

Agenda Item	5.1
Report No	PLN/087/24

HIGHLAND COUNCIL

Committee: North Planning Applications Committee
Date: 4th December 2024
Report Title: 24/02621/S36: Mey Energy Storage Limited
Land 700M East Of Woodlands, Mey
Report By: Area Planning Manager – North

Purpose/Executive Summary

Description: Installation of a battery energy storage system and associated infrastructure with a generating capacity of up 300mw located on land at Phillips Mains Farm.
Ward: 03 - Wick And East Caithness

Development category: National Development (Application under Section 36 of the Electricity Act 1989)

Reason referred to Committee: Major

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 an OBJECTION** to the application as set out in section 10 of the report

1. PROPOSED DEVELOPMENT

- 1.1 The Highland Council was consulted by the Scottish Government's Energy Consents Unit (ECU) on 12 June 2024 on an application made under Section 36 of the Electricity Act 1989 (as amended) for a Battery Energy Storage Scheme located at Phillips Mains Farm, Mey.
- 1.2 The application is for the installation and operation of a battery energy storage system (BESS) with a generating capacity of up to 300MW, comprising of:
- Approximately 352 containerised battery units with a total export storage capacity of up to 300MW with associated inverters, switchgear units, closed loop cooling units, control units and associated electrical infrastructure mounted on concrete piers;
 - Approximately 88 Power Conditioning Units (PCUs) mounted on concrete piers;
 - A 132 kV transformer, to be enclosed;
 - A building of around 2.5m height to house a low voltage board;
 - A substation;
 - Security palisade fencing around the substation and battery compound with vehicular access gates to the compound entrance;
 - Pole-mounted CCTV cameras;
 - Laying out of a hard surfaced site access tracks connecting all parts of the site and providing access from the local road network;
 - Car parking bays;
 - Uncompacted gravel as a surface cover between the containerised units and equipment;
 - Sustainable Drainage System (SuDS) attenuation and infrastructure;
 - Landscaping and ecological enhancement;
 - Temporary construction compound;
 - Welfare units; and
 - Spares and communications container.
- 1.3 Due to the scheme's expected capacity of up to 300MW of energy storage, this proposal falls under the provisions of The Electricity Act 1989 and is classed as National Development by National Planning Framework 4 (NPF4).
- 1.4 As such, The Council is a statutory consultee on this application which is to be determined by Scottish Ministers. In such circumstances, the Council is invited to provide a consultation response and confirm whether it raises no objection or raises an objection. The Council has been granted an extension of time to respond to the ECU by 11 December 2024, in line with the timescales that allow Officers to present the application to the North Planning Applications Committee's December 2024 Meeting.
- 1.5 Officers have undertaken an assessment of the application as currently proposed and intend to present the Report on Handling to a future North Planning Applications Committee for ratification. In the interim, this report seeks members' authority to raise a timeous objection to the application.

2. SITE DESCRIPTION

- 2.1 The site comprises approximately 10.66 hectares (ha) of agricultural ground, situated adjacent to the public road to north, with a coniferous forestry plantation located adjacently to the west of the site, with the wider area predominantly consisting of agricultural fields. A number of watercourses and field drains are located within and surrounding the site.
- 2.2 The site is not covered by any statutorily protected environmental or landscape designation however the following nature designations are located within 5km of the proposed development:
- Phillips Mains Mire Site of Special Scientific Interest (SSSI) approximately 1.48km from the site to the southeast.
 - Caithness Lochs Special Protection Area (SPA) approximately 2km to the northwest.
 - Loch of Mey Site of Special Scientific Interest (SSSI) approximately 2.2km to the northwest of the proposed development.
 - North Caithness Cliffs Special Protection Area (SPA) approximately 3.2km northeast of the application site.
 - Caithness and Sutherlands Peatlands Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar Site approximately 3.6km to the southeast of the site.
 - Stroupster Peatlands Site of Special Scientific Interest (SSSI) approximately located 3.6km to the southeast of the proposal.
 - Loch Heilen Site of Special Scientific Interest (SSSI) situated 4.8km to the southwest.

3. PLANNING HISTORY

- 3.1 Full details to follow in Report of Handling.

4. PUBLIC PARTICIPATION

- 4.1 Full details of consultations undertaken by the Energy Consents Unit and the Council will be presented within the Report on Handling. This will include details of public adverts, and a summary of public representations and consultation responses received. All letters of representation and consultee responses received by the Council are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Those representations received by the Scottish Government's Energy Consents Unit can be accessed via www.energyconsents.scot It should be noted that some responses may have been submitted to both The Highland Council and Energy Consents Unit.

5. DEVELOPMENT PLAN POLICY AND OTHER MATERIAL POLICY CONSIDERATIONS

- 5.1 This application has been submitted to the Scottish Government under Section 36 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). Although not a planning

application, the Council processes Section 36 applications in a similar manner given that planning permission may be deemed to be granted.

5.2 Schedule 9 of The Electricity Act 1989 contains considerations in relation to the impact of proposals on amenity and fisheries. These considerations mean the developer requires to:

- have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and,
- reasonably mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects.

5.3 It should be noted that for applications under the Electricity Act 1989 that the Development Plan is just one of several considerations, and therefore Section 25 of the Town and Country Planning (Scotland) Act 1997 which requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise, is not engaged. That said, the application still requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

5.4 Appendix 2 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.

6. PLANNING APPRAISAL

The key considerations in this case are:

- a) Compliance with the Development Plan and other Planning Policy;
- b) Energy and Carbon Saving;
- c) Socio-Economic Impacts;
- d) Siting, Design, Landscape and Visual Impacts;
- e) Natural Heritage;
- f) Amenity;
- g) Health and Safety;
- h) Traffic and Transport;
- i) Flood Risk and Drainage;
- j) Decommissioning and Reinstatement; and,
- k) Any Other Material Considerations.

7. Assessment of the Application

- 7.1 Detailed assessment of the application will be presented within the Report on Handling at a later NPAC meeting. From undertaking a site visit and completing a review of the application, it is considered that there is insufficient information submitted with the application at this stage to allow officers to support the proposal. Presently, the submitted landscaping proposal falls short of providing adequate screening to ensure that the proposal will not have an adverse visual impact on its surroundings both once installed and once adjacent forestry is felled. In addition, the landscaping and ecology information submitted so far has failed to demonstrate that the development will result in adequate biodiversity enhancements as required by NPF4 Policy 3b and supported by The Council's Biodiversity Enhancement Planning Guidance
- 7.2 Officers have also requested further information to demonstrate general compliance with the National Fire Chief of England's Guidance for Grid Scale BESS in terms of site layout, access, and health and safety. To that end, the applicant has been asked to provide outline details of both the management of fire risk on site and emergency response measures. The information is requested to demonstrate that the risk of fire is minimised and that any adverse impacts on human health, safety, and the environment in the highly unlikely event of a battery fire have been duly considered and mitigated against consistent with NPF4 Policy 23 for Health and Safety. Further detail of the containment and suppressant of water used for fire suppressant is also required to demonstrate that it will not enter the water environment and will be disposed of in an environmentally responsible manner.
- 7.3 Finally, in line with NPF4 Policies 11e and 25 for Energy and Community Wealth Building respectively, the applicant has been asked to provide further detail to demonstrate how the proposal is consistent with The Council's recently adopted Social Values Charter and provide positive socio-economic outcomes for Highland communities.
- 7.4 Members are asked to agree to raise a timeous objection to the application as presented in Section 10 of this report and as set out for the Energy Consents Unit in Appendix 2. It is advised that adopting this position at this stage does not preclude the Council's right to withdraw its objection at a later date pending review of the additional information as outlined above and requested. In that event, the detailed Report of Handling will be presented to the Committee in due course thereafter and made available to the Energy Consents Unit by no later than seven days following the Committee review.

8. CONCLUSION

- 8.1 The broad principle of energy storage is supported in national and local policy, with considerable potential benefits for energy generation (avoiding or reducing curtailment), diversity, decarbonisation, efficiency and supply and for the economy. However, as this report sets out, there is currently insufficient information provided with the submission for Council Officers to support the proposal and recommend to the Committee that The Council Raises no Objection to Scottish Ministers. The specific concerns relate to the proposal's visual impact as well as landscaping and biodiversity enhancement measures, health, safety, and environmental protection

measures. Members are therefore asked to agree to the recommendation to timeously **Raise an Objection** to the application for the reason set out in Section 10 of this report because, as proposed, there is insufficient information to demonstrate that the development will not result in unacceptable significant and adverse effects on the environment.

9. IMPLICATIONS

9.1 Resource: Not applicable

9.2 Legal: Not applicable

9.3 Community (Equality, Poverty and Rural): Not applicable

9.4 Climate Change/Carbon Clever: The development has potential to contribute to climate change and carbon net-zero targets.

9.5 Risk: Not applicable

9.6 Gaelic: Not applicable

10. RECOMMENDATION

Action required before decision issued: N

It is recommended that Members **Raise an Objection** to the application for the reasons set out below :

1. The application does not accord with the provisions of Section 36 of the Electricity Act 1989 by virtue of failing to adequately demonstrate sufficient regard to the desirability of, and failing to reasonably mitigate effects detrimental to, preserving natural beauty and conserving flora. It has not been adequately demonstrated that the proposal will not result in unacceptable visual impacts, that the proposal will conserve, restore, and significantly enhance biodiversity, or that the proposal will not result in adverse impacts on human health, safety, and the environment. Consequently the proposal is not considered to accord with the provisions of the Development Plan including National Planning Framework 4 policies 3 for Biodiversity and 11 for Energy, 23 Health and Safety, and 25 Community Wealth Building, as well as Highland-wide Local Development Plan Policies 28 for Sustainable Design and 67 for Renewable Energy Developments.

Signature:

Designation: Area Planning manager – North

Author: Liam Burnside

Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 - 000001 Location Plan

Plan 2 - 000002 Site Layout Plan

Appendix 1 – Development Plan and Other Material Policy Considerations

Development Plan

- A1.1 The proposal is National Development 3 (NAD3) - Strategic Renewable Electricity Generation and Transmission Infrastructure.

National Planning Framework 4 (2023)

- A1.2 Policy 1 - Tackling the Climate and Nature Crises
Policy 2 - Climate Mitigation and Adaptation
Policy 3 - Biodiversity
Policy 4 - Natural Places
Policy 5 - Soils
Policy 6 - Forestry, Woodland and Trees
Policy 11 - Energy
Policy 20 - Blue and Green Infrastructure
Policy 22 - Flood Risk and Water Management
Policy 23 - Health and Safety
Policy 25 - Community Wealth Building

Highland Wide Local Development Plan 2012 (HwLDP)

- A1.3 28 - Sustainable Design
29 - Design Quality and Place-making
30 - Physical Constraints
36 - Development in the Wider Countryside
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
61 - Landscape
63 - Water Environment
64 - Flood Risk
65 - Waste Water Treatment
66 - Surface Water Drainage
67 - Renewable Energy Developments
69 - Electricity Transmission Infrastructure
72 - Pollution
73 - Air Quality
77 - Public Access

Caithness and Sutherland Local Development Plan (2018) (CaSPlan)

- A1.4 No site-specific policies apply.

Highland Council Supplementary Planning Policy Guidance

- A1.5 Biodiversity Enhancement Planning Guidance (May 2024)

Construction Environmental Management Process for Large Scale Projects (Aug 2010)
Developer Contributions (Mar 2018)
Flood Risk and Drainage Impact Assessment (Jan 2013)
Highland's Statutorily Protected Species (Mar 2013)
Highland Renewable Energy Strategy and Planning Guidelines (May 2006)
Managing Waste in New Developments (Mar 2013)
Physical Constraints (Mar 2013)
Public Art Strategy (Mar 2013)
Sustainable Design Guide (Jan 2013)
Trees, Woodlands and Development (Jan 2013)

OTHER MATERIAL POLICY CONSIDERATIONS

A1.6 Scottish and UK Government Planning Policy and Other Guidance

Control of Woodland Removal (2009)
Onshore Wind Policy Statement (Dec 2022)
Scottish Energy Strategy (2017)
Draft Energy Strategy and Just Transition Plan (2023)
2020 Routemap for Renewable Energy (Jun 2011)
Energy Efficient Scotland Route Map (May 2018)
PAN 1/2021 – Planning and Noise (Mar 2011)
PAN 68 – Design Statements (Aug 2003)
Health and Safety Guidance for Grid Scale Electrical Energy Storage Systems' (UK Government, Mar 2024)
Grid Scale Battery Energy Storage System Planning – Guidance for Fire and Rescue Service (2023)

Appendix 2 – Letter to the Energy Consents Unit

Appendix 2

	COMPLETE FOR LEGAL AGREEMENTS AND UPFRONT PAYMENTS				REQUIRED FOR LEGAL AGREEMENTS ONLY				
Type	Contribution	Rate (per house)	Rate (per flat)	Total Amount*1	Index Linked ¹	Base Date*2	Payment Trigger*3	Accounting Dates*4	Clawback Period*5
Schools²									
Primary – Build Costs	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Primary – Land Costs	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Secondary – Build Costs	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Secondary – Land Costs	Insert what contribution is for	£0.00	£0.00	£0.00	No		TOC/CC	Apr/Oct	15 or 20
Community Facilities	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS	Q2 2018	TOC/CC	Apr/Oct	15 or 20
Affordable Housing									
On-site provision ³	X units. Insert details of unit size and timescale for delivery if agreed	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Off-site provision ⁴	X units. Insert details of location, unit size and timescale for delivery if agreed	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Commuted Sum ⁵	£0.00 per affordable unit not delivered on/off site. Insert expected timescale for payment - can be in installments	N/A	N/A	£0.00	N/A	N/A	Insert specific payment date	N/A	5 Years
Agreement for Delivery Needed	Y/N. If delivery for affordable housing has not yet been agreed, enter Y and specify the date/timescale that the scheme for delivery is to be submitted for approval	N/A	N/A	N/A	N/A	N/A	Insert date for submission to Planning Authority	N/A	N/A

¹ If the contribution is to be used towards infrastructure projects involving building e.g. new school, new cycle route etc BCIS ALL IN TENDER will be the index, if it doesn't involve building then another appropriate index may need to be chosen with the agreement of Team Leader

² Indicate whether or not 1 bed houses/flats are exempt

³ Indicate whether a penalty payment due for late delivery (and, if so, what it is based upon).

⁴ As above

⁵ Indicate whether a penalty payment is due for late payment of commuted sum (and, if so, what it is based upon)

Type	COMPLETE FOR LEGAL AGREEMENTS AND UPFRONT PAYMENTS				REQUIRED FOR LEGAL AGREEMENTS ONLY				
	Contribution	Rate (per house)	Rate (per flat)	Total Amount*1	Index Linked ¹	Base Date*2	Payment Trigger*3	Accounting Dates*4	Clawback Period*5
Transport									
Active Travel	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Safer Routes to Schools	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Public Realm	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Wayfinding	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Public Transport	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
School Transport	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Road Improvements	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Parking	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
EV Charging	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Traffic Signals	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Lighting	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Road Traffic Orders	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Cumulative Transport Contributions	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Green Infrastructure									
Open Space	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Green Network	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Built/Natural Heritage	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Water and Waste									
Catchment Improvement Works	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Strategic Flood Scheme	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Maintenance of SuDs	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Off Street Waste Storage	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Recycling Point Provision	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Glass Banks	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
		£0.00	£0.00	£0.00					
Public Art	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20
Other (Please Specify)	Insert what contribution is for	£0.00	£0.00	£0.00	BCIS		TOC/CC	Apr/Oct	15 or 20

*1 Adjust total to take account of flat exemptions

*2 Base Date – Set out in Supplementary Guidance on Developer Contributions

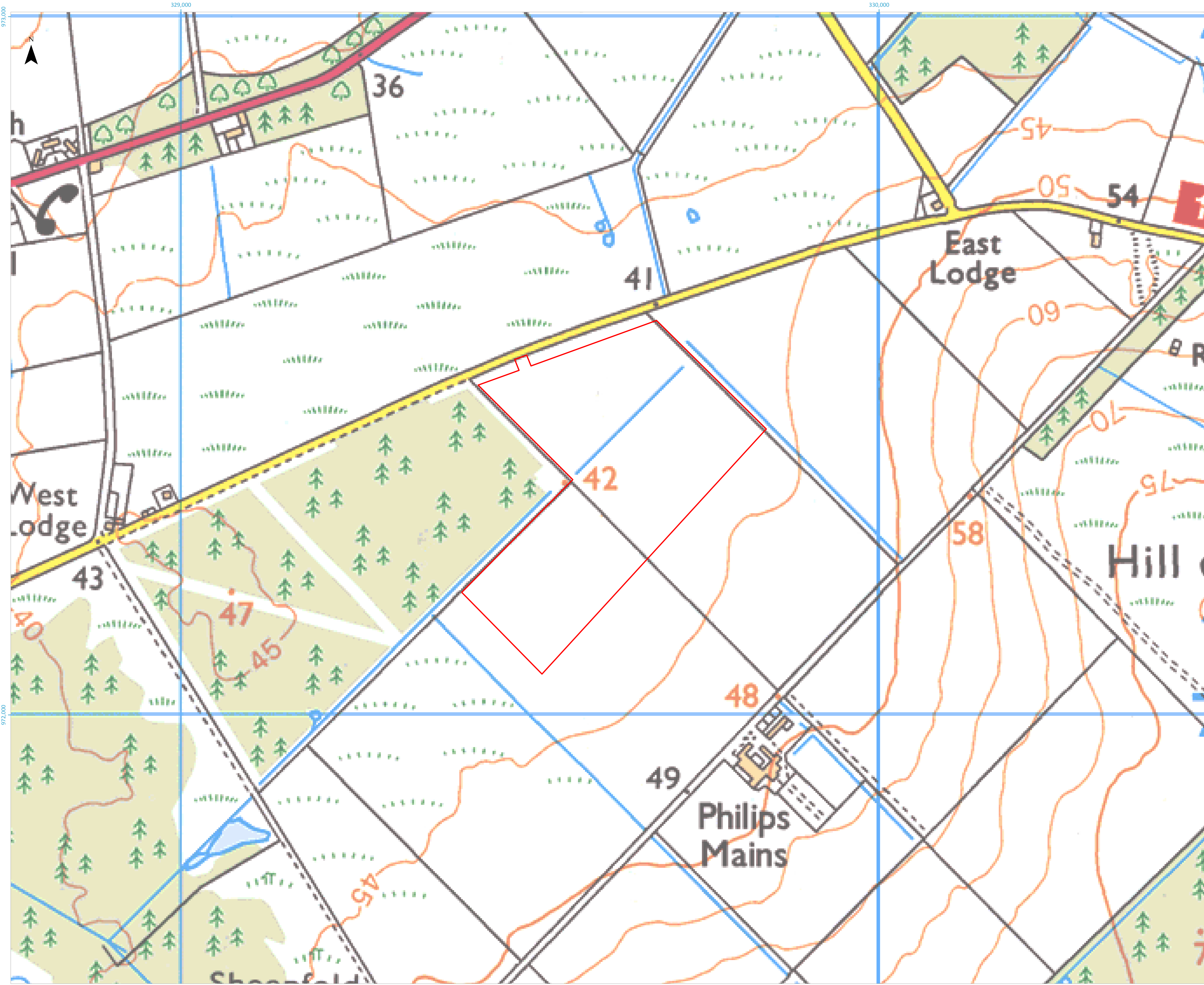
*3 TOC/CC – The earlier of the issue of either a temporary occupation certificate or a completion certificate – or specify alternative time if appropriate

*4 Accounting dates - 1 April and 1 October each year of development (if the contribution is to be paid on a basis other than related to units completed in the preceding 6 months (e.g. lump sum on a specific date) then indicate this instead of the Apr/Oct payment dates)

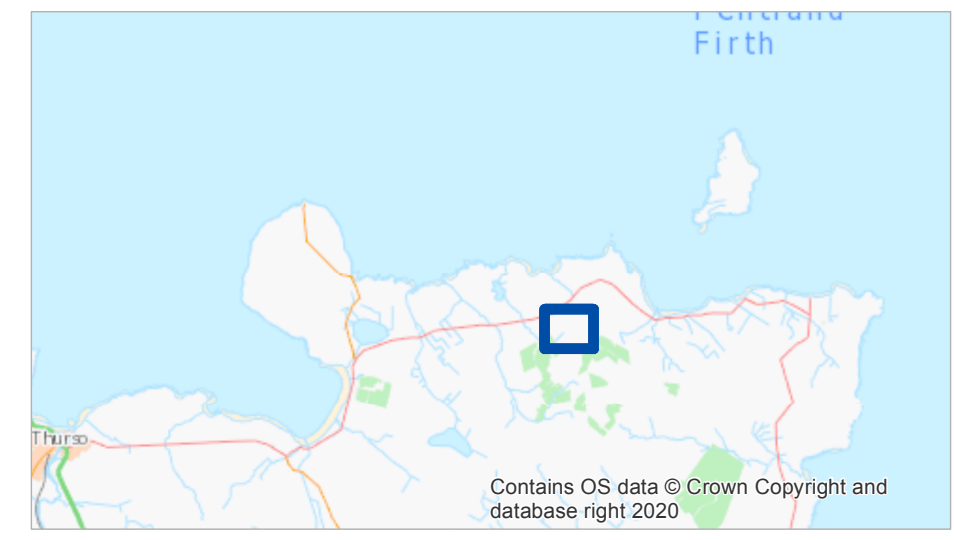
*5 Clawback – 15 years for Major development; 20 years for Local development

Other Legal Agreement requirements

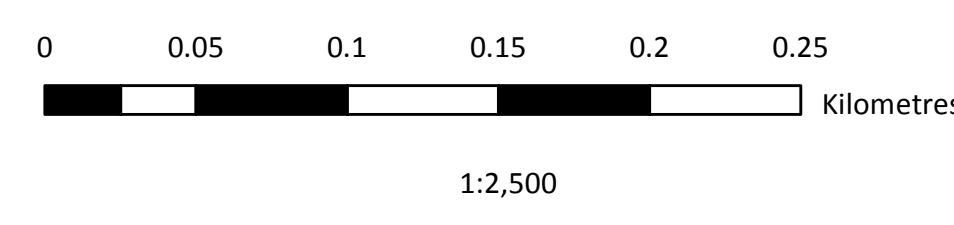
Type	Details
Bond	1. Describe the purpose of the Bond
	2. Specify the amount to be secured
	3. Restriction on Bond provider
	4. Set the review date and mechanism for review
	5. Describe the call on circumstances
	6. Any other relevant details
Habitat Management Plan	1. Describe what the Plan is to cover
	2. Describe the area the Plan is to cover (and provide a plan)
	3. Set the timetable for submission of the Plan
	4. Set the timescale for implementation of the Plan
	5. Describe requirements to consult third parties
	6. Specify the financial contribution (if any)
	7. Specify the clawback period (if any)
	8. Any other relevant details
Road Survey	1. Specify the timescale for the initial survey
	2. Describe which roads are to be surveyed (provide a plan)
	3. Specify an interim survey date (if required)
	4. Specify the final survey requirements and timescale
	5. Any other relevant details
Land and Asset Transfer	1. Describe the area of land / asset to be transferred (provide a plan)
	2. Describe the use of the land / asset
	3. Specify the cost of transfer
	4. Any other relevant details



KEY
 Site Boundary



Coordinate System: British National Grid
 Projection: Transverse Mercator



**Mey BESS
 SEI Report**
**Planning Drawing 1
 Site Location**

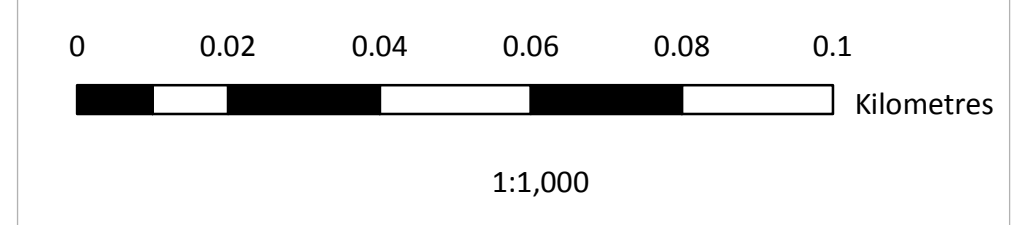
Date: 31/10/2023	Lead: YD	Review: GS	Version: 0.1
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- KEY**
- Site Boundary
 - Battery Containers
 - Power Conditioning Units
 - Communications
 - Spares
 - Welfare Unit
 - Low Voltage Board and Transformer
 - Access Tracks
 - Mixed Native Species Woodland
 - Hedgerow
 - BESS Substation
 - Water Tanks
 - Fence
 - Car Parking Area
 - SuDS Pond
 - Temporary Construction Compound



Coordinate System: British National Grid
 Projection: Transverse Mercator



**Mey BESS
 SEI Report**
**Planning Drawing 2
 Site Layout**

Date: 02/02/2024	Lead: YD	Review: GS	Version: 0.1
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