



Planning Committee

27 September 2016

2016/098/ECUCON: Section 36 Application for Wind Farm of up to 17 Turbines in Beaw Field, Burravoe, Yell by Peel Wind Farms (Yell) Ltd

Report Number : PL-10-16-F

**Report Presented by Planning Officer –
Development Management, Planning**

**Development Services Department
Planning Service**

1.0 Summary

- 1.1 This report concerns an application under Section 36 of the Electricity Act 1989 and deemed planning permission under section 57 of the Town and Country Planning (Scotland) Act 1997 to the Energy Consents Unit of the Scottish Government for the construction and operation of a wind farm comprising of up to 17 turbines with an installed capacity of over 50MW with associated works at Beaw Field in Burravoe, Yell. This application is being presented to the Planning Committee as the Council was consulted by the Scottish Government on 1 March 2016.
- 1.2 This proposal is classed as a major development under the Hierarchy of Developments and has been the subject of an Environmental Impact Assessment which has resulted in the submission of an Environmental Statement (ES).
- 1.3 The Shetland Islands Council is required, under the terms of this process, to lodge a formal consultation response to the Scottish Government. This view will include a schedule of planning conditions which the Council would wish to see imposed to enable the development to be carried out in an environmentally acceptable manner.
- 1.4 The period for the Council as planning authority to inform the Scottish Government of an objection to the application or comment on the conditioning of consent expired on 15 July 2016. An extension of time until 5 October 2016 has been agreed with the Scottish Government following the applicant's submission of further information, in order to fully consider the application and report to the Planning Committee.

- 1.5 The Committee is asked to reach a view on the proposal which will be forwarded to the Scottish Government.

2.0 Decision Required

- 2.1 The Planning Committee is asked to determine the response on the proposal and consultation which will be given to the Scottish Government. It is recommended that the Planning Committee raise no objections to the Section 36 proposal and agree this report as the Council's formal consultation response to the Scottish Government, subject to conditions listed in the schedule appended to the report.

3.0 Determination

- 3.1 Section 25 of the Town and Country Planning (Scotland) Act (as amended) 1997 states that:

Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan.

There are statutory development plan policies against which this application has to be assessed against. Those policies of significance are listed below. Unless material considerations indicate otherwise, the determining issue to be considered is whether the proposal complies with development plan policies.

While this proposal is an application under the Electricity Act 1989, if approved by the Scottish Government it will have deemed planning permission granted under Section 57 the Town and Country Planning (Scotland) Act 1997. The proposal has therefore been assessed under the following Development Plan policies.

3.2 Statutory Development Plan Policies:

Shetland Islands Council Local Development Plan (2014)

GP1 - Sustainable Development
GP2 - General Requirements for All Development
GP3 - All Development: Layout and Design
NH2 - Protected Species
NH3 - Furthering the Conservation of Biodiversity
NH5 - Soils
NH6 - Geodiversity
NH7 - Water Environment
HE1 - Historic Environment
HE2 - Listed Buildings
ED1 - Support for Business and Industry
ED2 - Commercial and Business Developments
TRANS 1 - Integrated Transport

RE1 - Renewable Energy
WD1 - Flooding Avoidance
WD3 - SuDs

3.3 **Safeguarding**

Wind Turbines - Wind Turbine Planning Ref: 2013/176/PPF

Landfill - TBL Landfill: Moss Houll, Yell, U - Hamnavoe Yell

Landfill - TBL Landfill: 3A21 - Old Pit Hamnavoe, Yell

Waste Water Drainage Hotspots - Waste Water Drainage Hotspots: Littlester

30km Radius Scatsta - 30km Sumburgh Scatsta: 2

Scatsta Safeguard - Height: 15m, Height: 45m, Height: 90m

Scatsta 13km Zone - Scatsta 13km Zone: 13km Consultation Zone Bird Strike Zone

Burn Buffer - Name: Burn of Arisdale, Burn of Hamnavoe, Burn of Evrawater, Burn of the Gardins, No Name, No Name, No Name, Burn of Horsewater, No Name, Burn of Hummelton, Green Burn, Burn of Sundrabister, Burn of Lungaskolla

Crofting Apportionments - Croft: 20773, Croft: 6242, Croft: 7283, Croft: 11395, Croft: 4357, Croft: 22558, Croft: 8282, Croft: 18377, Croft: 19517, Croft: 15150

Crofts - Holding ID: 3589

Grazing - Grazings Farm Code: 891/0412, 891/0443

5m Contour Area - 5m Contour Area: 1

SEPA River Extents - SEPA River Extents: M, L

SEPA SW Extents - SEPA SW Extents: L, M, H

4.0 **Report**

- 4.1 This report concerns an application under Section 36 of the Electricity Act 1989 for the construction and operation of a wind farm comprising of up to 17 turbines with an installed capacity of over 50MW. The total site area is some 1135 hectares and comprises land in agricultural use. It is located to the north of Upper Neepabak and to the south of Gossabrough on the island of Yell. A construction phase lasting around 24 months from the date consent is granted is proposed.

The development proposal involves a number of elements which include; up to 17 turbines with a maximum height to blade tip of 145m including foundations and transformers; approximately 11.1km of access tracks of average width 4.5m and verges plus drainage; five major and one minor mapped watercourse crossings; hardstanding areas for construction and maintenance of turbines; electrical substation and control building; underground cabling connecting turbines to the substation and control building; one anemometry mast; four borrow pits to provide aggregates for the construction of the wind farm; and a radio communications tower of up to 20m in height.

The rationale for the proposed development is to make a positive contribution to the proportion of electricity generated from renewable sources and in doing so, to help combat climate change and contribute to the various renewable energy generation and greenhouse gas reduction targets set at European, UK and Scottish levels.

The site was acquired by the applicant, Peel Wind Farms (Yell) Limited, from the previous prospective developer as a result of a tendering process. The previous prospective developer had explored the feasibility of a wind farm development at the site, including discussions with the Scottish Government and submission of a Scoping report. The applicant in progressing with the project did not consider alternative sites on Shetland for a power generating station but did consider a variety of locations within the site for wind turbines before settling on the layout now proposed.

The previous scoping request submitted by the previous prospective developer proposed a 17 turbine layout with a maximum generating capacity of 102 MW based on 6MW turbines with a maximum tip height of 165m. The current applicant has however reduced the tip height to 145m in order to reduce effects on amenity and also to bring the proposed development in line with the scale of turbines adopted for use as part of the Viking Wind Farm development. The proposed 17 turbines enables the layout to accommodate exclusion zones for birds, habitats, the operation of Scatsta Airport, a Scheduled Ancient Monument, dwellinghouses and communication links.

Major infrastructure developments such as this proposal should comply with the relevant policies contained within the Development Plan and not give rise to unacceptable adverse environmental or social impacts. The main planning issues therefore relate to the principle of the siting a wind farm in the location proposed and whether it can be accommodated both safely, and without adverse impact on the environment and the local community. Also the construction impacts of such a development are a major consideration.

At a national and strategic level the Scottish Government has an overall vision for Scotland in which Scotland is a successful sustainable place, a low carbon place and a natural and resilient place. In order to achieve this, proposals such as this one are required to be considered. At a local level, it is the main impacts from such a development which require to be carefully considered.

The proposal has been the subject of an Environmental Impact Assessment (EIA) and as a result an Environmental Statement (ES) has been produced which has covered a number of areas considered to be important to be assessed for potential impacts on the environment within and surrounding the development site area.

4.2 Landscape and Visual

At a height of 145m tall the proposed development is likely to have an ongoing visual impact on the surrounding area from the presence of the turbines. The ES has assessed the potential impact on the surrounding landscape areas, National Scenic Areas, Wild Land, Local Landscape Areas and Designated Landscapes. The ES has concluded in terms of designated landscapes that due to significant separation distances and limited extend of visibility there would be no significant effects on the areas mentioned. In good visibility conditions it has been concluded that the development would be a minor component of view from these areas.

Three Landscape Character Areas have been identified as having likely significant changes to their key characteristics, including Yell Peatlands, Scattered Settlements/Crofting and Grazing Land and Coastal Edge. In all cases the likely significant effect on landscape character would occur in a localised area. The proposed wind farm would redefine a localised area of each LCA with turbines becoming a key characteristic. These effects would however influence a relatively small area of Yell itself due to the screening effects of topography to the north west of the site.

Of the 23 viewpoints considered in the ES it was determined that there would potentially be likely significant visual effects at 10 of these viewpoints. These effects would mostly be experienced by people within 5km of the wind farm and in addition there is potential for some significant visual effects from coastal areas on adjacent islands within c.12km, where the landform of Yell forms the key component of the views available.

The properties closest to the proposed wind farm in Burravoe and Gossabrough have the predominant views from their properties looking outwards towards the sea rather than towards the development site. There have been no objections to the wind farm submitted to the Council on the basis of the impact on the landscape or the visual appearance of the development from the local community, although it should be noted that no publicity has been given to the application by the Council since the consenting process is one the Scottish Government's Energy Consents Unit administers.

SNH has commented that whilst the development would be visible from within the National Scenic Area, at a distance of 13km and in a direction away from the coast, it does not consider that it would impact significantly on the experience of the special qualities of the National Scenic Area. SNH is also in agreement with the assessment in the ES that whilst the development will also be visible from the Wild Landscape Area the impact will not be significant. It is considered that as the special qualities of the National Scenic

Area will not be adversely affected the proposal is in compliance with Policy NH1 – International and National Designations of the 2014 Shetland Local Development Plan (SLDP), which only permits development which will not adversely affect the integrity of the area or the qualities or protected features for which is has been designated.

In March of 2009 the Landscape Sensitivity and Capacity Study for Wind Farm Development on the Shetland Isles was produced. This study would have the proposed wind farm fall into the “very large” category due to its generating power of 50MW or more. The applicant has however noted that since 2009 wind turbine technology has evolved significantly. The generating power of 50MW can now be produced with much fewer turbines and as such the applicant considers the proposal to be a “large group” rather than the “very large” category.

The question, “do fewer, larger turbines reduce the overall landscape and visual impact?” has been posed in a consultation response. In this case it is considered that restricting the number of turbines to 17 (down from 65) will reduce the impact in the immediate area although the turbines will be seen from a greater distance. Although the turbines now proposed are taller the result is one of being a smaller area containing the wind farm rather than having it sprawling across the whole of the landscape in the area.

4.3 Noise

Noise levels from the proposed wind farm could have potential to disturb sensitive receptors during construction, operation and decommissioning of the wind farm. It has been demonstrated that the noise from construction and decommissioning will be below the accepted levels and therefore have no significant effect. During some conditions at some locations the wind farm will be audible during its operation however the noise level will still be within the accepted noise levels. One existing domestic turbine within Burravoe may be removed due to the cumulative effect of the domestic turbine and the wind farm, however even without the removal of the existing domestic turbine the levels remain within the accepted limit and as such no mitigation has been proposed. The Council’s Environmental Health Service has worked closely with the applicant and has no objections to the wind farm based on noise predictions. It is therefore considered that the proposal in this regard complies with SLDP Policy GP2 as the existing uses will not be adversely affected by noise generated at any point from the wind farm.

4.4 Shadow Flicker

It has been identified that some properties close to the proposed wind farm development site have the potential to be affected by shadow flicker at certain times of the year. Proposed mitigation has been offered that certain turbines will be shut down when the correct time and meteorological conditions exist to create shadow flicker. It is considered that subject to this mitigation measure being a requirement of a condition and its being implemented sufficient protection will exist for the residential properties and as such this element of the proposal complies with Policy GP2 of the SLDP.

4.5 Ornithology

The ES has concluded that there are no predicted significant adverse residual effects for any of the ornithological receptors in the area surrounding the wind farm. In consultation however, SNH did not feel that the ES adequately assessed the potential cumulative impacts on a number of important breeding bird species. The applicant submitted further information in order to address SNH's objection to the application. This further information led to SNH removing its objection as it is now considered that the cumulative assessment of the effects of the development on the populations of a number of breeding bird species has now been adequately assessed and it was concluded that all the species concerned will continue to meet conditions for maintaining their conservation status. The RSPB has maintained its objection to the application as it considers the proposal to mitigate/offset the potential adverse effects on specific protected bird species are not sufficient to mitigate all risk to these internationally important species. As SNH as the statutory consultee has removed its objection it is considered that the mitigation measures put in place sufficiently address any issues regarding bird species, and as such the proposal complies with Policy NH2 – Protected Species of the Shetland Local Development Plan (2014).

4.6 Ecology

The ES established the baseline ecological condition of the site using a desk-study and target ecological surveys. The important ecological receptors likely to be affected by the proposed development were identified as otters, fish and habitats and it was predicted that there would not be any significant ecological residual effects associated with the development of the Beaw Field Wind Farm.

Signs of otter activity were identified within the site boundary however no holts or significant foraging areas were identified. The proposed water crossing methodology and pollution prevention measure will reduce possible impacts to 'negligible'. The proposed sites for the individual turbine developments do not remove any foraging or resting areas and are well away from the identified activity areas such that any disturbance will be minimal. Additionally it is recognised that otters can quickly habituate to regular human activity.

SNH agrees that the site is currently only occasionally used by otters and is not an important area for the species. It has been recommended that further surveys should be undertaken no more than two months before work begins as set out in an outline Construction Environmental Management Plan (CEMP) to ensure that no otter holts have been established in the meantime. It has also been highlighted that if a holt is discovered by the pre-construction surveys or during construction it is likely to be a natal holt and should be presumed to be so. An exclusion zone of at least 100m radius rather than 30m as specified in the outline CEMP should be established unless and until it can be established that the otters are not breeding or that the cubs have left the holt.

Proposed measures to mitigate run-off, siltation and pollution will reduce impacts on watercourses within the proposed development's planning boundary thereby reducing the impacts on migratory fish (salmonids and eels) to negligible levels.

Ground surveys identified a number of important habitat types, principally unmodified blanket bog (which could fit the active blanket bog description under Annex 1 of the Habitats Directive) and the UK Biodiversity Action Plan habitat dry dwarf shrub heath. In both cases the habitat loss resulting from construction activity is small (4.2 ha and 0.4 ha respectively) and within the context of the site as a whole and Yell in general is not considered to be significant. The outline CEMP proposes habitat enhancement, including peat restoration, throughout the site (and including the borrow pits) as soon as construction is complete. Peat storage is also proposed so that the material can be put to use post decommissioning of the turbines in the reinstatement of the site.

SNH has welcomed the proposal to use peat excavated during construction to restore degraded blanket bog habit in the vicinity of the development, however it does stress that care needs to be taken if catotelm peat is to be used for this purpose. Once disturbed catotelm peat is unstable, difficult to handle and liable to be remobilised by water flowing over or through it. Details of excavated peat for habitat restoration including measures to ensure the stability of any catotelm peat used, should therefore be set out in the final Peat Management Plan and approved by the relevant authorities before construction begins.

SEPA objected to the application on the basis of lack of information on the appropriate reuse and management of peat on site but has subsequently removed its objection after the submission of further information. Caution has been advised on the proposed use of lime and fertiliser on nurse crops in a nutrient-poor bog setting and SEPA has recommended that the applicant obtains advice on relevant best practice before implementing the Peat Reinstatement and Management Plan.

Subject to conditions and the mitigation proposed the development will be in compliance with SLDP Policy NH5 – Soils, which will only permits development where appropriate measures are taken to maintain soil resources and functions to an extent that is considered relevant and proportionate to the scale of development.

4.7 Cultural Heritage and Archaeology

The applicant has identified 73 heritage features of prehistoric to modern date within the site. The proposed development has been designed where possible to avoid direct impacts upon known heritage features within the site.

The ES has identified that the development has the potential to have significant adverse impact of the setting of Gossabrough Broch and settlements, and also to have potential minor-moderate effects related to the

settings of several other scheduled monuments. These monuments include Water Wick of Copister Broch, Burravoe Broch, the Snuti Fort and Fugla Ness Broch.

Historic Environment Scotland has noted that the cultural heritage assessment has a very clear methodology and that it is content with the criteria used for establishing relative sensitivity of setting of heritage assets and magnitude of setting impacts.

Gossabrough Broch is 1.58km northeast of the nearest turbine and the potential effects have been illustrated by visualisations. All the turbines would be highly visible and would represent a very noticeable change from current conditions. The setting of the broch is likely to be focussed on the coast and the Wick of Gossabrough, rather than the hill behind it (where the turbines would be located). SNH considers that whilst the proposed development would have an adverse impact on an appreciation of the monument, the threshold where it considers national issues to have been raised is not likely to be reached.

Effects on other assets identified in the ES would not be as great as that on Gossabrough Broch because of the nature of the proposal and the setting of the affected assets. SNH is therefore broadly concurring with the conclusion regarding the level of effects set out within the ES.

It has been noted by SNH that while mitigation has been proposed regarding the significant effect on Gossabrough Broch the mitigation measure does not directly relate to the effected asset and as such would not affect its assessment. SNH considers the proposed mitigation to be compensation rather than mitigation but does welcome the aim of the proposed Heritage Access and Interpretation Plan to increase understanding and appreciation of heritage interests in the wider area.

The Regional Archaeologist has no objections to the proposal and has been in discussions with the applicant. Suggested conditions have been put forward which include the requirement for a Written Scheme of Investigation and that a suitably qualified archaeological contractor undertakes the work. Attaching such conditions will ensure that no significant adverse impacts will take effect on archaeological interests, other than those previously identified.

Whilst the development would be highly visible from Gossabrough Broch and visible from other cultural assets including listed buildings it is not considered that the effect is strong enough to be considered a national issue. Applying recommended conditions will allow archaeology in the surrounding area to be protected in line with SLDP Policy HE4- Archaeology.

4.8 Aviation

Scatsta Airport has objected to the application, as has BP as the licence holders for Scatsta Airport. Their points relate to aircraft safety and the operational impact to Scatsta Airport as a result of the development. Scatsta has however suggested that should the proposal be approved mitigation measures should be put in place to ensure there will be no deterioration or adverse impact to Scatsta Airport's operability as a result of the wind farm. In response the applicant has submitted a letter in response to the points raised. It has been highlighted that the development: falls outwith Scatsta's own safeguarding area; radar will not be affected; and also that flight procedures will not be affected either. Mitigating conditions have been suggested by the applicant in order to safeguard Scatsta Airport's operation and it is considered that subject to condition and compliance with this the wind farm will not adversely impact on the airport and as such complies with SLDP Policy TRANS 1 which supports the economy of Shetland through maintaining an appropriate level of accessibility by road, sea and air.

The Civil Aviation Authority has not made any objection to the proposal but has noted that any structure of 150m or more must be listed in accordance with the Air Navigation Order and should be appropriately marked. The proposed turbines are 145m to the tip and so there is no CAA requirement for them to be lit, however if an aviation stakeholder were to request lighting it is highly likely that the CAA would support such a request.

4.9 Other Consultations

The Outdoor Access Officer has stated that to the best of their knowledge there are no core paths or public rights of way directly affected by this development however this does not preclude that public rights may exist which are yet to be claimed. The ES has noted that other formal and promoted access routes will be affected, mostly Access Route ARY08 (Cataline Memorial Walk) and the Otterswick Ward Walk. On the basis that open access across the hills will only be restricted where it comes into conflict with actual active construction rather than across a blanket area, there are no objections to the development.

Delting, Unst, Fetlar, Northmaven, Whalsay, Nesting and Yell Community Council's were consulted due to the visual impact from each of these areas. Delting Community Council was the only Community Council to respond. Members asked if their community was to get any of the community benefit from the wind farm. There are currently no powers to oblige developers to pay community benefits, although the Scottish Government has published guidance to assist onshore renewable developers that offer to do so voluntarily. Currently direct community benefit is not a material consideration in terms of planning determinations.

4.10 Summary

The ES concludes that the development has been designed to avoid environmental effects at source where ever possible. The layout of the development has been informed by a thorough understanding of the baseline environmental conditions and the particular constraints and opportunities of the application site for wind farm development

Along with mitigation, environmental monitoring would be undertaken during the construction and operation phases of the proposed development were it to be consented and go ahead. The monitoring requirements for the construction phase would be detailed out in the CEMP. The monitoring activities would include, but would not be limited to the following:

Monitoring of a range of ornithological receptors - to be undertaken prior to construction, during construction and during operation. As a general principle, SNH's post-consent and post-construction monitoring guidance (SNH, 2009) (or any subsequent updates) would be followed and procedures agreed with the Council as planning authority. An independent and fully qualified Ecological Clerk of Works (ECoW) would be employed during construction of the proposed development.

Pre-construction surveys - to be carried out and used to inform and adjust the construction programme to avoid disturbance to Schedule 1 and Annex 1 breeding birds. This survey would form the basis of a detailed Bird Biodiversity Protection Plan which would form a part of the Construction Environment Management Plan to ensure that construction activities do not result in disturbance of important avian receptors present. Suitable disturbance free buffer zones would be identified around any Schedule 1 breeding birds if found to be present.

Water quality monitoring at locations upstream and downstream of the proposed watercourse crossings would be undertaken before, during and for one year after construction. Analysis would include both visual recording and field monitoring using portable water sampling equipment, undertaken by an experienced hydrologist.

4.11 Conclusion

It is considered that notwithstanding the objection from Scatsta Airport, BP and the RSPB, that the Council should not raise objections to the proposal. This is because it is considered that the concerns raised by Scatsta Airport and BP can be addressed by condition.

In conclusion it is considered that the proposal under consideration can be undertaken without unacceptable adverse impacts on the built and natural environment, subject to the imposition of the recommended planning conditions attached as Appendix 1 and the implementation of the mitigation measures outlined within the ES.

5.0 Implications (of Decision)

Strategic

- 5.1 Delivery On Corporate Priorities – A decision made on the planning application that accords with the development plan would contribute directly to the Single Outcome Agreement through the outcome that we safeguard and enhance our outstanding environment.
- 5.2 Community/Stakeholder Issues – Standard consultations were sent by the Planning Service during the processing of the Energy Consent Unit's consultation on the application. The full text of the comments received is attached as Appendix 2 to this report. A summary is provided below.

5.2.1 Flooding, Drainage and Coastal

Consideration should be given to the behaviour of all proposed drainage features during extreme flow conditions, and how they will interact with existing drainage and watercourses.

Particular concerns may include on-going inspection and maintenance regimes, effects of potential erosion and/or destabilisation of peat, flood risks from possible blockage of ditches and any resulting overflow routes

Comment - Care will be required to provide suitable location specific design details to ensure flood risks are not created.

5.2.2 Outdoor Access

To the best of my knowledge there are no core paths or public rights of way directly affected by the development however this does not preclude the possibility that public rights of way exist.

There are formal and promoted walks that will be affected. On the basis that open access across the hills will only be restricted where it comes into conflict with actual active construction rather than across a blanket area I have no objection.

5.2.3 Environmental Health

No comments.

5.2.4 Marine Planning

Both the CEMP and Breeding Birds Protection Plan will be important in ensuring that impacts are and remain negligible so that the conservation status of bird populations is not significantly affected.

5.2.5 Otters

The proposed water crossing methodology and pollution prevention measures will reduce possible impacts to negligible non-significant levels. The individual turbine developments do not remove any foraging or resting areas and are well away from the identified activity areas such that any disturbance will be minimal. Additionally it is recognised that otters can quickly habituate to regular human activity.

5.2.6 Fish

Proposed measures to mitigate run-off, siltation and pollution will reduce impacts on watercourses within the development planning boundary thereby reducing the impacts on migratory fish (salmonids and eels) to negligible levels.

5.2.7 Habitats

A number of important habitat types principally unmodified blanket bog (which could fit the active blanket bog description under Annex 1 of the Habitats Directive) and the UK Biodiversity Action Plan habitat dry dwarf shrub heath. The outline CEMP proposes habitat enhancement, including peat restoration, throughout the site (and including the borrow pits) as soon as construction is complete. Peat storage is also proposed for use post decommissioning of the site.

5.2.8 Archaeology

All archaeological work will require a Written Scheme of Investigation (WSI), to be agreed between us on behalf of the Council Planning Service) and the developers' archaeological contractors before the commencement of any ground breaking work. Any geotechnical work, test pitting or intrusive work of any sort, which needs to be carried out prior to the actual construction development will also require a WSI to be prepared and agreed before commencement. Suggested conditions regarding programme of archaeological work, work not starting until site investigation has been completed and that the person undertaking the work should be suitably qualified.

5.2.9 Delting Community Council

There will be a visual impact from the turbines in Mossbank and the community have not been informed, unlike the Yell community. Members would like to know if Mossbank will get any part of the community benefit?

5.2.10 Shetland Biological Records Centre

We accept that the proposed project is unlikely to have significant adverse impacts on the ornithological interests of the area and are encouraged to see that the developer is planning to attempt to restore some of the habitat within the site to active blanket bog, and create

potential breeding lochans for Red-throated Diver. We do, however, have some concerns regarding aspects of the ES and EIA.

General Comments

1. The quality of the blanket bog within the site is underplayed
2. There is insufficient detail on what will happen to the quarter a million cubic metres of peat that will be generated as a result of this project.
3. The Outline Habitat Management Plan (OHMP) should, in our opinion, have contained more detail than was presented in this 'summary'.
4. There are a series of deficiencies within the Carbon audit equation and indeed, as far as we are aware, the version used has been deemed as NOT suitable for use in a planning application such as this. As is so often the case the values used in various parameters are loaded to minimise the carbon payback time and thus favour the developer. We do not believe a realistic figure for carbon payback is given and are certain that a figure representing a proper worst case scenario is not presented.
5. The size of the windfarm exceeds the size recommended for this area in the SIC supplementary guidance on onshore wind farms.

Representations

The Section 36 Application was advertised in the national and local press and interested parties were invited to submit representations directly to the Scottish Government.

- 5.3 Policy and/or Delegated Authority – The application is for a development falling within the category of Major Development. The Council is a statutory consultee in the Section 36 process. In accordance with the Planning Scheme of Delegations that has been approved by the Scottish Ministers the decision to make the Council's response to the consultation on the Section 36 application is delegated to the Planning Committee.
- 5.4 Risk Management – If Members are minded to lodge an objection to the application, it is imperative that clear reasons for doing so are provided and minuted given the officer's recommendation. Furthermore, it provides clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.

6.0 Conclusions

- 6.1 Taking the comments received into account and having assessed the proposed development, against the Shetland Local Development Plan (2014) policies listed in paragraph 3.1, the proposal is found to be compliant with their aims.
- 6.2 For the reasons set out in section 4 above the proposal complies with Shetland Local Development Plan policy and is recommended for approval. The proposal accords with the relevant provisions of the Shetland Local Development Plan (2014) policies GP1, GP2, GP3, NH2, NH3, NH5, NH6, NH7, HE1, HE2, ED1, ED2, TRANS1, RE1, WD1 and WD3.
- 6.3 Subject to the conditions listed in Appendix 1 to this report this proposal complies with the Council's development plan policies listed in paragraph 3.1 of this report. No material considerations have been found that would warrant the refusal of the application. It is recommended that the Planning Committee raise no objections to the Section 36 proposal and agree this report as the Council's formal consultation response to the Scottish Government, subject to conditions listed in the schedule appended to the report.

For further information please contact:

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Date Cleared: 20 September 2016

List of Appendices:

Appendix 1 - Schedule of Recommended Conditions

Appendix 2 - Consultee Responses

Appendix 3 - Location Plan and Site Plan

Background Documents:

- [Shetland Local Development Plan \(2014\)](#)
- [Landscape Sensitivity and Capacity Study for Wind Farm Development on the Shetland Isles \(Land Use Consultants, March 2009\)](#)
- [Supplementary Guidance Onshore Wind Energy \(2014\)](#)

2016/098/ECUCON

Section 36 Application for a wind farm of up to 17 turbines in Beaw Field, Burravoe, Yell

Suggested Conditions

Implementation and Decommissioning

1. The Development will be undertaken in accordance with the Application and Environmental Statement and Addendum approved by this consent, except in so far as amended by the terms of this consent and direction or as subsequently agreed in writing by the Planning Authority in consultation with / following consultation with SNH and SEPA).

Reason: To ensure the development is carried out in accordance with the application documentation.

2.

- (a) At least one month prior to the Commencement of Development on the site, the developer will provide to the Planning Authority written details of the financial provision which it proposes to put in place to cover all decommissioning and site restoration costs at the end of the period of this consent. The developer will also provide to the Planning Authority confirmation by a Chartered Surveyor in writing (whose appointment for this task has been approved beforehand by the Planning Authority) that the amount of financial provision so proposed is sufficient to meet the full estimated costs of decommissioning, dismantling, removal, disposal, site restoration, remediation and incidental work, as well as associated professional costs.
- (b) No development shall commence on site until written confirmation has been given by the Planning Authority to the developer to the effect that the proposed financial arrangement is satisfactory, and the developer has confirmed to the Planning Authority that it has been put in place.
- (c) The developer shall ensure that the financial provision is maintained throughout the duration of this consent.
- (d) The financial provision will be subject to a five yearly review, paid for by the developer, from the Commencement of Development, to be conducted by a competent independent professional who has relevant experience within the wind energy sector and provided to the developer, the landowners, and the Planning Authority.

Reason: To ensure the financial security for the cost of the site reinstatement to the satisfaction of the Planning Authority

Turbines

3 The turbines shall have a maximum height to blade tip (when in the 12 o'clock position) of 145 metres above ground level.

Reason: To protect the existing residential amenity of the occupiers of neighbouring properties as the impact of different wind turbines has not been assessed, in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

4 The turbine blades and hub assembly for every turbine shall rotate in the same direction.

Reason: In the interests of visual amenity and to ensure compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

5 Notwithstanding the approved plans and unless required for health and safety purposes, or for aviation purposes, no part of the wind turbines hereby approved shall display any name, logo, sign or advertisement or means of illumination without the prior written approval of the Planning Authority.

Reason: In the interests of visual amenity and to ensure compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

6 Prior to the commencement of works for the erection of any turbines within the Development Site, details of the size, design, external appearance and colour of the turbines shall be submitted to and approved in writing by the Local Planning Authority. The approved colour finishes of the turbines and any ancillary buildings and structures shall not be changed without the written approval of the Planning Authority. The Development shall be carried out in accordance with the approved details. All turbines hereby permitted shall be of the same details and design, unless otherwise approved in writing by the Planning Authority.

Reason: To protect the existing residential amenity of the occupiers of neighbouring properties as the impact of different wind turbines has not been assessed, in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

7 Within 14 days of the date of completion of the erection of the final turbine, written confirmation of the anticipated date of commissioning of the Development shall be provided to the Ministry of Defence, the Civil Aviation Authority and the Planning Authority. This confirmation shall include the following information:

- a) height above ground of the highest potential obstacle
- b) the position of that structure in latitude and longitude

Reason: To ensure that the Development does not have an adverse impact on Scatsta Airport of air safety in accordance with the Shetland Local Development Plan (2014) Policies GP1, GP2 and TRANS1.

8 If any wind turbine ceases to be operational for a continuous period of 12 months following the commissioning of the Development then the operator of the

Development shall notify the Local Planning Authority in writing within one month of the end of that 12 month period; and unless otherwise approved in writing with the Planning Authority, that wind turbine and its associated ancillary equipment shall be removed from the Development Site within a period of 6 months from the end of that 12 month period, in accordance with a scheme that has first been submitted to and approved in writing by the Planning Authority. That scheme shall include the details of the manner, management and timing of the works to be undertaken and shall also include a restoration plan and a traffic management plan for the removal of the large turbine components. That part of the Development Site shall be restored in accordance with the approved scheme.

Reason: In order to ensure that when a turbine ceases to be operational that the site of the turbine concerned is restored to its pre-development condition in the interests of visual amenity and in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

Construction

9 The Development shall be implemented in accordance with Environmental Statement (ES) Figure 3.1 provided that micro-siting of turbines, access tracks and access crossings of drains or ditches is permissible up to 50 metres from their approved location. Within 1 month of the construction of any element or elements of the scheme that is / are capable of being micro-sited, a detailed plan showing the new position of the micro-sited component(s) of the Development shall be submitted to and approved in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this permission and in accordance with the Shetland Local Development Plan (2014) Policy GP2.

10 Prior to the installation of any external turbine ancillary plant or equipment related to electrical transformers or the inspection and maintenance of the turbines, details of its design and external appearance, siting and landscaping shall be submitted to and approved in writing by the Planning Authority. The Development shall in these respects thereafter be carried out in full accordance with the approved details.

Reason: For the avoidance of doubt as insufficient information has been provided and to comply with the provisions of The Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2013.

11 Prior to the commencement of the Development hereby permitted, including the construction of the electricity substation and means of enclosure, details of the size, design and external appearance of the electricity substation building and means of enclosure shall be submitted to, and approved in writing by the Planning Authority. The Development shall in these respects thereafter be carried out in accordance with the approved details.

Reason: For the avoidance of doubt as insufficient information has been provided and to comply with the provisions of The Town and Country Planning (Development Management Procedure)(Scotland) Regulations 2013.

12 Prior to the commencement of the Development hereby permitted, other than in respect of works required to undertake ground investigations and implement the Habitat Management Plan, a Construction Workers Travel Plan shall be submitted to and approved in writing by the Planning Authority and thereafter the construction of the Development shall be carried out in accordance with the approved travel plan details.

Reason: In order to assess the impact the movement of construction workers for the development will have on the infrastructure of Shetland in accordance with Shetland Local Development Plan (2014) Policy GP1, GP2 and TRANS3.

13 Prior to the commencement of the Development hereby permitted, a scheme detailing Site access / delivery arrangements shall be submitted to and approved in writing by the Planning Authority. The Site access / delivery arrangements may be

submitted on a phased basis with no development taking place in any particular phase of construction until the Site access /delivery arrangements for that phase of construction has been submitted to and approved in writing by the Planning Authority.

The scheme shall comprise detailed drawings of the proposed new access routes, including any works to and any surfacing of existing tracks including public rights of way. The Development shall be carried out in accordance with the approved scheme unless otherwise approved in writing by the Planning Authority.

Reason: To ensure that the infrastructure serving the Development Site is of a standard to provide safe access and use for vehicles, in the interests of public and road safety in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

14 Prior to the commencement of the Development hereby permitted, a Construction Environmental Management Plan (CEMP) shall be submitted to and approved in writing by the Planning Authority and the construction of the Development shall be carried out in accordance with the approved CEMP. The CEMP may be submitted on a phased basis with no development taking place in any stage of construction until a CEMP for that stage of construction has been submitted to and approved in writing by the Planning Authority. The CEMP shall include details on the following (stating any not relevant to a particular stage of construction):

1. the contractor(s) corporate environmental policy and procedures;
2. specific objectives and targets relating to environmental management during the construction phase;
3. details of the management structure proposed to oversee the environmental management of the Development Site and to monitor the potential impacts and mitigation;
4. details of proposed environmental monitoring, audits and reporting systems to be employed during construction;
5. details of environmental training to be provided to the contractors and their sub-contractors personnel;
6. a schedule of all relevant consents, licences and authorisations required during the construction phase and details of how the contractor will comply with these;
7. an emergency procedure for potential environmental incidents;
8. environmental mitigation measures to be employed during the construction of the Development comprising:
 - a) details of the site compound and temporary structures including parking, storage provision, and fencing/means of enclosure to be used in connection with the construction of the Development together with provision for removal of the construction compound and reinstatement of the land within three months of the commissioning of the Development (the anticipated date of which having previously been notified to Planning Authority in accordance with condition 7) or such other period as approved in writing by the Planning Authority;
 - b) details of on-site activities including earth moving, aggregate mixing, crushing, screening, on site storage and transportation of raw material, concrete batching;
 - c) dust management;
 - d) cleaning of Site entrances and public right(s) of way in the Development Site;

- e) the sheeting of all open bodied heavy commercial vehicles carrying dust creating materials, for example, dry loose aggregate, cement or soil, into and/or out of the Development Site;
- f) wheel cleaning facilities to be retained for the duration of construction work and used by all construction traffic with an operating weight exceeding three tonnes;
- g) pollution control in respect of:
 - water courses and groundwater quality
 - peat handling and management
 - bunding of fuel storage areas
 - sewage
 - waste
- h) temporary site illumination, including measures to avoid disturbance to fauna;
- i) routing of underground cabling;
- j) methods to be adopted to reduce the effects of noise (and vibration) occurring during the construction period, in accordance with British Standard 5228: 2009: Code of practice for noise and vibration control on construction and open sites - Part 1 - Noise, Part 2 - Vibration;
- k) minimisation of waste, re-use of materials and if necessary disposal of surplus materials; and
- l) timing of works to avoid and minimise disturbance to ornithological interests.

Reason: To ensure that the impacts of the Development during the construction phase are identified, controlled and minimised in the interests of environmental, visual and cultural amenity and in compliance with Shetland Local Development Plan (2014) Policies GP1, GP2, NH1, NH2, NH3, NH4, NH5 and NH7.

15 Prior to the commencement of the Development hereby permitted, if gravity foundations are deemed unsuitable in any location the specification of the alternative foundation solution shall be submitted to and approved in writing by the Planning Authority. The details shall include sufficient information to determine that no resultant unacceptable risk to groundwater would arise. The construction of the Development in this respect thereafter shall be carried out in accordance with the approved details.

Reason: To ensure that the impacts of the Development are able to be assessed in compliance with Shetland Local Development Plan (2014) Policies GP1, GP2, and NH5.

16 Prior to the commencement of the Development hereby permitted, details of the proposed opening, working and reinstatement of new borrow pit areas, including details on:

- Ground investigation findings, including information on groundwater levels;
- Drainage including measures to control ingress of surface water into the borrow pit and to prevent the drying out of surrounding peatland, and any dewatering and associated drainage facilities appropriate to the area to be stripped of overburden and worked;

- Formation of site access and site compound, and demarcation of the borrow pit by perimeter fencing;
- the installation of wheel cleaning equipment and sheeting gantry to prevent the transfer of mud and loads to the public highway where haulage of materials won at the particular borrow pit is to take place on public roads;
- Provision of a notice board of durable material and finish to be placed at the site entrance, indicating the name, address, and telephone number of the company responsible for the operation of the borrow pit, and of an official who will be available to deal promptly with any complaints;
- Method of working (to include blasting where applicable and benching where required) including a phased approach, and any protection measures to safeguard the stability of adjoining land, and where this comprises a public road that of the safety of its users also;
- Overburden (peat, mineral soil and loose weathered rock) handling and storage according to type and quality
- Programme of implementation (phased approach) to reinstatement of the borrow pit; and
- Design and programme of restoration and aftercare, including type and volumes of restoration materials (and where this is to be placed in the restoration horizon).

shall be submitted to and approved in writing by the Planning Authority.

Reason: In order to define the terms of this permission, to minimise the level of visual intrusion, and to minimise any adverse impacts as a result of the construction phase of the development in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3

17 Working hours for construction and borrow pit activities (excluding delivery to Site of turbine components and erection of turbines) shall be restricted, except with the prior consent of the Planning Authority or in emergencies, to the following:

- i) Mondays to Fridays between 0700 and 1830 hours; and
- ii) Saturdays between 0800 and 1400 hours.

There shall be no construction activity during these hours on Christmas Day and New Year's Day.

Reason: In order to safeguard the amenity of existing properties in the area during the construction phase, in compliance with Shetland Local Development Plan (2014) Policy GP2.

18 All electrical cabling between the turbines and the on-site electricity substation shall be located underground unless otherwise approved in writing by the Planning Authority. Thereafter the excavated ground shall be reinstated to its former condition within six months of the commissioning of the Development (the anticipated date of which having previously been notified to Planning Authority in accordance with condition 7) in accordance with details and specification of restoration to be approved in writing by the Planning Authority beforehand.

Reason: To ensure the reinstatement of land disturbed by the construction of the development in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

19 Prior to the commencement of the Development hereby permitted, a scheme showing the details of peat stripping at the Development Site and the storage and proposed use and replacement of peat shall be submitted to the Planning Authority for approval. All peat handling, storage and replacement operations shall accord with the details as approved by the Planning Authority and the scheme shall be implemented in full.

Reason: In order to reduce the environmental impact of the Development during all phases of the Development and ensure that disturbance of the peatland habitat is minimised, in compliance with Shetland Local Development Plan (2014) Policies GP2 and NH5

20 Throughout the construction period and for 12 months after commissioning of the Development, the developer shall undertake an on-going assessment of ground conditions, provided by professionally qualified geotechnical personnel. The developer shall develop and adopt a formalised reporting procedure which records ground conditions, site workings, monitoring results and construction progress pertinent to the stability of all development works. In addition, results of this monitoring shall be fed into a Geotechnical Risk Register to be submitted to the Planning Authority at quarterly intervals per annum. Should the risk of peat failure be identified, the developer shall install and monitor ground conditions using suitable geotechnical instrumentation as recommended by the geotechnical personnel and approved by the Planning Authority.

Reason: To ensure that the impacts of the Development during and immediately after the construction phase are identified, controlled and minimised in the interests of environmental amenity and in compliance with the Shetland Local Development Plan (2014) Policies GP1, GP2, NH1, NH2, NH3, NH4, NH5 and NH7.

21 In the event that the results of the Ground Investigation required by condition 20 indicate the presence of poor ground conditions in any location likely to be affected by or involved in construction, the developer shall submit to the Planning Authority for its approval, a contingency plan to detail the level of response to observed poor ground conditions. The performance of the ground shall be assessed against design assumptions. Where the works perform better than expected or as expected there will be no need for contingencies to be implemented. Where findings indicate that the ground is performing outside the expected limits and that a potentially adverse situation might develop, corrective actions shall be implemented in accordance with the approved contingency plan.

Reason: To ensure that the impacts of the Development during the construction phase are identified, controlled and minimised in the interests of environmental amenity and in compliance with the Shetland Local Development Plan (2014) Policies GP1, GP2, NH1, NH2, NH3, NH4, NH5 and NH7.

22 All water discharged from excavations shall be directed into suitably designed or natural drainage lines. All releases of water shall be into a formalised drainage path which shall form part of a site-wide drainage network.

Reason: For the avoidance of doubt as to what is being authorised and to ensure the provision of adequate means of drainage in the interests of public health and the control of pollution in compliance with Shetland Local Plan (2014) Policies GP2 and WD2.

23 Prior to the commencement of the Development a survey shall be undertaken of the condition of proposed access routes and the surrounding local highway network including rights of way network in accordance with a scheme first submitted to and approved by the Planning Authority. A further survey shall be undertaken within three months of the commissioning of the Development or such other period as approved in writing by the Planning Authority beforehand, to the same specification as the pre-construction survey, to identify any deterioration in condition arising from construction activities. Thereafter details of a scheme for any reinstatement works identified as necessary to return the access routes to their condition prior to construction works taking place and a timescale for implementation shall be submitted to and approved in writing by the Planning Authority and the scheme implemented in accordance with the approved details.

Reason: To ensure continuity of the public access rights and to comply with Shetland Local Plan (2004) Policy TRANS1.

24 Prior to the commencement of the Development, the developer shall provide the Planning Authority with details of the methods to treat sewage and effluent disposal for the Development's substation and site compound.

Reason: To ensure the provision of adequate means of drainage in the interests of public health and the control of pollution in compliance with Shetland Local Development Plan (2014) Policies GP2 and WD2.

25 Material extracted and removed from the borrow pits authorised by this deemed consent shall only be used in the construction of the wind farm development hereby permitted.

Reason: To ensure that any extracted material removed from the borrow pit is used within an authorised site and in an environmentally acceptable manner in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

Archaeology

26 All archaeological works will be carried out by a suitably qualified archaeological contractor to the specification agreed with the Planning Authority in consultation with the Regional Archaeologist.

Reason: In line with Shetland Local Development Plan (2014) Policies HE1 and HE4.

27 No development (including geotechnical work, test pitting or intrusive work of any sort which needs to be carried out prior to the actual construction phase) shall take place within the Development Site until the developer has secured the appointment of an independent Archaeological Clerk of Works (AcoW) and the implementation of a programme of archaeological work in accordance with a Written Scheme of Investigation which has been submitted by the developer and approved in writing by the Planning Authority. The scope of the AcoW's appointment shall include:

Monitoring implementation and compliance with a programme of archaeological mitigation works approved by the Planning Authority in a Written Scheme of Investigation which shall specify:

- The erection and maintenance of suitable fencing around known archaeological features within 50m of proposed working areas.
- A detailed archaeological investigation to include geophysical and topographical survey in advance of development where known or suspected archaeology exists i.e. in the vicinity of the proposed access track (Site 88 - as identified on the approved Figure 9.1).
- An archaeological watching brief on a representative proportion of ground breaking works on the excavation of infrastructure to the level of archaeologically sterile sub-soils.
- Archaeological investigations of features, finds or deposits where discovered through geophysical survey or watching brief.
- A post-excavation research and dissemination strategy in the event of significant discoveries determined as such by the ACoW and Shetland Regional Archaeologists as archaeological advisors to the Planning Authority. All post-excavation research and dissemination shall be completed within three years of the completion of on-site investigations.
- Monitoring the compliance with mitigation, reinstatement and restoration measures.

The AcoW shall be appointed on the approved terms throughout the period from commencement of Development, throughout any period of construction activity and during any period of post construction restoration works as required. The ACoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the Development.

Reason: To protect any archaeological remains within the site and in compliance with Shetland Local Development Plan (2014) Policy HE4, NPPG5 (Archaeology and Planning), and PAN 42 (Archaeology).

28 The Development Site shall not be occupied until the site investigation has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 27 and the Post Excavation Research Design for the analysis, publication and dissemination of results (including the detail of the Heritage Access and Interpretation Plan, referred to in the non-technical summary) and archive deposition has been agreed and secured.

Reason: To protect any archaeological remains within the site and in compliance with Shetland Local Development Plan (2014) Policy HE4, NPPG5 (Archaeology and Planning), and PAN 42 (Archaeology).

29 Prior to the commencement of the Development, a Heritage Access and Interpretation Plan that details archaeological features within and/or adjacent to the Development Site that would benefit from improved access and interpretation, along with proposals for improvement that includes signage and promotion of a Heritage Trail, shall be submitted and approved in writing by the Planning Authority. The agreed plan shall be implemented prior to the first commercial operation of development.

Reason: As insufficient information has been submitted with the application, and to ensure that any proposal does not have an adverse impact on the visual amenity of the area or an adverse impact on any neighbouring uses in compliance with Shetland Local Development Plan (2014) Policies GP1 and GP2.

Flora and Fauna

30 Prior to the commencement of the Development a Habitat Management Plan (HMP), based on the Outline Habitat Management Plan dated March 2016 together with a programme of implementation shall be submitted to and approved in writing by the Planning Authority. The HMP shall set out the objectives, methods to achieve those objectives, together with such monitoring regimes as may be required. Thereafter the approved HMP shall be implemented in accordance with the approved details therein, unless otherwise varied by agreement with the Planning Authority in writing, for the operational lifetime of the Development.

Reason: To ensure that the impacts of the Development during the construction phase are identified, controlled and minimised in the interests of environmental, visual and cultural amenity and in compliance with the Shetland Local Development Plan (2014) Policies GP1, GP2, NH1, NH2, NH3, NH4, NH5 and NH7.

31 Commencement of the Development shall not occur until the developer has appointed an Ecological Clerk of Works (ECoW). The ECoW appointment shall be for the period from the commencement of the Development until the final wind turbine has been commissioned. The scope of work of the ECoW shall include:

- a) Monitoring compliance with the ecological mitigation works that have been approved in this consent and deemed planning permission;
- b) Advising the developer on adequate protection of nature conservation interests on the Development Site and for the sake of clarification shall include but shall not necessarily be limited to
 - i) Protection of breeding birds and management of construction activity;
 - ii) Ensuring that the management objectives of the Otterswick and Graveland Special Protection Area are maintained at all times during construction;
 - iii) Protection and management of protected species
 - iv) Peat Restoration and Management
- c) Advising on the micro-siting of the turbines and tracks.

Reason: To ensure that the impacts of the Development during the construction phase are identified, controlled and minimised in the interests of environmental, visual and cultural amenity and in compliance with Shetland Local Development Plan (2014) Policies GP1, GP2, NH1, NH2, NH3, NH4, NH5 and NH7.

32 The developer shall ensure the Ecological Clerk of Works is present during excavations, ground investigations and construction works and is permitted to survey areas to be subject to excavation and construction prior to and during work on the site. If any species of flora or fauna considered to be of significant value are identified, then the developer shall submit for the written approval of the Planning Authority additional measures to mitigate the impacts on the species, and shall thereafter implement them in full.

Reason: To ensure that the impacts of the Development during the construction phase are identified, controlled and minimised in the interests of environmental, visual and cultural amenity and in compliance with Shetland Local Development Plan (2014) Policies GP1, GP2, NH1, NH2, NH3, NH4, NH5 and NH7.

33 The erection of approved Turbines T3 and T5 shall not take place during the period 1 April to 31 July in any year unless a survey carried out on behalf of the developer by suitably qualified personnel and in accordance with the methodology approved in advance by the Planning Authority has been undertaken demonstrating the absence of Merlin within 500m of either turbine. In the event that the survey reveals the presence of Merlin nesting within 500m of either turbine, the developer shall also proposed mitigation measures (to be agreed by the Planning Authority before works commence) should the erection of Turbines T3 and/or T5 be proposed to take place during the period 1 April to 31 July.

Reason: To protect the bird breeding season in accordance with Shetland Local Development Plan (2014) Policies GP2, NH1 and NH2.

34 The erection of Turbines T13 and T15 shall not take place during the period 1 March to 31 September in any year unless a survey carried out on behalf of the developer by suitably qualified personnel and in accordance with the methodology approved in advance by the Planning Authority has been undertaken demonstrating the absence of Red Throated Diver nesting within 500m of either turbine; the developer shall also propose mitigation measures (to be agreed by the Planning Authority before works commence) should the erection of Turbine T13 and/or T15 be proposed to take place during the period 1 March to 31 September.

Reason: To protect the bird breeding season in accordance with Shetland Local Development Plan (2014) Policies GP2, NH1 and NH2.

Telecommunications

35 Prior to the commencement of the Development a written scheme shall be submitted to and approved by the Planning Authority addressing the potential for interference arising from the operation of the Development with television, radio and communications equipment and including measures to be taken by the developer at their cost to remedy any such interference. The approved scheme shall be implemented by the developer as part of the construction of the Development.

Reason: In order to protect the existing residential amenity of the occupiers of the neighbouring properties as the impact of the development on telecommunications equipment has not been formally assessed and in compliance with Shetland Local Development Plan (2014) Policies GP2, GP3 and RE1.

Noise

36 The rating level of noise immissions from the combined effects of the wind turbines hereby permitted (including the application of any tonal penalty), when determined in accordance with the Guidance Notes attached to this condition, shall not exceed the values for the relevant integer wind speed set out in or derived from Tables 1 and 2 attached to these conditions and:

A) Prior to the Commissioning of the Development, the wind farm operator shall submit to the Planning Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition. Amendments to the list of approved consultants shall be made only with the prior written approval of the Planning Authority.

B) Within 21 days from receipt of a written request of the Planning Authority, following a complaint to it alleging noise disturbance at a dwelling, the wind farm operator shall, at its expense, employ an independent consultant approved by the Planning Authority to assess the level of noise immissions from the wind farm at the complainant's property (or a suitable alternative location agreed in writing with the Planning Authority) in accordance with the procedures described in the Guidance Notes attached to this condition. The written request from the Planning Authority shall set out at least the date, time and location that the complaint relates to. Within 14 days of receipt of the written request of the Planning Authority made under this paragraph (B), the wind farm operator shall provide the information relevant to the complaint logged in accordance with paragraph (H) to the Planning Authority in the format set out in Guidance Note 1(e).

C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to this condition, the wind farm operator shall submit to the 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 submission of the proposed noise limits to the Planning Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the Guidance Notes attached to this condition shall not exceed the noise limits approved in writing by the Planning Authority for the complainant's dwelling.

D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with this condition, the wind farm operator shall submit to the Planning Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes attached to this condition where measurements for compliance checking purposes shall be undertaken. Where the proposed measurement location is close to the wind turbines, rather than at the complainant's property (to improve the signal to noise ratio), then the operator's

submission shall include a method to calculate the noise level from the wind turbines at the complainant's property based on the noise levels measured at the agreed location (the alternative method). Details of the alternative method together with any associated guidance notes deemed necessary, shall be submitted to and agreed in writing by the Planning Authority prior to the commencement of any measurements. Measurements to assess compliance with the noise limits set out in the Tables attached to this condition or approved by the Planning Authority pursuant to paragraph (C) of this condition shall be undertaken at the measurement location approved in writing by the Planning Authority.

E) Prior to the submission of the independent consultant's assessment of the rating level of noise emissions pursuant to paragraph (F) of this condition, the wind farm operator shall submit to the Planning Authority for written approval a proposed assessment protocol setting out the following:

i) The range of meteorological and operational conditions (the range of wind speeds, wind directions, power generation and times of day) to determine the assessment of rating level of noise immissions.

ii) A reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component. 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 information provided in the written request of the Planning Authority under paragraph (B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Planning Authority and the Guidance Notes attached to this condition.

F) The wind farm operator shall provide to the Planning Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Planning Authority made under paragraph (B) of this condition unless the time limit is extended in writing by the 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 attached to this condition. 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 Planning Authority with the independent consultant's assessment of the rating level of noise immissions.

G) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the Guidance Notes attached to this condition, 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 (F) above unless the time limit for the submission of the further assessment has been extended in writing by the Planning Authority.

H) The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d) of the Guidance Notes attached to this condition. The data from each wind turbine 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) of the Guidance Notes attached to this condition to the Planning Authority on its request within 14 days of receipt in writing of such a request.

Reason: To ensure that the presence of the wind turbine does not create a statutory noise nuisance and in order to comply with the Shetland Islands Local Development Plan (2014) Policies GP2 and Draft Supplementary Guidance Onshore Wind Energy.

Note: For the purposes of this condition, a “dwelling” is a building within Use Classes 7, 8 and 9 of the Town and Country Planning (Use Classes) (Scotland) Order 1997 which lawfully exists or had planning permission at the date of this permission.

Table 1 - Between 07:00 and 23:00 - Noise level dB L_{A90}, 10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
L _{A90} Decibel Levels												
Lower Hollingarh (452188, 1183917)	40	40	40	40	40	40	40	40	42	43	43	43
Whirliegath (452739, 1183016)	40	40	40	40	40	40	40	40	41	43	43	43
Easterlee (451773, 1180569)	40	40	40	40	40	40	40	40	42	44	46	46
Gentletown (452415, 1180263)	40	40	40	40	40	40	40	42	44	47	48	48
Littlester (451022, 1180133)	40	40	40	40	40	40	41	44	47	49	51	51
Hamnavoe (449726, 1180866)	40	40	40	40	40	40	40	40	42	43	43	43
Helnaquhida (452013, 1180138)	40	40	40	40	40	40	40	39	42	44	46	46
Kettlester (451861, 1180049)	40	40	40	40	40	40	40	39	42	44	46	46
Islesview (451819, 1180372)	40	40	40	40	40	40	40	40	42	44	46	46
Westerlee (451775, 1180241)	40	40	40	40	40	40	40	39	42	44	46	46
Kletterlea (451404, 1180170)	40	40	40	40	40	40	41	43	45	48	49	49
The School House (451203, 1179999)	40	40	40	40	40	40	41	44	47	49	51	51
Cluness Cottage (451955, 1179932)	40	40	40	40	40	40	40	40	35	38	39	39
Staneygarth (451936, 1179890)	40	40	40	40	40	39	39	38	40	43	45	45
Giggleswick (452261, 1179938)	40	40	40	40	40	40	40	42	43	44	44	44

Table 2 - Between 23:00 and 07:00 - Noise level dB L_{A90}, 10-minute

Location (easting, northing grid coordinates)	Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods											
	1	2	3	4	5	6	7	8	9	10	11	12
L _{A90} Decibel Levels												
Lower Hollingarh (452188, 1183917)	43	43	43	43	43	43	43	43	43	43	43	44
Whirliegarth (452739, 1183016)	43	43	43	43	43	43	43	43	43	43	44	44
Easterlee (451773, 1180569)	43	43	43	43	43	43	43	43	43	43	45	45
Gentletown (452415, 1180263)	43	43	43	43	43	43	43	43	43	44	46	46
Littlester (451022, 1180133)	43	43	43	43	43	43	43	42	44	47	49	51
Hamnavoe (449726, 1180866)	43	43	43	43	43	43	43	43	43	43	43	44
Helnaquhida (452013, 1180138)	43	43	43	43	43	43	43	43	42	42	44	44
Kettlester (451861, 1180049)	43	43	43	43	43	43	43	43	42	42	44	44
Islesview (451819, 1180372)	43	43	43	43	43	43	43	43	43	42	45	45
Westerlee (451775, 1180241)	43	43	43	43	43	43	43	43	43	42	44	44
Kletterlea (451404, 1180170)	43	43	43	43	43	43	43	43	41	44	46	50
The School House (451203, 1179999)	43	43	43	43	43	43	43	42	44	47	49	51
Cluness Cottage (451955, 1179932)	43	43	43	43	43	43	43	43	41	40	42	42
Staneygarth (451936, 1179890)	43	43	43	43	43	43	42	42	41	39	41	41
Giggleswick (452261, 1179938)	43	43	43	43	43	43	43	43	43	40	36	36

Note to Tables 1 & 2: The geographical coordinates references set out in these tables are provided for the purpose of identifying the general location of dwellings to which a given set of noise limits applies. The standardised wind speed at 10 metres height within the site refers to wind speed at 10 metres height derived from those measured at hub height, calculated in accordance with the method given in the Guidance Notes.

The noise immission limits set out in Tables 1 & 2 are increased to 45 dB(A) L_{A90}, or the relevant ETSU-R-97 derived "quiet daytime hours" or the "night hours" noise limit based on the measured background noise levels plus 5dB(A), whichever is the

greater, at any noise sensitive premises having a financial involvement with the wind farm. The wind farm operator must provide written confirmation of the location of any such premises to the Planning Authority prior to commencement of development.

Guidance Notes for Noise Condition

These notes are to be read with and form part of the noise condition 36. They further explain the requirements set down by the condition and specify the methods to be employed in the assessment of complaints about noise immissions from the wind farm.

The rating level at each integer wind speed is the arithmetic sum of the wind farm noise level as determined from the best-fit curve described in Note 2 of these Guidance Notes and any tonal penalty applied in accordance with Note 3 with any necessary correction for residual background noise levels in accordance with Note 4. Reference to ETSU-R-97 refers to the publication entitled “The Assessment and Rating of Noise from Wind Farms” (1997) published by the Energy Technology Support unit (ETSU) for the Department of Trade and Industry (DTI).

Note 1

(a) Values of the $L_{A90,10\text{-minute}}$ noise statistic should be measured at the complainant's property (or an approved alternative representative location as detailed in Note 1(b)), using a sound level meter of EN 60651/BS EN 60804 Type 1, or BS EN 61672 Class 1 quality (or the equivalent UK adopted standard in force at the time of the measurements) set to measure using the fast time weighted response as specified in BS EN 60651/BS EN 60804 or BS EN 61672-1 (or the equivalent UK adopted standard in force at the time of the measurements). This should be calibrated before and after each set of measurements, using a calibrator meeting BS EN 60945:2003 “Electroacoustics – sound calibrators” Class 1 with PTB Type Approval (or the equivalent UK adopted standard in force at the time of the measurements) and the results shall be recorded. Measurements shall be undertaken in such a manner to enable a tonal penalty to be calculated and applied in accordance with Guidance Note 3.

(b) The microphone shall be mounted at 1.2 - 1.5 metres above ground level, fitted with a two-layer windshield or suitable equivalent approved in writing by the Local Authority, and placed outside the complainant's dwelling. Measurements should be made in “free field” conditions. To achieve this, the microphone shall be placed at least 3.5 metres away from the building facade or any reflecting surface except the ground at the approved measurement location. In the event that the consent of the complainant for access to his or her property to undertake compliance measurements is withheld, the wind farm operator shall submit for the written approval of the Planning Authority details of the proposed alternative representative measurement location prior to the commencement of measurements and the measurements shall be undertaken at the approved alternative representative measurement location.

(c) The $L_{A90,10\text{-minute}}$ measurements should be synchronised with measurements of the 10-minute arithmetic mean wind speed and wind direction data and with operational data logged in accordance with Guidance Note 1(d) and rain data logged in accordance with Note 1(f).

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second and wind direction in degrees from north at hub height for each turbine and arithmetic mean power generated by each turbine, all in successive 10-minute periods. Unless an alternative procedure is previously agreed in writing with the Planning Authority, this hub height wind speed, averaged across all operating wind turbines, shall be used as the basis for the analysis. Each 10 minute arithmetic average mean wind speed data as measured at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). All 10-minute periods shall commence on the hour and in 10-minute increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

(e) Data provided to the Planning Authority in accordance with paragraphs (E) (F) (G) and (H) of the noise condition 36 shall be provided in comma separated values in electronic format with the exception of data collected to assess tonal noise (if required) which shall be provided in a format to be agreed in writing with the Planning Authority.

(f) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d). The wind farm operator shall submit details of the proposed location of the data logging rain gauge to the Planning Authority prior to the commencement of measurements.

Note 2

(a) The noise measurements should be made so as to provide not less than 20 valid data points as defined in Note 2 paragraph (b).

(b) Valid data points are those measured during the conditions set out in the assessment protocol approved by the Planning Authority under paragraph (E) of the noise condition 36 but excluding any periods of rainfall measured in accordance with Note 1(f).

(c) Values of the $LA_{90,10\text{-minute}}$ noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, "best fit" curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

(a) Where, in accordance with the approved assessment protocol under paragraph (E) of the noise condition 36, noise immissions at the location or locations where compliance measurements are being undertaken contain or are likely to contain a tonal component, a tonal penalty shall be calculated and applied using the following rating procedure.

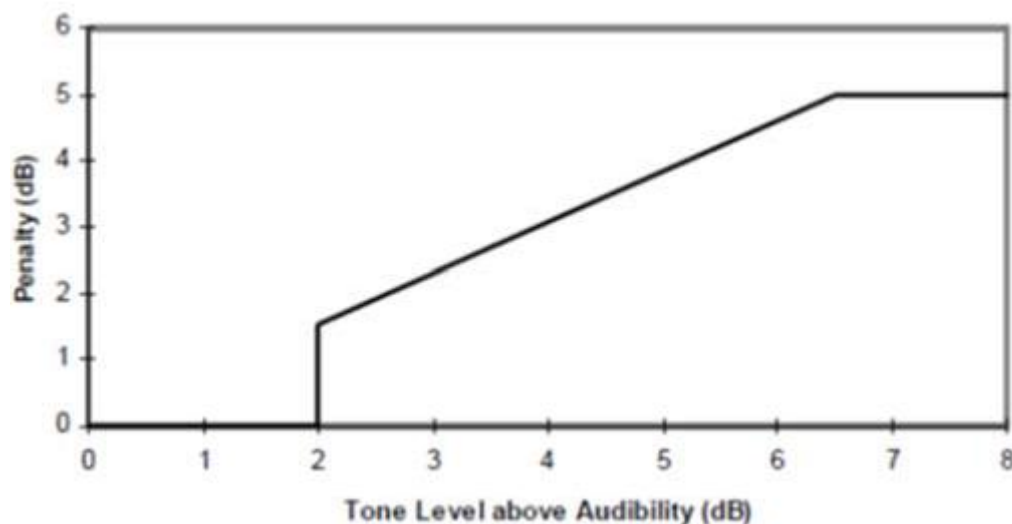
(b) For each 10-minute interval for which $L_{A90,10\text{-minute}}$ data have been determined as valid in accordance with Note 2, a tonal assessment shall be performed on noise immissions during 2-minutes of each 10-minute period. The 2-minute periods should be spaced at 10-minute intervals provided that uninterrupted uncorrupted data are available ("the standard procedure"). Where uncorrupted data are not available, the first available uninterrupted clean 2-minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

(c) For each of the 2-minute samples the tone level above audibility shall be calculated by comparison with the audibility criterion given in Section 2.1 on pages 104 -109 of ETSU-R-97.

(d) The tone level above audibility shall be plotted against wind speed for each of the 2-minute samples. Samples for which the tones were below the audibility criterion or no tone was identified, a value of zero audibility shall be substituted.

(e) A least squares "best fit" linear regression shall then be performed to establish the average tone level above audibility for each integer wind speed derived from the value of the "best fit" line fitted to values within $\pm 0.5\text{m/s}$ of each integer wind speed. If there is no apparent trend with wind speed then a simple arithmetic mean shall be used. This process shall be repeated for each integer wind speed for which there is an assessment of overall levels in Note 2.

(f) The tonal penalty is derived from the margin above audibility of the tone according to the figure below derived from the average tone level above audibility for each integer wind speed.



Note 4

(a) If a tonal penalty is to be applied in accordance with Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer wind speed within the range set out in the approved assessment protocol under paragraph (E) of the noise condition.

(b) If no tonal penalty is to be applied then the rating level of the turbine noise at each wind speed is equal to the measured noise level as determined from the best fit curve described in Note 2.

(c) If the rating level at any integer wind speed lies at or below the values set out in the Tables attached to the conditions or at or below the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition 36 then no further action is necessary. In the event that the rating level is above the limit(s) set out in the Tables attached to the noise condition or the noise limits for a complainant's dwelling approved in accordance with paragraph (C) of the noise condition 36, the independent consultant shall undertake a further assessment of the rating level to correct for background noise so that the rating level relates to wind turbine noise immission only.

(d) The wind farm operator shall ensure that all the wind turbines in the Development Site are turned off for such period as the independent consultant requires to undertake the further assessment. The further assessment shall be undertaken in accordance with the following steps:

- i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (E) of this condition.
- ii. The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

i. The rating level shall be re-calculated by adding the tonal penalty (if any is applied in accordance with Note 3) to the derived wind farm noise L_1 at that integer wind speed.

ii. If the rating level after adjustment for background noise contribution and adjustment for tonal penalty (if required in accordance with note (iii) above) at any integer wind speed lies at or below the values set out in the Tables attached to this condition or at or below the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition 36 then no further action is necessary. If the rating level at any integer wind speed exceeds the values set out in the Tables attached to this condition or the noise limits approved by the Planning Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition 36 then the Development fails to comply with the condition.

Aviation

37 No turbine shall be erected unless and until a scheme has been submitted to and approved in writing by the Planning Authority, in consultation with Scatsta Airport, for the mitigation of anticipated impacts from the development hereby permitted on Instrumental Flight Procedures at Scatsta Airport and that scheme has been implemented.

Reason: To ensure that the Development does not have an adverse impact on Scatsta Airport and that the mitigation measures are put in place before the erection of a turbine takes place in accordance with the Shetland Local Development Plan (2014) Policies GP1, GP2 and TRANS1.

38 Prior to the construction of Turbines T4, T8, T11 and T16 a detailed plan showing the final turbine positions together with horizontal clearances from the Scatsta Airport Obstacle Limitation Surface shall be submitted to and approved in writing by the Planning Authority in consultation with Scatsta Airport. Thereafter the aforementioned turbines shall be constructed in the agreed locations.

Reason: To ensure that the Development does not have an adverse impact on the operation of Scatsta Airport in accordance with the Shetland Local Development Plan (2014) Policies GP1, GP2 and TRANS1.

39 Prior to the commencement of the Development hereby permitted, a scheme for aviation hazard lighting consisting of omnidirectional medium intensity (2000 candela) steady red lights, mounted as close as possible to the top of the structure will be submitted to, and approved in writing by, the Planning Authority in consultation with Scatsca Airport. Such lighting should be active at night and be visible from all directions. The turbines shall be erected with the approved lighting installed and the lighting shall remain operational for the lifetime of the Development.

Reason: To ensure that the Development does not have an adverse impact on the operation of Scatsta Airport or on air safety in accordance with the Shetland Local Development Plan (2014) Policies GP1, GP2 and TRANS1.

40 Prior to the commencement of the Development hereby permitted the Developer shall notify the Civil Aviation Authority and Scatsta Airport of the following:

- a) the date by which the Developer expects the first turbine to have been erected;
- b) the latitude and longitude of the location of the first and all subsequent turbines to be erected; and
- c) the maximum height of construction equipment used in the erection of turbines.

Reason: To ensure that the Development does not have an adverse impact on the operation of Scatsta Airport or on air safety in accordance with the Shetland Local Development Plan (2014) Policies GP1, GP2 and TRANS1.

Residential Amenity

41 The commissioning of the Development shall not take place until a scheme to satisfactorily alleviate the incidence of 'shadow flicker' at any affected premises lawfully in existence at the date of this permission has been submitted to and approved in writing by the Planning Authority. The scheme shall include details of the siting of photocells and measures to control, re-orientate or shut down particular turbines in the event that the potential for such 'shadow flicker' were to be identified. Unless otherwise agreed in writing with the Planning Authority, any turbine producing 'shadow flicker' effects at any affected premises which is occupied at the time shall be shut down and the blades remain stationary until the conditions causing those 'shadow flicker' effects have passed. The scheme shall be implemented as approved throughout the period of the operation of the Development.

Reason: To ensure that the Development does not have an adverse impact on the amenity of any neighbouring properties in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

Transport and Highways

42 Prior to the commencement of the Development, details of all abnormal loads or extraordinary traffic required during the delivery of materials and components to the site, shall be submitted to and approved in writing by the Planning Authority.

Reason: In the interests of road safety and amenity and in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

43 Prior to the commencement of the Development, a detailed photographic and / or video survey of the public road from the Ulsta Ferry Terminal to the Development Site's access junction shall be undertaken and submitted to the Planning Authority. An inspection and monitoring programme of the condition of the road and means of reporting any faults expeditiously shall also be submitted to and approved in writing by the Planning Authority before the Development hereby permitted commences.

Reason: To ensure any deterioration in the road as a result of construction related traffic can be identified and quantified, in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

44 No construction traffic shall be allowed to enter the Development Site until a visibility splay of 4.5 metres by 160 metres has been provided at the junction of the access road and public highway. This visibility splay shall subsequently be maintained for the lifetime of the Development.

Reason: To provide a safe access to drivers of vehicles to enter and leave the Development Site, and to provide a clear view over a length of road in the interests of public and road safety in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

45 The public road shall be kept free of mud and debris etc. at all times for a distance of 160m either side of the Development Site's site entrance and suitable wheel washing facilities shall be provided within the Development Site to reduce the incidences of mud, debris etc. being deposited on the public highway.

Reason: To provide a safe access and in the interests of public and road safety in compliance with Shetland Local Development Plan (2014) Policies GP2 and TRANS3.

Decommissioning

46 No later than 12 months prior to the end of the period of the consent granted under section 36 of the Electricity Act 1989 a survey shall be undertaken by the developer of the condition of proposed access routes and the surrounding local highway network including rights of way network (as shown on Fig 3.20 of the ES) in accordance with a scheme first submitted to and approved by the Planning Authority. A further survey shall be undertaken by the developer within three months of the decommissioning of the Development or such other period as approved in writing by the Planning Authority, to the same specification as the predecommissioning survey, to identify any deterioration in condition arising from decommissioning activity. Details of a scheme for any re-instatement work necessary to return the routes to their condition prior to the decommissioning works taking place and a timescale for implementation shall be submitted to and approved in writing by the Planning Authority. The scheme shall be implemented in accordance with the approved details and at the developer's expense.

Reason: In order to ensure that when the wind farm ceases to be operational that the site is restored to its pre-development condition in the interests of visual amenity and in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

47 No later than 12 months prior to end of the period of the consent granted under section 36 of the Electricity Act 1989, or any alternative timescale agreed by the Planning Authority, the developer shall submit a method statement for the decommissioning of the wind farm and the restoration of the land, for the approval of the Planning Authority. The decommissioning method statement shall include required decommissioning works covering the dismantling and removal from the Development Site of all turbines, buildings and ancillary development, and the timescale for the completion of the decommissioning works. Prior to approving the decommissioning method statement, the Planning Authority after consultation with Scottish Natural Heritage shall review the extent of these requirements to identify any elements to be retained on site or requiring alternative reinstatement. The decommissioning method statement shall also provide adequate consideration of impacts identified within the Environmental Statement and guidance on how the statement will address mitigation measures. Details of contractors and sub-contractors shall also be provided. After consultation with Scottish Natural Heritage, the Planning Authority shall approve the submitted method statement or issue an alternative method statement amended by it. The developer shall decommission and restore the site in accordance with the approved or issued decommissioning method statement within such period as is set down in the approved or issued decommissioning method statement.

Reason: In order to ensure that when the wind farm ceases to be operational that the site is restored to its pre-development condition in the interests of visual amenity and in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

Miscellaneous

48 Prior to the commencement of the Development, details of a local employment and procurement scheme shall be submitted to and approved by the Planning Authority. The scheme shall identify the measures to be undertaken by the developer to encourage the use of local labour drawn from the administrative area of the Planning Authority during construction. The scheme shall also include details of local procurement initiatives for goods and services. No construction work on the Development Site shall take place until the scheme has been established and is operational. The Development shall be implemented in accordance with the approved details.

Reason: In order to ensure that development is planned to meet to economic and social needs in Shetland in compliance with the Shetland Local Development Plan (2014) Policy GP1.

49 Prior to the commencement of the Development the developer shall establish a set of procedures for dealing with complaints by members of the local community, such set of procedures to be approved in writing by the Planning Authority and adhered to throughout the construction and operation of the Development.

Reason: In order to ensure that the development does have an adverse affect on existing users in compliance with the Shetland Local Development Plan (2014) Policy GP2.

2016/098/ECUCON

Section 36 Application for a wind farm of up to 17 turbines in Beaw Field, Burravoe, Yell

Consultee Appendix

Flooding, Drainage and Coastal

Background

This is an application to construct a windfarm and associated access roads at Beaw Field, Yell.

Planning applications are generally required to address the 3 following drainage and flooding issues

1. Attenuation of surface water flows during up to 1 in 10 year rainfall events to no more than those that occurred on the Greenfield site.
2. Water quality treatment

Access Roads

The access roads' proposed drainage is stated to be generally by way of sheet flow off the road surface, across the verges and from there onto the undisturbed adjacent land and to the existing drainage features.

It is stated that ditches and culverts may be used to carry flows at some specific locations, and where this is done care should be taken to maintain existing drainage patterns and flows, on both small and larger (catchment) scales.

While those proposals do not include any formal SUDs devices, I consider that they are the functional equivalent to the construction a filter strip adjacent to the road and, together with the retained natural drainage patterns, can be considered to provide the required attenuation and one stage of water quality treatment.

Care should be taken in small scale detailing, considering both road edge detailing and the combined effects of road crossfall and longitudinal grades, to ensure that water is free to flow off the road surface and across the verges at all locations, to prevent concentration of flows and/or erosion of road and soil surfaces.

Borrow pits

General drainage proposals indicated for borrow pits are:

Cut off ditches to prevent flow of clean water into the pit from the uphill side of the excavation.

This is acceptable, although there will be some concentration of flows at the ditch discharge points and further details may be required to either confirm this is acceptable, or to control flows to make their discharge acceptable.

Ditches within the pits to collect dirty water and feed it to lagoons for attenuation and quality treatment.

1 in 10 year attenuation requirements for the borrow pits would appear to require approximately 20m³ per Ha of pit.

Water quality treatment in lagoons would generally depend on a long (~24 hour) detention time, which would dominate the overall design water storage volumes required.

In practice both requirements would be heavily impacted by the working methods within the pit and by the permeability of the pit floor.

Hardstandings

No drainage features are shown on the drawing for hardstanding areas at the proposed wind turbine bases.

For each turbine base location the areas and surfaces indicated on the drawing would require ~9m³ of water storage to provide 1 in 10 year attenuation.

Depending on the surface permeability and details of how surface water is controlled/routed, there may be possibilities to use, or partly use, unconcentrated sheet flow from the hardstanding onto the surrounding ground, or infiltration over part of the area, as ways of providing attenuation. As above, this may need further details to either confirm this is acceptable, or to control flows to make their discharge acceptable.

Other considerations

Addition drainage controls and/or SUDs devices may be required to control and filter surface water during the construction phases, including providing suitable attenuation and water quality treatment for temporary facilities, such as works compounds, site offices, etc.

Comment - The drainage proposals are acceptable in their general approach. Care will be required to provide suitable location specific design details to achieve those aims.

3. No flood risk created to property or infrastructure during 1 in 200 year rainfall events.

Watercourse crossings

The application states that watercourse crossings will be designed to accommodate 1 in 200 year flows, and this is an acceptable way to ensure that the proposals do not introduce new flood risks during such extreme flows.

Sizing calculations are provided for identified bridge and culvert locations, using the IH124 method for estimating catchment flows and some aspects of the details of those do not appear to be as I might have expected.

This calculation method makes use of SAAR (Average Annual Rainfall in the period 1941-1970) as an input, and the calculation sheets show a value of 800mm being used.

As the submission itself states in table 15.5 the average annual rainfall measured at Baltasound was 1108mm in the 1981-2010 period and this would appear to be closer to an appropriate SAAR for the area.

Table 15.5 also indicates that an allowance of +/-10% changes in rainfall is being made for climate change.

SEPA's guidance on climate change impacts on rainfall, <http://www.sepa.org.uk/media/162602/ss-nfr-p-002-technical-flood-risk-guidance-for-stakeholders.pdf>, is:

"Current fluvial guidance (published by DEFRA) recommends that the 0.5% (200-year) peak flow estimate should be increased by +20%.

Alternatively, UK Climate Projections 2009 (UKCP09) provides tools to provide alternate future climate change scenarios via the following link - UK Climate Projections"

SEPA guidance is also to use the "high emissions" climate change modelling scenario for assessment of flood risk.

The UKCP09 climate change projections appear to show winter rainfall increases in Shetland in the 10-20% or 20-30% bands for the various confidence intervals on the 2050 high emissions projections.

<http://ukclimateprojections.metoffice.gov.uk/23905?emission=high>

On that basis I would suggest that a 20% increase in flow figures calculated from IH124 would be appropriate to account for future climate change impacts.

Comment - IH124 is an appropriate method for estimating the catchment flows. It would appear that the SAAR used should be ~1108mm, and a 20% increase applied to the calculated flows as an allowance for climate change.

General

Consideration should be given to the behaviour of all proposed drainage features during extreme flow conditions, and how they will interact with existing drainage and watercourses.

Particular concerns may include on-going inspection and maintenance regimes, effects of potential erosion and/or destabilisation of peat, flood risks from possible blockage of ditches and any resulting overflow routes

Comment - Care will be required to provide suitable location specific design details to ensure flood risks are not created.

Outdoor Access

To the best of my knowledge there are no core paths or public rights of way directly affected by this development. Please note that this does not preclude that possibility that public rights may exist which are yet to be claimed.

However, as noted in the Environmental Statement there are other formal and promoted access routes that will be affected, namely Access Route ARY08 (Catalina Memorial Walk) and the Otterswick Ward walk as shown on figure 3.20 of the Environmental Statement and referred to in the Design and Access Statement.

It is understood that both these routes will be affected by construction traffic. The Design and Access Statement says:

5.1.11 During the construction and decommissioning stages, public access to the Site and paths identified above will be limited through restrictions put in place by the principle contractor, on the basis of public health and safety. Construction will accord with the (Design and Management) Regulations (CDM, 2015).

But that:

5.1.12 Appropriate signage to limit and direct the public via alternative routes will be provided in appropriate locations across the Site and surrounding area and controls will be put in place to monitor access to the construction.

And that :

5.1.12 Once construction is completed and the operational phase commences, the routes will be re-instated as previous and overall access to the Site will be improved for pedestrians and cyclists. Access tracks will become available for non-vehicular traffic. Furthermore, a heritage access and interpretation trail will be incorporated...

On this basis and with the understanding that open access across the hills will only be restricted where it comes into conflict with actual active construction rather than across a blanket area I have no objection to the development.

Environmental Health

No Comment

Marine Planning

The following comments are offered in response to the consultation on the Environmental Statement submitted in support of the s36 application for a 17 turbine wind farm development at Beaw Field, Yell. It is recognised that the development has gone through a number of iterations in respect of the number of turbines and their proposed location within the site in order to mitigate potential impact on environmental receptors and this has resulted in a well planned design.

Comments are set out with reference to the relevant chapter headings.

Ornithology

Whilst the site is immediately to the south of the Otterswick and Graveland Special Protection Area (SPA), the proposed turbine locations are such that the flight lines of Red throated divers associated with the SPA are avoided so that collision risk is negligible. As such there should be no impact on the integrity or conservation objectives of the SPA.

The surrounding area and the development site itself support a number of resident Red throated divers during the summer months although a number of these birds are thought to be non-breeding individuals. Surveys over a number of years across Shetland suggest that around a third of the total Red throated divers are non-breeding in any one year. Observations indicate that breeding birds have consistent flight corridors between nesting lochans and the sea where they go to feed whilst non-breeding birds have much more random flight patterns. Consequently it is likely that these birds are most at risk of collisions with turbines particularly where turbines have been sited to avoid recognised flight corridors as is the case at Beaw Field.

Crash risk analysis, based on a 99% avoidance rate, indicates that up to 3 individual Red throated divers may be lost over the 25 year life time of the development. In a worst case scenario of these 3 individuals being killed in a single year this would represent a little over 1% reduction in the total Shetland population. This is unlikely to have a negative impact on a population that is in favourable conservation status. In addition, the outline Habitat Management Plan proposes restoration of 6 potential Red throated diver breeding lochans and this may result in an increase in breeding success thereby offsetting the loss of any collision mortalities.

A number of other Annex 1, Schedule 1 or Red List bird species are present either within the development site itself or in areas immediately adjacent to it. These species, with one exception, are all considered to be in favourable conservation status. Crash risk analysis within the ES for those species that fly within the rotor sweep diameter indicates that mortality will be negligible over the lifetime of the development ranging from a maximum risk of one bird every 1.5 years to a minimum of one bird every 22 years. These mortality levels will have a negligible but not

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significant impact on species in favourable conservation status. Similar negligible impacts are predicted with regard to land take (for access tracks, turbine bases, etc.) and from operational disturbance.

One species (Arctic Skua) on the Red List is present within the area and is considered to be in unfavourable conservation status within Shetland. This species may be impacted through land take, disturbance and collisions with turbines. It is predicted a single pair may be affected by the former two activities in the vicinity of the turbines themselves. Crash risk analysis suggests a loss of 2 birds over the lifetime of the development. Given the numbers involved it is considered that the impact will be negligible and there would be no change to the status of the population in Shetland.

The outline Construction Environmental Management Plan (CEMP) indicates blasting will be required to win rock for access tracks, turbine bases, hard stand areas, etc from the four borrow pits. There is no assessment of the possible impact, principally through disturbance, on ornithological interests within the ES. Given that a number of the identified sensitive species hold territories in close proximity to the borrow pits it is considered that this should be assessed and possible means of mitigation, such as temporal restrictions, identified.

Both the CEMP and Breeding Birds Protection Plan will be important in ensuring that impacts are and remain negligible so that the conservation status of bird populations is not significantly affected.

Ecology

Otters

Survey identified four signs of otter activity within the planning boundary, all associated with freshwater habitat. No holts (resting or natal) or significant foraging areas were identified. The proposed water crossing methodology and pollution prevention measures will reduce possible impacts to negligible non-significant levels. The individual turbine developments do not remove any foraging or resting areas and are well away from the identified activity areas such that any disturbance will be minimal. Additionally it is recognised that otters can quickly habituate to regular human activity.

However one sign of otter activity is in close proximity to a borrow pit (BP1) where blasting is indicated in order to win rock material at the outset of the development for the access track construction. The ES has not considered this aspect and it is considered that this should be done given that there is a high likelihood that this activity is linked to animals from the Yell Sound Coast Special Area of Conservation designated for its otter interest along with common seals.

Fish

Proposed measures to mitigate run-off, siltation and pollution will reduce impacts on watercourses within the development planning boundary thereby reducing the impacts on migratory fish (salmonids and eels) to negligible levels.

Habitats

Ground surveys identified a number of important habitat types principally unmodified blanket bog (which could fit the active blanket bog description under Annex 1 of the Habitats Directive) and the UK Biodiversity Action Plan habitat dry dwarf shrub heath. In both cases the habitat loss resulting from construction activity is small (4.2 ha and 0.4 ha respectively) and within the context of the site as a whole and Yell in general is not considered to be significant. The outline CEMP proposes habitat enhancement, including peat restoration, throughout the site (and including the borrow pits) as soon as construction is complete. Peat storage is also proposed for use post decommissioning of the site.

Hydrology and Hydrogeology

In Table 15.8 the Controlled Activities Regulation consent, referenced as CAR14, may no longer exist as the fin fish (salmon) site that required it is no longer operating. The site is now a shellfish farm and the planning consent for the previous salmon farm will have lapsed. As a consequence Hamnavoe has been designated as a Shellfish Water Protected Area under the Water Environment (Shellfish Water Protected Areas: Designation) (Scotland) Order 2013 - paragraph 15.5.21 is incorrect in stating that this is not the case. However given the measures outlined in the ES and draft CEMP it is unlikely that the shellfish development will be affected by increased run-off, siltation or pollution events.

Other Considerations

The ES has not given any consideration to the Fetlar - Haroldswick Nature Conservation Marine Protected Area even though the southernmost parts of this designated site are as close as nearby eastern sections of the Yell Sound Coast SAC. Blasting of the borrow pits, particularly BP4, could potentially impact on the bird interest (black guillemot) of the MPA and, although it is considered that this would be negligible, the ES should have addressed this as advised in the Council's scoping response of May 2015.

Indications are that the larger components of the turbines will be transported to Shetland via barge for landing at the construction jetty in Sullom Voe. While acknowledging that the developer is, as yet, uncertain as to the final design and make of the turbines this aspect requires some consideration. The reasons for this are the potential for the introduction and/or spread of invasive non-native species into Shetland and more significantly the Sullom Voe SAC. It would be appropriate for this to be included in the CEMP to be agreed by the Council prior to the start of construction and certainly before any components are transported to Shetland via the sea.

Outdoor Access

To the best of my knowledge there are no core paths or public rights of way directly affected by this development. Please note that this does not preclude that possibility that public rights may exist which are yet to be claimed.

However, as noted in the Environmental Statement there are other formal and promoted access routes that will be affected, namely Access Route ARY08 (Catalina Memorial Walk) and the Otterswick Ward walk as shown on figure 3.20 of the Environmental Statement and referred to in the Design and Access Statement.

It is understood that both these routes will be affected by construction traffic. The Design and Access Statement says:

5.1.11 During the construction and decommissioning stages, public access to the Site and paths identified above will be limited through restrictions put in place by the

principle contractor, on the basis of public health and safety. Construction will accord with the (Design and Management) Regulations (CDM, 2015).

But that:

5.1.12 Appropriate signage to limit and direct the public via alternative routes will be provided in appropriate locations across the Site and surrounding area and controls will be put in place to monitor access to the construction.

And that :

5.1.12 Once construction is completed and the operational phase commences, the routes will be re-instated as previous and overall access to the Site will be improved for pedestrians and cyclists. Access tracks will become available for non-vehicular traffic. Furthermore, a heritage access and interpretation trail will be incorporated...

On this basis and with the understanding that open access across the hills will only be restricted where it comes into conflict with actual active construction rather than across a blanket area I have no objection to the development.

Archaeology

I have previously responded to Bernadette Barry along the following lines:

The introduction to the Cultural Heritage section of the ES refers to a watching brief for all ground disturbance to be carried out by a qualified archaeologist (we would expect to approve that person prior to works commencing) and geophysics and topographical survey to be carried out on the two features which are known to be cut by this development. We did have some email discussion with the contractors in September concerning Lidar, however, this has not been progressed. I am not aware of the reasons for that but I would anticipate that it would be in the interests of the developer, since a total reliance on a watching brief is a high risk strategy. (That archaeology does lie beneath the peat has been demonstrated at the TOTAL Gas Plant site, where an excavation which took several months was required.)

All archaeological work will require a WSI, to be agreed between us (on behalf of SIC Planning Department) and the developers archaeological contractors, before the commencement of any ground breaking work. Any geotechnical work, test pitting or intrusive work of any sort, which needs to be carried out prior to the actual construction development will also require a WSI to be prepared and agreed before commencement.

I would therefore suggest that the following condition be applied:

Proposed Condition: Programme of Archaeological Work

All development (including geotechnical work, test pitting or intrusive work of any sort which needs to be carried out prior to the actual construction phase) shall not commence until a written scheme of archaeological works (Written Scheme of Investigation), which identifies a phased programme and method of archaeological work, has been submitted to and agreed by the Regional Archaeologist on behalf of the Local Planning Authority in writing. Thereafter a suitable mitigation strategy shall be submitted to the Planning Authority for agreement following consultation with the Regional Archaeologist.

The development shall not be occupied until the site investigation has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under this condition and the Post Excavation Research Design for the analysis, publication and dissemination of results (including the detail of the Heritage Access and Interpretation Plan, referred to in the non-technical summary) and archive deposition has been agreed and secured.

All archaeological works will be carried out by a suitably qualified archaeological contractor to the specification agreed with the Planning Authority in consultation with the Regional Archaeologist.

Reason: This is in line with SHEP 1.28 - 1.41; SPP 137-139; SPP 150-151; PAN 2/2011 20 - 22; 25-27; Shetland Local Development Plan HE 1 and HE 4.

Delting Community Council

Delting Community Council held their meeting yesterday and discussed your letter regarding the Electricity Works Regulations 2000, Section 36, Application for the Proposed Beaw Field Wind Farm, Island of Yell, Shetland.

There will be a visual impact from the turbines in Mossbank and the community have not been informed, unlike the Yell community. Members would like to know if Mossbank will get any part of the community benefit?

Shetland Biological Records Centre

Shetland Amenity Trust is a Charitable Trust set up in 1983. One of the Trust's core objectives is the provision, development and improvement of facilities for the enjoyment by the public of the Shetland countryside and its flora and fauna, the conservation and enhancement for the benefit of the public of its natural beauty and amenity and the securing of public access to the Shetland countryside for the purposes of research, study and recreation.

We would like to offer the following comments on this Section 36 application.

We accept that the proposed project is unlikely to have significant adverse impacts on the ornithological interests of the area and are encouraged to see that the developer is planning to attempt to restore some of the habitat within the site to active blanket bog, and create potential breeding lochans for Red-throated Diver. We do, however, have some concerns regarding aspects of the ES and EIA. These relate largely to the quantity and quality of blanket bog on the site, the carbon audit and the scope of the Outline Habitat Management Plan. Initially we outline our general concerns and these are followed by more detailed comments referring to specific points in the documents presented with this application.

General Comments

1. The quality of the blanket bog within the site is underplayed. Both aerial photographs and the data presented in the Beaw Field Peat Depth Survey suggest that at least 10% of the site is active blanket bog. Active blanket bog is a European Priority Habitat. Alba Ecology seem unclear as to whether or not any of the blanket bog is active - see 11.5.18, and below. In our view there is no doubt that a proportion of the blanket bog within the site is 'active' in terms of the Annex 1 European habitat descriptions.

In terms of the carbon audit for this project the area of active blanket bog currently present on site seems to be underplayed (as detailed above) yet the area which it is proposed will recover to active bog following the implementation of the Habitat Management Plan, given as 500 hectares, seems to be overstated. Blanket bog restoration in Shetland is challenging and it seems unlikely that such an area will recover based on the prescriptions given with the Outline Habitat Management Plan (OHMP) detailed in the application. Both of these factors serve to reduce the carbon payback time of this project.

2. There is insufficient detail on what will happen to the quarter a million cubic metres of peat that will be generated as a result of this project. It is suggested that much of this will be used to 'reinstate' borrow pits, some will be used to infill areas of degraded/eroded blanket bog, and some will be stored and used in re-instatement. Yet there is no evidence presented that any of these methods will be successful. This seems more of an exercise in finding 'apparently appropriate' ways of dealing with a vast overburden than any serious attempt at utilising the peat-waste in a meaningful way and properly addressing the genuinely difficult issues of storage of peat and its subsequent re-use.

3. The Outline Habitat Management Plan (OHMP) should, in our opinion, have contained more detail than was presented in this 'summary'.

There are repeated references to successful restoration on adjacent ground in west Yell but nowhere does it describe in detail:

- o where exactly this area is
- o what the changes in management were
- o how the physical characteristics of this site compare with the Beaw Field site
- o a description of the vegetation in this area prior to 'restoration' there, and how this compares with the Beaw Field site
- o what vegetation changes have actually taken place at west Yell and how this differs from what was there before

Without more details of this recovery it seems little more than conjecture that the implementation of the OHMP as currently prescribed will change the vegetation in the area of the proposed wind farm in the same positive way.

We are also surprised that the OHMP appears to rely almost entirely on stock reduction. It makes no mention of blocking of erosion channels and drains, re-profiling of hags, treatment of bare areas etc. These will be required to raise the water table within the eroded areas as a precursor to successful colonisation by bog plants and full peatland restoration. Indeed stock exclusion may be necessary in

some areas to allow restoration to be successful. Shetland Amenity Trust has been involved with two peatland restoration projects in Shetland and would be happy to show representatives of the developers these, and to discuss possible restoration techniques that could be used in Shetland.

4. There are a series of deficiencies within the Carbon audit equation and indeed, as far as we are aware, the version used has been deemed as NOT suitable for use in a planning application such as this. As is so often the case the values used in various parameters are loaded to minimise the carbon payback time and thus favour the developer. We do not believe a realistic figure for carbon payback is given and are certain that a figure representing a proper worst case scenario is not presented.

5. The size of the windfarm exceeds the size recommended for this area in the SIC supplementary guidance on onshore wind farms.

Detailed comments (the relevant sections of the submitted documents are given)

Chapter 10 Ornithology

10.5.14 In our view the worst case scenario should be used to calculate collision risk for Red-throated Divers i.e. the maximum collision risk in any one year of survey work, not the mean across two years.

10.5.21 The restoration of potential breeding lochans is of questionable relevance in terms of assessing the impact of this development on Red-throated Divers given that there is no guarantee that the restored lochans will be used by divers.

10.5.31 The Shetland-wide population of Golden Plovers is given here as 1,450 pairs yet in section 10.4.15 it is given as 5,665 pairs. There are similar inconsistencies for Dunlin (2,054 pairs in 10.4.17 but 1,700 pairs in 10.5.42) and Curlew (4,227 pairs in 10.4.24 but 2,300 pairs in 10.5.66). We assume that the set of figures in section 10.4 are based on the paper by Wilson et al 2015 (Natural Heritage Zone Bird Population Estimates), whereas those in section 10.5 are extracted from Pennington et al 2004 (The Birds of Shetland). Whilst we have no reason to doubt the figures presented for collision risk, or the impacts of land-take or habitat loss on these species, the inconsistency in presenting something as important as Shetland population size does not inspire confidence.

10.7.13 We believe that peatland restoration should be encouraged by more than just a reduction in stock numbers. Two small peatland restoration projects in Shetland have highlighted the benefits of blocking erosion gulleys/drains and lifting the water table as a consequence. These methods may well be appropriate in the vicinity of the Beaw Field windfarm and as such their consideration and implementation should be a part of any proposed Habitat Management Plan.

Furthermore, the constant reference to 'adjacent land at West Yell' and the successful habitat improvements undertaken there is unhelpful without a more detailed description of that habitat, the management changes effected there and how these have led to the subsequent improvement in habitat.

Chapter 11 Ecology

11.4.5 In this section Alba Ecology suggest that 8% of the study area is unmodified blanket bog and 63.5% of the study area is modified bog. They are non-committal in terms of whether this unmodified bog is active or not (see below). It would have been more useful in terms of the conservation status of the bog and the ecosystem services that it provides (notably carbon storage and carbon sequestration), and indeed in determining the carbon footprint of this project, if the cover of active blanket bog had been determined. Most blanket bog in Shetland has been modified to some extent through historical peat cutting or grazing and there is no doubt that a significant area of blanket bog within the study site shows signs of erosion and as such is not active. Despite not visiting the site, it is our contention, however, that Alba Ecology has under-estimated the area of active blanket bog. Aerial photographs suggest that there are some areas of relatively intact active blanket bog and smaller pockets of active bog within more heavily eroded areas. The data presented in the Peat Depth Survey report also suggest that this may be the case. In that report, 52 of 143 (36%) of points at which blanket bog was recorded showed no signs of erosion while Sphagnum cover (a key ingredient for active blanket bog) was abundant in 13 of the 143 points (9%) sampled and frequent in another 13% of the points sampled.

There is also a discrepancy in the NVC descriptions given by Blairbeg Consultants who undertook the peat depth survey and suggest that M17 is as frequent as M19 in the study area, and Alba Ecology who did not recognise any M17 on the site. M17 is typically wetter than M19. We should add, however, that in our experience it is not always easy to fit blanket bog in Shetland into NVC categories so it is perhaps understandable how different recorders have come to different conclusions.

11.5.18 Alba ecology seem to be confused about the definition of active blanket bog and indeed whether any of the bog on this site is active. They state that 'some of the unmodified blanket bog habitat in the Study Area could be described as 'active' using Annex 1 definitions' and go on to say in 11.5.19 'although some of the unmodified blanket bog is possibly approaching both UK BAP and Annex 1 habitat definitions'. This is unfortunate given the importance of active blanket bog in terms of the Directive and in terms of carbon sequestration. Given the amount of Sphagnum moss and Eriophorum (cottongrass) present in parts of the site we feel there is little doubt that some areas of the study site are indeed active.

11.5.19 Here it is argued that the sensitivity of blanket bog is considered to be low/medium as bogs can recover, given the chance. This is somewhat nonsensical

as it depends very much on what they are needing to recover from. For example, whilst bogs may recover well from light trampling if grazing is subsequently excluded, they are highly unlikely to recover from gross disturbance of the bog surface following construction. Our experience leads us to suggest that blanket bog restoration in Shetland isn't quite as easy as may be suggested here.

11.5.47 Both here and in 11.5.19 there is a suggestion that as long as the area of active bog that is lost is small then that is not significant. In fact it could, and should, be argued that no further loss of active blanket bog is acceptable. It seems ironic that at a time when Government is finally waking up to the importance of active blanket bog for the ecosystem services it provides, this attitude still prevails.

Chapter 12 Soils and Peat

Peat management and reinstatement.

It is our distinct impression upon reading this section that the major driver here is to find ways of disposing of excavated peat rather than giving a proper detailed consideration as to if, and how, excavated peat can be used to achieve sensible restoration.

12.9.8 However carefully it is extracted and stored, peat will start to dry out and oxidise very quickly once it is removed. No timescale is given to indicate how long this peat will be left prior to re-instatement thus it is difficult to gauge how successful this proposal will be.

12.9.9 We very much doubt that the acrotelm of the peat extends to a depth 0.5-1.0m; 20-30 cm would be more realistic.

12.9.10 In our view the benefit of disposing of catotelmic peat into borrow pits is questionable. It is not entirely clear how this peat will be treated once it is relocated into these pits.

12.9.12 We are not aware that infilling erosion gullies or relocating peat to areas from which peat has eroded are recognised restoration techniques. The main aim of peatland restoration is to block gullies and drains so as to raise the water table and encourage Sphagnum mosses to colonise/grow. Using excavated peat in the manner proposed here is highly unlikely to achieve that goal. We are also concerned that transporting large volumes of peat over blanket bog may lead to deterioration of the habitat.

12.9.14/12.9.15 It is questionable whether peat stored as detailed in this section will be suitable for re-instatement years later as proposed here.

12.9.19 Saturated mire habitat is a somewhat euphemistic concept. Arguably, liquified, quaking peat might be a better description of the likely outcome.

12.9.26 If catotelmic peat is to be used to block gullies or ditches (infilling should be a non-starter) then it will first need to be inserted into a material e.g. hessian or sisal, for use as a soft dam. Just tipping it is unlikely to achieve anything other than to enable it to contribute to the silt/peat burden that is transported downslope by water.

Chapter 14 Carbon Balance

14.3.1 The carbon balance has been calculated using version 2.9.1 of the Scottish Government Windfarm Carbon Assessment Tool, yet as far as we are aware this version is an unprotected version which the instructions say should NOT be used in planning application.

14.3.3 Suggests that all excavated peat will be reused on site to restore extensive areas of degraded peat. It is highly likely that most of this peat will have oxidised prior to being 'returned' through restoration, the success of which is highly debatable anyway.

Table contents

The average extent of drainage is given an expected value of just 10 m and a max value of 20 m. There is considerable debate about these figures and in terms of a worst case scenario a figure of 50m should have been used. Carbon payback is highly sensitive to drainage.

Time required for regeneration of bog plants after restoration to a point where they will be sequestering carbon . Firstly this asserts that restoration will be successful which is perhaps unlikely over much of the site, and a period of 5 or even 10 years is arguably much too short.

Counterfactual emissions. The 'provisional' numbers for 2014 are coal 0.93, grid mix 0.394, fossil fuel mix 0.642 not 0.906, 0.462 and 0.642 as listed here. Smith et al (2014) recommend a grid mix average over the lifetime of the windfarm, currently this would estimate an average of ca. 0.2 for grid mix in 2018. The lower the figure the longer the carbon payback time.

Improvement of degraded bog. It is highly unlikely in our view, that even 300 ha of degraded bog will be improved to a point where the water table lies just 0.1m below the surface based on the measures proposed in the Outline Habitat Management Plan. It is also highly unlikely that this process will take place over just 5-10 years. Where is the detailed evidence for these assertions?

Restoration of peat removed from borrow pits. Again we would ask for the detailed evidence that this restoration is possible, let alone within a 5 year period. Is a personal comment based on a completely different scenario on adjacent land really sufficient?

14.3.4 It is highly unlikely that the hydrology will be restored across the whole site, and we suggest that the need for restoration will be somewhat more than limited, given the scale and extent of the infrastructure and service roads etc.

14.5.3 Suggests that just 10% of the carbon would be removed from the peat as a consequence of oxidation and peat removal. We suspect that even the greater figure of 20% may be too low given the proposed storage and re-instatement methods.

As a final comment we feel it would be entirely appropriate and should indeed be necessary, to present a separate figure for the carbon payback of this project BASED PURELY on the carbon debits through construction and habitat loss etc. set against the carbon benefits in terms of the energy generated during the operational phase.

Outline Habitat Management Plan

We welcome objectives 1a and 1b, i.e. the proposals to recreate six lochans as potential breeding sites for Red-throated Divers and to exclude grazing from areas of heather to promote heather growth for Merlin.

Objective 2a. It is likely that historical peat cutting has been a (maybe THE) major factor contributing to the deterioration of peatland at this site, although grazing will have been a contributory factor and will certainly interfere with recovery - largely through trampling.

Consideration will need to be given to more sensitive prescriptions than merely reducing existing grazing levels by 50%. Some areas (particularly damper spots) may require stock exclusion to aid recovery.

We feel there is an over reliance on stock reduction in the OHMP. In our view the developer needs to commit more resources to peatland restoration. It is likely that erosion gulleys and ditches will need to be blocked to lift the water table to allow colonisation by Sphagnum and Eriophorum (cottongrass). Re-profiling of hags is also likely to facilitate recovery. Shetland Amenity Trust is involved with two small-scale peatland restoration schemes in Shetland and would be happy to show the developer, or their agents, around these and to discuss restoration methods in a Shetland context.

Objective 2b. In our view woodland planting is a distraction in terms of this project. In Shetland Wheatear, Skylark and Meadow Pipit are the three main prey species for Merlin. It is unlikely that woodland planting will have any impact on the population of these species. If resources are limited they would be better targeted at peatland restoration.

Reference: Smith, Jo, Nayak, Dali Rani, Smith, Pete. (2014). Wind farms on undegraded peatlands are unlikely to reduce future carbon emissions. Energy Policy 66: 585-591.

Scatsta Airport

We refer to the Application and the email from Bernadette Barry to Theresa McInnes and Jenny McMillan on 5 August 2016 confirming agreement by Peel to an extension of the date by which Serco is required to submit its response to the application to 22 August 2016.

We have reviewed the Application and the following documents lodged in connection with the Application (the “Relevant Application Documents”) which we understand are primarily relevant to Scatsta Airport:

- (i) ECUCON.0021/Aviation (the “Report”)
- (ii) ECUCON Appendix 21.1_Radar (the “Radar Report”); and
- (iii) ECUCON Appendix 21.2)IFP (the “IFP Report”).

Following a review of the Relevant Application Documents, Serco (in its capacity as operator of Scasta Airport) objects to the proposed wind farm development comprising of 17 turbines located at Beaw Field, Island of Yell, Shetland (the “Development”) for the reasons detailed in this letter of objection.

(1) Background

Scatsta Airport is one of Shetland’s leading employers and is strategically placed as the UK’s most northerly airport acting as a dedicated hub for the oil and gas industry, servicing Northern North Sea assets in the east Shetland basin and west of Shetland. Scatsta Airport currently handles approximately 14,000 passenger movements per month with passengers predominantly transported to Scatsta from Aberdeen by fixed wing aircraft and then onwards to offshore assets by helicopter. The airport also services the adjacent oil and gas processing plants known as the Sullom Voe Terminal and Shetland Gas Plant. As such, Scasta Airport plays a vital role in the government’s drive to maximise economic recovery from older oil and gas fields as well as supporting new exploration and development activity.

Scatsta Airport operates all year around, regularly extending operating hours to evening and weekends, and often functioning in adverse weather conditions, with

between 14,000 and 20,000 fixed and rotary wing aircraft movement per annum. Significant investment has been made in the last 5 years to upgrade navigation aids and introduce primary and secondary radar feeds as well as Instrument Flight Procedures (“IFP”) currently lodged with the Directorate of Airspace Policy (“DAP”) to allow for the introduction of RNAV/GNSS procedures. Topographical constraints together with a relatively short and narrow Code 3 C runway and challenging weather conditions mean that all navigation aids, primary and secondary radar feeds and established procedure must be carefully balanced and fully utilised.

(2) Review of the Application

a. Impact Generally

The Development is located in close proximity to Scatsta Airport in a key area of airspace beneath the main inbound approach and outbound route to and from Scatsta Airport (please see attached safeguarding map highlighting the proposed location of the Development and its proximity to Scatsta Airport). In its proposed location, the Development may have a significant impact on the final approach track and climb out, requiring amendment to the IFP. Appendix 21.5.2 of the Report rightly acknowledges that the instrument approach “will be significantly adversely affected by the operation of the wind farm”. Any amendment to IFPs would require a review in accordance with the safety management system, risk assessed by Scatsta Airport stakeholder before being submitted and approved by the DAP. This is a time consuming process which can take approximately 12-18 months from initial submission to approval (with such approval not being guaranteed).

We agree with the statement in the Report that the effect on the Non- Directional Beacon (“NDB”) of the Development is “Major”, defined in the Report as “a restriction/curtailment on the ability of the air navigation service provider to continue to ensure safety and/or provide unrestricted air traffic services”. The Report further provides that the impact “arises as a consequence of the location of the wind turbines within the primary protection areas” and that “Scatsta is assessed as having high sensitivity and the impact of the Proposed Development would be high”. With regard to the contents of the Report, Serco is of the opinion that the Development would have a significant adverse impact on air traffic operations, aircraft safety and management.

b. IFP/Radar Reports

Serco is concerned that 17 turbines with a maximum height of 145 metres would be visible to Scatsta Airport radar and generate unwanted returns (clutter) on air traffic control display screen with the potential to mask aircraft in the vicinity of the

Development. The Relevant Application Documents focus on Sumburgh Primary Surveillance Radar (“PSR”) and Fitfulhead Secondary Surveillance Radar (“SSR”) and not reflect the current position with regard to navigational aids at Scatsta Airport and more specifically:

- i. The introduction of PSR and SSR feeds at Scatsta Airport in November, 2015, the impacts on these feeds have not been assessed as the report was produced prior to their introduction; and
- ii. Decommissioning of the surveillance radar approach (“SRA”) – Report correctly states the removal of the SRA as this has been superseded by the Localiser (“LOC”) and co-located Distance Measuring Equipment (“DME”) however the Report further states that due to the removal of SRA, and PSR issues associated with the Development are not a concern. This assertion is incorrect as Scatsta Airport utilises both PSR and SSR feeds as detailed in i. above.

The Radar Report appears to consider en-route only and not the current use of the PSR and SSR for traffic approaching and departing Scatsta Airport at low level altitude. Furthermore, we note that NATS (En Route) Public Limited Company have been consulted in respect of the Application however we consider that NATS Service Limited (a distinct entity) should also be consulted due to their interest in the SSR feeds from Scatsta Airport.

c. Minimum Obstacle Clearance Altitude (“MOCA”)

The assessment of the IFP conducted for the purposes of the Application assumes an increase in the MOCA. As detailed in the IFP Report, the current position of the wind turbines will result in a MOCA increase from 1700ft to 2000ft on the outbound leg of the IFP and a MOCA increase from 1005ft to 1500ft on the final approach. Any increase in procedure altitudes in this critical phase of flight will result in heightened complexity of approach and associated flying risk.

Whilst the proposed MOCA increase may satisfy aerodrome safeguards, such mitigation does not take account of the unique nature of Scatsta Airport operation and existing IFP, particularly as this would require steeper conditions for aircraft approach (please also see our comments at paragraph 2e. below). It is worth noting that Scatsta Airport has already had to adopt steeper than standard approaches which requires additional flight crew training and any further increases will impact on current and future operations in adverse weather conditions.

The IFP Report also contains inconsistencies with regard to the adverse effect of the turbines on Scatsta Airport operations. This is highlighted in paragraphs 7.4 and 7.6 of the IFP REeport which provide as follows:

- i. Paragraph 7.4 – “The presence of the turbines would cause the MOCA to increase from the current value of 1005ft to 1378.0ft, which would be rounded up to 1400ft.”
- ii. Paragraph 7.6 – “The presence of the turbines would cause the MOCA to increase from the current value of 1005ft to 1378.0ft, which would be rounded up to 1500ft”.

Such inconsistencies case concern for Serco, particularly in respect of its ability to reply on the information contained in the IFP Report.

Notwithstanding whether or not the MOCA increase would be rounted up to 1400ft or 1500ft, any increase in the MOCA is unacceptable to Scatsta Airport as it will have a negative impact effect on operations and has the potential to considerably reduce the ability of aircraft to operate in and out of Scatsta Airport. If operations become too difficult, Scatsta Airport may cease to be economic for many users. Accordingly, an increase in the MOCA is not suitable aviation mitigation for Scatsta Airport.

d. Insufficient Information

There is insufficient information on the following items to allow a proper assessment of the resulting impact on the operability of Scatsta Airport navigational aids:

- i. Assessment of signal degradation in connection with the NDB;
- ii. Assessment of signal degradation in respect of the LOC and DME; and
- iii. Assessment of air traffic control/aircraft radio telecommunications.

We note that the Development is situated 8 miles to the north-east of Scatsta Airport and the NDB is situates 2.6 miles to the north- east of Scatsta Airport. The majority of air traffic to Scatsta Airport approaches from the north-east and thereore the turbines may interpose an obstacle to the NDB signal (similar issues may also be applicable to the LOC/DMR signals for runway 24 approach). By way of clarification, aircraft are required to receive the signal (i) before their final approach into the airfield; (ii) before proceeding to a holding fix; and (iii) where instigating a missed approach procedure, accordingly, the Development could significantly impact Scatsta Airport’s ability to operate.

In respect of air traffic control/aircraft radio telecommunications , no assessment has been made as to the potential impact on radio telecommunications and mitigations may be require once impacts are understood. Notwithstanding the Development is situated beneath the main inbound and outbound route to and from Scatsta Airport, the location of the turbines is directly aligned with the flight path to the Magnus offshore installation (amongst other) and Serco is especially concerned that the Development may adversely affect communications with fixed wing and rotary aircraft travelling on this flight path. Furthermore, we note that no information has been provided in the Application with regard to obstacle lighting and the potential impact on Scatsta Airport's navigation aids.

e. Obstacle Limitation Surface ("OLS")

The IFP Report concludes at paragraph 2.3 that a lateral infringement of the OLD occurs "when a 100m buffer radius is applied" however the 100m buffer "is excessive and using a 45m or 54m bugger the OLS is not infringed". The rationale for this reduction is not explained and therefore we conclude that this is acceptable pending further clarification for the reasons for such a reduction. Any unmitigated infringement to the OLS would be unacceptable in terms of airport safeguarding.

3. Conclusion

Having regard to the information detailed in this letter of objection, and particularly in light of aircraft safety and the operational impact to Scatsta Airport as a result of the Development, Serco requests that the Scottish Ministers:

- (i) Refuse the Application; or
- (ii) If the Scottish Ministers are minded to grand the Application, to grant the Application subject to mitigation of the concerns set out in this letter to the satisfaction of Serco (in its capacity as operator of Scatsta Airport) and all other stakeholders with an interest in Scatsta Airport operability as a result of the Development.

As noted in the body of this letter, there is insufficient information provided in a number of respects in order to enable proper assessment of the Application to be undertaken. Accordingly, Serco reserves all rights it may have to examine and additional information provided in response to this letter to make further submissions to the Scottish Ministers in connection with the Application with regard to the

proposed mitigation in order for the Development to comply with Scatsta safeguarding requirements.



Key

- Application Boundary
- Location of Turbines T1 to T17 and 104m Wind Turbine Rotor Diameter
- Borrow Pits
- Hardstanding and Area Clear of Obstruction for Crane Operation
- Compound during Construction
- Substation
- Proposed access track (with earthworks)
- Existing Tracks to be Updated for Compound Access
- Anemometry Mast
- Telecommunications Tower

Notes:

All existing contour data is based on 5m LIDAR data.

All site design has been in accordance with site design criteria specification by Siemens, Vestas, Nordex, Servion.

Substation design and final sizes of perimeter fence are to be confirmed.

All borrow pits are subject to further design, the sizes shown on this drawing are for planning purposes only.

Beaw Field Wind Farm



TITLE:

Site Layout - Aerial View

Figure 3.2

Scale: 1:20,000 @ A3

Date: 28/01/2016



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Ref:

**Planning Committee****27 September 2016**

2016/280/PPP To Erect 2no Dwellinghouses (Planning Permission in Principle) at Straits, Mossbank, Shetland, ZE2 9RB by Shetland Islands Council.

Report Number : PL-09-16-F

**Report Presented by Planning Officer –
Development Management, Planning**

**Development Services Department
Planning Service**

1.0 Summary

- 1.1 This is an application for planning permission in principle for a site for 2 dwellinghouses near Straits, Mossbank.
- 1.2 Although classed as Local Development under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009, this application is being presented to the Planning Committee in accordance with the Planning Scheme of Delegations that has been approved by the Scottish Ministers, as the Community Council has objected to the planning application.

2.0 Decision Required

- 2.1 The Planning Committee is asked to determine the application. It is recommended that the application be approved subject to conditions.

3.0 Determination

- 3.1 Section 25 of the Town and Country Planning (Scotland) Act (as amended) 1997 states that:

Where, in making any determination under the planning Acts, regard is to be had to the development plan, the determination is, unless material considerations indicate otherwise, to be made in accordance with that plan.

There are statutory development plan policies against which this application has to be assessed. Those policies of significance are listed below. Unless material considerations indicate otherwise, the determining issue to be considered is whether the proposal complies with development plan policies.

Statutory Development Plan Policies:

Shetland Local Development Plan

GP1 - Sustainable Development
GP2 - General Requirements for All Development
GP3 - All Development: Layout and Design
H3 - All Housing Development
H5 - Siting and Design
WD2 - Waste Water
TRANS 3 - Access and Parking Standards

Safeguarding

Scatsta 13km Zone - Scatsta 13km Zone: 13km Consultation Zone Bird Strike Zone

30km Radius Scatsta - 30km Sumburgh Scatsta: 2

Landscape Character Assessment - Landscape Character Assessment: Farmed and Settled Voes and Sounds

Scatsta Safeguard - Height: 90m

Scatsta Safeguard - Height: 45m

4.0 Report

4.1 Principle

Policy H3 states that new residential development should take place in Allocated Sites, Sites with Development Potential, Areas of Best Fit, on Brownfield Land or on Undeveloped Land within existing settlements in that order of desirability. Isolated residential development in the open countryside will not be supported.

Policies on housing development H3 and H5 set a hierarchy for the development of sites for housing that establishes an order of development priorities aimed to create vibrant and sustainable communities, making the best use of existing infrastructure and avoiding the scattering of scarce resources, and isolated development in the open countryside. Development is supported by these policies if it fits well into the surrounding landscape and settlement pattern.

The site lies within a well developed settlement and the proposed site is on an area of undeveloped land which is well related to other housing and other developments in this area. It is considered therefore that there is no conflict with Policy H3.

Policy GP3 states that all new development should be sited and designed to respect the character and local distinctiveness of the site and its surroundings. The erection of 2no dwellinghouses on this site would contribute to all the points raised in Policy GP3, therefore 2 dwellinghouses in this location complies with Policy GP3.

4.2 Access

A new access is proposed to be formed from the south of the proposed site onto the existing main road. The Council's Roads Service was consulted on the application and raised no objections. The Roads Service listed the requirements for a safe and adequate access and parking in accordance with current standards. These requirements can be notified to the applicant on a decision notice for approval of the application and attached as conditions on any subsequent detailed applications for the site. In this respect the proposal complies with the requirements laid out in Policy TRANS3 as well as Policy GP2 part f.

The Delting Community Council have raised concerns in connection with the proposed development regarding the access to the site. Their concern is that the proposed access is too close to an existing access on the other side of the road leading into the Burraness housing scheme and the loop road by Braehead. The Community Council suggested that the proposed development be moved up the road nearer to the boundary between the Straits and the Pund. The Council's Roads Service raised no objections to the position of the proposed access to this site so the need to move the site is not required for the proposal to comply with the relevant development plan policies. If the site were to be moved a new application would be required.

4.3 Water and Drainage

No details of SUDS proposals have been provided with this submission. However given the size of the site there is ample scope to design and provide a suitable system, the detail of which can be dealt with at the approval of matters specified in conditions at the further application stage or in the context of any full application that is submitted.

It is proposed to connect to the public sewer in relation to foul drainage and surface water. This is in compliance with Policy WD2 where new developments are expected to connect to the public sewer within existing settlements.

4.4 Design

Provided that a high standard of design is executed following on from any future application for approval of matters specified in conditions to ensure that: the scale, form, materials and colour finishes of the dwellinghouses respect and enhance those of the existing built form and landscape; and that access, parking and turning arrangements are designed in accordance with the appropriate guidance, the proposal will have no adverse impact upon the natural and built environment or upon the amenities of neighbouring properties.

4.5 Pre-Application

A pre-application enquiry ref: 2015/220/PREAPP was submitted to assess the suitability of this site and a positive response was given as it was found that the proposed site would fit in well with the existing settlement pattern.

4.6 Representations and Safeguarding

No representations have been received and there are no safeguarding issues.

4.7 Conclusion

Further to the above considerations, subject to controlling conditions the development of this site to provide 2no dwellinghouses will not have a detrimental impact on the existing settlement pattern. Provided that a high standard of design is executed following on from any future application for approval of matters specified in conditions to ensure that: the scale, form and design of the dwellinghouses respects and enhances those of the existing built form and landscape; and that access, parking and turning arrangements are designed in accordance with the Roads Service comments and appropriate policy, the proposal will have no adverse impact upon the natural and built environment or upon the amenity of neighbouring properties. The proposal is considered to comply with the Shetland Local Development Plan (2014) Policies GP1, GP2, GP3, H3, H5, WD2, and TRANS3.

5.0 **Implications (of Decision)**

Strategic

5.1 Delivery on Corporate Priorities – A decision made on the planning application that accords with the development plan would contribute directly to the Single Outcome Agreement through the outcome that we safeguard and enhance our outstanding environment.

5.2 Community/Stakeholder Issues – Standard consultations were sent during the processing of the application.

5.2.1 **Delting Community Council** raised concerns to the application as follows:

- Concerns with regards to the proposed access onto the site and that it is too close to Burraness and the loop road by the Braehead, the Straits and Bankhead private road as well as a private garage with direct access on to the road in the vicinity;
- It is suggested that moving the development up the road nearer the boundary between the Straits and the Pund would be an acceptable compromise.

5.2.2 **Shetland Islands Council – Roads Traffic** raised no objections to the proposal subject to standard conditions.

5.2.3 **Shetland Islands Council – Drainage Engineer** raised no objections.

5.2.4 **Scottish Water** did not respond.

- 5.3 Policy and/or Delegated Authority - The application is for a development falling within the category of Local Development. As the Community Council has objected to the application, and conditions cannot address the issues raised, and the recommendation is for approval, the decision to determine the application is therefore delegated to the Planning Committee under the Planning Scheme of Delegations that has been approved by the Scottish Ministers.
- 5.4 Risk Management – If Members are minded to refuse the application, it is imperative that clear reasons for proposing the refusal of planning permission contrary to the development plan policy and the officer's recommendation be given and minuted. This is in order to comply with Regulation 28 of the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. Furthermore, it provides clarity in the case of a subsequent planning appeal or judicial review against the Planning Committee's decision. Failure to give clear planning reasons for the decision could lead to the decision being overturned or quashed. In addition, an award of costs could be made against the Council. This could be on the basis that it is not possible to mount a reasonable defence of the Council's decision.

6.0 Conclusions

- 6.1 Taking the comments received into account and having assessed the proposed development against Shetland Local Development Plan (2014) policies listed in paragraph 3.1, the proposal is found to be compliant with their aims.
- 6.2 For the reasons set out in section 4 above the proposal complies with development plan policy and is recommended for approval. Therefore the proposal accords with the relevant provisions of the Shetland Islands Local Development Plan Policies GP1, GP2, GP3, H3, H5, WD2 and TRANS3.
- 6.3 Therefore, subject to the conditions listed in the schedule appended to the report this application is recommended for approval.

For further information please contact:

Claire Summers, Planning Officer

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Date Cleared: 20 September 2016

List of Appendices

Appendix 1: Site and Location Plan Drawing No: MOSSBANK 1 – PLANNING
received 28 June 2016

Appendix 2: Schedule of Recommended Planning Conditions

Background documents:

- [Shetland Local Development Plan 2014](#)



SITE PLAN 1:500




LOCATION PLAN 1:2500

SHETLAND ISLANDS COUNCIL
PLANNING

28 JUN 2016

PASS TO

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Rev.	Date	By	Revision			Ch'k'd				
Scheme SITE 1 AND 2 MOSSBANK				Title SITE AND LOCATION PLANS		Date APR 2016	Drawn JW	Ch'k'd	Scale AS SHOWN	<div>Shetland Islands Council</div> <div>Capital Programme Service Corporate Services Department 8 North Ness Business Park Lerwick, Shetland, ZE1 0LZ Tel: 01595 744140</div> <div></div>
						Drg.No. MOSSBANK 1 - PLANNING			Rev.	
						File No. Mossbank sites.dwg			Paper Size A3	

Schedule of Recommended Planning Conditions

Development: To erect 2no dwellinghouses (planning permission in principle)

Location: Straits, Mossbank, Shetland, ZE2 9RB

By: Shetland Islands Council

Application Ref: 2016/280/PPP

Recommendation

Grant subject to conditions

Reasons for Council's decision:

The development of this site to provide 2no. dwellinghouses will not have a detrimental impact on the existing settlement pattern. Provided that a high standard of design is executed following on from any future application for approval of matters specified in conditions to ensure that: the scale, form and design of the dwellinghouses respects and enhances those of the existing built form and landscape; and that access, parking and turning arrangements are designed in accordance with the Roads Service comments and appropriate policy, the proposal will have no adverse impact upon the natural and built environment or upon the amenity of neighbouring properties. Subject to controlling conditions, the proposal complies with the Shetland Local Development Plan (2014) Policies GP1, GP2, GP3, H3, H5, WD2, and TRANS3.

List of approved plan(s):

- Site and Location Plan MOSSBANK 1 – PLANNING 28.06.2016

Conditions:

(1.) The development hereby permitted shall not be carried out other than wholly in accordance with the following plans and details (as may be amended and/or expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority:

Reason: For the avoidance of doubt as to what is being authorised by this permission.

(2.) The developer shall submit a written 'Notice of Initiation of Development' to the Planning Authority at least 7 days prior to the intended date of commencement of development. Such a notice shall:

(a) include the full name and address of the person intending to carry out the development;

(b) state if that person is the owner of the land to which the development relates and if that person is not the owner provide the full name and address of the owner;

(c) where a person is, or is to be, appointed to oversee the carrying out of the development on site, include the name of that person and details of how that person may be contacted; and

(d) include the date of issue and reference number of the notice of the decision to grant planning permission for such development.

Reason: To ensure that the developer has complied with the pre-commencement conditions applying to the consent, and that the development is carried out in accordance with the approved documents, in compliance with Section 27A of The Town and Country Planning (Scotland) Act 1997 (as amended).

(3.) The development shall not commence until an application for Approval of Matters Specified in Conditions for the following matter(s) has been submitted to and approved by the Planning Authority:

- a. a site layout plan at a scale of 1:500 showing the position of all buildings, access roads, vehicle circulation and parking areas, external storage facilities, fencing, any proposed landscaping and any surface water drainage proposals, including details of any flow attenuation measures within the area of the development site;
- b. plans and elevations of the proposed building and any other proposed structures, indicating their dimensions and type and colour of external materials;
- c. a plan identifying the vehicular access to the development site from the main public road;
- d. site levels and section(s) through the development site showing the extent of any proposed underbuilding or excavation.

Reason: To comply with the provisions of Part 3 Section 12 of The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013.

Informatives

Duration of Planning Permission in Principle

By virtue of Section 59 of the Town and Country Planning (Scotland) Act 1997, as amended, application for the approval of matters specified in conditions shall be made before the expiration of 3 years from the date of the grant of planning permission in principle, unless an earlier application for such approval has been refused or an appeal against such refusal has been dismissed, in which case application for the approval of all outstanding matters specified in conditions must be made within 6 months of the date of such refusal or dismissal.

The approved development shall be commenced not later than the expiration of 3 years from the date of grant of planning permission in principle or 2 years from the final approval of matters specified in conditions, whichever is later.

Applicants are advised that should their application for Approval of Matters specified be refused and/or their appeal against such refusal dismissed outwith the three year time limit they are entitled to submit a revised application for Approval of Matters specified within six months after the date of refusal of the earlier application or of the dismissal of an appeal against such refusal.

Building Warrant

You are advised to contact the Building Standards Service on 01595 744293 to discuss any building warrant requirements for your development.

Scottish Water

In terms of planning consent, Scottish Water did not respond to a consultation on this planning application. However, please note that any planning approval granted by the Local Authority, does not guarantee a connection to their infrastructure. Approval for connections can only be given by Scottish Water when the appropriate application and technical details have been received.

Road Access

1. The required visibility splays must be provided before any building works start on site and must be maintained during the course of the works and thereafter;
- a. A visibility splay of 2.5 metres by 90 metres must be provided at the junction of the access with the public road. This is available at present.
2. No fence, wall, bushes or other potential obstruction to visibility should be permitted within 2 metres of the edge of the public road;
3. The gradient of the access should not exceed 5% (slope of 1 in 20) for at least the first 6 metres from the edge of the public road. The initial access gradient should be no greater than 3 percent more or less than the crossfall/ camber of the public road at the junction;
4. The access should be surfaced in bitmac or double coat hot tar surface dressing for at least the first 6 metres from the edge of the public road;
5. The access should be designed in order that it does not shed surface water from the site onto the public road;
6. Site drainage should be designed, provided and maintained such that no surface water from the site shall be permitted to drain or run onto the public road or footway;
7. The access should be piped with at least a 300mm diameter culvert with concrete headwalls provided at either end of the pipe.;
8. Any gate should be set back a minimum of 6 metres from the edge of the public road. If the gate is outward opening then this distance should be increased to at least 10 metres.
9. For full planning permission, design details for the access will be required to be submitted in the form of a long-section indicating the proposed gradients, vertical curve lengths and existing and proposed ground levels. Chainages for each of these points will be required in

order to check that the design is safe and convenient. In areas of cut and fill, side slopes should be indicated on the site plan to show the full extent of the earthwork proposals.

Car Parking

Car parking spaces shall be provided within the site as detailed below.

Turning provision for cars should also be provided within the development site in the form of a standard hammer head or a manoeuvring space at least 7.6m x 7.6m.

- 2-3 bedroomed dwellinghouse: 2 car parking spaces
- 4 bedrooms or more: 3 spaces

Road Opening Permit

The Shetland Islands Council Roads Service have advised that the length of access that crosses the public road verge shall be constructed to their satisfaction. A Road Opening Permit must be obtained from the Roads Service prior to carrying out any works to form an access onto the public road. You are advised to contact them prior to the commencement of any development: Roads Services, SIC Department of Infrastructure Services, Gremista, Lerwick, ZE1 0PX. Tel: 01595 744866.

Design

In order for the Planning Authority to be satisfied that the development will not have an adverse impact on the visual amenity of the area or the amenity of any neighbouring properties and so that there is compliance with Shetland Local Development Plan (2014) Policy GP3, the details of the building and other structures that are required to be submitted prior to commencement of the development should not incorporate any substantive underbuilding, including underbuilding for the purposes of the provision of a garage, workshop, other habitable room or useable space.

Drainage

To comply with the Water Framework Directive the drainage design should include sufficient attenuation to at least reduce flows during 1 in 10 year rainfall events to the level which would have occurred before the development.

There are a range of SUDs devices which could be specified for this site and which would meet this attenuation requirement.

Any SUDs device using infiltration is generally required to be at least 5m from any house or public road or site boundary.

There are suitable locations available within the site, although there may be some restrictions in site layout, e.g. it may be difficult to achieve 5m spacing to the boundary near the north end of the site.

During extreme rainfall events surface water flows may exceed the capacity of the drainage systems and back up, or flow over the ground. Flows from higher

ground may also exceed the capacity of any cut off ditches or drains which may be proposed to protect the site.

The landscaping / ground levels on the site should therefore be designed to ensure that these potential overland flows of water would not cause a flooding problem to the proposed or surrounding houses:- the site levels should guide water flowing over the ground away from properties and towards a suitable place for them to re-enter a drainage system.

There does not appear to be any site specific issues in this regard, although the site layout and drainage proposals should consider how to accommodate the existing land drainage.