

**Public**

Ref: EIR/24/0002

National Energy System Operator  
Faraday House  
Gallows Hill  
Warwick  
CV34 6DA

[InformationRights@nationalenergyso.com](mailto:InformationRights@nationalenergyso.com)

[nationalenergyso.com](http://nationalenergyso.com)

22 November 2024

Dear requester

### **Request for Information**

Thank you for your request for information which we received on 29 October.

Your request has been considered under the Environmental Information Regulations 2004 (EIR).

### **Request**

You asked us:

*I write regarding your TEC register document 15/10/2024 on the NESO website with reference to:*

*Project Name: Newchurch*

*Project ID - a0l4L0000005ic4QAA*

*Project Number - PRO-002056*

*Under the freedom of Information Act I would like the following information.*

- 1. The document has Newchurch as the project name. Please confirm if this refers to Newchurch in Kent (TN29).*
- 2. The document proposes a Newchurch 400Kv substation. Please advise the proposed location for this substation.*
- 3. The document proposes a 400Mw Photo Voltaic array. Please advise the proposed location for*

*this photovoltaic array (by my calculations this would be 2000acres).*

4. Please advise when any decision will be made regarding whether this project will go forward.

## Our response

We confirm that we hold some information in scope of your request and where we do

### 1. The document has Newchurch as the project name. Please confirm if this refers to Newchurch in Kent (TN29).

Yes, this is correct.

### 2. The document proposes a Newchurch 400Kv substation. Please advise the proposed location for this substation.

National Grid Electricity Transmission (NGET) hold and will be able to provide this information. NESO does not hold this information.

### 3. The document proposes a 400Mw Photo Voltaic array. Please advise the proposed location for this photovoltaic array (by my calculations this would be 2000acres).

We do hold a copy of a map submitted by the developer as part of their original application, but connection application and contract information other than that included in the TEC register is considered to be confidential. Projects like this will be subject to planning processes and may be subject to changes.

We are relying on the exception at Regulation 12 (5)(e) of the EIR which states that a public authority may refuse to disclose information to the extent that its disclosure would adversely affect the confidentiality of commercial or industrial information where such confidentiality is provided by law to protect a legitimate economic interest.

Given the competitive arena in which renewable energy projects are developed and implemented, a developer would not expect this information to be published, particularly at a relatively early stage in the connections and planning processes. This would, in effect, make it available to other developers who could use it to undermine future bids for other renewable energy projects. Disclosure could also damage the developer's bargaining position whilst investment and build decisions remain outstanding. It could also affect the value and viability of an upfront investment before the project is connected.

NESO also falls within the scope of the Utilities Act 2000 and Section 105 of that Act makes it a criminal offence to disclose information:

- a) obtained under the Utilities Act 2000 and any other key energy legislation such as the Gas Act 1986 and the Electricity Act 1989, subject to specific exceptions; and'
- b) where the information relates to the affairs of any individual or any particular business during the lifetime of the individual or so long as the business continues to be carried on.

You may find it helpful to know that this kind of confidentiality obligation is not limited to the energy sector. There are equivalent provisions in legislation governing other sectors (e.g. the Water Act 1989, the Telecommunications Act 1984, the Airports Act 1986, and the Broadcasting Act 1990).

In our opinion, the information in question which is held by our Connections Team is subject to the restrictions at Section 105 of the Utilities Act and does not fall within any of the limited exceptions to that duty of confidentiality. Beyond this, there is also a common law duty of confidentiality based on the expectations of the developers.

All exceptions in the EIR are subject to a public interest test.

NESO acknowledges that there are a number of public interest arguments in favour of disclosing the requested information. There is a general public interest in renewable energy development, particularly where the construction and development of such projects may have an impact on local areas. The general public may be interested in planned projects and the scope of developments, particularly in the areas that they reside and/or work. This information may be of interest where local residents wish to submit comments as part of the planning consents process.

There is a public interest in ensuring no specific developer is materially disadvantaged through disclosing confidential commercial information, which is not released in respect of other projects. This ensures that there is a level playing field across all projects. NESO has a public duty under our licence to facilitate competition within the energy market and there is a recognised public interest in allowing competition in the energy industry.

Increased renewable generation is crucial to the Government achieving its net zero and clean energy targets and anything that unjustifiably inhibits the competitive development of that renewable generation runs counter to these goals.

NESO is the designated independent system operator and planner under the Energy Act 2023 and must remain independent, fair, and consumer focused. Disclosure could erode trust within the sector, hampering NESO's role and our ability to drive forward reforms and initiatives that would bring benefits to consumers and to the environment.

Local residents also have the opportunity to obtain further information and submit objections as part of the planning processes, during which a full set of proposals would be made available.

Having weighed up these public interest arguments, and mindful of our obligations under the Utilities Act, our opinion is that the balance of the public interest lies in maintaining the exemption and withholding the specific application data for this project.

**4. Please advise when any decision will be made regarding whether this project will go forward.**

NESO has contracted the project with a connection date of 04/10/2031. Please contact SSE Utility Solutions Limited for information about the project likelihood.

This concludes our response to your request.

**Next steps**

You can ask us to review our response. If you want us to carry out a review, please let us know within 40 working days and quote the reference number at the top of this letter.

If you are still dissatisfied after our internal review, you can complain to the Information Commissioner's Office (ICO). You should make complaints to the ICO within six weeks of receiving the outcome of an internal review. The easiest way to lodge a complaint is through their website: [www.ico.org.uk/foicomplaints](http://www.ico.org.uk/foicomplaints). Alternatively, they can be contacted at: Wycliffe House, Water Lane, Wilmslow, SK9 5AF.

Thank you for your interest in the work of the National Energy System Operator (NESO).

Regards,

The Information Rights Team

National Energy System Operator (NESO)