

Draft Letter to Planning Authorities

Consultation re-proposed major housing/commercial developments

Planning permission has recently been granted for a number of housing or industrial / commercial developments on land crossed by overhead lines which are owned and operated by Southern Electric Power Distribution (SEPD). SEPD is concerned that insufficient discussion has taken place between SEPD and Planning Authorities concerning the future of these lines prior to the granting of planning permission.

These overhead lines generally afford supplies to other locations beyond the development, even whole towns or parts of cities in some instances and are carried on either steel towers or wood poles. These structures and the overhead conductors they support have been placed in accordance with planning permission in the form of a Section 37 (Electricity Act 1989) consent granted by the Secretary of State. This consent can only be granted following initial consultation with the Local Planning Authority.

For Planning Authorities to not properly consult and to impose conditions such as “the overhead lines are to be removed”, which developers would be unable to comply with themselves would effectively be *ultra vires*. We believe this issue has been previously highlighted in the letter from the Office of the Deputy Prime Minister to the Chief Planning Officers in England dated 25 November 2002. (copy enclosed)

As such, SEPD believes that in these circumstances, the Planning Authority should impose a condition prohibiting development until such time as the developer has reached agreement with the Distribution Network Operator (DNO) (a) as to how the development can be laid out such that the line(s) can be retained in their current position or (b) such that contractual arrangements have been agreed to modify the overhead lines.

It is for Planning Authorities to consider how best to achieve this when land is first being considered for development. For example it may be that Planning Authorities consider imposing conditions on developers requiring them to conclude arrangements for modifying the existing overhead lines before submission of their Planning Application or prior to any planning permission being granted.

I would be pleased to receive any comments you may have and discuss further, (if necessary by meeting with you) how to improve consultation on this important issue.

I look forward to hearing from you.

Yours faithfully

Mark Smith
Network Operations and Planning Manager



OFFICE OF THE
DEPUTY PRIME MINISTER

Chief Planning Officers in England

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Our Ref: PDC 31/2/1

25 November 2002

Dear Colleague

CIRCULAR 11/95: USE OF NEGATIVE CONDITIONS

I am writing to draw your attention to the advice in paragraph 40 and the footnote on page 16 of the Annex of Circular 11/95 on The Use of Conditions in Planning Permissions. The advice is on conditions worded in a negative form, prohibiting development until a specified action has been taken.

Following the High Court case *Merritt v SSETR and Mendip District Council* we need to amend the advice in Circular 11/95. Until we are able to amend the Circular, please would you note the following advice when imposing negative planning conditions.

The advice in Circular 11/95 on conditions depending on other's actions (Annex paragraphs 38 and 39), says that it is unreasonable to impose a condition worded in a positive form which developers would be unable to comply with themselves, or which they could comply with only with the consent or authorisation of a third party. Similarly, conditions which require the applicant to obtain an authorisation from another body should not be imposed.

Although it would be *ultra vires* to require works which the developer has no powers to carry out, or which would need the consent or authorisation of a third party, it may be possible to achieve a similar result by a condition worded in a negative form, prohibiting development until a specified action has been taken.

The way the advice is currently worded in paragraph 40 is that such a condition should only be imposed on a planning permission **if there are at least reasonable prospects** of the action in question being performed within the time-limit imposed by the permission.

As a result of the Judgement in *Merritt*, paragraph 40 should be amended to read, "It is the policy of the Secretary of State that such a condition may be imposed on a planning permission. However, when **there are no prospects at all** of the action in question being performed within the time-limit imposed by the permission, negative conditions should not be imposed. In other words, when the interested third party has said that they have no intention of carrying out the action or allowing it to be carried out, conditions prohibiting

development until this specified action has been taken by the third party should not be imposed."

The foot note at the bottom of page 16 should be replaced with: "A policy of refusing permission where there was no reasonable prospect of planning conditions being met could be lawful, but sound planning reasons for the refusal should be given and it should be made clear that this was only a starting point for consideration of cases."

Yours sincerely,

JOHN STAMBOLLOUIAN

Your reference:

In Any Reply Please Quote: LP2031_ 3_Sites

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VALE of WHITE HORSE DISTRICT COUNCIL

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For the attention of :- PLANNING POLICY

16 November 2017

Dear Planning Policy,

Local Plan 2031 Part 2 - Additional Sites - 2017

I refer to your eMail message dated 11 October 2017 regarding the above topic.

I have previously responded in respect of all the named additional sites, except for the three sites listed below.

At this stage, I can only provide general guidance on the provision of electricity infrastructure and the treatment of any existing infrastructure in relation to future development.

Connections for new developments from existing infrastructure can be provided subject to cost and time-scale.

Where existing infrastructure is inadequate to support the increased demands from the new development, the costs of any necessary upstream reinforcement required would normally be apportioned between developer and DNO (Distribution Network Operator) in accordance with the current Statement of Charging Methodology agreed with the industry regulator (OFGEM). Maximum time-scales in these instances would not normally exceed around 2 years and should not therefore impede delivery of any proposed housing development.

Where overhead lines cross development site, these will, with the exception of 400 kV tower lines, normally be owned and operated by Scottish & Southern Electricity Networks (SSEN).

In order to minimise costs, wherever possible, existing overhead lines can remain in place with uses such as open space, parking, garages or public highways generally being permitted in proximity to the overhead lines. Where this is not practicable, or where developers choose to lay out their proposals otherwise, then agreement will be needed as to how these will be dealt with, including agreeing costs and identifying suitable alternative

routing for the circuits. The existing customer base should not be burdened by any costs arising from new development proposals.

To ensure certainty of delivery of a development site, any anticipated relocation of existing overhead lines should be formally agreed with SSEN, prior to submission of a planning application.

Conclusion

I trust the above is helpful to you at this current stage of your deliberations and can be included in the proposed LP2031 Part 2 document, but you can contact me directly on the above telephone number should you require any further advice, particularly relating to specific sites.

However, for your information and assistance, please see the attached **Appendix A**, which includes additional information in respect of the areas detailed in your additional sites document.

Yours faithfully,

Chris Gaskell
Network Planning Engineer

APPENDIX A

The identified areas within SSEN's boundary are :-

Site	Location	Dwellings	Comments
9	South East of Marcham	90	See Note 1
10	North East of East Hanney	50	See Note 2
11	North of East Hanney	80	See Note 2

- 1) It is anticipated **at today** that there may be sufficient capacity available to be able to supply this site from our **Fyfield** 33/11kV primary substation and the existing hv distribution network.
- 2) It is anticipated **at today** that there may be sufficient capacity available to be able to supply this site from our **Grove** 33/11kV primary substation and the existing hv distribution network.

Your reference:

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For the attention of :- PLANNING POLICY

16 November 2017

Dear Planning Policy,

Local Plan 2031 Part 2 - Additional Sites - 2017

I refer to your eMail message dated 11 October 2017 regarding the above topic.

I have previously responded in respect of all the named additional sites, except for the three sites listed below.

The housing and development land areas detailed in the above document are typical of a number of recent sites across Southern England, where insufficient discussion has taken place between planning authorities and ourselves, prior to planning permission being granted. I attach a copy of a letter sent to all chief planning officers in our licence area in March 2012, which summarises the situation.

The land concerned is crossed by various 132,000 volt (132kV) overhead tower line (OTL) (solid black with purple squares), 33,000 volt (ehv) overhead lines (solid green) and 11,000 volt (hv) overhead lines (solid red), as detailed in the table below, which form an essential and integral part of Scottish & Southern Electricity Networks wider network and as such must be retained.

Please **note** that in the case of any 132 kV OTL, this is an extremely important link in our transmission system. Modifying a line such as this is a major undertaking, which should be avoided if possible. Consequently, our advice to developers carrying out feasibility studies on land crossed by such OTLs, is that these should be regarded as permanent physical features. The layout of any development should, therefore, be designed to allow the OTL to remain undisturbed, in the present position, if at all possible.

For your information and assistance, underground cables are indicated by a dashed line, with red for hv and green for ehv.

Site	Location	132kV	ehv	hv
9	South East of Marcham	0	0	1
10	North East of East Hanney	0	1 x 2 *	0
11	North of East Hanney	0	0	0

* = Dual Circuit (i.e. each individual circuit = 1)

Development beneath the overhead lines or diversion / undergrounding of the overhead lines may not be possible, in which case the development as planned would be unable to proceed.

No contractual arrangements have been agreed with any developer for modification of the above circuit/s. Therefore, any conditions imposed, should permission be granted, must be on the developer and not the Distribution Network Operator, as is the case for other existing infrastructure.

To ensure that the proposal is deliverable, you may consider it best to impose a requirement on the developer to agree contractual arrangements with Scottish & Southern Electricity Networks for any modifications prior to permission being granted.

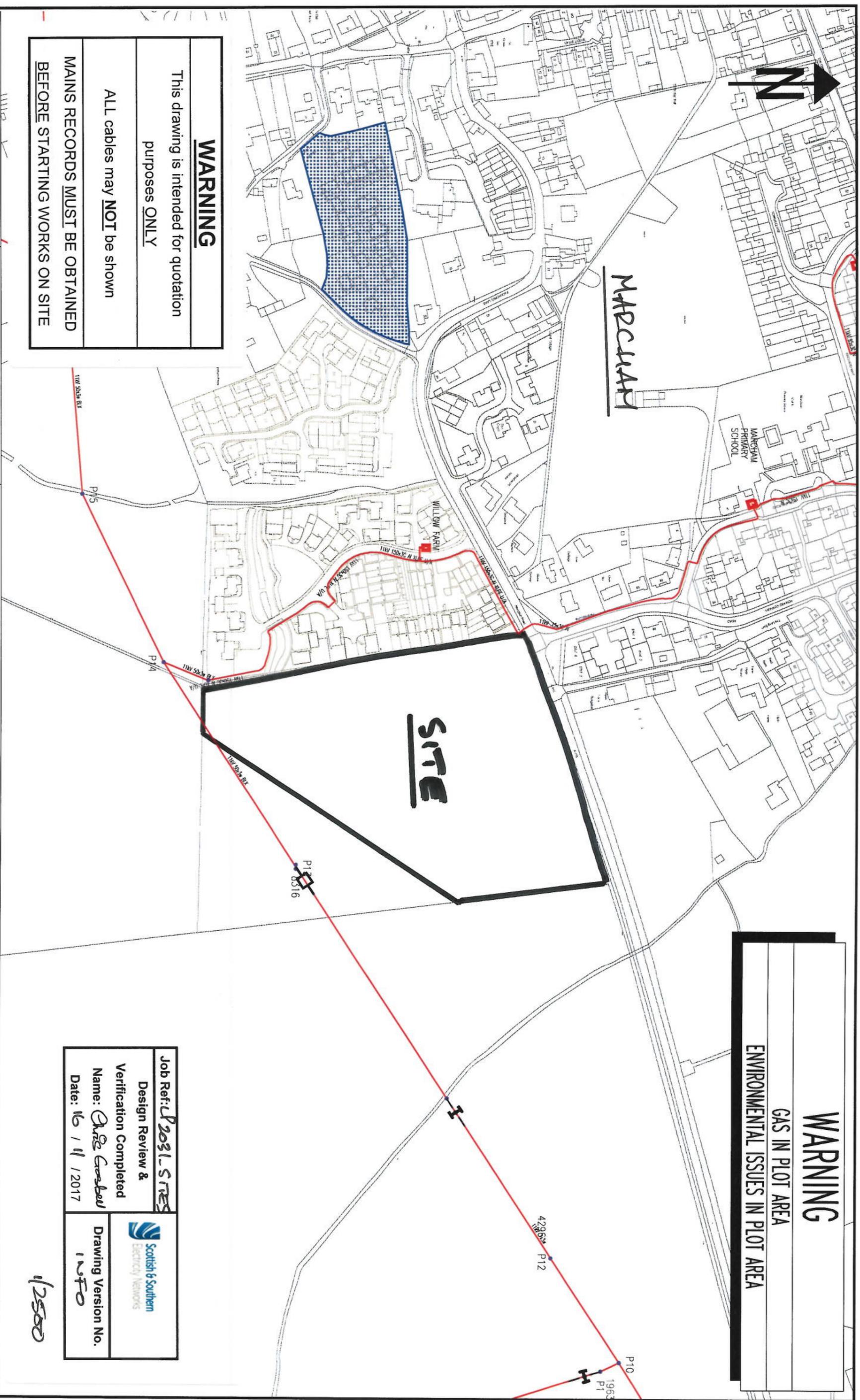
We would consider the granting of planning permission without further discussion and agreement as to how our equipment can be accommodated within the proposal to be unacceptable.

For your information and assistance, I have attached a copy of our Mains Records showing the equipment affected for each of the above locations detailed in the above table.

Clearly, the above principles would apply to any development area, which is crossed by ehv and/or hv overhead lines.

Yours faithfully,

Chris Gaskell
Network Planning Engineer



WARNING

This drawing is intended for quotation purposes ONLY

ALL cables may NOT be shown

MAINS RECORDS MUST BE OBTAINED BEFORE STARTING WORKS ON SITE

WARNING

GAS IN PLOT AREA

ENVIRONMENTAL ISSUES IN PLOT AREA

WARNING

NORMAL DEPTH TO THE TOP OF THE CABLE WHEN LAID

services	l.v.	h.v.	e.h.v.	
FOOTPATH	0.40m	0.45m	0.60m	0.75m
ROAD CROSSING	0.60m	0.60m	0.75m	0.90m

Lv/Services

- up to 1000V.
- over 1000V. to 11,000V.
- 22,000V. to 132,000V.

There may have been subsequent alterations to the surface levels. Trial holes must be taken to determine positions and depth of cables. BS (G) 47 should be taken from the Health and Safety Executive - Avoiding Danger from Buried Cables - should be consulted before commencing excavation work (available from the HSE)

WHEN WORKING IN THE VICINITY OF OVERHEAD LINES THE HEALTH AND SAFETY GUIDANCE NOTE G58 SHOULD BE CONSULTED. (AVAILABLE FROM THE HSE)

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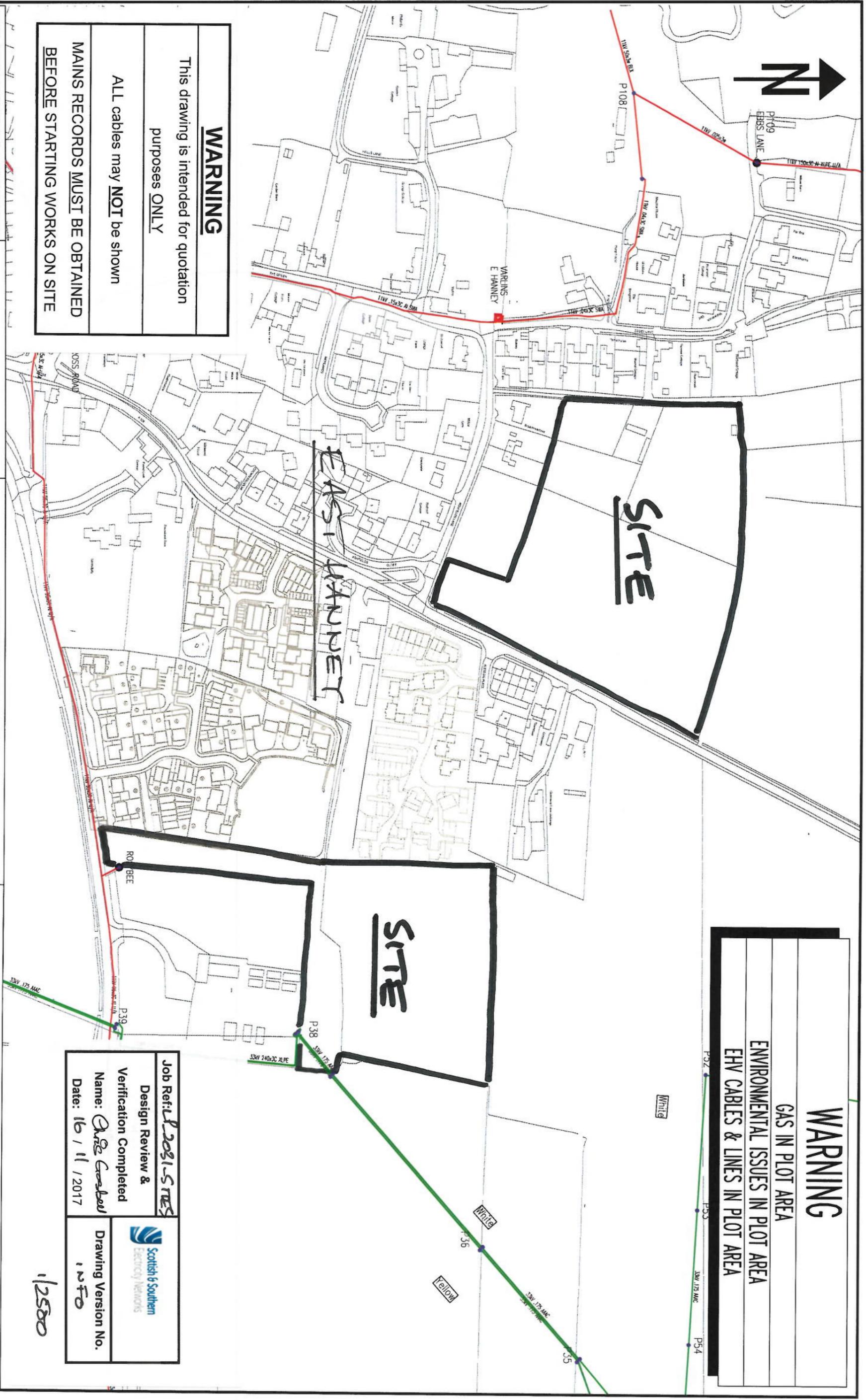
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WARNING

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ALL cables may NOT be shown

MAINS RECORDS MUST BE OBTAINED BEFORE STARTING WORKS ON SITE

WARNING

GAS IN PLOT AREA

ENVIRONMENTAL ISSUES IN PLOT AREA

EHV CABLES & LINES IN PLOT AREA

WARNING

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NORMAL DEPTH TO THE TOP OF THE CABLE WHEN LAID

services	l.v.	h.v.	e.h.v.	
FOOTPATH	0.40m	0.45m	0.60m	0.75m
ROAD CROSSING	0.60m	0.60m	0.75m	0.90m

L.v./services

- up to 1000V.
- over 1000V. to 11,000V.
- 22,000V. to 132,000V.

There may have been subsequent alterations to the surface levels. Third Parties must be consulted before commencing excavation work. (available from the HSE) Health and Safety Executive - Avoiding Danger from Buried Cables - should be consulted before commencing excavation work. (available from the HSE) WITH WORKING IN THE VICINITY OF OVERHEAD LINES THE HEALTH AND SAFETY GUIDANCE NOTE G58 SHOULD BE CONSULTED. (AVAILABLE FROM THE HSE)

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