APPENDIX 1

MORAY COUNCIL
Response to Consultation issued by Scottish Government on
APPLICATION FOR S.36 CONSENT
INSTALL A BATTERY ENERGY STORAGE SYSTEM (BESS) WITH ASSOCIATED INFRASTUCTURE AT BLACKHILLOCK ELECTRICITY SUBSTATION, KEITH, MORAY

(MORAY COUNCIL REFERENCE 22/00067/S36)

INTRODUCTION

The applicant Zenobe Blackhillock Limited has lodged an application for consent under Section 36 of the Electricity Act 1989 to install a Battery Energy Storage System (BESS) and associated infrastructure at this site, located 400m southeast of the Blackhillock Electricity Substation, Keith.

The application will be determined by the Scottish Government Energy Consents Unit (ECU) and not by Moray Council, as local planning authority.

In determining the Section 36 application, the views of Moray Council, as local planning authority are being sought by the Scottish Government: the Council's role in the process is therefore as a statutory consultee. In responding with comments, the Council has a right to object or not to the application, as well as commenting on the conditioning of the consent. If the planning authority objects to the proposed development and the objection is not later withdrawn, or the areas of objection cannot be addressed by conditions then the ECU are likely to convene a Public Local Inquiry.

Prior to determination, the Scottish Government is responsible for affording publicity of the proposal and taking account of all representations received, whether from the general public or interested parties, and for consulting with agencies and organisations (consultees). Internal consultation with relevant services/sections within the Council has been undertaken in order to provide a comprehensive response in responding to the consultation.

THE PROPOSAL

- The proposed development comprises the following elements:
    - A compound containing up to 49 Battery Energy Storage Units (to include battery blocks, inverters, heating, ventilation, transformers and air conditioning units), each 16.5m x 23.8m, 3.50m high;
    - High Voltage Transformer, max height 9.45m, within a dedicated compound, and associated acoustic barrier 5.0m high;
    - 2no. Medium Voltage Switch Rooms;
    - 4no. Low Voltage Switch Rooms with Auxiliary Transformers;
    - 1no. Control Room;
    - Storage areas and Spares Containers (up to 4);

    - Synchronous Compensator Units (up to 2) to be housed within buildings 6.2m high, within a dedicated compound;
    - Security fencing, CCTV cameras, gates and security lighting on 6.0m poles;
    - Vehicular access 5m wide (including upgrading of existing track), formation of new access onto A96 and on-site parking spaces (up to 5);
    - Underground cable connecting to the Blackhillock Substation; and
    - SuDs drainage, landscape planting and biodiversity measures.
- The site red line area extends to 23.43 hectares and comprises proposed compound containing the BESS and electricity infrastructure (3.44 hectares) and additional land to allow for other works associated with the application, such as access, drainage and grid connection routes. A micro-siting allowance of 100m for the infrastructure is also sought.
- Supporting submissions include a Planning Statement, Non-Technical Summary, Ecology Appraisal Report, Noise Assessment, Drainage Strategy and Infiltration Assessment, Transport Assessment and Landscape and Visual Appraisal.
- As noted from the Planning Statement and additional supporting information, the proposed development forms part of the Stability Pathfinder Project, which is being managed by National Grid Electricity System Operator ('National Grid ESO') to help manage the stability of electrical systems and facilitate increasing reliance on renewable power in Scotland. The main benefits of the proposed development as outlined are:
    - The proposed Battery Energy Storage System and associated infrastructure is designed to support the flexible operation of the National Grid and decarbonisation of electricity supply in support of EU/UK targets, national planning policy and efforts to address the 'climate emergency'.
    - The proposed Battery Energy Storage System and supporting infrastructure would assist the continued use/deployment of renewable energy sources across Moray and the wider area by increasing installed energy capacity at this location adjacent to the Blackhillock Sub-station, and helping to balance the network during periods when renewable sources are not generating and back up sources are required to counteract the intermittency of sources such as wind.
    - The strategic location of the site in close proximity to the existing Blackhillock Substation would avoid the need for lengthy transmission cables ensuring efficient connection to the grid.

THE SITE

- The application site comprising the development compound site and associated areas of works extends to 23.43 hectares, and forms an irregular shaped area of land to the south/southeast of the Blackhillock Substation south of Keith.
- It currently comprises mainly a mix of improved grassland, arable land, areas of scrub/vegetation, planted landscaping and trees adjacent to the Blackhillock Sub-station site, built up areas (pylons, a telecoms mast, farm buildings and a ruin) and bare ground (roads, tracks, gravel banks and hardstandings).

- Heights at the development site are in the range of 206m to 220m AOD and fall from west to east.
- A high pressure gas pipeline passes through the southwest part of the site.
- The SEPA indicative flood maps show the site is not at risk from surface water flooding or river flooding.
- There are known sites of local archaeological interest within the application site boundary.

HISTORY

For the site.

21/01398/PEMAJ – Preliminary enquiry to install a battery energy storage system (BESS) with associated infrastructure, response issued 13 January 2021.

21/01460/SCN – EIA Screening Opinion adopted/issued in relation to proposal in install a battery energy storage system (BESS) with associated infrastructure, issued 21 December 2021. Response confirmed development is not EIA development.

21/01402/AMC – Consent granted 2 March 2022 for approval of matters specified in 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 vicinity of Redhythe Point in Aberdeenshire Council Area to Whitehillock Farm, Keith, Moray. This application site sites within the western part of this development.

18/01046/EIA – Planning approval granted 3 December 2018 to construct onshore electrical transmission infrastructure, comprising of a cable transition jointing bay, underground cable circuits, and 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 from within the vicinity of Redhythe Point in Aberdeenshire Council Area to Whitehillock Farm, Keith. This application site sites within the western part of this development.

For the area:

22/00499/APP – Planning application for proposed quarry extension at Cairdshill Quarry, this is currently under consideration and lies 350m to the northeast of the application site.

21/01777/APP - Planning approval granted 1 March 2022 for the installation of synchronous compensators with electrical connection to adjacent substation and associated infrastructure on land adjacent Blackhillock and Beatrice Onshore Substations. This is located 850m to the northeast of the application site and has yet to be implemented.

15/00631/EIA – Planning approval granted 3 November 2015 for the erection of electricity substation/convertor station at Blackhillock with access road ancillary works and underground cable link to Portgordon all to service Beatrice Offshore Wind Farm on land between Portgordon and Blackhillock Croft, Keith, Moray.

12/01774/EIA – Planning approval granted 22 February 2013 for the erection of electricity substation/convertor station with access road ancillary works and underground cable link to Portgordon to service Beatrice Offshore Wind Farm at Blackhillock Croft, Keith, Moray.

ADVERTISEMENTS

Statutory advertisement procedures have been carried out by applicant in accordance with agreement of the Energy Consent Unit which is the determining authority for the application.

CONSULTATIONS

Strategic Planning & Development - Proposal complies with relevant development plan policies PP1, PP3, DP1, DP5, DP9, EP2, EP12 and EP14. The principle of development in this location has been established by the adjacent Blackhillock Substation and the need for the facility to be in close proximity. Whilst the proposal will be visually detached from the main activity area of the Substation, the development uses recessive tone finishes, landscaping and post and rail fencing to help integrate the proposal into the landscape. These approaches will help mitigate any potential adverse landscape and visual impacts. The proposal therefore complies with MLDP policies subject to a detailed Landscape Plan, further biodiversity enhancements (bird, bat and insect boxes) and provision of an electric vehicle charging point.

Transportation Manager - No objection as access for construction vehicles is to be taken via a private access onto the A96 Aberdeen to Inverness Road, which is a Trunk Road. Recommends condition to ensure that access is taken directly from the Trunk Road only.

Note: Transport Scotland have been consulted direct by the ECU and will provide a separate response as relevant roads authority.

Access Manager – No objection, notes that no core paths or other paths will be directly affected by the development.

Environmental Health – No objection subject to conditions regarding hours of construction works, a Construction Environmental Management Plan (to minimise construction related noise, dust and artificial lighting), noise level limits, details of an acoustic enclosure for the Transformers and submission/approval of a further detailed Noise Impact Assessment to inform assessment of the final design details.

Environmental Health, Private Water – No objection subject to condition requiring submission/approval of an assessment of the impact of the development on all private water supplies in the area, and mitigation where impacts are identified.

Environmental Health, Contaminated Land - No objection.

Aberdeenshire Archaeology Service – No objection.

Developer Obligations – No developer obligations sought.

Moray Flood Risk Management – No objection subject to condition requiring submission/approval of final drainage details, to be in accordance with submitted Drainage Impact Assessment.

Building Standards – A Building Warrant will be required for any buildings which contain office and mess accommodation.

REPRESENTATIONS

All objections/representations in the relation are to be submitted directly to the Scottish Government Energy Consents Unit, which is the determining Authority. They will be considered by the ECU and do not form part of the Moray Council consideration (as consultee to the Section 36 process).

OBSERVATIONS

The applicant Zenobe Blackhillock Limited is proposing to install a Battery Energy Storage System (BESS) with an operating capacity of up to 300 MW and associated infrastructure at this site, located 400m southeast of the Blackhillock Electricity Substation (see location plan in **Appendix 2**). The proposed development is designed to support the flexible operation of the grid network and will contribute to a range of critical services to National Grid which help to stabilise the transmission network and manage intermittent renewable energy.

The operating capacity of the proposed development means that it is subject to the requirement for an application for consent under Section 36 of the 1989 Electricity Act (together with a request for a direction that planning permission be deemed to be granted under Section 57 (2) of the Town and Country Planning (Scotland) Act 1997 to be determined by Scottish Minsters.

The proposal requires to be considered under the terms of the 1989 Act, in particular Schedule 9 duties, which require Scottish Ministers to have regard to various environmental and cultural heritage matters when considering proposals. These duties apply whatever the relevant local policy circumstances expressed through a Development Plan may be, and therefore the approach required in this case is fundamentally different to the conventional approach for planning decisions under Section 25 of the 1997 Act. As such, the Development Plan does not have primacy in determining an application for electricity consent under the 1989 Act, although development policies are still relevant to understanding the local context, the generic duties under Schedule 9 and are also material considerations in the decision-making process. In this case the relevant local planning policies are those contained in the adopted Moray Local Development Plan 2020 (MLDP) and observations in relation to each under topic headings are set out below.

In addition, as Moray Council is a consultee for the Section 36 process, some matters within the observations will be assessed differently had it been assessed as a planning application where Moray Council are the determining authority. Matters such as, for example, impact on ecology and water environment will be informed by direct consultation with NatureScot and SEPA, as they will be consulted separately and will reply directly to the ECU. Similarly consideration of the access arrangements which involve taking sole access into the trunk road would be commented upon by

Transport Scotland. The Council's consideration of some matters will therefore be limited where the ECU are consulting directly themselves on particular areas of interest best addressed by other specialist consultees.

An accompanying Planning Statement provides an assessment of the proposed development against relevant national and local development plan and energy policies and any other material considerations. This draws support for the proposal from these provisions and other considerations, which is designed to support the flexible operation of the National Grid and decarbonisation of electricity supply by balancing electricity supply and demand, through provision of a back-up source of electricity during periods when renewable sources (wind) are not generating and is required to counteract the intermittency of sources such as wind. As noted from the Statement the development is located in close proximity to the existing Blackhillock substation, avoiding the need for lengthy transmission cables and ensuring an efficient straightforward connection to the grid, and has been designed with proposed mitigation to ensure that there are no unacceptable adverse impacts on the environment, natural, built and heritage resources.

Relationship of proposal to national renewable energy policy/guidance
International and UK policy frameworks are supportive of renewable energy and electricity transmission/energy storage proposals which help to support a transition to a low carbon economy.

The Scottish Energy Strategy and NPF3 set out that the planning system has a fundamental role in ensuring that Government objectives for energy and climate change policy are fulfilled. Substantially increasing installed energy capacity is identified as critical to the success of the policy, and grid balancing systems such as the proposed development currently under consideration would enable further deployment of renewables. The draft National Planning Framework 4 sets out that measures to address climate change and reduction of carbon emissions will be accelerated and that battery storage is a key part to this strategy to providing new developments and infrastructure across Scotland.

The Climate Change (Scotland) Act 20092 (the Climate Change Act) has committed Scotland to becoming carbon-neutral by 2045. This target is legally binding rather than an ambition and requires to be reflected in the way in which energy projects are addressed by public bodies when exercising their functions. Beyond the NPF3 there are a number of considerations relevant to the Section 36 process, which have been taken into account in arriving at the below recommendation. These include the Climate Change (Scotland) Act 2009 as amended by The Climate Change (Emissions Reduction Targets) (Scotland) Act 2019; Net Zero – The UK's Contribution to Stopping Global Warming; Electricity Generation Policy Statement (2013); Scottish Energy Strategy: The Future of Energy in Scotland; National Planning Framework 3 (2014); Scottish Planning Policy (2014); Draft National Planning Framework 4 (NPF4) Climate Change Plan: The Third Report on Proposals and Policies 2018 – 2032; and Update to the Climate Change Plan 2018 – 2032 – Securing a Green Recovery on a Path to Net Zero (2020). These generally stress the need to reduce carbon emissions (for which grid scale battery storage systems to address intermittent renewables will clearly play a part) but do qualify this with the need to protect landscapes, built and natural heritage, residents and other interests

The applicant's submitted Planning Statement identifies the pertinent national policy and guidance, and consideration has been given to these policies and guidance documents in the assessment of this application.

The proposed development is considered to meet the objectives and criteria outlined within Scottish Planning Policy, the Scottish Energy Strategy and other material considerations identified. It would provide important services to the grid infrastructure network and help to reduce emissions from energy sources, in line with the Climate Change Act and the Climate Change Plan.

Siting, Character and Design (PP1, PP2, DP5, DP9 and DP1)
Policy PP1 Placemaking states that Developments 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.

Policy PP2 Sustainable Economic Growth supports proposals which deliver sustainable economic growth where the natural and built environment is safeguarded, there is clear locational need and any potential impacts can be satisfactorily mitigated.

Policy DP1 sets out the detailed criteria to ensure that proposals meet siting, design and servicing requirements, provide sustainable drainage arrangements and avoid any adverse effects on environmental interests.

Policy DP5 Business and Industry outlines that proposals for rural business developments will be supported where they fit into the environment, provide a locational need for the site and can be adequately serviced.

Policy DP9 Renewable Energy outlines that all renewable energy proposals will be considered favourably where they are compliant with policies to safeguard and enhance the built and natural environment, and avoid any unacceptable significant adverse impacts (i.e. landscape and visual, noise, air quality, water environment, traffic, ecology etc.).

The proposed development comprising the installation of a Battery Energy Storage System and associated infrastructure would facilitate the flexible operation of the grid network and provide a range of critical infrastructure services to National Grid, assisting the continued use and deployment of renewable energy sources across the region. It would increase installed energy capacity at this location and help to balance the network during periods when renewable sources are not generating and back up sources are required to counteract the intermittency of sources such as wind.

The development consisting of rows of multiple containerised battery storage units with associated equipment (synchronous compensators and transformers) within a fenced compound would occupy an area of farmland adjacent to high voltage power lines, to the south of the existing Blackhillock Substation. The development in terms of its design, appearance and scale would have a low visual profile, and would be appropriate and in keeping with the surrounding landscape, which is characterised

predominantly by significant electricity infrastructure, overhead power lines, quarries, farmland, plantation woodland, shelterbelt and wind farm development.

Proposed fencing, use of recessive tone finishes (green or brown) for the battery storage units and associated infrastructure and landscaping/tree planting would ensure that the development integrates sensitively into the landscape. With these measures and embedded mitigation the proposal is considered to represent an appropriate form of development which is capable of being accommodated on the site without adverse landscape and visual effects. Conditions are recommended requiring submission/approval of details of the tone finishes, an updated detailed Landscape Plan (detailing specifications, numbers, maintenance arrangements and additional screen planting), details of cross sections/earthworks and the final route of the grid connection cable.

A locational need for the site has been established through the adjacent Blackhillock Substation as the proposal requires to be close to this facility in order to effectively provide the services and electricity to the National Grid.

A Landscape and Visual Appraisal (LVA) has been submitted with the application which concludes that the proposal will not give rise to significant unacceptable landscape character or visual impacts, and could be accommodated on the site with limited and localised effects. This sets out that although the development would result in loss of farmland, this would account for a relatively small parcel of land within an expansive area of agriculture that incorporates various elements of infrastructure and human activity. This includes significant electricity infrastructure (high voltage overhead power lines, which coalesce at the Blackhillock and Beatrice Wind Farm Substations to the north of the site, Edintore Wind Farm on the south-facing slopes of Cards Hill (southwest of the site) and Blackhillock Quarry and Cairdshill Quarry to the northeast.

In terms of landscape effects, the LVA notes the undulating nature of the landform, in combination with nearby tree cover and existing built form means that landscape effects would be primarily focused within a 300 to 400m radius of the site, and as such would not impact the wider landscape. Visual effects would also be restricted based on the site location, which is spatially remote from the majority of visual receptors within area, and which exhibits a relatively high degree of visual enclosure based on the surrounding landform. Clearest views would be experienced by residents at Blackhillock Croft and Greens at Aucharties based primarily on views from wider parts of the curtilage and the access track, however, with regard to views from within the dwellings and main garden areas, these effects are not assessed as being notable due to their oblique nature and the presence of intervening screening elements. The LVA further advises that potential views that would be experienced by all other residents, recreational receptors and road users would be limited by intervening landform, buildings, tree cover, orientation of view and/or distance of view, hence would not be notable. In terms of cumulative effects, the LVA outlines that the proposal would augment the presence of existing, consented and proposed power-related infrastructure in the locality, and the net result would be to slightly increase the influence of this infrastructure in a south easterly direction from the existing Blackhillock Substation. The containing effect of the landform however would prevent the geographic spread of potential cumulative effects across wider

parts of the surrounding landscape and as such the LVA assesses that there would be no notable cumulative effects on landscape.

From the above considerations, the proposal complies with the requirements of policies PP1, PP2, DP1, DP5 and DP in terms of siting, character and design.

Access and Transport (DP1 and PP3)
Policies PP3 Infrastructure and Services and DP1 Development Principles require the provision of a safe entry/exit from new development for all users, appropriate infrastructure and acceptable parking provision.

A Transport Statement has been submitted with the application which considers assess and traffic impacts. This confirms that access to the proposed development will be taken via the existing junction from the A96 which serves Netherton Farm and an existing farm track, and are to be upgraded to accommodate Abnormal Load Vehicles and other related traffic. As noted from the Assessment and the Planning Statement, the majority of vehicles visiting and using the site will occur throughout the construction phase during a 9-18 month period generating up to 92 vehicle movements per day (during the most active periods), and that the change in traffic on routes in the area will be negligible in terms of existing traffic flow. During the operational phase traffic as the site will not be manned volumes are expected to be minimal, with smaller vehicles visiting the site.

The Transportation Section following consultation has raised no objection to the proposed development on the basis that access for construction vehicles is to be taken solely via the private access at Netherton Farm onto the A96 Aberdeen to Inverness trunk road. A condition requiring submission/approval of construction details of the proposed access track which is to be upgraded, and adherence to the access route in figure 1.4 to ensure that access is taken from the trunk road only is recommended.

In terms of impacts on the trunk road network Transport Scotland as the relevant consultee will provide comments direct to the Energy Consent Unit. From review of the consultation responses on the ECU website, it is noted that Transport Scotland initially raised no objection to the proposed development subject to further discussions with the applicant agreeing access junction details onto the trunk road, and approval of an Abnormal Load Assessment to demonstrate that abnormal load vehicles can negotiate farm buildings which are close to the access off the trunk road without blocking/backing into the trunk road. These discussions have taken place and Transport Scotland has confirmed in separate email correspondence to the applicant that these matters can be dealt with by conditions attached to any planning consent, to ensure that the access off the trunk road will remain free-flowing.

Policy PP3 (a) (iv) requires the provision of electric vehicle charging points at all commercial parking facilities. To ensure compliance a condition shall be recommended requiring provision of 1 (one) electric vehicle charging point at the parking facilities at the site.

Based on the above, and subject to the recommended conditions the proposal complies with policies DP1 and PP3 in relation to access and transport.

Noise (DP9, EP14 and DP1)
Policy DP1 Development Principles seek to ensure that new developments do not create pollution which may adversely affect the environment or local amenity, and policy DP9 outlines that all renewable energy proposals should avoid any unacceptable significant adverse impacts on noise. Policy EP14 Pollution, Contamination and Hazards sets out that development proposals which may cause significant noise pollution should be accompanied by a detailed assessment report on the levels, character and transmission of the potential pollution with measures to mitigate impact.

A Noise Impact Assessment (NIA) has been provided with the application which assesses effects on the closest residential properties to the development, Blackhillock Croft and Greens at Aucharties (located 170m and 290m to the north respectively). This confirms that although the batteries by nature are quiet in their operation, following assessment noise emissions produced from the proposed air conditioning units, inverters and transformers on the site will require to be mitigated through the provision of noise mitigation measures to safeguard residential amenity These measures would comprise an acoustic barrier to the north and west of the transformer(s), housing the synchronous compensators and enclosures to the inverters, with finalised details to be agreed.

The Environmental Health Section, has reviewed and is content with the findings of the NIA and has raised no objection subject to conditions regarding hours of construction works, a Construction Environmental Management Plan (to minimise construction related noise, dust and artificial lighting), noise level limits, details of an acoustic enclosure for the Transformers and submission/approval of a further detailed Noise Impact Assessment to inform assessment of the final design details. The applicant has confirmed agreement to these conditions.

From the above and subject to the recommended conditions, the proposal is not considered to result in any unacceptable impacts upon the amenity of neighbouring houses or to the surrounding area, and as such would comply with policy DP1, DP9 and EP14.

Drainage and Flooding (PP3, DP1, and EP12)
Policies PP3 Instructure and Services and DP1 Development Principles (iii) Water Environment, Pollution, Contamination require development to be planned and coordinated with infrastructure to ensure places function properly, and proposals are adequately served by infrastructure and services in terms of foul and surface water drainage and water supply. Policy EP12 Management and Enhancement of the Water Environment requires surface water from development to be dealt with in a sustainable manner (SuDS) that has a neutral effect on the risk of flooding or which reduces the risk of flooding.

A Drainage Impact Assessment (DIA) has been submitted with the application which outlines the proposals for surface water drainage (SuDS) on the site, and addresses flood risk. These would consist of a retention pond and associated piped network that would discharge into an adjacent watercourse to the north, and be suitably designed/ sized to attenuate surface water flows during storm events without

surcharge. The DIA demonstrates that the site is at little or no risk of flooding from any sources, and that the development will not increase flood risk elsewhere during exceedance events up to and including the 1:200 year event plus climate change. Finalised design details would be submitted for approval.

No foul water drainage or water supply connections are proposed as the development will be unoccupied during the operational phase with the exception of ad hoc maintenance.

These arrangements and accompanying DIA have been assessed by the Moray Flood Risk Management Section (FRM) and confirmed as acceptable. A condition requiring submission/approval of final drainage details in accordance with the DIA and implementation shall be recommended.

The Environmental Health Private Water Section, following consultation, has highlighted that there are a number of private water supplies in the vicinity of the site, some of which are unregistered. In order to ensure that the development does not impact these supplies a condition is recommended requiring submission/approval of an assessment of the impact of the development on all private water supplies in the area, and where a possible impact on water supplies is identified, this includes detailed proposals for appropriate mitigation measures. The applicant has confirmed agreement to this condition.

On the basis of the above, subject to the conditions identified the proposals accord with polices PP1, DP1 and EP12 in relation to drainage and flood risk.

Natural Heritage and Biodiversity (EP1 and EP2)
Policy EP1 Natural Heritage Designations seeks to ensure that development does not have an adverse effect on any Protected Species or upon any wildlife sites or other valuable local habitats.

Policy EP2 Biodiversity aims to deliver biodiversity enhancement by creating networks of high-quality green spaces that will help to promote new habitat creation and help to avoid habitat fragmentation. All development proposals must retain, protect and enhance features of biological interest and provide for their appropriate management

The submitted Preliminary Ecological Appraisal (PEA) accompanying the application contains analysis and survey findings of habitat and species on the site. As noted from the report, the compound area containing the proposed development is located within arable and improved grassland fields, which are of low ecological value; pockets of higher conservation value habitat, such as planted mixed woodland and a pond (which form part of new landscaping for the Blackhillock and Beatrice Sub stations) lie within the northern part of the site where the proposed cable route would run. The report confirms that no evidence of protected species was recorded, however it does recommend the need for further pre construction surveys and mitigation measures to safeguard local wildlife and enhance local biodiversity. These include, vegetation clearance works to be kept to a minimum and when required, for these to take place outside the bird nesting season (or if this is not possible, to be undertaken following bird nest checks by an ecologist), pre-construction badger

surveys, mitigation measures to prevent harm during works, lighting to be designed in line with good practice (i.e. minimising light spill and directing away from boundaries/retained habitats and installation of bird nest boxes.

A condition is recommended requiring implementation of these measures.

The site is not subject to any international, national or local environmental designations. A single SSSI, the Den of Pitlurg, which is designated for its upland birch woodland and valley fen lies approximately 2 km to the south, however as there is no connectivity no impacts are anticipated.

The current proposal lacks detail in respect of biodiversity enhancements, beyond landscaping and reference to bird next boxes. To enhance biodiversity across the site and comply with Policy EP2, the development is therefore required to provide bird, bat and insect boxes in appropriate locations as well as a detailed Landscape Plan, which should include planting around the SUDS pond. This is recommended to be addressed by condition.

Subject to the above conditions, impacts on nature conservation interests will be mitigated and biodiversity enhancements provided in accordance with EP1 and EP2.

Impact on Trees (EP7)
Policy EP7 Forestry, Woodlands and Trees outlines that proposals must retain healthy trees and incorporate them within the proposal unless it is technically unfeasible to retain these. Whilst it is noted that no trees are affected by the development of the compound, the proposed route for the grid connection cable has the potential to impact an area of young trees within the landscaping for the Blackhillock Sub-station. Once the finalised route has been determined, a Tree Survey and Tree Protection Plan will be required and recommended as a condition.

In the event that tree removal is required to accommodate the cable route, this would be in compliance with Policy EP7 (b), subject to the provision of a Tree Survey/Tree Protection Plan, on the basis that it is technically unfeasible to retain these as the grid connection cable is key infrastructure that is required to facilitate the development. Given that the trees are young, consideration should be given to their translocation rather than removal should it be required; this shall be addressed by condition which has been agreed by the applicant.

Archaeology and Cultural Heritage (EP8, EP9 and EP10)
Policy EP8 Historic Environment policy aims to protect archaeological sites and Scheduled Monuments from development that would have an adverse impact on their integrity and setting. Policies EP9 Conservation Areas and EP10 Listed Buildings seek to protect/preserve the character and appearance of conservation areas, and to protect listed buildings and their settings from inappropriate development.

The submitted Planning Statement includes an assessment of the effects of the proposal on archaeology and built heritage. This confirms that there are no Listed Buildings, Conservation Areas, Registered Battlefields or Gardens and Designed Landscapes within the 500m of the Development Boundary, and from review of the

available data of known cultural assets and the nature of archaeological remains found within the area the potential for further archaeological remains to be found would be low to moderate. The Aberdeenshire Archaeology Service has reviewed and is content with this information, and has raised no objection to the proposal or recommended the need for archaeological investigations to be addressed by condition. It is also considered that the site is sufficiently distant from heritage built interests in the wider area and would cause unacceptable adverse effects. Historic Environment Scotland will provide a separate consultation response to the ECU in this regard.

From the above considerations the proposal would not impact built heritage (archaeological and cultural) interests and would accord with development plan policies EP8, EP9 and EP10.

Pollution Control (DP1 and EP14)
Policies DP1 Development Principles and Policy EP14 Pollution, Contamination and Hazards seek to ensure that new developments do not create pollution which may adversely affect the environment or local amenity.

In order to mitigate impacts on air, water, soil and light, to ensure the above policy requirements are met a condition requiring submission and approval of a Construction Environment Management Plan (CEMP) including a site specific pollution prevention plan during the construction phase is recommended.

On the basis of the above the proposal is considered to comply with policy requirements in relation to pollution control.

Gas Pipeline (DP1 and EP14)
Policies DP1 Development Principles and EP14 Pollution, Contamination and Hazards require development proposals to avoid and not impact on hazardous sites or result in public safety concerns due to proximity or use in the vicinity of such sites.

A High Pressure Gas Transmission Pipeline (Aberdeen to Connon Bridge) owned/operated by Scotland Gas Network (SGN) lies within the vicinity of the proposed development. As noted from the Planning Statement the applicant has held positive pre-application discussions with SGN to agree assessment methodology of any indirect impacts from the proposal upon the pipeline and what mitigation is required, and for this to be addressed by a condition of the consent. This condition is included within the Scotland Gas Network consultation response on the ECU website, and with this imposed the proposal complies with Policy EP14 (c).

Decommissioning (DP9)
The submitted Planning Statement contains information regarding decommissioning and site reinstatement. This would involve notice being given to the Council in advance of commencement of the decommissioning works, with all necessary licenses or permits being acquired. The works undertaken would be in accordance with a statement of operations, covering safety and environmental issues during decommissioning and will include removal of electrical equipment, and concrete foundations. The ECU would condition appropriate decommissioning requirements or provision of a bond to ensure that the development is in place only for the

operational lifetime of the equipment and the site is appropriately restored at the end of that period. On this basis the proposal would comply with the restoration requirements of Policy DP9.

Conclusion
The proposed Battery Energy Storage System represents a significant infrastructure development that would provide a range of critical infrastructure services to National Grid, and assist with the continued uptake/deployment of renewable energy sources across the region. It would substantially increase installed energy capacity at this key location adjacent to the Blackhillock Sub-station, and help to balance the grid network during periods when renewables are not generating and back up sources are required to counteract the intermittency of sources such as wind.

The proposal would be in line with national and local plan policies which aim to support the expansion of renewable energy, including its contribution to meeting renewable energy targets and addressing the 'climate emergency'. The development is strategically located in close proximity to the existing Blackhillock substation, avoiding the need for lengthy transmission cables and ensuring an efficient connection to the grid, and has been designed with proposed mitigation to ensure that there are no unacceptable adverse impacts on the environment, natural, built and heritage resources.

The proposal would be in accordance with MLDP policies PP1, PP2, PP3, DP1, DP5, DP9, EP1, EP2, EP7, EP12 and EP14, subject to the conditions recommended below.

Recommended decision to Committee

It is recommended that Moray Council responds to the Energy Consents Unit raising no objection to the proposed development but would wish the following conditions to be imposed on any consent granted.

Recommended conditions and comments to pass to Energy Consents Unit.

1. 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 protect local residents from noise nuisance in ensuring the construction phase is restricted within permitted hours

2. The rating level of noise associated with the development shall not exceed 36 dB at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission. Measurement and

assessment to demonstrate compliance with the rating level shall be undertaken in accordance with BS 4142: 2014 Methods for rating and assessing industrial and commercial sound.

Reason: To protect local residents from noise nuisance due to the use of the development.

3. Prior to the installation of the battery energy storage units and associated infrastructure/equipment (as detailed in Table 1: Development Components Summary of the submitted Planning Statement, page 4 (excluding fencing, parking and grid connection cable) development commencing, a further detailed Noise Impact Assessment shall be submitted and agreed in writing with the Planning Authority, in consultation with the Environmental Health Manager, demonstrating that the predicted rating level of noise in the above condition 2 is to be met

   Reason: In order to ensure that in the final design selected a further assessment of noise impact shall be undertaken and can demonstrate no noise nuisance to local residents.

4. Unless otherwise agreed with the Planning Authority, a 5m high acoustic barrier with a surface density of at least 10kg/m2 shall be provided on the north and west elevation of the transformer compound associated with the development as illustrated in Figure 2, page 9 of the Noise Impact Assessment supporting document by Apex Acoustics Limited and titled " Battery Storage, Blackhillock . Noise Impact Assessment. Dated 16th December 2021, Revision C. Document reference 9169.1." Prior to the use commencing, the final selected acoustic barrier in terms of chosen material, design, surface density shall be submitted in a plan and agreed in writing with the Planning Authority and shall thereafter be installed and maintained throughout the lifetime of the development.

   Reason: To protect local residents from noise nuisance due to the use of the development.

5. Prior to development commencing, a site specific Construction Environmental Management Plan (CEMP) shall be submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Manager. The plan shall include measures to minimise construction related noise, dust, artificial lighting, and a pollution prevention plan to protect the water environment from construction activities. Thereafter the development will be carried out in accordance with the agreed plan.

   Reason: In order that environmental emissions are considered and managed at the construction phase, in order to protect local residents and the environment.

6. Prior to the development commencing details of the operational site lighting shall be submitted to and agreed in writing by the Planning Authority, in

consultation with the Environmental Health Manager. Thereafter, the agreed lighting details shall be maintained throughout the lifetime of the development.

Reason: In order that in the final design selected, artificial light emissions are considered, in order to protect local residents.

7. The ecological mitigation measures and biodiversity enhancements as detailed within the submitted Preliminary Ecological Appraisal (Section 5 refers), prepared by Arcus Consultancy Services dated November 2021 accompanying this application shall be fully adhered to by the developer, unless otherwise agreed in writing with the Council, as Planning Authority.

   Reason: To ensure that the development does not have an adverse impact on protected species or habitat, minimise disturbance to nature conservation interests and enhance biodiversity.

8. No development shall commence until a detailed landscape and biodiversity plan has been submitted to, and approved in writing by, the Council, as Planning Authority. This shall be based upon the submitted plan entitled Figure 4 Landscape Mitigation Plan (Revision F), and show the following information:
   (a) All soft landscaping and planting works, including plans and schedules detailing species, specifications, heights and numbers of trees within each proposed woodland block, shrub and species rich meadow areas;
   (b) Additional groups of tree planting to reinforce the proposed perimeter planting, wildflower planting and planting (emergent and marginal) to the SuDs basin;
   (c) Details of the arrangements for the protection and long-term maintenance of all landscaped areas; and
   (d) Details and location of bird nest, bat and insect boxes.

   Thereafter the landscaping and biodiversity measures shall be implemented in accordance with these approved plans within the first planting season upon completion of the 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 this Council, as Planning Authority gives written consent to any variation of this planning condition.

   Reason: In order to ensure an acceptable level of planting in the interests of the amenity and appearance of the surrounding countryside and to enhance biodiversity in the area.

9. No development shall commence until a Tree Survey and Tree Protection Plan detailing any trees that would require to be removed to accommodate the grid connection cable (once the final route is known) and measures to be taken to protect existing trees on that part of the site, has been submitted to and approved by the Council, as Planning Authority. Any trees that require to be removed as a result of the grid connection cable shall be translocated or replaced with the same species, with details to be shown on a detailed

landscape plan. Thereafter the protection measures shall be implemented prior to any development commencing within that part of the site and be retained until completion of the development.

Reason: To ensure an acceptable form of development is provided in accordance with the tree survey, and that suitable protection is afforded to existing trees.

10. No works shall commence on the installation of the finalised drainage arrangements until scaled drawings and associated drainage calculations for these arrangements for the development have been submitted to and approved in writing by the Council, as Planning Authority. These shall be in accordance with the drainage design as outlined in the Drainage Impact Assessment prepared by Arcus Consultancy Services, dated November 2021, unless alternative arrangements are agreed by the Council, and installed and operational prior to the completion of the development hereby approved.

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

11. No works shall commence on the installation of the battery energy storage units, associated infrastructure/equipment, fencing and buildings until detailed scaled drawings (floorplans and elevations, and colour specifications) of the final designs of these elements on the site have been submitted to and approved in writing by the Council, as Planning Authority. The colours of these works shall be a recessive tone (green, brown or similar) as outlined within the submitted Landscape & Visual Appraisal (section 7 refers), as prepared by TGP Landscape Architects accompanying this application. Thereafter all works shall be carried in accordance with these approved details.

    Reason: In order to ensure that the development integrates sensitively into the surrounding area and as these details are lacking from the application.

12. No development shall commence until a report prepared by a suitably qualified professional or appropriate organisation detailing an assessment of the impact of the development on all private water supplies within 500 metres of the application boundary has been submitted to and accepted by the Council, as Planning Authority. Where a possible impact on water supplies is identified, the report shall include detailed proposals for appropriate mitigation measures, e.g. provision of new supplies.

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

13. No development shall commence until the following information has been submitted to and approved in writing by the Council, as Planning Authority:

a) Detailed drawings and construction specification of the final access track and route, as indicated on drawing titled Figure 1.5 – Site Layout Plan and Access and Grid Connection Route (Revision B) and in the Transport Statement dated November 2021 prepared by Arcus Consultancy Services (Appendix B). For the avoidance of doubt vehicular access to the development site shall be taken from the Trunk Road only as shown on the abovementioned plans.

b) Detailed drawings of the final grid connection cable route between the development and the Blackhillock Substation, as indicated on drawing titled Figure 1.5 – Site Layout Plan and Access and Grid Connection Route (Revision B, dated 13/05/22).

c) Preliminary drawings of the development compound indicating finished levels in relation to existing levels and any earthworks e.g. embankments, cut and fill etc., and thereafter once the final site design is completed (which shall be confirmed to the Council), detailed cross sections and plans showing final levels and earthworks.

Thereafter all works shall be carried out in accordance with these approved details, unless otherwise agreed with the Council as Planning Authority.

Reason: In order to allow for further consideration of these matters to ensure that the development integrates sensitively into the surrounding area and as these details are lacking from the application.

14. One Electric Vehicle Charge Point is required to be provided as part of the development. Prior to installation, details of the approved Electric Vehicle charging point must be provided to and agreed by the Council, as Planning Authority and thereafter provided and operational prior to the completion of the development

Reason: To ensure the provision of infrastructure to support the use of low carbon transport.

15. All infrastructure shall be constructed in the locations shown in the drawing titled Figure 1.2 – Site Layout except as adjusted by micro-siting of no more than 100m from the original position shown on Figure 1.2 Site Layout. No infrastructure is permitted outside of the fence line shown on the Figure 1.2 Site Layout regardless of the micro siting allowance. Any changes to infrastructure locations outside of the micro siting limit must be approved in writing by the Council, as Planning Authority.

No later than one month after the date of completion of the construction of the development the applicant must submit a final as built plan showing the final positon of all infrastructure including areas where micro siting has taken place to the Council, as Planning Authority.

Reason: To ensure that the development is built in accordance with the application plans and supporting information (Planning Statement Section 3.4

refers), to allow tolerance for re-siting infrastructure and flexible procurement of equipment.

Informatives:

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

A Building Warrant will be required for the proposals. Should you require further assistance please contact the Building Standards Duty Officer between 2pm and 4pm or telephone on 03001234561. No appointment is necessary. Alternatively e-mail buildingstandards@moray.gov.uk

RELEVANT POLICIES OF THE 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, paviors, 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.

EP1 NATURAL HERITAGE DESIGNATIONS

a) European Site designations

Development likely to have a significant effect on a European Site and which is not directly connected with or necessary to the conservation management of that site must be subject to an appropriate assessment of the implications for its conservation objectives. Proposals will only be approved where the appropriate assessment has ascertained that there will be no adverse effect on the integrity of the site.

In exceptional circumstances, proposals that could affect the integrity of a European Site may be approved where:

i) There are no alternative solutions, and
ii) There are imperative reasons of over-riding public interest including those of a social or economic nature, and
iii) Compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

For European Sites hosting a priority habitat or species (as defined in Article 1 of The Conservation (Natural Habitat & c.) Regulations 1994), prior consultation with the European Commission via Scottish Ministers is required unless the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

b) National designations

Development proposals which will affect a National Park, National Scenic Area (NSA), Site of Special Scientific Interest (SSSI) or National Nature Reserve will only be permitted where:

i) The objectives of designation and the overall integrity of the area will not be compromised; or
ii) Any significant adverse effects on the qualities for which the site has been designated are clearly outweighed by social, environmental or economic benefits of national importance.

c) Local Designations

Development proposals likely to have a significant adverse effect on Local Nature Reserves, wildlife sites or other valuable local habitats will be refused unless it can be demonstrated that;

i) Public benefits clearly outweigh the nature conservation value of the site, and
ii) There is a specific locational requirement for the development, and
iii) Any potential impacts can be satisfactorily mitigated to conserve and enhance the site's residual conservation interest.

d) European Protected Species

European Protected Species are identified in the Habitats Regulations 1994 (as amended in Scotland). Where a European Protected Species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application, to demonstrate how the Regulations will be complied with. The survey should be carried out by a suitably experienced and licensed ecological surveyor.

Proposals that would have an adverse effect on European Protected Species will not be approved unless;

- The need for development is one that is possible for Nature Scot to grant a license for under the Regulations (e.g. to preserve public health or public safety).
- There is no satisfactory alternative to the development.
- The development will not be detrimental to the maintenance of the favourable conservation status of the species.

e) Other protected species

Wild birds and a variety of other animals are protected under domestic legislation, such as the Wildlife and Countryside Act 1981 (as amended in Scotland by the Nature Conservation (Scotland) Act 2004 and the Wildlife and Natural Environment (Scotland) Act 2011), Protection of Badgers Act 1992 and Marine (Scotland) Act 2010. Where a protected species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application to demonstrate how legislation will be complied with. The survey should be carried out by a suitably experienced ecological surveyor, who may also need to be licensed depending on the species being surveyed for.

Proposals which would have an adverse effect on badgers or their setts must be accompanied by a Badger Protection Plan demonstrating how impacts will be avoided, mitigated, minimised or compensated for.

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.

EP8 HISTORIC ENVIRONMENT

a) Scheduled Monuments and Unscheduled Archaeological Sites of Potential National Importance.

Where a proposed development potentially has a direct impact on a Scheduled Monument, Scheduled Monument Consent (SMC) is required, in addition to any other necessary consents. Historic Environment Scotland manage these consents.

Development proposals will be refused where they adversely affect the integrity of the setting of Scheduled Monuments and unscheduled archaeological sites of potential national importance unless the developer proves that any significant adverse effects are clearly outweighed by exceptional circumstances, including social or economic benefits of national importance.

b) Local Designations

Development proposals which adversely affect sites of local archaeological importance or the integrity of their settings will be refused unless;

- Local public benefits clearly outweigh the archaeological value of the site, and
- Consideration has been given to alternative sites for the development and preservation in situ is not possible.
- Where possible any adverse effects can be satisfactorily mitigated at the developer's expense.

The Council will consult Historic Environment Scotland and the Regional Archaeologist on development proposals which may affect Scheduled

Monuments, nationally important archaeological sites and locally important archaeological sites.

EP12 MANAGEMENT AND ENHANCEMENT OF THE WATER ENVIRONMENT

a) Flooding

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

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of Scottish Planning Policy and to the satisfaction of Scottish Environment Protection Agency and the Council is provided by the applicant.

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

Level 1 - a flood statement with basic information with regard to flood risk.
Level 2 - full flood risk assessment providing details of flood risk from all sources, results of hydrological and hydraulic studies and any appropriate proposed mitigation.

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

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

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

a) In areas of little to no risk (less than 0.1%), there will be no general constraint to development.
b) Areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. A flood risk assessment may be required at the upper end of the probability range i.e. (close to 0.5%) and for essential civil infrastructure and the most vulnerable uses. Water resistant materials and construction may be required. Areas within this risk category will generally not be suitable for civil infrastructure. Where civil infrastructure must be located in these areas or is being substantially extended, it should

be designed to be capable of remaining operational and accessible during flooding events.

c) Areas of medium to high risk (0.5% or above) may be suitable for:
- Residential, institutional, commercial and industrial development within built up areas provided that flood protection measures to the appropriate standard already exist and are maintained, are under construction, or are a planned measure in a current flood management plan.
- Essential infrastructure within built up areas, designed and constructed to remain operational during floods and not impede water flow.
- Some recreational, sport, amenity and nature conservation uses, provided appropriate evacuation procedures are in place, and
- Employment related accommodation e.g. caretakers or operational staff.

Areas within these risk categories will generally not be suitable for the following uses and where an alternative/lower risk location is not available¬¬;
- Civil infrastructure and most vulnerable uses.
- Additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flows).
- New caravan and camping sites

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

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

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

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

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

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

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

c) Water Environment

Proposals, including associated construction works, must be designed to avoid adverse impacts upon the water environment including Ground Water Dependent Terrestrial Ecosystems and should seek opportunities for restoration and/or enhancement, if appropriate. The Council will only approve proposals impacting on water features where the applicant provides a report to the satisfaction of the Council that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, coastal processes (where relevant) nature conservation (including protected species), fisheries, recreational, landscape, amenity and economic and social impact can be adequately mitigated.

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

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

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

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.

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.

EP9 CONSERVATION AREAS

All development within a conservation area must preserve and enhance the established traditional character or appearance of the area. New development as well as alterations or other redevelopment will be refused if it adversely affects the

character and appearance of the conservation area in terms of scale, height, massing, colour, materials and siting. This will typically require the use of traditional materials and styles to be used. Contemporary designs and materials can be acceptable and have a positive effect on the conservation area if the material finishes and design respect the architectural authenticity of the building and character of the conservation area.

Development proposals involving the demolition of buildings within a Conservation Area will be refused unless the building is of limited townscape value, its structural condition rules out retention at a reasonable cost, or its form or location makes it's re-use extremely difficult. The demolition of a building for redevelopment will only be considered where there are acceptable proposals and it can be demonstrated that a new building will preserve and enhance the character of the conservation area.

The Council has approved Conservation Area Character Appraisals which are material considerations and can be viewed at:
www.moray.gov.uk/moray_standard/page_1861.html

Replacement Windows and Doors
For listed buildings there is always a presumption in favour of retention and repair over replacement. UPVC windows on a listed building are not acceptable.

For unlisted buildings within conservation areas, replacement windows must match the original windows in proportions and appearance and shall open in a traditional sash manner or be in the form of casements, whichever is appropriate.
The installation of uPVC or metal framed windows may be deemed acceptable if it is of an appropriate traditional style and is not located on a principal elevation or on an elevation on a public view. However, the fundamental test will be if the replacement will have a detrimental effect on the character of the building and/or conservation area.

Advice on the type of windows and doors that are acceptable for listed buildings and buildings within conservation areas is set out in the Council's Replacement Windows and Door Guidance.

EP10 LISTED BUILDINGS
Development proposals will be refused where they would have a detrimental effect on the character, integrity or setting of a listed building. Alterations and extensions to listed buildings or new developments within their curtilage must be of the highest quality, and respect the original structure in terms of setting, scale materials and design.

No listed building should be demolished unless it can be clearly demonstrated that every effort has been made to retain it. Where the demolition of a listed building is proposed it must be shown that;

- The building is not of special interest or
- The building is incapable of repair.
- The demolition of the building is essential to delivering significant benefits to economic growth or the wider community.

- The repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable price.

New development must be of a comparable quality and design to retain and enhance special interest, character and setting of the listed building (s).

Enabling development may be acceptable where it can be shown to be the only means of retaining a listed building (s). The resulting development should be of a high design quality protecting the listed building (s) and their setting and be the minimum necessary to enable its conversion and re-use.