority habitat suitable compensation proposals have been developed and NED have confirmed that they are content with the Proposed Development in respect of nature conservation considerations.
- 3.4.13 In this instance the Proposed Development cannot avoid a location in the AONB. As explained in the Alternatives Chapter of the ES and in Appendix A Technical Report 2 Alternatives, there are technical reasons and other environmental considerations that mean the connection cannot be undergrounded for its entire length through the AONB. The LVIA confirms that there will be no unacceptable impacts on the designated landscapes that Policy UT1 seeks to protect.
- 3.4.14 The Proposed Development has been routed and designed to avoid the most prized landscapes and natural environment features within the AONB, notably including a proposed SCA and 11 areas identified as Areas of High Landscape Importance. Further, the Applicant has sought to optimise the combination of underground and overhead cabling taking account of technical, environmental and land availability factors. Therefore, while the Proposed Development, on the face of it, does not fully comply with all of the conditions for the application of the presumption in favour as set out in Policy UT 1, it does comply with the policy objectives and minimises the impact on visual amenity.
- 3.4.15 Chapter 5 of the ES also confirms that the Proposed Development complies with Policy NE 5 – Development within or affecting the setting of the Sperrin AONB in that it will not adversely impact or erode the intrinsic appeal of the Sperrin AONB, including its landscape character and setting, when considered individually or cumulatively alongside existing or approved development.
- 3.4.16 The Proposed Development also complies with Policy TOU 1 of the draft LDP Strategy (Safeguarding Tourism Assets) in that as demonstrated in the Tourism Impact Assessment, the development will not in itself or in combination with other existing or approved development have an adverse impact on a tourism asset that would significantly compromise its tourism value.
- 3.4.17 Similarly, the Historic Environment policies reflect the SPPS and PPS6 in respect of policies on archaeology and built heritage. The Proposed Development does not impact on any monuments in state care, scheduled monuments or on Areas of Significant Archaeological Interest (ASAI). HED (Historic Monuments) confirmed in their consultation response dated 22<sup>nd</sup> July 2021 that they are content that the proposal satisfies historic environment policy requirements, subject to conditions for the agreement and implementation of a programme of archaeological works.

### 3.5 Retained Policy

- 3.5.1 Retained policy is applicable under the SPPS transitional arrangements in Derry City & Strabane council area until the Plan Strategy is adopted.
- 3.5.2 **Planning Policy Statement 2 – Natural Heritage** sets out the Department's policies for the conservation, protection and enhancement of our natural heritage. The Proposed Development is compliant with PPS2 as set out above and relevant statutory consultees have raised no objections on nature conservation grounds.

- 3.5.3 **Planning Policy Statement 3 – Access, Movement and Parking:** Information on the proposed construction, access and service arrangements are included in Chapter 2 of the ES - Project Description. Consideration of issues relating to traffic and transport is given in Chapter 15 Traffic with further updated consideration in Appendix A Technical Report 12 - Traffic. It concludes that based on the estimated volume of daily trips, the baseline traffic conditions and the fact that the majority of trips are 4x4 vehicles or vans, with smaller volumes of HGV traffic, the Proposed Development will not result in a significant impact upon the surrounding road network. DfI Roads (10<sup>th</sup> August 2022) have confirmed that they are content with the proposals. The Proposed Development therefore complies with PPS3.
- 3.5.4 **Planning Policy Statement 6 – Planning, Archaeology and the Built Heritage:** Full consideration of all archaeological and built heritage issues is provided in Chapter 6 Cultural Heritage, including consideration of potential impacts from the construction and operational phases as well as potential impacts arising as a result of the identified access routes. In relation to the Operational Phase, some indirect (visual) effects on Scheduled Monuments (low magnitude) and stone arrangements have been identified and while there are no applicable measures available to mitigate the indirect (visual) effects of the Proposed Development, the Significance of Effect was predicted to range from Not Significant/Slight to Moderate, with **no significant effects predicted**.
- 3.5.5 HED (Historic Monuments) confirmed in their consultation response dated 22<sup>nd</sup> July 2021 that they are content that the proposal satisfies PPS 6 requirements, subject to conditions for the agreement and implementation of a developer-funded programme of archaeological works.
- 3.5.6 **Planning Policy Statement 15 – Planning and Flood Risk:** Consideration of issues relating to flood risk is provided in Chapter 10 – Flood Risk. The significance of the effects of the Proposed Development on flood risk has been assessed, and a summary of potential flooding impacts and their significance is provided. This assessment has demonstrated that the Proposed Development complies with PPS15 as accepted by DfI Rivers in their consultation response dated 6<sup>th</sup> July 2021.
- 3.5.7 **Planning Policy Statement 16 – Tourism:** A Tourism Impact Assessment has been prepared and is submitted as Additional Environmental Information in this Statement of Case. The findings are summarised in Technical Report 14. The assessment confirms that the Proposed Development complies with PPS16 in that it will not have an adverse impact on a tourism asset such as to significantly compromise its tourism value in accordance with Policy TSM8.
- 3.5.8 **Planning Policy Statement 21 – Sustainable Development in the Countryside:** PPS21 aims to manage development in the countryside in a manner consistent with achieving the strategic objectives of the RDS which strikes a balance between the need to protect the countryside from unnecessary or inappropriate development, while supporting rural communities. Its stated objectives are:
- To manage rural growth to achieve appropriate and sustainable patterns of development that meet the essential needs of a vibrant rural community.;
  - To conserve natural resources and protect the countryside from inappropriate development or pollution.;
  - To facilitate development necessary for a sustainable rural economy. To promote the highest standards in rural design, siting and landscaping.
- 3.5.9 Policy CTY1 recognises that there are a range of non-residential development that may be acceptable in principle in the countryside. The acceptability of electricity connections is accepted by the relevant development plans. These applications are made under NIE Networks' statutory and regulatory obligations under the Electricity (Northern Ireland) Order 1992 and NIE Networks' Distribution Licence and the power line is required by the proposed Curraghinalt Mine in order to provide it with the power it needs to function.
- 3.5.10 As outlined in Chapter 3 of the ES (Alternatives) and in Appendix A Technical Report 2 - Alternatives, the design of the Proposed Development has applied the principles set out in the Holford Rules and has sought to minimise potential visual impacts on the designation, using lower slopes of the Sperrins AONB, where a 33kV line would not be conspicuous in the landscape. The proposed route veers north of and around the higher ground through a corridor where the local landscape encompasses changing topography, field boundary hedgerows, woodland planting, commercial forestry, and where

there is already a level of electrical infrastructure. The LVIA reported on in Chapter 5 of the ES demonstrates that the Proposed Development complies with PPS21 policies in respect of rural character and design/integration of development in the countryside.

3.5.11 **Planning Strategy for Rural Northern Ireland:** Relevant provisions of PSRNI include **Policy PSU 2 – Major Projects** where developers are required to demonstrate an overriding national or regional reason for the development and a thorough explanation of alternatives and that the alternatives are unsuitable. The construction of a 33kV electrical connection does not meet the relevant threshold for ‘major development’ in the Planning (Development Management) Regulations (NI) 2015, namely that it would need to involve *‘the installation of an electrical power line where the voltage exceeds 33 kilovolts if the purpose of the line is the provision of a supply to more than one customer’*. Notably neither of the planning authorities nor the Department considered the Proposed Development as *major development*. Relatedly none of the provisions governing major development in Section 26 and following of the Planning Act (Northern Ireland) 2011 were engaged. Without prejudice to that position, the consideration of alternatives undertaken by the Applicant as set out in Appendix A Technical Report 2 - Alternatives confirms that the process also delivers compliance with PSU 2 concluding that a thorough exploration of alternatives has been undertaken and that the alternatives are unsuitable.

3.5.12 **PSU 8 – New Infrastructure** requires the need for the facility will be balanced against the objective of conserving the environment and protecting amenity. PSU 8 applies the following criteria in the consideration of such applications:

- The need for the facility – as outlined above NIE Networks has a statutory obligation to connect customers on request.
- Impact on the environment – as outlined above the relevant chapters of the ES demonstrate that the Proposed Development will not result in unacceptable environmental impacts.
- Impact on existing communities – the ES demonstrates that there will be no unacceptable impacts on communities and specifically in terms of residential amenity or health.
- Impact on natural or man-made heritage – the ES demonstrates no unacceptable impacts will arise in respect of natural or cultural heritage interests.
- Existence of alternative sites/routes and that a thorough exploration of the alternative sites has been carried out – Chapter 3: Alternatives sets out the process undertaken in respect of the route selection based on criteria to minimise environmental impacts. A further Technical Note updating the consideration of alternatives is provided as part of this Statement of Case. It sets out the reasonable alternatives considered by the Applicant in developing the route, design and construction methodology options for the Proposed Development and the reasons for selecting the final project as submitted for planning permission. As set out in Appendix A Technical Report 2 – Alternatives, the consideration of alternatives was completed in the context of the Applicant’s legal obligation to offer customers the LCTA option.
- Provisions to mitigate adverse effects – the ES and relevant statutory consultee responses demonstrate that any potential adverse effects will be effectively mitigated so that no unacceptable residual environmental effects will arise.

3.5.13 **PSU 11 – Overhead Cables** states that the siting of electricity power lines will be controlled in terms of visual impact on the environment with particular reference to designated areas of landscape or townscape value. The Proposed Development is a controlled and sensitive means of delivering the overhead line located in part within an AONB, necessitated by the location of Curraghinalt Mine and the Strabane Substation.

3.5.14 The assessments demonstrate that the Proposed Development will not result in unacceptable impacts on the interests sought to be protected by PSU11. The proposal complies with PSRNI.

## 4 FURTHER MATERIAL CONSIDERATIONS

### 4.1 Relevant Third-Party Representations

4.1.1 107 third-party representations were received. Issues raised are addressed in the relevant Technical Reports in Appendix A of this SOC.

4.1.2 A summary of the key points raised and the Applicants response is provided in Table 1 below.

Issue Raised	Response
<b>Landscape &amp; Visual Impact</b>	
<p>Overhead lines would have a very damaging visual impact on the landscape &amp; amenity of the Sperrins Area of Outstanding Natural Beauty – national designation.</p> <p>Critically cut across the mountain scenery, valleys &amp; important archaeological sites.</p> <p>All landscapes are important and the 'all landscapes' approach, as set out in the articles of the European Landscape Convention (ELC) recognizes that all landscapes are resources that must be protected irrespective of the presence or otherwise of formal landscape designation.</p> <p>FODC Review of Landscape Character Assessment has pointed out the important tourism asset of, '...long, scenic views available ... with few intrusive manmade features' that merit protection from intrusive 'tall structures'. It also highlights, 'The more upland landscape (of the upper Owenkillow &amp; Owenreagh River valleys) has qualities of wilderness, remoteness and tranquility. The landscape is sensitive to intrusion from tall structures. Larger scale electricity transmission lines have the potential to dominate enclosed valleys and appear prominently on the skyline and in unspoilt, open landscape. Larger scale electricity transmission lines should be routed to avoid this area. Tall structures may undermine the remoteness and undeveloped character of the more upland landscape and the sense of wilderness.'</p> <p>Given the concerns expressed by the public on the potential for negative impacts on amenity and tourism, the National Grid in England has started undergrounding parts of the grid that pass through the most sensitive landscapes. Ofgem is funding this cable-undergrounding initiative to remove overhead power lines in Areas of Outstanding Natural Beauty and National parks. Why should the Sperrins AONB not be afforded the same consideration?</p>	<p>A Landscape and Visual Impact Assessment (LVIA) was carried out and provided as Chapter 5.0 Landscape and Visual, accompanied by associated Appendices and visualisations from a range of viewpoint locations, of the ES.</p> <p>Table 5.10 of the LVIA summaries the predicted impacts on Landscape Character for both Construction Phase and Operational Phase of the Proposed Development, which states that no significant effects are predicted as a consequence of the Proposed Development.</p> <p>Table 5.13 of the LVIA summaries the predicted impacts on Landscape Designations for both Construction Phase and Operational Phase of the Proposed Development, which states that no significant effects are predicted as a consequence of the Proposed Development.</p> <p>Table 5.27 of the LVIA summaries the predicted visual impacts associated with both Construction Phase and Operational Phase of the Proposed Development, which states that no significant effects are predicted as a consequence of the Proposed Development.</p>
<b>Tourism</b>	
<p>Impact on unspoilt, natural, landscapes &amp; scenery, cultural or natural heritage importance in the Sperrin</p>	<p>This is a general statement of opinion rather than a statement of fact. It also refers to the Sperrins in</p>

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<p>AONBs. This negatively affects the tourism potential of the area.</p>	<p>general, which is close to 1,200 square kilometres in area, rather than the narrow line of the OHL which lies towards the western boundary of the AONB in the foothills of the Sperrins. Appendix A Technical Report 14 – Tourism confirms that there is no evidence of significant tourism activity along the line of the Proposed Development and this submission offers no such evidence. The question of potential depends on the appeal of the landscape and the Landscape and Visual Impact Assessment (LVIA) report concludes that there will no significant impact arising from the proposed power line.</p>
<p>Overhead lines passing through areas of tourism and amenity potential cause a permanent noise disturbance that has a negative impact undermining the amenity and tourism value of these assets.</p>	<p>Chapter 14 Noise and Vibration and Appendix A Technical Report 11 – Noise &amp; Vibration assess operational noise and conclude that much of the literature indicates that corona noise only becomes a significant issue from 350-500kV and above. In terms of the Proposed Development, this would suggest that significant corona noise impacts are highly unlikely for 33kV lines. The proposed Curraghinalt 33kV connection will operate at less than 1/10 of this voltage (350kV) and employs a completely different and proven insulation technology. These arrangements can be found on the majority of NIE Networks’ 47,000 km of distribution network without issue, to the point that if noise is emanating from an insulator, it is an indicator of a crack in porcelain, which will be replaced as a priority when identified by a line patroller or reported to NIE Networks by others.</p> <p>The assessment concludes that there is no likely significant operational noise from the Proposed Development.</p> <p>The noise and vibration impact assessment has been reviewed by Derry City and Strabane District Council (DCSDC) and Fermanagh and Omagh District Council (FODC), who have not raised any objection to the proposed development. Both councils have provided a set of conditions to be attached to any planning permission granted which will ensure that there will be no adverse noise impact at the nearest sensitive properties, and those conditions are acceptable to NIE Networks.</p> <p>The Tourism Impact Assessment and TR</p>
<p><b>Nature Conservation</b></p>	
<p>Overhead lines adversely impact on nature and biodiversity eg. avian collisions and, especially during construction and maintenance, on flora and fauna.</p> <p>Lines like these cause problems for migrating birds, for nighttime mammals, like bats, and for others such as owls. Even the construction and ongoing maintenance of such lines will have an adverse impact on ground dwelling flora and fauna.</p>	<p>The EclA contained within the ES and the further ecological surveys carried out in subsequent years as set out in Appendix A Technical Report 5 fully assess the impacts on nature and biodiversity and the mitigation and compensation measures proposed to reduce the significance of effects sufficiently that the Proposed Development satisfies relevant planning policy. NED and SES have confirmed that they have no objections in respect of likely impacts on nature conservation interests.</p>



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<b>Health</b>	
<p>Hundreds of studies worldwide over the past 40 years have shown that living next to high voltage power lines increases your risk of cancer and other health problems. The closer you are, the more you are bombarded with dangerous Electric and Magnetic Fields (EMFs).</p> <p>Magnetic fields were classified by World Health Organisation (WHO) in 2002 as 'possibly carcinogenic to humans'. The magnetic fields may be just as strong or even stronger if the electric power lines are installed underground. This is because the power lines could actually be closer to you when buried only a few feet down rather than 20 or 30 feet overhead.</p> <p>Convincing evidence was first published in 1979 by Wertheimer and Leeper in the American Journal of Epidemiology. Since then, dozens of published papers have found links between living near power lines and a range of illnesses including: brain cancer, childhood and adult leukaemia, Lou Gehrig's disease, Alzheimer's disease, breast cancer in women and men, miscarriage, birth defects and reproductive problems, decreased libido, fatigue, depression and suicide, blood diseases, hormonal imbalances, heart disease, neuro-degenerative diseases, sleeping disorders and many others.</p> <p>The councils and government bodies have a duty of care to honour constituents that live in the area. They are the people who could be adversely affected on a physical and mental level.</p>	<p>We acknowledge the concerns regarding the potential health risks associated with exposure to EMFs from the Proposed Development. The Proposed Development electrical infrastructure is by design compliant with relevant public health and safety standards as set out in ES Chapter 11 and Appendix A Technical Report 8, levels which the WHO endorse as safe. The Environmental Health Departments of both councils have reviewed the information supporting the Application. The Environmental Health Service of Derry City &amp; Strabane DC have advised that, in respect of compliance with the requirements of the electromagnetic fields public exposure guidelines of the International Commission of Non-Ionising Radiation Protection (ICNIRP), the proposal should be considered in line with guidance provided in the Strategic Planning Policy Statement for Northern Ireland (SPPS). Fermanagh &amp; Omagh Environmental Health Service confirms that: "It is therefore concluded and the EHS would concur, that the proposed electrical cables are therefore compliant with the 1998 ICNIRP guidelines. The report deems the magnitude of the impact from the EMF emissions as negligible with no identifiable health effects."</p>
<b>Power Outages</b>	
<p>Overhead lines result in power outages during increasingly frequent inclement weather and high winds arising from climate change.</p>	<p>The proposed development will be constructed to Energy Networks Association 43/40 specification, with profound factors of safety applied to the mechanical, and climatic loads imposed on powerlines for the U.K / Ireland, designed to cater for current, and climate-change conditions. The power line will be routinely patrolled (3-yearly intervals) to ensure vegetation clearances are managed, and that all components are in good condition, and working order.</p> <p>With regard to power outages - the proposed development is intended to supply a single customer, if power outages were to occur on this circuit as a result of storm damage, only one customer would be affected for the duration of the fault – with no wider consequences for the network / homes and businesses in the area, which are supplied by alternative distribution circuits.</p>
<b>Traffic &amp; Transport</b>	
<p>Narrow roads and connection highways to farms and workplaces will be disrupted on a highly unsocial level and may even be dangerous.</p>	<p>As confirmed in Appendix A Technical Report 12, traffic impacts are almost entirely limited to the construction phase and the hourly traffic volumes associated with the</p>

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	<p>proposed development are small with an average of 3no. vehicles per hour, the majority of which will be 4x4 / vans and therefore the impact upon the surrounding road network will not be significant. Access to private residences will be retained at all times and hence disruption will be kept to a minimum. DfI Roads Service have not raised any objections to the Proposed Development on traffic or road safety grounds.</p>
<p><b>Noise</b></p>	
<p>There are concerns also about power line noise which can be very annoying &amp; disturbing. Power line noise can interfere with radio communication and broadcasting. It can impact radio and TV reception and internet. Loss of critical communications, such as police, fire and military can result in more serious consequences.</p>	<p>Chapter 14 Noise and Vibration and Appendix A Technical Report 11 assess operational noise and conclude that <i>“much of the literature indicates that corona noise only becomes a significant issue from 350-500kV and above. In terms of the Proposed Development, this would suggest that significant corona noise impacts are highly unlikely for 33kV lines. The proposed Curraghinalt 33kV connection will operate at less than 1/10 of this voltage (350kV) and employs a completely different and proven insulation technology. These arrangements can be found on the majority of NIE Networks’ 47,000 km of distribution network without issue, to the point that if noise is emanating from an insulator, it is an indicator of a crack in porcelain, which will be replaced as a priority when identified by a line patroller. “</i></p> <p>The assessment concludes that there is no likely significant operational noise from the Proposed Development.</p> <p>The noise and vibration impact assessment has been reviewed by Derry City and Strabane District Council (DCSDC) and Fermanagh and Omagh District Council (FODC), who have not raised any objection to the proposed development. Both councils have provided a set of conditions to be attached to any planning permission granted which will ensure that there will be no adverse noise impact at the nearest sensitive properties, and those conditions are acceptable to NIE Networks.</p>
<p><b>Cumulative Impacts</b></p>	
<p>Assessment needs to consider the cumulative effects of the proposed overhead line with other existing and planned infrastructure, including existing electricity and telephone lines, windfarms, etc.</p>	<p>Potential cumulative impacts have been considered and reported on in the original ES and updated by TRs prepared for this submission.</p>
<p><b>Property Values</b></p>	
<p>Overhead lines passing through populated areas result in loss of property values. Lines and poles devalue a property. Mortgages may be refused if the house is near an overhead line.</p>	<p>The proposed development does not pass over any domestic properties. Furthermore, as the proposed development (overhead sections) is made up of entirely wooden poles, and overhead conductors, this apparatus being a ubiquitous feature of the N.I. landscape, and comparable to the 11/33kV lines supplying rural dwellings, businesses, wind farms and small-scale wind turbines. As such, no devaluation of property is</p>



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	associated with / applicable to the proposed development.
<b>Impact on Agriculture</b>	
Overhead lines passing through agricultural lands may permanently reduce the area under cultivation and cause physical damage during construction and maintenance.	The proposed development (overhead sections) is made up of entirely wooden poles, and overhead conductors, this apparatus being a ubiquitous feature of the N.I. landscape, and comparable to the 11/33kV lines supplying rural dwellings, businesses, wind farms and small-scale wind turbines, furthermore, poles / supports are proposed with agricultural activities in mind, with structures placed on boundaries, fence-lines and at hedgerows where possible. Ground clearances are in accordance with NIE Networks policy 6/025. Any construction, or maintenance activities will be completed with reinstatement to the landowner's satisfaction.
<b>Impacts of Gold Mine</b>	
<p>In light of the declaration by the NI Assembly regarding the need for action on Climate and an Independent Environment Agency, DfI cannot ignore the negative impact of the proposed goldmine including removing some 30 hectares of bogland, using some three million litres of diesel per year.</p> <p>The electricity demand for running the mining operation is equivalent to 14,250 domestic dwellings per annum. This would put added pressure on an electricity network that is already stretched to breaking point.</p> <p>The alleged benefits of Dalradian's proposed goldmine are far outweighed by the toxic pollution and risks to health and well-being arising from it.</p>	Not a matter for this Applicant

## 5 CONCLUSIONS

- 5.1 Section 6 (4) of the Act establishes a plan-led system and directs that, in assessing a planning application, regard is to be had to the local development plan, and the determination must be made in accordance with the plan unless material considerations indicate otherwise.
- 5.2 Application LA10/2019/1386/F falls within the Fermanagh & Omagh Council District and the Plan Strategy for Fermanagh & Omagh LDP 2030 was adopted on 16 March 2023. The Proposed Development is not in conflict with the adopted Plan.
- 5.3 In Derry City and Strabane council area the draft Plan Strategy has been through an examination in public and is therefore a material consideration, alongside the existing Strabane Area Plan 2001. The Proposed Development is not in conflict with these development plan documents.
- 5.4 The proposed Development also complies with retained planning policy.
- 5.5 All material considerations have been assessed within the various chapters of the ES which has been reviewed and commented on by relevant statutory consultees who are expert advisers to the Department in respect of those considerations. No statutory consultees raise any objection to the Proposed Development with the exception of concerns expressed about the LVIA methodology and outcomes and potential impact on tourism, all of which have now been addressed.
- 5.6 The design of the Proposed Development has successfully balanced all elements of sustainable development, including economic considerations, conservation interest and environmental objectives, and as such is considered compliant with all relevant planning policy. We respectfully submit that the planning applications should be approved.