

Agenda Item	5.6
Report No	PLS/32/24

HIGHLAND COUNCIL

Committee: South Planning Applications Committee
Date: 18 June 2024
Report Title: 24/01049/PAN: Highland Wind Farm Limited
Land 5000m SE of Farmhouse, Tomatin
Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Highland Wind Farm - Section 36 application to Electricity Consents Unit (ECU) for a proposed Wind Farm of up to 24 turbines with a generation greater than 50 megawatts (MW) with associated infrastructure and ancillary development.

Ward: 20 – Badenoch and Strathspey

Recommendation

Members are asked to note the submission of the PAN and highlight any material issues they wish to be brought to the attention of the applicant before the submission of an application for planning permission.

1.0 BACKGROUND

- 1.1 This report informs the Planning Applications Committee of the submission of the attached Proposal of Application Notice (PAN).
- 1.2 The submission of the PAN accords with the provisions of the Planning etc. (Scotland) Act 2006 and was made valid on 3 April 2024. The PAN is a statutory requirement for planning applications for major or national developments and must be lodged at least 12 weeks prior to the submission of a planning application. Members are asked to note this may form the basis of a subsequent planning application.
- 1.3 The submitted information attached includes:
- Proposal of Application Notice (Application Form); and,
 - Location Plan
- 1.4 In October 2022, The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013 were amended by The Town and Country Planning (Pre-Application Consultation) (Scotland) Amendment Regulations 2021. This changed some of the consultation activities required by the applicant for PANs submitted after 1 October 2022. The previous arrangements associated with the Covid-19 public health advice and previous modifications to the regulations, are now superseded. The prospective developer has so far held in-person community consultation events in Kincaig, Tomatin and Carrbridge. These were held at Kincaig Village Hall on 17 April 2024 between 1pm and 7pm, The Strathdearn, Tomatin on 18 April 2024 between 1pm and 7pm and Carrbridge Village Hall on 19 April 2024 between 1pm and 7pm. The consultation was also available on www.highlandwindfarm.co.uk from the 17 April 2024 until 5 June 2024. These events were advertised in the Strathspey and Badenoch Herald (4 and 11 April 2024) and Inverness Courier (5 and 12 April 2024). Further rounds of consultation will be confirmed at an appropriate stage later in the year in consultation with the local Community Councils to ensure maximum attendance is possible.
- 1.5 The Proposal of Application Notice has also been served on the host Kincaig Community Councils as Strathdearn Community Council as well as local Elected Members, Cairngorms National Park Authority Board, MSP's and MP. Nearby Carrbridge Community Council is currently in abeyance.
- 1.6 The forthcoming application will be accompanied by a Pre-Application Consultation (PAC) report explaining the consultation undertaken, feedback received, and any resultant amendments made to the planning application.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

- 2.1 The PAN provides notice of the developer's intention to submit an application for the erection and operation of a wind farm of up to 24 turbines ranging from between 200m and 230m to blade tip height with associated infrastructure including site access, internal access tracks, hard standings, temporary construction compounds, on site substation including building and welfare facilities, electrical underground

cabling and Battery Energy Storage System (BESS). Ancillary works are likely to include potential borrow pits, temporary wind measurement mast or LiDAR, communications mast and borrow pit search areas. The anticipated capacity of the turbines and BESS is over 50MW of electricity (with the BESS considered a generating station in its own right) and will therefore be submitted to the Scottish Ministers under Section 36 of The Electricity Act 1989.

- 2.3 The applicant has sought pre-application advice through the Council's Pre-Application Advice Service for Major Developments in 2023 (23/02464/PREMAJ) and has submitted a Scoping Opinion (24/01107SCOP) which is currently pending consideration.

3.0 SITE DESCRIPTION

- 3.1 The PAN site boundary comprises approximately 2575.75ha of heathland, moorland and rough hill pasture agricultural grazing within both Rolling Uplands – Inverness Landscape Character Type (LCT 221) and Rolling Uplands – Cairngorms (LCT125) as mapped by NatureScot. The site occupies elevated ground and is accessed from the north side of the A9. The nearest settlements are Kincaig less than 500m from the site boundary, Feshiebridge (approximately 3.2km to the south east of the boundary), Insh (approximately 3.8km southeast of the boundary), Kingussie (approximately 7.3km south west of the boundary) and Aviemore (approximately 9.5km north east of the boundary). There are several other isolated and small clusters of properties set back from the A9 and B970.
- 3.2 There are various consented and constructed wind farms in the wider surrounding area across the Monadhliath Mountains including Dunmaglass (approximately 9km to the north west), Aberarder (approximately 9.4km to the north west), Glen Kyllachy (approximately 10.5km to the north) Farr (approximately 12km to the north), Corriegarth 2 (approximately 15km to the south west), Corriegarth (approximately 15.5km to the south west), Cloiche (approximately 21km to the south west), Stronelairg (approximately 21.8km to the south west) and Dell (approximately 25.2km to the south west).
- 3.3 Much of the proposed development site is mapped as Class 1 peatland and the Phase 1 peat mapping demonstrates areas of deep peat within the site. The site is within a number of natural heritage designations including the Cairngorms National Park which extends into the southern portion where the access is proposed from the A9, the River Spey Special Area of Conservation (SAC) cuts through the site and Wild Land Area (WLA 20) – Monadhliath which covers the northern portion of the site. The SAC is protected for its internationally important populations of salmon, freshwater pearl mussel, sea lamprey and otter. There are various other natural heritage designations within the wider surrounding area covered further below.

3.4 The are a number of national and local landscape designations within the application site boundary with others in close proximity.

National Designations:

- The site is within Cairngorms National Park;
- The site is within River Spey Special Area of Conservation (SAC);
- An Suidhe, Kincaig Geology Conservation Review (GCR) site is marginally outwith the site;
- River Spey and Insh Marshes Site of Special Scientific Interest (SSSI), Special Area of Conservation (SAC) and Special Area of Protection (SPA) is approximately 700m to the south east;
- River Feshie SSSI is approximately 1.2km to the northeast;
- Insh Marshes National Nature Reserve (NNR) is approximately 1.5km to the south;
- River Spey – Insh Marshes SSSI, SAC and SAC is approximately 2.5km to the north east;
- Invereshie and Inshriach NNR is 3.2km to the south east;
- Alvie SSSI is approximately 4.5km to the north east;
- Cairngorms SSI, SAC and SPA and Cairngorms Massif SAC is approximately 5km to the south east;
- Craigellachie SSSI is approximately 7.5km to the north east;
- Kinveachy Forest SSSI, SAC and SPA is approximately 8.5km to the north east;
- Monadhliath SSSI and SAC is approximately 13km to the east;
- Creag Dhubh SSSI is approximately 13.5km to the south west.

Local Designations:

- The site is within Wild Land Area (WLA 20) – Monadhliath;
- Cairngorms National Scenic Area (NSA) is approximately 400m south east;
- Drynahan, Lochindorb and Dava Moor Special Landscape Area (SLA) is approximately 10.6km north east;
- Ben Alder, Laggan and Glen Banchor SLA is approximately 10.7km south west;
- WLA 15 – Cairngorms is approximately 13km to the south east;
- Loch Ness and Duntelchaig SLA is approximately 15.1km north west.

3.5 There is currently only one historic environment asset recorded within the area of proposed development and the potential for further sites to survive is considered to be low. There are several Scheduled Monuments and listed buildings in close proximity to the southern portion of the site in and around Kincaig including Category C Listed Badden Cottage approximately 150m to the north east, Category B Listed Kicraig House and associated meat larder approximately 400m to the north east,

Kicraig Bridge 850m to the south east and Pictish stone Scheduled Monument within the grounds of Dunachton Lodge approximately 900m to the south west.

4.0 DEVELOPMENT PLAN

The following policies are relevant to the assessment of the proposal:

4.1 National Planning Framework 4 (2023)

- 1 - Tackling Climate Change
- 2 - Climate Mitigation and Adaptation
- 3 - Biodiversity
- 4 - Natural Places
- 5 - Soils
- 7 - Historic assets and places
- 11 - Energy
- 13 - Sustainable Transport
- 22 - Flood risk and water management
- 23 - Health and safety
- 25 - Community wealth benefits
- 29 – Rural development
- 33 - Minerals

4.2 Highland Wide Local Development Plan (2012)

- 28 - Sustainable Design
- 29 - Design Quality & Place-making
- 30 - Physical Constraints
- 31 - Developer Contributions
- 51 - Trees and Development
- 42 - Previously Used Land
- 53 - Minerals
- 54 - Mineral Wastes
- 55 - Peat and Soils
- 56 - Travel
- 57 - Natural, Built & Cultural Heritage
- 58 - Protected Species
- 59 - Other important Species
- 60 - Other Importance Habitats
- 61 - Landscape
- 62 - Geodiversity
- 63 - Water Environment
- 64 - Flood Risk
- 66 - Surface Water Drainage
- 67 - Renewable Energy Developments
- 68 - Community Renewable Energy Developments
- 69 - Electricity Transmission Infrastructure
- 72 – Pollution
- 73 - Air Quality
- 74 - Green Network
- 77 - Public Access

78 - Long Distance Routes

4.3 **Inner Moray Firth Local Development Plan (2015) (IMFLDP), and Cairngorms National Park Local Development Plan (2021) (CNPLDP)**

The site is mainly within the IMFLDP however the site will be accessed from the south eastern within the area within the Cairngorms National Park , however it is not covered by any specific development allocation or safeguarding notation within either adopted Area LDP. CNPLDP contains a number of general policies which are applicable including Policy 2 - Supporting economic growth, Policy 4 - Natural heritage, Policy 5 – Landscape, Policy 7 - Renewable energy, Policy 10 - Resources and Policy 11 - Developer obligations.

4.4 **Inner Moray Firth Local Development Plan - Proposed Plan (2022)**

The Inner Moray Firth Local Development Plan Proposed Plan 2 is due for adoption soon and contains a number of general policies which are applicable including Policy 2 - Nature Protection, Preservation and Enhancement.

4.5 **Highland Council Supplementary Guidance**

- Onshore Wind Energy (Nov 2016) & associated Appendix
- Developer Contributions (Nov 2018)
- Flood Risk & Drainage Impact Assessment (Jan 2013)
- Green Networks (Jan 2013)
- Highland Historic Environment Strategy (Jan 2013)
- Highland's Statutorily Protected Species (Mar 2013)
- Highland Renewable Energy Strategy & Planning Guidelines (May 2006)
- Managing Waste in New Developments (Mar 2013)
- Physical Constraints (Mar 2013)
- Special Landscape Area Citations (Jun 2011)
- Standards for Archaeological Work (Mar 2012)
- Sustainable Design Guide (Jan 2013)
- Trees, Woodlands and Development (Jan 2013)

4.5 **Scottish Government Policy and Guidance**

- Onshore Wind Sector Deal for Scotland (2023)
- Onshore Wind Energy Policy Statement (2022)
- Draft Energy Strategy and Just Transition Plan (2023)
- Scottish Energy Strategy (2017)
- 2020 Routemap for Renewable Energy (2011)
- Energy Efficient Scotland Route Map, Scottish Government (2018)
- Siting and Designing Wind Farms in the Landscape, SNH (2017)
- Assessing Impacts on Wild Land Areas, Technical Guidance, NatureScot (2020)
- Wind Farm Developments on Peat Lands, Scottish Government (2011)
- Historic Environment Policy for Scotland, HES (2019)
- PAN 1/2011 - Planning and Noise (2011)
- PAN 60 – Planning for Natural Heritage (2008)
- Circular 1/2017: Environmental Impact Assessment Regulations (2017)

5.0 POTENTIAL MATERIAL PLANNING CONSIDERATIONS

- a) Development Plan
- b) Planning History
- c) Onshore Wind Energy Supplementary Guidance
- d) National Policy
- e) Energy and Economic Benefits
- f) Construction
- g) Roads, Transport and Access
- h) Water, Flood Risk, Drainage and Peat
- i) Natural Heritage (including Ornithology)
- j) Built and Cultural Heritage
- k) Design, Landscape and Visual Impact (including Wild Land Areas and cumulative impacts) as well as Residential Visual Amenity Impact
- l) Noise and Shadow Flicker
- m) Telecommunications
- n) Aviation
- o) Other Material Considerations including matters raised within representations.

6.0 CONCLUSION

- 6.1 The report presents the information submitted to date as part of the PAN. The policy considerations against which any future planning application will be considered have been summarised as well as the potential material planning considerations and key issues based on the information available to date. The list is not exhaustive and further matters may arise as and when a planning application is received and in the light of public representations and consultation responses.

7.0 IMPLICATIONS

- 7.1 Not applicable.

8.0 RECOMMENDATION

- 8.1 It is recommended the Committee notes the submission of the PAN and advises of any material issues it wishes to be brought to the applicant's attention.

Signature: David Mudie
Designation: Area Planning Manager – South
Author: Roddy Dowell
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Proposal of Application Notice
Plan 2 – Location Plan

The Highland Council
Major Applications Team
Glenurquhart Road

Inverness, IV3 5NX

peter.wheelan@highland.gov.uk

David Bell Planning Ltd
26 Alva Street
Edinburgh
EH2 4PY

07876 597494
david.bell@dbplanning.co.uk
dbplanning.co.uk

11th March 2024

Dear Peter

Highland Wind Farm Limited
Notification of the Proposed Development and Commencement of Pre-Application Consultation

Section 36 application to Electricity Consents Unit (ECU) for a proposed Wind Farm of up to 24 turbines with a generation greater than 50 megawatts (MW) with associated infrastructure and ancillary development.

Pre-Application Consultation

On behalf of our client, Highland Wind Farm Limited, (the applicant), this letter introduces the formal commencement of public consultation and engagement on the Proposed Development known as Highland Wind Farm.

The application is being progressed under Section 36 of the Electricity Act 1989 as required where the proposal is to construct, extend or operate an onshore electricity generation station with a capacity over 50 MW. Deemed planning permission will be sought under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 (TCP(S)A).

There are no statutory pre-application consultation procedures for section 36 applications under the Electricity Act. However, the minimum expectation as set within the ECU 'Good Practice Guidance for Applications under Section 36 and 37 of the Electricity Act 1989' (updated July 2022) is that applicants hold at least two public consultation events prior to submitting the application, and that the final event should be held at least 14 days after the first public event. It is noted further that the second event should provide feedback to members of the public in respect of comments received previously.

Notice of events should be made to the public at least 7 days prior in the form of a publication on the applicant's website and in a local newspaper. The nature of the advert content is set out clearly and provides that site details, description of development, date and place of public events and a statement explaining how and by when persons can make comments to the applicant regarding the proposals must be provided.

A Pre-Application Consultation Report (PAC Report) will be prepared and submitted with the section 36 application to the ECU. The PAC Report should clearly set out what has been done to accord with the guidance. This Report should include details of the nature of consultation carried out, the names of parties consulted, provide copies of materials sent to consultees and provide copies of any visual presentations provided. Confirmation of attendance at events / engagements and summaries of the comments received should be provided along with an explanation of how the applicant took account of views raised should be made.

The Proposed Development has been subject to a formal major pre-application meeting with the Highland Council (THC) and an Environmental Impact Assessment (EIA) Scoping request is being submitted in tandem with this letter setting out the proposed consultation steps.

It is noted that THC advised within their major pre-application response, in line with their current practise on all section 36 applications, that their preference is for the formal TCP(S)A PAN procedure should also be followed for Section 36 applications to ensure that Council officers, Members and other interested parties were formally notified and consulted upon within the Consultation process.

The formal PAN notice for Highland Council is prepared and submitted under the TCP(S)A (as amended) and the Town and Country Planning (Pre-Application Consultation (Scotland) Regulations 2021 which are not applicable to Section 36 applications under the Electricity Act 1989. It allows a formal response period to validate the notice and sets a minimum 12 week consultation period from submission of the notice. These statutory processes are not applicable to Section 36 applications and as such the Applicant advises that whilst they acknowledge THC wish to ensure engagement with Members and Officers within the consultation process for ECU applications, they do not consider it appropriate to follow the exact PAN procedures using the notices prepared for TCP(S)A applications and stated as being submitted under those regulations.

As such, this letter seeks to provide formal notice of commencement of consultation and sets out the consultation practises and measures to be followed such that Members can be formally notified. Where specific dates and details are not yet available, the Applicant can confirm that they will update THC via email or letter of dates and any changes to the proposed consultation methods throughout the consultation period. They will also keep THC advised of submission timescales.

We trust this approach is satisfactory, and consider it best reflects and fulfils the guidance set by the Electricity Act, whilst responding to THC desire to better formalise consultation practises for such applications.

The anticipated submission of the section 36 application is late 2024.

Pre-Application Consultation Details

Applicant: Highland Wind Farm Limited, 14b, Tower 42. 24 Old Broad Street. London EC2M

Address: British National Grid for approximate site centre: 276127, 814698 (Site Location Plan attached – Attachment 1).

Description of Development:

Construction and operation of wind farm of up to 24 turbines ranging from between 200-230 metres blade tip height with associated infrastructure including site access, internal access tracks, hard standings, temporary construction compounds, on site substation including building and welfare facilities, electrical underground cabling and Battery Energy Storage System (BESS), with ancillary works including potential borrow pits, temporary wind measurement mast or LiDAR, communications mast and borrow pit search areas.

Consultation Actions:

Notification of the proposed development and commencement of pre-application consultation has been sent to the following parties:

Community Councils

- > Strathdearn Community Council - Barbara MacAskill, Chair
- > Kincaig Community Council - Gary Culpan, Chair

**Carrbridge Community Council currently in abeyance.*

Local Elected Members

- > Cllr Ken Gowans
- > Cllr Duncan Macpherson
- > Cllr Andrew Sinclair
- > Cllr Russell Jones
- > Cllr Bill Lobban
- > Cllr John Bruce
- > Cllr Muriel Cockburn

MPs and MSPs

- > Fergus Ewing MSP
- > Kate Forbes MSP
- > Drew Hendry MP

Cairngorm National Park Authority Board

- > Chris Beattie
- > Geva Blackett
- > Sandy Bremner
- > Pete Cosgrove
- > Kenny Deans
- > Russell Jones
- > Paul Gibb
- > Hannah Grist
- > John Kirk
- > Bill Lobban
- > Steve Micklewright
- > Duncan Miller
- > Lauren MacCallum
- > Eleanor Mackintosh
- > Xander McDade
- > Dr Fiona McLean
- > Ann Ross
- > Derek Ross

In addition, neighbouring Estates and those Estates with an interest in the Proposed Development have all been informed.

In writing to the Community Councils, it has been proposed to undertake an initial round of consultation in person during the week commencing 15th April 2024 in Carrbridge, Kincaig and Tomatin.

Community Councils are asked to consider these dates and advise which days of the week would be most appropriate.

On confirmation, the dates will be published on the project website: www.highlandwindfarm.co.uk , as well as advertised in the local press and sent by post to local households.

An initial press release will be sent to the local newspapers covering the area and published on the project website with details of how to contact the project for further information, including the dedicated email address: info@highlandwindfarm.co.uk

A second round of engagement will follow, and appropriate notification thereof will be made.

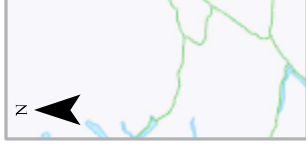
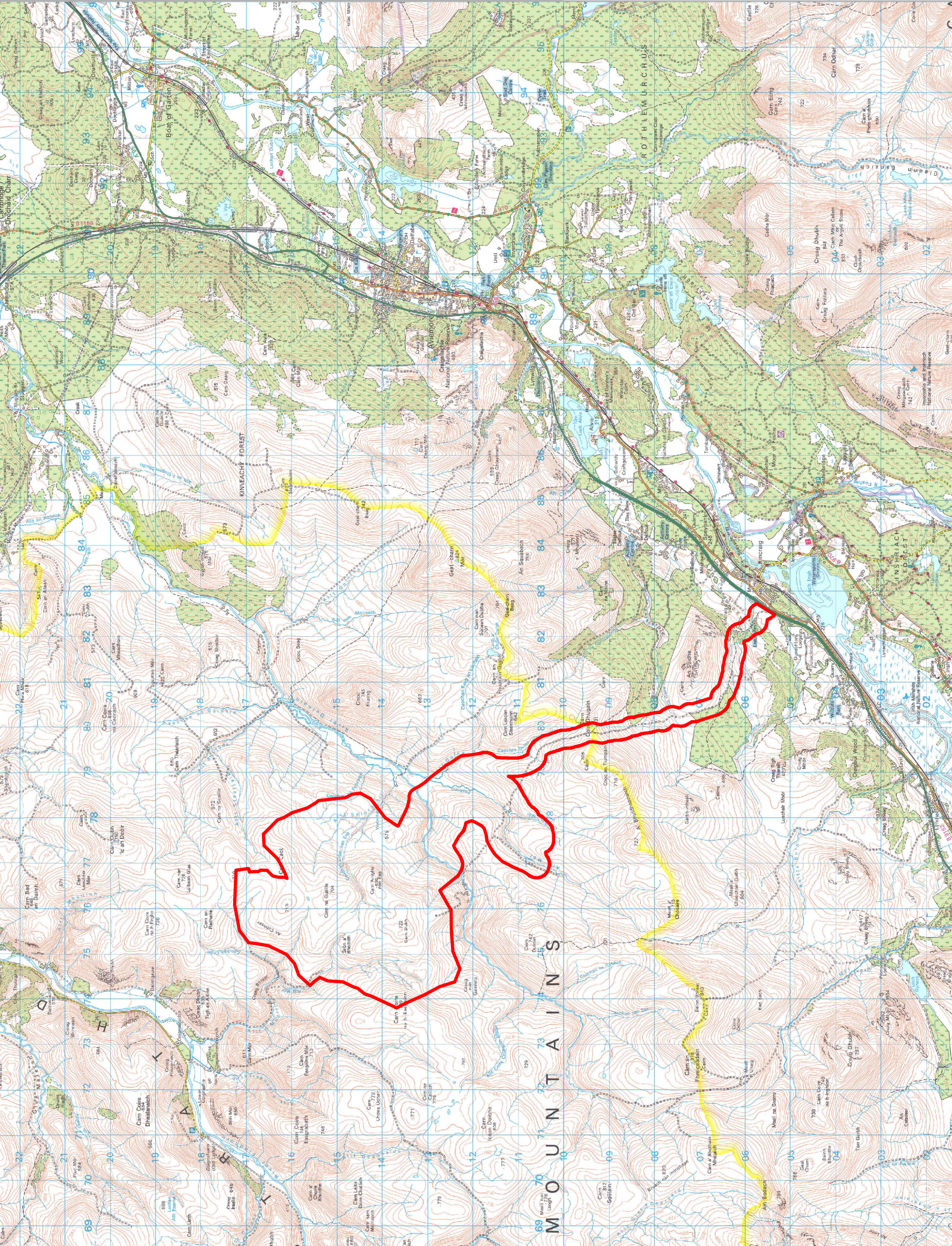
We trust the submission is satisfactory to formally notify you of the commencement of Pre-Application Consultation for a section 36 application and satisfies requirements per notification to Members and interested parties. We will seek to provide to you updates and confirmation of consultation dates and events as matters progress. If you determine that additional information is required or if you require clarity on any aspect of the submission, please contact my colleague Pippa Gardner directly (pippa.gardner@dbplanning.co.uk / 07807 528686).

Yours sincerely,

A black rectangular redaction box covering the signature of David C Bell.

David C Bell BSc(Hons) DipUD MCIHT MRTPI
Director

Enc.



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