

Tealing to Kintore Upgrade Project

Note on health and safety, regulatory duties and design-stage risk assessment

on behalf

of

NoTKUP (Third Party Objectors)

1. Executive Summary

This Note has been prepared to assist with preparation of a response to the additional information provided by the Applicant, Scottish and Southern Electricity Networks Transmission (SSEN) in relation to the Proposed Development, namely the Tealing to Kintore 400kV Upgrade Project.

The purpose of this Note is to consider, from a health and safety and regulatory perspective, whether the material produced by SSEN in June 2026 as part of the Energy Consents Committee process demonstrates that foreseeable agricultural and forestry risks associated with the proposed overhead line have been properly assessed and, where reasonably practicable, eliminated or reduced through design before reliance is placed on operational mitigation by landowners, occupiers and operators.

The Note responds to the NoTKUP Schedule of Principal Questions dated 17 July 2026 following review of the following documents:

- SSEN's Agricultural Operations Assessment Report;
- Appendix A: Agricultural Land - Clearance Risk Assessment;
- Appendix B: Method for Determining Overhead Line Clearances;
- Draft Reply to Additional Environmental Information by John Campbell, Project Manager; and
- applicable legislation and regulatory guidance.

This Note will focus on the most pertinent regulatory duties applicable at this stage of project planning and consent; the adequacy of SSEN's design-stage risk assessment; the significance of its reliance on generic clearance criteria; the relationship between those criteria and foreseeable land use; and the extent to which further information may be required before the Reporters can safely conclude that the proposed development accommodates agricultural and forestry operations.

BTO Solicitors LLP has significant experience advising on health and safety, regulatory and criminal law matters, including Fatal Accident Inquiries, Health and Safety Executive investigations, prosecutions, enforcement action and complex regulatory risk issues.

2. Regulatory Duties in the Pre-Construction Phase

From the material provided, it is clear that SSEN accepts that a range of regulatory duties apply during the planning and consent stage of this project.

The principal statute governing duties in relation to safety, the Health and Safety at Work etc. Act 1974 (HSWA), is not specifically directed at project planning or consent. However, where an organisation is planning and designing a construction project, HSWA provides the overarching statutory framework within which the Construction (Design and Management) Regulations 2015 (CDM 2015), and other associated regulations, operate. Those duties may therefore arise well before physical construction begins.

Where an employer or undertaking is carrying out design, engineering, surveys, route selection or project management, the general duties under HSWA continue to apply. In particular:

- Section 2 requires an employer to ensure, so far as is reasonably practicable, the health, safety and welfare of its employees.
- Section 3(1) requires every employer to conduct its undertaking so as to ensure, so far as is reasonably practicable, that persons not in its employment are not exposed to risks to their health or safety.

These are continuing duties; they are not suspended because a project is at the planning or consent stage and has yet to break ground. The more specific obligations during project planning arise under CDM 2015, which is made under the HSWA.

The Health and Safety Executive's published guidance on CDM 2015: L153 - Managing health and safety in construction¹. L153 makes it clear that Client duties begin at the earliest stages of project development, during the 'pre-construction phase'.

SSEN would be the client, as defined by Regulation 2 of CDM 2015. The pre-construction phase is also defined in Regulation 2 as:

*"any period during which design or preparatory work is carried out for a project and may continue during the construction phase."*²

L153 explains that health and safety should be integrated from concept onwards, because the client has the greatest ability to influence risk at that stage. It describes CDM 2015 as applying to *"the whole construction process, from concept to completion."*³

The HSE's guidance for commercial clients similarly states that the client has a crucial influence over: appointing designers; determining the programme; allocating resources; and establishing arrangements for managing health and safety, all of which occur before construction starts and ought to form the foundation of any proposed design or route.

So, for a project of this nature, the applicant's CDM 2015 duties arise well before submission of the consent application, once it begins procuring or directing design work. Critical decision-making falls within the pre-construction phase and accordingly, an applicant such as SSEN is not entitled to regard CDM 2015 as something that only becomes relevant once formal consent is obtained.

Regulation 4 requires the client to make "suitable arrangements for managing a project", including:

- allocating sufficient time and resources;
- ensuring suitable dutyholders are appointed;

¹ [Managing health and safety in construction - HSE](#)

² Regulation 2, CDM 2015

³ L153, paragraph 22

- ensuring designers comply with their duties;
- providing pre-construction information; and
- maintaining and reviewing those arrangements throughout the project.

The Regulations require foreseeable construction and use risks of any project to be addressed during the pre-construction design process, not deferred until detailed design or construction. That approach is entirely consistent with the HSE's emphasis in L153 that risk elimination should occur at the earliest practicable stage of design.

From a risk perspective, it is important to recognise that agriculture and forestry are among the most dangerous industries in the United Kingdom. Over the last decade, almost one person each week has lost their life as a direct result of agricultural work⁴ and contact with overhead electricity lines is a recognised hazard in both agricultural and forestry operations⁵. The seriousness of the risk posed is reflected in SSEN Distribution's "Look Out, Look Up" campaign, which seeks to raise awareness of the danger posed when machinery comes into contact, or potentially comes into contact, with overhead electricity lines. The potential consequences, including death, serious injury and network damage arising from direct contact or arcing incidents, are well established.

3. Response to NoTKUP Schedule of Principal Questions, dated 17 July 2026

3.1. Has SSEN demonstrated that foreseeable agricultural and forestry risks have been eliminated or reduced through design before reliance is placed on operational mitigation?

The documents provided by SSEN do not demonstrate that any meaningful consideration has been given to eliminating or reducing foreseeable agricultural and forestry risks through design before relying on operational mitigation.

The SSEN Agricultural Report is based on the assessment of risks arising across the project as set out in Appendix A and the methodology in relation to Overhead Line Clearance as set out in Appendix B. The Report concludes that "tertiary mitigation" is appropriate to mitigate the risks arising from the project and confirms that no "primary mitigation" through design is applicable, the practical implication being that the burden of mitigating risk is placed almost entirely on the shoulders of landowners and operators.

Appendix A is essentially a span-by-span clearance schedule, recording minimum conductor clearances which derives a "maximum safe machinery height" by subtracting 4.3 metres from the minimum clearance, describes the land use, and then applies the same generic "tertiary mitigation" wording across almost every span.

The "tertiary mitigation" proposed in the document is primarily incumbent on the operator/land user, requiring them to assess the risk or update risk assessments, implement safe systems of work, apply guidance published by the Health and Safety Executive (HSE), namely Agriculture Information Sheet No. 8 – AIS8, engage with the applicant for site-specific clearance information, and reduce machinery heights or restrict operations where necessary.

The appendix repeatedly identifies foreseeable risks arising from agricultural and forestry use: extensive arable spans, grazing land, forestry, woodland, access tracks, field boundaries, roads, existing OHLs, polytunnels, bale stacks, and areas where maximum machinery heights after mitigation fall to around 5 metres or below. For example, the table includes spans where the derived maximum

⁴ [Health and safety in agriculture - HSE](#)

⁵ [Overhead power lines - HSE](#)

safe machinery height is as low as 4.77 metres (at N61–N62), 4.85 metres (at S3–S4), 4.93 metres (at N52–N53) and values around 5.0 to 5.3 metres across numerous arable, forestry, grazing, and boundary locations. These are not remote or theoretical risks; they are foreseeable interactions between overhead line clearances and ordinary agricultural/forestry operations, including use of machinery, access routes, field boundaries and storage/structures.

What is missing is analysis or reasoning showing that SSEN first considered whether those risks could be designed out or reduced by design as is required by CDM 2015 and L153.

The document does not, for example, show for each constrained span whether alternative tower siting, increased tower height, altered span length, conductor profile, route realignment, undergrounding in exceptional locations, avoidance of high-value agricultural land, avoidance of forestry operations, or avoidance of access or field-boundary pinch points was considered and rejected. Nor does it explain why the residual clearance is the best reasonably practicable design outcome before passing the remaining risk to operational controls.

There is only very limited evidence of design-led risk reduction. One entry notes that, at N44 - N45, tower height was “*specifically designed to avoid having towers within the expected flood plain*”. That is a design consideration but it appears to address floodplain siting rather than the core agricultural/forestry clearance risks. Elsewhere, the assessment overwhelmingly moves from identifying the land use and clearance constraint straight to tertiary mitigation, without an intervening explanation of design options considered.

The repeated conclusion that residual risk to human health and land use is “Not Significant” also appears to depend heavily on the assumed implementation and success of operational mitigation; it is effectively a conclusion based on future control of work by farmers, foresters or land managers and does not itself demonstrate that SSEN has reduced the risk through design.

There is also a notable evidential gap in relation to forestry risk. Many spans are wholly or partly within forestry, woodland, scrub or access tracks, and some minimum clearances occur within forestry or adjacent to forestry access tracks. However, the mitigation language remains the same generic AIS8 and agricultural machinery wording. Appendix A does not appear to contain a separate analysis of foreseeable forestry operations, such as harvesting, forwarders, timber stacking, extraction routes, roadside loading, felling near overhead lines, or future crop rotation/planting cycles which weakens any claim by SSEN that foreseeable forestry risks have been specifically eliminated or reduced by design before reliance on operational controls.

A further difficulty is that the assessment in Appendix A appears to treat existing OHL infrastructure as relevant to the baseline but in many places it uses the presence of existing OHLs to suggest operational adaptation rather than explaining how the proposed development avoids adding materially different or cumulative risks. Numerous spans record existing distribution or transmission lines in the same fields or field boundaries. The fact that land users may already operate near existing OHLs does not, on its own, demonstrate that the new risks from the proposed development have been designed out or reduced so far as reasonably practicable.

In my view, Appendix A does not demonstrate in any meaningful or auditable way, that SSEN has eliminated or reduced foreseeable agricultural and forestry risks through design before relying on operational mitigation.

3.2. *What is the significance of SSEN's statement in Appendix B that the adopted statutory and EMF clearance criteria did not give specific consideration to agricultural and/or forestry land use?*

In my view, the statement in Appendix B is significant because it is effectively an admission that the clearance design process was not tailored to the specific agricultural or forestry risks created by the proposed line; SSEN has adopted clearance criteria that were derived from statutory, EMF and generic electrical clearance standards and not from a specific assessment of agricultural or forestry land use across the proposed route.

Appendix B explains that SSEN adopted a minimum ground clearance of 9.0 metres, derived from the greater of the ESQCR statutory minimum for a 400 kV OHL, 7.3 metres, and the clearance required to comply with EMF public exposure guidance. It then applies the ENA TS 43-8 electrical passing-clearance approach, using 3.1 metres electrical safety distance plus 1.2 metres for vehicle-height variation/rough ground, producing a 4.3 metres clearance allowance and allowing vehicles up to 4.7 metres at the point of minimum 9.0 m clearance⁶.

The important passage is that the minimum clearances were developed by reference to legislation, industry standards and the EMF Code of Practice, but *“did not give specific consideration to the particular land use, including agricultural and/or forestry”*.⁷ That has several consequences:

- Firstly, it weakens SSEN’s argument that the design itself has eliminated or reduced foreseeable agricultural and forestry risks. If the clearance criteria were selected without specific consideration of agricultural or forestry land use, SSEN cannot readily say that those risks were addressed at the design stage. At most, it can say that the line meets general statutory/EMF standards and generic electrical clearance rules;
- Secondly, it exposes a gap between regulatory compliance and risk-specific design assessment. Compliance with ESQCR, EMF guidance and TS 43-8 may establish a general safety baseline, but Appendix B acknowledges that those criteria were not developed by reference to the actual land uses beneath the line which matters because the route crosses arable land, grazing land, forestry, woodland, access tracks, field boundaries, river corridors, roads, areas with existing OHLs, polytunnels and other operational constraints identified in Appendix A which is relevant to duties under section 3 of HSWA;
- Thirdly, it puts into sharp focus that SSEN has moved directly from a generic clearance calculation to operational mitigation, rather than undertaking a meaningful assessment of the risks posed by each span of the project. Appendix B identifies the 4.3 m clearance requirement and then points to AIS8, SSEN third-party guidance and agricultural operators’ safe systems of work. That is consistent with the wider report’s approach: where risks arise, they are to be managed through third party operator behaviour, machinery-height reduction, risk assessment by others, consultation and safe systems of work rather than through span-specific design changes to be considered and implemented by SSEN;
- Fourthly, the statement is particularly important for forestry, because forestry is not simply another version of arable machinery use. Forestry involves foreseeable activities that differ from arable farming: felling, harvesting, forwarding, extraction, timber stacking, loading, access-track movement, future restocking and crop cycles. Appendix B’s clearance methodology focuses on “arable vehicles” and moving objects; it does not demonstrate that forestry machinery, timber operations or future forestry land-use cycles were specifically considered in setting clearances;

⁶ SSEN Appendix B, page 4

⁷ SSEN Appendix B, page 4

- Finally, it may undermine reliance on the “Not Significant” residual risk conclusions contained within Appendix A. If the adopted clearance standard was not based on agricultural or forestry land use, then the conclusion that residual risks are not significant depends heavily on the assumption that affected operators will adapt their practices and put in place control measures to mitigate the risks arising from the overhead line; that is, once again, operational mitigation, not embedded risk reduction within the design. This is especially relevant where Appendix A identifies low derived machinery heights, including spans around 5 metres and below and then applies generic tertiary mitigation rather than considering changes to the design.

3.3. *Does the methodology described by SSEN appear consistent with the design philosophy and methodology set out in ENA TS 43-8?*

On the face of Appendix B, SSEN’s methodology appears broadly consistent with the mechanical and electrical clearance calculation framework in ENA TS 43-8 but it does not, in my view, align with the risk-based design philosophy one would expect where construction impacting foreseeable agricultural and forestry use is specifically in issue.

SSEN’s Appendix B methodology appears consistent with the basic ENA TS 43-8 clearance calculation process, insofar as it applies electrical safety distance, passing clearance and the 1.2 metre allowance for moving agricultural vehicles. However, because TS 43-8 does not prescribe a specific arable-land clearance and leaves judgement to the network operator, SSEN’s admission that the adopted criteria did not specifically consider agricultural or forestry land use as addressed above is significant. It supports the position that SSEN has applied the generic TS 43-8 framework but has not demonstrated a land-use-specific design assessment of whether greater or different clearances were required to reduce foreseeable agricultural and forestry risks before relying on operational mitigation.

Appendix B sets out that SSEN has used ENA TS 43-8 by identifying the applicable electrical safety distance for a 400 kV OHL as 3.1 metres, treating agricultural vehicles as moving objects and therefore applying the “passing clearance” approach rather than the “normal clearance” for stationary/climbable objects. It then adds 1.2 metres for variation in vehicle height/rough ground, giving a total electrical clearance allowance of 4.3 metres. On a minimum ground clearance of 9.0 metres, SSEN therefore says vehicles up to 4.7 metres can safely operate at the point of minimum clearance.

That appears methodologically aligned with the parts of TS 43-8 described in Appendix B: electrical safety distance; distinction between normal and passing clearances; and the additional 1.2 m allowance for variable vehicle height or uneven ground. However, there are important qualifications:

- Firstly, Appendix B itself says that TS 43-8 does not prescribe a specific clearance for OHLs over arable land, and that responsibility for determining an appropriate clearance is delegated to the ENA member company, here, SSEN. That means compliance with the generic TS 43-8 calculation does not answer the separate question of whether SSEN selected an appropriate clearance for the particular agricultural and forestry context.
- Secondly, SSEN states that its minimum clearances were developed by reference to legislation, industry standards and EMF guidance, but without “*specific consideration to the particular land use, including agricultural and/or forestry*”, as referenced above. This is significant to this particular question, as, if TS 43-8 leaves the appropriate arable-land clearance to the network operator, then the operator’s judgement should arguably be informed by the foreseeable land use and foreseeable machinery/forestry operations. SSEN’s admission suggests that exercise was not undertaken at the design-clearance stage.

- Thirdly, the methodology appears to treat the issue primarily as a clearance-to-moving-vehicle calculation. That may be suitable for generic agricultural vehicle passage, but it does not obviously address more complex foreseeable operations such as unloading, lifting, irrigation, use of telehandlers, crop harvesting, forage-harvester discharge, timber harvesting, forwarding, timber stacking, roadside loading, or forestry access-track use. Appendix B refers to AIS8 and operational precautions for those matters, but, again, that shifts the control from design to operational management.
- Finally, where the route includes many spans over arable land, forestry, woodland, field boundaries, tracks and areas with low derived machinery heights, Appendix A shows the practical consequence of the methodology: many spans are left to be managed through generic tertiary mitigation rather than any bespoke design response. That may be consistent with a minimum clearance calculation, but it is less clearly consistent with a design philosophy aimed at eliminating or reducing foreseeable land-use risks at source as is expected by the wider regulatory regime.

3.4. Does the approach described by SSEN appear consistent with the statutory framework established by the Health and Safety at Work etc. Act 1974, the Construction (Design and Management) Regulations 2015 and the Electricity Safety, Quality and Continuity Regulations 2002?

SSEN's approach appears consistent with the minimum numerical clearance requirements of Electricity Safety, Quality and Continuity Regulations 2002 (ESQCR) and with the generic ENA TS 43-8 passing-clearance methodology. However, it is less clearly consistent with the broader statutory duties under HSWA, CDM 2015 and ESQCR Regulation 3, because SSEN has not demonstrated that foreseeable agricultural and forestry risks were specifically assessed and eliminated or reduced through design so far as reasonably practicable before reliance was placed on landowner and operator risk assessments, safe systems of work, AIS8 guidance and compensation.

SSEN has plainly had regard to the applicable legislation, however, it has reduced the legislative framework to numerical clearance compliance and pushed the true assessment and control of risk downstream to operational controls, without evidencing a sufficiently robust design-stage assessment for foreseeable agricultural and forestry operations.

HSWA 1974

Under the Health and Safety at Work etc. Act 1974, the central obligation is for a dutyholder to reduce risk so far as is reasonably practicable in carrying out their undertaking in relation to those in their employment and those affected by their undertaking.

SSEN recognises that duty in the Appendix B table of legislation, however, the assessment of risk provided in Appendix A places most of the practical burden on landowners and agricultural operators to update risk assessments, implement safe systems of work, reduce machinery heights and comply with AIS8. That may be relevant to operators' own duties with regard to their undertakings but it does not fully answer whether SSEN, as designer, developer and operator of the OHL, with duties under HSWA 1974 and CDM 2015 has itself reduced foreseeable risks through design so far as reasonably practicable.

CDM 2015

Similar issues arise in relation to CDM 2015. Appendix B correctly identifies CDM 2015 as part of the framework for ensuring safety in the design, construction, operation, maintenance and demolition of an asset, however, I can find no reference in the report or appendices to the pre-construction phase duties of a Commercial Client, as SSEN is, or to the applicable HSE Guidance for CDM, L153. Rather, SSEN's Agricultural Operations Report signposts the guidance published by the Institute of Sustainability and Environmental Professionals, *'Implementing the Mitigation Hierarchy from Concept to Construction'* and states that *"there is no primary mitigation applicable to this assessment"*⁸, primary mitigation being described as 'Embedded or Design Mitigation' within the report. The absence of any acknowledgement of the pre-construction phase duties under CDM 2015 or the relevant HSE guidance that would assist in understanding their importance at this juncture is alarming.

Leaving aside the absence of any explicit reference to the relevant CDM duties, the approach can still be assessed against the standard required by the Regulations. As noted above, Appendix B acknowledges that the adopted statutory and EMF clearance criteria did not give specific consideration to agricultural or forestry land use for any particular span. That is difficult to reconcile with a robust CDM design-risk approach. CDM requires foreseeable risks arising from the completed structure, including its use, maintenance and interface with others, to be considered and, where reasonably practicable, eliminated or reduced *through design*.

With regard to the duties under HSWA and CDM 2015, a span-by-span assessment of risk and required clearance based on practical land use would, in my submission, be reasonably practicable given the scale of the project and the level of risk being increased or introduced across places of work.

ESQCR 2002

For ESQCR 2002, SSEN's approach is more clearly consistent at the level of minimum clearance compliance. Appendix B states that the ESQCR statutory minimum for 400 kV OHLs over land is 7.3 metres, and SSEN has adopted 9.0 metres. However, SSEN's own report also recognises that Regulation 3 requires equipment to be constructed, installed, protected, used and maintained *so as to prevent danger so far as reasonably practicable*, and that in some circumstances compliance may require exceeding the Schedule 2 minimum clearance. That point is important: ESQCR is not simply a numerical minimum-clearance exercise; if agricultural and forestry risks are foreseeable, then the question is whether the design adopted is sufficient to prevent danger so far as reasonably practicable in those circumstances.

The materials provided suggest that SSEN has treated ESQCR and EMF compliance as the design solution and then treated agricultural and forestry risk as something to be managed operationally by others. That sits uneasily with the statutory risk-control framework, which generally requires foreseeable risks to be addressed at source where reasonably practicable *before* reliance is placed on procedural controls and the human element is introduced.

3.5. *Based on all of the above, has SSEN, as promoter and designer of the proposed development, demonstrated that foreseeable risks have been addressed through design before reliance is placed upon operational measures to be implemented by agricultural operators?*

⁸ SSEN Agricultural Operations Report, paragraph 5.1.1

No. On the material reviewed, SSEN has not demonstrated that foreseeable agricultural and forestry risks have been addressed through design before reliance is placed on operational measures to be implemented by agricultural operators

The most significant point is that SSEN's own Agricultural Operations Assessment Report states that there is *"no primary mitigation applicable to this assessment"*, primary mitigation is understood to be embedded or design mitigation. Instead, SSEN's assessment proceeds largely on the basis of tertiary mitigation: landowners and agricultural operators will update risk assessments, implement safe systems of work, reduce machinery heights, follow HSE AIS8, consult SSEN Asset Management, and adapt operations around the line.

Appendix B reinforces that conclusion. In Appendix B, SSEN states that the minimum clearances were developed by reference to legislation, industry standards and the EMF Code of Practice but not with *"specific consideration to the particular land use, including agricultural and/or forestry"*.

Appendix A demonstrates why specific consideration should matter in addressing risk at the design stage; it records numerous spans over arable land, grazing land, forestry, woodland, access tracks, field boundaries, roads, existing OHL infrastructure, polytunnels and other operationally relevant features. It also identifies multiple spans where the derived maximum safe machinery height is around 5 metres or lower, yet the mitigation response is generally the same generic tertiary mitigation wording across the route. There is no clear span-specific explanation of whether alternative design measures were considered, such as increased tower height, altered span profile, different tower siting, route adjustment, avoidance of constrained arable or forestry areas, or other inherent design responses.

The position is even weaker in relation to forestry. The documents identify forestry, woodland and access-track environments but do not appear to contain a dedicated forestry operations risk assessment addressing forestry specific works. The approach treats those risks largely through the same operational-control framework applied to agricultural machinery.

The statutory context heightens the issue. SSEN identifies HSWA 1974, CDM 2015 and ESQCR 2002 as relevant, and correctly notes duties to reduce risk, however, the material does not demonstrate that SSEN, as promoter/designer, has itself undertaken and evidenced a design-stage, risk based analysis exercise for foreseeable agricultural and forestry risks to identify design and engineering solutions before transferring residual management to landowners and operators.

In conclusion on this critical point, SSEN has demonstrated that the Proposed Development exceeds statutory minimum clearance requirements and that operational controls can be applied by agricultural operators. That said, it fundamentally has not demonstrated that foreseeable agricultural and forestry risks have first been eliminated or reduced through design. The assessment of residual risk in Appendix A relies substantially on tertiary mitigation by landowners and operators, rather than showing a structured, span-specific design response to the risks created by the proposed overhead line.

3.6. Does the material currently available enable the Reporters to conclude that the proposed development has been shown to safely accommodate foreseeable agricultural and forestry use of the land, or is further information required?

On the material currently available, I do not think the Reporters could safely conclude that the proposed development has been shown to accommodate foreseeable agricultural and forestry use of the land without further information.

SSEN has shown that the proposed line exceeds the basic ESQCR statutory minimum clearance for a 400 kV OHL and that it has adopted a 9.0 metre minimum clearance based on statutory and EMF

criteria. It has also applied the ENA TS 43-8 passing-clearance calculation, producing a 4.3 metre clearance allowance for moving agricultural vehicles, which is evidence of *generic* electrical-clearance compliance.

However, the key limitation is that Appendix B states that the adopted minimum clearances did not give specific consideration to agricultural and/or forestry land use, which means the design-clearance methodology was not shown to have been tested against the foreseeable land uses actually present beneath and around the proposed OHL.

The SSEN Agricultural Operations Assessment does not address that gap. It states that there is no primary/design mitigation applicable to the agricultural operations assessment, and it relies substantially on tertiary mitigation: agricultural operators updating risk assessments, implementing safe systems of work, reducing machinery heights, applying HSE AIS8, contacting SSEN Asset Management, modifying irrigation practices, and adapting operations. Those are operational controls, not evidence that the design itself safely accommodates foreseeable land use.

Appendix A also identifies a range of foreseeable land-use interfaces: arable land, grazing land, forestry, woodland, field boundaries, access tracks, roads, existing OHLs, polytunnels and operational constraints. It records numerous spans where derived maximum safe machinery heights are around 5 metres, and some below 5 metres, yet the mitigation is generally generic and repeated across the route. That does not provide the Reporters with a clear span-specific basis for concluding that the proposed design safely accommodates foreseeable operations.

The most obvious gap is forestry. The documents refer to forestry and woodland spans, but do not appear to contain a dedicated forestry operations assessment addressing felling, harvesting, forwarding, extraction routes, timber stacking, loading, access-track movements or future forestry cycles. Without that, it is difficult to conclude that foreseeable forestry use has been adequately assessed.

Whilst material currently available demonstrates compliance with general statutory and electrical clearance criteria and identifies operational mitigation measures to be implemented mostly by third parties, it does not demonstrate that the proposed development has been designed to safely accommodate foreseeable agricultural and forestry use of the land. Further information is required before the Reporters could properly conclude that residual risks are acceptable.

Further information that may assist the Reporter would be:

- A span-specific design-risk assessment for agricultural and forestry operations, not just a clearance schedule;
- Explanation of design alternatives considered at constrained spans, including tower height, tower siting, span profile, route adjustment and avoidance of operational pinch points, as SSEN has already considered at N44 - N45 in Appendix A; and
- A meaningful assessment of actual or reasonably foreseeable machinery and equipment, including agricultural contractors, irrigation systems, telehandlers, harvesters, sprayers, forestry machines and timber vehicles.

In short: further information is required. SSEN has not provided sufficient information to discharge duties under HSWA or CDM 2015 with regard to management of risk through design. The pre-construction duties within CDM 2015, as explained in L153, appear to have been ignored in favour of reliance on generic calculations and delegating the mitigation of risk to landowners and operators affected by the Proposed Development.



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