Scott Hobbs Planning

Planning Statement on behalf of:

Blackhillock Flexpower Ltd

Date:

18 November 2024

Planning and Policy Compliance Statement

Proposed BESS, Blackhillock, Keith, Moray

Typical Illustration

Info

Proposed 349 MW BESS and associated infrastructure:

Land at Blackhillock
Planning and Policy Compliance Statement

Summary

Blackhillock Flexpower Ltd. is proposing a battery storage facility (BESS), with associated infrastructure and development. The application is submitted for determination by the Energy Consents Unit of the Scottish Government, which has already issued its Screening Opinion that an EIA is not required for the proposed development. The site is located within the countryside, lies outside any specifically designated site in terms of heritage and the environment (landscape, visual and ecological) and is adjacent to a major sub-station. This is a Planning Support Statement and is one of a suite of interlinked documents supporting the application and which consider the merits of the proposal in relation to relevant material considerations. The application documentation concludes, subject to mitigation, which is proposed as part of the application, that the development will not cause any significant adverse impact to matters which should be protected. Accordingly, the proposed development is consistent with NPF4 and MCLDP, which support renewable energy developments to facilitate net zero emission targets in light of the global climate and nature crises.

Contents

1.0 Introduction

1.1 This Planning Supporting Statement (PSS) is submitted on behalf of Blackhillock Flexpower Ltd. ('the Applicant') and relates to an application for consent under S36 of the Electricity Act 1989 ('the application') and also comprises a request that Scottish Ministers give a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 that planning permission for the development be deemed to be granted. It addresses matters referred to in Schedule 9 to the Electricity Act, to development plan and policy guidance and to consideration of material matters.

1.2 The application comprises land within Moray Council Area - Gibston Farm, Blackhillock, Keith, Moray (NGR) 343807, 848719 ('Application Site').

Figure 1 Site Location- Extract of Location Plan

1.3 The description of the proposed development which is the subject of this application is as follows:

'Construction and operation of a 349MW Battery Energy Storage System (BESS) with associated infrastructure including access roads, sub-station buildings, supporting equipment, fencing, drainage and landscaping.'

1.4 This Planning Statement is part of a suite of documents submitted with the application, as outlined below. These supporting documents are in addition to the formal application documents comprising the accompanying plans, sections, and elevations. The full suite of supporting documents is as follows:

- **Planning and Policy Compliance Statement**
- Community Wealth Building Plan (CWBP)
- Pre-Application Consultation Report (PACR)
- Design and Access Statement (DAS)
- Confidential Ecological Survey Report [note, contains sensitive information]
- Confidential Protected Species Report [note, contains sensitive information]
- Biodiversity Net Gain Feasibility Report
- Heritage Impact Assessment
- Transport Statement
- LVIA and Landscape Strategy
- Noise Impact Assessment
- Drainage Impact Assessment
- Ground Investigation Report
- Topographical Survey
- Construction Traffic Management Plan (CTMP)
- Carbon Assessment
- Fire Assessment

1.5 Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) dictates that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. Whilst this is an application under the Electricity Act and for deemed consent under the Planning Acts, this Planning Statement tests the proposed development against the national policy, the Development Plan and other material considerations and reaches conclusions to inform the determination of the application by the Energy Consents Unit of the Scottish Government ('ECU').

1.6 The Electricity Works Environmental Impact Assessment (Scotland) Regulations 2017 are also relevant to the proposal as the proposal comprises development falling within Schedule 2 of those Regulations. A Screening request has been submitted to the ECU and the Decision was received on 26TH September 2023. It confirmed that, "*the proposal does not constitute EIA development and that the application submitted for this development does not require to be accompanied by an EIA report*". It is both the Applicant's and Moray Council's consideration (regarding land within its remit) that the proposed development is unlikely to result in effects on the environment which are sufficiently significant to require a formal environmental assessment of the proposed development. The supporting documents referred to constitute an environmental report and assess the proposed development against material considerations relating to environmental factors.

Structure of Planning Supporting and Policy Compliance Statement (PSS)

1.7 The PSS will, following this introduction section, describe the site and surrounding area, (Section 3), describe the proposed development (Section 2), identify relevant policy considerations (Section 4) against which the proposal is assessed (Section 5), and reach conclusion in respect of the acceptability of the proposal (Section 6).

Background

1.8 The Applicant, Blackhillock Flexpower Ltd, is part of the Noriker Power Ltd group which was established in June 2015 with the intent to build and operated a portfolio of energy assets, develop projects from origination through to delivery grid services and trade on the power markets. Blackhillock Flexpower Ltd will be the company involved in the implementation of the consent and the construction of the facility on the ground.

1.9 During the past 9 years, the Applicant has developed and built over 360MW of large-scale battery and hybrid facilities in support of a renewable grid and is the first fully commercial large-scale battery project developer in the UK to both enter dynamic FFR contracts with National Grid and to build and commission the sites for those contracts.

1.10 In 2017, the Applicant completed its first site, a 20MW facility located near Newcastle- under-Lyme. The site was built as a hybrid comprising containerised batteries alongside engines and provided Dynamic Firm Frequency Response (DFFR) to National Grid, as well as entering the Capacity Market (CM). A further three sites were also commissioned, 30MW in total.

1.11 In May 2018 the Applicant won the Electrical Review Excellence Award - this award recognises projects that embrace the latest in electrical engineering, display forward-thinking design and implementation, and champion the highest environmental, safety and energy efficiency standards.

1.12 As of 2024 the Applicant has fourteen sites commissioned. Their UK-wide projects currently exceed 360 MW, with sites ranging from 5MW to 50MW. The Applicant's first Scottish site (Byers Brae) was commissioned in March 2021 using an innovative approach to deliver a 30 MW facility.

1.13 Kilmarnock Flexpower Ltd, a subsidiary of Noriker Power Ltd, has received planning consent in January 2024 for a 350MW BESS development in South Ayrshire Council area. The applicant is currently in the process of discharging relevant planning conditions.

1.14 The Applicant has a contract to connect to the grid and deliver 349MW within the general location of this subject site in October 2027, which will help achieve the aims of national UK and Scottish governments relating to renewable energy. The prospective Applicant, therefore, is well placed and experienced to deliver the BESS facility at this site.

Pre-Application Process

1.15 The Applicant has engaged at pre-application stage with the ECU, as the determining authority; and with Moray Council (MC) within which boundary area the site lies and which is, therefore, a statutory consultee on the application. Information detailing the dates of Pre-Application Consultation Events were circulated to the appropriate local MPs, MSPs and both Strathisla Community Council (SCC) and Keith Community Council (KCC)

1.16 Overall, discussions have been positive and are detailed within the PACR, a supporting document.

1.17 A site-specific website has been created https://www.blackhillockflexpower.com/, which contains details of the proposed development. A copy of the submitted application will be available to download from the website.

Design and Development Evolution

1.18 The Applicant has carried out a thorough site finding, site sifting and design process to reach the most appropriate form of BESS development. Design revisions have included structure height, location, landscaping options, boundary and other enclosure treatment and siting for HV switch gear. This is detailed in the DAS, a supporting document to the application.

1.19 The suite of application documents illustrates the manner within which the proposals have evolved to address issues raised, acknowledging that not all issues can or should be addressed. The PACR report identifies the extent to which comments made during the pre-application process have been considered and addressed and the extent to which the proposal has been modified.

Pre-Application Conclusion

1.20 There is no statutory pre-application process for S36 applications for consent for battery storage sites, although the ECU has issued best practice guidance and encourages applicants to carry out such pre-application consultation. The best practice refers to all types of S36 applications including significant wind power proposals.

1.21 It is considered that the extent of pre-application consultation has been thorough, relative to and proportional to the proposal, in this particular location. Engagement with the ECU and MC has been extensive and positive. The Applicant welcomed the opportunity to discuss the proposal with the local community, community council who attended the events and stakeholders during the Pre-Application Consultation Events, which has the social, economic, and environmental well-being and interests of the area and represents the local community within the area within which the application site lies.

1.22 A pre-application response was received from the Council on 11th July 2023. It identified the following policies as material to the proposed development:

National Planning Framework 4

- NPF1 - Tackling the Climate

- NPF2 - Climate mitigation and adaptation
- NPF3 – Biodiversity
- NPF4 - Natural Places
- NPF5 – Soils
- NPF6 - Forestry, woodland and trees
- NPF7 - Historic assets and places
- NPF11 – Energy
- NPF12 - Zero waste
- NPF18 - Infrastructure first
- NPF20 - Blue and green infrastructure
- NPF22 - Flood risk
- NPF23 - Health and safety
- NPF25 - Community wealth building

Moray Local Development Plan

- PP2 Sustainable Economic Growth
- PP3 Infrastructure and Services
- DP1 Development Principles
- DP9 Renewable Energy
- EP1 Natural Heritage Designation
- EP2 Biodiversity
- EP7 Forestry Woodland and Trees
- EP12 Management and Enhancement Water
- EP13 Foul Drainage
- EP14 Pollution Contamination Hazards

1.23 The principal feedback is summarised here:

- Moray Council noted the strong presumption NPF4's for renewable energy developments. However, the Council raised potential landscape impact and requested that a Landscape and Visual Impact Assessment (LVIA) be completed by the Applicant team which details the appropriateness of the location and the energy development.

- Moray Council confirmed the Applicant will be required to demonstrate the economic impact the energy development will have on the local community. The Applicant has used the Moray Council Community Wealth Building Planning Guidance in creating a Community Wealth Building Plan (CWBP). This CWBP demonstrates and details the local and community socio-economic benefits the development will have on the local community through business opportunities such as jobs.

- Further, Moray Council stated supporting information must be submitted with regard to Transport, Pollution and Infrastructure. The Applicant has taken recognised this requirement, the applicant has ensured that a Transport Statement and a CTMP has been completed and submitted with the application.

2.0 The Proposal

2.1 This proposal seeks to meet the requirements of the contract that the Applicant has with the National Grid for the erection of a 349MW storage facility in this general location. The proposal consists of:

- A BESS with a capacity of 349MW
- Some 208 battery containers placed within that compound, at 3m single height, finished in colour to specification to be agreed pursuant to conditions, along with associated 104 inverter units and 52 transformers.
- The containers will be laid out in sections with between 36 and 12 containers in each section. Within each section the containers are grouped in pairs. The sections are set out on 9 terraces within the site. The site split into a roughly north and south deployment area due to the wayleave required for the overhead lines that run north east across the site.
- There will be two inverters and two transformers at the end of each section and each terrace will be provided with short access track – for accessibility and maintenance
- A 400kV substation will be provided at the south west of the site, accommodating the infrastructure to meet National Grid Energy Network's requirements and which will comprise of two 33/400kV super grid transformers and gas insulated switchgear, contained within a building of varying height up to 10 m, length up to 50 m and width up to 20 m.
- Each terrace will be provided with a short access track for accessibility and maintenance.
- Earth bunds (maximum height of 2m) at the south, south-east, and west boundaries of the site.
- Acoustic baffles, ranging between 2 – 4m tall, surrounding the site perimeter as well as each individual section. These shall be, where possible, mounted on bunds (2m) or supportive structures to reduce wind loading whilst maintaining the height from ground required to reduce noise propagation.
- A large SUDs Pond / reservoir will be provided towards the north of the site, with a water pump room / value room located adjacent. Additional attenuation ponds are also proposed along the south / south-east boundary of the site.
- Water channel runs will be provided around each terrace and additional catchment ponds will be created downstream to collect water for pumping back to SuDs pond.
- Industrial style green or close boarded timber security fencing between 2.4m and 4m in height around the site.
- Access to the site will be provided from the gates to the north from the Blackhillock Road.
- An emergency access is proposed to connect to Gibston Farm and associated access, to the west of the site. This will be fitted with crash gate and only accessible to emergency vehicles.

Figure 2 Typical Layout – Extract of Site Layout Plan

2.2 An underground cable shall connect the BESS facility to the Blackhillock substation. This will be delivered under the public highway, with no disturbance to highway land during operation.

2.3 The area within the site shall establish with landscaping to improve biodiversity on the site and further contribute to visual screening.

2.4 Approximately 100 jobs will be created during the construction of the project, and as far as possible, attempts will be made to source jobs locally. It is also intended to source construction materials locally, as far as is practical, both to reduce costs and transportation. During the operational phase, the nature of the BESS development is one of high energy generation but low employment generation. It will largely be an unmanned site in terms of physical presence with 4 permanent positions created to look after the site, mainly in groundworks and landscape maintenance. Further information on the economic and social benefit is contained in the CWBP.

3.0 The Site and Surroundings

3.1 The application site covers an area of approximately 9.1 hectares and lies within the Keith area of Moray council administrative boundary. The subject site lies in the countryside, approximately 1.5km from the centre of Keith, on the western side of the A96, connecting Aberdeen and Elgin, onto Inverness.

3.2 The application site includes agricultural land to the east of Gibston Farm. The application site is an irregular shape as shown in Figure 3 below. It connects to the public highway to the south of Gibston Farm and extends east before widening. The boundaries of the field are defined by post and wire fences. To the north and south is further agricultural land. To the east is the A96.

3.3 The existing land is currently used for agricultural purposes (Arable) and is class 3.2 and not prime agricultural land.

Figure 3 Subject Site Area (shaded red)

3.4 The land falls from west to east, towards the A96 directly due east of the site. To the west of the site the existing sub-station is situated at a higher level than the application site and visible from the A96 at the crest of the hill over a short distance within a number of overhead power lines and pylons in the intervening landscape. The boundaries to the site are generally open, being formed by scrub and watercourse to the southeast and field boundaries to the north and south. There is no notable tree or hedgerow on site. The Blackhillock Road forms the boundary to the west of the existing agricultural steading and from which the site has access.

3.5 Despite being in the countryside, the area is characterised by non-agriculture / countryside development, including:

- Major HV power pylons run through the site in an approximate SE to NW direction, with three set of pylons contained within or in close proximity to the site boundary.
- The site is framed by the recent and significant Blackhillock electricity sub-station to the immediate west, on the other side of the road (U43H as identified in the Transport Statement) and which is on a slightly elevated level than that of the site. The slightly smaller Beatrice Onshore Substation - Offshore Windfarm lies further to the west of the substation.
- A permanent building compound associated with an HVDC convertor station lies to the south of the site, which contains numerous portacabin type buildings, a large hard surfaced area and the ruins of an old steading.
- The Cairdshill Quarry lies further to the south.

3.6 The site is heavily influenced by the electricity infrastructure in proximity to the site. The wider area generally has a countryside characteristic with agricultural fields and a scattering of houses and local businesses along narrow country roads.

Planning History

3.7 There is no known relevant planning history to the site.

3.8 Within the nearby surroundings, there have been a number of applications for renewable energy developments, in addition to the major sub-station development.

3.9 To date, both the Energy Consents Unit of Scottish Government (ECU) and Moray Council (MC) have been favourable towards renewable energy projects in this area, with proposals being granted. The application (reference 22/00067/S36) for the BESS at Land approximately 400 Metres Southeast of Blackhillock Substation, (i.e. in close proximity to and south of the subject site) was granted, subject to conditions including a 40-year timespan), on 30 September 2022. The ECU determined that no EIAR was required (ECU Reference ECU00003332), determined 14th September 2021, and that the development is acceptable. MC raised no objections.

3.10 In principle, therefore, the extant consent (22/00067/S36) provides a starting point and framework for the consideration of an application at this subject site, with the main differences being the closer proximity of the subject site to the electricity substation and the adoption of NPF4.

4.0 Policy and Assessment

4.1 There is national and local policy and guidance relative to the proposed BESS development and this general area, and which is assessed below.

NPF4

4.2 National Planning Framework 4 (NPF4) was adopted by the Scottish Government and become effective as part of the development plan on 13 February 2023. It is, therefore, a recently adopted policy document and carries significant weight in the determination of this development proposal. Where the NPF4 and policies therein are incompatible with the local development plan (or if it is silent on that issue) the most recent adopted document will take precedent. In this instance NPF4 forms the principal instrument of the development plan given that MC's LDP was adopted in 2020.

4.3 NPF4 reaffirms that Scotland's:

- Climate Change Plan has set out the approach to achieving net zero emissions by 2045,
- Energy Strategy will set a new agenda for the energy sector in anticipation of continuing innovation and investment.
- Environment Strategy will set out the vision for tackling the twin climate and nature crises.
- Biodiversity Strategy will set targets for halting biodiversity loss by 2030 and for restoring and regenerating biodiversity by 2045.

4.4 NPF4 identifies the national spatial strategy, including a commitment to net zero ('just transition') and identifies 18 National Developments. National developments are stated as being '*significant developments of national importance that will help to deliver our spatial strategy*'.

4.5 Six of those support the delivery of sustainable places, including, crucially, National Development 3 - 'Strategic Renewable Electricity Generation and Transmission Infrastructure'. This National Development '*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.'* The Scottish Government, by letter from the Chief Planner dated August 2020, has determined that BESS is defined as a generator of electricity. NPF4 defines the National Development as one which would have been classed as 'major' including *'a) On and offshore electricity generation, including electricity storage, from renewables exceeding 50 megawatts capacity'* and concludes that such developments '*will likely have an overall net positive impact on achieving national greenhouse gas emissions reduction targets*.

4.6 This National Development is identified as one which will lend support to the delivery of the spatial strategy for a strong North East area to Scotland that will play a crucial role in achieving Just Transition to net zero. The proposed BESS will facilitate such delivery.

4.7 National Development 3 is recognised as being important to support '*renewable electricity generation, repowering, and expansion of the electricity grid…… A large and rapid increase in electricity generation from renewable sources will be essential for Scotland to meet its net zero emissions targets. Certain types of renewable electricity generation will also be required, which will include energy storage technology and capacity, to provide the vital services, including flexible response, that a zero-carbon network will require. …… This has the potential to support jobs and business investment, with wider economic benefits…. The electricity transmission grid will need substantial reinforcement including the addition of new infrastructure to connect and transmit the output…… Need: Additional electricity generation from renewables and electricity transmission capacity of scale is fundamental to achieving a net zero economy and supports improved network resilience in rural and island areas'*

4.8 At 349MW, this proposed BESS is a National Development and in principle is supporting the aims of the NPF4 and associated Strategies to achieve net zero emissions targets and a stable energy supply. Accordingly, it meets the requirements of the following relevant policies:

4.9 **Policy 1 - Tackling the climate and nature crises** – When considering all development proposals *significant weight* will be given to the global climate and nature crises. As a core policy, this policy gives significant weight to the proposed renewable development.

4.10 **Policy 2 – Climate mitigation and adaptation** – a) Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible. b) Development proposals will be sited and designed to adapt to current and future risks from climate change. As the proposal is related to renewable energy, this policy provides support in principle.

4.11 **Policy 3 - Biodiversity seeks** a) Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible. b) Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management. Criteria are set out including the need to (i) understand the characteristics and context of the site (ii), for integrated nature-based solutions (iii) identify potential negative effects (iv) include significant biodiversity enhancements and that (v) local community benefits of the biodiversity is considered.

4.12 Policy 3 is, therefore, supportive of the proposal providing the scheme is demonstrated to have been developed with a clear understanding of the biodiversity value of the land and with proposals to enhance that value. The Ecology Assessment is clearly an important matter for the consideration of the application and should be read in conjunction with the landscaping strategy. Paragraphs below identify the extent to which the proposal is consistent with these requirements.

4.13 **Policy 5 – Soils** – this policy seeks to support carbon-rich soils, restore peatlands, and minimise disturbance to soil from development. It seeks to (a) support development only if there is minimised disturbance to soils and (b) on good grade agricultural land if (iv) for renewable energy providing the amount of land taken is also minimised.

4.14 The land is primarily Grade 3.2 agricultural land and so is not Prime Agricultural Land (PAL), so falling outwith the remit of this policy. The site has been identified to have a isolated element of peat at a depth of 1.85m in the north east of the site. Out of 14 intrusive site investigations (evidenced in the geo-environmental report) a thin layer was identified at a singular locality. Given the very limited presence of peat on the site, the site is not an extensive area of peat. Furthermore, it is not proposed, as can be seen from proposed section plan submitted, that excavation in this location will be only 1m in depth. As such no peat conflict is expected from the proposed development.

4.15 It is clear that renewable energy proposals are acceptable on peat land, subject to appropriate restoration, however this development is assessed to avoid the limited element of peat on the site. In addition, the development is reversible, and the Applicant will commit to restoration as will be addressed below, minimal land will be lost over the long term to agricultural use.

4.16 **Policy 6 – Forestry, Woodlands, and Trees** – the policy intent is to protect and expand forests, woodland and trees. There are no trees within the site and the proposed development do not result in the need to fell any trees. As such the proposed development, through the new woodland planting would significantly increase the canopy cover and sequester more carbon. The proposed development does not draw any conflict with the policy and is delivers the intent of the policy. The proposed development is therefore in compliance with the policy.

4.17 **Policy 11 – Energy** – This policy seeks to '*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 and emerging low-carbon and zero emissions technologies…*' and is, therefore, the most significant policy in the NPF4 relating to this proposal, particularly as it gives '*significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets*' when balancing potentially conflicting materials interests.

4.18 It fully supports the development with Policy 11a) iii specifically referring to '*energy storage, such as battery storage*;'

4.19 11c) only supports such development where net economic impact is maximised and which includes local socio-economic benefits such as employment and supply chain opportunities. The Applicant recognises the limited direct employment benefit of the BESS, post construction, though through its landscape strategy will require additional maintenance requirements. It also recognises the creation of approximately 100 jobs during the construction phase, and the requirement to provide material. It commits to utilising local suppliers and seeking employment of the local population where this is possible, all-in accordance with this policy. A Community Wealth Build Plan (CWBP) is also submitted to this application to further evidence the economic benefits of the proposed development.

4.20 Policy 11e) requires the project design and mitigation to address a number of factors which may be affected by the development. Not all are relevant to this proposal (for example defence interests and telecommunications) but the application supporting documents assess all relevant considerations, such as impact on communities and residential (for example, noise assessment), landscape and visual (LVIA), access (Transport Statement), nature (Confidential Ecological report). All assessments demonstrate that there is no significant impact on any factor to warrant greater weight to be paid to that consideration than to the benefit of the proposal to enhancing renewal energy provision and reducing gas emissions.

4.21 **Policy 12 – Zero Waste –** this policy seeks to encourage, promote and facilitate development that is consistent with the waste hierarchy. No waste would be generated by the development in day-to-day operation. Development will seek to reuse or recycle any materials in line with the waste hierarchy. Soil works would be reused in the bunding proposed.

4.22 **Policy 14 – Design, quality and place-** NPF4 also seeks that development meets the requirements of the Six Qualities of Successful Places, including:

1. Healthy: Supporting the prioritisation of women's safety and improving physical and mental health.
2. Pleasant: Supporting attractive natural and built spaces.
3. Connected: Supporting well connected networks that make moving around easy and reduce car dependency.
4. Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted into designs to reinforce identity.
5. Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience and integrating nature positive biodiversity solutions.
6. Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can meet the changing needs and accommodate different uses over time.

4.23 Whilst all six qualities are not directly applicable to the BESS proposal as there will be no onsite staffing presence, of particular importance are matters 5 and 6 which support the transition to net-zero including energy/carbon efficient solutions, seek climate resilience and nature recovery with positive biodiversity solutions and which seek longevity and resilience in development.

4.24 **Policy 18 – Infrastructure First –** this policy seeks to encourage, promote and facilitate an infrastructure first approach to land use planning, which puts infrastructure considerations at the heart of placemaking. The proposed development contributes to the energy infrastructure.

4.25 **Policy 22 – Flood risk and water management –** this policy seeks to strengthen resilience to flood risk by promoting avoidance as a first principle and reducing the vulnerability of existing and future development to flooding. As stated in the Drainage Impact Assessment (DIA) *the development has the potential to increase hard-standing areas within the site and increase surface water runoff,* due to this appropriate mitigation measure will be proposed. SuDs in accordance with measures such as filter trenches, swales and basins will be proposed for measuring water quality and providing attenuation. Additionally, an unnamed burn lies approximately 5m below the minimum level of the site and is not expected to increased flood risk. It is proposed, the development can discharge to the unnamed burn adjacent to the sites to ensure flood risk is not increased downstream.

4.26 **Policy 23 – Health and safety** – this policy seeks to not support development which is likely to have significant adverse effects on air quality (23d) and unacceptable noise impacts (23e).

4.27 The Noise Impact Assessment (NIA) submitted to this application demonstrate that the proposed development will have an impact and in an unmitigated scenario. As such, mitigation has been designed into the proposed development. The principal noise mitigation features are acoustic fencing, and earth bunding. The submitted noise report identifies that the proposed mitigation would reduce the noise impact of the proposed development significantly. With the proposed mitigation in place the NIA finds that the magnitude of impact on the nearest noise receptors are either "*negligible*" or "*minor*". Then taking the sensitivity of the receptors of dwellings into account, the overall impact is assessed to be "*slight*" or "*slight/moderate*". The NIA notes that, "*the predicted noise rating levels meet the local authorities own proposed noise rating limits for the site*".

4.28 By the development's nature, a BESS development contributes to improvements to health and air quality as it is often classed as 'clean' energy.

4.29 **Policy 25** – **Community wealth building** – this policy seeks to encourage, promote and facilitate business and industry uses and to enable alternative ways of working such as home working, live-work units and micro-businesses. A Community Wealth Building Plan (CWBP) has been developed by the applicant following the guidance of NPF4 and MC Community Wealth Building Planning Guidance and has been submitted in support of this application. The CWBP details the benefits the development will have of community resilience, the creation of local job creation and demonstrates that the development is in line with the principles of community wealth building. 100 jobs will be created through the development, with as many as possible being targeted towards the local employment pool. Therefore, the proposed development complies with NPF4 Policy 25.

4.30 **Policy 29 - Rural Development** – seeks to encourage economic activity, innovation and diversification and identifies forms of development to meet this aspiration and the policy outcome of a balanced and sustainable rural population. Energy developments are not directly identified within the scope of developments which would be supported, but the policy provides linkages to Policy 1 and 2 identified above. In association with Policy 11, therefore, it is considered that the development is in accordance with this policy.

4.31 It is clear from assessment of NPF4 that the document is supportive of the development in principle. The matters of detail which have to be assessed in relation to site specific considerations are given less weight than the overriding policy to improve renewable energy generating infrastructure such as this BESS proposed development. Such site-specific matters are addressed below.

4.32 It is considered, therefore, that NPF4 is fully supportive of the BESS development and that there have to be overriding harmful benefits relating to biodiversity, landscape and visual, safety and residential amenity to justify a refusal of the application. This is addressed in Section 5.

Moray Council Local Development Plan 2020

4.33 MC formally adopted its Local Development Plan (MCLDP) in July 2020, and as such pre-dates NPF4. In the event of any policy incompatibility with NPF4 the MCLDP would be superseded by NPF4. Nonetheless, the MCLDP still comprises part of the development plan against which development proposals are assessed. MCLDP sets out the development strategy, key policies and proposals to guide development in Moray. The MCLDP sets the Council Area out into sub-areas. The proposed development is located within the Keith LDP Area.

4.34 Of key consideration, **LDP Policy DP9 Renewable Energy** supports proposals for renewable energy where they are compatible with the below criteria

- safeguard and enhance the natural and build environments;

  Comment:

  The proposed development does not seek to remove any trees or existing landscaping outwith the agricultural operational field and seeks to introduce a significant quantum of new trees and other landscaping.

  The Keith Green Energy Infrastructure Framework (KGEIF – discussed in detail later in this statement) assesses the site as being low to medium landscape sensitivity. The site is designed to minimise visual impact through the introduction of landscaping along the proposed terraces of the development as well as along the boundaries of the site, and along with earth bunds. The LVIA submitted to this application identifies that *"the effects (where experienced) are recognised as diminishing over time as the mitigation scheme establishes, reducing the effects to range from Moderate Adverse to Negligible generally.*"

- do not result in the permanent loss of prime agricultural land;

  Comment –

  The proposed development would not result in the loss of any PAL.

- and the avoid unacceptable significant adverse impacts in relation to,

  - landscape and visual impact,

    The site is located within an area identified to have a low-moderate landscape sensitivity and the submitted LVIA along with photo montages identifies the proposed landscaping will be effective in screening the development. It concludes that after landscaping is established this will *"help provide softening of the battery energy storage facility and help integrate it into the landscape."*

  - noise,

    The submitted NIA identifies that the proposed development would need to be mitigated. The proposed acoustic fencing and bunding mitigate the proposed noise generated to ensure the impact on receptors is minimised. The findings of the NIA are set in detail in para 4.27 of this report.

  - air quality,

    The proposed development does not generate odour, dust or other pollutants in operation and so no Air Quality Impact Assessment has been undertaken.

  - electromagnetic disturbance,

    No specific assessment has been prepared, but the proposed development is offset from any residential properties and is located in proximity to exiting electrical infrastructure. No harm is identified to result from the proposed development.

- water environment,

  The proposed development does not flood, and the SuDS have been designed to ensure appropriate run off rates and water treatment before discharge as necessary.

- carbon rich soils,

  The site is not PAL, but a minor element of peat has been identified on the site at a depth of 1.85m. No excavations at this part of the site are proposed to be greater than 1m in depth. As such, any peat on site will not be excavated.

- trees,

  No trees are proposed to be removed from the site and significant tree and landscaping planting will increase canopy cover and reinforce landscaping features and structures at the south and east perimeter of the site.

- transport,

  The site does not generate operational traffic other than maintenance. A Transport Statement is submitted and identifies that "*it is estimated that the Proposed Development would require up to 10 daily HGV arrivals as a worst-case*" and that "*the proposed development would not lead to any adverse impacts on highway safety*". A CTMP is submitted to ensure that traffic movement through construction is managed and mitigated. Further details on this can be secured by condition.

- ecology and

  The site itself is limited in its biodiversity offer being arable land. The proposed development will establish new habitat opportunities and ensure that biodiversity is enhanced as a result. Submitted protected species surveys have been undertaken and recommendations incorporated into the proposed designs.

- tourism and recreation.

  The nearest core path to the site is CP-KT06 that is located on the north and north east of the A96 circa 300m from the application site boundary. The site is located within an area identified for this type of development in the Keith Green Energy Infrastructure Framework (KGEIF). A Community Wealth Building Plan has also been submitted that sets out how the development will maximise economic benefit for the local area.

4.35 The impact on the above have been assessed through the suite of environmental assessments submitted with this application and the results of which are summaries above.

4.36 The policy is not explicit to BESS, but it is clear that the proposal will be positive regarding renewable energy. The proposal does therefore comply with Policy DP9.

4.37 **Policy DP1 Development Principles**. This policy relates to all development but is largely applicable to non-infrastructure development. It requires development to be fully assessed with appropriate supporting environmental assessments. It sets out criteria for development including the following relevant matters:

Design –

a. Development must be appropriate to its surrounding. The proposed development's location is largely directed by the existing substation at Blackhillock. Such infrastructure is positioned to avoid sprawl and ad hoc development within rural contexts.

b. The impact on existing natural features on the site is minimal. Whilst some cut and fill will be necessary, the proposed development does not remove any existing trees. The proposed development will facilitate the planting of extensive new trees and other landscaping.

c. Not applicable.

d. The submitted DBA report identifies that there is low impact anticipated. Appropriate conditions can be applied to secure ongoing archaeological assessment.

e. The submitted NIA identifies that the proposed mitigations, including fencing and bunding will sufficiently mitigate any noise impact on existing dwellings.

Policy points f – i are not applicable.

j. The submitted carbon assessment submitted with the proposed development identifies over the life of the development is approximately minus 1.07 million tonnes of CO2 (1.07 million tonnes of emission savings) will result by year 20. The proposed development would be net zero by year 4. The development is fundamentally part of renewable energy infrastructure and will contribute to the reduction of carbon emissions.

Transport –

a. The submitted Transport Statement and CTMP demonstrate that safe access and egress without detrimental harm to the existing highways is achievable.

b. Not applicable

c. See point a response.

d. Not applicable as proposals are not occupied in operation.

e. Not applicable

f. The internal access road has been laid out to include separation from Gibston Farm and delivers an efficient internal layout.

g. Not applicable.

h. Road signs for construction will be laid out in the CTMP.

i. Not applicable.

Water environment, pollution, contamination –

a. Water and drainage provision must be made to the satisfaction of policy EP12 (discussed below).

Other Policies

4.38 **PP1 Placemaking.** The policy is not explicit to BESS, but it is clear that the proposal will be positive regarding renewable energy and sustainability and will result in economic benefit through the security of energy supply. The proposed does not, therefore, conflict with PP1.

4.39 **PP2 Sustainable Economic Growth**. The policy is not specific to BESS development, but the proposals are supported by a Community Wealth Building Plan (CWBP) that sets out the measures the applicant will seek to undertake to optimise economic benefit for the local area and local people.

4.40 **PP3 Infrastructure and Services.** This states Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services. Due to its nature, the proposed development would not have an impact on or contribute to additional use of education, health, sports, recreation, open space, active travel and core paths. In addition, the proposed development is not operationally waste generating. Any maintenance requiring the replacement of kit / machinery would be taken away and disposed of commercially or by specialists. The proposed development is designed to manage all water runoff through SuDS and would not increase the demand on existing utilities.

4.41 Renewable energy projects such as this would generate construction traffic and minor operational traffic and would contribute to:

- off-site (transportation) infrastructure and
- local Road Network: To secure improvements to mitigate the impacts of development and ensure safety of road users.

Comment :

Limited works are required off-site as demonstrated in the CTMP and which can be accommodated within the existing road network. The Applicant will commit to such required upgrading works

- Other off-site provisions: Issues that are identified through the application process that are required to mitigate the impacts of development, such as, but not limited to, water and flood infrastructure.

Comment :

Limited off-site works are required as the BESS facility and associated works can largely be accommodated on-site, including SuDs and attenuation ponds with limited connections to the existing water infrastructure, but including a sluice gate downstream of the attenuation ponds to cut-off runoff in the event of a pollution incident or to prevent firewater runoff, in accordance with COMAH guidelines.

- open space and green networks, and
- improve / extend green works, especially if there are existing if gaps, improvement of biodiversity and

Comment :

No areas of open space or green networks are affected by this development, which does not generate any requirement for new provision due to the characteristics of this form of development. The proposals will include the provision on significant new landscaping and habitat. This will enhance biodiversity and has environmental benefit.

- Demonstrate social and environmental benefits

Comment:

Whilst not a significant generator of employment, 100 jobs will be created through the construction and operational stage. The Applicant will commit to engaging local persons, where practicable, and will also source materials locally where possible all of which will have social and economic benefit.

The proposal itself has a significant social and environmental benefit through the improvement of renewable energy supply to the national grid, helping to reduce emissions, contributing to achieving net zero and maintaining a stable energy supply.

4.42 **EP1 Natural Heritage Designation** The policy seeks to protect natural features and landscapes from development that might have a negative impact upon them. The proposed development is without any spatial landscape or other natural protect policy designation. It is beyond the Countryside Around Towns (CAT) area. The policy further requires protection of protected species. A suite of protected species surveys, including Badger, Bat and Otter surveys have been undertaken and the development has been amended to ensure an appropriate buffer to existing habitats. The proposed development complies with policy EP1.

4.43 **EP2 Biodiversity,** this policy states "*All development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management*". This will help promote new habitat creation and expansion and help avoid habitat fragmentation. The proposed development seeks to deliver, new trees and native hedges, ponds for SuDS features and to reflect local character and provide a level of enhancement to the locality.

4.44 The Confidential Ecology Report assesses the potential impact on flora and fauna and considers that, with mitigation, the development is acceptable. The BNG Feasibility Report identifies that new planting can be secured within the proposed red line area that will demonstrate an improvement and will increase the biodiversity value of the area and accordingly, the proposal complies with this policy.

4.45 **EP7 Forestry, Woodland and Trees**, Development proposals which result in the permanent loss of woodland will be required to provide compensatory planting which will be of an appropriate species and will include the cost of management and establishment of the woodland/ greenspace. The developable area contains no trees of interest and additional planting is proposed. The development accords with this policy.

4.46 **EP12 Management and Enhancement of the Water Environment,** this policy seeks to direct development away from areas at risk from flooding and to ensure that potential risk from flooding is adequately considered. Where impacts are identified these must be satisfactorily mitigated and not materially increase the possibility of flooding elsewhere. The Drainage Impact Assessment demonstrates that the development will not harm the water environment and is, therefore, acceptable in relation to this policy.

4.47 **EP13 Foul Drainage**, this policy states new development must connect to the main system whenever possible. The Drainage Impact Assessment, submitted as a supporting document, considers that as the site is currently undeveloped greenfield, there will be an increase in the rate and volume of runoff compared to the existing position, but attenuation will mean that discharge of runoff is at the same rate as currently exists. Further mitigation is proposed which will result in appropriate drainage being provided to ensure surface water can be properly drained without contaminants entering the water system and without causing any local flooding.

4.48 **EP14 Pollution, Contamination and Hazards,** the aim of this policy is to ensure that new developments do not create pollution which could adversely affect the environment or local amenity. Pollution can take various forms including run off into watercourses, noise pollution, air pollution and light pollution.

4.49 The Noise reports demonstrate that, with mitigation, there will be no unacceptable emissions. There will be limited lighting at the site – only that required during the construction and decommissioning stage and for security purposes (motion activated) during operational phase. The distance to adjacent residential properties coupled with topography and existing and proposed planting will result in no unacceptable impact on amenity, consistent with this policy.

4.50 In respect of Ground Contamination, the Ground Investigation Report (GIR) sets out that *"No made ground was revealed as part of the subsequent intrusive ground investigations and as such risks related to potential contamination are likely to be low".*

4.51 **EP16 Geodiversity And Soil Resources,** seeks to minimise the disturbance of peat and avoid the release of carbon associated with their disturbance. It states that renewable development of more than 20MW (including the proposed development) would only be approved in such locations where it is demonstrated that unnecessary disturbance of soils is avoided.

4.52 The site does not have any geological conservation, or special scientific interest. Whilst there is a minor element of peat on the site, it is an isolated feature and located at 1.85m below ground level. The proposals would only result in excavation to a depth of 1m and so would not come into conflict with this identified feature. The proposed design seeks to work with the gradient of the site, and the terraced nature of the proposals seeks to minimise visual impact alongside excessive excavations.

4.53 The land is not classed as PAL, being grade 3.2 so whilst it is used for agricultural purposes, the proposal does not breach this policy. Additionally, it is for BESS, a form of renewable energy, and which development can be reversed in the future if and when generation ceases. The land can be returned to agricultural uses through implementation of a decommissioning and restoration plan, which can be prepared at that appropriate time. The development, therefore, is entirely consistent with this policy.

Material Consideration - Keith Green Energy & Infrastructure Framework 2023

4.54 The subject site lies within the countryside, outside any settlement limit and with no other particular planning designation other than those set out in the Keith Green Energy & Infrastructure Framework 2023. The Keith Green Energy and Infrastructure Framework (KGEIF 2023) was approved at the Planning and Regulatory Services Committee on 19 December 2023. The KGEIF a supplementary document and is a material consideration, whilst not forming part of the development plan. However, it is a key consideration as it applies to energy development within the Blackhillock area.

4.55 It seeks to "*develop a strategic framework for Blackhillock and Keith North East (NE) in order to clearly guide development proposals for grid infrastructure and energy systems/storage associated with renewable energy to the most appropriate locations in and around Keith"*. It identifies the proposed developments site for "*type 2*" infrastructure development that includes BESS development. The principle of development is supported by the KGEIF.

4.56 The KGEIF sets out the consideration to habitat and landscape characteristics need to be given. The proposed development seeks to respond directly to this requirement. The landscaping study that under pins the KGEIF identifies that the site as being low-moderate landscape sensitivity (see figure 5). The proposed development is wholly within this area of low/moderate sensitivity and delivers additional landscape and visual mitigation.

4.57 In terms of biodiversity, an Ecology Survey Report has been undertaken to assess the existing habitat on the site, and further species surveys have been undertaken to ensure the development mitigates any potential impact on species. The proposals further deliver biodiversity enhancement through a Habitat Management Plan and extensive planting of new landscaping.

4.58 New woodland planting is proposed along the sites south east and southern boundary that would connect to the sparser landscaping that defines runs along the route of the burn to the south east. As can be seen from figure 5 below, this will mirror the intention for landscape enhancement along this corridor which proceeds to the north and existing landscaping along the A96.

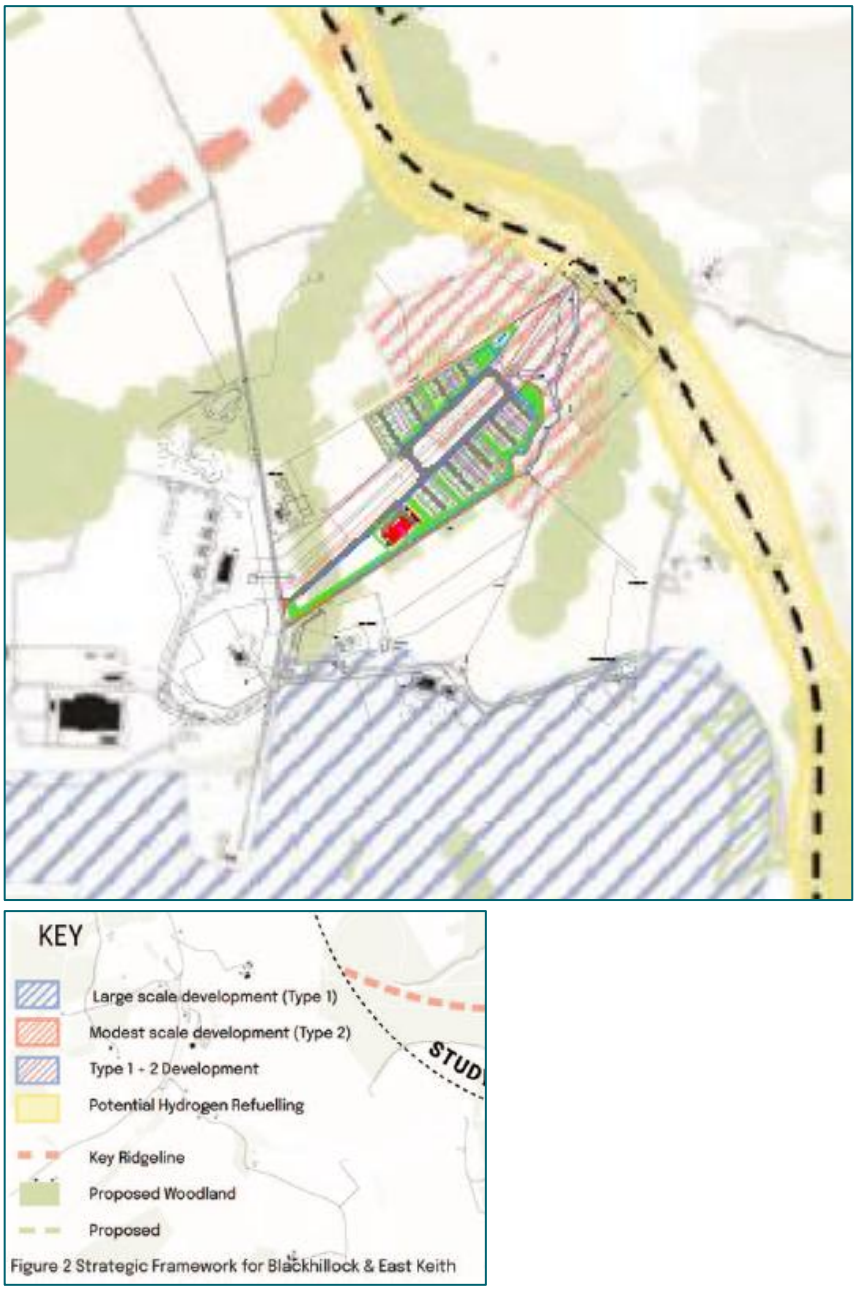

Figure 4: Extract of from the KGEIF (2023) with the proposed development imposed and key

4.59 The KGEIF sets out that "*Any new development must support Keith and its residents and the local economy, existing businesses & employment/skills development as outlined in the Community Wealth Building Strategy and Guidance by Moray Council*." A CWBP has been prepared and sets out measures that will maximise local economic growth.

4.60 In summary, the proposed development is compliant with the KGEIF that seeks to deliver Type 2 Development (BESS) within this locality, and further addresses biodiversity and landscape considerations thoroughly.

5.0 Assessment of Development

5.1 The following section assesses the main material considerations relating to the proposed development and demonstrates the manner within which regard has been paid to material considerations relating to the development and 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 of means of mitigating any effects, as required by Schedule 9 (3) of the Electricity Act 1989.

Principle of Development

5.2 BESS are included within the definition of National Development 3 in the NPF4, which includes a Statement of Need and clearly demonstrates the requirement for energy storage to meet national energy and emission targets. As NPF4 policy places significant weight on the need for energy infrastructure and supports BESS proposals in countryside areas on agricultural land. As the Applicant has a license to connect to the grid for the 349MW supply, this demonstrates that the facility will be provided and will contribute to the delivery of NPF4 National Development 3 from 2027. Policy 1 of NPF4 stipulates that significant weight will be given to the global climate crises. The delivery of renewable energy infrastructure is directly linked to this goal and therefore draws significant positive weight. Policy 11 of NPF4 further states that all forms of renewable, low carbon and zero emission technology will be support and specifically identified battery storage within this technology group. The principle support for BESS from NPF4 is significantly positive.

5.3 Policy DP9 of the MCLDP states as a starting point that: "*All renewable energy proposals will be considered favourably*" so long as other criteria are adhered to.

5.4 This positive support for this BESS proposal in principle is supported by policy in the MCLDP and advice contained within the KGEIF. It is clear, therefore that the principle of this proposal is acceptable in relation to the development plan and supporting guidance, subject to detailed consideration of the particular merits of the proposal.

5.5 The DAS identifies the Applicant's approach to site selection and demonstrates the justification for this application site selection.

5.6 The proposed site is justified on the basis of:

- within the vicinity of and of sufficient size to accommodate and deliver the license requirement and available for use within the required development timescale of 2026.
- in an 'unsensitive' area, as defined in The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017 – i.e., not identified as an SSSI, nature conservation area, European site, World Heritage Site, scheduled monument, national scenic area, national park or marine protected area
- without constraint by virtue of existing infrastructure
- accessible to the substation but which would not result in cumulative harmful development
- separated from adjacent residential properties, to protect residential amenity (particularly noise and visual)
- with access to the road network without causing highway safety issues during construction

- with an ability to provide sufficient water to resolve any emergency issue relating to fire and which does not cause an on-going fire risk to land, trees or habitats outside the subject site / equipment.

5.7 It is clear from the above policy assessment that the site falls outside any defined settlement limit and whilst it lies within an area of significant protection regarding wind farm, this does not relate to BESS development. A location within this countryside area, however, is appropriate particularly as facilitates co-location with a centre of distribution (i.e., the Sub-Station) to which it is immediately adjacent and within the area identified as appropriate for BESS development in the KGEIF.

5.8 As the proposal is consistent with the policies in the NPF4 and MCLDP in locational terms, it is considered that the proposal is acceptable in principle.

Details / Site Specific Considerations

5.9 Policy also requires consideration of matters of detail relating to proposed BESS proposals, and for which robust supporting information and assessment has been submitted with the application. The initial baseline studies formed part of the site selection process, and the design and layout of the proposed BESS facility evolved following detailed assessment of the site-specific matters, as detailed below.

Landscape and Visual Amenity

5.10 The site is not within a designated landscape area and is not subject to any other special landscape designation. An LVIA has been carried out and is submitted as a supporting document.

5.11 The LVIA submitted in support of this application is a more detailed and specific assessment of the proposed development and its potential short-, medium- and long-term impact on the landscape within this area and has influenced the detailed design and layout of this proposal. For example, early assessment recommended that no battery unit should exceed 3m in height, and accordingly all are proposed at single height only. The HV Switch Gear will be higher than the battery containers, to a maximum height of some 10m. This is set within the context of the existing OH lines and pylons, which rise to a considerably greater height and the existing infrastructure at the sub-station, towards which this equipment is sited

The landscape assessment also influenced amendment to the site layout to avoid visual impact on the A96 corridor development including creating a larger buffer area to the east boundary and introducing further landscaping. The terracing proposals have evolved, to ensure earthworks are kept to a minimum.

5.12 The LVIA identified that, "*Overall, the scale and degree of change on part of the Uplands Farmland local landscape would be recognised, but alongside some existing features that have already influenced the landscape in this location".* A total of 25 viewpoints were assessed to consider the visual impact of the proposed development.

5.13 The LVIA identifies that the effect on the local landscape character would be "*substantial*", but with "*limited harm to the wider character of the area*". Following the landscaping proposals to mitigate visual impact the LVIA identifies that the long-term change will be "*Moderate*".

5.14 In terms of visual impact, the LVIA assesses the viewpoints are assessed, and the greatest impact to be on private viewpoints where "*Moderate to Slight Adverse Effect*" in post mitigation scenario. The LVIA sets out that, "*Overall, the visual effects range from Substantial to Moderate Adverse to Negligible Effect*", but goes onto state "*however, the effects (where experienced) are recognised as diminishing over time as the mitigation scheme establishes, reducing the effects to range from Moderate Adverse to Negligible generally*." Some impact to receptors to the south were identified to have a moderate impact during construction and immediately after construction. View Point 13 is taken from the road to the south of the site and share similar visual impact as identified receptors. As the montages suggest, in an immediate, post development context, the site is visible. However, View Point 13 in a year 13 context demonstrates the effectiveness of the proposed landscaping and only allows for glimpsed views of the proposals.

5.15 This LVIA conclusion is consistent with the Landscape Sensitivity Study completed by LUC on behalf of Moray Council and which is a generic assessment of the potential for the landscape to accommodate energy-related development. It supports the KGEIF 2023. It identifies the application site as "Low-Moderate Sensitivity". The area is "*Strongly influenced by adjacent industrial development, as well as overhead lines which cross the LLCA*". The Landscape Sensitivity Report concludes that "*Potential opportunity to site Type 2 development on lower slopes, with appropriate mitigation to screen from nearby residential receptors and the A96."*

5.16 The landscape assessment concludes that the scale and degree of change on the Gibston Farmed Valley Sides as a whole would be slightly adverse, but which can be mitigated with an appropriate landscape management scheme being established. The significance of the landscape impact in the longer term is considered to represent a negligible effect in relation to landscape resource and the local landscape character. Taken with the significant weight which should be paid to the provision of energy proposals, it is considered that the proposal is acceptable in landscape terms.

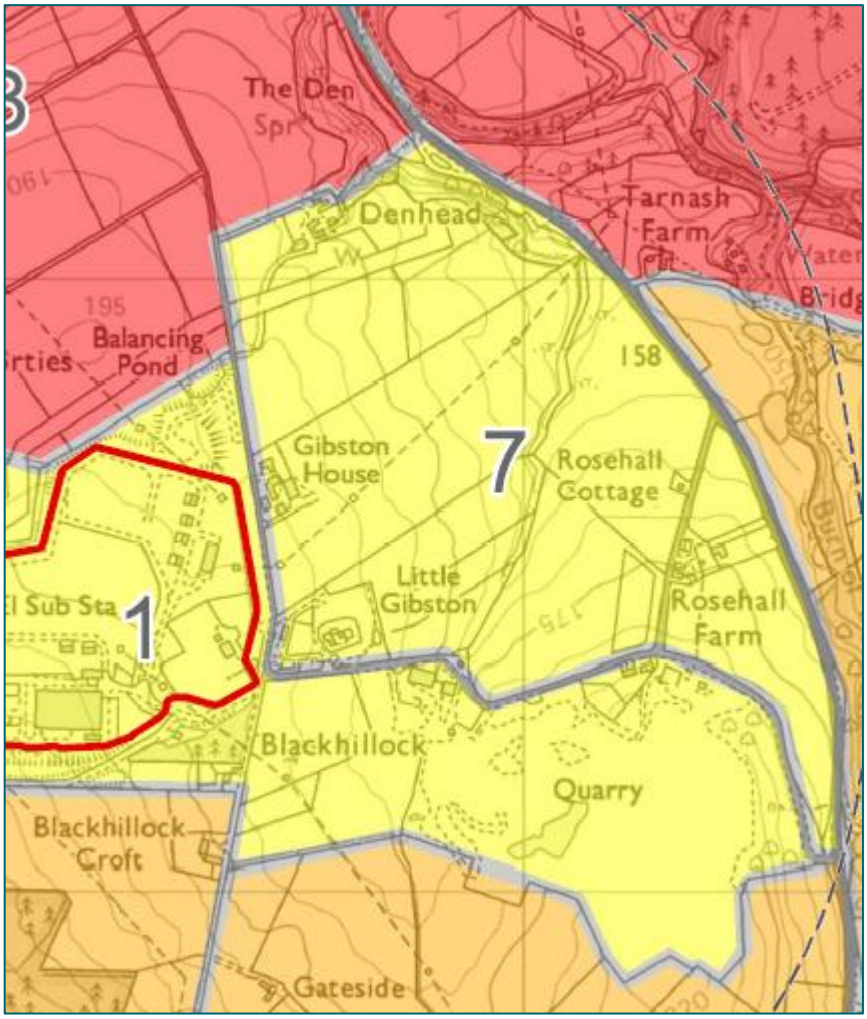

Figure 5: MC Landscape Sensitivity Study 2023.

5.17 Landscaping will be provided on boundaries and within the site, within the terraces, which will soften the appearance of the development as the landscaping matures. Visual impact, therefore, will be contained to a relatively small area so whilst it is accepted that there will be a change to the local environment, such change will be minimised and will not be significant in relation to the positive benefit of delivering National Development 3 infrastructure, particularly when the existing energy-infrastructure context to the site is taken into consideration.

Nature – Ecology, Habitat

5.18 There is no special nature designation to the site or within the immediately surrounding locality - there are no Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and Sites of Special Scientific Interest (SSSIs) within 1km of the site. There are a number of Ancient Woodland Inventory (AWI), and Native Woodland Survey of Scotland (NWSS) woodlands located between 500 and 1000m from the site RLB. Further areas of woodland interest are located just outside the 1km buffer. The A96 Road corridor lies between the site of proposed development and nearest woodland inventory sites and together with distance, effectively acts as a barrier to any disturbance the development would present to these sites. A Confidential Ecology Report submitted as a supporting document identifies that given the distance and lack of connectivity to the site, the development is considered unlikely to affect the ancient woodlands or any specially designated area.

5.19 The Confidential Ecology Report identifies that the site is covered by more than 97% arable cropland (low value habitat). Semi-improved neutral grassland is identified to the south and east of the site. A burn is to the east along with scattered scrub. At the peripheries of the site the report does identify the potential for presence of badger, otter, bat and bird species particularly within proximity to the site. It concludes that, with mitigation, the development is unlikely to negatively affect any matter of ecological interest. This includes:

- It is intended to retain existing trees and hedges and strengthen these features through landscaping strategy and planting / maintenance plan. Appropriate licences with consultation with Nature Scot will be required for any works within the buffer areas identified in the Protected Species Surveys.

- Further mitigation will be offered by incorporating a Habitat Management Plan, with a Pollution Plan, within the Construction Method Statement, and to ensure that timing of works is carried out with sensitive seasons, and to incorporate a habitat improvement area within the field partially encompassed by the site boundaries to enhance biodiversity. This will directly benefit aspirations to enhance biodiversity.

5.20 Such mitigation can be achieved by condition on the S36 consent and deemed planning permission and will be sufficient to ensure that there will be no adverse impact on ecological matters.

5.21 Whilst no biodiversity net-gain metric is required by planning policy, a Biodiversity Net Gain Feasibility report has been prepared by Blackhill Ecology. It is identified in their Option 2 that biodiversity increases of 35% can be achieved through interventions within the red line area. As the technology surrounding BESS is fast moving, the final layout is expected to be conditioned. However, the submitted feasibility report demonstrates at an enhancement in biodiversity is achievable. Alongside a final layout, a finalised Habitat Management Plan and associated Landscaping Strategy can be conditioned as part of any consent. Accordingly, the detailed proposal is acceptable in ecology and habitat terms and complies with related policy 3 of NPF4.

Agricultural Land

5.22 The site comprises approximately 9.1hectares of grade 3.2 agricultural land. It is not defined, therefore, prime agricultural land and whilst the Land Capability for Agriculture, Scotland' considers Class 3 land is capable of producing good yield from a moderate range of crops, this refers to both 3.1 and 3.2 land. It is Class 3.1 which is considered prime and not 3.2 land. Whilst the site is in agricultural use, the Applicant has been advised by the owner that it is relatively low in output and productivity value, that the loss of this area to agriculture will not be significant and that the remaining agricultural unit will remain viable. Access to the wider holding will be maintained.

5.23 The site will be fully decommissioned at the end of its operational life and the land will be restored and returned to its former agricultural use, utilising the bunds to be created from existing top soil on site.

5.24 The proposal, therefore, will not affect agricultural land, particularly as the development can be 'reversed' in the future and re-used for agricultural purposes. The Applicant has agreed to a license of 25 years extendable to 40 years, after which the agreement with the landowner is to decommission the site and to the restore it to agricultural use (as existing). Decommissioning plans can be agreed towards the end of the life span of this proposed development.

5.25 Accordingly, the use of the land for BESS development is entirely consistent with policy 5 of NPF4 and MCLDP

Cultural Heritage

5.26 The site is not within a Conservation Area and does not contain any listed buildings or Scheduled Monuments within or immediately surrounding the site. There will be no impact on any feature of importance or its setting.

5.27 A Desk Based Assessment (DBA) has been undertaken in respect of archaeology.

5.28 The DBA concludes that, "there is considered to be a Low to Medium potential for remains of prehistoric and medieval date, a Medium potential for remains of post-medieval date, and a High potential for remains of modern date" and goes onto recommend, "*A programme of archaeological works in advance of development would likely be required*". The Applicant is willing to accept such an appropriately worded condition.

5.29 On this basis, it is considered that the proposal is acceptable in terms of heritage importance and is consistent with policy and the balance falls in favour of the proposed BESS development.

Community Impact

5.30 During consultation, the applicant recognised the requirements for the proposed development, understanding the national need for BESS facilities and that locally there would be benefit through enhanced power networks.

5.31 The site lies some 200m from the nearest residential property which is the farmhouse associated with the agricultural holding upon which this BESS facility is proposed. There are other residential dwellings within circa 250m from the site's east boundary and 250m to the north of the site.

Visual Impact

5.32 Proposed landscaping and earth works are designed to minimise intervisibility. The photomontages demonstrate that, once landscaping is established, there will be a significant visual screen to the proposed development from selected vantage points. For example, View Point 12 from the A96 and 13 from the south evidence that the proposed landscaping and bunding would almost render the proposed development invisible with only glimpsed views achieved. The LVIA summarises that there would be an initial visual impact which diminishes overtime as a result of mitigation.

Noise

5.33 The NIA identifies 4 key residential receptors in proximity to the site and as such seeks to ensure that they are not detrimentally impacted by the proposed development. To ensure this, the proposals are designed to deliver significant bunding and acoustic baffling to minimise noise propagation. The operational impact of the proposed development is identified in the NIA to be "minor" to "minor / moderate".

5.34 Accordingly, any impact from the development in terms of loss of residential amenity from noise, visual impact or general activity would not be significant in relation to the benefit of the proposal in terms of contribution to National Development 3 and energy targets.

Access and Transport

5.35 In regard to accessibility and impact of paths and cycle lanes, the proposed development has been assessed against policy 13 of the NPF4 and PP3 of the MCLDP. The site is not adjacent to any core path and there is a limited provision of footways alongside the majority of roads in the vicinity of the Proposed Development, including the A96 to the east. The nearest footpath is located at the northern end of Denwell Road where it forms a junction with the A96. This footpath connects Denwell Road to Keith, north of the Proposed Development. Excluding the town of Keith, there is limited provision for pedestrians as most roads lead to agricultural land and fields. Therefore, outside of recreational use, it is unlikely that the area would experience a high level of pedestrian activity. Provision for cyclists in the area is also very limited as there are no nearby cycle lanes. However, due to the presence of Keith to the north, both rail services and bus services can be accessed within close vicinity of the Proposed Development.

5.36 The Transport Statement details the means by which construction traffic will access and egress from the site and concludes that the facility can be constructed without harm to highway safety, subject to detailed management processes and minor works to the existing highway, all of which can be controlled by condition.

5.37 The proposal, therefore, will not impact pedestrian, cycle, or vehicular use of the surrounding public highway and so would comply with policy PP3 of the MCLDP.

Drainage / Flooding

5.38 The Drainage Impact Assessment, submitted as a supporting document. It identifies that the site is currently undeveloped greenfield. The development will increase in the rate and volume of runoff compared to the existing position. However, mitigation is proposed which will result in appropriate drainage being provided to ensure surface water can be properly drained without contaminants entering the water system and without causing any local flooding. Water runoff will be attenuated and discharged to the existing greenfield rate. As such, whilst new impermeable surfaces are introduced, the discharge from the site as a whole will not change. The Assessment identifies the design standards that will be ensured in its section 2.

5.39 The proposed reservoir can provide a water supply to ensure the battery units are cooled and in any case of emergency. To control any water runoff, used in any emergency event that may be contaminated, the attenuation features are equipped with sluice gates. In such an event these can be sealed, the water stored and disposed of separately and not discharged to the water environment.

5.40 The site is not within any identified flooding area, whether pluvial or fluvial. The proposed development is assessed against SEPA requirement for 1 in 200-year event plus climate change allowance and the drainage strategy designed accordingly. The proposed development would therefore comply with policy 22 and 20 of NPF4 and MCLDP policy EP12.

Soils

5.41 Peat was found in just one exploratory hole in the northeast of the site. Only as a thin layer was identified and was absent in all other trial pits (14 completed). The site is identified through intrusive investigation to only host a limited amount of peat, in a very specific location at a depth of 1.8m. The proposed development would not require land cutting to a depth of more than approximately 1m and as such would not impact the identified peat on site.

Construction

5.42 It is acknowledged that there may be short term impact during the construction period, as is common with major development. However, this is temporary and short term and will be mitigated through, for example, restrictions on hours of construction. The Transport Report submitted as a supporting document demonstrates the manner within which the construction activity will be controlled and can be covered by condition for the submission of a detailed CEMP prior to works starting on site.

5.43 There will be a necessity for temporary illumination at the site during the construction period, which is expected to be approximately 18 months. The Applicant will ensure that lighting is minimised as much as possible and directed into the site (in line with operational requirements). During the operational stage, there will be no requirement for lighting, other than motion-controlled security lighting and occasional maintenance. During the operational stage, activity at the site will be negligible as the BESS facility is primarily unmanned.

5.44 It is considered, therefore, that whilst there will be a change to the immediate countryside landscape, the development will not result in harm to the amenity of residents and the wider community to an extent which outweighs the wider benefit of the development. A Community Wealth Building Plan (CWBP) has been developed with cognisance to the Council's Supplementary Guidance for Community Wealth Building.

Utilities and Infrastructure

5.45 There are no known or recorded contaminating or hazardous sites within 500m of the site nor any main utilities within the immediate vicinity of the site with the exception of the National Grid pylon which lies to the western side of the site. The location of the pylon has been fully taken into consideration in the design layout of the BESS facility and which is proposed entirely to the east of the pylons, leaving the required area free from development. The perimeter fencing to be erected around the BESS will be set in from the site boundaries to protect the corridor area to the pylons.

Conditions

5.46 The assessment demonstrates that the balance in determination of this development should fall in favour of granting consent under S36, and deemed planning consent, as no site-specific detail would be breached to such an extent to warrant refusal particularly when the benefit of the proposed development to contributing to enhanced energy provision is taken into consideration. This approach complies with NPF4 Policy 11 which seeks (insert sentence re significant weight, overriding other matters)

5.47 It is acknowledged that certain mitigation will be required to minimise any potential impact, to which the Applicant is fully committed, and which will relate to:

- Approval of and implementation of detailed CTMP and CEMP prior to works starting
- Detailed Landscaping plans prior to works starting and completion in the first planting season following completion of the development
- Approval of and implementation of detailed Habitat Management Plan prior to works starting, and obtaining licenses as may be necessary from NatureScot
- Approval of decommissioning programme of works prior to the site becoming non-operational and implementation of those works after operations cease

- Habitat Restoration Plan and method statement prior to the site becoming non-operational and implementation of those works after operations cease
- Limitation on noise emissions from the installations and provision of acoustic treatment in accordance with the Noise Assessment
- Archaeological Watching Brief

Development Plan and Policy Summary

5.48 The above assessment demonstrates that there is a clear need for energy related development, including storage proposals and which should carry significant weight in considering development proposals. Policy seeks to encourage BESS facilities providing there is a locational need, and the development will not cause such harm to any material consideration such that the benefit of the proposal should be outweighed by that consideration. The application documentation demonstrates that due to the absence of special designation at the site and the distance and characteristics of land and the proposed mitigations there will be no significant adverse impact which cannot be appropriately mitigated. Therefore, it is considered that the development is in accordance with national and local policy.

6.0 Conclusion

6.1 Consent and deemed planning permission is sought from the Scottish Ministers under Section 36 of the Electricity Act 1989 for a 349MW BESS facility proposed on land near Keith, in the Moray Council administrative area. In determining the application, it is necessary for the Scottish Ministers to determine whether the requirements of Schedule 9 of that Act have been met, taking into consideration also national policy relating to energy and planning.

6.2 BESS facilities are recognised as being essential to support the continued development of renewable energy sources and to enhance the National Grid network to ensure sufficient supply of stable energy. The development, therefore, will be of national and local benefit.

6.3 The application is supported by a full suite of assessments which demonstrate that careful consideration has been paid to the appropriate siting and design of the facility, to ensure appropriate connection to the grid, without significant adverse impact on the environment. It is a site which benefits from no special landscape, nature or cultural designation and is set apart from the surrounding sporadic residential dwellings. It is acknowledged that the development will change the local landscape, but siting, design and planting mitigation is proposed which will reduce any potential impact. Through implementation of a CWBP the development will have local, regional and national economic and social benefit.

6.4 The proposed development has been tested against relevant national and local policy and it is considered that, subject to mitigation, there will be no significant environmental effects, and the proposed BESS facility will not have any adverse impact on any material matter as:

- The development complies with the requirements of NPF4 and the MCLDP, as the development plan.
- There will be benefit from the proposal to the National Grid, to decarbonising electricity supply and meeting renewable energy and gas emission targets.
- Connection can be made to the grid, at the existing Blackhillock substation, via a short connection under the existing public highway, further reducing environmental impact.
- There will be economic benefit through employment generation particularly during the construction period.
- The site is set apart from surrounding residential properties whose amenity will be maintained through intervening landform, planting and acoustic features and no significant impact would exist is the long term.
- There are no special environmental, landscape or cultural designations in the vicinity of the site so the development will be carried out in a non-sensitive countryside location of non-prime agricultural land.
- Access to the site can be achieved via the existing highway with limited requirement for improvement or modification.

6.5 The Scottish Ministers, therefore, are respectively requested to grant S36 consent and deemed planning permission.

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