

MORAY COUNCIL

MINUTE OF THE SPECIAL MEETING OF THE PLANNING AND REGULATORY SERVICES COMMITTEE

15 FEBRUARY 2024

COUNCIL CHAMBERS, ELGIN

PRESENT

Councillor Cowe, Councillor Divers, Councillor Dunbar, Councillor Fernandes, Councillor Gatt, Councillor Gordon, Councillor Keith, Councillor Lawrence, Councillor Macrae, Councillor McBain, Councillor van der Horn, Councillor Warren

APOLOGIES

Councillor Cameron, Councillor Coull

IN ATTENDANCE

Head of Economic Growth and Development, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mr R Smith, Principal Planning Officer, Mrs L MacDonald, Senior Planning Officer, Legal Services Manager and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

1. CHAIR

Councillor Gordon, being Chair of the Planning and Regulatory Services Committee, chaired the meeting.

2. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS

In terms of Standing Orders 21 and 23 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda.

Councillor Divers declared an interest in Item 5 "Planning Application 23/02157/APP" as his son is employed by the Applicant, and stated that he would leave the chamber during discussion of this item and take no part in the decision.

There were no further declarations of Members interests in respect of any item on the agenda.

3. EXEMPT INFORMATION

The meeting resolved that in terms of Section 50A (4) and (5) of the Local Government (Scotland) Act 1973, as amended, the public and media representatives be excluded from the meeting during consideration of the items of business

appearing at the relevant paragraphs of this minute as specified below, so as to avoid disclosure of exempt information of the class described in the appropriate paragraphs of Part 1 of Schedule 7A of the Act.

Minute Paragraph	Paragraph Number of Schedule 7A
8	12 - Information relating to instructions to counsel any opinion of counsel and any advice received, information obtained or action to be taken in connection with any legal proceedings

4. PLANNING APPLICATION 23/01165/APP

Ward 1 – Speyside Glenlivet

S42 to vary condition 3 and condition 20 of the original planning consent ref 21/00020/EIA at Garbet Windfarm Site, 5.5km Southeast of Dufftown, Moray for Energiekontor

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for a S42 to vary condition 3 and condition 20 of the original planning consent ref 21/00020/EIA at Garbet Windfarm Site, 5.5km Southeast of Dufftown, Moray for Energiekontor.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is a major planning application.

The Chair confirmed that the monument erected in memory of Dr Grant who made the hill track adjacent to the new track leading to the windfarm will be preserved and will not be removed.

Following consideration, the Committee unanimously agreed to grant planning permission, as recommended, in respect of Planning Application 23/01165/APP subject to the following conditions and reasons:

Other than in relation to conditions 3 and 20, all other conditions referring to the 'EIA report', related to Environment Impact Assessment documents submitted and approved in relation to the consent permitted under DPEA reference PPA-300-2066 determined on 26 September 2022. In relation to variation sought, the Ministry of Defence have sought two further conditions (30 & 31).

1. Length of planning permission

Unless otherwise agreed in writing with the 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 planning permission. The date of final commissioning shall be as informed to the planning authority in writing or 18 months from the date of this planning permission, whichever is the sooner.

Reason: to avoid uncertainty and ensure that the permission is implemented within a reasonable period, and to allow the planning authority to monitor compliance with the other conditions imposed.

2. Expiry of planning permission

This planning permission will lapse on the expiration of a period of five years from the date of this planning permission, unless the development has been started within that period.

Reason: to apply a reasonable time limit for the implementation of the planning permission.

3. Height of Turbines

For the avoidance of doubt, the maximum height of the turbines hereby approved is 200 metres to blade tip.

Reason: to ensure that the development is carried out in accordance with the approved details.

4. Turbine details

No turbines shall be erected on the site until the definitive type/model of all turbines including details of the hub height, blade length and blade tip height, external finishes and colour, together with any further assessments as may be required in order to demonstrate to the reasonable satisfaction of the planning authority that the turbines conform to the impacts of the candidate turbine assessed in the EIA report, 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; and
- 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 EIA report and in the interests of the visual amenity of the area.

5. Substation

No construction of the substation or compound 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 thereafter be constructed in accordance with the approved details.

Reason: to ensure that the environmental impacts of the sub-station and the compound forming part of the development conform to the impacts assessed in the EIA report and in the interests of visual amenity.

6. Battery Storage facility

No construction of the battery storage facility shall commence until final details of its external appearance, dimensions, surface materials and boundary treatment, including the means of foul water disposal and water supply have been submitted to and approved in writing by the planning authority. The battery storage facility (including associated infrastructure) shall be constructed in accordance with the approved details.

Reason: to ensure that the environmental impacts of the battery storage facility forming part of the development conform to the impacts assessed in the EIA report and in the interests of visual amenity.

7. Transportation

Prior to the commencement of any part of the development, the following must be submitted to and approved in writing by the planning authority in consultation with the roads authority:

- a) detailed proposals for undertaking trial runs and also delivery of abnormal indivisible loads. 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. The CTMP must cover the duration of the development and 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, any temporary traffic waiting restriction requirements, 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 in the CTMP during construction will be required.
- c) evidence that a wear and tear agreement between the developer and the roads authority has been completed and signed by both parties. The wear and tear agreement 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.
- d) evidence shall be provided to confirm that a bond or other financial security has been agreed by the developer and the roads authority and put in place to cover the construction period of the development and to be called upon in the event that the developer fails to meet its 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, whichever is the earlier. The bond/security shall relate to the full extent of the U94bH Burnside of Markie Road within 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.

- e) detailed plans (1:200 minimum) of all temporary and permanent works proposed to the public roads including details of any works required to listed structures and any other heritage assets affected by deliveries to the development. Details for any areas of road widening and new passing places must also include drainage details to accommodate the additional road surface area. Specific trees to be removed to accommodate the road widening and passing places on the public road network leading to the site should also be identified. Details of where an equivalent number will be planted should also be included.
- f) detailed plans (1:200 minimum) of all works to accommodate the proposed abnormal indivisible deliveries. Details for any areas of road widening and new passing places must also include drainage details to accommodate the additional road surface area. Specific trees to be removed to accommodate the road widening and passing places on the public road network leading to the site should also be identified. Details of where an equivalent number will be planted should also be included.

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

Reason: to ensure that the development is acceptable in road safety terms and to mitigate the environmental impact.

8. Road works

Prior to the commencement of construction and deliveries, including any abnormal indivisible loads, all suspensive works approved through condition 7 must be completed in accordance with the approved details and plans. Any works undertaken are to be permanent for the duration of the operation of the development unless otherwise agreed in writing with the planning authority in consultation with the roads authority.

On completion of the works but prior to the commencement of deliveries, including any abnormal indivisible loads, abnormal load trial run(s) must be undertaken 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 and plans.

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

9. Temporary over-run areas

Prior to completion of the development, all areas of temporary over-run must be reinstated to an appropriate standard.

Reason: to ensure restoration at the end of the construction period to mitigate the environmental impact.

10. Environmental Clerk of Works

- a) No development shall commence until the planning authority has, in consultation with NatureScot, approved in writing the terms of the

appointment 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 volume I of the EIA Report; the construction environmental management plan; and the habitat management plan;
 - ii. require the ECoW to report to the developer's nominated construction project manager and the planning authority any incidences of noncompliance with the mitigation measures referred to at i) above at the earliest practical opportunity;
 - iii. require the ECoW to direct the micro-siting and placement of the turbines, buildings, tracks, hardstanding, and other ancillary 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;
 - v. require the ECoW to advise on adequate protection of nature conservation interests on the site and be responsible for checks for protected species before and during construction; and
 - vi. require the ECoW to attend frequent meetings as set out in the habitat management plan.
- 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.

11. Environmental Clerk of Works (Decommissioning)

No later than six months prior to decommissioning of the development or the expiration of this permission (whichever is the earlier), details of the terms of appointment of an independent environmental clerk of works throughout the decommissioning, restoration and aftercare phases of the development shall be submitted in writing to the planning authority for approval in writing. The environmental clerk of works shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

Reason: to secure effective compliance with the environmental mitigation and management measures associated with the development during decommissioning.

12. Habitat Management Plan

Prior to the commencement of development and further to the mitigation and enhancement contained within the outline habitat management plan hereby approved, a consolidated and detailed habitat management plan must be submitted to the planning authority for approval in writing, incorporating:-

- a) the constitution of the habitat management plan steering group, including as a minimum the developer, the landowner, NatureScot, and the Deveron, Bogie and Isla Rivers Trust;
- b) the remit of the habitat management plan steering group including how changes to the plan will be made and approved;

- c) a fishery management plan including additional baseline electrofishing and kick sampling to be conducted before, during and two years post construction;
- d) frequent site meetings with the ECoW appointed in accordance with condition 10 preconstruction, during and on completion of construction;
- e) consolidation of the proposed ornithological mitigation with existing agri-environmental management schemes already in place particularly in relation to wading birds and peatland restoration;
- 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 which is likely to be 12 to 18 months;
- h) a peat management plan including details of alternatives to stripping the shallow peaty layer in the temporary construction compound; active intervention measures to promote swift revegetation including details of the slope and how the hydrology of the reinstated peat will be addressed and monitored; water table depth and resulting soil pore space saturation which will require monitoring and active intervention if the water table is lower than required; and
- i) blanket bog restoration: further details of location, methods, materials, monitoring and aftercare in relation to blanket bog restoration required.

Thereafter, the development shall be completed in accordance with the approved details. No development shall commence unless and until the habitat management plan steering group has been established.

Reason: to minimise potential impacts on fish fauna, birds and peat and to ensure the appropriate management of peat habitats and reuse of peat.

13. Drainage

Unless otherwise agreed with the planning authority in writing, a finalised drainage impact assessment, showing the following must be submitted to and approved in writing by the 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 volume I 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) the 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 predevelopment run-off rate, or increase the risk of flooding to the surrounding land;
- d) confirm 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' of the EIA report, watercourse crossings to be oversized, bottomless arched culverts or traditional style bridges are to be used; and

- f) the Deveron District Salmon Fishery Board are be consulted on any instream works before work progresses and specifically on the design of all waterway crossings.

Reason: 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.

14. Access Management Plan

Prior to commencement of development an access management plan must be submitted to and approved in writing by the planning authority in consultation with the Moray Access Manager and the Moray Local Outdoor Access Forum. Thereafter the approved access management plan 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.

15. Construction Environmental Management Plan

No development shall commence until a construction environmental management plan, incorporating a construction method statement and the proposed precautions and mitigation detailed in chapter 15 Schedule of Mitigation Table 15.1 of volume I of the EIA report, has been submitted to and approved in writing by the planning authority in consultation with the Scottish Environment Protection Agency.

Reason: to ensure all the necessary mitigation measures as set out in the EIA Report are implemented properly.

16. 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. Outwith these specified hours, development on the site shall be limited to concrete pouring if started within those hours, turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, unless otherwise approved in advance in writing by the planning authority. 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;

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.

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 in each bin is the arithmetic sum of the wind farm noise level, any tonal penalty applied in accordance with Note 3 and any AM penalty applied in accordance with Note 4. 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. The IOA Metric is "A Method for Rating Amplitude Modulation in Wind Turbine Noise" dated 9th August 2016 or any update of that 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 allow an AM penalty to be calculated for selected periods where a tonal or AM 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 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, mean nacelle orientation, 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

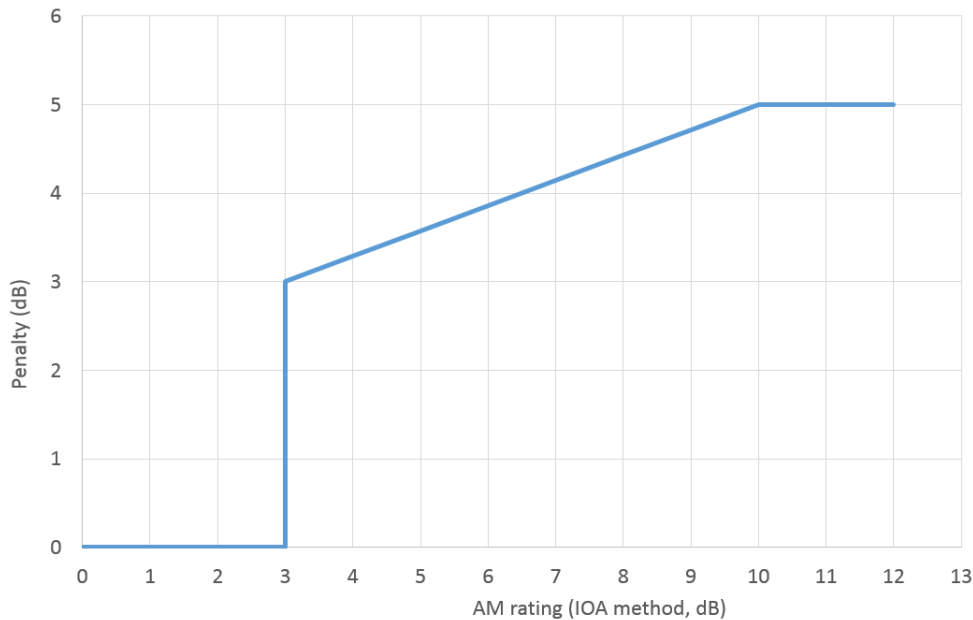
- a) The independent consultant shall identify a sub set of data having had regard to:-
- the conditions (including time of day and corresponding wind directions and speeds) at times in which complaints were recorded;
 - the nature/description recorded in the complaints if available;
 - information contained in the written request from the local planning authority;
 - likely propagation effects (downwind conditions or otherwise); and
 - the results of the tonality/AM 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 immissions during two minutes of each 10-minute period. The two minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure").
- c) For each of the two-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 10-minute period shall be placed in the appropriate data sub set and wind speed bin.

Note 4 – AM penalty

- a) Where, in accordance with the protocol, the noise contains or is likely to contain AM, an AM penalty shall be calculated for each ten-minute period using the following procedure.
- b) For each 10-minute interval for which an AM assessment is required this shall be performed in accordance with the IOA Metric. The value of AM for each ten-minute period shall be converted to a penalty in decibels in accordance with the graph below and the penalty shall be placed in the appropriate data sub set and wind speed bin. Where a penalty is zero it should be placed in the bin in the same way.



Note 5 – 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 AM penalty for each bin is the arithmetic mean of the AM penalties in the bin. - The assessment level in each bin is normally the arithmetic sum of the bin LA90, the bin tonal penalty and the bin AM penalty except where the AM penalty and the tonal penalty relate to the same characteristic (e.g. amplitude modulated tones) when the sum of both penalties may overly penalise the characteristics of the noise. Such cases should be identified and only the larger of the AM or tonal penalty should be applied.
- 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 immission 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 (L3) 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 (L1) in each bin shall then be calculated as follows where L2 6 5 4 a; "0 i 3 ,, C II CL 2 1 0 0 1 2 3 4 5 6 7 8 9 10 11 12 13 AM rating (IOA method, dB) is the measured level with turbines running but without the addition of any tonal nor AM penalty:

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

- iii. The rating level shall be calculated by adding the tonal and AM penalties to the derived wind farm noise L1 in that bin.
- iv. If the rating level after adjustment for background noise contribution and adjustment for tonal and AM 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.

Reason: to ensure noise emanating from the windfarm, including amplitude modulation should it occur, can be controlled and kept to an acceptable level.

18. Noise measurements

Prior to the commencement of development full details of the proposed wind turbines (including the power rating, sound power levels, and tonality assessment carried out on the selected turbine) shall be submitted to and approved by the planning authority. Thereafter only the approved turbines can be erected on the site unless with the written consent of the planning authority.

An independent consultant, approved by the planning authority, shall be employed to measure and where necessary calculate, at the developer's expense, the level of noise emissions from the wind turbines within the first year of operation. The measurement procedures, which may include filtering data according to wind direction, shall be agreed with the planning authority prior to commencement of operation. The measurements shall be carried out in accordance with the approved procedures. 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: to ensure adequate noise data is collected to aid future safeguard to neighbouring properties for noise amenity.

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 be approved in writing by 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, national public holidays or bank holidays (as defined in condition 16).
 - 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-1 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: 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 1.1 Site Layout. The location of the wind turbines, compounds, areas of hardstanding and tracks may be varied (micro-sited) within the site subject to the following, unless otherwise approved in advance in writing by the planning authority:
 - i. no wind turbine, building, mast, tracks, hardstanding or other ancillary infrastructure shall be moved more than 100 metres from the position shown within the Figure 1.1 Site Layout. If any micro-siting is sought, it must first of all be approved in writing by the planning authority (in consultation with the Ministry of Defence - Safeguarding).
 - ii. the exceptions to this will relate to tracks between T4 to 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 ECoW appointed in accordance with condition 10.
 - 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 for approval in writing must be made to the planning authority (in consultation with the Ministry of Defence, Safeguarding). Such a request must be accompanied by an updated and comparative ZTV plan and wireline montages as required by the planning authority. No such micro-siting can take place without the written approval of the planning authority.
- 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 ECoW or the planning authority's written approval, as applicable.

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

21. Buffer zones

The buffer zones around groundwater abstractions and watercourses identified on Figure 8.6 Constraints of the EIA report shall be implemented in full throughout the construction, operation and decommissioning of the development.

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

There shall be no development, machinery movement or operations within the buffer zones without the agreement of the planning authority in consultation with the Scottish Environment Protection Agency. The buffer zone around the groundwater abstraction areas shall be demarcated on the ground during construction.

Reason: to prevent potential unacceptable impacts on groundwater abstractions.

22. Shadow flicker

At the reasonable request of the planning authority following a complaint, the developer shall investigate and instigate appropriate mitigation measures to minimise the effects of shadow flicker.

Reason: to ensure mitigation can be pursued and instigated in the event of such a complaint being received.

23. Restoration of borrow pits

Prior to the construction of the final turbine, a finalised restoration plan for any borrow pits used on site, including the programme and timescales for the restoration, must be submitted to, and approved in writing by the planning authority in consultation with the Scottish Environment Protection Agency. Thereafter the restoration shall be carried out in accordance with the plan.

Reason: to ensure the restoration of borrow pit(s) at the end of the construction period to mitigate the environmental impact.

24. Mitigation

The development shall be developed in accordance with the schedule of mitigation as specified in chapter 15 Schedule of Mitigation Table 15.1 of volume I of the EIA 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 this permission.

Reason: 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) an aviation lighting scheme must be submitted to the planning authority for approval 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. [specify shielded lights as per the lighting strategy]

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

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

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

Reason: To maintain aviation safety.

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 the planning authority.
- b) Prior to the commencement of development an outline decommissioning,

restoration and aftercare method statement shall be submitted to and approved in writing by the planning authority in consultation with the Scottish Environment Protection Agency. 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 PPA-300-2066 42 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 the Scottish Environment Protection Agency. 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 authority in consultation with Scottish Environment Protection Agency.

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 acceptable to the planning authority, acting reasonably, 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 developer 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 27 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 27 above.
- d) The value of the financial guarantee shall be reviewed by agreement between the developer 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 developer.

29. Reduced lighting scheme

Unless otherwise agreed in writing with the planning authority, prior to development commencing a proposed lighting scheme based on the lighting strategy detailed in appendix 6.4 of the EIA report, together with a report detailing the investigations into a reduced lighting scheme and the measures that can be taken (or evidence of why they cannot be achieved), must be submitted to and approved in writing by the planning authority in consultation with the Ministry of Defence Windfarm Safeguarding and the Civil Aviation Authority. Thereafter the lighting scheme must be implemented in accordance with the approved scheme.

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

30. No development shall commence unless and until an Air Traffic Control Radar Mitigation Scheme to address the impact of the wind turbines upon air safety has been submitted to and approved in writing by Moray Council in conjunction with the Ministry of Defence (MOD).

The Air Traffic Control Radar Mitigation Scheme (ATCRMS) is a scheme designed to mitigate the impact of the development upon the operation of the Primary Surveillance Radar at RAF Lossiemouth ("the Radar") and the air traffic control operations of the MOD which are reliant upon the Radar. The ATCRMS shall set out the appropriate measures to be implemented to mitigate the impact of the development on the Radar and shall be in place for the lifetime of the development provided the Radar remains in operation.

The development shall be implemented strictly in accordance with the details set out in the approved ATCRMS.

Reason: in order to ensure that the appropriate mitigation measures are in place prior to the windfarm becoming operational.

31. No wind turbine erected as part of this development shall be permitted to rotate its rotor blades about its horizontal axis, other than for the purpose of testing radar mitigation for this development for specific periods as defined in the approved Air Traffic Control Radar Mitigation Scheme (ATCRMS) or otherwise arranged in accordance with provisions contained in the approved ATCRMS, until:

- a) those mitigation measures required to be implemented prior to any wind turbine being permitted to rotate its rotor blades about its horizontal axis as set out in the approved ATRMS have been implemented; and
- b) any performance criteria specified in the approved ATRMS and which the approved ATRMS requires to have been satisfied prior to any wind turbine being permitted to rotate its rotor blades about its horizontal axis have been satisfied and Moray Council as Planning Authority, in conjunction with the Ministry of Defence, have confirmed this in writing.

Thereafter the development shall be operated strictly in accordance with the details set out in the approved ATRMS for the lifetime of the development, provided the Radar remains in operation.

Reason: in order to ensure that the appropriate mitigation measures are in place prior to the windfarm becoming operational.

5. PLANNING APPLICATION 23/02157/APP

Councillor Divers, having declared an interest in this item, left the meeting at this juncture and took no part in the decision.

Ward 4 – Fochabers Lhanbryde

Vary condition 19 of 19/01080/APP to permit construction of footpath prior to occupation of any dwelling unit on Land At St Andrews Terrace, Lhanbryde, Moray for Springfield Properties PLC

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted to vary condition 19 of 19/01080/APP to permit construction of footpath prior to occupation of any dwelling unit on Land At St Andrews Terrace, Lhanbryde, Moray for Springfield Properties PLC.

During her introduction, Mrs MacDonald, Senior Planning Officer advised that, although the report stated that Transport Scotland had not made any comment, a response has now been received asking that the conditions on the original consent be reiterated. This was noted.

The meeting noted that the application had been referred to Committee in terms of the Scheme of Delegation as it is a major application.

Following consideration, the Committee unanimously agreed to grant planning permission in respect of Planning Application 23/02157/APP subject to the following conditions and reasons:

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

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

2. 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 Council, as 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 occupied 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 Council, as 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.

3. No development shall commence until full details (including scaled elevation drawings) of the proposed 'key buildings' identified in the placemaking statement received on 25 November 2020 and drawing LH01_PL_07 have been submitted to and approved in writing by the Council, as Planning Authority. For the avoidance of doubt the key buildings shall reflect the house types approved as part of the application. Thereafter development shall not proceed except in accordance with the approved details.

Reason: To ensure that the proposals harmonise with the character of the development and the wider area and because no such details were included with the application.

4. Notwithstanding the submitted landscaping plans no development shall commence until additional plans have been submitted to and approved in writing by the Council, as planning authority incorporating all the currently proposed details along with all measures identified in the submitted placemaking statement received on 25 November 2020 and the biodiversity plan received on 2 October. For the avoidance of doubt the revised plans shall include:
 - Details of all measures to provide distinctive planting in each character area;
 - Full specification for the proposed woodland paths;
 - A full maintenance schedule including woodland areas;
 - Full details (scaled drawings 1:50) of the proposed entrance walls which shall be constructed in stone;
 - Written details of sizes of trees and shrub planting to be semi-mature plants and not heavy standard as noted on the submitted drawings;
 - Details of the type and location of all proposed bat and bird boxes and timing of provision; and
 - A method statement for the creation of the proposed wetland areas and a maintenance schedule.

Thereafter all landscaping works shall be carried out in accordance with the approved details. Unless otherwise agreed as part of the approved details all planting, seeding or turfing shall be carried out in the first planting season following the first occupation of any of the units hereby approved. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following

planting season with others of similar size, number and species unless otherwise approved by the Council, as Planning Authority.

Reason: To ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area and because no such information was included with the application.

5. No development shall commence until details of the landscaping treatment along the trunk road boundary has been submitted to, and approved by, the Council, as Planning Authority, after consultation with Transport Scotland. Thereafter the approved details shall be implemented in full prior to the first occupation of any part of the development.

Reason: To ensure that there will be no distraction to drivers on the trunk road, and that the safety of the traffic on the trunk road will not be diminished.

6. No development shall commence until a Peat Management Plan, demonstrating avoidance of areas of deep peat and details of quantities and appropriate reuse of excavated peat and any mitigation or restoration proposals, has been submitted to and approved in writing by the Council, as Planning Authority in consultation with SEPA, and thereafter shall be implemented in full on site.

Reason: In order to minimise disturbance of peat and ensure the appropriate reuse and management of peat on site.

7. No development shall commence until details of measures to protect and enhance the M9 habitat (as identified in the submitted Lhanbryde Development Site: Badger and GWDTE survey by Highland Ecology and Development Services) have been submitted to and approved in writing by the Council, as Planning Authority in consultation with SEPA. Thereafter development shall not proceed except in accordance with these approved details.

Reason: To protect the water environment.

8. No development shall commence until a Badger Mitigation Plan has been submitted to and approved in writing by the Council, as Planning Authority. For the avoidance of doubt the plan shall allow for the channelling of badgers around the site. The construction of the development shall be implemented in accordance with the approved Badger Mitigation Plan.

Reason: To minimise the potential conflict with badgers during construction.

9. As part of the development hereby approved, the accessible housing units shall be provided in line with the detail in accordance with the Moray Council's DP2 Policy Guidance Note on Accessible Housing. Prior to any development commencing, a compliance statement, along with detailed floor plans at a suitable scale, which demonstrate compliance with the Policy Guidance, shall be submitted to and approved in writing by the Council, as Planning Authority. Thereafter, the accommodation as identified shall, at all times, remain as accessible housing and remain capable for adaptation for accessible housing needs unless otherwise agreed with the Council, as Planning Authority. For the avoidance of doubt 10% of the private housing units hereby approved shall be

accessible units. Furthermore, evidence must be provided that level access to each unit can be achieved from parking to an external door within 15m.

Reason: To ensure an acceptable form of development in terms of the required provision and delivery of accessible housing within the site as required and defined in terms of current planning policy and associated supplementary planning guidance.

10. The 19 units identified as affordable housing on approved plan LH01_PL_01 revision L shall only be used for affordable housing purposes in accordance with the agreement(s) reached between the applicant/developer and Moray Council and/or any registered social landlord (e.g. housing association or similar) to enable the long term delivery of affordable housing on this site; and no development shall commence until details of the agreement(s) to confirm the arrangements for the delivery of the proposed affordable accommodation hereby approved shall be submitted to and approved in writing by the Council, as Planning Authority.

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

Reason: To ensure an acceptable form of development in terms of the required provision and delivery of the affordable housing accommodation proposed for this site wherein the benefits of such provision are passed on to serve the community in future years.

11. No trees other than those identified for removal in the submitted Arboricultural Impact Assessment/Method Statement by Urban-Arb Arboricultural Consultants and Tree Protection Plan rev B sheets 1-3 shall be removed without the prior written approval of the Council, as planning authority.

Reason: In order to ensure tree removal is adequately controlled.

12. No development shall commence until the tree protection measures detailed in the submitted Arboricultural Impact Assessment/Method Statement by Urban-Arb Arboricultural and Tree Protection Plan rev B sheets 1-3 have been implemented in full.

Reason: In order to ensure adequate measures to protect retained trees are in place.

13. Notwithstanding submitted drawing 1706.16352 (ExampleDesign_SpringfieldP) no development shall commence until full details (scaled drawing 1:100 and equipment specification schedule) of an equipped play area as identified on approved plan LH01_PL_01 revision L including the maintenance arrangements have been submitted to and approved in writing by the Council, as Planning Authority. The equipped play area shall make provision for all-abilities access including in relation to the surface finish, play equipment and seating. The equipped play area shall be provided in accordance with the approved details and be available for use prior to the occupation of the 25th unit hereby approved. Thereafter the play area shall be maintained in accordance with the approved maintenance arrangements.

Reason: To ensure the adequate provision of an equipped play area and its future maintenance.

14. No development shall commence until details confirming the installation of fibre broadband connection for each residential unit (to be provided prior to occupation of each unit) have been submitted to and approved in writing by the Council, as Planning Authority. Thereafter, the development shall be implemented in accordance with these approved details, unless otherwise agreed in writing by the Council, as Planning Authority.

Reason: To ensure the residential units hereby approved are served by appropriate high speed internet connections, in accordance with policy PP3 - Infrastructure and Services of the Moray Local Development Plan 2020.

15. No development shall commence until details (scaled drawings) of a safe and suitable connection from the site to the existing cycle path on the north side of St Andrews Road have been submitted to and approved in writing by the Council, as Planning Authority. The connection shall be provided prior to the completion of any house or flat.

Reason: To ensure adequate connectivity to and through the site.

16. Notwithstanding the details submitted within the Transport Assessment on Drawing No 180980-900 (which is not accepted), no development shall commence until the following details have been submitted and approved in writing by the Council, as Planning Authority in Consultation with the Roads Authority:
- i. Details (Plan 1:500) for two new bus stops (one in each direction) on St Andrews Road (including road markings or laybys as required, shelters and flags); and
 - ii. A Road Safety Audit (Stage 1/2) which has been carried out in accordance with the requirements set out in the Design Manual for Roads and Bridges taking account of the proposed bus stops and site access. The proposals shall be revised to take account of any agreed mitigation and thereafter the bus stops and any other agreed mitigation required shall be provided in accordance with the approved details prior to the completion of any house or flat.

Reason: To ensure adequate provision is made for accessibility to public transport, the provision of details lacking from the submission and in the interests of road safety.

17. No development shall commence until details comprising a Root Protection Plan have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The root protection measures shall be installed in accordance with the agreed Root Protection Plan. No trees shall be planted within 5.0m of the edge of the public road carriageway unless agreed root protection is provided.

Reason: To prevent root interference that could compromise the public road carriageway (and the utilities contained therein) thereby ensuring acceptable infrastructure at the development access, in the interests of road safety.

18. Notwithstanding the parking details submitted on the Parking Provision EV Charging Drawings LH01_PL_ 8, 9 and 10 (which are not accepted), no

development shall commence until the following details have been submitted for approval by the Council, as Planning Authority in consultation with the Roads Authority:

- Details (Plan 1:200) showing the provision of electric vehicle charging infrastructure at a rate of 1 per flat for Plots 3-10 and parking spaces accessible within 5 metres.
- Statement/specifications to confirm that the EV charging supply and cabling provision for each plot will be suitable for the connection of a 7Kw 'Fast' type charging unit as a minimum.
- Design/specifications for the proposed mounting/installations to be provided for any future EV charging points which shall not be mounted on a wall/within a garage.

Thereafter the development shall be completed in accordance with the approved details, the parking and EV charging provision associated with each house or flat shall be completed prior to occupation and shall be maintained and available for this purpose unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

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

19. Notwithstanding the parking details shown on plan LH01_PL_01 revision L, no development shall commence until the following details have been submitted for approval by the Council, as Planning Authority in consultation with the Roads Authority:
- i. a plan (1:500) showing the provision of 3 parking spaces for plot 12 (Type F); and
 - ii. a plan showing 2 additional lay-by type parking spaces at a location to be agreed on the north side of the site access road between Plot 22 and the 'Kickabout area' (as shown on Drawing LH01_PL_05).

Thereafter the development shall be completed in accordance with the approved details and parking provision associated with each house or flat shall be completed prior to the occupation of said house or flat and maintained for this purpose unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

Reason: Submission of additional information to ensure adequate provision is made for car parking within the development, and to ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety.

20. Prior to the first occupation of any house or flat the footway on the south of St Andrews Road connecting the site access with the existing footway to the east of the site must be completed and available for use by the public.

Reason: To ensure adequate provision for non-vehicular road users in the interests of road safety.

21. A visibility splay of 4.5m x 160m to the west and 4.5m x 90m to the right (as shown on Drawing No. LH01-ENG-700 Rev) shall be provided in accordance with the approved drawing prior to any works commencing on the access

- (except for those works associated with the provision of the visibility splay); and
- i. a schedule of maintenance for the visibility splay shall be provided prior to the access becoming operational; and
 - ii. the visibility splay shall be maintained at all times free from any obstruction exceeding 0.26m metres above the level of the carriageway in accordance with the agreed schedule of maintenance, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

Reason: To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

22. Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced with bituminous macadam unless otherwise agreed with the Council, as Planning Authority in consultation with the Roads Authority.

Reason: To ensure acceptable infrastructure is provided at the property accesses.

23. No works shall commence on site until a Construction Traffic Management Plan (CTMP) has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The CTMP shall include as a minimum the following information:

- Details of any temporary construction access from the public road;
- Duration of works;
- Construction programme;
- Details of construction traffic routes to the site;
- Measures to be put in place to prevent material being deposited on the public road, monitoring and arrangements to clean the road if necessary;
- Traffic management measures to be put in place during works including any specific instructions to drivers;
- Parking provision for site staff;
- Drop-off and turning provision for delivery vehicles to ensure entry and exit in a forward gear;
- Hours of operation and restrictions during school arrival and departure times from the existing housing; and
- Arrangements for providing residents with information on works, points of contact for liaison and emergencies.

Thereafter, the development works shall proceed in accordance with the approved details, unless otherwise approved in writing by the Council, as Planning Authority in consultation with the Roads Authority.

Reason: To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site, road safety and the amenity of the area/adjacent properties.

24. The development shall meet the following requirements:
- a) Except for the formation of a single access route, there should be no built development - including any land-raising - within the area shown as being at risk of flooding in Figure 10 (p28) of the Flood Risk Assessment (1601 - Lhanbryde, Moray, FRA Aug 19) by Kaya Consulting. (Note SEPA advises that while there should be no built development including land raising, this area should be sustainably managed).

- b) No development shall commence until the detailed design of the access route, including provision of compensatory storage and flood relief culverts has been agreed in writing with the Council, as Planning Authority in consultation with SEPA and thereafter the agreed details shall be implemented in full on site.

Reason: To protect people and property from flood risk in line with Scottish Planning Policy.

25. Prior to the first occupation of any unit hereby approved the acoustic barrier shall be installed at the location as described in Figure 4, page 11 of the Noise Impact Assessment supporting document by Charlie Fleming Associates Ltd, 5 Salt pans, Charlestown, Fife KY11 3EB, dated 20 September 2019, and titled "Report on Road Traffic Sound For Springfield Properties At St Andrews Road, Lhanbryde, Elgin, Moray". Thereafter, the approved barrier (or a suitable equivalent approved in writing by the Council, as Planning Authority in consultation with the Environmental Health Authority and the Trunk Roads Authority) shall be retained during the lifetime of the development.

Reason: To prevent noise nuisance.

26. Prior to the first occupation of any units defined as plots 71-77 hereby approved a post and wire fence shall be provided along the eastern boundary of the site.

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

27. Notwithstanding the details noted on approved drawings 2016/D/PL/01 (D type), 2016FF_901 (FF type) and 2019AA_901 the feature cladding on each elevation of these houses shall have a vertical orientation rather than a horizontal orientation as detailed on the plans.

Reason: In order to ensure all elements of the development harmonise regardless of tenure.

28. Notwithstanding the details noted in the placemaking statement received on 25 November and the material conditions drawing reference LH01_PL_04 revision F, the render colour for the Coxtan View Character Areas identified in the foregoing shall not be white and shall instead be altered to cream or another pale colour to be agreed in writing with the Council, as Planning Authority prior to the commencement of any unit in this character area.

Reason: In order to create a strong sense of place.

29. All surface water drainage proposals shall be in accordance with the submitted report 'Drainage Strategy Report, St Andrews Road, Lhanbryde'. All measures for the management of surface water shall be implemented in full prior to the first occupation of any residential unit hereby approved. Maintenance shall be in accordance with the measures set out in the maintenance document received on 23 November 2020.

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

30. There shall be no drainage connections to the trunk road drainage system.

Reason: To ensure that the efficiency of the existing trunk road drainage network is not affected.

31. No development shall commence until details of the proposed foul pumping station including elevations of all works, means of enclosures and associated plant (including noise levels) have been submitted to, and approved by the Council, as Planning Authority, in consultation with Environmental Health. Thereafter the approved details shall be implemented in full prior to the first occupation of any part of the development.

Reason: To ensure an acceptable form of development as these details are lacking from the application.

Councillor Divers re-joined the meeting at this juncture.

6. Proposal of Application Notice – 24/00001/PAN

Proposed construction and installation of a battery energy storage system (BESS) with a generating capacity of up to 50 megawatts and associated infrastructure on land to the west of Keith Substation, Westerton Road, Keith

The Committee had before it a report by the Depute Chief Executive (Economy, Environment and Finance) informing that a Proposal of Application Notice (PAN) was submitted on 22 December 2023 on behalf of Keith Storage Solutions Ltd.

Councillor Gatt thanked Officers for the map which had been circulated to the Committee that outlined all the similar proposals in the area and raised concern at the number of proposed developments of battery energy storage systems in this area and queried whether the Applicant had considered any other sites. He also raised concern as to how the Scottish Fire and Rescue Service (SFRS) would be able to respond to any fires on the site.

Councillor Macrae shared the concern of Councillor Gatt in relation to the intensification of batter storage in Keith and asked that the Applicant consult with the SFRS and the Health and Safety Executive during the application preparation process.

Thereafter, the Committee unanimously agreed:

- (i) to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission:
 - ask the Applicant if any other sites were considered and why this particular site has been chosen, given the intensification of battery storage in Keith;
 - consultation take place with the SFRS and Health and Safety Executive during the application preparation process; and

- (ii) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

7. Proposal of Application Notice – 23/02233/PAN

Part retrospective application for construction of agricultural road, initial hard rock mineral extraction and mineral processing and construction of temporary junction. Part new application for hard rock quarry processing area, new access junction and creation of ecological/bio diversity buffer and associated ancillary quarry infrastructure (including but not limited to office, wheel wash, perimeter bunding, welfare and landscaping) at Rosarie Quarry, Keith.

The Committee had before it a report by the Depute Chief Executive (Economy, Environment and Finance) informing that a Proposal of Application Notice (PAN) was submitted on 21 December 2023 on behalf of Backmuir Trading Limited.

Councillor Gatt noted that the proposal is adjacent to the A95 which is a very busy road not in the best condition and that the proposal would contribute to the volume of traffic on this road and asked that the Applicant consider mitigating factors to address the increase in traffic volume onto this already busy road.

The Development Management and Building Standards Manager confirmed that Transport Scotland would be a statutory consultee on any planning application received.

Thereafter, the Committee unanimously agreed:

- (i) to note the terms of the report and asked that the following provisional views/relevant issues be recorded and forwarded to the Applicant in order to inform the development of their proposed formal application for planning permission;
- consider mitigating factors to address the increase in traffic volume onto the A95 as a result of the development; and
- (ii) that the matters raised by the Committee also be forwarded to consultees likely to be involved in any formal application for planning permission for the proposal.

8. Breach of Planning Conditions at site in Fochabers [Para 12]

The Committee had before it a report by the Depute Chief Executive (Economy, Environment and Finance) informing of a breach of planning conditions relating to landscaping.

During discussion surrounding the Woodland Creation/Tree Landscaping Plan, it was queried whether this could include the planting of evergreen trees.

In response, the Development Management and Building Standards Manager advised that she would ask the Applicant to consider including evergreen trees in the Woodland Creation/Tree Landscaping Plan.

Thereafter, the Committee unanimously agreed:

- (i) to Officers issuing a Planning Enforcement Notice under Section 127 of the Town and Country Planning (Scotland) Act 1997; the Enforcement Notice will require persons with an interest in the land to comply with the outstanding planning condition;
- (ii) that should the Notice not be complied with then authority is given to take direct action to implement the planning condition; and
- (iii) that the Applicant be asked to consider including evergreen trees in the Woodland Creation/Tree Landscaping Plan.