

23/01848/APP
19th October 2023

Section 42 of the Town and Country Planning (Scotland) Act 1989 to amend condition 18 of planning permission 18/01046/EIA to amend construction working hours From Within The Vicinity Of Redhythe Point In Aberdeenshire Council Area To Whitehillock Farm Keith Moray for Moray Offshore Wind Farm (West) Limited

Comments:

- Advertised for neighbour notification purposes.
- 3 objections/representation received.
- Referred to committee as the Section 42 relates to a National Development.

Procedure:

- None.

Recommendation

Grant Planning Permission - Subject to the following:-

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

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

2. Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Sunday (including National Holidays). No construction works shall be undertaken during any other times except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited period of construction works to be undertaken out with the permitted/stated hours of working.

Reason: In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

Reason(s) for Decision

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

The proposed Section 42 variation to vary condition allowing for longer construction working hours will accord with the relevant aims and policies of the National Planning Framework 4 and Moray Local Development Plan 2020.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
	Location plan

23/01851/APP
19th October 2023

Section 42 of the Town and Country Planning (Scotland) Act 1997 to amend condition 7 of planning permission reference 21/01402/AMC, to amend working hours From The Vicinity Of Redhythe Point In Aberdeenshire Council Area To Whitehillock Farm Keith Moray AB55 5PH for Moray Offshore Windfarm (West) Ltd

Comments:

- Advertised for neighbour notification purposes.
- 3 objections/representation received.
- Referred to committee as the Section 42 relates to a National Development.

Procedure:

- None.

Recommendation

Grant Planning Permission - Subject to the following:-

Conditions/Reasons

1. Notwithstanding the submitted details, prior to the commencement of any development, a detailed Phasing Plan, Access Strategy and detailed Construction Programme for the development shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority. The Phasing Plan Access Strategy and Construction Programme shall include the details of all proposed routes for construction traffic and abnormal load deliveries and the locations of all proposed access points on the public road network, along with the timing of works at each location on the cable route.

Thereafter, all works shall be completed in accordance with the approved Phasing Plan and Construction Programme.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement of development.

2. The planning permission hereby granted for the proposed development shall be carried out only in accordance with the approved Phasing Plan permitted by Condition 1 and the details, including detailed drawings (and other supporting information), shall previously have been submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority in line with

the matters specified for that phase of the development. These drawings and details shall show the matters specified in Conditions 3 and 4 below.

Reason: In order that detailed consideration can be given to the matters specified prior to the works commencing on each phase of the development.

3. In pursuance of Condition 2 above, for each phase of the development for which details are to be submitted for approval, the required details shall be:
 - a) Detailed drawing of the proposed temporary access routes for the phase and details of the number and size of construction vehicles using the access routes for that phase of development;
 - b) Detailed drawings of the improvements required to the public roads utilised by construction traffic and any abnormal load deliveries for the phase, which shall include but not be limited to the provision of new passing places, road widening and edge strengthening, all on ground over which the applicant has or can obtain control at location(s) and constructed in accordance with Moray Council specification;
 - c) Detailed drawings of the proposed access locations onto the public road for construction vehicles for the phase, including the required visibility splays, access specification and construction details, details of all earthworks and drainage provision and/or drainage diversion, details of proposed fencing/gates, signage and any required temporary traffic management, along with details of reinstatement works for any temporary access;
 - d) Details of the locations of all cable and haul road crossings within that phase of the development and the proposed works associated with the crossings, including but not limited to, the means of cable crossing e.g. directional drilling or open trench, means of access to works areas, details of the haul road crossings and any required temporary traffic management, and details of required reinstatement works;
 - e) Details of diversion routes for local footpaths during the construction period and associated signage (to be agreed with the Access Manager);
 - f) Detailed drawings of the locations of all cable joint access points, including their proximity to the public road and any public road drainage, and details of any temporary fencing or other measures to protect the users of the public road during the construction period;
 - g) A Construction Traffic Management Plan (CTMP), the details of which must include, parking provision for staff and loading/unloading, provision for the prevention of material being deposited onto the public road including wheel cleaning and for road sweeping at construction access(es) to the public road, a programme for monitoring and provisions for interim maintenance to be undertaken to ensure safe and suitable access is maintained for the construction access routes for the duration of the works will be required; and
 - h) 'Before' road condition video and joint surveys. Thereafter, all works shall be completed in accordance with the approved details and with the Construction Traffic Management Plan.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement and to ensure acceptable infrastructure to enable access to the development and development that does not create any hazard to road users in the interests of road safety.

4. In pursuance of Condition 2 above, for each phase of the development where there is a requirement for Abnormal Load deliveries for which details are to be submitted for approval, the required details shall be:
 - a) A detailed survey of the Abnormal Load delivery route shall be carried out to determine the locations of structures (e.g. bridges) and street furniture affected by any construction and/or abnormal indivisible load vehicle movements;
 - b) Road improvements/strengthening (either temporary or permanent) required as a result of the survey prior to any movements of any construction and abnormal load traffic shall be completed; c) Abnormal Load Traffic Management Plan, details of which must include the methods of dealing with large and/or abnormal delivery vehicles, vehicle swept path analysis and the methods of marshalling and manoeuvring at junctions on the public road network; and
 - c) Evidence of the completion of an Abnormal load trial run(s) undertaken for the delivery route. Representatives from the Moray Council Transportation (Traffic), the Trunk Road Authority, Police Scotland and any other roads authorities where roads will form part of the route of the delivery must be invited to the trial run.

Thereafter, all works associated with the Abnormal Load Deliveries shall be completed in accordance with the approved details and the Abnormal Loads delivered in accordance with the Traffic Management Plan.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement and to ensure acceptable infrastructure to enable access to the development and development that does not create any hazard to road users in the interests of road safety.

5. Prior to commencement of development on any phase of the development, the following shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority: a. Evidence to confirm that a Section 96 'Wear and Tear' Agreement has been completed and agreed by the developer or their representative and the local Roads Authority, including a commitment to the undertaking of joint 'before' and 'after' road condition surveys, to ensure that the costs of works to repair damage to the public road as a result of construction traffic on the roads identified in Condition 1 will be met.

Reason: To ensure that any adverse impact on the condition of the public road, including roadside verges, attributable to the development traffic is identified and ameliorated.

6. At the start and end of each phase (as per condition 1) 'before' and 'after' condition video surveys of the proposed delivery and construction traffic routes shall be undertaken jointly with the Roads Authority and a copy of the survey provided to the Planning and Roads Authority.

Reason: To ensure that any adverse impact on the condition of the public road, including roadside verges, attributable to the development traffic is identified and ameliorated.

7. Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Sunday (including National Holidays). No construction works shall be undertaken during any other times except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited period of construction works to be undertaken out with the permitted/stated hours of working.

Reason: In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

8. The developer shall implement in full the management, monitoring and mitigation provisions contained within the Construction Environmental Management Plan (CEMP) supporting document as they pertain to noise, vibration, dust, air quality and artificial lighting. For the avoidance of doubt, the supporting document is titled "Moray Offshore Wind Farm (West) Limited. OnTI Cable Route CEMP. Dated 3rd September 2021, Revision : 02. Document Name : 8460005-DAD-MWW- REP- 000006." as approved under 21/01402/AMC permitted on 2 March 2022.

Reason: In order to ensure the development minimises nuisance and disturbance to neighbouring properties.

9. The development must be carried out in accordance with the Private Water Supply Risk Assessment submitted in December 2021 inclusive of the proposed monitoring and mitigation. Where a supply is adversely affected by the works, short-term contingency arrangements shall be implemented and, where necessary, a permanent replacement adequate and wholesome supply shall be provided, e.g. connection to the public mains or provision of an alternative supply. The cost of short terms contingency arrangements, repair and if necessary, replacement costs for affected water supplies must be met by the applicant.

Reason: To ensure that an adequate and wholesome water supply to existing properties is maintained.

10. The development shall be carried out in full accordance with the approved Written Scheme of Investigation (WSI) (OnTI Cable Route Written Scheme of Investigation 8460005-DAD-MWW-REP-000003 Revision 02, dated 3/9/21) submitted in relation to condition 24 of application 18/01046/EIA and that the programme of archaeological works as set out in the WSI is to be carried out in accordance with the approved Written Scheme of Investigation. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

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

11. The approval of conditions granted is upon the basis that subject to the further conditions above (including those seeking modification and final detailed design/layouts for the CTMP) the mitigation and all other measures contained within the Cable Route Mitigation Statement, Cable Route Phasing Plan and Landscape Plan are fully complied with.

Reason: To ensure the ecology and environment of the surrounding areas are protected during construction works and to ensure the tree protection and targeted tree felling is complied with.

Reason(s) for Decision

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

The proposed Section 42 variation to vary conditions allowing for longer construction working hours (subject the compliance with existing conditions relating to Construction Environmental Management Plans hereby repeated) will accord with the relevant aims and policies of the National Planning Framework 4 and Moray Local Development Plan 2020.

List of Informatives:

TRANSPORT SCOTLAND has commented that:-

The applicant should be informed that the granting of planning consent does not carry with it the right to carry out works within the trunk road boundary and that permission must be granted by Transport Scotland Roads Directorate. Where any works are required on the trunk road, contact details are provided on Transport Scotland's response to the planning authority which is available on the Council's planning portal. Trunk road modification works shall, in all respects, comply with the Design Manual for Roads and Bridges and the Specification for Highway Works published by HMSO. The developer shall issue a certificate to that effect, signed by the design organisation.

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

The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges.

Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Prior to the commencement of deliveries or construction activity, a Section 96 Agreement under the Roads (Scotland) Act 1984 will be required to be approved

between the developer and the Roads Authority. This is to ensure that the costs to repair any damage to the public roads as a result of the construction work traffic are met by the applicant.

Planning consent does not carry with it the right to construct a new road or any part of a road. In accordance with Section 21 of the Roads (Scotland) Act 1984 Construction Consent for new roads (includes passing places, modified junctions and footpaths) that will form part of the public road will be required. Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk and reference to the following pages on the Council web site.

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

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

Before commencing development, the applicant is obliged to apply for permission to modify the existing public road, in accordance with Section 56 of the Roads (Scotland) Act. The applicant will be required to provide technical information, including drawings and drainage calculations, a programme for the proposed works. Advice on the application process can be obtained by emailing transport.develop@moray.gov.uk

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

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

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

Any street furniture, which will need to be repositioned to enable the development, including deliveries to the development, shall be at the expense of the developer. Furthermore, any existing roadside ditch, which requires relocating, a pipe or culvert shall be agreed in advance of any works commencing at that location. Advice on these matters can be obtained by emailing road.maint@moray.gov.uk

The developer shall be responsible for any necessary diversion of any utilities or drainage present at the locations where works are to be undertaken.

The developer shall meet all costs of improvements to the road infrastructure, which are required as a result of the development, including any measures to enable the use of structures on the public road for construction traffic and abnormal load deliveries.

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

The developer shall be responsible for ensuring that surface/ground water does not run from the public road into the site. The developer 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. Advice on the retaining structures/embankments can be obtained by emailing structures@moray.gov.uk

The Transportation Manager must always be contacted before any works commence. This includes any temporary access, which should be agreed with the Roads Authority prior to work commencing on it.

SCOTTISH WATER have commented as follows:

A review of our records indicates that the proposed activity falls within a drinking water catchment where a Scottish Water abstraction is located. Scottish Water abstractions are designated as Drinking Water Protected Areas (DWPA) under Article 7 of the Water Framework Directive. The River Deveron supplies Turriff Water Treatment Works (WTW) and it is essential that water quality and water quantity in the area are protected. In the event of an incident occurring that could affect Scottish Water we should be notified immediately using the Customer Helpline number 0800 0778 778.

Scottish Water have produced a list of precautions for a range of activities. This details protection measures to be taken within a DWPA, the wider drinking water catchment and if there are assets in the area. Please note that site specific risks and mitigation measures will require to be assessed and implemented. These documents and other supporting information can be found on the activities within our catchments page of our website at www.scottishwater.co.uk/slm

The fact that this area is located within a drinking water catchment should be noted in documentation. Also, anyone working on site should be made aware of this during site inductions and we would also like to take the opportunity, to request that 3 days in advance of any works commencing on site, Scottish Water is notified at protectdwsources@scottishwater.co.uk so we can make our operational teams aware there will be activity taking place in the catchment.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

We note dewatering may be required and will be managed in line with CAR. As such, any dewatering during excavations should be in compliance with CAR GBR 2 and GBR 15 (see SEPA's A Practical Guide: https://www.sepa.org.uk/media/34761/car_a_practical_guide.pdf). Abstraction of groundwater in quantities greater than 10m³/day will require a CAR registration or

licence depending on the scope and duration of the works.

Further details of regulatory requirements and good practice advice, for example in relation to private drainage, 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 local compliance team at:

gs@sepa.org.uk

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
	Location plan

23/01852/APP
18th October 2023

Section 42 of the Town and Country Planning (Scotland) Act 1997 to amend condition 4 of planning permission reference 21/01561/AMC to amend construction working hours From Within the Vicinity Of Redhythe Point In Aberdeenshire Council Area To Whitehillock Farm Keith Moray for Moray Offshore Windfarm (West) Ltd

Comments:

- Advertised for neighbour notification purposes.
- Referred to committee as the Section 42 relates to a National Development.
- No objections.

Procedure:

- None.

Recommendation

Grant Planning Permission - Subject to the following:-

Conditions/Reasons

1. Prior to energisation of either the Moray West substation or cables, evidence shall be submitted to and approved in writing by Moray Council in consultation with Scotland Gas Networks to demonstrate that an assessment of the potential effects of inducing unacceptable levels of electrical alternating currents and voltage onto the SGN A06 high pressure gas transmission pipeline and associated equipment, has been carried out and a scheme of mitigation prepared to address any such effects as may be identified by that assessment.

Thereafter any mitigation identified as being required must be agreed in writing with Moray Council and if required fully implemented in accordance with the approved scheme of mitigation and be in place prior to energisation of either the Moray West substation or cables unless otherwise agreed in writing with the Moray Council in consultation with Scotland Gas Networks.

Reason: In order to ensure a mechanism is in place to assess and mitigate the effects of inducing alternating currents and voltage upon other utilities in the event they arise.

2. The development must be carried out in accordance with the Private Water Supply Risk Assessment submitted in December 2021 inclusive of the proposed monitoring and mitigation. Where a supply is adversely affected by the works, short-term contingency arrangements shall be implemented and, where necessary, a permanent replacement adequate and wholesome supply shall be provided, e.g. connection to the public mains or provision of an alternative supply.

Reason: To ensure that an adequate and wholesome water supply to existing properties is maintained.

3. The rating level of noise associated with the operation of the Moray West Substation development shall not exceed the background sound level by more than 5 dB (A) at any noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission. For the avoidance of doubt, the rating level and background sound level associated with this condition are defined within BS 4142: 2014 Methods for rating and assessing industrial and commercial sound.

Reason: To protect local residents from noise nuisance due to the operation of the Moray West Substation.

4. Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Sunday (including National Holidays). No construction works shall be undertaken during any other times except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited period of construction works to be undertaken out with the permitted/stated hours of working.

Reason: In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

5. The developer shall implement in full the management, monitoring and mitigation provisions contained within the Construction Environmental Management Plan supporting document as they pertain to noise, vibration, dust, air quality and artificial lighting. For the avoidance of doubt, the supporting document is titled "Moray Offshore Wind Farm (West) Limited. OnTI Substation Construction Environmental Management Plan. Dated 30th September 2021. Revision: 03 Document Name: 8460005-DAD-MWW- REP- 000014" as approved under planning permission 21/01561/AMC on 21 February 2022.

Reason: To ensure the construction phase is managed to prevent nuisance to local residents.

6. Unless otherwise agreed, the landscaping and compensatory planting shall be carried out in accordance with the updated Substation Landscape Plan General Arrangement Drawing number 201457_OPEN_MORW_SLP_SE01 Rev B. and the details contained within the "Cable Route Tree Felling and Compensatory Planting Summary Report Revision 2" submitted on 21 December 2021 and as approved under 21/01561/AMC on 21 February 2022. The compensatory planting must be undertaken no later than the first planting season following electrification

of the electricity substation (excluding any commissioning or testing of electrical plant). If within the first 5 years of the development becoming operational, any trees or shrubs die or are damaged, they must be replaced with a similar species and height of plant.

Reason: In order to ensure the appropriate landscaping and compensatory landscaping takes place.

7. If any design modifications are required to the design and layout of the electricity substation compound beyond the layout hereby approved, these must first be submitted to and approved by Moray Council in writing prior to electricity substation compound being constructed.

Reason: To ensure that any final design changes to the layout of the compound are considered.

8. Unless otherwise agreed with the Council, as Planning Authority the submitted Construction Traffic Management Plan, Onshore Substation Phasing Plan, Substation Layout Appearance and Lighting Plan and Substation Mitigation Statement submitted under planning permission 21/01561/AMC on 21 February 2022 to purify the conditions stated above must be complied with in full.

Reason: To ensure development is carried out sensitively and minimises the impact of development activity in line with the mitigation and imbedded design mitigation contained in the named documents.

Reason(s) for Decision

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

The proposed Section 42 variation to vary conditions allowing for longer construction working hours (subject the compliance with existing conditions relating to Construction Environmental Management Plans hereby repeated) will accord with the relevant aims and policies of the National Planning Framework 4 and Moray Local Development Plan 2020.

List of Informatives:

THE DEVELOPMENT MANAGEMENT & BUILDING STANDARDS MANAGER has commented that:-

A contribution has been made to the compensatory planting fund.

TRANSPORT SCOTLAND has commented that:-

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

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

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

The road works which are required due to the above Conditions will require a Road Safety Audit as specified by the Design Manual for Roads and Bridges.

Any trunk road works will necessitate a Minute of Agreement with the Trunk Roads Authority prior to commencement.

SCOTTISH WATER have commented that:-

A review of our records indicates that the proposed activity falls within a drinking water catchment where a Scottish Water abstraction is located. Scottish Water abstractions are designated as Drinking Water Protected Areas (DWPA) under Article 7 of the Water Framework Directive. The River Deveron supplies Turriff Water Treatment Works (WTW) and it is essential that water quality and water quantity in the area are protected. In the event of an incident occurring that could affect Scottish Water we should be notified immediately using the Customer Helpline number 0800 0778 778.

Scottish Water have produced a list of precautions for a range of activities. This details protection measures to be taken within a DWPA, the wider drinking water catchment and if there are assets in the area. Please note that site specific risks and mitigation measures will require to be assessed and implemented. These documents and other supporting information can be found on the activities within our catchments page of our website at www.scottishwater.co.uk/slm

The fact that this area is located within a drinking water catchment should be noted in documentation. Also anyone working on site should be made aware of this during site inductions and we would also like to take the opportunity, to request that 3 days in advance of any works commencing on site, Scottish Water is notified at protectdwsources@scottishwater.co.uk so we can make our operational teams aware there will be activity taking place in the catchment.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
8460005-DAA-ITP-MA-000005	Location plan

23/01853/APP
18th October 2023

Section 42 of the Town and Country Planning (Scotland) Act 1997 to amend condition 7 of planning permission reference 21/01391/APP to amend construction working hours on Land Between Greenhill And Factors Park Plantation Deskford Cullen Moray for Moray Offshore Windfarm (West) Ltd

Comments:

- Advertised for neighbour notification purposes.
- Referred to committee as the Section 42 relates to a National Development.
- No objections.

Procedure:

- None.

Recommendation

Grant Planning Permission - Subject to the following:-

Conditions/Reasons

1. Notwithstanding the submitted details, prior to the commencement of any development, a detailed Phasing Plan, Access Strategy and detailed Construction Programme for the development shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority. The Phasing Plan, Access Strategy and Construction Programme shall include the details of all proposed routes for construction traffic and abnormal load deliveries and the locations of all proposed access points on the public road network, along with the timing of works at each location on the cable route.

Thereafter, all works shall be completed in accordance with the approved Phasing Plan and Construction Programme.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement of development.

2. The planning permission hereby granted for the proposed development shall be carried out only in accordance with the approved Phasing Plan permitted by Condition 1 and the details, including detailed drawings (and other supporting information), shall previously have been submitted to and approved by the

Council, as Planning Authority in consultation with the Roads Authority in line with the matters specified for that phase of the development. These drawings and details shall show the matters specified in Conditions 3 and 4 below.

Reason: In order that detailed consideration can be given to the matters specified prior to the works commencing on each phase of the development.

3. In pursuance of Condition 2 above, for each phase of the development for which details are to be submitted for approval, the required details shall be:
 - a) Detailed drawing of the proposed temporary access routes for the phase and details of the number and size of construction vehicles using the access routes for that phase of development;
 - b) Detailed drawings of the improvements required to the public roads utilised by construction traffic and any abnormal load deliveries for the phase, which shall include but not be limited to the provision of new passing places, road widening and edge strengthening, all on ground over which the applicant has or can obtain control at location(s) and constructed in accordance with Moray Council specification;
 - c) Detailed drawings of the proposed access locations onto the public road for construction vehicles for the phase, including the required visibility splays, access specification and construction details, details of all earthworks and drainage provision and/or drainage diversion, details of proposed fencing/gates, signage and any required temporary traffic management, along with details of reinstatement works for any temporary access;
 - d) Details of the locations of all cable and haul road crossings within that phase of the development and the proposed works associated with the crossings, including but not limited to, the means of cable crossing e.g. directional drilling or open trench, means of access to works areas, details of the haul road crossings and any required temporary traffic management, and details of required reinstatement works;
 - e) Details of diversion routes for local footpaths during the construction period and associated signage (to be agreed with the Access Manager);
 - f) Detailed drawings of the locations of all cable joint access points, including their proximity to the public road and any public road drainage, and details of any temporary fencing or other measures to protect the users of the public road during the construction period;
 - g) A Construction Traffic Management Plan, the details of which must include, parking provision for staff and loading/unloading, provision for the prevention of material being deposited onto the public road including wheel cleaning and for road sweeping at construction access(es) to the public road, a programme for monitoring and provisions for interim maintenance to be undertaken to ensure safe and suitable access is maintained for the construction access routes for the duration of the works will be required; and
 - h) 'Before' road condition video and joint surveys. Thereafter, all works shall be completed in accordance with the approved details and with the Construction Traffic Management Plan.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement and to ensure acceptable infrastructure to enable access to the development and development that does not create any hazard to road users in the interests of road safety.

4. In pursuance of Condition 2 above, for each phase of the development where there is a requirement for Abnormal Load deliveries for which details are to be submitted for approval, the required details shall be:
 - a) A detailed survey of the Abnormal Load delivery route shall be carried out to determine the locations of structures (e.g. bridges) and street furniture affected by any construction and/or abnormal indivisible load vehicle movements;
 - b) Road improvements/strengthening (either temporary or permanent) required as a result of the survey prior to any movements of any construction and abnormal load traffic shall be completed;
 - c) Abnormal Load Traffic Management Plan, details of which must include the methods of dealing with large and/or abnormal delivery vehicles vehicle swept path analysis and the methods of marshalling and manoeuvring at junctions on the public road network; and
 - d) Evidence of the completion of an Abnormal load trial run(s) undertaken for the delivery route. Representatives from the Moray Council Transportation (Traffic), the Trunk Road Authority, Police Scotland and any other roads authorities where roads will form part of the route of the delivery must be invited to the trial run.

Thereafter, all works associated with the Abnormal Load Deliveries shall be completed in accordance with the approved details and the Abnormal Loads delivered in accordance with the Traffic Management Plan.

Reason: In order to ensure that the matters specified can be fully considered prior to the commencement and to ensure acceptable infrastructure to enable access to the development and development that does not create any hazard to road users in the interests of road safety.

5. Prior to commencement of development on any phase of the development, the following shall be submitted to and approved by the Council, as Planning Authority in consultation with the Roads Authority:
 - a. Evidence to confirm that a Section 96 'Wear and Tear' Agreement has been completed and agreed by the developer or their representative and the local Roads Authority, including a commitment to the undertaking of joint 'before' and 'after' road condition surveys, to ensure that the costs of works to repair damage to the public road as a result of construction traffic on the roads identified in Condition 1 will be met.

Reason: To ensure that any adverse impact on the condition of the public road, including roadside verges, attributable to the development traffic is identified and ameliorated.

6. At the start and end of each phase (as per condition 1) 'before' and 'after' condition video surveys of the proposed delivery and construction traffic routes shall be undertaken jointly with the Roads Authority and a copy of the survey provided to the Planning and Roads Authority.

Reason: To ensure that any adverse impact on the condition of the public road, including roadside verges, attributable to the development traffic is identified and ameliorated.

7. Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Sunday (including National Holidays). No construction works shall be undertaken during any other times except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited period of construction works to be undertaken out with the permitted/stated hours of working.

Reason: In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

8. The Construction Environmental Management Plan ("CEMP") shall be implemented and maintained throughout the construction phase and in accordance with the details provided in the supporting document, including Appendices, by Moray Offshore Wind Farm (West) Limited and titled "OnTI Cable Route Construction Environmental Management Plan, Document Name : 8460005-DAD-MWW-REP-000006 Revision:02, Status : Final, Date : 03-09-2021". As approved under planning permission 21/01391/APP on 21 February 2022.

Reason: In the interests of the amenity and environment of the surrounding area.

9. No works in connection with the development hereby approved shall commence unless an Archaeological Written Scheme of Investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the WSI will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a Post-Excavation Research Design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

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

10. Prior to development commencing, detailed drawings and cross sections of any above ground watercourse crossings, must be submitted to and approved in

writing by Moray Council, as Planning Authority in consultation with SEPA and Moray Flood Risk Management. Thereafter the approved water course crossings must be developed in accordance with the approved plans unless otherwise agreed in writing with the Council, as Planning Authority.

Reason: In order to ensure the finalised water crossing design can be given further consideration and to ensure no detriment to the water environment or flood risk occurs.

11. The development shall be carried out in accordance with all mitigation measures (including pre-development surveys) as identified in the OnTi Protected Species Baseline Survey Report (doc. name: 8460005-DAD-MWW-REP-000005 rev: 2 dated 3 September 2021) and appendices approved under planning permission 21/01391/APP approved on the 21 February 2022.

Reason: To ensure the ecology and environment of the surrounding areas are protected during construction works.

12. The compensatory planting as identified in the Cable Route Tree Felling and Compensatory Planting Summary Report (doc. name: 8460005-DAD-MWW- REP-000022 rev. 2 dated 21 December 2021) and appendices hereby approved under planning permission 21/01391/APP on 21 February 2022 shall be provided in full no later than the first planting season following the full electrification of the cable route and substation.

Reason: To ensure timeous delivery of the agreed compensatory tree planting.

13. That within a period not less than 6 months prior to the cessation of operations, or an alternative timeframe as agreed in writing by Moray Council, as Planning Authority, a decommissioning plan is to be prepared in line with best practice at the time of preparation and submitted for the written approval of Moray Council, as Planning Authority in consultation with SEPA and Aberdeenshire Council. The decommissioning of the development must thereafter be undertaken in accordance with the approved decommissioning plan.

Reason: To ensure provision is in place to facilitate a move towards a "Circular Economy" and future proof the development against future environmental requirements or considerations in the interests of the protection of the natural environment.

Reason(s) for Decision

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

The proposed Section 42 variation to vary conditions allowing for longer construction working hours (subject the compliance with existing conditions relating to Construction Environmental Management Plans hereby repeated) will accord with the relevant aims and policies of the National Planning Framework 4 and Moray Local Development Plan 2020.

List of Informatives:

Comments from SCOTTISH WATER previously sent to the applicant under planning permission 21/01391/APP approved on 21 February 2022.

THE ENVIRONMENTAL HEALTH MANAGER, DEVELOPMENT SERVICES, has commented that:-

The Council has no record of private water supplies on the route of the proposed development. However, it is possible that unregistered supplies are present. It is recommended that a full assessment is made into the sources of water supply of properties on and in the vicinity of the route of the proposed development, the potential impact on these supplies and the need for mitigation. If private water supplies are present, you should contact the Council's Environmental Health section prior to starting works (tel 0300 1234561, email environmentalhealth@moray.gov.uk).

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

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

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

Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk and reference to the following pages on the Council web site.

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

RCC and Specification:

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

Before commencing development, the applicant is obliged to apply for permission to modify the existing public road, in accordance with Section 56 of the Roads (Scotland) Act. The applicant will be required to provide technical information, including drawings and drainage calculations, a programme for the proposed works. Advice on the application process can be obtained by emailing transport.develop@moray.gov.uk

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

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

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

Any street furniture, which will need to be repositioned to enable the development, including deliveries to the development, shall be at the expense of the developer. Furthermore, any existing roadside ditch, which requires relocating, a pipe or culvert shall be agreed in advance of any works commencing at that location. Advice on these matters can be obtained by emailing road.maint@moray.gov.uk

The developer shall be responsible for any necessary diversion of any utilities or drainage present at the locations where works are to be undertaken.

The developer shall meet all costs of improvements to the road infrastructure, which are required as a result of the development, including any measures to enable the use of structures on the public road for construction traffic and abnormal load deliveries.

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

The developer shall be responsible for ensuring that surface/ground water does not run from the public road into the site.

The developer 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. Advice on the retaining structures/embankments can be obtained by emailing structures@moray.gov.uk

The Transportation Manager must always be contacted before any works commence. This includes any temporary access, which should be agreed with the Roads Authority prior to work commencing on it.

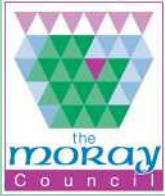
THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

Any watercourse crossings should be designed in accordance with SEPA's Engineering in the water environment: good practice guide River crossings <https://www.sepa.org.uk/media/151036/wat-sg-25.pdf> and following Engineering advice webpage <http://www.sepa.org.uk/regulations/water/engineering/>

THE DEVELOPMENT MANAGEMENT & BUILDING STANDARDS MANAGER has commented that:-

A developer obligation has been paid against this consent relating to compensatory tree planting.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
8460005-DAA-ITP-MAP-000004	Location plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

23/01848/APP 23/01851/APP 23/01852/APP
23/01853/APP

Site Address:

From within The Vicinity Of Redhythe Point In
Aberdeenshire Council Area To Whitehillock
Farm

Applicant Name:

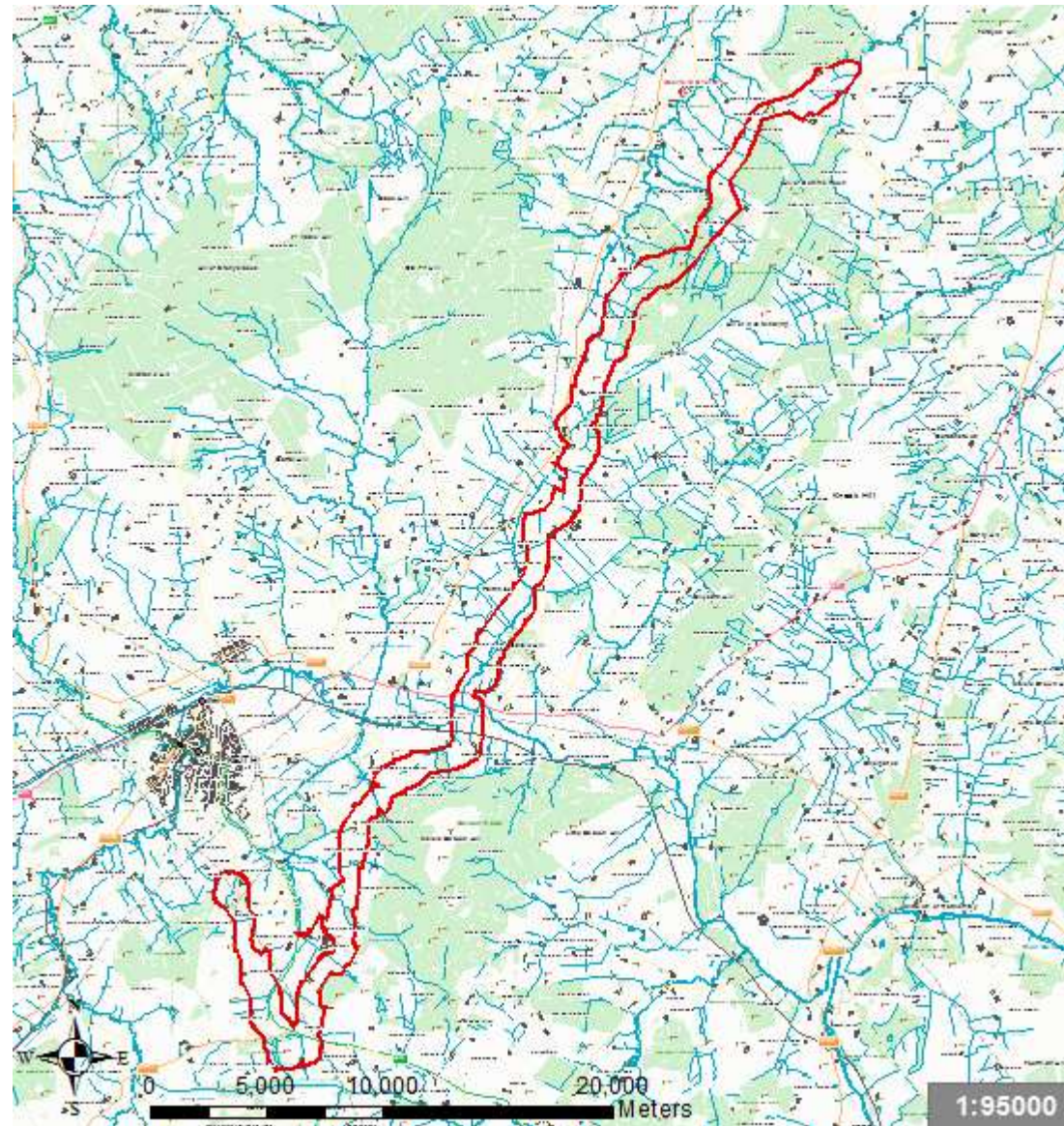
Moray Offshore Windfarm (West) Ltd

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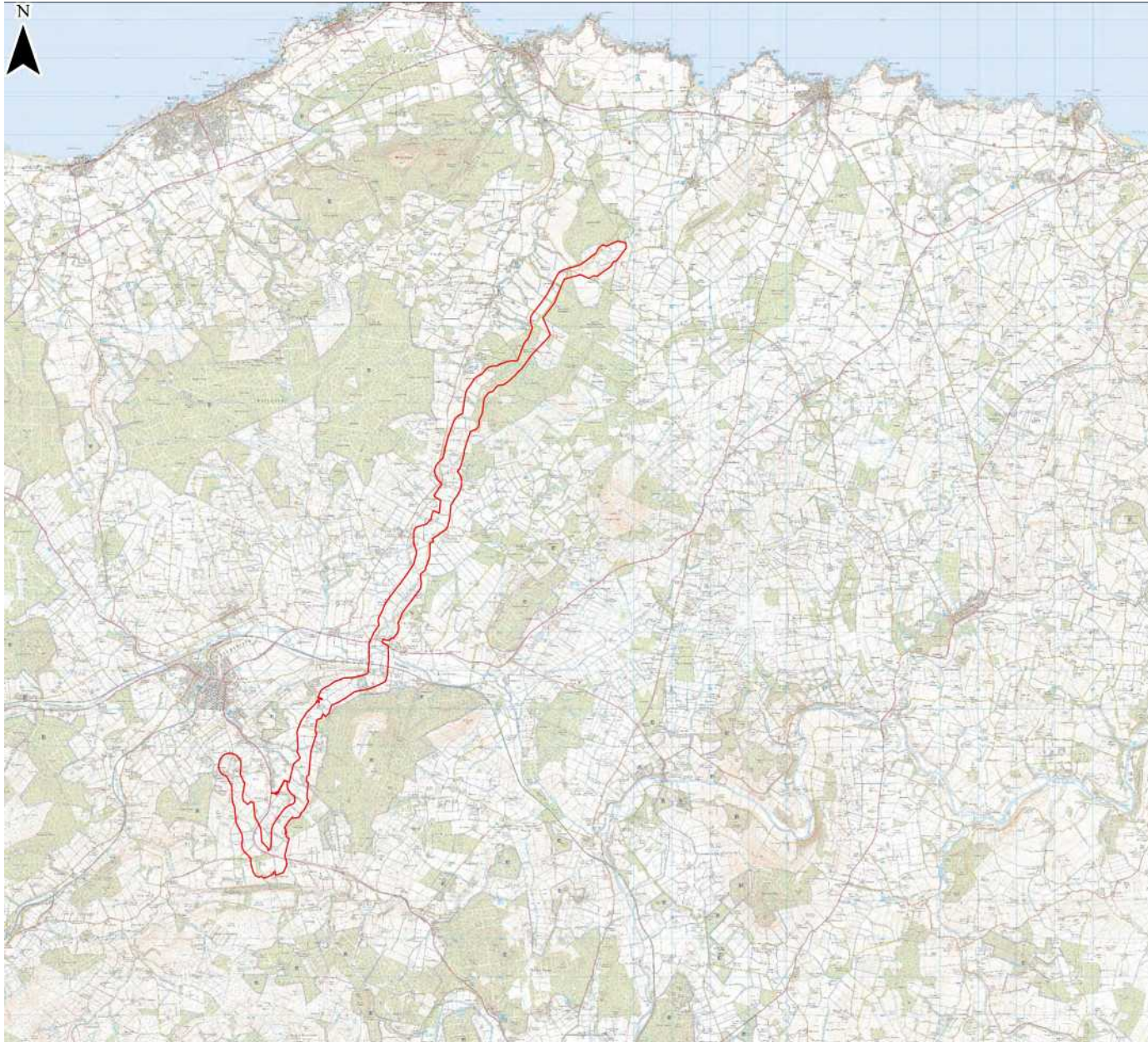
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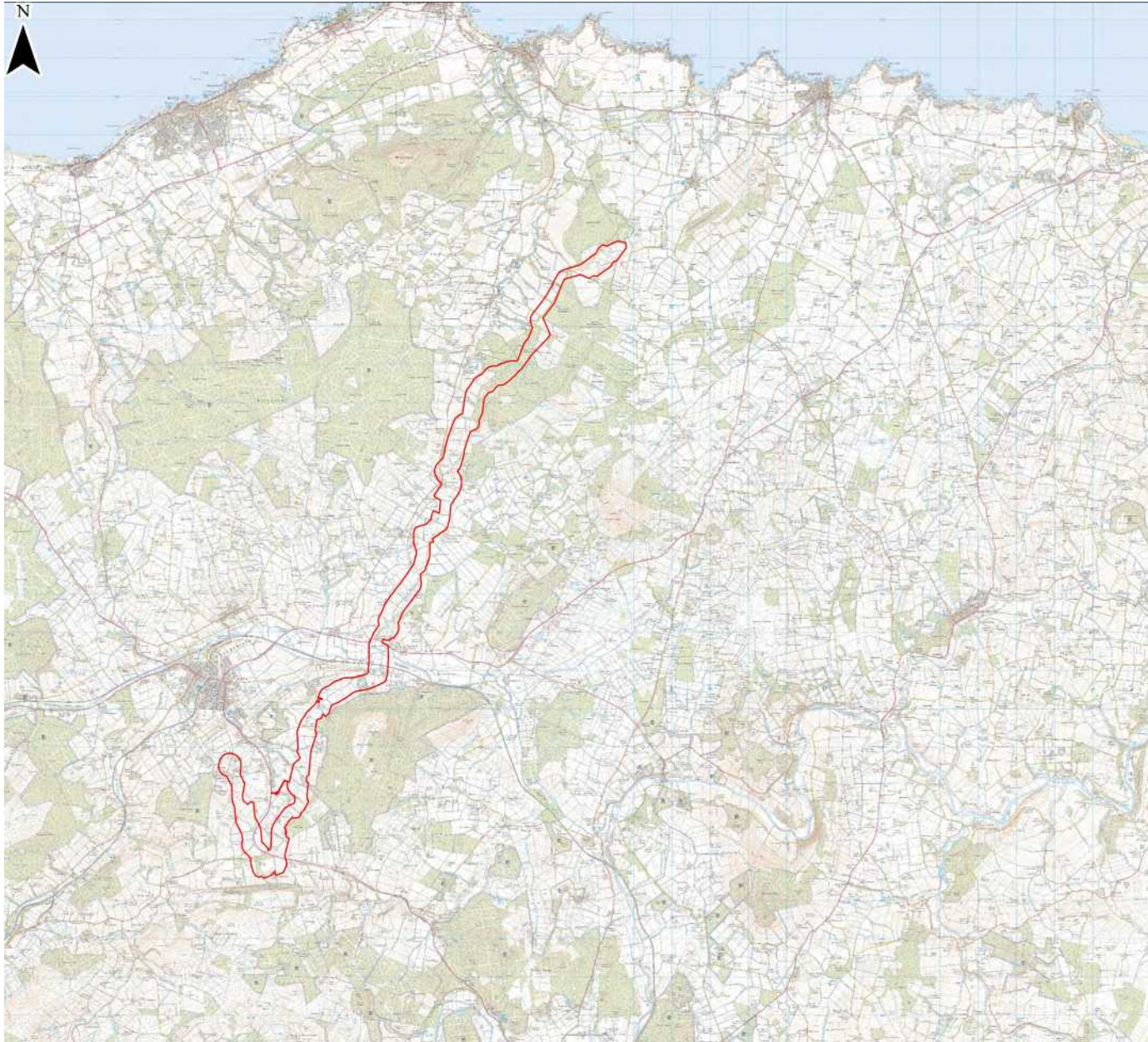
Location Plan - 18/01046/EIA



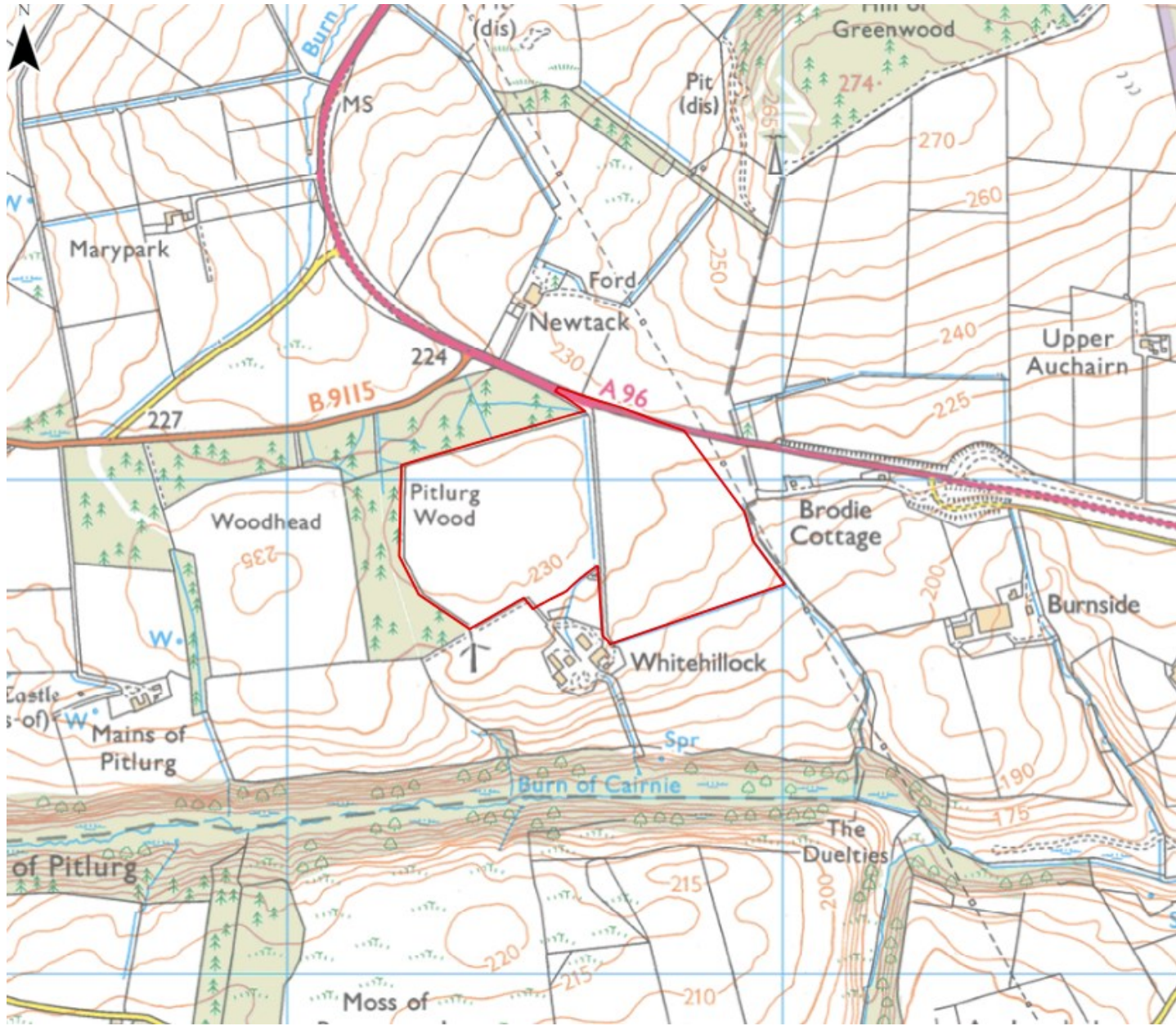
Site Location — 23/01848/APP relates to 18/01046/EIA



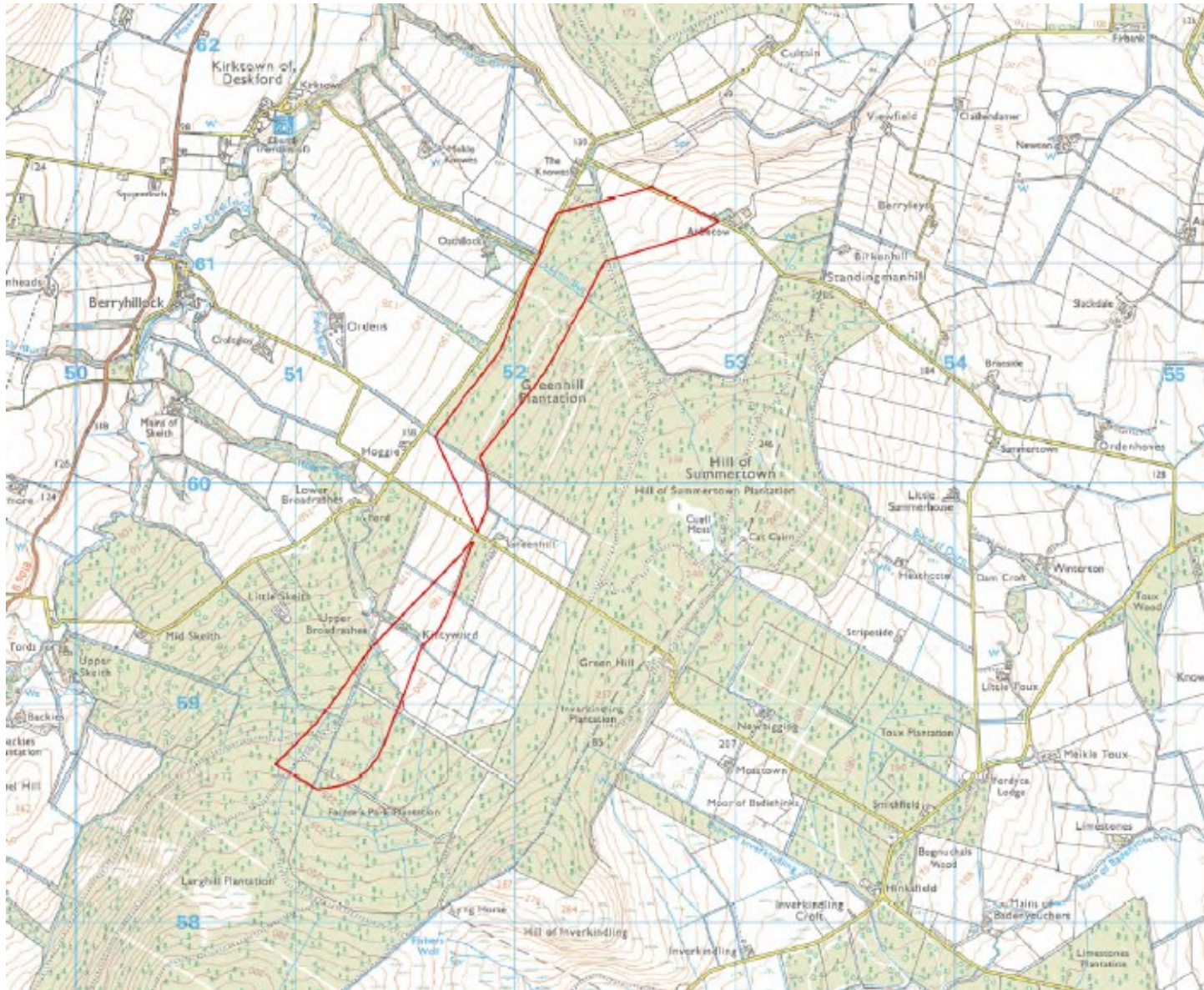
Site Location — 23/01851APP relates to 21/01402/AMC



Location plan—23/01852/APP relates to 21/01561/AMC



Location plan—23/01853/APP relates to 21/01391/APP



**PLANNING APPLICATION: 23/01848/APP, 23/1851/APP,
23/01852/APP and 23/01853/APP**

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

1. THE PROPOSAL

- The development under construction, subject of the Section 42 application is for two cable circuits, with each circuit comprising three separate cables; a typical voltage for the cables will be between 132 and 400 kV running underground from the Aberdeenshire coast, into Moray then travelling to a new electricity substation at Whitehillock on the east side of Moray, before leading underground again and joining into the SSE national grid hub at Blackhillock near Keith. The cable laying and new substation are well advanced in their construction.
- Four separate Section 42 applications all seek to extend the construction period from 5½ days a week to 7 days a week, inclusive of public holidays.
- Condition 18 of 18/01046/EIA reads as follows “Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Friday and 0700 – 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with Moray Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working. Reason – In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.” Application 23/01848/APP seeks to vary condition 18 so that instead of the above time limits, the condition would permit “Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Sunday (including National Holidays). No construction works shall be undertaken during any other times except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited period of construction works to be undertaken out with the permitted/stated hours of working”.
- Condition 7 of 21/01402/AMC states “Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Friday and 0700 – 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning

Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working. Reason - In order to ensure the development minimises nuisance and disturbance to neighbouring properties.” Application 23/01851/APP seeks to vary condition 7 to state the following “Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Sunday (including National Holidays). No construction works shall be undertaken during any other times except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited period of construction works to be undertaken out with the permitted/stated hours of working”.

- Condition 4 of 21/01561/AMC states “Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working. Reason - To ensure the construction phase is operated at times that prevent nuisance to local residents.” Application 23/01852/APP seeks to amend the condition 4 of the consent to read “Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Sunday (including National Holidays). No construction works shall be undertaken during any other times except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited period of construction works to be undertaken out with the permitted/stated hours of working”.
- Condition 7 of planning application 21/01391/APP states “Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working. Reason - To ensure the construction phase is operated at times that prevent nuisance to local residents.” Application 23/01853/APP seeks to amend the condition to read Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 – 1900 hours, Monday to Sunday (including National Holidays). No construction works shall be undertaken during any other times except where previously agreed in writing with the Council, as Planning Authority and where so demonstrated that operational

constraints require limited period of construction works to be undertaken out with the permitted/stated hours of working”.

- The intent of all four variation applications is to permit construction activity along the main cable route and substation site for a 12-hour duration if required, seven days a week. The current consent allows a similar duration at present from 7am to 7pm Monday to Friday only, and for a half day on Saturdays (also avoiding National Holidays).

2. THE SITE

- The cable route covers a long corridor crossing the Deskford and Grange areas, Strathisla and south of Keith. As the cable route leads southward it will cross beneath the River Isla, Aberdeen to Inverness railway line and several public roads before crossing farmland on the western flanks of Meikle Balloch Hill east of Keith. The new substation lies just south of the A96 at Whitehillock, which lies just within Moray’s boundary with Aberdeenshire. The underground cables would then leave the substation and lead northward to link in with the national grid at the existing Blackhillock substation. The cable corridor and substation cross mainly agricultural land and several areas of forestry.
- These four applications relate to the initial Planning Permission in Principle dealt with under 18/01046/EIA and subsequent detailed applications for matters conditioned for the substation and a deviation to the cable route.
- Application 23/01852/APP seeks Section 42 for application 21/01561/AMC which focussed upon suspensive conditions and works at the Substation site only at Whitehillock, which addressed separately from the conditions covering the cable route. This application therefore relates to the site of the substation compound currently under construction next to Whitehillock Farm south of Keith. This is reflected in the submitted site plan for 23/01852/APP which relates to the substation only.
- Application 23/01853/APP seeks a Section 42 variation to planning permission 21/01391/APP which relates to a section of cable route near Grange, Keith that had to deviate from the approved corridor under Planning Permission in Principle 18/01046/EIA. This Section 42 application relates only to several km section of re-routed cable, for which similar conditions were imposed to those on the remainder of the cable route under other consents referred to above.
 - The route under construct covered various woodland designations, areas subject of surface water flooding, archaeological designations.

3. HISTORY

For the site:

18/01046/EIA - Planning Permission in Principle to construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay underground cable circuits construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network at Blackhillock including temporary construction compounds access

track laydown areas and other associated works. This consent was granted by Moray Council on 3 December 2018 following a Pre-determination Hearing.

21/01391/APP - Installation of underground electricity cables and associated development on land between Greenhill and Factors Park Plantation, Deskford, Cullen. A current re-routed section of the cable route (3.1km in length) is currently subject of a separate planning application, which had to be submitted under a separate fully approval of planning permission as it lies outwith the approved 'corridor' consented under 18/01046/EIA. If approved this length of cable route would dovetail back into the cable subject of this application. As this cable would exceed 132kV it constitutes a significant infrastructure development and defined under the National Planning Framework 3 and therefore constitutes a National level development in planning terms. This application was approved by at a Pre-determination Hearing on 10th Feb 2021.

21/01561/AMC - Approval of Matters Specified in Conditions 2-9 11-15, 18-20, 22, 24-29 on planning consent 18/01046/EIA to Construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay underground cable circuits construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network from within the vicinity of Redhythe Point in Aberdeenshire Council Area to Whitehillock Farm Keith Moray AB55 5PH. While the site address relates to the whole site consented under 18/01046/EIA, this application focusses on purifying the conditions for substation phase of the development based near Whitehillock Farm at the southern end of the site. The submissions for 21/01561/AMC are common to those lodged for this application and notably the landscaping compensatory planting for the woodland lost on the cable route is proposed around the location of the substation at Whitehillock. This application was approved by Committee on 10th Feb 2021.

18/00954/S36 - Construct and operate an offshore windfarm, inclusive of two offshore electric substation platforms in the Moray Firth. This proposed offshore windfarm would comprise of 62-85 offshore turbines, to a height between 199m-285m (the taller turbines being at the lower density of 62 total) and would be located over 30km off the Moray Coast. The Moray Council was a consultee on the application, which was approved by Marine Scotland. Of note the Marine Scotland application identified the lifetime of the project as being circa 50 years, so it is clearly the intent that the onshore infrastructure and substation would be required for at least the same period.

17/01380/PAN - Proposal of Application Notice for proposed onshore substation and to onshore cable circuits. Moray Council responded on 25 September 2017 stating that the consultation measures proposed were considered suitable and no further consultation or notification was necessary.

17/00940/SCO - Scoping opinion for onshore transmission infrastructure landward of Mean Low Water Springs for Moray Offshore Windfarm (West). The scoping opinion was issued in August 2017 and included input from other consultees. This scoping opinion related to the development subject to application 18/01046/EIA.

4. **POLICIES**

Relevant National Planning Framework 4 policies

NPF1 - Tackling the Climate

NPF2 - Climate mitigation and adaptation

NPF11 - Energy

NPF18 - Infrastructure first

Moray Local Development Plan 2020 policies

PP3 - Infrastructure and Services

DP1 - Development Principles

DP9 - Renewable Energy

EP14 - Pollution Contamination Hazards

5. **ADVERTISEMENTS**

5.1 Advertised for neighbour notification purposes.

6. **CONSULTATIONS**

Consultee response common to both 23/01848/APP, 23/01851/APP, 23/01852/APP and 23/01853/APP.

Environmental Health – No objections. The noise management and monitoring measures shall be maintained in accordance with the approved Construction Environmental Management Plans for the consents currently approved on the development. This was suggested as further condition to be imposed upon the four consents, but as CEMP conditions remain imposed upon the original consents, such a condition would not be necessary.

Transportation Section – No objections, however the change in working hours should be reflected in an updated Construction Traffic Management Plan (CTMP). *Officer Note – This matter being covered under the variation sought would not need to be conditioned separately, but an updated CTMP would be requested in the event of approval.*

Transport Scotland – No objection.

Aberdeenshire Council – No objection.

7. **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).

3 representations were received in relation to applications 23/01848/APP and 23/01851/APP, but none were received for either 23/01852/APP or 23/01853/APP.

Given the length of the cable route, 76 different properties were notified of the Section 42, with several receiving multiple notifications for the above applications.

All objections/representations have been read and where material, given the appropriate consideration prior to the recommendation finalised. The grounds for objection/representation are summarised as follows:

Heading of issues/objection reasons selected by those making representation from objection/representation online objection web link.

- Activity at unsociable hours/behaviour.
- Dust.
- Precedent.
- Procedure not followed properly.
- Noise.
- Road safety.
- Traffic.

Issue – An objector is unclear of what additional hours have been requested, however the large lorries carrying heavy amounts of aggregate during the summer presented dangerous conditions for long periods of time and at weekends and early evenings. Our concerns included noise, dust, heavy lorries sometimes travelling in convoy which could cause damage to our cottage by the vibrations caused. The speed at which the lorries and other staff on the project travel past the objectors property also caused dangerous conditions.

Comment (PO) – The applicants should seek to ensure that contractors operate vehicles safely and this matter will be raised with applicants. This matter is one for enforcement of the Construction Traffic Management Plan previously approved and would not prevent approval of the current applications. Some of the HGV activity occurs on adopted roads, where no restrictions on HGV's exist such that it would be unreasonable to curtail their presence on the public road network. The applicant has tried to keep construction traffic on the haul roads where possible.

Issue - The traffic issues that are long standing, well discussed and have been fully ignored by all contractors in the area are only going to be exacerbated for the residents and neighbours, who gain absolutely no benefit from any of the works being undertaken. The residents and neighbours of these projects should not be the ones to suffer for the inability of the contractor to adhere to their original timescales.

Comment (PO) – The longer working hours would exacerbate some of the disruption referred to by objectors, and weight is attached to this in the below assessment. Experiencing passing construction traffic over the weekend, would be noticed by residents, but permission has been given by Moray Council on previous occasions for longer working hours, so it may be incorrect to say the applicant has ignored the condition, where all the consents sought to be varied have a flexibility built. The applicant has complied with the conditions and have made may prior requests to the Moray Council for longer working hours. The

comment that residents gain absolutely no benefit from such development is, with respect, inaccurate where the wider and environmental benefits of having a renewable/carbon free energy grid does benefit society and the environment.

Issue - No notification was provided to neighbours that works would be outwith approved hours. It has been our observation that the construction teams primarily work on a 10 day on 4 days off rota.

Comment (PO) – Part of the reasoning for some of the requests for longer hours or weekend working has been to accommodate specialist work, and also for example to works over the weekend as requested by certain utilities and Network Rail to minimise disruption and risk to assets. There is not obligation on the part of the applicants to notify neighbours of intended longer working hours. To notify them would however be good practice.

Issue – There is unmanned activity outwith these hours. There is a cable junction point within approximately 120 metres of our property. There has been a diesel generator in situ for the past weeks/months that is running constantly until the fuel runs out and it is then refuelled. This is noisy, in particular, because being sited in a rural area where there is minimal other noise. Naturally, the extent of the constant droning noise is dependent on the wind direction. Therefore, surely this pump should not be operating outside of approved hours, and I consider our dwelling to be in the 'noise sensitive' category.

Comment (PO) – There is no obligation upon the applicant to notify property owners of intended additional working periods, although Moray Council would encourage good communication with neighbours' as best practice.

Issue - The planning approval wording should be amended to explicitly state whether the working hours relate to manned and unmanned machinery. Approval should include the necessity to warn nearby dwellings of any changes to working hours especially when these are known to the developers.

Comment (PO) – The comment about unmanned machinery and generators running overnight is a matter to be addressed separately under the existing Construction Environmental Management Plan. These matters will be raised separately with the developer but would not constitute grounds to refuse the current applications.

8. OBSERVATIONS

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

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

- 8.2 Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan, namely the adopted National Planning Framework 4 (NPF) and adopted Moray Local Development Plan 2020 (MLDP) unless material considerations indicate otherwise.
- 8.3 Given the nature of the Section 42 proposals, it has not been necessary to seek any further procedure under The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017.

8.4 **Background**

The applicants have cited various reasons which have contributed to the project timetable falling behind over the past couple of years and have been seeking to get the project back on track with the scheduled completion of onshore transmission infrastructure to support the Moray West Offshore wind energy project.

- 8.5 All the planning conditions subject of the Section 42 request already have in-built flexibility to allow for additional working hours beyond those stated 5½ days a week only with the prior written agreement of the Moray Council as Planning Authority. To this end, the relevant working hours of the above consents have seen numerous requests from the applicants for working outwith the prescribed hours on a case-by-case basis. These requests have been made as the applicants seek to get the wider project timetable back on schedule with the wider project. The current applications seek to extend working hours conditions, so the numerous requests for out of hours working will be regularised and should avoid the repetitive submission/assessment of these requests.

- 8.6 The main planning issues are as follows.

8.7 **Section 42 application**

In considering a Section 42 application the planning authority can only consider the conditions that are the subject of the applications although this does not preclude consideration of the overall effect of granting a new permission. The effect of granting a Section 42 application is the creation of a new planning permission and therefore all conditions of the previous consent must be reiterated in order to have effect. For each of the four Section 42 requests covered by the report, the effect of each application and their collective impact have been considered.

For clarification, the Section 42 application that relates to the original Planning Permission in Principle (EIA) 18/01046/EIA, has been commenced as evidenced by the subsequent detailed consents for approval of matters conditioned. Therefore, the recommendation for varying the hours of construction activity for this consent (if approved) would not repeat all the superseded conditions that have already been discharged and would not have the effect of issuing a new Planning Permission in Principle (PPP). The PPP having been in effect implemented, need not be re-issued, but to align the other detailed consents with the original PPP, the recommendation for 23/01848/APP would allow the original consent to tie in with the subsequent variations.

8.8 **Principle of Development**

National Planning Framework 4 (NPF4) is support of renewable energy development and the infrastructure supporting it. Policy 11 'Energy' alongside policies relating to enabling development that help tackle climate change (Policy 1 'Tackling the climate and nature crises') imbed the general principle of supporting renewable energy proposals. This means that the onshore infrastructure subject of this report, which will serve the consented offshore windfarm known as Moray West not only benefits from the various commenced planning consents, but subsequent to their approval have added support afforded to them by the position of NPF4. Similarly, within Moray Local Development Plans 2020 (MLDP) policy DP9 'Renewable Energy' is similarly supportive stating that renewable energy proposals will be considered favourably.

8.9 Both NPF4 policy 11 and MLDP policy DP9 do however state that such support for renewables must be measured against appropriate mitigation measures to address the impact of such development. Addressing unacceptable adverse impacts should be imbedded in the design and manner in which such developments are carried out.

8.10 Whilst Covid19 crisis may have passed, the applicants cite it as having contributed to delays in the start of construction in 2022, thereby taking the project off schedule. Following the re-opening of the construction sites, post Covid19 the Scottish Government did issue advice to Planning Authorities instructing them to allow more flexible working hours on construction sites to aid economic recovery. While some time has passed since any lockdown was in place, the guidance is still given some consideration in planning where large, national development such as this are concerned.

8.11 **Amenity Issues**

Approval of a development of this scale, covering many km of countryside and involving extensive excavation, substantial quantities of construction materials has unavoidably caused disruption to local residents and those using the local road network.

8.12 There have been several complaints about increased traffic movements, construction lighting, generators running for long periods etc, not all relate to the hours of operation (subject of the current planning applications). While there is still significant activity along the cable route, and the haul road running parallel to much of the cable route is used where possible, the overall increase in activity from a project of this scale should not be understated.

8.13 Typically for any large infrastructure project, given the scale of activities across a wide area, conditions are imposed to keep construction activity to a level that allows for some respite to residences in the area, especially in the evenings and weekends. The implications of the request to work until 7pm every evening is considered below, but several factors may influence the below consideration.

- The most invasive and intense construction activities are now largely complete. All cables are now laid, and the majority of the infrastructure for the substation is now on site. The majority of earth works have been undertaken already, with largely finishing the jointing chambers and back-filling yet to be done.

- The works remain transient in that the site being linear sees construction works move along the cable route.
- Noting the complaints, some relate to the wider implications of the development occurring and would not specifically be exacerbated by long construction works.
- The applicants in getting the project back in line with project schedule would see works concluded quicker, which would benefit local communities and see agricultural land returned to use sooner.

8.14 With the lighter evenings, and better weather, construction activity would normally extend hours activity across most infrastructure building sites, and consent already exists for works to be carried out until 7pm 5 days a week. The key matter is whether allowing such activity to continue until 7pm would cause too detrimental an impact upon residents near the cable route and substation. Several of those making representations do not wish to see any extension of working hours and further allege that the times permitted are already routinely breached. Weight is attached to this concern, and it is unusual for sites to seek to operate 7 days a week.

8.15 Some of the matters raised are however matters that should be addressed under the existing consents in terms of construction management plans, construction environmental management plans and general good practice on building sites. These matters can be addressed separately to the consideration of the current request to all four applications. Matters such as light pollution, generators being left running overnight are matters that can be addressed separately. Officers have already raised with Moray West some of these matters such as light spill for mobile light stanchions when complaints were received. Therefore, in line with the comments from the Environmental Health Manager, these matters can be addressed separately, and will need to be dealt with by the applicant.

Conclusion

On balance the benefits of allowing works to occur over a longer weekly duration, and seeing the project completed sooner outweigh the concerns raised. The stage of the project is also a material consideration with much of the earthwork well advanced, the import of materials to the site focussed now upon testing, backfill, restoration then commissioning of the project. Less light pollution should occur too, as the summer months approach. Once the construction period is complete, the development would have very limited effect on neighbouring amenity during its operational period.

The significant weight attached within NPF4 to supporting energy infrastructure projects which enable renewable energy projects to progress and become operational when scheduled to do so, add further weight to the need to allow Moray West to get the onshore infrastructure completed. Therefore, all four applications (23/01848/APP, 23/1851/APP, 23/01852/APP and 23/01853/APP) to vary construction hours are recommended for approval. 23/01848/APP will vary construction hours only for the original planning permission in principle.

REASON(S) FOR DECISION

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

The proposed Section 42 variation to vary conditions allowing for longer construction working hours (subject the compliance with existing conditions relating to Construction Environmental Management Plans hereby repeated) will accord with the relevant aims and policies of the National Planning Framework 4 and Moray Local Development Plan 2020.

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