WARD 02_17

22/00339/APP
7th March 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 if 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 Lurg Hill Deskford Moray for Vento Ludens Ltd

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Comments:

- The application is being reported to Committee as the overall area of the proposed site exceeds a maximum of 2 hectares.
- No representations received.
- Advertised for the purposes of Neighbour Notification and as Schedule 3 (The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013) development.

Procedure:

- None.

Recommendation

Grant Planning Permission – Subject to the following:

Conditions/Reasons

1. 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.

2. 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 6 months, or is no longer required, the turbine(s) in question shall be deemed to have ceased to be required. Under such circumstances, any 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 3

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.

3. No development shall commence until:
   a) 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, SNH 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.

4. 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 3);
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.

5. No development shall commence until details have been submitted to and approved by the Council, as planning authority in consultation with SNH, SEPA and other agencies where appropriate regarding:
a) confirmation 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 5 and the blade tip height shall not exceed 130m 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 and external material finishes and colour of any external wind turbine transformer housing together with details, including landscape and visual impact information, to demonstrate that the external housing will not adversely affect the landscape and visual character, integrity and amenity of the site and the surrounding area;
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 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 outwith a 50m 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 30% 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 to manage all drainage from the site to include the location(s) and 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. (These details may be incorporated within any site specific Construction and Environmental Management Plan (CEMP) (see Condition 6 below));

i) 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 species and habitats as identified within the Environmental Statement (Chapter 13 Ecology and Ornithology refers). This shall include a goshawk breeding survey prior to construction or felling as recommended within Chapter 13. (These details may be incorporated within any site specific CEMP (see Condition 6 below));

j) details of all further targeted ground investigation works to inform the geo-technical design for each element of the development, to include a schedule

to identify which works element will be subject to further investigation, and thereafter the outcomes of such investigation, to include the location and design specification for further works and all measures required/proposed to mitigate the impact of the development works. Site compounds that are required to enable the site investigation works shall be agreed with the Planning Authority in advance in terms of siting and form of construction. (These details may be incorporated within any site specific CEMP (see Condition 6 below));

k) where potentially affected by the development, for example by constructing new or up-graded existing access tracks, details of the arrangements to monitor private water supplies during all stages of the development, and in the event of any adverse effect(s) on water quality or quantity being identified, the arrangements and procedures to undertake restorative and remedial works to maintain any supply (as recommended within the Environmental Statement, Chapter 12 refers); This shall include in particular 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; and

l) confirmation 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. (These details may be incorporated within any site specific CEMP (see Condition 6 below)). For the avoidance of doubt this permission does not include approval for the formation of any borrow pits.

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.

6. No development shall commence until details have been submitted to and approved by the Council, as planning authority in consultation with SEPA and SNH and other agencies as appropriate regarding a site-specific Construction and Environmental Management Plan (CEMP). The CEMP shall address all issues for all stages of the development (i.e. pre-construction, construction, operation and decommissioning), identify all works and elements of the development potentially capable of giving rise to pollution or causing environmental harm, and identify all

required/proposed measures to mitigate the identified impacts, including those as set out in the Environmental Statement (Volume 1 Written Statement) and in particular, but not limited to, those identified in relation to the water environment (Chapter 12, Hydrology, Hydrogeology and Geology/Peat) and ecology and ornithology (Chapter 13 Ecology and Ornithology). The CEMP shall demonstrate the incorporation, rather than by reference alone, of SEPA's Pollution Prevention Guidelines including those relating to construction and provide for (but not be limited to) the following:

a) methods of construction and working for the provision of all turbines and site infrastructure;
b) site waste management plan – for all aspects of waste produced on the site;
c) pollution prevention and control measures – to include arrangements for storage and management of oil, fuel and concrete on the site;
d) 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;
e) 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 5 g)
f) stream crossings and all watercourse engineering (see Condition 5 f));
g) 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;
h) emergency procedures to include the locations and use of spill kits, etc. and provisions for staff training;
i) 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.;
j) 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;
k) 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);
l) formation of construction compound 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.);

m) dust management plan;

n) measures to prevent loose or deleterious material being deposited on the local road network including provision for on-site wheel cleaning, etc.

o) 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;

p) species protection plans – to include arrangements for pre-commencement surveys to confirm presence or absence of species and habitats, timing(s) of works to avoid disturbance, development of buffer areas to prevent encroachment onto and into areas of protected species and valued habitats (see Condition 5 i));

q) 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; and

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 SNH. 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 Statement and other supporting documents including the 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 required/proposed environmental and ecological mitigation and management measures associated with implementation of the development.

7. 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.

8. The compensatory planting proposals as detailed within the accompanying document entitled Updated Forestry Replanting Specifications, Revised 3rd March 2018 shall be implemented in full, unless otherwise agreed in writing with the planning authority.

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

9. The proposed route for any abnormal loads on the trunk road network must be approved by 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.

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

10. 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 trunk road authority before delivery commences.

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

11. 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.
    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 7.3m and have a maximum gradient of 1:20 measured for the first 25m from the edge of the public carriageway (B9010). 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 300mm minimum diameter of pipe. The pipe shall be laid to a self-cleansing gradient.

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 -100m 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 150m) to be located approx. 50 - 100m to the east of the proposed access onto the C4L. The third passing place to be located approx. 130-150m east of the existing passing place at Greenhill (to achieve a maximum spacing of not more than 150m between passing places).

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.

12. 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 (1 a,b,c,d,e) 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 4.5m by 160m 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.

13. At the reasonable request of the Council, as planning authority following receipt of any complaint where interference to domestic television reception is caused as a result of the development hereby approved, the applicant/developer/wind turbine operator shall take steps to make good the reception, either by eliminating the cause of the interference or by providing an alternative means by which television signals may be received. Within two (2) weeks of being notified by the Council, as planning authority of the existence of such interference (or within a longer period as the planning authority may allow) the applicant/developer/wind turbine operator shall submit to the Council, as planning authority for its approval, proposals to make good the reception, including the timescale(s) within which the proposals will be undertaken.

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

    Reason: In accordance with the applicant's submitted particulars and in order to ensure that an alternative means of obtaining television reception can be achieved and/or mitigated in the event of interference caused to domestic television reception.

14. At the reasonable request of the Council, as planning authority following receipt of any complaint where interference to fixed link frequency band signals is caused as a result of the development hereby approved, the applicant/developer/wind turbine operator that take steps to make good the fixed link frequency band signals, either by eliminating the cause of the interference or by providing an alternative means by which fixed link frequency band signals may be received. Within two (2) weeks of being notified by the Council, as planning authority of the existence of such interference (or within such longer period as the planning authority may allow) the applicant/developer/wind turbine operator shall submit to the Council, as planning authority for its approval proposals to make good the fixed link frequency band signals, including the timescale(s) within which the proposal shall be undertaken.

    Thereafter, the proposals shall be carried out in accordance with the approved details.

    Reason: In order to ensure that an alternative means of maintaining fixed link telecommunications infrastructure can be achieved and fixed promptly in the event of interference caused to existing fixed links.

15. The rating level of noise emissions from the combined effects of the wind turbines (including the application of any tonal 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 emissions 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.

c) The assessment of the rating level of noise emissions 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 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 emissions. 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 emissions 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 emissions 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. The assessment shall include 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. 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 emissions.

f) Where a further assessment of the rating level of noise emissions 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 LA90,10 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 meter height (m/s) within the site**								
	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
Kintywaird	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 LA90,10 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 meter height (m/s) within the site								
	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
Kintywaird	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 properties listed in Tables 1 and 2.

Myreton	**349628**	**856425**
Clochmacreich	**349452**	**858035**
Kintywaird	**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.

16. 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 emissions from the wind turbines within the first year of the operation of the turbines, and every two years thereafter, unless and until the Planning Authority extend the period or determine that continued compliance monitoring is no longer required. The measurement procedures, which may include filtering data according to wind direction, shall be agreed with the Planning Authority prior to

commencement. The results of any measurement exercise shall be forwarded to the Planning Authority as soon as practicable after the completion of the monitoring exercise. Unless otherwise agreed with the Planning Authority the turbines shall be switched off during part of the monitoring period to permit reliable background noise level data to be determined at the range of wind speeds from 4 m/s to 12 m/s.

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.

17. 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 public and bank holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

    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.

18. A shadow flicker impact control module shall be installed prior to operation to both turbines 1 and 5 at the development, and in accordance with the details provided in Chapter 14.1.12 of the Environmental Statement (Volume1) by Amec Foster Wheeler and titled “Lurg Hill Wind Farm Environmental Statement”.

    For the sake of clarification, turbines 1 and 5 locations are identified in the supporting document by Amec Foster Wheeler and titled “Figure 3 Planning Application Site Layout Plan”.

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

19. 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.

20. Air Traffic Control Radar: No development shall commence unless and until an Air Traffic Control Radar Mitigation Scheme to address the impact of the wind turbines on air safety has been submitted to and approved by the local planning authority.

    The Air Traffic Control Radar Mitigation Scheme is a scheme designed to mitigate the impact of the development on the operation of the Primary Surveillance Radar at RAF Lossiemouth (“the Radar”) and the air traffic control operations of the

Ministry of Defence (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 ensure that the operation of the turbines does not interfere with the proper operation of the radar systems at RAF Lossiemouth.

21. Aviation Lighting: The company shall install MOD accredited 25 candela omni-directional aviation lighting OR infra-red warning lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on all turbines. The turbines shall be erected with this lighting installed and the lighting shall remain operational throughout the duration of the consent.

    Reason: To give warning of the presence of the turbines in poor visibility or darkness.

Reason(s) for Decision

The Council's reason(s) for making this decision are:-

The proposal to extend the operational lifetime of this wind farm development, which has extant consent and proposes no other physical changes to the development, accords with the adopted Moray Local Development Plan 2020 and there are no other material considerations that indicate otherwise.

List of Informatives:

1. **The length of the permission:** This planning permission will lapse on the expiration of a period of three years from the date of this decision notice, unless the development has been started within that period (See section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

2. **Notice of the start of development:** The person carrying out the development must give advance notice in writing to the planning authority of the date when it is intended to start. Failure to do so is a breach of planning control. It could result in the planning authority taking enforcement action (See sections 27A and 123(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

3. **Notice of the completion of the development:** As soon as possible after it is finished, the person who completed the development must write to the planning authority to confirm the position (See section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended)).

ADDITIONAL NOTES FOR APPLICANT

The following notes are provided for information including comments received from consultees:

The TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:

Prior to the commencement of deliveries or any construction work, a Section 96 Agreement under the Roads (Scotland) Act 1984 will be required to be approved between the developer and the roads Authority. This is to ensure that the costs to repair any damage to the public roads as a result of the construction work traffic are met by the applicant.

The scope of the S96 Wear and Tear Agreement must include a condition survey of the network including 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 Roads Authority. On the basis of the current indicative access routes the following initial routes are identified as 'unsuitable' for use by construction traffic.

C7L Craibstone - Fordyce Road
U57al Oathillock Road
U57l Main Road/Kirkton Road
C62L Clune – Ardiecow

A programme of monitoring for all routes identified within the CTMP during construction shall be included.

Proposals for the management of abnormal indivisible loads to be approved, must also include measures to ensure the safety of non vehicular road users.

It is not acceptable to over run central refuge / splitter islands, they are not constructed to take vehicle loadings. Proposals submitted must show how this will be managed during deliveries. It is also not appropriate to remove signing for the duration of the abnormal loads therefore confirmation of how signs will be managed during the delivery phase needs to be agreed.

Transport Scotland must be consulted with respect to all deliveries proposed via the Trunk Road. The neighbouring Local Authorities, through which the delivery route may pass, Highland/Aberdeenshire/Aberdeen City, must also be consulted.

Planning consent does not carry with it the right to construct a new road or any part of a road. In accordance with Section 21 of the Roads (Scotland) Act 1984 Construction Consent for new roads (includes passing places, modified junctions

and footpaths) that will form part of the public road will be required. Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk and reference to the following pages on the Council web site.

Checklist: http://www.moray.gov.uk/downloads/file68812.pdf

RCC: http://www.moray.gov.uk/moray_standard/page_65638.html

Specification http://www.moray.gov.uk/downloads/file68813.pdf

The applicant is obliged to apply for a road opening permit in accordance with Section 85 of the Roads (Scotland) Act 1984. Advice on this matter can be obtained by emailing roads.permits@moray.gov.uk and reference to the following page on the Council web site.

Road Opening: http://www.moray.gov.uk/moray_standard/page_79860.html

Public utility apparatus may be affected by this proposal. Contact the appropriate utility service in respect of any necessary utility service alterations which have to be carried out at the expense of the developer.

If required, street furniture will need to be repositioned at the expense of the developer. In addition any existing roadside ditch may require a pipe or culvert. Advice on these matters can be obtained by emailing road.maint@moray.gov.uk
The applicants shall be responsible for any necessary diversion of any utilities or drainage present at the locations where works are to be undertaken.

The applicants shall meet all costs of improvements to the road infrastructure, which are required as a result of the development.

The applicants shall meet all costs of removal and re-erection of road signage, which are required as a result of the delivery of the abnormal loads.

The applicants shall meet all costs of diverting any footpath or cycleway during the construction period, including signage.

The applicants shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.
Bridges and Structures - The developer must contact Neil Fotheringham, Senior Engineer Moray Council Consultancy to discuss the proposals.

Traffic Management Plan - The developer must contact the Senior Engineer, Traffic Section at Moray Council HQ, Elgin – Tel (01343) 563 3780 to discuss the proposals.

The BUILDING STANDARDS MANAGER has commented that:

A Building Warrant is required for the control building.

MORAY FLOOD RISK MANAGEMENT has commented that:

See consultation response dated 13th October 2017.

The MORAY ACCESS MANAGER has commented that:

Public access should be managed during construction in the interests of public safety; during construction tracks can be closed for public access for minimal periods providing clear signage is erected.

TRANSPORT SCOTLAND, has commented that:

The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk round boundary and that permission must be granted by Transport Scotland Trunk Road and Bus Operations. Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal.

Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.

Trunk road modifications shall, in all respects, be designed and constructed to arrangements that comply with the Disability Discrimination Act: Good Practice Guide for Roads published by Transport Scotland. The developer shall provide written confirmation of this, signed by the design organisation.

The Lurg Hill Wind Farm Access Study (June 2017) submitted in support of this application has not assessed the routing of AIL movements on the A9 / A96 from the Port of Inverness to Fochabers on the understanding that this part of the route forms part a recognised AIL route. However, to ensure that this route can accommodate AIL movements specific to this site, Transport Scotland would seek further clarification from the applicant on any potential pinch points.

In addition to this, the study identifies a pinch point at the A96 / A95 junction outside Keith. However, this would not appear to have been considered further as part of the 'Preferred Route Assessment'. If Option 3 is taken forward as the preferred route, Transport Scotland will require more detailed consideration of this pinch point and on the suitability of the A96 / A97 junction to accommodate AIL movements in the form of a swept path analysis.

SCOTTISH NATURAL HERITAGE has commented that:

See consultation response dated 1st November 2017.

SCOTTISH ENVIRONMENTAL PROTECTION AGENCY has commented that:

> See consultation responses dated 6th November 2017, 9th January 2018, and 21st February 2018.

SCOTTISH WATER has commented that:

> See consultation response dated 15th March 2018.

FORESTRY COMMISSION SCOTLAND has commented that:

> The submitted Compensatory replanting specification and plan revised 3rd March 2018 addresses the requirements for compensatory planting & the proposals put forward within the plan for location & species are acceptable.

The RSPB SCOTLAND has commented that:

> We would recommend, as proposed within the Environmental Statement (Section 13.7.1 of the ES, paragraph 313 refers), that a goshawk breeding survey is carried out prior to construction or felling. We would be supportive of felling taking place out with the bird breeding season, to prevent the potential disturbance to Schedule 1 species.
>
> There are a number of similar sized developments in this area. Post-construction monitoring linked to some form of cumulative impact assessment would assist our understanding of potential issues connected to the build up of turbines on birds. This in turn would better inform our responses to such proposals. SNH have produced guidance on assessing the cumulative impact on birds, which can be found at http://www.snh.gov.uk/docs/A675503.pdf

THE ENVIRONMENTAL HEALTH MANAGER, DEVELOPMENT SERVICES has commented that:

> Guidance Notes for Noise **Condition 16** (above).
>
> These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise emissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).
>
> **Guidance Note 1**
>
> (a) Values of the LA90,10 minute noise statistic should be measured at the complainant’s property, using a sound level meter of EN 60651/BS EN

60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.

(b) The microphone should be mounted at 1.2 – 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The LA90 10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres . It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10- minute increments thereafter.

(e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.

(f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise emissions. The gauge shall record over successive 10-

minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

(a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2

(b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (c) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Local Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.

(c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90,10 minute noise measurements and corresponding values of the 10- minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (c) of the noise condition, noise emissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.

(b) For each 10 minute interval for which LA90,10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise emissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available (“the standard procedure”).

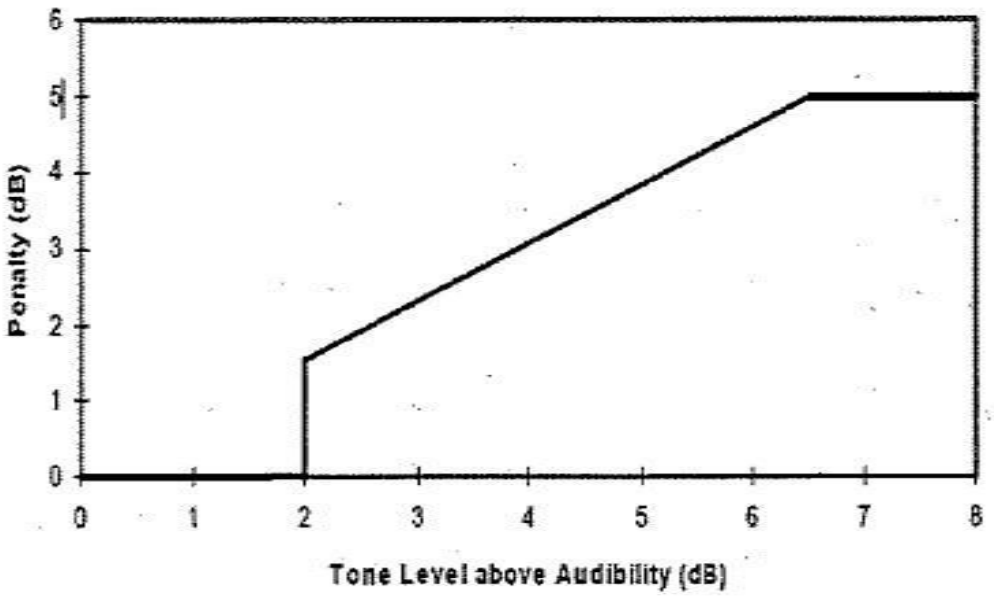
Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

(c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 to 109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.

(e) A least squares “best fit” linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the “best fit” line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below**.**



Guidance Note 4

(a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (c) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.

(c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (d) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise emission only.

(d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

(e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed within the range requested by the Local Planning Authority in its written request under paragraph (b) and the approved protocol under paragraph (c) of the noise condition.

(f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:

$$L_1 = 10 \log \left[10^{L_2/10} - 10^{L_3/10} \right]$$

(g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.

(h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (d) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (d) of the noise condition then the development fails to comply with the conditions.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	**Title/Description**
FIGURE 1	Location Plan

PLANNING APPLICATION COMMITTEE SITE PLAN

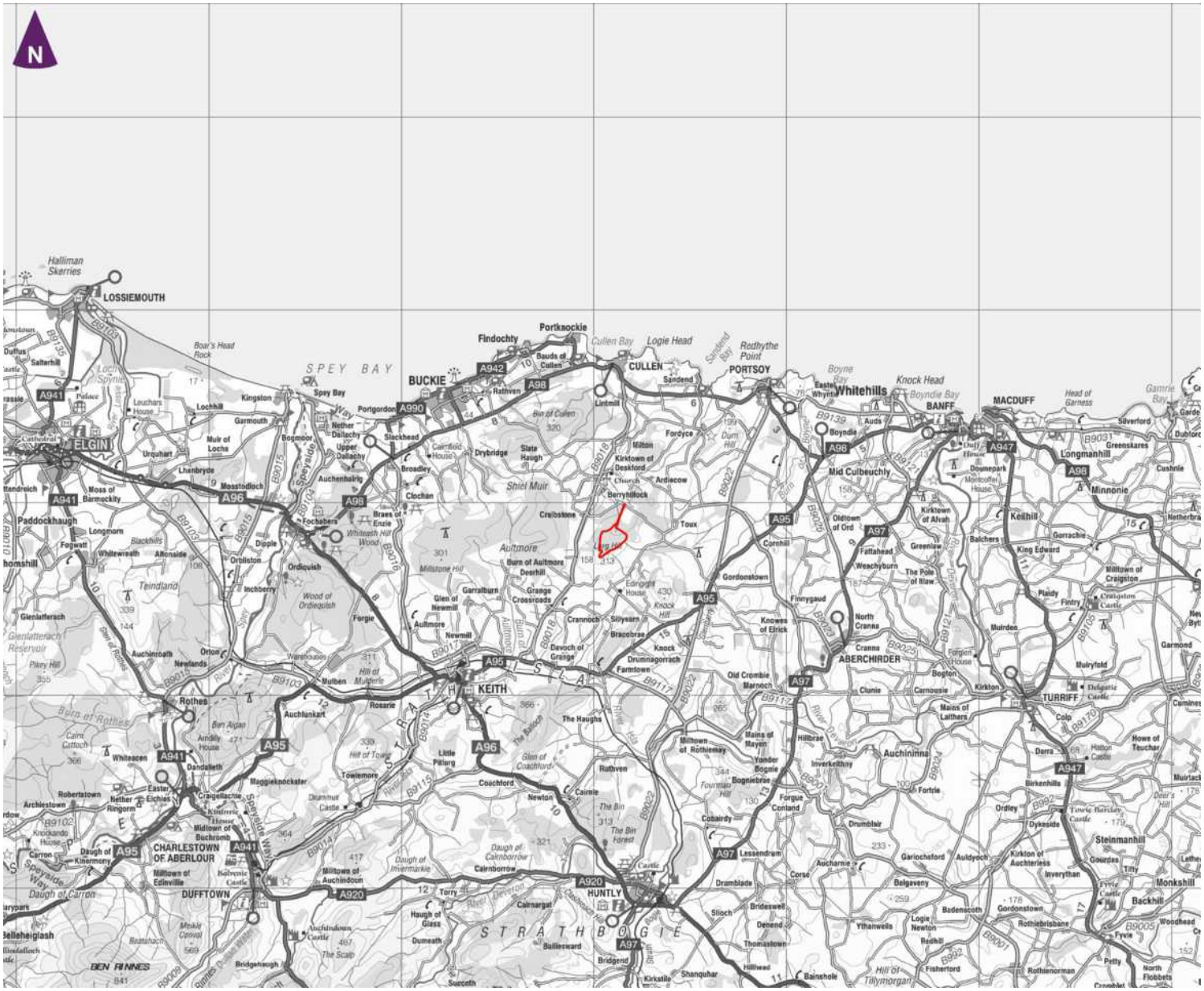
Planning Application Ref Number:
22/00339/APP

Site Address:
Lurg Hill
Deskford

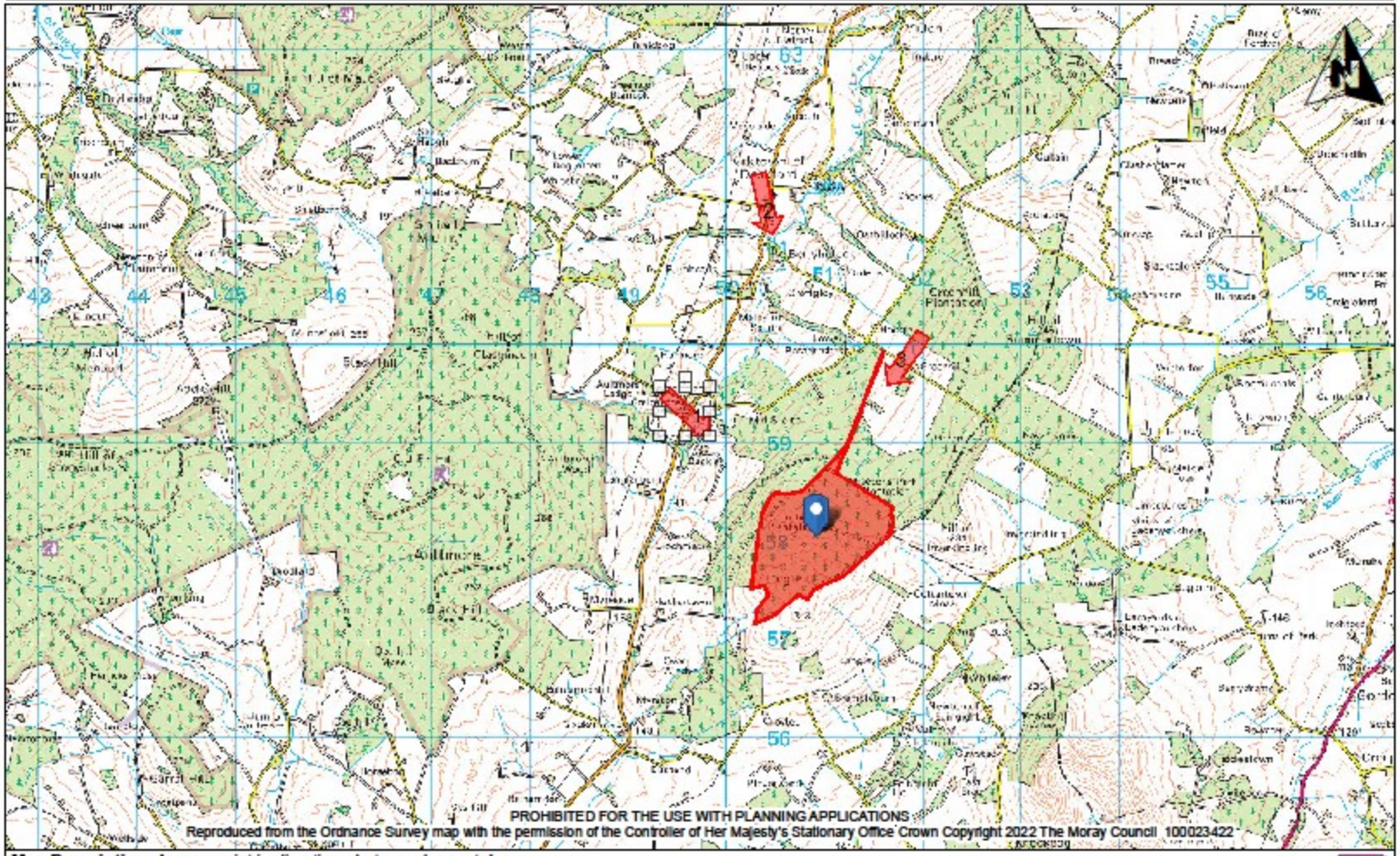
Applicant Name:
Vento Ludens Ltd

Location Plan

Site Location



22/00339/APP - Photograph Positions



Map Description: Arrows point in direction photograph was taken.

Scale: 1:50,000 @ A4

Photo 1

Photo 2

Photo 3

PLANNING APPLICATION: 22/00339/APP

In the event that a recommendation on this planning application is overturned the Committee is reminded of the advice contained on the front page of the agenda for Reports on Applications

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1. THE PROPOSAL

- This is an application under section 42 of the Planning Act, which seeks to vary the terms of condition 1 of planning permission 17/01198/EIA to extend the operational lifetime of the consented five turbine wind farm at Lurg Hill (Planning Appeal Reference:PPA-300-2052) from 30 years to 35 years.
- The consented wind farm comprises the following:
  - 5 turbines, 130m high (to blade tip) with 85m high hub, 90m rotor diameter (max. 45m blade length) and a rated capacity of up to 3MW each (total 15MW).
  - Reinforced concrete foundation pads for each turbine to sit on and an area of hardstanding alongside each turbine;
  - A substation compound, approx. 30m x 20m enclosed by security fencing, with 8 parking spaces, an external transformer/generator compound area, and a single-storey substation building, approx. 10m x 15m x 6m with rendered walls and a slate (or equivalent) pitched roof over, to house switchgear and other control systems plus staff welfare facilities.
  - Approximately 3.43km of access track would be provided on the site for the construction and operation of the proposed development, of which 760m would be new tracks and 2.67km would be upgraded; and
  - A temporary construction compound, approx. 50m x 50m containing temporary site office and staff welfare facilities, stores, parking area, material laydown/storage, refuelling/oil and generator.
- The application is supported by a Supporting Statement and copy of ANNEX A: Schedule of Planning Conditions, from Planning Appeal Decision Notice PPA-300-2052.

2. THE SITE

- The turbines would straddle the northern flank of Lurg Hill, located approximately midway between Cullen and Keith.
- The B9018 Keith to Cullen road runs north/south approx. 1km to the west of the site. The site partially borders Aberdeenshire Council area to the northeast.
- The total site area covers approximately 137 hectares and comprises plantation woodland (parts of which have been felled/cleared), heathland and tracks, with 2.648ha land take for turbines, and associated infrastructure.

- The site would be accessed from the north via an existing access track (to be upgraded) which joins onto the nearby C4L (Bogmuchals - Berryhillock Road); the access junction onto the C4L is to be upgraded and widened.
- The site is not subject to any international, national, regional or local landscape, built environment or nature conservation designations, and there are no known archaeological assets within the site.
- The site lies within the Moray Onshore Wind Energy non-statutory guidance (2020) 'Area of Search' for medium turbines (50m to 80m) but outwith the search area for larger wind turbines.
- The 'landmark hills' of Bin of Cullen and Knock Hill lie 6km and 4km to the north-west and south-east respectively.

3. HISTORY

For the site:

22/00563/APP – Application for the erection of 3 Wind Turbines (at max height 149.9m to blade tip) control building and substation and formation of access tracks at Lurg Hill, Deskford. This is an alternative scheme to the approved 5 wind turbine development (17/01198/EIA) and is currently under consideration.

17/01198/EIA – Erection of 5 wind turbines (at max height 130m 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 - approved/allowed at appeal by the Planning and Environmental Appeals Division (DPEA) on 25 February 2019.

15/01340/SCO - Scoping Opinion issued for 6 turbines with tip height up to 130m at Lurg Hill, Deskford - response confirmed that EIA was required and environmental issues and potential impacts to be taken into account were identified.

For the area:

21/00484/APP – Vary condition 1 attached to planning permission 16/01657/APP to increase the operational life period of Aultmore Wind Farm (13 wind turbines (12 x 110m high, and 1 x 90m high) from 27 to 30 years at Aultmore Forest, Drybridge. This proposal lies 3.4km to the west of the application site and has yet to be constructed.

16/01657/APP- Vary conditions 1, 18 and 24 of planning permission 07/02375/EIA relating to the Aultmore Wind Farm approved 28/02/17. This consent was granted for a 5 year period and was extended by 21/00484/APP above. This proposal lies 3.4km to the west of the application site.

13/02057/S36 - Erection of 16 wind turbines (125m to blade tip) at Hill of Towie Windfarm, known as Hill of Towie II. Located immediately south of the existing Hill of Towie wind farm, this proposal was subject of a Public Inquiry in September 2015 (following objection by the Moray Council to the Scottish Government Energy Consents and Deployment Unit (lodged in 2014)), and

subsequently approved in June 2017. This wind farm has yet to be constructed and will lie 20km to the south-west of the current proposal.

12/01165/APP - Erection of 1 no. turbine (80m to tip) at Edingight, Grange, Keith - approval/allowed on appeal by DPEA January 2013. This lies 2.1km to the south-east of the application site and is operational.

11/01384/APP - Erection of 1 no. wind turbine (56m rotor diameter) with a maximum height of up to 78m and ancillary infrastructure at Followsters, Newmill - approved February 2012. Permission to vary the turbine model (revised nacelle design) was subsequently approved under 13/00479/APP in May 2013. This lies 9.2km south-west of the application site and is operational.

10/02092/EIA - Formation of wind farm comprising 6 wind turbines (125m in height, total capacity up to 21MW) and associated infrastructure including access tracks, control building housing switchgear equipment and buried cables at Edintore, Keith - approved/allowed at appeal by DPEA in 2012. These are located approx. 15km to the southwest of the site and are operational.

09/00763/FUL - Erection of 2 x 2.3 megawatt wind turbines (92.4m to tip) and associated works at Netherton of Windyhills, Grange Crossroads - approved October 2010. These are located 1.4km south-west of the current application site and are operational.

09/00247/FUL - Install two 800kw wind turbines (79m to tip) at Myreton, Crossroads - approved/allowed following review by Local Review Body July 2010. These are located 1.5km to the south-west of the application site and are operational.

07/01102/FUL - Install a 50kw wind turbine with a hub height of 50m and blade diameter of 48m (79.6m to tip) at Myreton, Crossroads - approved February 2008. This lies 1.4km to the southwest of the application site and is operational.

07/02375/EIA - Construction, operation and decommission of a wind farm comprising 13 wind turbines (12 x 110m high, and 1 x 90m high) and other ancillary development at Aultmore Forest, Drybridge - approved 27.02.2014 and subsequently extended on 28.02.2017 under application 16/01657/APP to vary conditions 1, 18 and 24 of planning permission 07/02375/EIA (extension to time limit and operational period, and noise levels). This proposal lies 3.4km to the west of the application site and has yet to be constructed.

04/02472/FUL - Construct 1 no. wind turbine (70m to tip height) at Balnamoon, Crossroads, Keith - approved/allowed on appeal by Scottish Ministers October 2005. This lies 3.5km to the south-west and is operational.

02/02099/EIA - Erection of 21 wind turbines (100m to tip) and 2 wind masts at Hills of Towie, Knockan and McHattie's Cairn, Drummuir - approved/allowed on appeal in 2005. These lie 18km to the southwest and have been erected and are operational.

Aberdeenshire turbines:

APP/2009/3565 - Erection of 2 no. wind turbines (99.5m to tip) at Land at Muirake, Cornhill, Banff - approved 2010. These are located 5km to the east and are erected and operational.

APP/2012/2786 - Erection of 1 no wind turbine (79m to tip) at Land at Braeside, Fordyce, Banff - approved August 2012. This lies 3.5km to the north-east and has yet to be constructed.

APP/2003/1692 - Erection of 7 Wind Turbines at Boyndie Airfield, Banff - approved July 2004. These lie 12km to the north-east and is operational.

4. POLICY - SEE APPENDIX

5. ADVERTISEMENTS

5.1 Advertised for the purposes of Neighbour Notification and as Schedule 3 (The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013) development.

6. CONSULTATIONS

Strategic Planning & Development - No objections to the proposed extension of the operational life period of Lurg Hill Wind Farm from 30 to 35 years. On the basis that the proposal is solely to vary Condition 1 (duration of permission) of planning permission 17/01198/EIA, a full assessment of the merits of the wind farm against MLDP 2020 policies has not been undertaken as planning permission remains extant and no physical changes to the development are proposed.

Transportation Manager – No objection, application for an extension of time only.

Environmental Health - No objections. The extension of the operational time period does not materially affect this Section's recommended approval of the application. It should, however, be noted that the consented application has conditions to control the construction phase for any impacts (i.e. conditions 6 requires the submission of Construction Environmental Management Plan and condition 17 controls times of construction), as well as operational wind farm noise testing against limits, the need to maintain compliance with noise limits throughout the lifetime of the development, and shadow flicker mitigation, as covered by conditions 15, 16, 18 and 19. It can also be noted that Scottish Ministers did not attach recommended conditions from this Section on amplitude modulation noise.

Environmental Health, Contaminated Land – No objection.

Environmental Health, Private Water Supplies – No objection.

Flood Risk Management – No objection subject to previous comments included on the original response (17/01198/EIA) from Flood Risk Management being retained as conditions.

Aberdeenshire Council Archaeology Service - No objection.

Developer Obligations – No developer obligations will be sought for the above proposal.

Scottish Ministers - No response at time of report.

SEPA - No objection to this application. We note that this consultation relates only to the modification of Condition 1 of planning permission (17/01198/EIA / PPA-300-2052) granting permission for "a period of 30 years from the date when electricity if 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 year.

NatureScot – No comments to make.

Historic Environment Scotland - No response at time of report.

MOD – No objection.

Aberdeenshire Council - It is noted that Aberdeenshire Council did not object to 17/01198/EIA / PPA-300-2052. The proposal to alter the operational life span of the development from 30 years from first energy export to permission for 35 years will not have a significant impact upon the Aberdeenshire area and as such, Aberdeenshire Council has no objection to the proposed time variation.

Transport Scotland - Does not propose to advise against the granting of permission.

Scottish Forestry - As there are no material changes in the treatment of woodlands within this application and no amendments to the current conditions relating to the Control of Woodlands Removal Policy (COWRP) we have no additional comments at his point.

RSPB Scotland - No comments to make.

Cullen and Deskford Community Council - No response at time of report.

Strathisla Community Council - No response at time of report.

Scottish Water – No response at time of report.

Ofcom - No response at time of report.

Scottish and Southern Energy - No response received at time of report.

Joint Radio Company (JRC) Windfarms – No fixed links affected (for radio infrastructure operated by Scottish Hydro (Scottish & Southern Energy) and Scotia Gas Networks).

Atkins Global – No objection.

Aberdeen International Airport Limited – No objection.

NATS Safeguarding – No safeguarding objection.

Civil Aviation Authority - No response at time of report.

7. OBJECTIONS-REPRESENTATIONS

None.

8. OBSERVATIONS

8.1 Section 42 of the Town and Country Planning (Scotland) Act 1997 as amended allows applicants to apply to develop land without compliance with conditions previous attached to a planning consent. In determining such an application, the Council, as Planning Authority can only consider the conditions subject to which planning permission should be granted and may:

- grant permission unconditionally (i.e. remove the conditions attached to the planning consent);
- grant permission conditionally with differing conditions; or
- refuse the application (i.e. keep the conditions attached to the planning consent).

8.2 Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.

8.3 The main issues are considered below.

8.4 **Background to the Proposal**
As noted from the history above, Planning Permission 17/01198/EIA was granted on appeal for the five turbine wind farm at Lurg Hill by the DPEA (Planning Appeal Reference:PPA-300-2052) on 25 February 2019. The current proposal seeks to extend the operational lifetime (condition 1) of the development only, and if approved the planning permission would allow the wind farm to operate for 35 years from the date of first export of electricity. A Section 42 application effectively creates a new planning permission and the effect of granting permission for the current application would be to allow an additional 3 years from the date of determination for the development to commence.

8.4.1 The 2017 application was supported by an Environmental Statement in accordance with the Environmental Impact Assessment (EIA) regulations in

force at the time. The Environmental Statement (ES) and other supporting information have been taken into consideration for the current Section 42 application to vary condition 1. For the purposes of the ES and supporting documents, appendices and other information taken into consideration for the decision made in 2019, form part of the assessment of the current application. The current proposal was screened as a Schedule 2 development within the current (2017) EIA regulations but was found not to require a fresh EIA submission as it is supported by the previously approved Environmental Statement, and appropriate mitigation of environmental impacts forms part of the conditions which are to be reiterated.

8.4.2 The original application 17/01198/APP was considered under the previous local development plan and it is therefore necessary to consider the proposal against current local and national policy.

8.5 **Relationship of proposal to national renewable energy policy/guidance**
International and UK policy frameworks are supportive of renewable energy proposals which help to facilitate a transition to a low carbon economy. National Planning Framework (NPF3) for Scotland sets out the spatial strategy for Scotland's development. NPF3 makes specific reference to onshore wind energy having an important role in delivering the commitment to a low carbon energy generation. The draft National Planning Framework 4 sets out that measures to address climate change and reduction of carbon emissions will be accelerated. Support for onshore wind energy production is likely to be re-iterated.

8.5.1 The Climate Change (Scotland) Act 2009 (the Climate Change Act) has committed Scotland to becoming carbon-neutral by 2045. This target is legally binding rather than an ambition and requires to be reflected in the way in which renewable energy projects are addressed by public bodies when exercising their functions. Beyond the NPF3 there are a number of considerations relevant to the planning consideration process, which have been taken into account in arriving at the below recommendation. They are The Scottish Government's Programme for Scotland 2020-21, The Environment Strategy for Scotland, February 2020, Climate Change (Emissions Reductions Targets) (Scotland) Act 2019, Scottish Government Climate Change Plan (2018), Scottish Government Onshore Wind Policy Statement 2017 and Scottish Energy Strategy (2017). These highlight the need to reduce carbon emissions (for which wind energy will play key a part) but do qualify this with the need to protect landscapes, built and natural heritage, residents and other interests.

8.5.2 The commitment to the creation of a low carbon place is reiterated in Scottish Planning Policy. The applicant's Supporting Statement sets out that national policy is significant and supportive of this application to extend the life of the Lurg Hill Wind Farm development, which will provide renewable energy for additional years, and contribute to national and regional renewable energy production and climate change targets.

8.5.3 Scottish Planning Policy (SPP) requires that "planning should direct the right development to the right place", which is an important issue in this proposal. The policy principles set out for "Delivering Heat and Electricity" in SPP include;

- Support the transformational change to a low carbon economy, consistent with national objectives and targets;
- Support the development of a diverse range of electricity generation from renewable energy technologies - including the expansion of renewable energy generation capacity and the development of heat networks;
- Guide developments to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed.

8.5.4 SPP requires planning authorities to set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities, following a set methodology (para 161). This has been done through the spatial framework included within the Moray Local Development Plan 2020. This is a broad-brush approach required to comply with Scottish Planning Policy and covers approximately 40% of the Moray Local Development Plan Area. The proposed site is located within an area with potential for wind farm development of turbines over 35 metres to tip height, with no upper height limit identified. SPP (para 162) recognises the limitations of the strategic spatial framework and further requires that local development planning authorities should identify where there is strategic capacity for wind farms and areas with the greatest potential for wind development. The Moray Onshore Wind Energy (MOWE) Non-Statutory Guidance 2020 identifies such areas. The application site is within an area of greatest potential for medium typologies (50-80m).

8.5.5 The detailed mapping of constraints and guidance on areas with greatest potential is set out in the Moray Onshore Wind Energy Guidance 2020 (MOWE). The 2020 MOWE and Moray Wind Energy Landscape Capacity Study 2017 are currently non statutory guidance and are under review, and likely to become a sensitivity study in line with NatureScot guidance. They still do however represent the most detailed and up to date guidance on wind energy landscape capacity in Moray and remain material considerations for assessment purposes.

8.6 **MOWE Non-Statutory Guidance 2020 and Moray Wind Energy Landscape Capacity Study 2017**

The MOWE Non-Statutory Guidance and the Landscape Capacity Study are material considerations for development management purposes. Incorporating the outcomes from the Landscape Capacity Study, the Guidance identifies five typologies of wind turbine and highlights that there is very limited scope to accommodate further large scale wind turbine developments in Moray in landscape and visual terms. The consented turbines at this site at 130m high are classed as ‘Large’ typology turbines (80m to 130m).

8.6.1 The proposed development is located within the Broad Forested Hills within Upland Farmland (8a) landscape character type (LCT) as defined in MOWE and Landscape Capacity Study. LCT8a is assessed in the study as having a High-Medium sensitivity to the large typology (80-130m) with very limited scope to accommodate this scale of turbine. The LCT consists predominantly of broader forested hills and upland plateau. The study concludes that turbines towards the lower height band of this typology (less than 100m to tip) would minimise effects on adjacent settled landscapes and that turbines should be set

well back into the interior of more extensive areas of upland plateau to minimise intrusion on adjacent settled landscapes and to ensure sufficient separation. It also highlights that potential cumulative effects are a major constraint to turbine capacity in this landscape character type.

8.7 **Compliance with Renewable Energy Policy DP9 (PP1, PP2, PP3, DP1, DP9, EP1, EP2, EP7, EP8, EP11, EP12, EP13, EP14, EP15 and MOWE)**

National planning policy and guidance supports wind energy developments. Since the wind farm was approved at Lurg Hill in 2019 the local development plan has changed with adoption of the MLDP 2020. In considering the current proposal to extend the operational lifetime of the development regard should be had to the extent to which the proposal continues to comply with the development plan, as established by the DPEA decision.

8.7.1 Policy DP9 Renewal Energy is the principle policy against which the application is to be determined; this includes the requirement for proposals to comply with all other relevant policies of the development plan. The policy requires renewable energy proposals to address unacceptable impacts in relation to landscape and visual impacts, noise, air quality, electromagnetic disturbance, the water environment, carbon rich soils and peat, woodland and forestry, traffic both during construction and operation, impact on tourism and recreational interests. For wind farms the policy specifically requires compliance with the spatial framework, and site specific consideration informed by the Landscape Character Study, impacts on communities including through issues such as shadow flicker, aviation and aviation defence issues, cumulative issues and decommissioning and restoration.

8.7.2 In terms of landscape and visual impact, policy DP9 and the MOWE is supported by the Moray Wind Energy Landscape Capacity Study dated 2017. This Study informed consideration of the previous application for the wind farm and is equally applicable to the current submission. As already noted from the site history, despite being refused by the Council the application was allowed on appeal by the DPEA on the grounds that it complied with development plan policy and guidance, and would not result in unacceptable visual, landscape, cumulative or residential amenity impacts (due to its siting, design, and with mitigation and planning conditions). As such the principle of the development in this location has already been established by this consent, and under Section 42 of the Planning Act consideration therefore focuses solely on the question of the conditions subject to which the planning permission should be granted and the difference between the existing permission and the current proposal.

8.7.3 There are no changes to the proposal in terms of the layout, height or number of turbines proposed; the impacts of the development will therefore be the same as those associated with the previous development. During consideration of the original application various impacts were identified/assessed in terms of noise, shadow flicker, impacts on the water environment, forestry, traffic impact, ecology and aviation safety which require mitigation through adherence to planning conditions.

8.7.4 The granting of a Section 42 application has the effect of creating a new planning consent, therefore these conditions shall be reiterated to ensure that

all mitigation measures remain in place. These include amongst others the submission/approval of details regarding decommissioning, site restoration and a financial bond, final designs (make and model) of the turbines, sub-station details, drainage infrastructure, pre-commencement ecological surveys, private water supply mitigation, a Construction Environmental Management Plan and pollution prevention plan, compensatory planting, transport and access matters, noise emissions, construction works hours, shadow flicker, an Air Traffic Control Radar Mitigation Scheme and aviation lighting.

8.7.5 Consultees have raised no concerns in relation to these matters subject to the re-imposition of the conditions insofar as they relate to their interests.

8.7.6 From the above considerations, subject to the conditions and mitigation measures identified, the proposal would accord with the requirements of policy DP9 and associated relevant policies as it would comply with policies to safeguard and enhance the built and natural environment and would avoid/address any unacceptable significant adverse impacts.

8.8 **Operational Lifetime of the Development**

The purpose of the current application is to increase the operational lifetime of the development from 30 to 35 years. As noted from the applicant's Supporting Statement the request for additional operational life is made due to a desire to increase and maximise the clean electricity generated from the wind development as part of the Applicant's long-term commitment to contributing to the global Climate Change Emergency and key carbon emission targets, while balancing the turbines safe and useful operational life. It sets out that, in general terms, the onshore wind sector is moving towards turbine components with longer lifespans and is seeking longer term planning permissions in order to maximise the contribution to tackling Climate Change, maximise energy generation and commercial viability of energy projects. The applicant's submission is considered to be reasonable.

8.8.1 In the case of the current application the approved development would remain unchanged but would be present on site for an additional 5 years. Although this would mean that any associated impacts would persist for a longer period, the existing proposed mitigation measures would remain in place and ensure that effects from the extended operation would be no more than those already identified and addressed in the mitigation for the consented development. It is noted that no consultees have expressed any concern about the proposed extension of the operational lifetime of the development. The modest extension is therefore considered acceptable in this case and would prolong the output of a renewable energy source.

Conclusion

The proposed variation of condition 1 would extend the operational lifetime of the development from 30 to 35 years. The effect of granting this permission would be to allow a further 3 years from the date of determination for development to commence. The recommendation reiterates all other conditions and informatives of the previous consent 17/01198/EIA/PPA-300-2052, and relates back to the approved plans and supporting documents approved under this consent. The extension of operational lifetime will allow the renewable energy benefits of the scheme to be maximised and increase economic viability

of the proposed development. The application is therefore recommended for approval.

REASON(S) FOR DECISION
The Council's reason(s) for making this decision are: -

The proposal to extend the operational lifetime of this wind farm development, which has extant consent and proposes no other physical changes to the development, accords with the adopted Moray Local Development Plan 2020 and there are no other material considerations that indicate otherwise.

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APPENDIX

POLICY

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.

b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.

c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:

(i) Character and Identity

- Create places that are distinctive to prevent homogenous 'anywhere' development;
- Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
- Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
- Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;
- Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

(ii) Healthier, Safer Environments

- Designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls, dual frontages (principal rooms) and well-lit routes to encourage social interaction. Unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.

- Designed to encourage physical exercise for people of all abilities.

- Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.

- Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.

- Prioritise pedestrians and cyclists by providing a permeable movement framework that incorporates desire lines (including connecting to and upgrading existing desire lines) and is fully integrated with the surrounding network to create walkable neighbourhoods and encourage physical activity.

- Integrate multi- functional active travel routes, green and open space into layout and design, to create well connected places that encourage physical activity, provide attractive spaces for people to interact and to connect with nature.

- Create safe streets that influence driver behaviour to reduce vehicle speeds that are appropriate to the local context such as through shorter streets, reduced visibility and varying the building line.

- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect.

- Provide for people with mobility problems or a disability to access buildings, places and open spaces.

- Create development with public fronts and private backs.

- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

(iii) Housing Mix

- Provide a wide range of well integrated tenures, including a range of house types and plot sizes for different household sizes, incomes and generations and meet the affordable and accessible requirements of policy DP2 Housing.
- All tenures of housing should have equal access to amenities, greenspace and active travel routes.

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.
- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaping areas that because of their size, shape or location would not form any useable space or that will not positively contribute to the character of an area will not contribute to the open space requirements of Policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/ sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

v) Biodiversity

- Create a variety of high quality multi- functional green/blue spaces and networks that connect people and nature, that include trees, hedges and planting to enhance biodiversity and support habitats/wildlife and comply with policy EP2 Biodiversity and Geodiversity and EP5 Open Space.
- A plan detailing how different elements of the development will contribute to supporting biodiversity must be included in the design statement submitted with the planning application.
- Integrate green and blue infrastructure such as swales, permeable paving, SUDS ponds, green roofs and walls and grass/wildflower verges into streets, parking areas and plots to sustainably address drainage and flooding issues and enhance biodiversity from the outset of the development.
- Developments must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 50% of car parking must be provided to the side or rear and behind the building line with a maximum

of 50% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.
- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail
- Provide a clear hierarchy of streets reinforced through street width, building density and street and building design, materials, hard/soft landscaping and a variety of approaches to tree planting and shrubs.
- Streets and connecting routes should encourage walking and cycling over use of the private car by providing well connected, safe and appealing routes.
- Design junctions to prioritise pedestrians, accommodate active travel and public transport and service/emergency vehicles to reflect the context and urban form and ensure that the street pattern is not standardised.
- Dead-end streets/cul-de-sacs will only be selectively permitted such as on rural edges or where topography, site size, shape or relationship to adjacent developments prevent an alternative more permeable layout. These must be short, serving no more than 10 units and provide walking and cycling through routes to maximise connectivity to the surrounding area.
- Where a roundabout forms a gateway into, or a landmark within, a town and/or a development, it must be designed to create a gateway feature or to contribute positively to the character of the area.
- Design principles for street layouts must be informed by a Street Engineering Review (SER) and align with Roads Construction Consent (RCC) to provide certainty that the development will be delivered as per the planning consent.

(d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.

(e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH

Development proposals which support the Moray Economic Strategy to deliver sustainable economic growth will be supported where the quality of the natural and built

environment is safeguarded, there is a clear locational need and all potential impacts can be satisfactorily mitigated.

PP3 INFRASTRUCTURE & SERVICES
Development must be planned and co-ordinated with infrastructure to ensure that places function properly and proposals are adequately served by infrastructure and services.

a) In relation to infrastructure and services developments will be required to provide the following as may be considered appropriate by the planning authority, unless these requirements are considered not to be necessary:

   i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.

   ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.

   iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.

   iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.

   v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.

   vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.

   vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.

   viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.

   ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and

recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.

x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated or such access is required to facilitate development that supports the provisions of the development plan.

ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.

iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.

iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.

v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.

vi) Adversely impact on flood alleviation and mitigation infrastructure.

vii) Compromise the economic viability of bus or rail facilities.

c) Harbours

Development within and diversification of harbours to support their sustainable operation will be supported subject to compliance with other policies and settlement statements.

d) Developer Obligations

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare, transport (including rail), sports and recreational facilities and access routes. Obligations will be sought to reduce, eliminate or compensate for this impact. Developer obligations may also be sought to mitigate any adverse impacts of a development, alone or cumulatively with other developments in the area, on the natural environment.

Where necessary obligations that can be secured satisfactorily by means of a planning condition attached to planning permission will be done this way. Where this cannot be achieved, the required obligation will be secured through a planning agreement in accordance with Circular 3/2012 on Planning Obligations.

Developer obligations will be sought in accordance with the Council's Supplementary Guidance on Developer Obligations. This sets out the anticipated infrastructure requirements, including methodology and rates.

Where a developer considers that the application of developer obligations renders a development commercially unviable a viability assessment and 'open-book accounting' must be provided by the developer which Moray Council, via the District Valuer, will verify, at the developer's expense. Should this be deemed accurate then the Council will enter into negotiation with the developer to determine a viable level of developer obligations.

The Council's Developer Obligations Supplementary Guidance provides further detail to support this policy.

DP9 RENEWABLE ENERGY

a) All Renewable Energy Proposals

All renewable energy proposals will be considered favourably where they meet the following criteria:

i) They are compliant with policies to safeguard and enhance the built and natural environment;

ii) They do not result in the permanent loss or permanent damage of prime agricultural land;

iii) They avoid or address any unacceptable significant adverse impacts including:

- Landscape and visual impacts.
- Noise impacts.
- Air quality impacts.
- Electromagnetic disturbance.
- Impact on water environment.
- Impact on carbon rich soils and peat land hydrology.
- Impact on woodland and forestry interests.
- Traffic impact -mitigation during both construction and operation.
- Ecological Impact.
- Impact on tourism and recreational interests.

In addition to the above criteria, detailed assessment of impact will include consideration of the extent to which the proposal contributes to renewable energy generation targets, its effect on greenhouse gas emissions and net economic impact, including socio-economic benefits such as employment.

b) Onshore wind turbines

In addition to the assessment of the impacts outlined in part a) above, the following considerations will apply:

i) The Spatial Framework

Areas of Significant Protection (Map 2): where the Council will apply significant protection and proposals may be appropriate in circumstances where any significant effects on the qualities of these areas can be substantially overcome by siting, design and other mitigation.

Areas with Potential (Map 1): where proposals are likely to be acceptable subject to Detailed Consideration.

ii) Detailed Consideration

The proposal will be determined through site specific consideration of the following on which further guidance will be set out in supplementary guidance and as informed by the landscape capacity study:

Landscape and visual impact:

- the landscape is capable of accommodating the development without unacceptable significant adverse impact on landscape character or visual amenity.
- the proposal is appropriate to the scale and character of its setting, respects the main features of the site and the wider environment and addresses the potential for mitigation.

Cumulative impact

- unacceptable significant adverse impact from two or more wind energy developments and the potential for mitigation is addressed.

Impact on local communities

- the proposal addresses unacceptable significant adverse impact on communities and local amenity including the impacts of noise, shadow flicker, visual dominance and the potential for associated mitigation.

Other

- the proposal addresses unacceptable significant adverse impacts arising from the location within an area subject to potential aviation and defence constraints including flight paths and aircraft radar.
- the proposal avoids or adequately resolves other impacts including on the natural and historic environment, cultural heritage, biodiversity, forest and woodlands and tourism and recreational interests - core paths, visitor centres, tourist trails and key scenic routes.
- the proposal addresses any physical site constraints and appropriate provision for decommissioning and restoration.

iii) Extensions and Repowering of Existing Wind Farms

The proposal will be determined through assessment of the details of the proposal against Part a) and Parts b) (i) and (ii) above. Detailed assessment of impact will include consideration of the extent to which:

- the proposal, for extensions, impacts on the existing wind farm(s) setting and the ability to sit in the landscape on its own should the existing wind farm be decommissioned before the extension.
- the proposal, for repowering, makes use of existing infrastructure and resources, where possible, and limits the need for additional footprint.

c) Biomass

Proposals for the development of commercial biomass will be supported if the following criteria are met.

- Applicants must confirm which form of biomass will fuel the plant and if a mixture of biomass is proposed then what percentage split will be attributed to each fuel source.
- Proposals must demonstrate that they have taken account of the amount of supply fuel over the life of the project.
- When considering wood biomass proposals, the scale and location of new development is appropriate to the volume of local woodfuel available. Sources of fuel must be identified and must be sustainable.
- The location must have suitable safe access arrangements and be capable of accommodating the potential transport impacts within the surrounding roads network.
- A design statement must be submitted, which should include photomontages from viewpoints agreed by the Council.
- There must be a locational justification for proposals outwith general employment land designations. The proposed energy use, local heat users and connectivity of both heat users and electricity networks must be detailed. Proposals which involve potential or future heat users will not be supported unless these users can be brought online in conjunction with the operation of the plant.
- Details of the predicted energy input and output from the plant demonstrating the plant efficiency and utilisation of heat must be provided.
- Where necessary, appropriate structural landscaping must be provided to assist the development to integrate sensitively.

The criteria set out in relation to all renewable energy proposals (part a) must also be met.

The Council will consult with Scottish Forestry to help predict potential woodfuel supply projections in the area.

d) Heat

Where a heat network exists or is planned, proposals should include infrastructure to allow connection to that network.

Where no heat network is present or planned:

- Proposals should consider the feasibility for the creation of or connection to a heat network.
- Proposals should safeguard piperuns within the development, to its curtilage, for future connection to a heat network.
- Proposals should consider the provision of energy centres, or the reservation of land for an energy centre to facilitate future connection to a heat network.

Proposals for new development will be compared with the Scotland Heat Map to identify if it could make use of an existing heat supply or provide excess heat to heat users. This will be the case until the Council has concluded work on identifying where heat networks, heat storage and energy centres exist or would be appropriate

in the plan area, at which point reference to that work should be made. Developments which have a high heat demand are encouraged to co-locate with sources of heat supply.

Where heat networks are not viable, proposals should include the use of microgeneration technologies and heat recovery associated with individual properties, unless demonstrating this is unnecessary or unviable.

The criteria set out in relation to all renewable energy proposals (part a) must also be met.

DP1 DEVELOPMENT PRINCIPLES

This policy applies to all development, including extensions and conversions and will be applied reasonably taking into account the nature and scale of a proposal and individual circumstances.

The Council will require applicants to provide impact assessments in order to determine the impact of a proposal. Applicants may be asked to determine the impacts upon the environment, transport network, town centres, noise, air quality, landscape, trees, flood risk, protected habitats and species, contaminated land, built heritage and archaeology and provide mitigation to address these impacts.

Development proposals will be supported if they conform to the relevant Local Development Plan policies, proposals and additional guidance, meet the following criteria and address their individual and cumulative impacts:

(i) Design

a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.

b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".

c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).

d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.

f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m2, excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.

g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.

h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.

i) Proposals must orientate and design buildings to maximise opportunities for solar gain.

j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(ii) Transportation

a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.

b) Car parking must not dominate the street scene and must be provided to the side or rear ¬and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.

c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.

d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.

e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.

f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, paviors, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.

g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.

h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;

i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).

b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.

c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.

d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.

e) Proposals must address and sufficiently mitigate any contaminated land issues.

f) Make acceptable arrangements for waste collection and management and encourage recycling.

g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.

h) Proposals must avoid areas at risk of coastal erosion and coastal change.

EP1 NATURAL HERITAGE DESIGNATIONS

a) European Site designations

Development likely to have a significant effect on a European Site and which is not directly connected with or necessary to the conservation management of that site must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a European Site may be approved where:

i) There are no alternative solutions, and
ii) There are imperative reasons of over-riding public interest including those of a social or economic nature, and
iii) Compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

For European Sites hosting a priority habitat or species (as defined in Article 1 of the The Conservation (Natural Habitat & c.) Regulations 1994), prior consultation with the European Commission via Scottish Ministers is required unless the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

b) National designations

Development proposals which will affect a National Park, National Scenic Area (NSA), Site of Special Scientific Interest (SSSI) or National Nature Reserve will only be permitted where:

i) The objectives of designation and the overall integrity of the area will not be compromised; or
ii) Any significant adverse effects on the qualities for which the site has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

c) Local Designations

Development proposals likely to have a significant adverse effect on Local Nature Reserves, wildlife sites or other valuable local habitats will be refused unless it can be demonstrated that;

i) Public benefits clearly outweigh the nature conservation value of the site, and
ii) There is a specific locational requirement for the development, and
iii) Any potential impacts can be satisfactorily mitigated to conserve and enhance the site's residual conservation interest.

d) European Protected Species

European Protected Species are identified in the Habitats Regulations 1994 (as amended in Scotland). Where a European Protected Species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application, to demonstrate how the Regulations will be complied with. The survey should be carried out by a suitably experienced and licensed ecological surveyor.

Proposals that would have an adverse effect on European Protected Species will not be approved unless;

- The need for development is one that is possible for SNH to grant a license for under the Regulations (e.g. to preserve public health or public safety).
- There is no satisfactory alternative to the development.
- The development will not be detrimental to the maintenance of the favourable conservation status of the species.

e) Other protected species

Wild birds and a variety of other animals are protected under domestic legislation, such as the Wildlife and Countryside Act 1981 (as amended in Scotland by the Nature Conservation (Scotland) Act 2004 and the Wildlife and Natural Environment (Scotland) Act 2011), Protection of Badgers Act 1992 and Marine (Scotland) Act 2010. Where a protected species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application to demonstrate how legislation will be complied with. The survey should be carried out by a suitably experienced ecological surveyor, who may also need to be licensed depending on the species being surveyed for.

Proposals which would have an adverse effect on badgers or their setts must be accompanied by a Badger Protection Plan demonstrating how impacts will be avoided, mitigated, minimised or compensated for.

EP2 BIODIVERSITY

All development proposals must, where possible, retain, protect and enhance features of biological interest and provide for their appropriate management. Development must safeguard and where physically possible extend or enhance wildlife corridors and green/blue networks and prevent fragmentation of existing habitats.

Development should integrate measures to enhance biodiversity as part of multi-functional spaces/ routes.

Proposals for 4 or more housing units or 1000 m2 or more of commercial floorspace must create new or, where appropriate, enhance natural habitats of ecological and amenity value.

Developers must demonstrate, through a Placemaking Statement where required by Policy PP1 which incorporates a Biodiversity Plan, that they have included biodiversity features in the design of the development. Habitat creation can be achieved by providing links into existing green and blue networks, wildlife friendly features such as wildflower verges and meadows, bird and bat boxes, amphibian friendly kerbing, wildlife crossing

points such as hedgehog highways and planting to encourage pollination, wildlife friendly climbing plants, use of hedges rather than fences, incorporating biodiversity measures into SUDS and retaining some standing or lying dead wood, allotments, orchards and woodlands.

Where development would result in loss of natural habitats of ecological amenity value, compensatory habitat creation will be required where deemed appropriate.

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

Proposals which support the economic, social and environmental objectives and projects identified in the Moray Forestry and Woodlands Strategy will be supported where they meet the requirements of other relevant Local Development Plan policies. The council will consult Scottish Forestry on proposals which are considered to adversely affect forests and woodland. Development proposals must give consideration to the relationship with existing woodland and trees including shading, leaf/needle cast, branch cast, wind blow, water table impacts and commercial forestry operations.

b) Tree Retention and Survey

Proposals must retain healthy trees and incorporate them within the proposal unless it is technically unfeasible to retain these. Where trees exist on or bordering a development site, a tree survey, tree protection plan and mitigation plan must be provided with the planning application if the trees or trees bordering the site (or their roots) have the potential to be affected by development and construction activity. Proposals must identify a safeguarding distance to ensure construction works, including access and drainage arrangements, will not damage or interfere with the root systems in the short or longer term. A landscaped buffer may be required where the council considers that this is required to maintain an appropriate long term relationship between proposed development and existing trees and woodland.

Where it is technically unfeasible to retain trees, compensatory planting on a one for one basis must be provided in accordance with (e) below.

c) Control of Woodland Removal

In support of the Scottish Government's Control of Woodland Removal Policy, Woodland removal within native woodlands identified as a feature of sites protected under Policy EP1 or woodland identified as Ancient Woodland will not be supported.

In all other woodlands development which involves permanent woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits (excluding housing) and where removal will not result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the woodland.

Where it is proposed to remove woodland, compensatory planting at least equal to the area to be felled must be provided in accordance with e) below.

d) Tree Preservation Orders and Conservation Areas

The council will serve Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as whole, trees that contribute to the distinctiveness of a place or trees of significant biodiversity value.

Within Conservation Areas, the council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO must be replaced, unless otherwise agreed by the council.

e) Compensatory Planting

Where trees or woodland are removed in association with development, developers must provide compensatory planting to be agreed with the planning authority either on site, or an alternative site in Moray which is in the applicant's control or through a commuted payment to the planning authority to deliver compensatory planting and recreational greenspace.

GUIDANCE TREES AND DEVELOPMENT

Trees are an important part of Moray's towns and villages and surrounding countryside, adding colour and interest to the townscape and a sense of nature in our built environment. They contribute to the diversity of the countryside, in terms of landscape, wildlife habitat and shelterbelts. Trees also have a key role to play in terms of climate change by helping to absorb carbon dioxide which is one of the main greenhouse gases that cause global warming.

The cumulative loss of woodlands to development can result in significant loss of woodland cover. In compliance with the Scottish Government Control of Woodland Removal policy, woodland removal should only be allowed where it would achieve significant and clearly defined additional public benefits. In appropriate cases a proposal for compensatory planting may form part of this balance. Where woodland is to be removed then the Council will require compensatory planting to be provided on site, on another site in Moray within the applicant's control or through a commuted payment to the Council towards woodland and greenspace creation and enhancement. Developers proposing compensatory planting are asked to follow the guidance for site assessment and woodland design as laid out in Scottish Forestry's "Woodland Creation, Application Guidance" and its subsequent updates, when preparing their proposal.

The Council requires a Tree Survey and Tree Protection Plan to be submitted by the applicant with any planning application for detailed permission on designated or windfall sites which have trees on them. The survey should include a schedule of trees and/or groups of trees and a plan showing their location, along with the following details;

- Reference number for each tree or group of trees.
- Scientific and common names.
- Height and canopy spread in metres (including consideration of full height and spread).
- Root protection area.
- Crown clearance in metres.
- Trunk diameters in metres (measures at 1.5m above adjacent ground level for single stem trees or immediately above the root flare for multi stemmed trees).
- Age and life expectancy.
- Condition (physiological and structural).
- Management works required.
- Category rating for all trees within the site (U, A, B or C *). This arboricultural assessment will be used to identify which trees are suitable for retention within the proposed development.

*BS5837 provides a cascading quality assessment process for categorisation of trees which tree surveys must follow. An appropriately scaled tree survey plan needs to accompany the schedule. The plan should be annotated with the details of the tree survey, showing the location, both within and adjacent to the site, of existing trees, shrubs and hedgerows. Each numbered tree or groups of trees should show the root protection area and its category U, A, B, C.

Based on the guidance in BS5837, only category U trees are discounted from the Tree Survey and Tree Protection Plan process. Trees in category A and B must be retained, with category C trees retained as far as practicable and appropriate. Trees proposed for removal should be replaced with appropriate planting in a landscape plan which should accompany the application. Trees to be retained will likely be set out in planning conditions, if not already covered by a Tree Preservation Order.

If a tree with habitat value is removed, then measures for habitat reinstatement must be included in the landscape plan. It is noted that in line with part b) of policy EP7 where woodland is removed compensatory planting must be provided regardless of tree categorisation."

A Tree Protection Plan (TPP) must also be submitted with planning applications, comprising a plan and schedule showing;

- Proposed design/ layout of final development, including accesses and services.
- Trees to be retained- with those requiring remedial work indicated.
- Trees to be removed.
- Location (and specification) of protective fencing around those trees to be retained based on the Root Protection Area.

The TPP should show how the tree survey information has informed the design/ layout explaining the reasoning for any removal of trees.

Landscape Scheme
Where appropriate a landscape scheme must be submitted with planning applications, clearly setting out details of what species of trees, shrubs and grass are proposed, where, what standard and when planting will take place. Landscape schemes must aim to deliver multiple benefits in terms of biodiversity, amenity, drainage and recreation as set out in policy.

The scheme should also set out the maintenance plan. Applicants/ developers will be required to replace any trees, shrubs or hedges on the site which die, or are dying, severely damaged or diseased which will be specified in planning conditions.

Tree species native to Scotland are recommended for planting in new development - Alder, Aspen, Birch, Bird Cherry, Blackthorn, Crab Apple, Elm, Gean, Hawthorn, Hazel, Holly, Juniper, Sessile Oak, Rowan, Scots Pine, Whitebeam, Willow.

EP8 HISTORIC ENVIRONMENT

a) Scheduled Monuments and Unscheduled Archaeological Sites of Potential National Importance.

Where a proposed development potentially has a direct impact on a Scheduled Monument, Scheduled Monument Consent (SMC) is required, in addition to any other necessary consents. Historic Environment Scotland manage these consents.

Development proposals will be refused where they adversely affect the integrity of the setting of Scheduled Monuments and unscheduled archaeological sites of potential national importance unless the developer proves that any significant adverse effects are clearly outweighed by exceptional circumstances, including social or economic benefits of national importance.

b) Local Designations

Development proposals which adversely affect sites of local archaeological importance or the integrity of their settings will be refused unless;

- Local public benefits clearly outweigh the archaeological value of the site, and
- Consideration has been given to alternative sites for the development and preservation in situ is not possible.
- Where possible any adverse effects can be satisfactorily mitigated at the developer's expense.

The Council will consult Historic Environment Scotland and the Regional Archaeologist on development proposals which may affect Scheduled Monuments, nationally important archaeological sites and locally important archaeological sites.

EP11 BATTLEFIELDS, GARDENS AND DESIGNED LANDSCAPES

Development proposals which adversely affect nationally designated Battlefields or Gardens and Designed Landscapes or their setting will be refused unless;

a) The overall character and reasons for the designation will not be compromised, or
b) Any significant adverse effects can be satisfactorily mitigated and are clearly outweighed by social, environmental, economic or strategic benefits.

The Council will consult Historic Environment Scotland and the Regional Archaeologist on any proposals which may affect Inventory Sites.

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

New development will not be supported if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. For development at or near coastal locations, this includes consideration of future flooding that may be caused by sea level rise and/or coastal change eroding existing natural defences in the medium and long term.

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of Scottish Planning Policy and to the satisfaction of Scottish Environment Protection Agency and the Council is provided by the applicant.

There are different levels of flood risk assessment dependent on the nature of the flood risk. The level of assessment should be discussed with the Council prior to submitting a planning application.

Level 1 - a flood statement with basic information with regard to flood risk.
Level 2 - full flood risk assessment providing details of flood risk from all sources, results of hydrological and hydraulic studies and any appropriate proposed mitigation.

Assessments must demonstrate that the development is not at risk of flooding and would not increase the probability of flooding elsewhere. Level 2 flood risk assessments must be signed off by a competent professional. The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required.

Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater. Proposed development in coastal areas must consider the impact of tidal events and wave action when assessing potential flood risk.

The following limitations on development will also be applied to take account of the degree of flooding as defined in Scottish Planning Policy;

a) In areas of little to no risk (less than 0.1%), there will be no general constraint to development.
b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range i.e. (close to 0.5%) and for essential civil infrastructure and the most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should be designed to be capable of remaining operational and accessible during flooding events.
c) Areas of medium to high risk (0.5% or above) may be suitable for:
    - Residential, institutional, commercial and industrial development within built up areas provided that flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan.
    - Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow.
    - Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and
    - Employment related accommodation e.g. caretakers or operational staff.

    Areas within these risk categories will generally not be suitable for the following uses and where an alternative/lower risk location is not available¬¬;
    - Civil infrastructure and most vulnerable uses.
    - Additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flows).
    - New caravan and camping sites

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction must be used where

appropriate. Land raising and elevated buildings on structures such as stilts are unlikely to be acceptable.

b) Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)

Surface water from development must be dealt with in a sustainable manner that has a neutral effect on flooding or which reduces the risk of flooding. The method of dealing with surface water must also avoid pollution and promote habitat enhancement and amenity. All sites must be drained by a sustainable drainage system (SUDS) designed in line with current CIRIA guidance. Drainage systems must contribute to enhancing existing "blue" and "green" networks while contributing to place-making, biodiversity, recreational, flood risk and climate change objectives.

When considering the appropriate SUDS design for the development the most sustainable methods, such as rainwater harvesting, green roofs, bio retention systems, soakaways, and permeable pavements must be considered first. If it is necessary to include surface water attenuation as part of the drainage system, only above ground attenuation solutions will be considered, unless this is not possible due to site constraints.

If below ground attenuation is proposed the developer must provide a robust justification for this proposal. Over development of a site or a justification on economic grounds will not be acceptable. When investigating appropriate SUDS solutions developers must integrate the SUDS with allocated green space, green networks and active travel routes to maximise amenity and biodiversity benefits.

Specific arrangements must be made to avoid the issue of permanent SUDS features becoming silted-up with run-off. Care must be taken to avoid the spreading and/or introduction of invasive non-native species during the construction of all SUDS features. On completion of SUDS construction the developer must submit a comprehensive Operation and Maintenance Manual. The ongoing maintenance of SUDS for all new development will be undertaken through a factoring agreement, the details of which must be supplied to the Planning Authority.

All developments of less than 3 houses or a non-householder extension under 100 square metres must provide a Drainage Statement. A Drainage Assessment will be required for all developments other than those identified above.

c) Water Environment

Proposals, including associated construction works, must be designed to avoid adverse impacts upon the water environment including Ground Water Dependent Terrestrial Ecosystems and should seek opportunities for restoration and/or enhancement, if appropriate. The Council will only approve proposals impacting on water features where the applicant provides a report to the satisfaction of the Council that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, coastal processes (where relevant) nature conservation (including protected species), fisheries, recreational, landscape, amenity and economic and social impact can be adequately mitigated.

The report must consider existing and potential impacts up and downstream of the development particularly in respect of potential flooding. The Council operates a

presumption against the culverting of watercourses and any unnecessary engineering works in the water environment.

A buffer strip of at least 6 metres between any new development and all water features is required and should be proportional to the bank width and functional river corridor (see table on page 96). This must achieve the minimum width within the specified range as a standard, however, the actual required width within the range should be calculated on a case by case basis by an appropriately qualified individual. These must be designed to link with blue and green networks, including appropriate native riparian vegetation and can contribute to open space requirements.

Developers may be required to make improvements to the water environment as part of the development. Where a Water Framework Directive (WFD)¬ water body specific objective is within the development boundary, or in proximity, developers will need to address this within the planning submission through assessment of potential measures to address the objective and implementation, unless adequate justification is provided. Where there is no WFD objective the applicant should still investigate the potential for watercourse restoration along straightened sections or removal of redundant structures and implement these measures where viable.

Width to watercourse (top of bank)	**Width of buffer strip (either side)**
Less than 1m	6m
1-5m	6-12m
5-15m	12-20m
15m+	20m+

The Flood Risk Assessment and Drainage Impact Assessment for New Development Supplementary Guidance provides further detail on the information required to support proposals.

EP13 FOUL DRAINAGE

All development within or close to settlements (as defined in the Local Development Plan) of more than 2,000 population must connect to the public sewerage system unless connection is not permitted due to lack of capacity. In such circumstances, temporary provision of private sewerage systems may be allowed provided Scottish Water has confirmed investment to address this constraint has been allocated within its investment Programme and the following requirements have been met;

- Systems must not have an adverse effect on the water environment
- Systems must be designed and built to a standard which will allow adoption by Scottish Water
- Systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

All development within or close to settlements (as above) of less than 2,000 population will require to connect to public sewerage except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area.

Where a compelling case is made, a private system may be acceptable provided it does not pose or add a risk of detrimental effects, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area.

Where a private system is deemed to be acceptable, within settlements as above or small scale development in the countryside, a discharge to land, either full soakaway or raised mound soakaway, compatible with Technical Handbooks (which sets out guidance on how proposals may meet the Building Regulations) must be explored prior to considering a discharge to surface waters.

EP14 POLLUTION, CONTAMINATION & HAZARDS

a) Pollution

Development proposals which may cause significant air, water, soil, light or noise pollution or exacerbate existing issues must be accompanied by a detailed assessment report on the levels, character and transmission of the potential pollution with measures to mitigate impacts. Where significant or unacceptable impacts cannot be mitigated, proposals will be refused.

b) Contamination

Development proposals on potentially contaminated land will be approved where they comply with other relevant policies and;

i) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment; and

ii) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/ or treatment of any hazardous material.

c) Hazardous sites

Development proposals must avoid and not impact upon hazardous sites or result in public safety concerns due to proximity or use in the vicinity of hazardous sites.

EP15 MOD SAFEGUARDING

Development proposals must not adversely impact upon Ministry of Defence safeguarding operations. Details of consultation zones for Kinloss Barracks and RAF Lossiemouth and development types which will be subject to consultation with the Defence Infrastructure Organisation are available from Moray Council. The outer boundaries of the zones are shown on the Proposals Map.