

21/00484/APP
14th April 2021

**Vary condition 1 attached to planning permission
16/01657/APP to increase the operational life period of
Aultmore Wind Farm from 27 to 30 years at Aultmore
Forest Drybridge Buckie Moray
for Vattenfall Wind Power Limited**

Comments:

1. The application is reported to Committee as it is a major application. Given that this is an application under section 42 of the planning act to vary the terms of an existing consent the pre application requirements for major applications was not required.
2. No representations received.
3. Advertised for the purposes of Neighbour Notification and as Schedule 3 (The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013) development.

Procedure:

- None

Recommendation

Grant Planning Permission – Subject to the following:

Conditions/Reasons

1. This permission shall endure for a period of 30 years from the date on which the first turbine becomes operational. The applicant shall confirm when this occurs and in the absence of any such confirmation within 12 months of development commencing, permission will expire within 30 years from the date of this decision. Within 12 months of the expiry of this period the wind turbines and ancillary equipment shall be dismantled to ground level and removed from the site and the land shall be restored in accordance with a method statement to be approved in writing in advance by the Council, as Planning Authority.

Reason: To ensure that the turbines are removed at the end of their use and to ensure the satisfactory restoration of the site.

2. In the event that the equipment hereby permitted for installation is no longer required or is not in operation for a continuous period in excess of 6 months, it

shall be removed and the site reinstated. Details of the proposed reinstatement shall be submitted for approval in writing to the Council, as Planning Authority within 2 months of either the equipment ceasing to be required or from the end of the 6 months period when it is not in operation, and the reinstatement work shall be completed within 3 months of the planning authority's approval of that proposed reinstatement scheme, or such other period agreed in writing by the Council, as Planning Authority.

Reason: To ensure that the reinstatement work is appropriate and to a satisfactory standard.

3. Prior to commencement of deliveries to site a Route Access Report must be submitted to and approved in writing to the Council, as Planning Authority (in consultation with Transport Scotland). It must include details of swept path analysis undertaken to ensure that exceptional loads can be transported through the Trunk Road network safely. The complete report shall also include details of any accommodation measures required including the temporary removal of street furniture, junction widening, traffic management and demonstrate that the transportation of abnormal loads will not have any detrimental effect on structures within the route path. The deliveries to the site must be carried out in accordance with the approved Route Access Report.

Reason: To minimise interference and maintain the safety and free flow of traffic on the Trunk Road as a result of the traffic moving to and from the development.

4. During the delivery period of the wind turbine and of other construction materials any additional signage or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed must be undertaken by a recognised QA traffic management consultant, to be submitted to and approved by the Council, as Planning Authority (in consultation with Transport Scotland) before delivery commences.

Reason: To ensure that the transportation will not have any detrimental effect on the road and structures along the route.

5. Prior to the commencement of development, a detailed survey of the chosen route for delivery of abnormal loads shall be carried out to determine the locations of structures (e.g. bridges) and street furniture affected by any construction and abnormal load. Prior to commencement of abnormal deliveries this survey must be submitted to and approved in writing by the Council, as Planning Authority (in consultation with the Transportation Section of Moray Council).

Reason: To consider the impact on infrastructure on the route to the development access and in the interests of road safety.

6. Prior to the commencement of development, a Traffic Management Plan shall be submitted to and approved in writing by the Council, as Planning Authority showing the methods of dealing with the large delivery vehicles. This plan shall include vehicle swept path analysis and the methods of marshalling and manoeuvring at junctions on the public road network.

Reason: To minimise interference with the safety and free flow of traffic on the public road network.

7. Unless otherwise agreed in writing with the Council, as Planning Authority, an abnormal load trial run must be undertaken prior to the commencement of construction and deliveries to identify any restrictions not previously addressed and the frequency and location of abnormal load passing places/oncoming vehicle holding areas. Representatives from Aberdeenshire/Highland Council and Moray Council Transportation (Traffic), the Trunk Road Authority and Police Scotland must be invited to the trial run in writing at least 14 days in advance of the event.

Reason: To ensure acceptable infrastructure on the route to the development access in the interests of road safety.

8. Prior to the commencement of development (inclusive of timber extraction or delivery of materials to site):
 - i) the U72L shall be widened to at least 5m with 2m wide verges on each side of the road to the Moray Council standards and specification, including any necessary road drainage;
 - ii) the U72L shall be realigned to form a new junction onto the B9016, meeting at a right angle;
 - iii) the new junction onto the B9016 shall have visibility splays of 4.5m by 215m in both directions, clear of any obstruction above 0.26m (measured from the level of the carriageway);
 - iv) the new junction onto the B9016 shall have a minimum radius of 15m and shall be kerbed using 254mm x 127mm p.c.c. kerbs;
 - v) the new junction shall be surfaced using Hot Rolled asphalt for a minimum distance of 15m or the longest length of vehicle, whichever is greater;
 - vi) a 50m length of hot rolled asphalt shall be provided on the B9016, (25m on either side of the centre line of the new junction) and the B9016 widened to at least 6m over the length of the hot rolled asphalt, such that the delivery/construction vehicles do not have to mount the verges when negotiating the junction.
 - vii) suitable signage shall be in place at the above junction in consultation with The Moray Council Traffic Section.

Reason: To ensure acceptable infrastructure on the route to the development access in the interests of road safety.

9. Unless otherwise agreed in writing with the Council, as planning authority no heavy construction traffic shall access the site from the B9018 at the east end of the site.

Reason: To ensure acceptable development that does not create any hazard to road users in the interests of road safety.

10. Unless otherwise agreed in writing with the Council, as planning authority, the applicant must run 'before and after' condition video surveys of the proposed delivery and construction traffic routes, namely the U72L Oxhill Road. A copy of

the video surveys must be provided to Moray Council Transportation (Traffic). The applicant shall make good any damage which may be caused to the road network, including the verge, as a result of the construction traffic and passing vehicles.

Reason: To ensure that the construction and delivery vehicles associated with the development will not have any detrimental effect on the U72L Oxhill Road which would provide access to the development.

11. At least 2 months prior to the commencement of any works, a site specific Environmental Management Plan (EMP) must be submitted for the written approval of the Council, as Planning Authority in consultation with SEPA [and other agencies such as Nature Scot as appropriate] and all work shall be carried out in accordance with the approved plan. It should cover all aspects of the development; include construction method statements, preparation works such as forest clearing and on site works such as the formation of borrow pits and works relating to the cement batching plant. Unless otherwise agreed in writing with the Council, as Planning Authority, the EMP must also include a drainage impact assessment which shows that the post-development surface water discharge rate will not exceed the pre-development discharge rate. Thereafter the development must be developed in accordance with the approved EMP.

Reason: To control pollution of air, land and water.

12. Prior to the commencement of development, detailed plans and method statements for the reinstatement of any temporary access tracks, borrow pits, disturbed peat/other over burden, construction compound areas and other construction areas at the end of the construction period, shall be submitted to, and approved in writing by the Council, as Planning Authority (in consultation with SEPA). The approved reinstatement method statements shall then be followed, and the approved plans shall be implemented to the satisfaction of the Council, as Planning Authority within 6 months of becoming operational or as otherwise approved in writing by the Council, as Planning Authority.

Reason: In order to minimise the level of visual intrusion, and to ensure the satisfactory reinstatement of the site.

13. Prior to development commencing a Habitat Management Plan must be submitted to and approved in writing by the Council, as Planning Authority (in consultation with SEPA and Nature Scot). The development must then be developed and operated in accordance with the approved Habitat Management Plan unless otherwise approved by the Council, as Planning Authority (in consultation with the SEPA and Nature Scot).

Reason: In order to ensure that wildlife habitat is not unnecessarily removed and to enhance habitat provision where possible.

14. Prior to development commencing a Capercaillie Management Plan must be submitted to and approved in writing with the Council, as Planning Authority (in consultation with Nature Scot). The development must then be developed and operated in accordance with the approved Capercaillie Management Plan unless

otherwise approved by the Council, as Planning Authority (in consultation with Nature Scot).

Reason: In order to ensure adequate protection is provided for Capercaillie.

15. The developer shall secure the implementation of an archaeological watching brief, to be carried out by an archaeological organisation acceptable to the Aberdeenshire Council Archaeology Service (on behalf of the Moray Council, as Planning Authority) during any ground breaking and development work for the turbine bases. The retained archaeological organisation shall be afforded access at all reasonable times and allowed to record and recover items of interest and finds. Terms of Reference for the watching brief will be supplied by the Aberdeenshire Council Archaeology Service.

The name of the archaeological organisation retained by the developer shall be given to the Council, as Planning Authority and to the Aberdeenshire Council Archaeology Service in writing not less than 14 days before development commences.

Reason: In order to record items of archaeological interest and finds.

16. Ministry of Defence approved omni-directional 25 candela red aviation lighting or infrared warning lighting shall be placed upon the perimeter turbines (this relates to all turbines on the approved layout plan, except turbines 9 and 13). The turbines will be erected with the lighting installed and functional and the lighting will remain operational throughout the duration of this consent.

Reason: In the interests of air traffic safety.

17. No development shall commence until a Radar Mitigation Scheme for this site has been submitted to and obtained written approval from the Council, as Planning Authority (in consultation with the Ministry of Defence). The Radar Mitigation Scheme shall address how, and by what measures, the impact of the development upon the operation of the Primary Surveillance Radar, Precision Approach Radar and Ministry of Defence air traffic control operations using these radar at RAF Lossiemouth will be mitigated. The development must then be developed and operated in accordance with the approved Radar Mitigation Scheme unless otherwise approved by the Council, as Planning Authority (in consultation with the Ministry of Defence).

Reason: In the interests of air traffic safety.

18. No turbines shall become operational until all mitigation measures required within the approved Radar Mitigation Scheme have been implemented to the satisfaction of the Council, as Planning Authority (in consultation with the Ministry of Defence).

Reason: In the interests of air traffic safety.

19. No development (apart from that required for remediation) shall commence until all necessary works to remediate the site have been carried out in accordance

with the details of the required remediation measures which have previously been submitted to and approved by the Council, as Planning Authority in consultation with the Council's Environmental Health (Contaminated Land) Section, where the required remediation measures shall be fully implemented as detailed and described in the applicant's Remediation Strategy for Unexploded Ordnance dated 15 April 2005.

Reason: In order to ensure safety of construction workers and future users of the site.

20. At least two months prior to commencement of development, the developer shall provide to the Council, as Planning Authority written details of the bond or other financial provision which it proposes to put in place to cover all decommissioning and site restoration costs on the expiry of the consent/permission period. No development shall start on site until the developer has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the Council, as Planning Authority that the proposed bond or other financial provision is satisfactory. The developer shall ensure that the approved bond or other financial provision is maintained throughout the duration of this consent/permission.

Reason: To ensure that there are sufficient funds available for the full costs of site restoration.

21. The adequacy of the approved bond or other financial provision shall be subject to a review at ten yearly intervals from commencement of development, to be paid for by the developer and conducted by a competent independent professional who has relevant experience within the wind energy sector. The findings of such reviews shall be provided to the developer and the Council, as Planning Authority.

Reason: To ensure that there are sufficient funds available for the full costs of site restoration.

22. In the event that the wind farm is found to cause interference to television reception and following a complaint made within two years of the windfarm operating, the developer shall take whatever action is deemed necessary by the Council, as Planning Authority to alleviate the problems.

Reason: To protect the amenity of local residents.

23. The development must be developed and operated in accordance with the approved Peat Management Plan submitted by the developer to the Council, as Planning Authority and SEPA on 3 February 2014.

Reason: In order to ensure that disturbance to peat upon the site is minimised or disturbance is managed in an environmentally responsible manner.

24. The rating level of noise emissions from the combined effects of the wind turbines associated exclusively with Aultmore Wind Farm (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes

to this condition in the informatives section of the planning consent notice, shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:

- a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Local Planning Authority on its request, within 14 days of receipt in writing of such a request.
- b) Within 21 days from receipt of a written request from the Local Planning Authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Local Planning Authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Local Planning Authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Local Planning Authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- c) The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Local Planning Authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Local Planning Authority under paragraph (b), and such others as the independent consultant considers likely to result in a breach of the noise limits.
- d) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Local Planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Planning Authority for the complainant's dwelling.
- e) The wind farm operator shall provide to the Local Planning Authority the

independent consultant's assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Planning Authority for compliance measurements to be made under paragraph (b), unless the time limit is extended in writing by the Local Planning Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Planning Authority with the independent consultant's assessment of the rating level of noise emissions.

- f) Where a further assessment of the rating level of noise emissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (c) above unless the time limit has been extended in writing by the Local Planning Authority.

Table 1: Between 07:00 and 23:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
Drodland	35	35	35	37.1	39.6	42.4	45.6	49.2	53.1
Hill Head Farm	35	35.2	37.2	39.2	41.3	43.2	45.2	47.1	49.0
Myreside	35	35	35	36.9	39.2	41.7	44.5	47.5	50.8
School Hill Farm	35	35	36.1	38.9	42.0	45.5	49.2	53.4	57.8
Aultmore Lodge	35	36.7	39.4	42.5	46.2	50.3	55.0	60.2	65.8

Table 2: Between 23:00 and 07:00 – Noise limits expressed in dB LA90,10 minute as a function of the standardised wind speed (m/s) at 10 metre height as determined within the site averaged over 10 minute periods.

Location	Standardised wind speed at 10 meter height (m/s) within the site averaged over 10-minute periods								
	4	5	6	7	8	9	10	11	12
Drodland	40	40	40	40	40	40	41.8	45.3	49.2
Hill Head Farm	40	40	40	40	42.7	46.2	49.8	53.5	57.5
Myreside	40	40	40	40	40	40	43	46.7	50.9
School Hill Farm	40	40	40	40	40.7	43.8	47.3	51.1	55.3
Aultmore Lodge	40	40	40	40	41.2	43.6	46.3	49.2	52.3

Table 3: Coordinate locations of the properties listed in Tables 1 and 2.

Property	Easting	Northing
Drodland	345297	857565
Hill Head Farm	344475	860074
Myreside	348538	857433
School Hill Farm	346311	861306
Aultmore Lodge	349117	859524

Note to Table 3: The geographical coordinate references are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies.

Reason: To protect nearby residents from undue noise and disturbance and to provide the factual basis for ensuring that the noise limits are not exceeded.

25. Construction activities associated with the development, including vehicle movements at the site, shall be permitted between 07:00 to 19:00 hours Monday - Friday and 07:00 to 16:00 hours on Saturdays. Any required works outwith those times shall not be permitted unless prior written details are provided to and approved by the Council, as Planning Authority.

Reason: To protect nearby residents from undue noise and disturbance.

26. Blasting times associated with the formation of borrow pits shall be restricted as follows:
- No blasting shall be carried out on the site except between the following times (10:00 and 12:00 hours) and (14:00 and 16:00 hours) on Mondays to Fridays and (10:00 and 12:00 hours) on Saturdays.
 - There shall be no blasting or drilling operations on Sundays, Bank Holidays or National Holidays.
 - The above condition shall not apply in cases of emergency when it is considered necessary to carry out blasting operations in the interests of safety. The Council, as planning authority shall be notified in writing immediately of the nature and circumstances of any such event.

Reason: To protect nearby residents from undue noise and disturbance.

27. Ground vibration as a result of blasting operations to form borrow pits at the site shall not exceed a peak particle velocity of 10mms-1 in 95% of all blasts and no individual blast shall exceed a peak particle velocity of 12mms-1 as measured at vibration sensitive buildings. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

Reason: To protect nearby residents from undue noise and disturbance.

28. At the reasonable request of the Council, as planning authority, following a complaint relating to vibration from blasting operations to form borrow pits, the

developer shall measure at its own expense ground vibration to ensure compliance with the above condition. The results of such monitoring shall thereafter be forwarded to the Council, as planning authority.

Reason: To protect nearby residents from undue disturbance and loss of amenity.

29. At the reasonable request of the Council, as planning authority, following a complaint relating to vibration from blasting operations to form borrow pits, the developer shall measure at its own expense ground vibration to ensure compliance with the above condition. The results of such monitoring shall thereafter be forwarded to the Council, as planning authority.

Reason: To protect nearby residents from undue disturbance and loss of amenity.

30. At the reasonable request of the Council, as planning authority following a complaint the Wind Turbine Operator shall investigate and instigate appropriate mitigation measures to minimise the effects of shadow flicker.

Reason: To protect nearby residents from undue disturbance and loss of amenity.

Reason(s) for Decision

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

The proposal accords with the adopted Moray Local Development Plan 2020 and there were no other material considerations preventing approval.

List of Informatives:

THE CONTAMINATED LAND SECTION has commented that:-

Your property has been identified as being in the vicinity of the following potential source of contamination:

Marshlands on site as indicated on map group D.

- Map Group A 1868 - 1897 Ordnance Survey Maps
- Map Group B 1898 - 1906 Ordnance Survey Maps
- Map Group C 1930 - 1938 Ordnance Survey Maps
- Map Group D 1959 - 1971 Ordnance Survey Maps
- Map Group E 1969 - 1992 Ordnance Survey Maps
- Map Group F Present Day Ordnance Survey Maps

The Moray Council does not have information to confirm whether or not the ground has been contaminated, however it is recommended that you investigate this matter prior to proceeding with the proposed works. Should contamination be identified you should contact the Environmental Health section immediately and

carry out agreed remediation works. For advice on researching/investigating a site, please visit the Council website at www.moray.gov.uk/ContaminatedLand. Alternatively you can contact the Environmental Health Section on 01343 563345 or by email to contaminated.land@moray.gov.uk

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

Guidance Notes for Noise Condition 24

These notes are to be read with and form part of the noise condition. They further explain the condition and specify the methods to be employed in the assessment of complaints about noise emissions from the wind farm. The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Guidance Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Guidance Note 3. Reference to ETSU-R-97 refers to the publication entitled "The Assessment and Rating of Noise from Wind Farms" (1997) published by the Energy Technology Support Unit (ETSU) for the Department of Trade and Industry (DTI).

- (a) Values of the LA90,10 minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- (b) The microphone should be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Planning Authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Local Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The LA90, 10 minute measurements should be synchronised with measurements of the 10-minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.
- (d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in

successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres . It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10- minute periods shall commence on the hour and in 10- minute increments thereafter.

- (e) Data provided to the Local Planning Authority in accordance with the noise condition shall be provided in comma separated values in electronic format.
- (f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise emissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

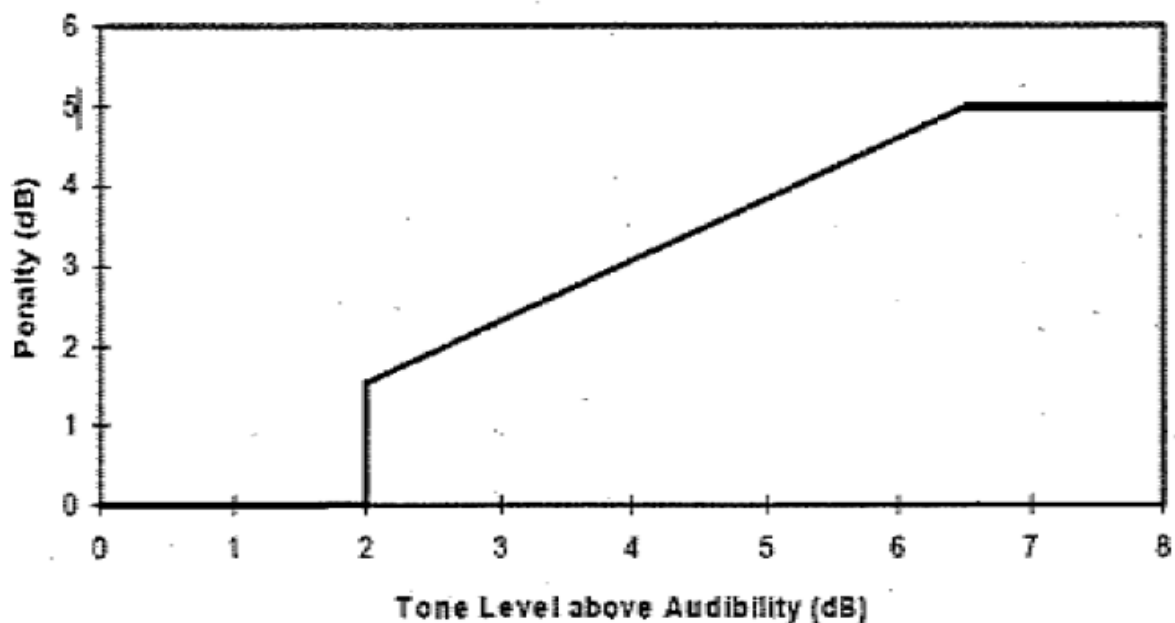
- (a) The noise measurements shall be made so as to provide not less than 20 valid data points as defined in Guidance Note 2
- (b) Valid data points are those measured in the conditions specified in the agreed written protocol under paragraph (c) of the noise condition, but excluding any periods of rainfall measured in the vicinity of the sound level meter. Rainfall shall be assessed by use of a rain gauge that shall log the occurrence of rainfall in each 10 minute period concurrent with the measurement periods set out in Guidance Note 1. In specifying such conditions the Local Planning Authority shall have regard to those conditions which prevailed during times when the complainant alleges there was disturbance due to noise or which are considered likely to result in a breach of the limits.
- (c) For those data points considered valid in accordance with Guidance Note 2(b), values of the LA90, 10 minute noise measurements and corresponding values of the 10-minute wind speed, as derived from the standardised ten metre height wind speed averaged across all operating wind turbines using the procedure specified in Guidance Note 1(d), shall be plotted on an XY chart with noise level on the Y-axis and the standardised mean wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) should be fitted to the data points and define the wind farm noise level at each integer speed.

Guidance Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (c) of the noise condition, noise emissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- (b) For each 10 minute interval for which LA90, 10 minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment

shall be performed on noise emissions during 2 minutes of each 10 minute period. The 2 minute periods should be spaced at 10 minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104-109 of ETSU-R-97, shall be reported.

- (c) For each of the 2 minute samples the tone level above or below audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 to 109 of ETSU-R-97.
- (d) The tone level above audibility shall be plotted against wind speed for each of the 2 minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be used.
- (e) A least squares "best fit" linear regression line shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line at each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Guidance Note 2.
- (f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below.



Guidance Note 4

- (a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Local Planning Authority in its written protocol under paragraph (c) of

- the noise condition.
- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.
 - (c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (d) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise emission only.
 - (d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:
 - (f) The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

- (g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.
- (h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (d) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Local Planning Authority for a complainant's dwelling in accordance with paragraph (d) of the noise condition then the development fails to comply with the conditions.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Planning consent does not carry with it the right to construct a new road or any part of a road. In accordance with Section 21 of the Roads (Scotland) Act 1984 Construction Consent for new roads (includes passing places, modified junctions and footpaths) that will form part of the public road will be required. Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk and reference to the following pages on the Council web site Checklist: <http://www.moray.gov.uk/downloads/file68812.pdf> RCC: http://www.moray.gov.uk/moray_standard/page_65638.html Specification: <http://www.moray.gov.uk/downloads/file68813.pdf>

The applicant is obliged to apply for a road opening permit in accordance with Section 85 of the Roads (Scotland) Act 1984. Advice on this matter can be

obtained by emailing roads.permits@moray.gov.uk and reference to the following page on the Council web site Road Opening:

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

Visibility splays relate to the visibility available to a driver at or approaching a junction in both directions. It is related to the driver's eye height, object height above the road, distance back from the main road known as the 'X' distance and a distance along the main road known as the 'Y' distance. The Y distance is related either to the design speed of the road and a corresponding 'stopping sight distance' or in some circumstances may be based on observed '85th percentile vehicle speeds'. Advice on this matter can be obtained by emailing

transport.develop@moray.gov.uk and reference to the following pages on the Council web site Transportation Service Requirements for Small Developments in the Countryside

Full document <http://www.moray.gov.uk/downloads/file79761.pdf>

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

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

If required, street furniture will need to be repositioned at the expense of the developer. In addition any existing roadside ditch may require a pipe or culvert. Advice on these matters can be obtained by emailing road.maint@moray.gov.uk

No building materials/scaffolding/builder's skip shall obstruct the public road (including footpaths) without permission from the Roads Authority.

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

The applicants shall free and relieve the Roads Authority from any claims arising out of his operations on the road or extension to the road.

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

The applicants shall meet all costs of improvements to the road infrastructure, which are required as a result of the development.

The applicants shall meet all costs of removal and re-erection of road signage, which are required as a result of the delivery of the abnormal loads.

The applicants shall meet all costs of diverting any footpath or cycleway during the construction period, including signage. No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

Bridges and Structures - The developer must contact Moray Council Consultancy to discuss the proposals.

Traffic Management - The developer must contact the Senior Engineer Traffic Section at Academy Street, Elgin - Tel (01343) 562537 to discuss the proposals.

Roads Construction Consent - The developer must contact the Senior Technician at Academy Street, Elgin - Tel (01343) 562537 to discuss the proposals.

Roads Drainage - The developer must contact the Roads Authority Roads Maintenance Manager (East) at Ashgrove Depot, Elgin - Tel (01343) 557300, Ext 7325 to discuss the proposals.

Road Opening Permits - The developer must contact the Senior Engineer Traffic Section at Academy Street, Elgin - Tel (01343) 562537 to obtain the necessary permissions and permits.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

Environmental Management Plan (EMP)

The EMP should incorporate detailed pollution prevention, wildlife monitoring and mitigation measures for all construction elements potentially capable of giving rise to pollution during all phases of construction, reinstatement after construction and final site decommissioning. It should follow recognised best practice (such as those outlined on our website at www.sepa.org.uk/planning/energy.aspx) and the issues specifically outlined on the pollution prevention and environmental management section of our website (www.sepa.org.uk/planning/construction_and_pollution.aspx)

It should be noted that there are two geological faults dissect the development site. The hydrogeological behaviour of these features is not known however, it is possible that the bedrock permeability is locally enhanced along the fault line due to a greater fracture density.

The fault could therefore act as preferential pathways for contaminants to enter groundwater and surface water features. The EMP should specifically take this into account when outlining proposed pollution prevention methods and mitigation.

Full details of what else should be included in the EMP can be found on our website at www.sepa.org.uk/planning/construction_and_pollution.aspx.

Reinstatement and habitat management conditions

Conditions are applied so that final proposals for reinstatement and habitat management can be agreed at a later stage. The Habitat Management Plan should ensure the site is positively managed "with a view to encouraging the restoration of semi natural habitats within the windfarm".

SEPA welcome the proposals to improve riparian habitats. SEPA are also interested in protecting and if possible enhancing groundwater dependant terrestrial ecosystems, types of wetland protected under the Water Framework

Directive. As a result SEPA also have a specific interested in the proposals for blanket bog protection and reinstatement.

No information is currently provided on how bog habitats are proposed to be restored and this can be agreed while working up the submission to discharge the related conditions. It should be noted that if the habitat restoration proposals intend to make use of disturbed peat or other over burden then there will be significant overlap between the Environmental Management Plan, reinstatement and habitat management plan condition submissions. SEPA recommend that they be submitted at the same time so that a complete understanding of what is occurring on site can be gained.

SEPA presume that all trees that are felled will be removed from the site for suitable use. In line with the waste hierarchy we expect the principles of waste minimisation adopted with strenuous efforts taken to avoid waste production where possible, to maximise resource utilisation and optimise recovery of any waste subsequently requiring to be managed.

There may be limited opportunities for use of lop/top and similar arising on site if there is a genuine and justified use, which should be detailed in any subsequent information to discharge the conditions. Proposals for large areas of chipping or mulching, for example, will not be acceptable to SEPA as they will be considered as a waste disposal operation and therefore need a waste management licence from SEPA.

To assist further on request SEPA can provide you with a copy of our Management of Forestry Waste Advisory Note. In addition, in collaboration with Nature Scot and Forestry Commission Scotland, we are producing a joint position statement on use of forest residues. This will again be available from SEPA's website.

Regulatory requirements

Details of regulatory requirements (for example in relation to watercourse crossings and dewatering activities) and good practice advice for the applicant can be found on our website at www.sepa.org.uk/planning.aspx.

If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the operations team in your local SEPA office at: 28 Perimeter Road, Pinefield, Elgin, Moray, IV30 6AF

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
FIGURE 1.1	Location Plan



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

21/00484/APP

Site Address:

Aultmore Forest
Drybridge
Buckie

Applicant Name:

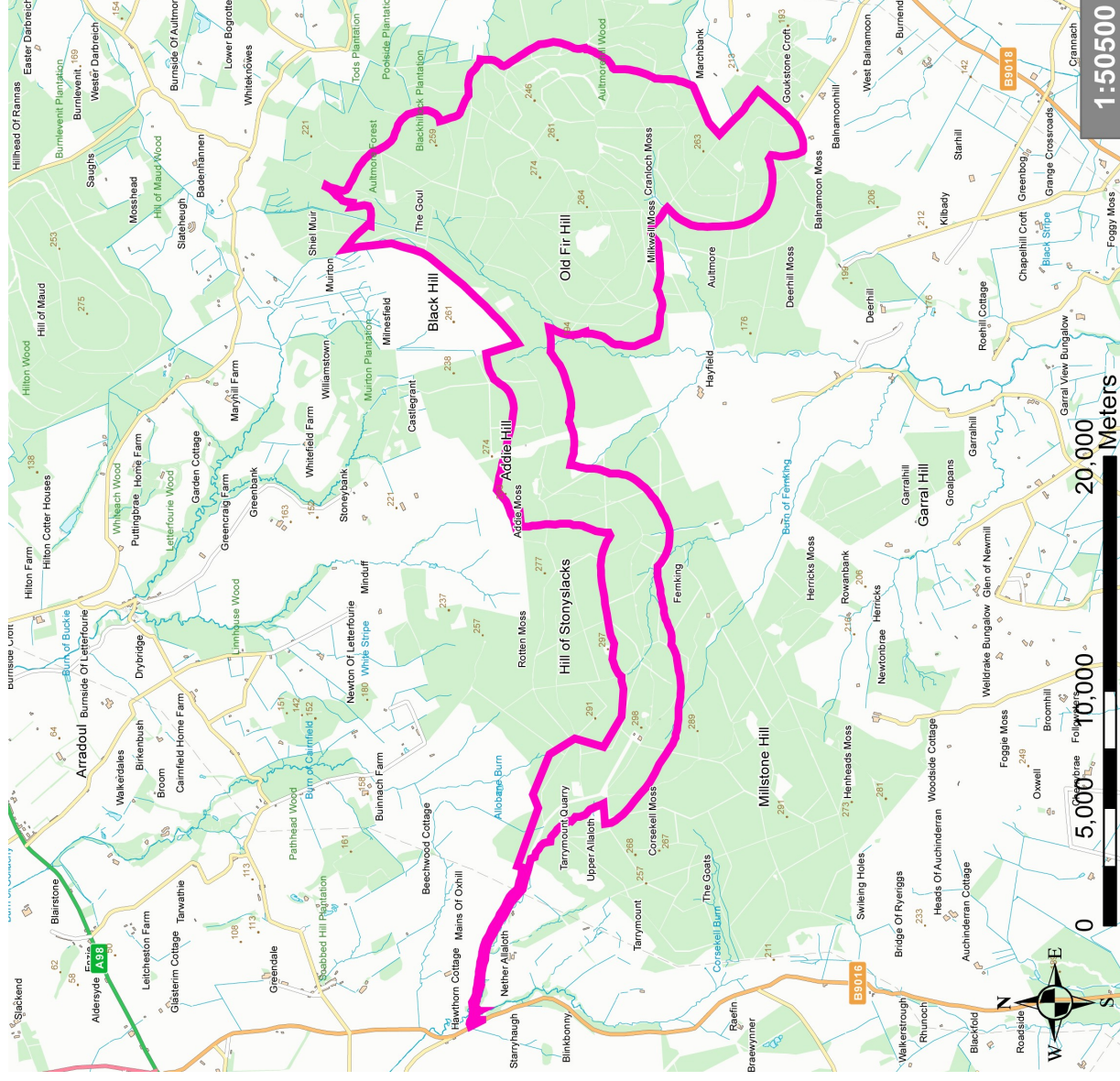
Vattenfall Wind Power Limited

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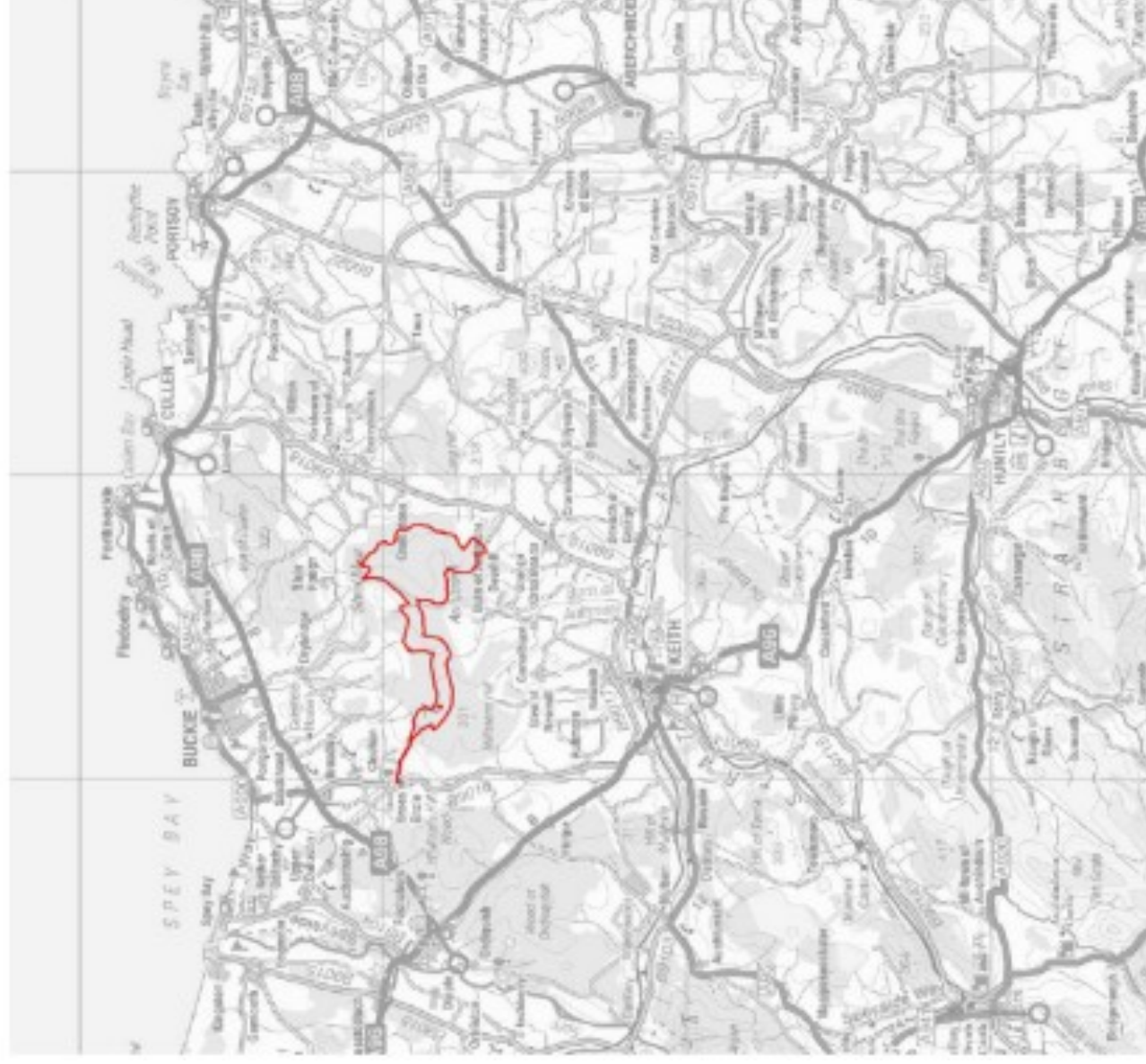
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Location Plan



Location plan

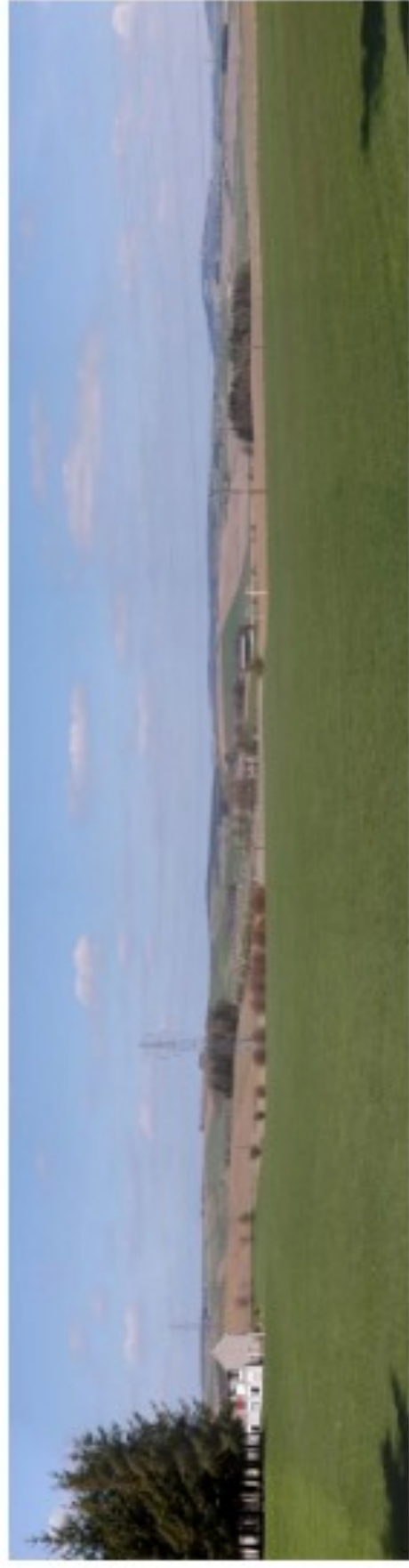




EXISTING VIEW



EXISTING VIEW



LOOKING WEST

PLANNING APPLICATION: 21/00484/APP

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

THE PROPOSAL

- This is an application under section 42 of the Planning Act, which seeks to vary the terms of condition 1 of 16/01657/APP to extend the operational lifetime of the approved Aultmore windfarm from 27 years to 30 years.
- The application to be varied (16/01657/APP) was itself a variation to the original planning permission (07/02375/EIA) for the Aultmore wind farm. The 2016 application increased the operation lifetime of the development from 25 to 27 years (condition 1) and varied condition 18 which related to the provision of a radar mitigation scheme and condition 24 which related to measures to control of noise levels and how these would be applied cumulatively across this and neighbouring wind farms. This permission was granted subject to a 5 year period for commencement rather than the standard 3 year period.
- The 2007 application granted permission for the following:
 - 13 turbines, one at 90m and the remaining twelve at 110m in height. Turbines to have a blade diameter no greater than 80m. The 90m turbine (turbine No. 8) will have a hub height of 64m and rotor diameter of 52m;
 - One permanent wind monitoring mast (70m in height);
 - Reinforced concrete foundation pads for each turbine to sit on and an area of hardstanding alongside each turbine;
 - A 70m x 70m electricity substation compound which will contain electrical switchgear, control building, workshop and welfare provision;
 - Two temporary borrow pits to the west end of the site;
 - Approximately 22km of access road, of which 17km is existing or upgraded forestry tracks; and
 - A temporary 50m by 50m temporary site compound and concrete batching plant will be required during construction.

THE SITE

- Occupying a raised plateau of land across several flat topped summits within Aultmore Forest. The site lies between the summits identified as Old Fir Hill (260m), Hill of Clashmadin (259m) and Leomond Hill (268m).
- Access to the site from the B9016 to the west travels along existing and proposed forestry tracks (and proposed tracks) leading to the site. A secondary access to the site from the B9018 to the east at Balnamoon would utilise an existing forestry track (non-heavy vehicles only).

- The site is almost entirely occupied by existing or felled forestry plantation. There has been substantive felling and replanting of the Aultmore Forest since the original consent was granted.
- The site is not covered by any national or local environmental designations.
- The site lies within the Moray Onshore Wind Energy non-guidance (2020) 'Area of Search' for medium turbines (50m to 80m) but outwith the search area for larger wind turbines.

HISTORY

For the site.

16/01657/APP- Vary conditions 1, 18 and 24 of planning permission 07/02375/EIA relating to the Aultmore Wind Farm approved 28/02/17. This consent was granted for a 5 year period, therefore remaining extant until 28/02/22.

07/02375/EIA - Construction operation and decommission of a wind farm comprising 13 no wind turbines and other ancillary development approved 27/02/14

03/02383/S36 - Construct and operate a wind farm. This was a Section 36 application determined by the Scottish Government Energy Consents and Deployment Unit (under the Electricity Act). The Moray Council were therefore consultees and following consideration by Committee the Council objected to the proposal to the Scottish Government in 2004. The Section 36 application was subsequently withdrawn prior to public enquiry.

Relevant wind energy developments in the wider area:

17/01198/EIA - Erection of 5 wind turbines (at max height 130m to blade tip) control building and substation and formation of access tracks (including turning heads) hardstanding temporary construction compound and associated works and infrastructure at Lurg Hill, Deskford. Approved on appeal in February 2019, but not yet constructed.

13/02057/S36 - Erect 16 wind turbines (125m to blade tip) at Hill of Towie Windfarm, known as Hill of Towie II. Located immediately south of the existing Hill of Towie windfarm, these proposed turbines were subject of a Public Inquiry in September 2015 following an objection by the Moray Council to the Scottish Government Energy Consents and Deployment Unit in 2014. Permission was granted by the Energy Consents Unit in 2017

12/01165/APP - Planning approval (allowed on appeal by Scottish Ministers in January 2013) to erect 1 no. turbine (80m to tip) at Edingight, Grange, Keith next to Knock Hill. This lies 6.5km to the east of Aultmore and has been constructed.

11/01384/APP - Erection of 1 no. wind turbine (56m rotor diameter) with a maximum height of up to 78m and ancillary infrastructure at Followsters, Newmill, Keith, Moray, AB55 6UY. Approved 6.5km west of the current application and is now operational.

10/02092/EIA - Formation of windfarm comprising of 6 wind turbines (125m in height total capacity up to 21mW) and associated infrastructure including access tracks, control building housing switchgear equipment and buried cables at Edintore, Keith. Located

approximately 13km south of the Aultmore, this application was approved at Appeal by the DPEA in 2012 and has now been constructed.

04/02472/FUL - Planning approval to construct 1 no. wind turbine (70m to tip height) at Balnamoon, Crossroads, Keith. This is operational and lies 3.5km to the south (allowed on appeal by Scottish Ministers) and has been in situ for some time.

02/02099/EIA - Planning approval allowed on appeal for the erection 21 wind turbines (100m to tip) and 2 wind masts at Hills of Towie, Knockan and McHattie's Cairn, Drummuir on 2nd Feb 2005. These have been erected and are located 16km south west of Aultmore.

POLICY - SEE APPENDIX

ADVERTISEMENTS

Advertised for the purposes of Neighbour Notification and as Schedule 3 (The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013) development.

CONSULTATIONS

Strategic Planning And Development – No objection. On the basis that the proposal is solely to vary Condition 1 (operational life period) of planning permission 16/01657/APP, a full assessment of the merits of the wind farm against MLDP 2020 policies has not been undertaken as planning permission remains extant and no physical changes to the development are proposed. *(Officer note – For clarity, an assessment of the proposal against the relevant policies of MLDP 2020 has been undertaken by the Development Management Section and as referred to below in the Observations Section of this report).*

Cullen & Deskford Community Council - No response at time of writing.

Findochty Community Council - No response at time of writing.

Lennox Community Council – No response at time of writing.

Strathisla Community Council- No response at time of writing.

Planning And Development Obligations – None sought.

Environmental Protection Manager – No response at time of writing.

Environmental Health Manager – No objection.

Contaminated Land – No objection subject to the previous condition being reiterated.

Transportation Manager – No objection.

RSPB Scotland – No objection.

National Air Traffic Systems Limited – No objection.

Aberdeen Airport – No objection.

Ofcom - No response at time of writing.

Moray Flood Risk Management – No objection.

Moray Access Manager – No objection.

Aberdeenshire Council – No objection. It is noted that the original application 07/02375/EIA was approved in February 2014 with an operational life of 25 years. This was later extended to a 27 year operational life by way of application 16/01657/APP. Although the operational life would be extended further, Aberdeenshire Council has no objection to the proposal given a 30 year life span is not uncommon for wind energy developments and would not cause significant and unacceptable effects by virtue of the time extension.

Transport Scotland – No objection.

Scottish And Southern Energy - No response at time of writing.

Scotland Gas Networks Ltd – No response at time of writing.

Scottish Environment Protection Agency –No objection.

MOD Safeguarding – Wind – No objection provided that the extant conditional requirements for installing MOD accredited lighting on to the turbines (Condition 16), and submission of a Radar Mitigation Scheme (Condition 17 and Condition 18) are carried forward on to any new planning permission that may be issued.

Nature Scot - NatureScot does not have any concerns regarding the proposal to extend the lifetime/consent of this project by 3 years. Conditions remain in place to ensure that all necessary pre-construction surveys and species mitigation will take place in advance of any work commencing.

Scottish Forestry – No response at time of writing.

Aberdeenshire Council Archaeology Service – No objection.

Atkins Global – No objection.

JRC – Windfarms - No objection.

OBJECTIONS-REPRESENTATIONS

None

OBSERVATIONS

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

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

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

The main issues are considered below.

Background to the Proposal

Planning Permission (07/02375/EIA) for the windfarm at Aultmore was approved by Committee and issued on 27 February 2014. The application had been in the system for a considerable period due to negotiation between the applicant and the MOD regarding potential conflicts with radar at RAF Lossiemouth. It was eventually agreed that consent could be issued subject to a condition (condition 18) that required a Radar Mitigation Scheme to be provided. A Section 42 application (16/01657/APP) was then approved on 28 February 2017. That application increased the operational lifetime of the development from 25 to 27 years (condition 1), altered the triggers for the provision of the Radar Mitigation Scheme (condition 18) and altered the noise controls and how noise levels would be assessed cumulatively with surrounding developments. The 2016 permission was granted with a 5 year commencement period instead of the standard statutory 3 year period and the consent therefore remains live until 28 February 2022. The current proposal again relates to the operational lifetime (condition 1) of the development only. If approved the planning permission would allow the wind farm to operate for 30 years from the date of first export of electricity. A Section 42 application effectively creates a new planning permission and the effect of granting permission for the current application would be to allow an additional 3 years from the date of determination for the development to commence.

The 2007 application was supported by an Environmental Statement in accordance with the Environmental Impact Assessment (EIA) regulations in force at the time. The Environmental Statement (ES), Supplementary Environmental Information (SEI) and other supporting information have been taken into consideration for the current Section 42 application to vary condition 1. For the purposes of the ES and SEI supporting documents, appendices and other information taken into consideration for the decision made in 2014, form part of the assessment of the current application. The current proposal was screened as a Schedule 2 development within the current (2017) EIA regulations but was found not to require a fresh EIA submission as it is supported by the previously approved Environmental Statement and appropriate mitigation of environmental impacts forms part of the conditions which are to be reiterated.

It is noted that Section 42 applications are not required to go through the statutory pre-application consultation process even if they relate to a major application as defined by

The Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009. In this case the original application (07/02375/EIA) pre-dated the change in regulations that introduced the hierarchy of developments and the requirement for formal pre-application consultation. Several relevant Community Councils have been formally consulted on the current application in line with the agreed procedures for dealing with larger wind energy applications.

Both the original permission (07/02375/EIA) and the approved Section 42 application (16/01657/APP) were considered under previous local plans. It is therefore necessary to consider the proposal against current local and national policy.

Relationship of proposal to national renewable energy policy/guidance

International and UK policy frameworks are generally supportive of renewable energy proposals which help to facilitate a transition to a low carbon economy. National Planning Framework (NPF3) for Scotland sets out the spatial strategy for Scotland's development. NPF3 makes specific reference to onshore wind energy having an important role in delivering the commitment to a low carbon energy generation. The November 2020 Position Statement on the 4th National Planning Framework indicates that measures to address climate change and reduction of carbon emissions will be accelerated. Support for onshore wind energy production is likely to be re-iterated.

The Climate Change (Scotland) Act 2009 places a duty on public bodies to act sustainably and meet emissions targets including a requirement to achieve at least an 80% reduction in greenhouse gas emissions by 2050 (over 1990 levels). Beyond the NPF3 there are a number of considerations relevant to the Section 36 process, which are taken into account in arriving at the below recommendation. They are The Scottish Government's Programme for Scotland 2020-21, The Environment Strategy for Scotland, February 2020, Climate Change (Emissions Reductions Targets) (Scotland) Act 2019, Scottish Government Climate Change Plan (2018), Scottish Government Onshore Wind Policy Statement 2017 and Scottish Energy Strategy (2017). These generally stress the need to reduce carbon emissions (for which wind energy will clearly play a part) but do qualify this with the need to protect landscapes, built and natural heritage, residents and other interests.

The commitment to the creation of a low carbon place is reiterated in Scottish Planning Policy. The applicants submissions regard national policy as being significant and supportive of this proposal where this development, as a proven technology providing a source of safe and locally produced renewable energy for many years, will make a significant contribution towards renewable energy production at the national and local level. Whilst it is noted that some targets have been met for renewable energy production it is noted that the Scottish Government's guidance continues to support renewable energy development and it is recognised that this reflects the thrust of national policy.

Scottish Planning Policy (SPP) requires that "planning should direct the right development to the right place", which is an important issue in this proposal. The policy principles set out for "Delivering Heat and Electricity" in SPP include;

- Support the transformational change to a low carbon economy, consistent with national objectives and targets;
- Support the development of a diverse range of electricity generation from renewable energy technologies - including the expansion of renewable energy generation capacity and the development of heat networks;

- Guide developments to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed.

(SPP) requires planning authorities to set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities, following a set methodology (para 161). This has been done through the spatial framework included within the Moray Local Development Plan 2020. This is a broad-brush approach required to comply with Scottish Planning Policy and covers approximately 40% of the Moray Local Development Plan Area. The proposed site is located within an area with potential for wind farm development of turbines over 35 metres to tip height, with no upper height limit identified. SPP (para 162) recognises the limitations of the strategic spatial framework and further requires that local development planning authorities should identify where there is strategic capacity for wind farms and areas with the greatest potential for wind development. The Moray Onshore Wind Energy (MOWE) Non-Statutory Guidance 2020 identifies such areas. The application site is within an area of greatest potential for medium typologies (50-80m).

The detailed mapping of constraints and guidance on areas with greatest potential is set out in the Moray Onshore Wind Energy Guidance 2017 (MOWE), with the proposal site located partially within an area identified as having opportunities for extension and repowering. Of note, as identified in the consultation from Strategic Planning & Development the 2017 MOWE and Landscape Capacity Study are currently non statutory guidance and are under review and is likely to become a sensitivity study in line with Nature Scot guidance. They still do however represent the most detailed and up to date guidance on wind energy landscape capacity in Moray and remain fit for purpose.

MOWE Non-Statutory Guidance 2020 and Moray Wind Energy Landscape Capacity Study 2017

The MOWE Non-Statutory Guidance and the Landscape Capacity Study are material considerations for development management purposes. Incorporating the outcomes from the Landscape Capacity Study, the Guidance identifies five typologies of wind turbine and highlights that there is very limited scope to accommodate further large scale wind turbine developments in Moray in landscape and visual terms.

The proposed development is located within the Broad Forested Hills within Upland Farmland (8a) landscape character type (LCT) as defined in MOWE and Landscape Capacity Study. LCT8a is assessed in the study as having a High-Medium sensitivity to the large typology (80-130m) with very limited scope to accommodate this scale of turbine. Within this LCT, there are a number of operational large single turbines in the vicinity of the site and surrounding area, which are highly visible in eastern Moray. The LCT consists predominantly of broader forested hills and upland plateau. MOWE concludes that turbines towards the lower height band of this typology (less than 100m to tip) would minimise effects on adjacent settled landscapes and that turbines should be set well back into the interior of more extensive areas of upland plateau to minimise intrusion on adjacent settled landscapes and to ensure sufficient separation. The study also highlights the potential cumulative effects with the consented wind farm at Aultmore (07/2375/EIA & 16/01657/APP), and wind turbines located in the adjacent Upland Farmland LCT which are a major constraint to capacity in this LCT.

Compliance with Renewable Energy Policy (PP1, PP2, DP1, DP9, EP1, EP7, EP8 and MOWE)

It is noted about that national planning policy and guidance supports wind energy developments. Since the original wind farm was approved at Aultmore (07/2375/EIA) the development plan has changed twice including once since the subsequent s.42 application (16/01657/APP). In considering the current proposal to extend the operational lifetime of the development the Committee should consider the extent to which the proposal continues to comply with the development. Policy DP9 is the principle policy on which the application must be determined but this includes a requirement to comply with all other relevant policies of the development plan. The policy requires renewable energy proposals to address unacceptable impacts in relation to landscape and visual impacts, noise, air quality, electromagnetic disturbance, the water environment, carbon rich soils and peat, woodland and forestry, traffic both during construction and operation, impact on tourism and recreational interests. For wind farms the policy specifically requires compliance with the spatial framework, and site specific consideration informed by the Landscape Character Study, impacts on communities including through issues such as shadow flicker, aviation and defence issues, cumulative issues and decommissioning and restoration.

In terms of Landscape and Visual Impact the Landscape Character Study which supports policy DP9 and MOWE is dated 2017. It takes account of the approved wind farm at Aultmore in its baseline assessment and the assessment of scope for future development assumes that this development will be built and will be present in the landscape for some time to come. Any development approved since the original consent at Aultmore (07/2375/EIA) would have considered it as part of the assessment of cumulative impact so the proposed extension of the operational lifetime will not result in any additional cumulative impacts. Given that the approved wind farm is an established part of the assessment of wind farm capacity in the area the siting is considered to comply with policy. The most notable change in this locality in terms of windfarm capacity has been the approval of 17/01198/EIA Lurg Hill to the east (see history section), but while this would contribute cumulatively to the wind turbines already present on Lurg Hill, it would excessively diminish the capacity and separation from neighbouring settlements/properties of the Aultmore plateau to accommodate the currently consented windfarm.

There are no changes to the proposal in terms of the layout, height or number of turbines proposed. The impacts of the development will therefore be the same as those associated with the previous development. At the time of the original application (07/2375/EIA) and the subsequent s.42 (16/01657/APP) impacts were identified in terms of noise, shadow flicker, electromagnetic disturbance, impacts on the water environment and peat, forestry, traffic impact, ecology, tourism and recreation and archaeology. No concerns in relation to these matters have been raised by consultees. Where necessary mitigation or other suitable controls is covered by condition. The granting of a s.42 application has the effect of creating a new planning application therefore the conditions of the previous consent will be reiterated to ensure that all mitigation measures remain in place.

There are 30 conditions attached to the planning permission and it is recommended that these are repeated in full in this case. It is noted that the terms of conditions 18 and 24 of the original consent (07/2375/EIA) relating to the provision of a Radar Mitigation Plan and noise respectively were varied by the subsequent s.42 application (16/01657/APP). The

amended conditions remain fit for purpose and it is recommended that they are reapplied in their amended form.

It is noted that some of the original survey work in relation to protected species and habitats is now out of date. However, there are conditions (13 & 14) proposed which require a Habitat Management Plan and a specific Capercaillie Management Plan. Nature Scot have been consulted and confirm that they are content that the recommended conditions will ensure that all necessary pre-construction surveys and species mitigation will take place in advance of any work commencing.

It is considered that the previous conditions which are to be reiterated are sufficient in relation to decommissioning and restoration. Condition 1 requires the turbines to be removed within a year of the recommended 30 year operational life span ending and restoration to be carried out in accordance with an approved method statement. Conditions 20 and 21 require the provision of a bond to cover the cost of restoration and review of that bond. These arrangements are considered to be sufficient to ensure adequate decommissioning and restoration.

Operational Lifetime of the Development

The purpose of the current application is to increase the operational lifetime of the development from 27 years to 30 years. The original approval (07/2375/EIA) was granted subject to a condition that limited the operational period to 25 years. The applicant has stated that this extension is required to reflect changes in technology and experience that have demonstrated that wind turbines can operate safely and efficiently for longer periods. They also note that a 30 year operational period would be in line with other more recent consents nearby. The applicant's submission in this case is considered to be reasonable.

At the time of the original approval (07/2375/EIA) wind farms were typically granted permission for a period of 25 years which reflected the standard manufacturers warranty. These periods have increased as technology and experience has increased. Operational periods of 30 years or longer are now common. The Lurg Hill development (17/01198/EIA) which is just to the east of the development and was approved on appeal in 2019 was granted subject to a 30 year operational lifetime. In the case of the current application the approved development would not be altered in any way but would be present on site for an additional 3 years. This would have the benefit of increasing the renewable energy output of the development and would reduce the net carbon impact of the development over its lifetime. All the existing proposed mitigation measures would remain in place and it is noted that no consultees have expressed any concern about the proposed extension of the operational lifetime of the development. The modest extension is therefore considered reasonable in this case and would prolong the output of a renewable energy source.

Developer Obligations

In line with policy no developer contribution has been sought in this case. Any required "Community benefit" is given separate consideration from the planning merits of the proposal.

Conclusion

The proposed variation of condition 1 would extend the operational lifetime of the development from 27 to 30 years. The effect of granting this permission would be to allow a further 3 years from the date of determination for development to commence. For the avoidance of doubt the recommendation reiterates all other conditions and informatives of

the previous consents (07/2375/EIA & 16/01657/APP), and relates back to the approved plans and supporting documents approved under the original planning permission 07/02375/EIA. The extension of operational lifetime will bring the development in line with more recent consents and will allow the renewable energy benefits of the scheme to be maximised. It is therefore recommended that planning permission is granted.

REASON(S) FOR DECISION

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

The proposal accords with the adopted Moray Local Development Plan 2020 and there were no other material considerations preventing approval.

Author/Contact

Lisa MacDonald

Ext: 01343 563479

Officer:

Senior Planning Officer

Beverly Smith

Development Management & Building Standards Manager

APPENDIX

POLICY

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

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

(ii) Healthier, Safer Environments

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

(iii) Housing Mix

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

(iv) Open Spaces/Landscaping

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

Drainage Impact Assessment for New Developments Supplementary Guidance.

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

v) Biodiversity

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

(vi) Parking

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

- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

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

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

PP2 SUSTAINABLE ECONOMIC GROWTH

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

PP3 INFRASTRUCTURE & SERVICES

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

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

- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

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

c) Harbours

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

d) Developer Obligations

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

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

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

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

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

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 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 SNH 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.

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.

EP15 MOD SAFEGUARDING

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