



## Town and Country Planning (Scotland) Act 1997 Appeal Decision Notice

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Decision by Christopher Warren, a Reporter appointed by the Scottish Ministers

- Planning appeal reference: PPA-270-2321
- Site address: land 500m northeast of Fasnakyle, Cannich, IV4 7NB
- Appeal by Fasnakyle Battery Storage Limited against the decision by the Highland Council
- Application for planning permission 23/04100/FUL dated 25 August 2023 refused by notice dated 20 October 2025
- The development proposed: battery energy storage facility comprising access track, compound of battery and electrical equipment, stores, meter building, water tank, ancillary structures, fencing, security cameras, landscaping bunds, new trees
- Application drawings: listed in schedule at the end of this notice
- Date of site visit by Reporter: 29 April 2026

Date of appeal decision: 28 July 2026

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### Decision

I allow the appeal and grant planning permission subject to the 22 conditions listed at the end of the decision notice. Attention is also drawn to the 3 advisory notes at the end of the notice.

### Environmental Impact Assessment screening

1. The council carried out screening of the proposed development, which concluded that an Environmental Impact Assessment (EIA) would not be required. This screening opinion did not have regard to the potential effects of the required grid connection or potential secondary vehicular access, as these other components did not form part of the planning application for the battery energy storage facility (BES).
2. On 17 February 2026, the decision of the Inner House of the Court of Session in *Raeshaw Farms Ltd v The Scottish Ministers and Energiekontor* ('the Raeshaw decision') established that where there are separate components of development which form a single project, these should be assessed as a single project for EIA purposes. This logically applies to the screening process too, in order to determine whether the overall project would be EIA development. In the Raeshaw decision, reference was made to a list of factors set out in *R (Wingfield) v Canterbury City Council* [2020] JLP 154 ('the Wingfield decision') which may, amongst other factors, be indicative that individual developments would be components of a single project. The considerations identified in the Wingfield decision are common ownership; simultaneous determination; functional interdependence; and stand-alone projects.
3. It remains a matter of judgement for the decision maker in the particular circumstances of the case to determine whether any of these factors, and/or indeed any other considerations, indicate that any other components of development (i.e. beyond what

the application or appeal directly relates to) would be part of a single project. I consider these in turn, whilst remaining mindful that there could also be other relevant factors.

4. Regarding common ownership, the BES and access track both fall within the land control of the appellant, whilst the grid connection would be provided by the electricity transmission network operator (a statutory undertaker) between the appeal site and substation, following the public road. The control which the appellant would have over the access track is a relevant but not decisive factor in itself in considering whether this is part of a single project. Conversely I do not consider the separate ownership of (and responsibility for) the grid connection is necessarily an indicator of this component being a separate project; this is because grid connections are ordinarily provided by the transmission network operator as part of its statutory remit.

5. On the second factor, simultaneous determination, the access track could require planning permission in its own right and, if so, this would need to be sought after the determination of this appeal. Whilst that would create a degree of independence between the BES and access track components, that is narrowed by the fact that a requirement for a secondary access track would only be engaged if required by way of a suspensive condition of planning permission for the BES. The grid connection meanwhile would follow a separate consenting process if indeed consent would be needed, noting that those works may be permitted development depending on its final form.

6. It is my judgement in this case that there is a demonstrable functional interdependence between the proposed BES, grid connection and access track. The BES plainly could not operate without a grid connection, whilst a suspensive condition requiring the provision of the access track would be imposed on the basis that the development's acceptability would be reliant on this track being in place. The access track could perhaps be used solely as an agricultural access, so in a sense its function is not reliant on being part of the BES project, noting that the indicative route seems to align with a route already used by agricultural vehicles. There is nothing to suggest that the upgrading required to serve the proposed development would be required to support any agricultural activity; this is required solely to provide a second access point to the BES.

7. Finally, in considering whether the three components could be considered as standalone projects, there would be no obvious justification for the access track or grid connection to be pursued separately, in the event that the BES was not consented and/or did not go ahead. This is a further indicator that the three components ought to be regarded as part of a single project. Together with their functional interdependency, I conclude that the BES, grid connection and access track ought to all be regarded as one project, and I have not identified any other considerations in this case which might lead me to the opposite finding. I therefore in turn find that any potential for significant environmental effects arising from these components of the development should be considered as a single project.

8. I agree with the findings and conclusion of the council's screening opinion insofar as it considers the main component of the project, being the BES itself. Regulation 7(1) of the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017, which states that the selection criteria set out in schedule 3 of the regulations, together with the results of any available assessments, must be taken into account when determining whether an EIA is required. In further written submissions, the appellant has provided an indicative route which the grid connection would follow. It is not certain whether this would be over or underground (although I understand from submissions that the latter is anticipated), but given the short distance between the site and existing

substation, and as the route follows a metalled road, there is no reason to find that this would be likely to give rise to significant environmental effects.

9. The secondary emergency access track (the need for which I return to below) would principally be formed across agricultural grazing land, mainly following an existing informal route which appears to be used by agricultural vehicles. In my judgement the formation/upgrade of this route might require limited tree felling to enable it to be used by large vehicles such as fire tenders, but noting the otherwise relatively benign characteristics of this component of the project, the existence of an informal route and the limited environmental sensitivity of the grazing land, I consider that the magnitude and spatial extent of any impacts would be limited, and would fall some way short of becoming EIA development individually and/or together with the effects of the overall project.

10. Taking the project as a whole and having regard to the council's earlier screening opinion, there is nothing before me to suggest that the environmental effects of the development would be significant in terms of the criteria outlined in Schedule 3 of the regulations. EIA is not therefore required.

### **Reasoning**

11. I am required to determine this appeal in accordance with the development plan, unless material considerations indicate otherwise. The development plan is principally comprised of National Planning Framework 4 (NPF4) published in 2023, and the Highland-wide Local Development Plan (LDP) adopted in 2012. The Inner Moray Firth Local Development Plan 2 also relates to the area in which the proposed development is situated, but it contains no policies of relevance to my assessment of this appeal.

12. Having regard to the provisions of the development plan, the council's reason for refusal and matters raised in consultation responses and representations, the main issues in this appeal are the development's effects on the character and appearance of the area, residential amenity, loss of trees, and the land use implications of managing fire risk.

13. My assessment is framed in the context of the support in principle for the development, provided by NPF4 policy 11 'Energy'. Proposals for battery energy storage are explicitly given support by part a)(iii) of the policy, subject to the locational limitations and other requirements and considerations of the policy, insofar as these are relevant to the specific proposal. Part (e) of policy 11 instructs that when considering impacts of development, significant weight is to be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets. This is a matter for the overall planning balance once any impacts have been considered. I consider the main issues in this case in turn below.

### **Character and appearance of the area**

14. The appeal site is naturally well contained by the surrounding landform, established tree cover and vegetation. Opportunities for public views into the site are generally very limited and from short-range for this reason. There are currently open views into the site from the public road between Fasnakyle Bridge and the power station, with the northern site boundary following the road.

15. The development would incorporate a landscaped bund and timber solid gates along the northern site boundary, which would also include tree planting along its length. Photomontages have been submitted, which gives an indication of the appearance of the

bund and the screening it would provide. A similar approach would also be adopted within the site on the west side of the BES to screen potential glimpsing views of the equipment from the Glen Affric road and residential properties along that road.

16. I recognise that bunding of this nature would alter the appearance of the immediate locality. The extent to which this would ultimately appear to be 'natural' would depend to some degree on the effectiveness of its profiling; this is a matter which the council has already sought to address and the appellant has revised the proposed bund profile during the course of the application. The proposed native tree planting would assist greatly in this regard too. The open aspect into the site from the road would be lost, but I do not consider this would significantly alter the character or visual amenity of this location.

17. The character of Fasnakyle is already heavily influenced by energy infrastructure, including the listed power station building, beyond which is a substation and substantial pylon towers. The proposed development would therefore be somewhat less incongruous than if it were to be sited in a rural area where no such infrastructure was already present. The presence of other existing infrastructure (in particular the substation and pylons) does give greater potential for the proposed development to give rise to adverse cumulative effects on the character and visual amenity of the locality, but this potential would be successfully mitigated through the natural containment of the site together with the proposed landscaping and planting schemes.

18. In this case, in my assessment the landscape and visual effects of the proposed development would be highly localised. Representations have stressed the importance of this locality, situated at the beginning of the road towards Glen Affric, a National Scenic Area, which is also popular with visitors to the area. However, I find the influence of the existing substation and overhead lines to be substantially greater than any visual impact that could become attributable to the proposed BES. Given also the very limited visibility into the appeal site, and screening measures to be implemented, I do not consider it capable of having a significant effect on the character and appearance of the locality, or perceptions of the wider area by people passing through on their way to and from Glen Affric.

19. On this basis, I find the proposal would accord with the relevant provisions of NPF4 policy 11 and LDP policy 67 'Renewable energy developments', in that landscape and visual effects would be highly localised, and the mitigation through landscaping and tree planting would be effective in minimising any residual effects of this type.

#### Residential amenity

20. There are outlying residential properties immediately to the north, north east, and west of the proposed BES. I conducted my unaccompanied site inspection when trees had begun to come into leaf, but before their canopies provided denser screening. The properties Tigh na Braden and Fasnakyle Church (the latter of which appears to be in the process of being converted into a dwelling) would potentially have partial visibility of the development, although this would be limited by the proposed bunds and intervening existing and additional tree planting. The separation distance, elevation and orientation of these properties relative to the proposed BES also lead me to the finding that the development would not be capable of significantly affecting residential visual amenity, nor would there be any possibility of the development becoming overbearing or overwhelming in the limited outward views from these properties or their garden ground into the appeal site. Any effects from other properties further to the southwest on the Glen Affric Road would be less still. The recently constructed property to the north east would be unlikely to have any visibility of

the BES given the position of the intervening landscaping bund and tree planting. I acknowledge that the outlook from the house towards the site would be altered by the proposed bund and additional planting, but I do not consider that this would meaningfully affect residential amenity.

21. Noise and disturbance during construction works, which would be a temporary effect, could be managed effectively through the use of planning conditions. BES developments also typically generate some operational noise from electrical equipment and cooling systems. Operational noise is however assessed as falling below background noise levels, and the council has proposed conditions to both require adherence to a specified noise limit and to require a noise management plan prior to the commencement of development, in order to demonstrate how compliance with that noise limit would be achieved. These requirements would together provide a robust and enforceable safeguard against any significant noise effects occurring at any residential property, thereby according with the relevant provisions of NPF4 policy 11 and LDP policy 67.

#### Loss of trees

22. Whilst the footprint of the proposed BES would be located on generally open ground, it would be necessary to fell 39 trees for the development to be accommodated. An arboricultural impact assessment has been undertaken, and a tree planting plan forms part of the proposal.

23. The woodland on the eastern flank of the appeal site is identified in the ancient woodland inventory. The footprint of development would not affect this part of the site however, which would be situated centrally on more open land. The trees that would need to be felled are more sporadic small groups and individual specimens. These do include one veteran tree. Substantial new tree planting is proposed, comprising of 2,092 trees over 8279 square metres of land. Active management of existing woodland is also proposed.

24. The proposal is partly supported by the terms of NPF4 policy 6 'Forestry woodland and trees', with part (a) supporting development that enhance, expand and improve woodland and tree cover. There is conflict with part (b)(i) given the loss of a veteran tree. Taking policy 6 in the round though, I consider that the proposed planting of trees is sufficiently substantial to outweigh the loss of a single veteran tree (together with 38 other trees), and the proposal would align with the overarching policy intent of protecting and expanding forests, woodland and trees. The proposal is also in accordance with LDP policy 51 'Trees and development'.

#### Fire risk

25. Representations raise concerns over the risk of fire at the facility. However, there is no evidence before me to indicate that a BES facility is likely to result in a fire, and it is not for the planning system to manage fire risk in any event; there are other regulatory regimes which address this matter.

26. As with almost any form of development, the possibility of a fire incident cannot be ruled out entirely. The particular characteristics of a battery fire are such that sites need to be planned in such a way that should an incident occur (regardless of how unlikely that may be), it can be dealt with effectively and safely. This becomes relevant in this appeal where there are land use planning implications associated with providing these safeguards.

27. In this case, the main matter is whether a second vehicular access would be needed, to enable fire tenders to enter the site without impediment regardless of the exact location of a fire or the wind direction. I sought further written submissions from the appellant and council on the implications of the updated 'Grid scale energy storage system planning - Guidance for fire and rescue services' document published by the National Fire Chiefs Council in February 2026.

28. The appellant does not consider a secondary access to be necessary on the basis that a fire tender could loop around the compound using the access point proposed as part of this application and appeal. This has not been clearly demonstrated in the plans, but setting that aside, I attach weight to the importance of there being unimpeded access for emergency vehicles, and the clearly stated preference for there to be two separate access points outlined in the guidance, so that access can be achieved without passing through a vapour or gas cloud, regardless of wind direction.

29. On this basis I agree with the council's suggestion that a suspensive condition ought to be used to require a secondary access point to be provided. The appellant has indicated how this might be achieved, but this would require the planning authority's separate approval. I have not given detailed consideration to the potential acceptability of that secondary access, and the outcome of this appeal does not fetter the decision-making for that necessary component of the overall project.

30. In all other regards, the appeal proposal would align with the foregoing guidance. This includes provision of a water tank, adequate offset between the BES units and occupied buildings and vegetation to minimise the possibility of any fire spreading. The council has suggested conditions that would require a fire risk management plan, emergency response procedures and battery safety management plan to be submitted. None of these matters give rise to or address any land use planning implications and are not relevant planning matters. The matters that these conditions would address are also the subject of other regulatory regimes so are unnecessary; the planning system should not duplicate other responsibilities or regulatory requirements. I do not consider that those conditions are capable of satisfying all six tests specified in Circular 4/1998 'The use of conditions in planning permissions' and particularly the tests of necessity and relevance to planning.

#### Other matters

31. NPF4 policy 3 'Biodiversity' requires major development to conserve, restore and enhance biodiversity so that it is left in a better state than without intervention. Part (b) of the policy provides criteria to be satisfied. The site is not the subject of any nature conservation designations, and the submitted ecology report and biodiversity report do not identify any effects on nature interests that cannot be successfully minimised or mitigated. It is proposed to create 21,666 square metres of new habitat together with a further 13,310 square metres of enhancement to existing habitat. Subject to conditions to secure this provision, I find that the proposed development would provide relatively significant biodiversity enhancements, in accordance with policy 3.

32. Detailed matters relating to surface water management (including containment of any polluted water used to suppress any fire incident), construction traffic routing, lighting, and plans for any potential decommissioning and site restoration are also capable of being satisfactorily addressed using conditions.

33. The proposal is located approximately 130 metres south of the category A-listed Fasnakyle Power Station. Fasnakyle Bridge is category B-listed and around 80 metres to the north east of the site boundary. Special regard must be had to the desirability of preserving the setting of the listed buildings and any special features of historic or architectural interest which they possess. I am satisfied from my site inspection that the development would be visually well-contained and sufficiently set back from both of these listed assets to avoid any potential adverse effects upon their respective settings.

34. Notwithstanding the overarching support in principle for BES proposals provided by policy 11, part (c) of the policy states that development proposals will only be supported where they maximise net economic impact. As recognised by the appellant, the opportunity for locally discernible economic benefit is likely to be limited to the construction phase of development, with BES facilities requiring limited on-site presence when operational, given the nature of the facility and the ability for the site to be controlled and monitored remotely.

35. The council has requested that a suspensive condition be attached to any consent, to require a local employment scheme to be submitted and agreed by it. The appellant has not objected to the use of such a condition, but I must also satisfy myself that any conditions meet the tests established by Circular 4/1998. I can see the logic behind the council's view that such a condition helps a conclusion to be reached that the net economic impact would be maximised as sought by policy 11(c), but the comfort that a condition might provide is not sufficient justification for the condition in itself; it may still be overreaching in terms of what can reasonably be sought through the planning system. I am firmly of the view that how a developer may elect to advertise jobs, how it might select candidates, or how it may intend to provide training for its employees are not matters for a planning authority to legitimately concern itself with or seek to control. Policy 11(c) draws upon matters such as overall predicted job creation, which is plainly a relevant planning consideration. In contrast, I cannot see how the terms of policy 11(c) could justify planning controls over an employer's recruitment process; in my view that is not a planning matter at all.

36. Whilst I do not consider such a condition to be appropriate for these reasons, I also cannot confidently state that the net economic impact of the development would be 'maximised', as this is not defined or elaborated further. I would go as far as to say that the predicted economic benefits are of a scale which could fairly be anticipated for a development of this nature and scale. Ultimately, it must also be borne in mind that the economic impact of the development is not the driving force behind the policy support for BES schemes provided by policy 11.

### Overall conclusions

37. Whilst BES facilities are not true generators of renewable energy, they enable renewable energy to be stored at times when there is a surplus supply, which can then be released to the grid when there are peaks in demand, thereby reducing reliance on fossil fuels in such circumstances. The proposed development would have a capacity of up to 50 megawatts, and I attach significant weight to the contribution this would make to targets for renewable energy generation and a reduction in greenhouse gas emissions.

38. Based on my assessment, I find that there would be limited adverse effects from the development, with measures proposed to effectively mitigate landscape and visual effects and loss of trees. In regard to woodland and biodiversity interests, the proposal would offer a relatively substantial net enhancement. All told, I find the proposal to accord with NPF4

policy 11 overall, and which I consider to be the principal policy in determining the acceptability of this development.

39. I therefore conclude, for the reasons set out above, that the proposed development accords overall with the relevant provisions of the development plan and that there are no material considerations which would still justify refusing to grant planning permission. I have considered all the other matters raised, but there are none which would lead me to alter my conclusions.

40. The conditions listed below reflect those proposed by the council, but I have omitted conditions relating to fire risk management, emergency procedures and battery safety, together with the 'local employment scheme' condition for the reasons already given. I have made a limited number of other minor changes to conditions in the interests of precision and enforceability.

*Christopher Warren*  
Reporter

## Conditions

### 1. Commencement of development

The development to which this planning permission relates must commence within THREE YEARS of the date of this decision notice. If development has not commenced within this period, then this planning permission shall lapse.

Reason: In accordance with Section 58 of the Town and Country Planning (Scotland) Act 1997 (as amended).

### 2. Accordance with the Provisions of the Application

1) Permission is hereby granted for the erection and operation of a Battery Energy Storage System (BESS) with the following elements approved under this permission:

- 28 energy storage modules, similar to shipping containers, each measuring approximately 7.6m long by 2.6m wide by 2.9m high, situated above ground;
- 14 paired transformers/converters alongside each pair of battery units;
- Switchroom/electrical control building measuring 22m long by 7m wide and 2.8m high;
- Equipment store measuring 11.4m long by 2.4m wide by 2.5m high;
- Pre-fabricated GRP Meter building measuring 13m long by 6m wide by 3.2m high and on a plinth 0.2m above ground level;
- Water tank measuring 10m long by 10m wide by 3m high;
- Access track;
- 3m high weldmesh security fencing on SE and half of the SW side;
- Solid timber fence to all other sides, ranging in height from 3m to 4.3m;
- Solid wooden security fence and gates;
- Deer fencing of 1.8m height on the roadsides;
- Landscape bunds up to 3m in height to scree the site from surrounding roads and properties;
- Filtration basin and fire water run-off pond;

- Hard surfacing with gravel filter trenches within the main BESS area measuring approximately 105m by 45m;
- External lighting for infrequent use during maintenance periods and infrared security lighting and security cameras.

(2) Prior to the final commissioning of the development hereby approved, all elements of the development that relate to Part (1) above, and as approved in writing by the Planning Authority under Condition 3 below, along with site drainage infrastructure, site security measures, and fire safety measures including the means of containment of fire suppressant materials shall be constructed and installed in full, made available for use, and thereafter maintained for this use for the lifetime of the development.

(3) In the event of the Development not storing and supplying electricity on a commercial basis to the grid network for a continuous period of 12 months from 50% or more batteries installed and commissioned from time to time, the Company shall immediately notify the Planning Authority in writing of that situation and shall, if the Planning Authority direct in writing, decommission the development and reinstate the site to the specification and satisfaction of the Planning Authority in accordance with an approved Decommissioning, Restoration, and Aftercare Plan, which shall be based on the principles of the Decommissioning, Restoration, and Aftercare Strategy approved under Condition 4 of this permission and updated according with the relevant guidance and best practice at the time. The Planning Authority shall have due regard to the circumstances surrounding the failure to store electricity.

(04) At the time of the development's decommissioning, the development shall be decommissioned, the site restored, and aftercare undertaken in accordance with the approved Decommissioning, Restoration, and Aftercare Plan.

Reason: In order to clarify the terms of the planning permission and ensure the development proceeds as approved. To secure the decommissioning and removal of the development in an appropriate and environmentally responsible manner along with the restoration of the site in the interests of safety, amenity, and environmental protection.

### **3. Final Layout, Design, and Specifications**

(1) No development shall commence unless and until full siting and design details of the development including all proposed battery cabinets, buildings, and ancillary infrastructure hereby permitted, have been submitted to, and approved in writing by, the Planning Authority. These details shall include:

- a) the make, model, design, power rating, sound power level of the batteries, the dimensions of the battery storage cabinets and ancillary infrastructure, control building, storage and office facilities to be installed, and show separation distances between battery storage units which shall comply with the prevailing fire safety legislation and best practice guidelines at the time of installation.
- b) the external colour and/or finish of the storage containers, buildings, and ancillary infrastructure on site, which shall have a dark-neutral, non-reflective, semi-matte finish.
- c) Dimensioned plans (and swept path) showing access and turning within the site to enable safe access/egress in a forward gear.

d) Dimensioned plans showing the parking layout and a statement justifying the parking provision during construction.

e) Details of an additional vehicular access point for the purposes of firefighting as required by the terms of condition 14.

(2) No element of the development shall have any text, sign or logo displayed on any external surface, save those required by law under other legislation.

(3) Thereafter, the storage cabinets, buildings, and ancillary infrastructure shall be installed and operated in accordance with these approved details and, with reference to part (b) above, the storage containers, buildings, and ancillary infrastructure shall be maintained in the approved colour, free from rust, staining or discolouration until such time as the development is decommissioned. All cables between the storage containers, buildings, and ancillary infrastructure shall be installed and kept underground.

Reason: To ensure the Planning Authority is aware of the development details and to protect the visual amenity of the area.

#### **4. Decommissioning, Restoration, and Aftercare**

(1) No development shall commence unless and until a Decommissioning, Restoration, and Aftercare Strategy has been submitted to, and approved in writing by, the Planning Authority. The strategy shall outline measures for the decommissioning of the development along with the restoration and aftercare of the site, and shall include proposals for the removal of individual components of the development as well as the development as a whole as well as the treatment of ground surfaces, and, the management and timing of the works and environmental management provisions which shall include, but not be limited to, the following:

a) site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);

b) details of measures to be taken to prevent loose or deleterious material being deposited on the local road network, including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;

c) a pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;

d) details of measures for soil storage and management;

e) a surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;

f) temporary site illumination;

g) management and timing of the works; and

h) a traffic management plan to address any traffic impact issues during the decommissioning period.

Reason: To ensure the decommissioning and removal of the development, along with the site's restoration in an appropriate and environmentally responsible manner in the interests of safety, amenity, and environmental protection.

## **5. Financial Guarantee**

No development shall commence until:

(1) Full details of a guarantee, bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures outlined in the Decommissioning and Restoration Plan approved under Condition 4 of this permission have been submitted to, and approved in writing by, the Planning Authority. For the avoidance of doubt the bond shall be able to be called upon by The Highland Council and be enforceable against the operator and landowner and/or leaseholder; and

(2) Confirmation in writing by a suitably qualified independent professional that the amount of financial provision proposed under part (1) above is sufficient to meet the full estimated costs of all decommissioning, dismantling, removal, disposal / recycling, site restoration, remediation and incidental work, as well as associated professional costs, has been submitted to, and approved in writing by, the Planning Authority; and

(3) Documentary evidence that the guarantee, bond or other financial provision approved under parts (1) and (2) above is in place has been submitted to, and confirmation in writing that the financial provision is satisfactory has been issued by, the Planning Authority;

(4) Thereafter, the Operator, and Leaseholder and/or Landowner, shall:

a) Ensure that the guarantee, bond or other financial provision is maintained throughout the duration of this permission; and

b) Pay for the guarantee, bond or other financial provision to be subject to a review five years after the commencement of development and every five years thereafter until such time as the development is decommissioned and the site restored.

(5) Each review shall be:

a) conducted by a suitably qualified independent professional; and

b) published within three months of each five-year period ending, with a copy submitted upon its publication to both the landowner(s) and the Planning Authority; and

c) approved in writing by the Planning Authority without amendment or, as the case may be, approved in writing by the Planning Authority following amendment to their reasonable satisfaction.

Where a review approved under part (c) above recommends that the amount of the guarantee, bond or other financial provision should be altered (be that an increase or decrease) or the framework governing the bond or other financial provision requires to be amended, the Operator, and Leaseholder and/or Landowner shall do so within one month of receiving that written information, or another timescale as may be agreed in writing by the Planning Authority, and in accordance with the recommendations contained therein.

Reason: To ensure that there are sufficient funds to secure the implementation of the Decommissioning, Restoration, and Aftercare Plan at the time of the development's decommissioning.

## **6. Drainage**

No development shall commence until details of the final drainage design (including final ground levels and discharge rates information) have been submitted to, and approved in writing by, the Planning Authority, which shall include measures for the testing of spent fire suppressant water and where necessary its containment and disposal, as well as calculations to demonstrate that all storm events up to the 1 in 200 year plus climate change storm event shall be managed from within the application site boundary. Details shall include a methodology in respect of contamination testing and the range of disposal methods, as well as full details of each proposed disposal method (e.g. on-site treatment and controlled release, conveyance from the site via tanker vehicle etc). Thereafter, the development shall be constructed in accordance with the approved details, which shall be made available for use prior to the development's first occupation and maintained in perpetuity.

Reason: In order to ensure the site is adequately drained in accordance with the principles of Sustainable Urban Drainage Systems.

## **7. External Lighting**

No development shall commence until full details of any external lighting to be used within the site and/or along its boundaries and/or access have been submitted to, and approved in writing by, the Planning Authority. Such details shall include full details of the location, type, angle of direction and wattage of each light which shall be so positioned and angled to prevent any direct illumination, glare or light spillage outwith the site boundary. The details shall not include dusk to dawn external lighting and shall include any proposals for infra-red lighting and arrangements for use of external lighting during maintenance periods. Thereafter only the approved details shall be implemented.

Reason: In the interests of visual amenity, to prevent permanent lighting and minimise light pollution and to ensure the development does not have an adverse impact on residents and nocturnal animals.

## **8. Habitat Management Plan (HMP)**

(1) No Development shall commence unless and until a Habitat Management Plan (HMP) has been submitted to, and approved in writing by, the Planning Authority. The HMP shall set out the proposed habitat management of the site including full details of biodiversity enhancement measures.

(2) The HMP shall provide for the maintenance, monitoring, and reporting of the habitat within the HMP area.

(3) The HMP shall include provision for regular monitoring and review to be undertaken against the HMP objectives and measures for securing amendments or additions to the HMP in the event that the HMP objectives are not being met.

(4) Unless and until otherwise agreed in advance in writing with the Planning Authority, the approved HMP (as amended from time to time with written approval of the Planning

Authority) shall be implemented within 12 months of following ground works commencing on site and shall remain in place for a minimum of 30 years.

(5) GIS shapefiles of HMP areas shall be supplied with the HMP to the Planning Authority prior to the commencement of any works.

Reason: To ensure that the development secures positive effects for biodiversity in accordance with NPF4 and to allow the Planning Authority to map areas of compensation and enhancement.

## **9. Biodiversity Net Gain**

No development shall commence until details of a scheme of hard and soft landscaping works have been submitted to, and approved in writing by, the Planning Authority. Details of the scheme shall include:

- a) All earthworks and existing and finished ground levels in relation to an identified fixed datum point;
- b) A plan showing existing landscaping features and vegetation to be retained;
- c) The location and design, including materials, of any existing or proposed bunds, walls, fences and gates;
- d) All soft landscaping and planting works, including plans and schedules showing the location, species and size of each individual tree and/or shrub and planting densities;
- e) A programme for preparation, completion and subsequent on-going maintenance and protection of all landscaping works;
- f) Measures to ensure no trees are within 10m of a BESS unit, and maintenance regimes ensure a 10m set back is maintained between trees and any BESS unit, unless otherwise approved in writing by the Council as Planning Authority. Landscaping works shall be carried out in accordance with the approved scheme. All planting, seeding or turfing as may be comprised in the approved details shall be carried out in the first planting and seeding seasons following the commencement of development, unless otherwise stated in the approved scheme. Any trees or plants which within a period of five years from the completion of the development die, for whatever reason are removed or damaged shall be replaced in the next planting season with others of the same size and species.

Reason: In the interests of Biodiversity Net Gain.

## **10. Species Protection**

(1) No development or Site Enabling Works shall commence until preconstruction ecological surveys are undertaken, which shall be undertaken at the appropriate time of year and no more than 3 months prior to works commencing on site, and a report of the survey has been submitted to, and approved in writing by, the Planning Authority. The surveys shall cover the application site including an appropriate buffer from its boundary.

(2) In the event that works are intended to be carried out within the main bird breeding season, March through August inclusive, surveys for ground nesting birds shall be

undertaken no more than 24 hours prior to any works commencing on site including site clearance works.

(3) Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

Reason: In the interest of protecting ecology, protected species including nesting birds, and their habitats.

## **11. Construction Environment Management Plan (CEMP)**

No development shall commence until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved CEMP, subject to any variations approved in writing by the Planning Authority. The CEMP shall include:

- a) details of the phasing of construction works;
- b) details of any temporary site construction compound including temporary structures/buildings, fencing, parking and storage provision to be used in connection with the construction of the development;
- c) details and implementation and a timetable for post construction restoration/reinstatement of the temporary working areas, and the construction compound;
- d) details of the method of construction and erection of the structures and any underbuilding/platforms;
- e) details of pollution control: protection of the water environment, bunding of fuel storage areas, surface water drainage, sewage disposal and discharge of foul drainage;
- f) details of temporary site illumination during the construction period;
- g) details of timing of works;
- h) details of surface treatments and the construction of all hard surfaces and access tracks between each element of the proposed development This shall include details of the tracks in a dark, non-reflective finish with details of the chemical properties of any and all imported stone provided;
- i) details of routeing of onsite cabling;
- j) details of emergency procedures and pollution response plans;
- k) siting and details of wheel washing facilities;
- l) cleaning of site entrances, site tracks and the adjacent public highway and the sheeting of all HGVs taking spoil or construction materials to/from the site to prevent spillage or deposit of any materials on the highway;

m) details of working practices for protecting nearby residential dwellings, including general measures to control noise and vibration arising from on-site activities, to be adopted as set out in British Standard 5228 Part 1: 2009;

n) a Species Protection Plan;

o) details of measures to reduce the risk of invasive non-native species being introduced/spread, such as via SUDs or contaminated vehicles from other sites;

p) details of areas on the site designated for the storage, loading, off-loading, parking and manoeuvring of heavy duty plant, equipment and vehicles; and,

q) details of how the best practicable measures will be implemented to reduce the impact of construction noise at noise sensitive locations.

Reason: To ensure that construction works are undertaken in accordance with applicable standards in the interests of environmental protection, amenity, and safety.

## **12. Environmental Clerk of Works (EnvCoW)**

An Environmental Clerk of Works (EnvCoW) will incorporate the roles of an Ecological Clerk of Works (ECoW).

There shall be no Commencement of Development unless and until the terms of appointment of an independent Environmental Clerk of Works (EnvCoW) by the Company have been submitted to, and approved in writing by, the Planning Authority. This shall include a EnvCoW schedule, detailing when the EnvCoW shall be present on site. For the avoidance of doubt, the EnvCoW shall be appointed as a minimum for the period from the commencement of development to the final commissioning of the development and their remit shall, in addition to any functions approved in writing by the Planning Authority, include (but not be limited to):

a) Impose a duty to monitor compliance with the environmental commitments provided in the EIA Report as well as the following (the EnvCoW works):

- i. the Pre-Construction Ecological Survey under Condition 10;
- ii. the Construction Environment Management Plan (CEMP) under Condition 11;
- iii. the Habitat Management Plan under Condition 8.

b) Providing training to the developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;

c) Require the EnvCoW to report to the nominated construction project manager any incidences of non-compliance with the EnvCoW works at the earliest practical opportunity;

d) Require the EnvCoW to report to the Planning Authority any incidences of non compliance with the EnvCoW Works at the earliest practical opportunity

e) Maintain a Register of all inspections and audits, to include an inventory of all measures on the site, their effectiveness, as well as any advice provided;

f) Require the EnvCoW to report to the Planning Authority monthly, with a concise summary of the actions on site.

g) Require a statement that the EnvCoW shall be engaged by the Planning Authority but funded by the developer. The EnvCoW shall be appointed on the approved terms throughout the period from Commencement of Development to completion of construction works and post-construction site reinstatement works.

Reason: To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development during the construction phase.

### **13. Construction Traffic Management Plan (CTMP)**

(1) No development shall commence on site until a Construction Traffic Management Plan has been submitted to, and approved in writing by, The Council in consultation with Transport Scotland. The Construction Traffic Management Plan shall include:

a) Identification of the routes to site for general construction traffic and details of the number and type of vehicle movements anticipated on these routes during the construction period. This shall demonstrate that construction traffic will not use the C1110 road east of Fasnakyle Bridge and include appropriate traffic management measures on the C1110 between the site and the A831 road at Cannich;

b) Scheduling and timing of movements, avoiding local school peak travel times, and any large public event taking place in the local area which would be unduly affected or disrupted by construction vehicles using the public road network;

c) Traffic management measures on the routes to site for construction traffic including details of traffic management proposals to prevent HGVs meeting on the private access to the site or at its junction with the public road. In addition, measures such as temporary speed limits, suitable temporary signage, road markings and the use of speed activated signs and banksman/escort details shall be considered. During the delivery period of construction materials any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed shall be undertaken by a recognised Quality Assured traffic management consultant, to be approved by the Local Roads Authority before delivery commences;

d) Measures to mitigate the impact of general construction traffic on the routes to site following detailed assessment of the relevant roads;

e) A procedure for condition surveys of the site access and construction traffic routes along with the regular monitoring of road conditions and the implementation of any remedial works required during the construction period;

f) Measures to ensure that all affected public roads are kept free of mud and debris arising from the development;

g) Provisions for emergency vehicle access;

h) A timetable for implementation of the measures detailed in the CTMP; and

i) Identification of a nominated person to whom any road safety issues can be referred and measures for keeping local Community Councils informed and dealing with queries and any complaints regarding construction traffic.

(2) In the event that Abnormal Indivisible Loads (AIL) are required, prior to the delivery of any AIL to the site, the CTMP shall be updated to include the proposed route for any AIL on the public road network along with any accommodation measures required, including the removal of street furniture, junction widening, and traffic management measures. Thereafter the approved CTMP shall be implemented in full prior to development commencing and remain in place until the development is complete.

Reason: In the interest of road safety and to mitigate any impacts of construction traffic and the delivery of abnormal loads on the public road network.

#### **14. Site Access**

No development shall commence until full details including fully dimensioned and annotated plans of both the site access with the C1110 public road and a secondary emergency vehicular access to approach from the south of the BES have been submitted to, and approved in writing by, the Planning Authority. Such details shall include (but may not be limited to):

- i. carriageway and verge widths;
- ii. junction radii geometry with swept path analysis to demonstrate the accesses can accommodate the largest vehicles anticipated to use it;
- iii. details of surfacing materials, which shall include at least the first 6m of the access from the edge of the public road to be surfaced with a bound bituminous material;
- iv. any amendments to the public road drainage arrangements; and,
- v. suitable visibility splays in both directions from 2.4m setback from the carriageway edge.

Thereafter, the approved access arrangements shall be completed in full and both required vehicular access points shall be made available for use prior to the first occupation of the development and maintained for this use in perpetuity.

Reason: In the interests of road safety, and in accordance with the applicable standards including for emergency access.

#### **15. Water Supply**

No development shall commence until full details of the water supply to serve the development for the suppression of fire have been submitted to, and approved in writing by, the Planning Authority. These details shall demonstrate:

- a) confirmation from Scottish Water that sufficient capacity is reserved at its water treatment plant to serve the development; or,
- b) that the development can be sufficiently served by a private water supply through an appraisal specifying the means by which a water supply shall be provided and thereafter maintained to the development.

This appraisal, which shall be carried out by an appropriately qualified person(s), shall demonstrate that the sufficiency of any other supply in the vicinity of the development, or any other person utilising the same source or supply, will not be compromised by the proposed development. The development itself shall not be occupied until the supply has been installed in accordance with the approved specification.

Reason: To ensure that an adequate water supply can be provided to meet the requirements of the proposed development and, where relevant, without compromising the interests of other users of the same or nearby private water supplies.

## **16. Construction Noise and Vibration**

1. Prior to construction commencing the applicant shall submit, for the written approval of the Planning Authority, a construction noise/vibration mitigation scheme which demonstrates how the applicant/contractor will ensure the best practicable measures are implemented in order to reduce the impact of construction noise and vibration. The assessment should include but is not limited to the following: -

- A description of the most significant noise sources in terms of equipment;
- processes or phases of construction.
- The proposed operating hours and the estimated duration of the works for each phase.
- A detailed plan showing the location of noise sources, noise sensitive premises and any survey measurement locations (if required).
- A description of noise mitigation methods that will be put in place including any proposals for community liaison. The best practice found in BS5228 Code of practice for noise and vibration control on construction and open sites should be followed. Any divergence requires to be justified.

Thereafter the development shall progress in accordance with the approved Construction Noise/Vibration Mitigation Scheme and all approved mitigation measures shall be in place prior to construction commencing or as otherwise may be agreed in writing by the Planning Authority.

Reason: In the interests of local amenity.

## **17. Dust Mitigation**

Prior to the development commencing, the applicant shall submit, for the written approval of the Planning Authority, details of a dust mitigation scheme designed to protect neighbouring properties from dust arising from the construction of this development.

Thereafter the development shall progress in accordance with the approved dust suppression scheme and all approved mitigation measures shall be in place prior to construction commencing or as otherwise may be agreed in writing by the Planning Authority.

Reason: In the interests of local amenity.

## **18. Operational Noise**

The Rating Level of noise arising from this development as determined in accordance with BS4142:2014+A1:2019 'Method for rating and assessing industrial and commercial sound' shall not exceed 35dB(A) at the curtilage of any noise sensitive receptor.

Prior to the commencement of any works, a revised noise impact assessment shall be submitted to and approved in writing by the Planning Authority,

demonstrating that the development hereby consented will comply with the above prescribed noise limit. Thereafter the development shall proceed in accordance with the revised assessment. If the predicted noise limit exceeds the prescribed noise limit, the noise impact assessment shall include details of the additional mitigation to be installed to ensure compliance with the consented limits.

For the purposes of this condition, “noise-sensitive premises” includes, but is not necessarily limited to, any building, structure or other development the lawful use of which a) falls within Classes 7 (Hotels and Hostels), 8 (Residential Institutions), or 9 (Houses) of The Town and Country Planning (Use Classes) (Scotland) Order 1997 (as amended), or b) is as a flat or static residential caravan.

Reason: In the interests of local amenity.

## **19. Noise Management Plan**

Prior to the development commencing, the applicant shall submit, for the written approval of the Planning Authority, a noise management plan (NMP.) The NMP should outline how the noise sources within the development will be managed to ensure compliance with the prescribed noise limits and minimise disturbance. The NMP should include (but is not limited to) the following:-

- a clear statement of the plan's purpose;
- a description of the noise sources on site and the noise mitigations measures Installed;
- details of the site management responsibilities, procedures in place for the inspection and maintenance of the noise generating equipment and of noise mitigation measures on site;
- details of the procedures for monitoring of the noise levels to ensure compliance with the consented noise limits; and
- details of procedure for responding to any complaints.

The development shall thereafter be carried out in complete accordance with the approved details.

Reason: In the interests of local amenity.

## **20. Record Keeping**

The Operator shall, at all times after the first commissioning of the development, record information regarding the details of power stored and generated, inclusive of dates and times of any failures, and retain the information in perpetuity. The information shall be made available to the Planning Authority within one month of any request by them.

Reason: To ensure end of life decommissioning of the site.

## **21. Archaeology**

No works in connection with the development hereby approved shall commence unless an archaeological Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the Planning Authority and a programme of archaeological works has been carried out in accordance with the approved WSI.

The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works.

Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be occupied or brought into use unless a Post-Excavation Research Design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the Planning Authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: In order to protect the archaeological and historic interest of the site.

## **22. Outdoor Access**

No development shall commence until an Outdoor Access Plan of public access across the site (as existing, during construction and following completion) has been submitted to, and approved in writing by, the Planning Authority. The plan shall include details showing where public access will and will not be accommodated before, during and on completion of the development. The development shall thereafter be carried out in complete accordance with the approved details.

Reason: In order to safeguard public access.

### **Advisory notes**

1. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).
3. **Display of notice:** A notice must be displayed on or near the site while work is being carried out. The planning authority can provide more information about the form of that notice and where to display it (See section 27C of the Town and Country Planning (Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013).

**Schedule of drawings**

|                          |                         |
|--------------------------|-------------------------|
| Location Plan            | J321/097/26092023       |
| Block Plan               | J321/098/26092023       |
| Landscaping Plan         | J321/120/26092023       |
| Site Layout Plan         | J321/113/04042025       |
| Site Layout Plan         | J321/113/04042025 REV B |
| Access Layout Plan       | J321/114/08092025 REV Z |
| Fencing Plan             | J321/058/23112022       |
| Elevation Plan           | J321/074/21072023       |
| General Plan             | J321/075/21072023       |
| Elevation Plan           | J321/076/21072023       |
| General Plan             | J321/077/21072023       |
| General Plan             | J321/079/21072023       |
| General Plan             | J321/081/21072023       |
| Drainage                 | PC7202-3500 REV A       |
| General Plan             | 000001                  |
| General Plan             | J321/108/11122024       |
| Tree Protection Plan 002 | REV A (1)               |
| Tree Protection Plan 002 | REV A (2)               |
| Tree Protection Plan 002 | REV A (3)               |
| Tree Protection Plan 002 | REV A (4)               |