

## **APPENDIX 1**

### **MORAY COUNCIL**

**Response to Consultation issued by Scottish Government on  
APPLICATION FOR S.36 CONSENT  
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 PADS, FOUNDATIONS, UNDERGROUND  
ELECTRICITY CABLES, CONTROL BUILDING, TEMPORARY CONSTRUCTION  
COMPOUND, 2 BORROW PITS, ASSOCIATED WORKS/INFRASTRUCTURE  
AND HEALTH AND SAFETY SIGNAGE AT, PAUL'S HILL II WIND FARM  
BALLINDALLOCH MORAY  
(MORAY COUNCIL REFERENCE 18/00523/S36)**

### **INTRODUCTION**

The applicant, Natural Power Consultants Limited has applied for consent under Section 36 of the Electricity Act 1989 for the proposed extension of the existing windfarm at Pauls Hill windfarm, Ballindalloch.

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

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 If the planning authority objects to the proposed development and the objection is not later withdrawn, or the areas of objection cannot be addressed by conditions then ECU are likely to convene a public local inquiry.

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

### **THE PROPOSAL**

- Erection of 7 wind turbines, 6 of which would be up to 149.9m high and 1 turbine would be up to 134m high (turbine 6). All turbines to have a blade diameter of 117m with hub centres at 91.4m (with a 75.5m hub height for turbine 6).
- The overall output of the seven turbines is not yet known, as the final model and type has not yet been selected, but given the size of the proposed

turbines the output is likely to exceed 20mW. Permission is sought for a 35 year operating period.

- Each turbine will sit upon a concrete foundation pad 24m in diameter.
- Each turbine location will have a crane and vehicle hardstanding at its base.
- Existing access tracks will be used with approximately 4.4km of these requiring upgrading and 3.7km of new access track proposed.
- Erection of a new substation building adjacent to the existing Pauls Hill windfarm substation building. The proposed substation building would be approximately 10m by 20m and incorporate a transformer room, electrical switch rooms and other welfare and storage rooms. The building would have a pitched roof at 6m in height and would be similar in scale to the existing adjacent building at Pauls Hill windfarm.
- Underground 33kv connection to existing underground connection for the existing Pauls Hill windfarm. This new cabling would generally follow the route of the proposed new existing sections of track.
- A transformer kiosk/building would be positioned at the base of each turbine and measure 3m x 3m x 3m and have a shallow pitched roof.
- Wind monitoring Lidar equipment housing (complimenting or replacing anemometer equipment). Steel container 2m x 2m x 2m in dimension with sensor array protruding on top by a further 660mm.
- Two new borrow pits are proposed.
- Temporary construction compound and construction signage.
- Construction hours anticipated to be standard day time working as conditioned by the Council (normal 5½ days per week).
- A micro-siting allowance of 50m for the turbines is sought.

## **THE SITE**

- The site is located approximately 10km southwest of Archiestown and adjacent to the existing Pauls Hill windfarm. The site lies close to the western boundary of Moray.
- The site is approximately 237 hectares in area.
- The turbines are located at an altitude of between 355m and 462m above ordnance datum.
- The site is accessed via the existing Pauls Hill windfarm entrance onto the B9102. Turbine deliveries are proposed to come via the A95, via Blacksboat to the windfarm.
- The windfarm area within the site is not subject to any international, national, regional or local landscape, built environment or nature conservation designations, and there are no known archaeological assets within the site.
- Only the site access and cable route lies within the Moray Local Development Plan 2015 designated Area of Great Landscape Value (AGLV). The turbines would lie out with the AGLV designation. Of note the landscape within

Highland (approximately 3km to the south is a Special Landscape Area, and the windfarm would also lie approximately 8km north of the Cairngorms National Park.

- Roys Hill on the eastern side of the site is a designated landmark hill within the adopted Moray Onshore Wind Energy 2017 Policy Guidance (MOWE). The site sits within Landscape Character Type (LCT) 11 Open Rolling Uplands identified within the Moray Wind Energy Landscape Capacity Study 2017 (MWELCS).
- It is noted that the site boundary extends beyond the windfarm itself and encompasses the entire delivery route from the A95(T) at Marypark, and the electricity cable connection to the national grid at Glenfarclas. The site boundary encompasses the stretch of the B9138 north west across the River Spey at Blacksboat to the existing windfarm entrance.
- Beyond the River Spey at Blacksboat the site is not at risk of flooding and no invasive development is proposed within flood risk areas.

## **HISTORY**

### For the site.

17/00760/S36SCO – Environmental Impact Assessment (EIA) Scoping undertaken for Electricity EIA Regulations to establish the ‘scope’ and content of the Environmental Statement. Scoping Opinion issued by the ECU in August 2017.

15/00498/ADV - Erect advance signs at Paul's Hill, Ballindalloch, Moray. Approved in June 2015.

01/02055/S36 - Construct and operate wind powered electricity generating station (28 turbines and ancillary equipment and works) at Paul's Hill, Ballindalloch, Banffshire. Approved by the Scottish Government in spring 2003. Moray Council did not object to the proposed windfarm.

03/01426/S36 – Section 36 application to an extension to already consented windfarm (increase individual turbine capacity from 2mW to 2.3mW) at Paul's Hill windfarm comprises of 28 turbines, each 100m to blade tip. These turbines would sit immediately west of the proposed turbines and would share most of the infrastructure with the proposed turbines and be operated by the same staff. Pauls Hill has been operational for approximately 12 years.

### Relevant wind energy developments in the wider area.

01/02056/SCO - Construct and operate wind powered electricity generating station (28 turbines and ancillary works) at Cairn Uish Rothes Estate - consent granted under S.36 of the Electricity Act 1989 by Scottish Ministers for turbines 100m high to blade tip, 82 m rotor diameter (Rothes I). Now operational.

04/02473/S36 - Section 36 application for a wind farm at Berry Burn, Altyre Estate, Forres, Moray. 29 turbines at 104m in height. Operational since 2014 and producing approximately 66mW. This windfarm is located approximately 2.5km north west of Pauls Hill.

07/02800/S36 - Extension of wind farm at Rothes Wind Farm - consent granted under S.36 of the Electricity Act 1989 by Scottish Ministers for 18 turbines, 125m high to blade tip, 80m rotor diameter (Rothes II). Now operational.

13/00053/EIA - Erect 12no wind turbines (rotor diameter 71m) at Hill of Glaschyle, Dunphail, Forres, Moray. Application allowed at Appeal by Ministers in April 2014 (see 15/01148/APP below).

13/00615/EIA - Erection of 4 wind turbines (110m high to blade tip (70m hub height, rotor diameter 80m)) and associated infrastructure at Kellas House, Kellas (consented but not yet constructed, works commenced).

14/01087/EIA - Erection of wind farm comprising 6 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 2 no temporary anemometer masts at Meikle Hill, Dallas (see 17/01003/APP below).

15/01148/APP - Section 42 application to amend Condition 4 of application 13/00053/EIA (as consented at appeal dated 18/03/2014) to allow for revised turbine model (from Enercon E70 to E82) increasing maximum blade tip height from 99.5m to 99.91m and increasing rotor diameter from 70m to 82m at Hill Of Glaschyle, Dunphail, Forres. Approved by Committee in October 2015.

17/01003/APP - Variation of conditions 3, 7, 14, 20, 24 and 25 of planning permission 14/01087/EIA for Meikle Hill, Dallas. Approved by Committee in October 2017 and effectively extends permission for a further 5 year period. Not yet constructed.

17/01509/APP - Amend condition 8 (aviation lighting) of the associated permission to allow the use of infra-red lighting at Hill Of Glaschyle, Dunphail, Forres, Moray. Approved in December 2017. New lighting has now been implemented.

In Scoping (EIA scoping has been undertaken for the following proposals).

17/01706/S36SCO - Scoping Opinion request for proposed Section 36 application at Rothes Wind Farm, Longmorn, Moray (Rothes III) for 29 turbines from 149.9m up to 225m high.

17/00549/S36SCO – 48 turbines varying in height from 130m up potentially 176m at Clash Gour Wind Farm. This site would lie, west, north and east of Berryburn windfarm, and would be located within Moray and close to the border with Highland.

#### Within Highland

Cairn Duhie – Permission was issued by Scottish Ministers in October 2017 for 20 wind turbines at a height of 110m. This site lies 12km west of Pauls Hill within Highland.

Ourack – Up to 50 turbines, but no height specified at present. This site sits 2km west of Pauls Hill and a scoping opinion was issued by the Energy Consents Unit in February 2016. No application has come forward to date.

### **ADVERTISEMENTS**

Advertisements will have been carried out by the ECU who is the determining authority for the application.

### **CONSULTATIONS**

**Development Plans** – The proposals must be considered in relation to Moray Onshore Wind Energy 2017 Policy Guidance (MOWE), which is statutory supplementary guidance and The Moray Wind Energy Landscape Capacity Study 2017 (MWELCS), a technical appendix to the above MOWE, but also approved as a material consideration in its own right.

The proposal site is partially located within an area identified within the Council's Supplementary Guidance as an area with potential for extension/repowering. However the guidance and capacity study require that extensions should reflect the operational wind farms in terms of scale and siting and meet the guidance set out for LCT 11 Open Rolling Hills, notably avoiding impacts on views from the A95 within the Broad Farmed Valley, avoiding increasing the extent and prominence of turbines seen on containing skylines; the potential cumulative effects on views from the minor road between Knockando and Dallas and the impacts upon Pauls Hill wind farm. The increased height of the proposed turbines and their siting, results in the current containment being compromised and the resultant unacceptable impact upon Roy's Hill landmark hill. Visibility of the turbines will be introduced into areas where there is currently no or minimal visibility.

Specifically for LCT11- Open Rolling Uplands, the Guidance and Landscape Capacity Study identify that the key issues to consider are;

- Potential effects on views from the A95 and from settlement within the Broad Farmed Valley where Paul's Hill and Hill of Towie wind farms are already visible and where any additional development sited in this character type and also in the Upland

Moorland and Forestry (10) could increase the extent and prominence of turbines seen on containing skylines.

- Sequential and simultaneous views of multiple wind farm developments sited within this character type and the Upland Moorland and Forestry from the Dava Way- the Berry Burn wind farm is already visible and there will also be close views of the Hill of Glaschyle wind farm from this recreational route.
- Cumulative effects on views from the minor road between Knockando and Dallas. Operational wind farms are already visible but are mostly well set back from the road. The consented Meikle Hill wind farm located in the Upland Moorland and Forestry will lie very close to the eastern side of this road and any further development seen in close proximity to the west could create a dominant corridor effect.
- Sequential and simultaneous views from the A940 which provides a scenic approach to Moray over the Dava Moor- the consented Hill of Glashyle wind farm will be prominent in views from rare open spaces along this route and additional larger turbines sited to the west of this road would be particularly prominent.

This proposal is not considered to meet these requirements, with the increased height considered to exacerbate the effects of the operational wind farm and failing to respect and reflect the design of the operational wind farm, not being set back into the interior of the LCT and impacting upon the focal point of the landmark Roy's hill.

The proposal, due to the height and siting of the proposed turbines is therefore contrary to Policy ER1 of the Moray Local Development Plan 2015, the Moray Onshore Wind Energy Policy Guidance 2017 (MOWE) and Landscape Capacity Study 2017(MWELCS).

**Environmental Health** – no objection subject to conditions relating to noise, hours of construction, amplitude modulation effect, hours of any blasting required at borrow pits, vibration from the borrow pits operating and shadow flicker.

**Environmental Health, Private Water** – No objection subject to condition requiring notification to the Council and urgent, restorative, remedial work to be undertaken on any supply where negative effect(s) on water quality or quantity caused by any aspect or phase of the project are identified.

**Environmental Health, Contaminated Land** - No objection

**Aberdeenshire Archaeology Service** - No objections to the development subject to a condition relating to mitigation in the event of unknown archaeology being uncovered.

**Transportation Manager** – Further information would be required on turbine deliveries to give a definitive response, as the applicant has submitted no

confirmation that the turbine component delivery route has been thoroughly assessed. In the event of approval suspensive conditions would need to be imposed including analysis of the turbine delivery arrangements. In the event of approval other suspensive conditions would be required such as the submission, approval and compliance with a Construction Traffic Management Plan (CTMP) and Construction Method Statement (CMS).

It should be noted that until specific details of works to the public road, structures and street furniture are detailed in the CTMP and CMS confirmation of what restrictions may be in place cannot be confirmed.

*Planning Officer Note;-* A variety of conditions would be required in the event of approval and comfort may be taken from the applicants inclusion of the B roads leading to the site from the A95T being included within the application site boundary. Of note 150m high wind turbine component parts are currently being taken along the A96 through Elgin for another Dorenell windfarm.

**Developer Obligations** - None sought for wind energy proposals. Community Benefit considered separately to the planning system.

**Moray Flood Risk Management** – Requested further information on the following matters;-

1. Detailed plans and calculations of SuDS for all impermeable surfaces on proposed site i.e. footings, hardstanding's and access tracks.
2. Detailed plans and calculations showing that the capacity of all watercourse crossings allow free passage of 1:200 year flow + climate change (20%).
3. Details and calculations showing that there will be no increase in discharge to the following catchments Blarnish Burn and Caochan Liath Allt a' Mhonaldh and Tods' Burn.
4. A Construction Phase Surface Water Management Plan to be submitted and approved by The Moray Council.

*Planning Officer Note;-* In relation to item 1 and 3, given the likelihood of micro siting of the turbines it is not possible to give definitive locations and calculations at this stage. The applicant does intend to use SUDS to avoid any outfall to watercourses. Other than turbine foundations, which are back filled, all hardstandings and tracks would have permeable surfaces. The other details could be covered by suspensive condition in the event of approval, where the ES does state the intention to allow 1:200 year flow + climate change. See the observation section re hydrology etc. below.

**Building Standards** – A Building Warrant will be required for the control building and the foul water treatment.

## **REPRESENTATIONS**

All objections/representations in the relation are to be submitted directly to the Scottish Government Energy Consents Unit, who are the determining Authority. It is understood that 153 representations from the public have been received in relation to the proposals. They will be considered by the ECU and do form part of the Moray Council consideration (as consultee to the Section 36 process).

## **OBSERVATIONS**

The proposed extension to Pauls Hill Windfarm seeks consent under Section 36 of the 1989 Electricity Act and also a direction under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 as amended for the development to be deemed to be granted.

The proposal was scoped previously (see history section) under the 2000 Electricity Works (Environmental Impact Assessment) (Scotland) Regulations, and as such the application has been submitted with a supporting Environment Statement (ES) with accompanying Appendices and other supporting information such including Pre Application Consultation (PAC) report, Non Technical Summary, and a Planning Design and Access Statement. The Summary and Residual Effects chapter at the end of the ES summarise the various mitigation measures required or that have been imbedded in the design of the development.

As the Moray Council is a consultee for the Section 36 process, some matters within the Observations will be assessed differently had it been assessed as a planning application where the Moray Council are the determining authority. Matters such as, for example, impact on aviation and the water environment will be informed by direct consultation with the Ministry of Defence or SEPA, as they will be consulted separately and will reply directly to the ECU. The Councils consideration of some matters will therefore be less involved where the ECU are consulting directly themselves on particular areas of interest best addressed by other specialist consultees.

## **Legislative Context**

For consent under Section 36 of the Electricity Act 1989, the decision-making process specified under Section 25 and 37 (2) of The Town & Country Planning (Scotland) Act 1997, as amended is not a statutory requirement. However, the local development plan would remain a significant material consideration, but does not take primacy as would be in the case of a planning application. It and all other material considerations are given the appropriate weighting in the consideration of the Section 36 consultation requests from the ECU.

## **Pre Application Consultation**



For this Section 36 application, the submitted Pre-application Consultation report (PAC) indicates the extent of engagement with the local community. Public events was undertaken in November 2017 at Fleming Hall, Aberlour and Margach Hall, Knockando. A total of 34 people attended the two exhibitions. According to the PAC report, written responses were generally supportive, with one opponent and several expressing concern over the disruption caused by turbine deliveries. Other issues/concerns raised related to the potential cumulative build-up of windfarms in the vicinity (given the number in scoping), potential visual, noise and other impacts.

Positive feedback was also given relating to the positive economic impact and potential work for local businesses, including quarry interests.

The applicant states that they have sought to address/incorporate feedback from the pre application consultation process as evidenced in Chapter 3 Site Selection and Design Evolution of the Environmental Statement (ES)

The main planning issues are considered below.

### **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 Climate Change (Scotland) Act 2009 places a duty on public bodies to act sustainability and meet emissions targets including a requirement to achieve at least an 80% reduction in greenhouse gas emissions by 2050 (over 1990 levels). This figure is likely to increase to 90% by 2050 when the Climate Change Bill, published in June 2017 becomes legislation in 2019.

The commitment to the creation of a low carbon place is reiterated in Scottish Planning Policy. The agent's 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.

The applicants have submitted a Planning, Design and Access statement which identifies the pertinent national policy and guidance in relation to the onshore wind energy proposals. Consideration has been given to these various policies and guidance documents. Of particular note there is a recurring theme in favourable of renewable energy proposals.

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

- Support the transformational change to a low carbon economy, consistent with national objectives and targets.....
- Support the development of a diverse range of electricity generation from renewable energy technologies- including the expansion of renewable energy generation capacity- and the development of heat networks
- Guide developments to appropriate locations and advise on the issues that will be taken into account when specific proposals are being assessed.

(SPP) requires planning authorities to set out in the development plan a spatial framework identifying those areas that are likely to be most appropriate for onshore wind farms as a guide for developers and communities, following a set methodology (para 161). This has been done through the spatial framework included within the Moray Local Development Plan 2015, with the proposal site wholly located within an area with potential for wind farm development of turbines over 35m to tip height, with no upper height limit identified. This is a broad-brush approach required to comply with Scottish Planning Policy and covers a significant land area of Moray.

SPP (para 162) 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.

Following Examination of the Proposed Moray Local Development Plan 2015 (MLDP), the wording of the policy was amended by the Reporter to state that “further detail on the above assessment process will be addressed through supplementary guidance to include:

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

The detailed mapping of constraints and guidance on areas with greatest potential is set out in the Moray Onshore Wind Energy Guidance 2017, with the proposal site located partially within an area identified as having opportunities for extension and repowering. All the proposed turbines proposed fall within this area. Of note, the 2017 MOWE was approved following consultation and amendments introduced by the Scottish Government and is therefore in accordance with current national guidance.

The main planning considerations are;

## **Landscape and Visual Impact Assessment LVIA (PP1, ER1 and IMP1)**

MLDP Policy ER1 Renewable Energy Proposals favourably considers renewable energy proposals where they meet set criteria, including the need to safeguard the built and natural environment and avoid or address any unacceptable significant landscape and visual impacts. The policy states that the council is likely to support onshore wind turbine proposals in areas with potential (as identified in the Spatial Framework) subject to detailed consideration through assessment of the details of the proposal, including its benefits and the extent to which it avoids or mitigates any unacceptable significant adverse impact.

Policy IMP1 Developer Requirements requires any development to be sensitively sited, designed and serviced, and integrated into the surrounding landscape.

Landscape and Visual Impact Assessment for onshore energy proposals in Moray is assessed by the Moray Onshore Wind Energy 2017 Policy Guidance (MOWE) and The Moray Wind Energy Landscape Capacity Study 2017 (MWELCS) which is a technical appendix to the MOWE.

### **LVIA methodology and findings**

The ES (Chapter 6) assesses the predicted landscape and visual effects of the proposed development, including cumulative effects. The Landscape and Visual Impact Assessment (LVIA) including its methodology and visualisations generally accords with current best practice guidance although the Council has some reservations about the judgements made on sensitivity and the magnitude of change incurred by the proposal. The LVIA concludes that there may be some significant effects, moderate/major and significant effects on landscape on the neighbouring LCT Broad Farmed Valley along the River Spey but was otherwise there was no significant effects. In terms of visual amenity it concluded there would be no significant effects, other than near Corglass Farm where effects would likely be significant although considered acceptable.

The LVIA identifies some significant effects although the applicant additionally appears to make a judgement on the acceptability of these effects based either on their 'localised' extent or because of other reasons which are more usually factored into the judgements made on magnitude of change. This is exemplified by the reasons given for considering significant effects to be acceptable on the Corglass Farm residential grouping in paragraph 6.10.12 or why the effect on Viewpoint 1 from Tormore Distillery is considered acceptable in paragraph 6.9.27. This is an unusual and confusing approach to LVIA. The LVIA understates sensitivity and it is not clear how susceptibility and value have been combined to arrive at the sensitivity ratings (many of the judgements made on sensitivity seem counter-intuitive).

### **Siting and Design of the Proposal**

In general terms the key objectives of the design strategy place an emphasis upon the turbine layout in reflecting landscape character and scale. Turbine layout is only one factor that can minimise effects on character and scale of the landscape with the siting and size of turbines usually having a much more significant influence. While the importance of reflecting the pattern of existing nearby wind farms is noted, the Council considers that this objective has been achieved as the proposed extension clearly differs from the design of the original wind farm in its location on the outer edge of the LCT 11 Open Rolling Uplands and in terms of the significantly greater height of turbines.

The existing Paul's Hill wind farm is located in an area of gently rolling plateau to the north of Roy's Hill which provides some screening in views from the Spey Valley to the south, east and north-east. The existing 100m high turbines do not dominate the 'Landmark' Roy's Hill and appear set back into the upland core thus minimising effects on the adjacent smaller scale and settled landscape of the Spey Valley. This proposal comprises much larger turbines of up to 149.9m and there is little compatibility between the original wind farm and this extension in views from the Upper Knockando area and where they are seen intermittently from the south and east from the Spey Valley. In views from the Spey Valley, the much larger turbines of the proposal additionally appear to extend beyond the containment offered by the rising slopes of Roy's Hill.

### **Landscape Impact**

Moray Councils MOWE supplementary guidance defined 'landmark' hills within the landscape as a number of well-defined, steep sided hills which form prominent 'landmark' features seen across Moray. The majority of these hills are both highly visible and easily recognisable landmarks with many forming the immediate backdrop to settlements, small scale valleys and the coast. Some of these hills form visual 'buffers' to less prominent upland areas and are important in visually containing operational wind farm development from more settled valleys. The landmark hills are highly sensitive to wind turbine development sited on or near them as this would be visually prominent in views from roads and settlement within adjacent well-settled landscapes and would detract from their distinct form and character. Roy's Hill fulfils several of these functions in the local landscape listed above, and five out of the seven turbines would, at their highest point in rotation, rise above the summit of Roy's Hill. Turbine 6, would reach 80m above the summit.

While the MWELCS found there to be some scope to accommodate turbines up to 150m in the *Open Rolling Uplands*, the landmark hills within this LCT were identified as a key constraint to development. This proposal would adversely affect the character of the landmark hill of Roy's Hill as turbines would be sited close-by its slopes and summit and would appear to diminish the scale of this hill. It is considered that there would be a significant and adverse effect on the character of the *Open Rolling Uplands*.

The LVIA understates the susceptibility and sensitivity of the *Broad Farmed Valley* landscape character type (the Spey Valley) to this proposal in Table 6.9 within the

ES Chapter 6 Landscape and Visual Impact Assessment. The sensitivity of this LCT should be judged to be high-medium given the high value accorded to this landscape and the small to medium scale of the Spey Valley which increases its susceptibility to a development of this nature. There would be a major adverse and significant effect on the character of part of the *Broad Farmed Valley* of the Spey Valley where this proposal would dominate the scale and strongly rural character of small fields and buildings in the Upper Knockando area. Significant adverse effects would also arise on the settled southern fringes of the *Upland Moorland and Forestry* landscape character type.

The more incised lower sides and floor of the Spey Valley are currently designated as an Area of Great Landscape Value (AGLV). This part of the AGLV designation closest to the wind farm (generally in the Carron to Ballindalloch area) is notably diverse and intimately scaled. There would be relatively limited visibility of the proposal from this part of the AGLV due to the screening provided by landform and woodland. Overall, the effects on the qualities of the AGLV would be unlikely to be significant. It is acknowledged that the proposed turbines all lie outwith the AGLV designation.

Beyond the wider landscape impact identified above it is Turbines 6 and 7 that cause the majority of the impact on the Spey Valley, while to varying degrees Turbines 1 - 3 have an impact on the Upper Knockando area. As you approach the windfarm location from the east, via Archiestown, the changes to the character of the landscape would be increased due to the Turbines 1 and 2 being most prevalent when viewed from the small valley formed by Allt Arder.

## **Visual Impact**

Roy's Hill would continue to provide a degree of screening limiting visibility of the proposal from the sensitive Spey Valley to the south although turbines 6 and 7 are problematic where visible. This may be exacerbated if significant tree felling were to occur in some areas of the Spey Valley. Turbine 1 when viewed from close to the site to the east from lower lying land has a significant visual impact from the nearest properties on lower lying land to the east.

The degree of change to more distant views incurred by the proposed extension would not be substantial. Although the proposed turbines would clearly be larger than those within the operational Paul's Hill wind farm in some of these views and in some instances, for example from Ben Rinnes Viewpoint 3, they would appear to 'spill' down the hill side, a combination of distance and the variety and extent of wind farm development already visible would be likely to limit effects on receptors. The Council's principal concerns relate to effects from the following representative viewpoints:

- Viewpoint 1: Tormore Distillery

While it is acknowledged that this viewpoint lies outwith Moray, the viewpoint is representative of similar views close by within Moray in the Ballindalloch area, and especially on the A95 which is the main vehicular route into Moray from the south. The LVIA states that views will be significant from Viewpoint 1 at Tormore Distillery (turbines 6 & 7 most notably). However, the assessment

considers sensitivity to be medium not high-medium or even high as would be expected when combining a high value with a medium susceptibility. In this view the proposed turbines will appear substantially larger than the operational turbines and they will additionally appear to extend beyond the vertical containment provided by Roy's Hill (contrary to the clear association of the operational Paul's Hill wind farm with the lower section of skyline in this view). The proposal will substantially exacerbate an already significant effect.

- Viewpoint 6 : Archiestown

This view will be repeated to greater and less extents travelling south west on the B9012 east to west through Archiestown and towards the site. This view will also be visible from many residences along the B9012. Whilst the visual presence of the existing operational windfarm is long established in the view, closer larger turbines diminish the containment current afforded by Roys Hill.

- Viewpoint 7: Upper Knockando

The sensitivity of this viewpoint is understated in the LVIA, especially the judgement that travellers on this route would not find the view important as this takes no account of the wide variety of people using minor quiet rural roads such as this, including local walkers and cyclists. The sensitivity should be at least medium but more likely high-medium at this viewpoint. The existing Paul's Hill turbines are already prominent in views from this area although they are further away and smaller in size, appearing much more 'set back' into the uplands. The proposed turbines will form a dominant feature in views significantly detracting from the foreground of small farms and pastures and from Roy's Hill. The effects would therefore be significant and adverse from this viewpoint (and from a wider area surrounding this representative viewpoint).

There would be limited visibility from the Speyside Way with no overall significant effects on pedestrian routes, including the Dava Way.

The Council agrees with the LVIA that overall effects on settlements will not be significant due to screening by woodland and buildings. The Council agrees that significant (and adverse) effects will occur on the residential properties of Glenarder and Corglass Farm and Cottage, but do not agree with the LVIA that the visual amenity of living in Glenarder and Corglass Farm and Cottage would not be significantly affected as this proposal would introduce new and close views of very large turbines seen from inside the properties and their immediate curtilage (the existing Paul's Hill and Berryburn wind farms are not visible). The visualisations prepared for these properties show (as indicated in the ZTV maps) that the turbines would have a notable visual presence, where previously no, or very limited views of Pauls Hill occurred before. Turbine 1 in particular would be perceived as close and imposing to the properties to the east, and would have a substantial presence in the immediate landscape to the east of it.

## **Cumulative impact**

Given the relatively small scale expansion proposed to Pauls Hill, and its separation from other windfarms (other than Berryburn several km to the north west) any cumulative impact will be limited. The next nearest wind energy developments within Moray are Rothes I & II which lies approximately 10km to the north east or Hill of Glaschyle to the north west at a similar 10km distance.

Views from the minor road between Dallas and Upper Knockando would be affected cumulatively by this proposal in combination with the operational Berry Burn, Rothes II and consented Meikle Hill wind farms. In these views, this proposal will appear, like Rothes and Meikle Hill windfarms on the east side of the road, to be much closer than the operational Pauls Hill and Berryburn developments which are presently set well back (and comprise smaller turbines) and do not have a significant effect. This proposal would have a significant adverse effect on the southern part of this route where it would be seen in relatively close proximity. The Rothes III and Clash Gour wind farm proposals (which have not been considered in the LVIA for Paul's Hill II due to timing) would substantially add to these effects.

### **Summary and conclusions on the landscape and visual impacts of the proposal**

The LVIA identifies some significant effects although the applicant additionally appears to make a judgement on the acceptability of these effects based either on their 'localised' extent or because of other reasons which are more usually factored into the judgements made on magnitude of change. This is exemplified by the reasons given for considering significant effects to be acceptable on the Corglass Farm residential grouping in paragraph 6.10.12 or why the effect on Viewpoint 1 from Tormore Distillery is considered acceptable in paragraph 6.9.27. This is an unusual and confusing approach to LVIA. The LVIA understates sensitivity and it is not clear how susceptibility and value have been combined to arrive at the sensitivity ratings (many of the judgements made on sensitivity seem counter-intuitive).

There would be significant adverse effects on parts of the Open Rolling Uplands within which the development is sited and on part of the adjacent Broad Farmed Valley of the Spey and the settled southern fringes of the Upland Moorland and Forestry. These will principally affect the character of the landmark Roy's Hill and the small-scale features within the Upper Knockando area. Significant impacts on views would be relatively limited although significant and adverse visual impacts will principally occur on views from roads and properties to the south and east of the proposal with these effects largely related to the increased prominence of these much larger, and often closer, turbines and the contrast that will occur with the original Paul's Hill turbines which are considerably smaller. In views from the east, the proposal will additionally appear to spill down the outer hill slopes of Roy's Hill (contrary to the more 'set back' location of the existing wind farm) and thus will seem to encroach more on the smaller scale landscape around Upper Knockando.

While the proposed turbines are proposed within and close to the very eastern extremity of the area of potential 'very limited' scope for larger turbines (up to 150m)

identified within the MWELCS. The proposals fail to take on board all the guidance for future wind energy development stated for LCT 11 Open Rolling Uplands. This guidance encourages future development to utilise the interior of upland areas, and to avoid compromising the prevalence of landmark hills, neither guideline appears to have been adhered to in the layout proposed. The proposals therefore depart from the landscape requirements identified within policies ER1 and IMP1. The proposals also fail to comply with the guidance set out in MWELCS.

Policy PP1 Sustainable Economic Growth: While the proposal will contribute towards the transition of Moray towards a low carbon economy, the proposal is considered to be contrary to the latter part of this policy, i.e. it does not safeguard the quality of the natural environment or meet the relevant policy requirements for the reasons outlined above.

Policy IMP1 Developer Requirements: The proposal is considered to be contrary to criteria a) and b) of this policy as the scale of the proposal is not in accordance with the MOWE or MWELCS.

**Impact on residential amenity including noise, shadow flicker (ER1, EP8, EP12, IMP1)**

SPP paragraph 164 states that “individual properties and those settlements not identified within the development plan will be protected by the safeguards set out in the local development plan policy criteria for determining windfarms and development management considerations accounted for when determining individual applications.” This for Moray is reflected in the material considerations in the form of the MOWE and the MWELCS which seek to direct wind energy development into the interior of LCT11 Open Rolling Upland away from the nearby more settled valleys. This emphasis upon the protection of individual or groups of properties help qualify the concern that the eastern most turbines (particularly turbine 1) will lie too close to residences close to Allt Arder which is the watercourse draining eastward from the windfarm location.

The visualisations produced for views from individual properties (Corglass, Leakin and Glenarder demonstrate how several of the proposed turbines, particularly Turbine 1 will bring Pauls Hill windfarm into view for several properties to the east. Even at the 1.5km from the nearest property, the size of the turbine and its elevation above the lower residences will affect their visual amenity in what is currently an open rural location distance from or obscured from wind energy development. The scale of the proposed closest turbines will likely affect the external amenity of these properties where they would alter character of the location which is otherwise open and undeveloped. These impacts may be further informed by any representations submitted directly from occupants to the ECU.

In the event of approval, the Environmental Health Manager would seek various conditions to be attached relating to noise, hours of construction, amplitude



modulation effect, hours of any blasting required at borrow pits, vibration from the borrow pit operating and shadow flicker. The parameters in terms of noise limits and shadow flicker identified within the ES do demonstrate that subject to conditions these effects could be adequately controlled or will not cause a detrimental affect due to the design of the proposed windfarm extension.

The proposed turbines are sufficiently far from neighbouring residences (more 10x rotor diameter away, that shadow flicker was scoped out of the ES, however it is noted that there may be outdoor interests and activities in the locality that are affected by shadow flicker at Corglass. These would be the subject of consideration via specific representation to the ECU, and the impact of shadow flicker on outdoor activities is less easily quantifiable than the impact on residences. The Environmental Statement suggests that the site, if consented would be subject to usual construction working hours as was previously conditioned for the original Pauls Hill windfarm by Moray Council. The Environmental Health Manager in responding has recommended construction working hours between 0700 – 1900 hours, Monday to Friday and 0700 – 1300 hours on Saturdays only. Allowances for working outwith those hours would only be permitted with prior agreement with the council on the grounds of operational constraints and necessity.

While construction traffic using the existing site access would use the same public road as some neighbours to the site, the construction traffic would only be for a temporary period, with the normal amount of traffic going to the site, no dissimilar to the applicants' current staff attending the existing windfarm. While the construction phase would see the locality becoming much busier, this would only be for the construction and decommissioning periods of the development.

Given the distance of the proposed excavations and other construction activities from the sensitive receptors such as dwellings or other public/occupied buildings, air quality matters, assessed under policy EP12, such as dust will not be significant for the proposed development.

The amenity impact is such that the proposal departs from these aspects of policies ER1 and IMP1 but effects such a noise could be sufficiently controlled so as not to impact upon residential properties.

### **Impact on natural environment (E1, E3, E4, EP10, ER1 and IMP1)**

In relation to policy E1 Natura 2000 Sites and National Nature Conservation Sites the access route to the site along public roads and the cable route passes by the Rive Spey SAC, and beyond this upon the windfarm location no international, national or local environmental designations are present. As noted in the proposals section above in the upland windfarm area of the application site, there are no national, regional or local environmental designations. The merit of the location of open countryside and the habitat it provides has however been considered in the ES.

Policy E3 Protected Species seeks to ensure proposals do not have an adverse effect on protected species. The ES identifies a variety of species upon or using the site and most notably as moorland these were mainly birds species including raptors observed. Chapter 7 Ecology Assessment and Chapter 8 Ornithology Assessment refer to the various species surveys that were undertaken, including the water environment. Groundwater Dependent Terrestrial Ecosystems are discussed in Chapter 10: Hydrology, Geology and Hydrogeological Assessment. It is noted that some of the survey work occurred several years ago, which may be an issue for some species, but SNH and the RSPB are best placed to comment if necessary on the validity of surveys undertaken. The proposed mitigation measures including a Habitat Management Plan (HMP) that would be prepared in the event of approval. The range of assessment carried out in the ES gives comfort that any HMP would adequately cover the protection of a habitat.

Policy E4 Trees and Development seeks to ensure that where there is an irreversible loss of woodland, compensatory planting is provided. It is noted that there is no requirement to fell any areas of woodland as the turbine locations and associated tracks are also located on areas of open hill ground.

Evidence of certain protected species within the vicinity of the proposed windfarm extension as evidenced by the studies undertaken by the applicant would require the provision of measures to protect specific species identified such as otter and hen harrier. In the event of approval, specific management plans (such as Species Protection Plan proposed) would be required to ensure the mitigation of impacts of these species was followed through. It is noted that there are mitigation measures in place for the existing Pauls Hill windfarm such as a Moorland Management Plan.

Given the majority of works would occur in the vicinity of the existing windfarm, to existing tracks and upon open moorland, the impact is less complex than had it been wholly new development. Reliance upon existing tracks, and infrastructure exporting energy off site significantly reduced the need for invasive works, and the extension of the windfarm makes best use of existing infrastructure in seeking to increase energy production.

As referred to earlier in the report, national guidance encourages the development of renewable energy for a variety of reasons. Reduction of the reliance upon fossil fuel power generation is clearly to the benefit of the wider environment, including that of the natural environment within Moray. Notwithstanding the physical impact of the new sections of track, borrow pits, cable laying and turbines foundations, the wider benefits of increased electricity generation conform to national policies and guidance on climate change.

#### **Flood Risk and surface water drainage (EP5, EP6, EP7, EP10 and IMP1)**

The site is not identified on SEPA's flood maps as being at risk from coastal or fluvial flooding but the access route to the site includes area susceptible to flooding in the vicinity of the River Spey.

The water course north east of the site, Allt Arder, is identified as being susceptible to 1:200 year flood events, and the appropriate measure will require to be put in place to ensure that construction does not pollute the watercourse downstream. Several tributaries of Allt Arder lie close to and drain from the site. Chapter 10 'Hydrology, Geology, and Hydrogeological Assessment' considers the impact on surface water and the windfarm has been laid out to keep all seven turbines at least 50m from any watercourses although there will be several water crossings. These water crossings are illustrated in the technical appendix 10.6 and are designed to ensure the crossing account for any 1:200 flood event plus climate change. The points at which the crossings are required over the Caochan Liath burn, it is very small water course. No departure from Policy EP6 Waterbodies is anticipated where the above approach is followed.

The chapter refers to various imbedded and proposed mitigation measures that would be identified in any detailed Construction Environmental Management Plan. This would cover matters such as pollution prevention, runoff and sediment management, site drainage and management of concrete works. It is not intended to have any outfall to watercourses from surface water drains and it is intended to utilise SUDS measures on site where necessary. While the approach is detailed in the ES, the definitive detail for each turbine base would need to be shown once any micro-siting had been determined. A condition to this effect would be required if the development were to be approved. The principals and approach contained within the ES and appendices, the 'imbedded mitigation in layout design, in addition to the condition referred to would ensure compliance with policy EP5 Surface Water Drainage Sustainable Urban Drainage Systems (SUDS).

It is noted that the proposed substation and welfare building would propose to use a new septic tank and soakaway. The consideration of individual septic tank and soakaways is now dealt with more thoroughly under Building Standards Regulations, and the proposal is to commence would need a Building Warrant for the proposed building which would include the design and specifications of the proposed foul drainage. No departure from policy EP10 Foul Drainage has therefore been identified.

#### **Water Supplies (EP4)**

The applicant has assessed the likely impact on any private water supplies within the locality of the development, and this is shown in chapter 10 Hydrology, Geology, Hydrogeological Assessment. A Private Water Risk Assessment was also undertaken and this included in the technical appendix.

The councils Environmental Health Manager have not objected to the proposals, subject to a precautionary condition in the event of approval that would seek appropriate remedial action in the event that a private water supply is affected or disturbed. It is acknowledged in the ES that known water supplies sources are within the windfarm locality, but the ES proposes specific mitigation in the form of monitoring of one supply, and the proposed windfarm layout has sought to avoid water courses inclusive those used for private water.

### **Impact on cultural heritage (BE1, BE2, BE5, ER1)**

The Council's Archaeologist has not objected but has recommended a condition (in the event of approval) that would ensure that any archaeology uncovered is properly assessed and recorded. The location of the proposed turbines and new tracks would not lie upon any known archaeological assets and the proposals are considered to accord with Policy BE1 Scheduled Monuments and National Designations and other related policies. This conclusion is aided by photomontages of the proposed development from various archaeological assets in the area such as Chambered Cairns and Knockando Kirkyard.

In terms of Policy BE2 Listed Buildings the potential impact on the setting of Listed Buildings or their curtilage visible potentially visible from the proposed development as assessed under Chapter 9 Cultural Heritage Assessment of the ES. The Council has considered Chapter 9 and its analysis of impacts on listed properties such as Ballindalloch Castle and dovecot, where there will be minimal visual impact upon the listed building. The proposals are therefore considered to comply with policy BE2. The ECU will also receive separate advice on heritage matters directly from Historic Environment Scotland. There are no battlefields or Garden and Designed Landscapes within the immediate or wider locality of the proposed windfarm extension that would be affected, and therefore the proposal complies with policy BE5 which addresses the protection of such heritage features.

### **Access and traffic impacts (T2, T5, ER1 and IMP1)**

In Section 4.5 of the ES it acknowledges that further information will require to be submitted in relation to the delivery of the turbines, which will be known once a specific model of turbine has been selected and the contractor for the construction and delivery of the turbine is known. The delivery route would relate to the route previously used for Pauls Hill windfarm the options open to the applicant in terms turbine components and transport delivery vehicles are such that they believe the turbines can be delivered within the 'current parameters of the highway'. The applicant further states should any works be required to the public road network to facilitate delivery care would be taken not ensure no adverse effect on the River Spey SAC occurs.

As the proposal involves the utilisation of the existing access road to Pauls Hill windfarm, the provision of new roads will be limited to the new spurs required to

access and serve the proposed new turbines, although submissions do refer to the upgrade of the existing tracks into the windfarm as far as they lead to the junctions with the new spurs. The applicant has stated that once the specific turbine model (and turbine manufacturer requirements) are known and the contractors identified the Construction Method Statement (CMS) and Construction Traffic Management Plan (CTMP) will detail the off site and on site works required in terms of access.

The Council as Roads Authority as well as Planning Authority would therefore remain to be satisfied or have the right not to agree any works to the public road network, structures or street furniture that may become apparent post decision. The ES notes that the extent of works to the existing access tracks would be known once turbine model and delivery details were known, which may affect the amount of material required for track enhancement within the site. The two proposed borrow pits should however reduce or prevent the need for importing materials to the site.

Of note if the windfarm were approved a number of conditions would be required from the Transportation Manager including full details of HGV and abnormal loads movements and routes, a CTMP, a wear and tear agreement and potential provision of passing places and road widening.

The applicant has also included the entire access route to the windfarm from the A95 westward along the B road leading to the site. This does give some comfort in terms of any suspensive matters regarding the local road network that might arise and notwithstanding the above reservations, the application is not considered at present to depart from policies T2 Access and traffic related aspects of policies ER1 Renewable Energy Proposals and IMP1 Developer Requirements.

### **Impact on agricultural land/soil resources/minerals (ER1, ER4, ER5 and ER6)**

Policies ER1 Renewable Energy Proposals, ER4 Minerals, ER5 Agriculture and ER6 soil resources presume against the loss of agricultural land, or impacting unduly upon area of peat and other carbon rich soils. ER4 considers borrow pits and is generally favourable towards them where they meet certain criteria discussed below.

Policy ER4 acknowledges that there are benefits to borrow pits where the winning of materials on site can significantly reduce the need to import materials from beyond the site. The operational, community and environmental benefits of allowing borrow pits to be located on site must be demonstrated. While relatively few new tracks are proposed the formation of the turbine and crane pads, and upgrading of existing tracks have led to permission being sought for 2 borrow pits on site. It is noted that both borrow pits would be positioned on the north western side of Roys Hill and would therefore be out of view other than to walkers in the vicinity to the north west, although no notable walking routes are in line of the sight of the borrow pits as the Dava Way is obscured from view by Carn Kitty. Given the rounded top to Roys Hill views from the top would not be effected by borrow pits on the north western slopes.

Roys Hill summit is already notably altered by the presence of the hill track close to the norther side of its summit.

The land subject of the planning application is entirely made of heather and heathland and is of no agricultural merit, so no departure from policy ER5 will arise where no prime agricultural land will be lost.

This development would see the introduction of turbines foundations, crane pads etc. into areas up upland peat, although the applicant has demonstrated in their ES how the site selection sought to avoid areas of deeper peat. A Peat Stability and Risk Assessment has been submitted by the applicant, and the ECU have had this independently assessed and subject to some minor amendments which have already been sought by the ECU it is concluded that no unacceptable or unmanageable risk of slippage is anticipated, subject to the best practice and mitigation proposed being adhered too. Therefore in relation to soil resources the proposal would not conflict with the requirements of policy ER6 Soil Resources and it is anticipated that the ECU would attach any conditions deemed necessary to ensure compliance with the assessment if permission were granted.

### **Rural business proposals (ED7)**

Policy ED7 Rural Business Proposals is supportive of rural business developments where there is a locational justification, sufficient infrastructure capacity, no adverse impact on natural and built heritage, and appropriate controls over siting, design, landscape and visual impact and emissions. In terms of a locational justification as an extension to an existing windfarm, sharing some of its existing infrastructure, and in a location where wind energy development is already present this matter requires little further consideration.

The proposal does meet other criteria within this policy where the development would generate construction and business activity in the area as described in Chapter 13 Human Health and Population. The merit of which would be most notable during the construction period where more personnel would be present on site.

Policy ED7 d) does require consideration to be given to siting, design, landscape and visual impact of proposed rural development. For the landscape and visual concerns identified above the proposal cannot be considered to comply with all the requirement of policy ED7.

### **Aviation Issues (ER1, EP13 and IMP1)**

MLDP Policy ER1 seeks to ensure that renewable energy proposals avoid any impacts resulting from aviation and defence constraints including flight paths and aircraft radar.

The ES acknowledges potential effects of the wind farm upon aircraft activity including radar systems and there has been a history in Moray of radar conflict.

While aviation conflict is a specific issue within policy ER1, the Council ordinarily relies upon the expertise of the MoD and other aviation bodies to form a view on the matter. As the Ministry of Defence, National Air Traffic (NATS) and Inverness Airport have been directly consulted by the ECU this element of compliance will be left for ECU to determine upon.

### **Period of consent and arrangements for decommissioning and site restoration (ER1)**

Development of this nature has a limited lifespan and permission is sought for a 35 year period and if permitted it would fall to the ECU to determine the period of energy production commencement. The applicants ask for the proposal to be aligned to the conditions of the existing Pauls Hill windfarm which is due to expire sooner, as the windfarm has been producing electricity for over a decade now.

The ES contains in Chapter 4 information about decommissioning and site reinstatement, which seeks to align with the existing Pauls Hill windfarm which would see the preparation of a Decommissioning Method Statement 6 months prior to decommissioning. This may require some consideration in the event of approval as the existing Pauls Hill windfarm is currently set to expire before the current proposal.

The ECU would condition appropriate decommissioning requirement or provision of a bond to ensure that the development is in place only for the operational lifetime of the equipment and the site is appropriately restored at the end of that period, the proposal is considered to comply with the restoration requirements of Policy ER1.

### **Planning Obligations (IMP3)**

No planning obligations contribution are due as such development would not have an impact on community facilities, schools etc. Separate to this it was decided by the Planning and Regulatory Services Committee on the 18th October 2012 to remove the pursuit or contribution of funds to "Community Benefit Funds" from the development management system.

The setting up of a community benefit fund should not be a matter that influences the planning decision and would be arranged separate to the planning process in the event that permission is granted. This approach is highlighted in Annex A 'Defining a Material Consideration' of the Circular 3/2013: Development Management Procedures.

### **Conclusion**

This proposal represents a significant renewable energy development for Moray. The scheme is in line with aspects of local and national policy on the expansion of renewable energy including its contribution to renewable energy targets and the furtherance of a sustainable rural economy within Moray. The development will not

adversely impact on built or natural environment, subject to appropriate measures being put in place.

In this case, for the reasons identified in the above section on landscape and visual impact the proposed turbines (by virtue of their size and location) would have a detrimental impact upon the landscape character of this part of Moray and also visually when viewed from the nearest residences, the Upper Knockando area and within from an area south of the River Spey to the south of the proposed windfarm extension.

On balance, the benefits of the proposal would not outweigh the detrimental landscape and visual impact. Officers consider that the potential for larger turbines identified within the 2017 Moray Wind Energy Landscape Capacity Study (MWELCS) could be re-visited by the applicant. It is of note that other consultees such as SNH have come to a similar view already that the design of the windfarm should be re-visited.

Of further note, it should be specifically raised in the response that the upgrading of tracks within the existing site should not include any increase in size of the existing rock cut at the entrance to the site as it is not clear if that would be required to facilitate delivery of larger turbine components (yet to be determined). The existing rock cut is already a detrimental feature in this location and should not be enlarged. Similarly, limited information is available at this stage of the anticipated delivery of abnormal loads (turbine components) via the public road network. Where such information would be contained within a Construction Method Statement and Construction Traffic Management Plan (if the development were approved) it might reveal the need for major works to the public road network, structures or street furniture. It should be noted that whilst no objection is being raised in relation to such matters, the Council reserve the right to take issue within any unacceptable works to the public road network.

#### Recommended decision to Committee

The proposed development is contrary to Moray Local Development Plan 2015 policies PP1 Sustainable Economic Growth, ED7 Rural Business Proposals, ER1 Renewable Energy Proposal, IMP1 Developer Requirements and Moray Onshore Wind Energy 2017 Policy Guidance and The Moray Wind Energy Landscape Capacity Study 2017 for the following reasons;-

1. The proposed development by virtue of the proposed turbine positions and height close to and competing with the landmark hill Roy's Hill, would diminish its prevalence and distinctiveness within the landscape. The turbines would also stop Roy's Hill acting as an effective buffer, containing the existing windfarm at Pauls Hill from the surrounding lower valleys to the east and south;



2. The turbines will be located close to the edge of the 'Open Rolling Upland' Landscape Character Type (LCT) 11 and the identified area of potential for larger turbines within that LCT. The proposed turbines will therefore encroach visually upon the more complex lower Spey Valley to the south and to the more settled Upper Knockando area to the east and north east. Specifically proposed Turbines 6 and 7 would impact on the Spey Valley and Turbine 1 and 2 would particularly impact upon the Upper Knockando area closer the windfarm;
3. The proposed windfarm extension would be detrimental to the scale and well enclosed setting of the existing Pauls Hill windfarm by introducing substantially larger turbines closer to the contained edges of the upland area it currently occupies. From certain views the proposed turbines would appear substantially larger than the existing turbines at Pauls Hill leading to visual confusion and a lack of cohesiveness between existing and proposed turbines;
4. Proposed Turbine 1 would have a detrimental impact upon the visual amenity of lower lying properties immediately east of and closest to the proposed windfarm extension. The turbine would appear overly imposing and dominate the previously open and undeveloped small valley formed by watercourse Allt Arder.

## **Policies**

### **Primary Policy PP1: Sustainable Economic Growth**

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

### **Primary Policy PP2: Climate Change**

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

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

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

### **Policy ER1: Renewable Energy Proposals**

All Renewable Energy Proposals

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

- i) They are compatible with policies to safeguard and enhance the built and natural environment
- ii) They do not result in the permanent loss or damage of agricultural land
- iii) They avoid or address any unacceptable significant adverse impacts including:

- Landscape and visual impacts
- Noise impacts
- Electromagnetic disturbance
- Impact on watercourse engineering
- Impact on peat land hydrology
- Electromagnetic disturbance
- Impact on watercourse engineering
- Traffic Impact
- Ecological Impact
- Impact on tourism and recreational interests

#### Onshore wind turbines

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

##### a) The Spatial Framework

Areas of Significant Protection\*: where the council will apply significant protection and proposals will only be appropriate in circumstances where any significant effects on the qualities of these areas can be substantially overcome by siting, design and other mitigation.

Areas with Potential: where the council is likely to support proposals subject to detailed consideration.

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

##### b) Detailed Consideration

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

#### Landscape and visual impact:

- The proposal addresses the Guidance set out in the Moray Windfarm Landscape Capacity Study
- The landscape is capable of accommodating the development without significant detrimental impact on landscape character or visual amenity
- The proposal is appropriate to the scale and character of its setting, respects the main features of the site and the wider environment and addresses the potential for mitigation.

#### Cumulative Impact

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

#### Impact on local communities

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

#### Other

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

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

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

## Biomass

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

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

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

## **Policy ED7: Rural Business Proposals**

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

- a) There is a locational justification for the site concerned, particularly if there is serviced industrial land available in a nearby settlement.
- b) There is capacity in the local infrastructure to accommodate the proposals, particularly road access, or that mitigation measures can be achieved.
- c) Account is taken of environmental considerations, including the impact on natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land.
- d) There is careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, standard industrial estate/urban designs may not be appropriate.

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

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

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

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### **Policy E1: Natura 2000 Sites and National Nature Conservation Sites**

Natura 2000 designations

Development likely to have a significant effect on a Natura 2000 site which is not directly connected with or necessary to its conservation management 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 Natura site may be approved where;

- a) there are no alternative solutions; and
- b) there are imperative reasons of over-riding public interest including those of a social or economic nature, and

- c) if compensatory measures are provided to ensure that the overall coherence of the Natura network is protected.

For Natura 2000 sites hosting a priority habitat or species (as defined in Article 1 of the Habitats Directive), prior consultation with the European Commission via Scottish Ministers is required unless either the imperative reasons of overriding public interest relate to human health, public safety or beneficial consequences of primary importance to the environment.

### National designations

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

- a) the objectives of designation and the overall integrity of the area will not be compromised; or
- b) 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.

### **Policy E2: Local Nature Conservation Sites and Biodiversity**

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

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

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

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

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

### **Policy E3: Protected Species**

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

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

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

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

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

### **Policy E4: Trees and Development**

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



Within Conservation Areas the Council will only agree to the felling of dead, dying, or dangerous trees. Trees felled within Conservation Areas or subject to TPO protection should be replaced, unless otherwise agreed with the Council.

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

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

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

Proposals affecting woodland will be considered against Policy ER2.

### **Policy E7: Areas of Great Landscape Value (AGLV) and impacts upon the wider landscape**

Development proposals which would have a significant adverse effect upon an Area of Great Landscape Value will be refused unless:

- a) They incorporate the highest standards of siting and design for rural areas
- b) They will not have a significant adverse effect on the landscape character of the area, in the case of wind energy proposals the assessment of landscape impact will be made with reference to the terms of the Moray Wind Energy Landscape Capacity Study.
- c) They are in general accordance with the guidance in the Moray and Nairn Landscape Character Assessment.

New developments should be designed to reflect the landscape characteristics and special qualities identified in the Landscape Character Assessment of the area in which they are proposed.

Proposals for new hill tracks should ensure that their alignment minimises visual impact; avoids sensitive natural heritage features, avoids adverse impacts upon the local hydrology; and takes account of the likely type of recreational use of the track and wider network.

## **Policy E6: National Parks and National Scenic Areas (NSA)**

Development that affects National Parks or National Scenic Areas will only be permitted where:

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

## **Policy BE1: Scheduled Monuments and National Designations**

### National Designations

Development Proposals will be refused where they will adversely affect Scheduled Monuments and nationally important archaeological sites or their settings unless the developer proves that any significant adverse effect on the qualities for which the site has been designated are clearly outweighed by social or economic benefits of national importance.

### Local Designations

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

- a) Local public benefits clearly outweigh the archaeological value of the site, and
- b) There is no suitable alternative site for the development, and
- c) Any adverse effects can be satisfactorily mitigated at the developers expense

Where in exceptional circumstances, the primary aim of preservation of archaeological features in situ does not prove feasible, the Council shall require the excavation and researching of a site at the developers expense.

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

## **Policy BE2: Listed Buildings**

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

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

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

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

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

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

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

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

## **Policy BE5: Battlefields, Gardens and Designated Landscapes**

Development proposals which adversely affect Battlefields or Gardens and Designed Landscapes or their setting will be refused unless;

- a) The overall character and reasons for the designation will be not compromised, or
- b) Any significant adverse affects can be satisfactorily mitigated and are clearly outweighed by social, environmental, economic or strategic benefits.

The Council will consult Historic Scotland on any proposal which may affect Inventory sites.

#### **EP4: Private Water Supplies**

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

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

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

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

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

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

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

### **Policy EP6: Waterbodies**

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

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

A buffer strip of at least 6m between any new development and all water features is required. These should be designed to link with blue and green networks and can contribute to open space requirements. Developers may be required to make improvements to the water environment as part of the development.

### **Policy EP7: Control of Development in Flood Risk Areas**

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

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

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

Areas within these risk categories will generally not be suitable:

- Civil infrastructure and most vulnerable uses;
- Additional development in undeveloped and sparsely developed areas, unless a location is essential for operational reasons, e.g. for navigation and water based recreation, agriculture, transport or utilities infrastructure (which should be designed to be operational during floods and not impede water flow), and
- An alternative, lower risk location is not available and
- New caravan and camping sites.

Where development is permitted, measures to protect against or manage flood risk will be required and any loss of flood storage capacity mitigated to achieve a neutral or better outcome. Water resistant materials and construction should be

used where appropriate. Elevated buildings on structures such as stilts are unlikely to be acceptable.

### **Policy EP8: Pollution**

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

### **Policy EP9: Contaminated Land**

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

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

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

### **Policy EP10: Foul Drainage**

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

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

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

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

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

### **Policy EP12: Air Quality**

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

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

### **Policy EP13: Ministry of Defence Safeguarding Areas**

Certain categories of development within particular distances from MoD airfields at Lossiemouth and Kinloss require to be subject of consultation with Defence Infrastructure Organisation. This applies to a wide range of development proposals which could have implications for the operation of the airfields and includes aspects



such as height of buildings; use of reflective surfaces; refuse tips; nature reserves (and other proposals which might attract birds);

Full details of the consultation zones and development types are held by Moray Council. The outer boundaries of the zones are shown on the Proposals Map.

## **Policy ER2: Development in Woodlands**

### All woodlands

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

### Protected Woodlands

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

### Tree surveys and new planting

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

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

## **Policy ER5: Agriculture**

The Council will support the agricultural sector by:

- a) Presuming against irreversible development on prime agricultural land (classes 1,2 and 3.1) unless the site is required for settlement expansion and there is no other suitable alternative.

- b) Supporting farm diversification proposals in principle and supporting business proposals which are intended to provide additional income/ employment on farms.

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

### **Policy ER6: Soil Resources**

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

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

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

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

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

Large scale commercial peat extraction will not be permitted.

### **Policy T2: Provision of Access**

The Council will require that new development proposals are designed to provide the highest level of access for end users including residents, visitors, and deliveries appropriate to the type of development and location. Development must meet the following criteria:

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

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

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

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

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

Significant travel generating proposals will only be supported where:

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

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

### **Policy T5: Parking Standards**

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

### **Policy T6: Traffic Management**

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

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

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

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

Development proposals that would have an unacceptable impact on access rights, core paths, rights of way, long distance routes and other access routes that cannot

be adequately mitigated will not be permitted. Where a proposal will affect any of these, proposals must:

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

### **Policy IMP1: Developer Requirements**

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

- a) The scale, density and character must be appropriate to the surrounding area.
- b) The development must be integrated into the surrounding landscape
- c) Road, cycling, footpath and public transport must be provided at a level appropriate to the development. Core paths; long distance footpaths; national cycle routes must not be adversely affected.
- d) Acceptable water and drainage provision must be made, including the use of sustainable urban drainage systems (SUDS) for dealing with surface water.
- e) Where of an appropriate scale, developments should demonstrate how they will incorporate renewable energy systems, and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria.
- f) Make provision for additional areas of open space within developments.
- g) Details of arrangements for the long term maintenance of landscape areas and amenity open spaces must be provided along with Planning applications.
- h) Conservation and where possible enhancement of natural and built environmental resources must be achieved, including details of any impacts arising from the disturbance of carbon rich soil.
- i) Avoid areas at risk of flooding, and where necessary carry out flood management measures.

- j) Address any potential risk of pollution including ground water contamination in accordance with recognised pollution prevention and control measures.
- k) Address and sufficiently mitigate any contaminated land issues
- l) Does not sterilise significant workable reserves of minerals or prime quality agricultural land.
- m) Make acceptable arrangements for waste management.

### **Policy IMP2: Development Impact Assessments**

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

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

### **Policy IMP3: Developer Obligations**

Contributions will be sought from developers in cases where, in the Council's view, a development would have a measurable adverse or negative impact upon existing

infrastructure, community facilities or amenity, and such contributions would have to be appropriate to reduce, eliminate or compensate for that impact.

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

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

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