

From: Stephen McFadden  
Energy Consents Unit  
Directorate for Energy and Climate Change  
12 October 2018

**Minister for Business, Innovation and Energy**

**APPLICATION 1**

**APPLICATION FOR NECESSARY WAYLEAVE UNDER PARAGRAPH 6 OF SCHEDULE 4 TO THE ELECTRICITY ACT 1989: TO KEEP INSTALLED UNDERGROUND CABLES AT THE SHIELING, 17 VICTORIA ROAD, BROOKFIELD, JOHNSTONE**

**APPLICATION 2**

**APPLICATION FOR NECESSARY WAYLEAVE UNDER PARAGRAPH 6 OF SCHEDULE 4 TO THE ELECTRICITY ACT 1989: TO INSTALL UNDERGROUND CABLES AT THE SHIELING, 17 VICTORIA ROAD, BROOKFIELD, JOHNSTONE**

**Purpose**

1. To seek your determination on two expressly-related applications for necessary wayleaves made by DWF LLP on behalf of the electricity distribution licence holder SP Distribution PLC (“the Applicant”) dated 19<sup>th</sup> April 2016 (“Application 1”) and 25 July 2017 (“Application 2) on land at ‘the Sheiling’, a property owned by Mr Andrew and Mrs Rhona MacKinnon (‘the Landowners’) located at 17 Victoria Road, Brookfield, in Johnstone (“the property”).
2. Application 1 is for a necessary wayleave to keep installed two underground cables currently in situ across the property.
3. Application 2 is for a necessary wayleave to install two new underground cables across the property.
4. **Priority – Routine.**

**Background**

5. There are two electricity lines in situ, one high voltage and another low voltage both running under part of the garden at the property. Directly and indirectly, approximately 3200 houses rely on these lines for their security of supply and they are considered by the Applicant as being an essential part of the existing local electricity supply network. The Landowners have planning permission to build a house extension on the part of the land under which the electricity lines lie and claim that the lines are preventing the extension from being built.

**Application 1**

6. Application 1 was made to the Scottish Ministers under Schedule 4 to the Electricity Act 1989 (‘the Act’), following the serving of a ‘notice to remove’ the lines,

which run under the land, by the Landowners on the Applicant. Applications for Necessary Wayleaves are usually determined under delegated authority, however given the complexities of this particular application, officials seek a Ministerial determination. The complexities are:

- a challenge by the Landowners as regards the validity of the application,
- that officials disagree with the conclusions of the reporter on the merits of the case.

7. On the validity of the application, it is considered that the application itself is valid. The Electricity Act 1989 provides that in certain circumstances (which there has been no dispute apply in this case) the owner of land can require a licence holder to remove an electric line from their land. If this is done the licence holder has 3 months to remove the equipment or to make an application to Ministers to retain the lines in the land. The Landowners challenge is that no application was made within the 3 month period. They argue that they gave the Applicants 'notice to remove' the electric line by an email dated 11 February 2015 requesting removal of the electric line and timetable for doing so. The Applicants consider that notice to remove was given by letter from the Landowners' solicitors dated 20<sup>th</sup> January 2016. We consider that the better view is that notice to remove was given by the letter of 20 January 2016 and therefore no issue arises as whether the application was timeously made. Further information on the reasoning behind this is contained in Annex B.

8. Paragraph 6(5) of Schedule 4 to the Act requires that the Scottish Ministers afford the Landowners and Applicant an opportunity of being heard by a Reporter appointed by the Scottish Ministers. The Reporter compiled a report from the evidence, written submissions and a site visit, following the decision by both parties to forego a hearing and recommended that, because an alternative solution had been identified and agreed in principle between the Landowners and the Applicant, it was not necessary nor expedient for the lines to be retained and should therefore be removed. Officials disagree with the recommendations of the Reporter and consider that it is necessary and expedient to keep the lines installed in their present position (for a limited period) to maintain security of electricity supply to the potentially affected consumers whilst the alternative solution is put in place (see Application 2 below).

#### Application 2

9. An alternative solution agreed in principle by the Landowner and the Applicant was for the electric lines still to be within the Landowners' boundary but beyond the plot of the proposed house extension. However, due to unresolved disagreement between the parties over the level of financial compensation which precludes its installation by way of a voluntary wayleave agreement, the Applicant submitted an application (dated 25 July 2017) to the Scottish Ministers for a necessary wayleave to install this alternative route (Application 2). The Landowners objected to this application, seeking complete removal of all transmission lines from their land.

10. Paragraph 6(5) of Schedule 4 to the Act was again applicable and requires that the Scottish Ministers afford the Landowners and Applicant an opportunity of being

heard by a Reporter appointed by the Scottish Ministers. In respect of this application, the Reporter compiled a report from the evidence presented at a hearing session on 02 May 2018, from site visits undertaken and from written submissions subsequently lodged by both parties.

11. It should be noted that Officials were about to make a submission to the Minister in respect of Application 1 but this was postponed when Application 2 was submitted. Legal advice received by Officials at that time was that because the two applications are “*clearly and expressly related*” the determination of Application 1 should be deferred until the outcome Application 2 was known and both then considered concurrently. This approach was also recommended by the Reporter who dealt with Application 2.

## **Recommendations**

### **Application 1**

12. Officials **disagree** with the Reporter and recommend that you **grant** the application for the duration of 6 months on the basis that it is necessary and expedient to keep the line installed in its present position until the line can be relocated.

### **Application 2**

13. Officials agree with the Reporter and recommend that you grant the application on the standard Scottish Government terms for a 40-years wayleave amended to include a safeguarded area and specified laydown areas as depicted on the submitted site plan (Annex F)

## **List of Annexes**

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- Annex C - Decision Letter
- Annex D - Report to The Scottish Ministers (Application 1)
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- Annex 1 - Grant of Necessary Wayleave (Application 1)
- Annex 2 - Wayleave Site Plan (Application 1)
- Annex 3 - Grant of Necessary Wayleave (Application 2)
- Annex 4 - Wayleave Site Plan (Application 2)

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## **ANNEX A – LEGISLATION AND ADVICE TO MINISTERS**

### **Legislation**

1. Part 1, paragraph 3A of the Electricity Act 1989 (“the Act”) states that the principle objective of the Scottish Ministers in carrying out their functions is to protect the interests of consumers in relation to electricity conveyed by distribution systems. Those interests of existing and future consumers include their interests in the security of the supply of electricity to them.
2. The holder of an electricity distribution licence (“licence holder”) has duties under Section 9 of the Act to develop and maintain an efficient, co-ordinated and economical supply of electricity distribution.
3. Reflecting their public service role, a licence holder has the powers set out in section 10 of the Act and in Schedules 3 and 4 to the Act 1989. This gives a licence holder the requisite powers to enable them to comply with their statutory duties and obligations.
4. A licence holder need permission to install and keep installed their electric lines and associated equipment (such as poles, pylons, staywires and transformers) on, over or under land and to have access to that land for the purpose of inspecting, maintaining, adjusting, repairing, altering, replacing or removing line or equipment.
5. Paragraph 8 of Schedule 4 to the Act allows, by reason of a change in the ownership or occupation of the land, a Landowner to give to a licence holder a notice requiring the removal of electric lines from his or her land. However, the licence holder does not require to comply with that notice if, within 3 months of the date of the notice, the licence holder makes either an application to the Scottish Ministers for a necessary wayleave or makes an order authorising compulsory purchase of the land.
6. It is usual for a licence holder to try to negotiate a voluntary wayleave with Landowners and occupiers of land. Where, however, the licence holder has not agreed a voluntary wayleave with the land owner or occupier of the land for a new electric line or to keep installed an existing line, the licence holder may apply to the Scottish Ministers for a necessary wayleave under paragraph 6 of Schedule 4 to the Act.
7. ‘Necessary wayleave’ in terms of Schedule 4 to the Act means consent for the licence holder to keep installed the electric line under, over or on the land and to have access to the land for the purpose of inspecting, maintaining, repairing, altering, replacing or removing it.
8. Paragraph 6 of Schedule 4 to the Act states that, where for any purpose connected with the carrying on of the activities which it is authorised by their licence to carry on, it is necessary or expedient for a licence holder to install and keep an installed an electric line on, under or over any land and, the owner or occupier of the land has given notice to the licence holder to remove the electric line, the Scottish Ministers may, on the application of a licence holder in terms of paragraph 6(3) of Schedule 4 to the Act, grant the necessary wayleave subject to such terms and conditions as are considered fit.

9. Where the licence holder makes neither an application for a necessary wayleave or an order authorising compulsory purchase of the land, paragraph 8 of Schedule 4 to the Act requires the licence holder to comply with the notice to remove at the end of the period of 3 months of the date of the notice.

## **Hearing**

10. Under paragraph 6(5) of Schedule 4 to the 1989 Act the Scottish Ministers are obliged to offer the owner and/or occupier of land which is the subject of an application for a necessary wayleave the opportunity of being heard by an appointed person, before granting a necessary wayleave.

11. If the owner and/or occupier wants an oral hearing, the Electricity (Compulsory Wayleaves) (Hearings Procedure) Rules 1967 apply. Rule 4 deals with procedure before a hearing and under rule 7(1) the procedure at a hearing is to be determined by the Reporter, unless the Rules provide otherwise.

12. With regards to Application 1, the Landowners declined a hearing and the Reporter submitted a report based on written submissions by the parties and an unaccompanied site visit.

13. When dealing with Application 1, the Reporter considered a challenge by the Landowners regarding the legal competence of the application. The challenge concerns whether the application was validly made by the licence holder, SP Distribution PLC, in accordance with Schedule 4 to the Act.

14. The Reporter did not offer a recommendation on the validity of the application, instead deferring such matters to legal advice.

15. In his findings, the Reporter stated that it was his view that a notice to remove was served on the Applicant on 11<sup>th</sup> February 2015. The Scottish Ministers do not accept this view and consider that notice to remove was given by letter dated 20 January 2016. The application for a necessary wayleave was made on 19<sup>th</sup> April 2016, which was within the statutory 3 months and consequently, the Scottish Ministers are only required to determine whether it is necessary or expedient to keep the lines installed in situ.

16. With regards to Application 2, a hearing session was held on 02 May 2018 followed by an accompanied site visit on the same date. An unaccompanied site visit was also undertaken and written submissions were lodged by the Landowners and the Applicant.

17. For Application 2, the Scottish Ministers are required to determine whether it is necessary or expedient to retain but reroute the lines, still within the land of the property.

## **Advice to Minister**

18. Adequate opportunity was given to the interested parties to be heard and present supporting evidence at each PLI hearing. Officials consider that you have sufficient information to determine these applications.

19. Dealing with Application 1, the Reporter concluded that the lines retained in their present location is not necessary nor expedient because there was a “*practicable alternative*” and that rerouting them within the site would allow the Landowner’s house extension to go ahead. He recommended that the application should be rejected and the lines be removed. The “*practicable alternative*” referred to by the Reporter in his report dealing with Application 1 is what subsequently formed the basis of Application 2 in which the appointed Reporter subsequently recommended that the application should be granted.

20. To secure and maintain the supply of electricity to approximately 3200 houses reliant on it, the lines in situ will have to be retained until the rerouted lines are in place and energised and for this reason Officials recommend that you disagree with the recommendations of the Reporter in Application 1 but instead grant it for a specified period to allow that work to be completed. Consequently, with regards to Application 1, Officials recommend that you grant the necessary wayleave for the duration of 6 months.

21. With regards to Application 2, Officials recommend that you grant the necessary wayleave on the standard Scottish Government terms for a 40-years wayleave amended to include a safeguarded area and specified laydown areas.

22. If you agree, a letter explaining these decisions will be sent to the parties involved in the applications.

**Stephen McFadden**  
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**Directorate for Energy and Climate Change**  
**12 October 2018**

## **ANNEX B - Background Information**

### **APPLICATION 1**

#### **APPLICATION FOR NECESSARY WAYLEAVE UNDER PARAGRAPH 6 OF SCHEDULE 4 TO THE ELECTRICITY ACT 1989: TO KEEP INSTALLED UNDERGROUND CABLES AT THE SHIELING, 17 VICTORIA ROAD, BROOKFIELD, JOHNSTONE**

1. The application was made by DWF LLP on behalf of the distribution licence holders, SP Distribution PLC (referred to jointly and separately in this annex as “the Applicant”). It was received by Scottish Ministers on 19<sup>th</sup> April 2016. The application was for retention of existing electric lines (which are also referred to as ‘cables’ in this submission) under land at The Sheiling, 17 Victoria Road, Brookfield, Johnstone (‘the land’), owned by the Landowners, Mr and Mrs McKinnon. The application described the electric lines as a ‘section of low voltage underground distribution line’ and a ‘section of high voltage underground distribution line’, and was accompanied by a wayleave site plan, a location plan, a supporting statement and a copy of a document referred to as the notice to remove. The application was not accompanied by a copy of any existing wayleave agreement. The wayleave site plan (Annex E) shows that the lines run immediately parallel to each other in an east to west direction adjacent to the north side of the house which sits within the land. The Applicant stated that the Landowners, Mr and Mrs MacKinnon, served the notice to remove the electric lines from the land on the Applicant on 20<sup>th</sup> January 2016.

2. In the supporting statement, the Applicant stated that the electric lines form part of an underground distribution cabling system which runs from a substation to the west of the land. The high voltage cable provides a ‘crucial back up supply’ to the substation, which in turn supplies around 120 customers. The low voltage cable connects 50 customers, including the Landowners, which are supplied by the substation. The Applicant cannot locate a previous wayleave agreement to install or keep installed the cables.

3. The Applicant state that it is necessary and expedient for them to keep the apparatus installed in the land; the current route being the most appropriate, having regard to all relevant considerations including the impact associated with any diversion, and the cables being connected to the existing network of distribution cables, being a purpose connected with the Applicant’s licensed activities. Should the cables be removed, the Applicant would require to find an alternative way to supply the affected customers (which would include the Landowners) in order to comply with their statutory duties. They state that the application has been made in accordance with the provisions of the Act, having been submitted within 3 months of the date of the ‘Notice to Remove’, which is stated by the Applicant to have been served on them on the 20<sup>th</sup> January 2016.

4. The document which is presented by the Applicant as the ‘Notice to Remove’ was submitted on behalf of the Landowners by their representatives at that time, Buchanan MacLeod. The letter, submitted to the Applicant’s wayleaves officer, refers to previous email correspondence between the Applicant and the Landowners. The letter states that the Landowners had previously requested removal of ‘the pipe’ which was in place without the Landowners’ permission; it then further states that unless the

'pipe and cabling' is removed, the Landowners cannot commence the necessary building works to extend their home. The letter states that the Landowners have planning permission and a building warrant in place, and that they have previously had to cancel building works in 2014. These building works cannot commence until the cable is 'removed or rerouted' and the letter states that 'adequate compensation' should be paid to the Landowner. The letter states that the Landowners have sustained substantial financial losses as a result of the delay to building works. The letter states that if the cables are not removed within 14 days, the Landowners will issue court proceedings for interim interdict and immediate removal of the lines.

5. The letter submitted by the Applicant is also accompanied by some email correspondence which contains the Applicant's wayleaves officer's acknowledgement on 06<sup>th</sup> March 2015 of a request to have the cables diverted from the Landowner's property, and confirmation that the officer will liaise with the 'connections team' representative to confirm timescales for this. Also included is email correspondence from 19<sup>th</sup> March 2014 to 2<sup>nd</sup> June 2014, which demonstrates that at that earlier stage, there was constructive dialogue between the Applicant and the Landowners regarding a rerouting of the cables within the land boundary. The Landowner had sent plans of the proposed extension to the wayleaves officer, suggesting that there is adequate space between the northern perimeter of the land and the proposed extension for the lines to be rerouted. The wayleaves officer contacted the connections team, whose representative visited the site. The Landowner indicated to the Applicant's wayleaves officer that this visit appeared to him to have convinced the connections team that 'no real problems (were) anticipated' with the rerouting, and asked if voluntary wayleave documentation would be issued to him, with a view to rerouting taking place 8 weeks after a wayleave is signed. On the 2<sup>nd</sup> June 2014, the Landowner reminds the wayleaves officer of the need to confirm timescales for the rerouting. There is no further recorded email documentation provided by the Applicant.

6. The Applicants, in their supporting information statement, state that the cables run directly underneath an area of the land to the north of the McKinnon's home, for which planning permission has been granted to construct an extension. They provide an architect's plan, showing the location of the existing cables in relation to the Landowners' proposed extension. They state in their application that they are liaising with the Landowners in order to try and reach an agreement on a deviation of the line. The Applicant points out that any such agreement would need to comply with their statutory duty to provide an economic, co-ordinated and efficient system of electricity distribution. In the absence of such an agreement being reached, the Applicant seeks the grant of a necessary wayleave for a duration of 40 years.

7. On receipt of the application, officials accepted at face value that the letter dated 20<sup>th</sup> January 2016 constituted the 'notice to remove' referred to in Paragraph 8 (2) of the Act. In accordance with usual procedure, the Landowners (and their agents at the time, Buchanan MacLeod) and Applicant were sent written notifications of receipt of the application. The Landowners were sent a copy of all documentation which had been provided by the Applicant, as well as a copy of the Scottish Government's necessary wayleave application guidance for Applicants, Landowners and occupiers. The notifications stated that, unless a 'sist' (temporary postponement) is applied for jointly by the Applicant and Landowners, the application would be referred to the DPEA on or shortly after 6<sup>th</sup> July 2016. On 21<sup>st</sup> June 2016, the Applicant requested a sist of 6 months from the date of the application, stating that both parties have agreed to such a postponement to allow more time for an amicable solution to

be found. The Applicant enclosed a letter from the Landowners dated 21<sup>st</sup> June 2016, which stated that they were prepared to submit a joint application for a sist on the basis that matters proceed swiftly and amicably with a view to resolving their situation and allowing them to build their extension. A sist was granted allowing the parties until 21<sup>st</sup> October to reach an agreement and avoid matters being referred to the DPEA.

8. On 5<sup>th</sup> October 2016, correspondence was received from Mr George Hipwell of Davidson and Robertson Rural, stating that he had been instructed by the Landowners to represent them in relation to the application, and requesting detail on the proceedings, which were provided. On 24<sup>th</sup> October 2016, Mrs McKinnon, for the Landowners, wrote to the Applicant, the Scottish Government and Mr Hipwell, stating that the sist had expired, but an amicable agreement was in sight, and that she hoped this would be reached shortly. She asked whether a further sist could be sought. Scottish Government ECU officials requested an update from all parties on progress. Mr Hipwell stated that he was hopeful that an agreement was 'not too far away' and Mr Stewart of DWF stated the same. Therefore a further 1 month sist was granted. Following this grant, on 1<sup>st</sup> November 2016, Mrs McKinnon wrote to thank officials for the extension and to point out that she was anxious for matters to be concluded as she was subject to a deadline from her builder which, if missed, would result in further cost increases in relation to the building of her extension.

9. DWF responded to Mrs McKinnon's email on 3<sup>rd</sup> November 2016 to state that the Applicant had required to assess whether relocating the line to accommodate the extension was viable. He stated that following an assessment the relocation had indeed been found to be viable, but such a relocation had to be assessed against the Applicant's duty under Section 9 of the Act to maintain an efficient, co-ordinated and economical system of electricity distribution. In this instance, the compensation being sought for the rights was still being negotiated with the Landowner, and as the costs of the relocation will ultimately fall on the UK electricity consumer, the Applicant requires to be satisfied that any agreement is in accordance with the regulatory framework which governs its activities.

10. On 23<sup>rd</sup> November 2016 Mr Hipwell wrote to the ECU to state that a 'counter offer' was awaited from the Applicant to the Landowner's proposal for consideration in the hope of reaching a voluntary agreement. The proposal had been submitted to the Applicant on 13<sup>th</sup> October 2016. Mr Hipwell stated that despite several attempts to draw a response to the proposal, the Applicant had not responded. On 25<sup>th</sup> November, the Landowner Mrs McKinnon supplemented Mr Hipwell's communication, expressing her disappointment that the Applicant had failed to respond to their proposal for consideration. The ECU responded to state that the matter would be referred to the DPEA on 1<sup>st</sup> December 2016 unless an agreement had been reached prior to this date. On 1<sup>st</sup> December, the application was referred to the DPEA and a reporter, Richard Hickman, was later appointed.

11. On 15<sup>th</sup> February 2017, the Landowners submitted a letter for the attention of the Applicant, attaching further documentation. The letter describes the compensation offered by the Applicant as unacceptable. The letter states that on 11<sup>th</sup> February 2015, the Landowners had written to the Applicant, asking them to remove the cables. The Landowners state that they had resorted to giving the Applicant this notice to remove following the lack of progress made to that date with regard to relocating the lines, and that the Applicant's wayleaves officer had acknowledged the notice to remove on 6<sup>th</sup> March 2015. From this date on, further details of correspondence between the

Landowners and the Applicant is described. the Applicant had indicated to the Landowners that they were seeking consent from the NHS to reroute the cables using land at the former Merchiston Hospital. The Landowners point out that by 11<sup>th</sup> May 2015, three months following the notice to remove, the Applicant had neither made an application for a necessary wayleave, nor an order authorising the compulsory purchase of the land, and were therefore obliged under Schedule 4 to the Act to remove the cables from their land. Therefore, the Landowners submitted that this application, which was made on 19<sup>th</sup> April 2016, is out of time.

12. The Landowners asserted in this letter that the 'notice to remove' as referred to by the Applicant was a reiteration of what had already been requested and that the Applicant had not acted in accordance with legislation. The letter was written because previous requests for removal of the lines had been ignored by the Applicant. The Landowners submit that the Applicant has attempted to prey on the Landowners lack of knowledge of the legislation. The documentation submitted by the Landowners to accompany the letter shows that an email was sent to the Applicant's wayleaves officer Mr McNaught on 11th February 2015, which states *'in the absence of any progress with this matter it seems that the best option now is to have the cables removed from our ground to prevent any further problems for us in future. Can you please now start this process with immediate effect and confirm a timetable for the works?'*

13. On 1<sup>st</sup> March 2017, a member of staff of the DPEA wrote to Mr Hipwell and Mrs McKinnon, confirming that the Landowners would wish to proceed without a hearing, and that written submissions should be made for consideration by a Reporter by 29<sup>th</sup> March 2017. It was stated that the Reporter would carry out an unaccompanied site visit. Mr Hipwell responded to state that he was no longer representing the Landowners.

14. The Reporter's report dated 9<sup>th</sup> May 2017 states that the Landowners, in wishing for works in building their extension to proceed, have reluctantly accepted that rerouting the cables within their land would be a quicker solution to their problems. The Applicant, for their part, have emphasised the importance of the cables within the electricity distribution system in ensuring security of supply to a large number of customers. The Reporter states that the Applicant's 'current position' is to reroute the cables away from the plot of the proposed extension, allowing building works to proceed. This exercise would cost in the region of £13000. An alternative consideration to reroute along neighbouring roads would cost £87000 and require a lengthy and disruptive authorisation and construction process.

15. On the matter of whether the application is competent, which the Reporter regards as the key issue, the Reporter states that this is a 'matter for legal advice', to which he 'defers'. He states that he interprets the email dated 11<sup>th</sup> February 2015 as a 'notice to remove'.

16. On the merits of the case, for the Landowners he takes account of the adverse impact on the Landowners' family on not being able to extend their home, the fact that the cables do not have current wayleave authorisation and the consideration that the cables do not necessarily need to be in their present location, given the alternative options put forward by the Applicant. The Reporter takes into consideration the time and effort the Landowners have invested since January 2014 in seeking the removal of the cables, and the legal and building costs incurred by the delays in their removal. The Reporter states that the Landowners dispute the Applicant's adopted position,

having had 3 years to address the matter, and contend that the Applicant's behaviour in respect to this matter amounts to bullying.

17. The Reporter took account of the points raised by the Applicant. The cables provide a supply for numerous customers and provide security of supply in the event of a fault. Any rerouting of the cables off site would require other land rights to be obtained, and the Applicant seek an agreement to divert the lines within the land in a way which allows them to comply with their statutory duties while allowing the Landowners building works to take place. Diverting the lines within the land, in this manner would cost £11,823.75, and a payment of £45,000 would be paid by the Applicant to the Landowners in respect of costs. The Landowners counter claim is for £85,953, a figure which the Applicant considers to be inconsistent with its statutory duties to provide an efficient and economical system of electricity distribution. The Reporter points out that the issue of compensation is not a consideration in the granting of a necessary wayleave, and is a matter for the Lands Tribunal.

18. The Reporter states, at the end of his report, that the Applicant has identified a "*practicable alternative*" and proposes to reroute the cables within the land along the northern perimeter. On that basis, he concludes that that the retention of the cables in their present position is not 'necessary' and, because rerouting the lines within the land would allow the Landowners to commence building works, it is not "expedient" for the Applicant to keep the line installed. He recommends therefore, that if found to be competent, the application is refused.

## **Application 2**

### **APPLICATION FOR NECESSARY WAYLEAVE UNDER PARAGRAPH 6 OF SCHEDULE 4 TO THE ELECTRICITY ACT 1989: TO INSTALL UNDERGROUND CABLES AT THE SHIELING, 17 VICTORIA ROAD, BROOKFIELD, JOHNSTONE**

19. The "*practicable alternative*" to reroute the cables within the land along the northern perimeter referred to by the Reporter in his report in respect of Application 1 was the basis of Application 2 which was submitted by SP Distribution PLC ("the Applicant") on 25 July 2017.

20. The Applicant is seeking a necessary wayleave on the standard Scottish Government terms for a 40-years wayleave with the exception of an exclusion zone to ensure no incursion on apparatus during the building works for the house extension and the addition of two laydown areas to enable the work to be completed. The addition of these laydown areas followed on from discussions between the Applicant and the Landowners with a view to minimising the extent of the exclusion zone within the land.

21. At the hearing held on 02 May 2018, it was agreed by the Applicant and by the Landowners that the proposed cable route would not prevent the approved house extension from going ahead.

22. Due to delays in having this matter resolved the Landowners' planning permission, first granted in January 2015, had to be renewed in January 2018 and they initially agreed to the rerouting of the cables on their land as they believed that it was the quickest way of getting their house extension built. However, due to a failure to reach agreement on a compensation figure for financial costs incurred, disruption

and hardship that had been caused to them, the Landowners subsequently opposed the application for rerouting within their land and stated a wish for the complete removal of the cables.

23. The arguments put forward by the Applicant for the granting of the application and the arguments put forward by the Landowners for the refusal of the application are detailed in paragraphs 3 to 20 in the PLI report at Annex H of this submission.

24. Paragraphs 21 to 27 of the PLI Report detail the Reporter's conclusions and recommendations. In summary, the Reporter concludes that the necessary wayleave applied for is both necessary and expedient and he recommends that it is granted on the standard Scottish Government terms for a 40-year wayleave amended as requested by the Applicant to include a safeguarded area and specified laydown areas as depicted in Wayleave Site Plan at Annex F to this submission.

### **Competence of Application 1**

25. It is considered that notice to remove was given by letter dated 20<sup>th</sup> February 2016 and that therefore there is no issue arising as to whether the application made on 19 April 2016 was made timeously.

26. As the question of the validity of the application is removed, the Scottish Ministers must consider whether it is either necessary or expedient for the licence holder to keep installed the electric lines in their current position. Paragraph 6 (3) of Schedule 4 to the Act states that the Scottish Ministers may, on application by the licence holder, grant the necessary wayleave subject to such terms and conditions as he thinks fit.

### **Necessity and Expedience - Application 1**

27 Having considered all of the available information in connection with the application to retain existing lines, officials do not agree with the reporter's conclusion on the necessity and expediency of the maintaining the line in its current position. The reporter's conclusion on this appears to consider only whether the lines in their current position are convenient for the Landowners. The conclusion does not balance the considerations with those of the electricity consumer, and does not accord with the principle objective of Ministers in carrying out their functions under the Act. It is clear from the submissions put forward by the Applicant that it is possible, for a modest sum, to relocate the lines within the land. This solution would be in the best interests of the Landowner, the electricity consumer, and the Applicant, who is pursuing this solution. The existence of this solution does not mean that it is not necessary to keep the line installed where it is at present, because to remove it would risk security of supply to a number of consumers.

28. There is a balance of interests, between those of the consumer and of the Landowner, to be considered in this circumstance. The context of the detriment to the Landowner and the recorded actions of the Applicant in carrying out their statutory duties must be considered against the effect on a number of electricity consumers whose electricity supply would be placed at risk.

29. Limiting the duration of the grant to a period of 6 months will give effect to the needs of the landowners in ensuring removal of the existing lines within as short a time period as possible from the issue of this determination.

### **Necessity and Expedience – Application 2**

30. It is necessary that a replacement line is installed to ensure uninterrupted electricity supply for the consumers who would be affected by the removal of the existing line. The wayleave sought by the applicants would enable the landowners to proceed with plans to extend their home while ensuring that electricity supply is unaffected. The wayleave sought by the applicants is also considered to be expedient, when considering the time and cost implications of any alternative.

31. A 40 year wayleave period for the new route is recommended on the terms requested by the applicant.

**Stephen McFadden**  
**Energy Consents Unit**  
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**12 October 2018**

## **ANNEX C – DECISION LETTER**

Energy and Climate Change Directorate  
Electricity Division

T: 0141 278 4419  
E: stephen.mcfadden@gov.scot



**DWF LLP**  
Dalmore House  
310 St. Vincent Street  
Glasgow  
G2 5QR

Your ref: M22982-66  
Our ref: 2016/013

XX October 2018

Dear Sir/Madam

### **ELECTRICITY ACT 1989**

#### **APPLICATION 1**

**APPLICATION FOR NECESSARY WAYLEAVE TO KEEP INSTALLED UNDERGROUND CABLES AT THE SHIELING, 17 VICTORIA ROAD, BROOKFIELD, JOHNSTONE**

#### **APPLICATION 2**

**APPLICATION FOR NECESSARY WAYLEAVE TO INSTALL UNDERGROUND CABLES AT THE SHIELING, 17 VICTORIA ROAD, BROOKFIELD, JOHNSTONE**

Dear Mr Thomson

I refer to the applications dated 19<sup>th</sup> April 2016 (“Application 1”) and 25 July 2017 (“Application 2”) made under Schedule 4 of the Electricity Act 1989 (‘the Act’) to the Scottish Ministers by DWF LLP on behalf of SP Distribution plc. a company incorporated under the Companies Acts with Company Number SC189125 and having its registered office at Ochil House, 10 Technology Avenue, Hamilton International Technology Park, Blantyre (“the Company”), for the grant of a necessary wayleave to keep installed electric lines which are installed underground within lands at ‘The Shieling’, 17 Victoria Road, Brookfield, Johnstone, being land owned by Mr and Mrs MacKinnon (“the Landowners”) and for the grant of a necessary wayleave to install electric lines underground elsewhere on the same land owned by the same owners..

This letter contains the Scottish Ministers' decision on the above mentioned applications. With regards to Application 1 it has been decided to grant the application for a necessary wayleave subject to a condition that the Landowner may not terminate the wayleave for the period of 6 months from the date of this letter. With regards to Application 2, it has been decided to grant the application on the standard Scottish Government terms for a 40-years wayleave amended to include a safeguarded area and specified laydown areas as depicted on the submitted site plan (Annex H)

Under paragraph 6(5) of Schedule 4 to the Act the Scottish Ministers are obliged to offer the owner and/or occupier of land which is the subject of an application for a necessary wayleave the opportunity of being heard by an appointed person, before granting a necessary wayleave.

With regards to Application 1, a Reporter, Richard Hickman, was appointed to report on the application. The parties rejected the offer of a hearing and instead, made written submissions to the Reporter. A report was compiled and submitted to the Scottish Ministers for consideration. The Scottish Ministers have considered the application and Reporter's report and provide reasons for their decision in this letter.

With regards to Application 2, Mr Don Rankin was appointed Reporter and the parties agreed to a hearing. This was held on 02 May 2018. A report was subsequently compiled from Information presented at the hearing and from site visits undertaken and from written submissions subsequently lodged by both parties. The report was submitted to the Scottish Ministers for consideration.

The Scottish Ministers have considered the applications and the Reporters' reports and provide reasons for their decision in this letter.

### **Background – the property, the lines & planning permission**

The property is the northern component of a pair of semi-detached houses located in Brookfield, near Johnstone. The electric lines currently in situ run underground, east to west in proximity to the north of the house within the land. The lines consist of high voltage and low voltage cables which are integral to providing consumers in the area with a reliable supply of electricity.

The Landowners have planning permission and a building warrant to construct an extension to the north side of the house on the land under which the lines currently pass. No existing wayleave agreement can be located for the lines to be kept installed, and the existence of the lines in their current location prevent the commencement of building works. The Landowners wish the lines to be moved in order for the extension to be built, and for compensation to be paid. The question of compensation is not a matter for the Scottish Ministers and is not addressed further in this decision letter.

### **Background – Application 1**

The Landowners contacted the Company in 2014 regarding diverting the lines away from the proposed extension, but as matters did not progress, the Landowners asked the Company to remove the lines on 11<sup>th</sup> February 2015.

In 2015, the Landowners continued to press the Company directly for timescales for removal of the lines to allow the extension to be built. There were no references at that time by either party to the need for the Company to comply with the Act. The Landowners sought legal advice and on the 20th January 2016, their legal representatives wrote to the Company calling upon them to remove the lines. The Company interpreted this document as the 'notice to remove' in terms of the Act and submitted a necessary wayleave application to the Scottish Ministers on 19<sup>th</sup> April 2016. The Scottish Ministers wrote to both parties on 11<sup>th</sup> May 2016 informing them of the intention to refer the application to the DPEA in eight weeks to afford them the opportunity of a hearing by a Reporter. The letter explained that a sist in proceedings would be awarded if the parties made a joint submission within 6 weeks requesting time to allow discussion, with a view to achieving a voluntary wayleave. The Landowners were also supplied with a copy of the published guidance produced by the Scottish Ministers for Applicants, Landowners and occupiers engaged in the necessary wayleave process. Joint requests for a sist were made on 27 June 2016 and again on 01 November 2016, and in both cases, the parties were optimistic of a swift and amicable conclusion.

The second sist was granted on a discretionary basis for one month given the intimation by both parties of agreement being imminent. Negotiations following the grant of the second sist stalled principally due to the levels of compensation being offered by the Company to the Landowner for a voluntary agreement to be signed. Therefore the application was forwarded to the DPEA on 1<sup>st</sup> December 2016.

Following the referral of the application to the DPEA, the Landowner copied a letter, addressed to the Company, to the Scottish Ministers, which expressed disappointment over the level of compensation on offer. The letter further explained that a notice to remove had been served on 11<sup>th</sup> February 2015, and enclosed a copy of the correspondence. The letter described the interaction between themselves and the Company dating back to 2014, and expressed frustration with the delays in commencing work on their extension due to the continued presence of the lines. The letter pointed out that the lines were still in place without statutory rights allowing the Company to keep them installed. The Landowners again asked the Company to remove them.

The Reporter states in his report that parties are in agreement, in principle, to relocating the lines within the land, but beyond the area of the proposed extension. The disagreement between the parties is around the level of compensation to be paid by the Company in securing a voluntary wayleave for this diversion. The Company served notice, in accordance with paragraph 6(1) of Schedule 4 to the Act, on the Landowners requiring them to supply the wayleave. The Landowners failed to give the wayleave before the end of the statutory 21 day period, and the Company submitted a separate application – Application 2 - to the Scottish Ministers on 25<sup>th</sup> July 2017 to achieve the diversion.

## **Validity of Application 1**

The Landowners challenge the validity of the application on the basis that it was not submitted to the Scottish Ministers within 3 months of their serving a notice on the Company to remove the electric lines. They argue that notice to remove was given by email on 11 February 2015. The Company consider that notice to remove was given by letter dated 20 January 2016

The Scottish Ministers, disagreeing with the Reporter and accepting the position taken by the Company, consider that notice to remove under paragraph 8(2) of Schedule 4 to the 1989 Act was given by letter dated 20th February 2016 and that therefore no issue arises as to whether the application made on 19 April 2016 was made timeously.

The Scottish Ministers conclude that the application submitted by the Company on 16 April 2016 is a valid application. There is no impediment to determination of the application.

## **Background – Application 2**

On 25 July 2017 the Company submitted an application to the Scottish Ministers for a necessary wayleave to reroute the cables along the northern perimeter within the Landowners' property thereby allowing the building work for the extension to commence whilst at the same time, retaining security of electricity supply. In its application the Company was seeking a necessary wayleave on the standard Scottish Government terms for a 40-years wayleave with the exception of an exclusion zone to ensure no incursion on apparatus during the building works for the house extension and the addition of two laydown areas to enable the work to be completed.

There was no dispute between the Company and the Landowners over the necessity to maintain the electricity supply as required by statute or that the link to the sub-station was a necessary part of the supply network in the area. However, although it was initially agreed that the cables could be rerouted within the Landowners' land, due to a failure to reach agreement on a compensation figure for financial costs incurred, disruption and hardship that had been caused to them, the Landowners subsequently opposed the application for rerouting within their land and stated a wish for the complete removal of the cables.

Having considered an alternative route which utilised public roads outwith the Landowners' land, it was the Company's view, within the context of their statutory duties to maintain a cost effective distribution network, that rerouting the cables within the Landowners' land was the most cost effective way to resolve the difficulties caused by the existing cables.

## **Necessity and expedience**

The consideration for the Scottish Ministers in terms of Application 1 is whether it is necessary or expedient for the line to be kept installed in the land. In terms of the Electricity Act 1989, the Scottish Ministers' principle objective and general duty under

Part 1, Paragraph 3 of the Act is to protect the interests of consumers in relation to electricity supply.

The Company states that it is necessary and expedient to maintain the lines in their current position. The current route is the most appropriate, having regard to all relevant considerations including the impacts associated with any diversion. Should the lines be removed, the Company would require to find an alternative means of electricity supply for a number of consumers, including the Landowner. They seek to secure an agreement with the Landowners to implement an alternative route option but any such option would require to be compliant with their duties under Paragraph 9 of the Electricity Act 1989, to maintain an efficient, co-ordinated and economical system of electricity distribution. The most efficient and economical alternative to the present arrangement involves routing the cable within the land but beyond the boundary of the proposed house extension.

The Landowners' position is that they cannot build their proposed house extension, for which planning permission was granted in January 2015, due to the presence of the electric lines. The house is too small for the family, causing stress, loss of amenity and costs. It is not necessary to maintain the line in their present position, being that the Company have advanced a viable alternative. The Landowners have endeavoured to have the lines relocated for a considerable period of time and have incurred legal and building costs as a result of the delays.

In his report, the Reporter states that the test for consideration of the merits of the application, as set out in 6(1) of Schedule 4 to the Act, is whether the wayleave is necessary or expedient, and he concludes that the lines are not necessary or expedient. In regard to necessity, he states that the Company has recognised that a rerouting of the cables within the land but beyond the area where the extension is to be constructed is possible for a modest sum which would be in line with the Company's duties to supply electricity in an economical and efficient way. On expediency, he states that retention of the lines prevents the house extension. The Reporter considers that the Landowners have a strong case for wishing to remain in their present home with the benefit of this extension and would prevent the inconvenience or expense of moving to a larger house. As the Company have identified an economically viable option to reroute the lines to allow the extension to be built, the Reporter finds that it is not expedient to retain the lines in their present position.

With regards to necessity in Application 2, the Reporter concludes in his report that to maintain the electricity supply to a considerable number of properties in the local area and beyond whilst at the same time enable the construction of the Landowners' extension, a replacement cable is necessary. With regards to expediency the Reporter concludes that the wayleave sought, whereby the cables would be rerouted within the Landowners' land, is the most cost effective and expedient.

## **The Scottish Ministers' Considerations**

Having considered all of the available information in connection with the application to retain existing lines, the Scottish Ministers do not agree with the reporter's conclusion on the necessity and expediency of the maintaining the line in its current position. The reporter's conclusion on this appears to consider only whether the lines in their current position are convenient for the Landowners. The conclusion does not balance the considerations with those of the electricity consumer. It is clear from the submissions put forward by the Company that it is possible, for a modest sum, to relocate the lines within the land. This solution would be in the best interests of the Landowner, the electricity consumer, and the Company, who is pursuing this solution. The existence of this solution does not mean that it is not necessary to keep the line installed where it is at present, because to remove it would risk security of supply to a number of consumers. With regards to Application 1, the Scottish Ministers find that the Reporter's conclusion on the expediency of maintaining the lines in their present location does not take full account of the interests of consumers in relation to electricity conveyed by distribution systems should be protected, including that of maintaining a secure electricity supply. The Reporter's conclusion on the necessity and expediency of the lines in their current position does not take account of the fact that to refuse the application would compel the Company to remove the lines before an alternative route is in place and has been energised. By refusing the application, Ministers would place security of supply to several consumers in the area at immediate risk, including the supply of the Landowner. The Company have attempted to agree a technical solution which would be, in part, satisfactory to the Landowners, allowing them to build the house extension. It is the issue of compensation which has prevented its implementation. It is in the public interest for the lines to remain installed until the alternative, which will be achieved by the grant of a necessary wayleave in respect of the second application, can be implemented. It is therefore necessary and expedient to keep the line installed in their present location for a limited period to enable the electric line to be re-routed without affecting the supply of electricity to consumers .

With regards to Application 2, the Scottish Ministers agree with the Reporter's findings, reasoning and conclusions and adopt them for the purposes of their own decision.

## **The Scottish Ministers' Determination**

Paragraph 6 (3) of schedule 4 to the Electricity Act 1989 states that Ministers may grant the necessary wayleaves subject to such terms and conditions as they see fit. In the circumstances, Scottish Ministers hereby grant the necessary wayleave for the existing line for a period of 6 months, and grant the necessary wayleave for the new electric line for a period of 40 years. The time period granted in respect of the wayleave for the existing line will ensure that the new line is installed and energised promptly prior to removal of the existing line. The terms of the wayleaves as granted are attached. A copy of the decision letter containing the necessary wayleaves, together with the Reporters' reports, has been sent to all the parties who appeared or were represented at the hearing.

Yours faithfully

**Stephen McFadden**  
**Energy Consents Unit**  
**Being an officer and authorised signatory of the Scottish Ministers**

## ANNEX 1 – GRANT OF NECESSARY WAYLEAVE

### ELECTRICITY ACT 1989

#### GRANT OF NECESSARY WAYLEAVE

1. The Scottish Ministers, in exercise of their powers conferred by paragraph 6(3) of Schedule 4 to the Electricity Act 1989 and all other powers enabling them to do so, grant a necessary wayleave subject to the undernoted conditions to SP Distribution PLC, a company incorporated under the Companies Acts with Company Number SC189125 and having its registered office at Ochil House, 10 Technology Avenue, Hamilton International Technology Park, Blantyre (“the Company”);

- a. to install and keep installed at The Sheiling, 17 Victoria Road, Brookfield. Johnstone, PA5 8TZ (“the Property”) the following electric lines:

#### UNDERGROUND LINES

Underground electric lines along the route shown delineated in blue and red unbroken line on the Plan annexed and executed as relative hereto.

“Electric Line” means any line which is used for carrying electricity for any purpose and includes; (i) any support for any such line, that is to say, any structure, pole or other thing in, on, by or from which any such line is or may be supported, carried or suspended; (ii) any apparatus connected to any such line for the purpose of carrying electricity; and (iii) any wire, cable, tube, pipe or other similar thing (including its casing or coating) which surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such line.

- b. together with rights of access in favour of the Company and any employee, contractor or other party authorised by the Company at such times as the Company deems necessary over the area shown shaded in yellow on the Plan for the purpose of installing, inspecting, maintaining, adjusting, repairing, altering, replacing or removing any part of the electric line and for any incidental purpose, including the exercise of powers conferred under paragraph 4 of this necessary wayleave.
2. Notwithstanding the terms of paragraph 1 above, the Company may install and keep installed the electric line subject to such reasonable deviations, including but not limited to temporary deviations for the purpose of maintenance or replacement as the Company may determine necessary or desirable at its sole discretion, provided always that any such deviations are restricted to the areas shown shaded in yellow on the Plan and that the Company shall furnish the Landowner and occupier with a plan showing the as built location of the electric line which differs from the location described at paragraph 1(a) within thirty (30) days of installation or deviation (as applicable).
  3. Except with the written agreement of the Company, this necessary wayleave may not be terminated by the Landowner or occupiers until the date falling six months after the date of grant of this necessary wayleave.
  4. The Company may, on giving not less than twenty one (21) days’ notice to the Landowner and occupier (or without notice in the case of emergency), fell or lop any tree or other vegetation or remove any other obstruction or structure which is or will be in such close proximity to the electric line to which this necessary wayleave relates as to obstruct or interfere with or give rise to safety concerns, or which is likely to obstruct or interfere with the electric line or to give rise to safety concerns.
  5. The electric line described in paragraph 1 shall remain the property of the Company.
  6. The Landowner will advise the Company in writing of any change in ownership or occupation of the Property.
  7. The installation of the electric line shall be executed by the Company in accordance with all statutory

regulations applicable and for the time being in force.

8. The Company shall free and relieve the Landowner and occupier of the Property and any other person deriving title thereto against all loss, injury and damage caused to the Landowner or occupier or to their property by reason of or in consequence of the existence of the electric line on, under or over the Property; except in so far as any such loss, injury or damage may be due to or caused by the wrongful act, neglect or default of the Landowner or occupier or any person for whom they are responsible in law.
9. Paragraph 7 of Schedule 4 to the Electricity Act 1989 confers rights to compensation in respect of a grant of wayleave, or in respect of any damage or disturbance caused by the exercise of any right conferred by a wayleave. Any question of disputed compensation is to be determined by the Lands Tribunal for Scotland, 1 Grosvenor Crescent, Edinburgh.

**Subscribed for an on behalf of the Scottish Ministers by:**

Sign:.....

Print name:.....

Minister for Energy, Enterprise and Tourism/  
Being an officer and authorised signatory of the Scottish Ministers

At 5 Atlantic Quay, Glasgow G2 8LU

Date:.....



## **ANNEX 3 - GRANT OF NECESSARY WAYLEAVE**

### **ELECTRICITY ACT 1989**

#### **GRANT OF NECESSARY WAYLEAVE**

1. The Scottish Ministers, in exercise of their powers conferred by paragraph 6(3) of Schedule 4 to the Electricity Act 1989 and all other powers enabling them to do so, grant a necessary wayleave subject to the undernoted conditions to SP Distribution pic, a public limited company incorporated under the Companies Acts with Registered Number SC189125 and having its registered office at 1 Atlantic Quay, Robertson Street, Glasgow G2 8SP (hereinafter referred to as ("the Company"));

a. to install and keep installed at land at The Shieling, 17 Victoria Road, Brookfield, Johnstone, lying within postcode PA5 8TZ ("the Property") (1) a low voltage underground electric line along the route shown delineated by the blue line on the Plan annexed and executed as relative hereto and (2) a high voltage underground electric line along the route shown delineated by the red line on the Plan annexed and executed as relative hereto (together the "Electric Lines"). In addition and during the installation of the Electric Lines, the Company shall have the right to use the areas shaded blue on the Plan as laydown areas in connection with the said installation.

"Electric Lines" means underground cables used for carrying electricity for any purpose and which includes (i) cables in ducts, protective boards or tiles, cable markers and other works in connection therewith and manholes; and (ii) any apparatus connected to any such line for the purpose of carrying electricity; and

(iii) any wire, cable, tube, pipe or other similar thing (including its casing or coating) which surrounds or supports, or is surrounded or supported by, or is installed in close proximity to, or is supported, carried or suspended in association with, any such lines.

b. together with rights of access in favour of the Company and any employee, contractor or other party authorised by the Company at such times as the Company deems necessary over the areas shaded yellow and pink (and during the installation of the Electric Lines) blue on the Plan for the purpose of installing, inspecting, maintaining, adjusting, repairing, altering, replacing or removing any part of the Electric Lines and for any incidental purpose, including the exercise of powers conferred under paragraph 4 of this necessary wayleave.

2. Except with the written agreement of the Company, this necessary wayleave may not be terminated by the landowner or occupiers until the date falling forty years after the date of grant of this necessary wayleave.

3. The Company may, on giving not less than twenty one (21) days' notice to the landowner and occupier (or without notice in the case of emergency), fell or lop any tree or other vegetation or remove any other obstruction or structure which is or will be in such close proximity to the electric line to which this necessary wayleave relates as to obstruct or interfere with or give rise to safety concerns, or which is likely to obstruct or interfere with the electric line or to give rise to safety concerns.

4. The Electric Lines described in paragraph 1 shall remain the property of the Company.

5. The landowner will advise the Company in writing of any change in ownership or occupation of the Property.

6. The Company shall free and relieve the landowner and occupier of the Property and any other person deriving title thereto against all loss, injury and damage caused to the landowner or occupier or to their property by reason of or in consequence of the existence of the Electric Lines on, under or over the Property; except in so far as any such loss, injury or damage may be due to or caused by the

wrongful act, neglect or default of the landowner or occupier or any person for whom they are responsible in law.

7. Paragraph 7 of Schedule 4 to the Electricity Act 1989 confers rights to compensation in respect of a grant of wayleave, or in respect of any damage or disturbance caused by the exercise of any right conferred by a wayleave . Any question of disputed compensation is to be determined by the Lands Tribunal for Scotland, 1 Grosvenor Crescent, Edinburgh.

8. Except with the written agreement of the Company, no buildings, other erections, workings or land formations should be constructed, placed or permitted, and no excavation activities should take place or be permitted within the exclusion zone marked delineated by a broken black line on the Plan.

**Subscribed for an on behalf of the Scottish Ministers by:**

Sign:..... ..

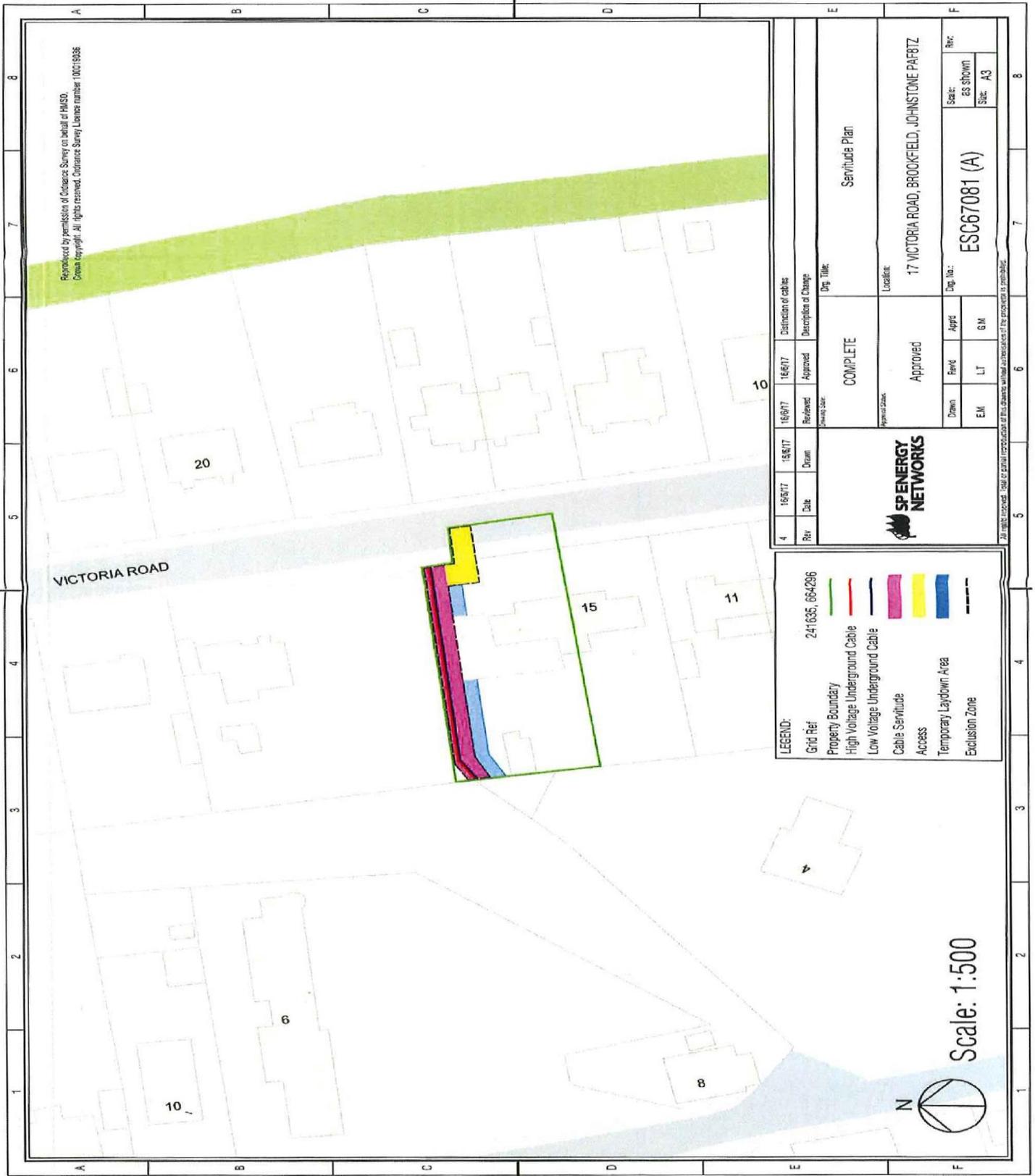
Print name:..... ..

Minister for Energy, Enterprise and Tourism/

Being an officer and authorised signatory of the Scottish Ministers At 5 Atlantic Quay, Glasgow G2 8LU

Date:..... ..

# Annex 4 - Wayleave Site Plan (Application 2)



**LEGEND:**

Grid Ref	241635, 664296
Property Boundary	[Green line]
High Voltage Underground Cable	[Red line]
Low Voltage Underground Cable	[Blue line]
Cable Servitude	[Pink line]
Access	[Yellow line]
Temporary Laydown Area	[Light Blue area]
Exclusion Zone	[Dashed line]

Rev	Date	Drawn	Reviewed	Approved	Description of Change	Dwg. Title
4	16/6/17	16/6/17	16/6/17	16/6/17	COMPLETE	Servitude Plan
<p>Approved Status</p> <p>Approved</p>						<p>Location:</p> <p>17 VICTORIA ROAD, BROOKFIELD, JOHNSTONE PA87TZ</p>
<p>Drawn</p> <p>EM</p>		<p>Rev'd</p> <p>LT</p>		<p>App'd</p> <p>GM</p>		<p>Dwg. No.:</p> <p>ES067081 (A)</p>
<p>SP ENERGY NETWORKS</p>						<p>Scale:</p> <p>as shown</p>
<p>Approved Status</p>						<p>Sheet:</p> <p>A3</p>

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