

23/00994/APP
14th June 2023

**For the construction and operation of a 30 MW battery energy storage system including associated infrastructure at Land To East Of A941 Bishopmill Elgin Moray
for Green Power Consultants Ltd**

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.
- No representations have been received.

Procedure:

None

Recommendation

Grant Planning Permission – subject to the following:

Conditions/Reasons

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which the 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 12 months 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 provision 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 the material finishes of all buildings and plant including battery storage containers, as well as full details of the means of enclosure have been submitted to and agreed in writing by the Planning Authority. For the avoidance of doubt the battery storage containers shall be finished in grey or green as indicated in the submitted supporting information with the application. 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 works in connection with the development hereby approved shall commence unless an archaeological Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a Post-Excavation Research Design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the Planning Authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: To safeguard and record the archaeological potential of the area.

5. No development shall commence until:
 - i. a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land through ownership or provision of third party agreement) showing the visibility splay 4.5 metres by 215 metres in both directions at the access onto the A941 Lossiemouth - Elgin - Dufftown - Rhynie Road with all boundaries set back to a position behind the required visibility splay, and a schedule of maintenance for the splay area has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority; and
 - ii. thereafter the visibility splay shall be provided in accordance with the approved drawing prior to any works commencing (except for those works associated with the provision of the visibility splay); and
 - iii. thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.26 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

Reason: To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with minimum interference to the safety and free flow of traffic on the public road through the provision of details currently lacking.

6. 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.

7. 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;
 - 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;
 - 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.

8. No works shall commence on site until a Method Statement setting out the working practices and detailed drawings related to underground cable laying in the vicinity of the U39E Myreside Road, A941 Lossiemouth – Elgin – Dufftown – Rhynie Road, Elgin – Lossiemouth cycle track and C24E Elgin - Westerfolds - Duffus Road has been submitted to and approved in writing by the Council as Planning Authority in consultation with the Roads Authority. Thereafter, the development works shall proceed in accordance with the approved details, unless otherwise approved in writing by the Planning Authority in consultation with the Roads Authority.

Reason: To ensure acceptable working practices in the vicinity of the public infrastructure through the provision of details currently lacking.

9. 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.

10. Prior to development commencing, a Construction Environmental Management Plan (CEMP) shall be 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;
 - a scheme for the management of surface water drainage during the construction process;
 - a scheme to ensure soils on and around the site are protected from unnecessary disturbance including erosion and compaction to minimise soil sealing.

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, the Sey Burn and soils on and around the site.

11. The rating level of noise associated with the development shall not exceed 41 dB at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission . 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. The rating level in this condition will apply for either daytime (0700 to 2300 hours) or night time (2300 to 0700 hours) periods.

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

12. Unless otherwise agreed with the Planning Authority, a 4m high acoustic fence with a surface density of at least 10kg/m² shall be provided on the south east and south west elevations of the development as illustrated in Figure D.2, page 28 of the approved Noise Impact Assessment supporting document by Parker Jones Acoustics and titled "Land at Spynie Farms, Elgin, Moray, IV30 4LF. Noise Impact Assessment. 1st December 2023 Revision 1", as well as indicated in Drawing No. APA-612-DR-PL-003 Revision 4, dated 08/11/23 and titled "Proposed Site

Layout". Prior to the use commencing, the final selected acoustic barrier in terms of chosen material, design, surface density shall be submitted in a plan and agreed in writing with the Council, as Planning Authority and shall thereafter be installed prior to the first use or completion of the battery storage scheme hereby approved (whichever is the soonest) and maintained throughout the lifetime of the development.

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

13. Prior to the development commencing details of the operational site lighting shall be submitted to and agreed in writing by the Planning Authority, in consultation with the Environmental Health Manager. Thereafter, the agreed lighting details shall be implemented as approved and maintained throughout the lifetime of the development.

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

14. Prior to any development works commencing, a monitoring statement that demonstrates the measures taken/implemented to ensure compliance with the approved Community Wealth Building Plan (by AAH Consultants dated November 2023) shall be submitted to the Council, as Planning Authority for approval in writing. This shall include details of:
 - the offer of community ownership including any marketing/promotion with the local community and community bodies;
 - the name(s) of the body/bodies taking partial ownership and details of their respective share(s) (where there has been no uptake this should also be specified);
 - (where there has been no demand for community ownership) details of alternative schemes as specified in section 2.20 of the approved Community Wealth Building Plan including any marketing/promotion with the local community and community bodies; and
 - mechanisms to ensure community bodies/groups that do invest can withdraw from ownership if necessary.

Thereafter the development shall proceed in accordance with the approved details unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: To ensure that the measures detailed in the approved Community Wealth Building Statement have been implemented, in accordance with National Planning Framework 4 Policy 11 – Energy and Policy 25 – Community Wealth Building.

15. All tree protection measures (i.e. herras fencing or equivalent) as shown in the approved Planting Plan (ref no. Elgin GP-23-02 01 Rev B) shall be provided prior to any development works commencing (including site clearance/preparation works) and thereafter be retained in full accordance with the approved details until completion of the development.

Reason: To ensure timeous provision of the approved tree protection measures.

16. All landscaping as shown in the approved Planting Plan (ref no. Elgin GP-23-02 01 Rev B) shall be provided in the first planting season after completion of the development or the first use of the battery storage scheme (whichever is the soonest). Thereafter the landscaping shall be maintained in accordance with the approved aftercare specified on the plan. 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 this Council (as Planning Authority) gives written consent to any variation of this planning condition.

Reason: In order 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.

17. The development hereby approved shall be implemented in full accordance with section 6 (Conclusions and Recommendations) of the approved Bat Activity Survey Report (ref: RDECO00060/180/01/B dated 9 June 2023) and section 6 (Conclusions and Recommendations) of the approved Preliminary Ecological Appraisal (ref: RDECO00060/173/01/B dated 9 June 2023).

Reason: In order to ensure that the development proceeds in accordance with the recommended mitigation measures of the approved ecological surveys.

18. All foul and surface water drainage proposals shall be in accordance with the approved Drainage Impact Assessment, dated September 2023.

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

19. 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 occupies an area identified for advanced planting in the Findrassie Masterplan. Whilst this does not provide the full extent of planting identified in the masterplan, the proposal is considered to be an acceptable departure from the Findrassie Masterplan, on this basis the woodland planting proposed aids in establishing the advanced planting necessary as part of this designation.

The proposal complies with the provisions of National Planning Framework 4 and the Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise.

List of Informatives:

THE DEVELOPMENT MANAGEMENT AND BUILDING STANDARDS MANAGER has commented that:-

Please contact the Building Standards Duty Officer in order to ascertain whether a Building Warrant will be required for these proposals by telephone on 03001234561. Alternatively e-mail buildingstandards@moray.gov.uk

ABERDEENSHIRE ARCAEOLOGICAL SERVICE has commented that:-

Works by archaeological organisation

Any archaeological survey, watching brief or archaeological works required by a condition attached to this planning permission must be undertaken by a suitably qualified archaeological organisation. Written Scheme of Investigation (WSI) A written specification produced by the appointed Chartered Institute for Archaeologists (CIfA) member archaeological contractor on behalf of the applicant which outlines in detail the proposed scheme of archaeological investigation. It should detail what archaeological works will be carried out and how; how any encountered archaeological remains will be dealt with; how any updates to the WSI will be provided; the reporting process; and the potential for post-excavation requirement. The WSI must be submitted to the Planning Authority for approval before being implemented. The contents of the WSI must conform to the relevant national and CIfA standards and guidance.

Archaeological Discoveries Bona Vacantia

The developer has a legal requirement, under the laws of bona vacantia to report to the Treasure Trove Unit any objects or artefacts found during development works.

Post-Excavation Research Design (PERD)

A written specification for the post-excavation analysis of artefacts and samples recovery during the excavation phase or archaeological works, prepared by the appointed Chartered Institute for Archaeologists (CIfA) member archaeological contractor on behalf of the applicant. This should include a project design for the post-excavation work, a costed assessment for this work, and costed proposals

for the publication of results. The PERD must be submitted to the Planning Authority for approval. Once the PERD has been agreed, written confirmation must be provided to the Planning Authority demonstrating that an agreement is in place between the applicant and the appointed ClfA member archaeological contractor, committing the applicant to fund the post-excavation work and for said work to be completed by an agreed date.

The TRANSPORTATION MANAGER has commented that:-

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 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.

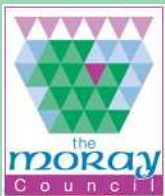
No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
GPC612-DR-PL-001		Location plan
		AUX Transformer Elevations
		Battery container elevations
		CCTV elevations
		Client control room elevations
		DNO elevations
		Inverter elevations
		Access gate elevations
		Transformer elevations
		Arboricultural constraints plan
ELGIN GP-23-01	01 B	Landscaping plan
SK-D-101	P1	Alternative drainage layout

APA-612-DR-PL-003	4	Proposed site layout
ELGIN GP-23-02 01	A	Planting plan

Documents to be stamped approved:

- Design and Access Statement
- Flood Risk Assessment
- Preliminary Ecological Appraisal
- Drainage Impact Assessment
- Community Wealth Building Plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

23/00994/APP

Site Address:

Land To East Of A941

Bishopmill Elgin

Applicant Name:

Green Power Consultants Ltd

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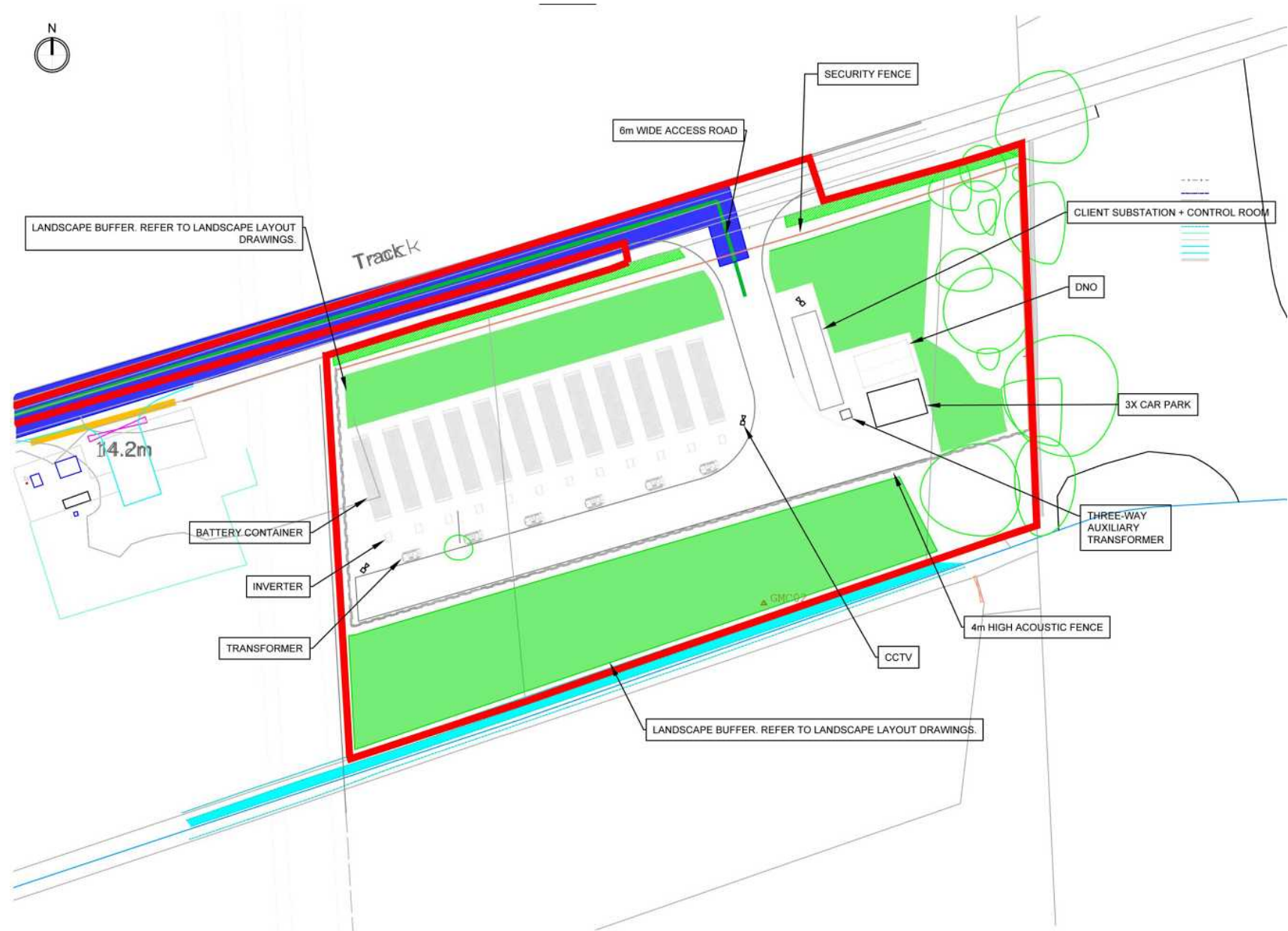
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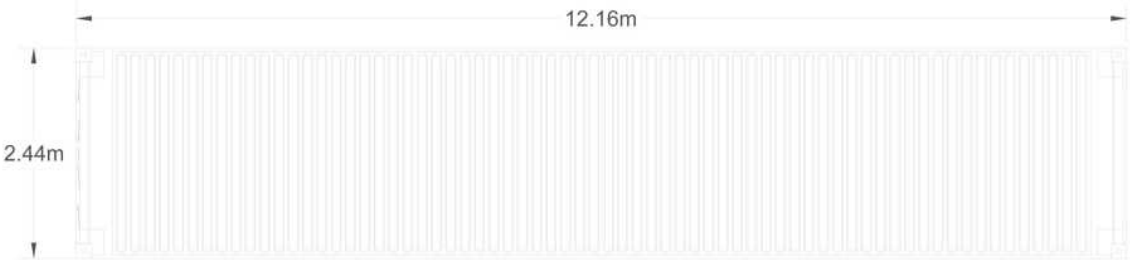
Location Plan



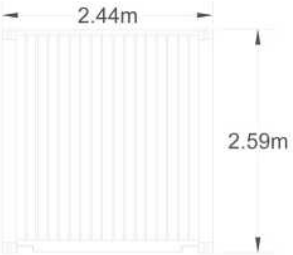
Site Plan



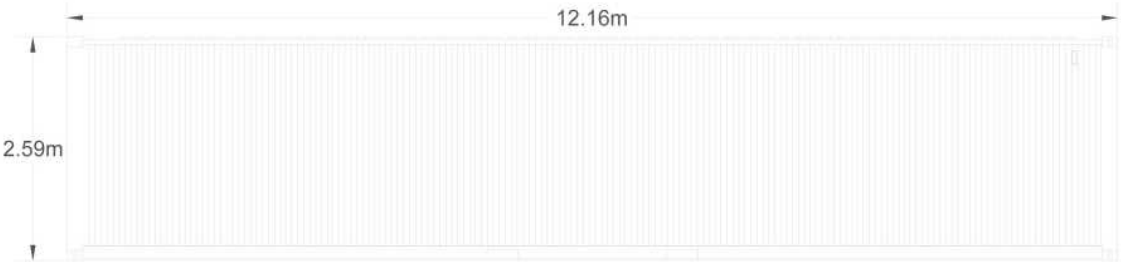
Battery container elevations



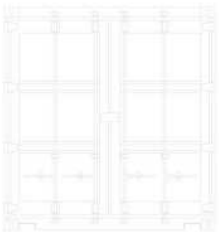
PLAN VIEW



REAR ELEVATION

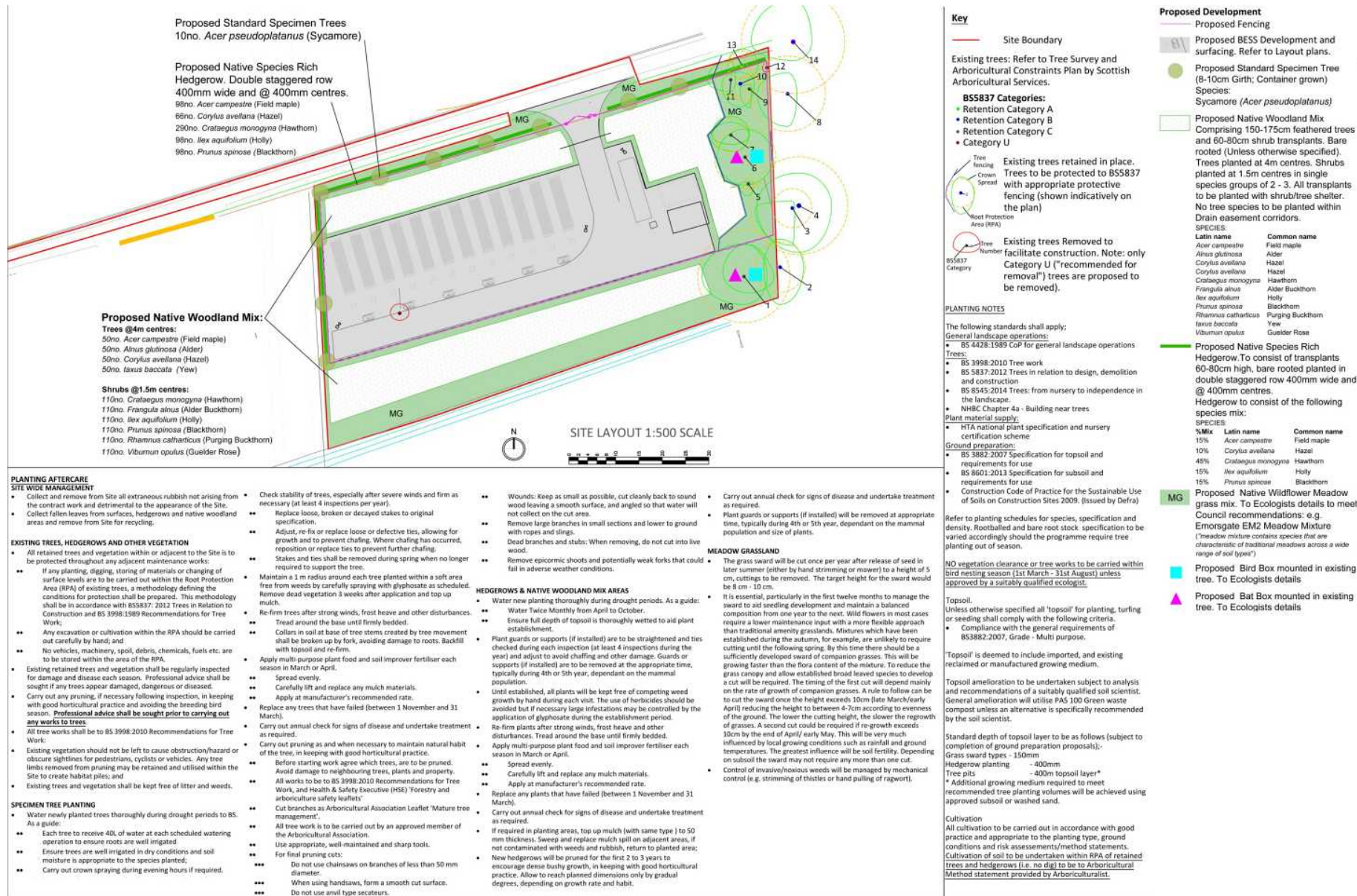


SIDE ELEVATION



FRONT ELEVATION

Planting plan



23/00994/APP - Photo Location Plan



Map Description: Arrows point in direction photograph was taken

Scale: 1:5,000 @ A4



Photo 1



Photo 2



Photo 3



LVIA Extract



TYPE 4 PHOTOMONTAGE - YEAR 1

To be viewed at a comfortable screen length

LAND TO THE EAST OF LOSSIMOUTH ROAD (A941), ELGIN

VIEWPOINT 1 - YEAR 1

VIEW FROM FOOTPATH CORN PATH 6063 / LOSSIMOUTH ROAD (A941), LOOKING SOUTH-EAST

PREPARED BY: A&A CONSULTANTS - JAN 2021 - 2021 - 2021



Camera make & model	Canon EOS 6D Mark II	Viewpoint height (AM)	1.5m	Visualisation Type	Type 4 (1/4 Scale)
Camera make & focal length	Canon EF 24mm f/1.4 USM	Distance from site	100m	Horizontal Field of View	33.4°
Date & time of photograph	14/01/2021 10:10:10	Projection	False	Height of camera lens	1.5m
Altitude reference	Sea Level (MSL)	Enlargement factor	100%	Page size / Image size (mm)	300 x 200 / 300 x 200

PLANNING APPLICATION: 23/00994/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/battery storage facility (30 MW) including 12 battery storage containers, transformers, inverters, control room, office/substation, 3 CCTV poles, access road and 3 car parking spaces.
- Consent is sought for a temporary period of 40 years.
- Landscaping is proposed around the site including trees and a hedgerow along the northern boundary and an area of woodland in the south of the site.
- The site would be enclosed by a mix of acoustic fencing (4 metres high) and security fencing.
- The application is supported by a Design and Access Statement, Flood Risk Assessment, Noise Impact Assessment, Planning Support Statement, Preliminary Ecological Appraisal, Pre-application Consultation Report, Bat Survey, Transport Assessment and Drainage Impact Assessment.

2. **THE SITE**

- The site is located to the north of Elgin, to the east of the A941 Elgin to Lossiemouth Road. The site boundary also takes in a connection following the public road from the proposed battery storage scheme subject to this application, over the A941 past Myreside to the substation at Covesea Road.
- The site covers an area of 0.65 hectares and is currently occupied by a vacant storage shed and yard, and grassland field.
- The surrounding area comprises agricultural land, woodland and residential areas to the north of Elgin, including a residential development under construction to the south west of the site (Findrassie Barratt/David Wilson Homes). The Sey Burn runs along the southern boundary of the site.
- The site subject to this application falls within the Elgin I8 (Newfield) designation and is within the Spynie Special Landscape Area as designated in the Moray Local Development Plan 2020. The site is also included in the Findrassie Masterplan.

3. HISTORY

23/00369/PAN – Installation of 30 MW battery storage facility with associated infrastructure on land to East of A941, Bishopmill, Elgin. Reported to the Planning and Regulatory Service Committee on 30 May 2023. Members resolved to request that the following matters be considered:

- A plan be developed for containment and extinguishing of any fire, including containment of chemicals and blasts should thermal runaway result in a fire leading to potential explosion.
- Engagement with local officers of Scottish Fire and Rescue Service (Elgin).
- Consider proximity of consented developments and land use designations in MLDP (notably housing at Findrassie).
- Request that all plans/mapping that form part of application be up to date as PAN submission did not include recent housing at Findrassie.

Following submission of the PAN, three public consultation events were held at Elgin City FC, Borough Briggs on Tuesday 28 March 2023, Tuesday 11 April 2023 and Wednesday 10 May 2023. Information was also displayed online and consultation undertaken with Innes, Elgin and Held Community Councils, as well as local politicians.

4. POLICIES

National Planning Framework 4

- 1 - Tackling the climate and nature crises
- 2 - Climate mitigation and adaptation
- 3 - Biodiversity
- 4 - Natural places
- 5 - Soils
- 6 - Forestry, woodland and trees
- 7 - Historic assets and places
- 11 - Energy
- 12 - Zero waste
- 13 - Sustainable transport
- 14 - Design, quality and place
- 18 - Infrastructure first
- 22 - Flood risk
- 23 - Health and safety
- 25 - Community wealth building
- 26 - Business and industry

Moray Local Development Plan 2020

- PP3 Infrastructure and Services
- DP1 Development Principles
- DP9 Renewable Energy
- EP1 Natural Heritage Designation
- EP2 Biodiversity
- EP5 Open Space

EP7 Forestry Woodland and Trees
EP8 Historic Environment
EP12 Management and Enhancement Water
EP14 Pollution Contamination Hazards
Elgin - I8 Newfield

5. **ADVERTISEMENTS**

- 5.1 The application was advertised for neighbour notification purposes and as a departure from the development plan.

6. **CONSULTATIONS**

Scottish & Southern Electricity Networks – No objections.

Contaminated Land – No objections.

Moray Flood Risk Management – No objections.

Aberdeenshire Council Archaeology Service – No objections but recommend condition requiring a programme of archaeological works to be undertaken.

Transportation Manager – No objections, conditions recommended on visibility to public road, provision of Construction Traffic Management Plan and Construction Method Statement for laying of cable between battery storage scheme and substation in vicinity of public roads.

Environmental Health – No objections subject to conditions requiring limits to construction works hours, provision of a Construction Environmental Management Plan, limits on noise, provision of mitigation measures detailed in NIA (acoustic fencing), and a scheme of lighting.

Strategic Planning and Development – The development complies in principle with renewable energy policies (NPF 11, MLDP DP9). The site is covered by the Findrassie Masterplan and in an area identified for advanced planting. Following amendments to the layout and planting provision, the proposal is considered to be an acceptable departure from the Findrassie Masterplan on the basis the planting offers sufficient planting to provide shelter and enclosure whilst also helping establish the advanced planting.

The proposal is incompatible with Elgin I8 designation which restricts land use to use class 4 and 5, therefore the proposal is contrary to NPF Policy 26 and MLDP Policy DP5.

A tree survey and tree protection plan have been provided in line with NPF Policy 6 and MLDP Policy EP7 and sufficient biodiversity enhancement is provided in line with NPF Policy 3 and MLDP Policy EP2.

The submitted Community Wealth Building Plan is acceptable subject to a condition requiring submission of a monitoring statement to demonstrate compliance with the plan. Subject to this condition the proposal complies with NPF Policies 11 and 25.

Due to incompatibility with development plan policies, the proposal is also contrary to NPF Policy 4 and MLDP Policy EP3 with regard to the impact of the proposal on the Spynie Special Landscape Area.

Scottish Fire and Rescue Service, Innes Community Council, Heldon Community Council and Elgin Community Council were consulted on this application but did not provide any comments.

7. OBJECTIONS-REPRESENTATIONS

7.1 None received.

8. OBSERVATIONS

8.1 Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan, namely the adopted National Planning Framework 4 (NPF) and 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 23/00369/PAN, as outlined above under History.

8.4 The PAC Report outlines the feedback received as part of the PAC process. It notes that attendance and feedback received overall was low. The PAC report details the feedback received as part of the PAC process and addresses how the points raised have been considered in formulating the application.

8.5 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.

8.6 Appropriate Assessment - Habitats Regulation Appraisal

Special Protection Areas (SPAs), Ramsar sites and any component Site of Special Scientific Interest (SSSI) are protected under The Conservation (Natural Habitats, &c.) Regulations 1994. These regulations require certain proposals which are likely to have a significant effect on these sites to be subject to 'Appropriate Assessment' by a competent authority.

8.7 The proposed development will be located to the north of the Sey Burn, a tributary to the Loch Spynie which is designated as a Site of Special Scientific Interest (SSSI), Special Protection Area and Ramsar Site. The site's status means that the requirements of the Conservation (Natural Habitats, &c.) Regulations 1994 as amended (the "Habitats Regulations") apply. Consequently, Moray Council is required to consider the effect of the proposal on the designations and their qualifying interests before it can be consented.

8.8 In this case, the site's location adjacent to the Sey Burn means the proposal has the potential to result in release of sediment and other pollutants into the burn and affect qualifying interests of the site which are dependent on the water environment. The SSSI, SPA and Ramsar site has been selected for one or more of the following qualities as: a eutrophic loch feature (shallow with muddy bottom); fen meadow; open water transition fen; breeding bird assemblage; wet woodland; and as grounds for greylag goose.

8.9 The proposal is not directly connected with or necessary for the conservation management of the SSSI, SPA and Ramsar Site, hence further consideration is required. The proposal has the potential to result in release of sediment and other pollutants during construction activities and subsequent discharge of surface water which may adversely affect the water environment.

8.10 The proposal is likely to have a significant effect on the interests of Loch Spynie, particularly during construction. Accordingly, suitable mitigation measures will be required to ensure the development does not adversely affect the interests of the loch. Accordingly, the following measures are recommended to mitigate any impacts on the qualifying interests of the Loch Spynie:

- A Construction Environment Management Plan detailing measures to be put in place to ensure no release of sediment and other pollutants to the Sey Burn.
- Suitable drainage arrangements for surface water from the development in line with the submitted Drainage Impact Assessment.

8.11 These measures have been noted in the submitted Preliminary Ecological Appraisal that accompanied the application.

8.12 These matters will be required by condition - and on this basis, the proposal will not adversely affect the integrity of the site, including the conservation objectives of its qualifying interests.

8.13 **Principle of Development/Findrassie Masterplan**

NPF 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. MLDP 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.

8.14 The Supporting Statement makes clear that there are specific locational requirements for battery storage sites which limit where they can be located – i.e. they need to be in close proximity to a viable grid connection that has sufficient capacity to import and export power that will be stored and released into the grid at times of peak demand. Suitable points of connection include a substation or a 132kv overhead power line. The ability to find such areas around the UK is limited. When a suitable connection can be found, other factors need to be taken into consideration that impact the viability and feasibility of a battery storage facility, particularly the distance from a substation. A facility could potentially be developed up to 2km from the point of the connection; however, the level of efficiency reduces the further away from the connection the facility is located. Furthermore, connection to the grid can become unfeasible if there is a requirement to cross third-party land. Most facilities are also connected to the grid via ‘soft dig’ methods as opposed to ‘hard dig’, which are actively avoided, and includes, for example, laying cable underneath roads. The site in this case is close to the existing substation at Covesea Road 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. This locational justification is acknowledged. The proposal will not adversely impact on the built and natural environment and does not impact on prime agricultural land.

8.15 Noise, soils, traffic 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 NPF Policy 11 and MLDP Policy DP9 apply to this development the proposal is considered to comply with these.

8.16 The site subject to this application is located in a designated industrial site (I8 – Newfield) in the Elgin Settlement Statement of the MLDP. NPF Policy 26 supports business and industry uses on such land but does not necessarily preclude any other development on such land. MLDP Policy DP5 primarily reserves such land for uses defined by use classes 4 (business), 5 (general industry) and 6 (storage and distribution) but does allow for other uses subject to consideration of their compatibility with neighbouring uses and the supply of serviced employment land. The site designation text in the MLDP for Elgin I8 notes the site is suitable for class 4 and 5 uses. The proposal does not fall

within any of these use classes, however in the absence of any land use designations for such uses in the MLDP and given this proposal is industrial in nature (by virtue of its design and potential noise emissions (see below)), the proposal is considered suitable on an industrial estate designation. Supporting information submitted by the applicant notes battery storage schemes have been permitted on industrial land designations elsewhere in Scotland.

- 8.17 As noted in the Strategic Planning and Development consultation comments, it will be, and has historically been, challenging to identify land for employment uses (Classes 4, 5 and 6) within the LDP to meet the identified requirements without a reliance on public funding to provide employment land. Allowing energy projects, with their limited direct employment benefits, on industrial estates/employment land would require additional land to be identified beyond the requirements set out in the Business Needs Study and in some areas could have significant implications on the amount of land available e.g. where there are already shortages of serviced and/or effective supply. Elgin I8 should provide high levels of employment opportunities within the new neighbourhood and, supporting NPF4 principles in relation to local living, allow people to live and work within the new neighbourhood and encourage active travel.
- 8.18 Whilst the proposed use will not result in direct employment on the site, the submitted Community Wealth Building Statement notes that there will be socio-economic benefits in terms of job creation during construction and operation/maintenance of the facility. There will also be the option of partial community ownership of the proposal and other community benefits (as listed under Community Wealth Building Below).
- 8.19 In light of these considerations, and the overarching need to provide renewable energy development as recognised under NPF Policy 11, the proposal is considered suitable under the provision of NPF Policy 26 and MLDP Policy DP5.
- 8.20 The site is also covered by the Findrassie Masterplan, which guides development of a variety of land use designations in the north of Elgin, including this site and ongoing housing development at Findrassie. The Masterplan is adopted and a recent update to it was agreed for consultation by members of this Committee on 15 August 2023. Within the original Findrassie Masterplan, the site is covered by two designations - an area of advanced planting (north part) and industrial (south part), albeit no development is permitted within 6m of the watercourse. This is subsequently carried over in the draft updated Masterplan, where the site also falls within a potential area for sports pitches. There is also a requirement for a link to be provided between designation I8, and the MU2 designation to the immediate north of this site. The application was advertised as a departure from the development plan on the basis the proposal was incompatible with the Findrassie Masterplan as noted above.
- 8.21 When initially applied for, this proposal along with the adjacent pumping station to the east resulted in the northern part of the I8 designation being blocked by development. This severed the potential for any linkage to the north in to MU2 designation (and as required under the MU2 designation to the north). However

this proposal was subsequently amended to ensure an area of land was safeguarded to allow a link to be provided.

- 8.22 The revised layout also provides areas of advance tree planting and landscaping. Whilst this does not provide the full extent of planting identified in the masterplan, the proposal is considered to be an acceptable departure from the development plan, on this basis the woodland planting proposed aids in establishing the advanced planting necessary as part of this designation.
- 8.23 In light of these considerations, the proposal is considered to comply with NPF Policy 26, MLDP Policy DP5, MLDP designation Elgin I8 and is an acceptable departure from the Findrassie Masterplan.
- 8.24 **Design, Siting and Landscape Impact**
With regard to the siting and design of this proposal, consideration will be given to the requirements of NPF Policy 14 and MLDP Policy DP1. Both require development to be designed and sited at a level that improves the quality of an area. The Design and Access Statement submitted with the application is noted, and considers the context of the site, along with any constraints. In this case the proposed development is designed in a functional manner, with batteries stored in standard storage containers. Any buildings proposed as part of this proposal are relatively small, and no bigger than domestic garages/sheds. The submitted drawings do not specify any external colour finishes however the submitted Landscape and Visual Impact Assessment suggests this will be green. This could be controlled by condition requiring details of the material finishes of the battery storage scheme to be submitted and agreed with the Planning Authority were the application to be approved.
- 8.25 Whilst the DAS states these will be sympathetic, any development of this site will change the character of the area given its undeveloped nature. However it is designated as an industrial estate in the MLDP, and as time progresses and the surrounding area is built out, the proposal would be viewed amongst other development and given the relatively low height of structures and equipment proposed it will form part of further expansion of Elgin in time. Significant landscaping proposed around the development will offer visual screening to the proposal as it matures.
- 8.26 While the open grassland of the site is being replaced by the development, due to the landform and surrounding woodland, as well as encroaching built form to the south and west, effects on the identified landscape character areas and features would be limited. As part of the local plan designation and the approved phase of the Findrassie Masterplan, once the northern edge of Elgin is developed as planned, distances of views will reduce and the current views will likely be screened by new built form or mitigation planting associated with it. The proposed woodland planting will also provide screening as it establishes over time.
- 8.27 Once the period of 40 years has passed, the applicant states the equipment will be removed and mitigating landscaping will be retained. Whilst this is a temporary period, the impacts of this development will be relatively long lasting.

- 8.28 The site also falls within the Spynie Special Landscape Area as zoned in the MLDP and therefore MLDP Policy EP3 and NPF Policy 4 apply. These policies require development to not have an adverse impact on the integrity and quality of the area, and with specific reference to MLDP Policy EP3, require compliance with all other MLDP policies. This proposal is not anticipated to prejudice the special qualities of the landscape in light of the foregoing evaluation, therefore the proposal complies with MLDP Policy EP3 and NPF Policy 4.
- 8.29 **Climate Change**
NPF 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.
- 8.30 **Impact on Protected Species/Ecology**
NPF Policy 4 states that development proposals that are likely to have an adverse effect on species protected by legislation will only be supported where the proposal meets the relevant statutory tests, with MLDP Policy EP1 having similar requirements. This application was accompanied by a Preliminary Ecological Appraisal (PEA), which provides a baseline assessment of the site in its current state. It found the site has a low ecological value but notes the woodland near the site offers potential to support a variety of wildlife. It also recommended a bat survey be undertaken to assess the presence of bats in the storage shed on site (considered below). The PEA has concluded that connectivity only exists between the Application Site and four of the eleven environmental designated sites. No significant impacts are predicted for each of the four designated sites with connectivity from the construction of the Proposed Development. However, several precautionary mitigation measures have been recommended. The recommended mitigation measures include pre-commencement surveys (breeding bird and badger) during the appropriate seasons as required, implementation of best practice measures during the construction phase to prevent contaminated waters entering the aquatic environment and the reduction of light spill from any lighting onsite during construction or operational phase.
- 8.31 The Bat Survey notes no bats were observed entering or exiting the buildings during the surveys, with low bat activity recorded adjacent to the structure. The removal/demolition of the existing buildings and proposed works is unlikely to impact bats. As evidence of breeding birds was recorded within the barn during breeding season, works cannot commence until all nests are fully fledged. Where works are to commence during the breeding season (March to August inclusive) a pre-commencement nest check should be undertaken by a suitably experienced ecologist.
- 8.32 As noted above under the Appropriate Assessment, there is a requirement for a scheme for surface water/sediment management during construction to form part of any Construction Environment Management Plan to avoid any adverse

impact on the integrity of the Loch Spynie SSSI, SPA and Ramsar Site due to the Sey Burn being a tributary of this area. This is noted in the submitted PEA.

8.33 The proposal is considered to satisfy the requirements of NPF Policy 4 and MLDP Policy EP1.

8.34 **Landscaping & Biodiversity**

A detailed landscaping plan has been provided in support of the application. This makes provision for the planting of native woodland, native hedgerow with specimen trees, and meadow grassland.

8.35 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.

8.36 NPF Policy 3 and MLDP Policy EP2 require all development to contribute to the biodiversity enhancement of the site. The provision of meadow grassland will provide opportunities for butterflies and bees and other pollinators while the hedging and woodland planting will provide nesting and sheltering opportunities for other birds and animals. The site is currently open grass land and the proposals will provide a level of biodiversity enhancement. The proposals therefore accord with NPF Policy 3 and MLDP Policy EP2.

8.37 **Existing Trees**

Development that results in the loss of trees/woodland is generally presumed against under both NPF Policy 6 and MLDP Policy EP7 unless tree removal can be justified and suitable compensatory planting provided. In this case all trees on site would be retained as shown in the submitted Tree Survey. The Tree Protection Plan submitted shows suitable tree protection measures to be provided during works. Subject to condition ensuring these measures are provided and retained for the construction phase, the proposal is considered to comply with the requirements of NPF Policy 6 and MLDP Policy EP7.

8.38 **Noise, Lighting and Pollution**

A Noise Impact Assessment has been produced in support of the application. This concludes that with appropriate mitigation including a 4m high acoustic fence to the south 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 would ensure that noise associated with the development will not cause significant pollution and therefore the proposal complies with NPF Policy 23 and MLDP Policy EP14.

8.39 The site plan does not indicate any lighting though it is likely that lighting will be required. 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 would not cause significant light pollution and as such complies with MLDP Policy EP14.

8.40 A further condition is also recommended by Environmental Health requiring the submission of a Construction Environment Management Plan to be submitted. This will ensure that adequate pollution control measures are in place during the construction phase.

8.41 Subject to the proposed mitigation and recommended conditions the proposals comply with NPF Policy 23 and MLDP Policy EP14 as far as it relates to this development.

8.42 **Drainage**

The development is supported by a Drainage Impact Assessment. 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. The proposals would 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 NPF Policy 22 and MLDP Policy EP12.

8.43 **Flooding**

The site is identified as being at risk from surface water flooding, as per SEPA flood maps. The submitted Drainage Impact Assessment and Flood Risk Assessment note that sustainable urban drainage methods will be adopted on site to ensure surface water will be disposed of to the adjacent watercourse, Sey Burn, at a restricted rate to mimic existing greenfield conditions. Surface water flows will be attenuated below ground for all storm events up to and including the 1 in 200 year storm event plus an additional allowance for climate change, within a layer of permeable stone to provide approximately 77m³ of attenuation. This arrangement is considered suitable in terms of NPF Policy 22 and MLDP Policy EP12, with Moray Flood Risk Management raising no objections in respect of flood risk.

8.44 **Access**

NPF Policy 13 and MLDP Policy PP3 both set out requirements for development to be served by suitable infrastructure, with a particular emphasis on enhancing access for sustainable transport methods such as walking, cycling and public transport. Once operational, traffic generated by this proposal will be minimal, with construction likely resulting in more traffic being generated (albeit temporarily). The Transport Statement submitted notes future changes to the A941 to accommodate residential development at Findrassie/Myreside, however, signalisation of the new junctions onto the A941 and any change to the speed limit are dependent on further development which has yet to obtain detailed planning permission. Therefore the visibility requirements at the access track onto the A941 must be based on the existing 60 mph speed limit.

8.45 In light of these matters, the Transpiration Manager has recommended conditions requiring a suitable visibility splay to be provided at the access point to the A941, as well as provision of a Construction Traffic Management Plan

and Construction Method Statement for any works in proximity of the public road. The proposal is therefore considered to satisfy NPF Policy 13 and MLDP Policy PP3.

8.46 Impacts on Soil

NPF Policy 5 seeks to minimise soil disturbance on undeveloped sites and protects soil from damage. No information on the impact of this proposal on soil has been provided with the application, however the overall design of this development has a relatively small footprint and that much of the development sits on ground with limited sub-surface work required. As part of the CEMP requirement, a scheme to ensure minimisation of impact on soils could be placed. On this basis the proposal is considered to comply with NPF Policy 5.

8.47 Historic Environment

Where there is potential for non-designated buried archaeological remains to exist below a site, under NPF Policy 7 and MLDP Policy EP8 developers must provide an evaluation of the archaeological resource. In this case the regional Archaeologist notes that while there are no previously recorded archaeological sites within the main area of the proposed development site (the BESS area itself), there are multiple archaeological sites adjacent and in close proximity to it (including evidence of prehistoric settlement activity). This indicates the potential for further archaeological remains to survive within the development site. On this basis a condition requiring a programme of archaeological works is recommended. Subject to this condition, the proposal is considered to satisfy the requirements of NPF Policy 7 and MLDP Policy EP8.

8.48 Zero Waste

NPF 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. This will ensure compliance with NPF Policy 12 and MLDP Policy DP1.

8.49 Community Wealth Building

NPF Policy 25 supports proposals that contribute to local or regional community wealth building strategies and those that are consistent with local economic proprieties. In order to implement this condition, this Committee adopted guidance on 30 May 2023 to apply to larger developments, including development that creates more than 1,000 sqm. The purpose of the guidance is to:

- Increase employment opportunities by helping local businesses to grow and diversify.
- Increase local spend within the local area through increased use of the local supply chain.
- Provide local employment and skills development opportunities within the local area, particularly within areas of highest inequalities.
- To provide opportunities for new business start-ups in the area.
- To provide opportunities for community ownership of business and assets.

- 8.50 NPF Policy 11 only supports renewable energy developments where they maximise net economic impact, including local and community socio-economic benefits. It is expected that this proposal will support approximately 66 jobs during construction (expected to last 9 to 12 months), and 20 full time jobs as part of the safe operation of the scheme.
- 8.51 The submitted information notes there will be direct benefits via the employment generated during the construction and decommissioning phases. Where economically and practically feasible, the aim will be to procure goods and services from local contractors, sub-contractors and suppliers to support the employment of the local community. Contracts opportunities will be available for local and regional firms during these phases. Ideally, construction contracts would be sourced locally where possible, subject to professional competency and competitive tendering. Examples of opportunities for local business and contractors include: Cabling; Fencing; Ready mixed concrete; Civil engineering; Ground works; Surveying; Planting; Landscaping; Haulage; Supervisory services; Security; and Accommodation.
- 8.52 Due to the number of projects such as this across the North and North East of Scotland, the applicant is looking to create new apprenticeships, work experience and training opportunities for local people (and the wider North and North East), engaging with Developing the Young Workforce, Carrer Ready etc. The applicant is also in correspondence with UHI Moray to create a new internship programme.
- 8.53 Indirect benefits come by way of increased public spending in the local economy, as a result of revenue generated from local contracting. Also where local contractors are not available construction workers requiring accommodation would result in increased public spending in the area. The decommissioning is also expected to be similar to those identified during the construction phase whereby temporary employment is generated in the local economy to remove the infrastructure from the site. Also, the increased reliability of renewable energy can lead to long term economic benefits by creating a more sustainable grid with greater energy supply and a reduction in energy costs. It is expected that the project will support approximately 20-35 jobs between the different phases of construction and operation.
- 8.54 The applicant has also stated they will offer the option of part community ownership of this development at a rate of up to 5% and should this offer be unsuccessful, they will explore:
- creation of a community benefit fund;
 - time of use sharing initiatives;
 - establishing an energy cooperative to feed back energy to the local community; and
 - educational initiatives to raised awareness and encourage energy conservation practices.
- 8.55 Overall, the final Community Wealth Building Plan is a considerable improvement on the original, however the applicant has not provided answers to all questions asked by Strategic Planning and Development, especially relating to the nature of jobs to be created in the operational phase. A condition

will be placed requiring a monitoring statement that demonstrates the development has been carried out in accordance with the details shown in the approved Community Wealth Building statement. Subject to this condition the submitted information is considered suitable in terms of NPF Policies 25 and 11.

8.56 Fire Risk and Safety

It is noted that Members raised concerns about safety and in particular fire risk when the PAN (23/00369/PAN) was reported to this Committee on 30 May 2023. The applicant has sought to address this in their supporting Outline Safety Management Plan. The statement highlights that all health and safety guidance and best practice measures will be followed in respect of Fire, Thermal Runaway, Release of Toxic Gases and Hydrogen Gases. 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. The fire suppression system to be installed will be in line with industry standards, with precautionary measures taken to ensure 'fire' water or other chemical spills are properly contained. Once the specific battery product has been decided by the approved contractor, the applicant has indicated they will develop an Emergency Response Plan and Fire Risk Assessment which will be prepared in consultation with key stakeholders including the local Fire and Rescue Service.

8.57 Impact on SSE Infrastructure

There are overhead lines crossing the site and underground SSE infrastructure in the vicinity of the development. SSEN have raised no objections to this proposal, noting sufficient separation between the battery storage itself and their infrastructure.

8.58 Duration of Consent

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 conditions to secure appropriate restoration of the site and removal of the development in the event of obsolescence during the lifetime of the planning permission.

Conclusion

The foregoing evaluation has considered the implications of relevant policies, and there is a slight incompatibility with the Findrassie Masterplan on the basis it occupies an area identified for advanced planting. Whilst this does not provide the full extent of planting identified in the masterplan, the proposal is considered to be an acceptable departure from the Findrassie Masterplan on the basis the woodland planting proposed aids in establishing the advanced planting necessary as part of this designation.

The proposal complies with the provisions of the development plan in all other respects and approval is recommended.

Recommendation

Approve subject to conditions.

REASON(S) FOR DECISION

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

The proposal occupies an area identified for advanced planting in the Findrassie Masterplan. Whilst this does not provide the full extent of planting identified in the masterplan, the proposal is considered to be an acceptable departure from the Findrassie Masterplan, on this basis the woodland planting proposed aids in establishing the advanced planting necessary as part of this designation.

The proposal complies with the provisions of National Planning Framework 4 and the Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise.

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