

22/01208/APP
23rd August 2022

**Section 42 to amend condition 3 of 17/01003/APP in
relation to time period Meikle Hill Dallas Moray
for The Dallas Trust**

Comments:

- The proposal is a major planning application.
- The application was advertised for neighbour notification purposes.
- No representations have been received.

Procedure:

- None.

Recommendation

Grant Planning Permission - subject to the following:

Conditions/Reasons

1. The development as hereby granted shall begin no later than 5 years from the date of this permission; and for the purposes of this permission, the development as hereby granted shall be that as described and approved under formal decision notice 14/01087/EIA dated 25 June 2015 i.e. for six (6) wind turbines only, to be undertaken in accordance with the turbine model design and site infrastructure layout arrangements as shown on amended drawings 60289428-ENG -003 Rev C and -002 Rev C as received from the applicant on 1 April 2015 which forms part of the development as approved under application 14/01087/EIA and the request to vary Condition 20 has been removed.

Reason: In accordance with Section 58 (4) of the Town and Country Planning (Scotland) Act 1997 taking into account the nature and requirements for implementation of the development and to ensure an acceptable form of development whereby all turbines as proposed are located within an Area of Search and in the Upland Moorland and Forestry Landscape Character Type/Area with greatest potential for windfarm development and in the Upland Moorland and Forestry/Upland Plateau with Forest (10) Landscape Character Type wherein there is limited scope to accommodate this large turbine typology, and in the interests of the appearance and amenity of the surrounding locality including account of landscape and visual effects of the development, and in accordance with the applicant's agent's submitted particulars (email 18 August 2017 refers).

2. Except where otherwise provided for, or required by the terms of this permission, the permission hereby granted relates strictly to the dimensions and specifications of the turbine design (including make, model, design, power rating and sound power level of the turbine to be used) and site layout infrastructure arrangements as provided for in the application and, with the exception of any micro-siting of turbines and other infrastructure, to all other mitigation measures as identified in the Environmental Statement and subsequent Addendum I and II of the Environmental Statement (as included within application 14/01087/EIA), and any amendment thereof shall be subject to the express prior written approval of the Council, as planning authority.

Reason: To ensure the development is carried out in accordance with the submitted application particulars and that the merits and implications of any proposed micro-siting or other variation to the development as approved can be assessed in terms of impact on landscape and visual, cultural and natural heritage and/or other environmental interests, etc.

3. The permission as hereby granted is for a period of 40 years from the date when electricity is first exported from any wind turbine within the development to the electricity grid network (First Export Date) and written confirmation of this First Export Date shall be provided to the Council, as planning authority within one month thereof. Within 12 months of the expiry of this period the wind turbines and ancillary equipment shall be dismantled to ground level and removed from the site and the land shall be restored in accordance with the details agreed under condition 5 below.

Reason: To define the duration of the permission and enable a review and; where required, a re-assessment of the environmental and other impacts of the development.

4. The applicant/developer/wind turbine operator shall, after the First Export Date, record information continuously regarding the monthly supply of electricity to the national grid from each turbine within the development hereby granted and retain the information for a period of at least 24 months. The information shall be made available to the Council, as planning authority within one month of any request being made.

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

Reason: To ensure that any redundant or non-functioning wind turbine(s) is/are

removed from the site in the interests of public safety, amenity and environmental protection and to ensure acceptable arrangements for the re-instatement of the ground are provided.

5. No development shall commence until:
 - a) a draft Restoration and Decommissioning Plan for the site has been submitted to and approved in writing by the Council, as planning authority in consultation with SEPA, SNH and/or other agencies as appropriate; and
 - b) thereafter, and not later than 12 months prior to the expiry of this permission or decommissioning of the development, whichever is the sooner, a detailed Restoration and Decommissioning Plan, based upon (the principles of the approved draft Plan shall be submitted to and approved by the Council, as planning authority in consultation with SEPA, SNH and/or other agencies as appropriate. The Plan shall include provision for all turbines and ancillary infrastructure and equipment (including all buildings and structures, hardstandings and tracks, etc.) to be decommissioned, de-energised, and dismantled to ground level and removed from the site together with the arrangements to retain any access tracks and other infrastructure on the site, the treatment of disturbed ground surfaces, the management and timing of all proposed works, environmental management provisions including traffic and noise management plans to address issues likely to arise during the decommissioning period and provisions for the restoration and aftercare of the site; and

Thereafter, the development shall be decommissioned and the site restored in accordance with the approved plan details.

Reason: To ensure the re-instatement of the site in an acceptable and timeous manner with all wind turbines and associated development removed from the site in the interests of safety, environmental protection, amenity and appearance of the site upon the surrounding area.

6. Prior to the development commencing, details shall be submitted to and approved in writing by the Council, as planning authority regarding evidence of a bond or other similar financial provision to be put in place to cover all decommissioning and site restoration costs on the expiry of the permission (Condition 5) or where all 6 turbines cease to be required (Condition 4) or where works other than the erection of turbines have been undertaken but no turbines are erected on the site (for example, in the event that no Scheme is agreed/implemented (Condition 25), whichever is the sooner. The required bond or equivalent shall:
 - a) be based on the Restoration and Decommissioning Plan (as required by Condition 5);
 - b) include documentary evidence to demonstrate that the amount of the bond or financial provision is sufficient to meet the full estimated costs of decommissioning, including dismantling, removal, disposal, site restoration, remediation and all other incidental works and professional costs; and
 - c) include details to ensure that the proposed financial arrangements will be maintained and be subject to periodic review throughout the lifetime of the development. The review period shall be not less than 5 yearly intervals from commencement of the development, or such other period as may be agreed

in writing with the Council, as planning authority and the findings of the review shall be submitted to and approved by the Council, as planning authority.

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

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

7. No development shall commence until details have been submitted to and approved by the Council, as planning authority in consultation with SNH, SEPA and other agencies where appropriate regarding;
 - a) confirmation of the make, model, design, power rating and sound power levels of the turbines to be used;
 - b) the external colour and/or finish of the turbines including towers, nacelles and blades which shall be non-reflective, semi-matt pale grey;
 - c) together with details including further landscape and visual impact information to demonstrate that they will not adversely affect the landscape and visual character, integrity and amenity of the site or the surrounding area, the location, design specifications and external material finishes and colour of any external wind turbine transformer kiosk, unless otherwise located within the tower of the wind turbine;
 - d) for the substation compound, the design external appearance and material finishes and colour of all proposed buildings and structures to be erected, stationed or installed within the compound area together with the finalised site layout arrangements, including the external appearance, dimensions and surfacing materials for the compound area, any walls, paths or other proposed/required ancillary infrastructure to be provided, any required/proposed external switch gear infrastructure to be located within the compound, the arrangements for access and parking and disposal of foul and surface water from the compound area, and all required/proposed landscaping to be provided around the compound or elsewhere within the site to screen and/or mitigate the landscape and visual impact of the compound and its infrastructure therein;
 - e) excluding the requirement for compensatory planting (see Condition 28) and for all other required/proposed landscaping requirements throughout the site, a landscape scheme (see Condition 9);
 - f) the location(s) and design specifications for all required/proposed upgraded existing and new watercourse crossings, to include information to demonstrate that they are designed to convey a 1 in 200 year plus climate change design flow without causing constriction of flows or increasing the risk of flooding elsewhere (SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 1.1, 1.10, 1.11 refers);
 - g) for the formation of access tracks and watercourse crossings, information including the extent and scale of the required/proposed works to demonstrate that no land raising occurs within the functional flood plain of any watercourse without the provision of associated compensatory storage and an assessment of the changes to floodplain conveyance (SEPA

- consultation responses on application 14/01087/EIA and 17/01003/APP, 16 July 2014 and 14 July 2017, pars 1.1, 1.5 - 1.11 and pars 1.1 - 1.9 refer);
- h) details of the arrangements including timescale(s) for inspection to manage and mitigate surface water run-off during all stages of the development including proposals/regimes for inspection and maintenance of drains to prevent blockages (SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 1.12 refers);
 - i) based on investigation, further information to establish the viability of utilising and upgrading of sections of existing tracks on the site (including the track along the edge of forestry to the eastern edge of the application site) together with justification for not using/upgrading existing tracks and creating new access tracks (SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 2.3 refers);
 - j) details to demonstrate that all track bases are made permeable to shallow ground water flows where constructed through wet heath (M15) and any other groundwater dependent terrestrial ecosystems (GWDTEs) including the instances of the M6 community that are crossed (Environmental Statement, Volume 2, Chapter 10 and SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 2.4 refers);
 - k) details for the location(s) and design specifications for the proposed installation of ultra-violet and pre-filtration treatment arrangements to any private water supply to be provided/used for human consumption within the development site during the construction and operational stages of the development;
 - l) confirmation of all required/proposed mitigation measures (where not already embedded within the submitted design and layout of the development) for all stages of the development, to be contained within a Schedule of Mitigation or similar together with details regarding the process to control/action changes from any agreed Schedule of Mitigation.

The Schedule shall include, but be not limited to, all required/proposed measures to mitigate the impact of the development upon water resources, hydrology, hydrogeology and geology and nature conservation (including ecology and ornithology, protected species and habitats) interests. These details may be incorporated within any site specific Construction Environmental Management Plan (CEMP) (see Condition 8 below); and

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

Reason: Details of the matters specified are lacking from the submission and to ensure an acceptable form of development in landscape, visual and/or other environmental considerations, including addressing the risk of flooding and surface water run-off, to minimise impacts on wetland habitats and maintain (chemical) quality of water supplied to downslope wetlands, to minimise impacts upon nature conservation interests, and to provide for a wholesome private water supply where proposed as part of the development.

8. No development shall commence until details have been submitted to and approved by the Council, as planning authority in consultation with SEPA and

SNH and other agencies as appropriate regarding a site-specific Construction Environmental Management Plan (CEMP). The CEMP shall incorporate details for the environmental management, pollution prevention (not just during construction) and the following:

- a) surface water management plan;
- b) pollution prevention plan;
- c) site waste management plan;
- d) watercourse engineering;
- e) peat management - to include details of all peat stripping, excavation, arrangements for storage and re-use of peat in accordance with best practice;
- f) (construction) noise management plan (see Condition 28);
- g) species protection plans - to include those for breeding birds and bats, and GWTDEs including arrangements for pre-commencement surveys to confirm presence/absence of species on site, timing of works(s) to avoid disturbance, development of buffer areas to prevent encroachment onto and into areas of protected species and valued habitats, etc.;
- h) habitat management plan - to include the arrangements to manage, monitor and mitigate the loss of habitats and compensate for losses within and beyond the site, and proposals and practices to enhance bio-diversity to offset habitat and species damage or loss, including restoration of areas of blanket bog and wet heath and improving areas for golden plover;
- i) invasive non-native species protocol - to address all bio-security and other measures to be adopted to control the spread of giant hogweed and skunk cabbage in and around the Dallas/Kellas area.

In addition, the CEMP shall also include reference to the terms of appointment of an appropriately qualified Ecological Clerk of Works (to be appointed by the applicant/developer/wind turbine operator and approved by the Council, as planning authority after consultation with SNH), to include a remit with roles and responsibilities which shall include, but not necessarily be limited to, the monitoring of all works carried out on site and ensuring compliance with all environmental and nature conservation mitigation works and working practices, advising and training on adequate environmental and nature conservation interests within and adjoining the site, directing the placement of development infrastructure within the site and powers to halt development on site where environmental considerations warrant such action.

Thereafter, the development shall be carried out in accordance with the approved Plan.

Reason: In order to minimise the impacts of construction and operation of the development upon the environment and secure detailed information on the delivery of mitigation works and measures as identified which are currently lacking from the submitted particulars.

9. Excluding the requirements for compensatory planting (Condition 28), the Landscape scheme shall show:
 - a) the location of any existing trees, shrubs and hedgerows on the site and identify those to be retained and those to be removed;

- b) details of measures to be taken to protect any existing landscape features to be retained during the course of developing the site;
- c) details of the numbers, species, position, planting distances and sizes of all new planting to be undertaken;
- d) details of all earth mounding/moulding works to be undertaken, to include the proposed formation of bunding or similar screening around the sub-station compound or along the access tracks or elsewhere within the site together with details regarding the location, extent and design specification for their construction and formation of all earth works and cross-sections details to relate the works to both existing and finished ground levels; and
- e) details regarding the time-scale(s) for undertaking all landscaping and earth works.

Thereafter, all planting or seeding and earthwork operations shall be implemented in accordance with the approved details and any trees or plants which (within a period of 5 years from planting) die, are removed or become diseased or damaged shall be replaced in the following planting season with others of similar size, number and species unless otherwise agreed in writing with the Council, as planning authority.

Reason: Details of the matters specified are lacking from the submission and to ensure an acceptable form of development including addressing the landscape and visual and environmental impact of the substation and access tracks upon the appearance and amenity of the development upon the surrounding area and to ensure that all approved landscape works are timeously carried out and properly maintained.

10. The blades of all turbines shall rotate in the same direction and no names, symbols, signs or logos or similar means of advertisement, other than those required for health and safety reasons, shall be displayed on any part of the turbines, masts, buildings, structures or other infrastructure associated with the development without the prior written consent of the Council, as planning authority.

Reason: To minimise the visual impact arising from the appearance of the development.

11. In relation to each of the two borrow pit locations as identified on amended drawing 60289428-ENG-002 Rev C:
 - a) materials excavated from each pit location shall be used solely for purposes in conjunction with this Meikle Hill wind farm development and for no other use or purpose without the prior written consent of the Council, as planning authority; and
 - b) no development shall commence until details for each borrow pit have been submitted to and approved by the Council, as planning authority regarding:
 - i. finalised location and dimensions, including area and depth of excavation, together with cross and long sections across the pit area to show the extent and depth of excavation relative to existing and finished (excavated depth) ground levels;
 - ii. location(s), extent and height of any temporary storage of material both

- before and after processing on the site;
- iii. location(s) and description of plant and machinery to be used to process excavated material on the site;
- iv. location and details of arrangement for fencing or similar means of enclosure to be erected to define and limit the area of borrow pit working (and within which all borrow pit activity including storage and movement of materials and machinery shall be located at all times);
- v. location and details of arrangements for surface water management include de-watering ponds etc;
- vi. proposed timescales for all excavation activity;
- vii. the arrangements for site restoration and after-care of each borrow pit, to include:
 - a) details including sections of proposed/required re-grading and levelling works to re-integrate the area with its surroundings;
 - b) details of sub-material and topsoil arrangements to be provided to enable re-instatement of the area to form a natural habitat;
 - c) details of all plantings to be undertaken (see Condition 9); and
 - d) timescale for site re-instatement works.

Thereafter, all borrow pit activity shall be undertaken in accordance with the approved details.

Reason: Details of the matters specified are lacking from the submission and to ensure an acceptable form of development including consideration of the landscape and visual impact upon the surrounding area during both excavation and re-instatement of each borrow pit area.

12. No development shall commence until details have been submitted to and approved in writing by the Council, as planning authority in consultation with the Moray Access Manager regarding a Public Access Plan for the development/site (to include both existing arrangements and all required/proposed access arrangements during all stages of the development, including the construction stage). In particular, the plan shall show:
 - a) all existing paths, tracks and rights of way and any areas currently outwith or excluded from statutory access rights (under Part 1 of the Land Reform (Scotland) Act 2003); and
 - b) any areas proposed for exclusion from statutory access rights, for reasons of privacy, disturbance or curtilage, in relation to proposed buildings or structures; and
 - c) all paths and tracks proposed for construction, for use by walkers, riders, cyclists, and all ability users; and
 - d) any diversions or paths - temporary or permanent - proposed for the purposes of the development; and
 - e) details to include location, design specifications and time-scales for provision for the following:
 - i) details of specific access controls, for example gates to be inserted at main access points, etc;
 - ii) details of the arrangements to provide for public access for horse riders, cyclists, pedestrians and the less able; and
 - iii) proposals to accommodate and enhance through access and

connectivity to/from the local paths network, to include the provision and incorporation of a new path linking from the vehicle track near turbine 1 through to the existing Right of Way located along the southern boundary of the site; and

- iv) details of all signage /mapboards or similar to be provided at key access points to highlight all outdoor access opportunities.

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

Reason: To mitigate the effects of the development and maintain and improve public access and connectivity both within, and to and from the site.

13. No development works (including site clearance) shall commence until details have been submitted to and approved by the Council, as planning authority in consultation with Aberdeenshire Council Archaeology Services regarding a written scheme of investigation (with timescales) to secure and undertake the implementation of a programme of archaeological works. Thereafter, the development and all recording and recovery of archaeological resources within the development site shall be implemented in accordance with the approved scheme.

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

14. All construction activities associated with the development, including vehicle movements at the site shall be permitted only between 07:00 and 19:00 hours, Mondays - Fridays, and 07:00 and 16:00 hours on Saturdays, with no working on Sundays or public holidays. Any required works outwith the stated times likely to be audible at the curtilage of any noise sensitive property shall not be permitted except with the prior written consent of the Council, as planning authority in consultation with the Environmental Health Manager or in the case of an emergency.

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

15. Blasting times associated with the development including the formation of borrow pits shall be restricted as follows i.e.
 - a) no blasting shall be carried out on the site except between 10:00 and 12:00 hours, and 14:00 and 16:00 hours, Mondays to Fridays, and 10:00 and 12:00 hours on Saturdays; and
 - b) no blasting or drilling operations on Sundays or other public holidays.
The above blasting time arrangements shall not apply in cases of emergency where it is considered necessary to carry out blasting operations in the interests of safety. The Council, as planning authority shall be notified in writing immediately of the nature and circumstances of any such event.

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

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

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

17. At the reasonable request of the Council, as planning authority in conjunction with the Environmental Health Manager, following receipt of any complaint relating to vibration experienced from development operations including blasting operations to form borrow pits, the applicant/developer/wind turbine operator shall take steps to measure and monitor, at its own expense, ground vibration to ensure compliance with Condition 16. Within two (2) weeks of being so notified of vibration being experienced (or as longer as the Council, as planning authority may allow) the applicant/developer/wind turbine operator shall submit to the Council, as planning authority in consultation with the Environmental Health Manager the results of such monitoring together with details (including timescale for implementation) of measures to monitor and address vibration impacts to ensure compliance with the requirements of Condition 16. Thereafter, the development shall be implemented in accordance with the approved details.

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

18. At the reasonable request of the Council, as planning authority in conjunction with the Environmental Health Manager, following receipt of any complaint relating to shadow flicker associated with the development hereby approved, the applicant/developer/wind turbine operator shall investigate and instigate appropriate measures to mitigate the effects of shadow flicker. Within two (2) weeks of being so notified of shadow flicker being experienced (or as longer as the Council, as planning authority may allow) the applicant/developer/ wind turbine operator shall submit to the Council, as planning authority in consultation with the Environmental Health Manager the results of such investigations together with details of measures to address the effects of shadow flicker, including the timescale within which the measures will be implemented. Thereafter, the development shall be implemented in accordance with the approved details.

Reason: In order to redress and mitigate any identified impacts of shadow flicker and safeguard the amenity of local residents.

19. At the reasonable request of the Council, as planning authority following receipt of any complaint where interference to domestic television reception is caused as a result of the development hereby approved, the applicant /developer/wind turbine operator shall take steps to make good the reception, either by eliminating the cause of the interference or by providing an alternative means by which television signals may be received. Within two (2) weeks of being notified by the Council, as planning authority of the existence of such interference (or within a longer period

as the planning authority may allow) the applicant/developer/wind turbine operator shall submit to the Council, as planning authority for its approval, proposals to make good the reception, including the timescale within which the proposals will be undertaken. Thereafter, the development shall be carried out in accordance with the approved details.

Reason: In accordance with the applicant's submitted particulars and in order to ensure that an alternative means of obtaining television reception can be achieved and/or mitigated in the event of interference caused to domestic television reception.

20. At the reasonable request of the Council, as planning authority following receipt of any complaint where interference to fixed link frequency band signals is caused as a result of the development hereby approved, the applicant/developer/wind turbine operator shall take steps to make good the fixed link frequency band signals, either by eliminating the cause of the interference or by providing an alternative means by which fixed link frequency band signals may be received. Within two (2) weeks of being notified by the Council, as planning authority of the existence of such interference (or within such longer period as the planning authority may allow) the applicant/developer/wind turbine operator shall submit to the Council, as planning authority for its approval proposals to make good the fixed link frequency band signals, including the timescale within which the proposal shall be undertaken. Thereafter, the proposals shall be carried out in accordance with the approved details.

Reason: In order to ensure that an alternative means of maintaining fixed link telecommunications infrastructure can be achieved and fixed promptly in the event of interference caused to existing fixed links.

21. Prior to the commencement of deliveries to the site including movement of any abnormal load, details shall be submitted to and be approved in writing by the Council, as planning authority in consultation with Transport Scotland, as trunk roads authority and/or its operating company regarding a Route Access Report or equivalent, including swept path analysis or similar where appropriate, to identify the proposed route for any abnormal load movements on the trunk road and demonstrate that exceptional loads can be transported through the trunk road network safely. The details shall include all required or proposed accommodation measures including timescales for all required/proposed removal of street furniture, junction widening, and traffic management, etc. and show that the transportation of turbine components will not have any detrimental effect on structures within the route path. Thereafter, the development shall be implemented in accordance with the approved details.

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

22. During the delivery period of the wind turbine construction materials, any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed shall be undertaken by a recognised (QA) traffic management consultant, in accordance with the name of

the consultant which shall previously have been provided to the Council, as planning authority in consultation with Transport Scotland, as trunk roads authority and/or its operating company before any construction commences.

Reason: To minimise interference and maintain the safety and free flow of traffic on the trunk road and to ensure that the transportation of turbine components will not have a detrimental effect on the road and on structures along the delivery route.

23. Prior to the commencement of development details of the following shall be submitted to and approved by the Council, as planning authority in consultation with Transportation Manager (and Transport Scotland where appropriate):
- a) detailed proposals for undertaking both trial runs and also delivery of abnormal indivisible loads, to include (but not be limited to) identification of all temporary and permanent modifications and measures required to protect the public road and structures together with the arrangements for traffic, vehicle holding areas and non-vehicular management during deliveries, time restrictions for deliveries i.e. outwith school crossing patrol times, etc;
 - b) a Traffic Management Plan, in accordance with the scope and content of the required Plan which shall have previously been submitted to and approved by the Council, as planning authority in consultation with the Transportation Manager. The Traffic Management Plan shall cover the duration of the development, methods of dealing with large delivery vehicles, methods of marshalling and manoeuvring at junctions on the public road network, any temporary traffic waiting restriction requirements and all modifications to the road network and traffic management arrangements;
 - c) detailed plans (to include location and design construction specifications) to confirm the full extent of the proposed road widening of the B9010 to 5.5m;
 - d) details (1:200 scale drawing) of the proposed access junction onto the B9010 Pluscarden Road. The width of the vehicular access shall be a minimum of 7.3m and have a maximum gradient of 1:20 measured for the first 25m from the edge of the public carriageway (B9010). The first 25m of the access shall be to The Moray Council specification and surfaced with hot rolled asphalt. The access radii shall accommodate the abnormal load vehicle movements as determined in the Traffic Management Plan, and shall be kerbed using 254 x 127mm splayed/half battered precast concrete kerbs to The Moray Council specification. Any existing ditch, watercourse or drain under the site_access shall be piped using a 300mm minimum diameter of pipe. The pipe shall be laid to a self-cleansing gradient;
 - e) a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land) showing the provision of a visibility splay of 4.5m x 215m, and a schedule of maintenance for the area within the visibility splay; and
 - f) in order to monitor, assess and address the impact of construction and delivery traffic on the road network between the site access and the A96, an assessment of the network and a programme of monitoring during construction. The assessment shall include provision for a 'before and after' condition survey to be carried out jointly with Council's Transportation Section, traffic counters on the B9010 east and west of the site access in advance of any construction traffic, either permanently or on a scheduled

basis (to be agreed with the Council, as roads authority) throughout the construction period and for a period after works are completed.

Thereafter, all modifications to the road network and traffic management arrangements shall be implemented in accordance with the approved details and all required works to the public road network shall be completed prior to the delivery of any materials to the development site.

Reason: To ensure an acceptable development including the provision of additional information currently lacking from the submission and to ensure acceptable infrastructure is provided along the proposed delivery/ construction route to the site access in the interests of road safety.

24. Prior to the commencement of construction and of deliveries to the site, including abnormal loads and abnormal indivisible loads, the following shall be provided (in accordance with the approved details and to The Moray Council standards and specifications):
- a) abnormal load trial run(s) shall be undertaken after mitigation works have been undertaken (as approved under Condition 23 above) to confirm the works are acceptable and to identify any other restrictions not previously addressed including confirmation of the required/proposed vertical clearances at bridge crossings, and the frequency and location of all required abnormal load passing places/oncoming vehicle holding areas. Representatives from Moray Council Transportation (Traffic), the Trunk Roads Authority and Police Scotland must be invited to the trial run(s);
 - b) for all abnormal indivisible loads, all required/proposed works approved under Conditions 23 and 24a above shall be provided in accordance with the approved details and to The Moray Council standards and specifications. Any works undertaken shall be permanent for the duration of the operation of the development unless otherwise agreed in writing with the Council, as planning authority in consultation with the Transportation Manager;
 - c) all road widening/alterations/verge hardening as identified in Conditions 23 and 24a above, the site access onto the B9010 and any dropped kerbs required to allow overrunning of hardened verge;
 - d) the 50m section of new 40mm thick Hot Rolled Asphalt which shall be provided on the B9010 Pluscarden Road (25m either side of the centreline of the access, over the entire width of the road) unless otherwise agreed in writing by the Council, as planning authority in consultation with the Transportation Manager; and
 - e) the visibility splay of 4.5m x 215m (Condition 23 refers) and thereafter, the visibility splay shall be maintained at all times free from any obstruction exceeding 1.0m above the level of the carriageway in accordance with the agreed schedule of maintenance.

Reason: To ensure an acceptable development including the provision of additional information currently lacking from the submission and to ensure acceptable infrastructure is provided along the proposed delivery/ construction route to the site access in the interests of road safety.

25. No wind turbine shall be erected unless and until an Air Traffic Control Radar

Mitigation Scheme, to address the impact of the wind turbine upon air safety, has been submitted to and approved in writing by the Council, as planning authority in consultation with the Ministry of Defence (Defence Infrastructure Organisation) where:

- a) the Air Traffic Control Radar Mitigation Scheme is a scheme which shall be designed to mitigate the impact of the development upon the operation of the Primary Surveillance Radar at RAF Lossiemouth ("the Radar") and the air traffic control operations of the Ministry of Defence (MOD) which is reliant upon the Radar. The Air Traffic Control Radar Mitigation Scheme shall set out the appropriate measures to be implemented to mitigate the impact of the development on the Radar and shall be in place for the operational life of the development provided the Radar remains in operation; and
- b) no turbines shall become operational unless and until all those measures required by the approved Air Traffic Control Radar Mitigation Scheme have been implemented prior to operation of the turbines and the Council, as planning authority in consultation with the Ministry of Defence (Defence Infrastructure Organisation) has confirmed this in writing.

Thereafter, the development shall be operated fully in accordance with the approved Air Traffic Control Radar Mitigation Scheme.

Reason: In the interests of military aviation safety.

26. MOD-accredited 25 candela omni-directional aviation lighting OR infra-red warning lighting shall be installed with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on all the turbines in accordance with confirmation of the proposed lighting arrangements to be installed which shall have been previously submitted to and approved in writing by the Council, as planning authority in consultation with the Ministry of Defence, Defence Infrastructure Organisation Safeguarding Officer prior to any light installation. Thereafter, the turbines shall be erected with this confirmed lighting installed and the lighting shall remain operational at all times throughout the duration of the permission hereby granted.

Reason: In the interests of military aviation safety.

27. No development shall commence until details have been submitted to the Council, as planning authority to confirm the submission of the following information to the Ministry of Defence, Defence Infrastructure Organisation and Civil Aviation Authority (Defence Geographic Centre (AIS Information Centre)):
 - a) the date construction starts and ends;
 - b) the exact position of the wind turbine towers in latitude and longitude;
 - c) a description of all structures over 300 feet high;
 - d) the maximum extension height of all construction equipment; the height above ground level of the tallest structure; and
 - e) details of the approved lighting scheme to be installed (Condition 26 refers).

Reason: To ensure the erected turbines present no risk to air safety.

28. No development shall commence until details have been submitted to the Council,

as planning authority in consultation with Forestry Commission Scotland regarding details of a woodland planting scheme (the Replanting Scheme) within Moray to compensate, in this case, the removal of 8ha of existing woodland from the site in order to accommodate the development.

The Replanting Scheme details shall:

- a) include the specifications for
 - i. on-site replanting;
 - ii. off-site compensatory planting;
 - iii. tree maintenance and protection to established planting (including Deer Management); and
- b) comply with the requirements set out in the UK Forestry Standard (Forestry Commissions, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers and include:
 - i. details of the location of the area to be planted;
 - ii. details of land owners and occupiers of the land to be planted;
 - iii. the nature, design and specification of the proposed woodland to be planted;
 - iv. details of all necessary consents for the Replanting Scheme and timescales within which each shall be obtained;
 - v. the phasing and associated timescales for implementing the Replanting Scheme; and
 - vi. proposals for the maintenance and establishment of the Replanting Scheme, including annual checks; protection from predation; replacement planting; fencing; ground preparation; and drainage, etc.

Thereafter, the development shall be implemented in accordance with the approved Replanting Scheme details, including the phasing and timescales as set out therein.

Reason: Details of the matters specified are lacking from the submission and to ensure an acceptable form of development where replacement or compensatory planting is provided where the development results in a loss of woodland.

29. No development shall commence until details shall be submitted to and approved by the Council, as planning authority in consultation with the Environmental Health Manager regarding a Noise Management Plan, to identify all sources of noise emissions associated with the construction phase of the development together with details of all measures to manage and mitigate the effects of construction noise occurring at and within the site. Thereafter, the development shall be implemented in accordance with the approved management plan.

Reason: Details of the matters specified are lacking from the submitted particulars and have yet to be determined (Environmental Statement, Volume 2, Chapter 7 refers) and in order to manage and minimise the impact of noise associated with construction activity upon the amenity of local residents.

30. The rating level of noise emissions from the combined effects of the 6 wind turbines comprising the Meikle Hill wind farm as hereby approved (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (see Additional Information as included in this formal decision

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

- a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Council, as planning authority on its request, within 14 days of receipt in writing of such a request.
- b) Within 21 days from receipt of a written request from the Council, as planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Council, as planning authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Council, as planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Council, as planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
- c) The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Council, as planning authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Council, as planning authority under paragraph (b), and such others as the independent consultant considers likely to result in a breach of the noise limits.
- d) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Council, as planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Council, as planning authority for the complainant's dwelling. For the sake of clarification the Meikle Hill Wind Farm Environmental Statement, Volume 2, Main Report, Chapter 7, has advised that any

occupants of Aultahuish and Scottackleys have a direct financial involvement in the wind farm development. Therefore, in accordance with ETSU-R-97, higher noise limits are applicable under these conditions for these properties only.

- e) The wind farm operator shall provide to the Council, as planning authority the independent consultant's assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Council, as planning authority for compliance measurements to be made under paragraph (b), unless the time limit is extended in writing by the Council, as planning authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Council, as planning authority with the independent consultant's assessment of the rating level of noise emissions.
- f) Where a further assessment of the rating level of noise emissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (c) above unless the time limit has been extended in writing by the Council, as planning authority.

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

Location: Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods.

	3	4	5	6	7	8	9	10	11	12
Tombreck Farm	35	35	35	35	37.6	40.9	44.2	47.4	50.1	52.3
Scottackleys	45	45	45	45	45	45	45	45	45.4	48.9
Aultahuish	45	45	45	45	45	45	45.4	48.7	51.7	54.2
Torchastle	35	35	35	35	37.2	40.9	44.5	47.8	50.7	52.9
Ballachraggan	35	35	35	35	36.2	38.7	41.3	44.0	46.5	48.9

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

Location: Standardised wind speed at 10 metre height (m/s) within the site averaged over 10-minute periods.

	3	4	5	6	7	8	9	10	11	12
Tombreck Farm	40	40	40	40	40	40	40.6	43.6	46	47.4
Scottackleys	45	45	45	45	45	45	45	45	45.8	48.8

Aultahuish	45	45	45	45	45	45	45	46.9	49.8	54.2
Torchastle	40	40	40	40	40	40	40.6	43.6	46	47.4
Ballachraggan	40	40	40	40	40	40	40.2	43.1	45.9	48.4

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

Property	Easting	Northing
Tombreck Farm	314030	852721
Scottackleys	312914	850420
Aultahuish	314038	849458
Torchastle	313163	852532
Ballachraggan	313336	849197

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

Reason: To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue noise and disturbance.

31. Prior to the first commencement of the operation of the development hereby approved details shall be submitted to and approved by the Council, as planning authority in consultation with the Environmental Health Manager, regarding a scheme for the assessment and regulation of amplitude modulation effects.

Reason: To ensure an acceptable form of development and in order to protect the amenity of any nearby residents from any undue noise and disturbance.

Reason(s) for Decision

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

The proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.

List of Informatives:

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

A Building Warrant will be required for the proposals. Should you require further assistance please do not hesitate to contact Building Standards, Environmental Services Department, Council Office, High Street, ELGIN IV30 1BX or by telephoning 01343 563243.

Application 14/01087/EIA is described as the "Erection of wind farm comprising 10 wind turbines 126.5m high to tip and associated access track and ancillary infrastructure erection of 1no permanent anemometer mast temporary formation of

construction compound and erection of 2no temporary anemometer masts at Meikle Hill Dallas Moray". During consideration, application 14/01087/EIA was amended with the number of turbines was reduced from 10 to 6 turbines and Condition 1 of this decision notice confirms that as amended only 6 turbines were approved.

References to "Environmental Statement" and "Addendum" within this decision notice refer to supporting documents submitted and considered as part of formal decision notice 14/01087/EIA dated 24 June 2015 and remain relevant in the context of this formal decision notice.

THE SCOTTISH ENVIRONMENT PROTECTION AGENCY has commented that:-

See consultation responses dated 14 July 2017 (for application 17/010003/APP) and 16 July 2014, 9 April 2015 (for application 14/01087/EIA regarding detailed and regulatory advice for the applicant including the expected content of the Construction Environmental Management Plan advice and requirements for authorisations under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 as amended (CAR) for water crossings.

It is recommended that the CEMP is submitted at least 2 months prior to the commencement of any works on site; this is to allow the necessary agencies sufficient time to fully review the mitigation proposals and avoid any potential delays to the project moving forward.

THE TRANSPORTATION MANAGER, DIRECT SERVICES has commented that:-

The following informatives, as appended to formal decision notice 14/01087/EIA remain relevant in the context of the current proposal:

Proposals for the management of abnormal indivisible loads to be approved must also include measures to ensure the safety of non-vehicular road users.

It is not acceptable to over-run central refuge/splitter islands; they are not constructed to take vehicle loadings particularly when combined with heavy turning between the A96 /B9010. Proposals submitted must show how this will be managed during deliveries. It is also not appropriate to remove signing for the duration of the abnormal loads therefore confirmation of how signs will be managed during the delivery phase needs to be agreed.

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.

Transport Scotland must be consulted with respect to all deliveries proposed via the A96 (Trunk Road). The neighbouring Local Authorities, through which the delivery route may pass, Highland/Aberdeenshire/Aberdeen City, must also be consulted.

Planning consent does not carry with it the right to construct a new road or any part of a road. In accordance with Section 21 of the Roads (Scotland) Act 1984 Construction Consent for new roads (includes passing places, modified junctions and footpaths) that will form part of the public road will be required.

Advice on this matter can be obtained by emailing transport.develop@moray.gov.uk and reference to the following pages on the Council web site:

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

RCC: http://www.moray.gov.uk/moray_standard/page_65638.html

Specification <http://www.moray.gov.uk/downloads/file68813.pdf>

The applicant is obliged to apply for a road opening permit in accordance with Section 85 of the Roads (Scotland) Act 1984. Advice on this matter can be obtained by emailing roads.permits@moray.gov.uk and reference to the following page on the Council web site: Road Opening:

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

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 his property.

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

No retaining structures or embankments shall be constructed along the edge of the road, whether retaining the public road or ground adjoining the public road without prior consultation and agreement of the Roads Authority.

Bridges and Structures - The developer must contact Neil Fotheringham, Senior Engineer Moray Council Consultancy at Academy Street, Elgin - Tel (01343)

562542 to discuss the proposals.

Traffic Management Plan - The developer must contact the Senior Engineer, Traffic Section at Moray Council HQ, Elgin - Tel (01343) 563 3780 to discuss the proposals.

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

SCOTTISH NATURAL HERITAGE has commented that:-

See consultation response dated 25 July 2014 for application 14/01087/EIA wherein the developer is recommended to adopt and implement in full all mitigation measures set out in the ES including measures for protected species (including birds and bats), with support given to the development of a species protection plan and breeding bird protection plan, adoption of buffer area and stand-off areas to minimise impact on bats, etc. and where the applicant is encouraged to maintain records of bats during lifetime of the development, specifically activity around turbines including instances of bat mortality/carcass searches and to make this data available to the Bat Conservation Trust or local bat group. SNH support and welcome the development of a habitat management plan and peat management plan and compensatory tree planting, and a monitoring protocol for invasive non-native species should be included (as part of any CEMP) and cover not just construction but rather the lifetime of the wind farm.

The FORESTRY COMMISSION SCOTLAND has commented that:-

The Environmental Statement provides no specific detail about the mitigation for the proposed deforestation. It recognises Scottish Government's Policy on the Control of Woodland removal and agrees to conform to its principles but it does not specify how or when it will meet the requirements.

Forestry Commission Scotland (FCS) is supportive of the design considerations within For the purposes of the compensatory planting condition, "Commencement of Development" means the implementation of this consent by the carrying out of (a) a material operation within the meaning of section 27(4) of the 1997 Planning Act (other than any operations associated with ground or site investigation works); or (b) any deforestation associated with the implementation of this consent. and "Necessary Consents" means (a) any consent or permission required by an enactment to enable the approved Replanting Scheme (or an approved Amended Replanting Scheme as the case may be) to be implemented in accordance with the phasing and associated timescales for implementation contained in the approved Replanting Scheme (or an approved Amended Replanting Scheme as the case may be); and (b) any right or permission to take entry to or access over land required by the Company or parties acting on its behalf to implement the approved Replanting Scheme (or an approved Amended Replanting Scheme as the case may be).

The CIVIL AVIATION AUTHORITY has commented that:-

There is an international civil aviation requirement for all structures of 300 feet (91.4 metres) or more to be charted on aeronautical charts. However, on behalf of other non-regulatory aviation stakeholders, in the interest of aviation safety, the CAA requests that any feature/structure 70 feet in height, or greater, above ground level is notified to the Defence Geographic Centre ICGDGC-ProdAISAFDb@mod.uk including the location(s), height(s) and lighting status of the feature/structure, the estimated and actual dates of construction and the maximum height of any construction equipment to be used, at least 6 weeks prior to the start of construction, to allow for the appropriate notification to the relevant aviation communities.

Any structure of 150 metres or more must be lit in accordance with the Air Navigation Order and should be appropriately marked. If an aviation stakeholder (including the MOD) made a request for lighting it is highly likely that the CAA would support such a request, particularly if the request falls under Section 47 of the Aviation Act.

The effective height of a wind turbine is the maximum height to blade tip.

SCOTTISH & SOUTHERN ELECTRIC has commented that:

From records, there is a tower line spanning the access route to the proposed wind farm therefore care must be taken when transporting the turbines to site with regards to clearances. To checking clearances call Transmissions Operations Manager Ian Gray on 01343 549807 or 07767 852808. All works in close proximity to overhead lines they must be done in accordance with Health and Safety Guidance Note GS6.

There is also a high voltage underground cable within the site and care must be taken when working that all works be carried out in accordance with the Health and Safety Guidance Note HS (G) 47.

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

Guidance Notes for noise condition 30 (above).

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

Guidance Note 1

- (a) Values of the LA90, 10 minute noise statistic should be measured at the complainant's property, using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated in accordance with the procedure specified in BS 4142: 1997 (or the equivalent UK adopted standard in force at the time of the measurements). Measurements shall be undertaken in such a manner to enable a tonal penalty to be applied in accordance with Guidance Note 3.
- (b) The microphone should be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Council, as planning authority, and placed outside the complainant's dwelling. Measurements should be made in "free field" conditions. To achieve this, the microphone should be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Council, as planning authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.
- (c) The LA90, 10 minute measurements should be synchronised with measurements of the 10 minute arithmetic mean wind and operational data logged in accordance with Guidance Note 1(d), including the power generation data from the turbine control systems of the wind farm.
- (d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10 minute periods. Unless an alternative procedure is previously agreed in writing with the Council, as planning authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. All 10 minute arithmetic average mean wind speed data measured at hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data, which is correlated with the noise measurements determined as valid in accordance with Guidance Note 2, such correlation to be undertaken in the manner described in Guidance Note 2. All 10-minute periods shall commence on the hour and in 10 minute increments thereafter.
- (e) Data provided to the Council, as planning authority in accordance with the noise condition shall be provided in comma separated values in electronic

format.

- (f) A data logging rain gauge shall be installed in the course of the assessment of the levels of noise emissions. The gauge shall record over successive 10 minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Guidance Note 2

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

Guidance Note 3

- (a) Where, in accordance with the approved assessment protocol under paragraph (c) of the noise condition, noise emissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty is to be calculated and applied using the following rating procedure.
- (b) For each 10-minute interval for which LA90, 10-minute data have been determined as valid in accordance with Guidance Note 2 a tonal assessment shall be performed on noise emissions during 2 minutes of each 10-minute period. The 2 minute periods should be spaced at 10- minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2 minute period out of the affected overall 10 minute period shall be selected. Any such deviations from the standard procedure, as described in Section 2.1 on pages 104- 109 of ETSU-R-97, shall be reported.

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

Guidance Note 4

- (a) If a tonal penalty is to be applied in accordance with Guidance Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Guidance Note 2 and the penalty for tonal noise as derived in accordance with Guidance Note 3 at each integer wind speed within the range specified by the Council, as planning authority in its written protocol under paragraph (c) of the noise condition.
- (b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Guidance Note 2.
- (c) In the event that the rating level is above the limit(s) set out in the Tables attached to the noise conditions or the noise limits for a complainant's dwelling approved in accordance with paragraph (d) of the noise condition, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise emissions only.
- (d) The wind farm operator shall ensure that all the wind turbines in the development are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

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

- (e) Repeating the steps in Guidance Note 2, with the wind farm switched off, and determining the background noise (L3) at each integer wind speed

within the range requested by the Council, as planning authority in its written request under paragraph (b) and the approved protocol under paragraph (c) of the noise condition.

- (f) The wind farm noise (L1) at this speed shall then be calculated as follows where L2 is the measured level with turbines running but without the addition of any tonal penalty:
- (g) The rating level shall be re-calculated by adding arithmetically the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L1 at that integer wind speed.
- (h) If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note 3 above) at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Council as planning authority for a complainant's dwelling in accordance with paragraph (d) of the noise condition then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to the conditions or the noise limits approved by the Council, as planning authority for a complainant's dwelling in accordance with paragraph (d) of the noise condition then the development fails to comply with the conditions.

LIST OF PLANS AND DRAWINGS SHOWING THE DEVELOPMENT	
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Reference No.	Version No.	Title/Description
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60289428-ENG-001		Location plan
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PLANNING APPLICATION COMMITTEE SITE PLAN

Planning Application Ref Number:
22/01208/APP

Site Address:
Meikle Hill
Dallas

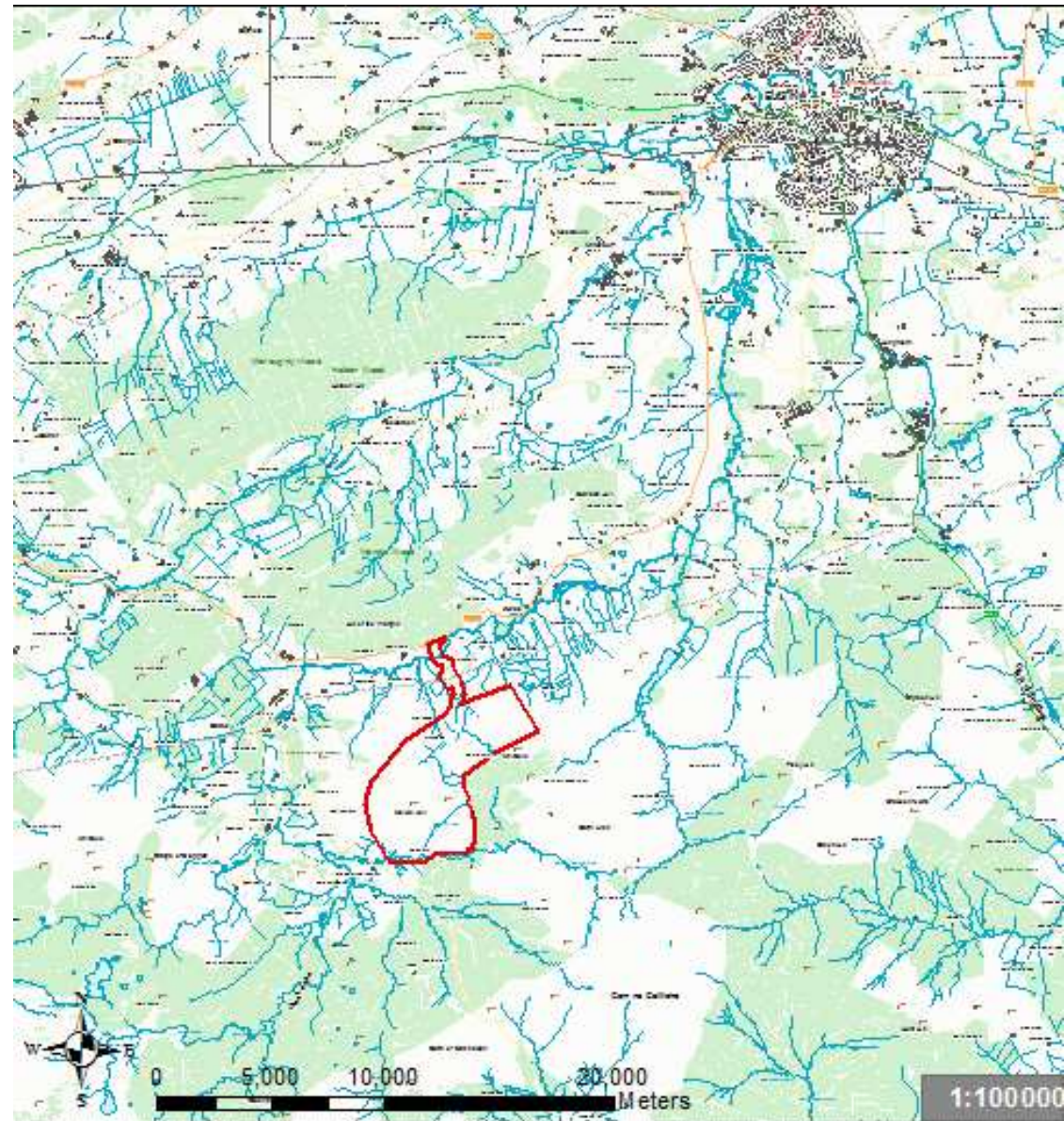
Applicant Name:
The Dallas Trust

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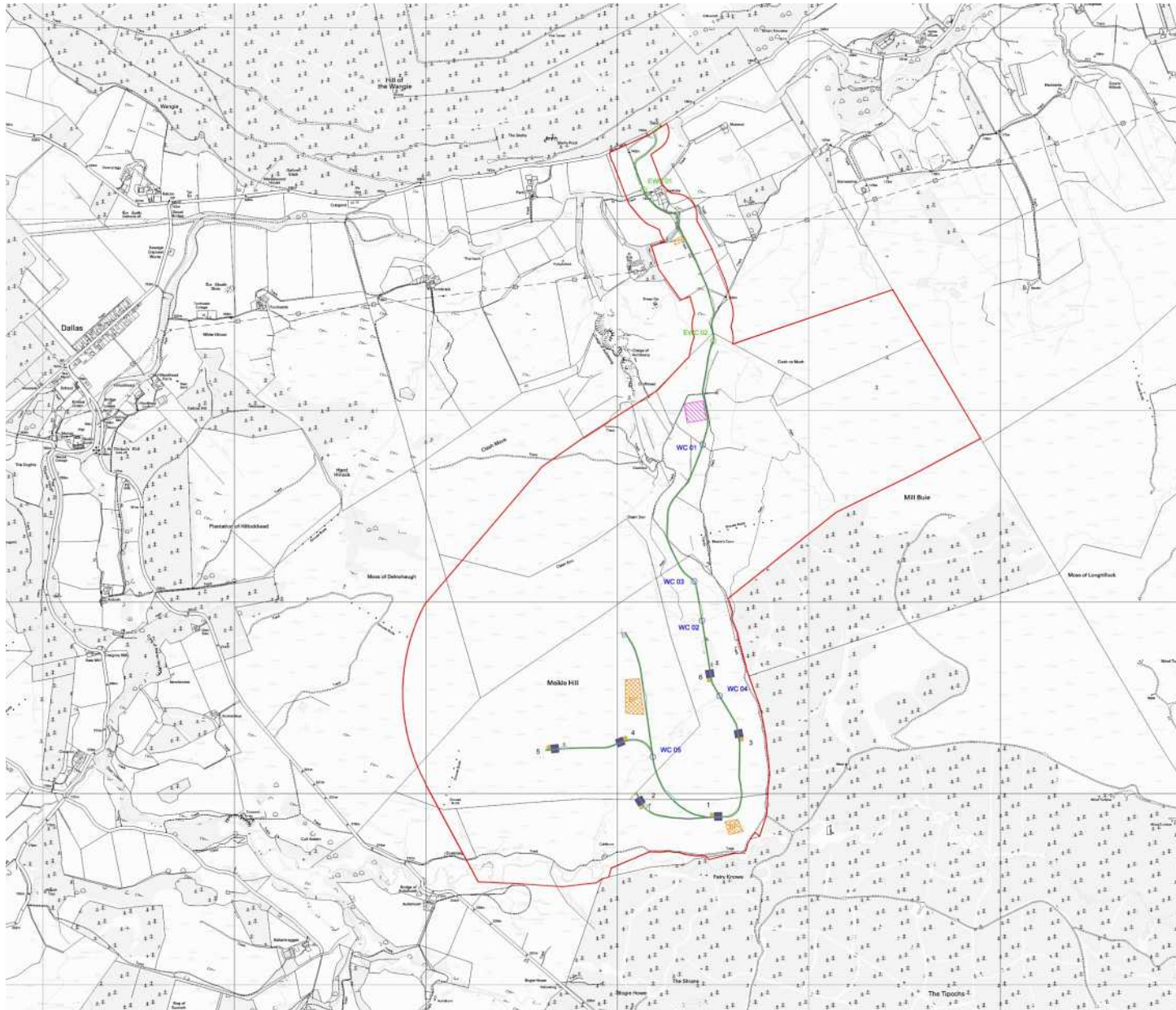
Location Plan



Site Location



Site Layout



PLANNING APPLICATION: 22/01208/APP

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

1. THE PROPOSAL

This is an application under section 42 of the Planning Act, which seeks to vary the terms of condition 3 of 17/01003/APP to extend the operational lifetime of the approved Meikle Hill windfarm from 27 years to 40 years.

The application to be varied (17/01003/APP) was itself a variation to the original planning permission (14/01087/EIA) for the Meikle Hill wind farm. The 2017 application increased the operation lifetime of the development from 25 to 27 years (condition 3) and varied condition 7 in relation to the provision of information on land raising, condition 14 to allow operations outwith the approved construction working hours in the event of an emergency, condition 24 to alter an incorrect word in relation to height of obstructions in the visibility splay and condition 25 to allow development to commence but no turbine to be erected the provision of a radar mitigation scheme. This permission was granted subject to a 5 year period for commencement rather than the statutory 3 year period.

The original application (as amended) granted permission for:

- 6, three-bladed, variable speed, turbines and associated ancillary infrastructure (reduced from 10 turbines during the course of the application).
- each turbine is 126.5m high (to blade tip) (80m hub height, 93m rotor diameter) with a maximum rated capacity of 2.3MW i.e. 13.8MW for the total development.
- each turbine to be located on reinforced concrete foundations, approx. 21m in diameter and 3 - 4m in depth with a crane pad, approx. 40 x 22m and separate assembly area approx. 40 x 15m located alongside.
- 1 (permanent) 80m high anemometer mast, of steel lattice construction set on a reinforced concrete foundation, to be erected north-west of turbine 6.
- 1 (temporary) 80m high anemometer mast, a single pole supported by guy wires, to be erected west of turbine 5.
- a substation compound with control building, to be located adjacent to access track and north of existing overhead power lines.
- a temporary construction compound to be located approx. midway between the site access off the B9010 road and the turbines.
- turbines to connect to national grid network via underground cabling to proposed substation and thereafter, to the existing Dallas substation.
- new up-graded junction to be formed at site entrance onto B9010 with approx. 6.6km of access track to be provided (approx. 1.4km of up-graded track and 5km of new access track). The approx. "J"-shaped track layout

- connects all turbines and the permanent wind mast, off which two spurs lead to turbines 2 and 4, and 5 respectively.
- proposed drainage system to include SUDS including swales and cross drains for access tracks and settlement lagoons adjacent to turbine pads and watercourses.
- 2 existing watercourse crossings to be up-graded and 5 new crossings to be constructed (detailed design to be agreed).
- 2 borrow pits are also proposed.

2. THE SITE

From the previous applications:

- the site is approx. 510ha with all turbines located in the southern part of the site on and between the side slopes of Meikle Hill (288 mAOD) to the west and Mill Buie (342 mAOD) to the east.
- the turbines are sited between approx. 245 and 270 mAOD (turbine 2 and 6 respectively). Turbine 1, the southernmost turbine, is located close to the southern boundary of the site. Turbines 6 and 5 are the most northerly and westerly located turbines respectively.
- generally, the topography across the site is gently sloping with the southern and most elevated part of the site comprising upland moorland with some forestry plantation to the north-west on Meikle Hill and Hillockhead (235 mAOD), the latter forming a backdrop to Dallas.
- to the north and north-west, the land slopes down towards Dallas and agricultural land extending along the River Lossie and B9010 road.
- to the south and west is a mix of agricultural and wooded land.
- to the south and east, the land cover is moorland and forestry with the existing 40-turbine Rothes I and II wind farm development [the Rothes development] located immediately to the south-east of the site.
- Dallas and Kellas are approx. 2km distant from the site boundary. Elgin and Forres are approx. 13.5km and 13km to the north-east and north-west respectively.
- individual properties and farmsteads are located around the outer margins of the site.
- watercourses including Back Stripe and Cold Burn etc. drain towards the River Lossie to the north.
- the site is bounded by the B9010 road to the north whilst the minor Dallas - Kellas road forms part of the western boundary of the site.
- the existing access onto the B9010 road and access track leading to Blackhills will be upgraded and used for access to the site, including construction traffic. To the south of Blackhills, the new section of access track crosses over agricultural land and moorland to/from the turbines.
- except for known archaeological interests recorded within the site, the proposal is not located within any national or local landscape designation nor within any international or national cultural heritage or nature conservation designations. The Pluscarden Area of Great Landscape Value (AGLV) and the Kellas Oakwood SSSI designations are located to the north but outwith the site.

- The site is not covered by any national or local environmental designations.
- For renewable energy policy purposes (at the time of granting application 14/01087/EIA), all 6 turbines were located within an 'Area of Search' and within the Upland Moorland and Forestry Landscape Character Area/Type (LCT) as identified in the Moray Council, Supplementary Planning Policy Guidance: Moray Onshore Wind Energy (MOWE) (March 2013) and Moray Wind Energy Landscape Capacity Study (MLCS) 2012.
- The site remains within the Upland Moorland and Forestry/Upland Plateau with Forest (10) LCT as defined in the Moray Wind Energy Landscape Capacity Study (MLCS) 2017. The Moray Onshore Wind Energy Guidance (MOWE) 2020 also shows the site is located within an Area with greatest potential" for large typology wind farm development and identifies this LCT has having medium sensitivity to large typology (greater than 80m) wind turbines as approved on this site.

3. **HISTORY**

13/00867/SCO - Erect 26 wind turbines of a maximum height of 126.5m to tip (in relation to S36 submission) – determined 14 June 2013

13/01915/PAN - Proposed wind farm at Meikle Hill, Dallas – reported to Planning and Regulatory Services Committee – closed 7 November 2013

14/01087/EIA - Erection of wind farm comprising 10 wind turbines, 126.5m high to tip, and associated access track and ancillary infrastructure, erection of 1no permanent anemometer mast, temporary formation of construction compound and erection of 2no temporary anemometer masts at Meikle Hill Dallas - approved 24 June 2015.

Following amendments, with turbines 7 - 10 omitted, 6 turbines were granted permission subject to (31no) conditions.

17/01003/APP - Variation of conditions 3, 7, 14, 20, 24 and 25 of planning permission 14/01087/EIA at Meikle Hill, Dallas – approved 11 December 2017.

This application varied the following conditions:

- Condition 3, to allow a 27-year consent time limit;
- Condition 7(g), to require a topological plan in relation to land raising within the floodplain for the formation of access track and water crossings;
- Condition 14, to allow construction activities to take place outwith the specified hours in the event of an emergency;
- Condition 24(e), to address a grammatical error by changing the word "about" to "allow" in relation to the requirement for a visibility splay; and
- Condition 25, to allow development to commence but not erect a turbine until an Air Traffic Control Radar Mitigation Scheme has been agreed and implemented.

The application also sought a 5 year period within which to commence the development.

Relevant Nearby Wind Energy Proposals

07/02800/S36 - Extension to wind farm at Rothes Wind Farm – approved by the Energy Consents Unit 12 January 2010 - East of the application site.

13/00615/EIA - Erection of eight wind turbines (Rotor diameter 80m) and associated infrastructure at Kellas House, Kellas – approved 12 November 2014 – East of application site.

01/02056/S36 - Construct and operate wind powered electricity generating station (28 turbines and ancillary works) at Cairn Uish, Rothes Estate – approved by the Energy Consents Unit - East of application site – operational.

19/00156/S36 - Erect 29 wind turbines consisting of 18 turbines of an overall height from base to tip not exceeding 225m 8 turbines of an overall height from base to tip not exceeding 200m and 3 turbines of an overall height from base to tip not exceeding 149.9m associated infrastructure at Rothes III – to be determined by Scottish Ministers following the previous Public Local Inquiry – South East of application site.

18/01591/S36 - Erect 48 wind turbines with blade tip height between 130 and 176 metres with installed capacity in excess of 50MW at Clash Gour Wind Farm – to be determined by Scottish Ministers following the previous Public Local Inquiry – South West of application site.

20/01026/S36 - Proposed wind farm extension at Berry Burn Wind Farm, Dunphail - approved by the Energy Consents Unit 8 December 2021 – South West of application site.

04/02473/S36 – Berry Burn wind farm - approved by the Energy Consents Unit 8 August 2009 –South West of application site – operational.

13/00053/EIA - Erect 12no wind turbines (rotor diameter 71m) at Hill Of Glaschyle, Dunphail – granted on appeal 31 March 2014 – West of the site – operational.

18/00523/S36 - Proposed wind farm comprising of 7 wind turbines 6 of a maximum height base to tip not exceeding 149.9m and 1 of maximum height not exceeding 134m external transformer housing site tracks crane pad foundations underground electricity cable control building temporary construction and compound 2 borrow pits associated works/infrastructure and health and safety signage at Paul's Hill II Wind Farm - approved by the Energy Consents Unit 18 December 2020 – South of the site.

03/01426/S36 - S36 application to an extension to already consented windfarm (increase in turbine capacity) at Paul's Hill - approved by the Energy Consents Unit – South of the site – operational.

4. POLICY - SEE APPENDIX

5. **ADVERTISEMENTS**

5.1 Advertised for the purposes of Neighbour Notification.

6. **CONSULTATIONS**

Heldon Community Council: No response.

Strategic Planning & Development: No objection. The proposal is solely to vary Condition 3 (duration of permission) of planning permission 17/01003/APP, a full assessment of the merits of the wind farm against MLDP 2020 policies has not been undertaken by SP&D as planning permission remains extant and no physical changes to the development are proposed. Officer Note – For clarity, an assessment of the proposal against the relevant policies of MLDP 2020 has been undertaken by the Development Management Section and as referred to below in the Observations Section of this report).

Transportation: No objection.

Environmental Health: No objection.

Moray Flood Risk Management: No objection.

Aberdeenshire Archaeology Service: No objection.

Climate Change Team: No objection.

Contaminated Land: No objection.

Private Water Supplies: No objection.

Developer Obligations: None sought.

Moray Access Manager: No response.

SEPA: No comment.

Scottish Forestry: No objection.

Nature Scot: No response.

MOD: No objection.

National Air Traffic Systems (NATS): No objection.

RSPB: No comment.

Highland and Islands Airports: No objection.

Aberdeen Airport: No objections.

Atkins Global – Windfarms: No objection.

JRC Windfarms: No objection.

Civil Aviation Authority: No response.

Ofcom: No response.

SSE Transmission: No response.

7. OBJECTIONS-REPRESENTATIONS

None.

8. OBSERVATIONS

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

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

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

8.3 The main issues are considered below:

8.4 Background

The original planning application 14/01087/EIA was approved by the Planning and Regulatory Services Committee and determined on the 24 June 2015. The application as approved was for 6 126.5 m high turbines with a total output of 13.8mw. At the time of the original submission 10 turbines with an output of 23mw were proposed and as such the application was a Major application as defined by the Development Hierarchy Regulations 2009. Formal pre-application procedures were therefore required. Following the reduction in the scheme the proposal fell below the 'Major' threshold (20mw) and should it be submitted afresh it would be dealt with as a 'local' application. Following the grant of planning permission a Section 42 application (17/01003/APP) was submitted which sought to vary several of the conditions attached to the 2014 consent. The most significant of these were the variation to condition 3 to extend the operational lifetime of the development from 25 to 27 years and the change to condition 25 to allow development to commence but no turbines to

be erected before a radar mitigation plan had been produced. The 2017 consent was granted with a commencement period of 5 years.

- 8.4.1 The 2014 application was considered likely to have potential significant environmental effects and was submitted with a voluntary Environmental Statement (ES) prepared under the Environmental Impact Assessment (EIA). Two Addendums to the ES were prepared to reflect two amendments made to reduce the number of turbines. Neither the current application or the s.42 application (17/01003/APP) that preceded it include a fresh Environmental Impact Assessment Report. It was noted at the time of the 2017 application that the Regulations do not specifically provide for a proposal to vary conditions of an earlier development but the current proposal is neither a new development per se nor does it alter the previously approved number, design (including height) and location/site layout arrangements for 6 turbines at Meikle Hill which were previously regarded as not having any unacceptable or significant effects. Furthermore, the current proposal is considered unlikely to result in any new, or introduce additional, environmental effects beyond those previously assessed. The Moray Local Development Plan 2020 Special Landscape Area designation covering the Pluscarden valley to the north is also some distance from the current site. It is also noted that appropriate mitigation of environmental impacts forms part of the conditions which are to be reiterated.
- 8.4.2 In considering a Section 42 application the planning authority can only consider the conditions that are the subject of the application although this does not preclude consideration of the overall effect of granting a new permission. If the decision is that the Section 42 application should be granted a new permission is created and all conditions of the previous consent must be reiterated in order to have effect. In this case it is recommended that condition 3 is varied as requested by the applicant and all the other conditions are reiterated unchanged. This includes condition 1 which allows a 5 year commencement period rather than the statutory 3 years.
- 8.4.3 Both the original permission (14/01087/EIA) and the approved Section 42 application (17/01003/APP) were considered under previous local plans. It is therefore necessary to consider the proposal against current local and national policy.
- 8.5 **Relationship of proposal to national renewable energy policy/guidance**
International and UK policy frameworks are generally supportive of renewable energy proposals which help to facilitate a transition to a low carbon economy. National Planning Framework (NPF3) for Scotland sets out the spatial strategy for Scotland's development. NPF3 makes specific reference to onshore wind energy having an important role in delivering the commitment to a low carbon energy generation. The November 2020 Position Statement on the 4th National Planning Framework indicates that measures to address climate change and reduction of carbon emissions will be accelerated.
- 8.5.1 The Climate Change (Scotland) Act 2009 places a duty on public bodies to act sustainably and meet emissions targets including a requirement to achieve at least an 80% reduction in greenhouse gas emissions by 2050 (over 1990 levels). Beyond the NPF3 there are a number of considerations relevant to the

Section 36 process, which are taken into account in arriving at the below recommendation. They are The Scottish Government's Programme for Scotland 2020-21, The Environment Strategy for Scotland, February 2020, Climate Change (Emissions Reductions Targets) (Scotland) Act 2019, Scottish Government Climate Change Plan (2018), Scottish Government Onshore Wind Policy Statement 2017 and Scottish Energy Strategy (2017). These generally stress the need to reduce carbon emissions (for which wind energy will clearly play a part) but do qualify this with the need to protect landscapes, built and natural heritage, residents and other interests.

- 8.5.2 The commitment to the creation of a low carbon place is reiterated in Scottish Planning Policy. The applicants submissions regard national policy as being significant and supportive of this proposal where this development, as a proven technology providing a source of safe and locally produced renewable energy for many years, will make a significant contribution towards renewable energy production at the national and local level. Whilst it is noted that some targets have been met for renewable energy production it is noted that the Scottish Government's guidance continues to support renewable energy development and it is recognised that this reflects the thrust of national policy.
- 8.5.3 Scottish Planning Policy (SPP) requires that "planning should direct the right development to the right place", which is an important issue in this proposal. The policy principles set out for "Delivering Heat and Electricity" in SPP include;
- Support the transformational change to a low carbon economy, consistent with national objectives and targets;
 - Support the development of a diverse range of electricity generation from renewable energy technologies - including the expansion of renewable energy generation capacity and the development of heat networks;
 - Guide developments to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed.
- 8.5.4 (SPP) requires planning authorities to set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities, following a set methodology (para 161). This has been done through the spatial framework included within the Moray Local Development Plan 2020. This is a broad-brush approach required to comply with Scottish Planning Policy and covers approximately 40% of the Moray Local Development Plan Area. The proposed site is located within an area with potential for wind farm development. SPP (para 162) recognises the limitations of the strategic spatial framework and further requires that local development planning authorities should identify where there is strategic capacity for wind farms and areas with the greatest potential for wind development. The Moray Onshore Wind Energy (MOWE) Non-Statutory Guidance 2020 identifies such areas. The application site is within an area of greatest potential for large typologies (80-130m).
- 8.5.5 The detailed mapping of constraints and guidance on areas with greatest potential is set out in the Moray Onshore Wind Energy Guidance 2017 (MOWE), with the proposal site located partially within an area identified as having opportunities for extension and repowering. Of note, as identified in the

consultation from Strategic Planning & Development the 2017 MOWE and Landscape Capacity Study are currently non statutory guidance and are under review and is likely to become a sensitivity study in line with Nature Scot guidance. They still do however represent the most detailed and up to date guidance on wind energy landscape capacity in Moray and remain fit for purpose.

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

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

8.6.1 The proposed development is located within Upland Moorland and Forestry/Upland Plateau with Forest (10) Landscape Character Type (LCT) as defined in MLCS 2017 and MOWE 2020. LCT10 is assessed in the study as having Medium sensitivity to the large typology (80-130m). This indicates that some key landscape characteristics or aspects visual amenity are sensitive but there is still some ability to accommodate development in some situations without significant character change or visual impact. The operational Rothes and Rothes II wind farms are already present in the LCT along with this proposal and the other consented schemes at Glashkyle (built) and Kellas (consent still extant). The operational wind farms at Paul's Hill and Berry Burn are on the adjoining open rolling uplands LCT.

8.6.2 The Upland Moorland and Forestry LCT consists a gently undulating plateau-like landform. The land cover is predominantly moorland and forestry. The MLCS concludes that there may be some potential to accommodate further turbine development within this LCT although it is noted that the outer edges provide important backdrop and containment to the wider area. It should be noted that the current proposal relates to a consented application that pre-dates the MLCS and therefore forms part of the baseline assessment.

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

It is noted about that national planning policy and guidance supports wind energy developments. The development plan has changed since the determination of the previous applications. In considering the current proposal to extend the operational lifetime of the development the Committee should consider the extent to which the proposal continues to comply with the development. Policy DP9 'Renewable Energy' is the principle policy on which the application must be determined but this includes a requirement to comply with all other relevant policies of the development plan. The policy requires renewable energy proposals to address unacceptable impacts in relation to landscape and visual impacts, noise, air quality, electromagnetic disturbance, the water environment, carbon rich soils and peat, woodland and forestry, traffic both during construction and operation, impact on tourism and recreational interests. For wind farms the policy specifically requires compliance with the spatial framework, and site specific consideration informed by the Landscape

Character Study, impacts on communities including through issues such as shadow flicker, aviation and defence issues, cumulative issues and decommissioning and restoration.

- 8.7.1 In terms of Landscape and Visual Impact the Landscape Character Study which supports policy DP9 and MOWE is dated 2017. It takes account of the approved wind farm at Meikle Hill in its baseline assessment and the assessment of scope for future development assumes that this development will be built and will be present in the landscape for some time to come. Any development approved since the original consent at on this site (14/01087/EIA) would have considered it as part of the assessment of cumulative impact so the proposed extension of the operational lifetime will not result in any additional cumulative impacts. The approved wind farm is an established part of the assessment of wind farm capacity in the area and as such the siting is considered to comply with policy.
- 8.7.2 The most notable change in this locality in terms of windfarm capacity has been the approval of the extensions at Berry Burn (20/01026/S36) and Paul's Hill (18/00523/S36) but both these developments would have been considered in the context of the existing approved development at Meikle Hill.
- 8.7.3 There are no changes to the proposal in terms of the layout, height or number of turbines proposed. The impacts of the development will therefore be the same as those associated with the previous development. Issues relating to noise, shadow flicker, electromagnetic disturbance, impacts on the water environment and peat, forestry, traffic impact, ecology, tourism and recreation, archaeology and mod interests. No concerns in relation to these matters have been raised by consultees. Where necessary mitigation or other suitable controls is covered by condition. The granting of a s.42 application has the effect of creating a new planning application therefore the conditions of the previous consent will be reiterated to ensure that all mitigation measures remain in place.
- 8.7.4 It is noted that some of the original survey work in relation to protected species and habitats is now out of date. However, condition 8 requires amongst other items, pre-commencement surveys, species protection plans and a habitat management plan. Nature Scot have been consulted and confirm that they are content that the recommended condition will ensure that all necessary pre-construction surveys and species mitigation will take place in advance of any work commencing.
- 8.7.5 It is considered that the previous conditions which are to be reiterated are sufficient in relation to decommissioning and restoration. Condition 1 requires the turbines to be removed within a year of the recommended 40 year operational life span ending, condition 5 requires the submission of a restoration and decommission plan and condition 6 requires the provision of a bond to cover the cost of restoration. These arrangements are considered to be sufficient to ensure adequate decommissioning and restoration.

8.8 **Operational Lifetime of the Development**

The purpose of the current application is to increase the operational lifetime of the development from 27 years (increased from 25 years under 17/01003/APP) to 40 years. The applicant has stated that this extension is required to reflect changes in technology and experience that have demonstrated that wind turbines can operate safely and efficiently for longer periods. The applicant's submission in this case is considered to be reasonable.

8.8.1 At the time of the original approval (14/01087/EIA) wind farms were typically granted permission for a period of 25 years which reflected the standard manufacturers warrantee. These periods have increased as technology and experience has increased. Operational periods of 30 years or longer are now common. In the case of the current application the approved development would not be altered in any way but would be present on site for an additional 13 years. This would have the benefit of increasing the renewable energy output of the development and would reduce the net carbon impact of the development over its lifetime. All the existing proposed mitigation measures would remain in place and it is noted that no consultees have expressed any concern about the proposed extension of the operational lifetime of the development. The proposed extension to the operational life of the wind farm is therefore considered reasonable in this case and would prolong the output of a renewable energy source.

8.9 **Developer Obligations**

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

Conclusion

The proposed variation of condition 3 would extend the operational lifetime of the development from 27 to 40 years. For the avoidance of doubt the recommendation reiterates all other conditions of the previous consent including condition 1 which allows 5 years for the commencement of development. The extension of operational lifetime reflects advances in technology and will bring the development in line with more recent consents and will allow the renewable energy benefits of the scheme to be maximised. It is therefore recommended that planning permission is granted.

REASON(S) FOR DECISION

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

The proposal accords with the provisions of the development plan and there are no material considerations that indicate otherwise.

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APPENDIX

POLICY

Proposed Moray Local Development Plan 2020

PP1 PLACEMAKING

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

(ii) Healthier, Safer Environments

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

(iii) Housing Mix

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

(iv) Open Spaces/Landscaping

- Provide accessible, multi-functional open space within a clearly defined hierarchy integrated into the development and connected via an active travel network of green/blue corridors that are fully incorporated into the development and to the surrounding area, and meet the requirements of policy EP5 Open Space and the Open Space Strategy Supplementary Guidance and Policy EP12 Managing the Water Environment and Drainage Impact Assessment for New Developments Supplementary Guidance.
- Landscaped areas must provide seasonal variation, (mix of planting and colour) including native planting for pollination and food production.
- Landscaping areas that because of their size, shape or location would not form any useable space or that will not positively contribute to the character of an area will not contribute to the open space requirements of Policy EP4 Open Space.
- Semi-mature tree planting and shrubs must be provided along all routes with the variety of approaches reflecting and accentuating the street hierarchy.
- Public and private space must be clearly defined.
- Play areas (where identified) must be inclusive, providing equipment so the facility is for every child/young person regardless of ability and provided upon completion of 50% of the character area.
- Proposals must provide advance landscaping identified in site designations and meet the quality requirements of policy EP5 Open Space.
- Structural landscaping must incorporate countryside style paths (such as bound or compacted gravel) with waymarkers.
- Maintenance arrangements for all paths, trees, hedging, shrubs, play/sports areas, roundabouts and other open/ green spaces and blue/green corridors must be provided.

v) Biodiversity

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

(vi) Parking

- Car parking must not dominate the streetscape to the front or rear of properties. On all streets a minimum of 50% of car parking must be

provided to the side or rear and behind the building line with a maximum of 50% car parking within the front curtilage or on street, subject to the visual impact being mitigated by hedging, low stone boundary walls or other acceptable treatments that enhance the streetscape.

- Provide semi-mature trees and planting within communal private and public/visitor parking areas and on-street parking at a maximum interval of 4 car parking spaces.
- Secure and covered cycle parking and storage, car sharing spaces and electric car charging points must be provided in accordance with policy DP1 Development Principles.
- Parking areas must use a variation in materials to reduce the visual impact on the streetscene.

(vii) Street Layout and Detail

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

(d) Future masterplans will be prepared through collaborative working and in partnership between the developer and the council for Lochyhill (Forres), Barhill Road (Buckie), Elgin Town Centre/Cooper Park, Elgin North East, Clarkly Hill, Burghead and West Mosstodloch. Masterplans that are not prepared collaboratively and in partnership with the council will not be supported. Masterplans that are approved will be Supplementary Guidance to the Plan.

(e) Proposals for sites must reflect the key design principles and safeguard or enhance the green networks set out in the Proposals Maps and Settlement Statements. Alternative design solutions may be proposed where justification is provided to the planning authority's satisfaction to merit this.

PP2 SUSTAINABLE ECONOMIC GROWTH

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

PP3 INFRASTRUCTURE & SERVICES

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

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

- viii) Foul and surface water drainage, including Sustainable Urban Drainage Systems (SUDS), including construction phase SUDS.
- ix) Measures that implement the waste management hierarchy as defined in the Zero Waste Plan for Scotland including the provision of local waste storage and recycling facilities designed into the development in accord with policy PP1 Placemaking. For major applications a site waste management plan may be required to ensure that waste minimisation is achieved during the construction phase.
- x) Infrastructure required to improve or increase capacity at Water Treatment Works and Waste Water Treatment Works will be supported subject to compliance with policy DP1.
- xi) A utilities plan setting out how existing and new utility (including gas, water, electricity pipelines and pylons) provision has been incorporated into the layout and design of the proposal. This requirement may be exempted in relation to developments where the council considers it might not be appropriate, such as domestic or very small scale built developments and some changes of use.

b) Development proposals will not be supported where they:

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

c) Harbours

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

d) Developer Obligations

Developer obligations will be sought to mitigate any measurable adverse impact of a development proposal on local infrastructure, including education, healthcare,

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

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

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

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

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

DP1 DEVELOPMENT PRINCIPLES

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

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

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

(i) Design

- a) The scale, density and character must be appropriate to the surrounding area and create a sense of place (see Policy PP1) and support the principles of a walkable neighbourhood.
- b) The development must be integrated into the surrounding landscape which will include safeguarding existing trees and undertaking replacement planting to include native trees for any existing trees that are felled, and safeguarding any notable topographical features (e.g. distinctive knolls), stone walls and existing water features by avoiding channel modifications and culverting. A tree survey and tree protection plan must be provided with planning applications for all

proposals where mature trees are present on site or that may impact on trees outwith the site. The strategy for new tree provision should follow the principles of the "Right Tree in the Right Place".

- c) Make provision for new open space and connect to existing open space under the requirements of Policy EP5 and provide details of the future maintenance of these spaces. A detailed landscape plan must be submitted with planning applications and include information about green/blue infrastructure, tree species, planting, ground/soil conditions, and natural and man-made features (e.g. grass areas, wildflower verges, fencing, walls, paths, etc.).
- d) Demonstrate how the development will conserve and enhance the natural and built environment and cultural heritage resources, retain original land contours and integrate into the landscape.
- e) Proposals must not adversely impact upon neighbouring properties in terms of privacy, daylight or overbearing loss of amenity.
- f) Proposals do not result in backland development or plots that are subdivided by more than 50% of the original plot. Sub-divided plots must be a minimum of 400m², excluding access and the built-up area of the application site will not exceed one-third of the total area of the plot and the resultant plot density and layout reflects the character of the surrounding area.
- g) Pitched roofs will be preferred to flat roofs and box dormers are not acceptable.
- h) Existing stone walls on buildings and boundaries must be retained. Alterations and extensions must be compatible with the character of the existing building in terms of design, form, choice of materials and positioning and meet all other relevant criteria of this policy.
- i) Proposals must orientate and design buildings to maximise opportunities for solar gain.
- j) All developments must be designed so as to ensure that all new buildings avoid a specified and rising proportion of the projected greenhouse gas emissions from their use (calculated on the basis of the approved design and plans for the specific development) through the installation and operation of low and zero-carbon generating technologies.

(ii) Transportation

- a) Proposals must provide safe entry and exit from the development, including the appropriate number and type of junctions, maximise connections and routes for pedestrians and cyclists, including links to active travel and core path routes, reduce travel demands and ensure appropriate visibility for all road users at junctions and bends. Road, cycling, footpath and public transport connections and infrastructure must be provided at a level appropriate to the development and connect people to education, employment, recreation, health, community and retail facilities.
- b) Car parking must not dominate the street scene and must be provided to the side or rear and behind the building line. Maximum (50%) parking to the front

of buildings and on street may be permitted provided that the visual impact of the parked cars is mitigated by hedging or low stone boundary walls. Roadways with a single carriageway must provide sufficient off road parking to avoid access routes being blocked to larger service vehicles and prevent parking on pavements.

- c) Provide safe access to and from the road network, address any impacts on road safety and the local road, rail and public transport network. Any impacts identified through Transport Assessments/ Statements must be identified and mitigated. This may include but would not be limited to, passing places, road widening, junction improvements, bus stop infrastructure and drainage infrastructure. A number of potential mitigation measures have been identified in association with the development of sites and the most significant are shown on the Proposals Map as TSP's.
- d) Provide covered and secure facilities for cycle parking at all flats/apartments, retail, community, education, health and employment centres.
- e) Garages and parking provision must be designed to comply with Moray Council parking specifications see Appendix 2.
- f) The road layout must be designed to allow for the efficient mechanical sweeping of all roadways and channels, paviers, turning areas and junctions. The road layout must also be designed to enable safe working practices, minimising reversing of service vehicles, with hammerheads minimised in preference to turning areas such as road stubs or hatchets, and to provide adequate space for the collection of waste and movement of waste collection vehicles.
- g) The road and house layout in urban development should allow for communal refuse collection points where the design does not allow for individual storage within the curtilage and / or collections at kerbside. Communal collection points may either be for the temporary storage of containers taken by the individual householder or for the permanent storage of larger containers. The requirements for a communal storage area are stated within the Council's Kerbside Collection Policy, which will be a material consideration.
- h) Road signs should be minimised designed and placed at the back of footpaths to reduce street clutter, avoid obstructing pedestrian movements and safeguarding sightlines;
- i) Within communal parking areas there will be a requirement for electric car charging points. Parking spaces for car sharing must be provided where a need is identified by the Transportation Manager.

(iii) Water environment, pollution, contamination

- a) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water including temporary/ construction phase SUDS (see Policy EP12).
- b) New development should not be located in areas at flood risk or increase vulnerability to flooding (see Policy EP12). Exceptions to this would only be

considered in specific circumstances, e.g. extension to an existing building or change of use to an equal or less vulnerable use. Where this exception is applied the proposed development must include resilience measures such as raised floor levels and electrical sockets.

- c) Proposals must avoid major hazard sites and address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- d) Proposals must protect and wherever practicable enhance water features through for example naturalisation of watercourses by introducing a more natural planform and removing redundant or unnecessary structures.
- e) Proposals must address and sufficiently mitigate any contaminated land issues.
- f) Make acceptable arrangements for waste collection and management and encourage recycling.
- g) Avoid sterilising significant workable reserves of minerals, prime agricultural land or productive forestry.
- h) Proposals must avoid areas at risk of coastal erosion and coastal change.

DP9 RENEWABLE ENERGY

a) All Renewable Energy Proposals

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

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

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

b) Onshore wind turbines

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

i) The Spatial Framework

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

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

ii) Detailed Consideration

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

Landscape and visual impact:

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

Cumulative impact

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

Impact on local communities

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

Other

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

iii) Extensions and Repowering of Existing Wind Farms

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

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

c) Biomass

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

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

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

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

d) Heat

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

Where no heat network is present or planned:

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

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

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

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

EP14 POLLUTION, CONTAMINATION & HAZARDS

a) Pollution

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

b) Contamination

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

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

c) Hazardous sites

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

EP1 NATURAL HERITAGE DESIGNATIONS

a) European Site designations

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

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

- i) There are no alternative solutions, and

- ii) There are imperative reasons of over-riding public interest including those of a social or economic nature, and
- iii) Compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

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

b) National designations

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

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

c) Local Designations

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

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

d) European Protected Species

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

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

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

e) Other protected species

Wild birds and a variety of other animals are protected under domestic legislation, such as the Wildlife and Countryside Act 1981 (as amended in Scotland by the Nature Conservation (Scotland) Act 2004 and the Wildlife and Natural Environment

(Scotland) Act 2011), Protection of Badgers Act 1992 and Marine (Scotland) Act 2010. Where a protected species may be present or affected by development or activity arising from development, a species survey and where necessary a Species Protection Plan should be prepared to accompany the planning application to demonstrate how legislation will be complied with. The survey should be carried out by a suitably experienced ecological surveyor, who may also need to be licensed depending on the species being surveyed for.

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

EP2 BIODIVERSITY

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

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

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

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

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

EP7 FORESTRY, WOODLANDS AND TREES

a) Moray Forestry and Woodland Strategy

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

b) Tree Retention and Survey

Proposals must retain healthy trees and incorporate them within the proposal unless it is technically unfeasible to retain these. Where trees exist on or bordering a

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

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

c) Control of Woodland Removal

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

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

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

d) Tree Preservation Orders and Conservation Areas

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

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

e) Compensatory Planting

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

GUIDANCE TREES AND DEVELOPMENT

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

The cumulative loss of woodlands to development can result in significant loss of woodland cover. In compliance with the Scottish Government Control of Woodland

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

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

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

*BS5837 provides a cascading quality assessment process for categorisation of trees which tree surveys must follow. An appropriately scaled tree survey plan needs to accompany the schedule. The plan should be annotated with the details of the tree survey, showing the location, both within and adjacent to the site, of existing trees, shrubs and hedgerows. Each numbered tree or groups of trees should show the root protection area and its category U, A, B, C.

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

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

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

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

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

Landscape Scheme

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

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

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

EP8 HISTORIC ENVIRONMENT

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

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

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

b) Local Designations

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

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

The Council will consult Historic Environment Scotland and the Regional Archaeologist on development proposals which may affect Scheduled Monuments, nationally important archaeological sites and locally important archaeological sites.

EP15 MOD SAFEGUARDING

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