

PLANNING APPLICATION: 12/01774/EIA

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

The Proposal

- This is an application for planning permission in principle with elements of the application as yet undefined dependent upon whether the onshore cable link and substation use an AC (alternating current) or DC (direct current) system.
- The cables will come ashore and involve the installation of ducting beneath the Spey Bay Site of Special Scientific Interest (SSSI) on the shoreline at Portgordon with the connection to the 3 subsea cables beneath the tidal zone. The landfall working area will be approximately 1 hectare in area and will accommodate a construction compound, a horizontal directional drilling area, cable winching equipment/platforms and transition bays/chambers for the change from offshore to onshore cables.
- Onshore cable route will travel approximately 20km between Portgordon and Blackhillock, Keith. The cable will generally follow the B9016 south from Portgordon past Aultmore then around the west and south side of Keith arriving at Blackhillock. The route submitted is again in principle only and may be subject to variation. It for this reason the application seeks a corridor down the route to allow some variation that would ultimately have to be specified in any future detailed application.
- The maximum width of the permanent Cable Route will be 13 m and will comprise a set of up to three cable trenches. Cable trenches will be approximately 2 m wide and generally 1.5-2 m deep, with a separation distance of 2.5-5 m.
- The cabling is to be underground with occasional 'joining pits' excavated at regular intervals to connect sections of cable. Typically 1000m apart.
- Where sensitive obstructions such as water courses, rail lines or trunk roads are to be crossed by the cable route, directional underground drilling will be utilised. Horizontal Directional Drilling (HDD) requires a specific compound with rigs, drilling equipment and machinery set up in advance of the operation.
- Construct a new AC or DC substation at Blackhillock adjacent to the recently consented upgrade and expansion of the existing SSE substation. The substation site as applied extends to approximately 12 hectares which includes space for a significant amount of bunding and landscaping. The DC substation (if constructed) would occupy a smaller footprint than the AC substation as it would generally involve less 'wirescape' with more equipment and plant contained within buildings.
- At the various points on the cable route and at the substation there will be temporary contractors compounds and temporary site accesses.

The Site

- Landfall site will receive the 3 offshore cables west of Portgordon.
- The cable route crosses predominantly agricultural land with several notable crossing of water courses, the A95(T) and the A96(T). The cable route goes south east from the

coast, then generally follows the B9016 south from Portgordon past Aultmore then around the west and south side of Keith arriving at Blackhillock on agricultural land.

- The proposed substation will lie adjacent to the existing substation at Blackhillock which recently obtained planning permission to expand covering a large site adjacent to Gibston Farm south of Keith.
- The site at various points will interact with the coastal protection zone (CPZ), the coastal Site of Special Scientific Interest (SSSI), the coastal Site of Interest to Natural Science (SINS), Keith Countryside Around Towns designation (CAT) and prime agricultural land.

Policy / Objections-Representations / Consultations - See Appendix

History

For this site

11/02015/PAN - Erection of electricity substation/convertor station at Blackhillock with underground cable link to Portgordon to service Beatrice Offshore Wind Farm at Blackhillock Sub Station Keith Moray. Response issued in December 2011 for which suitable public consultation was agreed. The Pre application report was subsequently submitted alongside this application and is detailed below.

Offshore

This development is being proposed to connect an offshore wind energy development by Beatrice Offshore Windfarm Ltd (BOWL) to the national grid. Members previously considered a Section 36 consultation from Marine Scotland on the offshore element of this overall project. Under reference 12/00753/S36 in August 2012 Committee decided not to raise any objections to the proposed offshore windfarm. It proposed to generate up to 1000mW of wind energy 50km north off the Moray Coastline using between 142 to 277 wind turbines each with a maximum height of 198m and included cables connecting the development up with the Moray Coast at Portgordon. The offshore application has yet to be determined by Marine Scotland.

On adjoining land

12/00834/APP - Electricity substation expansion at Blackhillock Sub Station Keith Moray. Approved by Planning and Regulatory Services Committee in October 2012. This lies immediately east of the currently proposed substation and extends to 28 hectares in size.

09/01471/OUT - Outline application for formation of development platform and establishing electricity converter station at Blackhillock Keith Moray AB55 5PA was approved by Planning and Regulatory Services Committee on 6th April 2010. This is the same site as 12/00834/APP.

12/01163/APP - Provision of site office, welfare facilities parking for period 4 years during construction and road widening of U43(H) at Blackhillock Sub Station, Keith, Moray. Located several hundred meters south east of the current site, this development relates to the redevelopment of the SSE site approved under planning application 08/00834/APP. The site fell under 2 hectares in area and was approved in January 2013.

Scottish Hydro Electric Transmission LTD (SHETL) as a statutory utility provider intend to use permitted development rights to form their own underground electricity cable link from

Portgordon to Blackhillock along a similar route to the current application. This will link offshore generation to the sub-station approved under 12/00834/APP.

To the south

10/02092/EIA - Formation of windfarm comprising of 6 wind turbines (125m in height total capacity up to 21mw) and associated infrastructure including access tracks control building housing switchgear equipment and buried cables at Edintore, Keith.. Located approx 1km south of the proposed substation site, this application was approved at Appeal by the DPEA in 2012.

Advertisement

Advertised under the EIA regulations, for neighbour notification purposes and as a potential departure from the development plan.

Observations

The main planning considerations are.

Section 25 of the 1997 Act as amended requires applications to be determined in accordance with the development plan i.e. the approved Moray Structure Plan 2007 and the adopted Moray Local Plan 2008 unless material considerations indicate otherwise. In this case the main planning issues are considered below.

In compliance with The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011 the application is supported by an Environmental Statement. An Environmental Impact Assessment was carried jointly for both the offshore and onshore elements of the wind energy development being proposed by Beatrice Offshore Windfarm Ltd (BOWL). It was structured such that the part of the Environmental Statement relating to the onshore element could be assessed separately with the planning application under the Town and Country Planning (Scotland) Act 1997.

The approach taken for this planning permission is principle is to seek permission for a cable route but allowing for some variation in this route by applying for a wider corridor than may ultimately be developed upon. The corridor between Portgordon and Blackhillock has been assessed within the Environmental Statement to allow for variation in the cable route, associated works areas in laying the cable route and for temporary works compounds up and down the route.

Other variables in the application are that it is as yet unknown whether the application will be for a 3 cable Alternating Current (AC) system, or possibly a 2 cable Direct Current (DC) transmission system. The application seeks permission for either and the Environmental Statement has considered the implications of both. Similarly the proposed substation at Blackhillock may be either AC or DC which will determine its size, construction and content in terms of buildings, structures, plant and the amount of 'wirescape' proposed. Again the Environmental Statement considers the implications of both (as does this recommendation report). There are also two options for access to the Blackhillock substation site, which may be accessed from two different possible locations onto unclassified public roads south of Keith.

In compliance with the legislation for major applications Pre Application Consultation was carried out with the local communities and a PAC report submitted with this application. Exhibitions were held in May of 2012 in Buckie, Portgordon and in Keith with the events

previously announced in the local press. There had also previously been in connection with the overall wind energy project, various public information events carried out in 2011 at Buckie, Keith and elsewhere outwith Moray.

Moray Structure Plan 2007 (strategic policies)

The relevant strategic policies are (1e) (which aims to encourage low impact well designed development in the countryside, supporting local communities and rural businesses); and (21) which aims to promote opportunities for sensitive development of renewable energy.

Compliance with these strategic aims is assessed primarily through the Local Plan policies ED8, IMP1, and ER1 all of which seek to establish the criteria by which a large industrial complex (in this case related to Renewable Energy) can be acceptably accommodated into a rural setting.

Landscape/ Visual Impact (ED8 and IMP1)

The landscape designations affected by this proposal are where the cable route comes ashore at Portgordon into the Coastal Protection Zone (CPZ) and where the cable route passes through the Keith Countryside Around Towns (CAT) designation for either the DC or AC transmission proposals. Beyond the construction phase, the landfall area at Portgordon and the entire cable route (2 or 3 cable trenches) will be underground. The impact on landscape and visual amenity will therefore be minimal up until Blackhillock where the further substation is to be constructed.

Whilst the specific layout of the substation is not yet known, the substation will be visible from more distant views to the north surrounding Keith. The 'wirescape' and various buildings whilst not visually attractive, will be sufficiently far from the town itself as not to impact upon the visual amenity of residents in the town. The rising land and mature forestry to the south west of the site will mean that from most views within Keith the site will benefit from a visual backdrop. The substation site is located further west than the neighbouring the SSE substation approved under planning application 12/00834/APP in 2012 and as such would be obscured from traffic on the A96(T) further to the north east. The land form also plateaus out westward from the minor public road that would serve the site, such that landform obscures the substation site from the A96(T) once it leads south east from Keith.

The views of the substation whether AC or DC from the east and from Keith itself will generally benefit from the intervening views of the larger substation site and landscaping approved under 12/00834/APP which lies immediately to the east of the proposed BOWL substation site. To most observers the two sites will be visually inseparable.

As can be seen from some of the photomontages prepared for both an indicative AC or DC substation, views from the north of the substation site (Figure 8.22, Seafeld Walk, Keith - Volume 3 Landscape and Visual Impact Assessment Figures) also benefit from the backdrop of the wooded slopes of Cairds Hill which rises to the south east behind the site.

In mentioning Cairds Hill it is also appropriate to highlight from the history section the presence of planning approval 10/02092/EIA for six large wind turbines that will if constructed dominate this part of the landscape. Views from Keith and the A96(T) of this general location will be drawn to the wind turbines rather than from the vertically smaller substations to the north. The collective area of the substations should not however be underestimated. Including access tracks, SUDS ponds and landscaping areas in addition to the two substations themselves, the area covered will be approximately 40 hectares.

Views of the proposed substation site would however benefit less from a backdrop when viewed further from the north west on the B9016 south west of Keith. Figure 8.25 Viewpoint 5 B9016 indicates that structures would break the skyline and given the size of the site and the potential height of DC buildings, their presence would not be insignificant. These views would however change once the SSE Blackhillock site and associated landscaping to the east are constructed. It is understood that SSE are committed to commence construction of the substation approved under 12/00834/APP later this year.

Cumulatively the presence of both the larger SSE substation and the Edintore windfarm will make this area appear visually busier than other rural areas, but given the substation would appear visually inseparable from the adjoining substation its presence is not considered to be detrimental to the wider landscape. Whilst in principle the development of either a DC or an AC substation would include the development of bunding, and landscaping to the north east and west of the site to incorporate it into the landscape. Such details would need to be fully assessed when a further application is submitted.

Given the cumulative visual impact of the current application and the neighbouring consented larger substation, the application was advertised as a departure from local plan policy L/IMP1. However following assessment of the application it is not considered that the development constitutes a departure from the development plan.

In assessing the proposal against local plan policy ED8 Rural Business Proposals it is clear the development would introduce large buildings into the rural landscape.

The tests for compliance with Policy ED8 are

- a) careful control over siting, design and impact, and avoidance of urban-type industrial building - the application has been accompanied by indicative photomontages showing the likely appearance of both an AC and a DC substation. The indicative site layouts show that the site is located in a position not visible from the A96(T) and the visual appearance of any building would need to be assessed when a further application is submitted.
- b) a locational justification - there was some flexibility as to where the substation could be located along the cable route, but the current location adjacent to the SSE substation (which is part of the wider National Planning Framework 2 enhancement to the east coast grid) was selected for technical reasons. It would also occupy an area where there are no environmental designations. The cable route itself had to go between the coastline and Blackhillock (where the offer of a connection to the national grid was made) and on balance the route chosen generally avoids sensitive locations and settlements.
- c) capacity of local infrastructure to accommodate - The developers already have some commitment from SSE about connecting to the national grid. See the section below regarding access issues about serving the substation site from either of two possible locations. Any specific access chosen would be considered at the further application stage. The developers have intimated that improvement to the local public road infrastructure may be required.
- d) environmental consideration - these have been extensively addressed in the ES submitted with the application and satisfy the requirements of the main consultees including SNH and SEPA.
- e) proximity to populated areas - the site is close to Keith, but sufficiently separate; more importantly it is located within an environment already intruded upon with manmade features, and used by heavy goods vehicles.

Conditions are recommended to secure compliance with the criteria of Policy ED8, as above, and therefore the proposal accords with the provisions of this policy.

The Environmental Statement submitted by the applicant provides a detailed landscape and visual assessment of the likely impacts and concludes that there will be no significant impact upon the wider landscape surrounding Blackhillock for either the DC or AC transmission proposals. There are already a number of intrusive features within the wider locality including the adjoining SSE electricity sub-station and pylons, farms, buildings and the Blackhillock Quarry. The scale and nature of the new buildings will introduce change into the immediate landscape, however, with the proposed mitigation (bundling, landscaping and tree planting) that are conditioned via in above recommendations there will not be an unacceptable reduction in landscape quality due to the development.

Cumulative Issues with SHETL cable route

Other than at two points where the cable routes will possibly pass beneath each other, they will run in parallel to each along the route described above. BOWL and the Scottish Hydro Electric Transmission LTD (SHETL) project are in talks about co-ordinating their operations to minimise local disruption during construction.

Details of how the two cable laying projects might minimise disruption locally would be raised at the further application stage. Technical and safety restrictions prevent any cables from sharing the same trench and therefore the two sets of cable will require a corridor to allow for safe distances between trenches to be maintained.

Impact upon Environment (E1, E2, E8 and E10)

At the coast the cable route and landfall infrastructure area (constituting of underground chambers) will go beneath the Spey Bay SSSI and occupy. Given the construction method proposed (underground directional drilling) development will not damage or disrupt the coastal SSSI or Site of interest to Natural Science (SINS) designation that exist at the coastline. Both SEPA and SNH are happy with this approach which should be carried forward to the further application stage.

The Proposals would appear to be in conflict with the CPZ. The policy states that within this zone, all forms of development will be refused unless there is an existing use, it is associated with an existing building, it relates to low intensity recreation or tourist use, or it is directly related to agriculture, forestry or fishing. While infrastructure or underground works are not specified as potential exceptions to Local Plan Policy E8, the nature of the development being underground will not detrimentally harm the landscape quality of this location and is therefore generally in accordance with the policy.

As the cable route will travel beneath the ground and be backfilled it will not depart from policy E10 Countryside Around Towns and in particular the Keith CAT designation which it crosses in the south west side of the town. The cable route will returned its previous use soon after construction has been completed. The cable laying operation would not see plant, drilling equipment and works area occupying any one area for significant periods of time.

Pollution and hazardous sites (EP8 and EP11)

The Environmental Statement recognises that there is potential for noise pollution to arise during the construction and operational phases of the proposal. In particular the Horizontal Directional Drilling (HDD) activities have arguably the greatest risk of causing physical or noise pollution.

A detailed chapter on noise implications was submitted as part of the Environmental Statement and the Environmental Health Section has not objected subject to conditions to protect the amenity of nearby dwellings. It should be noted that drilling in any one location would only occur for several days at most, as the laying of the cable is intended to progress dozens of metres if not more per day.

A detailed analysis of the noise output of the substation would be carried out any further planning application stage once it is known whether the substation would be AC or DC.

The cable will at several points have to cross the high pressure gas main and discussion with the gas utility provider will be required. Direct contact with the gas utility company will be required and consultation will be carried out with them at the further planning application stage once specific crossing points are known.

Built Heritage and Archaeology (BE1 and BE2)

There are no listed building which are affected by the proposal, and subject to a condition ensuring that an archaeological watching brief is in place the Regional Archaeologist has not objected to the development either. There are several archaeological features within the application site close to but not beneath the indicative cable route. The closest listed buildings to the development are in Keith.

Renewable Energy Developments (ER1)

This policy supports proposals for renewable energy provision where they do not result in unacceptable environmental impacts when assessed against a range of environmental criteria.

Local Plan Policy ER1: Renewable Energy Proposals is generally supportive of renewable energy provided there is no unacceptable landscape, visual or cumulative impacts, and there is compatibility with policies relating to environmental protection and tourism/recreation. Although the proposals are not a wind energy development per se, they will enable a wind farm to be developed and so these criteria have a degree of relevance. In this regard, the proposals will have limited effect on the natural environment, or on prime agricultural land, and should therefore be considered compliant with this policy.

Access issues (T2, T7 and CF3)

In addition to the main Environmental Statement a Design and Access Statement was submitted which identifies the measures that would be used to protect or temporarily cross paths, tracks and roadways. Public roads and the railway line will be drilled beneath using the Horizontal Directional Drill (HDD) while it is intended to use an open trench technique to cross track, driveways and footpaths. Where any private road is a dead end and the only means of access, the HDD method may be preferred. While this general approach is acceptable any further application will have to state the method for specific roadways once the proposed route is finalised.

There are two options for where the substation site will be accessed from, which will be decided upon prior to the submission of any further planning application to the Moray Council. The options are as follows;

Access Option A - This is the northern access option and would make use of an existing private track which runs south to the site from the unclassified road, the U33(H), which runs east-west along the valley between the Substation site and Keith. A new junction will be formed to the

east of the track's junction and this will improve sightlines and allow the new road to avoid former limekilns. Where this new spur joins the track, the track will be upgraded to provide access to the Substation at its north-west corner. The track currently forms part of the access route between Keith, Cairds Wood and Cairds Hill and provision would be made for pedestrian access to be maintained. The adopted unclassified road connects to the A96 south-east of Keith at Denwell Cottage and some improvements to this road would also be required.

Access Option B - This would be a new access road approaching the Substation from the east. It would require a new junction to be formed on Denwell Road, the U43(H), between Gibston and Denhead Farms and the formation of a new 6m wide access road along the northern edge of the SSE substation site. In addition, the U43(H) would be widened between this new junction and SSE's proposed access into the upgraded Blackhillock substation. The connection to the A96(T) would be made further to the east via the current HGV access to the quarry and roads depot. This route to the A96 was anticipated in relation to SSE's earlier outline planning permission for a new substation at Blackhillock and is also the access arrangement relating to SSE's recent detailed planning permission (12/00834/APP).

Temporary vehicular accesses will be required for the construction of the Cable Route and Landfall area. A maximum of 25 temporary access tracks will be needed for the Cable Route and one track will be required for the Landfall area. The location of these accesses will not be decided until detailed design has been finalised, however, they will be contained within the Application Site boundary.

The indicative Cable Route crosses the Speyside Way long distance walking route which is protected from damaging development by Policy CF3: Countryside Recreation: Access and Trails. However, there will be no permanent disruption or barrier to walking and conditions are recommended to ensure any necessary diversions are on place. The Environmental Statement also recognises that any definitive layout for an AC or DC substation will require to maintain access past the site to Cairds Wood which is used by walkers and is mentioned in the 2011 Moray Core Paths Plan.

Subject to the conditions recommended, access requirements can be met in principle.

Surface water drainage and flood issues (EP5 and EP7)

Given the options for the substation as are yet undefined, no specific surface water drainage scheme has been submitted. The applicants have stated their intent to support any future planning application with a full SUDS assessment and conditions are recommended ensuring its future inclusion. The area available to the developer, the ground conditions at Blackhillock and distance to nearby water courses do not suggest that there would be any insurmountable issues preventing the provision of a SUDS scheme for the site. Conditions are attached requiring the submission of surface water management plans also. There are no known flood issues at the location of the proposed substation.

It is acknowledged that for specific watercourse crossing (or directional drilling) the developer will have to liaise closely with SEPA during such operations. Further scrutiny of such operations will take place at the detailed planning application stage once the specific cable route has been confirmed. The laying of the cable and back-filling of the trench in flood zones near water courses, nor the directional drilling beneath watercourse should not increase the risk of flooding to neighbouring properties or land. Any proposal for pipe bridges instead or directional drilling

would be identified at the further planning application stage and would be subject to consultation with SEPA also to ensure they do not impede flood water.

Impact upon Woodland (ER3 and E3)

Whilst along the cable route trenches there may be the need to remove small numbers of trees and cross one area of shelter belt at Slackend, Portgordon the route does not involve the felling or crossing of any substantial areas of woodland on its route from Portgordon to Blackhillock. Therefore no consultation with the Forestry Commission.

The indicative substation layout at Blackhillock would also include several hectares of landscaping and new tree planting to assist in integrating the site into the landscape. Conditions are recommended to allow for consideration of the landscaping provision at any further planning application stage.

Impact upon farmland (ER6)

Within the application site which includes the corridor either side of the indicative cable route, some areas of prime agricultural land are present. As the proposal involves undergrounding of the cables it is intended to return the ground back to agricultural use and as such the cable route would not conflict with this policy. No prime agricultural land exists at the 12 hectare site of the proposed substation at Blackhillock.

Developer Contributions (IMP3)

Developer contributions are sought where new development will impact on the provision and/or delivery of services and community facilities.

None sought following consultation with the Planning Gain Unit given the infrastructural nature of the development. This Committee previously agreed to separate the issue of planning gain from that of the pursuit of community benefit funds and or such contributions from major developments such as large renewable developments. On this basis such a matter should not be taken as a material consideration in the determination of this application.

Conclusion

After considering the material considerations above and the representations received, it is considered that the principle of the development should be recommended for approval with no restrictions on the options for either an AC or a DC transmission system. Similarly there have no reasons to oppose in principle either or the two options for taking access into the proposed substation.

REASON(S) FOR DECISION

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

The proposed development complies with the relevant policies of the Moray Development Plan and where no material considerations or consultations have prevented approval.

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APPENDIX

POLICY

Moray Structure Plan 2007 and/or Moray Local Plan 2008

Policy 1: Development and Community

The policy set out below identifies the strategic community development requirements for the delivery of the structure plan strategy-

The Moray Structure Plan Strategy will be supported by:

- a) the identification within the local plan of the business and industrial land allowances set out in Schedule 1 and the provision of strategic business locations at Elgin and Forres Enterprise Park and business park opportunities at Buckie, Keith and Lossiemouth;
- b) the encouragement of tourism development opportunities;
- c) the identification within the Local Plan of the housing allowances set out within Schedule 2;
- d) the provision of affordable housing in association with new housing development where a demand is identified in the Local Housing Strategy;
- e) the encouragement of low impact, well-designed development in the countryside to support local communities and rural businesses;
- f) sustaining the vitality and viability of town centres through the support of opportunities and proposals for retail and commercial development in accordance with the sequential approach;
- g) promotion of the strategic transport links as set out in Proposal 2;
- h) the protection and enhancement and new provision of facilities for community use, healthcare, sport and recreation;
- i) the inclusion within Local Plans of a policy requiring appropriate developer contributions towards healthcare and other community facilities.

Policy 2: Environment and Resources

The Moray Structure Plan Strategy will be supported by: -

- a) protecting international, national and local nature conservation and scenic designations from inappropriate development;

- b) protecting the wider natural environment and local biodiversity from inappropriate development and promote opportunities for environmental enhancement and restoration where possible;
- c) working in partnership with the Cairngorms National Park Authority and other interested parties to implement the objectives of the National Park;
- d) restricting development within coastal areas outwith settlements to only that in which social and economic benefits outweigh environmental impact;
- e) providing protection from development to the countryside around the towns of Elgin, Buckie, Keith, Forres and Lossiemouth;
- f) conserving and enhancing the areas built heritage resources and their settings;
- g) supporting proposals aimed at regenerating the area's natural and built environment including good design;
- h) providing waste management facilities to deliver Area Waste Plan and National Waste Plan objectives and ensuring that new development is designed to facilitate waste management practices and promotes the minimisation of waste;
- i) promoting sustainable urban drainage systems (SUDS) in all new developments;
- j) promoting schemes to alleviate flooding in a sustainable and sensitive way using natural ecosystems and features where possible and also restricting development within flood risk areas following the guidance set out in the Risk Framework in SPP7: 'Planning and Flooding' and promoting flood risk management schemes to tackle flooding that threatens existing development and considering development proposals against the Flood Risk Framework set out in Table 5;
- k) safeguarding the area from pollution and contamination;
- l) promoting opportunities for the sensitive development of renewable energy and promoting renewable energy in new development;
- m) safeguarding resources for the production of minerals, preferred forestry areas, and prime agricultural land.

ED8: Rural Business Proposals

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

- a. careful control over siting, design, landscape and visual impact, and emissions. In view of the rural location, industrial estate/urban designs may not be appropriate,
- b. a locational justification for the site concerned if serviced industrial land is available nearby,
- c. the capacity of the local infrastructure to accommodate the proposals,

- d. environmental considerations, including the impact upon natural and built heritage designations, with appropriate protection for the natural environment; the use of enhanced opportunities for natural heritage integration into adjoining land, and
- e. the location of the development close to populated rural areas where appropriate.

Proposals involving the rehabilitation of existing properties (e.g. farm steadings) to provide business-premises will be encouraged, provided access and parking arrangements are acceptable. Where noise emission or any other aspect is considered to be incompatible with surrounding uses, there will be a presumption to refuse.

Policy T2: Provision of Road Access

The Council will require that a suitable and safe road access from the public highway is provided to serve new development and where appropriate any necessary modifications to the existing road network to mitigate the impact of development traffic, and the provision of appropriate facilities for public transport, cycling, and pedestrians. Access proposals that have a significant adverse impact on the surrounding landscape and environment that cannot be mitigated will be refused.

SPP17 details that there will be a presumption against new accesses onto a trunk road, and that the Scottish Executive will consider the case for such junctions where nationally significant economic growth or regeneration benefits can be demonstrated.

T4: Bus, Rail and Harbour Facilities

The Council will promote the improvement of the bus, rail and harbour facilities within Moray. Development proposals that may compromise the viability of these facilities will not be acceptable.

T5: Parking Standards

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

T7: Cycling, Walking and Equestrian Networks

The Council will promote the improvement of the cycling, walking, equestrian and motorised sport path networks within Moray. It will give priority to the path networks and to long distance routes including the Aberdeen to Inverness National Cycle Route and the Speyside Way. Development proposals that adversely impact on the routes and cannot be adequately mitigated will not be acceptable.

Dependant on funding the Council will examine the possibility of an extension of the Elgin to Lhanbryde footpath network.

CF3: Countryside Recreation: Access and Trails

Development proposals will not be permitted which prejudice rights of way, identified paths and trails for non-motorised public access, inclusive of routes from the statutory Moray Core Paths

Plan and the wider Moray Local Access Development Plan. Continued monitoring of impact will be required in environmentally sensitive areas.

E1: Natura 2000 Sites and National Nature Conservation Sites

Natura 2000 Designations

Development likely to have a significant effect on a Natura 2000 site will be subject to an appropriate assessment. Where an assessment is unable to conclude that a development will not adversely affect the integrity of the site, development will only be permitted where:-

- a. there are no alternative solutions; and
- b. there are imperative reasons of over-riding public interest. These can be of a social or economic nature, except where the site has been designated for a European priority habitat or species. Consent can only be issued in such cases where the reasons for over-riding public interest relate to human health, public safety, beneficial consequences of primary importance for the environment or other reasons subject to the opinion of the European Commission (via Scottish Ministers).

National Designations

Development proposals which will adversely affect Sites of Special Scientific Interest (SSSI's) or National Nature Reserves will be refused unless the developer proves that:

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

E2: Local Nature Conservation Sites and Biodiversity

Development proposals which will adversely affect Local Nature Reserves, Sites of Interest to Natural Science, Ancient Long Established or Semi Natural Woodland, raised peat bog, wetlands, protected habitats or species or other valuable local habitats or conflict with the objectives of Local Biodiversity Action Plans will be refused unless it is demonstrated that;

- a. local public benefits clearly outweigh the nature conservation value of the site, and
- b. there is no suitable alternative site for the development.

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

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

Development proposals should protect and where appropriate, create natural and semi natural habitats for their ecological, recreational, landscape and natural habitat values.

E3: Tree Preservation Orders and Controls on Trees

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

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

The Council may attach conditions on planning consents ensuring that existing trees and hedges are retained or replaced. An applicant will be required to survey and identify those trees to be protected within the development site. A safeguarding distance should be retained between mature trees and proposed developments.

When imposing planting or landscaping conditions on certain developments especially in rural areas, the Council will specify the use of native species of trees and will prioritise the re-establishment and extension of hedgerows and/or shelterbelts.

E8: Coastal Protection Zone

Development proposals within the Coastal Protection Zone (CPZ) as identified on the proposals map will be refused except:

- a. where there is an existing use,
- b. it is an appropriate extension or change of use to existing buildings, or replacement of existing buildings,
- c. for low intensity recreational or tourist use e.g. golf courses, driving ranges, sports fields,
- d. for uses directly related to agriculture, forestry and fishing.

Proposals that are appropriate within the policy must not prejudice the objectives of the CPZ or adversely affect the ecological, geomorphological or landscape importance of the area.

Development will not be permitted on any parts of the coast that are identified as being at risk from flooding or erosion.

Policy E10: Countryside Around Towns

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

- a. involve the rehabilitation, conversion, limited extension, replacement or change of use of existing buildings, or
- b. are necessary for the purposes of agriculture, forestry, low intensity recreational use or specifically allowed under the terms of other Local Plan policies within these areas, or

- c. are a designated "LONG" term housing allocation, released for development under the terms of policy H2.

BE1: Scheduled Ancient Monuments and National Designations

National Designations

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

Local Designations

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

- a. local public benefits clearly outweigh the archaeological value of the site, and
- b. there is no suitable alternative site for the development, and
- c. any adverse effects can be satisfactorily mitigated at the developers expense.

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

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

BE2: Listed Buildings

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

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

The demolition of listed building(s) will not be permitted unless it is demonstrated beyond reasonable doubt that every effort has been exerted by all concerned to find practical ways of retaining the building and that the community would benefit from the redevelopment. All applications for the demolition of listed buildings should be supported by a report on the condition of the building, a study on the viability of retaining the building in active use, a report on the steps taken to advertise and market the building and, the proposals to recycle existing building materials into the future use of the site. Any proposed replacement of a demolished listed building should be of comparable quality in terms of construction and design.

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

Proposals should be in accordance with guidelines laid out in Historic Scotland's Memorandum of Guidance on Listed Buildings with regard to listed building consent applications.

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

Surface water from development should be dealt with in a sustainable manner that avoids flooding and pollution and promotes habitat enhancement and amenity. All sites should be drained by a SUDS system or equivalent. A Drainage Assessment will be required for developments of 10 houses, or greater than 100 sq metres for non residential proposals. Applicants must agree provisions for long term maintenance to the satisfaction of the Council, SEPA and Scottish Water.

EP6: Waterbodies

The Council will approve proposals affecting waterbodies where the applicant provides a satisfactory report that demonstrates that any impact (including cumulative) on river hydrology, sediment transport and erosion, nature conservation, ecological status or ecological potential, fisheries, water quality, quantity and flow rate, recreational, landscape, amenity, and economic and social impact can be adequately mitigated. The report should consider potential impacts up and downstream of the works particularly in respect of potential flooding. Opportunities for the enhancement of biodiversity and nature conservation should be considered. SNH and SEPA will be consulted on proposals.

EP7: Control of Development in Flood Risk Areas

Proposals for development in areas considered to be at risk from flooding will only be permitted where a flood risk assessment to comply with the recommendations of National Guidance and be satisfactory to both SEPA and the Council is provided by the applicant. The assessment must demonstrate that any risk from flooding can be satisfactorily mitigated without increasing flood risk elsewhere. New development should not take place if it would be at significant risk of flooding from any source or would materially increase the possibility of flooding elsewhere. Due to continuing changes in climatic patterns, the precautionary principle will apply when reviewing any application for an area at risk from inundation by floodwater. The following limitations on development will also be applied to take into account the degree of flooding as detailed in National Guidance;

- a. in areas of little of no risk (less than 0.1%) there will be no general constraint to development.
- b. areas of low to medium risk (0.1% to 0.5%) will be considered suitable for most development. However, these areas will generally not be suitable for essential civil infrastructure such as hospitals, fire stations, emergency depots etc. Where such infrastructure has to be located in these areas or is being substantially extended, they must be capable of remaining operational and accessible during extreme flooding events.
- c. in areas of medium to high risk (0.5% or above)

- i. in built up areas most development may be acceptable if flood prevention measures exist, are under construction, or are planned.
- ii. essential civil infrastructure will generally not be permitted.
- iii. undeveloped and sparsely developed areas are generally not suitable for additional development. Exceptions may arise if a location is essential for operational reasons.

Policy EP8: Pollution

Planning applications that are subject to significant pollution such as noise, including RAF aircraft noise, air, water and light will only be approved where a detailed assessment report on the levels, character and transmission of the potential pollution is provided by the applicant to show how the pollution can be appropriately mitigated. Where the Council applies conditions to the consent to deal with pollution matters these may include subsequent independent monitoring of pollution levels.

EP9: Contaminated Land

Development proposals on potentially contaminated land will be approved if:

- a. site specific risk assessments are undertaken by the applicant to identify any actual or possible significant risk to human health or safety, or to the environment and that any previous historic uses are not continuing to cause significant pollution to the water environment, and
- b. effective remediation measures are agreed to ensure the site is made suitable for any new use granted consent, and
- c. appropriate measures for the disposal of any contaminated material is agreed with the Council.

The Council will consult SEPA in respect of pollution of controlled waters and licensing issues arising from remediation works.

EP10: Foul Drainage

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

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

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

All development within or close to settlements (as identified in the Local Plan) of less than 2,000 population equivalent will require to connect to the public sewerage system except where a compelling case is made otherwise. Factors to be considered in such a case will include the size and dispersal of the settlement, the size of the proposed development, whether the development would jeopardise delivery of public sewerage infrastructure and existing drainage problems within the area. Where a compelling case is made, a private system may be acceptable provided it does not pose or add to a risk of detrimental effect, including cumulative, to the natural and built environment, surrounding uses or the amenity of the general area. Consultation with SEPA will be undertaken in these cases.

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

EP11: Hazardous Sites

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

ER1: Renewable Energy Proposals

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

- a. they are compatible with policies to safeguard and enhance the built and natural environment
- b. they do not lead to the permanent loss or permanent damage to, prime agricultural land,
- c. they are compatible with tourism/recreational interest and facilities, they do not interfere with aircraft activity,
- d. they do not result in an unacceptable impact in terms of visual appearance, landscape character, noise, electro-magnetic disturbance, watercourse engineering, peat land hydrological impacts, pollution, traffic generation or damage to the local ecology, and
- e. they do not result in an unacceptable cumulative impact.

Proposals are required to provide “decommissioning arrangements” to illustrate how the site will be reinstated if and when the plant ceases to operate. This may be enforced through a section 75 agreement.

Commercial wind energy developments should be located within a Preferred Search area identified in the Wind Energy Policy Guidance and meet the above criteria.

Policy ER2: Energy Reduction Requirements in New Development

Proposals with a cumulative floorspace of 500 m² or more must include on site zero and low carbon equipment contributing at least an extra 15% reduction in CO₂ emissions beyond the 2007 Building Regulations carbon dioxide emissions. The location of the equipment should not significantly detract from the amenity, appearance or character of the site. Applications should only be exempt from the above targets where developers are able to demonstrate that technical constraints exist. In those cases, equivalent carbon savings elsewhere in the area would require to be secured from the applicant by agreement.

PAN 84 will be used as guidance for the implementation of this policy.

Policy ER3: Development in Woodlands

Development proposals within woodlands will be refused where this development would adversely affect the biodiversity or recreational value of the woodland or prejudice the management of the forest.

ER6: Agriculture

The Council will support the agricultural sector by

- a. presuming against irreversible development on prime agricultural land (Classes 1, 2 and 3.1).
- b. supporting farm diversification proposals in principle, and generally looking favourably on business proposals which are intended to provide additional income/employment on farms.

Proposals for agricultural buildings, despite having a locational requirement, will still be subject to visual impact and amenity considerations, and will be subject to relevant environmental policies.

IMP1: Development Requirements

New development will require to be sensitively sited, designed and serviced appropriate to the amenity of the surrounding area. It must meet the following criteria:

- a. the scale, density and character must be appropriate to the surrounding area,
- b. the development must be integrated into the surrounding landscape,
- c. adequate roads, public transport, and cycling and footpath provision must be available, at a level appropriate to the development,
- d. adequate water, drainage and power provision must be made,

- e. sustainable urban drainage systems should be used where appropriate, in all new developments
- f. there must be adequate availability of social, educational, healthcare and community facilities,
- g. the development should, where appropriate, demonstrate how it will incorporate renewable energy systems and sustainable design and construction. Supplementary Guidance will be produced to expand upon some of these criteria,
- h. provision for the long term maintenance of public landscape and amenity areas must be made,
- i. conservation of natural and built environment resources must be demonstrated,
- j. appropriate provision to deal with flood related issues must be made, including the possibility of coastal flooding from rising sea levels and coastal erosion,
- k. pollution, including ground water must be avoided,
- l. appropriate provision to deal with contamination issues must be made, and
- m. the development must not sterilise significant workable reserves of minerals, prime quality agricultural land, or preferred areas for forestry planting.
- n. where appropriate, arrangements for waste management should be provided.

Policy IMP2: Development Impact Assessments

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

- a. an Environmental Assessment (EA) will be required for all developments that are likely to have significant environmental affects under the terms of the EA regulations.
- b. a Transport Assessment (TA) is required for developments that raise significant transport implications such as additional peak hour traffic, traffic late at night in a residential area or road safety concerns. The indicative thresholds contained in the related guidance to SPP17 will be used. However it should be noted that Transport Assessments could be required no matter the size of the site. Moray Council will develop its own thresholds and promote these through Supplementary Guidance which will be subject to stakeholder consultation before adoption. Moray Council's Roads Service can assist in providing a screening opinion on whether a Transport Assessment will be sought.
- c. a full Retail Impact Assessment (RIA) will be required for all retail proposals of 1000 square metres gross or more outwith designated Town Centres. For smaller developments the Council may require a retail statement to be prepared by the applicant.
- d. where appropriate, applicants will be asked to carry out other assessments e.g. noise; air quality; flood risk; badger or bat surveys to confirm the compatibility of the development proposal.

Policy IMP3: Developer Contributions

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

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

OBJECTIONS-REPRESENTATIONS

Letters of objection/representation were received from the following;

- Kitty Bell, Threave Cottage Broadley Buckie Moray AB56 5HQ
- Mr Rosemary Reeve, North Bogbain Keith Moray AB55 6RP
- Mr J Meighan, Conachreag, Slackend, Portgordon, Buckie, Moray, AB56 5BS

Heading of objection reasons selected by objectors from objection/representation weblink

- Inadequate plans
- Legal issues
- Noise
- Poor design
- Road Access

The grounds for further objection/representation are as follows;

Issue - Affecting natural environment

Officer comment - the Environmental Statement submitted and consultations responses received bear out that the impact upon the natural environment would not be so significant as to warrant refusal.

Issue - Inadequate plans (not available to view)

Officers response - there was an issue initially with some the documents online being so large in size they were difficult to open. The electronic files sizes were subsequently reduced and the files were accessed remotely to ensure they could be opened.

Issue -The statement for HSE saying that the response form cannot be downloaded but that they do not object to planning being granted is totally unacceptable. The objector cannot comment until this is clarified.

Officers response - The electronic consultation and links issued to HSE is similar to those issued to all consultees who responded successfully. Furthermore not being able to download the response form does not mean HSE were unable to access the consultation and links to documents, hence they were able to respond stating no objection. Their comment and also the automated HSE consultation response system used by the council raising no objections to the proposed scheme was made available online.

Issue - The planning process should not continue until an executive summary detailing matters such as how roadways will be crossed, how trenches will be re-instated, specific access arrangements at the landfall area, working distances from properties, what public presentations will be carried out prior to full planning permission and who the public can contact. Also what is being done to coordinate this development and minimise construction with the SHETL cable that is being laid in same area.

Officers response - much of the information requested is contained within the non technical summary which has been available online throughout. Some of the information sought such as the specific operations within the development corridor cannot be specified at this time as the application is in principle only. The Environmental Statement does go into detail however about the likely construction operations, number of temporary accesses etc. It is stated that where an access is the sole means of entry to properties on a dead end road, directional drilling may be preferred to an open trench installation. This matter would need to be specified at the detailed application stage and would have involved consultation with the affected parties by the developer who may require way leaves, legal permission from the landowner etc.

Issue- It is inappropriate to supply 168 documents online which makes it impossible to access, without giving a clear overview and making a commitment to engage with the local community of those affected.

Officers response - The documents online are clearly identified including non technical summaries and the chapter heading within the bigger documents. Developments of this size will inevitably have a large number of supporting documents. The total number of documents online is less than 168, but in order of to keep the electronic files accessible the documents are separated out into chapters online. As is discussed elsewhere in the report in addition to the Council's own notification process the applicant carried out various public exhibitions in relation to this project.

CONSULTATIONS

SEPA - No objections subject to conditions.

SNH - No objection subject to any detailed submission providing the detailed methodologies and assessments referred to in the Environmental Statement.

Scottish Water - No objection, but would wish the applicant to go through their own impact assessment process given the extent of the works.

Environmental Health Manager, Development Services - Approve subject to conditions and an informative. Conditions relate to hours of construction operations and noise levels.

Private Water- No objections. Conditions require impacts to be assessed under any further application.

Contaminated Land - No objection subject to informative being added.

Transport Scotland (Trunk Roads) - No objection subject to conditions.

Network Rail - No objections but the applicant should make contact with network rail prior to crossing the railway line, see informative.

Transportation Manager, Direct Services - No objection subject to planning conditions and

informatives.

Access Manager - No objections as conditions recommended allow for safeguarding of paths/routes.

Keith Community Council - No response received.

Strathisla Community Council - No objection.

Regional Archaeologist - Approve subject to a condition and informative.

Health and Safety Executive - No objections.

Planning Gain Unit - None sought given the infrastructural nature of the development.

Historic Scotland - No objections.