

22/01488/APP
13th October 2022

**Proposed battery energy storage system and associated
Infrastructure on Land Adjacent To Electricity Substation
Westerton Road Keith Moray
for Keith Renewables Limited**

Comments:

- The application is a Major application as the proposal relates to electricity generation with a capacity of more than 20Mw.
- The application was advertised for Neighbour Notification and as a departure from the Development Plan.
- 143 representations have been received in support.

Procedure:

None.

Recommendation

Grant Planning Permission - subject to the following:

Conditions/Reasons

1. The development to which this permission relates must be began not later than the expiration of 5 years beginning with the date on which this permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. This permission shall endure for a period of 40 years from the date on which the site first connects to the grid network within which period the development shall cease to operate and cease to connect to the grid network and the site shall be restored in accordance with a detailed decommissioning, restoration and aftercare statement to be approved in writing in advance by the Planning Authority. Written confirmation of the date of first connection to the grid network shall be provided to the Planning Authority within 1 month of this occurrence. For the avoidance of doubt the detailed decommissioning, restoration and aftercare plan shall provide detailed proposals, in accordance with relevant guidance at that time, for the removal of the Development, the treatment of ground surfaces, the management

and timing of the works and environment management provisions which shall include waste management proposals.

Reason: To ensure that the development is removed at the end of its use and to ensure the satisfactory restoration of the site.

3. No development shall commence until final details of all the proposed battery system and storage including the battery enclosure, transformers, grid compliance equipment, substation building and spares storage container have been submitted to and agreed in writing by the Planning Authority. For the avoidance of doubt the final installations shall not exceed the dimensions shown on approved plans 3057_DR_P_0006, 3057_DR_P_0007, 3057_DR_P_0008 and 3057_DR_P_0009 and shall be finished in white, grey or green. Where possible darker recessive tones shall be used. Thereafter only the approved details shall be implemented.

Reason: Insufficient details have been provided with the proposal.

4. No development shall commence until a pre-construction badger survey, in accordance with the recommendations contained in section 4.4.1 of the submitted report entitled 'Keith Battery Energy Storage System Ecological Impact Assessment' dated September 2022, has been undertaken and a report of survey has been submitted to, and approved in writing by the Planning Authority. The survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified and a species protection plan. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

Reason: To ensure that the site and its environs are surveyed and the development does not have an adverse impact on protected species or habitat.

5. No development shall commence until a Construction Environmental Management Plan (CEMP) has been submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Manager. The plan shall include measures to minimise construction related noise, dust and artificial lighting and all proposals for construction phase waste management. Thereafter the development will be carried out in accordance with the agreed plan.

Reason: In order that environmental emissions are considered and managed at the construction phase, in order to protect local residents.

6. No development shall commence until details including location and specification of at least two artificial bird boxes to be placed on site have been submitted to and agreed in writing with the Planning Authority. Thereafter the approved items shall be provided prior to the first use of the site hereby approved.

Reason: To secure biodiversity enhancements of the site.

7. No development shall commence until details including material, design and surface density of the proposed acoustic fence have been submitted to and

approved in writing by the Planning Authority in consultation with the Environmental Health Manager. Unless otherwise agreed with the Planning Authority, a 3.5m high acoustic barrier with a surface density of at least 10kg/m² shall be provided on the southern and western elevation of the development as detailed in the submitted noise impact assessment by Arcus Consulting Limited, dated 6 October 2022, Report Ref: P4415_R1-V4 and titled "Arcus Consulting Noise Impact Assessment Report. Battery Storage Scheme in Keith" and approved plan 3057-DR-LAN_101. The fence shall be provided in accordance with the agreed details prior to the first use of the site and shall thereafter be installed and maintained throughout the lifetime of the development

Reason: To protect local residents from noise nuisance due to the operation of the development.

8. No development shall commence until details of the operational site lighting have been submitted to be agreed in writing by the Planning Authority, in consultation with the Environmental Health Manager. Thereafter, only the agreed lighting shall be installed and the agreed lighting details shall be maintained throughout the lifetime of the development.

Reason: To protect local residents from light nuisance due to the use of the development.

9. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the development shall be carried out in accordance with the agreed CTMP at all times. For the avoidance of doubt the CTMP shall include as a minimum the following information:
 - duration of works;
 - construction programme;
 - number of vehicle movements (i.e. materials, plant, staff, components);
 - schedule for delivery of materials and plant;
 - parking provision, loading and unloading areas for construction traffic;
 - proposals to safeguard vulnerable pedestrians at and around Keith Primary School during the construction period;
 - full details of temporary arrangements to safeguard pedestrian movements during the construction period;
 - full details of any temporary access;
 - measures to be put in place to prevent material being deposited on the public road;
 - traffic management measures to be put in place during works including any specific instructions to drivers;
 - full details of construction traffic routes from/to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site; and
 - a programme of monitoring for all routes identified within the CTMP during construction will be required.

Reason: To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.

10. No development shall commence until evidence of a satisfactory Wear and Tear Agreement has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. The scope of the Wear and Tear Agreement shall be agreed with the Planning Authority in consultation with the Roads Authority and shall include a condition survey of the network undertaken jointly by the developer and a representative from the Council. The survey shall include the full extent of the agreed construction traffic route(s) (within Moray) between the site and the 'A' class road network. In addition, the Wear and Tear Agreement shall also include condition surveys of all roads identified as 'unsuitable' which must be agreed with the Planning Authority in consultation with the Roads Authority as a part of condition '9' above.

Reason: To mitigate the potential risks from damage to the public road occurring during the construction phase of the development.

11. No development shall commence until evidence of a financial guarantee or bond or suitable equivalent and a Wear and Tear Agreement have been put in place to ensure the repair of the public road serving the site in the event that the road is not maintained in a safe condition during the construction phase of the development and to restore the road to its pre-development condition within 1 year of the development becoming operational has been submitted to and agreed in writing with the Planning Authority in consultation with the Transportation Authority. For the avoidance of doubt the agreement shall cover the section of the U35H Drum - Ardrone Road from the A96 to the site entrance as a minimum and all roads identified for off-site disposal of material/soil as in condition '9' above.

Reason: To mitigate the potential risks from damage to the public road occurring during the construction phase of the development.

12. No development shall commence until:
 - i. a visibility splay 2.4 metres by 120 metres, with all boundaries set back to a position behind the required visibility splay, has been provided in both directions at the access onto the public road; and
 - ii. Thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway.

Reason: To enable drivers of vehicles leaving/entering the site to have a clear view over a length of road sufficient to allow safe exit/entry, in the interests of road safety for the proposed development and other road users.

13. No development shall commence until three passing places to the Moray Council standards and specification have been constructed on the U35H Drum - Ardrone Road at the agreed locations shown on drawing no. 3057_DR_P_006 rev 1. Any existing ditch, watercourse or drain impacted by the proposed passing places shall be properly diverted/covered or piped according to the prior instructions of the Roads Maintenance Manager.

Reason: To enable drivers of vehicles to have adequate forward visibility to see approaching traffic and for two vehicles to safely pass each other ensuring the safety and free flow of traffic on the public road.

14. The access shall be formed to the following standard prior to the first use of the development hereby approved:
- The widening of the access track shall be carried out to accommodate vehicle swept paths in accordance with approved drawing 3057-DR-P-003 rev 2 with the access radii kerbed using splayed concrete kerbs to the Moray Council specification.
 - The vehicular access shall have a maximum gradient of 1:20 measured for the first 5.0m from the edge of the public carriageway; and
 - the first 5 m of the access track, measured from the edge of the public road, shall be constructed to the Moray Council specification and surfaced with bituminous macadam.
 - Any existing ditch, watercourse or drain under the site access shall be piped using a suitable diameter of pipe (300mm minimum), agreed with the Roads Maintenance Manager. The pipe shall be laid to a self-cleansing gradient and connected to an outfall.

Reason: To ensure the construction of an acceptable access in the interests of road safety and effective drainage infrastructure.

15. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access.

16. The rating level of noise associated with the development shall not exceed the rating levels detailed in tables 5 and 6 of the submitted Noise Impact Assessment by Arcus Consulting Limited, dated 6 October 2022, Report Ref:P4415_R1-V4 and titled "Arcus Consulting Ltd. Noise Impact Assessment Report. Battery Storage Scheme in Keith". For the avoidance of doubt, the rating level associated with this condition is defined within BS 4142: 2014 + A1:2019 Methods for rating and assessing industrial and commercial sound.

Reason: To protect local residents from noise nuisance due to the use of the development.

17. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times outwith these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken outwith the permitted/stated hours of working.

Reason: To protect local residents from noise nuisance in ensuring the construction phase is restricted within permitted hours.

18. All landscaping works shall be carried out in accordance with the details shown on approved plan 3057- DR-LAN -101 in the first planting season following the first operation of the development hereby approved.

Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless otherwise approved by the Council, as Planning Authority.

Reason: To ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

19. All foul and surface water drainage proposals shall be in accordance with the submitted Drainage Impact Assessment, dated September 2022.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SuDS; in order to protect the water environment.

20. The Planning Authority shall be provided with reports every 3 years from the date of first grid connection confirming that electricity has been imported and exported to the grid. If no electricity has been imported or exported to the grid by the development for a continuous period of 36 months, then unless otherwise agreed in writing with the Planning Authority, the development shall be removed and the site reinstated. Details of the proposed reinstatement shall be submitted for approval in writing to the Planning Authority within 2 months of either the equipment ceasing to be required or from the end of the 36 month period when it is not in operation, and the reinstatement work shall be completed within 3 months of the planning authority's approval of that proposed reinstatement scheme, or such other period agreed in writing by the Planning Authority.

Reason: To ensure that if the Development becomes redundant the equipment is removed from the site, in the interests of safety, amenity and environmental protection.

Reason(s) for Decision

The Council's reason(s) for making this decision are:-

The proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.

List of Informatives:

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Planning consent does not carry with it the right to construct a new road or any part of a road. In accordance with Section 21 of the Roads (Scotland) Act 1984 Construction Consent for new roads (includes passing places, modified junctions and footpaths) that will form part of the public road will be required. Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk and reference to the following pages on the Council web site:

Checklist: <http://www.moray.gov.uk/downloads/file68812.pdf>

RCC: http://www.moray.gov.uk/moray_standard/page_65638.html

Specification: <http://www.moray.gov.uk/downloads/file68813.pdf>

The applicant is obliged to apply for a road opening permit in accordance with Section 85 of the Roads (Scotland) Act 1984. Advice on this matter can be obtained by emailing roads.permits@moray.gov.uk and reference to the following page on the Council web site:

Road Opening: http://www.moray.gov.uk/moray_standard/page_79860.html

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

The applicant shall free and relieve the Roads Authority from any claims arising out of their operations on the road or extension to the road.

The applicant shall be responsible for ensuring that surface/ground water does not run from the public road into their property.

The applicants shall be responsible for any necessary diversion of any utilities or drainage present at the locations where works are to be undertaken.

The applicants shall meet all costs of improvements to the road infrastructure, which are required as a result of the development.

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

SSE TRANSMISSIONS has commented that:

Proximity to Overhead Lines – the clearances to SSSEN Transmission OHL's appears to be sufficient in this case. There are SSSEN Distribution overhead lines within proximity and the developer should consult with them before any works are undertaken (SSSEN-D general enquires - ge@ssen.co.uk).

Proximity to underground cables (HMN & HMS, Blackhillock – Macduff 132kV Cables) – SSEN Transmission raises concern on the following points - The changes to boundary fences may encroach on the route corridor of our cable and, the proposed new access track appears to be approximately 3m from the cable position, where it meets the main road.

The developer should refer to HSE Document HSG47 and notify SSEN-T at their earliest convenience of any work which may interfere with the ground within 5m of our cable route corridor so we can provide detailed feedback and advise on safety restrictions/requirements.

Utilities Search - We recommend the Applicant carries out a utilities search and consults HSE documents GS6 and HSG47. We request the applicant / their client / contractor, contacts SSEN-T 30 days prior to starting work on site at the following email address - Transmission.asset.Management@sse.com.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
		Location plan
3057-DR-P-008	1	Swept path analysis
3057-DR-P-007	1	Passing place layout
3057-DR-P-0014		Acoustic fencing
3057-DR-P-0013		Welfare Cabin elevations
3057-DR-P-0012		Spares container elevations
3057-DR-P-00006	1	Overview plan
3057-DR-P-0005		BESS cross section
1 B		Location plan aerial
3057-DR-LAN_101		Landscape mitigation plan
3057_DR_P_0006		Indicative battery container elevation
3057_DR_P_0007		Indicative inverter and transformer elevations
3057_DR_P_0008		DNO switch room elevations
3057_DR_P_0009		Client switch room elevations
3057_DR_P_0010		Palisade fence details
3057_DR_P_0011		Security column detail
3057_DR_P_0001	8	Site layout plan
3057-DR-P-003	rev 2	Site Access Details



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
22/01488/APP

Site Address:
Land Adjacent To Electricity Substation
Westerton Road Keith

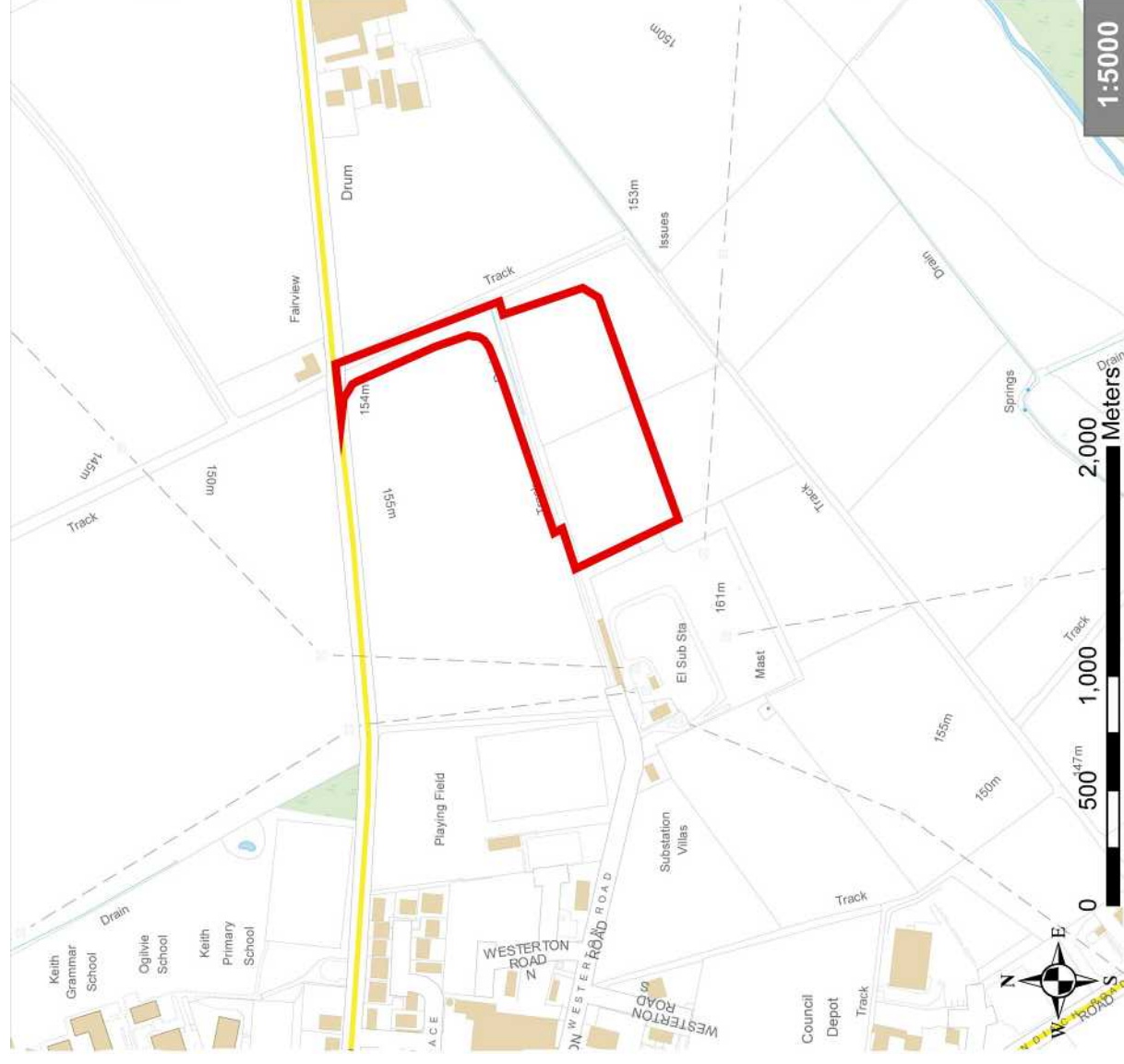
Applicant Name:
Keith Renewables Limited

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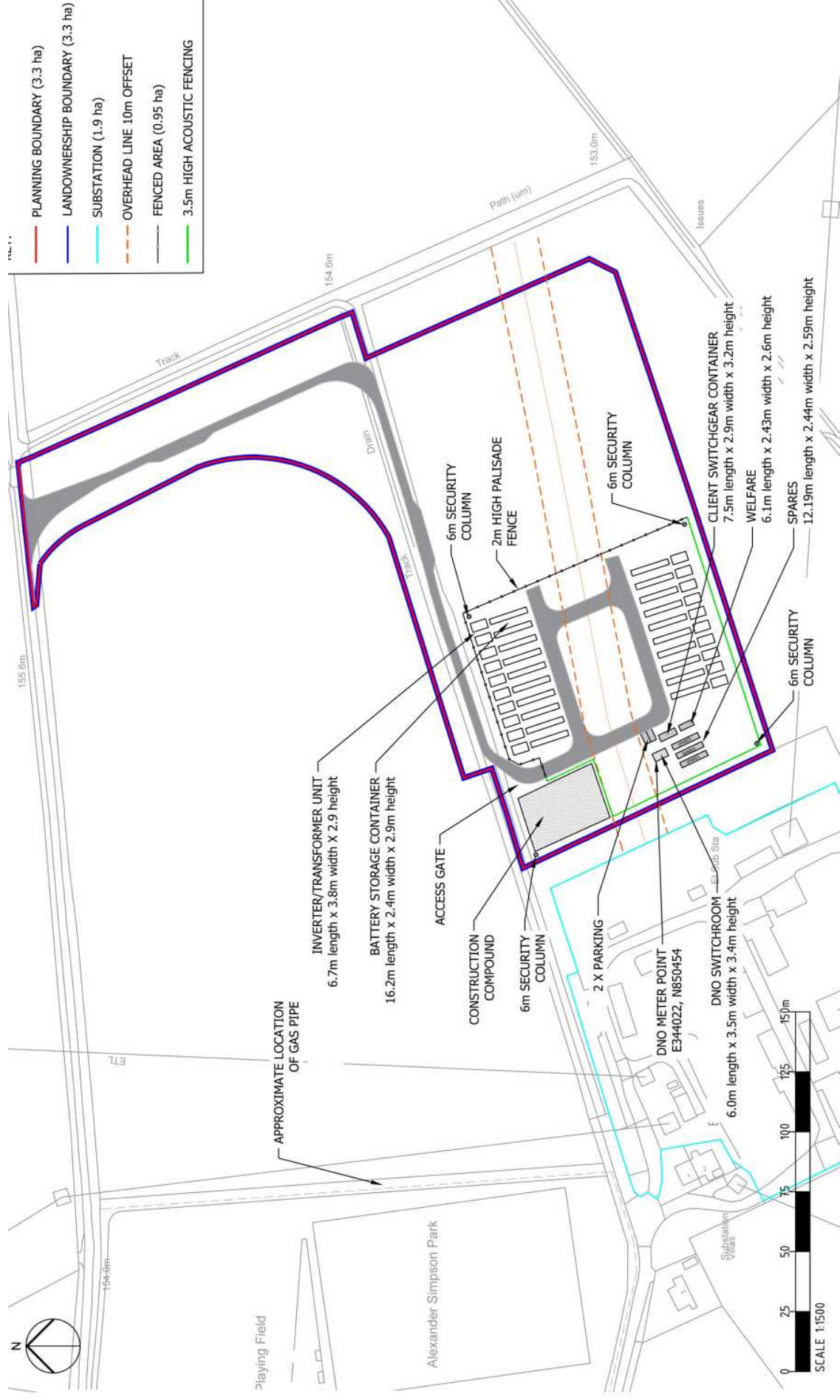
Location Plan

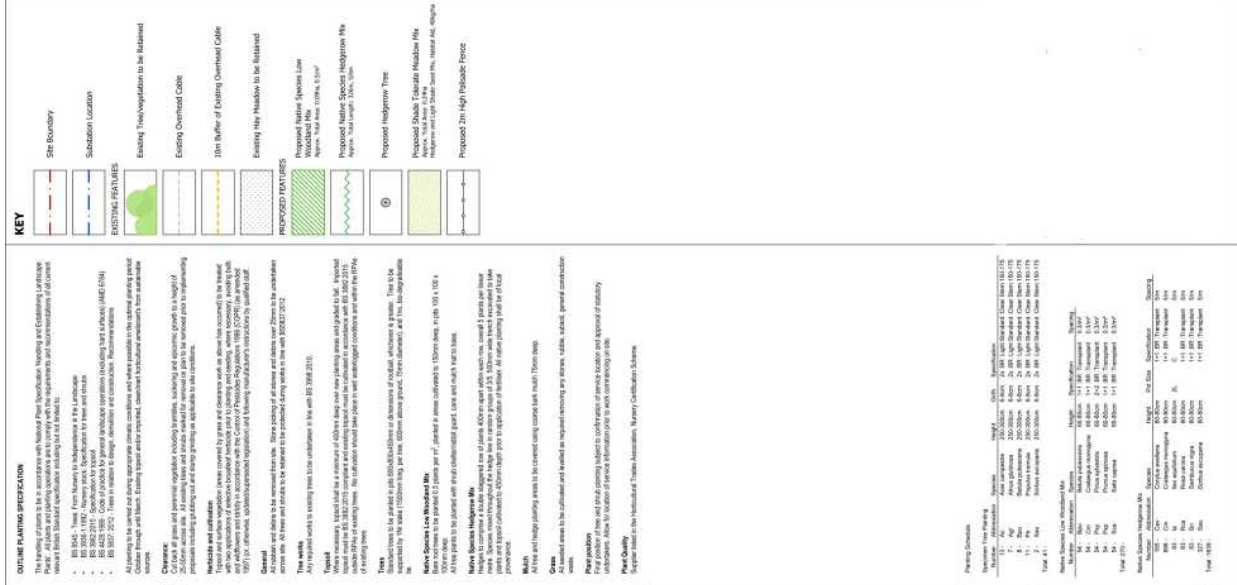


Site Location

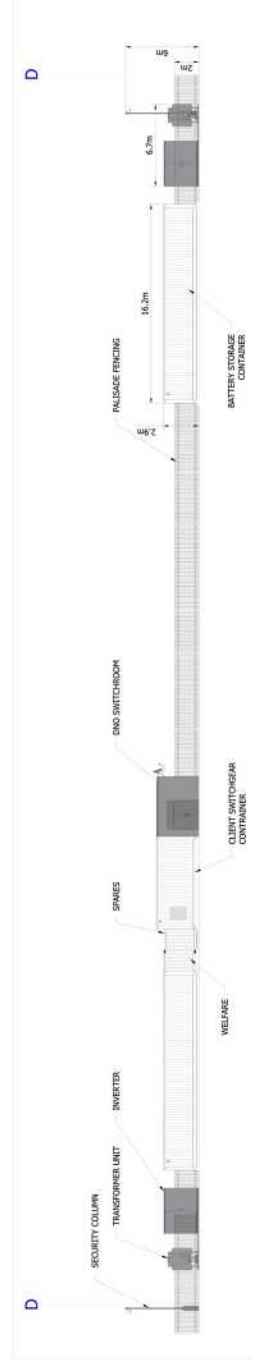
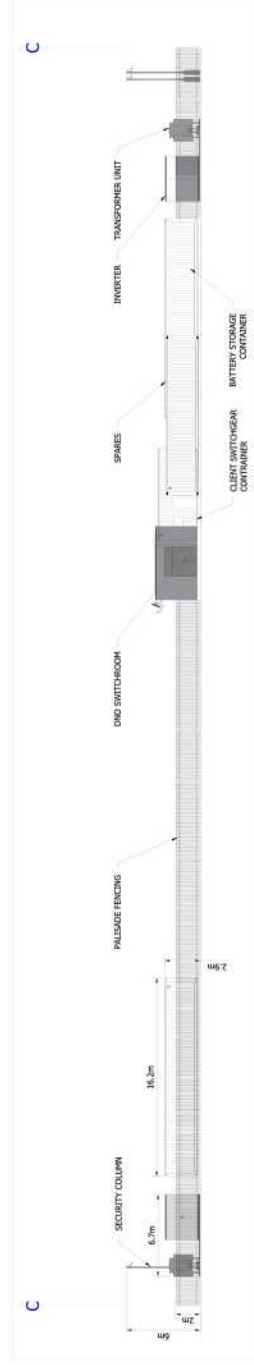
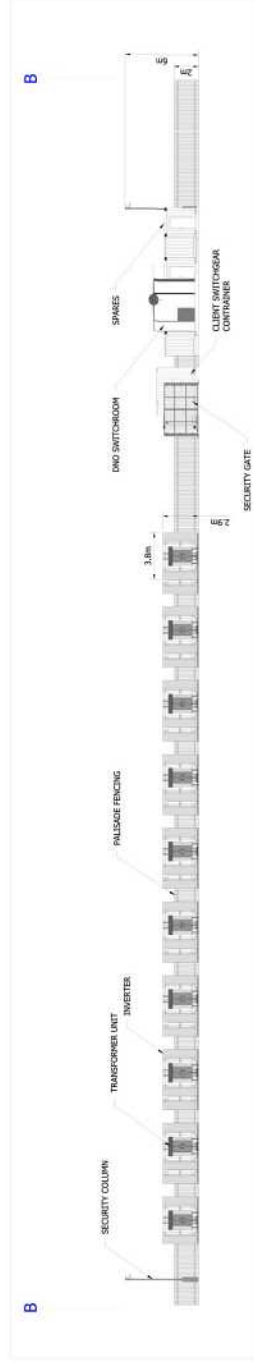
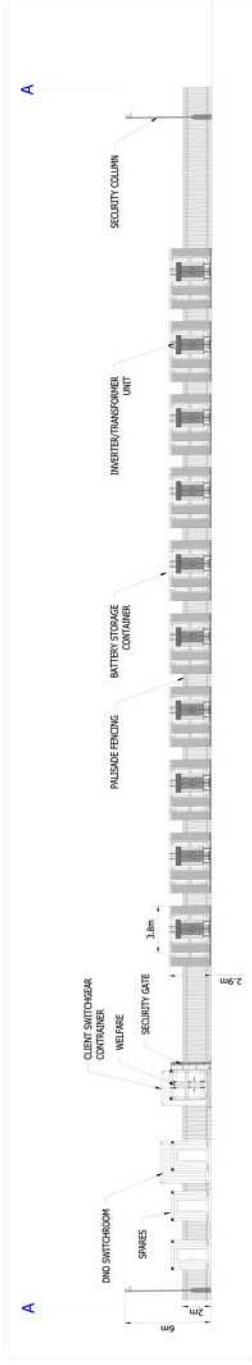


Site layout plan





Cross sections



Surrounding BESS proposals

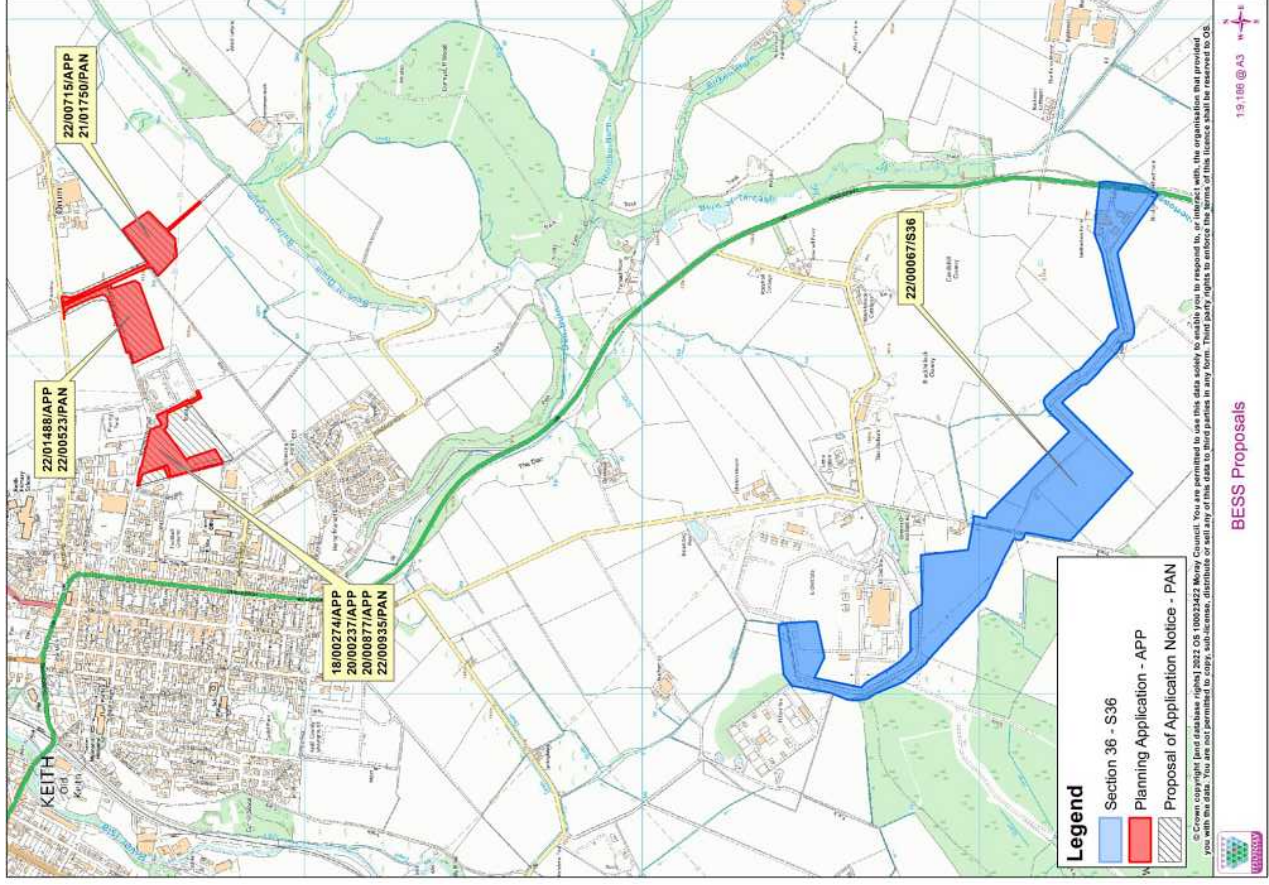


Photo location plan

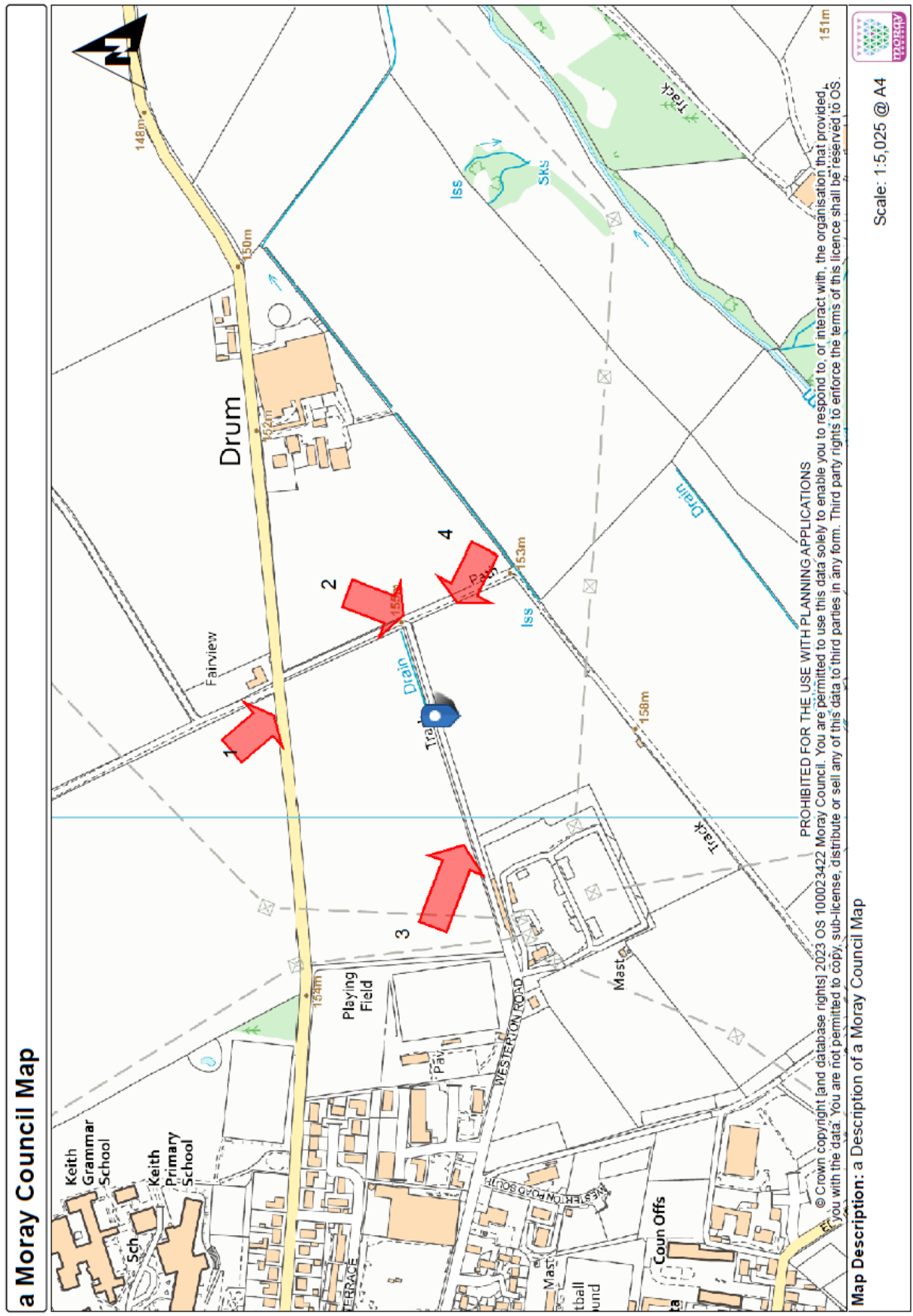




Photo 1

Photo 2

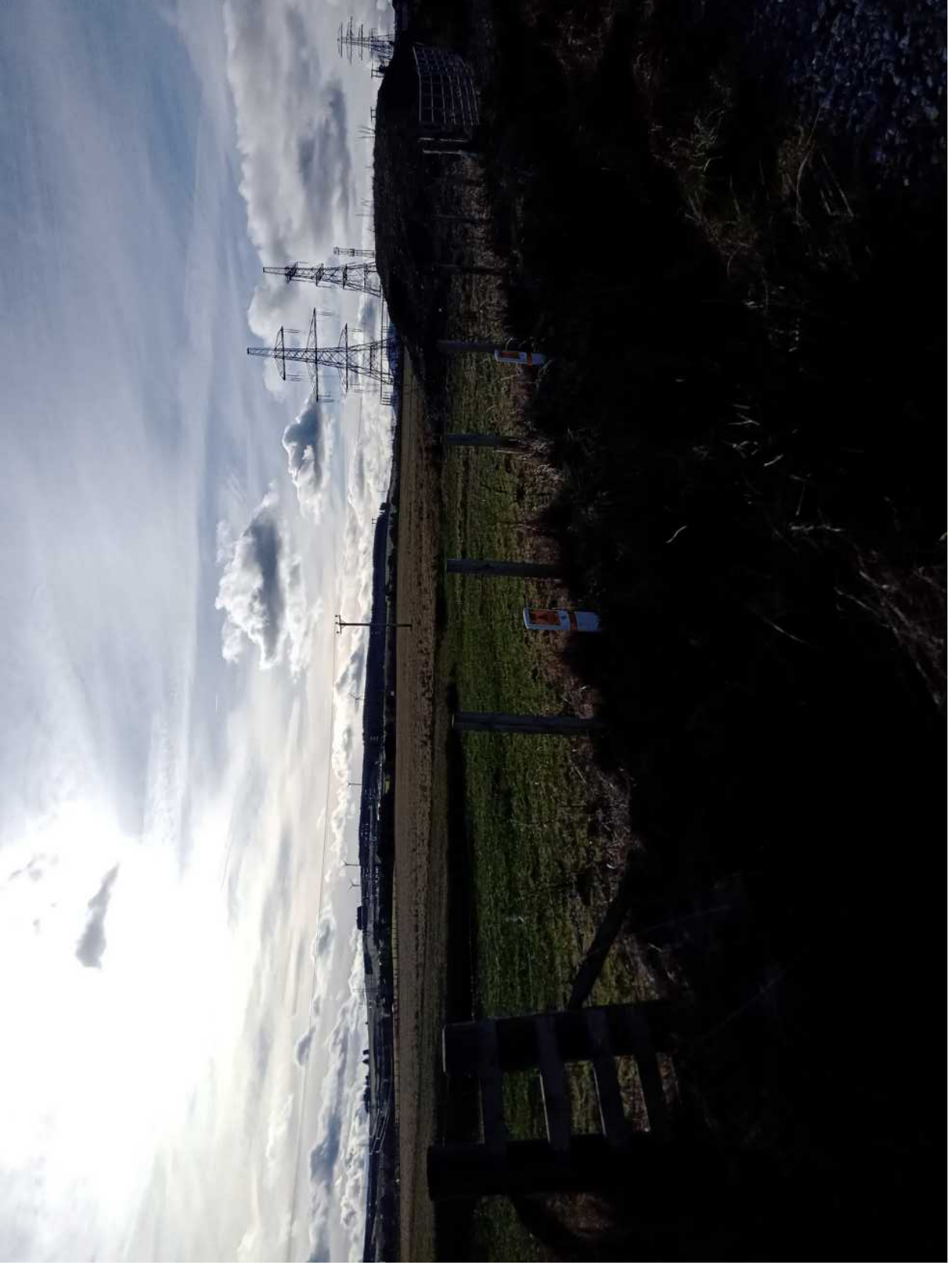


Photo 3



Photo 4



PLANNING APPLICATION: 22/01488/APP

In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications

1. **THE PROPOSAL**

- The application seeks planning permission for an energy storage facility including battery enclosures, transformers, substations, grid connection infrastructure, CCTV, a welfare unit and a spares/maintenance container along with access, external lighting, secure fencing and landscaping.
- The compound will be enclosed by 2m high palisade fencing to the north and east and 3.5m high acoustic fencing to the south and west.
- Landscaping is proposed around the outside of the compound.
- The application is supported by a Planning, Design and Access Statement, including a supplementary statement on compliance with NPF4, Drainage Impact Assessment, Pre-application consultation (PAC) Report, Ecological Assessment and Biodiversity Statement.

2. **THE SITE**

- The site is located to the south east of the substation on Westerton Road, Keith.
- The site area is 2.4ha and farmland.
- The site is on the eastern edge of Keith and is bounded by fields to the north, south and east. The land is largely flat and open.
- A new access is proposed from the U35H to the north of the site and west of Drum Farm to the west of existing track which forms part of the core path.
- There are overhead lines crossing the site.
- The track running through the north of the site forms part of the core path which connects to other existing tracks to the north east and south which are also part of the core path network.
- The site is within the Countryside Around Towns buffer identified around Keith in the MLDP 2020.

3. **HISTORY**

22/00523/PAN - Proposed battery energy storage system and associated infrastructure on Land Adjacent To Electricity Substation, Westerton Road, Keith - reported to the Planning and Regulatory Services Committee on 31 May 2022. Members asked the developer to consider:

- ensuring appropriate safety measures are taken in relation to fire/explosion risks as the proposal is close to playing fields and Keith Primary School;
- encourage public face to face consultations as Covid restrictions are easing.

Following the submission of the PAN online public events were held on 10 and 24 August 2022 and information was made available on a project website with details of how to make comments between 30 March 2022 and 30 August 2022. Nobody attended the online event and no comments were made in response to the information displayed on the website. Both Strathisla and Keith Community Councils were directly invited to make comment but neither did.

20/01220/PAN (smaller site) - Battery Energy Storage Scheme including containerised battery units (27no) inverters and transformers mounted in skids grid connection container grid connection compound welfare and parts containers security columns with CCTV cameras and 2m high security fence on Land To East Of Keith Substation, Westerton Road, Keith - reported to the Planning and Regulatory Services Committee on 7 October 2020. Members asked the developer to consider:

- potential risk of chemical and noise pollution
- the size and type of batteries,
- any effect with regard to vibration, impact on soil in the immediate area,
- effect on humans and animals,
- life of the batteries and method of disposal at life expiration and
- the risk of explosion with the estimated danger area if an explosion were to occur.

Surrounding development of the same character

22/00715/APP - Installation of an energy storage facility including battery enclosures power conversion units transformer substations grid connection infrastructure vehicular access and associated works at Land At Drum Farm, Keith - approved at Planning and Regulatory Services Committee 25 October 2022.

22/00935/PAN - Development of up to 50mw capacity greener grid park for energy management with battery containers transformers inverters on Land South Of Westerton Road, Keith reported to the Planning and Regulatory Services Committee on 16 August 2022. Members asked the developer to consider:

- assurance that there are no health risk as the proposed development is close to a school and playing fields;
- assurance that a major incident plan is in place due to fire risks;
- consideration be given to the blast wall being made from natural materials;
- consideration be given so that the electrical infrastructure is more aesthetically pleasing.

20/00877/APP - Section 42 application to remove Condition 4 and vary Conditions 3 and 5 of planning permission 20/00237/APP on Land Adjacent To No 13, Westerton Road, Keith granted 20 October 2020.

20/00237/APP - Construction of an energy management facility at Land Adjacent To No 13 Westerton Road, Keith granted 21 May 2020.

4.

POLICY

National Planning Framework 4

Sustainable Places

- 1 – Tackling the climate and nature crises
- 2 – Climate mitigation and adaption
- 3 – Biodiversity
- 4 – Natural places
- 5 – Soils
- 8 – Green belts
- 9 – Brownfield, vacant and derelict land and empty buildings
- 11 – Energy
- 12 – Zero waste
- 13 – Sustainable transport

Liveable Places

- 14 – Design, quality and place
- 22 – Flood risk and water management
- 23 – Health and safety

Productive Places

- 26 – Business and industry
- 29 – Rural development

Moray Local Development Plan 2020

Primary Policies

- PP1 – Placemaking
- PP2 – Sustainable Economic Growth
- PP3 – Infrastructure and Services

Development Policies

- DP1 – Development Principles

Environment Policies

- EP1 – Natural Heritage Designations
- EP2 – Biodiversity
- EP4 – Countryside Around Town
- EP5 – Open Space
- EP12 – Management and Enhancement of the Water Environment
- EP14 – Pollution, Contamination and Hazards

5. **ADVERTISEMENTS**

- 5.1 Advertised for Neighbour Notification and as a departure from the Development Plan.

6. **CONSULTATIONS**

Keith Community Council: No comment.

Strathisla Community Council: No comment.

Strategic Planning & Development: No objection.

- The principle of development is supported and a locational need for the site is established through the need for the facility to be in close proximity of the adjacent Keith Electrical Substation. However, the proposal is located within Keith CAT and does not meet the exemptions provided under Policy EP4.
- The proposed development contributes towards meeting national need for renewable energy storage development and integrates into the landscape through its siting, design and landscaping, resulting in the development being visually associated with the adjacent Substation.
- The proposal is considered to be an acceptable departure from Policy EP4 and complies with Policies PP3, DP1, DP5, DP9 and EP2.

Access Manager: No objection and support upgrading of the core path.

Archaeology: No objection.

Contaminated Land: No objection.

Environmental Health: No objection subject to conditions to control construction working hours, the provision of a Construction Environment Management Plan (CEMP), noise and lighting.

Moray Flood Risk Management: No objection.

Transportation: No objection subject to conditions to secure the provision of a Construction Traffic Management Plan (CTMP), a Wear and Tear Agreement and Road Bond in relation to the road leading to the site and three passing places on the public road along with conditions to secure adequate visibility and access of an acceptable standard.

SSE Transmissions: No objection. The application site is directly adjacent to Keith Substation and a 275Kv overhead transmission line (OHL) traverses the site. SEN Transmission require to ensure that adequate OHL clearances are provided for their existing assets to operate the line safely and efficiently. The developer is advised to notify SSE of works starting on site.

Scottish Water: No objection.

7.

NOTE: Following the determination of this application, name and address details will be/have been removed (i.e. redacted) in accordance with the General Data Protection Regulations (paragraph 3 of Minute, Planning & Regulatory Services Committee 16 September 2014).

The image displays a horizontal bar chart consisting of 40 rows. Each row contains a single black bar. The lengths of the bars vary significantly, representing a distribution of data. The bars are grouped into several clusters. The longest bar in the entire set is located in the 25th row. The bars are arranged in a way that suggests a comparison of values across different categories or groups.

[REDACTED]

A pro forma letter has been submitted by each of the above contributors. The letter makes the following points:

- The development would make the most of a local, Scottish resource.
- The development will reduce emissions and help to make the UK energy supply sustainable.
- The development will reduce reliance on fossil fuels.
- The development would reduce energy dependency on overseas supply.
- The development reduces the need for nuclear energy.
- The development will contribute to meeting Net Zero targets.
- Action is needed to tackle the climate emergency.

Response (PO): The comments are noted and form part of the assessment as detailed below.

8. **OBSERVATIONS**

- 8.1 Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. National Planning Framework 4 (NPF) and the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.
- 8.2 The main planning issues are considered below:
- 8.3 **Pre-application Consultation Report**
The application is accompanied by a Pre-Application Consultation (PAC) Report, as prescribed under section 35C of the 1997 Act. This outlines the statutory consultation that the applicant undertook with the local community in relation to this application. The form and scope of the pre-application consultation was considered to be suitable, and agreed by the Council in response to Proposal of Application Notice 22/00523/PAN. It is noted that the public consultation reflected the temporary legislative changes as a result of the COVID-19 pandemic which were in force at the time and allowed for online/virtual consultation instead of 'in person' events.
- 8.3.1 The PAC Report states a project website was set up to provide information on the development and online public events were held on the 10 and 24 August 2022. No one attended the public events and no comments were received via the website. The PAC report details the steps taken to consult with Members, Community Councils and the public.
- 8.4 **Environmental Impact Assessment**
In the absence of any previously adopted Screening Opinion or Screening Direction (by Scottish Ministers) for this development, the Planning Authority, must adopt its own formal determination on whether or not EIA procedures are required where it appears that the application for planning permission is a Schedule 1 or Schedule 2 application in relation to the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. In this case the proposal is Schedule 2 development under category 3a Industrial installations for the production of electricity, steam and hot water where the site exceeds 0.5ha. Having considered the characteristics of the development, the location of the development and characteristics of the proposed development it was concluded that there will be no significant adverse environmental effects and the proposal is not an EIA development.

8.5 **Duration of Consent**

The applicant has requested that the application be granted subject to a condition that allows 5 years for development to commence. Since 1 October 2022 the Planning Authority is required to impose conditions regarding the time period for commencement (previously it was a statutory obligation highlighted in the accompanying notes) and has the power to vary the time period. In this case the applicant has advised that the upgrades are required to the transmission network and the adjoining substation before the proposal can be connected. In order to retain their grid connection offer the applicant must secure planning permission. Given the circumstances outlined by the developer a 5 year time period for commencement is considered to be acceptable in this instance.

- 8.5.1 The developer has sought a 40 year consent which is considered to be reasonable in this case. It is recommended that this is controlled by condition and that conditions are imposed to secure appropriate restoration of the site and removal of the development in the event of obsolescence during the lifetime of the planning permission.

8.6 **Principle of the Development & Compliance with Renewable Energy Policy (NPF4 Policy 11 & MDLP 2020 DP9)**

NPF4 policy 11 is supportive of all renewable energy development including battery storage provided that the proposals address impacts on communities and developments including residential amenity, visual impact and noise, landscape and visual impacts, public access, aviation and defence interest, telecommunications, traffic, historic environment, hydrology, biodiversity, trees, decommissioning, restoration and cumulative impact. Policy DP9 is supportive of renewable energy developments where they are compliant with policies to safeguard and enhance the built and natural environment, do not result in the permanent loss of prime agricultural land and avoid or address significant impacts in relation to landscape and visual impact, noise, air quality, electromagnetic disturbance, impact on the water environment, impact on soils and peat, impact on woodland, traffic, ecology and tourism and recreation interests.

- 8.6.1 The Supporting Statement makes clear that there is a strong locational need for the site proposed. The site is close to the existing substation which is essential for the development to limit electrical losses during transmission and ensure the maximum efficiency of the system. It is also highlighted that the electrical substation has a viable import and export capacity to service the development. The locational justification is acknowledged. The proposal will not adversely impact on the built and natural environment and does not impact on prime agricultural land. In relation to landscaping and visual impact the impact is not likely to be significant as the surrounding landscaping is already influenced by similar uses. The existing substation provides setting for the development and reduces the visual impact as the substation is already a prominent feature in the landscape. The submitted section drawing through the site demonstrates that the development is relatively low in height and will not be dominant in the wider landscape. Any views of the development will be read alongside the existing substation and the overhead lines. The final battery design is subject to further detailed design and will not be finalised until closer to the

commencement of construction. A condition is recommended requiring final details to be submitted for approval. The battery infrastructure including the enclosures themselves and the transformer may be finished in white, grey or green. While a muted colour would be preferable to better integrate into the surrounding landscape the agent advises that this may not be possible as the technology often requires lighter colours for cooling and it is not possible to paint or clad them. A condition is therefore recommended requiring final details of all the battery installations including colours to be submitted for final approval. In the context of the surrounding development the landscape and visual impact is considered to be acceptable.

- 8.6.2 Battery storage has been approved to the west of the substation (18/00274/APP, 20/00237/APP and 20/00877/APP) and to the south east (22/00715/APP) of the current application site. A larger scheme (22/00067/S36) has been approved at Blackhillock to the south of Keith. A plan showing these sites is included in the information pack. It is acknowledged that there is a concentration of development of this kind in the vicinity, however it is recognised that this is a result of the need to be sited with good access to the Westerton Road Substation. The substation is the dominant feature in the landscape and both the proposed and approved developments relate well to this feature. This proposal does not represent a visually unacceptable build-up of development. Other potential cumulative impacts including noise and transportation have been assessed as part of the application. This application is not considered to have an unacceptable cumulative impact.
- 8.6.3 Noise, soils, traffic, public access and ecological impacts are considered in more detail below. Other considerations of the policies are not relevant in this case. In so far as the issues identified in MLDP EP9 part (iii) and NPF4 policy 11 (e) apply to this development the proposal is considered to comply.
- 8.7 **Impact on CAT and Green Belts (NPF4 policies 8 & 9 & MLDP 2020 EP4)**
For the purposes of NPF4 the CAT areas identified in the MLDP are considered to be 'green belt' and therefore NPF policy 8 applies. NPF4 policy 8 (i) identifies a wider range of developments that are allowed within the green belt including renewable energy developments. Part (a) (ii) of the policy sets out additional requirements that must be met which are that proposals must set out why a green belt location is essential, demonstrate that the purpose of the green belt will not be undermined, that the proposal is compatible with surrounding established countryside and landscape character, the proposal has been designed to ensure it is of an appropriate scale, massing and external appearance and uses materials that minimise visual impact and there will be no significant long term impacts on the green belt. In this case a strong locational need has been justified as the development is required to be sited alongside the substation. It is noted above that the landscape and visual impact is considered to be acceptable and in keeping with the established character of development in this location. The proposal is of an appropriate scale and planting will be employed to soften the visual impact. There is sufficient open space around the development to protect the character of the wider CAT/Green belt.
- 8.7.1 Section 24 of the Town and Country Planning Act 1997 has been updated to clarify that in the event of incompatibility between the LDP and NPF4 the latter

of the two prevails which in this case is NPF4. The application was advertised as a departure from the development plan however following adoption of NPF4 this is no longer the case as development of this nature within the CAT complies with NPF4 policy 8. The site is a greenfield site as it has not been previously developed. NPF4 policy 9 (b) states that greenfield development will not be supported except on allocated sites or where development is explicitly supported by policies of the LDP. In this instance the development plan (MLDP and NPF4) expressly supports renewable energy development, and MLDP policy PP2 supports sustainable economic development where there is a clear locational need and all potential impacts can be satisfactorily mitigated. It is noted above that there is a strong locational need for this development to be sited alongside the existing substation. The potential impacts can be mitigated as detailed below. The proposal is therefore considered to accord with NPF4 policy 9 (b).

8.8 Climate Change (NPF4 policies 1 & 2)

NPF4 policies 1 and 2 require significant weight to be given to the climate and nature crises in the assessment of all applications and requires climate mitigation from all development. In this case the proposal is for a renewable energy development which will help to secure a sustainable clean energy supply and contribute towards net zero targets. Biodiversity enhancements are proposed and the drainage proposals have been designed in a sustainable manner.

8.9 Impact on Protected Species (NPF4 policy 4 & MLDP 2020 EP1)

An Ecological Impact Assessment has been provided in support of the application. The site is not covered by any natural heritage designation although Mill Wood SSSI is 1.25km to the east. The survey found little evidence of protected species but noted that there was potential for the site to be used by badgers and nesting birds. Conditions are therefore recommended requiring a pre-start badger survey and appropriate mitigation as necessary. The planting proposals identified below will provide greater nesting opportunities for birds but the survey also recommended that two additional bird boxes are provided. It is recommended that this element is also controlled by condition. The recommended conditions will ensure that there will be no adverse impact on protected species. The development will therefore comply with NPF4 policy 4 & MLDP 2020 EP1.

8.10 Landscaping & Biodiversity (NPF4 policy 3 & MLDP 2020 EP2 & EP5)

A detailed landscaping plan has been provided in support of the application. This makes provision for the planting of a wild flower meadow around the edges of the compound with a native species hedgerow along the north, west and southern boundaries with trees throughout. Planting on the eastern boundary is constrained by the presence of the overhead lines as no planting is permitted under them. A low 'woodland' mix is proposed along this boundary of the compound with trees on either side of the overhead lines. The plans state that 'Standard' size trees will be planted throughout. The applicant states that these have been chosen to reflect the predicted progress and management of the site. They also note that the dense hedge planting along the north, west and south edges of the compound will provide more visual screening for the development. This is expected to grow to a height of 3m in 8 – 10 years. They also note that larger standards are usually harder to establish and slower to

make progress so are often outgrown by smaller specimens planted at the same time. The landscaping proposals will provide good quality planting in a manner that has been designed to help integrate the development into the wider landscape. It is recommended that the provision of planting is controlled by condition to ensure that it is timeously provided.

- 8.10.1 NPF4 policy 3 & MLDP 2020 policy E2 require all development to contribute to the biodiversity enhancement of the site. The provision of wildflowers will provide opportunities for butterflies and bees and other pollinators while the hedging will provide nesting and sheltering opportunities for other birds and animals. The supporting information also states that two bird boxes will be provided. It is recommended that this element is controlled by condition. The site is currently open grass land and the proposals will provide a significant biodiversity enhancement. The proposals therefore accord with NPF4 policy 3 and MLDP2020 EP2.

8.11 **Access (NPF4 policy 13 & MLDP 2020 DP1)**

A new access to the site from the public road to the north is proposed to serve the development. This will connect to an existing track which runs through the northern part of the main part of the application site and will provide access into the battery compound. The existing track which is a Core Path will be upgraded (see below) to facilitate the development. The Transportation Manager has no objection to the formation of the access subject to conditions to ensure that the junction with the public road is formed to an acceptable standard and to secure adequate visibility splays at the access.

- 8.11.1 Vehicles will arrive via the Drum Farm – Ardrone Road. Conditions are also recommended to secure three additional passing places are being sought on this road along with a Wear and Tear Agreement and a Road Bond to ensure that any damage to the public road arising from the development is rectified and there are sufficient funds in place to cover this. It is also recommended that a Construction Phase Traffic Management Plan (CPTMP) is sought by condition. The Transportation Manager has raised no objections to the proposals subject to the conditions as recommended. The recommended conditions will ensure that the development provides safe entry and exit and adequately mitigates impact on the adjoining public road and therefore the proposal complies with policies NPF4 policy 13 and MLDP DP1 (ii) (a) and (c).

8.12 **Impact on Core Path Network (NPF4 policy 20 and MLDP 2020 PP3, DP1)**

A core path route runs through the northern part of the main part of the application site. This will be upgraded and incorporated into the access to the development. While there will be some disruption during the construction phase the track will be upgraded which will be beneficial for outdoor access. It will remain a core path and continue to be accessible. The Access Manager has no objection and supports the upgrading of the core path. The development will enhance the core path and ensure that access is maintained. The proposal therefore complies with MLDP policies PP3 (b) (i) and DP1 (ii)(a) and NPF4 policy 20 and MLDP 2020 policies PP3 (b) (i) which requires core paths to be safeguarded and green links to be enhanced where possible.

- 8.13 **Noise, Lighting and Pollution (NPF4 policy 23 and MLDP 2020 EP14)**
A Noise Impact Assessment has been produced in support of the application. This concludes that with appropriate mitigation, including a 3.5m high acoustic fence around the south and west of the compound, the impact will be acceptable. The Environmental Health Manager is content with the findings of the report and has recommended conditions in line with the conclusions it contains. These seek to control the construction working hours, the operational noise levels and the provision of the recommended acoustic fence. Details of a proposed fence are included with the application but these are presented as indicative details only and do not include all the information required to ensure that the fence is of a suitable construction to mitigate noise as intended. It is therefore recommended that final details are sought by condition. The recommended conditions will ensure that noise associated with the development will not cause significant pollution and therefore the proposal complies with NPF4 policy 23 (e) and MLDP 2020 policy EP14.
- 8.13.1 The site plan shows the location of lighting columns which will also have CCTV mounted on them but no additional lighting details have been provided. The Environmental Health Manager has recommended a condition requiring the submission of a lighting scheme to ensure that there is no adverse impact on the surrounding area from operational lighting. Subject to this recommended condition the development will not cause significant light pollution and as such complies with MLDP policy EP14.
- 8.13.2 A further condition is recommended requiring the submitted CEMP to be implement at all times. This will ensure that adequate pollution control measures are in place during the construction phase.
- 8.13.3 Subject to the proposed mitigation and recommended conditions the proposals comply with NPF4 policy 23 and MLDP 2020 Policy EP14 as far as it relates to this development.
- 8.14 **Drainage (NPF4 policy 22 & MLDP 2020 EP12)**
The development is supported by a drainage statement. Surface water will be dealt with by means of an attenuation basin in the eastern part of the site. Moray Flood Risk Management are content with the proposals but a condition is recommended to ensure that the proposals are implemented in full and in a timeous manner. The proposals will ensure that surface water is dealt with in a sustainable manner that has a neutral effect on flooding and as such the proposals accord with the requirements of NPF4 policy 22 and MLDP 2020 policy EP12.
- 8.15 **Impacts on Soil (NPF4 policy 5)**
NPF4 policy 5 seeks to minimise soil disturbance on undeveloped sites and protects soil from damage. In a statement submitted demonstrating compliance with NPF4 the applicant states that this has been incorporated into the overall design noting that the development has a relatively small footprint (the compound area is less than 1ha) and that much of the development sits on the ground with limited sub-surface work required. On this basis the proposal is considered to comply with NPF4 policy 5.

8.16

Zero Waste (NPF4 policy 12 & MLDP 2020 DP1)

NPF4 policy 12 seeks to reduce the waste of materials in construction and requires (part c) waste management plans for developments that will generate waste. In a statement submitted demonstrating compliance with NPF4 the applicant states that the optimum use of materials has been considered throughout the design process. Given the nature of the development it is unlikely to generate significant waste during its operational period. Waste management during the construction and decommissioning phases will be covered in the CEMP and Decommissioning plans sought by conditions 5 and 2 respectively. This will ensure compliance with NPF4 policy 12 and MLDP 2020 policy DP1 (iii).

8.17

Fire Risk and Safety

It is noted that Members raised concerns about safety and in particular fire risk when the PAN (22/00523/PAN) was reported to this Committee on 31 May 2022. The applicant has sought to address this in their supporting Planning Statement. The statement highlights that all health and safety guidance and best practice measures will be followed. Each battery container would have fire detection and suppression system and would be continually monitored by a battery management system which would report any faults. Each battery is housed in a separate container which would reduce the risk of fire spreading. In the event that a fire did break out the fire suppression systems would use a non-toxic gas which is not damaging to the environment and a venting system would prevent flammable gases building up in the battery unit.

8.18

Impact on SSE Infrastructure

There are overhead lines crossing the site and underground SSE infrastructure in the vicinity of the development. The landscaping has been designed to account for this. SSE have requested that they are notified that work is to be undertaken and an informative note to that effect is recommended.

Conclusion

This proposal is a renewable energy scheme the principle of which is supported by the development plan. There is a locational justification for development in this location as the development needs to be close to the existing substation in order to connect to the grid. The site can be suitably serviced and any suitable mitigation is proposed in relation to potential impacts on noise or protected species. The existing development will provide setting for this development and the landscape and visual impact is considered to be acceptable. The proposal is in accordance with policy and it is recommended for approval.

REASON(S) FOR DECISION

The Council's reason(s) for making this decision are: -

The proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.

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