

20/01196/APP
23rd September
2020

Section 42 application to vary condition 1 (period of consent for solar PV farm) on 17/00808/APP at Speyslaw Farm Urquhart Elgin Moray for Elgin Energy EsCo Ltd

Comments:

- This application is a major application.
- This application was previously reported to Committee and the appointed officer considers that significant amendments are proposed to this consent.
- The proposal has been advertised for neighbour notification purposes.
- MP and MSPs for the district in which this application has been made, and all Elected Members of Moray Council notified of the proposal in accordance with section 24 (2A) of the 1997 Act (as amended).
- No representations received.

Procedure:

- None.

Recommendation

Approve subject to conditions.

Conditions/Reasons

- 1 This planning permission shall expire and cease to have effect after a period of 41 years from the date when electricity is first exported from any of the approved solar panels to the electricity grid network (the "First Export Date"). Upon the expiration of a period of 40 years from the First Export Date, the solar panels shall be decommissioned and removed from the site, with all decommissioning and restoration works undertaken in accordance with the terms of condition 3 of this permission. Written confirmation of the First Export Date shall be submitted in writing to the Council, as Planning Authority within one month of the said date.

Reason: In recognition of the temporary nature of the proposed development and to secure removal.

- 2 Following the First Export Date, a continuous record of information regarding the monthly supply of electricity to the national grid from each array within the development hereby granted shall be maintained and retained for a period of at

least 24 months. The information shall be made available to the Council, as Planning Authority within one month of any request being made.

In the event that any array(s) installed and commissioned fail(s) to supply electricity on a commercial basis to the grid for a continuous period of 6 months, or is no longer required, the array(s) in question shall be deemed to have ceased to be required. Under such circumstances, the array(s) along with all ancillary equipment, fixtures and fittings no longer required in connection with the retained array(s) shall, within 3 months of the end of the said continuous six month period or when ceasing to be required, be dismantled and removed from the site and the surrounding land shall be re-instated in accordance with a re-instatement scheme which shall previously have been submitted to and approved by the Council, as Planning Authority.

Reason: To ensure that any redundant or non-functioning solar array(s) and ancillary equipment, etc. is/are removed from the site in the interests of public safety, amenity and environmental protection and to ensure acceptable arrangements for the reinstatement of the ground are provided.

- 3 No development shall commence until a draft Decommissioning and Restoration Plan (DRP) for the site has been submitted to, and approved in writing by the Council, as Planning Authority in consultation with SNH and SEPA. Thereafter:
 - a) no later than 3 years prior to the decommissioning of the development, the draft DRP shall be reviewed by the Solar Farm Operator and a copy submitted to the Council, as Planning Authority for their written approval, in consultation with SNH and SEPA; and
 - b) no later than 12 months prior to the decommissioning of the development, a detailed DRP, based upon the principles of the approved draft DRP, shall be submitted to, and approved in writing by, the Council, as Planning Authority, in consultation with SNH and SEPA and thereafter, the detailed DRP shall be implemented in accordance with the approved details.

The DRP shall include the removal of all above-ground elements of the development, the treatment of ground surfaces, management and timing of the works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period.

Reason: To ensure that the decommissioning of the development and restoration of the site are carried out in an appropriate and environmentally acceptable manner.

- 4 No development shall commence until details have been submitted to and approved in writing by the Council, as Planning Authority regarding evidence of a bond or other similar financial provision to be put in place to cover all decommissioning and site restoration costs on the expiry of the permission or where all solar arrays cease to be required, whichever is the sooner. The required bond or equivalent shall:
 - I. be based on the DRP (as required by Condition 3); and
 - II. include documentary evidence to demonstrate that the amount of the bond or financial provision is sufficient to meet the full estimated costs of

- decommissioning, including dismantling, removal, disposal, site restoration, remediation and all other incidental works and professional costs; and
- III. include details to ensure that the proposed financial arrangements will be maintained and be subject to periodic review throughout the lifetime of the development. The review period shall be not less than 5 yearly intervals from commencement of the development, or such other period as may be agreed in writing with the Council, as Planning Authority and the findings of the review shall be submitted to and approved by the Council, as Planning Authority.

Thereafter, the development shall not commence until written evidence has been provided to the Council, as Planning Authority to confirm that the approved bond or financial provision arrangement has been put in place.

Reason: To ensure that sufficient funds are available to address the expected full costs of decommissioning and re-instatement and restoration of the site.

- 5 No development shall commence until details have been submitted to and approved by the Council, as Planning Authority regarding:
 - I. the make, model, design and power rating of the solar panels to be used together with evidence to confirm that the energy generation capacity (output) of the development is not greater than 50MW;
 - II. the arrangement and layout of all solar panels to be installed; and
 - III. the design specifications and external material finishes and colour of the substation and inverter stations. Both the substation and inverter stations shall be finished in green or other similar recessive colour and shall have a mat, non-reflective, finish.

All details shall be in accordance with the details shown on approved drawing WSP-0832-GA-600-ST-242 PO8. The development shall be implemented in accordance with the approved details.

Reason: Details of the matters specified are lacking from the submission and to ensure an acceptable form of development in landscape, visual and environmental impacts.

- 6 No development shall commence until a Habitat Management Plan (HMP) has been submitted to, and approved in writing by, the Council, as Planning Authority in consultation with SNH and RSPB. The HMP shall provide for measures to protect and manage habitat and species within and adjoining the application site and include:
 - I. the identification of management methods and opportunities to mitigate for any adverse impacts on sensitive habitats as identified in the Extended Phase One Habitat and Protected Species Survey, the Breeding Bird Survey or other documentation as submitted and/or approved as part of the permission hereby granted;
 - II. a breeding bird protection plan; and
 - III. targeted management for corn bunting and lapwing species and other farmland wildlife.

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

Reason: To protect and enhance the nature conservation interests of the area, including the management of vegetation and woodland on the site, mitigate any effects on breeding birds and their habitat and avoid adverse effects on other identified species of nature conservation interest.

- 7 No development or works shall take place within the development site until the developer has secured the implementation of a programme of archaeological works in accordance with a written scheme of investigation which shall be submitted to and approved by the Council, as Planning Authority in consultation with Aberdeenshire Archaeology Service. The scheme shall provide for a trial trenching evaluation within part of the site area i.e. within Field 3 as defined on Figure 1 of the applicant's submitted "Historic Environment Desk-Based Assessment NGR: NJ2853 6663, Report No. 1191, v.1.0, May 2017 (by Foundations Archaeology) and a watching brief over ground-breaking works. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented and that all recording and recovery of archaeological resources within the development site is undertaken to the satisfaction of the Council, as Planning Authority and Aberdeenshire Archaeology Service.

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

- 8 No development or work shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:
- I. duration of works;
 - II. construction programme;
 - III. number of vehicle movements (i.e. materials, plant, staff, components);
 - IV. anticipated schedule for delivery of materials and plant;
 - V. full details of any temporary construction access;
 - VI. route of construction and delivery traffic between the site and the A96;
 - VII. measures to be put in place to prevent material being deposited on the public road; measures to be put in place to safeguard the movements of pedestrians;
 - VIII. traffic management measures to be put in place during works including any specific instructions to drivers; and
 - IX. parking provision, loading and unloading areas for construction traffic.

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

Reason: To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.

- 9 All landscaping works shall be carried out in accordance with the details contained in the submitted Landscape and Visual Impact Assessment and approved plan WSP-0832-GA-600-ST-242 PO8.

Prior to any development commencing, a scheme for the planting of a hedgerow of native species between points A and B on approved plan WSP-0832-GA-600-ST-242 PO8, which specifies the location, spacing and species of the hedgerow, shall be submitted to and approved in writing by the Council, as Planning Authority.

All planting, seeding or turfing forming part of the approved landscape schemes shall be carried out not later than the end of the first planting and seeding seasons following the commencement of development.

Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless otherwise approved by the Council, as Planning Authority.

Reason: To ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

- 10 The rating level of noise emitted from the proposed development shall, at all times, not exceed the existing background sound level by more than 5dB. The noise levels shall be determined at the nearest noise sensitive premises. Measurements and assessments shall be made according to BS 4142: 2014 Method for rating and assessing industrial and commercial sound.

Reason: In the interests of residential amenity.

Reason(s) for Decision

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

The proposed variation to condition 1, extending the period of consent for the solar photovoltaic farm is considered suitable and complies with the requirements of the Moray Local Development Plan 2020. There are no material considerations that indicate otherwise.

List of Informatives:

THE CONTAMINATED LAND SECTION has commented that:-

This development lies close to the World War II "Kingston Bombing Range". The developer should consider investigating this matter further prior to proceeding with any groundworks.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Prior to the commencement of deliveries or construction work a Section 96 Wear and Tear Agreement under the Roads (Scotland) Act 1984 will be required to be

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

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

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

Proposed engineering works within the water environment will require authorisation under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended). Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.

Details of regulatory requirements and good practice advice for the applicant can be found on the Regulations section of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory team in your local SEPA office at: 28 Perimeter Road, Pinefield, Elgin IV30 6AF Tel: 01343 547663

ABERDEENSHIRE ARCHAEOLOGY SERVICES has commented that:

The proposed development will have a significant direct impact on the archaeology site NJ26NE0040, an area of cropmarks indicating human activity likely to date to the prehistoric period (which, on checking aerial photographs, actually extends eastwards beyond the area recorded to date), located within "Field 3" of the proposed plan.

If this area is not excluded from the development, this area would need to be subject to a 5% trial trenching evaluation and a watching brief is required for the formation of access tracks, cabling trenches and substations.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
WSP-0832-GA-965_ST-243 A	Site location plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

20/001196/APP

Site Address:

Speyslaw Farm

Urquhart

Applicant Name:

Elgin Energy EsCo Ltd

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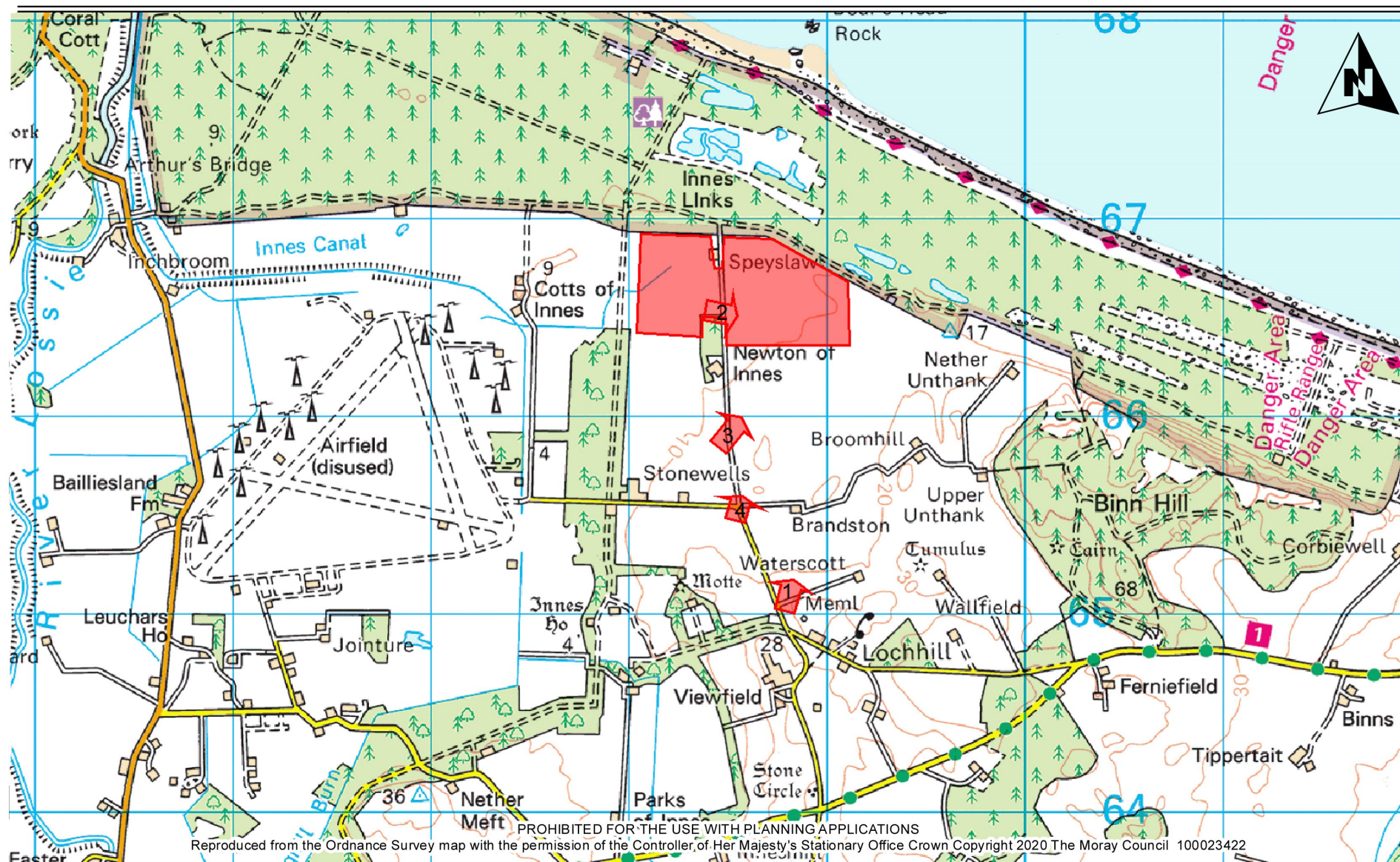
Location Plan



Site Location



20/01196/APP - Photograph Positions



Map Description: Arrows point in direction photograph was taken.

Scale: 1:25,000 @ A4



Photo 1— Branston Access



Photo 2—Felled strip



06/11/2020

Photo 3



Photo 4



PLANNING APPLICATION: 20/01196/APP

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

THE PROPOSAL

- Application under section 42 of the Town and Country Planning Act (Scotland) (1997) (as amended) to amend condition 1 of planning consent 17/00808/APP.
- Planning approval 17/00808/APP granted consent for a solar photovoltaic (PV) farm with associated infrastructure (including substation).
- Condition 1 gives permission for the solar PV farm to be sited for a period of 31 years, stating the following:

“This planning permission shall expire and cease to have effect after a period of 31 years from the date when electricity is first exported from any of the approved solar panels to the electricity grid network (the "First Export Date"). Upon the expiration of a period of 30 years from the First Export Date, the solar panels shall be decommissioned and removed from the site, with all decommissioning and restoration works undertaken in accordance with the terms of condition 3 of this permission. Written confirmation of the First Export Date shall be submitted in writing to the Council, as Planning Authority within one month of the said date.

Reason: *In recognition of the temporary nature of the proposed development and to secure removal.”*
- This application proposes to amend condition 1 to increase the period the solar PV farm would be sited by 10 years, allowing for an operation period of 40 years.

THE SITE

- The site is approx. 47 ha of farmland extending over two field areas located on either side of an existing track leading between Lochhill and Speyslaw Cottage.
- The site is enclosed to the north and west by mature trees and some tree cover to the south-west and east of the site.
- The site is largely flat but becomes more undulating to the south.
- There are individual houses and farm buildings around the site to the south, east and west with the nearest property, Speyslaw sitting approx. mid-way along the northern boundary of the site and between the two field areas that form the application site. This property, owned by Innes Estate, effectively lies within the solar PV farm.
- The Scheduled Monument, "Innes Links, anti-invasion defences, Kingston to Lossiemouth" is located to the north of the site within an area of woodland extending along the coastline.
- Knight's Hillock Motte is a Scheduled Monument located to the south of the site.

- Innes House, a Category A Listed Building set within a Designed Landscape, is located to the south of the site. There are a number of Category B and C listed buildings associated with Innes House, also to the south of the site.
- The Loch Spynie Special Protection Area (SPA) and RAMSAR designation is located to the west of the site and the Moray and Nairn Coast SPA and RAMSAR designation is located to the north and east of the site. In addition, the Lower River Spey - Spey Bay Special Conservation Area (SAC) is located to the north east of the site.

HISTORY

15/01040/PE - Erect 50MW ground mounted solar PV array with associated infrastructure on land at Milltown Airfield, and erect up to 20MW ground mounted solar PV array with associated infrastructure on land at Speyslaw - following a pre-application meeting, the response (1 October 2015) identifies information requirements for any formal application for planning permission and recommends further pre-application consultation with consultees.

15/02014/SCN - [Screening opinion] Install solar PV array at Speyslaw - formal Screening Opinion adopted/issued on 22 December 2015 where, under the Environmental Impact Assessment Regulations 2011 (EIA) and after taking account of the characteristics and location of the development and the characteristics of its potential impact, the proposal, as a 'Schedule 2 development', would not be likely to result in significant environmental effects, hence the proposal is not EIA development and formal EIA procedures are not required.

17/00452/SCN - [Screening opinion] Install Solar PV Array (approx. 80,000 fixed solar panels) at Speyslaw - formal Screening Opinion adopted/issued on 12 April 2017 where, under the Environmental Impact Assessment Regulations 2011 (EIA) and after taking account of the characteristics and location of the development and the characteristics of its potential impact, the proposal, as a 'Schedule 2 development', would not be likely to result in significant environmental effects, hence the proposal is not EIA development and formal EIA procedures are not required.

17/00165/PAN - Proposal of Application Notice to erect photovoltaic solar farm on land at Speyslaw - response (9 February 2017) confirms requirements for consultation with the local Community Councils and the proposed public event. Following consideration, the Planning & Regulatory Services Committee advised (on 26 February 2016) that there were no provisional views/relevant issues which they wished to raise about the proposed development.

17/00808/APP – Planning permission for a solar PV farm comprising ground mounted fixed solar modules, primary and inverter substations, access tracks, perimeter deer fences and pole mounted CCTV cameras granted planning permission by the Planning and Regulatory Services Committee on 21 August 2017. Members resolved to grant consent per the recommendation with two minor amendments to conditions 7 and 9, as well as the inclusion of condition 11 to ensure trees are retained (i.e. those trees that have since been removed).

17/01185/S36 – Application to Scottish Ministers for Section 36 consent under the Electricity Act 1989 for the erection of solar panels and associated works including the

installation of a primary substation inverter substation internal access track and other ancillary equipment at former Milltown Airfield. Members of the Planning & Regulatory Services Committee resolved that Moray Council raise no objections to the application on 5 December 2017, with Scottish Ministers granting Section 36 consent on 25 May 2018.

20/00679/APP – Application under section 42 to remove condition 11 and vary condition 9 of the planning permission 17/00808/APP, granted by the Planning & Regulatory Services Committee on 11 November 2020. This application replaces the requirement to retain a tree belt (subsequently felled) and allows for the planting of hedgerow of native species in its place.

20/01293/S36SCN – [Screening Opinion to Scottish Ministers] Vary period of siting of solar PV farm at Milltown Airfield from 31 to 41 years as consented by Scottish Ministers (see 17/01185/S36 above). Application pending consideration.

POLICY - SEE APPENDIX

ADVERTISEMENTS

Advertised for neighbour notification purposes.

CONSULTATIONS

None.

OBJECTIONS-REPRESENTATIONS

None.

OBSERVATIONS

Legislative Matters

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

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

The principle of the development as a whole is not therefore to be re-considered.

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. The main planning issues are considered below:

Policy Considerations

In determining whether the proposed alternative condition is acceptable, consideration must only be given to whether or not the proposed variation to conditions complies with planning policy. The planning principles of the wider development are not open for consideration.

Scottish Planning Policy recognises the importance of renewable energy development in reducing carbon emissions and increasing the proportion of Scotland's energy supply from renewable energy. It states that the planning system must facilitate a transition to a low carbon economy. Policy DP9 (Renewable Energy) of the MLDP seeks to ensure all renewable energy developments are developed in appropriate locations with no adverse impact on the surrounding landscape, amenity of nearby residents and other infrastructure etc.

In the case of this application the principle of the development has already been established by the 2017 planning permission (17/00363/APP) and whilst the granting of the permission for the variation of the condition would result in a new planning permission, it is only the difference between the existing permission and what is now proposed which is the focus. In terms of the material planning issues identified and considered for the original 2017 planning permission, many of those remain unchanged by the proposal to extend the life of the solar farm. Extending its lifetime would maximise renewable energy generation while any likely impact upon the environment from setting up the solar array will have already occurred

Solar panels sited for a period of 31 years in the landscape is a significant period of time. Renewable energy developments such as solar and wind farms tend to be permitted for a specified period in recognition of their limited lifespan, the length of manufacturer warranties and to ensure any redundant/obsolete equipment is removed and land reinstated.

As technology progresses, the lifespan of such equipment also increases. Should equipment become obsolete/redundant prior to the period of the planning consent, condition 2 requires its removal and land to be reinstated to the satisfaction of the Council, as planning authority.

It is recognised that the proposed amendment means that the presence and associated impact(s) including environmental (landscape and visual) effects will persist for a longer period, in this case for an additional 10 years allowing for a total operational period of 40 years (noting a further year to facilitate decommissioning). Subject to relevant mitigation including planning condition requirements remaining in place for the extended period, to ensure that any residual impacts arising from the extended operation of the solar PV panels are no greater than, or raise no new or additional impacts beyond those already addressed or required to be mitigated, the proposed variation can be supported. It is of note that the site is well screened or obscured from wider view, with only a couple of residences having sight of the location, and the site is located some 450m away from the nearest public road, which would see very little of the site.

In light of the above matters, the proposed variation to the condition is considered to comply with Scottish Planning Policy and Policy DP9.

Other Conditions

This application was applied for before application 20/00679/APP was determined (itself a section 42 application in relation to landscaping). Accordingly its varied conditions will be applied to this consent.

Recommendation

Approve subject to conditions.

REASON(S) FOR DECISION

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

The proposed variation to condition 1, extending the period of consent for the solar photovoltaic farm is considered suitable and complies with the requirements of the Moray Local Development Plan 2020. There are no material considerations that indicate otherwise.

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Ext: 01343 563274

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

APPENDIX

POLICY

Moray Local Development Plan 2020

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, paviers, 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.

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.

EP15 MOD SAFEGUARDING

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