

Report

Shadow Habitats Regulations Appraisal - Screening

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Proposed Battery Energy Storage System, Corriemoillie



28/10/2024

Project Reference: 65212332

Document Reference: 65212332 -SWE-ZZ-XX-T-J-0002

Revision: P03

Prepared For: Field Corriemoillie Ltd

Status / Revisions

Rev.	Date	Reason for issue	Prepared	Reviewed	Approved
P01	26/09/24	Initial	AN	AC	JS
P02	28/10/24	Following Client Comment	JRK	AN	AN
P03	07/11/2024	Following Client Comment	JRK	AN	AN

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1 Introduction

1.1 Background

Sweco UK Ltd have been commissioned by Field Corriemoillie Ltd to undertake a shadow Habitat Regulations Appraisal (sHRA) for Corriemoillie Battery Energy Storage System (BESS), (hereafter referred to as 'the site').

The site occupies an area of approximately 16.67 ha and is located around national grid reference NH 34972 64155, to the northwest of Garve. Habitats on site include the priority habitat 'wet heathland with cross-leaved heath - upland', 'bracken' (*Pteridium aquilinum*), 'other upland acid grassland', standing water, 'other rivers and streams', 'artificial unvegetated, unsealed surface', 'upland birchwoods', 'other Scot's pine (*Pinus sylvestris*) woodland' and 'other coniferous woodland'.

The site is surrounded by further coniferous woodland plantations and wet heathland on all sides, with artificial surfaces found to the southwest at the existing Corriemoillie sub-station.

The purpose of this sHRA report is to compile all relevant and necessary information required to determine the potential impact of the development on internationally designated sites so that the Competent Authority, for this project, have sufficient means to conclude their own Habitat Regulations Appraisal (HRA).

1.2 Proposed Development

The proposed development comprises of clearance of habitats on-site and the construction of BESS of up to 200MW with associated infrastructure (including cable route to substation), access and ancillary works (including landscaping)..

The construction phase will comprise of the following:

- Clearance of plantation woodland and wet heathland habitats on site, retaining upland birchwoods, Scots pine woodland and some heathland in the south of the site.
- Removal of drainage ditches, excluding the drainage ditch in the west of the site.
- Earthworks including lowering and raising ground level and establishment of a temporary construction compound;
- Construction of equipment platforms and foundations, including underground ducting and cabling;
- Diversion of existing drainage and creation of new drainage channels.
- Creation of three SuDS ponds.
- Delivery and arrangement of equipment;
- Cabling and connection works between battery equipment, ancillary equipment and substation compound;
- Installation of underground cabling between substation compound and Corriemoillie substation;
- Testing and commissioning; and
- Landscape planting, earthworks and site restoration.

The development also includes restoration of habitats within an offsite enhancement area, shown on Figure 65212332-SWE-XX-XX-D-J-0002.

The operational phase will comprise a battery storage facility and associated infrastructure. Construction is scheduled to commence in 2027.

The proposed development would have an operational life of 30 years, after which the site would be restored to its former use. Decommissioning works and site rehabilitation would be subject to a Decommissioning Strategy which would be prepared in consultation with and approved by the local planning authority prior to the commencement of any works.

Decommissioning will take account of the environmental legislation and technology available at the time of decommissioning. Notice will be given to the Highland Council in advance of commencement of the decommissioning works, with all necessary licenses or permits being acquired. Decommissioning will be timed to minimise its environmental impact. The associated works will be undertaken in accordance with a statement of operations, covering safety and environmental issues during decommissioning and will include removal of electrical equipment, and concrete foundations down to 1 m below ground level. Redistribution of the topsoil onsite during the decommissioning phase will additionally ensure the Site can be returned to its former use.

The proposed development has the potential to impact one European site which triggers the requirement for a Habitats Regulations Appraisal (HRA) to be undertaken. This report determines whether likely significant effects on the favourable conservation status of the European site would be expected to result from the proposed development.

1.3 The Habitats Directive and European/Ramsar Sites

The EU Council Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (hereafter referred to as the Habitats Directive) was adopted in 1992, and the latest amendments to the Directive were published in 2019 as a result of the UK leaving the EU. The primary aim of the Habitats Directive is to promote the maintenance of biodiversity by requiring Member States to take measures to maintain or restore natural habitats and wild species listed in the Annexes to the Directive at a favourable conservation status. It also introduces robust protection for those habitats and species of European importance.

The Habitats Directive includes, under Article 3, provision for the designation of Special Areas of Conservation (SACs) for habitats listed on Annex I and for species listed on Annex II. SPAs are classified under Article 4 of the Birds Directive (Directive 2009/147/EC on the conservation of wild birds (codified version of Directive 79/409/EEC)). Together SACs and SPAs make up the national site network of nature protection areas. The Habitats Directive provides protection for SPAs classified under the Birds Directive, as well as SACs (Section 2: Requirement for HRA).

1.4 Structure of this Report

This sHRA fulfils the requirements of Article 6(3) of the Habitats Directive and covers the first stage of the HRA process:

- Stage One (Screening): The outcome of the assessment and identification of Likely Significant Effects (LSEs) from the proposed development (Section 3: Stage One (Screening)).

This HRA screening comprises the following sections:

- Chapter 1: Introduction - including legislative context and report purpose/scope
- Chapter 2: HRA Procedure - description of the HRA process and methods used for site selection
- Chapter 3: Stage One: Screening – National Site Network Site selection - description of sites and conservation objectives
- Chapter 4: Screening Conclusion - establishes whether an Appropriate Assessment is considered necessary, with rationale.

1.5 Report Production

The assessment has been undertaken by Sweco Principal Ecologist Andrew Noble ACIEEM who has 11 years' experience, reviewed by Sweco Senior Ecologist Alex Clough who has 6 years' experience and approved by Sweco Principal Ecologist Joshua Stafford MSRB who has over 12 years' experience in ecological consultancy.

2 Requirement for HRA

2.1 Introduction

The Habitats Directive was transposed into UK legislation via the Conservation (Natural Habitats, &c.) Regulations 1994. For Scotland, the most recent update was in 2019 as a result of the UK leaving the EU. Implementation of the species protection requirements of the Habitats Directive in Scotland is now through a combination of the Conservation (Natural Habitats &c.) Regulations 1994 (as amended for Scotland) (hereafter referred to as the Habitats Regulations), and the Conservation of Habitats and Species Regulations 2017 (in relation to reserved matters).

The Habitats Regulations require that an Appropriate Assessment (AA) be undertaken by a Competent Authority where any plan or project not directly connected with or necessary to the management of the European site (i.e., a SAC or SPA, or candidate or potential SAC/SPA site), is likely to have a significant effect either individually or in combination with other plans or projects. HRA is the process, which includes an AA, whereby a Competent Authority comes to a conclusion as to whether there is no adverse effect on site integrity from a plan or project. HRA refers to the process that includes the Competent Authority's conclusions with respect to the AA test concerning site integrity, and the AA must be undertaken 'in view of the site's conservation objectives'. With respect to this HRA, the Competent Authority will be The Highland Council (THC).

2.2 HRA Methodology

The HRA process comprises four main stages and establishes whether the proposal:

- is directly connected with or necessary for management of the European designated site;
- is likely to have a significant effect on a site; and
- will have an adverse effect on the integrity of the site.

If the assessment cannot ascertain that the proposal would not adversely affect site integrity and the Competent Authority still wish to consent the proposal, a consideration of alternative solutions is required. If no alternative solutions are available, a proposal may be carried out for Imperative Reasons of Overriding Public Interest as indicated by Article 6(4) of the Habitats Directive. Compensatory measures 'should be considered only when the application of other safeguards, such as mitigation measures, is not sufficient' [1].

The four stages of the HRA process (Diagram 1), are as follows [2]:

- Stage One – Screening (should be undertaken in all cases).
- Stage Two – Appropriate Assessment.
- Stage Three – Alternative Solutions.
- Stage Four – Imperative Reasons of Overriding Public Interest (IROPI) and including, in certain circumstances, compensatory measures.

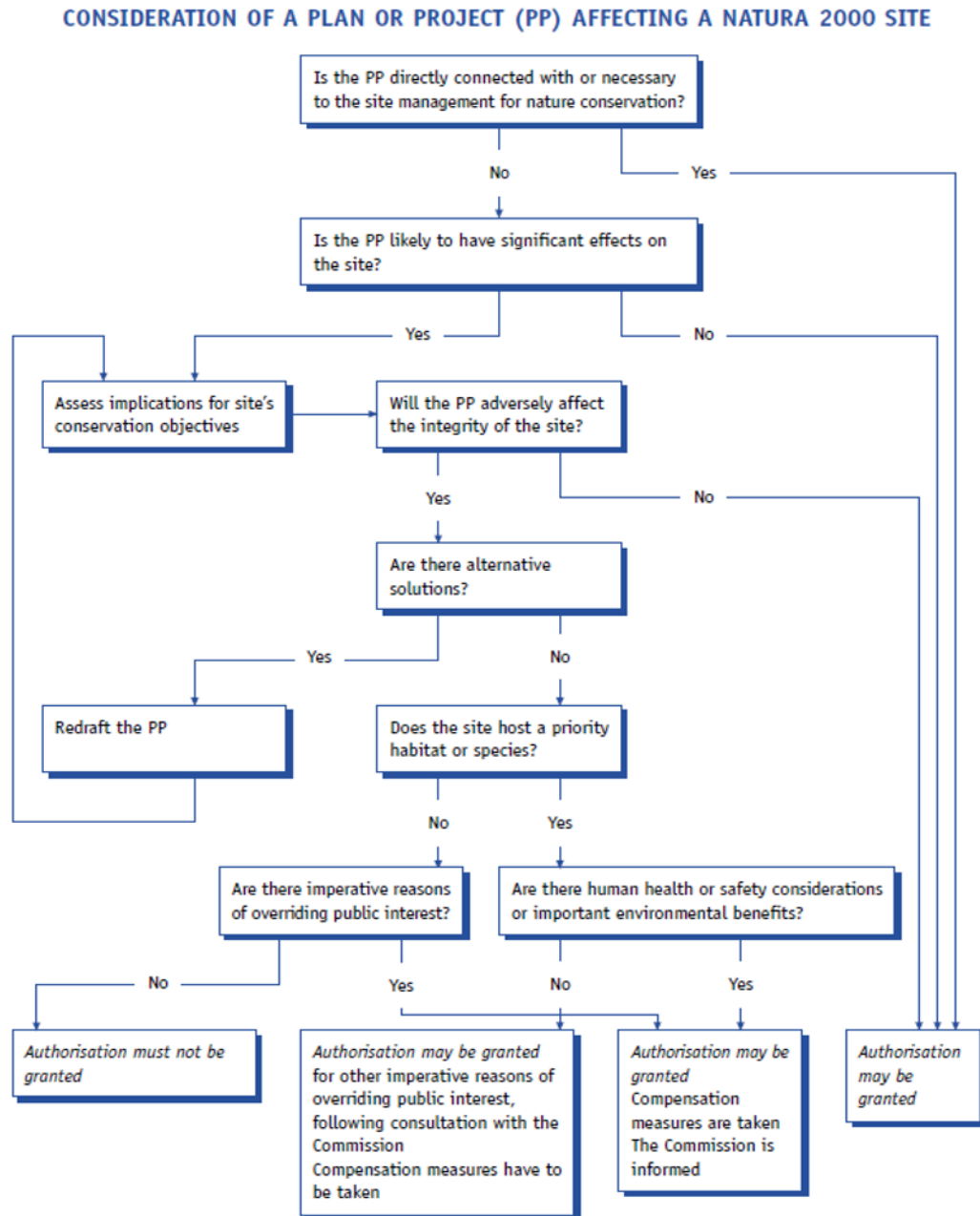


It should be noted that not all stages may be necessary in the HRA process. If the screening stage determines that a plan or project is unlikely to have significant effects on a European site, subsequent stages are not required.

The HRA process is shown below in Diagram 1.

Diagram 1: The HRA process

Flow chart of the Article 6(3) and (4) procedure (from MN2000) in relation to the stages of the guidance



Stage One: Screening

Screening identifies the potential effects on a European site from a project or plan, either alone or in combination with other projects or plans and considers whether these effects are likely to be significant.

The screening assessment is a test of the 'likelihood' of effects occurring rather than a 'certainty' of effects occurring. In accordance with the Waddenzee Judgement [ECJ case C-127/02], a likely significant effect is one that cannot be ruled out on the basis of objective information. This is underpinned by the precautionary principle which is enshrined in law in the Habitats Directive, and the test of something as being 'beyond reasonable scientific doubt', as presented in the Waddenzee Judgement. Paragraph 49 of the same judgement adds '...where a plan or project... is likely to undermine the site's conservation objectives, it must be considered likely to have a significant effect on that site. The assessment of that risk must be made in the light inter alia of the characteristics and specific environmental conditions of the site concerned by such a plan or project'. The Sweetman case (European Court of Justice C-258/11) reinforced and further refined the Waddenzee Judgement ruling that 'the question is simply whether the plan or project concerned is capable of having an effect. It is in that sense that the English 'likely to' should be understood'.

The People Over Wind Judgement (European Court of Justice C-323/17) clarifies the stage in the HRA process when mitigation measures can be taken into account when assessing impacts on a European site. The ruling is that: '...in order to determine whether it is necessary to carry out, subsequently, an appropriate assessment of the implications, for a site concerned, of a plan or project, it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site.' However, any measure that forms part of an application which can reasonably be regarded as 'standard practice' or 'best practice' or is provided as a legislative requirement to protect the wider environment and not specifically for European sites and have a high degree of certainty that the measure will be effective in avoiding an impact including on a European site, can be considered at the screening stage [3].

Stage Two: Appropriate Assessment

If the Stage One Screening process determines that the project or plan (either solely or in combination) is associated with impacts which are 'likely to have a significant effect' upon a European site, the HRA proceeds to Stage Two.

An AA considers the effect of the project or plan, either alone or in combination with other projects or plans, on the integrity of the European site, with respect to the site's structure and function, and its conservation objectives. Under the provisions of Article 6(3) of the Habitats Directive the objective is to ascertain that the integrity of the site will not be adversely affected.

Site integrity is defined as 'the coherence of the site's ecological structure and function across its whole area, or the habitats, complex of habitats or populations of species for which the site is or will be classified' [4]. The decision as to whether a site is not adversely affected focuses on and is limited to the conservation objectives for the site [4].

In carrying out an AA, mitigation measures, aimed at minimising or avoiding the negative effect of a plan or project during its operation or after its completion, may be considered as an integral part of the plan or project [4] [5]. The Competent Authority has to be certain that the mitigation proposed would remove/avoid the negative effects of the plan or project. It must be clear, therefore, what the mitigation measures are, how they would reduce or avoid the effects, and the details of how and by whom they would be implemented/managed, and the timescale involved. In addition, the mitigation measures would require monitoring and enforcement, and procedures to rectify effects where measures have not been successful.

Stage Three: Alternative Solutions

Stage Three is when no adverse effect on site integrity (AESI) cannot be ascertained. It examines alternative ways of achieving the objectives of the project or plan, that may avoid an AESI on the European site. Guidance [1] indicates that all alternatives have to be analysed. This could involve alternative locations or routes, different scales or designs of development, or alternative processes.

Stage Four: Imperative Reasons of Overriding Public Interest (IROPI)

Where no alternative solutions exist and where adverse effects remain, an assessment is undertaken of the IROPI to determine whether a project or plan should proceed. Where it is determined that there are IROPI it would be necessary to design, implement, manage and monitor compensation measures “to offset the negative impact of a project and to provide compensation corresponding precisely to the negative effects”.

2.3 Guidance

In undertaking this HRA the following guidance was referred to:

- Assessing Connectivity with Special Protection Areas [6];
- Assessment of plans and projects significantly affecting Natura 2000 sites: Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC [7];
- Communication from the Commission on the Precautionary Principle [5];
- Habitats Regulations Appraisal of Plans: Guidance for Plan-making Bodies in Scotland, Version 3.0 January 2015 [8];
- NatureScot Website: Habitats Regulations Appraisal (HRA); and
- Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC [9].

3 Stage One (Screening)

3.1 Introduction

This section details the Stage One Screening of the HRA process, which comprises the following:

- determining whether the site is directly connected with or necessary to the management of a European site;
- identifying the potential for effects on European sites;
- assessing the significance of any potential effects on European sites.

The site is not directly connected with or essential for the management of any European or Ramsar site.

3.2 European Sites with potential Effects from the Proposed Development

For the assessment of the proposed development, relevant European sites were identified by looking for potential effect pathways, particularly with regards to disturbance and pollution. One site was identified to be considered within the screening assessment (Appendix A - Figure 1):

- Glen Affric to Strathconon SPA [10]

Glen Affric to Strathconon SPA is 50,419 ha in size and is located 1.7km south of the site. The qualifying interest for the SPA is golden eagle (*Aquila chrysaetos*) as the SPA supported 10 active territories of this species (during the last update to the citation in 2010) and these have led to the condition of the qualifying interest being determined to be 'Favorable Maintained'.

The conservation objectives for the site are 'to avoid deterioration of the habitats of the qualifying species (listed below) or significant disturbance to the qualifying species, this ensuring that the integrity of the site is maintained; and to ensure for the qualifying species that the following are maintained in the long term:

- Population of the species as a viable component of the site;
- Distribution of the species within site;
- Distribution and extent of habitats supporting the species;
- Structure, function and supporting processes of habitats supporting the species; and
- No significant disturbance of the species.

A search for the Identified Pressures on this site found that no identified pressures have been provided by Scottish Natural Heritage to the Protected Nature Sites Application website [11].

No source-receptor pathways to other European sites could be identified and therefore there is no potential for LSEs on any other European sites.



3.3 Screening

The construction, operational and decommissioning phases of the proposed scheme could result in a variety of potential impacts which could directly or indirectly affect the European site's qualifying interest such as:

- Injury/mortality; and
- disturbance (e.g., noise, vibration, movement and lighting);

The potential impacts were used to identify LSEs on the Glen Affric to Strathconon SPA in terms of the site's conservation objectives from the construction and operation activities of the proposed development, presented in Section 1. The screening process considered:

- potential for effects pathways between the site and the proposed development during the the construction, operational and decommissioning phases;
- the ecological characteristics of the qualifying interest taking into consideration the sites' conservation objectives.

To inform the screening, survey data and the ecological characteristics of the qualifying interest have been taken into account and described below.

Table 3.1 provides the screening of Glen Affric to Strathconon SPA with potential for LSE from the construction and/or operation and decommissioning of the proposed development.

Discussion of Likely Impacts

The proposed development is located approximately 1.7km north of the SPA and will not result in any direct loss of habitat to the designated site. However, due to the mobile nature of the golden eagle which is the qualifying interest for this site there could still be an adverse effect if golden eagle use habitat outside of the designated site. The likelihood of this impact cannot be confirmed until further surveys have been carried out.

During ecological surveys in 2024 golden eagle were incidentally sighted flying over the site on five occasions on three separate days. A full suite of vantage point surveys for golden eagle will be undertaken in 2025 to determine the use of the site by this species.

As the exact details of the construction methodologies are not yet known or the potential impacts of the operation of the development an assessment of the effects of visual/noise disturbance cannot be assessed at this time. Construction mitigation measures to avoid LSEs on the SPA qualifying features during the construction phase will be embedded within a Construction Environmental Management Plan (CEMP). These measures will be implemented to ensure that LSEs are avoided.

It is anticipated that the decommissioning phase would generate similar impacts to the construction phase. An environmental management plan for this phase will also be in place.

3.4 In-combination Effects

The proposed works already have the potential to have a significant effect, as such consideration for the in-combination effects are not needed at this stage because an appropriate assessment has already been triggered. Full in combination effects will be assessed alongside mitigation within Stage 2, if required.

Table 3.1: Determination of whether the proposed development will have LSE on the qualifying interest of Glen Affric to Strathconon SPA

Qualifying Interest	Potential Effects and Commentary	Screening Conclusion
Golden eagle	There is potential for impacts to golden eagle from the proposed development through disturbance from construction, operation and decommissioning activities.	Potential for LSEs identified during construction, operation and decommissioning. Requirement to progress to AA (HRA Stage 2)

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4 Conclusion

The conclusion of this sHRA Screening (Stage One) is that LSEs as a result of the development on golden eagle cannot be ruled out with the information currently available. Therefore, an Appropriate Assessment (HRA Stage 2) is required.

Further surveys will be undertaken to better understand the use of the site by golden eagle and to accurately determine any potential impacts on golden eagle as a result of the proposed development. This will form the basis for further mitigation if required. The results of the further survey may confirm that no LSEs are anticipated.

5 References

- [1] European Commission, "Guidance document on Article 6(4) of the 'Habitats Directive' 92/43/EEC. Clarification of the Concepts of: Alternative Solutions, Imperative Reasons of Overriding Public Interest, Compensatory Measures, Overall Coherence, Opinion of the commission.," 2007.
- [2] European Commission, "Assessment of plans and projects significantly affecting Natura 2000 sites Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC., s.l.: s.n.," 2001.
- [3] Scottish Natural Heritage, "Guidance Note - The handling of mitigation in Habitats Regulations Appraisal - the People Over Wind CJEU judgement.," 2019.
- [4] European Commission, "Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC, Luxembourg: Office for Official Publications of the European Communities.," 2018.
- [5] European Commission, "Communication from the Commission on the Precautionary Principle, s.l.: s.n.," 2000.
- [6] "Guidance: Assessing Connectivity with Special Protection Areas (SPAs).," Scottish Natural Heritage, 2016 Version 3.
- [7] "Assessment of plans and projects significantly affecting Natura 2000 sites Methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC.," European Commission, 2001.
- [8] D. & A. Tyldesley, "Habitats Regulations Appraisal of Plans; Guidance for Plan-making Bodies in Scotland Version 3.0," 2015.
- [9] "Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC," European Commission, Office for Official Publications of the European Communities, Luxembourg, 2018.
- [10] NatureScot, "Glen Affric to Strathconon SPA," 2024. [Online]. Available: <https://sitelink.nature.scot/site/10233>.
- [11] NatureScot, "Protected Nature Sites Application," [Online]. Available: <https://informatix.sepa.org.uk/ProtectedNatureSites/>. [Accessed 2024].




6 Appendix A - Figure 1

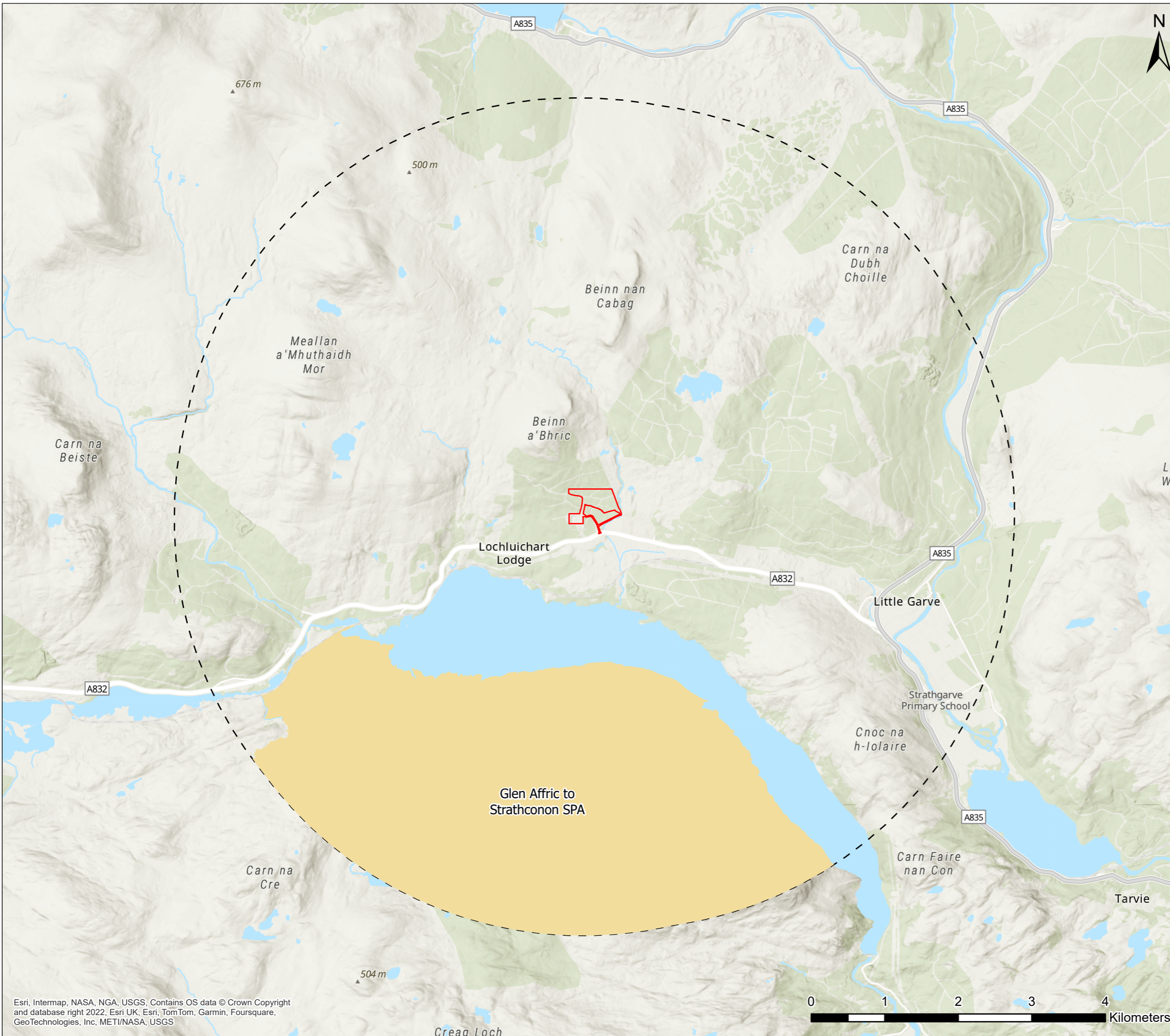
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Legend

- Red Line Boundary
- 5km Buffer
- Special Protection Area (SPA)



P01	07.11.2024	FIRST ISSUE	ER	JRK	AN
Rev	Date	Amendment Details	Dr'n	Chk'	App'

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Client
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Project Title
PROPOSED BATTERY STORAGE SYSTEM CORRIEMOILLIE

Drawing Title
FIGURE 1 - INTERNATIONAL DESIGNATED SITES WITHIN 5KM

Project Stage
STAGE 3

Status	S2 FOR INFORMATION
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Drawn	Designed	Checked	Approved
ER	JRK	JRK	AN

Sheet Size	Scale	Sweco Ref	Revision
A3	1:50,000	65212332	P01

Drawing Number **65212332-SWE-XX-XX-D-J-0001**

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