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**REPORT TO: PLANNING AND REGULATORY SERVICES COMMITTEE ON  
31 MAY 2022**

**SUBJECT: 22/00067/S36 INSTALL A BATTERY ENERGY STORAGE  
SYSTEM (BESS) WITH ASSOCIATED INFRASTRUCTURE AT  
BLACKHILLOCK ELECTRICITY SUBSTATION, KEITH**

**BY: DEPUTE CHIEF EXECUTIVE (ECONOMY, ENVIRONMENT AND  
FINANCE)**

## **1. REASON FOR REPORT**

- 1.1 This report asks the Committee to consider a proposed response to a consultation request from the Scottish Government Energy Consents Unit (ECU) in relation to an Electricity Act 1989 Section 36 application (which includes deemed planning permission) to install a Battery Energy Storage System of up to 300 megawatts and associated infrastructure at a site 400m to the southeast of the Blackhillock Electricity Substation, Keith.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to exercising the statutory functions of the Council as Planning Authority.

## **2. RECOMMENDATION**

### **2.1 It is recommended that the Committee:-**

- i) consider and note the contents of the report, as set out in Appendix 1, including the conclusions regarding the planning and wider merits of the proposed development;**
- ii) agree that, where taking into account the Moray Local Development Plan 2020 and all material considerations, it is recommended that subject to the conditions contained within Appendix 1, Moray Council does not object to the Section 36 application; or**
- iii) if minded to object, provide planning reasons for objecting and instruct Officers to respond with those reasons formally objecting to the Section 36 application.**

### **3. BACKGROUND**

- 3.1 The applicant Zenobe Blackhillock Limited has lodged an application for consent under Section 36 of the Electricity Act 1989 to install a Battery Energy Storage System (BESS) with associated infrastructure at the site, which lies southeast of the Blackhillock Electricity Substation. The proposal would comprise 3 compounds containing up to 49 individual Battery Energy Storage Units, and associated electrical bay equipment including transformers, switch and control rooms, synchronous compensator, acoustic fencing and gates and underground cable connecting to the Blackhillock Substation. If consented, planning permission is deemed to be granted for the development (see information in **Appendix 2** Information Pack).
- 3.2 As the proposed energy storage system exceeds 50MW it is to be determined by the ECU. Responsibility for consultation with statutory consultees, relevant local authorities, receipt of representations and determination lies with the ECU. In these circumstances the role of Moray Council, as planning authority, is as a consultee rather than being the determining authority.
- 3.3 The Scottish Government (Energy Consents & Deployment Unit) has consulted Moray Council to comment on the proposed development within a specific timeframe along with other consultees. The period for consultation for Moray Council expires on 15 June 2022.

### **4. CONSIDERATIONS**

- 4.1 The development proposal and associated supporting information has been assessed against National Policy, the Moray Local Development Plan and other material considerations. The assessment has also been informed by responses from relevant internal consultees. The report and recommendation are set out in **Appendix 1**.
- 4.2 The proposed Battery Energy Storage System represents a significant infrastructure development that would provide a range of critical infrastructure services to National Grid, and assist with the continued uptake/deployment of renewable energy sources across the region. It would substantially increase installed energy capacity at this location adjacent to the Blackhillock Substation, and help to balance the grid network during periods when renewables are not generating and back up sources are required to counteract the intermittency of such sources.
- 4.3 The proposal would be in line with national and local plan policies which support the expansion of renewable energy, including its contribution to renewable energy targets and addressing the 'climate emergency'. The development is strategically located in close proximity to the existing Blackhillock substation, avoiding the need for lengthy transmission cables and ensuring an efficient connection to the grid, and has been designed with proposed mitigation to ensure that there are no unacceptable adverse impacts on the environment.

### **5. SUMMARY OF IMPLICATIONS**

**(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))**

Promote economic development and growth and maintain and promote Moray's landscape and biodiversity.

**(b) Policy and Legal**

The application is made for consent under S.36 of the Electricity Act 1989 to Scottish Government. If consented, planning permission is deemed to be granted for the development. For planning purposes proposals require to be determined in accordance with the development plan unless material considerations indicate otherwise. If granted by Scottish Government, the responsibility for the discharge of (planning) conditions attached to the formal decision to grant consent will pass to Moray Council.

**(c) Financial implications**

If Moray Council decides to object to the proposal, a Public Local Inquiry (PLI) would be arranged by Scottish Government. Moray Council would be expected to attend and participate in the Inquiry process, including any pre-Inquiry arrangements with resultant costs, including officer, legal representation and consultant costs where required/appropriate.

As officers have recommended no objection it should be noted that any case presented to a PLI would need to be made by the relevant Councillors who moved against the officer recommendation.

At Inquiry, the applicant may seek an award of costs against the Council if it is considered the Council has acted unreasonably.

**(d) Risk Implications**

If the Council decide not to respond within the agreed period it would be open to Scottish Government to proceed and determine the application.

If deciding to object, the outcome of any Public Local Inquiry held to consider this proposed development is uncertain: it might uphold and support the Council's decision to object, but equally the objection could be dismissed and consent granted for the development.

**(e) Staffing Implications**

In the event of a Public Local Inquiry, staff time and resources (Elected Members, planning and legal officers) will be required for preparation and attendance at any Inquiry.

**(f) Property**

None.

**(g) Equalities/Socio Economic Impact**

None.

**(h) Climate Change and Biodiversity Impacts**

The proposed development is considered to meet the objectives and criteria outlined within Scottish Planning Policy, the Scottish Energy

Strategy and other material considerations, as it would provide critical services to the grid infrastructure network and help to reduce emissions from energy sources, in line with the Climate Change Act and the Climate Change Plan. Any potential impacts on biodiversity would be mitigated through embedded design and conditions of any planning consent issued by the ECU.

**(i) Consultations**

Depute Chief Executive (Economy, Environment and Finance), the Head of Economic Growth and Development, the Legal Services Manager, the Development Management and Building Standards Manager, the Equal Opportunities Officer, the Strategic Planning & Development Manager, and Lissa Rowan (Committee Services Officer) have been consulted, and comments received have been incorporated into the report.

**6. CONCLUSION**

**6.1 From Appendix 1, the planning merits have been considered in relation to current development plan policy and other relevant material considerations. Officers are satisfied that the Proposed Development complies with MLDP 2020 policies and has been designed and mitigated to ensure that there are no unacceptable adverse impacts on natural, built and cultural heritage resources, and will avoid significant adverse impacts on the environment.**

**6.2 As such, in responding to the request for consultation, it would be appropriate for Moray Council to advise the Scottish Government that it wishes to raise no objection to the proposal to install a Battery Energy Storage System and associated infrastructure at the site, and volunteers the conditions (Appendix 1) to be attached to any approval given by the Energy Consents Unit.**

Author of Report: Richard Smith, Principal Planning Officer

Background Papers:

Ref: 22/00067/S36