

VOLUME 1: CHAPTER 6: PLANNING AND ENERGY POLICY CONTEXT

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Figures (Volume 2 of this EIA Report)

There are no figures associated with this Chapter.

Appendices (Volume 4 of this EIA Report)

There are no appendices associated with this Chapter.

6. PLANNING AND ENERGY POLICY CONTEXT

6.1 Introduction

- 6.1.1 This Chapter of the EIA Report describes the legislative and policy background relevant to the Proposed Development. It refers to energy and planning policy at a national and local level. It provides an objective summary of the energy and planning policy considerations that have been taken into account in the preparation of the EIA Report in order to ensure that it provides the appropriate information for the consideration of the section 37 application.
- 6.1.2 The EIA Report will not assess the Proposed Development against the legislative and policy context, rather this will be undertaken in a separate Planning Statement.
- 6.1.3 In preparing the EIA Report and with specific regard to planning policy matters, reference has also been made to the Energy Consents Unit (ECU) Scoping Opinion response at **Appendix 4.4** with regard to policy matters.
- 6.1.4 Further detail on the scope of the EIA Report and the scoping responses received is contained in **Chapter 4 - Scope and Consultation**, and associated appendices.
- 6.1.5 Additional guidance and policies relating to specific topic areas will be considered within the various topic-based chapters of the EIA Report, where necessary.

6.2 The Statutory Framework

The Electricity Act 1989

- 6.2.1 The Proposed Development requires consent from the Scottish Ministers under section 37 the Electricity Act 1989 ("the 1989 Act). In such cases the Planning Authority is a statutory consultee in the development management process and procedures.
- 6.2.2 In an application under section 37 of the 1989 Act, the Development Plan does not have primacy in the decision-making process. The provisions of Schedule 9 to the 1989 Act are relevant to the assessment of the Proposed Development.
- 6.2.3 When considering the proposals, Scottish Ministers are required by sub-paragraph 3(2) of Schedule 9 to have regard to:
- "(a) the desirability of the matters mentioned in paragraph (a) of sub-paragraph (1) above; and (b) the extent to which the person by whom the proposals were formulated has complied with his duty under paragraph (b) of the sub-paragraph."*
- 6.2.4 Paragraph 3 (1) requires that in formulating any relevant proposals, the licence holder:
- "(a) shall have regard to the desirability of preserving natural beauty, of conserving flora, fauna and geological or physiographical features of special interest and of protecting sites, buildings and objects of architectural, historic or archaeological interest; and*
- (b) shall do what he reasonably can to mitigate any effect which the proposals would have on the natural beauty of the countryside or on any such flora, fauna, features, sites, buildings or objects."*
- 6.2.5 At sub-paragraph 3(3), in exercising any relevant functions the Applicant and Scottish Ministers shall *"avoid, so far as possible, causing injury to fisheries or to the stock of fish in any waters."*

6.2.6 This EIA Report demonstrates the careful consideration given by the Applicant to the various environmental issues identified within Schedule 9 and allows the Scottish Ministers to have regard to the matters set out at sub-paragraph 3(2) above.

The Town & Country Planning (Scotland) Act 1997

6.2.7 The principal planning statute in Scotland is the Town and Country Planning Act (Scotland) 1997 (the Planning Act) as amended by The Planning etc. (Scotland) Act 2006 and by the Planning (Scotland) Act 2019.

6.2.8 Section 57(2) of the Planning Act provides:

“On granting or varying a consent under section 36 or 37 of the Electricity Act 1989, the Scottish Ministers may give a direction for planning permission to be deemed to be granted, subject to such conditions (if any) as may be specified in the direction, for (a) so much of the operation or change of use to which the consent relates as constitutes development; (b) any development ancillary to the operation or change of use to which the consent relates.”

6.2.9 Section 25 of the Planning Act states that:

“Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan.”

6.2.10 Section 57(2) of the Planning Act makes no reference to the provisions of section 25 which requires regard to be had to the provisions of the Development Plan. The Courts have confirmed that a deemed planning direction pursuant to section 57(2) is not a determination where there is a requirement that regard is to be had to the Development Plan and, therefore, section 25 does not apply to a decision to make a direction to grant deemed planning permission¹.

6.2.11 The Scottish Ministers will determine the application having regard to the statutory duties in Schedule 9 of the Electricity Act, so far as relevant, and any other relevant material considerations, one of which will be relevant aspects of the statutory Development Plan.

6.3 Renewable Energy Policy: Summary

6.3.1 In recent years the United Kingdom (UK) and Scottish Government policies have focussed increasingly on concerns about climate change. Each tier of Government has developed targets, policies, and actions to achieve targets to deal with the climate crisis and generate more renewable energy and electricity.

6.3.2 The UK Government retains responsibility for the overall direction of energy policy, although some elements are devolved to the Scottish Government. The UK Government has published a series of policy documents setting out how targets can be achieved. Renewable energy generation in Scotland is identified as an important component to achieve these various goals.

6.3.3 The Scottish Government has published a number of policy documents and its own targets. The most relevant policy, legislative documents and more recent statements published by the Scottish Government include:

- The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 setting legally binding net zero target for 2045 and interim targets for 2030 and 2040.
- The Scottish Climate Change Plan (2018) and 2020 Update.
- Scottish Energy Strategy (December 2017) and associated Position Statement (2021).

¹ William Grant & Sons Distillers Limited, Court of Session [2012] CSOH 98.

- Scotland's Draft Energy Strategy and Just Transition Plan (2023).
- A Vision for Scotland's Electricity and Gas Networks (March 2019).
- The Scottish Government's declaration of a Climate Emergency (April 2019).
- The Scottish Government's 'Just Transition - A Fairer, Greener Scotland' (September 2021).

6.3.4 The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 requires that the Scottish Ministers must ensure that the net Scottish emissions account for the net-zero emissions target year is at least 100% lower than the baseline (the target is known as the "net-zero emissions target"). The target year is 2045 and the Act also sets out challenging interim targets. Section 2 requires that:

"The Scottish Ministers must ensure that the net Scottish emissions account for the year—

(a) 2020 is at least 56% lower than the baseline,

(b) 2030 is at least 75% lower than the baseline, and

(c) 2040 is at least 90% lower than the baseline."

6.3.5 It is important to note that these targets are minimum targets, they are not maximums or aspirations. The targets legally bind the Scottish Ministers and have largely been legislated to set the framework for Scotland's response to the Climate Emergency.

6.3.6 The Highland Council declared a climate and ecological emergency in May 2019. In October 2023 the Council launched their Net Zero Strategy to set out the Council's approach to addressing the climate emergency by reducing emissions and preparing for the unavoidable impacts of climate change. The strategy includes a route Map to Net Zero by 2045, with key interim targets to reduce emissions by at least 75% by 2030 and at least 90% by 2040 (in line with the Climate Change (Emissions Reduction Targets) (Scotland) Act 2019).

6.3.7 The Proposed Development relates to the requirement to connect the recently consented Cloiche Wind Farm and proposed Dell Wind Farm to the National Grid.

6.3.8 The Proposed Development would therefore enable a growing contribution to the attainment of emissions reduction, renewable energy, and electricity targets at local authority, Scottish and UK levels.

6.4 Planning Policy: The Development Plan

6.4.1 The statutory Development Plan covering the route of the Proposed Development comprises the following: -

- National Planning Framework 4 (NPF4) (2023);
- The Highland Wide Local Development Plan (HwLDP) (2012);
- West Highland and Islands Local Development Plan (West Plan) (2019);
- The Inner Moray Firth Local Development Plan (IMFLDP) (2015);
- Relevant Supplementary Guidance (detailed at Section 6.6 below).

6.4.2 As noted in the ECU Scoping Opinion at **Appendix 4.4** WestPlan and IMFLDP have limited relevance to this type of proposal as their focus is mainly on regional and settlement strategies and identifying specific site allocations. Of relevance is the Special Landscape Area (SLAs) designations. WestPlan and IMFLDP have established boundaries of the SLAs across the plan area. The SLA citations webpage summarise key characteristics, qualities, sensitivities, and measures for enhancement and must be used to assess the potential impacts of the proposed development. The Ben Alder, Laggan and Glen Banchor SLA sits to the south of the Proposed Development.

National Planning Framework 4

- 6.4.3 Scotland's Fourth National Planning Framework (NPF4) was adopted on February 13th 2023. NPF4 sets out the Government's national spatial strategy for Scotland, identifying regional priorities, national developments, and national planning policy. Unlike NPF3 and SPP, NPF4 forms part of the statutory development plan.
- 6.4.4 As part of the national spatial strategy, NPF 4 also makes it clear that Scotland must make significant progress by 2030 to achieve net zero emissions target by 2045.
- 6.4.5 NPF4 also recognises that it is required "by law" to contribute to 6 key outcomes, two of which include "meeting any targets relating to the reduction of emissions of greenhouse gases" and "securing positive effects for biodiversity" (page 95).
- 6.4.6 There is a clear policy direction within NPF 4 to respond to the global climate emergency and growing nature crises.
- 6.4.7 NPF 4 has a range of functions that include informing the development plan process, establishing national planning policy, and identifying a spatial strategy for Scotland including nationally significant projects. The document is split across these matters as follows:
- 6.4.8 Part 1: A National Spatial Strategy for Scotland: Outlines 6 overarching spatial principles (Just Transition, Conserving and Recycling Assets, Local Living, Compact Urban Growth, Rebalanced Development and Rural Revitalisation) and sets aspirations to use these principles to deliver places which are sustainable, liveable and productive.
- 6.4.9 NPF4 identifies the development of electricity transmission infrastructure as having national development status in the Hierarchy of Developments in the planning system. 18 National Developments are proposed to support the delivery of the Spatial Strategy including 'National Development' No.3 entitled 'Strategic Renewable Electricity Generation and Transmission Infrastructure'. National developments are significant developments of national importance required to deliver NPF4's spatial strategy, as such their need is established at a national level and their designation means that the principle of development is supported in consenting processes.
- 6.4.10 Page 97 of NPF4 addresses national developments and sets out that this designation means "*that the principle of the development does not need to be agreed in later consenting processes, providing more certainty for communities, business and investors*".
- 6.4.11 This specific National Development is addressed in some detail at page 103 of NPF4 where it states that it supports expansion of the electricity grid. It sets out that:
- "The electricity transmission grid will need substantial reinforcement including the addition of new infrastructure to connect and transmit the output from new on and offshore capacity to consumers in Scotland, the rest of the UK and beyond. Delivery of this national development will be informed by market, policy and regulatory developments and decisions."*
- 6.4.12 In terms of 'need', the NPF4 sets out the following:
- "Additional electricity generation from renewables and electricity transmission capacity of scale is fundamental to achieving a net zero economy and supports improved network resilience in rural and island areas."*
- 6.4.13 The Proposed Development would fall within the following class of National Development:
- "New and/or replacement upgraded on and offshore high voltage electricity transmission lines, cables and interconnectors of 132kv or more."*

6.4.14 The Proposed Development can draw support from the spatial strategy of NPF4 and its contribution towards the delivery of a national development.

6.4.15 Part 2: National Planning Policy: Demonstrates the policy framework as well as policy intent, policy outcomes and detail as to how each policy meets relevant provisions of the 6 overarching spatial principles. Specific policies relevant to the Proposed Development are discussed further below.

6.4.16 Specific extracts of policies relevant to the Proposed Development are identified in Table 6.1 below.

Table 6.1 National Planning Framework 4 Policies

Policy No.	Policy Name	Policy Wording
1	Tackling the climate and nature crises	When considering all development proposals significant weight will be given to the global climate and nature crises.
2	Climate mitigation and adaptation	a) Development proposals will be sited and designed to minimise lifecycle greenhouse gas emissions as far as possible. b) Development proposals will be sited and designed to adapt to current and future risks from climate change.
3	Biodiversity	a) Development proposals will contribute to the enhancement of biodiversity, including where relevant, restoring degraded habitats and building and strengthening nature networks and the connections between them. Proposals should also integrate nature-based solutions, where possible. b) Development proposals for national or major development, or for development that requires an Environmental Impact Assessment will only be supported where it can be demonstrated that the proposal will conserve, restore and enhance biodiversity, including nature networks so they are in a demonstrably better state than without intervention. This will include future management. To inform this, best practice assessment methods should be used. Proposals within these categories will demonstrate how they have met all of the following criteria: <ol style="list-style-type: none"> i. the proposal is based on an understanding of the existing characteristics of the site and its local, regional and national ecological context prior to development, including the presence of any irreplaceable habitats; ii. wherever feasible, nature-based solutions have been integrated and made best use of; iii. an assessment of potential negative effects which should be fully mitigated in line with the mitigation hierarchy prior to identifying enhancements; iv. significant biodiversity enhancements are provided, in addition to any proposed mitigation. This should include nature networks, linking to and strengthening habitat connectivity within and beyond the development, secured within a reasonable timescale and with reasonable certainty. Management arrangements for their long-term retention and monitoring should be included, wherever appropriate; and v. local community benefits of the biodiversity and/or nature networks have been considered. d) Any potential adverse impacts, including cumulative impacts, of development proposals on biodiversity, nature networks and

Policy No.	Policy Name	Policy Wording
		<p>the natural environment will be minimised through careful planning and design. This will take into account the need to reverse biodiversity loss, safeguard the ecosystem services that the natural environment provides, and build resilience by enhancing nature networks and maximising the potential for restoration.</p>
4	Natural Places	<p>a) Development proposals which by virtue of type, location or scale will have an unacceptable impact on the natural environment, will not be supported.</p> <p>b) Development proposals that are likely to have a significant effect on an existing or proposed European site (Special Area of Conservation or Special Protection Areas) and are not directly connected with or necessary to their conservation management are required to be subject to an “appropriate assessment” of the implications for the conservation objectives.</p> <p>c) Development proposals that will affect a National Park, National Scenic Area, Site of Special Scientific Interest or a National Nature Reserve will only be supported where:</p> <ul style="list-style-type: none"> i. The objectives of designation and the overall integrity of the areas will not be compromised; or ii. Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social, environmental or economic benefits of national importance. <p>All Ramsar sites are also European sites and/ or Sites of Special Scientific Interest and are extended protection under the relevant statutory regimes.</p> <p>d) Development proposals that affect a site designated as a local nature conservation site or landscape area in the LDP will only be supported where:</p> <ul style="list-style-type: none"> i. Development will not have significant adverse effects on the integrity of the area or the qualities for which it has been identified; or ii. Any significant adverse effects on the integrity of the area are clearly outweighed by social, environmental or economic benefits of at least local importance. <p>e) The precautionary principle will be applied in accordance with relevant legislation and Scottish Government guidance.</p> <p>f) 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. If there is reasonable evidence to suggest that a protected species is present on a site or may be affected by a proposed development, steps must be taken to establish its presence. The level of protection required by legislation must be factored into the planning and design of development, and potential impacts must be fully considered prior to the determination of any application.</p>
5	Soils	<p>a) Development proposals will only be supported if they are designed and constructed:</p>

Policy No.	Policy Name	Policy Wording
		<ul style="list-style-type: none"> i. In accordance with the mitigation hierarchy by first avoiding and then minimising the amount of disturbance to soils on undeveloped land; and ii. In a manner that protects soil from damage including from compaction and erosion, and that minimises soil sealing. <p>c) Development proposals on peatland, carbon rich soils and priority peatland habitat will only be supported for:</p> <ul style="list-style-type: none"> i. Essential infrastructure and there is a specific locational need and no other suitable site; ii. The generation of energy from renewable sources that optimises the contribution of the area to greenhouse gas emissions reductions targets; iii. Small-scale development directly linked to a rural business, farm or croft; iv. Supporting a fragile community in a rural or island area; or v. Restoration of peatland habitats. <p>d) Where development on peatland, carbon-rich soils or priority peatland habitat is proposed, a detailed site specific assessment will be required to identify:</p> <ul style="list-style-type: none"> i. the baseline depth, habitat condition, quality and stability of carbon rich soils; ii. the likely effects of the development on peatland, including on soil disturbance; and iii. the likely net effects of the development on climate emissions and loss of carbon. <p>This assessment should inform careful project design and ensure, in accordance with relevant guidance and the mitigation hierarchy, that adverse impacts are first avoided and then minimised through best practice. A peat management plan will be required to demonstrate that this approach has been followed, alongside other appropriate plans required for restoring and/ or enhancing the site into a functioning peatland system capable of achieving carbon sequestration....</p>
7	Historic assets and places	<p>a) Development proposals with a potentially significant impact on historic assets or places will be accompanied by an assessment which is based on an understanding of the cultural significance of the historic asset and/or place. The assessment should identify the likely visual or physical impact of any proposals for change, including cumulative effects and provide a sound basis for managing the impacts of change.</p> <p>c) ... Development proposals affecting the setting of a listed building should preserve its character, and its special architectural or historic interest.</p> <p>h) Development proposals affecting scheduled monuments will only be supported where: i. direct impacts on the scheduled monument are avoided; ii. significant adverse impacts on the integrity of the setting of a scheduled monument are avoided; or iii. exceptional circumstances have been demonstrated to justify the impact on a scheduled monument and its setting and impacts on the monument or its setting have been minimised.</p> <p>o) Non-designated historic environment assets, places and their setting should be protected and preserved in situ wherever feasible. Where there is potential for non-designated buried</p>

Policy No.	Policy Name	Policy Wording
		<p>archaeological remains to exist below a site, developers will provide an evaluation of the archaeological resource at an early stage so that planning authorities can assess impacts. Historic buildings may also have archaeological significance which is not understood and may require assessment.</p>
11	Energy	<p>a) Development proposals for all forms of renewable, low-carbon and zero emissions technologies will be supported. These include:</p> <ul style="list-style-type: none"> ii) enabling works, such as grid transmission and distribution infrastructure; <p>c) Development proposals will only be supported where they maximise net economic impact, including local and community socio-economic benefits such as employment, associated business and supply chain opportunities.</p> <p>d) Development proposals that impact on international or national designations will be assessed in relation to Policy 4.</p> <p>e) In addition, project design and mitigation will demonstrate how the following impacts are addressed:</p> <ul style="list-style-type: none"> i) impacts on communities and individual dwellings, including, residential amenity, visual impact, noise and shadow flicker; ii) significant landscape and visual impacts, recognising that such impacts are to be expected for some forms of renewable energy. Where impacts are localised and/ or appropriate design mitigation has been applied, they will generally be considered to be acceptable; iii) public access, including impact on long distance walking and cycling routes and scenic routes; vi) impacts on road traffic and on adjacent trunk roads, including during construction; vii) impacts on historic environment; viii) effects on hydrology, the water environment and flood risk; ix) biodiversity including impacts on birds; x) impacts on trees, woods and forests; xi) proposals for the decommissioning of developments, including ancillary infrastructure, and site restoration; xii) the quality of site restoration plans including the measures in place to safeguard or guarantee availability of finances to effectively implement those plans; and xiii) cumulative impacts. <p>In considering these impacts, significant weight will be placed on the contribution of the proposal to renewable energy generation targets and on greenhouse gas emissions reduction targets.</p> <p>Grid capacity should not constrain renewable energy development. It is for developers to agree connections to the grid with the relevant network operator. In the case of proposals for grid infrastructure, consideration should be given to underground connections where possible.</p>
12	Zero Waste	<p>a) Development proposals will seek to reduce, reuse, or recycle materials in line with the waste hierarchy.</p>

Policy No.	Policy Name	Policy Wording
13	Sustainable Transport	<p>b) Development proposals will be supported where it can be demonstrated that the transport requirements generated have been considered in line with the sustainable travel and investment hierarchies...</p> <p>c) Where a development proposal will generate a significant increase in the number of person trips, a transport assessment will be required to be undertaken in accordance with the relevant guidance.</p> <p>g) Development proposals that have the potential to affect the operation and safety of the Strategic Transport Network will be fully assessed to determine their impact. Where it has been demonstrated that existing infrastructure does not have the capacity to accommodate a development without adverse impacts on safety or unacceptable impacts on operational performance, the cost of the mitigation measures required to ensure the continued safe and effective operation of the network should be met by the developer.</p>
14	Design, quality and place	<p>a) Development proposals will be designed to improve the quality of an area whether in urban or rural locations and regardless of scale.</p> <p>b) Development proposals will be supported where they are consistent with the six qualities of successful places: Healthy: Supporting the prioritisation of women's safety and improving physical and mental health. Pleasant: Supporting attractive natural and built spaces. Connected: Supporting well connected networks that make moving around easy and reduce car dependency Distinctive: Supporting attention to detail of local architectural styles and natural landscapes to be interpreted, literally or creatively, into designs to reinforce identity. Sustainable: Supporting the efficient use of resources that will allow people to live, play, work and stay in their area, ensuring climate resilience, and integrating nature positive, biodiversity solutions. Adaptable: Supporting commitment to investing in the long-term value of buildings, streets and spaces by allowing for flexibility so that they can be changed quickly to accommodate different uses as well as maintained over time. Further details on delivering the six qualities of successful places are set out in Annex D.</p> <p>c) Development proposals that are poorly designed, detrimental to the amenity of the surrounding area or inconsistent with the six qualities of successful places, will not be supported.</p>
18	Infrastructure First	<p>a) Development proposals which provide (or contribute to) infrastructure in line with that identified as necessary in LDPs and their delivery programmes will be supported.</p> <p>b) The impacts of development proposals on infrastructure should be mitigated. Development proposals will only be supported where it can be demonstrated that provision is made to address the impacts on infrastructure. Where planning conditions, planning obligations, or other legal agreements are to be used, the relevant tests will apply.</p>

Policy No.	Policy Name	Policy Wording
22	Flood risk and water management	<p>a) Development proposals at risk of flooding or in a flood risk area will only be supported if they are for:</p> <ol style="list-style-type: none"> i. essential infrastructure where the location is required for operational reasons; ii. water compatible uses;... <p>The protection offered by an existing formal flood protection scheme or one under construction can be taken into account when determining flood risk.</p> <p>In such cases, it will be demonstrated by the applicant that:</p> <ul style="list-style-type: none"> • all risks of flooding are understood and addressed; • there is no reduction in floodplain capacity, increased risk for others, or a need for future flood protection schemes; • the development remains safe and operational during floods; • flood resistant and resilient materials and construction methods are used; and • future adaptations can be made to accommodate the effects of climate change. <p>c) Development proposals will:</p> <ol style="list-style-type: none"> i. not increase the risk of surface water flooding to others, or itself be at risk. ii. manage all rain and surface water through sustainable urban drainage systems (SUDS), which should form part of and integrate with proposed and existing blue-green infrastructure. All proposals should presume no surface water connection to the combined sewer; iii. seek to minimise the area of impermeable surface. <p>d) Development proposals will be supported if they can be connected to the public water mains. If connection is not feasible, the applicant will need to demonstrate that water for drinking water purposes will be sourced from a sustainable water source that is resilient to periods of water scarcity.</p> <p>e) Development proposals which create, expand or enhance opportunities for natural flood risk management, including blue and green infrastructure, will be supported.</p>
25	Community Wealth Building	<p>a) Development proposals which contribute to local or regional community wealth building strategies and are consistent with local economic priorities will be supported. This could include for example improving community resilience and reducing inequalities; increasing spending within communities; ensuring the use of local supply chains and services; local job creation; supporting community led proposals, including creation of new local firms and enabling community led ownership of buildings and assets.</p> <p>b) Development proposals linked to community ownership and management of land will be supported.</p>
29	Rural Development	<p>a) Development proposals that contribute to the viability, sustainability and diversity of rural communities and local rural economy will be supported, including:</p> <ol style="list-style-type: none"> v) essential infrastructure; ... x) improvement or restoration of the natural environment.

Policy No.	Policy Name	Policy Wording
		<p>b) Development proposals in rural areas should be suitably scaled, sited and designed to be in keeping with the character of the area. They should also consider how the development will contribute towards local living and take into account the transport needs of the development as appropriate for the rural location.</p> <p>c) Development proposals in remote rural areas, where new development can often help to sustain fragile communities, will be supported where the proposal:</p> <ul style="list-style-type: none"> i. will support local employment; ii. supports and sustains existing communities, for example through provision of digital infrastructure; and iii. is suitable in terms of location, access, siting, design and environmental impact.
30	Tourism	To encourage, promote and facilitate sustainable tourism development which benefits local people, is consistent with our net zero and nature commitments, and inspires people to visit Scotland.

6.4.17 Part 3: Annexes present additional detail on the Statements of Need for National Developments and supporting guidance on how to interpret NPF4.

The Highland Wide Local Development Plan

6.4.18 The HwLDP sets out THC's vision statement and spatial strategy for the area alongside the policies against which development will be assessed. The Proposed Development has been considered in the context of the HwLDP, and the most relevant policies are identified and considered below.

6.4.19 Policy 69 is the lead policy in relation to the Proposed Development. The policies of most relevance in the HwLDP are set out in detail Table 6.2 below.

Table 6.2 Highland Wide Local Development Plan Polices

Policy No.	Policy Name	Policy Wording
69	Electricity Transmission Infrastructure	Proposals for overground, underground or sub-sea electricity infrastructure (including lines and cables, pylons, poles and vaults, transformers, switches and other plant) will be considered having regard to their level of strategic significance in transmitting electricity from areas of generation to areas of consumption. Subject to balancing with this consideration, and taking into account any proposed mitigation measures, the Council will support proposals which are assessed as not having an unacceptable significant impact on the environment, including natural, built and cultural heritage features. In locations that are sensitive, mitigation may help to address concerns and should be considered as part of the preparation of proposals. This may include, where appropriate, underground or sub-sea alternatives to overground route proposals. Where new infrastructure provision will result in existing infrastructure becoming redundant, the Council will seek the removal of the redundant infrastructure as a requirement of the development.
55	Peat and Soils	Development proposals should demonstrate how they have avoided unnecessary disturbance, degradation or erosion of peat and soils. Unacceptable disturbance of peat will not be permitted unless it is shown that the adverse effects of such disturbance are clearly

Policy No.	Policy Name	Policy Wording
		<p>outweighed by social, environmental or economic benefits arising from the development proposal. Where development on peat is clearly demonstrated to be unavoidable then The Council may ask for a peatland management plan to be submitted which clearly demonstrates how impacts have been minimised and mitigated. New areas of commercial peat extraction will not be supported unless it can be shown that it is an area of degraded peatland which is clearly demonstrated to have been significantly damaged by human activity and has low conservation value and as a result restoration is not possible. Proposals must also demonstrate to the Council's satisfaction that extraction would not adversely affect the integrity of nearby Natura sites containing areas of peatland.</p>
57	Natural, Built, and Cultural Heritage	<p>"All development proposals will be assessed taking into account the level of importance and type of heritage features, the form and scale of the development, and any impact on the feature and its setting, in the context of the policy framework detailed in Appendix 2. The following criteria will also apply:</p> <ol style="list-style-type: none"> 1. For features of local/regional importance we will allow developments if it can be satisfactorily demonstrated that they will not have an unacceptable impact on the natural environment, amenity and heritage resource. 2. For features of national importance we will allow developments that can be shown not to compromise the natural environment, amenity and heritage resource. Where there may be any significant adverse effects, these must be clearly outweighed by social or economic benefits of national importance. It must also be shown that the development will support communities in fragile areas who are having difficulties in keeping their population and services. 3. For features of international importance developments likely to have a significant effect on a site, either alone or in combination with other plans or projects, and which are not directly connected with or necessary to the management of the site for nature conservation will be subject to an appropriate assessment. Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, we will only allow development if there is no alternative solution and there are imperative reasons of overriding public interest, including those of a social or economic nature. Where a priority habitat or species (as defined in Annex 1 of the Habitats Directive) would be affected, development in such circumstances will only be allowed if the reasons for overriding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment, or other reasons subject to the opinion of the European Commission (via Scottish Ministers). Where we are unable to ascertain that a proposal will not adversely affect the integrity of a site, the proposal will not be in accordance with the development plan within the meaning of section 25(1) of the Town and Country Planning (Scotland) Act 1997. <p>Note: Whilst Appendix 2 groups features under the headings international, national and local/regional importance, this does not suggest that the relevant policy framework will be any less rigorously applied. This policy should also be read in conjunction with the Proposal map.</p> <p>The Council intends to adopt the Supplementary Guidance on Wild Areas in due course. The main principles of this guidance will be:</p> <ul style="list-style-type: none"> - to provide mapping of wild areas;

Policy No.	Policy Name	Policy Wording
		<ul style="list-style-type: none"> - to give advice on how best to accommodate change within wild areas whilst safeguarding their qualities; - to give advice on what an unacceptable impact is; and - to give guidance on how wild areas could be adversely affected by development close to but not within the wild area itself. <p>In due course the Council also intends to adopt the Supplementary Guidance on the Highland Historic Environment Strategy. The main principles of this guidance will ensure that:</p> <ul style="list-style-type: none"> - Future developments take account of the historic environment and that they are of a design and quality to enhance the historic environment bringing both economic and social benefits. - It sets a proactive, consistent approach to the protection of the historic environment.
58	Protected Species	<p>Where there is good reason to believe that a protected species may be present on site or may be affected by a proposed development, we will require a survey to be carried out to establish any such presence and if necessary, a mitigation plan to avoid or minimise any impacts on the species, before determining the application.</p> <p>Development that is likely to have an adverse effect, individually and/or cumulatively, on European Protected Species (see Glossary) will only be permitted where:</p> <ul style="list-style-type: none"> - There is no satisfactory alternative; and - The development is required for preserving public health or public safety or other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment; and - The development will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range. <p>Development that is likely to have an adverse effect, individually and/or cumulatively, on protected bird species (see Glossary) will only be permitted where:</p> <ul style="list-style-type: none"> - There is no other satisfactory solution; and - The development is required in the interests of public health or public safety. <p>This will include but is not limited to avoiding adverse effects, individually and/or cumulatively, on the populations of the following priority protected bird species:</p> <ul style="list-style-type: none"> - Species listed in Annex 1 of the EC Birds Directive; - Regularly occurring migratory species listed in Annex II of the Birds Directive; - Species listed in Schedule 1 of the Wildlife and Countryside Act 1981 as amended; and - Birds of conservation concern. <p>Development that is likely to have an adverse effect, individually and/or cumulatively (see glossary), on other protected animals and plants (see Glossary) will only be permitted where the development is required for preserving public health or public safety.</p> <p>Development proposals should avoid adverse disturbance, including cumulatively, to badgers and badger setts, protected under the Protection of Badgers Act 1992 (as amended by the Nature Conservation (Scotland) Act 2004.</p>

Policy No.	Policy Name	Policy Wording
59	Other Important Species	The Council will have regard to the presence of and any adverse effects of development proposals, either individually and/or cumulatively, on the Other Important Species which are included in the lists below, if these are not already protected by other legislation or by nature conservation site designations: <ul style="list-style-type: none"> • Species listed in Annexes II and V of the EC Habitats Directive; • Priority species listed in the UK and Local Biodiversity Action Plans; • Species included on the Scottish Biodiversity List. We will use conditions and agreements to ensure detrimental effect on these species is avoided.
60	Other Important Habitats	The Council will seek to safeguard the integrity of features of the landscape which are of major importance because of their linear and continuous structure or combination as habitat “stepping stones” for the movement of wild fauna and flora. (Article 10 Features). The Council will also seek to create new habitats which are supportive of this concept. The Council will have regard to the value of the following Other Important Habitats, where not protected by nature conservation site designations (such as natural water courses), in the assessment of any development proposals which may affect them either individually and/or cumulatively: <ul style="list-style-type: none"> • Habitats listed in Annex I of the EC Habitats Directive; • Habitats of priority and protected bird species (see Glossary); • Priority habitats listed in the UK and Local Biodiversity Action Plans; • Habitats included on the Scottish Biodiversity List. The Council will use conditions and agreements to ensure that significant harm to the ecological function and integrity of Article 10 Features and Other Important Habitats is avoided. Where it is judged that the reasons in favour of a development clearly outweigh the desirability of retaining those important habitats, the Council will seek to put in place satisfactory mitigation measures, including where appropriate consideration of compensatory habitat creation.
61	Landscape	New developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed. This will include consideration of the appropriate scale, form, pattern and construction materials, as well as the potential cumulative effect of developments where this may be an issue. The Council would wish to encourage those undertaking development to include measures to enhance the landscape characteristics of the area. This will apply particularly where the condition of the landscape characteristics has deteriorated to such an extent that there has been a loss of landscape quality or distinctive sense of place. In the assessment of new developments, the Council will take account of Landscape Character Assessments, Landscape Capacity Studies and its supplementary guidance on Siting and Design and Sustainable Design, together with any other relevant design guidance. Note: The principles and justification underpinning the Council’s approach to sustainable developments are contained in the supplementary guidance: “Sustainable Design”. The key principles underlying this guidance are set out in Policy 28: Sustainable Design.

6.4.20 Other relevant HwLDP policies which need to be taken into consideration include the following:

- Policy 28 – Sustainable Design;
- Policy 29 - Design Quality and Place-Making;
- Policy 30 – Physical Constraints;
- Policy 31 – Developer Contributions;

- Policy 36 – Development in the Wider Countryside;
- Policy 56 – Travel;
- Policy 62 – Geodiversity;
- Policy 63 – Water Environment;
- Policy 64 – Flood Risk;
- Policy 66 – Surface Water Drainage;
- Policy 72 – Pollution;
- Policy 74 – Green Networks;
- Policy 77 – Public Access; and
- Policy 78 – Long Distance Routes.

6.5 Emerging Development Plan Policy Framework

- 6.5.1 The Highland Council (THC) started to review the HwLDP with a Main Issues Report (MIR) consultation in 2016, however, this review was not progressed on the basis that the Scottish Government published the Planning Bill. The Town and Country Planning (Development Planning) (Scotland) Regulations were enacted on 19 May 2023 and brought into force the new provisions for plan preparation. On 24 May 2023 the Scottish Government also issued its guidance document “*Local development planning guidance*”. THC’s scoping response notes it is the Council’s intention to undertake the evidence gathering stage of the new LDP throughout 2023 and into 2024, with the tentative programme including an Evidence Report towards the end of 2024 and subsequent Gate Check, with Proposed Plan stage towards the end of 2025, with the adoption of the plan targeted for 2027. The new Highland LDP (HLDP) will, once adopted, replace all current LDPs. As such, the new HLDP is unlikely to be at a stage to have any material weight in the determination of the Proposed Development.
- 6.5.2 In addition, the Council has been preparing the Inner Moray Firth proposed Local Development Plan 2 (IMFpLDP2) 2022. This was submitted to Scottish Ministers for Examination, with the process commencing on 22 May 2023. The Report of Examination of the Plan was published on 23 January 2024 and is likely to be adopted by the Council during the course of 2024. In an update to the Economy and Infrastructure Committee on the 15th February 2024 on progress on the new single Highland Local Development Plan, it was noted that the IMFLDP is proposed to be adopted in the coming months. JLL have also been advised by THC officers that they intend to implement all of the Reporters recommendations and intend to publish their intention to adopt by the end of March 2024. Following which the IMFLDP2 will be submitted to Ministers for their approval. JLL have been advised that THC intend for the IMFLDP2 as modified following Examination, subject to Scottish Government approval, to be heard by Full Council on the 9 May 2024. As such the IMFLDP2 is likely to be adopted during the course of the determination of the section 37 application.
- 6.5.3 The IMFLDP2 has identified new/amended policies, which are intended to update (not supersede) those in the HwLDP and will, when the Plan is adopted, be given primacy by the Council in making planning decisions. There are limited policies of relevance to the Proposed Development. The only policies that are considered to be of relevance to the Proposed Development are ‘Policy 1 Low Carbon Development’ and ‘Policy 2 Nature Protection, Preservation and Enhancement’. These policies have been considered in the preparation of the EIA and in the Planning Statement policy assessment.

6.6 Highland Council Planning Guidance

- 6.6.1 THC have a number of **Supplementary Guidance** (SG) documents in force and which form part of the Development Plan. Those which have been taken into account in the preparation of the EIA Report include the following:
- Flood Risk and Drainage Impact Assessment SG (Adopted January 2013).

- Sustainable Design Guidance SG (adopted January 2013).
- Managing Waste in New Developments (Adopted March 2013).
- Highland Statutorily Protected Species SG (Adopted March 2013).
- Physical constraints SG (March 2013).
- Onshore Wind Supplementary Guidance (Adopted 2016, addendum December 2017) which includes the Loch Ness Landscape Sensitivity Appraisal.
- Developer Contributions SG (Adopted November 2018).

6.6.2 The following **planning guidance** is also relevant to the consideration of the Proposed Development, it does not form statutory Supplementary Guidance but is a material consideration in the assessment of applications:

- Construction Environmental Management Process for Large Scale Projects (Published August 2010)
- Assessment of Highland Special Landscape Areas (published June 2011).
- Draft Biodiversity Planning Guidance (2023)

6.7 Other Relevant Policies and Guidance

Cairngorms National Park Partnership Plan 2022-2027

6.7.1 The Cairngorms National Park Partnership Plan 2022 – 2027 (approved by Scottish Ministers in 2022) is also relevant to the Proposed Development given the site lies within proximity to the Cairngorms National Park, albeit outside the National Park boundary itself. The National Park Partnership Plan sets out the vision and overarching strategy for managing the National Park and seeks to provide a strategic context for the Local Development Plan. Policy A4 is of most relevance to the Proposed Development, as seeks to conserve and enhance the special landscape qualities of the National Park. The Plan and Policy A4 in particular, are considered in more detail within the EIA and Planning Statement.

Scottish Government Biodiversity Strategies

6.7.2 The Scottish Government's "Scottish Biodiversity Strategy to 2045 - Tackling the Nature Emergency in Scotland" document was published in September 2023 following public consultation. The strategy sets out a clear ambition, "*for Scotland to be Nature Positive by 2030, and to have restored and regenerated biodiversity across the country by 2045.*"

6.7.3 The Scottish Government is also consulting on draft Biodiversity Planning Guidance (November 2023) to outline expectations of implementing NPF4 policies which support the overarching theme of NPF4, to improve biodiversity.

6.8 Planning Advice Notes

6.8.1 Planning Advice Notes (PANs) and Specific Advice Sheets set out detailed advice from the Scottish Government in relation to a number of planning issues. Relevant PANs and Specific Advice Sheets relevant to the Proposed Development are summarised in Table 6.3 below.

Table 6.3: Relevant PANs

Title	Summary of Content
PAN 1/2013 Environmental Impact Assessment	Provides information on the role local authorities and consultees play as part of the EIA process, and how the EIA can inform development management.
PAN 60 (2000) Planning for Natural Heritage	Advises developers on the importance of discussing their proposals with the planning authority and NatureScot and use of the EIA process to identify the environmental effects of development proposals and seek to prevent, reduce and offset any adverse effects in ecology and biodiversity.
PAN 61 (2001) Sustainable Urban Drainage Systems	Good practice drainage guidance.
Flood Risk: Planning Advice (2015)	Supports national planning policy on flooding. Contains advice on addressing flood risk in development plans and in dealing with planning applications.
PAN 75 (2005) Planning for Transport	Provides advice on the requirement to link transport strategies and development plans and the need to take into account accessibility, location, modal split parking and design
PAN 51 Planning, Environmental Protection and Regulation (Revised 2006)	Details the role of the planning system in relation to the environmental protection regimes.
PAN 3/2010 Community Engagement	Advice to Planning Authorities and developers on how communities should be properly engaged in the planning process.

6.9 Conclusions

6.9.1 This Chapter has set out the legislative background, a summary of the national energy policy framework, and the national and local planning policies and guidance relevant to the consideration of the Proposed Development. It provides an objective summary of the energy and planning policy considerations that have been taken into account in the preparation of the EIA Report in order to ensure that it provides the appropriate information for the consideration of the section 37 application.

6.9.2 As noted, the policy appraisal for the Proposed Development is contained in a separate Planning Statement.