

MORAY COUNCIL

**MINUTE OF MEETING OF THE PLANNING & REGULATORY SERVICES
COMMITTEE**

20 DECEMBER 2022

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillors Gordon, Macrae, Cameron, Cowe, Divers, Dunbar, Gatt, Keith, Lawrence, Leadbitter, McBain, Ross, Van Der Horn and Warren

ALSO PRESENT

Councillor Harris (Item 13)

IN ATTENDANCE

Head of Economic Growth and Development, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mr R Smith, Principal Planning Officer, Strategic Planning and Development Manager, Ms Webster, Principal Planning Officer (Strategic Planning and Development), Mr J Killeen, Engineer (Transportation), Ms L MacDonald, Senior Planning Officer, Mr A Miller, Senior Planning Officer, Mr D Westmacott, Planning Officer, Mrs E Gordon, Planning Officer, Legal Services Manager and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda.

Councillors McBain and Warren advised the Committee that, in respect of Item 6 "Planning Application 22/01104/APP", Grays Recycling is a supplier to their family businesses however were content that this would not preclude them from taking part in the debate.

During consideration of Item 8 "Planning Application 22/00410/APP", Councillor Warren became aware that the proposed tenants of the development are suppliers to her family business however was content that this would not preclude her from taking part in the debate.

Councillor Ross declared an interest in Item 9 "Planning Application 22/00563/APP" having made comments in the National Press in relation wind turbines and stated that he would not take part in the consideration of this planning application. There were no further declarations of Member's interests.

2. WITHDRAWAL OF PLANNING APPLICATION 22/01544/APP

The Chair stated that, following discussion at the recent meeting of the Education, Children's and Leisure Services Committee, Planning Application 22/01544/APP had been withdrawn from the Agenda. This was noted.

3. EXEMPT INFORMATION

The meeting resolved that in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting during consideration of the items of business appearing at the relevant paragraphs of this minute as specified below, so as to avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

<u>Paragraph No. of Minute</u>	<u>Paragraph No. of Schedule 7A</u>
13	13
15	13

4. MINUTE OF THE PLANNING AND REGULATORY SERVICES COMMITTEE DATED 25 OCTOBER 2022

The Minute of the meeting of the Planning and Regulatory Services Committee dated 25 October 2022 was submitted for approval.

Under reference to paragraph 13 of the Minute, Councillors Macrae and Gordon advised that they had written to COSLA raising the concern of the Committee in relation the possible cost to the Council should any decision it makes be challenged however no response had been received as yet.

Under reference to paragraph 5 of the Minute, Councillor Warren pointed out that reference is made to Alba Place and stated that this should be changed to Alba Road as Alba Place does not exist.

In response, the Clerk agreed to amend the Minute accordingly.

Thereafter, the Committee approved the Minute of the Meeting dated 25 October 2022 subject to Alba Place being replaced with Alba Road in para 5 "Planning Application 21/01963/APP".

5. WRITTEN QUESTIONS

The Committee noted that no written questions had been submitted.

6. PLANNING APPLICATION 22/01104/APP

WARD 4: FOCHABERS AND LHANBRYDE

Proposed new recycling building at Grays Recycling Ltd, Nether Dallachy, Spey Bay, Fochabers for Grays Recycling Services Ltd

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for a proposed new recycling building at Grays Recycling Ltd, Nether Dallachy, Spey Bay, Fochabers for Grays Recycling Services Ltd.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as, although the application is not a major application, the floor area proposed exceeds 2000m² therefore, under the approved delegation scheme, it is required to be determined by the Planning and Regulatory Services Committee. The report also advised that available Members of the Committee visited the site of the application on 16 December 2022.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 22/01104/APP subject to the following conditions and reasons:

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which this permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the development shall be carried out in accordance with the agreed CTMP at all times. For the avoidance of doubt the CTMP shall include as a minimum the following information:
 - Details of the routes for construction traffic from the A Class Road network to the site;
 - duration of works;
 - construction programme; parking provision, loading and unloading areas for construction traffic;
 - full details of temporary arrangements to safeguard pedestrian movements during the construction period;
 - full details of any temporary access;
 - measures to be put in place to prevent material being deposited on the public road;
 - traffic management measures to be put in place during works including any specific instructions to drivers; and
 - a programme of monitoring for all routes identified within the CTMP during construction will be required.

Reason: To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.

3. All drainage proposals shall be in accordance with the submitted report entitled Surface Drainage Design Report, by Campbell of Doune Ltd dated July 2022 and approved drawings 2749-031 and 301 and shall be provided in full prior to the first use of the building hereby approved.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SuDS; in order to protect the water environment.

4. All planting shall be carried out in accordance with approved plan 2749 -032 rev B and shall be carried out in the first planting season following the completion of the building hereby approved. Thereafter the landscaping and planting shall be maintained as detailed on the approved plan.

Reason: To ensure that the landscaping and associated biodiversity enhancement are timeously provided.

7. PLANNING APPLICATION 22/00410/APP

WARD 4: FOCHABERS AND LHANBRYDE

Erect showroom warehouse and workshop building on Site 17, Elgin Business Park, Elgin, Moray for Yorsipp Pension Trustees

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application to erect a showroom, warehouse and workshop building on Site 17, Elgin Business Park, Elgin, Moray for Yorsipp Pension Trustees

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as it is for a building with a floor area in excess of 2,000 sqm. The report also advised that available Members of the Committee visited the site of the application on 16 December 2022.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 22/00410/APP subject to the following conditions and reasons:

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. The retail showroom element associated with the development hereby permitted shall be restricted to the floor area shown on the approved ground floor plan drawing number 1085/PL/05, and remain ancillary to the use of the building as a warehouse. All retailing shall be in accordance with the detail specified in the Supporting Statement submitted with and approved as part of this application.

Reason: To ensure retailing remains associated with the principal use of the building for storage and distribution, to allow the planning authority to give consideration for alternative retail uses for the site, in the interests of the vitality of viability of nearby town and retail centres.

3. All landscaping shall be undertaken in accordance with the approved landscaping scheme (drawing number 1185/PL/03 Rev E) hereby approved,

and within the Woodland Screen planting, all planting should be planted with a maximum 2.4 metre spacing for trees with shrubs and smaller planting being spaced at least 0.6 metres apart.

Reason: To ensure the planting is undertaken in accordance with the landscaping scheme, and that the woodland screen planting is of a sufficient density to offer screening from the trunk road to the north.

4. All planting, seeding or turfing, as well as biodiversity measures forming part of the approved landscaping scheme shall be undertaken in the first planting season following first occupation/use or completion of the development hereby approved, whichever is the soonest. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless this Council (as Planning Authority) agrees otherwise in writing.

Reason: To order to ensure that the approved landscaping works and biodiversity measures are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

5. All drainage shall be carried out in accordance with approved Drainage Impact Assessment and associated drawings.

Reason: To ensure suitable provision of surface water drainage, in the interests of the environment and the prevention of flooding.

6. No development shall commence until details (Site Utilities Plan scale 1:500 min) have been submitted to and approved in writing by the Planning Authority.

Reason: In the interest of an acceptable form of development and the submission of details to address details shown incorrectly or missing from the submission.

7. Notwithstanding the details submitted (plan/sections and engineering assessment) for the proposed retaining wall(s) within the development (which are insufficient to confirm (or otherwise) the extent of any structures within the development which may be retaining the public road), no development shall commence until details (plans (scale 1:500 min, including cross sections at 2m intervals) and engineering calculations) have been submitted which demonstrate the extents to which any structures within the development would be retaining the public road.

Thereafter no development shall commence until evidence has been submitted to the Planning Authority which demonstrates that the statutory processes for the approval of the design of any retaining structures have been completed satisfactorily.

Reason: In the interests of an acceptable form of development in the interests of road safety and the provision of details currently lacking from the submission.

8. Notwithstanding the details submitted for the customer parking layout (which are not accepted). No development shall commence until details (Plans scale

1:500 min) have been submitted to and approved in writing by the Planning Authority which confirm a separation strip of 1 metre (minimum) between the parking aisle (within the customer parking) and the back of the public cyclepath. Thereafter the development shall be completed in accordance with the approved details.

Reason: In the interest of an acceptable form of development and the submission of details to confirm that there is sufficient clearance between the internal vehicular layout and the public cyclepath to mitigate the risk of potential road safety issues for pedestrians and cyclists from vehicles manoeuvring within the development.

9. No works shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
- duration of works;
 - construction programme;
 - full details of any temporary construction access;
 - measures to be put in place to prevent material being deposited on the public road;
 - measures to be put in place to safeguard the movements of pedestrians;
 - traffic management measures to be put in place during works including any specific instructions to drivers; and
 - details for construction staff parking provision and loading and unloading areas for construction traffic.

Thereafter, the development shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.

10. Prior to the access to the development becoming operational a visibility splay 4.5 metres by 70 metres in both directions shall be provided. Thereafter unless otherwise approved in writing by the Planning Authority the visibility splay shall be maintained clear of any obstruction above 0.26 metres in height, measured from the level of the carriageway.

Reason: To ensure an acceptable standard of development is provided throughout the development site at all times in the interests of road safety.

11. Prior to completion of the development or the development becoming operational (whichever is soonest) parking shall be provided in accordance with the approved plans. Thereafter the parking shall be available at all times, unless otherwise agreed in writing by the Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for the development in the interest of an acceptable development and road safety.

12. Notwithstanding the details submitted for EV charging (which are insufficient and do not show the charging unit locations or specifications) no development shall commence until the following details for the provision of 6no. 22Kw

Electric Vehicle (EV) charging spaces have been submitted for approval by the Planning Authority in consultation with the Roads Authority:

- Details showing the type and specifications (22Kw minimum) of the proposed EV charging units(s).

Thereafter the EV charging facilities shall be provided in accordance with the approved details prior to the development becoming operational or opened to the public and maintained for use thereafter unless otherwise agreed in writing by the Planning Authority.

Reason: In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport, through the provision of details currently lacking from the submission.

8. PLANNING APPLICATION 22/00563/APP

Councillor Ross, having declared an interest in this item, left the meeting at this juncture and took no part in its consideration.

WARD 2 – KEITH AND CULLEN

Erection of 3 Wind Turbines (at max height 149.9 metre to blade tip), control building and substation and formation of access tracks (including turning heads), hardstanding, temporary construction compound and associated works and infrastructure at Lurg Hill, Deskford, Moray for Vento Ludens Ltd

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application for the erection of 3 Wind Turbines (at max height 149.9 metre to blade tip), control building and substation and formation of access tracks (including turning heads), hardstanding, temporary construction compound and associated works and infrastructure at Lurg Hill, Deskford, Moray for Vento Ludens Ltd.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the Appointed Officer considers the matter raises matters of wider community interest and/or planning significance by virtue of the scale or height of the turbines, which exceed 40 metre (to blade tip). The report also advised that available Members of the Committee visited the site of the application on 16 December 2022.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 22/00563/APP subject to the following conditions and reasons:

1. The development to which this permission relates must be begun not later than the expiration of 5 years beginning with the date on which the permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. The permission as hereby granted is for a period of 35 years from the date when electricity is first exported from any wind turbine within the development to the electricity grid network (First Export Date), and written confirmation of this First Export Date shall be provided to the Council, as planning authority within one month thereof.

Reason: To define the duration of the permission.

3. In the event that any wind turbine(s) installed and commissioned fail(s) to supply electricity on a commercial basis to the grid for a continuous period of 12 months, or is no longer required, the turbine(s) in question shall be deemed to have ceased to be required. Under such circumstances, the wind turbine(s) along with any ancillary equipment, fixtures and fittings no longer required in connection with the remaining turbine(s) shall be dismantled and removed from the site within 6 months of the end of the said continuous 6 month period, or when ceasing to be no longer required.

Thereafter, the surrounding land shall be re-instated in accordance with a re-instatement scheme to include specification of all works and timescale for re-instatement of the land, which shall previously have been submitted to and approved by the Council, as planning authority.

Reason: To ensure that any redundant or non-functioning wind turbine(s) is/are removed from the site in the interests of public safety, amenity and environmental protection and to ensure acceptable arrangements for the re-instatement of the ground are provided.

4. No development (excluding preliminary ground investigation which shall be permitted) shall commence until:
 - a) draft Decommissioning and Site Restoration Plan for the site has been submitted to and approved in writing by the Council, as planning authority in consultation with SEPA, NatureScot and/or other agencies as appropriate; and
 - b) thereafter, and not later than 12 months prior to the expiry of this permission or decommissioning of the development, whichever is the sooner, a detailed Decommissioning and Site Restoration Plan, based upon the principles outlined in the approved draft Plan, shall be submitted to and approved by the Council, as planning authority in consultation with SEPA, SNH and/or other agencies as appropriate.

The required/proposed plans shall include provision for all turbines and ancillary infrastructure and equipment (including all buildings and structures, hardstandings and tracks, etc.) to be decommissioned, de-energised and dismantled to at least ground level and thereafter, removed from the site together with the arrangements to retain any access tracks and other infrastructure on the site, the treatment of disturbed ground surfaces, the management and timing of all proposed works, the provisions for environmental management including traffic and other plans to address issues and impacts likely to arise during the decommissioning period and the provisions for the restoration and aftercare of the site.

Thereafter, the development shall be decommissioned and the site restored and re-instated in accordance with the approved Plan details.

Reason: To ensure the arrangements for both decommissioning of the development and re-instatement of the site are undertaken in an appropriate environmentally acceptable and timeous manner, with all wind turbines and associated infrastructure permanently removed from the site in the interests of safety, environmental protection, amenity and appearance of the site and the surrounding area.

5. Prior to the development commencing, details shall be submitted to and approved in writing by the Council, as planning authority regarding evidence of a bond or other similar financial provision to be put in place to cover all decommissioning and site restoration costs on the expiry of the permission or where the turbines cease to be required, whichever is the sooner. The required bond or equivalent shall:
 - a) be based on the Decommissioning and Site Restoration Plan (as required by Condition 4);
 - b) include documentary evidence to demonstrate that the amount of the bond or financial provision is sufficient to meet the full estimated costs of decommissioning and site restoration, including dismantling, removal, disposal, site restoration, remediation and all other incidental works and professional costs; and
 - c) include details to ensure and demonstrate that the proposed financial arrangements will be maintained and be subject to periodic review throughout the lifetime of the development. The findings of each successive review shall be submitted to and approved by the Council, as planning authority, and include evidence to demonstrate that financial arrangements continue to remain in place and remain sufficient for both the decommissioning of the development and restoration of the site. The review period shall be not less than 5 yearly intervals from commencement of the development, or such other period as may be agreed in writing with the Council, as planning authority.

Thereafter, the development shall not commence until written evidence has been provided to the Council, as planning authority to confirm that the approved bond or financial provision arrangement has been put in place.

Reason: To ensure that sufficient funds are available to address the anticipated arrangements and estimate of costs of decommissioning and re-instatement and restoration of the site.

6. No development shall commence (excluding preliminary ground investigation which shall be permitted) until the following information has been submitted to and approved by the Council, as planning authority in consultation with SEPA, NatureScot and other agencies where appropriate:
 - a) details of the make, model, design, power rating and sound power levels of all turbines to be used (and at all times the total number of turbines to be erected shall not exceed 3 and the blade tip height shall not exceed 149.9 metres above ground level);
 - b) the external colour and/or finish of the turbines including towers, nacelles and blades, which shall be non-reflective, semi-matt pale grey/off-white;
 - c) unless otherwise located within the tower of each wind turbine, the location, design specifications, external material finishes and colour of any external wind turbine transformer housing;
 - d) for the sub-station compound, the design external appearance and material finishes and colour of all proposed buildings and structures to be

erected, stationed or installed within the compound area (including any sub-station control building) together with the finalised site layout arrangements including the location, dimensions, external appearance and surfacing materials for the compound area, all fencing or other means of enclosure to be erected and all other proposed/required ancillary infrastructure to be provided including any required/proposed external switch gear infrastructure to be located within the compound, the arrangements for access and parking and disposal of foul and surface water from the compound area, external lighting arrangements (where proposed), etc.;

- e) for the temporary construction compound, the location, extent and site layout arrangements including the placement and purpose/use of all buildings/structures within the compound, areas for storage of materials, parking, disposal of foul and surface water, means of enclosure, and external lighting arrangements, etc. together with timescales for both establishment and removal of the temporary construction compound and details for restoration and re-instatement of the site following removal of the temporary compound;
- f) detailed access track designs for all on-site access tracks and passing places, to include their location and routing, design construction specifications and surfacing materials, and the arrangements for drainage disposal for each track section;
- g) the location(s) and design specification(s) for all required/proposed up-graded existing and new watercourse crossings and engineering works within the water environment. With the exception of any proposed watercourse crossings and directly related tracks, the details shall demonstrate that all new infrastructure works occur out with a 50 metre buffer area from water features on the site unless justification is provided, all watercourse crossings shall be adequately sized to enable them to accommodate 1 in 200 year peak flows (with allowance for climate change of 35% increase in flows) at each point without causing constriction of flows or increasing the risk of flooding elsewhere, and where watercourse crossings cannot be avoided, the use of bottomless or arched culverts (or bridging solutions) which do not affect the bed or banks of the watercourse, and all designs of crossings shall follow good practice guidelines;
- h) a drainage assessment or strategy addressing all drainage from the site to include the location(s), design specification(s) and timescale(s) for provision of the arrangements for the disposal of foul and surface water from the site, the former shall include the disposal of effluent from the site and the latter shall incorporate SUDs, and provide for details to address both construction and operational stages of the development and demonstrate how run-off will be managed to minimise the risk of flooding, erosion, sediment run-off and pollution of any watercourse;
- i) details of arrangements to monitor private water supplies during all stages of the development, and in the event of any adverse effects on water quality or quantity being identified, the arrangements and procedures to undertake restorative and remedial works to maintain any supply. This shall include measures to monitor the supply known as 'Mid Skeith' to detect any changes to water quality and allow for further mitigation measures to be put in place if necessary. This shall include notification to Scottish Water at potectdwsources@scottishwater.co.uk, 3 months in advance of any works commencing on site to make its operational teams aware (see consultation response date 30 November 2022); and

- j) details of all required/proposed mitigation measures (where not already embedded within the submitted design and layout of the development) for all stages of the development, to be contained within a Schedule of Mitigation or similar together with details regarding the process to control/action changes from any agreed Schedule of Mitigation. The Schedule shall include (but not be limited to) all required/proposed measures to mitigate the impact of the development upon the water environment (hydrology, hydrogeology and geology) and nature conservation (ecology and ornithology including protected species and sensitive habitat) interests.

Thereafter, the development shall be implemented in accordance with the approved details

Reason: Details of the matters specified are lacking from the submission and to ensure an acceptable form of development in landscape, visual and/or other environmental considerations, including addressing the risk of damage from flooding and surface water effects including pollution, erosion and sediment impacts on the environment, to minimise impacts on ecological habitats, in the interests of good land management and protection and enhancement of habitats, and to maintain the wholesome provision of any private water supply where affected by the development.

- 7. No development shall commence until a detailed Site-specific Construction Environmental Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with SEPA, NatureScot and other agencies as appropriate. The Plan shall be closely based on supporting document by Atmos Consulting, dated March 2022, document reference 57120, titled "Lurg Hill Wind Farm - Outline Construction Environmental Management Plan", address all stages of the development (construction, operation and decommissioning), and identify all works and elements potentially capable of giving rise to pollution or causing environmental harm, and all required/proposed measures to mitigate the identified impacts. The Plan shall include but not be limited to the following:
 - a) construction method statement covering the provision of all turbines and site infrastructure;
 - b) pollution prevention and control measures – to include arrangements for storage and management of oil, fuel and concrete on the site;
 - c) construction surface water management plan - to include a map of all watercourses and ditches on site and all proposed infrastructure, mitigation proposals and justification of appropriateness, a map of all proposed mitigation locations (i.e. silt fences, straw bales, cross drains, settlement lagoons, etc.) and details of procedures for dealing with emergencies and spills;
 - d) drainage management plan - to address the management of foul and surface water drainage, in both water quality and quantity terms and the arrangements to dispose of foul effluent, and manage surface water to prevent flooding, and pollution of water courses (see Condition 6 h);
 - e) peat protection/management plan to show how the finalised micro-sited layout has been designed to minimise impact on and avoid areas of deep peat. Specifically, the plan must show peat probing results and in the vicinity of Turbine 1 and include results of a detailed survey on a 10 metre by 10 metre grid basis around the centre of the proposed turbine base and track leading to it.

- f) emergency procedures to include the locations and use of spill kits, etc. and provisions for staff training;
- g) adverse weather (wet weather) working – to include an action plan (after H&S considerations) about arrangements for working and assessment of potential damage including sediment mitigation, use of equipment (for example, pumps), etc.;
- h) ground and surface water management and treatment - to include details for monitoring (to be established prior to the commencement of works on site and thereafter for all subsequent stages of the development), and a response plan to detail actions to be taken should impacts on the water environment occur;
- i) water abstraction – to include details of any abstraction/dewatering, proposed quantities, uses and discharges including use of any temporary sub-surface water controls such as de-watering during construction (and where de-watering is used, the Plan shall demonstrate that any such discharges are limited to discharges that are of uncontaminated groundwater abstracted directly through boreholes/well pointing and discharged without contact with any other drainage run-off);
- j) details of construction compound(s) to include the arrangements for refuelling, tools and materials storage, car parking and concrete batching plant, settlement lagoons (to prevent cement and concrete washing out into ground or surface water) and the details of the final outfall to surface or groundwater and the arrangements to treat such effluent prior to discharge, for example by installation of a treatment plant or use of alternative arrangements (for example, that wash out water is tankered off-site, etc.); these details shall be agreed with the Planning Authority in advance in terms of siting and form of construction;
- k) dust management plan;
- l) measures to prevent loose or deleterious material being deposited on the local road network including provision for on-site wheel cleaning, etc;
- m) noise management plan - to identify all sources of noise emissions associated with the construction phase of the development together with details of all measures to manage and mitigate the effects of construction noise occurring at and within the site;
- n) details of all required/proposed pre-commencement of development ecological surveys to be undertaken to determine the presence or otherwise of any designated habitat or protected species, to include a schedule identifying which habitats and species will be subject to survey, the scope and time-scale(s) for undertaking each survey, and thereafter the results of the surveys together with all further measures required/proposed to mitigate the impact of the development upon those species and habitats as identified within the Environmental Appraisal (Chapter 6 Ecology and Chapter 7 Ornithology, mitigation sections for construction and operational phases refers); and
- o) invasive non-native species protocol – to address all bio-security and other measures to be adopted to remove or prevent the spread of any non-native plant species on the site.

In addition, the CEMP shall include reference to the terms of appointment of an appropriately qualified Ecological Clerk of Works (ECoW), to be appointed by the applicant/developer/wind turbine operator and approved by the Council, as planning authority in consultation with NatureScot. The terms should identify the period(s) of appointment and the remit of the ECoW in terms of roles and responsibilities which should include (but not be limited to) undertaking pre-

construction survey work and monitoring compliance with the hydrological and ecological/ornithological commitments and mitigation arrangements to be undertaken, as identified in the Environmental Appraisal and other supporting documents including the Outline CEMP, overseeing the placement of development infrastructure within the site and addressing all environmental considerations, and the arrangements for reporting upon works undertaken on site and incidences of non-compliance of works to the Council, as planning authority and the applicant/developer/wind farm operator's construction representatives.

Thereafter, the development shall be carried out in accordance with the approved Plan.

Reason: In order to ensure that all development works are undertaken and managed in an environmental acceptable manner and to minimise the impacts arising from construction and operation of the development upon the environment, to secure detailed information on the delivery of mitigation works and measures as identified which are current lacking from the submitted particulars and to secure effective monitoring and compliance of all.

8. Prior to the commencement of any part of the development:
 - a) Detailed proposals for undertaking trial runs and also delivery of abnormal indivisible loads, must be submitted for approval by the Planning Authority in consultation with Roads Authority. Details must include but not be limited to detailed proposals (1:200 drawing) of the temporary measures to be provided and the proposed access onto the C4L, temporary and permanent modifications and measures required to protect the public road and structures, traffic, vehicle holding areas and non vehicular management during deliveries, time restrictions for deliveries i.e. outwith school crossing patrol times.
 - b) A Construction Traffic Management Plan (CTMP) must be submitted for approval by the Planning Authority in consultation with the Roads Authority. The traffic management plan must cover the duration of the development, methods of dealing with the large delivery vehicles. The plan shall also include, the methods of marshalling and manoeuvring at junctions on the public road network and any temporary traffic waiting restriction requirements and all modifications to the road network and traffic management arrangements. Routes for deliveries to and from the site and confirmations of routes not to be used by construction vehicles and workers to access the site and measures to be put in place to prevent material being deposited on the public road.
 - c) Details (1:200 scale drawing) of the proposed access junction onto the C4L (Bogmuchals - Berryhillock Road) must be submitted and approved by the Planning Authority in consultation with the Roads Authority. The width of the vehicular access shall be a minimum of 7.3 metres and have a maximum gradient of 1:20 measured for the first 25 from the edge of the public carriageway. The first 25 metres of the access shall be to The Moray Council specification and surfaced with hot rolled asphalt. Any existing ditch, watercourse or drain under the site access shall be piped using a 300 millimetres minimum diameter of pipe. The pipe shall be laid to a self-cleansing gradient. Technical approval required for access to demonstrate proposals will prevent water and loose materials from being discharged onto the public road.

- d) A detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land) showing a visibility splay 4.5 metres by 160 metres and a schedule of maintenance for the area within the visibility splay shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority.
- e) Detailed drawing(s) (scale 1:500) showing the location and design of 3 passing places at locations to be agreed with the Roads Authority. One approximately 50 – 100 metres to the west of the proposed access onto the C4L to replace the existing passing place at the access onto the C4L. The second (to achieve a maximum passing place spaced of not more than 150 metres) to be located approximately 50 – 100 metres to the east of the proposed access onto the C4L. The third passing place to be located approximately 130-150 metres east of the existing passing place at Greenhill (to achieve a maximum spacing of not more than 150 metres between passing places).
- f) Details of the vehicle gross weights and maximum axle loads are required.

Thereafter, the works shall be implemented in accordance with the approved details.

Reason: To ensure an acceptable development in road safety terms through the provision of details currently lacking.

9. Prior to the commencement of construction and deliveries:
 - a) Evidence that a S96 'Wear and Tear' agreement between the developer and the Roads Authority has been completed and signed by both parties, must be submitted to the Planning Authority. The scope of the agreement shall assess, monitor and address the impact of construction and delivery traffic on the road network for the duration of the construction of the development and must include all roads within the Moray Council area between the site access and the first 'A' class road along the agreed construction access route(s).
 - b) Abnormal load trial run(s) must be undertaken after all mitigation works have been completed to confirm the works are acceptable and to identify any other restrictions not previously addressed and the frequency and location of abnormal load passing places/oncoming vehicle holding areas required. Representatives from Moray Council Transportation (Traffic), and Police Scotland must be invited to the trial run.
 - c) Prior to any abnormal indivisible load being delivered to the site, all suspensive works approved through condition (8 a,b,c,d,e,f) required prior to commencement of construction, must be provided in accordance with the approved plans. Any works undertaken are to be permanent for the duration of the operation of the development unless otherwise agreed in writing with the Roads Authority.
 - d) The visibility splay of 4.5 metres by 160 metres shall be provided and thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 1.0 metres above the level of the carriageway in accordance with the agreed schedule of maintenance.

Thereafter, the works shall be implemented in accordance with the approved details.

Reason: The provision of details currently lacking and in order to ensure that acceptable infrastructure is provided on the route to/from the development in the interests of road safety.

10. The proposed route for any abnormal loads on the trunk road network must be approved by Transport Scotland, as the Trunk Roads Authority, prior to the movement of any abnormal load. Any accommodation measures required, including the removal of street furniture, junction widening, traffic management, must similarly be approved. Full details of proposed works shall be developed in consultation with the Trunk Road Operating Company and Transport Scotland Area Manager at the earliest opportunity through a Minute of Agreement (<https://www.transport.gov.scot/our-approach/industry-guidance/work-on-the-scottish-trunk-road-network>) and issued for their approval prior to the commencement of construction operations.

Reason: To maintain safety for both the trunk road traffic and the traffic moving to and from the development ; and to ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network.

11. Any additional signing or temporary traffic control measures deemed necessary due to the size or length of loads being delivered must be undertaken by a recognised Quality Assured traffic management consultant, to be approved by the Planning Authority, in consultation with Transport Scotland as the Trunk Roads Authority, before delivery commences.

Reason: To ensure that abnormal loads will not have any detrimental effect on the trunk road network.

12. The developer shall submit proposals for an abnormal loads delivery trial-run to be undertaken with the involvement of Police Scotland and prior to the commencement of abnormal loads deliveries. Trial-run proposals shall be submitted to and approved in writing by the Planning Authority, in consultation with Transport Scotland as the Trunk Roads Authority.

Reason: To ensure that the transportation of abnormal loads will not have any detrimental effect on the trunk road network.

13. No development shall commence until a Construction Traffic Management Plan (CTMP) has been prepared and approved in writing by the Planning Authority, in consultation with Transport Scotland as the Trunk Roads Authority.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road , to ensure the safety of pedestrians and cyclists using the trunk road and adjacent facilities, and to be consistent with current guidance and best practice.

14. All vehicles transporting construction material to and from the proposed development should be sheeted.

Reason: To ensure that material from the site is not deposited on the trunk road to the detriment of road safety.

15. Prior to the commencement of construction, vehicle wheel cleansing facilities shall be installed and brought into operation, the design and siting of which

shall be subject to the prior approval of the planning authority, in consultation with Transport Scotland as the Trunk Roads Authority.

Reason: To ensure that material from the site is not deposited on the trunk road to the detriment of road safety.

16. Prior to any decommissioning of the development, a Decommissioning Plan shall be prepared and approved in writing by the Planning Authority, in consultation with Transport Scotland as the Trunk Roads Authority.

Reason: To minimise interference with the safety and free flow of the traffic on the trunk road.

17. No development shall commence unless and until an Air Traffic Control Radar Mitigation Scheme to address the impact of the wind turbine upon air safety has been submitted to and approved in writing by the Local Planning Authority in consultation with the Ministry of Defence (MOD).

The Air Traffic Control Radar Mitigation Scheme is a scheme designed to mitigate the impact of the development upon the operation of the Primary Surveillance Radar at RAF Lossiemouth (and the air traffic control operations of the MOD which is reliant upon the Radar).

The Air Traffic Control Radar Mitigation Scheme shall set out the appropriate measures to be implemented to mitigate the impact of the development on the Radar and shall be in place for the operational life of the development provided the Radar remains in operation.

No turbines shall become operational unless and until all those measures required by the approved Air Traffic Control Radar Mitigation Scheme to be implemented prior to the operation of the turbines have been implemented and the Local Planning Authority has confirmed this in writing. The development shall thereafter be operated fully in accordance with the approved Air Traffic Control Radar Mitigation Scheme.

Reason: To maintain aviation safety.

18. Prior to commencing construction of any wind turbine generators, or deploying any construction equipment or temporal structure(s) 50 metres or more in height (above ground level) the undertaker must submit an aviation lighting scheme for the approval of the Moray Council in conjunction with the Ministry of Defence defining how the development will be lit throughout its life to maintain civil and military aviation safety requirements as determined necessary for aviation safety by the Ministry of Defence.

This should set out:

- a) details of any construction equipment and temporal structures with a total height of 50 metres or greater (above ground level) that will be deployed during the construction of wind turbine generators and details of any aviation warning lighting that they will be fitted with; and
- b) the locations and heights of all wind turbine generators and any anemometry mast featured in the development identifying those that will be fitted with aviation warning lighting identifying the position of the lights

on the wind turbine generators; the type(s) of lights that will be fitted and the performance specification(s) of the lighting type(s) to be used.

Thereafter, the undertaker must exhibit such lights as detailed in the approved aviation lighting scheme. The lighting installed will remain operational for the lifetime of the development.

Reason: To maintain aviation safety.

19. The undertaker must notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:
- a) the date of the commencement of the erection of wind turbine generators;
 - b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
 - c) the date any wind turbine generators are brought into use; and
 - d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

The Ministry of Defence must be notified of any changes to the information supplied in accordance with these requirements and of the completion of the construction of the development.

Reason: To maintain aviation safety.

20. Prior to the commencement of the development or any tree felling on the site, a Compensatory Planting Plan (CP) detailing the provision of 9.3ha of tree planting shall be submitted to and approved in writing by the Council, as Planning Authority in consultation with Scottish Forestry. The CP must provide full details of the proposed planting, including its maintenance over the entire life-span of the development and include the following information:
- a) details of the person(s) that survey, describe, assess, specify and deliver both the felling proposals and on-site and off-site CP proposals must have the relevant qualifications, technical abilities and have the necessary experience e.g. a chartered forester;
 - b) the location of the on-site and off-site CP covering an area of 9.3ha should be fully detailed, described and supported with good quality maps. If peat depth is a relevant consideration, a full assessment should be undertaken using recognised survey techniques and details of this provided in the application;
 - c) details of any statutory consents required to carry out the proposed CP;
 - d) a full silvicultural proposal for compensatory planting, supported with maps should be provided. This should include: ground preparation, drainage, planting technique, stocking density, species, maintenance and a protection plan for the life of the development;
 - e) details of the timing of the CP. All CP should be completed within five years after the woodland is removed or within two years of the development being completed. A maintenance plan with appropriate timescales should be provided for the life of the development. Subsequent establishment should be completed within the period for which enforcement action can be taken;
 - f) details for monitoring of CP conditions or arrangements: An independent, qualified and technically competent professional(s) (e.g. chartered forester) with the required experience should inspect the CP scheme at regular intervals (year 1, 5 and 10) to ensure that the trees are planted

- correctly, maintained to the required standard and ultimately established into woodland. The woodland must be maintained thereafter. This professional individual should report to the planning authority, to allow the CP condition to be managed and ultimately discharged; and
- g) restocking timescales should be completed within two years after the woodland is removed or within two years of the associated section of the development being completed. This should only be extended if the Hylobius Decision Support System clearly shows that a delay would be a benefit, restocking should not be extended beyond 5 years in any instance.

Reason: To mitigate the effects of the development on woodland and ensure provision of satisfactory compensatory planting.

21. The permission hereby granted shall not be exercised in addition to, or in conjunction with the permission approved under formal decision notice 22/00339/APP, dated 5 July 2022 (Section 42 application to modify Condition 1 of planning permission 17/01198/EIA / PPA-300-2052, granting permission for "a period of 30 years from the date when electricity is first exported from any wind turbine within the development to the electricity network (First Export Date)" to granting a permission for a period of 35 years).

Reason: In order to avoid any ambiguity regarding the terms of this consent and to ensure that mitigation measures as set out within the EA (omitting turbines 4 and 5) are met.

22. The rating level of noise imissions from the combined effects of the wind turbines (including the application of any tonal penalty and amplitude modulation (AM) penalty) when determined in accordance with the attached Guidance Notes (to this condition), shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:
- a) the wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request;
 - b) within 21 days from receipt of a written request from the Local Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise imissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component or is likely to contain an amplitude modulation (AM) component;
 - c) the assessment of the rating level of noise imissions shall be undertaken in accordance with an assessment protocol that shall

previously have been submitted to and approved in writing by the Local Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component and/or amplitude modulation (AM) component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (b), and such others as the independent consultant considers likely to result in a breach of the noise limits;

- d) where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Local Planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling;
- e) the wind farm operator shall provide to the Local Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (b), unless the time limit is extended in writing by the Local Planning Authority. Unless otherwise agreed in writing by the Planning Authority, the assessment shall be accompanied by all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes with the exception of audio data which shall be supplied in the format in which it is recorded. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise immissions; and
- f) where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (c) above unless the time limit has been extended in writing by the Local Planning Authority.

Table 1: Between 07:00 and 23:00 – Noise limits expressed in dB $L_{A90,10 \text{ minute}}$ as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

LOCATION	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
Myreton	35.0	35.0	35.3	37.9	40.9	44.1	47.7	51.6	55.8
Clochmacreich	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Kintyward	35.0	35.0	36.2	39.1	41.9	44.6	47.0	48.9	50.0
Brambleburn Cottage	35.0	35.0	35.0	37.0	39.9	42.8	45.4	47.5	48.8
Over Windyhills	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Netherton of Windyhills	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Backies	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Upper Skeith	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Mid Skeith	35.0	35.7	38.7	41.5	44.1	46.3	47.8	48.6	48.4
Little Skeith	35.0	35.0	36.2	39.1	41.9	44.6	47.0	48.9	50.0
Langley	35.0	35.0	35.0	37.0	39.9	42.8	45.4	47.5	48.8
Croylet	35.0	35.0	35.0	37.0	39.9	42.8	45.4	47.5	48.8

Table 2: Between 23:00 and 07:00 – Noise limits expressed in dB $L_{A90,10 \text{ minute}}$ as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

LOCATION	Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
Myreton	40.0	40.0	40.0	40.0	40.0	40.0	42.2	47.2	52.9
Clochmacreich	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Kintyward	40.0	40.0	40.0	40.0	41.0	44.1	46.2	46.7	45.1
Brambleburn Cottage	40.0	40.0	40.0	40.0	40.0	40.0	42.8	46.6	49.8
Over Windyhills	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Netherton of Windyhills	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Backies	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Upper Skeith	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Mid Skeith	40.0	40.0	40.0	40.0	40.0	43.0	45.2	46.2	45.7
Little Skeith	40.0	40.0	40.0	40.0	41.0	44.1	46.2	46.7	45.1
Langley	40.0	40.0	40.0	40.0	40.0	40.0	42.8	46.6	49.8
Croylet	40.0	40.0	40.0	40.0	40.0	40.0	42.8	46.6	49.8

Table 3: Coordinate locations of the dwellings listed in Tables 1 and 2.

Myreton	349628	856425
Clochmacreich	349452	858035
Kintyward	351482	859347
Brambleburn Cottage	350969	856448
Over Windyhills	349264	856733
Netherton of Windyhills	349308	857282
Backies	349762	858923
Upper Skeith	349992	859109
Mid Skeith	350327	859293
Little Skeith	350937	859394
Langley	351560	856770
Croylet	350359	856276

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Reason: To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue noise and disturbance.

23. The wind farm operator shall employ an independent consultant, approved by the Planning Authority, to measure, at the operator's own expense, the level of noise immisions from the wind turbines within the first year of the operation of the turbines. The measurement procedures, which may include filtering data according to wind direction, shall be approved by the Planning Authority prior to commencement of monitoring and shall be implemented as approved. The results of the measurement exercise shall be forwarded to the Planning Authority as soon as practicable after the completion of the monitoring exercise.

Reason: To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue noise and disturbance.

24. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 - 1900 hours, Monday to Friday and 0700 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays). The above construction hours shall apply, unless otherwise agreed in writing with the Planning Authority, and where so demonstrated exceptional operational constraints require limited periods of construction works to be undertaken out with the permitted construction hours.

Reason: To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue noise and disturbance.

25. There shall be no blasting at the development.

Reason: To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any noise disturbance or vibration.

26. A shadow flicker impact control unit shall be installed prior to operation to turbine 1 at the development, in accordance with the details submitted in the

supporting email by Atmos consulting, dated 9th August 2022 and titled "RE:22/00563/APP Lurg Hill - Shadow flicker assessment - Env Appraisal- Section 13".

Reason: To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue shadow flicker.

27. At the reasonable request of the Planning Authority following a complaint the wind farm operator shall investigate and instigate appropriate mitigation measures to minimise the effects of shadow flicker.

Reason: To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue shadow flicker.

28. The blades of all turbines shall rotate in the same direction and no name, symbol, sign or logo or similar means of advertisement, other than those required for health and safety reasons, shall be displayed on any part of the turbines, masts, buildings/ structures and plant, or other infrastructure associated with the development without the prior written consent of the Council, as planning authority.

Reason: To minimise the visual impact arising from the appearance of the development.

29. a) All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown in Figure 3.2 Site Layout. The location of the wind turbines, compounds, areas of hardstanding and tracks may be varied (micro-sited) within the site subject to the following, unless otherwise approved in advance in writing by the Planning Authority:
- i. no wind turbine, building, mast, tracks, hardstanding or other ancillary infrastructure shall be moved more than 50 metres from the position shown on Figure 3.2 Site Layout;
 - ii. all micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).
- b) No later than two months after the Date of Final Commissioning, an updated site plan shall be submitted to the Planning Authority showing the final position of all wind turbines, anemometry masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan must also specify areas where micro-siting has taken place and, for each instance, be accompanied by the Environmental Clerk of Works or Planning Authority's approval, as applicable.

Reason: To ensure that micro-siting decisions take account of environmental impacts and local ground conditions.

Councillor Ross re-joined the meeting at this juncture.

9. PLANNING APPLICATION 22/01269/APP

WARD 4 – FOCHABERS LHANBRYDE

Erect storage warehouses and ancillary development (amenity block sprinkler tank and pump house) land engineering (cut and fill), realignment of Core Burn and associated engineering and infrastructure works including access and sub-station on Land to the South of Crisp Maltings, Portgordon, Buckie Moray for William Grant & Sons Distillers Ltd

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an application to erect storage warehouses and ancillary development (amenity block sprinkler tank and pump house) land engineering (cut and fill), realignment of Core Burn and associated engineering and infrastructure works including access and sub-station on Land to the South of Crisp Maltings, Portgordon, Buckie, Moray for William Grant & Sons Distillers Ltd.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is for a site with an area of 2 or more hectares. The report also advised that available Members of the Committee visited the site of the application on 16 December 2022.

During his introduction, Mr MacPherson, Principal Planning Officer advised the Committee of an error in Condition 18 where reference was made to “two proposed buildings” when it should be four. He further advised that an updated landscape plan had been circulated to the Committee. This was noted.

During discussion surrounding the proposed wild flower mix in the landscape plan, it was queried what the mix would be, whether perennial or annual and how this would be maintained as different management would be required.

In response, Mr MacPherson, Principal Planning Officer advised that the proposed species of woodland flower planting was detailed in the landscape plan and that, in terms of maintenance of the woodland, this was covered in condition 21.

The Development Management and Building Standards Manager further advised that additional wording could be added to condition 21 to address the concerns surrounding the woodland wild flower mix and its management. This was agreed.

Councillor Macrae, welcomed the development and moved that the Committee agree to grant planning permission in respect of Planning Application 22/01269/APP subject to the conditions and reasons detailed within the report, taking account of the amendments to conditions 18 and 21 previously intimated by Officers.

There being no-one otherwise minded, the Committee agreed to grant planning permission in respect of Planning Application 22/01269/APP subject to the following conditions and reasons, with the following amendments to conditions 18 and 21:

- Condition 18 to state ‘four proposed buildings’ not two proposed buildings; and
- Conditions 21 should read: “Prior to development commencing a landscape maintenance and woodland management plan (covering also the two meadow types and wetland fringe areas) shall be submitted to and agreed in writing with the planning authority. Thereafter the approved landscaping/woodland shall be maintained in accordance with the agreed details.”

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted.

Reason: The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the development shall be carried out in accordance with the agreed CTMP at all times. For the avoidance of doubt the CTMP shall include as a minimum the following information:
 - a) duration of works;
 - b) construction programme;
 - c) number of vehicle movements (i.e. materials, plant, staff, components);
 - d) schedule for delivery of materials and plant;
 - e) parking provision, loading and unloading areas for construction traffic;
 - f) full details of temporary arrangements to safeguard pedestrian movements during the construction period;
 - g) full details of any temporary access;
 - h) measures to be put in place to prevent material being deposited on the public road;
 - i) traffic management measures to be put in place during works including any specific instructions to drivers.
 - j) full details of construction traffic routes from/to the site, including any proposals for temporary haul routes and routes to be used for the disposal of any materials from the site;
 - k) a programme of monitoring for all routes identified within the CTMP during construction will be required

Reason: To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.

3. No development shall commence until evidence of a satisfactory Wear and Tear Agreement has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. The scope of the Wear and Tear Agreement shall be agreed with the Planning Authority in consultation with the Roads Authority and shall include a condition survey of the network undertaken jointly by the developer and a representative from the Council. The survey shall include the full extent of the agreed construction traffic route(s) (within Moray) between the site and the 'A' class road network. In addition, the wear and tear agreement shall also include condition surveys of all roads identified as 'unsuitable' which must be agreed with the Planning Authority in consultation with the Roads Authority as a part of condition '2' above.

Reason: To mitigate the potential risks from damage to the public road occurring during the construction phase of the development.

4. No development shall commence until evidence of a financial guarantee or bond or suitable equivalent and a Wear and Tear Agreement have been put in place to ensure the repair of the public road serving the site in the event that the road is not maintained in a safe condition during the construction phase of the development and to restore the road to its pre-development condition within

1 year of the development becoming operational has been submitted to and agreed in writing with the Council, as Planning Authority. For the avoidance of doubt the agreement shall cover the section of the A990 Enzie - Portgordon - Buckie Road from the A98 to the site entrance as a minimum and all roads identified for off-site disposal of material/soil as in condition '1' above.

Reason: To mitigate the potential risks from damage to the public road occurring during the construction phase of the development.

5. No development shall commence until:
- a) a visibility splay 4.5 metres by 215 metres, with all boundaries set back to a position behind the required visibility splay, has been provided in both directions at the access onto the public road; and
 - b) Thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway.
 - c) Additionally a forward visibility splay of 215m is required to maintain at the site entrance for the vehicles waiting on the main road to turn right into the site access. These vehicles must be able to see oncoming traffic and be seen by following traffic.

Reason: To enable drivers of vehicles leaving/entering the site to have a clear view over a length of road sufficient to allow safe exit/entry, in the interests of road safety for the proposed development and other road users.

6. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

Reason: To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access.

7. Two car parking spaces shall be provided within the site prior to the warehouse being completed or becoming operational and shall be maintained and available for use thereafter for the lifetime of the development unless otherwise agreed in writing with the Council as Planning Authority.

Reason: To ensure the permanent availability of the level of parking necessary for employees/visitors/others in the interests of an acceptable development and road safety.

8. No development shall commence until the following details for the provision of an Electric Vehicle (EV) charging space have been submitted for approval by the Planning Authority in consultation with the Roads Authority:
- A detailed drawing (scale 1:200) showing the type and specifications of the proposed EV charging units(s) to serve a minimum of 1 space with a minimum power output of 22Kw (Rapid Charger). EV charging unit is to be connected to an appropriate electricity supply and should include details (written proposals and plans) to confirm the provision of the necessary cabling, ducting, and consumer units capable of supporting the future charging unit.

Thereafter the EV charging facilities shall be provided in accordance with the approved details prior to the development becoming operational or opened and

maintained for use thereafter unless otherwise agreed in writing by the Planning Authority in consultation with the Roads Authority.

Reason: In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport, through the provision of details currently lacking from the submission.

9. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays). The above construction hours shall apply, unless otherwise agreed in writing with the Planning Authority, and where so demonstrated exceptional operational constraints require limited periods of construction works to be undertaken out with the permitted construction hours.

Reason: To protect local residents from noise nuisance in ensuring the construction phase is restricted within permitted hours.

10. Prior to development commencing, a Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Manager. The plan shall include measures to minimise construction related noise (including vibration), dust and artificial lighting. Thereafter the development will be carried out in accordance with the agreed plan.

Reason: In order that environmental emissions are considered and managed at the construction phase, in order to protect local residents.

11. The rating level of noise associated with the development shall not exceed the background sound level by more than 5 dB at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission. For the avoidance of doubt, the rating level and background sound level associated with this condition are defined within BS 4142: 2014 + A1:2019 Methods for rating and assessing industrial and commercial sound.

Reason: To protect local residents from noise nuisance due to the use of the development.

12. Unless otherwise agreed in writing with the Council as Planning Authority in consultation with the Environmental Health Manager, external operations or vehicle movements relating to the operation of the warehouses shall only take place between 08.00 and 19.00 hours, Monday to Friday and 8am and 1pm, on Saturdays, and no external operations or vehicle movements shall take place on bank/public holidays.

Reason: In order to minimise noise pollution in the interests of the amenity of neighbouring residents.

13. Prior to the development commencing details of the operational site lighting shall be submitted to and agreed in writing by the Planning Authority, in consultation with the Environmental Health Manager. Thereafter, the agreed lighting details shall be maintained throughout the lifetime of the development.

Reason: To protect residents from light nuisance due to the use of the development.

14. Prior to the commencement of development, an updated flood risk assessment on the detailed design of the channel realignment and bank reinforcement should be provided to the satisfaction of the Planning Authority in consultation with SEPA which demonstrates there is no increase in flood risk from the proposals. The submitted Portgordon Flood Risk Assessment REV03 envireau water September 2022 and the drawings in Appendix B Outline Core Burn Re-alignment Channel Design Drawings CBEC eco engineering should be used as the basis for the detailed channel design.

Thereafter the development shall be carried out in accordance with the agreed detailed design of the channel realignment and bank reinforcement.

Reason: To ensure the channel realignment and bank reinforcement is designed to an acceptable standard in the interests of minimising flood risk to the site.

15. Prior to development commencing details of the proposed foul sewerage system shall be submitted to and agreed in writing with the planning authority in consultation with the flood risk management team. Thereafter the agreed foul drainage system shall be installed in accordance with the agreed details, prior to the first use of the site.

Reason: To ensure the installation of an acceptable private foul drainage system.

16. A construction phase surface water management plan shall be submitted a minimum of two months prior to the commencement of the development and shall be agreed in writing prior to work commencing with the Planning Authority in consultation with Moray Flood Risk Management. The plan shall include measures to prevent increased flood risk and to ensure heavily silted surface water does not enter any watercourse.

Thereafter the development shall be carried out in accordance with the agreed details.

Reason: To prevent surface water flooding during the course of the development and minimise risk to adjacent watercourses.

17. The surface water drainage arrangements for the development shall be provided and maintained in accordance with the approved Drainage Impact Assessment G:\C&S\EC22743\reports\R001 Drainage Impact Assessment Rev B.docx, dated 29/11/22, prepared by Blyth and Blyth, unless otherwise agreed by the Council, as Planning Authority. These shall be installed and operational prior to the first use of the buildings hereby approved.

Reason: To ensure that surface water drainage is provided timeously and complies with the principles of SuDS in order to protect the water environment.

18. Notwithstanding the provisions of the Town and Country Planning (Use Classes) (Scotland) Order 1997 (or any order revoking and re-enacting that

order) the approval hereby granted only relates to the use of the four proposed buildings as Whisky Cask Storage and for no other use or purpose without the prior approval of the Council, as Planning Authority.

Reason: In order to retain Local Authority control over the use of the site and to ensure that consideration can be given to the effects and impact of uses other than that approved herewith.

19. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992 (or any order revoking and re-enacting that order) no development specified in Article 3, Schedule 1, Part 3, Class 13 shall be carried out without the approval of the Council, as Planning Authority.

Reason: In order to retain control over the use of the site and to ensure that consideration can be given to the effects and impact of uses other than that approved herewith.

20. No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works.

Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

Reason: To safeguard and record the archaeological potential of the area.

21. Prior to development commencing a landscape maintenance and woodland management plan (covering also the two meadow types and wetland fringe areas) shall be submitted to and agreed in writing with the planning authority. Thereafter the approved landscaping/woodland shall be maintained in accordance with the agreed details.

Reason: To ensure the landscaping is delivered, retained and maintained throughout the lifetime of the development.

22. Landscaping as detailed on the approved landscaping plan, shall be provided in the planting season following the completion or first use of the development (whichever is the soonest).

Reason: To ensure an acceptable scheme of landscaping is provided and maintained to aid the visual integration of the development and enhance habitat and biodiversity value of the site.

23. Prior to development commencing details including design, number, position and schedule for installation of bat and bird boxes to be provided adjacent to the SUDs ponds, shall be submitted to and agreed in writing with the Planning Authority. Thereafter the bat and bird boxes shall be erected in accordance with the agreed details and retained throughout the lifetime of the development.

Reason: To ensure the timeous provision of bat and bird boxes, in the interests of enhancing habitat provision across the site.

10. DEVELOPMENT PLAN SCHEME 2023 - MORAY LOCAL DEVELOPMENT PLAN 2027

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to consider the current timetable for the preparation of the new Local Development Plan (LDP) 2027 and to agree that the Development Plan Scheme (DPS) and Participation Statement is submitted to the Scottish Government.

Following consideration, the Committee agreed the DPS and Participation Statement for 2023 as set out in Appendices 1 and 2 of the report and that the Scheme is submitted to the Scottish Government.

11. PLANNING POLICY GUIDANCE - MORAY LOCAL DEVELOPMENT PLAN 2020

Under reference to paragraph 6 of the Minute of the meeting of the Emergency Cabinet dated 3 June 2020, a report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to approve planning policy guidance (PPG) for Policies PP1 Placemaking, DP1 Development Principles and EP5 Open Space of the Moray Local Development Plan (MLDP) 2020 in respect of inclusive and accessible play.

Following consideration, the Committee agreed:

- (i) to approve the planning policy guidance (PPG) for the Moray Local Development Plan (MLDP) 2020, as set out in Appendix 1;
- (ii) that the PPG will be used as a material consideration in the determination of planning applications; and
- (iii) to note that this PPG will be combined with the guidance approved by this Committee in May 2022 into one document.

12. QUESTION TIME

Councillor Gatt raised concern in relation to the attendance of Councillors at the recent planning site visits where only 4 Councillors were in attendance and queried whether attendance on site visits should be mandatory and how much it cost the Council to hire the coach for the site visits.

In response, the Legal Adviser advised that attendance at site visits was not compulsory in order to determine planning applications however the poor level in

attendance for site visits had been noted as there was a significant cost in arranging them in terms of bus travel and officer time and that this was being kept under review. In relation to the cost of the coach, the Legal Adviser advised that she did not have this information to hand.

A short discussion then took place in relation to the pros and cons of site visits and reasons why some Members had not been able to attend due to conflicting diary appointments with the site visits being scheduled on a Friday and it was noted that this would be reviewed in the New Year.

13. REVIEW OF TREE PRESERVATION ORDERS [PARA 13]

Councillor Harris joined the meeting at this juncture.

A report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of the outcomes from the review of existing Tree Preservation Orders (TPOs) in Moray and ask that Committee agree various revocations and amendments.

At the invitation of the Chair, Councillor Harris read out a statement from a resident in Dufftown which highlighted the concern of residents in Dufftown regarding the group of trees at Cowie Avenue and Fife Street in terms of their height and overhang and also the rookery that resides in the trees and urged the Committee to take into consideration the concern of the residents when making their decision.

Councillor Van Der Horn was of the view that more detailed information was required on each tree that had been served a TPO before the Committee could make a decision on whether the TPO should be retained or revoked.

Councillor Leadbitter agreed with Councillor Van Der Horn adding that it was not clear what criteria had been followed when deciding what TPOs should be retained or revoked and was of the view that the Committee would benefit from a briefing on the matter.

Councillor Van Der Horn then moved that the report be deferred and brought back to a future meeting of the Committee with further information on each tree and that a members briefing is arranged in relation to TPOs. This was seconded by Councillor Leadbitter.

Councillor Divers was of the view that there was sufficient information within the report to make an informed decision and moved as an amendment to Councillor Van Der Horn's motion, that the Committee agree the recommendations as printed.

Councillor Macrae being mindful of the views of the Dufftown residents suggested that, if Councillor Divers would alter his amendment to reflect that the Committee notes the petition in respect of Cowie Avenue/Fife Street TPO and add Cowie Avenue/Fife Street to the list of TPOs to be revoked, he would be happy to second his motion. Councillor Divers agreed to alter his amendment accordingly.

On a division there voted:

For the Motion (6): Councillors Van Der Horn, Leadbitter, Cameron, Cowe, Lawrence and Warren

For the Amendment (8): Councillors Divers, Macrae, Dunbar, Gatt, Gordon, Keith, McBain and Ross

Abstentions (0): Nil

Accordingly, the Amendment became the finding of the Meeting and the Committee agreed to:

- (i) note the assessment of Tree Preservation Orders (TPOs) in Moray, as set out in Appendix I of the report;
- (ii) note the petition in respect of Cowie Avenue/Fife Street TPO;
- (iii) vary Rothiemay (King George Playing Fields) TPO, as detailed in Section 6 and Appendix 2;
- (iv) revoke TPOs, as detailed in Section 7, at:
 - The College, King Street, Elgin;
 - Fogwatt;
 - Dunkinty House, Elgin;
 - Croft Road, Forres;
 - Tomnabat Lane, Tomintoul;
 - Woodland at Damhead Cottage, Kinloss;
 - Woodland at Seapark House, Kinloss;
 - Groups of Trees at Deskford, Buckie;
 - Cowie Avenue/Fife Street, Dufftown; and
- (v) serve a TPO at Dunkinty Tree Avenue, Elgin, as detailed in Section 8 and Appendix 3.

Councillor Harris left the meeting at this juncture.

14.SUSPENSION OF STANDING ORDERS

The Chair sought the agreement of the Committee to suspend Standing Order 75 to allow the meeting to continue beyond 12.45 pm. This was agreed.

15.TREE PRESERVATION ORDER [PARA 13]

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to consider a request from a member of the public to serve a Tree Preservation Order (TPO) at Queen Victoria Picnic Tree, Glenfiddich.

During discussion, Councillor Ross stated that he was of the view that the Queen Victoria Picnic Tree contributes to the distinctiveness of the area and should have a TPO given its historical significance.

Councillor Van Der Horn agreed with Councillor Ross stating that the veteran tree should be protected

Councillor Macrae agreed with the view of the Officers set out in the report and moved that the Committee agree the recommendation not to serve a TPO on the tree in Glenfiddich as printed in the report. This was seconded by Councillor Gatt.

Councillor Ross remained of the view that the tree in Glenfiddich should be protected and moved an amendment that the Committee agree to serve a TPO in Glenfiddich as set out in Section 5 of the report. This was seconded by Councillor Van Der Horn.

On a division there voted:

For the Motion (3): Councillors Macrae, Gatt and Lawrence

For the Amendment (11): Councillors Ross, Van Der Horn, Cameron, Cowe, Divers Dunbar, Gordon, Keith, Leadbitter, McBain and Warren

Abstentions (0): Nil

Accordingly, the amendment became the finding of the Meeting and the Committee agreed to serve a Tree Preservation Order in Glenfiddich as set out in Section 5 of the report.