

Agenda Item	<b>6.3</b>
Report No	<b>PLS-54-24</b>

## HIGHLAND COUNCIL

**Committee:** South Planning Applications Committee

**Date:** 01 October 2024

**Report Title:** 24/01732/S37: Scottish Hydro Electric Transmission Plc  
Land 10KM NW Of Coul Farm House, Laggan

**Report By:** Area Planning Manager – South

### Purpose/Executive Summary

**Description:** Melgarve cluster project - Section 37 application under the Electricity Act for the installation and operation of approximately 7 km of 132 kV overhead line on double circuit steel structure towers, and ancillary development comprising 2 no. cable sealing end compounds, approximately 9.9 km of underground cable (7.3 km from the Dell Wind Farm on site substation, 1.8 km from the Cloiche Wind Farm on site substation and 0.8 km on approach into Melgarve substation), upgrades to existing access tracks, new permanent and temporary access tracks, and temporary working areas.

**Ward:** 20 – Badenoch and Strathspey

**Development category:** National Development (Section 37 Application)

**Reason referred to Committee:** National Development (Section 37 Application)

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is unacceptable in terms of applicable material considerations.

### Recommendation

Members are asked to agree the recommendation to **RAISE OBJECTION** to the application as set out in section 11 of the report.

## 1. PROPOSED DEVELOPMENT

- 1.1 The Highland Council has been consulted by the Scottish Government's Energy Consents Unit on an application made under Section 37 of the Electricity Act 1989 (as amended) for the construction and operation of a new 132kV electricity transmission line. The line will extend over a distance of approximately 7 km, between the Dell 2 re-design proposal (pending determination) and Cloiche Wind Farm and the Melgarve substation in order to connect the wind farms to the national grid. The proposed development would comprise the following works:
- 7 km of new 132kV overhead line (OHL) to be supported on double circuit L7 steel lattice towers.
  - Two Cable Sealing End (CSE) compounds to facilitate the transition between OHL and the Underground Cable (UGC); located 1.3 km southeast of the consented Cloiche Wind Farm substation and 0.5 km northeast of Melgarve substation.
  - 7.3 km of 132 kV UGC between the proposed Dell 2 Wind Farm on-site substation and the new CSE.
  - 1.8 km of 132 kV UGC between the consented Cloiche Wind Farm on-site substation and the new CSE.
  - 0.8 km of two 132 kV UGCs running parallel to each other from the new CSE to Melgarve substation.
- 1.2 The tower heights for the OHL would typically be in the region of approximately 26 m to 36 m in height depending on local topography. The average OHL structure height is reported as approximately 30 m. The typical span length between the towers would be between approximately 124 m and 308 m.
- 1.3 It is noted that the UGC elements are classed as permitted development under Class 40 1(a) of The Town and Country Planning (General Permitted Development) (Scotland) Order 1992. However, the applicant has stated that in this case, given that there is no technical alternative to the UGC at either end of the OHL and following review of the Screening Opinion, the UGC is to be considered as part of the Proposed Development for which deemed planning permission under section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended) is sought.
- 1.4 Ancillary development required to facilitate the construction and operation of the Proposed Development, for which deemed planning permission under section 57(2) of the 1997 Planning Act is sought, would include:
- Upgrades to existing access tracks.
  - New permanent access tracks (including bridges) and new temporary access tracks.
  - Permanent stone hardstanding areas related to the CSE compounds and associated working areas around infrastructure to facilitate construction.
  - Vegetation clearance.

- Temporary measures to protect water crossings (e.g., scaffolding, and temporary bridges).
  - Working areas around infrastructure to facilitate construction.
- 1.5 Additional associated works include potential borrow pits required to source stone for the construction of access tracks and temporary construction compounds. Separate consents for these works would be sought as required.
- 1.6 The anticipated construction period for the development is 24 months, however, this is based on the proposal for the works to be undertaken 7 days a week. The applicant also requests both vertical and horizontal limits of deviation (LOD), this is designed to allow flexibility in the final siting of the infrastructure to reflect topographical, engineering and environmental constraints. A 100m LOD (i.e. 50 m either side of the centre line of the proposed alignment) is requested for the OHL towers, the UGC and the CSE compounds. A 50m LOD (i.e. 25 m either side of the centre line of the proposed track) is requested for the new and temp access tracks. In addition, a vertical LOD (i.e. the maximum height of a tower above ground level) is also sought to allow a height increase or decrease of 3 m on the proposed tower height. An indicative tower schedule presenting these heights is included in Appendix 3.1.
- 1.7 The EIAR anticipates two main access points to the site:
- The first would be to the plateau of higher ground where the consented Cloiche Wind Farm and the proposed Dell 2 Wind Farm would be located and where the Glendoe Hydro Scheme and Stronelairg Wind Farm exist. Construction traffic would reach this area via the A82 and the B862, taking access from the public road network via the existing junction and access track constructed as part of Glendoe Hydro Scheme and Stronelairg Wind Farm, approximately 2 km east of Fort Augustus. The existing access track network on the plateau (and new tracks proposed as part of the consented Cloiche Wind Farm and the proposed Dell 2 Wind Farm) would be utilised as far as practicable to limit new access track construction.
  - The second access point would be from Melgarve substation. Access to this area would utilise existing access tracks from the A86 constructed for the Beauly–Denny OHL and Melgarve substation. To access the area between Melgarve substation and Cloiche Wind Farm, use would be made of the existing track constructed to install Stronelairg UGC where possible to limit new access track construction.
- 1.8 The applicant's utilised the Council's pre-application advice service (ref 21/04745/PREMAJ), with the proposal at that time proposing joint grid connections for Cloiche, Dell and Glenshero wind farms. This current application no longer includes Glenshero Wind Farm as that application was refused. In addition, the pre-application was for the consented Dell Wind Farm, however, the current application utilises the layout for the proposed Dell 2 redesign application which is currently pending determination. The pre-application advice given highlighted the following:
- Whilst the Council is supportive of renewable energy developments in principle, this must be balanced against the environmental impact of

development.

- To mitigate the potential impacts on the environment, consideration should be given to utilise previously disturbed areas and existing access tracks wherever possible. Rationalise lines and provide justification for route / infrastructure selection.
- Landscape and visual impacts arising in relation to this cumulative connection corridor.
- NatureScot required further assessment in relation to the Cairngorms National Park, Wild Land Areas, Nature Conservation designation, ornithology and protected species and peatland habitats.

- 1.9 The application is supported by an Environmental Impact Assessment Report (EIAR) containing chapters on: Introduction and Background; The routing process and alternatives; Project Description; Scope and Consultation; EIA Process and Methodology; Planning and Energy Policy Context; Landscape and Visual; Ecology; Ornithology; Geology, Hydrology and Hydrogeology; Traffic and Transport; Socio-economic, Recreation and Tourism; Cultural Heritage and a Schedule of Mitigation. The application is also accompanied by a Non-Technical Summary, Planning Statement and a Pre-application Consultation (PAC) report.
- 1.10 No variations have been made during the course of this application.

## **2. SITE DESCRIPTION**

- 2.1 As described in the submitted planning statement the proposed development connects the consented Cloiche and proposed Dell 2 wind farms, which are both located in the Monadhliath mountain range to the east of the village of Fort Augustus. The consented Cloiche Wind Farm is located on Glendoe and Garrogie Estates, adjacent to the operational Stronelaig Wind Farm and Glendoe Hydroelectric Scheme and approximately 11 km to the south-east of Fort Augustus. The proposed Dell 2 Wind Farm is located on Dell Estate and lies approximately 5 km to the north of the consented Cloiche Wind Farm. The connection point at Melgarve substation is located to the south of the proposed wind farms and is located adjacent to the Beauly to Denny 400 kV OHL. The boundary of the Cairngorms National Park (CNP) is located around 2.2 km to the south-east of the Proposed Development, and Laggan, the nearest village to Melgarve substation, is located approximately 11 km to the east.
- 2.2 The proposed development is located in a large-scale landscape characterised by a range of broad, rounded upland hills, mountains and plateaux, with steep slopes forming stark and more secluded glens. Despite the presence of energy infrastructure, the landscape is remote in nature. The other key land use within the vicinity of the Proposed Development is estate land managed for sporting activities including deer stalking and grouse shooting. It is noted that the surrounding land is of limited agricultural value.
- 2.3 As detailed in the EIAR the proposed OHL would commence from a CSE compound southeast of the consented Cloiche Wind Farm substation. From the CSE compound, the proposed OHL would continue to the southeast crossing Allt Creag Chomaich, passing to the northeast of Lochan Iain and Dubh Lochan. At approximately 1.5 km to the west of the Corbett Meall na h-Aisre, the proposed

development would turn in a generally more southerly direction where it would pass between Meall nan Ruadhag and Sherramore Forest and cross the Allt Gilbe. It would pass to the east of the Meall a Ghiubhais and before reaching the nearby Beaully-Denny OHL, the proposed OHL section would terminate at another CSE compound, which lies approximately 0.5 km northeast of Melgarve substation.

### **Environmental Designations and Habitats**

2.4 The development is not located within any international or national natural heritage designations. The following natural heritage designations fall within the vicinity of the Proposed Development:

- The River Spey Special Area of Conservation (SAC) and Sites of Special Scientific Interest (SSSI) are 0.3km to the south of the development.
- Creag Meagaidh Special Protection Area (SPA) is 1.2 km to the south.
- Creag Meagaidh SAC, SSSI, and National Nature Reserve (NNR) are 1.5km to the south of the development.
- Monadhliath SAC and SSSI are 2.2km to the east.
- Loch Knockie and nearby Lochans SPA is 4km to the west.
- Ness Woods SAC is 5km to the west.
- Glen Tarff SSSI is 5km to the west.

### **Landscape Designations, Wild Land and Landscape Character**

2.5 The site does not fall within any designated or otherwise protected landscapes. However, the following designations fall within the wider 3.5km study area:

- The Cairngorms National Park (CNP) 2.2 km to the southeast.
- Braeroy – Glen Shirra – Creag Meagaidh Wild Land Area (WLA 19) 2km south.
- Ben Alder, Laggan and Glen Banchor Special Landscape Area (SLA) 3km southeast.

2.6 The upper area of the proposed development is located within the extensive Landscape Character Type (LCT) 221: Rolling Uplands – Inverness: composed of an extensive area of large-scale, smooth, rounded hills of similar height forming broad, undulating upland plateaux with few clearly defined summits which form a backdrop to surrounding lower lying straths and glens. The lower section of the line where it connects into Melgarve substation lies within LCT 231: Upland Glen – Inverness: characterised by a wide, gently undulating U-shaped glen, flanked on either side by low, occasional craggy hills. The following adjacent LCT 126: Upland Glen – Cairngorms, has also been scoped into assessment and is characterised by wide, flat glens contained by steep and often craggy side-slopes with typical features of glaciated landform and deposition.

### **Built Heritage**

2.7 No designated heritage assets are located within the footprint of the proposed development. Within the 5km study area there is one scheduled monument (SM: 6129 Corrieyairack Pass military road) and five listed buildings. The assessment is limited to the SM: 6129 Corrieyairack Pass military road, Melgarve to Allt Ruadh, this scheduled monument comprises a 4km long military road which runs between

Melgarve in the south and the burn Allt Ruadh in the North and is part of the road built between Dalwhinnie and Fort Augustus under the direction of General Wade in 1731.

### 3. PLANNING HISTORY

3.1		24/00933/S36: Dell 2 Wind Farm (Re-design) - Erection and operation of a wind farm for a period of 35 years, comprising of 9 wind turbines, 4 with a maximum blade tip height of 180m and 5 with a maximum blade tip height of 200m, access tracks, borrow pits, substation, control building, and ancillary infrastructure.	Pending consideration
3.2		24/00881/S42: Dell Wind Farm - Application under Section 42 to vary Conditions 2 (period of permission) and 5 (decommissioning) of planning permission PPA-270-2183	Pending consideration
3.3	01.03.2024	23/05350/SCOP: Installation of 132kV overhead line, two cable sealing compounds or two towers, 7.4km underground cable from the proposed Dell Wind Farm on site substation, 1.6 km of 132 kV underground cable from Cloiche Wind Farm on site substation, 0.7 km of 132 kV underground cables on approach into Melgarve substation, access tracks and tree and vegetation clearance, total length of approximately 16.7 km in length (which includes approximately 9.7 km of UGC)	Scoping opinion issued by Scottish Ministers
3.4	06.12.2023	20/01796/S36: Cloiche Wind Farm - Erection and Operation of a Wind Farm comprising 29 Wind Turbines (maximum blade tip height of 149.9m), access tracks, LiDAR, borrow pits, temporary construction compounds (inclusive of concrete batching area), substation and operations building.	Granted by Scottish Ministers
3.5	22.08.2019	14/02879/FUL: Dell wind farm: Erection of 14 turbine wind farm (approx. 42MW installed capacity) and associated infrastructure.	Granted by Scottish Ministers

### 4. PUBLIC PARTICIPATION

#### 4.1 Advertised: EIA Development

Date Advertised: The Press and Journal and the Strathspey & Badenoch Herald newspapers and the Edinburgh Gazette.

Representation deadline: 2 June 2024

Representations received 0  
by The Highland Council

Representations received 0  
by Energy Consents Unit

- 4.2 Material considerations raised are summarised as follows:  
None

## 5. CONSULTATIONS

### Consultation undertaken by the Highland Council

- 5.1 **Newtonmore and Vicinity Community Council** do not object to the application.
- 5.2 **Access Officer** does not object to the application, subject to a condition requiring a detailed recreational access management plan.
- 5.3 **Development Plans Team** do not object to the application, and provide an overview of the development plan provisions and policy issues to be considered.
- 5.4 **Environmental Health** do not object to the application, in respect of either noise or private water supplies.
- 5.5 **Flood Risk Management Team** do no objection to the application.
- 5.6 **Historic Environment Team** do no object to the application and are satisfied that the potential for archaeological remains is minimal; no further mitigation is required. There are also no significant issues raised in regard to designated assets, including the scheduled military road.
- 5.7 **Landscape Officer** does not object and has no further comments to make.
- 5.8 **Transport Planning Team** do not object to the application but recognise potential impacts upon the public road network and requests suitable and proportionate mitigation, or equivalent financial contribution, towards the delivery of improvements being sought through the South Loch Ness Road Improvement Strategy. A condition is also required to secure a Construction Traffic Management Plan (CTMP) supported by a formal "Wear and Tear Agreement" in accordance with Section 96 of the Roads (Scotland) Act 1984.

### Consultations Undertaken by The Scottish Government's Energy Consents Unit (ECU)

- 5.9 **British Telecom Radio Networks Protection** do not object to the application.
- 5.8 **Highlands and Islands Airports Limited** do not object to the application.
- 5.9 **Historic Environment Scotland** do not object to the application. The two identified historic assets are closer to the existing Beauly to Denny transmission towers than this proposal.

- 5.10 **Joint Radio Company Ltd** do not object to the application.
- 5.11 **Defence Infrastructure Organisation** do not object to the application.
- 5.12 **National Air Traffic Services** do not object to the application.
- 5.13 **NatureScot** object to the application:
- objection due to significant adverse impacts on montane bog, a priority peatland habitat - the significant effects of the proposal cannot be overcome by offsetting.
  - Impacts on non-montane peat areas could be mitigated through offsetting, but the current outline Habitat Restoration Management Plan does not contain sufficient detail of where intervention is going to be carried out, and the scale of the works is not in line with their guidance requiring a 1:10 ratio of loss : offsetting.
  - The River Spey Special Area of Conservation (SAC) – appropriate assessment required. NatureScot advice is that if the proposal is carried out strictly in accordance with an approved Construction Environmental Management Plan and Habitat Restoration Management Plan, the conclusion is that the proposal will not adversely affect the integrity of the SAC.
  - Loch Knockie and nearby Lochs SPA – appropriate assessment required. NatureScot advice is that if the proposal is carried out strictly in accordance with an approved Breeding Bird Protection Plan, the conclusion is that the proposal will not adversely affect the integrity of the SPA. Advice holds for Glendoe Lochans Site of Special Scientific Interest (SSSI) and wider Schedule 1 bird populations.
  - Do not consider that proposal would raise issues of national interest in relation to its landscape, visual or cumulative effects primarily due to the existing infrastructure through the Melgarve area.
  - Otter licence will be required, and further survey and mitigation work is required. A Species Protection Plan (SPP) for Mountain Hares and Water Voles are required.
- 5.14 **Ness District Salmon Fishery Board** do not object to the application.
- 5.15 **SEPA** do not object to the application, subject to conditions requiring:
- A Peat Management Plan demonstrating how the working corridor has been re-routed or incorporates floating track to minimise peat excavation;
  - A revised post consent layout to be provided demonstrating how impacts on the water environment have been reduced in the vicinity of Towers MG1B and MG11B.
  - All new permanent track watercourse crossings to be oversized bottomless culverts unless otherwise agreed.
  - All works to be carried out following the Schedule of Mitigation (Table 14.1),



outline CEMP (Appendix 3.6) and General Environmental Management Plans (Appendix 3.4).

5.16 **Scottish Forestry** do not object to the application.

5.17 **Scottish Water** do not object to the application. Although it is likely this project will be of low risk to the Loch Ness catchment, due to its size and the areas in the catchment where these activities are taking place, care must be taken and water quality in the site area must be protected. Any work in the Laggan Bridge Borehole catchment is of greater risk as it is a ground water zone of influence, and the catchment size is small so any risk from a pollution event is much greater.

## **6. DEVELOPMENT PLAN POLICY AND OTHER MATERIAL POLICY CONSIDERATIONS**

6.1 Appendix 1 of this report provides details of the documents which comprise the adopted Development Plan, including details of pertinent planning policies as well as adopted supplementary guidance, and other material policy considerations which are relevant to the assessment of the application.

## **7. PLANNING APPRAISAL**

7.1 The application has been submitted to the Scottish Government for approval under Section 37 of the Electricity Act 1989 (as amended). Should Ministers approve the development, it will receive deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended). While not a planning application, the Council processes S37 applications in the same way as a planning application, as consent under the Electricity Act will carry with it a deemed planning permission.

### **Planning Considerations**

8.2 The key considerations in this case are:

- a) Compliance with the Development Plan and Other Planning Policy
- b) Construction Impacts
- c) Design, Landscape and Visual Impact (including Wild Land)
- d) Built and Cultural Heritage
- e) Hydrology, Hydrogeology and Geology
- f) Natural Heritage
- g) Roads, Transport and Wider Access
- h) Economic Impacts
- i) Any Other Material Considerations.

### **Development plan/other planning policy**

8.3 The Development Plan comprises National Planning Framework 4 (NPF4), the adopted Highland-wide Local Development Plan (HwLDP), the adopted Inner

Moray Firth Local Development Plan 2 (IMFLDP2), and all statutorily adopted supplementary guidance, including the Onshore Wind Energy Supplementary Guidance (OWESG).

- 8.4 Appendix 2 of this report provides an assessment of compliance with the Development Plan / Other Planning Policy.
- 8.5 In summary, the principle of development is established in national policy, with the proposed development being of national importance for the delivery of the national Spatial Strategy. NPF4 considers that Strategic Renewable Electricity Generation and Transmission Infrastructure will assist in the delivery of the Spatial Strategy and Spatial Priorities for the north of Scotland, and that Highland can continue to make a strong contribution toward meeting Scotland's ambition for net zero. Alongside these ambitions, the strategy for Highland aims to protect environmental assets as well as to stimulate investment in natural and engineered solutions to address climate change. This aim is not new and will clearly require a balancing exercise to be undertaken, which is reflected throughout NPF4.

### **Construction Impacts**

- 8.6 It is anticipated that construction of the project would take place over a 24 month period. A Construction Environmental Management Plan (CEMP) will be used, the aim of which is to avoid, minimise and control adverse environmental impacts associated with the proposed development and ensure that development is carried out in accordance with best practice. An Outline CEMP has been included within the application (Appendix 3.6). The applicant will also ensure that General Environmental Management Plans (GEMPs) and Species Protection Plans (SPPs) are in place for the works, an outline of these have been submitted with the application (Appendices 3.4 and 3.5). In addition, the applicant has also committed to the appointment of an Environmental Clerk of Works (ECoW) to oversee the project.
- 8.7 Reinstatement works will be undertaken during construction (and immediate post-construction phase) to address any areas of ground disturbance caused by the construction works. An outline site reinstatement and restoration plan has been submitted with the application (Appendix 3.3). These works will include the reinstatement of construction compounds, the area around towers, underground cable and temporary access tracks. Tracks that are to be retained for ongoing maintenance would be partially reinstated to reduce their width to approximately 2.4m. Methods for the reinstatement of peat would be controlled through a Peat Management Plan (PMP); the application is supported by an outline PMP (Appendix 10.2). It is noted that the development may have some impacts upon the areas previously planted around the Melgarve substation. The applicants have stated that impacts will be minimised and that a future application to the Council will be submitted to vary the landscaping condition of consent for Melgarve substation and propose appropriate compensatory planting requirements for any loss.
- 8.8 The application states that construction activities would in general be undertaken during daytime periods. Construction working is likely to be during daytime periods only. Working hours are anticipated 7 days a week between approximately 07.00 to 19.00 March to September and 07.30 to 17.00 (or within daylight hours) October

to February, but the final hours will be agreed in advance with the Council. Environmental Health consider that the site is remote from noise sensitive receptors, and it is not expected that noise from construction works will have a significant impact. However, it is expected that the contractor/developer will ensure that the best practicable means for reducing the impact of noise will be employed, this can be secured via the CEMP. In addition, Section 60 of the Control of Pollution Act 1974 sets restrictions in terms of hours of operation, plant and equipment used and noise levels, amongst other factors, which is enforceable via Environmental Health.

- 8.9 Although traffic associated with the development is predicted to be significant, no abnormal loads are anticipated and the applicant is committed to developing a Construction Traffic Management Plan (CTMP). Consideration will also need to be given to the potential interactions between construction traffic and users of the core path network, these measures would be formulated and secured through an Outdoor Access Management Plan (OAMP), a draft has been submitted in support of the application (Appendix 12.1). In addition, the Council will require the applicant to enter into legal agreements and provide a financial bond with regard to its use of the local road network (a Section 96 Wear and Tear Agreement).
- 8.10 Should the development be granted consent, a condition would require the setting up of a Community Liaison Group, this will help to ensure that the Community Council and other stakeholders are kept up to date and consulted before, during and after the construction period.

### **Design, Landscape and Visual Impact (including Wild Land)**

- 8.11 The applicant's assessment is detailed in EIAR Chapter 7. The Landscape and Visual Impact Assessment (LVIA) is focused on a study area of 3.5km, beyond which the development is considered unlikely to result in any adverse effects. and is supported by five visualisations. The LVIA also considers cumulative effects occurring as a result of other proposed electrical infrastructure developments within the study area including the overhead lines associated with the Beaully-Denny OHL. Whilst photomontages provide a useful aid in showing the appearance of the proposed development, they are just one tool used by the Planning Authority in the assessment of landscape and visual impact.
- 8.12 A Zone of Theoretical Visibility (ZTV) drawing (Figure 7.1) is also included in the assessment which shows theoretical bare ground visibility. As summarised in the EIAR, the ZTV identifies that the visual envelope for the proposed development would be generally well contained by the surrounding topography to an area within approximately 2 - 3 km of the proposed OHL. Slightly wider potential visibility is indicated across the upland plateau in the north of the study area, covering southern parts of the Stronelairg Wind Farm, and stretching up to the summits of Gairbeinn and Carn na Gourach. Theoretical visibility is also indicated across the enclosing slopes and valley floor of the Spey Valley in the south of the study area, encompassing properties at Garvamore and Garvabeg and up to the summit of Carn Dubh, however, the applicant contends that actual visibility across the valley floor is likely to be partially reduced by areas of woodland and forest.

8.13 The applicant's assessment also provides an assessment of the Landscape Character Types (LCTs) which are identified within the 3.5 km study area for the Proposed Development. These include: LCT 126: Upland Glen – Cairngorms, LCT 221: Rolling Uplands – Inverness and LCT 231: Upland Glen – Inverness. The assessment considers that there would be a short term significant effect during construction for LCT 221. This is localised within Coire Iain Oig where construction works would lead to some disruption to remote qualities within the corrie. Effects on the other two LCTs are reported, but due to the presence of other existing infrastructure including wind turbines on the upland plateau, and existing transmission infrastructure within the Spey Glen, the effects are not predicted to be significant. Post construction and following the establishment of the land reinstatement works, the applicant's assessment considers that effects on landscape character would reduce.

8.14 As detailed above, the site does not fall within any landscape designations. However, the following designations fall within the study area:

- The Cairngorms National Park (CNP) is located approx. 2.2 km to the south-east of the site.
- Braeroy – Glen Shirra – Creag Meagaidh Wild Land Area (WLA 19) is located circa 2km south of the proposal. Due to the influence of modern infrastructure development including the Melgarve Substation and Beauly – Denny OHL, and existing and consented wind farms on the skyline, the WLA has been scoped out of assessment – this is accepted by NatureScot.
- Ben Alder, Laggan and Glen Banchor Special Landscape Area (SLA) is located circa 3km to the southeast - Only a very small part of the edge of the SLA falls within the study area and as this area also part of the CNP, the SLA has therefore been scoped out of individual assessment. The LVIA for this element is covered by the CNP assessment.

8.15 In relation to the Cairngorms National Park, the assessment looked at six of the Parks Special Landscape Qualities (SLQs).

- Strong juxtaposition of contrasting landscapes;
- Landscapes both cultural and natural;
- Steep glens and high passes;
- The dominance of natural landforms;
- Wildness; and
- Grand panoramas and framed views.

Generally, these can be grouped together into three main themes: contrasts between the glen and surrounding upland landscapes; the natural and undeveloped qualities of the landscape; and the visual effects and aesthetics. The applicant's assessment predicts, no significant effects are to any of the CNP SLQs. The EIA reports that whilst there would be some effects relating to the relationship of the glen and the upland landscape, and within some views, these would be small, and not significant. All effects would be indirect, occurring to landscapes outwith the CNP and there would be no effects when considering the relationship of the CNP landscapes within the study area to the wider national park. The effect on those

parts of the CNP falling within the study area is predicted to be Minor Adverse (not significant) during construction and operation with the effect on the wider CNP as a whole being Negligible. NatureScot has no landscape based objection and advise that the proposal will not have an adverse effect on the integrity of the National Park or the objectives of the designation.

- 8.16 In respect of visual amenity, the LVIA identifies a number of visual receptors (see Figure 7.4), these include two small groups of buildings at Garvabeg and Garvamore. Route based receptors are also identified from:
- one public road (U2104 Laggan – Garvamore – Melgarve Public Road (General Wade’s Military Road - visualisation 3));
  - four other recreational routes (Monadhliath Trail, the hillwalker routes up Geal Charn (visualisation 5, wireframe), Carn Liath via Carn Dubh (visualisation 4) and Meall na h-Aisre (visualisation 2)); and
  - one public viewpoint has been identified from the Garva Bridge which is located on General Wade’s Military Road (visualisation 1).
- 8.17 Visual effects for the properties at Garvabeg are reported as Minor Adverse during construction and Negligible during operation, so not significant. This is due to the limited nature of the views due to forest plantation areas and views being limited to high hillside and skyline views to the north-east. However, these views will be over 3.5km so the perceptibility of the OHL is reduced. Effects at Garvamore are predicted as Negligible during both construction and operation. This is due to the main focus of the view being away from the proposed development and the screening by existing vegetation.
- 8.18 In terms of all of the routes and recreational receptors assessed, the applicant’s has identified significant visual effect would be contained to receptors accessing the Corbett summit of Meall na h-Aisre. This route follows Coire Iain Oig and would result in the construction works for the proposed development being a prominent feature within the view. However, this effect is predicted to reduce and become not significant during operation, as the lattice tower structures would be less prominent against the backdrop of hills in the longer term.
- 8.19 The assessment is not disputed by officers and the Council’s Landscape Officer and NatureScot both have no objection to the application.

### **Built and Cultural Heritage**

- 8.20 The applicant has assessed the potential impacts on built and cultural heritage features (EIAR chapter 13). As detailed above, there are no designated heritage assets within the footprint of the development. The potential for encountering unknown archaeology is considered low and no mitigation measures are advanced in this respect. However, it is noted that if unforeseen archaeological discoveries made by the construction contractor, then these will be reported to a retained professional archaeological unit, this requirement will be built into the CEMP. The Councils Historic Environment Team are content with this assessment and the applicant’s proposed mitigation in respect of cultural heritage features.

- 8.21 In terms of indirect effects, within 5km there is one scheduled monument and five listed buildings. The application is supported by visualisations for the category A listed Garva Bridge over River Spey (LB6900) and SM6129 Corrieyairack Pass, military road, Melgarve to Allt Ruadh. The assessment concludes that some indirect effects may occur on the setting of the heritage assets in the area, but these are limited by screening and the presence of existing similar energy development in the area. Historic Environment Scotland have no objection to the application and are content with this assessment and note that the presence of the Beauly to Denny 400kV OHL transmission towers, which are located at closer proximity to both LB6900 and SM 6129 and are of a much greater scale than the proposed development. The Council's Historic Environment Team are also content with this assessment.

### **Hydrology, Hydrogeology and Geology**

- 8.22 The applicant's assessment is contained within EIA Chapter 10. Overall, no significant effects are identified. The applicant proposes a Construction Environmental Management Plan (CEMP), as detailed above an outline CEMP has been submitted in support of this application. This will include measures which will ensure that potential sources of pollution on site can be effectively managed throughout the construction phase. In order to protect the water environment a number of measures have been highlighted by the applicant for inclusion in the CEMP including the adoption of sustainable drainage principles, and measures to mitigate against effects of potential contamination of the surrounding water environment. In addition, the ECoW will be present onsite during the construction phase and will carry out monitoring of works with regards to any ecological and hydrological sensitivities on the site. SEPA have no objection but request that a condition be applied requiring all works to be carried out following the Schedule of Mitigation (Table 14.1), outline CEMP (Appendix 3.6) and General Environmental Management Plans (Appendix 3.4).
- 8.23 The development will require six new permanent watercourse crossings and nine new temporary watercourse crossings. A schedule of watercourse crossings is included in the application, Technical Appendix 10.3: Schedule of Watercourse Crossings. SEPA have no objection but request a condition to ensure that all new permanent track watercourse crossings be oversized bottomless culverts. In addition, although SEPA are generally content that the development avoids direct impacts on the water environment, it notes that infrastructure in the vicinity of Tower MG11B and watercourse crossing WX13 runs within 20 m of a watercourse; the tower should be microsited outwith the 20m buffer and the temporary access track routed to avoid the buffer. SEPA also note that the track infrastructure directly north of Tower MG1B results in four adjacent watercourse crossings; the tracks in this area need to be rationalised to reduce the number of crossings required. To address these issues SEPA request a condition securing a revised post consent layout to be provided demonstrating how impacts on the water environment have been reduced in the vicinity of Towers MG1B and MG11B.

- 8.24 The Council's Flood Risk Management Team has been consulted and do not object to the application, having no concerns related to flood risk and drainage.
- 8.25 The applicant has undertaken a private water supply survey and no supplies have been identified which may be impacted by the development. The Council's Environmental Health Team are content with the assessment and have no objection.
- 8.26 In relation to peat, as denoted on Figure 10.4, parts of the development and in particular, the proposed underground cable routes and the northern extent of the proposed overhead line, are potentially underlain by Class 1 and Class 2 peatland, which are considered nationally important. The EIA reports that approximately 8.8km of the proposed development is located within Class 1, and 500m of the proposed development is located within Class 2 peatland respectively. Consequentially, the application is supported by peat probing results (Technical Appendix 10.1), a Peat Management Plan (PMP) (Technical Appendix 10.2) and a peat landslide hazard risk assessment (Technical Appendix 10.1). The CEMP will also outline measures to ensure that the works minimise the risk to soils including peat. Matters relating to the peatland management and restoration will be dealt with later in this report.
- 8.27 Of the 6,000 peat depth probes, the recorded peat depth ranged from 0 to >4m, with 75% of the probes recording a peat depth of less than 1m. The applicant contends that the design for the proposed development has largely avoided areas where peat is >1m and efforts have been made by iterative design to minimise the footprint of site infrastructure on peat >0.5m as far as practicable. Floating tracks may be considered on suitable length sections of access track where peat depths are >1m, where detailed ground investigation confirms suitability. It is anticipated that there will be 284,578m<sup>3</sup> of excavated material, but the draft PMP indicates that all the excavated peat can be used to reinstate disturbed areas of the site. SEPA do not object to the application in this regard, however, it notes that there are areas in which more could be done to further avoid areas of deeper peat. SEPA request a condition requiring a finalised PMP. The final Plan should include a revised post consent layout which demonstrates how the finalised location of the working corridor as shown on Figure 10.2.5f has been re-located to reduce impacts on peat excavation. In other areas the finalised corridor should not deviate onto deeper peat than the current location shows. Proposed areas for floating track should also be outlined.
- 8.28 Subject to securing the aforementioned mitigation measures, it is considered that the impacts upon Hydrology, Hydrogeology and Geology can be carefully managed.

#### **Natural Heritage (including ornithology)**

- 8.29 The applicant's assessment is contained within EIA Chapters 8 and 9. The applicant is committed to ensuring that construction practices will be in line with best practise guidance. Environmental protection measures will be fully detailed in the final CEMP, Peat Management Plan (PMP), Species Protection Plans (SPPs), including pre-construction Protected Species Surveys and Habitat Management

Plan (HMP). Works will be overseen by an Environmental Clerk of Works.

- 8.30 In relation to designated sites, the proposed development is located close to the River Spey Special Area of Conservation (SAC) which is protected for Atlantic salmon, freshwater pearl mussel, sea lamprey and otter. The proposed development crosses a number of watercourses which drain to the SAC. NatureScot advise that this proposal is likely to have a significant effect on the SAC qualifying interests. The European status of this site means that the requirements of the Conservation (Natural Habitats, and c.) Regulations 1994 as amended (the 'Habitats Regulations') apply, with Scottish Ministers as the determining authority having to undertake an Appropriate Assessment. In this regard NatureScot advises that subject to further detailed ground investigations post consent and the implementation of any additional mitigation derived from these, plus additional site and location specific mitigation measures to be set out in a final agreed CEMP and Habitat Management Plan (HMP), the risk of peat and non-peat sediment release to the SAC can in principle be adequately mitigated. Subject to these conditions, NatureScot have no objection to this aspect of the proposal.
- 8.31 With regard to protected species, the applicant's ecological and ornithological assessments and site surveys have also identified evidence of protected species activity. In relation to otters, NatureScot advise that an otter licence is likely to be required and that further monitoring would be needed to identify the status of the holt identified. NatureScot advised that further survey work is undertaken ahead of the required pre-construction surveys so as to avoid impacts as far as possible, identify appropriate mitigation, and inform the need for a licence. NatureScot also advise that Species Protection Plans (SPP) are required in relation to mountain hares and water voles.
- 8.32 In terms of ornithological interests, the proposal is located close to the Loch Knockie and nearby Lochs Special Protection Area (SPA) which is protected for breeding Slavonian grebes. The Glendoe Lochans Site of Special Scientific Interest (SSSI) also overlaps with part of this SPA and is protected for breeding Slavonian grebes and common scoter. Again given the sites status, Scottish Ministers will need to carry out an appropriate assessment. In this regard NatureScot advise that subject to a final Breeding Bird Protection Plan the impacts of the proposal will be acceptable and it offers no objection too this aspect of the scheme.
- 8.33 Bird collision risk was scoped out from further assessment. This is due to the limited time spent crossing the proposed development at collision risk height for all species being negligible. However, NatureScot welcomes the applicant's commitment to producing a Breeding Bird Protection Plan, this should be secured by condition.
- 8.34 In relation to trees, the proposed development would not pass through or close to areas of woodland and commercial forestry; therefore forestry clearance is not anticipated to be required.

### **Priority Peatland Habitat**

- 8.35 As detailed in the previous section, the site is located within Class 1 and Class 2 peatland, which are considered nationally important. The EIA reports that some of the priority peatland habitat that would be lost to or impacted by the development



is above 600 m AOD. NatureScot consider blanket bog above 600m to be montane bog and that its guidance indicates that this is a priority peatland habitat which should be avoided due to its sensitivity to damage and difficulty to restore.

- 8.36 Whilst NatureScot consider that the condition of peatland habitat within the overall project area is variable, and agree that, although indicators of near-natural vegetation are still present, there are areas of more significant haggling and erosion occurring within both the consented Cloiche Wind Farm site and the section of the development between the northern CSE compound and the Melgarve substation. However, NatureScot consider that in the area of the proposed Dell 2 Wind Farm site, the undergrounding line connection would result in impacts on high quality priority peatland habitat in near natural condition, and this is mostly montane bog, impacts on which cannot be overcome by offsetting by restoration. This is due to the sensitivity and value of this habitat. As a consequence, NatureScot consider that this element of the proposal raises issues which are of national interest and object to the application.
- 8.37 Whilst NatureScot acknowledge that for energy developments, NPF4 Policy 5 c) does not require absolute avoidance of this habitat, NPF4 Policy 5 d) requires a detailed site specific assessment to be undertaken which should inform careful project design and ensure, in accordance with relevant guidance and the mitigation hierarchy, that adverse impacts are first avoided and then minimised through best practice. NatureScot consider that the proposed scheme is not in accordance with its guidance.
- 8.38 The main concerns from NatureScot appear to relate to the provision and impacts associated with the underground cable serving the Dell 2 Wind Farm. At present it is unclear if these concerns can be overcome by any amendment to the design of this part of the proposed development, which needs to be undergrounded due to the wake effect associated with the operational turbines at Stronelairg.

### **Habitat Restoration**

- 8.39 Due to the climate and biodiversity emergency and the provisions of NPF4 Policy 3, the Council seeks to ensure that developments will deliver a positive effect for biodiversity. Policy 3 b) iv) requires significant biodiversity enhancements to be provided. In addition, the Council adopted Biodiversity Enhancement Planning Guidance (BEPG), May 2024. BEPG Para 4.39 explains that: "The applicant must be able to demonstrate how biodiversity will be left in a demonstrably better state than before intervention and provide significant biodiversity enhancements". Para 4.40 continues: "A minimum 10% biodiversity enhancement is required... It is the developer's responsibility to demonstrate to the satisfaction of the Planning Authority that this threshold has been achieved..... It is the developer's responsibility to ensure that all relevant sections of Policy 3 have been fulfilled".
- 8.40 To this end the application is supported by an Outline Habitat Restoration Management Plan (OHRMP) (Appendix 8.4). The OHRMP reports that the proposed development could potentially directly impact up to 20.32ha of degraded blanket bog (direct permanent loss 0.98ha and direct temporary loss 19.34ha), and potentially indirectly affect 5.86ha. The proposed development could potentially directly impact up to 6.91ha of wet heath (direct permanent loss 0.20ha and direct

temporary loss 6.71ha), and potentially indirectly affect 2.66ha. NatureScot estimate that this would include around 4.6ha within the proposed Dell 2 Wind Farm site. The OHRMP outlines proposals to undertake 50-85ha of peatland restoration through managing deer numbers, drain blocking, hagg and gully restoration, and re-vegetation and surface bunding on bare peat.

- 8.41 NatureScot contend that it does not consider that impacts to priority peatland habitat from the proposed grid connection section within the proposed Dell 2 Wind Farm site could be overcome by offsetting. NatureScot do however consider that the extent of erosion to the peatland habitat on the section of the development from the Melgarve substation to the Cloiche substation, and through the Stronelairg site, means that offsetting could overcome the impacts for this part of the development. The current OHRMP however does not contain sufficient detail of where intervention is going to be carried out and the scale of the works identified as between 50-85ha of peatland restoration is not in line with NatureScot's guidance which recommends a 1:10 ratio of loss: offsetting. As such this element of the proposal is not currently in accordance with NPF4 Policies 3, 4 or 5, Policy 2 of The Inner Moray Firth Local Development Plan 2 (IMFLDP2), or the Council's Biodiversity Enhancement Planning Guidance.

### **Roads, Transport and Wider Access**

- 8.42 The applicant's assessment is contained within EIA Chapter 11. Given the nature and scale of this development, two access points to the public road network will be necessary for construction traffic (these are outlined in section 1 above). Parts of the local public and trunk road network will experience increases in traffic as a result of the construction works. A 7 day working week throughout the project is suggested, as noted above in the report. While this should help to reduce the overall duration of the project, it does mean that construction traffic will be continuous over the duration of this phase. The applicants Transport Assessment (TA) uses a study area which includes a A82 at Fort Augustus, the B862 between Fort Augustus and the Stronelairg access track; the A86 between Spean Bridge and Laggan; and the A889 between Laggan and Dalwhinnie.
- 8.43 At the peak of construction activity, the TA predicts a peak traffic flow increase of 28 car / light goods vehicle and 50 heavy goods vehicle two way movements per day. The total traffic movements are not predicted to increase by more than 5.03 % across the whole study area network. This is significantly less than the average daily variance in traffic flows (+ / -10 %) that naturally occur. No abnormal loads are anticipated to be required for transport of components for the development. The construction phase is transitory in nature and the peak of construction activities is short-lived. As such the TA does not identify any capacity issues with the local or trunk road network during the construction phase. After this is completed, the vehicle movements require for the operational maintenance would be negligible.
- 8.44 The Council's Transport Planning Team do not object to the application but state that the north will impact the B862, which is covered by the South Loch Ness Road Improvement Strategy. This Strategy recognises the poor condition and incapability of the existing local public roads in that area to safely accommodate the vehicular impacts from multiple power generation, distribution and energy storage projects and proposes a balanced approach to seeking fair and reasonable mitigation from

all developments generating those impacts. The Inner Moray Firth Local Development Plan Delivery Programme Update 2023 specifically references that “All developments which put significant pressure on the B851, B862, B861 or B852 roads be required to contribute towards appropriate upgrades”. As such, Transport Planning recommend that a requirement to agree suitable and proportionate mitigation or equivalent financial contribution towards the delivery of improvements being sought through the South Loch Ness Road Improvement Strategy is secured by a planning condition.

- 8.45 A Construction Traffic Management Plan (CTMP) will also be secured via condition, to manage the impacts during construction of the proposals on the local road network. Transport Planning state that the CTMP should be reviewed and updated regularly through the construction period. Such reviews should include seeking feedback from and reacting to input from local community groups impacted by the proposed means of accessing this development.
- 8.46 Core Paths UBS23 and LBS1a form part of the construction access route as such consideration would be given to pedestrians and cyclists alike due to potential interactions between construction traffic and users of the core path network and wider access route. These measures will be outlined in an Outdoor Access Management Plan (OAMP), a draft version has been submitted with the application (Appendix 12.1). The Councils Access Officer welcomes the submission of the draft document and has no objection subject to the final version being controlled by condition.
- 8.47 Subject to securing the aforementioned mitigation measures, the transport and public access related impacts of the proposal are deemed to be acceptable and can be appropriately managed. As such, this aspect of the proposal has been found to be in accordance with the transportation and developer contributions policies contained within the Development Plan.

### **Economic Impact**

- 8.48 The applicants socio-economic, recreation and tourism assessment are outlined in EIA chapter 12. The development of grid infrastructure has been identified as a national priority together within investment in renewable energy. The development presented within this application are not only beneficial in strengthening the robustness of the country’s grid network, but also result in further job and investment opportunities through the development of associated supply chains. The EIA reports that during the construction phase the proposed development is anticipated to generate up to 350 direct Person Years Employment (PYE) at the Scotland level. At the Highland level, this equates to up to 175 direct PYE. These PYE can be converted to direct GVA through the GVA for specialised construction activities, generating £22.4 million in direct GVA nationally, including £11.2 million direct GVA at the Highland level.
- 8.49 The development is required to facilitate the connection of the consented Cloiche Wind Farm and if granted consent the redesign proposal for Dell 2 Wind Farm to the national grid, which will allow the export of electricity generated to consumers. The relationship of the development to the economic and social benefits of

renewable energy developments is therefore relevant, in a positive way.

- 8.50 The applicant suggests that there is no detrimental effect on the tourism industry. There would be potential beneficial effects through temporary increased local spending on the supply of goods and services during construction including worker accommodation. Based on other similar projects this is anticipated to be approximately £2.8 million throughout the construction period. EIAR states that to enhance opportunities for local and regional businesses and workers to benefit from the expected employment opportunities, the Applicant would seek to publicise local opportunities and promote other initiatives to exchange information with relevant stakeholders.
- 8.51 The Highlands is experiencing significant construction activity in the transmission network. The approval of the proposed development would have a positive economic impact, particularly during the proposed 2 year construction period. The project could offer investment / opportunities to the local, Highland, and Scottish economy including businesses ranging across construction, haulage, electrical and service sectors. However, there is also likely to be some adverse effects caused by construction disruption and construction traffic, but these will be temporary in nature and managed through the identified mitigation measures. Consideration of impacts on these matters is contained elsewhere in this report.
- 8.52 Scenery and the natural environment within the Highlands are important factors for many visitors when choosing the area as a holiday destination. Any detrimental impact of the proposed development on tourism, whether visually, environmentally or economically should be identified and considered in full. As reported in the landscape and visual section of this report, the proposed development would give rise to significant effect during construction on LCT 221 (Rolling Uplands), however these are short term and confined to the area within Coire Iain Oig where construction works would lead to some disruption to remote qualities within the corrie. Post construction and landscape reinstatement works have established, all effects on landscape character would reduce to levels which would be not significant. No significant effects are predicted to the Special Landscape Qualities (SLQs) or landscape character within the Cairngorms National Park. As such, the development is not anticipated to have adverse impact on the local economy, particularly tourism post construction.
- 8.53 Given the above and in light of NPF4 Policy 11 section c), material weight can be attributed to the socio-economic benefits of the proposal. Such matters could be secured by way of planning conditions which require the applicant to commit to the delivery of the socio-economic benefits of the scheme in line with those set out within the EIAR.
- 8.54 Since the application has been submitted, the Council has also published, in June 2024, its Social Value Charter for Renewables Investment. This has been brought to the applicant's attention. Owing to the nature of this document relating to community benefit, which is voluntary in nature, whilst the applicant has not provided a response to the charter to date, this is not deemed to be a material planning consideration. In the event that a positive recommendation is however reached on the proposed development, a response to the charter would be pursued by Council's Community Support and Engagement Officer and the Council's

Economy and Regeneration service who will be liaising directly with the applicants on this matter.

### **Other Material Considerations**

8.55 There are no other material considerations.

### **Non-Material Considerations**

8.56 None raised.

### **Matters to be secured by Section 75 Agreement**

8.57 If any compensatory planting or habitat enhancement is to take place on land located outside the planning application red line boundary and not under the ownership of the applicant we may require a tri-party legal agreement to first be secured between the applicant, the landowner and the planning authority.

## **9. CONCLUSION**

9.1 The Scottish Government and the Council each have policies offering support to projects which increase the capacity of the grid network to serve renewable energy projects. NPF4 offers strong support for such development highlighting upgraded infrastructure supporting onshore high voltage electricity lines, cables and interconnectors and this is classed as a development of national importance.

9.2 Highland has been successful in attracting inward investment in renewables, enabled in part by a significant level of investment in the improvement of the electricity transmission network. This success has led to the Highlands having a good understanding of this type of project and Highland Council having appropriate policies and guidance to assist in its assessment, and to effectively manage their implementation on the ground.

9.3 The majority of statutory and other consultees responding to this application have not raised any fundamental concerns and have no outstanding objections subject to conditions. No public representations have been made on the application.

9.4 NatureScot however has raised an objection in relation to priority peatland habitat, particularly regarding to part of the application relating to the connection proposed for the pending Dell 2 Wind Farm. NatureScot consider blanket bog above 600m to be montane bog and that its guidance indicates that this is a priority peatland habitat which should be avoided due to its sensitivity to damage and difficulty to restore. NatureScot contends that this is high quality priority peatland habitat in near natural condition, and that this is mostly montane bog, impacts on which cannot be overcome by offsetting by restoration due to the sensitivity and value of this habitat.

9.5 In addition, due to the climate and biodiversity emergency and the provisions of NPF4 Policy 3, the Council seeks to ensure that developments will deliver significant biodiversity enhancements. The application is supported by an Outline Habitat Restoration Management Plan (OHRMP). However, the current OHRMP does not contain sufficient detail of where intervention is going to be carried out and the scale of the works identified as between 50-85ha of peatland restoration is not

in line with NatureScots guidance which recommends a 1:10 ratio of loss: offsetting.

- 9.6 Officers consider that for most aspects of the proposed development, the adverse impacts identified can be suitably addressed by conditions. However, it is recommended that an objection is raised in relation to the matters raised by NatureScot, owing to adverse impacts upon priority peatland and insufficient habitat restoration provision. If the applicant can sufficiently address these matters, and NatureScot withdraw its objection, then officers recommend that the Council's objection could be withdrawn, subject to the application of planning conditions.
- 9.7 All relevant matters have been taken into account when appraising this application. Given the concerns regarding priority peatland habitat and restoration, the proposal is not considered to accord with the principles and policies contained within the Development Plan and is not acceptable in terms of all other applicable material considerations.

## **10. IMPLICATIONS**

- 10.1 Resource: Not applicable
- 10.2 Legal: If the committee determine that an objection should be raised to the application, the application may be subject to a Public Local Inquiry prior to determination by Scottish Ministers.
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: The project has the potential to enable the development of renewable energy.
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

## **11. RECOMMENDATION**

### **Action required before consultation response being issued to Scottish Ministers: N**

It is recommended to **RAISE AN OBJECTION** to the application subject to A. and for the reasons set out in B. below:

- A. Members granting delegated authority to the Area Planning Manager – South to respond to the Scottish Government's Energy Consents Unit / Scottish Ministers, to withdraw the Council's Objection subject to a suite of recommended planning conditions, should future further information / Supplementary Environmental Information be submitted which successfully removes NatureScot's Objection.

### **B. Reasons for Objection**

1. The application does not accord with the provisions of Section 37 of the Electricity Act 1989 by virtue of not demonstrating sufficient regard to the

desirability of, and failing to reasonably mitigate effects detrimental to, conserving flora and physiographical features of special interest by virtue of failing to demonstrate compliance with NPF4 Policies 1 (Tackling the Climate and Nature Crises), Policies 3 (Biodiversity), 4 (Natural Places) and 5 (Soils), HwLDP Policies 69 (Electricity Transmission Infrastructure), Policy 2 of The Inner Moray Firth Local Development Plan 2 (IMFLDP2), the Council's Biodiversity Enhancement Supplementary Guidance, and NatureScot's Peatland Guidance - Advising on peatland, carbon-rich soils and priority peatland habitats in development, as the development would have a detrimental impact on montane bog, a priority peatland habitat, which cannot be offset, with the proposal also providing insufficient peatland habitat restoration to secure significant biodiversity enhancement.

Signature: David Mudie  
Designation: Area Planning Manager – South  
Author: Peter Wheelan  
Background Papers: Documents referred to in report and in case file.  
Relevant Plans:

<b>Document Type</b>	<b>Document No.</b>	<b>Version No.</b>	<b>Date Received</b>
Location Plan	Figure 1.1		26 April 2024
Site layout Plan	Figure 3.1A		26 April 2024
Site Layout Plan	Figure 3.1B		26 April 2024
Site Layout Plan	Figure 1.2		26 April 2024

## **Appendix 1 – Development Plan and Other Material Policy Considerations**

### **National Planning Framework 4**

- A1.1 National Development 3 - Strategic Renewable Electricity Generation and Transmission Infrastructure
  - 1 - Tackling the Climate and Nature Crisis
  - 2 - Climate mitigation and adaptation
  - 3 - Biodiversity
  - 4 - Natural Places
  - 5 - Soils
  - 6 - Forestry, Woodland and Trees
  - 7 - Historic Assets and Places
  - 11 - Energy
  - 14 - Design, Quality and Place
  - 25 - Community Wealth Building
  - 29 - Rural Development

### **Highland Wide Local Development Plan 2012**

- A1.2
  - 28 - Sustainable Design
  - 29 - Design Quality and Place-making
  - 30 - Physical Constraints
  - 31 - Developer Contributions
  - 36 - Development in the Wider Countryside
  - 47 - Safeguarding Inbye/AppORTioned Croftland
  - 51 - Trees and Development
  - 52 - Principle of Development in Woodland
  - 55 - Peat and Soils
  - 56 - Travel
  - 57 - Natural, Built and Cultural Heritage
  - 58 - Protected Species
  - 59 - Other Important Species
  - 60 - Other Importance Habitats
  - 61 - Landscape
  - 63 - Water Environment
  - 66 - Surface Water Drainage
  - 69 - Electricity Transmission Infrastructure
  - 72 - Pollution
  - 73 - Air Quality
  - 77 - Public Access



## **Inner Moray Firth Local Development Plan 2 (IMFLDP2)**

- A1.3 Policy 2 - Nature Protection, Preservation and Enhancement. Developments proposals for national, major and EIA development will only be supported where it is demonstrated that the proposal will conserve and enhance biodiversity, including nature networks within and adjacent to the site, so that they are in a demonstrably better state than without intervention, including through future management.

## **Highland Council Supplementary Planning Policy Guidance**

- A1.4
- Biodiversity Enhancement Planning Guidance (May 2024)
  - Developer Contributions (Mar 2018)
  - Flood Risk and Drainage Impact Assessment (Jan 2013)
  - Green Networks (Jan 2013)
  - Highland Historic Environment Strategy (Jan 2013)
  - Highland's Statutorily Protected Species (Mar 2013)
  - Highland Renewable Energy Strategy and Planning Guidelines (May 2006)
  - Physical Constraints (Mar 2013)
  - Roads and Transport Guidelines for New Developments (May 2013)
  - Special Landscape Area Citations (Jun 2011)
  - Sustainable Design Guide (Jan 2013)
  - Trees, woodland and development (Jan 2013)

## **OTHER MATERIAL CONSIDERATIONS**

### **Other National Policy and Guidance**

- A1.5
- Scottish Energy Strategy (2017)
  - The Draft Energy Strategy and Just Transition Plan (2023)
  - The Onshore Wind Energy Policy Statement (2022)
  - Onshore Wind Sector Deal for Scotland (2023)
  - Historic Environment Policy for Scotland (2019)
  - Scheduled Monuments Consents Policy (2019)
  - Circular 1/2017: Environmental Impact Assessment Regulations (2017)
  - PAN 1/2011 - Planning and Noise (2011)
  - PAN 60 – Planning for Natural Heritage (Jan 2008)
  - Developing with Nature Guidance (NatureScot 2023)
  - Construction Environmental Management Process for Large Scale Projects (2010)
  - Highland Nature Biodiversity Action Plan 2021-2026 (2022)
  - Community Benefits for Electricity Transmission Network Infrastructure: Government Response, UK Department for Energy and Security and Net Zero (2023)
  - Advising on peatland, carbon-rich soils and priority peatland habitats in development (NatureScot, Feb 2024)

## Appendix 2 - Compliance with the Development Plan / Other Planning Policy

### National Policy

A2.1 National Planning Framework 4 (NPF4) forms part of the Development Plan and was adopted in February 2023. It comprises three parts:

- Part 1 – sets out an overarching spatial strategy for Scotland in the future and includes six spatial principles (just transition / conserving and recycling assets / local living / compact urban growth / rebalanced development / rural revitalisation. Part 1 sets out that there are eighteen national developments to support the spatial strategy and regional spatial priorities, which includes single large-scale projects and networks of smaller proposals that are collectively nationally significant.
- Part 2 – sets out policies for the development and use of land that are to be applied in the preparation of local development plans; local place plans; masterplans and briefs; and for determining the range of planning consents. This part of the document should be taken as a whole in that all relevant policies should be applied to each application.
- Part 3 – provides a series of annexes that provide the rationale for the strategies and policies of NPF4. The annexes outline how the document should be used and set out how the Scottish Government will implement the strategies and policies contained in the document.

A2.2 NPF4 outlines 18 national developments that support the plan's spatial strategy. National developments will be a focus for delivery, as well as exemplars of the Place Principle, placemaking and a Community Wealth Building (CWB) approach to economic development. Six of the national developments support the delivery of sustainable places. Among these is national development number 3 - Strategic Renewable Electricity Generation and Transmission Infrastructure, which "supports electricity generation and associated grid infrastructure throughout Scotland, providing employment and opportunities for community benefit, helping to reduce emissions and improve security of supply." National development 3 accords national development status to electricity transmission that includes b) New and/or replacement upgraded on and offshore high voltage electricity transmission lines, cables and interconnectors of 132kV or more, and/or c) New and/or upgraded Infrastructure directly supporting on and offshore high voltage electricity lines, cables and interconnectors including converter stations, switching stations and substations. This proposal aligns with parts of both b) and c) and therefore, is classed as a national development, and as such received in principle support.

A2.3 The spatial strategy reflects existing legislation by setting out that decision making requires to reflect the long-term public interest. However, in doing so, it is clear that the decision maker must make the right choices about where development should be located, ensuring clarity is provided over the types of infrastructure that need to be provided and the assets that should be protected to ensure they continue to benefit future generations. To that end, the Spatial Priorities support the planning

and delivery of sustainable places, which will reduce emissions, restore and better connect biodiversity; create liveable places, where residents can live better, healthier lives; and create productive places, with a greener, fairer, and more inclusive wellbeing economy.

- A2.4 NPF4 Policies 1, 2, and 3 now apply to all development proposals Scotland-wide, which means that significant weight must be given to the global climate and nature crises when considering all development proposals, as required by NPF4 Policy 1. To that end, development proposals are to be sited and designed to minimise lifecycle greenhouse gas emissions, as far as is practicably possible, in accordance with NPF4 Policy 2, while contributing to the enhancement of biodiversity, as required by NPF4 Policy 3.
- A2.5 Policy 3 - Biodiversity aims to protect biodiversity, reverse biodiversity loss, deliver positive effects and strengthen nature networks. Every development proposal has to maintain or improve biodiversity. As detailed in the Natural Heritage section of this report above, the proposed Habitat Management Plan is not considered to be sufficient to mitigate or provide sufficient habitat enhancement.
- A2.6 Policy 4 - Natural Places aims to protect, restore and enhance natural assets making best use of nature-based solutions. It sets out that development proposals, by virtue of type, location, or scale that have an unacceptable impact on the natural environment, will not be supported. The policy goes on to clarify what that means for different designations. It sets out that proposals with likely significant effects on European sites (SACs or SPAs) require an appropriate assessment, and that development proposals that will affect a National Park, National Scenic Area or SSSI shall only be supported where: i) the objectives of designation and the overall integrity of the areas will not be compromised; or ii) any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance. The site is not located within any ecological or ornithological designation and subject to mitigation measures outlined in the EIAR and conditions requested by consultees the impacts upon any nearby designations will not be significant. The site is also not located within a National Park or NSA.
- A2.7 Policy 4 section e) also requires project design and mitigation to demonstrate how the following various impacts on communities and individual dwellings, including, residential amenity, visual impact, and noise, landscape, visual and cumulative impacts, public access, aviation and defence interests, telecommunications and broadcasting installations, traffic and roads, historic environment, hydrology, water environment and flood risk, trees, biodiversity, decommissioning and site restoration are all addressed. As detailed in the Natural Heritage section of this report above, the proposed Habitat Management Plan is not considered to be sufficient to mitigate or provide sufficient habitat enhancement.
- A2.8 Policy 5 – Soils, aims to protect carbon rich soils including peatlands. Development proposals on such locations, will only be supported where they relate to essential infrastructure or renewable energy development. As detailed in the Natural Heritage section of this report above, NatureScot consider that the element of the proposal which will provide connection to the Dell 2 Wind Farm will result in impacts on high quality priority peatland habitat in near natural condition, and that this is

mostly montane bog, impacts on which cannot be overcome by offsetting by restoration due to the sensitivity and value of this habitat. As a consequence, NatureScot consider that this element of the proposal raises issues which are of national interest and object to the application.

- A2.9 Policy 7 Historic Assets and Places is intended to protect and enhance historic environment assets, enabling positive change. Policy outcomes include ensuring the historic environment is valued, whilst supporting the transition to net zero, as well as recognising the social, environmental and economic value of the historic environment to our economy and cultural identity. Policy 7 part a) requires proposals with potential significant impacts to be appropriately assessed; with part h) ii) setting out that development proposals will only be supported where significant adverse impacts on the integrity or setting of a scheduled monument are avoided. Part h) iii) of this policy also enables 'exceptional circumstances' to be demonstrated to justify the impact on a scheduled monument and its setting, and where impacts on the monument or its setting have been minimised. The EIA concluded that there will be no significant direct impacts upon historic assets within the site boundary nor will there be significant indirect impacts upon the setting of any listed buildings or scheduled monuments.
- A2.10 Policy 11 - Energy aims to encourage, promote and facilitate all forms of renewable energy development onshore and offshore. This includes energy generation, storage, new and replacement transmission and distribution infrastructure. Section a) notes development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported, including (ii.) enabling works, such as grid transmission and distribution infrastructure. Section c) confirms development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities. Section d) requires development proposals that impact on international or national designations to be assessed in relation to Policy 4. In considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.
- A2.11 Policy 25 - Community wealth building aims to encourage, promote and facilitate a new strategic approach to economic development that also provides a practical model for building a wellbeing economy at local, regional and national levels. While NPF4 considers national developments as a focus for delivery, they should also be exemplars of the community wealth building approach to economic development. This is considered further within the Economic Impact section of this report.
- A2.12 On that point it is noted that both legislation and planning law indicate that where there may be incompatibility between NPF4 and the Local Development Plan (LDP) published prior to NPF4, then the more recent document shall prevail. Notwithstanding however, in instances of incompatibility, this requirement may not eliminate the provisions of the LDP in their entirety whilst these documents remain an extant part of the adopted Development Plan. That means that the Council may wish to give more weight to the provisions of its LDP over national policies where there is strong justification for doing so, such as where it feels that LDP policy is better equipped to respond to local conditions for example. However, this matter is

yet to be tested through the planning system.

### **Highland wide Local Development Plan (HwLDP)**

- A2.13 The principal Highland-wide Local Development Plan policy against which the application requires to be determined is the Policy 69 - Electricity Transmission Infrastructure. This policy offers support for electricity transmission infrastructure, having regard to their level of strategic significance in transmitting electricity from areas of generation to areas of consumption. Such support is subject to the proposals not having an unacceptable significant impact on the environment.
- A2.14 As the development would facilitate an increasing proportion of electricity generation from renewable sources, the principle of the development receives support under HwLDP Policy 69 - Electricity Transmission Infrastructure, subject to site selection, design and overcoming any unacceptable significant environmental effects.
- A2.15 Policy 36 Development in the Wider Countryside applies and sets out that all development in the countryside will be determined on the basis of a number of criteria. Pertinent matters to this proposal include siting and design, being compatible with the existing pattern of development, landscape character and capacity, as well as drainage and servicing implications.

### **Area Local Development Plans: The Inner Moray Firth Local Development Plan 2 (IMFLDP2)**

- A2.16 Policy 2 Nature Protection, Restoration and Enhancement states that development proposals for national, major and EIA development will only be supported where it is demonstrated that the proposal will conserve and enhance biodiversity, including nature networks within and adjacent to the site, so that they are in a demonstrably better state than without intervention, including through future management. To inform this, proposals should:
- be based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats or species;
  - wherever feasible, integrate and make best use of nature-based solutions, demonstrating how this has been achieved;
  - be supported by an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements;
  - provide significant biodiversity enhancements, in addition to any proposed mitigation. take into account the community benefit of biodiversity and nature networks.
- A2.17 Biodiversity enhancements proposed through development will require to be delivered within an agreed timescale and should include supporting nature

networks, linking to and strengthening habitat connectivity within and beyond the development, where appropriate. Any submission should include management arrangements for long-term retention and monitoring of the approved biodiversity enhancements, wherever appropriate.

- A2.18 This application is supported by an ecological assessment and an outline Habitat Management Plan which includes restoration and enhancement measures. The quantum of peatland restoration provisions however fall below expectation.

**Onshore Wind Energy Policy Statement (2022), Draft Energy Strategy and Just Transition Plan (2023), and Onshore Wind Sector Deal for Scotland (2023)**

- A2.19 The Onshore Wind Energy Policy Statement supersedes the previously adopted Onshore Wind Energy Policy Statement which was published in 2017. The document sets out a clear ambition for onshore wind in Scotland and for the first time sets a national target for a minimum level of installed capacity for onshore wind energy being 20 Gigawatts (GW). This is set against a currently installed capacity of 9.4 GW (June 2023). Therefore, a further 10.6 GW of onshore wind requires to be installed to meet the target. It is however acknowledged that targets are not caps. In delivering such a target Scotland would play a significant role in meeting the requirement of 25-30 GW of installed capacity across the UK identified by the Climate Change Committee.
- A2.20 Like the previous iteration of the Onshore Wind Energy Policy Statement, the document recognises that balance is required and that no one technology can allow Scotland to reach its net zero targets. The document is clear that in achieving a balance, environmental and economic benefits to Scotland must be maximised. In taking this approach, this echoes Scotland's Third Land Use Strategy. Benefits to rural areas, such as provision of jobs and opportunities to restore and protect natural habitats, are also highlighted in the document.
- A2.21 The Draft Energy Strategy and Just Transition Plan has been published for consultation. Limited weight can however be applied to the document given its draft status. Unsurprisingly, the material on in the document reflects in large part that contained in NPF4 and the Onshore Wind Energy Policy Statement (OWPS) 2022. A fundamental part of the Strategy is expanding the energy generation sector. The draft Strategy specifically addresses energy networks (page 36) and states "significant infrastructure investment in Scotland's transmission system is needed to ameliorate constraints and enable more renewable power to flow to centres of demand." It states that National Grid has identified the requirement for over £21 billion of investment in GB electricity transmission infrastructure to meet 2030 targets and that over half of this investment will involve Scottish transmission owners SPEN and SSEN. Overall, the draft Energy Strategy forms part of the new policy approach alongside the OWPS and NPF4 and confirms the Scottish Government's policy objectives and related targets reaffirming the crucial role that onshore wind and enabling transmission infrastructure will play in response to the climate crisis which is at the heart of all these policies.

A2.22 To deliver the ambition for onshore wind, the Onshore Wind Sector Deal for Scotland was introduced in September 2023. The document focuses on necessary high level actions by Government and the Sector to support onshore wind delivery. Jointly, Government and the Sector are committed to working together to ensure a balance is struck between onshore wind and the impacts on land use and the environment. The document looks to expediate decision making and consent implementation to achieve 20 GW of installation by 2030, meaning we should be seeing faster decisions on applications that are already in the system, with more consents being built out.