

21/01561/AMC
18th October 2021

**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
for Moray Offshore Windfarm (West) Ltd**

Comments:

- Application relates to a previous National level Planning Permission in Principle (PPP) under National Planning Framework 3 (NPF3) where it is identified within national development 4 - High Voltage Electricity Network. However, as this application is for Approval of Matters Conditioned pertaining to that PPP no further statutory pre-determination hearing is required.
- One representation received.

Procedure:

- Application to be considered at a meeting of the Planning and Regulatory Services Committee as it forms part of previous national level development previously considered at Committee level.
- Prior to issuing consent payment for contribution to the compensatory planting fund must be made.

Recommendation Grant approval of matters conditioned 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 (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.

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."

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 in 21 December 2021. 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 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 proposal complies with the relevant policies of the Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise. Subject to further conditions recommended, the application satisfies the requirements of the conditions sought to be approved.

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.

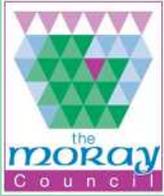
SCOTTISH WATER have commented as follows:

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.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
84600005-DAA-ITP-MAP-000005 V1	Location plan
	Landscape plan Appendix A 3 of 4
	Landscape plan Appendix A 4 of 4
201457_OPEN_MORW_SLP_SE01 B	Substation landscape plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
21/01561/AMC

Site Address:

**From Within The Vicinity Of Redhythe Point In
Aberdeenshire Council Area To Whitehillock
Farm Keith**

Applicant Name:

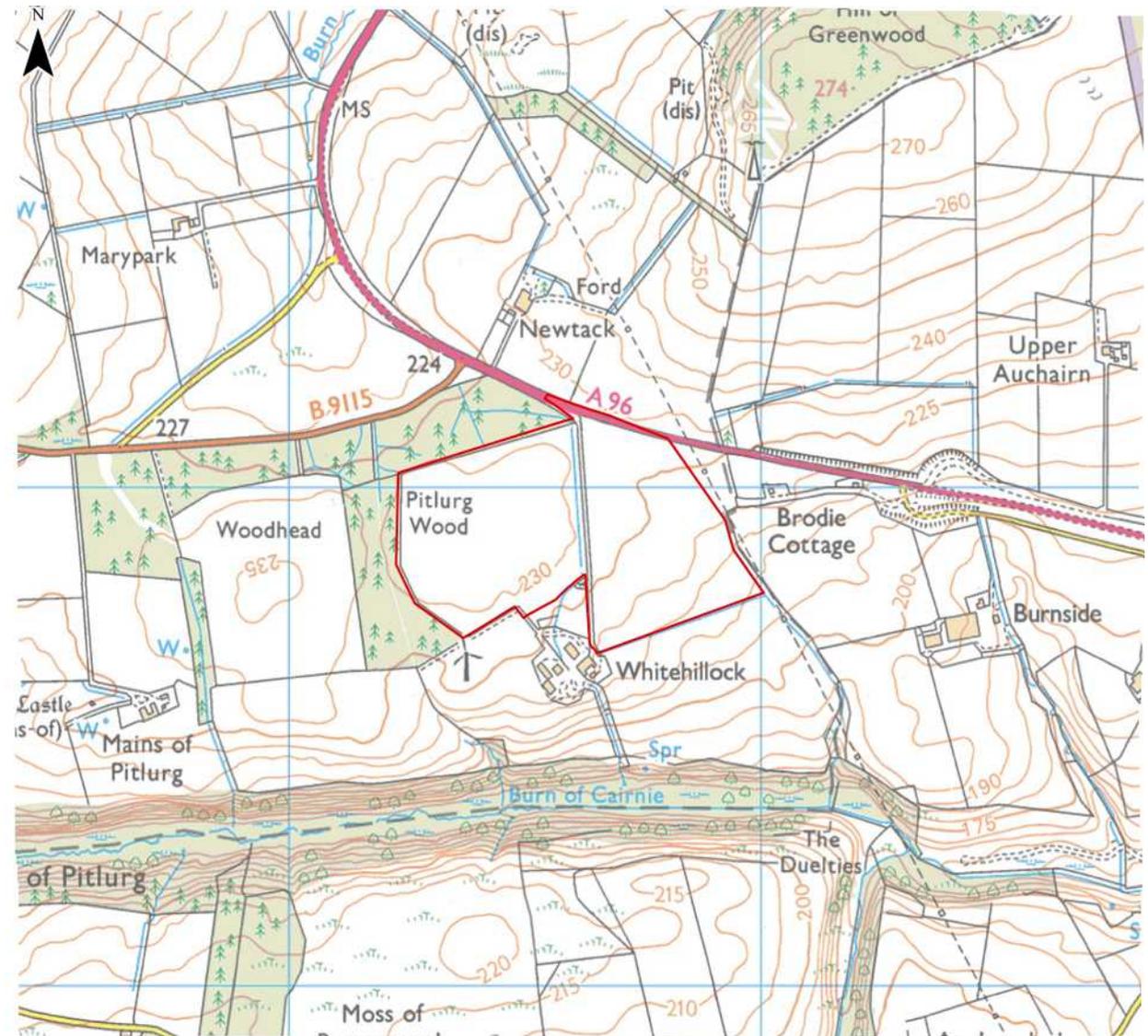
Moray Offshore Windfarm (West) Ltd

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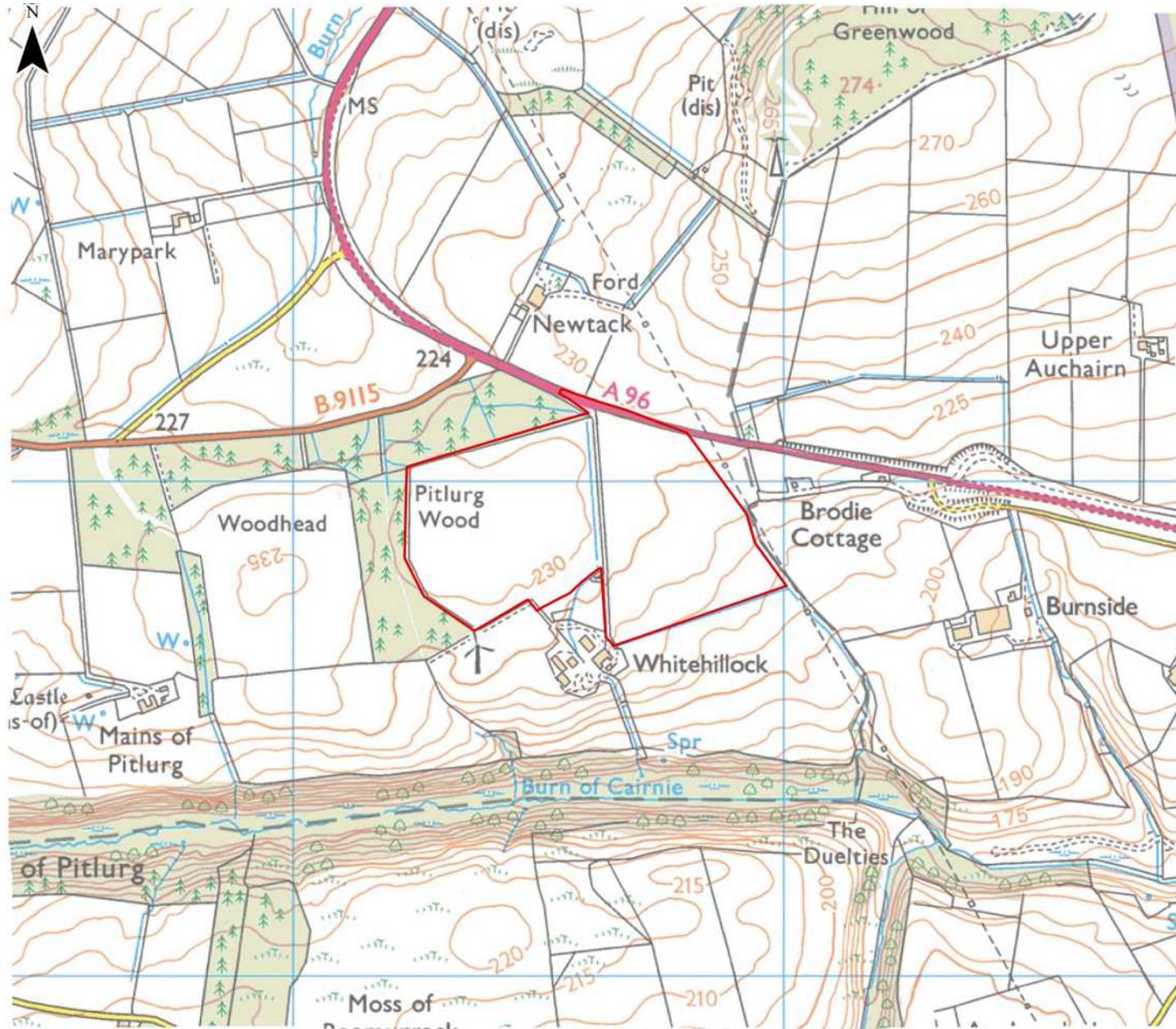
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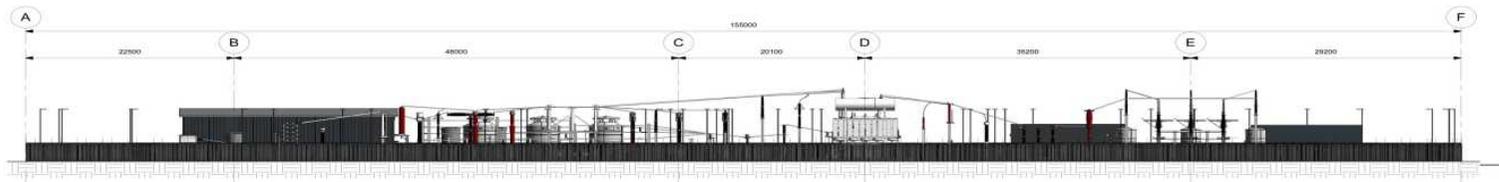
Location Plan



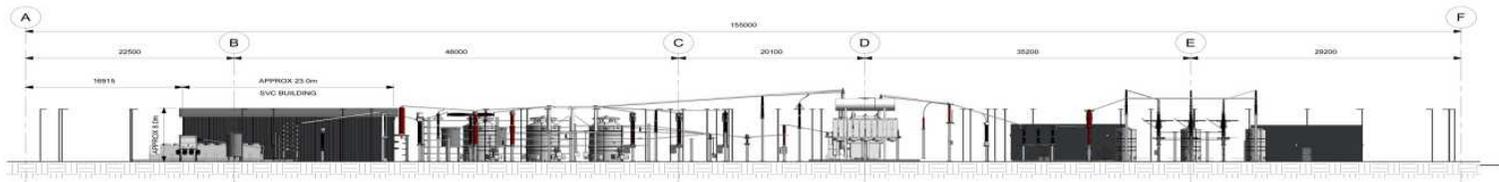
Site Location



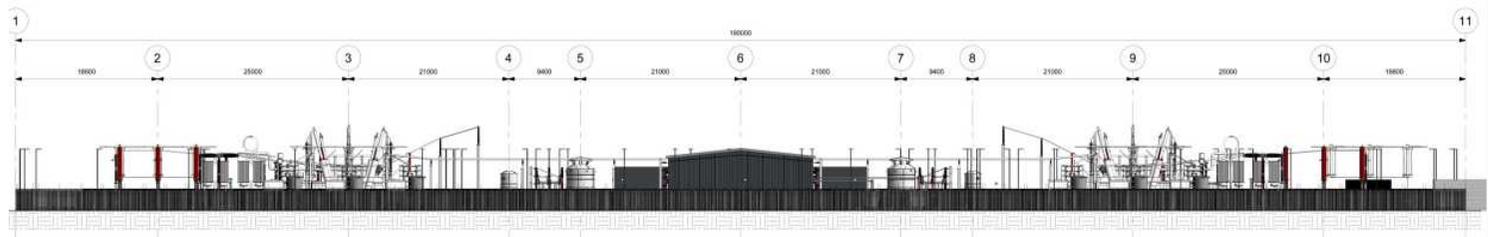
Substation Elevations



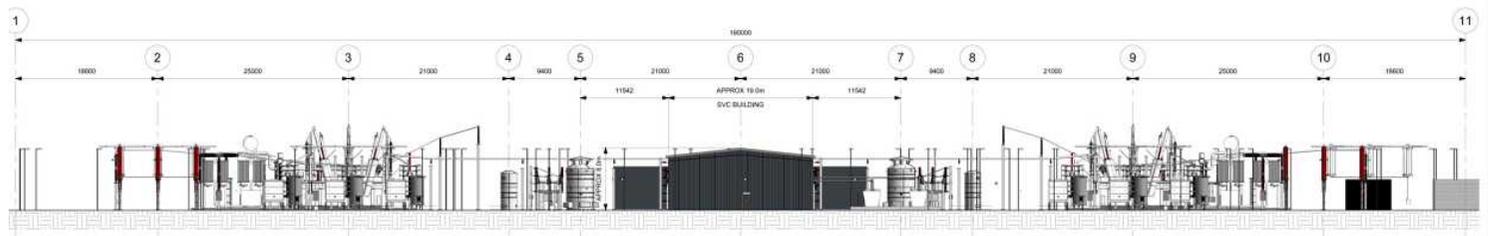
SOUTH ELEVATION



SOUTH ELEVATION - SHOWING BUILDING VIEWS



WEST ELEVATION



WEST ELEVATION - SHOWING BUILDING VIEWS

Landscaping plan



View southward from A96 junction



View southward from site entrance



PLANNING APPLICATION: 21/01561/AMC

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

THE PROPOSAL

- Construct an electricity substation to receive 220kV electricity cables comprised of two separate cable circuits. Then from the substation a 400kV cable circuit will link the site with the main Blackhillock grid substation 2 km to the north nearer Keith.
- Of note, the final technical design of the substation is still evolving, but will closely resemble the details as submitted for this AMC application. If approved, conditions allowing for further condition of a 'design freeze' will ensure Moray Council will have control of the final appearance of the substation infrastructure and buildings.
- The substation includes substantive areas of landscaping for both visual screening and compensatory planting purposes. Approximately 3.4 hectares of additional woodland, beyond 2 hectares of screening landscaping is proposed around the substation compound and SUDS detention basin.
- Junction improvements onto the A96 for the existing Whitehillock Farm are proposed.

THE SITE

- The substation site occupies what is currently agricultural land, and is bound to the south and west by coniferous plantation. A farm track sub-divides the two fields the development would occupy. The eastern field will host landscaping bunds and landscape planting to obscure the site from the A96 to the east.
- The site is not subject to any environmental designations.
- The area associated with the AMC is approx. 26 hectares, with much of it set aside as pasture over the wayleave for the high pressure gas main that passes the site. The substation compound itself is approximately 1.5 hectares with 5.4 hectares of screening and compensatory landscape planting.
- Wetland grass and tree species will be planted around the proposed SUDS basin.

HISTORY

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.

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.

Other relevant current planning applications:

21/01402/AMC - Approval of Matters Specified in Conditions 3-11 13-16 18 19 22-24 25(c)-(d) and 26-29 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 the vicinity of Redhythe Point in Aberdeenshire Council Area to Whitehillock Farm Keith Moray AB55 5PH. The related application is the cable route sections of the project north of the substation leading to the Blackhillock substation and the main transmission cable northward 30km to the coast where it will link to the offshore windfarm cable.

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 full 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.

POLICY - SEE APPENDIX

ADVERTISEMENTS

Advertised for neighbour notification purposes.

- Noise

The grounds for objection are summarised as follows.

Issue: Due to the objector's close proximity to a pylon line, 46 wind turbines visible from 360 degrees of their property and with Cairnborrow wind farm omitting turbine noise from a southerly wind direction they are susceptible to Low Frequency Noise.

Comments (PO): The presence of other development such as windfarms or pylons would not constitute grounds to refuse the current proposal unless it was considered that overdevelopment within the locality was an issue. It is noted that the objector's property is over 1.2km from the site and separated from it by intervening landform. It is not considered that the proposed development would detrimentally affect their property.

Issue: There is no Low frequency Noise (LFN) report for this application. LFN is internationally recognised as a health issue ie deprived sleep etc. Cumulative noise LFN has not been accounted for in this proposal.

Comments (PO): The Environmental Health Section of the Council have, subject to a noise condition, not objected to the proposed development. At a distance of 1.2km from the site and with intervening topography it is not considered that LFN would have a detrimental effect on the objector's property.

Issue: The development will be dominant and overbearing on the landscape. Although it has screening with trees why are the trees not all way round application excepting access.

Comments (PO): The presence of existing and proposed tree planting will reduce its visual impact. Amended plans have been submitted providing additional compensatory woodland planting in the vicinity of the substation, further increasing screening outwith the site.

OBSERVATIONS

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

This Application for Matters Conditioned application (AMC) is not a stand-alone planning application but the second part of the two-stage planning permission in principle process, and relates solely to the site identified within the application documents (the cable route is addressed under a separate AMC application). The application specifically covers the abovementioned conditions for the electricity substation and associated works, and assessment is therefore restricted to assessing the detail of these conditions against the policies of the adopted Moray Local Development Plan 2020 (MLDP) and relevant supplementary guidance.

Background

The application is a follow on from the Planning Permission in Principle, which was a national development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, and as identified in the National Planning Framework 3. NPF3 advises that the development of any new onshore electricity transmission cabling of 132 kilovolts or higher forms part of the high voltage electricity transmission network upgrade. As this application seeks to approve and satisfy conditions of that earlier consent

as an AMC a full a pre-determination hearing involving members of the public and the applicant is not required.

The Scottish Government consented the 'Moray West' offshore windfarm several years ago and a 'corridor' for the cable route was approved in principle. (See History section).

The main issues are considered below:

This application seeks to address (for the electricity substation phase of the development) the requirements of conditions 2-9, 11-15, 18-20, 22, 24-29 of the Planning Permission in Principle (PPP) reference number 18/01046/EIA.

Condition 2 sought the detailed layout, elevations and landscaping for the compound area.

This information has now been submitted, and has allowed for consideration of the appearance, design and landscaping of the electricity substation. The substation compound lies where it was indicated to do so within the initial PPP consent. While utilitarian and industrial in nature, the structures will be suitably contained in time by the landscaping bunding and planting (in addition to the existing surrounding woodland). The layout, and elevation are acceptable both in terms of function under policy PP3 Infrastructure and Services and DP1 Development Principles where adequate parking, surface water drainage etc is provided.

Conditions 3 & 27 sought various transportation requirements including abnormal loads deliveries, final site compound locations, cable road crossings, road improvements (adopted and Trunk), roads surveys and provision of a finalised Construction Traffic Management Plan CTMP.

Indicative and typical details of much of the construction traffic detail has been provided in the CTMP, but as the compound will primarily be accessed by the access onto the A96 from Whitehillock Farm this is the focus of this AMC. The submitted CTMP appendix shows the intent to widen and improve this junction and Transport Scotland have not objected to this enhancement taking place. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation where a safe and suitable access to the substation is being achieved.

Conditions 4 and 5 relate to the construction delivery and triggers requirements such as the need for 'wear and tear' agreements, control of visibility splays, diversion routes for paths and cycle ways, verge reinforcement and trial runs for abnormal loads.

Abnormal loads, such as heavy plant and equipment for the electricity substation will be taken directly from the A96 trunk road, and of note Transport Scotland have not objected to the proposals contained within the AMC or the CTMP. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation for the access to the substation.

Condition 6 specifically sought to ensure off road temporary construction parking was provided.

A substantive temporary construction compound is proposed adjacent to the proposed substation and is shown in the substation phasing plans. This would provide adequate space for vehicles parking, and is set well back from the public road. The proposal

therefore complies with policy DP1 Development Principles (ii) Transportation where adequate off-street parking for construction traffic can be achieved.

Condition 7 sought diversion routes for local footpaths and cycleways during the construction period.

Other than securing access and egress from Whitehillock Farm there are no local footpaths and cycleways requiring diversion near the substation site.

Condition 8 sought details to ensure no water or loose material shall drain or be carried onto the public footpath/carrage way for the life-time of the development.

This would be an ongoing condition once development has commenced and the gradients of the new improved junction onto the A96 would be determined by Transport Scotland. The CTMP refers to keeping the public highway in clean order. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation.

Condition 9 required any existing ditch, watercourse or drain under any access or passing place or holding area as a result of this development shall be re-routed or piped using a suitable diameter of pipe.

Transport Scotland would determine the standards for any culvert or drain near the trunk road access needing extended or replaced. The final design of the improved Whitehillock farm entrance, including any drainage enhancement would be determined separately by Transport Scotland. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation.

Condition 11 requires for each phase of development a Construction and Temporary Works Schedule.

The applicants have indicated for the substation the order of development would be:

- Phase 1: Substation Site Enabling Works
- Phase 2a: Substation Civil and Mechanical & Electrical Works
- Phase 2b: Substation Landscaping Works
- Phase 3: Commissioning

This work is relatively contained to the substation site location and should not inconvenience/disrupt the wider locality. Transport Scotland have not objected to the proposed phasing plans as reflected in the CTMP. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation requirements.

Conditions 12 and 25 a & b required surface water, flood and other drainage details for the substation site.

The proposals for the substation include an attenuation basin and the application was supported by submission of a Flood Risk Assessment and Drainage Impact Assessment. Both SEPA and Moray Councils Flood Risk Management are satisfied with the proposed drainage arrangements. Whilst satisfying the requirements of policy EP12 Management and Enhancement of the Water Environment the applicants have also sought to introduce wetland grass species around the edges of the attenuation basin and planted wetland

woodland around the vicinity of the basin to add some biodiversity to the wider landscaping scheme.

Conditions 13 and 19 required submission of a Construction Environmental Management Plan (CEMP) for each phase including details of a Site Waste Management Plan. To be agreed in consultation with SEPA.

A Construction Environmental Management Plan specific to the substation phase has been submitted. Extensive pre construction ecological surveys were also undertaken prior to submission of the current application. Moray Council and SEPA are satisfied with the submitted CEMP and condition is recommended to ensure adherence to the approved CEMP. This ensures compliance with MLDP2020 policies relating to protection such as EP1 Natural Heritage Designations and EP3 Biodiversity.

Condition 19 sought the inclusion within the CEMP consideration towards dust, vibration, air quality and noise. These matters have been addressed within the submitted CEMP.

Condition 14 required the imbedded and proposed mitigation as detailed in the original Environmental Impact Assessment Report for 18/01046/EIA.

The proposed substation is accompanied by a specific Substation Mitigation Statement bringing together the mitigation from the previous EIA report, and more recent wildlife surveys and assessments. A condition is recommended to ensure that the various mitigation measures are followed ranging from construction hours, to site practices, protection of the water environment, to imbedded mitigation such as visual screening from the A96 by the landscaping bunding and planting proposed.

The mitigation covers a range of topics but most notably they seek to ensure environmental and wildlife impact are minimised, or enhancement is achieved through the 5.4 hectares of planting to be undertaken on site. Policies EP1 Natural Heritage Designations EP2 Biodiversity and EP12 Management and Enhancement of the Water Environment of Moray Local Development Plan 2020 seek and require the mitigation being proposed, and accordingly subject to conditions these policy requirements are met.

Condition 15 requires pre-construction checks and surveys for protection of wildlife

Submitted as part of the substation CEMP, the application also proposed an Ecological Management Plan, which has been accepted by Naturescot following consultation with them. Surveys submitted do identify that protected species are present and the mitigation proposed in terms of the imbedded and proposed mitigation should ensure compliance with policies DP1 Developer Requirements and EP1 Natural Heritage Designations which both require adequate protection for wildlife is in place.

Condition 18 sets limits on the hours of construction activity.

This condition is discussed in submissions and a condition is recommended by the Environmental Health Section defining the working hours proposed.

Condition 20 required for the substation a Noise Impact Assessment to be undertaken.

A Noise Impact Assessment was carried out for the substation, and the findings of which have been accepted by the Environmental Health Section subject to the conditions

recommended. Adherence to the noise limits set will ensure the substation complies with the requirements of policy EP14 Pollution, Contamination & Hazards and DP1 Development Principles where new development should not cause a noise nuisance.

Condition 22 ensures the protection or repair of private water supplies.

Further details around the protection of private water supplies have been submitted with the AMC application and following consultation with SEPA and the Councils Private Water supply officers within Environmental Health, the proposed mitigation is acceptable.

Condition 24 states for each phase of the development a programme of archaeological mitigation including recording, monitoring and, or excavation as appropriate will to be undertaken in accordance with a Written Scheme of Investigation.

A WSI submitted for the entire cable route and substation site has been submitted and it is noted that there were no archaeological assets on the substation site. There is therefore no need for the specific area to attach conditions seeking the full implementation of the Written Scheme of Investigation (WSI) as is required elsewhere under application 21/01401/AMC.

The investigations showed no heritage assets were present and as such compliance with the archaeological requirements of policy EP8 Historic Environment has been met.

Condition 26 Trunk road junction design to accord with Design Manual of Roads and Bridges (DRMB).

The proposed road works have been considered by Transport Scotland who have not objected but offered comments only confirming that any works on the Trunk Road must be built in accordance with the DRMB. It is understood that whilst not the full technical specification that Transport Scotland would assess, the proposed widening and improvements does accord with DRMB standards. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation.

Condition 27 seeks a Construction Traffic Management Plan including swept path analysis must be submitted to and approved by Transport Scotland to ensure that abnormal loads can be delivered safely to site.

This has been submitted within the substation specific CTMP in conjunction with the proposed access widening and Transport Scotland have raised not objections. The proposal therefore complies with policy DP1 Development Principles (ii) Transportation.

Condition 28 states any additional signing or temporary traffic control measures required on the Trunk road are to be approved by Transport Scotland.

The proposal therefore complies with policy DP1 Development Principles (ii) Transportation.

Condition 29 requires the proposed route for any abnormal loads on the trunk road network to be approved by Transport Scotland prior to the movement of any abnormal load.

This is effectively a standing condition for which the applicants will need to liaise with Transport Scotland prior to abnormal deliveries taking place. The submitted details in the CMTF give comfort that the applicants have considered the full delivery route, but condition 29 seeks final authorisation by Transport Scotland. Transport Scotland raised no fundamental objection to the abnormal loads information submitted.

Conclusion

The submitted details are targeted at complying with and meeting the requirements of conditions 2-9, 11-15, 18-20, 22, 24-29 of the planning consent. The supporting information, pre commencement surveys and varying mitigation proposed ensures the submissions satisfy the requirements of Moray Local Development Plan 2020 in addition to fulfilling the requirements of the conditions listed above.

REASON(S) FOR DECISION

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

The proposal complies with the relevant policies of the Moray Local Development Plan 2020 and there are no material considerations that indicate otherwise. Subject to further conditions recommended, the application satisfies the requirements of the conditions sought to be approved.

**Author/Contact
Officer:**

Neal MacPherson
Principal Planning Officer

Ext: 01343 563565

**Beverly Smith
Development Management & Building Standards Manager**

APPENDIX

POLICY

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

- a) Development must be designed to create successful, healthy places that support good physical and mental health, help reduce health inequalities, improve people's wellbeing, safeguard the environment and support economic development.
- b) A Placemaking Statement is required for residential developments of 10 units and above to be submitted with the planning application to articulate how the development proposal addresses the requirements of policy PP1 Placemaking and other relevant LDP policies and guidance. The Placemaking Statement must include sufficient information for the council to carry out a Quality Audit. Where considered appropriate by the council, taking account of the nature and scale of the proposed development and of the site circumstances, this shall include a landscaping plan, a topographical survey, slope analysis, site sections, 3D visualisations, a Street Engineering Review and a Biodiversity Plan. The Placemaking Statement must demonstrate how the development promotes opportunities for healthy living and working. The landscape plan must set out details of species type, size, timescales for planting and maintenance.
- c) To create successful, healthy places residential developments of 10 units and above must comply with Scottish Government policy Creating Places and Designing Streets and must incorporate the following fundamental principles:
 - (i) **Character and Identity**
 - Create places that are distinctive to prevent homogenous 'anywhere' development;
 - Provide a number of character areas reflecting site characteristics that have their own distinctive identity and are clearly distinguishable;
 - Provide distinctiveness between and in each character area through a combination of measures including variation in urban form, street structure/network, architecture and masonry, accent features (such as porches), surrounds and detailing, materials (buildings and surfaces), colour, boundary treatments, hard/soft landscaping and a variety of approaches to tree species and planting that emphasises the hierarchy of open spaces and streets within a cohesive design strategy for the whole development;
 - Distinctiveness must be reinforced along main thoroughfares, open spaces and places where people may congregate such as shopping/service centres;
 - Retain, incorporate and/or respond to relevant elements of the landscape such as topography and planted features, natural and historic environment, and propose street naming (in residential developments of 20 units and above, where proposed names are to be submitted with the planning application) to retain and enhance local associations;

- (ii) **Healthier, Safer Environments**

- Designed to prevent crime, fear of crime and anti-social behaviour with good levels of natural surveillance and security using treatments such as low boundary walls, dual frontages (principal rooms) and well-lit routes to encourage social interaction. Unbroken high boundary treatments such as wooden fencing and blank gables onto routes, open spaces and communal areas will not be acceptable.
- Designed to encourage physical exercise for people of all abilities.
- Create a distinctive urban form with landmarks, key buildings, vistas, gateways and public art to provide good orientation and navigation through the development.
- Provide a mix of compatible uses, where indicated within settlement statements, integrated into the fabric of buildings within the street.
- Prioritise pedestrians and cyclists by providing a permeable movement framework that incorporates desire lines (including connecting to and upgrading existing desire lines) and is fully integrated with the surrounding network to create walkable neighbourhoods and encourage physical activity.
- Integrate multi- functional active travel routes, green and open space into layout and design, to create well connected places that encourage physical activity, provide attractive spaces for people to interact and to connect with nature.
- Create safe streets that influence driver behaviour to reduce vehicle speeds that are appropriate to the local context such as through shorter streets, reduced visibility and varying the building line.
- Provide seating opportunities within streets, paths and open spaces for all generations and mobility's to interact, participate in activity, and rest and reflect.
- Provide for people with mobility problems or a disability to access buildings, places and open spaces.
- Create development with public fronts and private backs.
- Maximise environmental benefits through the orientation of buildings, streets and open space to maximise the health benefits associated with solar gain and wind shelter.

(iii) Housing Mix

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

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.

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

v) Biodiversity

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

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 50% of car parking must be provided to the side or rear and behind the building line with a maximum of 50% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.
- Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.
- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.

- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

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

- (d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.
- (e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH

Development proposals which support the Moray Economic Strategy to deliver sustainable economic growth will be supported where the quality of the natural and built environment is safeguarded, there is a clear locational need and all potential impacts can be satisfactorily mitigated.

PP3 INFRASTRUCTURE & SERVICES

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

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

- i) Education, Health, Transport, Sports and Recreation and Access facilities in accord with Supplementary Guidance on Developer Obligations and Open Space.
- ii) Green infrastructure and network requirements specified in policy EP5 Open Space, Town and Village Maps and, contained within Supplementary Guidance on the Open Space Strategy, Masterplans and Development Briefs.
- iii) Mitigation/modification to the existing transport network (including road and rail) to address the impact of the proposed development in terms of safety and efficiency. This may include but not be limited to passing places, road widening, junction enhancement, bus stop infrastructure, and drainage infrastructure. A number of potential road and transport improvements are identified and shown on the Town and Village Maps as Transport Proposals (TSP's) including the interventions in the Elgin Transport Strategy. These requirements are not exhaustive and do not pre-empt any measures which may result from the Transport Assessment process.
- iv) Electric car charging points must be provided at all commercial and community parking facilities. Access to charging points must also be provided for residential properties, where in-curtilage facilities cannot be provided to any individual residential property then access to communal charging facilities should be made available. Access to other nearby charging facilities will be taken into consideration when identifying the need for communal electric charging points.
- v) Active Travel and Core Path requirements specified in the Council's Active Travel Strategy and Core Path Plan.
- vi) Safe transport and access routes linking to existing networks and mitigating the impacts of development off-site.
- vii) Information Communication Technology (ICT) and fibre optic broadband connections for all premises unless justification is provided to substantiate it is technically unfeasible.
- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.

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

b) Development proposals will not be supported where they:

- i) Create new accesses onto trunk roads and other main/key routes (A941 & A98) unless significant economic benefits are demonstrated or such access is required to facilitate development that supports the provisions of the development plan.
- ii) Adversely impact on active travel routes, core paths, rights of way, long distance and other access routes and cannot be adequately mitigated by an equivalent or better alternative provision in a location convenient for users.
- iii) Adversely impact on blue/green infrastructure, including green networks important for wildlife unless an equivalent or better alternative provision will be provided.
- iv) Are incompatible with key waste sites at Dallachy, Gollanfield, Moycroft and Waterford and would prejudice their operation.
- v) Adversely impact on community and recreational sites, buildings or infrastructure including CF designations and cannot be adequately mitigated.
- vi) Adversely impact on flood alleviation and mitigation infrastructure.
- vii) Compromise the economic viability of bus or rail facilities.

c) Harbours

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

d) Developer Obligations

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

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES

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

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

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

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".
- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.

- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.
- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.

- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, pavements, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.
- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.

- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP5 BUSINESS & INDUSTRY

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

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

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

- b) Business Parks**

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

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

- c) Industrial Estates**

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

- d) Existing Business Areas**

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

- e) Other Uses**

Class 2 (business and financial), 3 (food and drink), 11 (assembly and leisure) and activities which do not fall within a specific use class (sui generis), including waste management facilities will be considered in relation to their suitability to the business or industrial area concerned, their compatibility with neighbouring uses and the

supply of serviced employment land. Retail uses will not be permitted unless they are considered ancillary to the principal use (e.g. manufacture, wholesale). For this purpose, 'ancillary' is taken as being linked directly to the existing use of the unit and comprising no more than 10% of the total floor area up to a total of 1,000 sq metres (gross) or where a sequential approach in accordance with town centre first principles has identified no other suitable sites and the proposal is in accordance with all other relevant policies and site requirements are met.

f) Areas of Mixed Use

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

g) Rural Businesses and Farm Diversification

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

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

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

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

h) Inward Investment Sites

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

Proposals must comply with Policy DP1 and other relevant policies.

DP9 RENEWABLE ENERGY

a) All Renewable Energy Proposals

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

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

- ii) They do not result in the permanent loss or permanent damage of prime agricultural land;
- iii) They avoid or address any unacceptable significant adverse impacts including:
 - Landscape and visual impacts.
 - Noise impacts.
 - Air quality impacts.
 - Electromagnetic disturbance.
 - Impact on water environment.
 - Impact on carbon rich soils and peat land hydrology.
 - Impact on woodland and forestry interests.
 - Traffic impact -mitigation during both construction and operation.
 - Ecological Impact.
 - Impact on tourism and recreational interests.

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

b) Onshore wind turbines

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

i) The Spatial Framework

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

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

ii) Detailed Consideration

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

Landscape and visual impact:

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

Cumulative impact

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

Impact on local communities

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

Other

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

iii) **Extensions and Repowering of Existing Wind Farms**

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

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

c) **Biomass**

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

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

- Where necessary, appropriate structural landscaping must be provided to assist the development to integrate sensitively.

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

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

d) **Heat**

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

Where no heat network is present or planned:

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

Proposals for new development will be compared with the Scotland Heat Map to identify if it could make use of an existing heat supply or provide excess heat to heat users. This will be the case until the Council has concluded work on identifying where heat networks, heat storage and energy centres exist or would be appropriate in the plan area, at which point reference to that work should be made. Developments which have a high heat demand are encouraged to co-locate with sources of heat supply.

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

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

DP10 MINERALS

a) Safeguarding Mineral Reserves

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

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

b) Mineral Operations

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

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

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

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

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

Proposals must be accompanied by an extractive Waste Management Plan.

c) Restoration and aftercare

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

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

EP2 BIODIVERSITY

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

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

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

Developers must demonstrate, through a Placemaking Statement where required by Policy PP1 which incorporates a Biodiversity Plan, that they have included biodiversity features in the design of the development. Habitat creation can be achieved by providing links into existing green and blue networks, wildlife friendly features such as wildflower verges and meadows, bird and bat boxes, amphibian friendly kerbing, wildlife crossing points such as hedgehog highways and planting to encourage pollination, wildlife friendly climbing plants, use of hedges rather than fences, incorporating biodiversity measures into SUDS and retaining some standing or lying dead wood, allotments, orchards and woodlands.

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

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

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

b) Tree Retention and Survey

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

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

c) Control of Woodland Removal

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

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

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

d) Tree Preservation Orders and Conservation Areas

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

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

e) **Compensatory Planting**

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

GUIDANCE TREES AND DEVELOPMENT

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

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

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

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

*BS5837 provides a cascading quality assessment process for categorisation of trees which tree surveys must follow. An appropriately scaled tree survey plan needs to accompany the schedule. The plan should be annotated with the details of the tree survey, showing the location, both within and adjacent to the site, of existing trees, shrubs

and hedgerows. Each numbered tree or groups of trees should show the root protection area and its category U, A, B, C.

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

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

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

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

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

Landscape Scheme

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

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

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

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

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

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of

Scottish Planning Policy and to the satisfaction of Scottish Environment Protection Agency and the Council is provided by the applicant.

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

Level 1 - a flood statement with basic information with regard to flood risk.

Level 2 - full flood risk assessment providing details of flood risk from all sources, results of hydrological and hydraulic studies and any appropriate proposed mitigation.

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

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

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

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

Areas within these risk categories will generally not be suitable for the following uses and where an alternative/lower risk location is not available;

- Civil infrastructure and most vulnerable uses.
- Additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure

(which should be designed to be operational during floods and not impede water flows).

- New caravan and camping sites

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction must be used where appropriate. Land raising and elevated buildings on structures such as stilts are unlikely to be acceptable.

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

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

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

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

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

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

c) Water Environment

Proposals, including associated construction works, must be designed to avoid adverse impacts upon the water environment including Ground Water Dependent Terrestrial Ecosystems and should seek opportunities for restoration and/or enhancement, if appropriate. The Council will only approve proposals impacting on water features where the applicant provides a report to the satisfaction of the Council

that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, coastal processes (where relevant) nature conservation (including protected species), fisheries, recreational, landscape, amenity and economic and social impact can be adequately mitigated.

The report must consider existing and potential impacts up and downstream of the development particularly in respect of potential flooding. The Council operates a presumption against the culverting of watercourses and any unnecessary engineering works in the water environment.

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

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

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

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

EP13 FOUL DRAINAGE

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

- Systems must not have an adverse effect on the water environment
- Systems must be designed and built to a standard which will allow adoption by Scottish Water

- Systems must be designed such that they can be easily connected to a public sewer in the future. Typically this will mean providing a drainage line up to a likely point of connection.

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

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

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

EP14 POLLUTION, CONTAMINATION & HAZARDS

a) Pollution

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

b) Contamination

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

- i) The applicant can demonstrate through site investigations and risk assessment, that the site is in a condition suitable for the proposed development and is not causing significant pollution of the environment; and
- ii) Where necessary, effective remediation measures are agreed to ensure the site is made suitable for the new use and to ensure appropriate disposal and/ or treatment of any hazardous material.

c) Hazardous sites

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