



REPORT TO: SPECIAL MEETING OF THE PLANNING & REGULATORY SERVICES COMMITTEE ON 22 NOVEMBER 2018

SUBJECT: PUBLIC HEARING: PLANNING APPLICATION 18/01046/EIA - CONSTRUCT ONSHORE ELECTRICAL TRANSMISSION INFRASTRUCTURE COMPRISING OF A CABLE TRANSITION JOINTING BAY, UNDERGROUND CABLE CIRCUITS, CONSTRUCTION OF SUBSTATION TO SOUTH OF KEITH WITH FURTHER CONNECTING CABLING TO ALLOW CONNECTION WITH EXISTING TRANSMISSION NETWORK AT BLACKHILLOCK INCLUDING TEMPORARY CONSTRUCTION COMPOUNDS ACCESS TRACK LAYDOWN AREAS AND OTHER ASSOCIATED WORKS FROM WITHIN THE VICINITY OF REDHYTHE POINT IN ABERDEENSHIRE COUNCIL AREA TO WHITEHILLOCK FARM, KEITH, MORAY FOR MORAY OFFSHORE WINDFARM (WEST) LIMITED

BY: HEAD OF LEGAL AND DEMOCRATIC SERVICES

1. Purpose of Hearing

- 1.1 The purpose of the Hearing is to afford those submitting representations and the applicant the opportunity to state and explain their cases before the Planning & Regulatory Services Committee prior to the Committee determining the application.
- 1.2 This report is submitted to Committee in terms of Section III (E) (1) of the Council's Scheme of Administration relating to the functions of the Council as Planning Authority.

2. Background

- 2.1 In terms of the Council's Scheme of Delegation relating to Planning Applications the above noted application has been referred direct to a Pre-determination Hearing as the application is a National Development as defined under the Hierarchy Regulations 2008 and National Planning Framework 3 (NPF3) where it is identified within national development 4 - High Voltage Electricity Network (where the proposed new substation and electricity transmission cables would exceed the minimum threshold of 132kV). In accordance with the Pre-determination Hearing procedure, the applicant and those submitting representations have been invited to attend and afforded the opportunity of being heard.

- 2.2 Members of the Committee visited the site of the application on Tuesday 20 November 2018.

3. Appointed Officer's Report

- 3.1 A copy of the Appointed Officer's report on the application is attached.

4. Public Hearing Procedure

- 4.1 The proposed procedure which the Committee will follow in respect of the Hearing is as follows:-

- (i) The Applicant will speak first (maximum of 15 minutes) outlining the application and addressing the stated objections.
 - (ii) Members of the Committee will then be given the opportunity to question the Applicant in order to clarify points raised.
 - (iii) Those submitting representations (Representation Speakers) on the application will then be given the opportunity to address the meeting (maximum of 10* minutes) to speak to their stated objections/representations. It should be noted that the Committee will not be prepared to consider any new ground(s) of objection/representation.
 - (iv) Members of the Committee will be given the opportunity to question each Representation Speakers in turn in order to clarify points raised.
 - (v) Both Applicant and Representation Speakers will then be given the opportunity to summarise their respective cases, in light of the submissions, to the Committee (5 minutes each maximum for Representation Speakers and equivalent time for the Applicant).
 - (vi) The Corporate Director (Economic Development, Planning & Infrastructure), or their representative, will then be afforded the opportunity to make any additional comments and/or points of clarification in light of the submissions.
 - (vii) The Committee will then make a recommendation to Moray Council in respect of the determination of the application.
- * This may be extended at the discretion of the Chair in cases where the speaker is speaking on behalf of a number of representatives or is representing other party/parties who are unable to attend a Hearing.

5. Conclusion

- 5.1 The Committee is invited to hear the applicant and those submitting representations on the application in regard to an application to construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay, underground cable circuits, construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network at Blackhillock including temporary construction compounds, access track laydown areas and other associated works from within the vicinity of Redhythe Point in Aberdeenshire Council area to Whitehillock Farm, Keith, Moray for Moray Offshore Windfarm (West) Limited**

Author of Report:	Lissa Rowan, Committee Services Officer
Background Papers:	Report on application
Ref	



**GUIDANCE NOTE PRODUCED FOR PLANNING & REGULATORY SERVICES COMMITTEE
MEETING OF 18 SEPTEMBER 2018**

REPORT ON APPLICATION

“Note for guidance of the Committee where the decision of the Planning and Regulatory Services Committee is contrary to the recommendations of the Director of Environmental Services in respect to a Planning Application.”

Any Councillor putting forward a motion to refuse an application, contrary to recommendation, shall clearly state the reasons for refusal. These reasons should be based on policies contained in the approved Local Development Plan or some other material consideration. Time should be allowed to ensure that these reasons are carefully noted for minuting purposes.

Where Councillors put forward a motion to approve an application, contrary to recommendation, an indication should be given of any specific matters which should be subject of conditions along with reasons which should be based on policies in the approved Local Development Plan or some other appropriate consideration.

Note for guidance where the decision of the Planning and Regulatory Services Committee is to depart from the Local or Structure Plan.

Where a Councillor is convinced that there is reason to depart from Local Development Plan policy; then the Councillor's reasons for making the motion should be clearly stated for minuting purposes. Any matters which should be subject to conditions drafted subsequently by the Director of Environmental Services should be indicated. If the Committee remains of a mind to approve such an application then the whole matter will be subject to statutory procedures as apply. In such cases, Councillors should be aware that the application may require to be advertised as a departure and any objections reported to the next available meeting of the Planning and Regulatory Services Committee. It also may be necessary to convene a hearing to consider the views of objectors.

There are three potential consequences if Committee takes a decision where the proper procedures have not been followed in whole or in part. Firstly, the person aggrieved by a decision may apply to the Supreme Courts in Scotland for an Order either compelling the Council to act according to law, quashing the decision altogether or declaring a decision to be unlawful coupled with an order to prevent the decision being implemented. A referral to the Supreme Courts in these circumstances is known as applying for Judicial Review.

Secondly, in addition to the application for Judicial Review when questions of alleged failure, negligence or misconduct by individuals or local authorities in the management of public funds arise and are raised either by or with the External Auditor of the Council and where an individual can be blamed the sanctions available are:-

Censure of a Councillor or an Officer

Suspension of a Councillor for up to one year

Disqualification of a Councillor for up to five years

In the case of the Council being to blame, recommendations may be made to the Scottish Ministers about rectification of the authorities accounts. Ministers can make an order giving effect to these recommendations.

Thirdly, whilst the Ombudsman accepts that Planning authorities have the freedom to determine planning applications as they wish procedural impropriety may be interpreted as maladministration. This can also lead to recommendations by the Ombudsman that compensation be paid.

Consistent implementation of departure procedures maintains public confidence in the planning system and is consistent with the time and effort invested in preparing the Local Development Plan.

18/01046/EIA
8th August 2018

Construct onshore electrical transmission infrastructure comprising of a cable transition jointing bay underground cable circuits construction of substation to south of Keith with further connecting cabling to allow connection with existing transmission network at Blackhillock including temporary construction compounds access track laydown areas and other associated works From Within The Vicinity Of Redhythe Point In Aberdeenshire Council Area To Whitehillock Farm Keith Moray AB55 5PH for Moray Offshore Windfarm (West) Limited

Comments:

- A SITE VISIT has been carried out.
- Advertised under the Environmental Impact Assessment Regulations.
- Advertised for neighbour notification purposes.
- Application is a National Development as defined under the Hierarchy Regulations 2008 and National Planning Framework 3 (NPF3) where it is identified within national development 4 - High Voltage Electricity Network (where the proposed new substation and electricity transmission cables would exceed the minimum threshold of 132kV).
- 3 objections/representations received.

Procedure:

- Application to be considered at a special meeting of the Planning and Regulatory Services Committee which will be extended to include all Members of the Council for this statutory hearing purpose only on 22th November 2018. The hearing will allow for the applicant and those making representations to be given opportunity to speak to the application and the stated representations prior to its determination.
- The Planning and Regulatory Services Committee will then make their recommendation to the Moray Council who will determine the application.
- The 2017 Environmental Impact Assessment (EIA) Regulations (Regulation 29) requires any decision to contain various information regarding publicity, consultations, public engagement, a summary of the environmental information and commentary on the suitability of the EIA Report.

Recommendation: **Grant Planning Permission - Subject to the following:-**

DURATION OF THIS PERMISSION

That subsection (2)(a)(i) of section 59 of the Town and Country Planning (Scotland) Act 1997 (as amended) shall apply as respects the permission with the substitution for the period of 3 years referred to in that subsection of 5 years, as is considered appropriate by the Planning Authority in this instance on the basis of the scale of the development. The provisions of section 59(2) shall therefore be read as follows:

In accordance with Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended:

- (a) That in the case of any matter specified in conditions attached to the planning permission in principle, application for approval of matters specified in conditions must be made before:-
 - (i) that expiration of 5 years from the date of the grant of planning permission in principle; or
 - (ii) the expiration of 6 months from the date on which an earlier application for such approval for the same matters was refused; or
 - (iii) the expiration of 6 months from the date on which an appeal against such refusal was dismissed; whichever is the latest, and
- (b) That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-
 - (i) the expiration of 3 years from the date of the grant of planning permission in principle; or
 - (ii) the expiration of 2 years from the final approval of the matters specified in conditions or in the case of approval on different dates the final approval of the last such matter to be approved.

Conditions/Reasons

1. The approval hereby granted is for planning permission in principle and prior to the commencement of the development approval of matters specified in conditions below shall be obtained from Moray Council, as Planning Authority. In relation to all the conditions below the submission of matters conditioned below may be submitted in relation to the proposal within Moray in its entirety, or may be confined to each phase of the proposal individually or combined, namely either the transmission cables/jointing bays or the electricity substation.

Reason - In order to ensure that the matters specified can be fully considered prior to the commencement of development.

2. The grant of planning permission in principle hereby granted for the proposed development shall be carried out only in accordance with detailed drawings/details which shall previously have been submitted to and approved by the Council, as Planning Authority. These drawings/details shall show the matters specified below:-
 - a. All elevations and floor plans of structures, buildings, apparatus and fencing proposed for the substation. Plans must include details of the proposed

- finished levels or cross sections through the site.
 - b. Details of the proposed building materials and materials used for enclosures and gates to the substation compound.
 - c. Details of the intended lighting strategy for the substation.
 - d. Details of any proposed landscaping scheme to surround the substation compound, identifying the species, density and height of trees to be planted. A landscaping maintenance schedule must also accompany any landscaping scheme.
- ii) All works identified in 2(i) shall be completed in accordance with the approved details.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

3. Prior to the commencement of any phase of development:
- (i) The following details must be submitted for approval to the Council, as Planning Authority,
 - a. Plan(s) (Scale 1:10000 minimum) showing all proposed construction access route(s) (including abnormal load routes);
 - b. Detailed assessment of the proposed construction access route(s) (See Condition 3(i)a) including vehicle swept path analysis as appropriate for abnormal load requirements and construction traffic and detailed proposals for mitigation required. e.g. road widening and suitably located, intervisible passing places, holding areas to accommodate construction traffic, abnormal load delivery vehicles all on ground over which the applicant has or can obtain control at location(s) and constructed in accordance with The Moray Council specification;
 - c. Details of all proposed access locations onto the public road for construction vehicles including visibility splays, access construction, fencing/gating, signing;
 - d. Details confirming locations of cable road crossings and proposed works e.g. directional drilling or open trench, access to works areas and crossings of the public road;
 - e. Details confirming location of site compounds and access routes from the public road;
 - f. Phasing plan(s) for the cable and sub-station works which confirms road improvement works required prior to commencement of each phase;
 - g. A detailed survey of the construction access route shall be carried out to determine the locations of structures (e.g. bridges) and street furniture affected by any construction and/or abnormal indivisible load vehicle movements;
 - h. Road improvements/strengthening (either temporary or permanent) required as a result of the survey prior to any movements of any construction and abnormal load traffic shall be completed;
 - i. Construction Traffic Management Plan. (Details must include, parking provision for staff and the loading/unloading of vehicles, the methods of dealing with large and/or abnormal delivery vehicles, vehicle swept path analysis and the methods of marshalling and manoeuvring at junctions on the public road network, provision for the prevention of material being deposited onto the public road including wheel cleaning and for road sweeping at construction access(es) to the public road, a programme for monitoring and provisions for interim

maintenance to be undertaken to ensure safe and suitable access is maintained for the construction access routes for the duration of the works will be required.

- (ii) All works identified in 3(i) shall be completed in accordance with the approved details.

Reason - To ensure acceptable infrastructure to enable access to the development and development that does not create any hazard to road users in the interests of road safety.

Delivery and Trigger Points

The required works to the public road network shall be completed prior to the delivery of any materials associated with each phase (Condition 3(i)f).

- 4. (i) Prior to commencement of construction on any phase of construction identified in Condition 3(i)f the following must be complied with/submitted:
 - a. Evidence to confirm that a Section 96 'Wear and Tear' Agreement has been completed and agreed by the developer or their representative and the local roads authority to ensure that the costs of works to repair damage to the public road as a result of construction traffic on the roads identified in Condition 3(i)a will be met.
 - b. Details shall be submitted for approval to the Council, as Planning Authority to confirm the provision and control of appropriate visibility splays at each proposed construction access in the construction phase.
 - c. A detailed programme for the works associated with the laying of the cable, including the timing of any temporary road closure to facilitate the opening of any road.
 - d. Diversion routes for local footpaths and cycleways during the construction period shall be agreed with the Council as, Planning Authority (Core Paths). All signage associated with the diversion routes shall be agreed with the Council as Planning Authority.
 - e. Verge hardening shall be undertaken at any locations determined by the vehicle swept path analysis and abnormal load trial run to accommodate the wide turning circle of the abnormal load vehicles transporting sub-station components over the areas determined within the Construction Traffic Management Plan. Any dropped kerbs required must be installed during the construction period to enable over running onto the hardened verge.
 - f. Unless otherwise agreed in writing by the Council abnormal load trial run(s) must be undertaken for the delivery route prior to the commencement of construction and deliveries. Representatives from the Moray Council Transportation (Traffic), the Trunk Road Authority, Police Scotland and any other roads authorities where roads will form part of the route of the delivery must be invited to the trial run.
- (ii) All works identified in 4(i) shall be completed in accordance with the approved details.

Reason - The provision of information currently lacking from the submission to

ensure acceptable infrastructure at the development access in the interests of road safety.

5. At the start and end of each phase (as per condition 3(i)f) 'before and after' condition video surveys of the proposed delivery and construction traffic routes shall be undertaken jointly with the Roads Authority and a copy of the survey provided to the Planning and Roads Authority.

Reason - The provision of information currently lacking from the submission to ensure acceptable infrastructure is provided in the interests of road safety.

6. Dedicated parking areas shall be provided during construction to prevent vehicles parking on the public road verge, the locations of which shall be agreed with the Council as, Planning Authority following consultation with Moray Council Transportation.

Reason - To ensure acceptable development in the interests of road safety.

7. Prior to the commencement of construction the diversion routes for local footpaths and cycleways during the construction period shall be agreed with Moray Council as, Planning Authority in consultation with the Access Manager. All signage associated with the diversion routes shall be agreed with Moray Council as, Planning Authority.

Reason - The provision of information currently lacking from the submission to ensure acceptable development in the interests of road safety.

8. No works shall commence on site until details have been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority to ensure that no water or loose material shall drain or be carried onto the public footpath/carriageway for the life-time of the development.

Reason - To ensure the safety and free flow of traffic on the public road and access to the site by minimising the road safety impact from extraneous material and surface water in the vicinity of the new access.

9. Any existing ditch, watercourse or drain under any access or passing place or holding area as a result of this development shall be re-routed or piped using a suitable diameter of pipe, in agreement with Moray Council as, Planning Authority in consultation with Transportation Manager. Any pipe shall be laid to a self-cleansing gradient.

Reason - The provision of information currently lacking from the submission to ensure acceptable development in the interests of road safety.

10. For the cables details must be provided of their final route and identify any proposed micro siting limits. The proposed route must demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs)
- Peatland
- Private water supplies
- Groundwater
- Engineering works in the water environment, including watercourse crossings
- Flood Risk

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

11. For each phase of development a Construction and Temporary Works Schedule including plans showing all construction and temporary works must be provided. The schedule must include details to demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs),
- Peatland
- Private water supplies
- Engineering works in the water environment
- Flood risk in association with existing field drains

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

12. For the substation full details of the layout, siting and elevations of the substation and any associated access road must be provided. This must include details to demonstrate how impacts on the following have been avoided, or where avoidance is not possible, mitigated:

- Wetlands, especially groundwater dependant terrestrial ecosystems (GWDTEs)
- Peatland
- Private water supplies
- Engineering works in the water environment
- Flood risk in association with existing field drains
- Full details of the proposed means of disposal of foul (septic tank) and surface water from the substation supported, if required, by a Drainage Impact Assessment.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

13. A specific Construction Environmental Management Plan (CEMP) for each phase is required to be submitted including details of a Site Waste Management Plan, disposal of any surplus material and pollution prevention measures once

operational. The CEMP must also contain a Phasing Plan outlining details of the phasing of all construction works including top soil stripping. Thereafter, development must accord with the agreed Phasing Plan unless otherwise agreed in writing with Moray Council as, Planning Authority in consultation with SEPA.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

14. Unless otherwise agreed in writing with the Council as, Planning Authority, the imbedded mitigation and proposed additional mitigation measures as specified in Chapter 15 Summary of the Environmental Impact Assessment of the EIA Report must be carried forward and implemented in the detailed design, layout and position of the transmission cables and substation in any approval of reserved matters application.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified.

15. The pre-construction verification check surveys referred to in the mitigation proposals summarised in Chapter 15 of the EIA Report must be carried out by suitably qualified individuals and include a contingency for the protection of species if found (such as ground nesting birds). Furthermore, measures such as avoiding ground stripping during the nesting season in line with the methodology suggested in the last bullet point of page 45, Paragraph 6.4.3.3 within EIA report, Chapter 6 Ecology and Nature Conservation must be included in that contingency plan in the event that pre-construction verification checks identify the presence of ground nesting birds and other protected species or nesting birds and their nests.

Reason - To ensure that the mitigation measures proposed in the EIA Report are transferred into actionable contingency plans in the event that the pre-construction verification check surveys identify ground nesting birds and other protected species or nesting birds and their nests.

16. In the event that the proposed cable route requires substantive tree felling, details for the transmission cables must be accompanied by a detailed tree survey and include the specific locations along the finalised cable route where trees would require to be felled and need to remain free of trees in perpetuity. This must be accompanied by a requisite scheme detailing the quantity, type and location of compensatory tree planting to account for any loss of woodland or land designated within the National Forest Inventory.

The approved compensatory woodland planting scheme, must thereafter be provided in accordance with the approved details in the first planting season following the substation and transmission cable being electrified. The applicant must notify the Council as, Planning Authority in writing within 21 days of the cable being electrified.

Reason - As the approval is granted for planning permission in principle only and in order that detailed consideration can be given to the matters specified in the event that significant woodland removal is required.

17. That within a period not less than 6 months prior to the cessation of operations, or an alternative timeframe as agreed in writing by Moray Council as, Planning Authority, a decommissioning plan is to be prepared in line with best practice at the time of preparation and submitted for the written approval of Moray Council as, Planning Authority in consultation with SEPA and Aberdeenshire Council.

The decommissioning of the development must thereafter be undertaken in accordance with the approved decommissioning plan.

Reason - To ensure provision is in place to facilitate a move towards a “Circular Economy” and future proof the development against future environmental requirements or considerations in the interests of the protection of the natural environment.

18. Construction works associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0700 - 1900 hours, Monday to Friday and 0700 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be undertaken except where previously agreed in writing with Moray Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

Reason - In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

19. Prior to any development commencing on any agreed phase of development a detailed Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Council as planning Authority. The CEMP shall include the following matters (notwithstanding other consultees may require other considerations) -
- a. A construction noise and vibration management plan including proposed measures for the mitigation of construction noise and vibration, where necessary.
 - b. A dust and air quality management plan including proposed measures for the mitigation of dust arising from construction activities, where necessary.

All measures works identified in 19 a and b shall be implemented in accordance with the approved plans.

Reason - In order to minimise the impact of construction works on the amenity of the surrounding area including local residents.

20. A further Noise Impact Assessment (NIA) will require to be undertaken in accordance with BS 4142 : 2014 Method for rating and assessing industrial and commercial sound in relation to the substation. The assessment findings shall be reported in writing to and approved by the Council as Planning Authority. The

approved operational noise rating levels arising from this further NIA shall not be exceeded during the operational lifetime of the development.

Reason - In order to minimise the impact of the development on the amenity of the surrounding area including local residents.

21. No private water supply shall be used during or post construction for any phase of the project, until details have been submitted in order that its wholesomeness and adequacy can be assessed by the Environmental Health Manager of Moray Council.

Reason - To ensure detailed consideration can be given to the possible use of private water supplies for the development hereby approved.

22. In the event that the wholesomeness or adequacy of any private water supply becomes affected by construction activity, all users of such supplies and Environmental Health Manager of Moray Council must be contacted to discuss remediation measures as a priority. Thereafter repair of any affected private water supply must be carried out to the satisfaction of the Council as Planning Authority in consultation with the Environment Health Manager. The Council shall be the final arbiter whether any supply has been affected by this development.

Reason - To ensure that the adequacy and wholesomeness of private water supplies are protected at all phases of the project.

23. Unless otherwise agreed in writing, no development shall commence on any phase until a strategy to assess and then, where subsequently appropriate, a strategy to deal with potential contamination on the finalised cable route have been submitted to, and accepted in writing by the Council as, Planning Authority. The strategies shall be devised and overseen by an appropriately qualified person in accordance with relevant up-to-date authoritative technical guidance, e.g. BS10175 'The Investigation of Potentially Contaminated Sites - Code of Practice', and shall include:

- a. an appropriate level of characterisation of the type, nature and extent of contamination and accompanying risk assessment as described in Planning Advice Note 33 Development of Contaminated Land (Revised 2000);
- b. how any identified contamination will be dealt with during construction works;
- c. details of remedial measures required to treat, remove or otherwise mitigate contamination to ensure that the site is suitable for the proposed use, and that it does not represent a risk to health or of pollution in the wider environment; and
- d. a means of verifying the condition of the site on completion of the works.

Thereafter, the works shall be implemented in accordance with agreed details.

Reason - To ensure that the site that risks to the wider environment and future users of the site and neighbouring land from on-site contamination are appropriately assessed and managed.

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

consultation with Moray Council and Aberdeenshire Council Archaeology Service in accordance with the additional mitigation proposed in Chapter 15 'Summary of the Environmental of Impact Assessment' of the EIA Report.

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

25. For either phase (cable route or substation), the following details to be submitted for consideration by Moray Council as Planning Authority in consultation with the Moray Flood Risk Management team:

- a. Drainage Impact Assessment (DIA) for the substation area.
- b. SUDS scheme for the substation area.
- c. Construction phase surface water management plan.
- d. Detailed plans and calculations showing that the capacity of all over water crossings allowing free passage of 1:200 year flow + climate change (20%).

The development must then be constructed and operated in accordance with the approved Drainage Impact Assessment and SUDS Scheme.

Reason - In order to allow for consideration and approval of the drainage matters specified.

Reason(s) for Decision

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

The proposal accords with the provisions of the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise. The submitted EIA Report provided sufficient information to grant planning permission in principle only and any subsequent application sought must provide the details specified in the conditions of this permission.

Reasoned conclusion on the significant effects of the development on the environment (Regulation 29 of the EIA Regulations 2017)

Moray Council, as Planning Authority has taken account of all relevant information, consider that the proposal can be supported having regard to the nature and impact of the proposed cable route and substation, and that its location is appropriate in local and national planning policy terms. The Summary of the Environmental Impact Assessment in Chapter 15 of the EIA Report provide a useful summary of the baseline and other information gathered which is up to date and does allow for the principle of the development to be considered at the principle stage. The EIA Report suitably addressed the matters that will be further defined at any further detailed consenting stage.

The Council has considered, fully and carefully, the environmental information as presented and concludes that the development will not give rise to any significant adverse environmental effects, as the proposal incorporates the necessary environmental design and mitigation measures to minimise such effects and impacts. These include measures to address impacts upon the landscape and visual effects, biodiversity (wildlife and ecology including GWDTE), hydrology and hydrogeology, cultural heritage (archaeology), traffic, transportation, and woodland. The methodology of cable laying and anticipated options for

crossing/passing water courses, roads and other sensitive features does allow for Moray Council to consider the principle of the development. Similarly with the location of the proposed substation specified in submissions within the field at Whitehillock allows for consideration of its presence, subject to definitive visual and drainage design considerations.

In the absence of any unacceptable or significant environmental impacts and subject to conditions as recommended, the proposal is acceptable in EIA terms. Where consultees have proposed conditions to mitigate/monitor impacts these have been secured by conditions attached to the consent. Conditions to secure the monitoring of impacts in relation to wildlife, biodiversity etc. have also been attached to the consent.

The Council is satisfied that this reasoned conclusion is up-to-date.

List of Informatives:

MANAGER (DEVELOPMENT MANAGEMENT) has commented that:-

It should be noted that any further detailed consents required may require legal agreements in terms of with planning or in relation to transportation matters under the relevant Roads Act. Such legal agreements may need to be in place before any subsequent planning permissions are granted.

Whilst the application approved in principle only it should be noted that if a staff/welfare building is proposed this will likely require a separate Building Warrant. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

While the precise cable route is not known, advance consultation with Scottish Gas Networks regarding the high pressure gas main within the southern end of the site would be beneficial prior to finalising the cable route.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

Prior to the commencement of deliveries or construction work a Section 96 Agreement under the Roads (Scotland) Act 1984 will be required to be approved between the developer and the Roads Authority. This is to ensure that the costs to repair any damage to the public roads as a result of the construction work traffic are met by the applicant.

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 constructionconsent@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>

Before commencing development the applicant is obliged to apply for permission to modify the existing public road, in accordance with Section 56 of the Roads (Scotland) Act. The applicant will be required to provide technical information, including drawings and drainage calculations, a programme for the proposed works. Advice on the application process can be obtained by emailing constructionconsent@moray.gov.uk

The applicant is obliged to apply for road opening permit(s) 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

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

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.

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

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.

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.

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

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

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

Regulatory requirements

Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs). With reference to Table 15.2.1, bullet point 36, clearance of ditches & culverts may require authorisation under CAR but they will at least have to comply with SEPA's guidance and the GBR's contained in CAR.

Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012.

Forestry waste – we note and welcome there is no proposed felling and therefore no forestry waste will be created. Should this change as the project develops the local team should be consulted as early as possible as there may be a requirement to apply for waste exemptions.

A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which as the site is in excess of 5km (see SEPA's [Sector Specific Guidance: Construction Sites \(WAT-SG-75\)](#) for details.) As the site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.

Further details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services team in your local SEPA office at: Shaw House, Mid Street, FRASERBURGH AB43 9JN Tel: 01346 510502.

Further SEPA detailed advice for both applicant & planning authority

1. Watercourse crossings

- 1.1 We note from Section 5.4.2.3 the type of watercourse crossing that is carried out will be dependent on 'importance of the feature' and that those classified as 'sensitive' will be crossed using HDD techniques where practical whilst smaller or modified watercourses will 'more likely be crossed by open cut techniques.

- 1.2 We have requested a planning condition which requires the proposed final route demonstrates how impacts of engineering works in the water environment have been avoided, or where avoidance is not possible, mitigated. Approval by ourselves as to which watercourse crossing techniques will be used for each watercourse will be required. Purely from a map based assessment our preference would be for the following watercourses to be crossed by HDD:
- Burn of Fordyce – due to sensitive downstream receptors/users. 23052 Overall status moderate due to moderate water quality and water flows.
 - River Isla – 23179 Overall status Bad due to poor physical condition. Don't want to exacerbate this, want to improve it.
 - Hoggie Burn – Due to the geography, it is in a steep sided valley
 - Burn of Deskford – 23050 overall status moderate due to unknown pressures on water animals and plants.
 - Burn of Croft - Due to the geography, it is in a steep sided valley
 - Bowe Burn - Due to the geography, it is in a steep sided valley
 - Burn of Paithnick - Due to the geography, it is in a steep sided valley 23175 Overall status Bad due to poor physical condition – don't want to exacerbate this, want to improve it.
 - Burn of Ardrone - Due to the geography, it is in a steep sided valley
 - Mill of Wood Burn - Due to the geography, it is in a steep sided valley
 - Herrick Burn - Due to the geography, it is in a steep sided valley
 - Burn of Drum – 23177 Overall status Good
 - Birken Burn
 - Burn of Tamash/Burn of Netherton

2. Other waterbodies

- 2.1 We highlighted the presence of raised bogs in our scoping response and we are pleased to note these appear to be out with the development area.
- 2.2 In addition to the proposed 50m buffer to watercourses we request an appropriate buffer is also implemented around other waterbodies such as the pond close to Gallowhill.

3. Flood risk

- 3.1 In addition, it should be demonstrated that all new watercourse crossings are appropriately designed to be able to convey the 1 in 200 year peak flow without constriction or increasing flood risk elsewhere.
- 3.2 With regards to cable routes/temporary access routes and temporary storage of any materials, we would recommend that avoidance of flood risk is taken into account when considering route/storage options. The flooding of watercourses and the associated potential erosion within a flood plain may lead to the potential for cables to be exposed and this risk should be avoided. We note no detailed information is available on the proposed temporary infrastructure/storage in terms of location and any possible land raising associated with this. We note that a minimum 50m buffer is proposed for pollution prevention and we would also

recommend that this is used for flood risk. If this is not feasible, then more a detailed flood risk assessment may be required to support and inform proposals should any land raising or temporary storage facilities be proposed within these buffers.

- 3.3 With regards to the Substation it appears, from figure 5.3.1, that the substation has been sited on high ground above any likely sources of fluvial flood risk. However, there are some drains within the proposed location of the substation. We request these are incorporated into the site drainage, or that the development will be set back to avoid any potential surface water issues and this should be demonstrated at the detailed design stage.

4. Groundwater, Private Water Supplies & GWDTE

- 4.1 From a groundwater point of view the main risk from the proposed development is the dewatering of excavations from trenches, infrastructures and pylon foundations that can cause alteration of groundwater flow in the vicinity of groundwater receptors such as nearby private water supplies and GWDTE.
- 4.3 We ask SEPA guidance [LUPS-GU-31](#) for the risk assessment on groundwater abstractions including dewatering, private water supplies and GWDTE is followed.
- 4.4 We note the reference to a Piling Risk Assessment in 5.6.1.5. It should be noted it will not fall within our remit to approve this except in terms of possible dewatering.
- 4.5 We welcome the commitment to undertake NVC surveys to determine the exact nature and extent of GWDTE. We request the NVC type and quality should be assessed and mapped. We wish to highlight that we should mention measures for preventing the trench becoming a preferential pathway for ground water flow (e.g. use of clay bunds) in any areas of slope. SUGGEST: Subject to NVC surveys site trench as south as possible around Millwood SSSI area (>250m) to avoid potential impact (could not find Tech App 5.2 though where this was scoped out as a concern but there are other GWDTEs potentially present in the vicinity out-with SSSI).

5. Peat

- 5.1 We welcome identification of peat areas and the commitment to avoid peat deposits where possible in the detailed design. We also welcome the commitment for further peat probing, floating access tracks on deep peat.
- 5.2 With reference to the 7th bullet point on page 33 “In areas where there are pockets of peat and groundwater seepages / flush zones identified along the access tracks at the detailed design stage, the Contractor will utilise geotextiles beneath the track material to prevent the track from settling into the ground to help maintain sub-surface flow;”, we would ask for the principle of avoidance in the first instance. Hydrological continuity (permeability) should be maintained through tracks e.g. by the use of pipes if necessary.

- 5.3 If possible we would like to see the routing of the cable to the north side of Cotton Hill to avoid peat and likely GWDTE and also route the cable to the west in the northern section to avoid the finger of peat at that location.
- 5.4 With reference to the 6th bullet point on page 33, “If peat excavation is needed during construction, peat storage and handling will be carried out in accordance with SEPA’s requirements laid out in their regulatory guidance (2012)”, we confirm that a Peat Management Plan is unlikely to be required if relatively small areas of peat are encountered. When demonstrating how impact on peat have been mitigated if it can’t be avoided, a statement on peat re-use and how it will be used in reinstatement (i.e. keeping turves intact and looking after the vegetation for best chance of reinstatement) will be required.

6. Surface Water Drainage

- 6.1 We note the proposed submission of a Surface Water Management Plan in 5.6.1.3. As already highlighted in Section 5.1 of our covering letter this project will require a CSL and therefore a Pollution Prevention Plan (PPP). The Surface Water Management Plan, while also covering most of what will be required in the PPP, will look at the surface water management and potential sources of pollution both during the construction and operation phases of the site, permanent SUDS, oil & chemical storage, oil interceptors etc.

Generally, a lot of what is required for both a PPP and Surface Water Management Plan is contained in the CEMP, but without the measures to control waste. So if a CEMP is written in a manner which also meets the requirements of a PPP it, or appropriate sections of it, can be utilised as the PPP for the CSL.

If the Surface Water Management Plan is written to not only satisfy the requirements of a Surface Water MP but also incorporates the information required for a PPP it could form part of or be the PPP for the CSL. We recommend contacting the local SEPA office in Fraserburgh at the earliest opportunity to progress the PPP and CSL in parallel with the detailed planning application.

- 6.2 We note the proposed submission of an Onshore Substation Drainage Design in 5.6.1.4. We confirm that SUDS will be required for the substation building and associated hard surface in line with the current CIRIA Manual and these should be submitted to Moray Council for approval rather than SEPA.

7. Pollution prevention

- 7.1 Biosecurity is not mention in Chapter 5 but it is mentioned in Table 15.2.3 of Chapter 15 as an embedded mitigation measure in Ecology and Nature Conservation. There should also be reference to the same mitigation measures in Chapter 5 as working in the water environment can lead to the spread of INNS etc., downstream of the working area.

SCOTTISH AND SOUTHERN ELECTRICITY NETWORK has commented that:-

Due to the vast area and scale of works there will be SSEN apparatus within the vicinity, including underground cables and overhead lines. The developer should refer to Health and Safety Guidance Note GS6 – Working in the vicinity of overhead lines and HS (G) 47 – Working in the vicinity of underground cables.

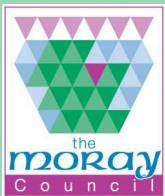
Any cables or lines required to be diverted will be at no cost to SSEN. For any further information please call SSEN General Enquiry Number on 08000 483515

NETWORK RAIL has commented that:-

The design and construction of the underground cable link where it crosses underneath the Aberdeen to Inverness Line must be carried out in full agreement with Network Rail. The developer should be aware that they will have to secure a wayleave agreement with Network Rail to route the cable under the railway. The developer must contact our Asset Protection Engineers regarding the above matters, contact details below:

Network Rail Asset Protection Engineer
151 St. Vincent Street, GLASGOW, G2 5NW
Tel: 0141 555 4352
E-mail: AssetProtectionScotland@networkrail.co.uk

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
Reference No. Version No.	Title/Description
8460005-AAA0000-AAA-AAA-000	Location plan
Map 2 of 5	Application boundary(Moray Section)
Map 3 of 5	Application boundary(Moray Section)
Map 4 of 5	Application boundary(Moray Section)
Map 5 of 5	Application boundary(Moray Section)



PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:

18/01046/EIA

Site Address:

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

Applicant Name:

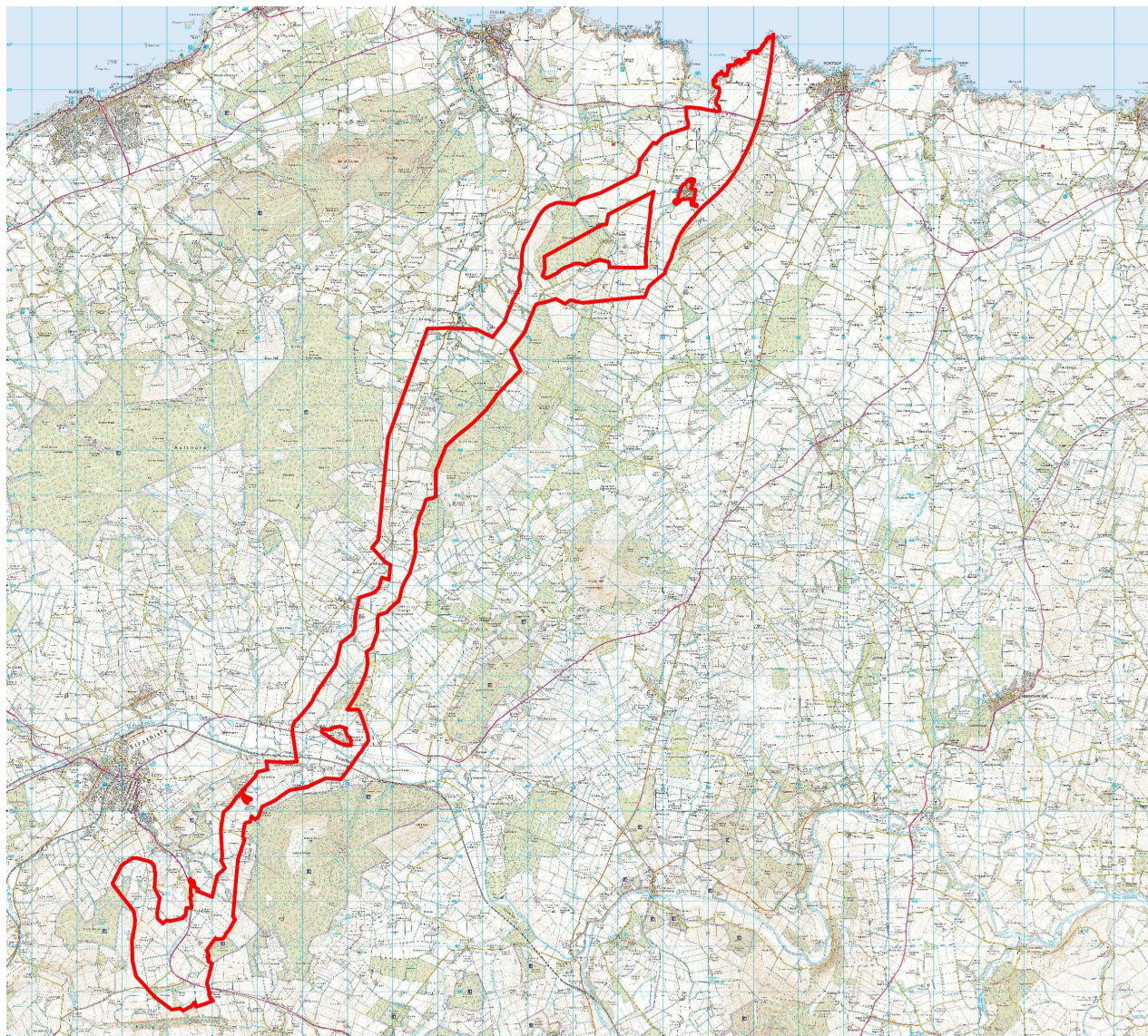
Moray Offshore Windfarm (West) Limited

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Location Plan Scale 1:120,000











PLANNING APPLICATION: 18/01046/EIA

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

- The proposal is part of a wider development to develop an offshore windfarm in the Moray Firth (consented separately, see history section) and the offshore transmission lines will make landfall on the coast in Aberdeenshire. The proposed cable route will enter Moray at Cotton Hill, east of Deskford and travel south west through Moray to a location just within the eastern boundary of Moray where a new electricity substation will be provided. The new substation will then connect to the national grid at Blackhillock substation.
- The submitted application and Environmental Impact Assessment Report (EIA Report) relates to Planning Permission in Principle, and therefore will require to be considered via further approval of matters conditioned applications and via the submission of further environmental information not yet known, due mainly to the precise route of the cable not yet being defined. The submitted EIA Report therefore has taken a wider, more general approach to certain matters than would not be the case for a focused EIA report on a specific project. The 2017 EIA Regulations do allow for 'multi stage consents' via the EIA process so long as the information submitted does allow for the principle of the development to be considered.
- The permission sought is for indefinite planning permission for this infrastructure to serve the offshore windfarm. Of note the offshore windfarm 'Moray West' seek permission for a project duration of 50 years including construction, commissioning, generation and decommissioning, with the onshore transmission present for most of this period. With the possibility that the transmission cables and substation might be re-used post generation of the offshore windfarm as part of the national grid or by some other user, the current application is not being sought on a temporary basis.

Transmission cables

- The 'cable' comprises of two cable circuits, with each circuit comprising three separate cables; a typical voltage for the cables will be between 132 and 400 kV. The cable circuits will be buried, and it is likely that each cable will be contained within a 200 mm diameter PVC duct for the majority of the route. Fibre optic and distributed temperature sensing cables will be buried alongside the cable circuits in separate smaller ducts. A cover (usually recycled plastic) will be placed over the cable circuits with marker tape to warn of their presence. The cables will be laid to a depth of approximately 1m.
- The onshore cable circuits will be installed in 750m to 1,000m lengths, which will be connected in joint bays. These jointing bays will be installed at ground level with surface level access covers for maintenance. As far as reasonably practical, joint bays will be located near to existing boundaries and roads to provide easy access during maintenance visits.
- Shortly before installation, temporary fencing will be erected along the boundaries of the working width; gates or stiles will be incorporated where existing access needs to be maintained. The working width will then be cleared of vegetation. Wherever practicable, established trees will be fenced off and worked around.

- Use of Horizontal Directional Drilling (HDD) to avoid and go beneath area of sensitivity. During the construction phase a working corridor of approximately 30m will be required although the trench will be generally excavated to a width of 3m.
- For special crossing along the cable route different methods of installing the cable circuits will be employed when crossing linear features such as roads and watercourses. The method will depend upon the importance of the feature, the results of ground investigations and consultations with the relevant consenting authorities. The following methods are generally expected:
 - Major roads, railway lines, main rivers, and sensitive watercourses and habitats – trenchless techniques (usually HDD) wherever practicable;
 - Minor roads, private access tracks and disused railways – open cut techniques, subject to consultations with the landowners / occupiers and the relevant consenting authorities; and
 - Small / modified watercourses with straightforward reinstatement potential – open cut techniques, subject to the agreement of SEPA and other relevant consultees.

Substation

- The identified area currently comprises two fields located either side of a single-track road that provides access to the buildings of Whitehillock from the A96 (adjacent to Pitlurg Wood). It is intended that the permanent infrastructure, i.e. the onshore substation itself and landscape mitigation, will only be located within the western field. It is currently proposed that the eastern field be used for temporary works only, although it may be used for permanent landscaping if the detailed design process identifies a need.
- The substation, inclusive of landscaping and carparking is anticipated to cover an area of approximately 6 hectares and it is intended to retain the surrounding woodland to the west and north at Pitlurg Wood.
- The substation design has yet to be finalised but will likely comprise of the following equipment and infrastructure in addition to control/welfare building:-
 - Circuit breakers;
 - Super grid transformers;
 - Dynamic reactive compensation equipment;
 - Harmonic filtering equipment;
 - Associated cooling equipment;
 - Electrical busbars / connections;
 - Supervisory control and data acquisition equipment;
 - Metering; and
 - Ancillary equipment and services.
- The substation will require a permanent direct access onto the A96 trunk road, utilising the existing, single track entrance to Whitehillock Farm. The access will require to be upgraded and would then serve both the farm and the substation.

THE SITE

- The site covers an extensive area around the Deskford and Grange areas, Strathisla and south of Keith. The cable corridor which might ultimately be developed will be considerably narrower than the corridor currently applied for but would include areas of temporary construction compounds and temporary accesses which would affect the land beyond the cable corridor itself.
- The cable route will enter Moray near Cotton Hill on the north eastern boundary of Moray, then travel south west across the Grange area over agricultural land and some area of woodland at Cotton Hill and between field boundaries. As the cable route leads southward it will cross beneath the River Isla, Aberdeen to Inverness

railway line and several public roads before crossing farmland on the western flanks of Meikle Balloch Hill east of Keith. The substation site has been identified on agricultural land just south of the A96 at Whitehillock, which lies just within Moray's boundary with Aberdeenshire. The underground cables would then leave the substation and lead northward to link in with the national grid at the existing Blackhillock substation.

- The cable corridor passes several rural grouping within Moray, namely Kirkton of Deskford, Berryhillock and Grange Crossroads.
- As the application is in principle only, the proposed cable route for the application has identified a wide corridor running south across the western side of Moray where a number of listed properties lie.
- The application site boundary encompasses a number of environmental designations (Mill Wood SSSI near Keith), archaeological designations, prime agricultural land and areas of woodland and areas prone to flooding throughout the length of the cable route.

HISTORY

For the site:

There is limited planning application history for the site, but relevant to the current proposal are the following.

17/00940/S36SCO - Scoping opinion onshore transmission infrastructure landward of Mean Low Water Springs for Moray Offshore Windfarm (West). The scoping opinion was issued in August 2017 and included input from other consultees. This scoping opinion related to the development now subject of the current national planning application.

Off site:

18/00954/S36 – Construct and operate an offshore windfarm, inclusive of two offshore electric substation platforms in the Moray Firth. This proposed offshore windfarm would comprise of 62-85 offshore turbines, to a height between 199m-285m (the taller turbines being at the lower density of 62 total) and would be located over 30km off the Moray Coast. The Moray Council is a consultee on the application with is being determined by Marine Scotland. Of note the Marine Scotland application identified the lifetime of the project as being circa 50 years, so it is clearly the intent that the onshore infrastructure and substation would be required for at least the same period.

15/00631/EIA - Erection of electricity substation/convertor station at Blackhillock with access road ancillary works and underground cable link to Portgordon all to service Beatrice Offshore Wind Farm on land between Portgordon and Blackhillock Croft, Keith, Moray. This application was determined in 2015 and is similar in scale and purpose to the current planning application which serves the Beatrice Offshore windfarm which is currently under construction. The system of cable laying (trench and horizontal directional drilling) and the size of the BOWL substation at Blackhillock are similar to the current proposals and lie further to the west of Blackhillock.

POLICY - SEE APPENDIX

ADVERTISEMENTS

- Advertised under EIA Regulations and for neighbour notification purposes.

CONSULTATIONS

Transportation - no objection subject to conditions and informatives. Given the planning in principle stage many of the conditions are suspensive and the various construction access routes, temporary accesses, abnormal loads information etc. would need to be detailed in the subsequent detailed applications once the proposal is more defined.

Transport Scotland – No response at the time of writing but note the applicant has been in discussion with Transport Scotland and so far has raised no concern in relation to the EIA consultation. A verbal update will be provided at the meeting.

SEPA - no objection subject to conditions and informatives. These conditions require substantial information relating to drainage, private water supplies, peatland, flood risk and river engineering works once the precise cable route and substation design are known. SEPA are generally content with the approach to these matters identified in the EIA Report, but have provided direct guidance within the proposed informatives to inform any further detailed planning applications.

Scottish Natural Heritage – no objections subject to presumption that standard conditions requiring submissions of a Construction Environmental Management Plan be recommended, and that the mitigation identified in Chapter 15 of the EIA Report is taken forward to protect local wildlife and habitats.

Environmental Health – no objection subject to conditions regarding noise, dust and limiting the hours of construction activity.

Contaminated Land, Environmental Health – no objections subject to a condition requiring submission of the appropriate contaminated land information with any subsequent detailed planning applications.

Private Water, Environmental Health – no objection subject to condition regarding the need for future consideration of any private supply to be used for the development itself and a further condition regarding protection of private water supplies.

Health and Safety Executive – no response received.

Scottish Government, Planning & Architecture – no comments.

Aberdeenshire Council – no comments.

Moray Flood Risk Management – approve subject to a condition requiring submission of drainage information at the detailed planning application stage.

Buckie Community Council – no response.

Strathisla Community Council – no response.

Keith Community Council – no response.

Cullen and Deskford Community Council – no response.

Scottish Gas Networks – no response at the time of writing. The applicant has confirmed that they have been in discussion direct with Scottish Gas Networks and intend to maintain the appropriate wayleaves for the high pressure gas main. An informative encouraging this dialogue is recommended.

Scottish and Southern Energy (Electricity network) – no objection subject to informatives about health and safety and responsibility for alterations to existing transmission assets.

Grampian Police – no objections.

Network Rail – no objections subject to an informative regarding protection of the railway line.

Forestry Commission – no response at the time of writing the report.

Ofcom – no response at the time of writing the report.

Historic Environment Scotland – HES responded to the proposal in relation to the areas within Moray and Aberdeenshire and noted that the advice offered at the Scoping stage had largely been taken on board.

Aberdeenshire Council Archaeology Service - no objection subject to a condition requiring a programme of archaeological works in accordance with a written scheme of investigation to accompany any future detailed planning applications.

OBJECTIONS-REPRESENTATIONS

NOTE: Following the determination of this application, name and address details will be/have been removed (i.e. redacted) in accordance with the General Data Protection Regulations (paragraph 3 of Minute, Planning & Regulatory Services Committee 16 September 2014).

In terms of consultation with the public, beyond any consultation carried out by the applicants, and the advertisements place by the Moray Council in the local press, over 90 properties received direct neighbour notification and were allowed 30 day period to respond.

Representations/objections were received from:

Mrs Carole Gillies - Burnside Mill Grange Crossroads Keith Moray AB55 6ND
Mr And Mrs E.F.A And L.J. De Silva - Newton Of Cantly Grange Keith Moray AB55 6LJ
Dr Valerie M Leith - North Crannoch Grange Crossroads Keith Moray AB55 6NA

All objections/representations have been read and where material, given the appropriate consideration prior to the recommendation finalised. The grounds for objection/representation are summarised as follows:

Heading of issues/objection reasons selected by those making representation from objection/representation online objection web link.

- Affecting natural environment
- Drainage
- Road access

The main points of the representations are:

Issue - The level of detail supporting the application is vague, with details about the specific impacts on individual water supplies unclear. Details on the level and length of disruption are also vague.

Comment (PO) – The applicants have sought within the EIA Report to identify the main issues and matters which require mitigation but only once a definitive cable route is selected would the details sought be available. Any future detailed application would require further neighbour re-notification.

Issue - The proposed cable route will have permanent impacts upon flora and fauna. Objectors cite a range of bird species present in the area and are generally concerned that birds and other wildlife in the area would be permanently affected.

Comment (PO) – A range of mitigation measures are proposed, inclusive of pre-construction surveys for ground nesting birds and other species. Given the nature of the proposed works for the cable route, and temporary nature of the cable laying process, it is not considered that the cable will result in the permanent loss or damage of habitat for protected species and other wildlife. Most of the land being crossed by the cable route is agricultural land (routinely ploughed and harvested) so the extent to which the cable channel being dug and back filled would impact permanently upon wildlife is limited. More impact on habitat and wildlife would occur where the cable route is laid between fields or over area of permanent pasture, rough ground of areas of woodland. The proposed substation would be a permanent above ground structure, and would see the loss of an agricultural field although the field is not considered to be of particular environmental merit.

Issue - Concern about the impact the increased road traffic will have on the safety of rural roads, and its effect on the already poor road surfaces.

Comment (PO) – The Transportation Section of Moray Council have considered the proposals and not objected subject to various conditions. The construction activity would be temporary in nature with no long term impact upon rural road safety or increase in vehicles. The precise location of temporary construction roads are not yet known and the opportunity to further consider this would arise at any further approval of matters specified in conditions application stage.

Issue – The objector is dismayed and saddened that Moray (and particularly Keith and surrounding area) appears to have become the nexus of Wind associated developments, offshore and onshore. With the disruption that was caused with the cable laying associated with the Blackhillock Sub Station, it seems disproportionate that Moray should be subject to another development relating to Offshore Wind.

Comment (PO) – The objectors concerns are noted, and in relation to the cumulative impact of a further cable crossing Moray and the proposed substation near Blackhillock this is considered below in the observations section of the report.

Issue - The objector makes reference to both offshore and various onshore wind energy developments as having a negative impact on Moray and of being link to this proposal for wind energy infrastructure.

Comment (PO) – Care should be taken in the assessment of the current proposal not to unduly associate various separately consented wind energy developments in the wider context of Moray with the current proposal. Where appropriate cumulative assessment will be made, but suggesting the presence of unrelated wind energy developments in eastern Moray are relevant to current consideration would not appropriate or material.

Issue - The proposal may affect private water supplies to individual properties, and several private supplies lie in the within the cable corridor as applied for.

Comment (PO) – The applicants have sought in their submissions to identify all affected private water supplies, and once a definitive cable route is known, the recommended conditions from both SEPA and the Councils own Private Water supply technical officer within Environmental Health Section require the avoidance of or protection of private water supplies.

Issue – The property at Burnside Mill and the pond in the garden fed by surrounding channels and ditches are highly sensitive to any changes in water flows, both water table and surface, and therefore assurance is sought that there will no detrimental impact as a result of the proposed construction. The risk mitigation plans must take the above under consideration to ensure no impact.

Comment (PO) – The objectors concerns are noted, and the supporting information does state that the applicants will seek to address any flooding or surface water concerns along the cable route. Subject to the drainage conditions recommended it is not considered likely that the cable would have any long term impact on surface water drainage or flooding in the localities in which it is laid.

Issue - Any increase in surface water from the area covered by the application could put the property at Burnside Mill at risk, or increase the water flow to the Bowie Burn, so it is vital that adequate drainage is in place to protect that property from potential flooding.

Comment (PO) – Both SEPA and the Moray Councils own Flood Risk Management Team have recommended conditions ensuring that any flood risk is fully considered and mitigated at the approval of reserved matters application stage once the cable route is known. The cable infrastructure is not anticipated increase flood risk or water course flow rates.

Issue – One objector wished it noted that they had not been contacted by the applicant at any time prior to making their representation despite their property being within the site.

Comment (PO) – The extent of consultation between an applicant and third parties is not a matter relevance to the determination of the application.

Issue – The access to properties may need to be crossed by the cable route, and if so what alternative access would be provided?

Comment (PO) – As the precise cable route is not yet defined it is no possible confirm which minor roads will be crossed, and which method of crossing them will be adopted. The EIA Report identifies that various options are open to road crossing, including drilling beneath them or for single track roads, if crossed by open trench a diversion track will be provided to maintain access.

OBSERVATIONS

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the Development Plan i.e. the adopted Moray Local Plan 2015 (MLDP) unless material considerations indicate otherwise. The main issues are considered below.

The application is a National Development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, and as identified in the National Planning Framework 3 (NPF3). NPF3 advises that the erection of any new substations directly linked to cabling of 132 kilovolts or higher forms part of the high voltage electricity transmission network upgrade and is therefore a National Development. The whole onshore transmission project within Moray and Aberdeenshire is classed as a National Development, with each component in terms of the transmission cable and substation a 'national' development in their own right.

This application as a 'National Development' will require to be considered via a 'Pre-determination Hearing' by the Moray Council. Following the modernising planning agenda, introduced through the Planning etc. (Scotland) Act 2006 to increase the level of community engagement and involvement in the planning process, pre-determination hearing became mandatory for certain planning applications. This determination is to involve consideration at a hearing before the Planning and Regulatory Services Committee where Membership of the committee is extended to invite all Elected Members of the Moray Council to participate in the hearing. Moray Council agreed this procedure for pre-determination hearings in June 2014 and this would be the second such pre-determination hearing held to date.

In compliance with The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017 the application is supported by an Environmental Impact Assessment Report (EIA Report). In addition to the EIA Report with associated appendices and figures, the application has also been supported by the submission of a Pre application consultation report, non-technical summary and planning statement. The 2017 EIA Regulations requires the determining Authority to make a reasoned conclusion of the finding of the EIA Report and to comment upon whether it remained up to date and does address the significant effects of the development upon the environment.

As mentioned in the proposals section above this development if approved would be subject of multi stage consents with the current application being for planning permission in principle only. In cases where a consent procedure comprises more than one stage (a 'multistage consent'), one stage involving a principal decision and the other an implementing decision which cannot extend beyond the parameters set by the principal decision, the effects which a project may have on the environment must be identified and assessed at the time of the procedure relating to the principal decision. However, the courts have equally made clear that if those effects are not identified or identifiable at the time of the principle decision, assessment must be undertaken at the subsequent stage. In this case subsequent planning permissions would be required once the cable route is known and the definitive substation design and position is finalised, and the scope of the EIA Report has had to reflect that certain issues would need to be clarified once these matters are known.

Sufficient information has been submitted with this application for planning permission in principle, for it to be possible for Moray Council to determine whether the EIA undertaken at that stage will take account of all potential environmental effects likely to follow as consideration of an application proceeds through the multi-stage process.

As a National Development, the proposal was subject to pre-application consultation procedures with the local community in accordance with the earlier Proposal of Application Notice (14/02158/PAN). A Pre-Application Consultation report was submitted with the planning application which refers to the outcome of the public consultation which was held in Aberdeenshire and within Moray in February and March this year. Within Moray two public consultation events were held one in Buckie on 27th February and in Keith on 28th February (each from midday until 8pm). Invitations were sent to Cullen and Deskford Community Council and to Strathisla Community Council.. Beyond the public adverts and invitations sent, the application also delivered invitations to the public events to residences in the locality of the proposed substation. Between the two exhibitions at Buckie and Keith, a total of 29 members of the public attended.

In brief the feedback identified comments about the offshore windfarm itself (which is subject of a separate consenting process), and various matters regarding the landfall point of the cable route within Aberdeenshire. In respect of the cable route and substation the comments were that the undergrounding of cables was welcomed and proper re-instatement of the land should be undertaken. Mixed responses to the substation were received with a view that it needed to be relocated or conversely that it was in a logical location close to Blackhillock.

The main issues are:

National Planning Framework 3 (NPF3) and offshore renewables context.

NPF3 identifies a number of different types of national development which are of a scale to be in the national interest and as such, in terms of the hierarchy of planning development, fall above the classification of 'major' development and are classed as 'national' development. This planning application involves construction of a high voltage connection from the landfall point from the offshore windfarm (2 cables) and substation south of Blackhillock capable of transmitting over 400kV into the national grid. As such the development falls within National Development 4 relating to any High Voltage Electricity Transmission Developments. Status as a National Development does not make it immune from due consideration within the planning process, but material weight should be attached to the national significance of the development.

The proposed development relates to infrastructure provision for offshore renewable energy production, which is currently being considered by Marine Scotland and lies within a designated location specifically identified within the National Marine Plan for Scotland for offshore renewables (Moray Firth Beatrice zone). Members will have considered the consultation from Marine Scotland for the proposed offshore windfarm for Moray West at Committee on the 13th November 2018. It is therefore not necessary to consider the merits of the offshore energy production itself, or review national guidance relating to renewables.

Hydrology, Hydrogeology, and flooding (EP5, EP6, EP7, EP10, IMP1 and IMP2)

It is acknowledged that with the proposals being for planning permission in principle, and with the cable route in particular as yet undefined matters relating to ground conditions and ground water cannot be specifically addressed.

Areas within the cable corridor are susceptible to flooding, and in line with the requirements of MLDP 2015 policy EP7 Control of Development in Flood Risk Areas, the applicant has submitted in Chapter 5 Hydrology, Hydrogeology and Geology of the EIA Report an assessment of the implications and approach to flooding and ground water of the proposed cable corridor once identified. Following consultation with SEPA and Moray Flood Risk Management a number of conditions have been recommended to ensure further consideration can be given to finalised layout and where it interacts with water crossing, areas of flooding and where surface water drainage is required.

In relation to policy EP4 Private Water Supplies, the EIA Report and supporting documents have sought to identify all potentially affected properties and private source supplies within the application corridor. A more detail mitigation proposal can be provided once the cable route is defined but this application in principle has identified that the precise cable route would be selected taking into consideration private water supplies, and acknowledges that these supplies would need to be protected.

Both SEPA and Moray Flood Risk Management have not objected to the proposals subject to conditions recommended. The proposal therefore complies with MLDP 2015 policies EP5: Sustainable Urban Drainage Systems, EP6: Waterbodies and EP7: Control of Develop in Flood Risk Area which seek to protect the water environment. These goals are also identified in paragraphs d), i) and j) of policy IMP1 Developer Requirements.

In relation to policy EP10 Foul Drainage, in the likelihood that a septic tank and soakaway to service staff welfare facilities at the substation would be required one of the recommended conditions relating to drainage for the substation also seeks details of the house drainage arrangements. This matter would also be separately regulated under Building Standards.

Soil Resources and Geology (ER5, ER6 and IMP1)

MLDP 2015 policies ER5 and IMP1 paragraph l) seeks to protect prime agricultural farmland from irreversible development. As the EIA Report intends the vast majority of the cable corridor to be returned to agricultural use the impact on loss of agriculture land will be minimal. The cable corridor does encompass some prime agricultural land east of Deskford and near Davoch of Grange, but only the further approval of reserved matters applications that would confirm whether these areas are required for the finalised cable route.

The productive agricultural land upon which the substation would be located is not prime agricultural land, and does not therefore depart from policy ER5 Agriculture. The site does not result in any significant incursion into peat (as a carbon rich soil) and will generally occupy farmland for the majority of the cable corridor. It therefore does not conflict with the aims of policy ER6 Soil Resources which seeks to minimise disruption to carbon rich soils. SEPA have requested conditions be imposed allowing for further peat information once the precise cable route is known.

Ecology (E1, E2, E3 and IMP1)

The proposal would need to comply with the requirements of both MLDP 2015 policies E1 Natura 2000 and Natural Conservation Sites and E2: Local Nature Conservation Sites & Biodiversity which address protection of environmental designations. The only notable designation on the site is the Biological SSSI at Mill Wood within the cable corridor. Outwith but close to the site to the south of the substation lies the Den of Pitlurg SSSI, which lies on the boundary between Aberdeenshire and Moray. It is not considered likely that Den of Pitlurg SSSI south of the site will be affected by the development and the various suspensive conditions addressing surface water drainage etc. would ensure the SSSI remains protected.

The development being likely to cross various watercourses may impact upon wetland habitats and areas likely to be classified as Groundwater Dependent Terrestrial Ecosystems (GWDTE's). The EIA has suggested standard techniques of assessment and mitigation for development affecting GWDTE's and the various conditions recommended allow for further analysis of any specific impacts once the cable route has been finalised.

Policy E3 Protected Species seeks to ensure proposals do not have an adverse effect on protected species. The EIA Report identifies a variety of species that might be present within the application boundary and the EIA Report Chapter 6 Ecology and Nature Conservation and the applicant has undertaken an in depth survey of a variety of species present on what is currently a very large site. This will become more focused once the cable route is defined.

Consultation with SEPA, SNH, RSPB have all seen responses not objecting to the principle of the development, but have recommended suspensive conditions and have emphasised that the extensive imbedded mitigation proposed in the cable route selection and other mitigation identified throughout the EIA Report, and summarised in Chapter 15 Summary of the Environmental Impact Assessment. The various conditions recommended and proposed mitigation would ensure that no harm to ecology occurs. Pre-commencement surveys are also proposed which is particularly relevant given that the applicant has sought a longer consenting period than the standard 3 years.

Impact on woodland (E4 and ER2)

Policy E4 Trees and Development seeks to ensure that where there is an irreversible loss of woodland, compensatory planting is provided. Policy ER2 Development in Woodlands identifies a similar commitment.

Of note the EIA Report states the intent to avoid felling woodland which would benefit both habitat retention and the landscape (not to mention preserving the level of woodland with Moray and the National Forest Inventory). The majority of the site within Moray occupies open farmland with only trees between field boundaries likely to be affected. The proposed location of the substation also lies within open farmland where no tree felling would be required. In fact it is intended to introduce additional landscaping around the substation site to minimise the landscape and visual impact.

In the event that the cable corridor once known does require tree felling, a condition is recommended to require compensatory woodland planting details to be submitted for approval and implemented.

Landscape and Visual Impact Assessment (ED7, IMP1 and IMP2)

The location of the substation 4km south of Keith means the most likely visual receptors are several nearby rural properties, residents on the south side of Keith and from the Public roads south and west of Keith. Most notably westbound traffic on the A96 immediately north of the substation site may see the substation.

As the proposed transmission cables would be undergrounded there would be little visual or landscape impact from the cables, with the land generally being returned to agricultural use post installation. The cable laying may result in the felling of some trees, although the EIA report mitigation proposes to minimise tree loss. The transmission cable jointing bays, chambers located every 750m-1000m would result in the presence of ground level inspection chambers, but their visual influence would not extend beyond their immediate vicinity, or impact upon the wider landscape.

Cumulatively the presence of both the larger SSE substation, BOWL substation and the Edintore windfarm to the west will make this area appear visually busier than other rural areas, but given the substation would appear visually separate and screened from the adjoining larger substation its presence is not considered to be detrimental to the wider landscape character already present. The substation site whilst not far from Keith, would not be visible from the town, nor other local vantage points, and is aided by the landscaping mitigation. The development would not have a detrimental impact on the landscape nor appear overly visually obtrusive. Any cumulative visual impact would be mitigated in large part by the retention of Pitlurg Wood to the north and west of the proposed substation site.

The appearance of the substation behind the retained woodland to the west and north and proposed landscaping area upon completion would result in a substation not so prominent as to be unacceptable in terms of MLDP 2015 policy IMP1 Developer Requirements where development should integrate into the surrounding landscape. The opportunity to consider the design, material and layout of the substation would occur at any detailed application stage. As the substation is located on the boundary with Aberdeenshire Council it is relevant to note that they have not objected to the principle of the substation at this location.

Historic Environment (BE1 and BE2)

In terms of Policy BE2 Listed Buildings the potential impact on the setting of Listed Buildings or their curtilage visible potentially visible from the proposed development as assessed under Chapter 8 Historic Environment of the EIA Report. The EIA Report and its appendices have provided a thorough baseline identifying all archaeological and listed assets within and close to the application site. The Council has considered Chapter 8 and its analysis of impacts on listed properties and it evidence that there a few listed properties within or adjacent to the site, relative to its size.

The application site covers a large area, so includes a large number of archaeological features. It is noted that the development site intentionally excluded Berryhillock Conservation Area at the north end of the cable route. Consultation responses from HES and the Aberdeenshire Archaeological Service conclude that subject to archaeological programme of works condition recommended, the proposal is unlikely to raise any matters of national interest for heritage. The opportunity to reflect further on the final cable route and substation will occur at the approval of reserved matters application stage. It should

be noted that the closest Listed Buildings to the proposed substation site lie several km away.

Access and Parking Issues (T2 and T5)

Of the two development elements (transmission cable route and substation) the substation and permanent access will generate a higher level of construction traffic compared to the temporary cable corridor activities. The cable corridor and substation location were chosen to minimise disruption to infrastructure services, including road users, as was the types of crossings of existing roads (e.g. Horizontal Directional Drilling (HDD) under major roads).

The EIA Report Chapter 9 Traffic and Transport, seeks to identify the main receptors and issues likely to be affected within the current application site and set out a methodology and mitigation once the cable route is known. This identifies the measures that would be used to protect or temporarily cross paths, tracks and roadways. As the application is in principle only, the specific details of how the local road network may be affected are not known, but any definitive cable route, jointing bays, temporary access roads, temporary compounds, and remaining permanent jointing bay inspection tracks will all have to subject of further approval of matters specified in conditions applications.

Several suspensive conditions are recommended by the Transportation Section regarding delivery of the further information to be submitted, inclusive of abnormal loads to the site. It is anticipated that some of the apparatus for the development may be abnormally heavy if not oversized, and this has to been taken into consideration as part of the route selection (a condition requiring consideration of abnormal deliveries is recommended). Subject to the conditions recommended, the Transportation Section raise no objection to the proposal and in terms of EIA these conditions would allow for further detailed consider any environmental effects of the proposal once submitted in detail. MLDP 2015 policy T2: Provision of Access has therefore been complied with.

The parking requirements for temporary works compounds and the permanent electricity substation would be known and assessed at the approval of reserved matters application stages but there is sufficient space theoretically within the site boundaries and substation location to provide the requisite parking to comply with policy T5 Parking Standards.

Relevant to representations lodged, the EIA Report identifies that to prevent road closures for open trench cable laying, a temporary road or diversion would be constructed/ implemented where the cable circuits are to be installed within a single-track road. Where a single carriageway road is to be crossed using open cut techniques, traffic flow will be maintained with one lane of the road remaining open and under signal control. Once the cable circuits have been installed, all roads will be reinstated. It is anticipated for main roads that the cables would be laid beneath the roads, using the HDD technique to minimise disruption.

Air Quality, Dust and Vibration (EP8 and EP12)

Development proposals, which, individually or cumulatively, may adversely affect the air quality in an area to a level which could cause harm to human health and wellbeing or the natural environment must be accompanied by appropriate provisions (deemed satisfactory to the Council and Scottish Environment Protection Agency as appropriate) which demonstrate how such impacts will be mitigated.

Given the distance of the proposed excavations and other construction activities from the sensitive receptors such as dwellings or other public/occupied buildings, air quality matters, assessed under policy EP12, such as dust will not be significant for the proposed development. Proper site management and good working practices as identified in the mitigation measures proposed in Chapter 11 Air Quality will result in negligible air quality impact for the development.

Chapter 10 Noise and Vibration notes that the distance of the proposed substation from other substations and other development is sufficient that cumulative noise should not be an issue. Also it is not anticipated that vibration from HDD drilling and other construction activity should result in any long term detrimental impacts on residences, however via recommended conditions for the CEMP more detailed consideration will be given to this matter once if detailed planning applications are lodged with a definitive cable route.

Conditions relating to the submissions to one or more CEMP's include the requirement to address dust and air quality, construction noise and vibration so these matters will be given more thorough consideration once detailed applications are submitted. A specific condition relating to submission of a Noise Impact Assessment is also recommended in relationship to the substation.

A condition is recommended requiring all the mitigation measures across the various Chapters of the EIA Report (consolidated in Chapter 15) to be implemented. These in summary ensure that the any detailed applications coming forward will demonstrate that construction activity, be it on site, or vehicles leading to and from the site seek to minimise the disruption, pollution, noise and other negative aspects associated with construction activity.

Hazardous sites (EP11)

The site currently adjacent to the high pressure gas main that lies to the proposed substation site at Whitehillock. The HSE have not responded or objected to the proposals and the developer has already been in contact directly with Scottish Gas Networks and intend to avoid the high pressure gas main. The substation has been specifically located to maintain a suitable distance from the gas main to the south west of the site and it is therefore compliant with MLDP policy 2015 EP11 Hazardous Sites.

Socio-economics, Tourism and Recreation (PP1, ED7 and T7)

This project is identified in the National Planning Framework and would contribute to power and infrastructure serving the Offshore Wind energy sector.

MLDP 2015 policies PP1 Sustainable Economic Growth and ED7 Rural Business Proposals seeks to encourage industrial activity in the countryside only where there is location justification; where appropriate infrastructure is provided and environmental and visual impact has been taken into consideration. In this case the undergrounding of cables, provision of substantial areas of landscape screening and clear locational need to connect to the national grid near the Blackhillock SSE substation, all meet the above requirements of these two policies. There are no notable recreational, tourist or historic attractions close to the substation site that would be impacted upon.

Chapter 12 Socio-economics, Tourism and Recreation acknowledges that the cable laying process may cause some disruption to tracks, paths and in conjunction with the

Transportation Section, any construction traffic management plan, would address non-vehicular routes affected also. Comfort can be taken from the knowledge that the cable construction period will be temporary and the reverted back to its previous use, so minimal or no long term disruption to recreational activities would occur. Temporary diversions for core paths would be provided where necessary and where the cable would be laid beneath tracks, a parallel temporary track would be provided. On this basis the requirements of policy T7: Safeguarding & Promotion of Walking, Cycling, & Equestrian Networks have been satisfied.

Developer Obligations (IMP3)

Given the nature of the project which is effectively for infrastructure, there has been no need to or mandate to seek developer obligations. Off note discussion about contributions toward community benefit for the related offshore windfarm would be a separate matter from the current planning application.

Conclusions

The proposal seeks permanent permission for onshore transmission infrastructure to serve the Moray West Offshore Windfarm and connect it to the national grid and the existing substation at Blackhillock. The current application if approved would see the submission of a number of applications for matters conditioned, that through the imposition of the conditions recommended would obligate subsequent applications to provide the embedded and additional mitigation required to make the development acceptable. Beyond the reasoned conclusion below on the EIA process, the development as presented would in principle comply with the relevant policies of the Moray Local Development Plan 2015. Following a balanced consideration of the above matters and representations received, it appropriate to recommend approval of the application subject to the conditions recommended.

REASON(S) FOR DECISION

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

The proposal accords with the provisions of the Moray Local Development Plan 2015 and there are no material considerations that indicate otherwise. The submitted EIA Report provided sufficient information to grant planning permission in principle only and any subsequent approval of matters specified in conditions applications sought must provide the details that are specified in the conditions of this permission.

Reasoned conclusion on the significant effects of the development on the environment (Regulation 29 of the EIA Regulations 2017)

Moray Council, as Planning Authority has taken account of all relevant information, consider that the proposal can be supported having regard to the nature and impact of the proposed cable route and substation, and that its location is appropriate in local and national planning policy terms. The Summary of the Environmental Impact Assessment in Chapter 15 of the EIA report provide a useful summary of the baseline and other information gathered which is up to date and does allow for the principle of the development to be considered at the principle stage. The EIA Report suitably addressed the matters that will be further defined at any further detailed consenting stage.

The Council has considered, fully and carefully, the environmental information as presented and concludes that the development will not give rise to any significant adverse environmental effects, as the proposal incorporates the necessary environmental design and mitigation measures to minimise such effects and impacts. These include measures to address impacts upon the landscape and visual effects, biodiversity (wildlife and ecology including GWDTE), hydrology and hydrogeology, cultural heritage (archaeology), traffic, transportation, and woodland. The methodology of cable laying and anticipated options for crossing/passing water courses, roads and other sensitive features does allow for Moray Council to consider the principle of the development. Similarly with the location of the proposed substation specified within the field at Whitehillock allows for consideration of its presence, subject to definitive visual and drainage design considerations.

In the absence of any unacceptable or significant environmental impacts and subject to conditions as recommended, the proposal is acceptable in EIA terms. Where consultees have proposed conditions to mitigate/monitor impacts these have been secured by conditions attached to the consent. Conditions to secure the monitoring of impacts in relation to wildlife, biodiversity etc. have also been attached to the consent.

The Council is satisfied that this reasoned conclusion is up-to-date.

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APPENDIX

POLICY

Adopted Moray Local Development Plan 2015

Primary Policy PP2: Climate Change

In order to contribute to reducing greenhouse gas emissions, developments of 10 or more houses and buildings in excess of 500 sq m should address the following:

- Be in sustainable locations that make efficient use of land and infrastructure
- Optimise accessibility to active travel options and public transport
- Create quality open spaces, landscaped areas and green wedges that are well connected
- Utilise sustainable construction techniques and materials and encourage energy efficiency through the orientation and design of buildings
- Where practical, install low and zero carbon generating technologies
- Prevent further development that would be at risk of flooding or coastal erosion
- Where practical, meet heat and energy requirements through decentralised and local renewable or low carbon sources of heat and power
- Minimise disturbance to carbon rich soils and, in cases where it is agreed that trees can be felled, to incorporate compensatory tree planting.

Proposals must be supported by a Sustainability Statement that sets out how the above objectives have been addressed within the development. This policy is supported by supplementary guidance on climate change.

Policy ED7: Rural Business Proposals

New business developments, or extensions to existing industrial/economic activities in the countryside, will be permitted if they meet all of the following criteria:

- a) There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement.
- b) There is capacity in the local infrastructure to accommodate the proposals, particularly road access, or that mitigation measures can be achieved.
- c) Account is taken of environmental considerations, including the impact on natural and built heritage designations, with appropriate protection for the natural

environment; the use of enhanced opportunities for natural heritage integration into adjoining land.

- d) There is careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, standard industrial estate/urban designs may not be appropriate.

Proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business premises will be encouraged, provided road access and parking arrangements are acceptable.

Where noise emissions or any other aspect is considered to be incompatible with surrounding uses, there will be a presumption to refuse.

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

Primary Policy PP1: Sustainable Economic Growth

The Local Development Plan identifies employment land designations to support requirements identified in the Moray Economic Strategy. Development proposals which support the Strategy and will contribute towards the delivery of sustainable economic growth and the transition of Moray towards a low carbon economy will be supported where the quality of the natural and built environment is safeguarded and the relevant policies and site requirements are met.

Policy E2: Local Nature Conservation Sites and Biodiversity

Development likely to have a significant adverse effect on Local Nature Reserves, native woodlands identified in the Native Woodland Survey of Scotland, raised peat bog, wetlands, protected species, wildlife sites or other valuable local habitat or conflict with the objectives of Local Biodiversity Action Plans will be refused unless it can be demonstrated that;

- a) local public benefits clearly outweigh the nature conservation value of the site, and
- b) there is a specific locational requirement for the development

Where there is evidence to suggest that a habitat or species of importance exists on the site, the developer will be required at his own expense to undertake a survey of the site's natural environment.

Where development is permitted which could adversely affect any of the above habitats or species the developer must put in place acceptable mitigation measures to conserve and enhance the site's residual conservation interest.

Development proposals should protect and where appropriate, create natural and semi natural habitats for their ecological, recreational and natural habitat values. Developers will be required to demonstrate that they have considered potential improvements in habitat in the design of the development and sought to include links with green and blue networks wherever possible.

Policy E3: Protected Species

Proposals which would have an adverse effect on a European protected species will not be approved unless;

- there is no satisfactory alternative; and
- the development is required to preserve public health or public safety, or for other reasons of overriding public interest, including those of a social or economic nature, and beneficial consequences of primary importance for the environment; and the development will not be detrimental to the maintenance of the population of species concerned at a favourable conservation status of the species concerned.

Proposals which would have an adverse effect on a nationally protected species of bird will not be approved unless;

- There is no other satisfactory solution
- The development is necessary to preserve public health or public safety
- The development will not be detrimental to the conservation status of the species concerned.

Proposals which would have an adverse effect on badgers or their setts must be accompanied by a Badger Protection Plan to avoid, minimise or compensate for impacts. A licence from Scottish Natural Heritage may be required as well as planning permission. Where a protected species may be affected a species survey should be prepared to accompany the application to demonstrate how any offence under the relevant legislation will be avoided.

Policy E4: Trees and Development

The Council will serve Tree Preservation Orders (TPO's) on potentially vulnerable trees which are of significant amenity value to the community as a whole, 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 protection should be replaced, unless otherwise agreed with the Council.

Woodland removal will only be permitted where it would achieve significant and clearly defined additional public benefits. Where woodland is removed in association with development, developers will generally be expected to provide compensatory planting. The Council may attach conditions on planning consents ensuring that existing trees and hedges are retained or replaced.

Development proposals will be required to meet the requirements set out in the Council's Trees and Development Supplementary Guidance. This includes carrying out a tree survey to identify trees on site and those to be protected. A safeguarding distance should be retained between mature trees and proposed developments.

When imposing planting or landscaping conditions, native species should be used and the Council will seek to promote green corridors.

Proposals affecting woodland will be considered against Policy ER2.

Policy E10: Countryside Around Towns

Development proposals within the Countryside Around Towns (CAT's) areas identified around Elgin, Forres, Buckie, Keith and Lossiemouth will be refused unless they:

- a) involve the rehabilitation, conversion, limited extension, replacement or change of use of existing buildings, or
- b) are necessary for the purposes of agriculture, forestry, low intensity recreational or tourism use or specifically allowed under the terms of other Local Development Plan policies or settlement statements within these areas (excluding houses in all these cases), or
- c) are a designated "LONG" term housing allocation, released for development under the terms of Policy H2.

Policy BE2: Listed Buildings

The Council will encourage the protection, maintenance, enhancement and active use of listed buildings.

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

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

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

- a) The building is not of special interest; or
- b) The building is incapable of repair; or
- c) The demolition of the building is essential to delivering significant benefits to economic growth or the wider community; or
- d) The repair of the building is not economically viable and that it has been marketed at a price reflecting its location and condition to potential restoring purchasers for a reasonable price.

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

Buildings which are allowed to fall into a state of disrepair may be placed on the Buildings at Risk Register and remedial works to buildings in disrepair may be enforced in the public interest.

Proposals should be in accordance with guidance set out in the Scottish Historic Environment Policy (SHEP) and the Managing Change in the Historic Environment guidance note series.

Policy BE3: Conservation Areas

Development proposals within Conservation Areas will be refused if they adversely affect the character and appearance of the Conservation Area in terms of scale, height, colour, detailed design, use and siting.

All development within the Conservation Area should preserve or enhance the established traditional character and appearance of the area. Given the importance of assessing design matters, applications for planning permission in principle must be accompanied by sufficient information to allow an appraisal of the potential impact on the Conservation Area.

Development proposals involving the demolition of buildings within a Conservation Area will be refused unless the building is of little townscape value, if its structural condition rules out retention at a reasonable cost, or its form or location make its re-use extremely difficult. Where redevelopment is proposed, consent to demolish will only be granted where there are acceptable proposals for the new building.

Minor works in Conservation Areas including boundary walls, fences, external fixtures and advertisements can adversely affect its character. Proposals of this nature will be assessed in line with Managing Change in the Historic Environment Guidance Notes.

Windows

Replacement windows shall match the original windows in proportions and appearance and shall open in a traditional sash manner (or by means of an approved sliding and tilting mechanism) or be in the form of casements whichever is appropriate. UPVC or metal framed windows will not normally be considered acceptable.

Signage

Signage obscuring architectural details will not be permitted. Signage should be timber or etched glass; synthetic materials are not considered appropriate. Signage should also harmonise with the colour of the shop front and lettering should be individual and hand painted. Projecting signage shall be traditional timber design. Illumination of signage shall be by discreet trough lighting, internal illumination is not considered to be acceptable.

EP4: Private Water Supplies

All proposals to use a private water supply must demonstrate that a wholesome and adequate supply can be provided. Applicants will be required to provide a National Grid Reference for each supply source and mark the supply (and all works associated) e.g. the source, holding tank and supply pipe, accurately on the application plan. The applicant will also be required to provide information on the source type (e.g. well, borehole, spring). This information is necessary to enable the appropriate authorities to advise on the environmental impact, adequacy, wholesomeness, capacity of supply for existing and proposed users and pollution risks.

Policy EP5: Surface Water Drainage: Sustainable Urban Drainage Systems (SUDS)

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

Specific arrangements should be made to avoid the issue of permanent SUD features becoming silted-up with construction phase runoff. Care must be taken to avoid the introduction of invasive non-native species during the construction of all SUD features.

Applicants must agree provisions for long term maintenance of the SUDS scheme to the satisfaction of the Council in consultation with SEPA and Scottish Water as appropriate.

A Drainage Assessment (DA) will be required for developments of 10 houses or more, industrial uses, and non-residential proposals of 500 sq metres and above.

The Council's Flood Team will prepare Supplementary Guidance on surface water drainage and flooding.

Policy EP6: Waterbodies

Proposals must be designed to avoid adverse impacts upon water environment and should seek opportunities for restoration. The Council will only approve proposals impacting on water features where the applicant provides a satisfactory report that demonstrates that any impact (including cumulative) on water quality, water quantity, physical form (morphology), river hydrology, sediment transport and erosion, nature conservation, fisheries, recreational, landscape, amenity, and economic and social impact can be adequately mitigated.

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

A buffer strip of at least 6m between any new development and all water features is required. These should be designed to link with blue and green networks and can

contribute to open space requirements. Developers may be required to make improvements to the water environment as part of the development.

Policy EP7: Control of Development in Flood Risk Areas

New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and to the satisfaction of both the Scottish Environment Protection Agency and the Council is provided by the applicant. This assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater.

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

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

Areas within these risk categories will generally not be suitable:

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

recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flow), and

- An alternative, lower risk location is not available and
- New caravan and camping sites.

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

Policy EP8: Pollution

Planning applications for developments that may cause significant pollution in terms of noise (including RAF aircraft noise), air, water and light emissions will only be approved where a detailed assessment report on the levels, character and transmission of the potential pollution is provided by the applicant. The assessment should also demonstrate how the pollution can be appropriately mitigated. Where the Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

Policy EP9: Contaminated Land

Development proposals on potentially contaminated land will be approved provided that:

- a) 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
- b) 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.

The Council recommends early contact with the Environmental Health Section, which can advise what level of information will need to be supplied.

Policy EP10: Foul Drainage

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

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

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

All development within or close to settlements (as identified in the Local Development Plan) of less than 2000 population equivalent will require to connect to public sewerage system except where a compelling case is made otherwise. Factors to be considered in such a case will include size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add risk of detrimental effect, including cumulative, to the natural and built environment, surrounding uses or amenity of the general area. Consultation with Scottish Environment Protection Agency will be undertaken in these cases.

Where a private system is deemed to be acceptable (within settlements as above or small scale development in the countryside) a discharge to land (either full soakaway or raised mound soakaway) compatible with Technical Handbooks (which sets out guidance on how proposals may meet the Building (Scotland) Regulations 2004) should be explored prior to considering a discharge to surface waters.

Policy EP11: Hazardous Sites

The Council will have regard to the presence of major hazard sites, and apply the PADHI (Planning Advice for Development near Hazardous Installations) methodology for planning applications within the consultation distances around these sites. Formal consultations with the Health and Safety Executive and also the Scottish Environment Protection Agency (SEPA) will take place as appropriate.

Policy EP12: Air Quality

Development proposals, which, individually or cumulatively, may adversely affect the air quality in an area to a level which could cause harm to human health and wellbeing or the natural environment must be accompanied by appropriate provisions (deemed satisfactory to the Council and Scottish Environment Protection Agency as appropriate) which demonstrate how such impacts will be mitigated.

Some existing land uses may have a localised detrimental effect on air quality, any proposals to locate development in the vicinity of uses and therefore introduce receptors to these areas (e.g. housing adjacent to busy roads) must consider whether this would result in conflict with the existing land use. Proposals which would result in an unacceptable conflict with existing land use and air quality will not be approved.

Policy ER1: Renewable Energy Proposals

All Renewable Energy Proposals

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

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

- ii) They do not result in the permanent loss or damage of agricultural land
- iii) They avoid or address any unacceptable significant adverse impacts including:
 - Landscape and visual impacts
 - Noise impacts
 - Electromagnetic disturbance
 - Impact on watercourse engineering
 - Impact on peat land hydrology
 - Electromagnetic disturbance
 - Impact on watercourse engineering
 - Traffic Impact
 - Ecological Impact
 - Impact on tourism and recreational interests

Onshore wind turbines

In addition to the assessment of impact outlined above the following considerations will apply:

a) The Spatial Framework

Areas of Significant Protection*: where the council will apply significant protection and proposals will only 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: where the council is likely to support proposals subject to detailed consideration.

* This protection will also apply to areas with carbon rich soils, deep peat and priority peatland habitat. This constraint is not currently included on the spatial strategy mapping but will be addressed through Supplementary Guidance once the relevant data becomes available.

b) Detailed Consideration

The proposal will be determined through assessment of the details of the proposal, including its benefits, and the extent to which it avoids or mitigates any unacceptable significant adverse impact. Detailed assessment** of impact will include consideration of the extent to which:

Landscape and visual impact:

- The proposal addresses the Guidance set out in the Moray Windfarm Landscape Capacity Study
- The landscape is capable of accommodating the development without significant detrimental 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

- Any detrimental impact from two or more wind energy developments and the potential for mitigation is addressed.

Impact on local communities

- The proposal addresses any detrimental 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 any impacts arising from 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.

** Further detail on the above assessment process will be addressed through supplementary guidance to include:

- Peat mapping once this becomes available
- Detailed mapping of constraints
- Guidance on areas with greatest potential for small/medium and large scale wind farms.

Biomass

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

- Proposals should 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 can demonstrate that they have taken account of the amount of supply fuel over the life of the project.
- When considering woody biomass proposals the scale and location of new development is appropriate to the volume of local woodfuel available.
- 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 should be submitted, which should include photomontages from viewpoints agreed by the Council.
- There should 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 should 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 should be provided.
- Where necessary appropriate structural landscaping must be provided to assist the development to integrate sensitively.
- The criteria set out in relation to other renewables should also be met.

The Council will consult with the Forestry Commission Scotland (FCS) to help predict potential woodfuel supply projections in the area.

Policy ER2: Development in Woodlands

All woodlands

Development which involves the loss of woodlands will be refused where the development would result in unacceptable adverse effects on the amenity, landscape, biodiversity, economic or recreational value of the woodland or prejudice the management of the forest. Woodland removal will only be supported where it can be demonstrated that the impact on the woodland is clearly outweighed by social or economic benefits of national, regional and local importance, and if a programme of proportionate compensatory planting has been agreed with the Planning Authority.

Protected Woodlands

Woodland removal within native woodlands, ancient semi natural and woodlands within sites protected under the terms of policies E1 and E2 will not be supported.

Tree surveys and new planting

Development proposals must take account of the Council's Trees and Development supplementary guidance. The Council will require the provision of compensatory planting to mitigate the effects of woodland removal.

Where appropriate the Council will seek opportunities to create new woodland and plant native trees in new development proposals. If a development would result in the severing or impairment of connectivity between important woodland habitats, mitigation measures should be identified and implemented to support the wider green network.

Policy ER3: Safeguarding Mineral Reserves

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

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

Policy ER5: Agriculture

The Council will support the agricultural sector by:

- a) Presuming against irreversible development on prime agricultural land (classes 1,2 and 3.1) unless the site is required for settlement expansion and there is no other suitable alternative.
- b) Supporting farm diversification proposals in principle and supporting business proposals which are intended to provide additional income/ employment on farms.

Proposals for agricultural buildings with a locational requirement will be subject to visual, landscape and amenity considerations and considered against the relevant environmental policies.

Policy ER6: Soil Resources

Where peat and other carbon rich soils are present disturbance to them may lead to the release of carbon dioxide contributing to the greenhouse gas emissions. Developers should assess the likely effects associated with any development work and aim to mitigate any adverse impacts arising.

For major developments, minerals and large scale (over 20MW) renewable energy proposals, development will only be permitted where it has been demonstrated that unnecessary disturbance of soils, peat and any associated vegetation is avoided. Evidence of the adoption of best practice in the movement, storage, management and reinstatement of soils must be submitted along with any relevant planning application, including if necessary measures to prevent the spread of invasive non-native species.

Major developments, minerals and large scale renewable energy proposals on undisturbed areas of deep peat (defined as 1.0m or more) will only be permitted for these uses where:

- a) the economic, social and/or environmental benefits of the proposal outweigh any potential detrimental effect on the environment (in particular with regard to the release of carbon dioxide into the atmosphere); and
- b) it has been clearly demonstrated that there is no viable alternative.

Where development on undisturbed peat is deemed acceptable, a peat depth survey must be submitted which demonstrates that the areas of deepest peat have been avoided. Where required, a peat management plan must also be submitted which demonstrates that unnecessary disturbance, degradation or erosion of peat is avoided.

Large scale commercial peat extraction will not be permitted.

Policy T2: Provision of Access

The Council will require that new development proposals are designed to provide the highest level of access for end users including residents, visitors, and deliveries

appropriate to the type of development and location. Development must meet the following criteria:

- Proposals must maximise connections and routes for pedestrian and cyclists, including links to active travel and core path routes, to reduce travel demands and provide a safe and realistic choice of access.
- Provide access to public transport services and bus stop infrastructure where appropriate.
- Provide appropriate vehicle connections to the development, including appropriate number and type of junctions.
- Provide safe entry and exit from the development for all road users including ensuring appropriate visibility for vehicles at junctions and bends.
- Provide appropriate mitigation/modification to existing transport networks where required to address the impacts of new development on the safety and efficiency of the transport network. This may include but would not be limited to, the following measures, passing places, road widening, junction enhancement, bus stop infrastructure and drainage infrastructure. A number of potential road improvements have been identified in association with the development of sites the most significant of these have been shown on the Settlement Map as TSPs.
- Proposals must avoid or mitigate against any unacceptable adverse landscape or environmental impacts.

Developers should give consideration to aspirational core paths (under Policy 2 of the Core Paths Plan) and active travel audits when preparing proposals.

New development proposals should enhance permeability and connectivity, and ensure that opportunities for sustainable and active travel are protected and improved.

The practicality of use of public transport in more remote rural areas will be taken into account however applicants should consider innovative solutions for access to public transport.

When considered appropriate by the planning authority developers will be asked to submit a Transport Assessment and Travel Plan.

Significant travel generating proposals will only be supported where:

- Direct links to walking and cycling networks are available;
- Access to public transport networks would involve walking no more than 400m;
- It would not have a detrimental effect on the capacity of the strategic road and/or rail network; and
- A Transport Assessment identifies satisfactory mechanisms for meeting sustainable transport requirements and no detrimental impact to the performance of the overall network.

Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

Policy T5: Parking Standards

Proposals for development must conform with the Council's current policy on parking standards.

Policy T6: Traffic Management

There is a presumption against new accesses onto a trunk road, and Transport Scotland will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

There will also be a presumption against new direct access onto other main/key routes (the A941 and A98) except where required to support the provisions of the development plan. Moray Council will consider the case for such junctions where significant regional economic growth benefits can be demonstrated. Consideration will be given to the traffic impact, appropriate road design and traffic management requirements.

Policy T7: Safeguarding & Promotion of Walking, Cycling, & Equestrian Networks

The Council will promote the improvement of the walking, cycling, and equestrian networks within Moray. Priority will be given to the paths network including Core Paths and the wider Moray Paths Network. There are several long distance routes that cross Moray including the Speyside Way, Dava Way, Moray Coastal Trail and Aberdeen to Inverness National Cycle Route.

Development proposals that would have an unacceptable impact on access rights, core paths, rights of way, long distance routes and other access routes that cannot be adequately mitigated will not be permitted. Where a proposal will affect any of these, proposals must:

- incorporate the route within the site layout and the routes amenity value must be maintained or enhanced; or
- provide alternative access that is no less attractive and is safe and convenient for the public to use.

Policy IMP1: Developer Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It should comply with the following criteria

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.

- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.
- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

Policy IMP2: Development Impact Assessments

The Council will require applicants to provide impact assessments in association with planning applications in the following circumstances:

- a) An Environmental Assessment (EA) will be required for developments that are likely to have significant environmental affects under the terms of the regulations.
- b) A Transport Assessment (TA) will be sought where a change of use or new development is likely to generate a significant increase in the number of trips being made. TAs should identify any potential cumulative effects which would need to be addressed. Transport Assessments should assess the effects the development will have on roads and railway infrastructure including stations and any crossings. Transport Scotland (Trunk Roads) and Network Rail (Railway) should be consulted on the scoping of Transport Assessments. Moray Council's Transportation Service can assist in providing a screening opinion on whether a TA will be sought.
- c) In order to demonstrate that an out of centre retail proposal will have no unacceptable individual or cumulative impact on the vitality and viability of the identified network of town centres, a Retail Impact Assessment will be sought where appropriate. This may also apply to neighbourhood shops, ancillary retailing and recreation/tourism retailing.

- d) Where appropriate, applicants may be asked to carry out other assessments (e.g. noise; air quality; flood risk; drainage; bat; badger; other species and habitats) in order to confirm the compatibility of the proposal.

Policy IMP3: Developer Obligations

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

Where the necessary contributions can be secured satisfactorily by means of planning conditions attached to a planning permission, this should be done, and only where this cannot be achieved, for whatever reason, the required contributions should be secured through a planning agreement.

The Council will prepare supplementary guidance to explain how the approach will be implemented in accordance with Circular 3/2012 on Planning Obligations. This will detail the necessary facilities and infrastructure and the scale of contributions likely to be required.

In terms of affordable housing, developments of 4 or more units will be expected to make a 25% contribution, as outlined in policy H8.

Berryhillock

The majority of the village is designated as a Conservation Area and Conservation Area Policy BE3 will apply.

There are no identified development opportunities. The Old Mill is at risk of fluvial flooding. Proposals will have to be accompanied by a Flood Risk Assessment (FRA) which may remove the developable area of the site. Opportunities on this site are restricted to replacement and renovation only, which do not result in a change of use of a more vulnerable use.

A public water supply is available but drainage for any new development must be served by new septic tanks and mounds/soakaways.

Character Description: 1 Kirktown/Farmland.

Specific Character Features

- **Group A** buildings dominant.
- Open spaces/paddocks between buildings.