

## **MORAY COUNCIL**

### **MINUTE OF THE MEETING OF THE PLANNING AND REGULATORY SERVICES COMMITTEE**

**25 OCTOBER 2022**

**COUNCIL CHAMBERS, ELGIN**

#### **PRESENT**

Councillors Gordon (Chair), Macrae, Cameron, Cowe, Divers, Dunbar, Gatt, Keith, Lawrence, Leadbitter, McBain, Ross, Van Der Horn and Warren.

#### **IN ATTENDANCE**

Head of Economic Growth and Development, Development Management and Building Standards Manager, Mr N MacPherson, Principal Planning Officer, Mr R Smith, Principal Planning Officer, Strategic Planning and Development Manager, Ms Webster, Principal Planning Officer (Strategic Planning and Development), Mrs D Anderson, Senior Engineer (Transportation), Ms L MacDonald, Senior Planning Officer, Ms R MacDougall, Senior Planning Officer, Legal Services Manager and Mrs L Rowan, Committee Services Officer as Clerk to the Committee.

#### **1. DECLARATION OF GROUP DECISIONS AND MEMBER'S INTERESTS**

In terms of Standing Order 20 and the Councillors' Code of Conduct, there were no declarations from Group Leaders or Spokespersons in regard to any prior decisions taken on how Members will vote on any item on the agenda.

Councillor Ross advised the Committee that, in respect of Item 8 "Town Centre Improvement Plan" his wife is the Chair of the Speyside Community Council and had submitted representations on behalf of the organisation however, following advice from the Legal Adviser, was content that this did not preclude him from taking part in the debate. Councillor Gatt also confirmed, in respect of Item 8 "Town Centre Improvement Plan" he had made a representation during the public consultation and sought advice from the Legal Adviser as to whether this would preclude him from the debate. In response, the Legal Adviser advised that, as this was not a quasi-judicial meeting or in relation to any planning application, then this would not stop Councillor Gatt participating in the debate. The Chair also stated that he had made a representation during the consultation for Item 8 "Town Centre Improvement Plan" however this was prior to becoming a Councillor and stated that he would take part in the debate of this item. Councillor Van Der Horn confirmed, in respect of Item 6 "Planning Application 22/01094/AMC" that he lives in Findhorn and is aware of the site however, having consulted with the Legal Adviser, was content that he could fairly consider the application.

Subject to these clarifications, there were no declarations of Member's interests in respect of any item on the agenda.

#### **2. MINUTE OF MEETING DATED 16 AUGUST 2022**

The minute of the meeting of the Planning and Regulatory Services Committee dated 16 August 2022 was submitted and approved.

### 3. WRITTEN QUESTIONS

The Committee noted that no written questions had been submitted.

### 4. PLANNING APPLICATION 22/00499/APP

#### Ward 2 – Keith and Cullen

#### **Proposed quarry extension at Cairdshill Quarry Keith Moray AB55 5PA for Tarmac Caledonian Ltd**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for a proposed quarry extension at Cairdshill Quarry Keith Moray AB55 5PA for Tarmac Caledonian Ltd.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is a major development as defined under the Hierarchy Regulations 2009 because the site area exceeds 2 ha.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 22/00499/APP subject to the conditions detailed within the report.

1. The permission hereby granted shall be for a limited period only and shall cease to have effect on **41 years** the initiation of development (the 'cessation date') by which time and prior to that cessation date, the application site shall be cleared of all development approved or involved in implementing the terms of the permission hereby granted (including all mobile plant and machinery, any ancillary works, infrastructure, fixtures and fittings, etc.), and the site shall be re-instated in accordance with a restoration and aftercare scheme which shall previously have been submitted to and approved in writing by the Council, as Planning Authority (see Condition 3 below). Written confirmation of the date of initiation of development shall be submitted to the Council, as planning authority prior to commencement of development (see notes regarding submission of Notification of Initiation of Development attached to this decision notice).

**Reason:** To ensure an acceptable form of development enabling the development to progress in accordance with the applicant's submitted particulars to allow for full extraction of available resources and site restoration thereafter, and to retain control over the use of the site and enable further consideration to be given to the operations, effects and impact of the use upon the amenity, character and appearance of the site and surrounding area together with securing removal of all site infrastructure used in the extraction process prior to embarking upon the restoration of the site.

2. Except where otherwise provided for, or agreed and/or amended by the terms of this permission, the applicant/operator shall operate the development in

accordance with the provisions of the application, the Environmental Review supporting document by Dalgleish Associates Limited, dated March 2022, titled "Proposed Extension to Cairdshill Quarry, Keith" and the plans hereby approved. For the avoidance of doubt this shall include compliance with the mitigation measures listed in table 13.1 on pages 188 to 190 inclusive of the Environmental Review (unless otherwise specified/controlled by conditions within this decision notice) and adherence to the Waste Management Plan (Appendix 3).

**Reason:** To ensure an acceptable form of development in accordance with the submitted particulars and in order to safeguard the amenities, character and appearance of the locality within which the proposal is located.

3. Notwithstanding the indicative final site restoration plan shown on drawing C161-00055-13 (which is not approved) at least one (1) year prior to completion of mineral workings ceasing on the site, a Site Specific Restoration and Aftercare Plan shall be submitted to and approved in writing by the Council, as planning authority in consultation with SEPA. The plan shall be in accordance with the information detailed within Sections 3 and 4 (Development Proposals and Restoration and Aftercare) of the Environmental Review supporting document by Dalgleish Associates Limited, dated March 2022, and include (but not be limited to) the following information:
  - a) the arrangement for the removal of all buildings and structures (both mobile and fixed plant, etc.) from the site;
  - b) details of the finalised landform to be provided on site, including all water/pond areas and all areas of site mounding or regrading of excavated material to be retained or provided as part of the landform together with elevations, cross and long sections and existing and finished levels details (relative to a fixed datum);
  - c) the provisions for re-instatement for after-uses to include agricultural grassland, species rich grassland, woodland/tree and shrub/scrub planting, ephemeral wetland, marginal planting and bare ground and habitat creation as proposed within the Environmental Review supporting document including sections and finished ground levels to show the finished profile of the re-instated ground;
  - d) landscaping and planting/seeding information associated with the proposed formation of all identified habitats (to include species, girth, height, siting etc.);
  - e) details of stock proof fencing; and
  - f) the arrangements for the monitoring and aftercare scheme which shall specify all the steps to be taken and the time periods within which the steps will be taken (to be a minimum of 5 years); any seeding, trees or shrubs that die or become seriously damaged or diseased within 5 years of planting shall be removed and replaced by others of a similar size and species within the next planting season).

Thereafter, the restoration of the site and aftercare shall be carried out in accordance with the approved details.

**Reason:** To retain control over this development and ensure that the site is appropriately restored in the interests of the protection of the environment, as these details are currently lacking from the application.

4. No works in connection with the development hereby approved shall

commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The programme of works shall comprise a 5% trial trenching evaluation of the proposed development area, and be carried out by a suitably qualified archaeological contractor. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be brought into use unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

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

5. In respect of existing private water supply infrastructure identified as being affected by the development, prior to the commencement of the development hereby approved, details of the measures to be taken to protect the quality and quantity of existing water supplies (or to provide replacement supplies) shall be submitted to and agreed in writing by the Council, as Planning Authority. Thereafter, the measures will be implemented in accordance with the agreed details.

**Reason:** To ensure that the development does not impact on the sufficiency and wholesomeness of water supply to existing neighbouring properties.

6. No development or works shall commence within the extension area until the area has been enclosed by a stock proof fence which shall be maintained thereafter for the lifetime of the consent and until the restoration scheme is complete.

**Reason:** In the interests of the safety of the public and of livestock and in order to control the working of the site within the approved boundaries.

7. Unless otherwise agreed with the Council, as Planning Authority the annual rate of extraction shall not exceed 75,000 tonnes and the operator shall maintain records of output/production from the excavated area, to be made available to the Council, as Planning Authority at any time and on request.

**Reason:** In order to retain control over the working of the site and its impact on the area.

8. All quarry operations shall be carried out and permitted between 0700 - 1800, Monday to Friday, and 0700 - 1230, Saturdays and at no other times without the written consent of the Council, as planning authority in consultation with the Environmental Health Manager, notwithstanding the separate time periods in condition 16 which specifically relate to blasting times.

**Reason:** In order that the times of quarry operations are controlled to minimise disturbance to local residents.

9. During the normal daytime working hours defined in the above condition, the free-field Equivalent Continuous Noise Level (LAeq,1hr) for the period, excluding bund formation, soil and overburden handling activity and quartzite drilling operations, shall not exceed the greater of 45dB(A) or the background sound level + 10 dB for daytime operations, as determined at any existing noise sensitive property. For the avoidance of doubt the average background sound level (L A 90) at dwellings is stated in Tables 1.1 to 1.4 of noise impact assessment supporting document by Vibrock Limited, dated 29 March 2022, reference R22.11375/1/RK and titled "Noise Impact Assessment. Cairdshill Quarry Extension, Morayshire. Dalglish Associates Limited."

**Reason:** In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

10. During the normal daytime working hours defined in condition 8, the free-field Equivalent Continuous Noise Level (LAeq,1hr) from quartzite drilling operations, shall not exceed 55dB(A), as recorded at any existing noise sensitive property and be limited to a period not exceeding 10 days in any calendar year.

**Reason:** In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

11. Noise from soil and overburden handling shall not exceed the free-field Equivalent Continuous Noise level ( LAeq,1hr ) of 70 dB(A) at any existing noise sensitive property and be limited to a period not exceeding 8 weeks in a year at any one property.

**Reason:** In order that noise from the bund formation phase of development is controlled and that the duration of this activity is limited in duration, so as not to cause noise nuisance to local residents.

12. Broad spectrum white noise vehicle reversing alarms shall be installed on all vehicular quarry plant.

**Reason:** In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

13. At the reasonable request of the Planning Authority, following a complaint relating to noise from quarry operations at the development, the developer shall measure at its own expense noise emissions as they relate to the permitted consent limits, having regard to measurement locations and methodologies as detailed in Planning Advice Note 'PAN50, Annex A: The Control of Noise at Surface Mineral Workings'. The results of such monitoring shall thereafter be forwarded to the Planning Authority. In the event of a breach of noise limits a scheme of mitigation shall be brought into action and its implementation agreed with the Planning Authority.

**Reason:** In order that noise from the development is controlled so as not to cause noise nuisance to local residents.

14. Prior to the development hereby approved commencing, a written scheme to control blasting operations shall be submitted and agreed with the Planning

Authority. The results of monitoring associated with the agreed scheme shall be made available in writing to the Planning Authority on request.

**Reason:** In order that blasting operations are considered and managed, in order to protect local residents.

15. Ground vibration as a result of blasting operations at the development shall not exceed a peak particle velocity of 6 mms-1 (95% confidence level) at residential properties, with no individual blast exceeding a peak particle velocity of 12mms-1. The measurement shall be the maximum of 3 mutually perpendicular directions taken at the ground surface at any vibration sensitive building.

**Reason:** In order that vibration associated with blasting from the development is controlled so as not to cause nuisance to local residents.

16. No blasting shall be carried out on the site except between the following times (1000 and 1200 hours) and (1400 and 1600 hours) Monday to Fridays and (1000 and 1200 hours) on Saturday. There shall be no blasting or drilling operations on Sundays, Bank Holidays or National Holidays.

**Reason:** In order that the times of blasting operations are controlled to minimise disturbance to local residents.

17. The above condition 16 shall not apply in cases of emergency when it is considered necessary to carry out blasting operations in the interests of safety. The Planning Authority shall be notified in writing immediately of the nature and circumstances of any such event.

**Reason:** In order that the Planning Authority is informed of any emergency situation where the above condition cannot be met.

18. A Site Dust Management Plan for the site shall be maintained throughout the lifetime of the development in accordance with Section 9.9 of the Environmental Review supporting document by Dalgleish Associates Limited, dated March 2022, and titled "Proposed Extension to Cairdshill Quarry, Keith."

**Reason:** In order to ensure that dust emissions are considered and managed, in order to prevent dust nuisance to local residents.

19. Prior to the development hereby approved commencing details of the operational site lighting shall be submitted to and agreed in writing by the Planning Authority, in consultation with the Environmental Health Manager. Thereafter, the agreed lighting details shall be maintained throughout the lifetime of the development.

**Reason:** In order to ensure that light emissions are controlled so as not to give rise to a nuisance to local residents.

20. Prior to the commencement of any works associated with the establishment or undertaking of new quarrying operations or within 3 months of the issue of planning consent (whichever is soonest) the applicant must submit the following information for approval by the Planning Authority in consultation with the Roads Authority:

- a. Details (Plans scale 1:500 min and Management Strategy) for the provision of physical and other mitigation measures to prevent the discharge of water and loose material from the site onto the public road.

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

21. Prior to the commencement of any works associated with the establishment or undertaking of new quarrying operations visibility splays of 2.4 metres by 70 metres (minimum) in both directions, shall be provided at both accesses to the development onto the U43h, clear of any obstruction above 0.6 metres in height, measured from the level of the carriageway.

Thereafter the visibility splays shall be maintained for the lifetime of the use of the accesses.

**Reason:** To enable drivers of vehicles entering or exiting the site to have a clear view so that they can undertake the manoeuvre safely and with the minimum interference to the safety and free flow of traffic on the public road.

22. Prior to the commencement of any works associated with the establishment or undertaking of new quarrying operations or within 3 months of the issue of planning consent (whichever is soonest) the applicant must submit the following information for approval by the Planning Authority in consultation with the Roads Authority:

Plans (1:500 min) showing the location and design of road improvement works to widen the U43h to a minimum of 7.3m over a continuous length of 100m from the site access eastwards towards the A96 with bend widening and geometry changes and associated improvements to road verges, drainage and boundary treatments and cutting back of vegetation within the road envelope as necessary to accommodate two-way unopposed HGV traffic movements and resurfacing of the full width of the carriageway over 20 metres centred on each of the site entrances and exits.

Thereafter, prior to the commencement of any works associated with the establishment or undertaking of new quarrying operations the works shall be completed in accordance with the approved details.

**Reason:** To ensure an acceptable development in road safety terms through the provision of details currently lacking and/or incorrectly shown on the submitted particulars to date.

23. No development shall take place until documentary evidence has been submitted to and approved in writing by the Council, as Planning Authority demonstrating that the Restoration Guarantee Fund from the Minerals Products Association (MPA) is available and can be implemented, should it prove expedient to do so. The operator shall provide annual confirmation of continuing membership of the MPA. In the event that, for any reason, the operator ceases to be a member of the MPA it shall within 31 days produce to the Council a performance bond, for a sum to be agreed between the parties, both acting reasonably, and granted by a UK bank or other approved financial provider.

**Reason:** To ensure adequate restoration of the site.

24. The Water Management Plan and embedded mitigation measures as detailed within the submitted Hydrological and Hydrogeological Assessment (Section 6.7 refers) and Drainage Strategy (Appendix 5) of the Environmental Review supporting document prepared by Dalgleish Associates Limited, dated March 2022, shall be fully implemented by the applicant/operator, unless otherwise agreed in writing with the Council, as Planning Authority.

**Reason:** To ensure adequate protection of the water environment and to prevent potential pollution impacts.

25. No works in connection with the development hereby approved shall commence until detailed calculations, scaled drawings, cross sections and specifications for the attenuation and flow control device for the development have been submitted to and approved in writing by the Council, as Planning Authority. These shall be in accordance with the details outlined in the submitted Drainage Strategy (Appendix 5) and Hydrological and Hydrogeological Assessment of the Environmental Review supporting document prepared by Dalgleish Associates Limited, dated March 2022. Thereafter the development shall be carried out in accordance with these approved details.

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

26. The rights permitted under Paragraphs 1a and 1b of Class 55 of the Town and Country Planning (General Permitted Development) (Scotland) Order 1992, are hereby withdrawn. The installation of any buildings not specified in the planning application will require the prior approval of the Council, as planning authority in accordance with Class 56.

**Reason:** In the interests of residential amenity and to ensure that the Planning Authority retains control over the future use of the site.

27. Notwithstanding the indicative final site restoration plan shown on drawing C161-00055-13 (which is not approved) prior to the phased restoration works during Phase 1 (regrading and planting of northern overburden mound and eastern quarry edge) a Restoration and Aftercare Plan shall be submitted to and approved in writing by the Council, as planning authority. The plan shall be in accordance with the information detailed within Sections 3 and 4 (Development Proposals and Restoration and Aftercare) of the Environmental Review supporting document by Dalgleish Associates Limited, dated March 2022, and include (but not be limited to) the following information:
- a) details of the finalised landform to be provided on site during phase 1, including all areas of site mounding or regrading of excavated material to be retained or provided as part of the landform together with elevations, cross and long sections and existing and finished levels details (relative to a fixed datum);
  - b) landscaping and planting/seeding information associated with the proposed formation of all identified habitats (to include species, girth, height, siting etc.); and



- c) the arrangements for the monitoring and aftercare scheme which shall specify all the steps to be taken and the time periods within which the steps will be taken (to be a minimum of 5 years); any seeding, trees or shrubs that die or become seriously damaged or diseased within 5 years of planting shall be removed and replaced by others of a similar size and species within the next planting season).

Thereafter, the restoration of the site and aftercare during phase 1 shall be carried out in accordance with the approved details.

**Reason:** To retain control over this development and ensure that the site is appropriately restored in the interests of the protection of the environment, as these details are currently lacking from the application.

- 28. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted.

**Reason:** The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

## **5. PLANNING APPLICATION 21/01963/APP**

### **Ward 3 – Buckie**

#### **Proposed residential development (Phase 1) associated landscaping and infrastructure and demolition of existing dwellinghouse at R7 Land at Muirton, Muirton Way, Buckie, Moray for Morlich Homes Ltd**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for a proposed residential development (Phase 1) associated landscaping and infrastructure and demolition of existing dwellinghouse at R7 Land at Muirton, Muirton Way, Buckie, Moray for Morlich Homes Ltd

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the proposal exceeds 50 house units and falls within the category of a major development as defined in the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009.

During his introduction, Mr MacPherson, Principal Planning Officer advised the Committee that, in relation to Condition 7, 2 reasons for the condition had been included in error and that the Committee should disregard the first one as this was covered in the second reason. This was noted.

During discussion surrounding access to the cemetery, concern was raised in relation to how buses will enter and exit the cemetery and the impact this may have on Alba Road.

In response, Mrs Anderson, Senior Engineer (Transportation) advised that access to the cemetery is a matter for the Lands and Parks Service however she was aware of proposed changes to ensure that it is suitable for pedestrians and that occasional

use of Alba Road may be required if there are buses transporting people to the cemetery. Mrs Anderson further assured the Committee that buses are no larger than refuse collection vehicles, which Alba Road was able to accommodate however would continue to monitor the use of Alba Road to ensure that there is no adverse impact.

In relation to EV Charging Points detailed in Condition 22, Councillor Van Der Horn queried whether this condition could be amended as follows "No development shall be occupied until the plan includes EV charging infrastructure".

In response, Mr MacPherson, Principal Planning Officer suggested the following wording "a detailed plan of all EV charging for houses flats and communal parking be provided and no houses and flats occupied until this is in place". However, following the meeting, and after reviewing the Site Plan (Drawing 19-39/PL/02 Rev B), it was noted by Officers that EV local points are already detailed and that further details are also provided on the house type plans for many plots where the point of connection is on the building. Taking this into consideration, it was considered that there was no requirement to amend Condition 22 and the following rewording of Condition 22 was agreed in conjunction with the Chair and Councillor Van Der Horn.

"The provision of EV charging infrastructure shall be implemented in accordance with drawing number 19-39/PL/02 Rev B "Phase 1 Site Plan - Including housing mix and schedule" and approved house plans showing EV charging infrastructure. No house or flat shall be occupied until the EV charging infrastructure associated with the parking for the unit has been provided and made available for connection of an EV charging unit.

Thereafter the development shall be completed in accordance with the approved details."

During further discussion surrounding the provision cycle storage, it was asked that a condition be added to ensure safe, secure, weatherproof cycle storage for all units that have no secure garden or garage in the development.

In response, Mrs Anderson, Senior Engineer (Transportation) advised that Condition 17b related to cycle storage and Mr MacPherson, Principal Planning Officer agreed to amend this to ensure cycle storage for all units with no secure garden or garage.

With regard to the access to the development at the junction at Barhill Road, concern was raised that this is a challenging junction and it was queried whether any additional safety measures would be put in place.

In response, Mrs Anderson, Senior Engineer (Transportation) advised that this junction would be further considered by the Transportation Service.

Thereafter, the Committee agreed:

- (i) that the Transportation Service will give further consideration to access requirements to the nearby cemetery and to the junction at Barhill Road;
- (ii) to grant planning permission in respect of Planning Application 21/01963/APP subject to:

- the completion of a (Section 75) legal agreement regarding developer obligations relating to primary and secondary school provision and transport requirements;
- the following conditions and reasons with the following amendments:
  - the removal of the first reason for Condition 7;
  - condition 17b) to read “No details are provided for the bike storage for units with no secure garden and garage. The bike store shown between parking bays to the front of plots 61/62 does not appear to be set back from the parking spaces and needs to be set back or relocated close by. Details (Plans (1:200 min) and specifications are required for the provision of secure weatherproof cycle parking for units with no secure garden and garage in accordance with the Moray Local Development Plan 2020 Parking Standards)”;
  - condition 22 to read “The provision of EV charging infrastructure shall be implemented in accordance with drawing number 19-39/PL/02 Rev B “Phase 1 Site Plan - Including housing mix and schedule” and approved house plans showing EV charging infrastructure. No house or flat shall be occupied until the EV charging infrastructure associated with the parking for the unit has been provided and made available for connection of an EV charging unit.

Thereafter the development shall be completed in accordance with the approved details”.

1. The development to which this permission relates must be begun not later than the expiration of 3 years beginning with the date on which the permission is granted.

**Reason:** The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. Prior to the commencement of any works, a full site Construction Environmental Management Plan, including a dedicated pollution prevention section, shall be submitted to and approved in writing by the Council, as Planning Authority, and thereafter all work shall be carried out in accordance with the approved plan.

**Reason:** In order to minimise the impacts of necessary construction works on the environment.

3. A construction phase surface water management plan shall be submitted a minimum of two months prior to the commencement of the development and shall be agreed in writing prior to work commencing with the Planning Authority in consultation with Moray Flood Risk Management. The plan shall include measures to prevent increased flood risk to neighbouring properties and measures to ensure heavily silted surface water does not enter any watercourse.

Thereafter the development shall be carried out in accordance with the agreed details.

**Reason:** To prevent surface water flooding during the course of the development and minimise risk to adjacent watercourses.

4. The 19 units identified as affordable housing on the approved site plan shall only be used for affordable housing purposes in accordance with the agreement(s) reached between the applicant/developer and Moray Council and/or any registered social landlord (e.g. housing association or similar) to enable the long term delivery of affordable housing on this site; and no development shall commence until details of the agreement(s) to confirm the arrangements for the delivery of the proposed affordable accommodation hereby approved shall be submitted to and approved in writing by the Council, as Planning Authority.

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

**Reason:** To ensure an acceptable form of development in terms of the required provision and delivery of the affordable housing accommodation proposed for this site wherein the benefits of such provision are passed on to serve the community in future years.

5. The accessible housing identified on the approved Site Plan, shall be provided in accordance with the Accessible housing statement submitted in support of this application and each accessible house shall thereafter be retained a such throughout the lifetime of the development.

**Reason:** To ensure accessible housing is provided and retained within the development hereby approved.

6. Unless otherwise agreed in writing with the planning authority, the equipped play area shall be provided in accordance with the approved plans prior to the commencement of the 30th residential unit on site. Thereafter the equipped play area shall be maintained in accordance with the approved Landscape Management Plan for the lifetime of the development.

**Reason:** To ensure the timeous provision of the play area and surrounding open space.

7. No development shall commence until an amended Landscape Scheme has been submitted to and approved by the Council, as Planning Authority. This shall be based upon the Landscaping/Biodiversity drawing number 19-39/PL/06 Rev B, and show and clarify the following:
  - a) The position and number of species to be planted in the approved rain gardens and roadside swales,
  - b) The location of all public areas to be finished in grass, which notwithstanding the details shown on the approved site plan, shall include the kick about area within the play park,
  - c) The arrangements for the time-scale(s) for all new planting, seeding and turfing to be undertaken on the site, and including the woodland planting to the southwest of the site and the tree avenue along the old cemetery load shown on the approved site plan and
  - d) Details for the landscaping and timing of the area identified for future neighbourhood development on the site plan.

**Reason:** In order to remove any ambiguity regarding the terms of the landscape scheme, to also ensure structural planting blocks are provided to help integrate this phase of the development and to ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

8. The development hereby approved shall be carried out in accordance with the mitigation measures as identified within the Preliminary Ecological Appraisal submitted in support of this application.

**Reason:** To ensure the proposals minimise the impact on the surrounding wildlife and maximises opportunities for habitat creation.

9. The development hereby approved shall be carried out in accordance with the mitigation, compensation and biodiversity enhancement measures as identified within the bat survey submitted in support of this application.

**Reason:** To ensure the proposals minimise the impact on bats and maximises opportunities for habitat creation.

10. Prior to development commencing a surface water maintenance plan shall be submitted to and approved in writing by the local Planning Authority. All surface water drainage provision within the development shall be implemented in accordance with the details contained in the Drainage Impact Assessment, submitted in support of this proposal. Each residential unit hereby approved shall not be brought into use until it is connected to the approved drainage arrangements. Thereafter the drainage arrangements and surface water maintenance plan shall be will be retained and maintained throughout the lifetime of the development.

**Reason:** To ensure surface water from the development is disposed of and maintained in a sustainable manner.

11. All bird and bat boxes and hedgehog highways as shown on the approved Landscaping/Biodiversity shall be provided prior to the completion of the house on which they are located or within 3 months of the completion of the development (whichever is the sooner).

**Reason:** In order to ensure these habitat enhancement measures are provided as soon as practical, in the interests of supporting biodiversity on site.

12. Unless otherwise agreed in writing with the Planning Authority all boundary enclosures shall be provided in accordance with the details specified on the approved site plan. The boundary enclosures associated with each house/unit hereby approved shall be provided prior to completion of each house/unit and thereafter retained throughout the lifetime of the development.

**Reason:** To ensure the timeous provision, retention and specification of the approved boundary enclosures in the interests of the character and appearance of the development.

13. No works in connection with the development hereby approved shall commence unless an archaeological written scheme of investigation (WSI) has been submitted to and approved in writing by the planning authority and a programme of archaeological works has been carried out in accordance with the approved WSI. The WSI shall include details of how the recording and recovery of archaeological resources found within the application site shall be undertaken, and how any updates, if required, to the written scheme of investigation will be provided throughout the implementation of the programme of archaeological works. This should comprise a level 1 archaeological standing building survey of the farmstead & farmhouse, prior to demolition, as well as an archaeological trial trenching evaluation of 5-7% of the total proposed development site, these works to be undertaken by a suitably qualified archaeological contractor.

Should the archaeological works reveal the need for post excavation analysis the development hereby approved shall not be occupied unless a post-excavation research design (PERD) for the analysis, publication and dissemination of results and archive deposition has been submitted to and approved in writing by the planning authority. The PERD shall be carried out in complete accordance with the approved details.

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

14. No development shall commence until details confirming the installation of fibre broadband connection for each residential unit (to be provided prior to occupation of each residential unit) have been submitted to and approved in writing by the Council, as Planning Authority. Thereafter, the development shall be implemented in accordance with these approved details, unless otherwise agreed in writing by the Council, as Planning Authority.

**Reason:** To ensure the residential units hereby approved are served by appropriate high speed internet connections, in accordance with policy PP3 – Infrastructure and Services of the Moray Local Development Plan 2020.

15. Prior to commencement of development timescales for the provision of the public art as shown on the approved site plan and detailed on page 16 of the placemaking statement dated December 2021, submitted in support of this application, shall be provided and agreed in writing with the local planning authority and subsequently implemented in accordance with the agreed timescales. The public art shall thereafter be retained throughout the lifetime of the development.

**Reason:** To ensure the public art is timeously provided.

16. Notwithstanding the details submitted shown within the adopted road layout plan which does not include a road connection to the New Cemetery are not acceptable. No development shall commence until the following have been submitted for approval in writing by the Planning Authority in consultation with the Roads Authority and Lands and Parks:
- details (Plans scale 1:500 min) for a road connection (including footways/cyclepaths) to be provided between Alba Road and the New Cemetery Car Park;
  - a development phasing plan (roads and plots) to demonstrate that no works shall commence on any part of the development to the north of the

existing cemetery connection until the approved road connection (including footways and cyclepaths) between Alba Road and the New Cemetery Car Park have been completed and opened to the public.

Thereafter, unless otherwise agreed in writing by the Planning Authority the development, shall be completed in accordance with the approved details and access to the New Cemetery Car Park.

**Reason:** To ensure access is provided in the interests of an acceptable development, road safety and the provision of details currently lacking from the submission and to ensure pedestrian and vehicle access is maintained to the “New Cemetery” at all times throughout the construction of the development.

17. Notwithstanding the site layout details below submitted (which are not acceptable) no development shall commence until details are submitted and approved in writing by the Planning Authority in consultation with the Roads Authority to address the following:
- a) Plots 55 and 56 (which require 3 parking spaces) show a public footway between the 3 proposed parking spaces which is unacceptable. (Either the footway fronting plots 55-57) shall be relocated adjacent to the carriageway or an additional parking space must be provided within the plot to the rear of the buildings);
  - b) No details are provided for the bike storage for units with no secure garden and garage. The bike store shown between parking bays to the front of plots 61/62 does not appear to be set back from the parking spaces and needs to be set back or relocated close by. Details (Plans 1:200 min) and specifications are required for the provision of secure weatherproof cycle parking for units with no secure garden and garage in accordance with the Moray Local Development Plan 2020 Parking Standards);
  - c) The details for the proposed footway/verge in front of Plot 21 are unacceptable/lacking detail. (Revised details (Plans 1:500 min) required showing the footway located adjacent to the carriageway);
  - d) Plots 13 and 14 show (Drawing PL-39/PL/02 Rev B) show a shared wide dropped kerb opening which is unacceptable. (Revised details (Plans 1:500 min) required showing the footway relocated adjacent to the carriageway and single width driveway crossings of the footway);
  - e) A 3m cyclepath between the Plot 28/29 boundaries. No details of fencing are provided. Minimum clearances are required between the cyclepath and any fence or boundary features in accordance with Cycling by Design. (Revised details showing the proposed cyclepath boundary details (walls/fences etc), their height and positions set back in accordance with the requirements of Cycling by Design are required);
  - f) Plot 27 and 29 ‘Duffus’ 4 bed houses require a minimum of 3 parking spaces. The current proposals indicate 1 garage space and 1 driveway space. The driveway for plot 27 is less than 6 metres in front of the garage opening. Plot 27 therefore has a shortfall of 2 parking spaces and plot 29 has a shortfall of 1 parking space. (Revised details (Plans scale 1:200 min) are required to show provision for 3 parking spaces for each plot;
  - g) The proposed junction with Alba Road severs the existing 3m cyclepath with no provision to reconnect the existing cyclepath or provide 3m wide crossings of Roads 1 and 2 which are required to maintain connectivity. (Details (Plans 1:500min) are required for a continuous 3m wide cyclepath on the north side of Road 1 and Alba Road with a 3m wide crossing of

Road 2. The existing cyclepath on Alba Road to the south must be extended along the south side of Road 1 and 3m wide crossings provide of Road 1 to form a continuous cyclepath connection from the south).

Thereafter unless otherwise agreed in writing by the Planning Authority, the development shall be completed in accordance with the approved details. No house or flat shall be occupied until parking has been provided and made available for use by that house or flat. Parking arrangements shall be retained and maintained in perpetuity as parking spaces for use in conjunction with that house or flat hereby approved.

**Reason:** To ensure the availability of the level of parking necessary for residents/visitors/others, in the interests of an acceptable development, road safety and the provision of details currently lacking from the submission.

18. No works shall commence on site until a Construction Traffic Management Plan has been submitted to and approved in writing by the Council, as Planning Authority in consultation with the Roads Authority. The Construction Traffic Management Plan shall include the following information:

- duration of works;
- construction programme/phasing;
- construction compound location(s)
- hours of operation for delivery of materials and plant;
- full details of any temporary construction access (note: no construction traffic shall be permitted via Golf View Drive unless approved in writing by the Planning Authority in consultation with the Roads Authority) ;
- measures to be put in place to prevent material being deposited on the public road and measures to be put in place to monitor and clean the public road;
- measures to be put in place to safeguard the movements of pedestrians;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- site parking provision, loading and unloading and turning areas for construction traffic.

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

**Reason:** To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.

19. No development shall commence until evidence has been submitted to confirm that a Road Safety Audit (Stage 1/2) for the internal road layout new junction onto Alba Road and modifications and extension to Golf View Drive have been completed in agreement with the Roads Authority and revised details for any revised layouts have been submitted for approval in writing by the Planning Authority in consultation with the Roads Authority.

Thereafter, unless otherwise agreed in writing by the Planning Authority, the development shall be completed in accordance with the approved details.

**Reason:** In the interests of road safety and the provision of details currently lacking from the submission.



20. No development shall commence until details have been submitted to confirm the maintenance/ factoring arrangements for all landscaped areas within or adjacent to the public road (including footways and cycle paths, verges, and service strips but excluding residential plot boundaries). Thereafter the landscaping shall be maintained in accordance with the approved arrangements and it must be ensured that landscaping will not interfere with the function of the public road or cause a hazard to road users.

**Reason:** In the interests of road safety and the provision of details currently lacking from the submission.

21. No more than 5 residential units shall take access from the northern accesses via Golf View Drive until the proposed road and footways between Golf View Drive and Alba Road have been completed in accordance with the approved details and opened to the public.

**Reason:** To ensure that acceptable access and connectivity is provided to the development.

22. The provision of EV charging infrastructure shall be implemented in accordance with drawing number 19-39/PL/02 Rev B "Phase 1 Site Plan - Including housing mix and schedule" and approved house plans showing EV charging infrastructure. No house or flat shall be occupied until the EV charging infrastructure associated with the parking for the unit has been provided and made available for connection of an EV charging unit.

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

**Reason:** In the interests of an acceptable form of development and the provision of infrastructure to support the use of low carbon transport.

23. Driveways over service verges shall be constructed to accommodate vehicles and shall be surfaced with bituminous macadam unless otherwise agreed with the Council, as Planning Authority in consultation with the Roads Authority.

**Reason:** To ensure acceptable infrastructure is provided at the property accesses.

24. No boundary fences, hedges, walls or any other obstruction whatsoever over 1 metre in height and fronting onto the public road shall be within 2.4 metres of the edge of the carriageway and nothing fronting onto a cyclepath shall be within 0.25 metres of the edge of the cyclepath, measured from the level of the public carriageway, unless otherwise agreed in writing by the Council, as Planning Authority in consultation with the Roads Authority.

**Reason:** To enable drivers of vehicles leaving driveways to have a clear view over a length of road sufficient to allow safe exit and to prevent obstructions to cyclepath users, in the interests of road safety for the proposed development and other road users.

25. Householder permitted development rights (as defined in the Town and Country Planning (General Permitted Development) (Scotland) Order 1922, (as amended) (or any Order revoking and re-enacting that Order(s) with or without

modification shall be removed from any service strips along plot frontages and no amendments to planting within these areas shall be permitted.

**Reason:** To ensure an acceptable form of development and effective roads drainage infrastructure is provided and safeguarded.

26. The consent hereby permitted relates to phase one only (65 dwellings units, associated landscaping and infrastructure) and no other development.

**Reason:** To clarify the extent of the development permitted.

## **6. PLANNING APPLICATION 22/00715/APP**

### **Ward 2 – Keith and Cullen**

#### **Installation of an energy storage facility including battery enclosures power conversion units transformer substations grid connection infrastructure vehicular access and associated works at Land At Drum Farm Keith Moray for Renewable Energy Systems Limited**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for the installation of an energy storage facility including battery enclosures, power conversion units, transformer substations, grid connection infrastructure, vehicular access and associated works at Land at Drum Farm, Keith, Moray for Renewable Energy Systems Limited.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the application is major as the proposal relates to electricity generation with a capacity of more than 20Mw.

During discussion relating to planting surrounding the development, it was noted that the site was geometric in shape and it was queried whether screening of the site could be broken up with hedging and mature trees so that it blends into the landscape more effectively.

In response, Mrs MacDonald, Senior Planning Officer advised that a specific standard of trees could be requested and that Condition 18 would be amended to reflect this.

Thereafter, the Committee agreed to grant planning permission in respect of Planning Application 22/00715/APP subject to the following conditions and reasons with an amendment to Condition 18 to read:

“Notwithstanding the details shown on approved plan P22-0056.001 Rev B all trees to be planted shall be at least heavy standard. In all other regards all landscaping works shall be carried out in accordance with the details shown on approved plan P22-0056.001 Rev B in the first planting season following the first operation of the development hereby approved.

Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless otherwise approved by the Council, as Planning Authority”.

1. The development to which this permission relates must be began not later than the expiration of 5 years beginning with the date on which this permission is granted.

**Reason:** The time limit condition is imposed in order to comply with the requirements of section 58 of the Town and Country Planning (Scotland) Act 1997 as amended.

2. No development shall commence until final details of all the proposed battery system and storage including the battery enclosure, transformers, grid compliance equipment, substation building and spares storage container have been submitted to and agreed in writing by the Planning Authority. For the avoidance of doubt the final installations shall not exceed the dimensions shown on approved plans 04872-RES-SUB-DR-PT-003 re v1, 04872-RES-SUB-DR-PT-002 rev 1, 04872-RES-SUB-DR-PT-001 rev 1, 04872-RES-PCS-DR-PT-001 rev 1 and 04872-RES-SUB-DR-PT-004 rev 1 the installation shall be finished in white, grey or green. Thereafter only the approved details shall be implemented.

**Reason:** To ensure that the development harmonises with its surroundings.

3. No development shall commence until a pre-construction survey for badgers and otters, in line with the recommendations contained in section 4.4 of the submitted report entitled 'Preliminary Ecological Appraisal' by RES dated March 2022, has been undertaken and a report of survey has been submitted to, and approved in writing by, the Council, as Planning Authority. The survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitats has been identified and a species protection plan. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contained therein.

**Reason:** To ensure that the site and its environs are surveyed and the development does not have an adverse impact on protected species or habitat.

4. No development shall commence until details including the number, location and specification of artificial bat and bird roosts to be placed throughout site have been submitted to and agreed in writing with the Planning Authority. Thereafter the approved items shall be provided prior to the first use of the site hereby approved.

**Reason:** To secure biodiversity enhancements of the site.

5. Notwithstanding the submitted details no development shall commence until full details of the proposed acoustic fence have been submitted to and agreed in writing by the Planning Authority in consultation with the Environmental Health Authority. For the avoidance of doubt a 3m high acoustic barrier shall be installed in accordance with Section 5 of the noise impact assessment supporting document by RES, dated 21 April 2022 Ref: 04872-3761753, and titled "Assessment of Acoustic Impact for the Proposed Drum Farm Energy Storage Project.", and as detailed on the approved plans 04872-RES-LAY-DR-PT-001 3 and 04872-RES-SEC-DR-PT-002 1.

Thereafter the approved fence shall be installed prior to the first use of the site hereby approved and maintained in perpetuity.

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

6. No development shall commence until evidence has been submitted to and accepted in writing by the Planning Authority to demonstrate that Scottish Water ([protectdwsources@scottishwater.co.uk](mailto:protectdwsources@scottishwater.co.uk)) have been notified that works are to take place.

**Reason:** To ensure the safeguarding of the drinking water catchment area.

7. No development shall commence until evidence of a satisfactory Wear and Tear agreement has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. The scope of the Wear and Tear Agreement shall be agreed with the Planning Authority in consultation with the Roads Authority and shall include a condition survey of the network undertaken jointly by the developer and a representative from the Council. The survey shall include the full extent of the agreed construction traffic route(s) (within Moray) between the site and the 'A' class road network. In addition, the Wear and Tear agreement shall also include condition surveys of all roads identified as 'unsuitable' which must be agreed with the Planning Authority in consultation with the Roads Authority.

**Reason:** To mitigate the potential risks from damage to the public road occurring during the construction phase of the development.

8. No development shall commence until evidence of a financial guarantee or bond or suitable equivalent has been put in place to ensure the repair of the public road serving the site in the event that the developer fails to meet their obligations (as agreed as part of a Wear and Tear agreement) to maintain the road in a safe condition during the construction phase of the development and to restore the road to its pre-development condition within 1 year of the development becoming operational and has been submitted to and agreed in writing with the Council, as Planning Authority in consultation with the Roads Authority. For the avoidance of doubt the agreement shall cover the section of the U35H Drum-Ardron Road from the A96 to the site entrance.

**Reason:** To mitigate the potential risks from damage to the public road occurring during the construction phase of the development.

9. No development shall commence until a Construction Traffic Management Plan (CTMP) has been submitted to and agreed in writing by the Planning Authority in consultation with the Roads Authority. Thereafter the development shall be carried out in accordance with the agreed CTMP at all times. For the avoidance of doubt the CTMP shall include as a minimum the following information:
  - duration of works;
  - construction programme;
  - parking provision, loading and unloading areas for construction traffic;
  - full details of temporary arrangements to safeguard pedestrian movements during the construction period;

- proposals to safeguard vulnerable pedestrians at and around Keith Primary School during the construction period;
- full details of any temporary access;
- measures to be put in place to prevent material being deposited on the public road;
- traffic management measures to be put in place during works including any specific instructions to drivers; and
- a programme of monitoring for all routes identified within the CTMP during construction will be required.

**Reason:** To ensure an acceptable form of development in terms of the arrangements to manage traffic during construction works at the site.

10. No development (except that associated with the visibility splays) shall commence until:
  - i. a visibility splay 2.4 metres by 120 metres, with all boundaries set back to a position behind the required visibility splay, has been provided in both directions at the access onto the public road; and
  - ii. Thereafter the visibility splay shall be maintained at all times free from any obstruction exceeding 0.6 metres above the level of the carriageway.

**Reason:** To enable drivers of vehicles leaving the site to have a clear view over a length of road sufficient to allow safe exit, in the interests of road safety for the proposed development and other road users through the provision of details currently lacking.

11. No development (other than that associated with the passing places) shall commence until two passing places to the Moray Council standards and specification have been constructed on the U35H Drum - Ardrone Road at the locations shown on drawing no. 04872-RES-ACC-DR-PT-001 submitted on 22.06.2022.

**Reason:** To enable drivers of vehicles to have adequate forward visibility to see approaching traffic and for two vehicles to safely pass each other ensuring the safety and free flow of traffic on the public road.

12. Prior to the first use of the development hereby approved the site entrance and access track shall be constructed in accordance with approved drawing no. 04872-RES-ACC-DR-PT-002.

**Reason:** To ensure acceptable infrastructure at the development access.

13. No water shall be permitted to drain or loose material be carried onto the public footway/carriageway.

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

14. Construction works (including vehicle movements) associated with the development audible at any point on the boundary of any noise sensitive dwelling shall be permitted between 0800 - 1900 hours, Monday to Friday and 0800 - 1300 hours on Saturdays only, and at no other times out with these permitted hours (including National Holidays) shall construction works be

undertaken except where previously agreed in advance in writing with the Council, as Planning Authority and where so demonstrated that operational constraints require limited periods of construction works to be undertaken out with the permitted/stated hours of working.

**Reason:** To protect local residents from noise nuisance in ensuring the construction phase is restricted within permitted hours to protect local residents from noise nuisance due to the use of the development.

15. The rating level of noise associated with the development shall not exceed the background sound level by more than 5 dB at the nearest noise sensitive dwelling which is lawfully existing or has planning permission at the date of this permission. For the avoidance of doubt the modal background sound level for the daytime period and night-time period respectively has been determined as an L A 90 of 40 dB and 31 dB, as stated in Section 4 of the noise impact assessment supporting document by RES, dated 21 April 2022 Ref: 04872-3761753, and titled "Assessment of Acoustic Impact for the Proposed Drum Farm Energy Storage Project." The rating level and background sound level associated with this condition are defined within BS 4142: 2014 + A1:2019 Methods for rating and assessing industrial and commercial sound.

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

16. The operational site lighting shall be provided in accordance with approved drawings 04872-RES-LAY-DR-PT-001 Rev3 and 04872-RES-SEC-DR-PT-001, Rev1, and no other external lighting shall be installed.

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

17. The development shall at all times be carried out in accordance with the approved Construction Environmental Management Plan entitled 'Drum Farm Battery Storage Project' by RES, dated 8 March 2022, Ref: 04872-3704703.

**Reason:** To ensure environmental impacts are suitably managed and maintained during the construction phase.

18. Notwithstanding the details shown on approved plan P22-0056.001 Rev B all trees to be planted shall be at least heavy standard. In all other regards all landscaping works shall be carried out in accordance with the details shown on approved plan P22-0056.001 Rev B in the first planting season following the first operation of the development hereby approved.

Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless otherwise approved by the Council, as Planning Authority".

**Reason:** To ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area.

19. All foul and surface water drainage proposals shall be in accordance with the

submitted report Flood risk Statement and Drainage Impact Assessment, dated 05 May 2022 and approved drawing 04872-RES-LAY-DR-PT-001 rev 3.

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

## **7. PLANNING APPLICATION 22/01208/APP**

### **Ward 1 – Speyside and Glenlivet**

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

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for a Section 42 to amend condition 3 of 17/01003/APP in relation to time period at Meikle Hill, Dallas, Moray for The Dallas Trust.

It was noted that the application had been referred to Committee in terms of the Scheme of Delegation as the proposal is a major planning application.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 22/01208/APP subject to the following conditions and reasons:

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

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

2. Except where otherwise provided for, or required by the terms of this permission, the permission hereby granted relates strictly to the dimensions and specifications of the turbine design (including make, model, design, power rating and sound power level of the turbine to be used) and site layout

infrastructure arrangements as provided for in the application and, with the exception of any micro-siting of turbines and other infrastructure, to all other mitigation measures as identified in the Environmental Statement and subsequent Addendum I and II of the Environmental Statement (as included within application 14/01087/EIA), and any amendment thereof shall be subject to the express prior written approval of the Council, as planning authority.

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

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

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

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

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

**Reason:** To ensure that any redundant or non-functioning wind turbine(s) is/are removed from the site in the interests of public safety, amenity and environmental protection and to ensure acceptable arrangements for the re-instatement of the ground are provided.

5. No development shall commence until:
  - a) a draft Restoration and Decommissioning Plan for the site has been submitted to and approved in writing by the Council, as planning authority



- in consultation with SEPA, SNH and/or other agencies as appropriate;  
and
- b) thereafter, and not later than 12 months prior to the expiry of this permission or decommissioning of the development, whichever is the sooner, a detailed Restoration and Decommissioning Plan, based upon (the principles of the approved draft Plan shall be submitted to and approved by the Council, as planning authority in consultation with SEPA, SNH and/or other agencies as appropriate. The Plan shall include provision for all turbines and ancillary infrastructure and equipment (including all buildings and structures, hardstandings and tracks, etc.) to be decommissioned, de-energised, and dismantled to ground level and removed from the site together with the arrangements to retain any access tracks and other infrastructure on the site, the treatment of disturbed ground surfaces, the management and timing of all proposed works, environmental management provisions including traffic and noise management plans to address issues likely to arise during the decommissioning period and provisions for the restoration and aftercare of the site; and

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

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

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

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

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

7. No development shall commence until details have been submitted to and approved by the Council, as planning authority in consultation with SNH, SEPA and other agencies where appropriate regarding;
- a) confirmation of the make, model, design, power rating and sound power levels of the turbines to be used;
  - b) the external colour and/or finish of the turbines including towers, nacelles and blades which shall be non-reflective, semi-matt pale grey;
  - c) together with details including further landscape and visual impact information to demonstrate that they will not adversely affect the landscape and visual character, integrity and amenity of the site or the surrounding area, the location, design specifications and external material finishes and colour of any external wind turbine transformer kiosk, unless otherwise located within the tower of the wind turbine;
  - d) for the substation compound, the design external appearance and material finishes and colour of all proposed buildings and structures to be erected, stationed or installed within the compound area together with the finalised site layout arrangements, including the external appearance, dimensions and surfacing materials for the compound area, any walls, paths or other proposed/required ancillary infrastructure to be provided, any required/proposed external switch gear infrastructure to be located within the compound, the arrangements for access and parking and disposal of foul and surface water from the compound area, and all required/proposed landscaping to be provided around the compound or elsewhere within the site to screen and/or mitigate the landscape and visual impact of the compound and its infrastructure therein;
  - e) excluding the requirement for compensatory planting (see Condition 28) and for all other required/proposed landscaping requirements throughout the site, a landscape scheme (see Condition 9);
  - f) the location(s) and design specifications for all required/proposed upgraded existing and new watercourse crossings, to include information to demonstrate that they are designed to convey a 1 in 200 year plus climate change design flow without causing constriction of flows or increasing the risk of flooding elsewhere (SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 1.1, 1.10, 1.11 refers);
  - g) for the formation of access tracks and watercourse crossings, information including the extent and scale of the required/proposed works to demonstrate that no land raising occurs within the functional flood plain of any watercourse without the provision of associated compensatory storage and an assessment of the changes to floodplain conveyance (SEPA consultation responses on application 14/01087/EIA and 17/01003/APP, 16 July 2014 and 14 July 2017, pars 1.1, 1.5 - 1.11 and pars 1.1 - 1.9 refer);
  - h) details of the arrangements including timescale(s) for inspection to manage and mitigate surface water run-off during all stages of the development including proposals/regimes for inspection and maintenance of drains to prevent blockages (SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 1.12 refers);
  - i) based on investigation, further information to establish the viability of utilising and upgrading of sections of existing tracks on the site (including the track along the edge of forestry to the eastern edge of the application

- site) together with justification for not using/upgrading existing tracks and creating new access tracks (SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 2.3 refers);
- j) details to demonstrate that all track bases are made permeable to shallow ground water flows where constructed through wet heath (M15) and any other groundwater dependent terrestrial ecosystems (GWDTEs) including the instances of the M6 community that are crossed (Environmental Statement, Volume 2, Chapter 10 and SEPA consultation response on application 14/01087/EIA, 16 July 2014, par 2.4 refers);
  - k) details for the location(s) and design specifications for the proposed installation of ultra-violet and pre-filtration treatment arrangements to any private water supply to be provided/used for human consumption within the development site during the construction and operational stages of the development;
  - l) confirmation of all required/proposed mitigation measures (where not already embedded within the submitted design and layout of the development) for all stages of the development, to be contained within a Schedule of Mitigation or similar together with details regarding the process to control/action changes from any agreed Schedule of Mitigation.

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

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

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

8. No development shall commence until details have been submitted to and approved by the Council, as planning authority in consultation with SEPA and SNH and other agencies as appropriate regarding a site-specific Construction Environmental Management Plan (CEMP). The CEMP shall incorporate details for the environmental management, pollution prevention (not just during construction) and the following:
- a) surface water management plan;
  - b) pollution prevention plan;
  - c) site waste management plan;
  - d) watercourse engineering;
  - e) peat management - to include details of all peat stripping, excavation, arrangements for storage and re-use of peat in accordance with best practice;
  - f) (construction) noise management plan (see Condition 28);
  - g) species protection plans - to include those for breeding birds and bats, and GWDTEs including arrangements for pre-commencement surveys to

- confirm presence/absence of species on site, timing of works(s) to avoid disturbance, development of buffer areas to prevent encroachment onto and into areas of protected species and valued habitats, etc.;
- h) habitat management plan - to include the arrangements to manage, monitor and mitigate the loss of habitats and compensate for losses within and beyond the site, and proposals and practices to enhance bio-diversity to off-set habitat and species damage or loss, including restoration of areas of blanket bog and wet heath and improving areas for golden plover;
  - i) invasive non-native species protocol - to address all bio-security and other measures to be adopted to control the spread of giant hogweed and skunk cabbage in and around the Dallas/Kellas area.

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

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

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

- 9. Excluding the requirements for compensatory planting (Condition 28), the Landscape scheme shall show:
  - a) the location of any existing trees, shrubs and hedgerows on the site and identify those to be retained and those to be removed;
  - b) details of measures to be taken to protect any existing landscape features to be retained during the course of developing the site;
  - c) details of the numbers, species, position, planting distances and sizes of all new planting to be undertaken;
  - d) details of all earth mounding/moulding works to be undertaken, to include the proposed formation of bunding or similar screening around the sub-station compound or along the access tracks or elsewhere within the site together with details regarding the location, extent and design specification for their construction and formation of all earth works and cross-sections details to relate the works to both existing and finished ground levels; and
  - e) details regarding the time-scale(s) for undertaking all landscaping and earth works.

Thereafter, all planting or seeding and earthwork operations shall be implemented in accordance with the approved details and any trees or plants which (within a period of 5 years from planting) die, are removed or become

diseased or damaged shall be replaced in the following planting season with others of similar size, number and species unless otherwise agreed in writing with the Council, as planning authority.

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

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

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

11. In relation to each of the two borrow pit locations as identified on amended drawing 60289428-ENG-002 Rev C:
  - a) materials excavated from each pit location shall be used solely for purposes in conjunction with this Meikle Hill wind farm development and for no other use or purpose without the prior written consent of the Council, as planning authority; and
  - b) no development shall commence until details for each borrow pit have been submitted to and approved by the Council, as planning authority regarding:
    - i. finalised location and dimensions, including area and depth of excavation, together with cross and long sections across the pit area to show the extent and depth of excavation relative to existing and finished (excavated depth) ground levels;
    - ii. location(s), extent and height of any temporary storage of material both before and after processing on the site;
    - iii. location(s) and description of plant and machinery to be used to process excavated material on the site;
    - iv. location and details of arrangement for fencing or similar means of enclosure to be erected to define and limit the area of borrow pit working (and within which all borrow pit activity including storage and movement of materials and machinery shall be located at all times);
    - v. location and details of arrangements for surface water management include de-watering ponds etc;
    - vi. proposed timescales for all excavation activity;
    - vii. the arrangements for site restoration and after-care of each borrow pit, to include:
      - a) details including sections of proposed/required re-grading and levelling works to re-integrate the area with its surroundings;
      - b) details of sub-material and topsoil arrangements to be provided to enable re-instatement of the area to form a natural habitat;
      - c) details of all plantings to be undertaken (see Condition 9); and
      - d) timescale for site re-instatement works.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

22. During the delivery period of the wind turbine construction materials, any additional signing or temporary traffic control measures deemed necessary due to the size or length of any loads being delivered or removed shall be undertaken by a recognised (QA) traffic management consultant, in accordance with the name of the consultant which shall previously have been provided to the Council, as planning authority in consultation with Transport Scotland, as trunk roads authority and/or its operating company before any construction commences.

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

23. Prior to the commencement of development details of the following shall be submitted to and approved by the Council, as planning authority in consultation with Transportation Manager (and Transport Scotland where appropriate):
  - a) detailed proposals for undertaking both trial runs and also delivery of abnormal indivisible loads, to include (but not be limited to) identification of all temporary and permanent modifications and measures required to protect the public road and structures together with the arrangements for traffic, vehicle holding areas and non-vehicular management during deliveries, time restrictions for deliveries i.e. outwith school crossing patrol times, etc;
  - b) a Traffic Management Plan, in accordance with the scope and content of the required Plan which shall have previously been submitted to and approved by the Council, as planning authority in consultation with the Transportation Manager. The Traffic Management Plan shall cover the duration of the development, methods of dealing with large delivery vehicles, methods of marshalling and manoeuvring at junctions on the public road network, any temporary traffic waiting restriction requirements

- and all modifications to the road network and traffic management arrangements;
- c) detailed plans (to include location and design construction specifications) to confirm the full extent of the proposed road widening of the B9010 to 5.5m;
  - d) details (1:200 scale drawing) of the proposed access junction onto the B9010 Pluscarden Road. The width of the vehicular access shall be a minimum of 7.3m and have a maximum gradient of 1:20 measured for the first 25m from the edge of the public carriageway (B9010). The first 25m of the access shall be to The Moray Council specification and surfaced with hot rolled asphalt. The access radii shall accommodate the abnormal load vehicle movements as determined in the Traffic Management Plan, and shall be kerbed using 254 x 127mm splayed/half battered precast concrete kerbs to The Moray Council specification. Any existing ditch, watercourse or drain under the site access shall be piped using a 300mm minimum diameter of pipe. The pipe shall be laid to a self-cleansing gradient;
  - e) a detailed drawing (scale 1:500 or 1:1000 which shall also include details to demonstrate control of the land) showing the provision of a visibility splay of 4.5m x 215m, and a schedule of maintenance for the area within the visibility splay; and
  - f) in order to monitor, assess and address the impact of construction and delivery traffic on the road network between the site access and the A96, an assessment of the network and a programme of monitoring during construction. The assessment shall include provision for a 'before and after' condition survey to be carried out jointly with Council's Transportation Section, traffic counters on the B9010 east and west of the site access in advance of any construction traffic, either permanently or on a scheduled basis (to be agreed with the Council, as roads authority) throughout the construction period and for a period after works are completed.

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

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

24. Prior to the commencement of construction and of deliveries to the site, including abnormal loads and abnormal indivisible loads, the following shall be provided (in accordance with the approved details and to The Moray Council standards and specifications):
  - a) abnormal load trial run(s) shall be undertaken after mitigation works have been undertaken (as approved under Condition 23 above) to confirm the works are acceptable and to identify any other restrictions not previously addressed including confirmation of the required/proposed vertical clearances at bridge crossings, and the frequency and location of all required abnormal load passing places/oncoming vehicle holding areas. Representatives from Moray Council Transportation (Traffic), the Trunk Roads Authority and Police Scotland must be invited to the trial run(s);

- b) for all abnormal indivisible loads, all required/proposed works approved under Conditions 23 and 24a above shall be provided in accordance with the approved details and to The Moray Council standards and specifications. Any works undertaken shall be permanent for the duration of the operation of the development unless otherwise agreed in writing with the Council, as planning authority in consultation with the Transportation Manager;
- c) all road widening/alterations/verge hardening as identified in Conditions 23 and 24a above, the site access onto the B9010 and any dropped kerbs required to allow overrunning of hardened verge;
- d) the 50m section of new 40mm thick Hot Rolled Asphalt which shall be provided on the B9010 Pluscarden Road (25m either side of the centreline of the access, over the entire width of the road) unless otherwise agreed in writing by the Council, as planning authority in consultation with the Transportation Manager; and
- e) the visibility splay of 4.5m x 215m (Condition 23 refers) and thereafter, the visibility splay shall be maintained at all times free from any obstruction exceeding 1.0m above the level of the carriageway in accordance with the agreed schedule of maintenance.

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

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

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

**Reason:** In the interests of military aviation safety.

26. MOD-accredited 25 candela omni-directional aviation lighting OR infra-red warning lighting shall be installed with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point on all the turbines in accordance with confirmation of the proposed lighting

arrangements to be installed which shall have been previously submitted to and approved in writing by the Council, as planning authority in consultation with the Ministry of Defence, Defence Infrastructure Organisation Safeguarding Officer prior to any light installation. Thereafter, the turbines shall be erected with this confirmed lighting installed and the lighting shall remain operational at all times throughout the duration of the permission hereby granted.

**Reason:** In the interests of military aviation safety.

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

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

28. No development shall commence until details have been submitted to the Council, as planning authority in consultation with Forestry Commission Scotland regarding details of a woodland planting scheme (the Replanting Scheme) within Moray to compensate, in this case, the removal of 8ha of existing woodland from the site in order to accommodate the development. The Replanting Scheme details shall:
- a) include the specifications for
    - i. on-site replanting;
    - ii. off-site compensatory planting;
    - iii. tree maintenance and protection to established planting (including Deer Management); and
  - b) comply with the requirements set out in the UK Forestry Standard (Forestry Commissions, 2011. ISBN 978-0-85538-830-0) and the guidelines to which it refers and include:
    - i. details of the location of the area to be planted;
    - ii. details of land owners and occupiers of the land to be planted;
    - iii. the nature, design and specification of the proposed woodland to be planted;
    - iv. details of all necessary consents for the Replanting Scheme and timescales within which each shall be obtained;
    - v. the phasing and associated timescales for implementing the Replanting Scheme; and
    - vi. proposals for the maintenance and establishment of the Replanting Scheme, including annual checks; protection from predation; replacement planting; fencing; ground preparation; and drainage, etc.

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

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

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

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

30. The rating level of noise emissions from the combined effects of the 6 wind turbines comprising the Meikle Hill wind farm as hereby approved (including the application of any tonal penalty) when determined in accordance with the attached Guidance Notes (see Additional Information as included in this formal decision notice) shall not exceed the values for the relevant integer wind speed set out in, or derived from, the tables attached to these conditions at any dwelling which is lawfully existing or has planning permission at the date of this permission and:
- a) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d). This data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set out in Guidance Note 1(e) to the Council, as planning authority on its request, within 14 days of receipt in writing of such a request.
  - b) Within 21 days from receipt of a written request from the Council, as planning authority following a complaint to it from an occupant of a dwelling alleging noise disturbance at that dwelling, the wind farm operator shall, at its expense, employ a consultant approved by the Council, as planning authority to assess the level of noise emissions from the wind farm at the complainant's property in accordance with the procedures described in the attached Guidance Notes. The written request from the Council, as planning authority shall set out at least the date, time and location that the complaint relates to and any identified atmospheric conditions, including wind direction, and include a statement as to whether, in the opinion of the Council, as planning authority, the noise giving rise to the complaint contains or is likely to contain a tonal component.
  - c) The assessment of the rating level of noise emissions shall be undertaken in accordance with an assessment protocol that shall previously have been submitted to and approved in writing by the Council, as planning authority. The protocol shall include the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken, whether noise giving rise to the complaint contains or is likely to contain a tonal component, and also the range of meteorological and operational

conditions (which shall include the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise emissions. The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the written request of the Council, as planning authority under paragraph (b), and such others as the independent consultant considers likely to result in a breach of the noise limits.

- d) Where a dwelling to which a complaint is related is not listed in the tables attached to these conditions, the wind farm operator shall submit to the Council, as planning authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The rating level of noise emissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Council, as planning authority for the complainant's dwelling. For the sake of clarification the Meikle Hill Wind Farm Environmental Statement, Volume 2, Main Report, Chapter 7, has advised that any occupants of Aultahuish and Scottackleys have a direct financial involvement in the wind farm development. Therefore, in accordance with ETSU-R-97, higher noise limits are applicable under these conditions for these properties only.
- e) The wind farm operator shall provide to the Council, as planning authority the independent consultant's assessment of the rating level of noise emissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Council, as planning authority for compliance measurements to be made under paragraph (b), unless the time limit is extended in writing by the Council, as planning authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Council, as planning authority with the independent consultant's assessment of the rating level of noise emissions.
- f) Where a further assessment of the rating level of noise emissions from the wind farm is required pursuant to Guidance Note 4(c), the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (c) above unless the time limit has been extended in writing by the Council, as planning authority.

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

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

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

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

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

	3	4	5	6	7	8	9	10	11	12
Tombreck Farm	40	40	40	40	40	40	40.6	43.6	46	47.4
Scottackleys	45	45	45	45	45	45	45	45	45.8	48.8
Aultahuish	45	45	45	45	45	45	45	46.9	49.8	54.2
Torchastle	40	40	40	40	40	40	40.6	43.6	46	47.4
Ballachraggan	40	40	40	40	40	40	40.2	43.1	45.9	48.4

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

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

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

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

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

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

## 8. PLANNING APPLICATION 22/01094/AMC

Councillor Cameron left the meeting at this juncture.

## Ward 8 – Forres

### **Approval of matters specified in conditions 1, 4-6 imposed on 19/00320/PPP (Erect a dwellinghouse and associated landscaping) on Plot 5 North Whins Findhorn Moray for Arboreal Architecture**

A report was submitted by the Appointed Officer recommending that, for reasons detailed in the report, planning permission be granted for an approval of matters specified in conditions 1, 4-6 imposed on 19/00320/PPP (Erect a dwellinghouse and associated landscaping) on Plot 5, North Whins, Findhorn, Moray for Arboreal Architecture.

It was noted that the application had been referred to Committee as it was agreed at the meeting on 10 December 2019 that all further applications related to reference 19/00320/PPP be reported to this Committee.

Following consideration, the Committee agreed to grant planning permission in respect of Planning Application 22/01094/AMC subject to the following conditions and reasons:

1. That the development to which the permission relates must be begun not later than whichever is the later of the following dates:-
  - (i) the expiration of 3 years from the date of the grant of planning permission in principle; or
  - (ii) the expiration of 2 years from the final approval of the matters specified in conditions or in the case of approval on different dates the final approval of the last such matter to be approved.

**Reason:** The time limit condition is imposed in order to comply with the requirements of Section 59 of the Town and Country Planning (Scotland) Act 1997 as amended by the Planning etc. (Scotland) Act 2006.

2. The development hereby granted forms part of, and is related to, the development granted planning permission under formal decision notice 19/00320/PPP dated 4 November 2019 wherein the terms and conditions as attached to that permission are hereby reiterated and remain in force in so far as they relate to the development hereby approved, in particular Conditions 10-20 inclusive, including any details already approved there under to discharge the requirements of the identified conditions.

**Reason:** To ensure an acceptable form of development and that it progresses in accordance with the already approved and required details.

3. Development shall not proceed except in accordance with the Drainage Statement by whitby wood (ref: P450000-FN-C-0001) for 601 North Whins, Findhorn received on 10 August 2022.

**Reason:** In order to minimise the impacts of the development works upon the environment.

4. All landscaping works shall be carried out in accordance with approved plan 156-2.20 REV – H. Unless otherwise agreed in writing with the planning authority details all planting, seeding or turfing shall be carried out in the first planting season following the first occupation of any of the units hereby



approved. Any trees or plants which (within a period of 5 years from the planting) die, are removed or become seriously damaged or diseased shall be replaced in the following planting season with others of similar size, number and species unless otherwise approved by the Council, as Planning Authority.

**Reason:** To ensure that the approved landscaping works are timeously carried out and properly maintained in a manner which will not adversely affect the development or amenity and character of the area and because no such information was included with the application.

5. Parking provision shall be two car parking spaces for the dwelling house. The car parking spaces shall be provided within the space as per the drawing No. 156-1.00, prior to the first occupation and thereafter the parking spaces shall be retained throughout the lifetime of the development, unless otherwise agreed in writing with the Council as Planning Authority.

**Reason:** To ensure the permanent availability of the level of parking necessary for residents/visitors/others in the interests of an acceptable development and road safety.

6. For the avoidance of doubt, the annexe hereby approved shall be used solely for purposes incidental to the enjoyment of the dwelling hereby, currently known as 'Plot 5, North Whins'. At all times it shall be used for purposes incidental and ancillary to the use of that existing property and not used, let or otherwise disposed of as a separate unit of accommodation nor used for any other purpose.

**Reason:** In order to enable the Planning Authority to retain effective control over future development within the application site so that it is carefully managed and does not result in over-development or an adverse impact on the amenity of the area.

## **9. MORAY LOCAL DEVELOPMENT PLAN 2027 – BUSINESS NEEDS AND WOODLAND STRATEGY PROCUREMENT REQUIREMENT**

A report by the Depute Chief Executive (Economy, Environment and Finance) asked the Committee to approve the appointment of external consultants to carry out a Business Needs Survey and a Woodland Strategy, both of which will be used to inform the Evidence Report stage of the new Local Development Plan (LDP) and the Regional Spatial Strategy (RSS).

During discussion surrounding the Woodland Strategy, it was queried whether previous decisions relating to woodland use had been considered, particularly in relation to biomass and predicted fuel sources.

In response, the Strategic Planning and Development Manager advised that these were issues were being considered and that briefs in relation to the Business Needs Study and the Woodland Strategy are being prepared within his Team and that he would share these with members of the Committee following the meeting. This was noted.

Following consideration, the Committee agreed:

- (i) the appointment of external consultants to undertake a Business Needs Survey and a Woodland Strategy for Moray;
- (ii) to note that the Strategic Planning and Development Manager would share the briefs in relation to the Business Needs Study and the Woodland Strategy following the meeting.

## **10. TOWN CENTRE IMPROVEMENT PLANS**

Under reference to paragraph 10 of the Minute of the meeting of this Committee dated 18 January 2022, a report by the Deputy Chief Executive (Economy, Environment and Finance) asked the Committee to note the representations received to the draft Town Centre Improvement Plans (TCIP) and agree the Council's response to these, approve the final TCIP for Aberlour, Buckie, Dufftown, Forres, Keith and Lossiemouth and Delivery Plan, and agree the allocation of funds for TCIP proposals as set out in section 5.4 of the report.

During her introduction, Ms Webster, Senior Planning Officer (Strategic Planning and Development) advised that recommendation iii) in the report should include reference to section 5.2 and 5.4 of the report. This was noted.

During discussion surrounding the Economic Recovery Fund, in particular, £10k being allocated for the refurbishment of public toilets in Aberlour, it was queried whether Community Groups in Aberlour could be consulted on the most appropriate way to use this money to benefit the community.

In response, the Head of Economic Growth and Development suggested that the decision on how the £10k spend for Aberlour Public Toilets and public realm works be applied be delegated to himself following public consultation as part of the new local development plan and in consultation with Ward Members. This was agreed.

Thereafter, the Committee joined the Chair in commending Officers in bringing forward the Town Centre Improvement Plans and thereafter agreed:

- (i) to note the representations received to the public consultation on the draft TCIP for Aberlour, Buckie, Dufftown, Forres, Keith and Lossiemouth and the Council's response to these set out in Appendix 1;
- (ii) to approve the final TCIP and Delivery Plan for Aberlour, Buckie, Dufftown, Forres, Keith and Lossiemouth set out in Appendix 2 and that these will be a material consideration in the development management process;
- (iii) the TCIP projects set out in section 5.2 and 5.4 of this report are to be funded through the Place-based Investment Fund (PBIF) for the financial year 2022/23 and Economic Recovery Fund (ERF) for the financial year 2023/24;
- (iv) to delegate to the Head of Economic Growth and Development the £10k spend for Aberlour Public Toilets and public realm works, which will be subject to public consultation as part of the new local development plan and consultation with Ward Members to determine how the £10k funding will be applied.

## **11. BROWNFIELD SITES – SHORTLIST**

Councillor Cameron re-joined the meeting at this juncture.

Under reference to paragraph 17 of the Minute of the meeting of this Committee dated 1 March 2022, a report by the Depute Chief Executive (Economy, Environment and Finance) informed the Committee of the assessment of brownfield sites, the prioritisation of sites and next steps to assess feasibility and develop options.

During discussion surrounding the redevelopment of brownfield sites in town centres, it was queried whether consideration could be given to the provision of accommodation for 2-3 groups and nursery children due to a shortage of provision in this area.

In response, the Strategic Planning and Development Manager agreed to this request.

Thereafter, the Committee agreed:

- (i) that the sites identified at 4.3 are taken forward in the short term for further investigation and feasibility work;
- (ii) to delegate authority to the Head of Economic Growth and Development to incorporate substitute sites to be taken forward for feasibility work should funding not be secured for other priority sites or any of the sites prove at an early stage to be unfeasible; and
- (iii) that consideration be given to the provision of accommodation for 2-3 groups and nursery children when considering redevelopment of brownfield sites.

## **12.SUSPENSION OF STANDING ORDERS**

The Chair sought the agreement of the Committee to suspend Standing Order 75 to allow the meeting to continue beyond 12.45 pm. This was agreed.

## **13. QUESTION TIME**

Councillor Warren welcomed the reinstatement of site visits however queried how these had been reinstated as she was of the view that a decision had to be made by Full Council.

In response, the Head of Economic Growth and Development explained that the original report had asked for agreement to temporarily suspend site visits due to the restrictions in place as a result of the Covid-19 pandemic and, as these restrictions are now lifted, it was considered that site visits could automatically resume without the need for a further report to Council.

The Legal Adviser apologised to the Committee stating that she had been of the understanding that a report to Council lifting the suspension was required which is why she had given this advice consistently. This had subsequently proved not to be the case.

Councillor Leadbitter sought an update on the Pop-Up Shop Scheme as he was aware of businesses that are keen to use it.

In response, the Head of Economic Growth and Development advised that Officers are trying to progress the scheme however there are some difficulties in relation to obtaining lease agreements. He further advised that the suitability of some premises in the High Street in Elgin are currently being considered.

Councillor Ross made reference to the recent Public Inquiry in relation to the Clash Gour and Rothes III developments where the decision made by the Council to object to the development was overturned by the Reporter with consent being granted for both developments and queried how much it had cost the Council to make representations at the Public Inquiry.

In response, the Legal Adviser advised that the external cost to the Council currently sits at around £150,000 which did not include staff time.

Councillor Ross raised concern that the Council may be reluctant to make representations on developments due to the risk of cost to the Council should the decision be challenged.

In response, the Legal Adviser advised that the Council could not compromise its policies when responding to consultations or considering planning applications and that further discussions would need to take place in this regard.

The Head of Economic Growth and Development further stated that the Council would not avoid making a representation to escape cost and would always try to defend its position. With regard to the cost to the Council in relation to the Public Inquiry process, this has been raised with the Chief Planner, the DPEA and Energy Consents Unit with a view to making the process easier and less costly. He further added that National Planning Framework 4 would shape policies in Moray in the future in terms windfarm development and how local communities could benefit from these developments.

Councillor Leadbitter asked if the Chairs of the Planning and Regulatory Services and Economic Development and Infrastructure Services Committees could raise these concerns with COSLA.

In response, both Chairs agreed to this request.

Councillor Van Der Horn raised concern in relation to developments that impact cycle and walkways, particularly in relation to the impact to the B9011 in Kinloss where the new development cuts through the existing cycle and footpath and the remedial works to the cycle and walkways were sub-standard.

In response, the Development Management and Building Standards Manager advised that she was aware of some enquires in relation to breaches of planning control on that site and would look into this further.