

**21/00020/EIA**  
**28th January 2021**

**Installation and operation of a wind farm comprising seven turbines with a generating capacity of up to 46.2MW an electricity storage facility with a maximum capacity of 3MW and associated infrastructure on Garbet Windfarm Site 5.5km Southeast Of Dufftown Moray for Energiekontor UK Ltd**

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**Comments:**

- Advertised for neighbour notification purposes - notification not possible because no premises situated on land to which notification can be sent and as a departure to the development plan. Also advertised under the EIA Regulations.
- Application is major development as defined under the Hierarchy Regulations 2008 as energy generation project in excess of 20mW and subject to Environmental Impact Assessment under EIA Regulations.
- 39 objections/representations received.

**Procedure:**

- In the event Members are minded to approve, notification to Scottish Ministers under The Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015 is required prior to issue of any consent.
- As a wind energy proposal close to the boundary with Aberdeenshire, the neighbouring Planning Authority and Community Council have been directly consulted.

**Recommendation: Approve subject to the following conditions:**

**Conditions/Reasons**

1. Unless otherwise agreed in writing with the Council, as Planning Authority, the permission hereby granted shall endure for a period no longer than 35 years from the date of final commissioning, after which the development shall cease to export electricity to the national grid, and shall be decommissioned in accordance with the details otherwise approved elsewhere within this consent. The date of final commissioning shall be as informed by the applicant to Moray Council, or 18 months from the date of this planning consent, whichever is the sooner.

**Reason:** To avoid uncertainty and ensure that consent is implemented within a reasonable period, and to allow the Planning Authority to monitor compliance with

obligations attached to this consent and deemed planning permission as appropriate.

2. This consent shall not be assigned without the prior written authorization of the Moray Council in the event on non-assignment. The Company shall notify the Planning Authority in writing of the name of the assignee, principal named contact and contact details within fourteen days of the consent being assigned.

**Reason:** To safeguard the obligations of the consent if transferred to another company.

3. No turbines shall be erected on site until the definitive type/model of all turbines, external finishes and colour of the turbines have been submitted to and approved in writing by the Planning Authority. The approved details shall be implemented.

Furthermore:-

- a) All wind turbine blades shall rotate in the same direction.
- b) No part of the Development shall display any name, logo, sign or other advertisement other than as specified in the application, unless approved in advance in writing by the Planning Authority or if required by law.
- c) The wind turbines shall be constructed and operated in accordance with the approved details and shall be maintained in the approved colour, free from external rust, staining or discolouration, until such time as the Development is decommissioned.

**Reason:** To ensure that the environmental impacts of the turbines forming part of the Development conform to the impacts of the candidate turbine assessed in the Environmental Impact Assessment Report and in the interests of the visual amenity of the area.

4. No construction of the substation, compound or battery storage facility shall commence until final details of the external appearance, dimensions, surface materials and boundary treatment of each, including the means of foul water disposal and water supply have been submitted to and approved in writing by the Planning Authority. The sub-station and compound (including associated infrastructure) shall be constructed in accordance with the approved details.

**Reason:** To ensure that the environmental impacts of the sub-station, compound and battery storage facility forming part of the Development conform to the impacts assessed in the Environmental Impact Assessment Report and in the interests of visual amenity.

5. Prior to the commencement of any part of the development, the following must be submitted for approval by the Planning Authority:
  - 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 the Roads Authority. Details must include, measures proposed to protect the public road and structures, traffic management (including temporary waiting restrictions), vehicle holding areas and non-vehicular management during deliveries, time restrictions for deliveries i.e.

- outwith school arrival and departure times.
- b) Evidence that a Construction Traffic Management Plan (CTMP) has been completed and signed by both the developer and the Roads Authority.
  - c) Evidence that a 'Wear and Tear' agreement between the developer and the Roads Authority has been completed and signed by both parties (Developer and Roads Authority), must be submitted to the Planning Authority.
  - d) Notwithstanding the details submitted (which are not accepted) detailed plans (1:200 min) of all temporary and permanent works proposed to the public road must be submitted and approved by the Planning Authority in consultation with the Roads Authority. This must include any works to listed structures and any other heritage assets affected by deliveries to the development.
  - e) Notwithstanding the details submitted (which are not accepted). Detailed plans (1:200 min) of all works to accommodate the proposed abnormal indivisible deliveries must be submitted and approved by the Planning Authority in consultation with the Roads Authority.

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

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

6. Prior to the commencement of construction and deliveries all suspensive works approved through condition (5 a, b, c, d and e), must be completed 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.

Thereafter, the development shall be completed 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.

7. Prior to any abnormal indivisible load being delivered to the site:
- a) All suspensive works approved through conditions (5 a, b, c, d and e), must be completed 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.
  - 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), Aberdeenshire Council and Police Scotland must be invited to the trial run.

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

**Reason:** To ensure that acceptable infrastructure is provided on the route to/from the development in the interests of road safety.

8. **Environmental Clerk of Works**

- a) No development shall commence until the Planning Authority have, in consultation with NatureScot, approved in writing the terms of appointment by the Company of an independent Environmental Clerk of Works (ECoW). The terms of appointment shall:
  - i. impose a duty to monitor compliance with the mitigation identified in Chapter 15 Schedule of Mitigation of the EIA Report;
  - ii. require the ECoW to report to the Company's nominated construction project manager and the Planning Authority any incidences of non-compliance with the EnvCoW works at the earliest practical opportunity;
  - iii. directing the micro-siting and placement of the turbines, tracks, borrow pits and associated infrastructure in accordance with the micro-siting condition;
  - iv. require the ECoW to submit a monthly report to the Planning Authority summarising works undertaken on site and incidents of micro siting; and
  - v. advising the Company on adequate protection of nature conservation interests on the site and shall be responsible for checks for protected species before and during construction.
- b) The ECoW shall be appointed on the approved terms prior to the commencement of Development, throughout any period of construction activity and during any period of post construction restoration works.

**Reason:** To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development.

9. **Environmental Clerk of Works Decommissioning**

No later than six months prior to decommissioning of the Development or the expiration of this consent (whichever is the earlier), the Company shall submit details of the terms of appointment by the Company of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval. The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

**Reason:** To secure effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development.

10. No development shall commence unless and until a Habitat Management Plan Steering Group is established to oversee the preparation and delivery of the detailed HMP and to review and assess the results from ongoing monitoring. The Company shall invite the Planning Authority, NatureScot, SEPA and Scottish Forestry to participate with them in the steering group. The steering group shall have powers to make reasonable changes to the HMP necessary to deliver its agreed aims and objectives.

**Reason:** To safeguard environmental impacts, ecology, species and habitats and maintain effective planning control.

11. Further to the mitigation and enhancement contained within the Outline Habitat Management Plan (OHMP) hereby approved, a consolidated and detailed Habitat Management Plan must be submitted, incorporating:-
- a) The requested involvement of The Deveron District Salmon Fishery Board with the OHMP and Habitat Management Group.
  - b) A Fishery Management Plan inclusive of additional baseline electrofishing and kick sampling is conducted before, during and 2 years post construction.
  - c) Frequent site meetings with the appointed Ecological Clerk of Works (ECoW) pre, during and on completion of construction.
  - d) The Deveron District Salmon Fishery Board are consulted on any instream works before work progresses and specifically on the design of all waterway crossings.
  - e) Consolidate the proposed ornithological mitigation with existing agri-environmental schemes already in place.
  - f) Further investigation and implementation of measures to reduce the required excavation in construction of crane hardstandings. This may be by adoption of alternative construction methods or other means.
  - g) The construction programme duration is stated as likely to be 12 to 18 months. Further investigation should be undertaken and then implemented of an alternative to stripping the shallow peaty layer in the temporary construction compound, for example, using a geotextile membrane to protect the peat. It seems unlikely that the 10 cm thick layer having been scraped off and stored for 12 to 18 months, will be in a condition to enable the restoration of the site to its condition prior to the development.
  - h) The slope angle of reinstated peat has been shown to be critical in successful revegetation of the peat – where the slope is too steep revegetation generally fails, leaving the peat bare and susceptible to erosion. Active intervention to promote swift revegetation is recommended and must be detailed and implemented, e.g. by seeding or providing seedbank sources from a patchwork of turves if there are not sufficient turves to completely cover the reinstated peat.
  - i) Water table depth and resulting soil pore space saturation is fundamental to the amount of carbon emitted or retained within the soil - in addition to placing the excavated peat. This will require monitoring and active intervention if the water table is lower than required. The hydrology of the reinstated peat must be addressed, in addition to the revegetation and slope and details of this provided and implemented.
  - j) Blanket bog restoration: further details of location, methods, materials, monitoring and aftercare in relation to blanket bog restoration required.

**Reason:** To avoid peat disturbance and ensure appropriate management and reuse.

12. Unless otherwise agreed with Moray Council in writing, a finalised Drainage Impact Assessment, showing the following must be submitted to and approved in writing by Moray Council as Planning Authority (in consultation with Moray Flood

Risk Management Team) prior to completion of all water crossing and turbine foundation pads. The Drainage Impact Assessment should be based upon the designed drainage mitigation contained in Chapters 8 and 15 of the EIA Report and detail the following:

- a) Plans submitted with the definitive track and turbine pad layout of the drainage system for both the construction phase and the final site layout once micro-siting allowances have been made.
- b) Drainage system should be designed to a 1:30 year return period (including 35% climate change), without surcharging, if attenuation is used the system must drain completely within 24 hours.
- c) Demonstrate that the post development run-off rate does not exceed the pre-development run-off rate, or increase the risk of flooding to the surrounding land.
- d) Confirmation that drainage is not redirected to allow surface water draining from one catchment to drain into a different catchment either at construction phase or completion.
- e) Instead of the culverts shown in Figure 3.5 'Typical Watercourse Crossing' watercourse crossings to be oversized, bottomless arched culverts or traditional style bridges are to be used.

**Reason:** In order to ensure all the necessary flood prevention measures are in place and to ensure that protection of the water environment is maintained throughout the construction, operation and decommissioning of the development.

13. Prior to commencement of development an Access Management Plan (AMP) must be submitted to and approved by the Planning Authority in consultation with the Moray Access Manager and the Moray Local Outdoor Access Forum. Thereafter the approved AMP shall be adhered to and implemented within the timescales set out.

**Reason:** To ensure that public access is secured throughout the life of the development.

14. No development shall commence until a Construction Environmental Management Plan ("CEMP"), incorporating the proposed precautions and mitigation detailed in Chapter 15 Schedule of Mitigation Table 15.1 within the Environmental Impact Assessment Report has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. This plan shall include identification of the specific trees to be removed to accommodate the road widening and passing places on the public road network leading to the site and also where an equivalent number will be planted on site.

**Reason:** In order to ensure all the necessary and volunteered mitigation measures are implemented properly.

15. **Construction Hours**

- a) Construction work shall only take place on the site between the hours of 0700 to 1800 on Monday to Friday inclusive and 0700 to 1300 on Saturdays, with no construction work taking place on a Sunday or on national public holidays or bank holidays other than concrete pouring if started within those

hours, turbine erection and emergency works. The developer shall notify the Planning Authority of such works if carried out outside the permitted hours within two working days of their occurrence.

- b) Heavy Goods Vehicles (HGV) movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 0700 to 1900 Monday to Friday, and 0700 to 1600 on Saturdays, with no HGV movements to or from site taking place on a Sunday or on national public holidays or bank holidays unless otherwise agreed in writing by the Planning Authority.
- c) Turbine delivery may be made out with these construction hours, where necessary, and as agreed in writing in advance with the Planning Authority.

For the avoidance of doubt the public holidays or bank holidays are detailed as follows:

- New Year's Day, if it is not a Sunday or, if it is a Sunday, 3rd January;
- 2nd January, if it is not a Sunday or, if it is a Sunday, 3rd January;
- Good Friday;
- The first Monday in May;
- The first Monday in August;
- 30th November, if it is not a Saturday or Sunday or, if it is a Saturday or Sunday, the first Monday following that day;
- Christmas Day, if it is not a Sunday or if it is a Sunday, 27th December; and
- Boxing Day, if it is not a Sunday or, if it is a Sunday, the 27th December.

**Reason:** In order to ensure that construction activity minimises the impact on surrounding neighbours.

#### 16. **Wind Farm Noise**

The rating level of noise imissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the attached Guidance Notes, shall not exceed the values for the relevant integer wind speed set out in or derived from Table 1 attached to these conditions and:

- a) Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant and provide a written protocol to be approved by the Planning Authority. The protocol shall describe the procedure to assess the level and character of noise imissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Planning Authority shall set out as far as possible the time or meteorological conditions to which the complaint relates and time or conditions relating to tonal noise if applicable. Measurements to assess compliance with the noise limits shall be undertaken in accordance with the assessment protocol which shall be approved in writing by the Planning Authority.
- b) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise imissions undertaken in accordance with the protocol within 2 months of the date of the approval of the protocol by the Local Authority unless otherwise agreed by

the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements and analysis, such data to be provided in a format to be agreed with the Planning Authority. Certificates of calibration of the equipment shall be submitted to the Planning Authority with the report.

- c) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise imissions undertaken in accordance with the protocol within 2 months of the date of the approval of the protocol by the Local Authority unless otherwise agreed by the Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements and analysis, such data to be provided in a format to be agreed with the Planning Authority. Certificates of calibration of the equipment shall be submitted to the Planning Authority with the report.

**Table 1: At all times – Noise limits expressed in dB LA90, 10 minute and apply for standardised 10 m height wind speeds up to 10 m/s as determined within the site averaged over 10 minute periods**

Location	Standardised Wind Speed at 10m height in m/s averaged over 10 minute periods, Sound Pressure Levels in dB, L <sub>A90 10min</sub>								
Property Name	4	5	6	7	8	9	10	11	12
H1 Easter Braetown	25	30	32	32	32	32	32	32	32
H2 Wester Braetown	25	30	32	32	32	32	32	32	32
H3 Dumeath	16	21	23	23	23	23	23	23	23
H4 Backside Farm	21	26	28	28	28	28	28	28	28
H5 Ballochford	17	22	24	24	24	24	24	24	24
H6 Bellcherrie	20	25	27	27	27	27	27	27	27

**Table 2: Coordinate locations of the dwelling listed in Table 1**

LOCATION	Easting	Northing
Easter Braetown	339688	839028
Wester Braetown	339423	838865
Dumeath	342236	837129
Backside Farm	341085	836165
Ballochford	336007	833656
Bellcherrie	340060	834097

Note to Table 2: The geographical coordinate references are provided for the purpose of identifying the general location of the dwelling to which the noise limits apply.

**Reason:** In order to ensure noise emanating from the windfarm can be controlled and kept to an acceptable level.

#### 17. **Commissioning Condition**

There shall be no Commencement of Development unless full details of the proposed wind turbines (including the power rating, sound power levels, and



tonality assessment carried out on the selected turbine) have been submitted to the Planning Authority.

The wind farm operator shall employ an independent consultant, approved by the Planning Authority, to measure and where necessary calculate, at the operator's own expense, the level of noise imissions from the wind turbines within the first year of the operation of the turbines. The measurement procedures, which may include filtering data according to wind direction, shall be 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.

**Reason:** In order to ensure adequate noise data is collected at the commissioning stage of the development to aid future safeguard to neighbouring properties for noise amenity.

**18. Amplitude Modulation**

Within 21 days of a written request by the Local Planning Authority, following a complaint to it from a resident alleging noise disturbance at the dwelling at which they reside and where Excess Amplitude Modulation is considered by the Local Planning Authority to be present in the noise imissions at the complainant's property, the wind farm operator shall submit a scheme, for the approval of the Local Planning Authority, providing for the further investigation and, as necessary, control of Excess AM. The scheme shall be based on best available techniques and shall be implemented as approved.

**Reason:** In the event that Amplitude Modulation occurs a mechanism can be put in place to remedy the effects of the Phenome.

**19. Borrow Pit Conditions**

- i. Prior to the commencing of any blasting operations for the formation of borrow pits associated with the development, a scheme for the monitoring of blasting including the location of monitoring points and equipment to be used shall be submitted to the Planning Authority for written approval. All blasting operations shall take place only in accordance with the scheme as approved or with subsequent amendments as may receive the written approval of the Planning Authority.
- ii. In the event of the formation of borrow pits, blasting times shall be restricted as follows:
  - a) No blasting shall be carried out on the site except between the following times (1000 and 1200 hours) and (1400 and 1600 hours) on Mondays to Fridays and (1000 and 1200 hours) on Saturdays.
  - b) There shall be no blasting or drilling operations on Sundays, Bank Holidays or National Holidays.
  - c) The above requirement shall not apply in cases of emergency when it is considered necessary to carry out blasting operations in the interests of safety. The Planning Authority shall be notified in writing immediately of the nature and circumstances of any such event.
- iii. Ground vibration as a result of blasting operations to form borrow pits at the site shall not exceed a peak particle velocity of 6mms-1 in 95% of all blasts

and no individual blast shall exceed a peak particle velocity of 12mms<sup>-1</sup> as measured at vibration sensitive buildings. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

- iv. At the reasonable request of the Planning Authority, following a complaint relating to vibration from blasting operations to form borrow pits, the developer shall measure at its own expense ground vibration to ensure compliance with the above condition. The results of such monitoring shall thereafter be forwarded to the Planning Authority.

**Reason:** In order to ensure that any blasting is carried out safely and so as to minimise the impact on neighbouring amenity.

20. **Micro-siting**

- a) All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown in Figure 3.1 Infrastructure Layout of EIA report. The location of the wind turbines, compounds, areas of hardstanding and tracks may be varied (micro-sited) within the site subject to the following, unless otherwise approved in advance in writing by the Planning Authority:
  - i. no wind turbine, building, mast, tracks, hardstanding or other ancillary infrastructure shall be moved more than 100 metres from the position shown within the EIA report and on Figure 3.1 Infrastructure Layout;
  - ii. the exceptions to this will relate to tracks between T2, T4, T5, T6 and T7 where micro-siting allowance can extend beyond 100m to ensure tracks can be moved onto shallower peat.
  - iii. all micro-siting permissible under this condition must be approved in advance in writing by the Environmental Clerk of Works (ECoW).
  - iv. For any micro-siting of turbines which results in an increase in altitude of more than 5m from the approved position, a prior request and approval must be made to Moray Council. Such a request must be accompanied by an updated and comparative ZTV plan and wireline montages as required by Moray Council.
- b) No later than two months after the Date of Final Commissioning, an updated site plan shall be submitted to the Planning Authority showing the final position of all wind turbines, anemometry masts, areas of hardstanding, tracks and associated infrastructure forming part of the development. The plan must also specify areas where micro-siting has taken place and, for each instance, be accompanied by the Environmental Clerk of Works or Planning Authority's approval, as applicable.

**Reason:** To ensure that micro-siting decisions take account of environmental impacts and local ground conditions, including existing infrastructure.

- 21. The buffer zones around groundwater abstractions and watercourses identified on Figure 8.6 Constraints shall be implemented in full throughout the construction, operation and decommissioning of the development. There shall be no development, machinery movement or operations within the buffer zones without the agreement of the Planning Authority in consultation with SEPA. The buffer zone around the groundwater abstraction areas shall be demarcated on the ground during construction.

**Reason:** In order to prevent potential unacceptable impacts on groundwater abstractions.

22. At the reasonable request of Moray Council as 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:** In order to ensure mitigation can be pursued and instigated in the event of such a complaint being received.

23. Prior to the construction of the final turbine, a finalised restoration plan for any borrow pits used on site, must be submitted to, and approved in writing by, the Moray Council Planning Authority in consultation with SEPA.

**Reason:** To secure the restoration of borrow pit(s) at the end of the construction period.

24. The development shall be developed in accordance with the schedule of mitigation as specified in Chapter 15 Schedule of Mitigation Table 15.1 within the Environmental Impact Assessment Report. The measures contained within, must be carried out in accordance with the submitted information contained within the EIA Report or as required by other conditions of the consent.

**Reason:** In order to ensure the various mitigation measures proposed and collated within the EIA Report in Table 15.1 are met.

25. **Aviation Lighting**

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

This should set out:

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

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

**Reason:** To maintain aviation safety.

**26. Aviation Charting and Safety Management**

The undertaker must notify the Ministry of Defence, at least 14 days prior to the commencement of the works, in writing of the following information:

- a) the date of the commencement of the erection of wind turbine generators;
- b) the maximum height of any construction equipment to be used in the erection of the wind turbines;
- c) the date any wind turbine generators are brought into use;
- d) the latitude and longitude and maximum heights of each wind turbine generator, and any anemometer mast(s).

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

**Reason:** To maintain aviation safety.

**27. Decommissioning, Restoration and Aftercare**

- a) The Development will cease to generate electricity by no later than the date falling 35 years from the Date of Final Commissioning. The total period for decommissioning and restoration of the Site in accordance with this condition shall not exceed 37 years from the date of Final Commissioning without prior written approval of Moray Council as Planning Authority.
- b) There shall be no Commencement of Development unless and until an outline decommissioning, restoration and aftercare method statement has been submitted to and approved in writing by the Planning Authority in consultation with SEPA. The method statement shall include measures for the decommissioning of the Development, restoration and aftercare of the site and will include, without limitation, proposals for the removal of the above ground elements of the Development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions.
- c) No later than one year prior to decommissioning of the Development or the expiration of the 35 year period of operation (whichever is the earlier) a detailed decommissioning, restoration and aftercare method statement, based upon the principles of the approved outline decommissioning, restoration and aftercare method statement, shall be submitted to the Planning Authority for written approval in consultation with SEPA. The detailed decommissioning, restoration and aftercare method statement will provide updated and detailed proposals for the removal of above ground elements of the Development, the treatment of ground surfaces, the management and timing of the works and environment management provisions.
- d) The Development shall be decommissioned, site restored and aftercare thereafter undertaken in accordance with the detailed decommissioning, restoration and aftercare method statement as approved, unless otherwise agreed in writing in advance with the Planning Authorities in consultation with SEPA.

**Reason:** To ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection.

**28. Financial Guarantee**

- a) No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition immediately above is submitted to the Planning Authority.
- b) The value of the financial guarantee shall be agreed between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations referred to in condition immediately above.
- c) The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations referred to in condition immediately above.
- d) The value of the financial guarantee shall be reviewed by agreement between the Company and the Planning Authority or, failing agreement, determined (on application by either party) by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review.
- e) The landowner of the development site shall be entitled to be a joint beneficiary with the Planning Authority under the foregoing financial guarantee. The terms of the landowner's involvement will be subject to the approval of the Planning Authority acting reasonably and thereafter will be set out in the financial guarantee documentation.

**Reason:** To ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the Company.

29. Unless otherwise agreed in writing with the Council as Planning Authority, prior to development commencing the applicants must investigate and pursue a reduced lighting scheme. A report detailing what measures can be taken (or evidence of why they cannot be achieved) must be submitted to and approved by Moray council in consultation with the Ministry of Defence Windfarm safeguarding and the Civil Aviation Authority.

Thereafter the lighting scheme developed must be implemented in accordance with any reduced lighting requirement achieved.

**Reason:** To ensure that only the minimum necessary lighting requirement are developed and to allow for further consideration of the lighting proposals.

### **Reason(s) for Decision**

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

The proposal accords with the Moray Local Development Plan 2020 and there were no material considerations that indicated otherwise. In reaching this decision, it is noted that there would be some significant landscape and visual effects, but these are not considered to be excessive or outweigh the wider planning policy, pattern of approvals for other wind energy or other material considerations such as climate change.

### **Reasoned conclusion on the significant effects of the development on the environment (Regulation 29 of the EIA Regulations 2017)**

Moray Council, as Planning Authority, having taken account of all relevant information, consider that the proposal can be supported having regard to the nature and impact of the proposed wind energy proposal, and associated infrastructure.

The Council has considered, fully and carefully, the environmental information as presented and concludes that the development will not give rise to any significant adverse environmental effects, as the proposal incorporates the necessary environmental design and mitigation measures to minimise such effects and impacts. These include measures to address impacts that are clearly identified in the Schedule of Mitigation, Chapter 15 of the EIA Report which proposes a suite of measures contained within documents such as the Habitat Management Plan, written scheme of archaeological works for unknown archaeological assets, buffers maintained around watercourses/GWDTE's/water abstractions area, Construction Environmental Management Plan, Pollution Incident Response Plan, Peat Management, Breeding Bird Protection Plan, appointment of an Ecological Clerk of Works (ECoW), Noise Management Plan.

In the absence of any unacceptable or significant environmental impacts and subject to conditions as recommended, the proposal is acceptable in EIA terms. Where consultees have proposed conditions to mitigate/monitor impacts these have been secured by conditions attached to the consent. Conditions to secure the monitoring of impacts in relation to wildlife, biodiversity etc. have also been attached to the consent.

### **List of Informatives:**

The DEVELOPMENT MANAGEMENT & BUILDING STANDARDS MANAGER has commented that; -

A Building Warrant may be required if the proposal includes staff welfare facilities and/or a septic tank and soakaway.

Further guidance for drainage and flooding can be found in "Supplementary Guidance on Flood Risk and Drainage Impact Assessment for New Developments" -

[www.moray.gov.uk/downloads/file124411.PDF](http://www.moray.gov.uk/downloads/file124411.PDF).

It should be noted that for road widening and formation of passing places to minor roads out with Moray will require separate and prior permission from Aberdeenshire Council as Roads Authority.

The MORAY ACCESS MANAGER has commented that;-

Details of how the Public Access Plan should be devised and implemented are given in section 7 of the guidance 'Good practice during windfarm construction 2010'. I suggest that the 'Public Access Plan' should specifically address the following:

1. Construction site – General access rights can be suspended from the construction site. The construction site needs to be clearly demarked on the ground with signage advising the public of reasons, duration and alternative options in relation to the access rights suspension. Objective here is to minimise as much as possible disruption to outdoor access.
2. Maximise outdoor access opportunities during wind farm operation. It is accepted that the on-site paths network will effectively constitute the constructed vehicle service tracks. To increase public awareness and to encourage usage promotion should include signage and map boards at all principle access points and path junctions.
3. Linkages to the wider access network. Opportunities should be explored to develop linkages with any tracks and paths nearby in the interests of creating a comprehensive access network meeting the needs of a variety of users. It is accepted that opportunities for this in this location are somewhat limited.
4. Accessible access Controls. All gates etc. to allow for access by all users i.e. horses riders, cyclists, pedestrians and the less able.

The TRANSPORTATION MANAGER has commented that

Prior to the commencement of any part of the development, evidence shall be provided to confirm that a Bond or other financial security has been agreed by both parties (Developer and the Roads Authority) and put in place to cover the construction period of the development and to be called in the event that the developer fails to meet their obligations under the Wear and Tear Agreement to maintain the road in a safe condition during the construction phase of the development and to restore the road to its original predevelopment condition within 1 year of the completion of construction or the development becoming operational. The bond/security shall relate to the full extent of the U94bH Burnside of Markie Road with the Moray Council area and is required to mitigate the potential risks from damage to the public road occurring during the construction phase of the development. It should be noted that Aberdeenshire Council may wish to make similar arrangements for the roads within their area.

Prior to the commencement of deliveries or any construction work, a Wear and Tear agreement will be required to be approved between the developer and the Roads Authority. The scope of the Wear and Tear Agreement must be agreed with the Roads Authority and must include a condition survey of the network undertaken jointly by the developer and a representative from the Roads Authority. The survey must include the full extent of the agreed construction traffic route(s) (within Moray) between the site and the 'A' class road network. In

addition, the wear and tear agreement shall also include condition surveys of all roads identified as 'unsuitable' which must be agreed with the Roads Authority.

The Construction Traffic Management Plan must cover the duration of the development, include methods of dealing with large and abnormal 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 routes which must not be used by development traffic (construction or staff) to access the site. A programme of monitoring for all routes identified within the CTMP during construction will be required.

It is not acceptable to overrun 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.

Some of the side tracks which join the public road may appear to be part of the public road as they have a thin layer of tar on them. It is unlikely that there is suitable road construction under any of them and where they are being utilised each location should be assessed and reconstructed if necessary.

Prior to completion of the development, all areas of temporary over-run must be reinstated to an appropriate standard. Example 300mm thick dressed topsoil and reseeded appropriate for the surroundings.

Additional details for all areas of road widening and new passing places must also include drainage details to accommodate the additional road surface area.

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 be consulted as appropriate.

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](mailto: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](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](mailto: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](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](mailto: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 the Senior Engineer for Bridges and Structures to discuss the proposals via [structures@moray.gov.uk](mailto:structures@moray.gov.uk)  
Traffic Management Plan - The developer must contact the Senior Engineer Transportation discuss the proposals via [traffic@moray.gov.uk](mailto:traffic@moray.gov.uk)

HISTORIC ENVIRONMENT SCOTLAND have made the following comments:-

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at [www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/](http://www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/). Technical advice is available through our Technical Conservation website at [www.engineshed.org](http://www.engineshed.org).

The ROYAL SOCIETY for the PROTECTION OF BIRDS have commented that:-

The Outline Habitat Management Plan should build additionally on the existing management schemes (Agri-Environment and Climate Scheme & Green Stimulus) especially in relation to wading birds such as curlew and peatland restoration. RSPB Scotland can provide detailed guidance on habitat management for curlew and other waders to help in the development of the HMP, if required.

The ENVIRONMENTAL HEALTH MANAGER has commented that

#### Guidance Notes for Noise Condition

These notes are to be read with and form part of the planning condition on noise. The measured data is to be split into bins as described below. The rating level for each bin is the arithmetic sum of the wind farm noise level plus any tonal penalty applied in accordance with 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). IOAGPG is "A Good Practice Guide to the Application of ETSU-R-97 for the Assessment and Rating of Wind Turbine Noise" or any update of that report current at the time of measurement

#### Note 1 – Data Collection

- a. Values of the LA90, 10-minute noise index should be measured in accordance with the IOAGPG. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and to capture data suitable where a tonal assessment is required.
- b. To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in degrees from north in each successive 10-minutes period in a manner to be agreed in writing with the Planning Authority. The wind speed at turbine 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 are correlated with the noise measurements determined as valid. The wind farm operator shall continuously log arithmetic mean nacelle anemometer wind speed, arithmetic mean nacelle orientation, arithmetic mean wind direction as measured at the nacelle, arithmetic mean rotor RPM and whether each wind turbine is running normally during each successive 10-minutes period for each wind turbine on the wind farm. All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Universal Time (UT).

#### Note 2 – Data Analysis

- a. The independent consultant shall identify a sub-set of data having had regard to:-
  - the conditions (including time of day and corresponding wind directions and speeds) at times in which complaints were recorded;
  - the nature/description recorded in the complaints if available;
  - information contained in the written request from the local planning authority;
  - likely propagation effects (downwind conditions or otherwise);
  - the results of the tonality analysis where relevant.

In cases where it is possible to identify patterns of clearly different conditions in which complaints have arisen additional sub-sets may be considered provided this does not introduce unreasonable complexity in the analysis and can be justified by the independent consultant.

- b. Within each of the sub-set(s) of data identified, data shall be placed into separate 1 m/s wide wind speed bins.

#### Note 3 – Tonal Penalty

- a. Where, in accordance with the protocol, the noise contains or is likely to contain a tonal component, a tonal audibility shall be calculated for each ten-minute period using the following procedure.
- b. For each 10-minute period for which a tonal assessment is required this 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").
- c. For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted. Where data for a ten-minute period are corrupted, that period shall be removed from the tonal analysis.
- d. The tone level above audibility for each ten-minute period shall be placed in the appropriate data sub-set and wind speed bin.

#### Note 4 – Calculation of Rating Level

- a. The LA90 sound pressure level for each data sub-set and wind speed bin is the arithmetic mean of all the 10 minute sound pressure levels within that data sub-set and wind speed bin except where data has been excluded for reasons which should be clearly identified by the independent consultant. The tonal penalty for each bin is the arithmetic mean of the separate 10-minute tonal audibility levels in the bin converted to a penalty in accordance with Fig 17 on page 104 of ETSU-R-97. The assessment level in each bin is normally the arithmetic sum of the bin LA90 and the bin tonal penalty.
- b. If the assessment level in every bin lies at or below the values set out in the Table(s) attached to the conditions then no further action is necessary. In the event that the assessment level is above the limit(s) set out in the Tables attached to the noise conditions in any bin, 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 imissions only. Correction for background noise need only be undertaken for those wind speed bins where the assessment level is above the limit.
- c. The wind farm operator shall ensure that all the wind turbines in the development are turned off for such periods as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:-
  - i. Repeating the steps in Note 1, with the wind farm switched off, and determining the background noise ( $L_3$ ) in each bin as required in the protocol. At the discretion of the consultant and provided there is no reason to believe background noise would vary with wind direction, background noise in bins where there is insufficient data can be assumed to be the same as that in other bins at the same wind speed.

- ii. The wind farm noise ( $L_1$ ) in each bin shall then be calculated as follows where  $L_2$  is the measured level with turbines running but without the addition of any tonal penalty:

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

- iii. The rating level shall be calculated by adding the tonal penalties to the derived wind farm noise  $L_1$  in that bin.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal penalties in every bin lies at or below the values set out in the Tables attached to the condition at all wind speeds then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Table(s) attached to the condition then the development fails to comply with the planning condition in the circumstances represented by that bin.

The SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:

The groundwater abstractions buffer zone shall be 100 m for all development with excavations or intrusions less than 1 metre depth. The buffer zone shall be 250 m for all development with excavations or intrusions greater than 1 metre depth.

We refer you to CAR Practical Guide for advice on the regulatory framework applied to activities which impact on the water environment. You should note that as the site is greater than 4 ha it will require a construction site licence.

Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulations team in your local SEPA office, contact details at:  
<https://www.sepa.org.uk/contact/>.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT		
Reference No.	Version No.	Title/Description
FIGURE 1		Turbine and infrastructure layout
FIGURE 1.1		Location plan
FIGURE 6.4	D	Turbine light intensity
		GARBET WINDFARM Environmental Impact Assessment Report (EIAR) Volumes 1-5 January 2021



## PLANNING APPLICATION COMMITTEE SITE PLAN

**Planning Application Ref Number:**  
**21/00020/EIA**

**Site Address:**  
Garbet Windfarm  
Site 5.5km Southeast Of Dufftown

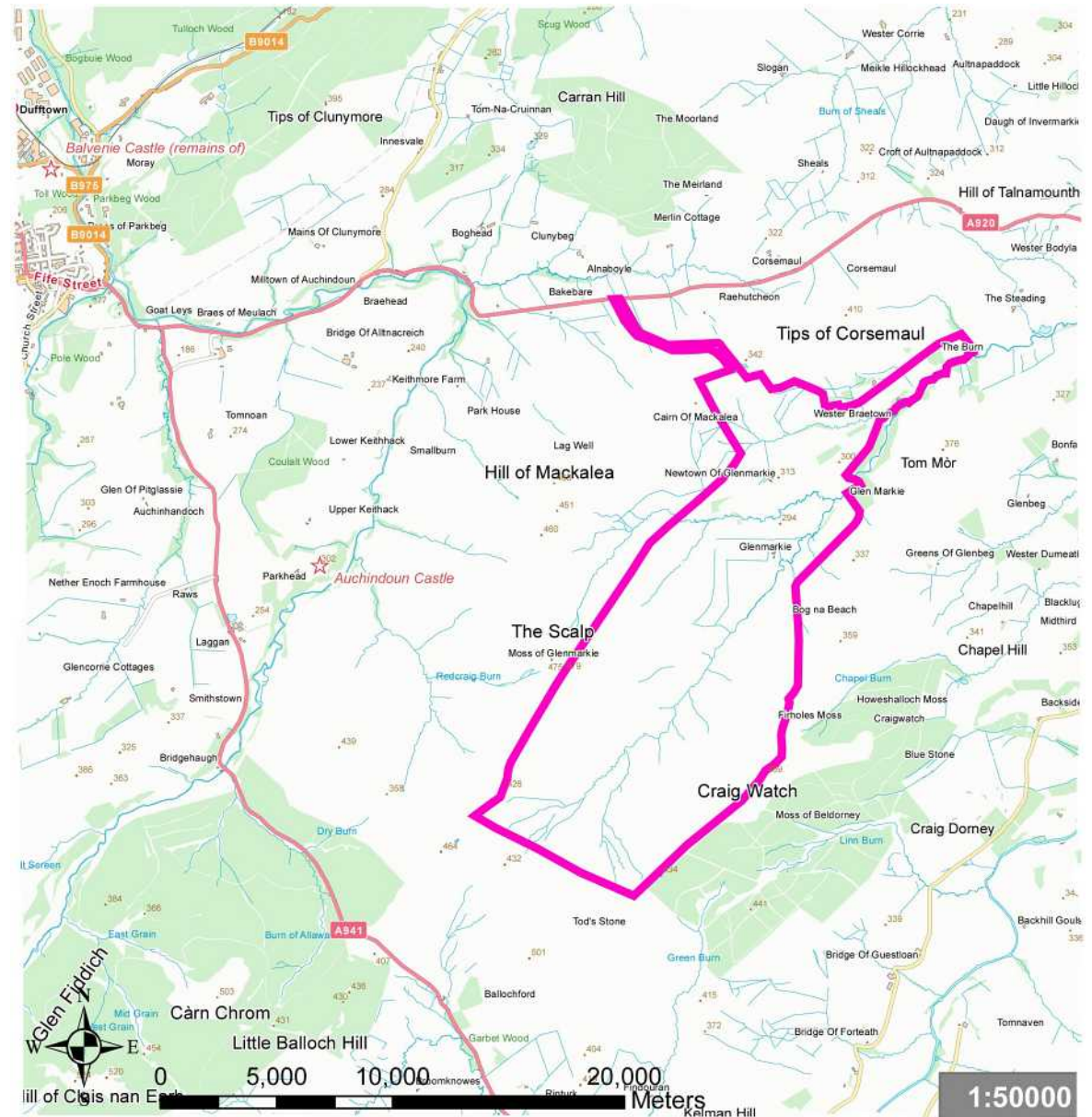
**Applicant Name:**  
Energiekontor UK Ltd

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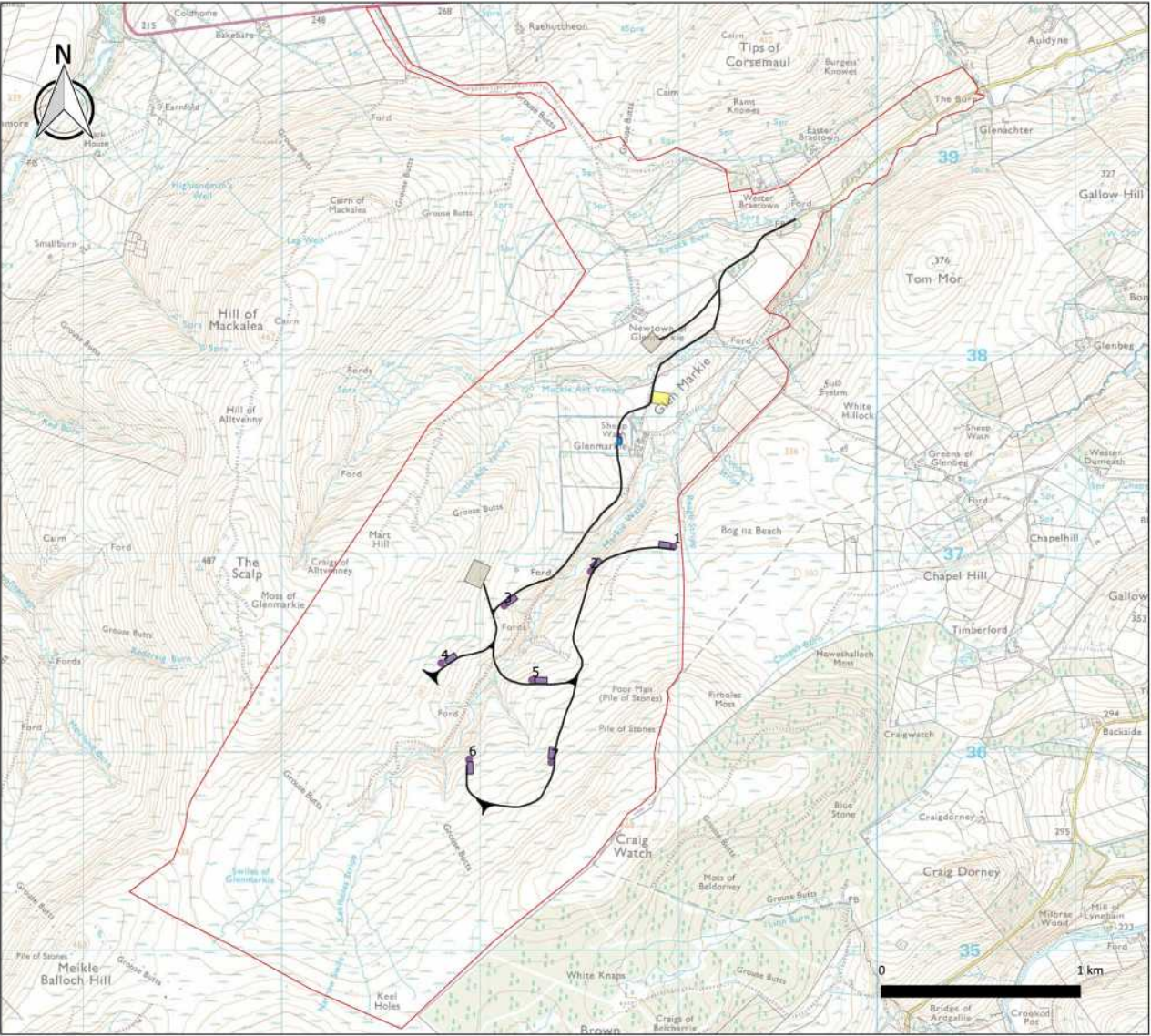
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## Location Plan





# Layout plan



## Garbet Wind Farm

Office England: 4300 Park Approach Leeds LS15 8GB	Office North Scotland: 11 Somerset Place Glasgow G3 7JT	Office South Scotland: 31 Dower Place Lane Edinburgh EH3 8EF
T: +44 (0)133 204 4850	T: +44 (0)141 354 0544	T: +44 (0)131 600 0852
www.energiekontor.co.uk		

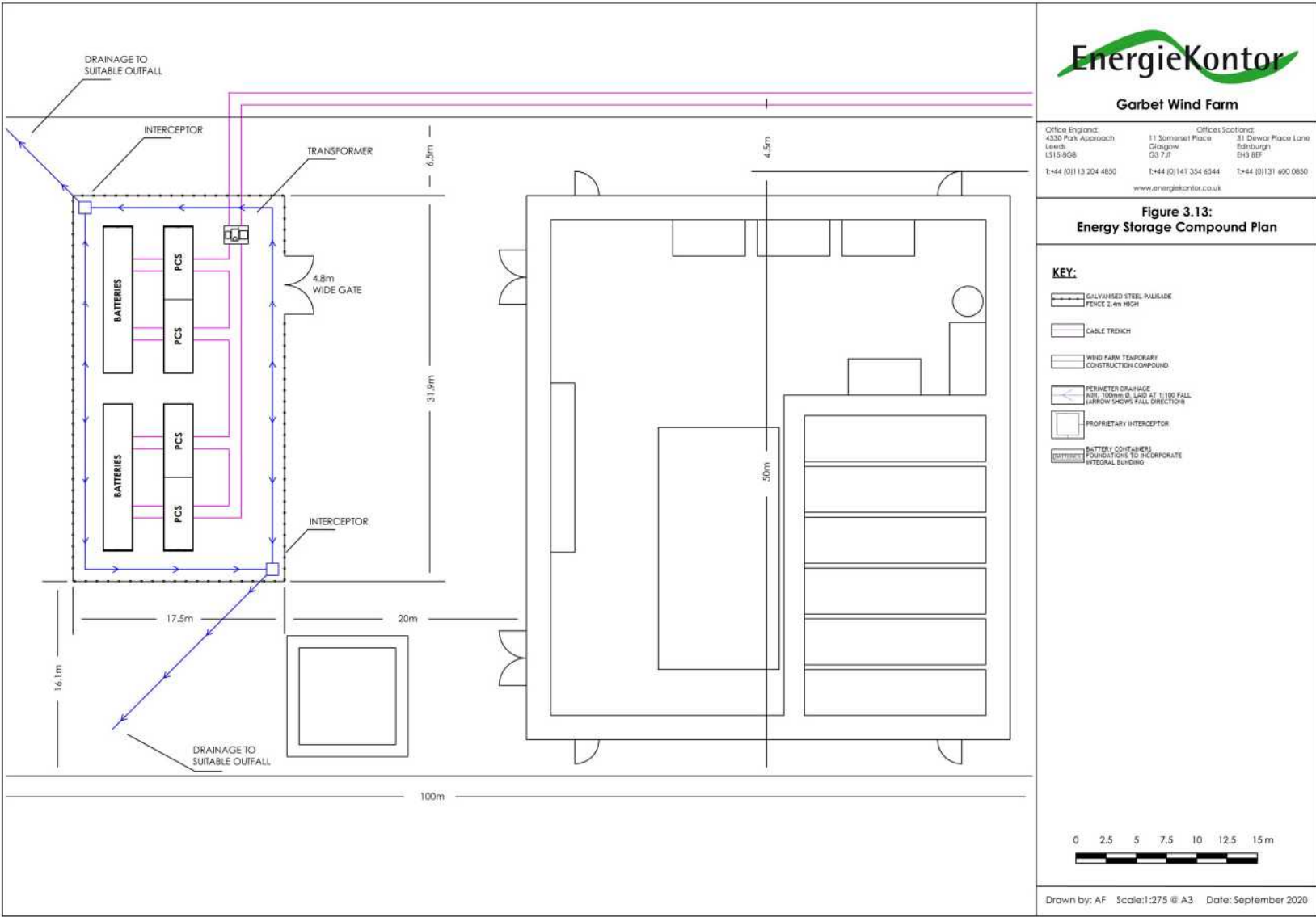
Figure 3.1: Infrastructure Layout

- Site Boundary
- Turbine
- Track
- Crane Pad
- Substation
- Temporary Construction Compound
- Borrow Pit
- Battery Storage Compound

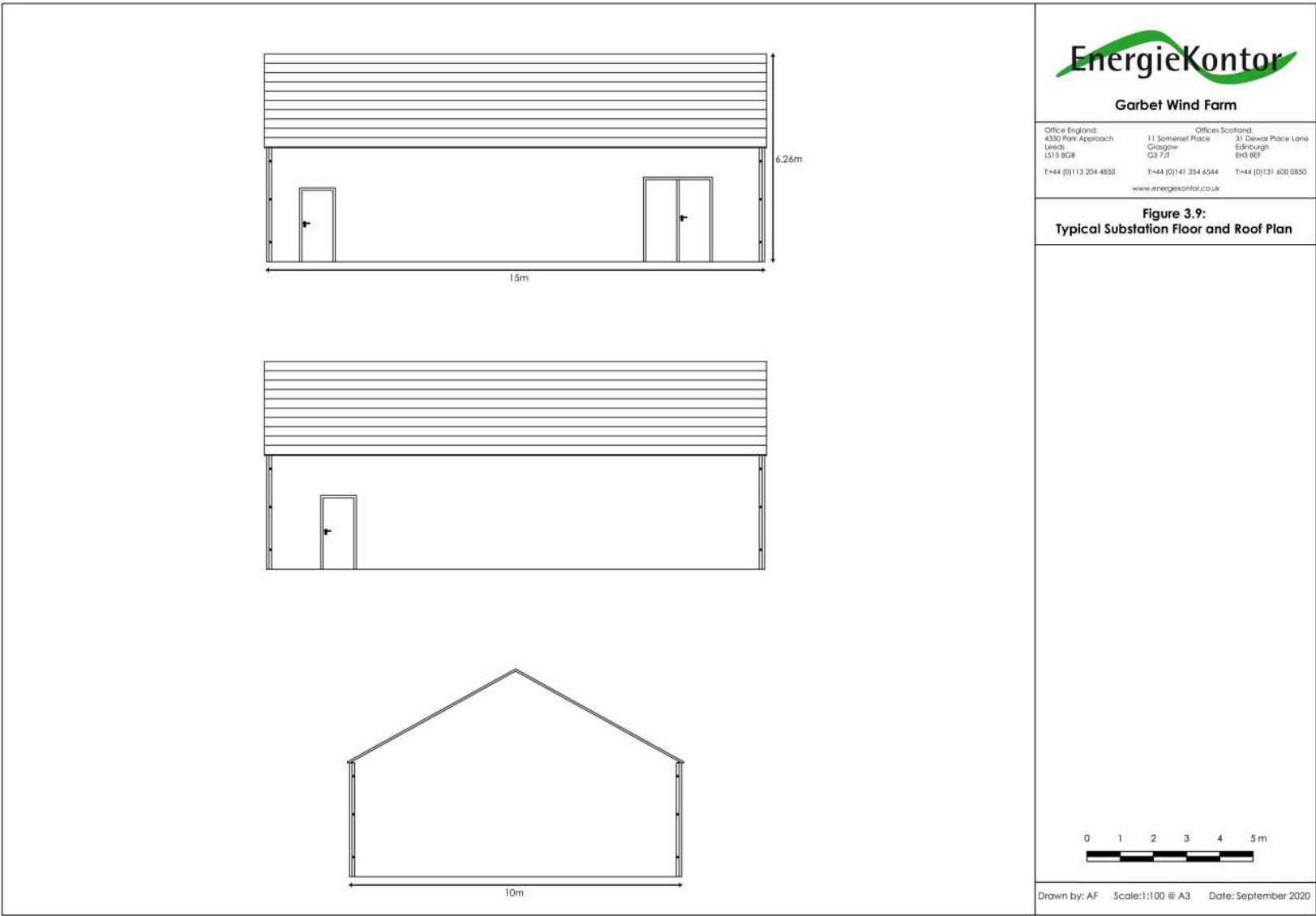
Drawn by: AM Scale: 1:19,000 @ A3 Date: 05/11/20

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# Energy Storage Compound

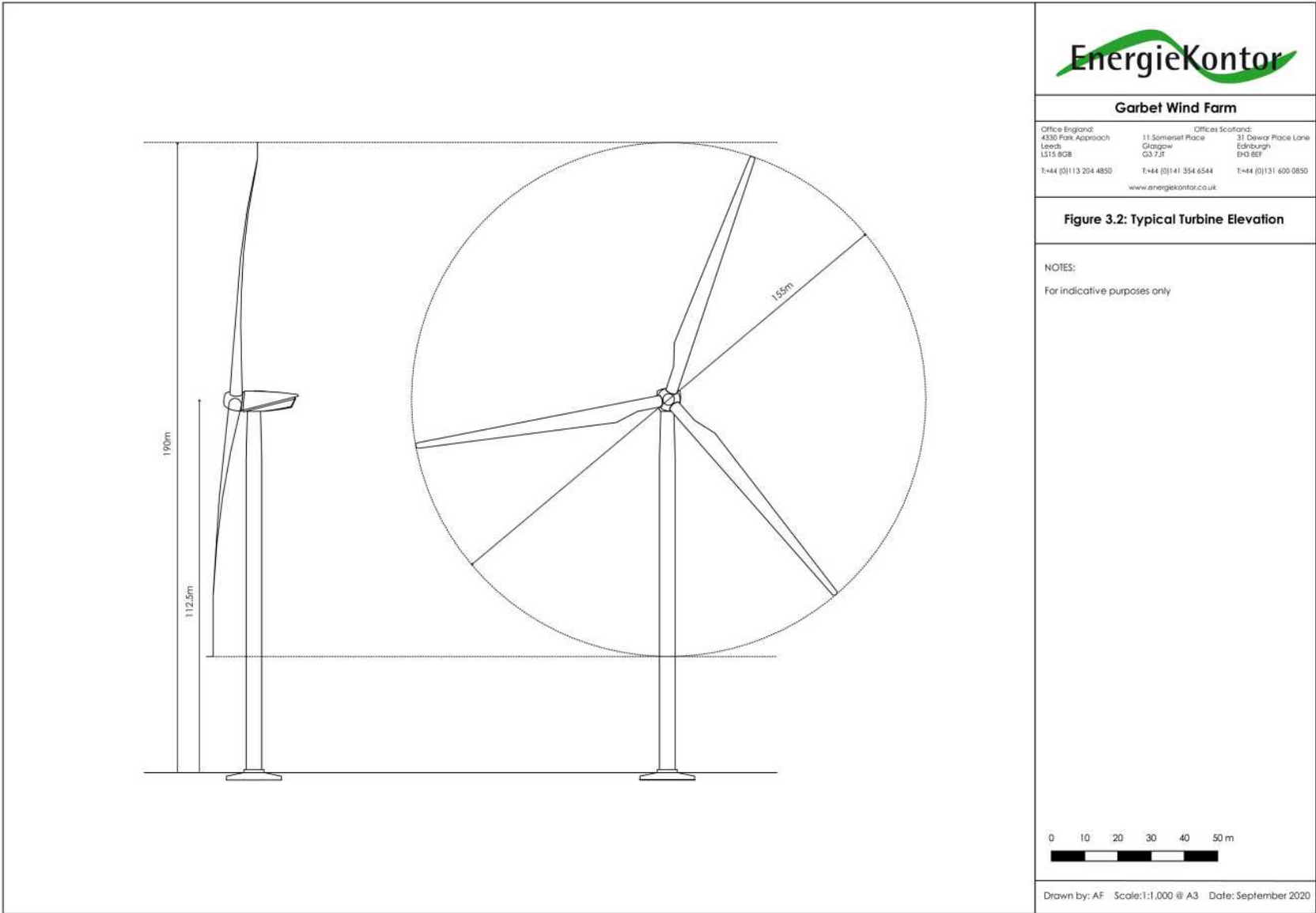


# Substation Elevations

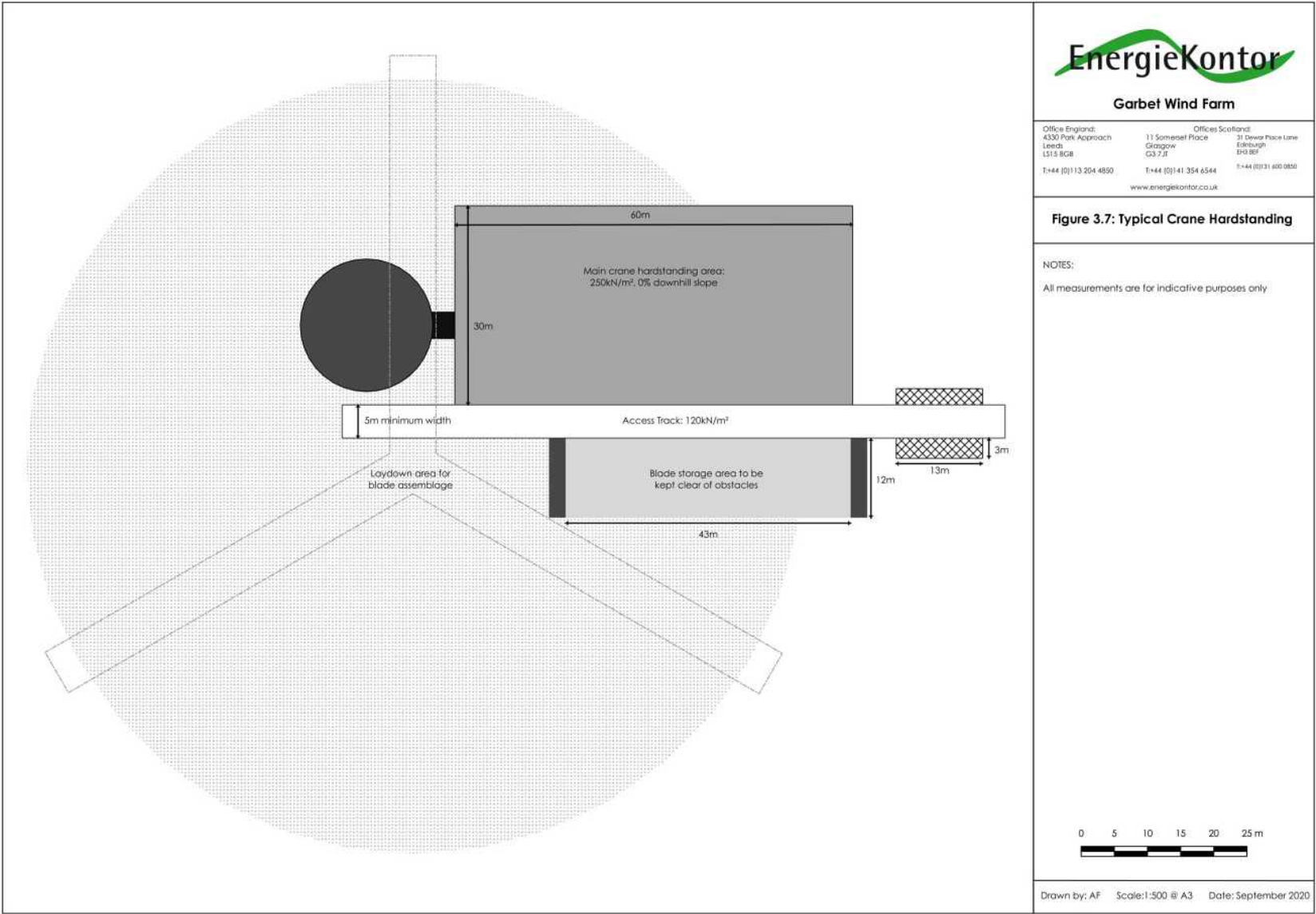




# Turbine Elevation



# Crane Hardstanding



## PLANNING APPLICATION: 21/00020/EIA

*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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### **THE PROPOSAL**

- Seven wind turbines up to 190m to blade tip with adjacent transformer units, rotor diameter of 155m, with a max hub height at 122m. The blades would be approximately 68m long.
- Permission is sought to generate for a 35 year period.
- Hardstanding areas for erecting cranes at each turbine location.
- On-site tracks connecting each turbine.
- Battery Storage Compound and separate substation building.
- Underground cables linking the turbines to the substation.
- Three new watercourse crossings.
- Two borrow pit search areas for the extraction of stone on-site.
- Off-site enabling works in the public roadway, within Moray and Aberdeenshire to provide road widening and passing places.
- Peat /moorland restoration at the site focusing on two restoration sites: The Scalp and the Swiles of Glenmarkie where previous peat extraction and land drainage can be restored and reversed.
- Proposal would see the loss of some roadside trees to accommodate road widening and additional passing places on minor road leading to the site. Separately trees are proposed to be planted near Markie Water, within the site as part of a riparian enhancement to the water habitat.

### **THE SITE**

- The site occupies an area of moorland and upland heathland, used for grazing and shooting. There are areas of wetland and blanket bog also.
- The rural settlement of Haugh of Glass lies 4km to the east.
- The Markie Water flows through the site in a north-easterly direction prior to joining the River Deveron. There are a number of other minor watercourses, tributaries of the Markie Water, which also flow through the site.
- The site occupies an enclosed glen that opens up to the north east. The site lies within the Moray Landscape Capacity Study, Landscape Character type 12b 'Open Uplands with Settled Glens'. The site is located within an area with potential for wind farm development.
- The site also partially lies within the area designated where windfarm extensions and repowering may be possible.
- A key scenic approach into Moray along the A920 (Huntly to Dufftown Road) lies to the north east of the site.
- Several derelict vacant properties lie close to site, with several occupied dwelling close to the site at Wester Braetown and Easter Braetown.

- A recently promoted archaeological site at Craig Dorney (hillfort site), immediately south east of the site, lies just outwith Moray and 2km from the nearest proposed turbine.

## **HISTORY**

On site:-

20/00475/S36SCO - Erect up to 14 turbines battery storage compound and associated infrastructure at Garbet Windfarm, 4km South East Of Dufftown, Moray. A response was issued to the Energy Consents Unit in April 2020. This proposed a larger development and site than was eventually submitted.

Within Moray:-

08/01200/S36 - Dorenell windfarm consisting of 59 turbines, all 126m in height to blade tip and associated development including a substation/compound area and composite tower transmission line running northward from the site. The site is located approximately 5km south west of Garbet windfarm and has been in operation since 2019.

Edintore windfarm – Located within Moray, six turbines, all at 125m in height located approximately 9.5km north of Garbet. Approved by the Scottish Government.

There are a number of wind energy developments, and associated infrastructure on the east side of Moray, which have been taken into consideration whilst assessing this site. Of note Pauls Hill II, Edintore and Lurg Hill windfarms are comparable in size to Garbet.

In Aberdeenshire:-

Clashindarroch Windfarm – Eighteen turbines at 110m. The site is located approximately 5.5km south east of the Garbet windfarm site and has been in operation since 2015.

Cairnborrow – Within Aberdeenshire, this operational windfarm consists of five 100m high turbines, which have been operational since 2017. Cairnborrow is located 9km north east of the site.

Clashindarroch II windfarm proposes to develop fourteen turbines, each with up to a 6MW capacity and with a tip height of 180m. The proposal is due to go to Public Inquiry shortly and lies within Aberdeenshire. This site lies south east of Garbet, adjacent to the existing Clashindarroch windfarm.

There are a number of other wind energy developments in this wider locality, such as Kildrummy, Upper Wheedlemont Farm which are of relevance and are referred to by Aberdeenshire in their considerations.

Of note, at the Environmental Impact Assessment Screening and Scoping stage within Moray are:-

20/01663/S36SCO - Construct and operate a wind farm located on land approximately 2km southeast of Garbet and would be known as Craig Watch Wind Farm. The scoping opinion related to a prospective Section 36 application to the Energy Consents Unit.

20/01191/S36SCO - Construct and operation of a wind farm at Clashindarroch, Lower Cabrach, Huntly, Moray. A scoping response for a possible Section 36 application for up to twenty-eight 200m high turbines near the rural grouping of Cabrach. This prospective site is located approximately 7km south of Garbet.

21/00612/S36SCO Wind farm comprising 11 wind turbines each up to 200m to turbine blade tip together with ancillary infrastructure site at Glenfiddich Forest, Dufftown, Moray. Scoping response to Energy Consents Unit issued in May 2021. This site is located to approximately 4km west of Garbet.

## **POLICY - SEE APPENDIX**

## **ADVERTISEMENTS**

Advertised under the EIA Regulations, for neighbour notification purposes and as a potential departure from the Moray Local Development Plan 2020.

## **CONSULTATIONS**

**Dufftown and District Community Council** – No response at the time of writing report.

**Strathbogie Community Council** - No response at the time of writing report.

**Strategic Planning And Development** – No objection.

**Moray Access Manager** - No objection subject to a condition and informative requiring an Access Management Plan to protect/enhance public access in the locality.

**Environmental Health Manager** - The proposed development given its proximity to residential properties is unlikely to give rise to any noise nuisance issues. Various conditions are however recommended regarding noise, blasting, construction hours.

**Private Water Supplies** – No objection.

**Environmental Health, Contaminated Land** - No objection.

**Building Standards** – A Building Warrant will be required for the control building and any foul water treatment required.

**Atkins Global (radio)** – No objection.

**Aberdeen International Airport** – No objection.

**Transportation Manager** - No objection to the proposals subject to the provision of a roads bond/security in place to protect or repair the public road leading to the site. Furthermore conditions are recommended that would relate to provision of a Construction Traffic Management Plan, abnormal load delivery and access visibility splays.

**RSPB Scotland** – Endorse the work done in relation to ornithology and would seek to see the mitigation measures provided to ensure the Habitat Management Plan integrates with existing land management schemes in place. Concern over some of the infrastructure affecting deeper peat, and suggest this be revisited.

**National Air Traffic Systems Limited** – The proposal does not conflict with safeguarding criteria.

**Cairngorm National Parks Authority** – No direct response, but Nature Scot confirmed the proposals were unlikely to have any impact on national park interests.

**Aberdeenshire Council (Marr Area)** - As an immediately adjoining local authority, Aberdeenshire were consulted on the proposed development. A summary from the Report to Aberdeenshire Councils Infrastructure Services Committee recommendation reads as follows:

“From the perspective of Aberdeenshire, the proposed Garbet Wind Farm would result in a significantly adverse impact to an area that when seen from key viewpoints in Aberdeenshire is already notably visually affected by commercial scale wind energy development. For these reasons there are significant concerns in relation to landscape and visual impact issues upon this part of Aberdeenshire. Taking cognisance of the above reasoning, the proposal would not fit within the wider Aberdeenshire and Moray landscape and in particular the area to the west of Huntly by virtue of the proposed landscape, visual and cumulative impacts proposed.

The concerns expressed by Officers are shared by the Marr Area Committee.

Alongside concerns regarding landscape, visual and cumulative impacts there remain concerns in relation to outstanding matters concerning Archaeology and Built Heritage impacts. The Marr Area Committee considered these matters and raised concerns with regard to the proposed impacts upon Aberdeenshire. Considering all of the above, the concerns are of a scale and nature that the Planning Service would recommend that Infrastructure Services Committee object to the application. Other options open to Infrastructure Services Committee would be to raise “significant concerns” to the application, or alternatively to issue a response outlining “no objection” at this stage.”

The options which had been before Committee were to support, raise concerns or object to the consultation from Moray Council. Aberdeenshire Planners had recommended that Members object to the planning application. Aberdeenshire Council’s Infrastructure Services Committee having sat in June 2021 and determined to respond raising the above concerns, but notably raised these as ‘significant concerns’, rather to object outright to the application.

A Cultural Heritage and Archaeology Addendum was submitted by the applicants, relating primarily to possible impacts from Craig Dorney Hill Fort, south east of the site in response to earlier concerns raised by the Aberdeenshire Council Archaeology Service. This did not however alter the above concerns of Aberdeenshire Council when their Infrastructure Services Committee issued their response in June 2021.

Whilst not objecting outright, weight must be attached to the significant concerns raised by Aberdeenshire Council, and these are discussed below in the report.

**Moray Flood Risk Management** - No objection, but a detailed Drainage Impact Assessment, beyond the information submitted, is required. A condition seeking this information, in addition to clarification from other consultees such as SEPA is recommended.

**River Deveron District Salmon Fishery Board** - No objection but wish for further involvement in the Habitat Management Plan and participation with the Habitat Management Group.

**Transport Scotland** – No response received at the time of writing the report.

**Nature Scot (Scottish Natural Heritage)** - There are natural heritage interests of national and international importance close to the site, but our advice is that these will not be adversely affected by the proposal. The Cairngorms National Park is located some 14 km south of the proposed site. The proposal will not have an adverse effect on the integrity of the Cairngorms National Park or the objectives of the designation. A habitats Regulation Appraisal should be carried out for the site. It is noted mitigation such as a Peat Management Plan will be prepared and adhered to as part of the proposal.

**Scottish Forestry** – No objection, but should the proposal require any tree felling, compensatory planting would be required. *Officer Note – there is some marginal felling required along the roadsides where road widening or additional passing places are required. A condition relating to the CEMP seeks such felling to be identified and compensated for.*

**Historic Environment Scotland** – No objections, subject to informative.

**Aberdeenshire Council Archaeology Service** – Objection raised and further information sought. They consider the assessment should cover a wider radius than the 10km used. They are concerned primarily for archaeological/heritage assets within Aberdeenshire, which lie within or beyond 10km of the proposal. Concern over closer assets, such as Craig Dorney, circa 1.5 km to the east of the development boundary, which is classed a site of regional importance (and which is currently in the process of being assessed for suitability for designation as a scheduled monument), and the two areas of settlement and field systems classed regional importance, to the southeast and northwest of the development site.

**Scottish Water:** No objection.

**MOD Safeguarding – Wind** – Approve subject to conditions regarding aviation lighting, aviation charting and safety management. No conflict with radar.

**Scottish Environment Protection Agency** - Following discussion with the applicants, subject to conditions regarding micro-siting, peat management, ground water, water crossings, restoration and mitigation, decommissioning and restoration. A suite of conditions is recommended to ensure these requirements are met in the event of approval.

## OBJECTIONS-REPRESENTATIONS

NOTE: Following the determination of this application, name and address details will be/have been removed (i.e. redacted) in accordance with the General Data Protection Regulations (paragraph 3 of Minute, Planning & Regulatory Services Committee 16 September 2014).

21 representations opposed to the proposal, 16 comments in favour, and 3 making neutral or general representations has been received. All those listed below have submitted one or more representations. All representations have been considered and where material, given weight in arriving at the below recommendation.

A horizontal bar chart consisting of 30 black bars. The bars are arranged vertically, with their lengths varying significantly. The longest bar is the 14th bar from the top, extending to approximately 95% of the chart's width. The shortest bar is the 10th bar, extending to about 10%. The bars are distributed across the width of the chart, with a concentration of longer bars in the middle and shorter bars towards the top and bottom.



Those representations opposed to the proposal have listed the below matters from the automated list of matters from the e-planning portal. Many of these heading were then expanded upon in subsequent representations as summarised below.

- Affecting natural environment
- Inadequate plans
- Precedent
- Height of proposed development
- Loss of privacy (being overlooked)
- View affected
- Traffic
- Road safety
- Road Access
- Poor Design
- Noise
- Over development of site
- Activity at unsociable hours/behaviour
- Lack of landscaping

Other specific grounds of objections are summarised and commented upon as follows:

**Issue:** Impact on landscape, Glen Markie is a very unspoilt, undeveloped glen, which would be devastated by such a development.

**Comments (PO):** It is acknowledged that the proposal would alter the character of the locality. See Observations section.

**Issue:** Impact of red navigational lights on dark skies, would be notable given the absence of any other lit wind turbines in this rural area. This is a dark skies area and the proposal would cause light pollution.

**Comments (PO):** It is acknowledged that the proposal would introduce red lighting into the rural night time skyline and are designed to shine horizontally toward low flying aircraft. Whilst designed to be visible to aircraft, they should not overly illuminate the sky. A condition is recommended to possibly reduce the lighting requirements for the scheme. The area is not within a designated dark sky area, but would enjoy a similar lack of illumination given its rural character.

**Issue:** Impact on nesting gulls as substantive colony exists on site. The impact on this would be a great loss to the wider community.

**Comments (PO):** Consultation with the RSPB and Nature Scot acknowledged the assessments done by the applicants, and subject to appropriate mitigation in the Habitat Management Plan and the safeguards in the proposals the consultees do not object to the proposed windfarm. A nesting bird protection plan is also proposed.

**Issue:** Cumulative impact with Dorenell, Clashindarroch, Edintore and Craig Watch. The landscape cannot accommodate any further wind energy proposals. There are too many turbines in the area already. Cumulative effect is insidiously going up throughout Moray, supported by a seriously flawed assessment method using "the damage has been done so a little more won't make much difference" principle.

**Comments (PO):** The cumulative effect of the development and others is addressed in the Observations Section of the report. The landscape capacity is just one consideration impacting upon the recommendation. It should be noted that Craig Watch is only at the EIA Scoping stage and that no application has yet been lodged. Clashindarroch II however has been submitted and will soon go to Public Local Inquiry.

**Issue:** The development will make a very small contribution to overall renewable energy targets given the amount of renewable projects already in existence.

**Comments (PO):** The proposal would contribute to renewable energy targets and Scottish Government policy is still supportive of onshore wind energy.

**Issue:** Construction noise will be a nuisance in an otherwise peaceful quiet area.

**Comments (PO):** Such developments do create a period of busy activity during the construction phase, but a Construction Traffic Management Plan, and conditions about the hours of construction seek to ensure traffic disruption is kept to a minimum.

**Issue:** Impact of increased traffic in a minor road network. Residents, walkers and cyclists using the Glen Markie road leading to the site would experience disruption. Road improvement would be required to be made.

**Comments (PO):** Such developments do create a period of busy activity during the construction phase, but a Construction Traffic Management Plan, and conditions about the hours of construction seek to ensure traffic disruption is kept to a minimum. Once operational the development would not generate much traffic, with minimal staff required to operate the windfarm.

**Issue:** Loss of views. Some objectors would live in full site of all 7 turbines, which would ruin the exceptional landscape.

**Comments (PO):** It is acknowledged that for some properties and users of the A920 in particular the view south west towards Glen Markie would be significantly altered. Loss of views is not a material planning consideration, although visual impact is assessed. See Observations section.

**Issue:** Experience of inadequate consultation, and disruption during the installation of the Dorenell grid connection (during which objectors had their water supply dug up, power supplies turned off for days at a time, access track blocked and damaged) and at the end of the day residents outlook severely impacted by pylons means they view this development with trepidation. Previous transmission line works for Dorenell saw damage to roads, helicopters flying over houses carrying pylons and distress caused to locals.

**Comments (PO):** Issues relating to infrastructure element of a separate project could not be used to refuse the current proposal. A proposal of this scale is likely to be served by a grid connection using wooden poles, and the exact route would be assessed under the separate Electricity Act Section 37 process. The current planning application must be assessed on its individual merits separate from the transmission line consenting process.

**Issue:** In years to come we will look back on this proliferation of resource exploiting technology as an environmental disaster in its own right.

**Comments (PO):** In terms of resources, beyond their construction the proposed turbines would exploit only the wind resource.

**Issue:** No details on where the road might need to be widened or where additional passing places can be provided.

**Comments (PO):** At a later stage in the application the applicants have provided details of road widening and additional passing places along the Markie road, leading from the A920. A Construction Traffic Management Plan would ensure this work was carried out sensitively.

**Issue:** Borrow pit at Newton of Glenmarkie will destroy the natural beauty and historic interest of the area. Objectors have family connections to Newton of Glenmarkie. Others visit the Greens of Glenbeg, a site of family significance.

**Comments (PO):** The proposed borrow pit would sit in a discreet location within the glen, albeit close to the derelict and vacant property referred to. Whilst sympathetic to the objectors concerns, the borrow pit location would occupy land owned by Edinglassie Estate, who are party to the application.

**Issue:** Impact on flora and fauna including butterflies, bees, moles, slow worms, foxes, deer, hare, rabbits and badgers.

**Comments (PO):** Any development such as this, which involves invasive work will cause some disruption to flora and fauna. Mitigation and imbedded mitigation in the design do however seek to minimise any impact. See recommended conditions.

**Issue:** Operational noise from the development. The impact of Amplitude Modulation effect was not properly assessed as part of the Dorenell application. Objector currently experienced nuisance from Amplitude Modulation from Dorenell windfarm and this development would contribute to that. Noise will be intrusive and prevent objectors from having a reasonable quality of life due to the noise generated during the day and at night disrupting sleep.

**Comments (PO):** Subject to the noise conditions recommended, the noise from the development should not give rise to any statutory nuisance. Furthermore a condition addressing the phenomena of Amplitude Modulation is recommended in the event this occurs. In terms of the assessment of Amplitude Modulation it is not a common occurrence on windfarms, so it is difficult to readily assess in advance. Allegations of amplitude modulation from Dorenell will be investigated separately.

**Issue:** Impact on elevated views of Auchindoun Castle and degradation of wider landscape setting of this important hilltop site. The proposed windfarm would be visible in the backdrop of any elevated views of the castle looking south east.

**Comments (PO):** Whilst there will be some elevated views of proposed development and Auchindoun Castle, it is noted the development is not visible from Auchindoun itself. It is not reasonable to prohibit development in any views across the historic asset where the development would not be visible from the asset itself. The proposal does not affect the setting of the castle itself.

**Issue:** Impact on views from the A920 which is the scenic approach to Moray.

**Comments (PO):** It is noted that the proposed development will effect the scenic approach to Moray. Viewpoints 4 and 6 from the A920 illustrate this effect.

**Issue:** The proposal will impact on property values.

**Comments (PO):** Any possible loss of property value is not a material planning consideration.

**Issue:** Health impacts of infrared light, low frequency infrasound, inaudible soundwaves and cable vibrations, especially if transmission lines pass houses.

**Comments (PO):** None of the above have been recognised by the Scottish Government as a threat to health in terms of windfarm development, and given the remote nature of the windfarm, it is not considered to be so material an issue as to warrant a refusal.

**Issue:** The constant stress of having to deal with the industrialisation of the countryside on such a vast scale is a serious detriment to the quality of life of Cabrach residents which are host to windfarms, with more proposed.

**Comments (PO):** It is noted that that the planning process seeks participation of residents both before and after planning applications are lodged. It is important to seek their involvement.

**Issue:** The landscape assessment fails to acknowledge that some of the affected properties are in the same ownership and the application site.

**Comments (PO):** This has been noted in the planning assessment and the assessment on impact on residential receptors ignores tenure or ownership.

**Issue:** The cumulative impacts with Craig Watch are not considered. Particular care needs to be made of all the Scoping proposals in the cumulative assessment.

**Comments (PO):** There are no applications with Moray Council or the Energy Consents Unit received yet, so as such, beyond the EIA Scoping done there are no details of other projects that could be definitively used for a cumulative assessment. Moray Council is aware in its assessments of the various proposals currently at the Scoping stage. These are itemised in the History section of the report.

**Issue:** Impact on phone/radio signal.

**Comments (PO):** It is speculative to presume that the proposal, within a relatively remote location and distant from residences and public roads would somehow effect mobile phone signals. None of the statutory consultees have raised an objection in this regard.

**Issue:** Developer should help neighbours get better internet.

**Comments (PO):** This would not be a requirement of the development and could not be pursued under the planning application process.

**Issue:** Erode cultural heritage. Money should be spent to provide homes to bring people back.

**Comments (PO):** It is unclear how a development such as this would erode the cultural heritage of an area, although the concerns of Aberdeenshire Council and the regional archaeologist are noted. The proposed mitigation includes steps to protect or record any archaeological assets discovered on site.

The landowner of the development has stated their intent to use some of the income to refurbish and re-invest in residences in the locality.

**Issue:** This development could lead to further expansion and objectors believe the proposal for 7 turbines would lead to more and should be assessed as such. Other windfarms develop incrementally with further expansions such as Clashindarroch II.

**Comments (PO):** It is speculative to presume that Garbet would expand in the future, and if they sought to do so, this would be subject to a separate application.

**Issue:** Concern that shadow flicker will affect residential properties.

**Comments (PO):** Given the distance of the proposed turbines to nearby residences shadow flicker should not be an issue. The hills separating the proposal from many nearby properties also reduces the risk of shadow flicker occurring.

**Issue:** It should be noted that residences close to the proposed site are occupied by those with links to the estate so any views or conclusions may be unbalanced.

**Comments (PO):** Anyone has the right to make representations and these will be assessed appropriately. As close residents, they are entitled to express their opinion and it cannot be assumed it is not their own.

**Issue:** The justification for the Dorenell transmission line route was the need to avoid the Glenmarkie area, it being a more sensitive part of the Speyside Area of Great Landscape Value (AGLV). How can the same landscape now accommodate 190m turbines, contrary to the views of previous consultants for Scottish and Southern Electricity?

**Comments (PO):** The AGLV designation no longer exists in the Glenmarkie area, and the assessment of the current proposal is being assessed on its individual merits, and not in comparison to adjoining valleys as was the case for the Section 37 process.

**Issue:** Claims that wind farm developments will regenerate the area are entirely false: they will have the opposite effect and clear the area. Other windfarms in the area, brought disturbance and antisocial behaviour and littering by contractors.

**Comments (PO):** It is speculative to presume that contractors would conduct themselves in such a manner and this would not constitute a material planning consideration.

**Issue:** Dufftown and surrounding area is an area of outstanding natural beauty, unchanged for thousands of years. It is this that attracts tourists/visitors to this area. The last thing we want is to be blighted with hundreds of turbines littering our landscape, and they should be located in more urban central belt locations where they would look less out of place. Visitors will be deterred from coming to the area. SPP Paragraph 169 does provide an obligation to consider the net economic impact of a development which must include the impact on visitors/tourists.

**Comments (PO):** The impact on tourism is addressed in the Observation section below. Alternative locations more appropriate for wind energy may exist, but the current proposal must be assessed on its own merits. See the Observations section re socio-economic impacts.

**Issue:** No detail has been shared with what future impacts may be experienced connecting the power generated by the Garbet Hill windfarm to the national grid. This may require installation of new power lines (the scale and routing of which is unknown) which could result in further negative impacts to the landscape.

**Comments (PO):** Noted, and the transmission lines would be subject of a separate Section 37 process under the Electricity Act. Given the scale of the development it is likely to be that transmission lines would take the form of wooden poles.

**Issue:** The height of the turbines is intrusive and overwhelming and lower height turbines, removing the need for the red aviation lights should be considered. The turbines are too tall.

**Comments (PO):** The scale of the turbines and assessment of lighting is assessed in the Observation section below. The scale of the turbines whilst very large lie within an enclosed narrow valley, flanked by hills that partially enclose and obscure them from surrounding settled glens.

**Issue:** Objectors cite various national documents, strategies and guidance for which in summary the “aim is to achieve the right development in the right place; it is not to allow development at any cost.”. Objectors seek to illustrate that, contrary to the applicants’ assertion, national legislation still seeks a measured approach to wind energy proposals. Planning policy is explicit that support for onshore wind is not unconditional whatever weight is attached to energy/climate policy and care should be taken not to focus on submissions that relate only to the promotion of renewables. There has been no shift or diminishment in the emphasis on protection of landscape.

**Comments (PO):** Noted, and a balanced assessment of Scottish Government legislation and guidance has been taken. It is clear however that the Scottish Government see the need to support onshore wind proposals and see them as part of the way in which to tackle climate change.

**Issue:** Evidence regarding Dorenell and Clashindarroch windfarms shows that significant constraint payments are made to wind energy companies not to generate electricity when the grid experiences periods of overcapacity. Millions of pounds are paid to windfarm companies not to generate electricity, which brings into question the need and justification for further and continuing windfarm development. There is also other evidence that the case for need for such development is questionable when the focus nationally is for offshore wind energy.

**Comments (PO):** Constraint payments are not unique to wind energy, and similar mechanisms are in place for other forms of energy production. This matter is not considered to constitute a relevant planning consideration and Scottish Minister Decisions such as that for WIN-140-5 & WIN-140-6 Fallago Rig wind farm make clear that this would not be a reason to refuse planning applications.

**Issue:** This development would have too detrimental an effect upon the landscape and lies within an unsuitable location.

**Comments (PO):** See the Observations section.

**Issue:** There are a high number of holiday lets in the area which could be affected.

**Comments (PO):** It is speculative to state that the proposed development would be detrimental to holiday lets. See Observation section relating to socio-economic impacts.

**Issue:** The development is not temporary or reversible.

**Comments (PO):** A period of operation of 35 years is noted. The infrastructure would be in effect as permanent in nature as any other permanent development.

**Issue:** Some of the viewpoints have underestimated the effects of the proposal or have been poorly selected.

**Comments (PO):** See the Observation section.

**Issue:** Specific responses to each viewpoint by the Cabrach Interests Group and the Belcherrie Farms Partnership are as follows:-

VP1 The Scalp: this is a regularly used walking destination and the turbines are very prominent in this view and completely change the current outlook towards the hills on the horizon (with the current Clashindarroch turbines appearing unrealistically very faint at the right hand edge of the existing photograph).

VP2 Minor Road, Devon Valley: this is a very poorly chosen viewpoint with the tree cover effectively meaning that no significant effects are illustrated. A revised viewpoint should have been selected.

VP3 Minor Road off A941: the turbine hubs and blades would be clearly visible on the horizon and the faint representation of the turbines on the photomontages (being viewed on high resolution screens on a new iPad Air and a new MacBook Air) significantly underplays how they would appear in reality. The turbines would dominate the view up the valley in this visualisation.

VP4 A920 near Wester Bodylair: the turbines would sit in front of the operational Dorenell turbines with Clashindarroch in the corner of the view. The scale difference in the turbines is very obvious as is the stacking effects in all three groups of the Garbet turbines.

VP5 Princess Royal Park Dufftown: the turbines would be a distraction in the view with blade tips cutting across the horizon.

VP6 A920 at Cairnborrow: although this viewpoint is just under 8km from the nearest turbine the effect will be to create a new and highly visible focus in the view along the road. There is significant stacking of the turbines in this view.

VP7 A941 North of Dufftown: this viewpoint is of little use given the existing forest cover - in this respect it is noted that the consultation response from Scottish Forestry confirms that much of the woodland that currently screens some views of the wind farm will be clear felled during what would be the lifetime of the wind farm if permitted. Therefore, no reliance should be placed on this forestry for mitigation of views.

VP8 Tap O North: this viewpoint effectively shows the emerging very complex cumulative situation to which will be added the Clashindarroch Extension and Craig watch wind farm proposals. To any reasonable person this viewpoint shows that this part of Moray is in considerable danger of becoming perceived as one huge, continuous wind farm set in to forestry that none of the wind farm companies control.

VP9 Ben Rinnes: this illustrates the same issue as VP8 although an actual site visit to the summit will establish that there are views to existing wind farms and to the locations of proposed wind farms in all directions. It is considered that the combination of VP8 and VP9 fully justifies the local view that enough is enough when it comes to wind farms.

VP10 The Buck: this is a key location looking out over the Cabrach. At a distance of just under 13km to the nearest turbines these Garbet turbines would half the distance currently intervening between the viewpoint and the Hill of Towie turbines. It is accepted that the much lower operational Clashindarroch turbines are already in the view at a distance of some 6km.

VP11 Ben Aigen: the wireline illustrates the complexity of the evolving cumulative position although the photomontages of turbines at this distance, 13.5km, significantly underplays the reality of what would be seen in real life at the viewpoint.

VP12 Meikle Balloch Hill: this viewpoint, south east of Keith, shows how the Garbet turbines would increase the density of turbines in the middle section of the view. Again it can be seen that parts of Moray are well on the way to being turned into a large scale wind farm.

VP13 B9016 at Aultmore: the horizontal spread of turbines is increased in this view.

VP14 Little Geal Charn: as with VP8 and VP9.

VP15 Carn Daimh: only two blade tips are visible for the Garbet turbines and, therefore, no significant effects are shown in this visualisation.

VP16 Oxen Craig Bennachie: the Garbet turbines are close to 31km from this viewpoint but the cumulative position is again well illustrated.

**Comments (PO):** See the Observations section re landscape and visual impact assessment. It is agreed from some viewpoints such as Viewpoints 4 and 6 the effect will be significant, and the proposal would be visible and contribute to cumulative effects from the hilltops to the wider area. It is noted that forestry is liable to felling and replanting.

**Issue:** The proposal departs from policy DP9, where the site is adverse scheme specific and cumulative significant landscape and visual effects (including design effects), and adverse effects on the amenity heritage and landscape of the Cabrach. No material consideration accumulate to justify approval.

**Comments (PO):** See Observations section. It is considered on balance that the proposal is acceptable.

#### Supporting comments

*Officers note – It is noted that the landowner of the application site has submitted a representation of support toward the proposal. Whilst they may have some commercial interest in the development, they are still entitled to make representation to the planning application process.*

**Issue:** The development will help achieve Scotland's zero emissions target and the proposal seeking to contribute to renewable energy targets is an important one.

**Comments (PO):** Noted, weight is attached to this factor.

**Issue:** The climate emergency declared by the Scottish Government means there is a need for the planning system to support onshore wind energy developments.

**Comments (PO):** This is reflected in much of the current and emerging legislation and guidance. There does remain however within planning legislation, a balance to be struck with other material considerations such as landscape protection.

**Issue:** The turbines have been sited to reduce impacts on neighbours and the wider landscape, and only 7 turbines is a modest proposal. They will not have too much impact on those who live in the area.

**Comments (PO):** Noted, and it is noted that the closest neighbouring properties within Glen Markie have made representations of support. The proposal would however be visible from the A920, properties served by the A920 and from other locations such as Ben Rinnes.

**Issue:** The community will benefit from employment opportunities. The potential socio-economic impact upon the local community will be significantly positive, due to the



community benefit offering and the direct and indirect employment opportunities available through the construction and operation of the project.

**Comments (PO):** Whilst wind energy development beyond the construction phase, provides limited employment, the benefits are noted. Community benefit is not a material planning consideration.

**Issue:** Any adverse impacts need to be weighed against wider environmental benefits. The advantages of the proposal far outweigh the disadvantages.

**Comments (PO):** The recommendation reflects this assessment, where following a comprehensive assessment has been carried out.

**Issue:** Turbines are sufficiently distanced from properties to avoid impact on human health.

**Comments (PO):** Noted.

**Issue:** Reduce local carbon footprint and give better local access to green energy for schools, services.

**Comments (PO):** The proposal would export directly to the grid, where any electricity consumer would then have the freedom to purchase their supply from green energy providers. No energy from the development would be accessed directly locally, so there is no specific increase locally to green energy.

**Issue:** Open up new walking and cycling routes.

**Comments (PO):** A condition seeks an Access Management Plan to protect and enhance access through the windfarm site.

**Issue:** A relatively small number of turbines are proposed compared to other developments

**Comments (PO):** The scale of the windfarm has been assessed on its individual merits, and similar in size to other windfarm developments such as Edintore or Lurg hill.

**Issue:** Green energy is a catalyst for development in the area, creating more employment in the right sectors.

**Comments (PO):** Beyond the socio-economic benefits described, given the scale of the development it is unlikely or speculative to state the proposal would be a catalyst for other development in the area.

**Issue:** Rural communities should determine their own energy destiny.

**Comments (PO):** The proposal was considered within the planning process, which includes public participation via representations and will be determined by publically elected Councillors who form the Committee.

**Issue:** The proposal would enable investment by the estate into rural housing and refurbishment of existing rural housing and help address a housing shortage in the locality.

**Comments (PO):** This matter would generally fall under socio-economic benefit and the particular intentions of the landowner are noted.

**Issue:** The proposed Habitat Management Plan, restorative, mitigating and biodiversity enhancement features will leave a valuable and lasting legacy which will endure well beyond the windfarm.

**Comments (PO):** The mitigation and enhancement measures proposed are noted.

**Issue:** It is noted the Moray Council Onshore Wind Energy Non-Statutory Guidance spatial framework identifies this area as being 'likely to be most appropriate for onshore windfarms'.

**Comments (PO):** Noted, see Observations section of report.

**Issue:** The emerging National Planning Framework 4 position statement shows clear support for onshore wind energy renewables.

**Comments (PO):** The position statement is note, albeit NPF4 has not yet been published and NPF3 remains in force.

**Issue:** The proposal would also avoid deforestation and damage to the surrounding environment.

**Comments (PO):** Some felling or roadside trees would take place, but it is noted that the site does not encroach or displace any substantive areas of woodland.

## **OBSERVATIONS**

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.

As the proposed windfarm is designed to produce less than 50mW it is to be determined under the Town and Country Planning Act 1997 and subsequent legislation rather than under the Electricity Act 1989.

### **Background**

As the windfarm is located immediately adjacent to the local authority boundary with Aberdeenshire, consultation has been undertaken with Aberdeenshire Council and Strathbogie Community Council, in addition to Dufftown and District Community Council. It is intended in the event that Moray Council determined the application favourably, contrary to the significant concerns raised by Aberdeenshire that a further procedure be followed prior to the issue of any planning permission. Notification to Scottish Ministers under The Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015 would allow the Scottish Government to determine whether the Moray Council adequately considered the impact upon the land within the neighbouring authority.

The application was supported by an Environmental Impact Assessment Report, prepared in accordance with The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017. The development was therefore subject to additional procedure and was advertised in the Edinburgh Gazette alongside other EIA planning applications. If the EIA development is considered acceptable, a reasoned conclusion must be reached as to the significant effects of the development on the environment, taking into account the results of the examination by the planning authority of the information presented in the EIA report and any other environmental information.

### **Pre Application Consultation (PAC)**

Prior to submitting the planning application the applicants undertook extensive online consultation with various community groups and communities and have submitted with the

EIA a Pre Application report summarising the details and outcomes of the public consultation undertaken.

Following the Covid 19 outbreak emergency legislation was brought into play allowing for virtual community engagement in 2020, and the Pre application report identifies that contact was maintained with various stakeholders in the local community.

The Pre application report explains that while an earlier consultation event had taken place in May for fourteen turbines, this was followed up by a subsequent event that took place over the period of 10 November to 23 November 2020. This second exhibition reflected the current and proposed design for the Proposed Development, which is seven wind turbines. The earlier consultation event received 14 responses, while the later event more pertinent to the current scheme received 5 questionnaire responses. Responses were also sought from the relevant Community Councils.

There were a mix of views, but no clear theme evolved but responses ranging from support for onshore wind, concern about any further wind turbines in the area, noise from turbines and concerns over the transmission lines connecting any windfarm to the national grid.

Beyond the PAC the application submissions include a Design and Access Statement, Planning Statement, Environmental Impact Assessment Report (EIA Report) with figures, appendices and a 'non-technical summary' of the EIA Report.

### **Relationship of proposal to national renewable energy policy/guidance**

There is a wide range of guidance, strategies, plans and papers relating to onshore renewables that Moray Council are aware of and have informed this recommendation report.

International and UK policy frameworks are generally 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 November 2020 Position Statement on the 4<sup>th</sup> National Planning Framework indicates that measures to address climate change and reduction of carbon emissions will be accelerated.

The Climate Change (Scotland) Act 2009 places a duty on public bodies to act sustainability and meet emissions targets including a requirement to achieve at least an 80% reduction in greenhouse gas emissions by 2050 (over 1990 levels). Beyond the NPF3 there are a number of considerations relevant to the Section 36 process, which are 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 generally stress the need to reduce carbon emissions (for which wind energy will clearly play a part) but do qualify this with the need to protect landscapes, built and natural heritage, residents and other interests.

The commitment to the creation of a low carbon place is reiterated in Scottish Planning Policy. The applicants submissions regard national policy as being significant and

supportive of this proposal where this development, as a proven technology providing a source of safe and locally produced renewable energy for many years, will make a significant contribution towards renewable energy production at the national and local level. Whilst it is noted that some targets have been met for renewable energy production it is noted that the Scottish Governments guidance in pursuit of renewables has not diminished support for renewable energy proposals.

The applicants have submitted a Planning Statement which identifies the pertinent national policy and guidance in relation to the onshore wind energy proposals. Consideration has been given to these various policies and guidance documents. Of particular note is a recurring theme in favour of renewable energy proposals.

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.

(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, with the proposal site partially located within an area with potential for wind farm development of turbines over 35m to tip height, with no upper height limit identified. This is a broad-brush approach required to comply with Scottish Planning Policy and covers approximately 40% of the Moray Local Development Plan Area.

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 detailed mapping of constraints and guidance on areas with greatest potential is set out in the Moray Onshore Wind Energy Guidance 2017 (MOWE), with the proposal site located partially within an area identified as having opportunities for extension and repowering. Of note, as identified in the consultation response from Strategic Planning & Development the 2017 MOWE and Landscape Capacity Study are currently non statutory guidance and are under review. They still do however represent the most detailed and up to date guidance on wind energy landscape capacity in Moray.

## **Moray Local Development Plan and other material considerations**

### **Principle of Renewable Energy Proposal (PP1 and DP9)**

Policy DP9 Renewable Energy states that all renewable energy proposals will be considered favourably where they meet criteria identified in policy. DP9a)i) states that proposals should be compliant with policies to safeguard and enhance the built and natural environment, while DP9a)iii) gives a list of impacts that must be avoided to prevent

an overall unacceptable significant adverse impact occurring. This list of possible impacts relates to many of the chapter headings contained in the applicants EIA Report and the observations below. For completeness however, they are as follows:-

- 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.

The policy in recognising the contribution of renewable energy to wider national carbon reduction targets and benefits to the local economy view favourably wind energy proposals subject to criteria discussed below.

PP2 Sustainable Economic Growth states “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”. As this site needs to fit with the many other windfarm site requirements, the locational need is justified by virtue of the Spatial Strategy area of search for wind energy in which the site is positioned. The need to power any economic expansion with renewably sourced power justifies the need for such proposals.

### **Landscape and Visual Impact Assessment LVIA (DP1, DP9 and supplementary guidance)**

The MLDP 2020 approach within policy DP9 Renewable Energy toward wind energy proposals specifies the landscape is capable of accommodating the development without unacceptable significant adverse impact on landscape character or visual amenity.

Similarly policy DP1 Design Principles seeks to ensure that the design of any development is appropriate to the landscape in which it is set. The proposal had initially been advertised as a potential departure from this policy, given the height of the turbines exceeds the height advised as appropriate to the capacity of the landscape in which they were set.

Landscape and Visual Impact Assessment (LVIA) for onshore energy proposals in Moray is assessed against Moray Onshore Wind Energy 2017 Policy Guidance (MOWE) and The Moray Wind Energy Landscape Capacity Study 2017 (MWELCS) which is a technical appendix to the MOWE.

Detailed mapping of constraints and guidance on areas with greatest potential is set out in the Moray Onshore Wind Energy (MOWE) Policy Guidance 2017. This is non statutory Supplementary Guidance forming part of the MLDP 2020 and the Landscape Capacity Study is a material consideration, referenced in policy DP9.

Garbet differs from other windfarms in that rather than occupying a plateau, ridge or hilltop, all seven turbines lies within a narrow glen, which is well enclosed other than at its north east side where it opens out towards Cairnborrow. Much of the negative impacts to

be avoided under DP9 and as listed above are reduced by the containment provided to the site by its presence within the valley.

By way of illustration the proposed turbine bases all sit approximately between 320 – 380m AOD. The surrounding summits are Hill off Mackalea to the west 467m, The Scalp to the south west at 480m, Garbet Hill to the south at 501m and Craigwatch also south too at 468m with Tom Mor to the east at 367m. So even the base of the most elevated turbine would sit 120m below the summit of Garbet Hill (being the tallest bounding the valley). So even at 190m the turbines sit within the glen with all but one of the hub heights below 500m.

The proposed development is located within the Open Uplands with Settled Glens Landscape Character Type (LCT) 12b identified in the 2017 Moray Wind Energy Landscape Capacity Study (MWELCS).

The constraints and guidance for development set out in the MWELCS for this LCT include:

- The shallow farmed and settled basin of the Cabrach where the scale of the landscape is reduced by a more distinct land cover pattern and by small farms and houses.
- The hills on the outer edges of this LCT which backdrop the more sensitive settled and smaller scale landscapes lying to the south-east of the Fiddich and the Deveron valley.
- The visual prominence and setting of The Buck, a landmark hill.
- The setting of the historically important Auchindoun Castle which lies close to the southern edge of this LCT.
- The 'sense of arrival' associated with panoramic views from elevated sections of the A941 and A920 when crossing into Moray.
- Cumulative effects with the consented (now operational) Dorenell wind farm which will occupy an extensive part of this LCT and with the operational Clashindarroch wind farm in Aberdeenshire.
- The proximity of the Cairngorms National Park and the setting of the Ladder Hills and Glen Buchat to the south of this LCT.

It is concluded that the proposed development would not significantly affect the landscape constraints listed in the first four bullet points. It would however adversely affect the 'sense of arrival' experienced from the A920 and it would also have cumulative effects on some views when seen together with the operational Dorenell or Clashindarroch wind farms. The proposal would not significantly affect the Cairngorms National Park, the setting of the Ladder Hills or Glen Buchat.

#### Landscape effects

The LVIA finds that significant effects would arise on part of the Open Uplands with Settled Glens LCT. No other LCT lying within Moray would be significantly affected by the proposal.

It is agreed that significant adverse effects would be likely to arise on the Open Uplands with Settled Glens LCT with no other LCTs within Moray significantly affected. The proposed development is located in the narrow upland glen of Glen Markie. It would have a particularly severe and dominant effect on the character of this small-scale and secluded glen. Significant adverse effects would extend approximately 2-3km from the application site where this proposal would introduce new large-scale infrastructure affecting the

present openness and perception of naturalness associated with the immediately surrounding hills which have a larger scale than Glen Markie.

#### Effects on designated landscapes

The LVIA concludes that the proposed development would not have any significant adverse effects on designated landscapes including the Cairngorms National Park and Special Landscape Areas (SLAs) in Moray and Aberdeenshire (detailed assessment having been undertaken of the Ben Rinnes and Deveron Valley SLAs in the LVIA). Moray Council agrees with this conclusion.

#### Effects on visual amenity

Technical Appendix 6.2 of the EIA-R sets out the detailed appraisal of effects undertaken from 16 representative viewpoints. Significant effects are judged to occur on views from Viewpoints 1, 3, 4 and 6.

The proposed development would comprise a relatively small and isolated group of turbines. Visibility would not be extensive due to the location of the turbines within a deeply incised glen. The nearby hills of the Scalp, Craig Watch and Garbert Hill would additionally screen views of the turbines from lower elevation roads and settlement, for example from Dufftown. There would be no visibility of the turbines from the Scheduled Auchindoun Castle or from Glen Rinnes. Visibility from the nearby Deveron valley and from the A941 between Cabrach and Dufftown also appears likely to be minimal.

In many of the viewpoints selected for detailed assessment in the LVIA, the towers of the turbines would be partially screened by landform due to their location within Glen Markie and this reduces intrusion to some degree. The development would also commonly be seen together with other nearby operational wind farms which also reduces visual sensitivity.

Although the location of the proposal within Glen Markie limits visibility, significant adverse effects would still occur on views from the following locations within Moray:

- Views from Ben Rinnes – although the proposed development would lie some 12km from the summit of Ben Rinnes, the turbines would be noticeably larger than other turbines and would be likely to appear as close as the operational Dorenell wind turbines in the view. The Dorenell wind turbines have a defining influence on this view due to their proximity, size and number. Whilst this proposal would not be as extensive as the Dorenell wind farm in the view, it is considered that the magnitude of change would be medium rather than the low judged in the LVIA and the effect on high sensitivity receptors would be significant and adverse.
- Views from the Cabrach area – Viewpoint 3 is located on a minor road off the A941 which forms the route of a Core Path. Moray Council is in agreement with the LVIA that effects would be significant from this viewpoint. This proposal would contribute to cumulative effects with the operational Clashindarroch wind farm in this view.
- Views from The Scalp – While not formally promoted as a walking route, this hill does attract walkers particularly as its summit is marked by a trig point. The turbines would be very close (1.2km) to the summit of the hill and the viewpoint is located well above the turbine bases giving an impression of looking down on the development. Movement of blades and associated noise would add to the effects on receptors.

While it is noted that there would likely be little visibility of the turbines from Dufftown, as evidenced by Viewpoint 5, a greater extent of the proposal would likely be seen from the hills of Little Conval and Meikle Conval which lie close to the town. These hills are popular

with walkers and the turbines would lie approximately 8.5km distance with potential significant adverse effects possibly arising.

In addition to the significant adverse effects likely to occur on representative viewpoints located in Moray listed above, the orientation of Glen Markie would result in more severe impacts on views from the north-east and particularly from the A920 as it approaches Moray from Aberdeenshire. This route forms one of the scenic approaches to Moray identified in the MWELCS. While Viewpoints 4 and 6 in the EIA-R, which illustrate effects on views from this route, are located in Aberdeenshire the view looks toward the scenic folded hills of Moray. Moray Council agrees with the LVIA that effects would be significant from Viewpoints 4 and 6.

#### Effects on nearby residential properties

There is one occupied residential property lying within 2km of the proposal, Wester Braetown (albeit Easter Braetown lies close to Wester Braetown and just beyond 2km). The effects of the proposal on the visual amenity of this property are considered in the Residential Visual Amenity Assessment (RVAA) in EIA-R Technical Appendix 6.3. This finds that significant effects would occur on views from the property, its immediate surrounds and access during the day but that the effects of night-time lighting, while visible, would not be significant. The RVAA concludes that the proposed development would not have an overbearing effect on the property. Following a visit to the property, which is orientated toward the south east, Moray Council agrees with the conclusions reached in the RVAA. Easter Braetown, beyond the 2km is similarly orientated, with trees covered between it and the site also.

While there is only one occupied residential property lying within 2km of the proposal (and therefore considered in the RVAA), a number of properties located on the south-facing hill slopes north of the A920 (mainly within Aberdeenshire) could have relatively close views (within approximately 5km) of the proposal. The nature of views would be similar to those depicted in Viewpoints 4 and 6 and significant adverse effects are likely to arise on visual amenity.

Residential properties located in the Haugh of Glass area closer to the River Deveron would be unlikely to be significantly affected due to the screening provided by tree belts and woodland. This is demonstrated in EIA-R Figure 6.5.A.

#### Lighting of turbines

Five of the turbines would have visible aviation lighting with lights fixed to the turbine hub only. The Lighting Strategy proposes reduced intensity lighting to 200 candela during clear conditions with 2000 candela lighting used in poor visibility. In addition, directional lighting would be used with a focussed horizontal beam of light likely to reduce the intensity of lighting seen from lower elevation locations. This should assist with concerns about light pollution affecting dark skies, by reducing upward illumination.

The Night-time lighting assessment set out in Technical Appendix 6.4 considers a wide range of landscape and visual effects. Night-time visualisations have been produced from two viewpoints from a minor road near the Cabrach and from the A920. Both these viewpoints are from lower elevations and no night-time visualisations have been produced from popular hill routes and summits, for example Ben Rinnes, Meikle Conval and Little Conval where Figure 6.4.C indicates greater intensity of lighting. The Night-time lighting assessment concludes that there would be a localised significant effect arising on part of



the Open Uplands with Settled Glens LCT and no significant effects arising on views, including views from recreational routes and hill summits.

The night-time photomontages in Figures 6.4Fa and 6.4Ga (viewpoints N3 and N4) demonstrating the effects of 200 and 2000 candela lighting seem overly muted when compared with night-time visualisations and experience of other lighting such as was experienced at Hill of Glaschyle windfarm.

The wind farm site and its immediate surrounds are sparsely settled with low levels of night-time lighting and the effect of introducing lighting in a context where dark skies are present is a concern. No other operational or consented wind turbines within Moray are large enough to require lighting and it is considered that there may be significant adverse effects arising on the qualities of wildness appreciated from the less developed uplands centred on Ben Rinnes where the illuminated turbines will be visible and the lights most intense. While fewer walkers are likely to be present on these hills at night, it is observed to be a growing trend for people to visit upland areas with low light levels at dusk (and to camp out overnight) to experience the night sky.

#### Cumulative landscape and visual effects

The LVIA considers two cumulative scenarios and combined effects of the proposal with other operational, consented and application-stage wind farms. Significant combined cumulative effects are considered to occur on parts of the Open Uplands with Settled Glens LCT, from hill summits, including Ben Rinnes and Ben Aigan, from minor roads in the Deveron valley and from some recreational routes.

Cumulative effects would principally arise with the operational Dorenell and Clashindarroch wind farms seen sequentially from roads within the Cabrach area and Deveron valley between Haugh of Glass and Bridgend and particularly from hill summits and elevated walking routes. The limited extent and partial screening of turbine bases reduces the contribution this proposal makes to significant combined cumulative effects when compared with more extensive operational and application-stage developments which are generally sited in more prominent locations.

#### Conclusions on LVIA

The siting of this proposal (together with its limited number of turbines) generally reduces the extent of visibility and degree of visual intrusion from key viewpoints within Moray. While there would be likely to be significant adverse effects arising on views from the A920, the Cabrach area and from Ben Rinnes and the uplands lying within 10km of the proposed development site, views will in the main be relatively confined. The proposed turbines are very large although their location within a valley provides partial screening of turbine towers by surrounding uplands in most views limiting the appreciation of their size. The exception to this is views from the north-east from Aberdeenshire, particularly from the A920 (which is defined as a scenic approach to Moray in the MWELCS) and from dispersed residential properties located on the south-facing slopes north of this road. The application site and the surrounding area have notably dark skies and the likely effects of aviation lighting on views is a concern, particularly from the popularly accessed hills, including Ben Rinnes, where small numbers of walkers may choose to stay on the hill to view the night sky. The night-time visualisations produced in the EIA-R do not fully demonstrate the likely effects of lighting.

## **Conclusions on compliance with DP1, DP9**

While this proposal would have some significant adverse landscape and visual effects, including some non-compliance with the key constraints identified in the MWELCS, the siting of the turbines in Glen Markie minimises the extent and severity of these effects. Whilst it is recommended that objection on the basis of landscape and visual grounds is not merited, any consent should be predicated on the following conditions:

- The applicants should actively consider further mitigation of visible aviation lighting, taking advantage of any progression in current negotiations with the CAA undertaken by other wind farm developers on radar activated lighting which would significantly reduce the duration of lighting.
- The requested 100m micro-siting allowance may be too great given the location of the turbines within Glen Markie as this could potentially increase visual intrusion in key views. It is therefore recommended that any micro-siting of the turbines should only be agreed on the basis of detailed ZTV and wireline visualisations being produced to demonstrate that no change occurs to currently predicted views from key locations including Auchindoun Castle, Glen Rinnes, the Deveron valley (Viewpoint 2), Ben Rinnes (Viewpoint 9) and Dufftown (Viewpoint 5).

Noting the concern about lighting it is observed from the various viewpoints and Zone of Theoretical Visibility (ZTV) map that hub (where lights would be positioned) are largely obscured from the surrounding valleys and roads (with the exception of views from the A920 and north east and hilltops) such that this extent of the issue would not constitute grounds for refusal. Moray Council has since learnt that there is scope for developers to pursue a reduced lighting scheme following consultation with the Civil Aviation Authority and Ministry of Defence, and noting the proposed 190m turbines sit within a valley in which generally the lower half – two thirds of all turbines sit below the summit of nearby Garbet Hill, there appears scope to pursue this reduction. The Civil Aviation Authority have recently, for the proposed Bhlaraidh Extension wind farm in Highland (180m high turbines), accepted an aviation obstruction lighting scheme, consisting of infra-red lights to mark the perimeter of the development due to similar concerns. A condition pursuing a review of this requirement is recommended.

Similarly regarding micro-siting, the relevant condition will carry with it a caveat that for the micro-siting of turbines, any repositioning such that their locations would move uphill by a vertical distance greater than 5m require greater analysis as described above.

Noting all of the above, as the impact upon the views of the proposal on the A920 scenic route into Moray occur for a short stretch of the overall road, and the LVIA significant impacts occur within a localised area within Aberdeenshire to the north east, it is not considered appropriate to identify the proposal as departing from policies DP1 and DP9 where the extent of any negative impact is localised. It is noted that there would be some cumulative landscape and visual effects from summits surrounding the site also, but the windfarm would be relatively well contained and compact. This assessment takes into consideration Aberdeenshire Council's response covering the landscape, visual and cumulative concerns from the north east and this is considered elsewhere in the report. The affected road and majority of properties are all 5-10km away from the site.

Policy DP9 does seek to consider renewable energy proposals favourably but only where the significant adverse impacts are considered acceptable. For the reason stated above it is not considered the proposal departs from DP9 and by association DP1.

**Impact on residential amenity including noise, shadow flicker (DP1, DP9 and EP14)**

SPP paragraph 164 states that “individual properties and those settlements not identified within the development plan will be protected by the safeguards set out in the local development plan policy criteria for determining windfarms and development management considerations accounted for when determining individual applications”. This, for Moray, is reflected in the material considerations in the form of the MOWE and the MWELCS which seek to direct wind energy development into the interior of Landscape Character Types.

Policy EP14 Pollution, Contamination and Hazards states that for all 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. The proposal has been accompanied by both imbedded mitigation in terms of its siting and design, and proposes further mitigation. For residential amenity, the siting of the proposed turbines lies close to several properties, at Wester and Easter Braetown (although it is noted that these properties lodged representations of support for the application).

Following consultation with the Environmental Health Section, and consideration of Chapter 14, where it is noted that dwellings are located more than 10x the rotor diameter, a precautionary condition is imposed regarding shadow flicker.

Similarly, consideration of the information regarding noise under Chapter 11 Noise, the Council's Environmental Health Section have not objected to the windfarm on the grounds of noise subject to conditions enabling the monitoring and enforcement of noise limits to various properties. Conditions also cover construction times, blasting, Amplitude Modulation noise, and shadow flicker.

Subject to these conditions the safeguards amenity afforded by policy DP1, DP9 and EP14 can be mitigated against to ensure no departure from policy occurs.

**Impact on natural environment (EP1, EP2 and EP12)**

In EP1 Natural Heritage Designations there are no international, national or local environmental designations present. A number of Groundwater Dependent Terrestrial Ecosystems (GWDTE's) were noted, areas of bog as well as other habitats such as riparian woodland along the small water courses running through the site.

Policy EP12 Management and Enhancement of the Water Environment, and EP2 Biodiversity seeks to ensure proposals do not have an adverse effect on protected species. The EIA Report identifies also 2 opportunities to restore or maintain wetland habitat at a previous peat extraction and land drainage area which will be restored and reversed. Mitigation inclusive of safeguarding zones around certain features will be provided under the schedule of mitigation.

The EIA Report records a variety of aquatic, ground and ornithological species present on site. Chapter 10 Ecology of the EIA Report demonstrates that a range of surveys were carried out and details the survey work undertaken in the preparation of the EIA Report. These surveys have informed the responses from SEPA, Nature Scot and the RSPB, which have not opposed the development, but in some cases, sought additional measures to ensure the impacts of the development are mitigated and monitored (see conditions).

The schedule of mitigation covers a wide range of mitigation issues, as well as useful data collection on fisheries, bats, ornithology and other species to aid the delivery of the habitat management plan. Of note some environmental enhancements are proposed, such the restoration of a former peat extraction area near The Scalp where bare rock and hags will be restored and the re-wetting of previously herringbone drained area of Swiles of Glenmarkie leading into some eroded gullies. Ditch and gully blocking will allow this area to restore its wetland features.

Some riparian trees planting is also proposed along the Markie Water, and this will enhance the habitat there for species such as bats and provide greater bankside stability and cover for freshwater fish species. This is contained within the Habitat Management Plan for which conditions are recommended to ensure its implementation.

It is therefore not considered that the proposals depart from policies EP2 and EP12.

### **Flood Risk and surface water drainage (EP12)**

EP12 Management and Enhancement of the Water Environment covers issues of drainage and flooding. The site is identified on SEPA's flood maps as being at risk from localised minor flooding around the small water courses upon the site. It is noted that the applicants have confirmed sufficient capacity within the 3 water crossing to allow free flow of flood water, however, it is noted that SEPA have requested a condition of any consent regarding the design of water crossing, while the Councils Flood Risk Management Team seek definitive details to be contained within a finalised Drainage Impact Assessment. SEPA has asked that the design not be culverts as proposed.

No departure from Policy EP12 is anticipated where the above approach is followed. The EIA Report refers to various imbedded and proposed mitigation measures that would be identified in any detailed Construction Environmental Management Plan. This would cover matters such as pollution prevention, runoff and sediment management, site drainage and management of concrete works. While the approach is detailed in the EIA Report, the definitive detail for each turbine base would need to be shown once any micro-siting had been determined.

The mitigation measures identified in Chapter 15 of the EIA Report give adequate assurance.

It is likely that the proposed substation and welfare building would propose to use a new septic tank and soakaway. The consideration of individual septic tank and soakaways is now dealt with more thoroughly under Building Standards Regulations, and if the proposal is to commence then there would be a need for a Building Warrant for the proposed building which would include the design and specifications of the proposed foul drainage. Condition 4 seeks confirmation of foul drainage arrangements for the substation building. No departure from policy EP12 has therefore been identified.

### **Water Supplies (DP1)**

Policy DP1 requires adequate protection of water resources and a Private Water Risk Assessment was also undertaken which concludes that no known private supplies should be affected. Figure 8.6 shows the water abstraction locations and provides a buffer to those to ensure they are protected. A condition is further recommended to ensure the water abstraction areas are protected.

The safeguarding proposed ensures that no departure from DP1 in terms of water supplies should occur.

### **Impact on cultural heritage (EP8 and EP10)**

Policy EP8 Historic Environment seeks to protect historic and archaeological assets. EP10 Listed Buildings states that development proposals will be refused where they would have a detrimental effect on the character, integrity or setting of a listed building. Structures such as windfarms have the potential to affect the setting of listed buildings and other cultural heritage assets some distance away.

Within Moray there are several heritage assets within proximity of the site, and most notably Auchindoun Castle to the north would not be within direct line of the site of the proposed development. Whilst elevated views of the castle may include the development, the lack of inter-visibility means the castle and its setting are unaffected.

Chapter 7 of the EIA Report Cultural Heritage acknowledges there are a number of archaeological features within the vicinity of the site. Following consultation with the Aberdeenshire Council Archaeology Service, they raised concerns that the assessment had not been thorough, nor had the 10km search radius been adequate. They have specifically raised concern about the hill fort at Craig Dorney (Aberdeenshire HER NJ43NW0016), circa 1.5 km to the east of the development boundary, which is classed a site of regional importance (and which is currently in the process of being assessed for suitability for designation as a scheduled monument), and the two areas of settlement and field systems classed regional importance, to the southeast and northwest of the development site (Moray HER NJ33SE0005 and NJ33NE0002). Consultation with the Regional archaeologist identified other assets within proximity to the application site, but following visits to many of the assets and the locality, it is clear that the extent to which the proposal would impact upon them, or views, was marginal.

A Cultural Heritage and Archaeology Addendum was submitted by the applicants, relating primarily to possible impacts from Craig Dorney Hill Fort, south east of the site in response to earlier concerns raised by the Aberdeenshire Council Archaeology Service. This did not however alter the above concerns of Aberdeenshire Council when their Infrastructure Services Committee issued their response in June 2021. It is noted that Aberdeenshire Council raised archaeology and built heritage impacts as an element of the significant concerns they raised with the application but did not object outright to the windfarm on this basis.

The assessment falls though to whether the impact on these assets are affected to the extent that the proposal constitutes departure from policies EP8 and EP10. This site as mentioned elsewhere involves grouping of 7 turbines in a well contained valley (other than to the north east) and given the presence in the wider locality of more open and elevated wind energy proposals it would be unreasonable to say Garbet excessively impacted upon their status setting. Viewpoint 8 from Tap o Noth, a historic hill fort site, shows the presence of other windfarm development such as Clashindarroch which have already impacted upon the wider setting of the asset. With due respect to Aberdeenshire's concerns we do not consider that the impact is so significant as to warrant refusal on these grounds.

Craig Dorney Hill fort is much closer and the sense in which its stasis could be affected by the development is better understood. However, as it lies 2km from the nearest turbine, is

separated from the turbines by Craig Watch Hill and has yet to be designated as scheduled monument this again would require careful consideration.

Some of the smaller archaeological assets may be closer to the site, but it would be difficult to sustain a refusal where they are not physically being disturbed.

The proposed schedule of mitigation already volunteers a written scheme of archaeological works to address any assets found within the site.

Policy EP8 Historic Environment states “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”. In this case it is considered that the integrity of the assets setting, largely remote from the site itself, would not be compromised so as to constitute a departure from EP8.

### **Access and traffic impacts (DP1)**

Policy DP1 Development Principles (ii) and its associated appendix in the MLDP 2020 identifies the transportation requirement for development in Moray. It is noted that the Chapter 12 traffic part of the EIA Report and associated technical appendices/figures consider the transportation matters of the development. The site is unique that in much of the route leading to the site is via Aberdeenshire, with only a short section of minor road being used within Moray.

The majority of the length of the proposed access route for turbine components is via Trunk Roads and public roads under the control of Aberdeenshire Council. However the final section of the route is via single track road, the U94bH Burnside of Markie Road, which lies within Moray. This single track road is narrow with limited passing opportunities. The road has not been formally constructed and there its ability to bear the weight of significant numbers of HGVs which would be associated with the construction of the proposed development, is at this time unknown.

Information has now been submitted as part of this planning application which provides initial details of the extent of the engineering works required to this single track road to enable safe delivery of the turbine components and the use of the road by construction vehicles, including the details of areas where there will be a need to remove trees adjacent to the public road to facilitate the engineering works to upgrade the public road to an acceptable standard or enable the delivery of the turbine components.

It should be noted that the use of existing private accesses and road junctions as passing places, as indicated on drawing 14760-001, is not accepted and additional passing place locations will need to be identified. New and upgraded passing places are required to be to the HGV standard (minimum 6 metres wide and 20 metres in length with 10 metre tapers at each end). Third party land may be required to meet the required standard.

For road widening the section alongside the public road shall be constructed to the Moray Council roads adoption standards. Wider areas which will be covered over when no longer in use can be constructed using unbound materials.

### Road Bond/Security

Prior to the commencement of any part of the development, evidence shall be provided to confirm that a Bond or other financial security has been agreed by both parties (Developer and the Roads Authority) and put in place to cover the construction period of the development and to be called in the event that the developer fails to meet their obligations under the Wear and Tear Agreement to maintain the road in a safe condition during the construction phase of the development and to restore the road to its original predevelopment condition within 1 year of the completion of construction or the development becoming operational. The bond/security shall relate to the full extent of the U94bH Burnside of Markie Road with the Moray Council area and is required to mitigate the potential risks from damage to the public road occurring during the construction phase of the development. It should be noted that Aberdeenshire Council may wish to make similar arrangements for the roads within their area.

It is noted that Aberdeenshire, as Roads Authority will have to separately consider and consent and the applicant will have to make applications (most likely under the 1984 Roads Act) to widen and alter the public carriageway. The applicants are aware of the need to liaise with Aberdeenshire Council in respect of abnormal load deliveries, and officers would liaise with Aberdeenshire Transportation staff in this regard.

Subject to the details/action required in conditions, the provision of a roads bond and compliance with the Construction Traffic Management Plan, the proposals will accord with policy DP1.

### **Paths and access (PP3, DP1 and DP9)**

Both policies DP1 Developer Requirements and PP3 Infrastructure & Services require new development to public access through new developments to be enhanced or protected. Policy DP9 Renewable Energy seeks to ensure that wind energy proposals do not impact upon public access to upland areas.

Chapter 14 Other Issues covers access and Chapter 13 Socio-Economics, Tourism, Recreation and Land Use of the EIA Report has provided information relevant to impact on paths on or near the site. A detailed assessment of existing path networks has been carried out, and other land uses.

There are currently no core paths passing through the site, but the opportunity to enhance access exists, and to this end a condition has been imposed seeking an access management plan. The applicants have also committed to the formation of improved access, and formation of passing places on the public road network which would aid local residents in the long term by improving the Markie Road.

As there are no through-roads or paths leading out of Glen Markie at present there will be limited impact on walkers in the site area. It is noted from representations that walkers do climb The Scalp on the west side of the site. Any increased access to this area as a result of the development would be on the understanding that users were sharing tracks with the windfarm.

No conflict with the above policies PP3, DP1 and DP9 are foreseen, and an opportunity for enhanced access to Glen Markie via an access management plan, involving the Moray Local Access Forum to ensure local representation.

### **Impact on soil resources/minerals (EP16)**

Policy EP16 Geodiversity and Soil Resources states that for large scale (over 20MW) renewable energy proposals, development will only be permitted where it has been demonstrated that unnecessary disturbance of soils, geological interests, peat and any associated vegetation is avoided. Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be submitted along with any relevant planning application, including, if necessary, measures to prevent the spread of invasive non-native species.

The formation of many new tracks, proposed formation of the turbine and crane pads, and upgrading of existing tracks have led to permission being sought for up to 2 borrow pit search areas.

A technical assessment of borrow pits is contained in within Chapter 8 Geology, Hydrology (including flood risk) and Hydrogeology of the EIA Report inclusive of reference to their restoration following completion. The borrow pit areas have been located to avoid deep peat and more sensitive areas and are in relatively discrete areas, out of view from residences and public roads.

It is intended to submit Construction Environmental Management Plan (CEMP), and is supported by a Peat Management Plan (Technical Appendix 8.2) submitted by the applicants, which propose monitoring of peat stability and compliance with best practice and mitigation proposed being adhered too. A Peat Slide Risk plan (Fig 8.120) was also carried out which will inform the CEMP. Therefore in relation to soil resources the proposal would not conflict with the requirements of policy EP16 and conditions are recommended to ensure SEPA's comments re peat are addressed in terms of the avoidance of deep peat.

The micro siting conditions have been specifically worded to allow the positioning of tracks outwith areas of deep peat, and any micro-siting would also be vetted to ensure other contrarians such as water courses were avoided. Any micro-siting would have to involve the site Ecological Clerk of Works (ECow) to oversee/advise on such micro-siting allowances.

### **Impact upon Woodland (EP7)**

Policy EP7 Forestry, Woodlands and Trees is relevant to the issue of any felling that may take place. There is little impact on forestry or woodland, with the site occupying open moorland.

There is no felling proposed on the site itself, although it is noted, that for the enabling works along the minor public road, some very limited felling may be required by the roadside. A condition relating to the Construction Environmental Management Plan seeks clarity on the number and location of trees felled, alongside identification of appropriate replanting and compensatory planting. Looking at the positions of the proposed road widening and new passing places, this would not affect a substantive number of trees.

As part of proposals to improve the habitat within the site, the applicants propose to carry out some riparian planting of native trees species along the edges of water courses within the site. The number of trees is not disclosed, but as this will occur under the Habitat Management Plan, which includes creation of an appropriate steering group, such matters will evolve with the Habitat Management Plan implementation.



Subject to the conditions recommended, the proposals comply with the requirements of policy EP7.

### **Social and economic issues (DP9)**

Policy DP9 Renewable Energy states that the contribution proposals make towards meeting renewable energy generation targets, its effect on greenhouse gas emissions and net economic impact, including socio-economic benefits such as employment is a consideration. Similarly this must strike a balance with protecting the natural and built environment. Noting the economic activity the proposals would generate during construction, in terms of any concern over the impact it may have upon recreation and tourism it is worth noting the recent decision of the Scottish Government in relation to Pauls Hill II windfarm. The Reporter concluded that notwithstanding the proximity of the development to specific tourist accommodation, more generally there is little evidence to suggest that wind energy proposals harm or deter tourism.

Concern has been expressed about the possible negative impact or deterrent the proposal may constitute to self-catering and other tourist accommodation in the area.

Notwithstanding the above, it should be noted that the development largely occupies unoccupied Glen Markie (with the exception of housing at Braetown) with all other residences some distance away or largely obscured from the proposal. It is not therefore considered that the development would be overly disruptive to tourist accommodation in the area.

As identified in the landscape and visual assessment above, the proposed windfarm extension will incur relatively limited significant adverse landscape and visual effects. Therefore any negative impacts, if they were to occur, would be limited. The applicants refer to the benefits resulting from the Community Benefit Fund, but this has previously been held by the Scottish Government not to be appropriate as a consideration in the planning assessment stage.

The applicants have submitted in their Chapter 13: Socio-Economics, Tourism, Recreation and Land Use the case that Garbet windfarm would make a positive contribution to the local economy.

The applicants make, by now, what are well established points over the supply chain, land rental, multiplier effects, economic stimulus generated from the expenditure of additional employment income) during construction and to a lesser extent, decommissioning and to indirect effects on recreational use and tourism related business during construction, operation and decommissioning. They also state that the proposal makes a contribution to the alleviation of the adverse consequences of climate change. This point goes to the heart of whether you consider onshore wind energy an appropriate solution to the climate crisis, and national guidance, which the local authority must presume to follow, identifies that onshore wind energy is part of the solution to address wider climate change issues.

Chapter 13 states that the appointment in due course of Operations and Maintenance contracts for the development would create “some direct full-time skilled jobs for the local area” but does not state a number. It is reasonable to conclude that some long term employment will result from the development, but given the scale of the development, this may be low in number.

It is not considered that there are any social-economic issues that would depart from policy DP9.

### **Aviation Issues (DP9 and EP15)**

Policy DP9 seeks to ensure that renewable energy proposals avoid any impacts resulting from aviation and defence constraints including flight paths and aircraft radar.

EP15 regarding MoD safeguarding is unaffected due to the distance of the site from RAF Lossiemouth and it not lying within line of site of radar.

The EIA Report acknowledges potential effects of the wind farm upon aircraft activity including low flying (the proposal raises no concerns with radar). While aviation conflict is a specific issue within policy DP9, the Council ordinarily relies upon the expertise of the MoD and other aviation bodies to form a view on the matter. As the Ministry of Defence and National Air Traffic (NATS) have raised no objections, the development would not conflict with policy DP9 where it seeks to ensure aviation safety. Conditions from the MoD are recommended in relation to aviation lighting and aviation charting and safety management.

A further condition is sought to try and mitigate/reduce the night-time visual effects of the red aviation lighting given the dark sky qualities of this rural location. The applicants will seek to agree a reduced lighting scheme in consultation with the Ministry of Defence and Civil Aviation Authority. Infrared lighting will be provided in any scenario.

The attached conditions, or as agreed to be modified, ensure aviation interests and safety as required under policy DP9 are met.

### **Arrangements for decommissioning and site restoration (DP9)**

Development of this nature has a limited lifespan and permission is sought for a 35 year period and if permitted the recommended conditions will require appropriate mitigation of the site. The EIA Report contains information about decommissioning and site reinstatement, which would see the preparation of a restoration scheme prior to decommissioning. Recommended Condition 28 seeks a bond or other form of financial guarantee to ensure that the development is in place only for the operational lifetime of the equipment and the site is appropriately restored at the end of that period. The proposal is considered to comply with the restoration requirements of Policy DP9.

### **Planning Obligations and community investment opportunities (IMP3)**

No planning obligations contributions are due as such development would not have any impact on community facilities, schools etc. Separate to this it was decided by the Planning and Regulatory Services Committee on 18 October 2012 to remove the pursuit or contribution of funds to "Community Benefit Funds" from the development management system.

The setting up of a Community Benefit Fund should not be a matter that influences the planning decision and would be arranged separate to the planning process in the event that permission is granted. This approach is highlighted in Annex A 'Defining a Material Consideration' of the Circular 3/2013: Development Management Procedures.

The applicants have referred to contributing to a Community Benefit Fund in their Socio-economic Chapter. This matter may be an opportunity for individual communities to have positive outcomes, but it is difficult to attach any material weight to it at this stage. It is therefore being treated as a separate matter to the consideration of the planning application. This is consistent with the decision by Scottish Ministers in relation to Section

36 Pencloe Wind Energy Ltd decision in East Ayrshire in December 2018 where community shared ownership was not taken into account.

## **Conclusion**

This proposal represents a significant renewable energy development for Moray. The scheme is in line with aspects of local and national policy on the expansion of renewable energy including its contribution to renewable energy targets. This proposal would result in relatively limited significant adverse landscape and visual effects, from a limited number of locations, such that on balance it is not considered to depart from policy DP9 Renewable Energy. This wind energy proposal, whilst hosting turbines 190m in height, unlike many other wind energy proposals has sought to locate the turbines, broadly within a well contained glen, which significantly reduces its visual presence to the north, south and west. Viewpoints and the ZTV map confirm that from within Moray, the windfarm would have very limited visibility from public roads or residences.

The development will not adversely impact on habitat, public access or noise matters, subject to appropriate measures and conditions being put in place. Whilst significant concerns are expressed by Aberdeenshire on landscape, visual and heritage considerations, these are relatively localised along the A920 and from more distant elevated positions. The limited impacts within Moray coupled with the added weight to be attached to supportive national planning legislation and guidance and the planning history of windfarms within Moray and Aberdeenshire inform the recommendation for approval. This view is not arrived at lightly, and the balance of considerations, including the geographic source of many of those making representations, primarily from the east of the site was taken into consideration.

Significant weight must also be attached to the history of consenting for similar development within Moray where the Scottish Government have overturned local authority opposition to a number of similar sized wind energy proposals. Within Moray, Edintore, Pauls Hill II, and Lurg Hill windfarms were all comparable in scale to Garbet, and in more prevalent locations but were ultimately consented.

On balance, the proposal, whilst resulting in relatively limited significant adverse landscape and visual effects, is not considered to depart from the MLDP 2020 and other considerations such as support for renewable energy weigh favourably to supporting the proposal. This view is informed by the response from Aberdeenshire Council where a formal objection was not lodged, albeit significant concerns raised. In the event of approval, Scottish Ministers would be consulted on whether Moray Councils' approach was acceptable.

Subject to the conditions recommended, approval should be granted.

## **REASON(S) FOR DECISION**

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

The proposal accords with the Moray Local Development Plan 2020 and there were no material considerations that indicated otherwise. In reaching this decision, it is noted that there would be some significant landscape and visual effects, but these are not considered to be excessive or outweigh the wider planning policy, pattern of approvals for other wind energy or other material considerations such as climate change.

Reasoned conclusion on the significant effects of the development on the environment  
(Regulation 29 of the EIA Regulations 2017)

Moray Council, as Planning Authority having taken account of all relevant information, consider that the proposal can be supported having regard to the nature and impact of the proposed wind energy proposal, and associated infrastructure.

The Council has considered, fully and carefully, the environmental information as presented and concludes that the development will not give rise to any significant adverse environmental effects, as the proposal incorporates the necessary environmental design and mitigation measures to minimise such effects and impacts.

These include measures to address impacts that are clearly identified in the Schedule of Mitigation, Chapter 15 of the EIA Report which proposes a suite of measures contained within documents such as the Habitat Management Plan, written scheme of archaeological works for unknown archaeological assets, buffers maintained around watercourses/GWDTE's/water abstractions area, Construction Environmental Management Plan, Pollution Incident Response Plan, Peat Management, Breeding Bird Protection Plan, appointment of an Ecological Clerk of Works (ECoW), Noise Management Plan.

In the absence of any unacceptable or significant environmental impacts and subject to conditions as recommended, the proposal is acceptable in EIA terms. Where consultees have proposed conditions to mitigate/monitor impacts these have been secured by conditions attached to the consent. Conditions to secure the monitoring of impacts in relation to wildlife, biodiversity etc. have also been attached to the consent.

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## **APPENDIX**

### **POLICY**

#### **Proposed Moray Local Development Plan 2020**

##### **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.

## **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 400m<sup>2</sup>, 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, pavements, 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.

**DP5 BUSINESS & INDUSTRY**

- a) Development of employment land is supported to deliver the aims of the Moray Economic Strategy. A hierarchical approach will be taken when assessing proposals for business and industrial uses. New and existing employment designations are set out in Settlement Statements and their description identifies where these fall within the policy hierarchy.

Proposals must comply with Policy DP1, site development requirements within town and village statements, and all other relevant policies within the Plan. Office development that will attract significant numbers of people must comply with Policy DP7 Retail/Town Centres.

Efficient energy and waste innovations should be considered and integrated within developments wherever possible.

**b) Business Parks**

Business parks will be kept predominantly for 'high-end' businesses such as those related to life sciences and high technology uses. These are defined as Class 4 (business) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Business Parks.

Proposals for the development of new business parks must adhere to the key design principles set out in town statements or Development Frameworks adopted by the Council.

**c) Industrial Estates**

Industrial Estates will be primarily reserved for uses defined by Classes 4 (business), 5 (general) and 6 (storage and distribution) of the Town and Country Planning (Use Classes) (Scotland) Order 1997. This applies to new proposals as well as redevelopment within established Industrial Estates. Industrial Estates could be suitable sites for waste management facilities.

**d) Existing Business Areas**

Long established business uses will be protected from non-conforming uses (e.g. housing). The introduction or expansion of non-business uses (e.g. retail) will not be permitted, except where the total redevelopment of the site is proposed.

**e) Other Uses**

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (sui generis), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

**f) Areas of Mixed Use**

Proposals for a mix of uses where site specific opportunities are identified within Industrial Estate designations in the Settlement Statement, will be considered favourably where evidence is provided to the authority's satisfaction that the proposed mix will enable the servicing of employment land and will not compromise the supply of effective employment land. A Development Framework that shows the layout of the whole site, range of uses, landscaping, open space and site specific design requirements must be provided. The minimum levels of industrial use specified within designations must be achieved on the rest of the site.

**g) Rural Businesses and Farm Diversification**

Proposals for new business development and extensions to existing businesses in rural locations including tourism and distillery operations will be supported where there is a locational need for the site and the proposal is in accordance with all other relevant policies.

A high standard of design appropriate to the rural environment will be required and proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged.

Outright retail activities will be considered against policy DP7, and impacts on established shopping areas, but ancillary retailing (e.g. farm shop) will generally be acceptable.

Farm diversification proposals and business proposals that will support the economic viability of the farm business are supported where they meet the requirements of all other relevant Local Development Plan policies.

**h) Inward Investment Sites**

The proposals map identifies a proposed inward investment site at Dallachy which is safeguarded for a single user business proposal seeking a large (up to 40ha), rural site. Additional inward investment sites may be identified during the lifetime of the Plan.

Proposals must comply with Policy DP1 and other relevant policies.

**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.

## **DP10 MINERALS**

### **a) Safeguarding Mineral Reserves**

The Council will safeguard all existing workable mineral reserves/ operations from incompatible development which is likely to prejudice it unless;

- There are no alternative sites for development, and
- The extraction of mineral resources will be completed before development commences.

### **b) Mineral Operations**

Proposals for mineral extraction will be acceptable in the following circumstances, subject to compliance with other relevant LDP policies;

- Extension to existing operation/sites.
- Re-opening of a dormant quarry.
- A reserve underlying a proposed development where it would be beneficial to extract prior to development.

Proposals for new and extensions to existing mineral sites, which contribute to the maintenance of at least a 10 years supply of permitted reserves of construction aggregates in Moray will be supported, subject to meeting the terms of Policy DP1 and other relevant policies.

Proposals for borrow pits will be supported, subject to compliance with other relevant policies, to allow the extraction of minerals near to or on the site of associated development (e.g. wind farm and roads construction, forestry and agriculture) provided it can be demonstrated that the operational, community and environmental benefits of the proposal can be evidenced. These consents will be time limited, tied to the proposal and must be accompanied by full restoration proposals and aftercare.

All mineral development proposals must avoid or satisfactorily mitigate impacts. In determining proposals, the Council will give consideration to the requirements of Policy DP1. Additional mitigation may be required for renewables at existing quarries.

Proposals must be accompanied by an extractive Waste Management Plan.

**c) Restoration and aftercare**

Operators must provide details of their proposed programme of restoration (including the necessary financing, phasing and aftercare of the sites). In some circumstances, the Council may require a financial guarantee/ bond.

Restoration programmes must reinstate the site at the earliest opportunity when excavation has ceased. Restoration must be designed and implemented to the highest standard. After uses must result in environmental improvement and add to the cultural, recreational or environmental assets of the area.

**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.

## **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.

<b>Width to watercourse (top of bank)</b>	<b>Width of buffer strip (either side)</b>
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.

## **EP16 GEODIVERSITY AND SOIL RESOURCES**

Where peat and other carbon rich soils are present disturbance to them may lead to the release of carbon dioxide contributing to the greenhouse gas emissions. Applications should minimise this release and must be accompanied by an assessment of the likely effects associated with any development work and aim to mitigate any adverse impacts arising.

Where areas of important geological interest are present, such as geological Sites of Special Scientific Interest (SSSI) or Geological Conservation Review (GCR) sites are present, excavations or built development can damage, destroy and/or prevent access to the irreplaceable geological features. Development should avoid sensitive geological areas or otherwise demonstrate how the geological interests will be safeguarded.

For major developments, minerals and large scale (over 20MW) renewable energy proposals, development will only be permitted where it has been demonstrated that unnecessary disturbance of soils, geological interests, peat and any associated vegetation is avoided. Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be submitted along with any relevant

planning application, including, if necessary, measures to prevent the spread of invasive non-native species.

Major developments, minerals and large scale renewable energy proposals on areas of peat and/or land habitat will only be permitted for these uses where:

- a) The economic, social and/or environmental benefits of the proposal outweigh any potential detrimental effect on the environment (in particular with regard to the release of carbon dioxide into the atmosphere); and
- b) It has been clearly demonstrated that there is no viable alternative.

Where development on peat is deemed acceptable, a peat depth survey must be submitted which demonstrates that the areas of deepest peat have been avoided. Where required, a peat management plan must also be submitted which demonstrates that unnecessary disturbance, movement, degradation or erosion of peat is avoided and proposes suitable mitigation measures and appropriate reuse. Commercial peat extraction will not be permitted