

Appendix 6.

Appropriate Assessment.

Erect a 220/132KV Substation, Stymilders/Heddle Hill (Land Near), Firth, Orkney.

Planning Reference: 19/113/NATEIA.

Consideration of Proposals Affecting European Sites

The proposed North Orkney Special Protection Area (North Orkney pSPA) means that the requirements of The Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") or, for reserved matters, The Conservation of Habitats and Species Regulations 2017 apply. The Scottish Government has a policy of protecting proposed SPAs (e.g. Orkney Mainland Moors SPA) as if they were classified, and as set out in Scottish Planning Policy. Consequently, Orkney Islands Council (OIC) is required to consider the effect of the proposal on the SPA before it can be consented (commonly known as a Habitats Regulations Appraisal).

This means that where the conclusion reached by the Council on a development proposal unconnected with the nature conservation management of a Natura 2000 site is that it is likely to have a significant effect on that site, it must undertake an appropriate assessment of the implications for the conservation interests for which the area has been designated. The need for appropriate assessment extends to plans or projects outwith the boundary of the site in order to determine their implications for the interest protected within the site.

This means that the Council, as competent authority, has a duty to:

- Determine whether the proposal is directly connected with or necessary to site management for conservation; and, if not:
- Determine whether the proposal is likely to have a significant effect on the site either individually or in combination with other plans or projects; and, if so, then:
- Make an appropriate assessment of the implications (of the proposal) for the site in view of that site's conservation objectives.

The competent authority can only agree to the proposal after having ascertained that it will not adversely affect the integrity of the site. If this is not the case, and there are no alternative solutions, the proposal can only be allowed to proceed if there are imperative reasons of overriding public interest, which in this case can include those of a social or economic nature.

It is evident that the proposal is not connected with or necessary to site management for conservation, hence further consideration is required.

Appraisal

Natura interests – Orkney Mainland Moors SPA

The proposal lies within 1.3 kilometres of the North Orkney Special Protection Area (SPA) selected for the following qualifying species:

- Hen harrier (*Circus cyaneus*).
- Red-throated diver (*Gavia stellata*).
- Short-eared owl (*Asio flammeus*).

In its response to the Council, SNH has provided an appraisal of the impact that the proposal is likely to have on the Orkney Mainland Moors SPA.

The aim is to conserve these features in order to make a long lasting contribution to the SPA network.

The Conservation Objectives for Orkney Mainland Moors Special Protection Area are noted as follows:

To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, thus ensuring that the integrity of the site is maintained; and

To ensure for the qualifying species that the following are maintained in the long term:

- Population of the species as a viable component of the site.
- Distribution of the species within site.
- Distribution and extent of habitats supporting the species.
- Structure, function and supporting processes of habitats supporting the species.
- No significant disturbance of the species.

Matters in relation to the conservation objectives as noted above considered the development, on qualifying species of the Orkney Mainland Moors SPA and other relative natural heritage considerations. Given the nature of works proposed – Erect a 220/132kV substation, Stymilders/Heddle Hill (Land Near), Firth.

These points were considered within the response from SNH which concluded “It is unlikely that the proposal will have a significant effect on any qualifying interests on any qualifying interests either directly or indirectly. An appropriate assessment is therefore not required”.

Conclusion

In our view, from the information available it appears that in this case the proposal is not connected with or necessary for the conservation management of the sites. It is considered the location of the site which is 1.3 kilometres from the nearest part of the SPA. Although this is within the foraging range of hen harriers and short-eared owls breeding in the SPA, the extent of foraging habitat which will be lost as a result of the development is small and alternative foraging habitat is available.

On the basis of this appraisal, it is concluded that the proposal will not significantly affect the qualifying interests of the Orkney Mainland Moors SPA.