

Agenda Item	6.2
Report No	PLN/057/24

HIGHLAND COUNCIL

Committee: North Planning Applications Committee
Date: 07 August 2024
Report Title: 23/03945/S36: Muirhall Energy Ltd
Land 3070M North Of Amer Farm, 5 Totarder, Struan
Report By: Area Planning Manager - North

Purpose/Executive Summary

Description: Glen Ullinish II Wind Farm - Construction and operation of a wind farm for a 40 year operational period, comprising 47 wind turbines with a maximum blade tip height of 200m, access tracks, borrow pits, battery storage, up to 2 anemometer masts, substations and ancillary infrastructure.

Ward: 10 - Eilean a' Cheò

Development category: National Development (Application under Section 36 of the Electricity Act 1989)

Reason referred to Committee: National Development

All relevant matters have been taken into account when appraising this application. It is considered that the proposal does not accord with the principles and policies contained within the Development Plan and is not acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **Raise an Objection** to the application as set out in section 10 of the report.

1. Introduction

- 1.1 The Highland Council has been consulted by the Scottish Government's Energy Consents Unit (ECU) on an application made under Section 36 of the Electricity Act 1989 (as amended) for Glen Ullinish II Wind Farm.
- 1.2 The application is for the erection and 40 year operation of a wind farm comprising 47 turbines of maximum 200m blade tip height, a battery energy storage system, along with associated infrastructure including new turbine foundations and hardstanding areas, two substation compounds and an additional compound for transmission, up to seven borrow pits, and 40 km of new access track. With the exception of some overlap, this project is separate to Glen Ullinish Wind Farm, which was approved for 11 x turbines of 149.9m under application ref. 20/01129/S42, having been previously approved for 14 x turbines of 119m tip height. The EIAR submitted in support of the applicant advises that if this current application (the application scheme) is approved then the consented scheme will not be built out.
- 1.3 Due to the scheme's expected generating capacity of 310.2 MW plus up to 120 MW of energy storage, this proposal falls under the provisions of the Electricity Act and is classed as National Development by National Planning Framework 4 (NPF4).
- 1.4 The Council is a statutory consultee on this application which is to be determined by Scottish Ministers. In such circumstances, the Council is invited to provide a consultation response and confirm whether it raises no objection or raises an objection. The Council has been granted an extension of time to respond to the ECU by 14 August 2024 to allow Officers to present the application to the North Planning Applications Committee.
- 1.5 Officers have undertaken an assessment of the application as currently proposed and intend to present the Report on Handling to the next available North Planning Applications Committee for ratification. In the interim, this report seeks members to raise a timeous objection to the application.

2. SITE DESCRIPTION

- 2.1 The proposal site extends over approximately 5,180 ha of northwest Skye approximately 3.5km to the northeast of Struan. There are a number of smaller villages nearby, including Struan, Balmeanach, Ose, Ebst and Ullinish close to the southern and western edges of the site, with Edinbane and Skeabost to the north. The site would be accessed predominantly from the south via the A87 (T) with a new junction on the A863 approximately 2.5km northwest of Struan. The site is not covered by any statutorily protected environmental or landscape designation although is in connectivity distance and proximity of Special Areas of Conservation (SACs), Special Protection Areas (SPAs), and Sites of Scientific Special Interest (SSSIs), as well as National Scenic Area (NSAs) and Special Landscape Areas (SLAs). The site is located mostly within Landscape Character Type (LCT) 359 Upland Sloping Moorland and LCT 360 Stepped Moorland, while

the western boundary fringes LCT 357 Farmed and Settled Lowlands – Skye and Lochalsh.

3. PLANNING HISTORY

3.1 Full details to follow in Report on Handling.

4. PUBLIC PARTICIPATION AND CONSULTATIONS

4.1 Full details of consultations undertaken by the Energy Consents Unit and the Council will be presented within the Report on Handling. This will include details of public adverts, and a summary of public representations and consultation responses received. All letters of representation and consultee responses received by the Council are available for inspection via the Council's eplanning portal which can be accessed through the internet www.wam.highland.gov.uk/wam. Those representations received by the Scottish Government's Energy Consents Unit can be accessed via www.energyconsents.scot It should be noted that some responses may have been submitted to both The Highland Council and Energy Consents Unit.

5. DEVELOPMENT PLAN POLICY AND OTHER MATERIAL POLICY CONSIDERATIONS

5.1 This application has been submitted to the Scottish Government under Section 36 of the Electricity Act 1989 (as amended). Should Ministers approve the development, it will receive deemed planning permission under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 (as amended). Although not a planning application, the Council processes Section 36 applications in a similar manner given that planning permission may be deemed to be granted.

5.2 Schedule 9 of The Electricity Act 1989 contains considerations in relation to the impact of proposals on amenity and fisheries. These considerations mean the developer requires to:

- 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,
- reasonably 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.

5.3 It should be noted that for applications under the Electricity Act 1989 that the Development Plan is just one of several considerations, and therefore Section 25 of the Town and Country Planning (Scotland) Act 1997 which requires planning applications to be determined in accordance with the Development Plan, unless material considerations indicate otherwise, is not engaged. That said, the application still requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

5.4 Appendix 2 of this report provides details of the documents which comprise the adopted Development Plan, including details of pertinent planning policies as well as adopted supplementary guidance, and other material policy considerations which are relevant to the assessment of the application.

6. PLANNING APPRAISAL

6.1 The key considerations in this case are:

- a) Compliance with the Development Plan / Other Planning Policy
- b) Energy and Economic Benefits
- c) Design, Landscape and Visual Impacts
- d) Construction
- e) Roads, Transport and Access
- f) Water, Flood Risk, Drainage and Peat
- g) Natural Heritage (including ornithology)
- h) Built and Cultural Heritage
- i) Noise and Shadow Flicker
- j) Telecommunications
- k) Aviation
- l) Other Material Considerations

7. Assessment of the Application

7.1 Detailed assessment of the application will be presented within the Report on Handling at a later NPAC meeting. From undertaking a site visit and completing a review of the application, including the information contained within the Environmental Impact Assessment, it is considered that the proposal gives rise to unacceptable significant landscape and visual effects, including cumulative effects, for road users, residents and recreational receptors in the surrounding and wider area with these effects not being sufficiently localised or mitigated by design. The nature and extent of these effects will be explained in full within the Report on Handling.

7.2 Owing to the timing of the application's submission, with a number of subsequent wind farm applications having since been received, the Environmental Impact Assessment undertaken to date does not in this instance accurately reflect the current cumulative picture of energy development on Skye, and therefore does not provide sufficient detail to complete a comprehensive cumulative assessment.

7.3 Moreover, Officers are of the opinion that the proposal is not supportable in its current form, and have offered the applicant the opportunity to present an amended scheme for further consideration. In light of the concerns raised by Officers to date, the applicant may decide to: i) make amendments to the proposal; ii) proceed to Public Local Inquiry; or iii) withdraw the application.

Discussions with the applicant to date have indicated that they intend to make amendments to the application, in which case, these will be re-assessed and reported back to committee.

- 7.4 At this stage, in order for the Council to reserve its position of maintaining the ability for a mandatory Public Local Inquiry, Officers request that NPAC members agree to raise a timeous objection to the application, as presented in Section 10 of this report and set out for the Energy Consents Unit in Appendix 1.
- 7.5 Members are also requested to note that adopting this position at this stage does not preclude the Council's right to withdraw its objection at a later date pending further detailed review of the proposal, whether as submitted, or, potentially as revised. The detailed Report of Handling will be presented to the Committee in due course thereafter and made available to the Energy Consents Unit by no later than seven days following the Committee review.

8. Conclusion

- 8.1 Members are asked to agree to the recommendation to **Raise an Objection** to the application as proposed as the development will result in unacceptable significant adverse effects on the environment, principally, but not limited or exclusive to, the landscape and visual effects, including cumulative impact with other existing, consented, as well as proposed wind farms. By responding timeously to the consultation, the Council's right to a mandatory Public Local Inquiry would be preserved.

9. IMPLICATIONS

- 9.1 Resource: Not applicable
- 9.2 Legal: If an objection is raised to the proposal, the application may be subject to a Public Local Inquiry.
- 9.3 Community (Equality, Poverty and Rural): Not applicable
- 9.4 Climate Change/Carbon Clever: The proposal can make a meaningful contribution toward the production of renewable energy.
- 9.5 Risk: Not applicable
- 9.6 Gaelic: Not applicable

10. RECOMMENDATION

Action required before decision issued: N

It is recommended that Members **Raise an Objection** to the application subject to A. and for the reasons set out below at B:

- A. Members granting delegated authority to the Area Planning Manager – North to respond to the Scottish Government's Energy Consents Unit / Scottish Minsters, regarding any future Further / Supplementary

Environmental Information, where that information does not materially reduce the scale of the proposed development.

B. Reasons for Objection

1. The application does not accord with the provisions of Section 36 of the Electricity Act 1989 by virtue of not demonstrating sufficient regard to the desirability of, and failing to reasonably mitigate effects detrimental to, preserving natural beauty and conserving flora and physiographical features of special interest. The development will result in unacceptable significant adverse effects on the environment, principally, but not limited or exclusive to, the landscape and visual effects, including cumulative impacts with other existing, consented, as well as proposed wind farms, with the development being contrary to National Planning Framework 4 Policy 11 Energy, Highland-wide Local Development Plan Policies 28 Sustainable Design, and 67 Renewable Energy Developments, and the Council's Onshore Wind Energy Supplementary Guidance.

Signature: Dafydd Jones

Designation: Area Planning Manager – North

Author: Mark Fitzpatrick

Background Papers: Documents referred to in report and in case file.

Relevant Plans: Plan 1 - Figure 1.1 Location Plan

Plan 2 - Figure 4.1a: Site Layout

Plan 3 - Figure 4.4: Typical Wind Turbine 200m Tip Height

Appendix 1 – Letter to the Energy Consents Unit

Appendix 2 – Development Plan and Other Material Policy Considerations

Development Plan

National Planning Framework 4 (2023)

- A2.1 The proposal is National Development 3 (NAD3) - Strategic Renewable Electricity Generation and Transmission Infrastructure
- A2.2 NPF4 policies relevant to this proposal include:
- 1 - Tackling the climate and nature crisis.
 - 2 - Climate mitigation and adaptation
 - 3 - Biodiversity
 - 4 - Natural places
 - 5 - Soils
 - 6 - Forestry, Woodland and Trees
 - 7 - Historic assets and places
 - 11 - Energy
 - 13 - Sustainable transport
 - 22 - Flood risk and water management
 - 23 - Health and safety
 - 25 - Community wealth benefits
 - 33 - Minerals

Highland Wide Local Development Plan 2012

- A2.3
- 28 - Sustainable Design
 - 29 - Design Quality and Place-making
 - 30 - Physical Constraints
 - 31 - Developer Contributions
 - 51 - Trees and Development
 - 52 - Principle of Development in Woodland
 - 53 - Minerals
 - 55 - Peat and Soils
 - 56 - Travel
 - 57 - Natural, Built and 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 Networks
- 77 - Public Access
- 78 - Long Distance Routes

The West Highlands and Islands Local Development Plan 2019 (WestPlan).

- A2.4 WestPlan does not contain land allocations related to the proposed development. It emphasises the role of Edinbane (to the north of the site) as the largest centre serving the Skeabost District. It sets out policies to guide development and growth across the area.

Onshore Wind Energy Supplementary Guidance, Nov 2016 (OWESG)

- A2.5 The Onshore Wind Energy Supplementary Guidance (OWESG) provides additional guidance on the principles set out in HwLDP Policy 67 for renewable energy developments. The Guidance sets out the Council's agreed position on onshore wind energy matters, and, although reflective of Scottish Planning Policy at the time of its adoption prior to the adoption of NPF4, the document remains an extant part of the Development Plan and is therefore a material consideration in the determination of onshore wind energy planning applications. Nevertheless, the Spatial Framework included in the document is no longer relevant to the assessment of applications as in effect, the policies of NPF4, specifically Policy 11 Energy, removes Group 2 Areas of significant protection from consideration by effectively making all land in Scotland either Group 1 Areas where wind farms will not be acceptable, or Group 3, Areas with potential for wind farm development.

Other Highland Council Supplementary Guidance

- A2.6 Biodiversity Enhancement Planning Guidance (May 2024)
 Developer Contributions (Mar 2018)
 Flood Risk and 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 and Planning Guidelines (May 2006)
 Physical Constraints (Mar 2013)

Roads and Transport Guidelines for New Developments (May 2013)
Special Landscape Area Citations (Jun 2011)
Sustainable Design Guide (Jan 2013)

Other Material Policy Considerations

- A2.7 Emerging Highland Council Development Plan Documents and Planning Guidance.
- A2.8 The Highland-wide Local Development Plan is currently under review and is at Main Issues Report Stage. It is anticipated the Proposed Plan will be published following publication of secondary legislation post National Planning Framework 4.
- A2.9 The Highland Council also has further advice on the delivery of major developments in several documents, which include the Construction Environmental Management Process for Large Scale Projects; and The Highland Council Visualisation Standards for Wind Energy Developments.

West Highlands and Islands Local Development Plan 2019 (WestPlan)

- A2.10 The West Highlands and Islands Local Development Plan 2019 provides the local plan for the area.

Other National Guidance

- A2.11 Onshore Wind Energy Policy Statement (2022)
Draft Energy Strategy and Just Transition Plan (2023)
Scottish Energy Strategy (2017)
2020 Route map 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)



Glen Ullinish II Wind Farm

Application Site Boundary

Scale @ 1:1,000,000



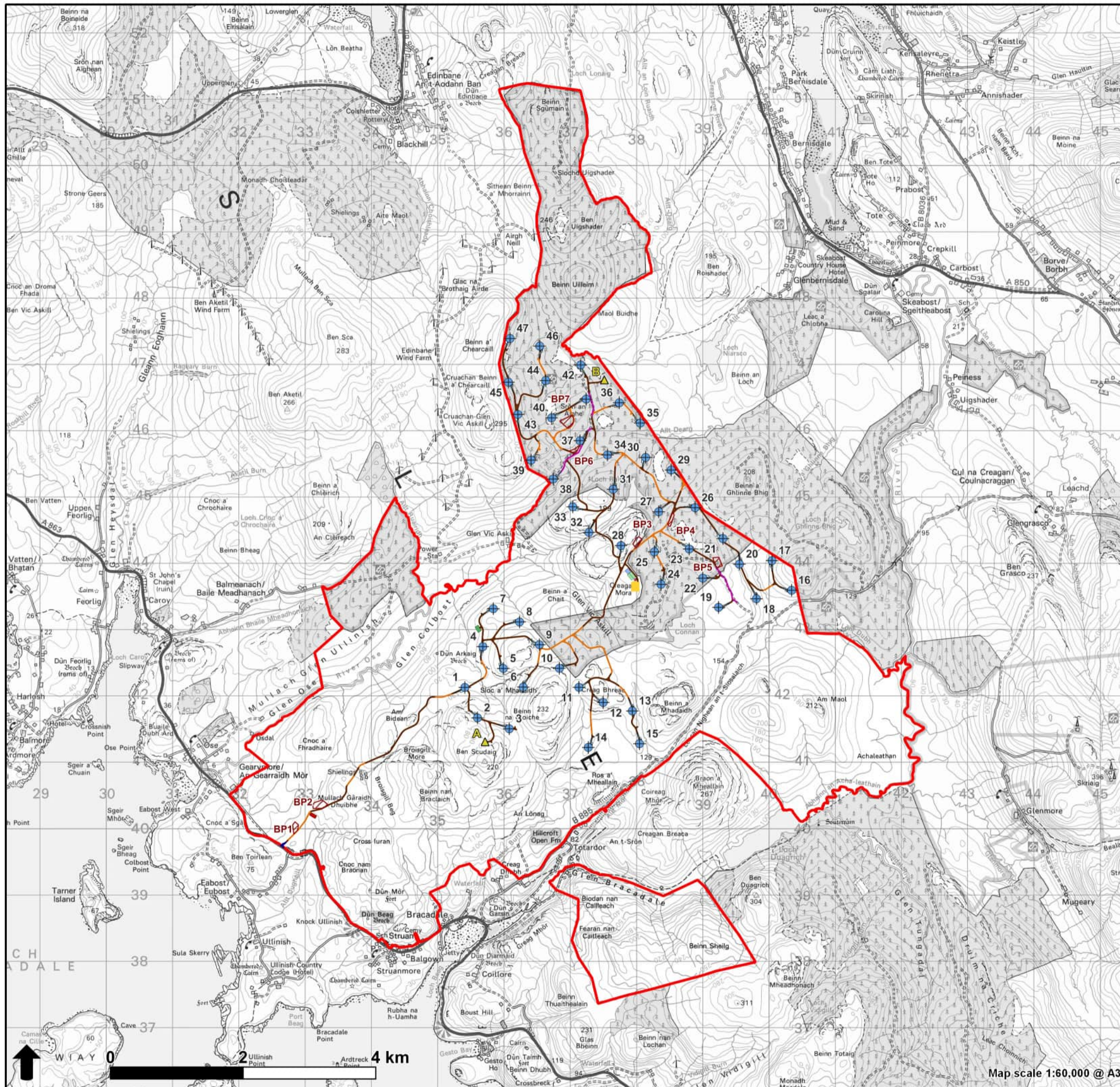
0 3 6 km
Scale @ 1:150,000

Figure 1.1: Location Plan

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Drawn: RJ	Reviewed: RK



Figure 4.1a: Site Layout



- ◆ Turbine Location
 - ▲ Permanent Met Mast
 - Site Boundary
- Infrastructure**
- Battery Energy Storage System Compound (Also to be utilised during construction for: Auxiliary Construction Compound, Batching Plant, and Emergency Helipad)
 - WF Substation 1
 - WF Substation 2
 - TNO Compound
 - Floating Tracks
 - Standard Tracks
 - Existing Tracks (Upgraded)
 - Hardstanding Clearance Area
 - Temporary Hardstandings
 - Permanent Hardstandings
 - Proposed Borrow Pit Search Areas
 - Temporary Construction Car Park
 - Temporary Construction Compound 1
 - ◆ Access Junction

Figure 4.4: Typical Wind Turbine 200m Tip Height

