

Recommendation Report for Notification under the Overhead Line (Exemption)(England and Wales)
Regulations 2009

REF NO: BE/27/26/OHL

LOCATION: Land West of Shripney Lane
Bersted
PO22 9NU

PROPOSAL: Notification under the Overhead Line (Exemption) (England and Wales) regulations 2009 for the replacement and relocation of existing poles and installation of two new poles on an existing overhead line. (Grid ref: 492667, 102036)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	The Local Planning Authority has No Objection to the proposal which seeks consent under Section 37 of the Electricity Act 1989.
SITE CHARACTERISTICS	The proposal involves the replacement of 3 existing poles, the re-siting of 2 existing poles, the installation of 2 new poles on an existing overhead line alongside the associated relocation of an existing line. The works are sought to facilitate the installation of a new point of connection for a proposed solar farm located near Shripney Substation. This involves the construction of a Loop-in Loop-out connection from the existing 33kV overhead line network.
CHARACTER OF LOCALITY	The site is an area of open undeveloped land adjacent to an existing watercourse. The area is designated countryside and to the southwest of an existing solar farm and west of a substation. It is predominantly rural in character.

REPRESENTATIONS

None.

COMMENTS ON REPRESENTATIONS RECEIVED:

None.

POLICY CONTEXT

Designation applicable to site:
 Outside Built-up Area Boundary
 Current and Future Flood Zone 3 both defended and undefended
 Risk of Reservoir Flood Risk - Bilsham Farm

Potential Risk of Groundwater Flooding ($\geq 25\%$ $< 50\%$)
 High Risk of Flooding from Rivers or Sea
 High Pressure Gas Pipeline
 SGN High Pressure Gas Pipeline Buffer
 Archaeological Notification Area

DEVELOPMENT PLAN POLICIES

POLICY COMMENTARY

The only matters for consideration under this application are the proposals compliance with The Overhead Lines (Exemption) (England and Wales) Regulations 2009 (Exemptions from section 37(1) of the Electricity Act 1989), and whether the proposal would likely have a significant adverse impact on the environment as set out in Regulation 3(5) of The Overhead Lines (Exemption) (England and Wales) Regulations 2009.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

This application concerns Section 37 of the Electricity Act 1989 (Consent required for overhead lines) and Regulation 3 of The Overhead Lines (Exemption) (England and Wales) Regulations 2009 (Exemptions from section 37(1) of the Electricity Act 1989).

CONCLUSIONS

The proposal involves the replacement of 3 existing poles, the re-siting of 2 existing poles, and the installation of 2 new poles on an existing overhead line. The existing line would be relocated marginally in line with the new and relocated poles in order to introduce a new loop-in loop-out connection.

37 Consent required for overhead lines.

(1) Subject to subsections (1A) to (2A) below, an electric line shall not be installed or kept installed above ground except in accordance with a consent granted by the appropriate authority.

(1A) So far as relating to the installation of an electric line, subsection (1) is subject to section 33(1) of the Planning Act 2008 (exclusion of requirement for other consents for development for which development consent required).

(1B) So far as relating to keeping an electric line installed, subsection (1) does not apply if keeping the line installed is authorised by an order granting development consent under the Planning Act 2008.

(2) Subsection (1) above shall not apply-

- (a) in relation to an electric line which has a nominal voltage not exceeding 20 kilovolts and is used or intended to be used for supplying a single consumer;
- (b) in relation to so much of an electric line as is or will be within premises in the occupation or control of the person responsible for its installation; or
- (c) in such other cases as may be prescribed.

Sections 2A - 5 of Section 37 of the Electricity Act 1989 pertain to matters involving devolved Welsh generating stations, Welsh Waters, procedural matters pertinent to the Secretary of State, and offences. None of which are relevant to the assessment of this application.

(6) In this section "appropriate authority" means-

- (a) the Scottish Ministers, in relation to an electric line installed above land in Scotland;

(b) the Secretary of State in all other cases.

Exemptions from section 37(1) of the Act

3. - (1) Section 37(1) of the Act shall not apply in relation to-

(a) the installation or keeping installed of an electric line which-

(i) connects an electric line installed below ground with apparatus mounted on a pole or structure; and

(ii) is attached to the pole or structure throughout its length except where it passes through a fuse or other apparatus;

(b) the installation or keeping installed of a wire or cable (including its casing or coating) which forms part of electronic communications apparatus (within the meaning given to that expression in paragraph 1 of Schedule 2 to the Telecommunications Act 1984) and which is supported, or carried by, or suspended from the supports for an existing line;

(c) the installation or keeping installed, subject to the provisions of regulation 5, for a period not exceeding six months of an electric line (no part of which is within a European site or an SSSI) which connects two points on an existing line which are no further apart than the maximum distance so as to provide a diversion for the existing line;

(d) the installation or keeping installed of an electric line attached to a building (other than a scheduled monument, listed building or building in a conservation area) where the building in question crosses a road, railway or watercourse and its principal purpose is not the support of the electric line;

(e) the installation or keeping installed, subject to the limitations in regulation 4 and the provisions of regulation 5, of an electric line (no part of which is within a European site or an SSSI) which replaces an existing line whether or not it is installed in the same position as the existing line in question; or

(f) the installation or keeping installed, subject to the limitations in regulation 4 and the provisions of regulation 5, of one or more additional poles to support an existing line.

(2) In this regulation-

"building" includes structure;

"conservation area" and "listed building" have the same meanings as in section 91 of the Planning (Listed Buildings and Conservation Areas) Act 1990;

"European site" has the same meaning as in regulation 10 of the Conservation (Natural Habitats, &c.) Regulations 1994;

"the maximum distance" means-

(a) in relation to an electric line which has a nominal voltage less than 66 kilovolts, 500 metres; and

(b) in relation to any other electric line, 850 metres;

"scheduled monument" has the same meaning as in section 1(11) of the Ancient Monuments and Archaeological Areas Act 1979; and

"SSSI" means a site of special scientific interest notified under sections 28 to 28D of the Wildlife and Countryside Act 1981.

Limitations on the exemptions contained in regulation 3

4. - (1) The limitations referred to in regulation 3(1)(e) and (f) are-

(a) that the electric line does not have a nominal voltage greater than the nominal voltage of the existing line;

(b) that any conditions contained in a consent granted under section 37(1) of the Act or, as the case may be, under section 10(b) of the Schedule to the Electric Lighting (Clauses) Act 1899 applicable to the existing line are complied with;

(c) that the height above the surface of the ground of any support for the electric line does not exceed the height of the highest existing support or support which is being replaced by more than 10 per cent;

(d) that where the electric line is installed in a different position from the existing line the distance between any small support and the existing line does not exceed 30 metres and the distance between

any other support and the existing line does not exceed 60 metres; and

(e) that where the electric line is installed in a different position from the existing line, the existing line is removed within twelve months from the date on which the installation of the electric line which replaces it is completed.

(2) In this regulation-

(a) any reference to the distance between a support and an existing line is a reference to the shortest distance between the centre of the base of that support and an imaginary line through the centre of the base of each support for the existing line; and

(b) "a small support" means a support for an electric line which does not exceed 10 metres in height.

Further restrictions on the exemptions contained in regulation 3

5. - (1) The exemptions in regulation 3(1)(c), (e) and (f) shall not apply where-

(a) the electric line is to be installed in a different position from the existing line; or

(b) the height above the surface of the ground of any support for the electric line will exceed the height of the highest support which is to be replaced; or

(c) subject to sub-paragraph (3), the installation will be in a National Park or an area of outstanding natural beauty,

and it is determined for the purposes of this regulation that there is likely to be a significant adverse effect on the environment.

(2) For the purposes of this regulation it shall be determined that there is likely to be a significant adverse effect on the environment if-

(a) notice is given by the person proposing to carry out the installation to the relevant planning authority of that proposal; and

(b) the relevant planning authority, within six weeks of receiving that notice-

(i) determines that if the installation were completed in accordance with the proposal it would in the opinion of that authority be likely to have a significant adverse effect on the environment; and

(ii) notifies the person by whom the notice was given and the Secretary of State of that determination.

(3) Where it is necessary to make emergency repairs to an existing line in a National Park or an area of outstanding natural beauty-

(a) sub-paragraphs (1) and (2) do not apply; and

(b) the person making those emergency repairs shall notify the relevant planning authority as soon as practicable that those repairs have been, are being or will be made.

(4) In this regulation-

"area of outstanding natural beauty" means an area designated as such by order under section 82 of the Countryside and Rights of Way Act 2000;

"National Park" means an area designated as such by an order under section 5 of the National Parks and Access to the Countryside Act 1949 as confirmed by the Minister; and

"relevant planning authority" has the same meaning as in paragraph 2(6) of Schedule 8 to the Act.

COMPLIANCE

Section 37 of the Electricity Act 1989 (Consent required for overhead lines)

With respects to Section 37(1) of the Electricity Act 1989, the proposal involves the replacement of 3 existing poles, the re-siting of 2 existing poles, and the installation of 2 new poles on an existing overhead line alongside is marginal relocation.

37(1) - The overhead line that is existing and would remain, would need to be kept in accordance with a consent granted by the Secretary of State as outlined by Section 37(1). The applicant has confirmed that

all conditions of the original Section 37 Consent will be complied with.

37(1A) - The proposal would not require development consent, noted.

37(1B) - No development consent has been granted for the keeping of an electric line above ground on site.

37(2a) - The OHL in question is more than 20kV (33kV) but would serve more than one consumer by virtue of being a 'loop-in loop-out' arrangement. Serving the solar farm, and continuing on to its other existing connections.

37(2b) - It is unknown whether the proposal will be within premises occupied or controlled by the person responsible for its installation.

37(2c) - Exemptions under Regulation 3 prescribe that Section 37(1) does not apply as discussed below.

37(2a - 5) - These are not applicable.

Regulation 3 of The Overhead Lines (Exemption) (England and Wales) Regulations 2009.

3(1):

a) N/A.

b) N/A.

c) N/A.

d) N/A.

e) The proposal involves the installation of an electric line (not within a European site or SSSI) which replaces an existing line.

f) The proposal involves the installation of one or more poles to support the existing line.

3(2) - Noted.

As the exemptions under Regulation 3(1)e) and f) apply, Regulations 4 and 5 require consideration.

4(1):

a) The proposed voltage is to remain the same.

b) The applicant has confirmed that all conditions of the original Section 37 Consent will be complied with.

c) The height of the new HV poles and replacement poles will not exceed the height of the highest existing pole.

d) The new electric line and does not include any small support poles (10m in height or less) and its poles would be no more than 60m from the existing line.

e) The existing line to be removed must be removed within 12 months of the completion of the new electric lines. This is confirmed by the applicant.

4(2):

a) Noted.

b) Noted.

5(1):

a) Applicable.

b) N/A.

c) N/A.

5(2):

a) Received.

b) Exemption 3(1)f) is applicable. The Local Planning Authority does not consider that the proposal would have a significant adverse impact on the environment. Notification of this is to be sent to the applicant.

5(3) N/A.

RECOMMENDATION

NO OBJECTION