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Date: 6 February 2019

Dear Sir/Madam

You are invited to the following meeting:

**Planning Committee**  
**Council Chamber, Town Hall, Lerwick**  
**Wednesday 13 February 2019 at 2pm**

Apologies for absence should be notified to Louise Adamson at the above number.

Yours faithfully

Executive Manager – Governance and Law

Chair: Mr T Smith  
Vice-Chair: Ms A Manson

## **AGENDA**

- (a) Hold circular calling the meeting as read.
- (b) Apologies for absence, if any.
- (c) Declarations of Interest – Members are asked to consider whether they have an interest to declare in relation to any item on the agenda for this meeting. Any Member making a declaration of interest should indicate whether it is a financial or non-financial interest and include some information on the nature of the interest. Advice may be sought from Officers prior to the meeting taking place.
- (d) Confirm the minutes of the meeting held on 8 October 2018, enclosed.

## Items

1. 2018/335/ECUCON - To vary the consent by increasing the maximum tip height of the turbines from 145 metres (m) to a maximum of 155 m and increasing the maximum rotor diameter of the turbines by 10 m to a maximum of 120 m. The installed capacity of the proposed generating stated would be greater than 50 MW. (Viking Wind Farm).  
*PL-01-19*
2. 2018/297/PPF - Change of use of land and development of a new external display area comprising new timber-framed boat shelters (enclosed on 3 sides), new concrete slab paving, gravel/chipped display areas and associated surface water drainage, Scalloway Museum, Castle Street, Scalloway.  
*PL-02-19*



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**MINUTE**

**A&B - Public**

**Planning Committee**  
**Council Chamber, Town Hall, Lerwick**  
**Monday 8 October 2018 at 3pm**

**Present:**

|             |          |
|-------------|----------|
| M Bell      | S Coutts |
| E Macdonald | A Manson |
| D Sandison  | T Smith  |

**Apologies:**

|           |         |
|-----------|---------|
| D Simpson | C Smith |
| G Smith   |         |

**In Attendance (Officers):**

J Holden, Team Leader – Development Management  
A Melkevik, Planning Officer  
P Sutherland, Solicitor  
L Adamson, Committee Officer

**Chair**

Mr T Smith, Chair of the Planning Committee, presided.

**Circular**

The circular calling the meeting was held as read.

**Declarations of Interest**

None.

**13/18 Minutes**

The Committee confirmed the minutes of the meeting held on 14 August 2018 on the motion of Mr Sandison, seconded by Ms Macdonald.

The Committee confirmed the minutes of the meeting held on 23 August 2018 on the motion of Mr Bell, seconded by Mr Coutts.

The Committee confirmed the minutes of the meeting held on 3 September 2018 on the motion of Mr Bell, seconded by Ms Macdonald.

The Committee confirmed the minutes of the meeting held on 11 September 2018 on the motion of Ms Manson, seconded by Ms Macdonald.

**14/18 2018/007/PPF – To Construct Septic Tank to Serve Proposed Dwellinghouse, West of 'The Pund', Mossbank**

The Committee considered a report by the Planning Officer – Development Management [RECORD Appendix 1].

The Planning Officer (A Melkevik) advised that while she would be introducing the application she had not been the Case Officer.

The Planning Officer gave a presentation which illustrated the following:

- Photo of the proposed site
- Site and Location Plans – showing the proposed house and septic tank
- Site Plan showing foul/surface water details
- Policy WD2 Waste Water
- Aerial View of Sites in Mossbank
- Key Issues

The Planning Officer advised that the principle of a dwellinghouse on this proposed site has already been approved under planning application 2017/292/PPF, and Members will note that the site plan shows the location of the proposed septic tank and surface water drainage and connections to the dwellinghouse.

The Planning Officer advised that Shetland Local Development Plan (2014) Policy WD2 states that:

- “New developments which require waste water disposal and are located within or adjacent to settlements are expected to connect to the public sewer.

Where a connection to the public sewer is not achievable and a wastewater system such as a private septic tank is proposed the developer should demonstrate that:

- There should be no detrimental effect, including cumulative effect, on the surrounding uses, natural, built environment and cultural heritage.”

The Planning Officer advised that SEPA were consulted on the application as the proposal triggered a need from their consultation checklist as a private waste water system is proposed within an existing settlement. SEPA objected to the application due to lack of information with regards to foul drainage and requested further information from the applicant to demonstrate that an application to connect to mains drainage to serve the proposed dwellinghouse has been refused by Scottish Water. There have been discussions between the agent and Scottish Water with regards to connection to their infrastructure but no official refusal of connection so no further information could be submitted to SEPA to demonstrate this. The Planning Officer reported that further information was submitted to SEPA from the applicant following on from their original discussions with Scottish Water with regards to connections and distances. Scottish Water have voiced their concerns over the state of the sewage network in the area but they will not provide a letter refusing connection to it. The applicant also has concerns about connecting to a network Scottish Water do not have confidence in.

The Planning Officer advised that the applicant has stated that concerns have been raised locally, and that having spoken to house owners in Maidenfield and the landowners/tenants there have been issues with the local sewer before with blockages and overflowing. The applicant also received a quote for the



proposed connection which was approximately £25,000, a figure that they have said would not allow the progression of the build. The installation of a pumping station has also been considered by the applicant but the practicality of having to pump the effluent 100m and the higher costs associated with this does not they say make it a viable option.

The Planning Officer confirmed that SEPA have maintained their objection as the further information supplied did not enable them to change their position in the matter. The applicant then instructed for the application to be determined with the provided information as more information could not be provided for SEPA to remove their objection.

In referring to a similar application (Ref: 2017/247/AMSC) for a proposed dwellinghouse with a connection to a private bio plant treatment tank to deal with foul water at Straits, Mossbank which is to the North of the site in question, the Planning Officer reported that as there is a sewer in the area it was expected that the proposed dwellinghouse at Straits would connect to it unless a case could be made for the installation of a private septic tank with a departure from Policy WD2. The agent for the application provided information in support of installing a private foul water treatment system, including a SEPA CAR licence that authorised the discharge of sewage effluent by the means that was proposed there. Information was also submitted by that agent stating that for the 100m length of pipe required to connect that proposed dwelling to the public sewer its applicant found it less expensive to install the private foul water treatment than to connect to the nearby public sewer, and therefore determined that while the application may be contrary to SLDP Policy WD2 they wished for it to be determined on the basis of the information that had been submitted. She reported that the application was refused by the Appointed Person under delegated powers on the basis that it did not comply with Policy WD2 because as a proposal it departed from the ambit of the planning permission in principle that had been granted by proposing to deal with foul drainage by a means other than a piped connection to the public sewer, and it was considered no material information had been submitted which allowed the provisions of the development plan to be set aside. That decision was then appealed and the case was reviewed by the Local Review Body (LRB) at its meeting held on 10 April 2018, where at a public hearing maps were shown to the LRB, which it was said highlighted the practical difficulties to connect to the public sewer in Mossbank, and the case was made for an exception rather than a requirement to connect to the public sewer. That proposal was then approved at the LRB, with regards to the wording of Policy WD2 it being highlighted that the word 'expected' rather than 'required' is used which allows for consideration of exceptions in certain circumstances. The LRB was satisfied for that application that the case had been made for an exception rather than there being a requirement to connect to the public sewer, saying that the Council, and previous Councils, have always encouraged people to build in rural areas of Shetland, and there is the need to encourage people to do their best for what they can afford.

With regards to this proposal, the Planning Officer reported that the applicant has put forward a case that it is not cost effective or feasible to continue with the original proposal to connect to the public sewer, in a similar way to the one made by the applicant in respect of application at Straits. Unlike in that case, here a SEPA CAR licence has not been granted, and therefore an assessment

to determine if this is potentially a consentable discharge at this time by SEPA has still to be undertaken, meaning that in the context of this proposal even with acceptance that connection to the public sewer is not achievable, the developer has still to demonstrate wholly that the installation of a septic tank and soakaway to serve the dwellinghouse approved under permission ref. 2017/292/PPF will have no detrimental effect, including cumulative effect. The Planning Officer advised that while the cost of the proposed development and individual financial implications of a development are not a material consideration in the determination of an application, the wider economic viability of development is, and the recommendation is to grant the application subject to conditions.

The Chair thanked the Planning Officer for the information presented, and he welcomed questions from Members.

In response to a question, the Team Leader – Development Management explained that should the Committee resolve to grant the application but SEPA not grant a CAR Licence, the applicant could still pursue a connection to the public sewer. The associated costs would need to be balanced out in the overall cost of the development.

The Chair advised on his concern regarding the problems and capacity issue of the sewage network in the area. The Team Leader – Development Management acknowledged that in this case there appears to be disagreement between SEPA and Scottish Water on the feasibility of the system. He advised that Scottish Water have concern regarding the condition of the infrastructure, and there has also been different messages from different sections of Scottish Water.

The Chair echoed his concern regarding the capacity issue with the network and referred to the concerns of Scottish Water who own the infrastructure, and he reminded Members on the decision taken by the Local Review Board on a similar application in April 2018. The Chair said that the Balmoral HC12 Hydroclear septic tank and soakaway being proposed to serve the new dwellinghouse is a fully functional system which has been utilised all over Shetland. Mr T Smith moved that the Committee approve recommendation 1.1 of the report, to grant the application, subject to conditions. Ms Manson seconded.

### **Decision**

The Committee **RESOLVED** to grant the application, subject to conditions.

The meeting concluded at 3.15pm.

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Chair



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|----------------------------|--|-------------------------|
| <b>Meeting(s):</b>         | <b>Planning Committee</b>  | <b>13 February 2019</b> |
| <b>Report Title:</b>       | <b>2018/335/ECUCON To vary the consent by increasing the maximum tip height of the turbines from 145 metres (m) to a maximum of 155 m and increasing the maximum rotor diameter of the turbines by 10 m to a maximum of 120 m. The installed capacity of the proposed generating station would be greater than 50 MW. (Viking Wind Farm)</b> |                         |
| <b>Reference Number:</b>   | <b>PL-01-19-F</b>  |                         |
| <b>Author / Job Title:</b> | <b>Richard MacNeill, Planning Officer – Development Management</b>   |                         |

| <b>1.0 Decisions / Action Required:</b> |  |
|---|--|
| 1.1                                     | The purpose of this report is to present for the consideration of the Planning Committee a formal consultation from the Scottish Government Energy Consents Unit on an application made under Section 36C of the Electricity Act 1989 to vary the Section 36 Consent of the Viking Wind Farm by increasing the maximum tip height of the turbines from 145 metres (m) to a maximum of 155 m and increasing the maximum rotor diameter of the turbines by 10 m to a maximum of 120 m. The installed capacity of the proposed generating station would be greater than 50 MW.  |
| 1.2                                     | The Scottish Ministers are responsible, under Section 36 of the Electricity Act 1989, for the authorisation of any new, or extensions to existing electricity generation schemes with a generation capacity in excess of 50 Megawatts (MW)   |
| 1.3                                     | <p>The Council is a formal consultee in this process and a copy of the application has been served on the Council by the Scottish Government, Energy Consents Unit (ECU) and also by the applicant in terms of Schedule 8 of the Electricity Act 1989. The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 allow for representation by the planning authority within a period of two months after the date the last notice is published, but in this case a later date was agreed with the ECU such that the Planning Authority's response must be submitted by 15 February 2019. In procedural terms the Council, as Planning Authority, requires to respond to the Scottish Ministers on those aspects for which the Council has responsibility. In this regard the Council in response to the consultation can either:</p> <ul style="list-style-type: none"> <li>(i) offer no objections to the Section 36 application as submitted; or</li> <li>(ii) offer no objections, subject to modifications and/or the imposition of appropriate conditions or legal obligations it considers necessary to make the development acceptable; or</li> <li>(iii) formally object to the application, stating the grounds on which objection is made.</li> </ul> |

1.4 That the Planning Committee RESOLVE to:

- 1) 'Offer no objections', subject to modifications and/or the imposition of appropriate conditions or legal obligations as are considered necessary to make the development acceptable, in compliance with Shetland Local Development Plan (2014) policy ; and
- 2) delegate authority to the Executive Manager – Planning and his nominated officer(s) to take part in and act on behalf of the Council in any discussions and negotiations involving the Energy Consents Unit and the applicant that take place with regards to planning conditions as might be presented to the Scottish Ministers for consideration.

**2.0 High Level Summary:**

- 2.1 Scottish Planning Policy (SPP) (2014) supports sustainable economic growth and has a presumption in favour of development that contributes to sustainable development aiming to achieve the right development in the right place supporting the transformational change to a low carbon economy, but not development at any cost.
- 2.2 The main issue therefore to be considered in the determination of the response to make to the consultation to the ECU on this application for a proposed variation of the Section 36 Consent is whether the principle of the proposed development on this site is acceptable, and if so can the area be developed without any unacceptable adverse impact on the environment and the amenity of the surrounding area. Also whether there is merit in making a balanced judgement between the potential for environmental impact against the economic benefits and providing support for climate change mitigation.
- 2.3 The previous decision of the Scottish Ministers was that the economic benefits provided by the wind farm outweighed the impact on the environment. The Ministers caveat this by adding that the benefits of the proposed Habitat Management Plan would help mitigate the impacts.
- 2.4 The Environmental Impact Assessment (EIA) Report has concluded that the revision will not result in any further harm over and above that previously assessed with the 2009 EIA and subsequent 2010 Addendum.
- 2.5 A number of consultation responses and representations have raised concerns and objections to the proposed variation. Conditions which are capable of resolving or mitigating these concerns have been recommended to be applied that would allow the Planning Service to recommend that there are no conflicts with the SLDP 2014.
- 2.6 The Planning Service has not reconsidered the principle of the development, and recognises that this development proposal, like its predecessor will result in an impact on Shetland in terms of landscape and habitat interests. There is also an economic benefit that will accrue together with a major advance in terms of contributing to a reduction in CO2. On balance it is considered that the economic benefits and the environmental benefits of carbon reduction outweigh the impact on the landscape and habitat interests tempered with the knowledge that well designed mitigation measures will go some way to reduce any negative impacts.

- 2.7 What is considered to be important to the delivery of a development which will contribute to the provision of a sustainable energy source and contribute to the aim to reduce carbon impact is a well-managed project. This leads to the conclusion that a thorough and well considered revised Habitat Management Plan (HMP) linked to the other mitigation measures such as a Peat Management Plan, Bird Protection Plan, Otter Survey etc. required by conditions which are appropriate and enforceable to be approved by the Planning Authority should be applied. The revised HMP should take into account all the potential beneficial effects and measures that were proposed for all of the land areas in the original decision and which was instrumental in influencing the Scottish Ministers decision, to at the very least provide for the equivalent of the counterbalancing of positive effects in the revised smaller “red line” area for the proposed variation.
- 2.8 This being the case the Planning Service recommends that the Council ‘Offer no objections’, subject to modifications and/or the imposition of appropriate conditions or legal obligations that are considered necessary to make the development acceptable, in compliance with Shetland Local Development Plan (2014) policy.

### **3.0 Corporate Priorities and Joint Working:**

- 3.1 A decision made on the planning application that accords with the development plan would accord with the aims as are set down in the Council’s Corporate Plan: “Our Plan 2016-20” that Shetland is to have good places to live as well as sustainable economic growth with good employment opportunities, and will have an economy that promotes enterprise and is based on making full use of local resources, skills and a desire to investigate new commercial ideas.

### **4.0 Key Issues:**

- 4.1 Impact on Natural Heritage and Biodiversity.  
Impact on existing uses and users.  
Flood Risk and Surface Water.  
Road and Access.  
Balance between environmental and other impacts and socio-economic benefit.
- 4.2 The EIA Report submitted in support of the proposal has identified that the main environmental effects associated with the variation application proposal have been identified as:
- Landscape and visual impacts
  - Ornithology
  - Socio-economic effects
  - Noise

#### Landscape and Visual Impacts

- 4.3 The Planning Service has not reconsidered the principle of the development, and is minded that this development proposal, like its predecessor will result in an impact on Shetland in terms of landscape and habitat interests.
- 4.4 The EIA Report states that Radar Activated Lighting (RAL) is likely to be used to mitigate the effects. Should RAL not be possible, SNH state that the addition of lighting will introduce continuous change into the Shetland landscape for the lifetime of the wind farm. SNH consider that the effect of this change is likely to be

significant at the local level but do not consider that the effects of lighting in isolation (over and above the significance of effects previously consented) raise issues of national importance.

- 4.5 The Planning Service would recommend that a suspensive planning condition requiring the submission and approval of an aviation lighting landscape and visual impact mitigation plan be attached to any deemed planning permission the Scottish Ministers issue which precludes the commencement of development until such time as there is the technology available which would ensure that RAL is both suitable and effective to provide certainty that there will be no unacceptable adverse effect.

#### Ornithology

- 4.6 SNH, RSPB and Shetland Bird Club all consider the applicants assumptions in relation to bird displacement to be an underestimate, RSPB saying that no basis for these figures is given, and this assumption is not precautionary and is contrary to the evidence presented in studies for some species. For other species there is no research so it argues that the applicants should follow the precautionary principle in establishing avoidance distances. Nevertheless, SNH does not believe that the additional mortality and displacement as a result of the variation is likely to have a significant additional effect on Shetland golden plover populations.
- 4.7 There would appear to be a conflict of opinion on the predicted impacts of the variation and on how this opinion was reached in terms of the survey work undertaken and mitigation measures proposed. It is recognised that the EIA Report has been prepared by professional experts in relation to ornithological interests, and while the Planning Service would not seek to challenge the conclusions it must be recognised that a differing opinion has been expressed by an equally competent authority on ornithology. As such the Planning Service would suggest the exercise of the “precautionary principle” and recommends that the suggestions from RSPB in its response to the ECU consultation in relation to mitigation, offsetting and planning conditions relative to a new deemed planning permission the Scottish Ministers may grant with a variation of the S36 consent are carefully considered.
- 4.8 The Planning Service is of the view, it should consider both the potential additional impact on Whimbrel discussed in the EIA Report and by consultees. However, in its duty to further the conservation of biodiversity the Council should also consider the overall biodiversity impact of the proposed varied development (i.e. increase in impact on all affected habitats and species caused by the proposal) and consider whether the mitigation measures and implementation of the Habitat Management Plan (HMP) proposed will meet its obligation to further the conservation of biodiversity. Solely in terms of the variation from the baseline, the Planning Service believes that the Council’s obligation will be met provided all the proposed mitigations achieve their stated purposes and the HMP when approved and implemented fully achieves its stated aims. Having an Auditor Ecological Clerk of Works in place and the Shetland Wind Farm Environmental Advisory Group (SWEAG) established in good time in advance of the HMP being finalised for approval will be crucial in meeting these aims.
- 4.9 The Planning Service also notes that in the original decision the Scottish Ministers decided that the impact on the whimbrel population would be a significant impact in terms of national significance and considered that the potential beneficial effects of the then proposed HMP could reasonably be expected to provide some

counterbalancing positive effects. This was based on the HMP which was proposed for 127 turbines, including the Delting Parish area. The revised “red line” for the proposed variation does not include the whole area which was proposed to have been the subject of the HMP and on which basis the Scottish Ministers decided that the impacts of the development were outweighed by the benefits. It is considered important that any HMP that is approved should at the very least provide for the equivalent of the counterbalancing of positive effects which the Scottish Ministers expected in all the areas which would have benefited under the original consent.

- 4.10 The Planning Service also shares the concerns of the RSPB that a revised HMP from that which has already been submitted should be submitted, and the Planning Service also recommends that a Bird Protection Plan (BPP) that includes all activities and best practice to protect all birds on site at a level appropriate to their status or degree of protection, going into greater detail on specially protected species, be made a requirement of a condition of any new deemed planning permission. This would be the framework that would then be supplemented by annual, site specific, supplements that relate to working areas for the coming breeding season. These plans should ensure that appropriate and sufficient long-term habitat management is secured to offset the impacts of the development on blanket bog and birds including red-throated diver, whimbrel, golden plover and curlew. Should this not be the case the Planning Service would be unable to be confident that the proposal complied with Policies NH2 and NH3 of the SLDP 2014.

#### Socio-Economic Effects

- 4.11 The EIA Report has identified that both the consented Viking Wind Farm and the proposed varied development would support a locally significant number of job years during construction and operation within the context of the Shetland labour market. The proposed varied development, as a result of the increased investment value and the increased renewable energy generation capacity, would lead to enhanced socio-economic benefits when compared with the consented development.
- 4.12 In terms of operational effects, the EIA Report concludes that benefits associated with operational expenditure are assessed as negligible to minor, and not significant for both the consented Viking Wind Farm and the proposed varied development.
- 4.13 With regard to tourism effects, the Report has stated that there are not considered to be any sensitive tourism receptors that have the potential to be adversely affected by the proposed varied development, due to its location away from key tourist sites in Shetland.
- 4.14 Visit Scotland have responded to the ECU and have highlighted that scenery and the natural environment are the two most important factors in visitors choosing Shetland as a holiday location. They have recommended that an independent tourism assessment should be carried out which should be geographically sensitive and should consider the potential impact on any tourism offerings in the vicinity.
- 4.15 The Economic Development Service of the Council has made comment on the proposed variation. They have stated that they uphold their opinion made previously on the original section 36 application that the Viking Wind Farm project and related interconnector are of paramount economic importance to Shetland, the project will provide substantial intergenerational economic & social benefits. This

proposed variation, they state, enhances the project in terms of its ability to compete as a clean energy technology and improve the efficiency of the Viking Wind Farm in harnessing Shetland's abundant wind resource.

- 4.16 Scottish Planning Policy (SPP) supports sustainable economic growth and has a presumption in favour of development that contributes to sustainable development aiming to achieve the right development in the right place supporting the transformational change to a low carbon economy.

#### Noise

- 4.17 A noise assessment has been undertaken and submitted as part of the EIA Report in order to determine the likely significant effects from the operational phase of the proposed varied development. Environmental Health were consulted and having examined the noise assessment have raised no objections

#### Flood Risk and Surface Water

- 4.18 SEPA have responded to the ECU and in their response note that the EIA Report re-iterates the conclusion of the Environmental Statement (ES) for the consented Viking Wind Farm "all activities with potential to affect hydrology, hydrogeology, geology, soils and peat would be appropriately managed and there would be no significant effects." (EIA Report, Non-Technical Summary). Given the scale and nature of this development, and its site-specific circumstances, SEPA do not agree with this conclusion. Realistically, significant impacts are inevitable, and it is therefore crucial it says that measures to minimise and offset such impacts are implemented.
- 4.19 SEPA have asked that in order for the development to follow up-to-date best practice, that the modifications and new planning conditions as detailed in an attached Appendix which they supplied, be attached to any consent. SEPA further stated that if any of these modifications and new planning conditions are not be applied, then their representation should be treated as an objection.
- 4.20 The Planning Service recommends that this approach from SEPA is a reasonable one and will satisfy the requirements of Policy NH3 designed to protect the natural environment. The Planning Service is aware that the applicant has agreed in principle with the comments from SEPA.
- 4.21 The Planning Service is generally content with the assessment of the effects on habitat as set out and does not see that the proposed varied development would lead to a different conclusion over and above that previously assessed in terms of the consented proposal. A Site Environmental Management Plan (SEMP) is proposed and it recommends that the commitment from the applicant to pre-construction protected species surveys is secured by appropriate conditions.
- 4.22 The drainage approach outlined in the submitted documents is considered acceptable, but the Planning Service would draw attention to the amount of further detailed design, calculations and construction details required to demonstrate how this will be achieved in practice, and all to be approved 3 months before the start of work on site, which will mean the developer making submissions at least 5 months in advance of a proposed start date having done this further detailed work. An appropriate plan is essential to ensure compliance with Policies WD2 and WD3 of the SLDP 2014.



## Road and Access

- 4.23 The Planning Service recommends that a planning condition is applied to secure a suitable access strategy for the construction and operation of the proposed windfarm to ensure compliance with Policy TRANS 3 of the SLDP 2014.

## Conclusion

- 4.24 On balance it is considered that the economic and environmental benefits of carbon reduction outweigh the impact on the landscape and habitat interests tempered with the knowledge that well designed mitigation measures will go some way reduce any negative impacts. Therefore the Planning Service recommends:
1. that the Shetland Islands Council as Planning Authority 'Offer no objections' to the application, subject to modifications and/or the imposition of appropriate conditions or legal obligations as are considered necessary to make the development acceptable, in compliance with Shetland Local Development Plan (2014) policy; and that
  2. delegated authority is given to the Executive Manager – Planning and his nominated officer(s) to take part in and act on behalf of the Council in any discussions and negotiations involving the Energy Consents Unit and the applicant that take place with regards to planning conditions as might be presented to the Scottish Ministers for consideration.

## **5.0 Exempt and/or Confidential Information:**

- 5.1 None.

## **6.0 Implications :**

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|--|---|
| <b>6.1<br/>Service Users,<br/>Patients and<br/>Communities:</b>        | None.   |
| <b>6.2<br/>Human Resources<br/>and Organisational<br/>Development:</b> | None.   |
| <b>6.3<br/>Equality, Diversity<br/>and Human Rights:</b>               | None.   |
| <b>6.4<br/>Legal:</b>  | Electricity Act 1989<br>Town and Country Planning (Scotland) Act 1997(as amended).  |
| <b>6.5<br/>Finance:</b>  | None.   |
| <b>6.6<br/>Assets and Property:</b>                                    | None.   |
| <b>6.7<br/>ICT and New<br/>Technologies:</b>                           | None.   |
| <b>6.8<br/>Environmental:</b>  | The environmental impacts and socio-economic effects arising from the proposed development are raised within the Report of Handling attached. |

|   |   |                  |
|---|---|------------------|
| <b>6.9<br/>Risk Management:</b>                 | If Members are minded not to agree with the recommendation for the representation to be made to the Energy Consents Unit on its consultation on the application, it is imperative that clear reasons for proposing not to so be given and minuted. This is in order to provide clarity in the case of a subsequent public local inquiry or judicial review following 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. |                  |
| <b>6.10<br/>Policy and Delegated Authority:</b> | The application is for a variation of the Section 36 Consent that is made to the Scottish Ministers, at the same time as which should the Ministers decide to authorise the proposals they may at the same time make a new direction under the terms of the Town and Country Planning (Scotland) Act 1997 (as amended) that planning permission is deemed to be granted. The decision on the content of response to an application to the Scottish Ministers for consent under the Electricity Act 1989 is delegated to the Planning Committee under the Planning Scheme of Delegations that has been approved by the Scottish Ministers.   |                  |
| <b>6.11<br/>Previously Considered by:</b>       | Application Ref. 2009/191/ECU for the consented Viking Wind Farm which it is now the proposal to vary the Section 36 Consent of was the subject of a consultation by the Energy Consents Unit and was considered by the full Shetland Islands Council   | 14 December 2010 |

**Contact Details:**

Richard MacNeill, Planning Officer, Development Services  
Report Cleared: 6 February 2019

**Appendices:**

1. Report of handling on application to Scottish Ministers to vary the Section 36 Consent for the Viking Wind Farm.
2. Letter to Shetland Islands Council and copy of variation application (comprising: Application Letter to ECU; Draft Variations to the relevant Section 36 Consent; Particulars of the relevant Section 36 Consent; Draft Proposed Section 57 Direction; Maps to be Referenced in the relevant Section 36 Consent as so Varied; and copy of Public Notice/Advert.
3. Responses to Energy Consents Unit on its consultation on the application.

**Background Documents:**

[Scottish Planning Policy \(SPP\)](#)

[Shetland Local Development Plan \(2014\)](#)

[Supplementary Guidance – Onshore Wind Energy \(Adopted February 2018\)](#)

## **Report of Handling**

**Development:** To vary the consent by increasing the maximum tip height of the turbines from 145 metres (m) to a maximum of 155 m and increasing the maximum rotor diameter of the turbines by 10 m to a maximum of 120 m. The installed capacity of the proposed generating stated would be greater than 50 MW. (Viking Wind Farm)

**Location:** Central Mainland, Shetland

**By:** Viking Energy Wind Farm LLP

**Application Ref:** 2018/335/ECUCON

### **1. Introduction**

On the 4<sup>th</sup> April 2012 development consents for the construction and operation of the Viking Wind Farm (103 turbines) were granted by the Scottish Ministers under Section 36 of the Electricity Act 1989 and Section 57(2) of the Town and Country Planning (Scotland Act 1997). On the request of the developer on the 29<sup>th</sup> March 2017 the Scottish Ministers approved an extension to the implementation date under Condition 2 of the Section 36 Consent so that the commencement of the development (as defined in the consent) must be no later than the 4<sup>th</sup> April 2020.

The purpose of this report is to present for the consideration of the Planning Committee a formal consultation from the Scottish Government Energy Consents Unit on an application made under Section 36C of the Electricity Act 1989 to vary the Section 36 Consent of the Viking Wind Farm by increasing the maximum tip height of the turbines from 145 metres (m) to a maximum of 155 m and increasing the maximum rotor diameter of the turbines by 10 m to a maximum of 120 m. The installed capacity of the proposed generating stated would be greater than 50 MW.

The Scottish Ministers are responsible, under Section 36 of the Electricity Act 1989, for the authorisation of any new, or extensions to existing electricity generation schemes with a generation capacity in excess of 50 Megawatts (MW).

The Council is a formal consultee in this process and a copy of the application has been served on the Council by the Scottish Government, Energy and Consents Unit and also by the applicant in terms of Schedule 8 of the Electricity Act 1989. The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 allow for representation by the planning authority within a period of two months after the date the last notice is published, but in this case a later date was agreed with the ECU such that the Planning Authority's response must be submitted by 15 February 2019. In procedural terms the Council, as Planning Authority, requires to respond to the Scottish Ministers on those

aspects for which the Council has responsibility. In this regard the Council in response to the consultation can either:

- (i) offer no objections to the Section 36C application as submitted; or
- (ii) offer no objections, subject to modifications and/or the imposition of appropriate conditions or legal obligations it considers necessary to make the development acceptable; or
- (iii) formally object to the application, stating the grounds on which objection is made.

Should the Scottish Ministers decide to authorise the proposals under Section 36C of the Electricity Act 1989, they may at the same time make a new direction under Section 57 of the Town and Country Planning (Scotland Act 1997) that planning permission is deemed to be granted.

While there are no changes proposed to the layout or footprint of the 103 consented turbines it is noted that the proposed site “red line” area has changed, being reduced in size from the consented Section 36 site area (under which terms 24 turbines proposed in the Delting Parish Area were specifically excluded, the Scottish Ministers having refused to give them consent). As a result areas of land mainly to the north and west which was previously included, and which formed part of previous Peat and Habitat Management Plans provided under previously submitted Environmental Statement (2009) and Environmental Statement Addendum (2010), are now excluded from the proposed varied development.

A new Environmental Impact Assessment Report (EIA Report) has been provided under the Electricity Works (Environmental Impact Assessment (Scotland) Regulations 2017.

## **2. Statutory Development Plan Policies**

### **Shetland Local Development Plan**

GP1 - Sustainable Development  
GP2 - General Requirements for All Development  
GP3 - All Development: Layout and Design  
NH1 - International and National Designations  
NH2 - Protected Species  
NH3 - Furthering the Conservation of Biodiversity  
NH4 - Local Designations  
NH5 - Soils  
NH7 - Water Environment  
HE1 - Historic Environment  
HE4 - Archaeology

ED1 - Support for Business and Industry  
RE1 - Renewable Energy  
TRANS 3 - Access and Parking Standards  
WD1- Flooding Avoidance  
WD3 - SuDS  
W5 - Waste Management Plans and facilities in all new developments

Supplementary Guidance – Onshore Wind Energy February 2018

Scottish Planning Policy 2014  
National Planning Framework 3

### 3. **Safeguarding**

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

30km Radius Scatsta - 30km Sumburgh Scatsta: 2

5m Contour Area - 5m Contour Area: 1

Access Routes - Access Route: ARDe02

Access Routes - Access Route: ARDe03

Crofting Apportionments

Burn Buffer - Name: Tresta Burn

Burn Buffer - Name: Burn of Tactgill

Burn Buffer - Name: No Name

Burn Buffer - Name: Laxo Burn

Burn Buffer - Name: Saewater Burn

Burn Buffer - Name: Drida Dale

Burn Buffer - Name: Thomas Jamiesons Burn

Burn Buffer - Name: Gossawater Burn

Burn Buffer - Name: Tararet Burn

Burn Buffer - Name: Meadow Burn

Burn Buffer - Name: Burn of Laxfirth

Burn Buffer - Name: Burn of Dale

Burn Buffer - Name: Burn of Scudillswick

Burn Buffer - Name: Mill Burn

Burn Buffer - Name: Burn of Moowater

Burn Buffer - Name: Burn of Kirkhouse

Burn Buffer - Name: Patricks Burn

Burn Buffer - Name: Hamagrind Burn

Burn Buffer - Name: Burn of Forse

Burn Buffer - Name: Easter Filla Burn

Burn Buffer - Name: Wester Filla Burn

Burn Buffer - Name: The Green Belt Burn

Burn Buffer - Name: No Name

Burn Buffer - Name: No Name

Burn Buffer - Name: East Burn

Burn Buffer - Name: Burn of the Dale

Burn Buffer - Name: Corgill Burn

Burn Buffer - Name: Grunnafirth Burn

Burn Buffer - Name: Wilder Burn

Burn Buffer - Name: Forse Burn

Burn Buffer - Name: Stour Burn

Burn Buffer - Name: Stany Burn

Burn Buffer - Name: Twart Burn

Burn Buffer - Name: No Name

Burn Buffer - Name: No Name

Burn Buffer - Name: Burn of Marrofield

Burn Buffer - Name: Burn of Lambawater

Burn Buffer - Name: No Name

Burn Buffer - Name: No Name

Burn Buffer - Name: No Name

Burn Buffer - Name: Burn of Vats-Houll

Burn Buffer - Name: Kergord Burn

Burn Buffer - Name: Burn of Swirtars

Burn Buffer - Name: No Name

Burn Buffer - Name: No Name

Burn Buffer - Name: Pettawater Burn

Burn Buffer - Name: No Name

Burn Buffer - Name: No Name

Burn Buffer - Name: Holli Burn

Burn Buffer - Name: Burn of Quoys

Burn Buffer - Name: Burn of Flamister

Burn Buffer - Name: Gill Burn

Burn Buffer - Name: Burn of Cruckadale

Burn Buffer - Name: Burn of Droswall

Burn Buffer - Name: Black Burn

Burn Buffer - Name: Burn of Scallafield

Burn Buffer - Name: Weisdale Burn

Burn Buffer - Name: No Name

Burn Buffer - Name: Burn of Lunklet

Burn Buffer - Name: South Burn of East Burrafirth

Burn Buffer - Name: Burn of Truggles-water

Burn Buffer - Name: Burn of Atlascord

Burn Buffer - Name: Twatt Burn

Burn Buffer - Name: No Name

Burn Buffer - Name: No Name

Burn Buffer - Name: No Name

Burn Buffer - Name: Burn of Sefmoor

Canmore - Canmore: 189396

Canmore - Canmore: 1138

Canmore - Canmore: 345750

Canmore - Canmore: 345600

Canmore - Canmore: 191080

Canmore - Canmore: 189395

Core Paths - Core Paths: CPPTWW05

Core Paths - Core Paths: CPPTWW03

Core Paths - Core Paths: CPPSA02

Crofts - Holding ID: 16337



Sites with Development Potential - Sites with Development Potential: Gardie  
Weisdale, ZE2 9LW  
Landowner: GB and AM Anderson

Landscape Character Assessment - Landscape Character Assessment: Inland  
Loch

Landscape Character Assessment - Landscape Character Assessment: Inland  
Loch

Landscape Character Assessment - Landscape Character Assessment: Loch  
Island

Landscape Character Assessment - Landscape Character Assessment: Loch  
Island

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

Landscape Character Assessment - Landscape Character Assessment: Inland  
Valleys

Landscape Character Assessment - Landscape Character Assessment: Major  
Uplands

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

Landscape Character Assessment - Landscape Character Assessment: Inland  
Loch

Landscape Character Assessment - Landscape Character Assessment: Major  
Uplands

Landscape Character Assessment - Landscape Character Assessment: Inland  
Loch

Landscape Character Assessment - Landscape Character Assessment: Inland  
Loch

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

Landscape Character Assessment - Landscape Character Assessment: Loch

Island

Landscape Character Assessment - Landscape Character Assessment: Farmed Settled Lowland and Coast

Landscape Character Assessment - Landscape Character Assessment: Inland Loch

Landscape Character Assessment - Landscape Character Assessment: Inland Loch

Landscape Character Assessment - Landscape Character Assessment: Inland Loch

Landscape Character Assessment - Landscape Character Assessment: Peatland and Moorland

Landscape Character Assessment - Landscape Character Assessment: Loch Island

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

Landfill - TBL Landfill: 3A6 - Sandwater - inert landfill

Landfill - TBL Landfill: Inert landfill

Local Nature Conservation Sites - Local Nature Conservation Sites: Contact Natural Heritage Officer

Local Nature Conservation Sites - Local Nature Conservation Sites: Contact Natural Heritage Officer

Rights of Way - Right of Way: 171  
Right of Way Ref::

Scatsta Safeguard - Height: 90m

SEPA River Extents - SEPA River Extents: L

SEPA River Extents - SEPA River Extents: M

SEPA SW Extents - SEPA SW Extents: H

Shetland Local Landscape Designations - Shetland Local Landscape  
Designations: Weisdale

SMR - SMR: MSN8136

Name: Whaa Field

Type:

SMR - SMR: MSN8019

Name: Burn of Weisdale

Type: BUILDING

SMR - SMR: MSN8090

Name: Burn of Weisdale

Type: STRUCTURE

SMR - SMR: MSN7905

Name: Flamister

Type: FARMSTEAD, HEAD DYKE

SMR - SMR: MSN8085

Name: Flamister

Type: MOUND

SMR - SMR: MSN6855

Name: North of North House

Type: CROFT

SMR - SMR: MSN6855

Name: North of North House

Type: CROFT

SMR - SMR: MSN6855

Name: North of North House

Type: CROFT

SMR - SMR: MSN7906

Name: Burn of Forse

Type: ENCLOSURE

SMR - SMR: MSN7900

Name: Quinni Loch

Type: DRAINAGE DITCH

SMR - SMR: MSN7899

Name: Quinni Loch

Type: DAM

SMR - SMR: MSN7898

Name: Meadow of Stranifield

Type: DRAINAGE DITCH

SMR - SMR: MSN7904

Name: Knowe of Finistry - Knoll

Type: CAIRN

SMR - SMR: MSN7903

Name: Minnie Loch

Type: STRUCTURE

SMR - SMR: MSN7907

Name: Burn of Forse

Type: CULTIVATION TERRACE, SHEEP FOLD

SMR - SMR: MSN7910

Name: Grunnafirth

Type: BUILDING

SMR - SMR: MSN7902

Name: Area

Type: FARMSTEAD

SMR - SMR: MSN7958

Name: Pund of Grunnafirth

Type: HORIZONTAL MILL

SMR - SMR: MSN7963

Name: Mill Burn, South Newing

Type: HORIZONTAL MILL

SMR - SMR: MSN8094

Name: Loch of Skellister

Type: CAIRN, CIST

SMR - SMR: MSN8062

Name: Burn of Truggles-Water

Type: BUILDING

SMR - SMR: MSN2524

Name: Hill of Sound  
Type: CIST

SMR - SMR: MSN1915  
Name: Sound  
Type: BANK (EARTHWORK)

SMR - SMR: MSN1915  
Name: Sound  
Type: BANK (EARTHWORK)

SMR - SMR: MSN6857  
Name: Hill of Sound  
Type: HUT PLATFORM, STANDING STONE

SMR - SMR: MSN8071  
Name: Truggles Water  
Type: CHAMBERED CAIRN

SMR - SMR: MSN8072  
Name: Maa Water  
Type: FIELD SYSTEM

SMR - SMR: MSN8072  
Name: Maa Water  
Type: FIELD SYSTEM

SMR - SMR: MSN6858  
Name: Hill of Sound  
Type: MARKER CAIRN

SMR - SMR: MSN2531  
Name: Weisdale Hill  
Type: CAIRN

SMR - SMR: MSN2530  
Name: Atlascord  
Type: CHAMBERED HEELSHAPED CAIRN

SMR - SMR: MSN8028  
Name: Leegarh Plantation  
Type: FARMSTEAD

SMR - SMR: MSN7886  
Name: Hill of Sound

Type: CHAMBERED CAIRN

SMR - SMR: MSN8045

Name: Heglibister

Type: CROFT, MILL, HEAD DYKE

SMR - SMR: MSN8188

Name: Upper Kergord

Type: STRUCTURE

SMR - SMR: MSN8190

Name: Upper Kergord

Type: MOUND, NATURAL FEATURE

SMR - SMR: MSN8189

Name: Upper Kergord

Type: DITCH

SMR - SMR: MSN8191

Name: Upper Kergord

Type: MOUND, NATURAL FEATURE

SMR - SMR: MSN8192

Name: Upper Kergord

Type: MOUND, NATURAL FEATURE

SMR - SMR: MSN8193

Name: Upper Kergord

Type: MOUND, NATURAL FEATURE

SMR - SMR: MSN8194

Name: Upper Kergord

Type: MOUND

SMR - SMR: MSN8195

Name: Upper Kergord

Type: MILL RACE

SMR - SMR: MSN8196

Name: Upper Kergord

Type: DITCH, BANK (EARTHWORK)

SMR - SMR: MSN8197

Name: Upper Kergord

Type: STRUCTURE

SMR - SMR: MSN8198

Name: Upper Kergord

Type: DYKE

SMR - SMR: MSN8199

Name: Upper Kergord

Type: QUARRY, STRUCTURE

SMR - SMR: MSN8200

Name: Upper Kergord

Type: DITCH, PIT

SMR - SMR: MSN8201

Name: Upper Kergord

Type: CLEARANCE CAIRN

SMR - SMR: MSN8202

Name: Upper Kergord

Type: EARTHWORK

SMR - SMR: MSN8018

Name: Marrofield

Type: FARMSTEAD, SHEEP FOLD, HEAD DYKE

SMR - SMR: MSN8018

Name: Marrofield

Type: FARMSTEAD, SHEEP FOLD, HEAD DYKE

SMR - SMR: MSN7961

Name: Southdyke

Type: FARMSTEAD

SMR - SMR: MSN7956

Name: Dury

Type: BUILDING

SMR - SMR: MSN8044

Name: Kurkigarth

Type: FARMSTEAD, HEAD DYKE

SMR - SMR: MSN8029

Name: Greenlea Plantation

Type: BUILDING

SMR - SMR: MSN7909  
Name: Grunnafirth  
Type: PLANTICRUB

SMR - SMR: MSN7959  
Name: Quinni Burn  
Type: BUILDING

SMR - SMR: MSN5274  
Name: Hill of Skellister  
Type: LYNCHET

SMR - SMR: MSN5275  
Name: Mill Burn, South Newing  
Type: PLANTICRUB

SMR - SMR: MSN8026  
Name: Burn of Weisdale  
Type: BUILDING

SMR - SMR: MSN1032  
Name: South Newing  
Type: OVAL HOUSE, ENCLOSURE

SMR - SMR: MSN1032  
Name: South Newing  
Type: OVAL HOUSE, ENCLOSURE

SMR - SMR: MSN8045  
Name: Heglibister  
Type: CROFT, MILL, HEAD DYKE

SMR - SMR: MSN8022  
Name: Setter  
Type: FARMSTEAD, BUILDING, STRUCTURE, HEAD DYKE

SMR - SMR: MSN7897  
Name: South Filla Runnie  
Type: BUNKER

SMR - SMR: MSN6795  
Name: Mossy Hill  
Type: MILITARY BASE

SMR - SMR: MSN8086



Name: Laxo Burn  
Type: SETTLEMENT

SMR - SMR: MSN7950  
Name: Saewater Burn  
Type: STRUCTURE

SMR - SMR: MSN8078  
Name: Gro Stane  
Type: STANDING STONE

SMR - SMR: MSN8073  
Name: Burn of Lunklet  
Type: STRUCTURE

SMR - SMR: MSN7867  
Name: Possible heel-shaped cairn north of Lunklet Burn  
Type: CHAMBERED HEELSHAPED CAIRN

SMR - SMR: MSN7908  
Name: Burns  
Type: FARMSTEAD

SMR - SMR: MSN7908  
Name: Burns  
Type: FARMSTEAD

SMR - SMR: MSN8063  
Name: Burn of Lunklet  
Type: BUILDING

SMR - SMR: MSN8077  
Name: Marrofield Water  
Type: STANDING STONE

SMR - SMR: MSN8030  
Name: Black Burn  
Type: BUILDING

SMR - SMR: MSN8074  
Name: Scalla Field  
Type: MARKER CAIRN

SMR - SMR: MSN6856  
Name: Hag Mark Stone

Type: STONE SETTING, WALL

SMR - SMR: MSN8084

Name: West Kame

Type: MOUND

SMR - SMR: MSN1929

Name: Burn of Weisdale

Type: BANK (EARTHWORK)

SMR - SMR: MSN5461

Name: Burn of Weisdale

Type: BUILDING

SMR - SMR: MSN1928

Name: Burn of Weisdale

Type: BANK (EARTHWORK)

SMR - SMR: MSN8025

Name: Burn of Swirtars

Type: MILL

SMR - SMR: MSN5462

Name: Burn of Weisdale

Type: BANK (EARTHWORK)

Site of Special Scientific Interest - SSSI: 11180

Site of Special Scientific Interest - SSSI: 1438

Tingwall 10km Safeguarding - Tingwall 10km Safeguarding: Wind Turbine applications require consultation with Airport.

Waste Water Drainage Area - Waste Water Drainage Area: Muckle Roe Area North

Waste Water Drainage Sewer Note: May be unfeasible to connect

Waste Water Drainage Area - Waste Water Drainage Area: Sandsound Voe and The Firth

Waste Water Drainage Sewer Note: May be unfeasible to connect

Waste Water Drainage Area - Waste Water Drainage Area: Muckle Roe Area South

Waste Water Drainage Sewer Note: May be unfeasible to connect

#### 4. Consultations

**Shetland Biological Records Centre** was consulted on 21 November 2018. There was no response from this consultee at the time of report preparation.

**Environmental Health** was consulted on 21 November 2018. Their response received on 22 January 2019 is as follows:

Thank you for consulting with the Environmental Health department regarding planning application 2018/335/ECUCON, to vary the consent by increasing the maximum tip height of the turbines from 145 metres (m) to a maximum of 155 m and increasing the maximum rotor diameter of the turbines by 10 m to a maximum of 120 m. The installed capacity of the proposed generating station would be greater than 50 MW, in the central Mainland, Shetland.

I can confirm that the department has assessed the submitted documentation for this application and has the following comments to make;

With regards to highlighted stressors with potential to adversely affect identified receptors including, noise including Amplitude Modulation, shadow flicker and air quality the department accepts the findings of the EIA.

With specific regard to the request to removal of conditions 42 – 47 of the relevant section 36 consent to be replaced with the condition in Annex 8 of Technical Appendix 6.1, the department accepts this request and agrees with the proposed procedures contained therein.

When considering the noise limits to apply to this application, I can confirm that the department agrees with the findings that any additional cumulative effect of this proposed variation will result in no additional significant effect. Furthermore the department considers the imposition of the higher ETSU noise limit of “40 dBLA90, or background +5 dB, whichever is the higher” during the daytime period, and “43 dBLA90, or background +5 dB, whichever is the higher” during the night-time period, as suitable limits to be imposed for this development.

Finally whilst looking over mapping in Volume 1, Non-Technical Summary, Figure 2: detailing the Borrow Pit search area, I noted that a prospective borrow pit location identified adjacent to the A970 just north of the Sand Water junction, is potentially a site on the Councils Contaminated Land Inspection Strategy Action Plan as site 3A6 Sandwater. Although this is only a possible site, I would point out that it has been subject to considerable infill over the years and may not be suitable for extraction of materials.

With the above point in mind I can confirm that the department has no objection or other comment or objections to lodge against this application.

**The Archaeology Service** was consulted on 21 November 2018. Their comments dated 7 December 2018 can be summarised as follows:

Thank you for consulting us on the amendments to this application. We note that the Nov 2018 Cultural Heritage appendix 11 says that conditions 33-41 will not "materially" change. Provided that they don't change at all, we agree that this can stand for the varied application.

**Roads Traffic** was consulted on 21 November 2018. Their comments dated 8 January 2019 can be summarised as follows:

#### CONDITIONS REQUIRED/ MORE INFORMATION REQUIRED

##### Road Authority Comments:

Our general comments on the previous application (2009/191/ECU) would also apply to this variation application.

There are however some details in this submission that would need clarification or noted and they are as follows:-

1. I note that the submission states that some of the 'catotelmic' peat will be treated for re-use, or it will be unable to be treated. The applicant would need to identify areas for the storage and/ or treatment of this material prior to re-use or disposal. Areas for re-use and disposal should also be identified so that any impacts on the public road network of material being moved can be identified.
2. In terms of the traffic data the original EIA referenced SIC counts from 2005. This submission refers to newer count data from the DoT. Our latest data for the main spine road network in the area of Viking energy developments was collected in 2018, which I can confirm is similar to the DoT figures submitted.
3. I note that passing places on the internal roads are to be every 500 metres. I would point out that these should be inter-visible for safety. This may lead to closer spacing due to the topography of the site.
4. The submission identifies construction and equipment access to Scord of Sound via A971. This has been the subject of discussions previously between the developers and SIC Roads. SIC Roads do not consider the A971 to be suitable for any significant number of additional HGV loads to service the wind farm site due to the various narrow road sections, specifically through Olligarth, Haggersta and Cova. Given the topography some of the abnormal loads are likely to have issues with the alignment in places. SIC Roads have therefore not agreed to the A971 being a suitable access route for the project. The alternative that had been

accepted by SIC Roads was that all loads would be along the A970 and then via the new Sandwater road, with access to the west part of the site along the internal site service roads.

5. The abnormal loads associated with the project will require street furniture to be moved at various junctions and bends. Detailed design on how this is to be achieved will be required to ensure sufficient safety and control measures are maintained at junctions whilst allowing access.

6. The mitigation and method statements outlined for the construction and excavation of the site should be added as conditions.

I would also highlight that the specific site access points onto the public road network have never been clearly detailed to ensure that they meet the required 4.5 by 215 metre visibility splays. To date all submissions have only identified the general locations of the access points on small scale plans.

**Tingwall Airport** was consulted on 21 November 2018. Their comments dated 8 January 2019 can be summarised as follows:

Tingwall Airport has no objections to make. This development is well outside our Obstacle limitation surfaces. However after taking advice from our consultants, we would request that we are kept informed on the consultation for the lighting scheme.

**Economic Development Service** was consulted on 21 November 2018 and responded on 17 January 2019. Their comments can be summarised as follows:

This variation to the existing section 36 consent is in line with Council policy as detailed within the Shetland Islands Council's Economic Development Strategy 2018-2022 to "reduce dependence on fossil fuels and increase installed renewable energy sources", and the outcome to "support local efforts to establish an interconnector between Shetland and UK Mainland." The strategy objectives: "Encourage growth, development and diversification in the private sector" and "Increase the pace of innovation and the adoption of new technologies".

The Economic Development Service uphold their opinion made previously on the section 36 application that the Viking Wind Farm project and related interconnector are of paramount economic importance to Shetland and that the project will provide substantial intergenerational economic & social benefits. This proposed variation enhances the project in terms of its ability to compete as clean energy technology and improve the efficiency of the Viking Wind Farm in harnessing Shetland's abundant wind resource.

1 The proposed increases in the rotor diameter and tip height of the wind turbines will allow the Viking Wind Farm project to benefit from the significant advances in wind turbine technology since the original application for section 36 consent was made in 2009 and the section 36 consent was granted by the Scottish ministers in 2012. Wind turbine models now tend to have a larger rotor diameter, improved efficiency and higher output. This increased tip height and rotor diameter would enable a broader range of wind turbines to be tendered for the turbine supply contracts, improve the competitiveness of the procurement process and should help keep project capital costs down. Building a more productive and efficient Viking Wind Farm increases the long term income generated by the project, aiming to improve returns to investors in the windfarm, that include Shetland Charitable Trust which has a 45% community stake in the project. This variation would also increase the community benefit payments made by the windfarm due to a potentially larger installed generating capacity.

2 For the Viking Wind Farm to be realised, this project requires a route to market for the power generated by the windfarm, this is provided by the project bidding into a competitive process for a UK Government Contract For Difference supplying electricity to the UK grid under the technology bracket Remote Island Wind. There is a limited pot of funding allocated in the next CFD, announced by the UK Government to take place by May 2019. This variation to the consented project aims to make the Viking Wind Farm as competitive as possible when entering the bidding process which will be against other remote island wind and offshore projects.

3 The proposed use of modern turbines will provide more efficient and increased generation output which will reduce the cost at which electricity can be produced from the Viking Wind, Farm and this in turn will benefit the UK electricity consumer through more cost effective clean energy.

4 The needs case for a 600MW HVDC interconnector between Shetland and the Scottish mainland is based on the Viking Wind Farm going ahead. The interconnector will not proceed without this project securing a CFD and reaching financial close. In those circumstances the Council's policy ambition to "support local efforts to establish an interconnector between Shetland and the UK mainland" would not be achieved. The project's success has wider impacts than just the Viking Wind Farm as other consented and proposed renewable energy developments in Shetland that rely on the construction of the HVDC link would not be able to proceed. Further to this the 600MW HVDC link has the potential to provide significant economies in the provision of key infrastructure for a new energy solution for Shetland. The previously proposed 60MW interconnector and back-up generator system proposed by National Grid was rejected by Ofgem in 2017. It was recognised that there are benefits in a joined up approach between the proposed HVDC link providing connection for the Viking Wind Farm and interconnector for the new energy solution for Shetland. It is expected that security

of supply options for Shetland will be considered and reviews dependent on the outcome of the CFD process and the Viking Wind Farm going ahead.

5 The proposed variation to the consented Viking Wind Farm will increase the socio economic benefit to Shetland from the increased value of construction contracts, community benefit payments generated by the project and returns on local community and private investments. Local contracts in the construction of the project are estimated to increase from £40.94 million to £48.88m with the variation. There are wider economic benefits across the Scottish and UK supply chain with construction contracts for UK companies increasing from £286.56 million to £342 million. The project will also bring cumulative economic benefit from other renewable energy developments being able to proceed in Shetland with the construction of the HVDC link. The Beaw Field wind farm in Yell has planning consent for 17 turbines and the proposed Mossy Hill wind farm, if consented, would together be 104 MW of generation. These projects would generate further local construction contracts, operational contracts and community benefit payments.

6 The proposed variation could increase the capacity of the windfarm from 370.8 MW to 442.9 MW for the same number of consented wind turbines. The project remains within the consented generation maximum for the site of 457 MW. A community benefit payment has been committed to at £5,000 per MW installed per annum. The variation to the project would see annual community benefit payments increase by up to £360,000 per annum from the original consent. This would provide an annual community benefit payment of up to £2,214,500 from the Viking Wind Farm. This increase would be significant when considered over the lifetime of the project. In addition to community benefit payments the Shetland Charitable Trust has a 45% shareholding in the project, with a further 5% held in Shetland private ownership. The variation to the windfarm aims to improve the competitiveness, efficiency and capacity of the Viking Wind Farm, whilst maximising financial returns to its shareholders, including the Shetland Community via the Shetland Charitable Trust.

7 Without an electricity transmission connection to the UK National Grid Shetland Islands Council's policy to "reduce dependence on fossil fuels and increase installed renewable energy sources" will continue to be hampered by the limitation of a severely restricted grid with an effective moratorium on new connections. The local grid is centred around an ageing, subsidised diesel generation plant which is not sustainable in the long term.

8 It is a priority of the Council's Economic Strategy 2018 – 2022 to "encourage growth, development and diversification in the private sector." The Viking Wind Farm and associated HVDC interconnector would create a new industry sector in Shetland based on the abundant clean energy resources of wind, tidal and wave. This provides Shetland with an opportunity to further diversify its economy that currently relies heavily on the fisheries, aquaculture and the oil and gas sectors.

The skills required in industries such as oil and gas are naturally transferable to renewable energy and would create opportunities for young people to train and build careers in the renewables sector. This has been demonstrated in other regions of Scotland but Shetland has not been able to take full advantage of these opportunities with the grid constraints surrounding renewable generation. A transition to a low carbon future will see transport fuels becoming electrical based or fuels sourced from low carbon generation, Shetland would be well placed to take advantage of opportunities if a renewable energy sector can be established.

**Association of Community Councils** was consulted on 21 November 2018. There was no response from this consultee at the time of report preparation.

### **Comments made to the Energy Consents Unit**

The comments made to the Energy Consents Unit (ECU) as a result of their consultation exercise will be attached as an appendix to the report to Planning Committee. These will include comments made by Community Councils that responded to the ECU's consultation on the application.

#### **5. Statutory Advertisements**

A notice was not required to be published in the local newspaper by the Council as Planning Authority. Notices were placed in newspapers (including the local newspaper) by the applicant as required by the relevant regulations confirming that representations may be made to the Energy Consents Unit however. The ECU received a total of 33 public representations in response to this consultation (12 support, 21 objections). Copies of the public representations are included in those documents that are available to view on the Energy Consents website at [www.energyconsents.scot](http://www.energyconsents.scot)

A site notice was not required to be posted by the Council as Planning Authority.

#### **6. Representations**

Representations were received from the following properties:

None were received. No publicity was given to the application by the Council as Planning Authority with its not being a statutory requirement.

#### **7. Report**

Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) 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 and these are listed at paragraph 2 above. The determining issues to be considered are whether the proposal complies with Development Plan Policy, or there are any other material considerations which would warrant the setting aside of Development Plan Policy.

The Environmental Impact Assessment Report (EIA Report) submitted in support of the proposal has identified that the main environmental effects associated with the variation application proposal have been identified as:

- Landscape and visual impacts
- Ornithology
- Socio-economic effects
- Noise

The Planning Service presents this report having taken into account comments from the Council's Natural Heritage Officer, Development Plans, Outdoor Access Officer, Planning Engineer Drainage and Flooding, and Marine Planning.

#### Shetland Local Development Plan 2014

Policies GP1, GP2 and GP3 of the Shetland Local Development Plan 2014 (SLDP) are general policies for all development that aim to ensure that sustainable development is delivered in a fair and consistent manner, promoting development but ensuring at the same time that our environment, built heritage and amenity of adjacent users affected by the development is protected.

Policy GP2 sets out the more technical general requirements for all development to ensure that development will not have a significant adverse effect on existing users in the vicinity of the site and to ensure that the site can be adequately serviced. Policy GP3 is included to ensure that all new development is designed to respect the character and local distinctiveness of the site and the surroundings whilst making a positive contribution to:

- maintaining identity and character
- ensuring a safe and pleasant place
- ensuring ease of movement and access for all
- a sense of welcome

- long term adaptability
- good use of resources

Policy NH2 of the SLDP states that: “Planning permission will not be granted for development that would be likely to have an adverse effect on a European Protected Species unless the Council is satisfied that:

- The development is required for preserving public health or public safety or for other imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment; and
- There is no satisfactory alternative; and
- The development will not be detrimental to the maintenance of the population of the European Protected Species concerned at a favourable conservation status in their natural range.

Planning permission will not be granted for development that would be likely to have an adverse effect on a species protected under Schedule 5 (animals) or 8 (plants) of the Wildlife and Countryside Act 1981 (as amended) unless the Council is satisfied that:

- Undertaking the development will give rise to, or contribute towards the achievement of, a significant social, economic or environmental benefit; and
- There is no satisfactory solution.”

Planning permission will not be granted for development that would be likely to have an adverse effect on a species protected under Schedules 1, 1A or A1 (birds) of the Wildlife and Countryside Act 1981 (as amended), unless the Council is satisfied that:

- The development is required for preserving public health or public safety; and
- There is no other satisfactory solution.

Applicants should submit supporting evidence for any development meeting these criteria, demonstrating both the need for the development and that a full range of possible alternative courses of action have been properly examined and none found acceptably meet the need identified.

The Council will apply the precautionary principle where the impacts of a proposed development on natural heritage are uncertain but potentially significant. Where development is constrained on the grounds of uncertainty, the potential for research, surveys or assessments to remove or reduce uncertainty should be considered.

Policy NH3 of the SLDP is that “Development will be considered against the Council’s obligation to further the conservation of biodiversity and the ecosystem

services it delivers. The extent of these measures should be relevant and proportionate to the scale of the development.

Proposals for development that would have a significant adverse effect on habitats or species identified in the Shetland Local Biodiversity Action Plan, Scottish Biodiversity List, UK Biodiversity Action Plan, Annexes I and II of the Habitats Directive, Annex I of the Birds Directive (if not included in Schedule 1 of the Wildlife and Countryside Act) or on the ecosystem services of biodiversity, including any cumulative impact, will only be permitted where it has been demonstrated by the developer that;

- The development will have benefits of overriding public interest including those of a social or economic nature that outweigh the local, national or international contribution of the affected area in terms of habitat or populations of species; and
- Any harm or disturbance to the ecosystem services, continuity and integrity of the habitats or species is avoided, or reduced to acceptable levels by mitigation.”

SLDP Policy NH4 states that “Development that affects a Local Nature Conservation Site or Local Landscape Area will only be permitted where:

- It will not adversely affect the integrity of the area or the qualities for which it has been identified; or
- Any such effects are clearly outweighed by social, environmental or economic benefits.”

Policy ED1 of the SLDP confirms that “The Council encourages the creation of sustainable economic development opportunities and business developments in accordance with General Policies (GP1, GP2, and GP3). ...”

SLDP Policy RE1 states that “The Council is committed to delivering renewable energy developments that contribute to the sustainable development of Shetland. Proposals for renewable energy developments will be supported where it can be demonstrated that there are no unacceptable impacts on people (benefits and dis-benefits for communities and tourism and recreation interests) the natural and water environment, landscape, historic environment and the built environment and cultural heritage of Shetland. All proposals for renewable energy developments will be assessed with consideration of their cumulative impacts. ...”

Scottish Planning Policy (SPP) (2014) supports sustainable economic growth and has a presumption in favour of development that contributes to sustainable development aiming to achieve the right development in the right place supporting the transformational change to a low carbon economy, but not development at any cost.

Supplementary Guidance – Onshore Wind Energy February 2018 is the latest statement from the Council. The Council recently published their economic strategy for 2018-2022. One of the key priorities is to increase the pace of

innovation and the adoption of new technology. Reducing dependence on fossil fuels and an increase in installed renewable energy sources is seen as a key means of achieving this within the strategy.

### Principle of Development

Deemed planning permission for 103 turbines at a height of 145 metre turbines has been granted previously. The Planning Service has not sought to revisit or assess the principle of the development in its entirety. Rather what has been considered is whether the proposed variation, representing increases in the height and the rotor diameter of the consented turbines, is acceptable when considered against the above policies or can be made so by the application of appropriate conditions to any consents issued. In particular the impact of the increases in turbine height turbine blade sweep will have on birds, the landscape, adjacent property and what are the implications for socio-economics.

The Energy Consents Unit, which are the administering body for the application to vary the Section 36 Consent have consulted several bodies and agencies on the proposal, and the responses will also be an appendix to the Report to Planning Committee. The Planning Service also consulted, and these responses are included at Section 4 above. All these responses have been considered during the assessment and making of an appropriate recommendation.

### Landscape and Visual

Tingwall Airport has no objections to make as this development is well outside their Obstacle Limitation surfaces, but it has requested that it is kept informed on the consultation for the lighting scheme for the turbines.

Chapter 4 of the EIA Report provides a review of the potential landscape and visual effects of the proposed variation to the development. This chapter of the report concludes that there would be no changes to the degree of landscape and visual effects (including cumulative landscape and visual effects) between the consented Viking Wind farm and the proposed varied development. Due to the height of the proposed varied development, the turbines being proposed having a height to tip of 155 metres, lighting will now be required and therefore the impact of the placement of a medium intensity light on every turbine, as required by CAA guidelines, would be significant within 10 km. The report suggests that further discussions with aviation stakeholders is proposed to develop a lighting solution and several options are raised in the report including Radar Activated Lighting (RAL).

The John Muir Trust have raised an objection with the ECU on the grounds that the visual, landscape and cumulative information provided is seriously inadequate

and make comment on the significant impact of the turbines, and in particular when lighted, on tourism. It is noted that the Trust has called for a public local inquiry to be held.

Sustainable Shetland have also responded to the ECU commenting that a turbine height of 155 metres will be even more out of scale and visible than the consented turbines and that both in the day and at night, due to the addition of lighting, the turbines will be more obvious. The Planning Service notes that the applicant has responded to the comments made by Sustainable Shetland to the ECU but does not intend to make further comment.

SNH have commented on the landscape and visual impacts and have concluded that they agree with the conclusion of the EIA Report that the 10 metre increase in height is unlikely to result in a significant change to the assessed impact of the consented scheme. As such they state that their previous advice for the consented scheme remains valid.

In terms of the addition of lighting SNH have commented that on the basis of the limited visual information presented in the EIA Report and experience elsewhere in Scotland of assessing the impacts of aviation lighting, that they broadly agree with the level of impacts identified. SNH further commented that it considered however that the extent of effects is likely to extend beyond 9km as predicted in the EIA Report given the wide spread of lighting that will be visible, the potential for overlapping and the difference in nacelle heights typical in many views. Furthermore the uniform overlapping line of turbines on the Mid Kame will have a corresponding line of lights at night, which is likely to be visually striking.

The EIA Report states that radar activated lighting (RAL) is likely to be used to mitigate the effects. Should RAL not be possible, SNH state that the addition of lighting will introduce continuous change into the Shetland landscape for the lifetime of the wind farm. SNH consider that the effect of this change is likely to be significant at the local level but do not consider that the effects of lighting in isolation (over and above the significance of effects previously consented) raise issues of national importance.

The Planning Service notes that radar activated lighting is not currently approved for use in the UK (and does not feature in the CAA Policy Statement, "Lighting of Onshore Wind Turbine Generators in the United Kingdom with a maximum blade tip height at or in excess of 150m Above Ground Level") so should be discounted at this time as having any likely effect to limit the very significant and adverse impact on the landscape character of the application site.

SNH has stated that CAA will be publishing a new policy statement on this early in 2019 and that they have accepted the principle of this technology for use in the UK. We also understand that in advance of the policy statement, the CAA is willing

to discuss this approach on a case by case basis. Notwithstanding, the Council could decide this aspect of the proposal will have sufficiently adverse effects that it would wish to object to the proposed variation outright until, or unless an aviation lighting scheme is agreed with CAA, submitted and approved that negates these effects for the majority of the time.

The Planning Service would recommend that a suspensive planning condition requiring the submission and approval of an aviation lighting landscape and visual impact mitigation plan be attached to any deemed planning permission the Scottish Ministers issue which precludes the commencement of development until such time as there is the technology available which would ensure that RAL is both suitable and effective to provide certainty that there will be no unacceptable adverse effect. The condition should include consideration of:

- Potential reduction of lighting intensity during good meteorological visibility as allowed within the CAA policy statement
- Potential use of radar activated lighting, should this be approved for use in the UK
- Potential for cardinal or strategic lighting of selected turbines and
- A requirement to keep the need for and quantity of lighting under review as technology and policy develops over the lifetime of the development.

The application of such a condition would in the Planning Service's view allow it to be considered that there would be no potential conflict with policy GP2 of the SLDP 2014.

### **Biodiversity Ecology and Ornithology**

The Nature Conservation (Scotland) Act 2004 places a duty on the Council to further the conservation of biodiversity so far as is consistent with the proper exercise of its functions. Wildlife and their habitats are increasingly under threat. It is expected that developers should not just minimise impact on wildlife or even maintain the status quo – the applicants should explore opportunities to provide new benefits for wildlife within their development proposals in order to help reverse the decline in wildlife.

With respect to new development and land use change the guiding principles for the conservation of Shetland's biodiversity are:-

- i) There is no net loss of biodiversity
- ii) All development should actively seek to enhance the biodiversity of the area

- iii) Any adverse effects should be avoided, minimised and/or compensated, and every opportunity should be taken to create improvements for biodiversity

One of the principal ways the applicant intends responding to this is in the implementation of a Habitat Management Plan. Also intended are various mitigations (set out in the schedule of mitigation). In respect of Ecology and Soils & Peat, mitigation measures are described, implying that there are additional implications in these subject areas that are to be mitigated, as compared with the 2012 consent.

This is important as noted above the proposed site “red line” area has changed, being reduced in size from the consented S36 site area excluding areas of land mainly to the north and west which was previously included and which formed part of previous Peat and Habitat Management Plans provided under the previously submitted Environmental Statement (2009) and Environmental Statement Addendum (2010).

It will be important, in terms of monitoring the development and reducing its impacts to the predicted residual effects, that the Environmental Clerk of Works (ECoW) is clear about what is intended and expected in these areas, and that the Shetland Wind Farm Environmental Advisory Group (SWEAG) is also involved in their oversight.

In respect of Ornithology the applicants state that “the proposed varied development will not lead to any additional significant impacts on bird receptors compared to the consented Viking Wind Farm and therefore no mitigation measures additional to those previously proposed are required.”

Chapter 5 of the EIA Report examines the collision risk and disturbance/displacement of the operational stage of the proposed varied wind farm. It has concluded that for all bird species receptors, the categories of significance for both collision and displacement effects that may result from the proposed varied development are the same as those used for the consented Viking Wind Farm.

The report states that for the nationally important breeding whimbrel receptor it is concluded that the in-combination effects of collision (based on the SNH recommended but highly precautionary 98% avoidance rate) and displacement could lead to an effect evaluated as significant for the purposes of the 2017 EIA Regulations. However, after mitigation delivered through the proposed Habitat Management Plan (submitted, but not approved), the combined effect is evaluated to be not significant.

For all the other species examined, the assessment concludes that the in-combination effects of the proposed varied development would lead to effects evaluated as being not significant for the purposes of the 2017 EIA Regulations.

The potential for the proposed varied development to impact on breeding red-throated diver that is a qualifying interest of the newly designated East Coat Mainland, Shetland proposed SPA is examined. It is concluded that there would be no more than negligible effects on this qualifying interest.

The Royal Society of the Protection of Birds (RSPB) Scotland was consulted by the Energy Consents Unit and has raised an objection to this application on the basis that:

- the EIA has been informed by inadequate bird survey work; has been insufficiently precautionary; and has underestimated and not adequately assessed the effects of the proposed varied development.
- insufficient mitigation and offsetting measures have been proposed to address the potentially significant effects of the proposed varied development on several nationally and internationally important bird species (including red-throated diver, whimbrel, golden plover and curlew) and on blanket bog.

Sustainable Shetland have also commented to the ECU that they dispute that the proposed HMP will provide sufficient mitigation on merlin and whimbrel. Again the applicant has provide a response to these comments to the ECU.

SNH advise that the proposed development will impact on the Shetland population of whimbrel in that the predicted effect of the increase in turbine height is displacement of one additional pair of whimbrel and that they do not consider this to be significant. SNH have also noted that, following further work undertaken since 2010 to refine the collision risk assessment, the collision mortality for the enlarged scheme is likely to be less than that on which the current consent was based and that they accept these revised figures. SNH have further stated that they also accept that the collision risk to red-throated diver will be less than originally predicted for the consented scheme as a result of the increased avoidance rate now used in the assessment. The increase in turbine size will result in greater impacts on other bird species but none of these changes are significant at the regional or national level.

SNH, RSPB and Shetland Bird Club all consider the applicants assumptions in relation to bird displacement to be an underestimate, RSPB saying that no basis for these figures is given, and this assumption is not precautionary and is contrary to the evidence presented in studies for some species. For other species there is no research so it argues that the applicants should follow the precautionary principle in establishing avoidance distances. Nevertheless, SNH does not



believe that the additional mortality and displacement as a result of the variation is likely to have a significant additional effect on Shetland golden plover populations.

There would appear to be a conflict of opinion on the predicted impacts of the variation and on how this opinion was reached in terms of the survey work undertaken and mitigation measures proposed. It is recognised that the EIA Report has been prepared by professional experts in relation to ornithological interests, and while the Planning Service would not seek to challenge the conclusions it must be recognised that a differing opinion has been expressed by an equally competent authority on ornithology. As such the Planning Service would suggest the exercise of the “precautionary principle” and recommends that the suggestions from RSPB in its response to the ECU consultation in relation to mitigation, offsetting and planning conditions relative to a new deemed planning permission the Scottish Ministers may grant with a variation of the S36 consent are carefully considered.

The Planning Service is of the view, it should consider both the potential additional impact on Whimbrel discussed in the EIA Report and by consultees. However, in its duty to further the conservation of biodiversity the Council should also consider the overall biodiversity impact of the proposed varied development (i.e. increase in impact on all affected habitats and species caused by the proposal) and consider whether the mitigation measures and implementation of the Habitat Management Plan proposed will meet its obligation to further the conservation of biodiversity. Solely in terms of the variation from the baseline, the Planning Service believes that the Council’s obligation will be met provided all the proposed mitigations achieve their stated purposes and the HMP when approved and implemented fully achieves its stated aims. Having an Auditor ECoW in place and the SWEAG established in good time in advance of the HMP being finalised for approval will be crucial in meeting these aims.

The Planning Service also notes that in the original decision the Scottish Ministers decided that the impact on the whimbrel population would be a significant impact in terms of national significance and considered that the potential beneficial effects of the then proposed HMP could reasonably be expected to provide some counterbalancing positive effects. This was based on the HMP which was proposed for 127 turbines, including the Delting Parish area. The revised “red line” for the proposed variation does not include the whole area which was proposed to have been the subject of the HMP and on which basis the Scottish Ministers decided that the impacts of the development were outweighed by the benefits. It is considered important that any HMP that is approved should at the very least provide for the equivalent of the counterbalancing of positive effects which the Scottish Ministers expected in all the areas which would have benefited under the original consent.

The Planning Service also shares the concerns of the RSPB that a revised Habit

Management Plan from that which has already been submitted should be submitted, and the Planning Service also recommends that a Bird Protection Plan (BPP) that includes all activities and best practice to protect all birds on site at a level appropriate to their status or degree of protection, going into greater detail on specially protected species, be made a requirement of a condition of any new deemed planning permission. This would be the framework that would then be supplemented by annual, site specific, supplements that relate to working areas for the coming breeding season. These plans should ensure that appropriate and sufficient long-term habitat management is secured to offset the impacts of the development on blanket bog and birds including red-throated diver, whimbrel, golden plover and curlew. Should this not be the case the Planning Service would be unable to be confident that the proposal complied with Policies NH2 and NH3 of the SLDP 2014.

SEPA have responded to the ECU and in their response note that the EIA Report re-iterates the conclusion of the ES for the consented Viking Wind Farm “all activities with potential to affect hydrology, hydrogeology, geology, soils and peat would be appropriately managed and there would be no significant effects.” (EIA Report, Non-Technical Summary). Given the scale and nature of this development, and its site-specific circumstances, SEPA do not agree with this conclusion. Realistically, significant impacts are inevitable, and it is therefore crucial it says that measures to minimise and offset such impacts are implemented.

SEPA have further noted that a number of the documents submitted within the EIA Report do not relate to the same information and are not aligned. For the purposes of clarifying issues raised in its response, and to ensure areas not covered under its remit are also aligned properly, SEPA have requested all documents are fully reviewed, revised and cross referenced before they are submitted to purify any conditions of consents the Scottish Ministers grant.

SEPA have asked that in order for the development to follow up-to-date best practice, that the modifications and new planning conditions as detailed in an attached Appendix which they supplied, be attached to any consent. SEPA further stated that if any of these modifications and new planning conditions are not be applied, then their representation should be treated as an objection.

The Planning Service recommends that this approach from SEPA is a reasonable one and will satisfy the requirements of Policy NH3 designed to protect the natural environment. The Planning Service is aware that the applicant has agreed in principle with the comments from SEPA.

The Planning Service is generally content with the assessment of the effects on habitat as set out and does not see that the proposed varied development would lead to a different conclusion over and above that previously assessed in terms of the consented proposal. A Site Environmental Management Plan (SEMP) is

proposed and it recommends that the commitment from the applicant to pre-construction protected species surveys is secured by appropriate conditions.

### **Noise**

A noise assessment has been undertaken and submitted as part of the EIA Report in order to determine the likely significant effects from the operational phase of the proposed varied development. Environmental Health were consulted and having examined the noise assessment have raised no objections.

### **Socioeconomics**

The EIA Report has identified that the both the consented Viking Wind Farm and the proposed varied development would support a locally significant number of job years during construction and operation within the context of the Shetland labour market. The proposed varied development, as a result of the increased investment value and the increased renewable energy generation capacity, would lead to enhanced socio-economic benefits when compared with the consented development.

In terms of operational effects, the EIA Report concludes that benefits associated with operational expenditure are assessed as negligible to minor and not significant for both the consented Viking Wind Farm and the proposed varied development.

With regard to tourism effects, the Report has stated that there are not considered to be any sensitive tourism receptors that have the potential to be adversely affected by the proposed varied development, due to its location away from key tourist sites in Shetland.

Visit Scotland have responded to the ECU and have highlighted that scenery and the natural environment are the two most important factors in visitors choosing Shetland as a holiday location. They have recommended that an independent tourism assessment should be carried out which should be geographically sensitive and should consider the potential impact on any tourism offerings in the vicinity.

The Economic Development Service of the Council has made comment on the proposed variation. They have stated that they uphold their opinion made previously on the original section 36 application that the Viking Wind Farm project and related interconnector are of paramount economic importance to Shetland, the project will provide substantial intergenerational economic & social benefits. This proposed variation they state enhances the project in terms of its ability to compete as a clean energy technology and improve the efficiency of the Viking Wind Farm in harnessing Shetland's abundant wind resource.

Scottish Planning Policy (SPP) as noted above supports sustainable economic growth and has a presumption in favour of development that contributes to sustainable development aiming to achieve the right development in the right place supporting the transformational change to a low carbon economy.

### Other Issues

#### Air Defence Radar Saxa Vord

The ECU consulted the Ministry of Defence (MOD) on the proposed changes and they have registered an objection as the turbines will be 61.8 km from, be detectable by, and will cause unacceptable interference to the AD radar at RRH Saxa Vord.

The MOD response states that wind turbines have been shown to have detrimental effects on the operation of radar. These include the desensitisation of radar in the vicinity of the turbines, and the creation of "false" aircraft returns. The probability of the radar detecting aircraft flying over or in the vicinity of the turbines would be reduced, hence turbine proliferation within a specific locality can result in unacceptable degradation of the radar's operational integrity. This would reduce the RAF's ability to detect and deter aircraft in United Kingdom sovereign airspace, thereby preventing it from effectively performing its primary function of Air Defence of the United Kingdom.

The MOD has stated that research into technical mitigation solutions is currently ongoing and has advised that the developer may wish to consider investigating suitable mitigation solutions. If the developer is able to overcome the issues stated above, the MOD response states they will request that all turbines be fitted with aviation safety lighting in accordance with the Civil Aviation Authority, Air Navigation Order.

The applicant has indicated that they have been in discussions with the MOD. The Planning Service advises that it would be appropriate that a planning condition be attached to a deemed planning permission to ensure that the suitable mitigation measures such as are required by the MOD are fully complied with prior to the erection of any turbines, in order to comply with Policy GP2 of the SLDP 2014.

#### Archaeology

The Regional Archaeologist was consulted and has raised no objections provided that the planning conditions attached to the 2012 deemed planning permission (Conditions 33 to 41) are not changed to ensure that there is no conflict with Policy HE4 of the SLDP 2014.

#### Roads Traffic

The Roads Service have noted some concerns with regard to a proposed road route for construction and equipment access. The Planning Service recommends that a planning condition is applied to secure a suitable access strategy for the construction and operation of the proposed windfarm to ensure compliance with Policy TRANS 3 of the SLDP 2014.

#### Marine Planning

Marine Planning notes that no changes to the number and location of the turbines as currently consented is proposed. The proposed modified turbine specifications are unlikely to significantly alter the level of impacts arising from the development on the marine environment they state.

#### Flooding Drainage Coastal

The Planning Service notes that previously a site-specific Environmental Management Plan (SEMP) was required to be submitted under the 2012 deemed planning permission: to be submitted to and approved in writing by the Planning Authority following consultation with SNH and SEPA at least 3 months prior to Commencement of Construction Works. The SEMP was to include a Drainage Management Plan, including details on permanent and temporary drainage and silt pollution mitigation measures

The EIA Description of Development states that all surface water runoff from the proposed development would be captured by a SuDS to control the rate, volume and quality of discharge in to the water environment. The drainage approach outlined in the submitted documents is considered acceptable, but the Planning Service would draw attention to the amount of further detailed design, calculations and construction details required to demonstrate how this will be achieved in practice, and all to be approved 3 months before the start of work on site, which will mean the developer making submissions at least 5 months in advance of a proposed start date having done this further detailed work. An appropriate plan is essential to ensure compliance with Policies WD2 and WD3 of the SLDP 2014.

#### Outdoor Access

The Outdoor Access Officer was consulted and has commented that in order to establish the effect of the windfarm and its proposed increased height on the areas and levels of informal use, which could be for a wide range of activities permissible under the Land Reform Act 2003, an Access Route Plan demonstrating how access will be incorporated and accounted for must be prepared and should include:

- A map detailing the existing paths and desire lines on or adjacent to the

site.

- A map detailing the Core Paths, Access Routes and Public Rights of Way on or adjacent to the site.
- Where applicable, a map detailing the links to schools, leisure and community
- Services (including open space), public transport, and points of interest.
- A report on the consultation undertaken with local communities and relevant recreational user groups (e.g. walking, cycling, equine, water sport, nature study) with respect to informal and formal access use. The report must include details of the groups consulted, the range of views expressed and how the development may have changed as a result.
- Details of any new routes and proposed changes, including:
  - A map detailing the diversions and management of access required during and after construction
  - Path construction specifications
  - Structures, fitting and signage specifications
  - Project and delivery plan for path works
- Future path maintenance plan, including an outline of:
  - Who will be responsible for funding path maintenance
  - Who will maintain the paths and over what timescale
  - The path maintenance schedule (monitoring, vegetation control, furniture replacement)

SNH's have produced a Brief Guide to preparing an Outdoor Access Plan.

It is the Outdoor Access Officer's hope that any windfarm access tracks would be incorporated into the access plan to be developed as routes for recreation along with other connecting routes to make a useable recreational network along with other supporting information and infrastructure.

### **Conclusion**

The additional carbon emission savings, energy generation and economic benefits are all important considerations when informing the Council's response to this consent variation application consultation by the ECU.

This has to be balanced against the impacts upon landscape and visual impacts, and the natural heritage impacts which the increased height and rotor diameter for the turbines being proposed may cause, and which has been discussed above.

The previous decision of the Scottish Ministers was that the economic benefits provided by the wind farm outweighed the impact on the environment. The Ministers caveat this by adding that the benefits of the proposed Habitat Management Plan would help mitigate the impacts.

The EIA Report has concluded that the revision will not result in any further harm over and above that previously assessed with the 2009 EIA and subsequent 2010 Addendum.

A number of consultation responses and representations have raised concerns and objections to the proposed variation. Conditions which are capable of resolving or mitigating these concerns have been recommended to be applied that would allow the Planning Service to recommend that there are no conflicts with the SLDP 2014.

The Planning Service has not reconsidered the principle of the development, and is minded that this development proposal, like its predecessor will result in an impact on Shetland in terms of landscape and habitat interests. There is also an economic benefit that will accrue together with a major advance in terms of contributing to a reduction in CO<sub>2</sub>. On balance it is considered that the economic and environmental benefits of carbon reduction outweigh the impact on the landscape and habitat interests tempered with the knowledge that well designed mitigation measures will go some way reduce any negative impacts.

What is considered to be important to the delivery of a development which will contribute to the provision of a sustainable energy source and contribute to the aim to reduce carbon impact is a well managed project. This leads to the conclusion that a thorough and well considered revised Habitat Management Plan linked to the other mitigation measures such as a Peat Management Plan, Bird Protection Plan, Otter Survey etc. required by conditions which are appropriate and enforceable to be approved by the Planning Authority are applied. The revised HMP should take into account all the potential beneficial effects and measures that were proposed for all of the land areas in the original decision and which was instrumental in influencing the Scottish Ministers decision, to at the very least provide for the equivalent of the counterbalancing of positive effects in the revised smaller “red line” area for the proposed variation.

This being the case the Planning Service recommends that the Council ‘Offer no objections’, subject to modifications and/or the imposition of appropriate conditions or legal obligations that are considered necessary to make the development acceptable, in compliance with Shetland Local Development Plan (2014) policy.

## **8. Recommendation**

1. That the Shetland Islands Council as Planning Authority 'Offer no objections' to the application, subject to modifications and/or the imposition of appropriate conditions or legal obligations as are considered necessary to make the development acceptable, in compliance with Shetland Local Development Plan (2014) policy;
2. Delegate authority to the Executive Manager – Planning and his nominated officer(s) to take part in and act on behalf of the Council in any discussions and negotiations involving the Energy Consents Unit and the applicant that take place with regards to planning conditions as might be presented to the Scottish Ministers for consideration.

**Reasons for Council's decision:**

The Planning Service has not reconsidered the principle of the development and is minded that this development proposal, like its predecessor will result in an impact on Shetland in terms of landscape and habitat interests. There is also an economic benefit that will accrue together with a major advance in terms of contributing to a reduction in CO2. On balance it is considered that the economic and environmental benefits of carbon reduction outweigh the impact on the landscape and habitat interests tempered with the knowledge that well designed mitigation measures will go some way reduce any negative impacts.

**11. Further Notifications Required**

Decision to be notified to the Energy Consents Unit.

**12. Background Information Considered**

Previous Scottish Ministers approvals for the Viking Wind Farm.

2018/335/ECUCON\_Delegated\_Report\_of\_Handling.doc

Officer: Richard MacNeill

Date: 5 February 2019





Shetland Islands Council  
 Development Management  
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 For the attention of John Holden

Viking Energy Wind Farm LLP  
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Tel: [REDACTED]  
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Date: 15.11.2018

Dear John,

## **VIKING WIND FARM**

### **THE ELECTRICITY GENERATING STATIONS (APPLICATIONS FOR VARIATION OF CONSENT)(SCOTLAND) REGULATIONS 2013 APPLICATION FOR VARIATION UNDER SECTION 36C OF THE ELECTRICITY ACT 1989 AND DIRECTION FOR DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 OF THE SECTION 36 CONSENT TO CONSTRUCT AND OPERATE VIKING WIND FARM, IN THE SHETLAND ISLANDS COUNCIL PLANNING AUTHORITY AREA**

Viking Energy Wind Farm LLP ("the Applicant") has applied for a variation under Section 36C of the Electricity Act 1989 and the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 to the Description of the Development provided in Annex 1 of the Section 36 Consent for the proposed 103 turbine Viking Wind Farm, on Central Mainland, Shetland, together with a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997. In addition to seeking a variation to the Annex 1 Description of Development, the Applicant seeks variations to certain of the conditions contained in Annex 2 of the Section 36 Consent to reflect the changes to the description of the turbine specification, and to update the conditions.

I hereby serve a copy of the variation application on Shetland Islands Council.

We have provided two copies of the Environmental Impact Assessment Report (one wirebound copy for public deposit and one ringbound copy for your assessment purposes). Additional copies will be available for public inspection at the Viking Energy Partnership office (at the Gutters Hut) and in Shetland Library, Lerwick.

The Applicant has requested that the Scottish Ministers grant the variation application and makes the proposed variations to the relevant section 36 consent and makes a new direction under section 57(2) of the 1997 Act granting deemed planning permission for the proposed varied development subject to planning conditions.

I understand that the Energy Consents Unit will communicate with you separately to invite your consultation response to the above application.

Should you have any queries, please do not hesitate to contact me.

Yours sincerely

A black rectangular box redacting the signature of Jamie Watt.

Jamie Watt  
Consents Manager

cc.  
Energy Consents Unit, Scottish Government

Enc.  
Appendix 1: Copy of Variation Application

## **APPENIDIX 1: VARIATION APPLICATION**

The Scottish Government  
5 Atlantic Quay  
150 Broomielaw  
Glasgow  
G2 8LU  
For the attention of Debbie  
Flaherty

Viking Energy Wind Farm LLP  
The Gutters' Hut  
North Ness Business Park  
Lerwick  
Shetland  
ZE1 0LZ

Tel: [REDACTED]  
Email: [REDACTED]

Date: 14.11.2018

Dear Debbie,

## VIKING WIND FARM

### THE ELECTRICITY GENERATING STATIONS (APPLICATIONS FOR VARIATION OF CONSENT)(SCOTLAND) REGULATIONS 2013 APPLICATION FOR VARIATION UNDER SECTION 36C OF THE ELECTRICITY ACT 1989 AND DIRECTION FOR DEEMED PLANNING PERMISSION UNDER SECTION 57(2) OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 OF THE SECTION 36 CONSENT TO CONSTRUCT AND OPERATE VIKING WIND FARM, IN THE SHETLAND ISLANDS COUNCIL PLANNING AUTHORITY AREA

Viking Energy Wind Farm LLP ("the Applicant") seeks a variation under Section 36C of the Electricity Act 1989 and the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 to the Description of the Development provided in Annex 1 of the Section 36 Consent for the proposed 103 turbine Viking Wind Farm, on Central Mainland, Shetland, together with a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997. In addition to seeking a variation to the Annex 1 Description of Development, the Applicant seeks variations to certain of the conditions contained in Annex 2 of the Section 36 Consent to reflect the changes to the description of the turbine specification, and to update the conditions. This application under Section 36C is hereinafter referred to as the "variation application".

The proposed changes in the specification of the turbines currently stated within the Description of Development in the Section 36 Consent are: an increase in the maximum tip height from 145m to 155m; and, an increase in the rotor diameter from 110m to 120m. These proposed variations to the Description of Development for the consented Viking Wind Farm (to authorise the changes in the technical specification of the turbines) would provide the description for the "proposed varied development". It is important to note that there are no changes proposed to the site layout and footprint of the consented Viking Wind Farm. A draft of the proposed variations to the Section 36 consent is provided in Appendix 1 to this variation application, shown as tracked changes to the Description of Development and Conditions 2 and 7 attached to the relevant section 36 consent that have been identified as requiring variation.

The location of the proposed varied development on Central Mainland Shetland is identified in the enclosed Figure 1.1 (site location) and Figure 1.2 (site layout), which illustrates that there is no change to the footprint of the proposed varied development when compared to the consented Viking Wind Farm. The turbine dimensions are shown on Figure 2.1. These figures are produced within Appendix 4 to this variation application.

A copy of the variation application will be served on the Shetland Islands Council in accordance with Regulation 4(2)(b) of the Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013, as amended, (“the 2013 Regulations”).

The necessary statutory consents for the construction and operation of the Viking Wind Farm were granted in terms of the decision letter issued by the Scottish Ministers dated 4 April 2012. The Scottish Ministers granted consent under Section 36 of the Electricity Act 1989 (“the relevant section 36 consent”), together with a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) granting deemed planning permission, for the proposed 103 turbine Viking Wind Farm. By letter dated 29 March 2017, the Scottish Ministers extended the period for commencement of development by three years thereby permitting commencement of development up to 4 April 2020 unless further extended by the Scottish Ministers under Condition 2 of the relevant section 36 consent. In accordance with the requirement of Regulation 3(1)(d)(iii), copies of the relevant decision letters from the Scottish Ministers are attached within Appendix 2 to this variation application.

In terms of Section 36(4) the Scottish Ministers must have regard to the Applicant’s reasons for seeking a variation to a Section 36 consent. In accordance with Regulation 3(1)(c) the reasons for seeking a variation to the relevant section 36 consent are stated in Chapter 1 of the EIA Report that accompanies this variation application and are summarised below:

- The increase in tip height and rotor diameter would substantially increase the energy production and associated carbon dioxide (CO<sub>2</sub>) emissions reduction from the proposed Viking Wind Farm. Consequently, the proposed varied development would make an even greater valuable contribution to the achievement of the UK and Scottish Government ‘whole system’ targets to decarbonise energy consumption by increasing the zero-carbon energy yield by 19%.
- In granting the relevant section 36 consent, the Scottish Ministers placed considerable weight on the socio-economic benefits that would flow from the proposed Viking Wind Farm, with particular regard to the community benefits to Shetland as a consequence of the shared community ownership through the Shetland Charitable Trust. The financial benefits that would result from the operation of the proposed Viking Wind Farm would be further enhanced through the operation of the proposed varied development.
- The aim of the proposed variations is to increase the energy generation potential and efficiency of the site in order to provide an economically competitive project with which to participate in the forthcoming Contracts for Difference (CfD) auction in 2019. Since the relevant section 36 consent was granted, the subsidy mechanism has changed and competitiveness in the CfD auction is an important driver in the making of the Section 36C application.

The Applicant is also seeking a direction under section 57(2) of the Town and Country Planning (Scotland) Act 1997 (“the 1997 Act”) that planning permission be deemed to be granted in respect of the proposed varied development. It is proposed that the direction under section 57(2) would be subject to planning conditions in respect of which the Applicant seeks changes to certain of the conditions set out in Part 2 of Annex 2 to the relevant section 36 consent. These separate revisions to conditions attached to the deemed planning permission are proposed in order to take account of: (i) the variations to the Description of Development; (ii) updated environmental information contained in the Environmental Impact Assessment Report prepared under the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017, (“the 2017 EIA Regulations”);(iii) revised cross-references to the EIA Report as opposed to references to the ES or ES Addendum; (iv) current and up-to-date practice and guidance relevant to planning conditions; and, (v) consultation responses on the EIA Report. A draft of the proposed section 57(2) *direction is provided in Appendix 3, together with a list of those planning conditions contained in Part 2 of Annex 2 of the relevant section 36 consent that it is proposed should be revised and updated.*

In accordance with regulation 5(5) of the 2017 EIA regulations, by appointing Ramboll to coordinate the EIA Report for the proposed varied development the Applicant has ensured that the EIA Report has been prepared by ‘competent experts’. The 2017 EIA Report has been compiled and approved by professional EIA practitioners at Ramboll, holding relevant undergraduate and post-graduate degrees, full membership of IEMA (MIEMA) and Chartered Environmentalist (CEnv) status with the Society for the Environment. The EIA Report meets the requirements of the Institute of Environmental Management and Assessment (IEMA) EIA Quality Mark scheme. This is a voluntary scheme operated by IEMA that allows organisations to make a commitment to excellence in EIA and to have this commitment independently reviewed on an annual basis. In addition, the Applicant confirms that each of the impact assessment chapters has been prepared by a competent expert, with the chapter providing details of the relevant professional memberships of the authors and any applicable code of practice followed.

The documentation submitted with this application includes:

- EIA Report (comprising five volumes)
- Pre-Application Consultation Report;
- Design and Access Statement;
- Planning Statement; and
- this application letter, together with a draft of the proposed variations to the relevant section 36 consent, along with a draft of the proposed section 57 direction are included with this application.

The application and this EIA Report will be advertised in accordance with The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 and the EIA Regulations, as follows:

- The Edinburgh Gazette (16/11/2018), and;
- The Shetland Times (16/11/2018 and 23/11/2018);
- The Herald, (16/11/2018); and
- The application website.

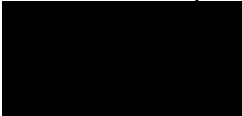
A copy of the agreed advert is enclosed with this letter (in Appendix 5).

The EIA Report and associated documents will be available for viewing at the following locations:

|                           |                            |                  |
|---------------------------|----------------------------|------------------|
| Viking Energy Partnership | Shetland Islands Council   | Shetland Library |
| The Gutters Hut           | 8 North Ness Business Park | Lower Hillhead   |
| North Ness Business Park  | Lerwick                    | Lerwick          |
| Lerwick                   | Shetland                   | Shetland         |
| Shetland                  | ZE1 0LZ                    | ZE1 0EL          |
| ZE1 0LZ                   |                            |                  |

On the basis of the information provided in the supporting documents that are lodged in support of this variation application, and having regard to the additional information provided in this application letter to meet the requirements of Regulation 3 of the 2013 Regulations, the Applicant requests that the Scottish Ministers grants the variation application and makes the proposed variations to the relevant section 36 consent and makes a new direction under section 57(2) of the 1997 Act granting deemed planning permission for the proposed varied development subject to planning conditions.

Yours sincerely



Jamie Watt  
Consents Manager

cc.  
Shetland Islands Council,

Enc.  
Appendix 1: Draft Variations To The Relevant Section 36 Consent;  
Appendix 2: Particulars of the Relevant Section 36 Consent;  
Appendix 3: Draft Proposed Section 57 Direction;  
Appendix 4: Maps to be Referenced in the Relevant Section 36 Consent as so Varied; and  
Appendix 5: Copy of Public Notice/Advert.

## APPENDIX 1: DRAFT VARIATIONS TO THE RELEVANT SECTION 36 CONSENT

### ANNEX 1

#### Description of the Development

The development as indicated on figures ~~A4.1.1. and A4.1.2 1.2.~~ (of the ~~Environmental Statement Addendum~~ Environmental Impact Assessment Report) ~~excluding the Delting Parish turbines D5-7, D9-18 and D23-33~~ and associated ancillary developments inclusive, with a maximum generating capacity of ~~457MW~~ greater than 50 MW, and comprising a wind-powered electricity generating station including:

1. Not more than 103 turbines each with a maximum tip height of ~~145~~ 155 m, rotor diameter of 120 m, and associated crane pads;
2. all site tracks and foundations;
3. 7 permanent anemometry masts (as detailed in ~~ES Addendum table A4.5~~ Table 2.1.1 in Technical Appendix 2.1 with the deletion of masts at Duddin Hill and Hill of Neegarh) for monitoring wind farm (free standing lattice masts up to ~~90~~ 96.5 m tall);
4. substation at Moo Field and associated control buildings and compounds and a central sub-station/control building and workshop adjacent to Scottish Hydro Electric Transmission Ltd's converter station in the Kergord valley;
5. up to 10 borrow pits for the excavation of rock; (as detailed in ~~Figure 1.2-ES addendum table A4.8 with the deletion of pits DBP02 and DBP03~~);
6. temporary turbine component laydown areas;
7. underground power cables;
8. watercourse crossings;
9. temporary construction compound areas providing site offices, welfare facilities and storage for plant and materials and satellite construction compounds; and concrete batching plants; and

all as specified in the Application, the ~~Environmental Statement and the Supplementary Environmental Information Addendum~~ Environmental Impact Assessment Report, ~~(excluding the Delting Parish area turbines D5-7, D9-18 and D23-33 and ancillary developments inclusive)~~, and references in this consent and deemed planning permission to "the Development " will be construed accordingly.

### ANNEX 2

#### Part 1

2. The Commencement of Development will be no later than 5 years from the date of ~~this consent~~ the decision letter of 29<sup>th</sup> March 2017, or such other period as the Scottish Ministers may hereafter direct. If this does not occur by the end of such period, then by no



later than the date occurring 6 months after the end of the period, the site and the ground will be fully reinstated by the Partnership to the specification and satisfaction of the Scottish Ministers following consultation with the Planning Authority.

7. (1) No construction works associated with the Affecting Turbines other than those agreed with the Airport Operator shall commence, and no erection shall commence of the towers and blades of the Affecting Turbines, until- (a) an Aviation Mitigation Scheme has been submitted to, and approved by Scottish Ministers in consultation with the Planning Authority and the Airport Operator;

(b) any necessary technical requirements identified within the approved Aviation Mitigation Scheme as necessary to deliver the appropriate revised Instrument Flight Procedures have been installed and are operational at Scatsta Airport; and

(c) confirmation has been provided by the Airport Operator to Scottish Ministers that the Aviation Mitigation Scheme has been implemented and is operational.

(2) In this condition-

"Affecting Turbines" means the following turbines as identified on figure

~~A4.1.2. (of the Environmental Statement Addendum) 1.2~~ attached to this consent:

K42, K43, K44, K45, K46, K47, K48, K50, K51, K52, K53, K54, K55, K56, K57, K58, K59, K73, K75, K76, K77, K81, K82, K83, K84, N107, N109, N117;

"Aviation Mitigation Scheme" means a scheme agreed between the Partnership and the Airport Operator setting out measures to mitigate the impact of the Development on the safety of flights arriving and departing from Scatsta Airport and which-

(a) identifies and designs the adjustments which are necessary to the Instrument Flight Procedures for Scatsta Airport to maintain the safety of flights arriving and departing at Scatsta Airport (such as the installation of a localiser/distance measuring equipment);

(b) sets out the process which will be undertaken for the adjusted Instrument Flight Procedures to be approved by the Airport Operator and the Civil Aviation Authority; and

(c) sets out the process by which these adjusted Instrument Flight Procedures will be implemented once approved.

"Airport Operator" means Serco Defence, Science and Nuclear who operate the Scatsta Airport or such other airport operator licensed to operate the Airport at the relevant time.

## **APPENDIX 2: PARTICULARS OF THE RELEVANT SECTION 36 CONSENT**

The Applicant encloses the following:

1. Letter (4 April 2012), from Simon Coote, Head of Energy Consents and Deployment Unit, A member of the staff of the Scottish Ministers, addressed to Andrew Sloan of The Viking Energy Partnership, granting consent under 36 of the Electricity Act 1989 and providing a direction that planning permission be deemed granted under section 57 (2) of the Town and Country Planning (Scotland) Act 1997 for Viking Wind Farm (103 turbines);
2. Letter (29 March 2017), from Theresa McInnes, A member of staff of the Scottish Ministers, addressed to Jon Soal of Viking Energy Wind Farm LLP.

T: [REDACTED]  
E: [REDACTED]

Mr Andy Sloan  
The Viking Energy Partnership  
The Gutters' Hut  
North Ness Business Park  
Lerwick  
Shetland  
ZE1 0LZ

---

4 April 2012

Dear Mr Sloan,

**APPLICATION FOR CONSENT AND DEEMED PLANNING PERMISSION FOR  
THE CONSTRUCTION AND OPERATION OF THE VIKING WIND FARM, IN  
CENTRAL MAINLAND, SHETLAND.**

**Application**

I refer to the Application made by The Viking Energy Partnership ("The Partnership") dated 19 May 2009, as read with the addendum to the application dated 30 September 2010 (from here on together referred to as "the Application") for:

- (i) consent under section 36 of the Electricity Act 1989 ("The Electricity Act") for construction and operation of the Viking Wind Farm on central Shetland, with a generation capacity of up to 457MW.
- (ii) a direction under section 57 (2) of the Town and Country Planning (Scotland) Act 1997 ("the planning act") that planning permission be deemed to be granted in respect of that generating station and any ancillary Developments.

**Consultation**

In accordance with statutory requirements, advertisements of the Application had to be placed in the local and national press. Ministers note that these requirements have been met. Under Schedule 8 of the Electricity Act, the relevant planning authority is required to be notified in respect of a section 36 consent Application. Notifications were sent to Shetland Council as the Planning Authority, as well as to

Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA)

Shetland Council (a statutory consultee and the relevant “Planning Authority”) did not object to the proposal, subject to a detailed scheme of conditions being put in place prior to Commencement of the Development, therefore a Public Local Inquiry (PLI) is not a requirement.

The Scottish Ministers have considered fully and carefully the Application and accompanying documents and all relevant responses from consultees and third party representations received.

### **Statutory Consultees**

**Shetland Islands Council (a statutory consultee and the Relevant Planning Authority)** was supportive of the application and re-affirmed its support for the development on the basis that it has taken into account the views of the community, the socio economic issues, as well as environmental impact. The Planning Authority asserts that the benefit to the Shetland economy and community outweighs any negative impacts and that the project may produce. The Planning Authority have supplied a list of conditions they would like to see attached to any consent. These have been incorporated as appropriate into the list of conditions at Annex 2 of this Consent.

**Scottish Natural Heritage (SNH)** (a statutory consultee) provided interim advice on the landscape and visual impact assessment in the Environmental Statement stating it was inadequate, and requested a revised LVIA be provided. In respect of the ornithological interests, SNH objected due to the impact on red throated divers, merlin, golden plover, dunlin, whimbrel, arctic skua, lapwing, curlew and great skua, stating the conservation status of these species would likely be adversely affected over the long term at a regional level, and with red throated divers and whimbrel also likely to be affected at a national scale. SNH objected to the proposals subject to conditions which overcome concerns in respect of Sandwater SSSI Vaxter Voe & Valayre SSSI, and impacts on peat, habitats, soil and water and recommended conditions be attached to any consent to deal with these issues.

The adjustments made to the application through the addendum allowed SNH to remove their objections on all grounds but for the issues of impact on whimbrel and landscape and visual amenity. They advised that adverse impacts would still result from the proposals on some of the other species mentioned, but that the HMP should mitigate those impacts.

Regarding landscape and visual issues, following the further assessment provided in the Addendum, SNH advised that revised proposals still did not adequately address their concerns in relation to landscape and visual impacts, highlighting their view that the 127 turbine proposal still significantly exceeds landscape capacity, and the major impacts on visual amenity have not been sufficiently reduced.

When considering the option of a partial consent, i.e. a consent for the proposed development without the 24 Delting Parish group of turbines, the resultant reduced

landscape and visual impacts and reduced impact on whimbrel were not significant to a degree which would allow SNH's position to change.

**Scottish Environment Protection Agency (SEPA)** The hydrological impacts of the development were assessed by SEPA and they initially objected to some aspects of the development unless conditions were applied. With other objections they outlined how the Partnership could address these issues by submitting further information in relation to the impact of sedimentation, management of waste including waste peat and proposals for decommissioning and aftercare.

SEPA welcomed the Partnership's supplementary environmental information and the fact that a number of modifications have been made to the development to reduce its overall environmental impact. They especially welcome the removal of turbines and access tracks from the Collafirth Quadrant, an area of blanket bog, as a result of the changes made in the addendum. SEPA considered that even if best practice is followed and mitigation employed, the proposal for a windfarm development of this scale in this peatland location is likely to have a negative impact on the environment, but stated the amendments proposed in the SEI addendum, accompanied by careful micro-siting and the inclusion of conditions will ensure the best possible practices are implemented and will help to reduce this impact. Therefore SEPA **do not object** subject to conditions being imposed in relation to modifications to tracks, micro-siting buffer zones, pollution prevention and waste management, water ecology, habitat management, borrow pits, site re-instatement and restoration and decommissioning.

SEPA confirmed their view that the removal of the Delting Parish section of turbines from this proposal would not result in any additional environmental impacts.

SEPA confirmed that under the "Water Environment (Controlled Activities)(Scotland) regulations 2005 (as amended)" (CAR), they would expect the proposal to fall into Category 1 – "capable" of being authorised, although final details, such as abstraction rates, would have to be determined as part of the application process. SEPA confirm that they have not received any CAR applications from the Partnership.

### **Non Statutory consultees**

The **Civil Aviation Authority (CAA)** advised that there is a potential for a number of turbines to impact upon Scatsta Airports instrument flight procedures. Given that aerodrome safeguarding responsibility rests with the aerodrome operator/licensee, it is essential that Scatsta Airport's viewpoint of the development is established.

The **Crown Estate** advised that none of their current interests are affected by the proposal.

**CSS Spectrum Management Services Limited** examined the application in relation to UHF Radio Scanning Telemetry communications used by their client in the region of the site for development. CSS confirmed there is no objection to this wind farm, but requested if there were any alterations to the turbine locations they should be informed.

**Defence Estates** do not anticipate that the proposed wind turbines will affect military air traffic movements in the area. Defence Estates Safeguarding wishes to be consulted and notified of the progression of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

**Forestry Commission Scotland** confirmed there are no areas of trees or woodland implicated in this proposal.

**Halcrow** undertook a Peat Landslide Risk Assessment on behalf of the Scottish Government to technically assess the Peat Stability Report provided by the Partnership. Halcrow concluded that the Peatslide Susceptibility Assessment (PSA) report in respect to the proposed developments of general high standard make appropriate consideration of the approach outlined by the Best Practice Guide. They have suggested a number of recommendations.

**Highland and Islands Airports Limited** confirmed that their calculations show that the given position and height that the development will have no effect upon operations at Sumburgh Airport.

**Historic Scotland** objected to the scheme as it was originally submitted as it considered the impact on 24 scheduled monuments unacceptable, in terms of national policy for the protection of the historic environment. The Partnership's further Supplementary Environmental Information (SEI) submitted in October 2010 contained changes in the design layout of the windfarm with the removal of 23 turbines. Turbines D1, D2 and D3 which were of concern were included in this removal and went some way to reducing the impact of the development on a number of monuments. Historic Scotland withdrew their objection but suggested that in the case of Graven and Hill of Dale chambered cairns the impact on the setting of these assets would be significantly improved by the removal of turbines D9, D10, D11 and D13 and suggested the deletion of these turbines be part of any condition of consent if granted.

**Health and Safety Executive** principal concerns are the health and safety of people affected by work activities. HSE has no comments on this environmental statement.

**Joint Radio Company** does not for see any potential problems based on the data provided, but they advise the Partnership to seek re-coordination prior to submitting a planning application.

**Lerwick Port Authority** strongly supports the development and hopes that any connection to the national grid that would be realised by the Viking Energy Project will secure electricity supplies to the islands in future years. The job opportunities and financial return to the islands projected by the Viking project is significant in terms of the income in circulation in the local economy.

**Marine Scotland** said the initial report regarding fishery issues was well written covering base line and future monitoring programmes and mitigation. They did raise specific points in relation to surveys carried out in particular raising issues regarding the location of some of the proposed borrow pits and their proximity to streams and potential peat slide areas and suggested borrow pit locations should be

reconsidered. The subsequent Supplementary Environmental Statement submitted by the Partnership reducing the size of this development, eased some concerns regarding the proximity of the borrow pits to watercourses and the absence of macroinvertebrate sampling in the deleted Collafirth quadrant. Other concerns raised in relation to microsites, hydrochemistry sampling, microinvertebrate and fish monitoring programmes and the borrow pit at the Burn of Valayre in Delting quadrant, were addressed by the Partnership and agreed these could be covered by conditions. Marine Scotland wish to review the fish and hydrochemistry survey/monitoring programmes to which Viking Energy has agreed to do prior to start of construction.

**Mountaineering Council of Scotland (MCofS)** have concerns regarding the access tracks crossing deep peat and the Partnership's proposed "floating tracks" being a satisfactorily proven method to preserve the peat quality. They are also concerned the anticipated construction period of 5 years having an impact on the enjoyment of the central area of Shetland, and the "Key views" referred to in the application did not include any of the popular off-road viewpoints where people enjoy quiet recreation. The MCofS have concerns regarding the impact on breeding birds such as Merlin, Whimbrel, and Red-throated Divers but defer to experts' opinions of the RSPB on these matters.

MCofS acknowledge the addendum and the reduction in turbines, access track length and width, but they challenge the validity of the claim that "few if any negative socio-economic effects during the operational period". They state the huge landscape and visual impacts will be likely to have a significant effect on tourism income.

**NATS (En Route) Plc (NERL)** has no safeguarding objection to the proposal. However, this response only reflects the position of NERL (that is responsible for the management of en route air traffic) based on the information supplied at the time of the application. If any changes are proposed then NERL requires that it be further consulted.

**OFCOM** have found that within the assessed fixed link frequency bands fixed microwave link ends are within or have paths that cross 500 m radius coordination area for the stated turbine locations, and the fixed links operators identified by OFCOM should be contacted directly if further information is required.

**RSPB** state that although the site is not designated for its bird interest, the site is of very high conservation value due to its important populations of wide range of breeding species including whooper swan, red-throated diver, merlin, lapwing, golden plover, dunlin, whimbrel, Arctic Skua, Arctic tern and skylark. RSPB having considered the initial application and addendum reducing the turbine number to 127, which involved some effort to reduce losses of birds, request further turbine removal to reduce the predicted adverse effects of the proposed development. RSPB remain concerned about the way excavated peat would be reused as it may cause unnecessary release of carbon and additional damage to blanket bog, and the method by which carbon payback is calculated. RSPB upheld their initial objection concluding that insufficient changes have been made to the proposed development to allow them to withdraw their objection. Their reasons for objecting are that the

development would cause unacceptable damage to regional and in some cases UK populations of a number of birds species, the development would cause unacceptable damage to active blanket bog, the carbon balance remains uncertain and may be insufficient to outweigh other significant, adverse environmental effects of the development and the development would be contrary to the development plan and national planning policy.

**Seafood Shetland** is a trade body, representing the interests of Shetland's fish processors and shellfish growers. They note that a peat slide risk assessment has been carried out using both a qualitative risk assessment method and slope stability calculations, and the view that the likelihood of a peatslide occurring as a consequence of the wind farm construction is unlikely. However, they wish to emphasise that the issue of peat slippage remains a serious concern for members of Seafood Shetland, bearing in mind our seafood industry's dependence on maintaining Shetland's pristine waters for its economic wellbeing.

### **Serco Aviation Defence & Nuclear ( Scatsta Aiport)**

Serco Defence Science & Nuclear, the licensee's representative for Scatsta Airport objected to the original application of 150 turbines based on grounds of safety to aircraft and operational procedures of the airfield and the lack of any detailed mitigation available at that time. In October 2010 the Partnership revised the scheme deleting and moving turbines for variety of reasons including possible impacts on birds, cultural heritage and aviation .With the deletion of 23 turbines including all from the Collafirth "quadrant" and mitigations detailed within the Addendum, this satisfied some areas of concern but the Airport operator SERCO confirmed further mitigation would need to be sought before they would be in a position to remove their initial objection.

Discussions between Scatsta Airport and the Partnership ensued with a view to resolving the Airport's objection. SERCO 's initial conclusions of the technical analysis they undertook to facilitate these discussions identified that the 24 turbines in the Delting parish area would need to be removed as there was no prospect of a mitigation solution, but that they were optimistic acceptable mitigations can be identified to allow the remaining turbines to be developed and operate.

**Scottish Water** indicate that they have water assets in the area that may be affected by the proposed development, therefore it is essential these assets are protected from the risk of contamination and damage and provided a list of precautions to be taken into account including a detailed method statement and risk assessment to be submitted to Scottish Water.

**Scottish Wildlife Trust** originally objected to the application stating they did not believe that mitigation/offsetting/ enhancement measures as described in the Environmental Statement (ES) would produce net benefit in respect of blanket bog which covers the majority of the wind farm site. They were concerned the development footprint would be located in areas of deep peat and that the ES did not satisfactory explained how the surplus peat is dealt with/disposed of to avoid effects on the surrounding blanket bog vegetation and watercourses. They also believed the peat slide risk assessment and mitigation did not go far enough to diminish the



risk of further peat slides. They agreed the further Supplementary Information addendum submitted by the Partnership addressed some of the issues, but they still have serious concerns regarding the impact of the development footprint, the Habitat Management Plan and the carbon payback calculations and recommend that a working group oversees the peatland restoration from construction to decommissioning of the wind farm.

**Shetland Amenity Trust** is an environmental body whose aims are to safeguard and promote Shetland's natural and cultural heritage. The Trust fully considered the Environmental Statement in connection with the Trust's objectives and remit and objected to the Viking Energy application. Some grounds of objection are the impact on Shetland's landscape and peatland/blanket bog, cultural heritage, natural heritage in relation to impact on birds and predicted carbon payback figures. After considering the revised 127 turbine scheme and Supplementary Environmental Information, the Trust welcomed the removal of some turbines but still considered that the development is out of scale with Shetland's landscape, and the impacts on natural and cultural heritage remain unacceptable. They agreed that some aspects of the Habitat Management Plan would bring genuine benefits to Shetland's natural heritage, but still had issues with some of the measures within the Habitat Management Plan and that there has been no rigorous scientific assessment of the Carbon balance of the proposed development.

**Shetland Bird Club** objects to this development and wishes issues relating to Carbon Balance, direct loss and degradation of habitat and deaths, displacement and disturbance of birds through all phases of the project to be considered as part of their objections.

**Sandsting & Aithsting Community Council** provided their main points for and against the Viking development and as their main responsibility of Community Council work is to work for the best interests of their Community they actively sought the views of the people of their area. In their assessment the Community is split on whether the project should be supported. As a Community Council they found it impossible to come up with a definite yes or no to the project.

**Transport Scotland** advised that the proposed development will cause no environmental impact on the trunk road network.

**Tingwall, Whiteness and Weisdale Community Council** objected to the proposal on the grounds the visual effect on the landscape would be enormous and overwhelming, flora and fauna would be adversely affected by turbines and roads, watercourses would be affected by both turbines and roads foundations, quarries will be opened and spoil disposed of creating additional visual impact and adverse effects on water courses, flora and fauna and the effect of shadow flicker.

**Shetland Anglers Society and Promote Shetland** did not respond to the consultation.

**Sustainable Shetland** objected to the proposal concluding that the objection by the Shetland Amenity Trust and the John Muir trust are fully supported by the Sustainable Shetland group and in terms of visual and landscape impacts, the ES

methodology is flawed and the assessment of visual impact and cumulative impact cannot be relied upon. They claim the Environmental Statement also contradicts the recommendations of the Council's recent landscape capacity study and the proposed development is premature pending the preparation of up to date policy guidance. They also claim the proposed development is contrary to the development plan and therefore there should be a presumption of refusal of consent and deemed planning permission and that there are no material considerations that would change this conclusion. They state Council Members, and therefore the Planning Authority itself, have a profound and irreconcilable conflict of interest in relation to the proposed development. Sustainable Shetland request that Ministers either reject this proposal now or immediately refer the proposal to a Public local Inquiry.

**Yell Community Council** strongly support the Viking wind farm project and believe the Planning Authority's decision was the correct decision for the sustainable future of the island communities. The Community Council wish the project to be allowed to start as soon as possible for the benefit of Shetland and are concerned a public inquiry would make no difference to the democratic decision already made by the Planning Authority.

**The John Muir Trust** maintained their objection having acknowledged a reduction in the number of turbines, tracks and borrow pits from the original application. They maintained their objection on the grounds that the project is an inappropriate size and scale, level of visual and landscape impact, negative impact on local tourism, impacts on wild land character and concerns regarding the impact and effect of peatland management and revised carbon payback figures.

**Public Representations:** A total of 3881 public representation were received of these 2772 were objections and 1109 were in support of the development. The objections raised concerns on a number of subjects including habitat, wildlife, visual impact and infrastructure.

## **Planning**

The legislation requires that the Commencement of the Development should begin within a 3 year time scale. Scottish Government policy, however, is that due to the constraints, scale and complexity of constructing Wind Power Developments above 50MW, that a 5 year time scale for the Commencement of the Development is granted. A direction by Scottish Ministers under section 58 of the Town and Country Planning (Scotland) Act 1997 has therefore been made as part of the determination for this consent.

## **Environmental matters**

An Environmental Statement has been produced in accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 ("the 2000 Regulations").

The 2000 Regulations prohibit the Scottish Ministers from granting consent unless they have taken into consideration the environmental information, as defined in those regulations and unless the applicable procedures regarding publicity and consultation laid down in those regulations have been followed.

Schedule 9 of the Act places a duty on the Partnership to have regard to the desirability of preserving the natural beauty of the countryside, of conserving flora, fauna, and geological and physiological features of special interest and of protecting sites, buildings and objects of architectural, historic, or archaeological interest. It requires the Partnership to do what it reasonably can to mitigate the effects that the Development would have on these features. Schedule 9 also requires that Scottish Ministers have regard to these features and the extent to which the Company has complied with this duty.

The Scottish Ministers are satisfied that the Partnership has had due regard to these features and have complied with the duty in Schedule 9. The Scottish Ministers have also considered the environmental information carefully; in addition to the Environmental Statement and its addendum they have considered the submissions prepared by the Planning Authority, those designated as statutory consultees in terms of Regulation 6 of the Electricity (Applications for Consent) Regulations 1990 and those of the consultative bodies in terms of the 2000 Regulations. They have also considered representations made by other persons about the likely environmental effects of the proposed Development.

### **The Scottish Ministers Considerations**

The Scottish Ministers have considered fully and carefully the Application and accompanying documents and all relevant responses from consultees and third party representations received. Ministers have taken into consideration the environmental information provided and their obligations under EU environmental legislation, and have had careful regard to the potential for impact on the environment, in particular on species of wild birds.

Scottish Ministers are mindful of the apparently insurmountable aviation issues associated with the 24 turbines of the Delting Parish area, and consider that it would not be appropriate to grant consent for a development which included these 24 turbines. However, Ministers are of the view that there remains the option of granting consent for the rest of the development, i.e. a consent for the remaining 103 turbines of the Application which are not the subject of an objection from Scatsta Airport. After consideration of this option, and having requested the views of consultees, Ministers are of the view that a reduced development of this specification is still covered by the environmental information considered with the Application, and that the reduction of the development would not result in any new or unconsidered issues and in particular would not give rise to any environmental impacts other than those already identified.

The reduced, 103 turbine Development in central Shetland, will provide sufficient power for at least 175,112 homes, and probably considerably more, given that the load factor is expected to be much higher on Shetland than mainland Scotland, upwards of 40%. This increase in the amount of renewable energy produced in Scotland is entirely consistent with the Scottish Government's policy on the

promotion of renewable energy and its target to meet 100% of demand for Scotland's electricity from renewable sources by 2020.

The development represents an excellent opportunity to help meet European Climate Change objectives, through the development of renewable energy and associated reduction in carbon emissions. The total annual CO<sub>2</sub> saving from the windfarm is estimated to be 1.13 million tonnes CO<sub>2</sub> per annum, based on a 127 turbine development. Based on the 103 turbine development, this might be revised downwards pro rata to approximately 0.93 million tonnes per annum.

The overall condition of the environment upon which wild bird species rely in Shetland is of concern. In particular, the peatland ecosystem is in serious decline and suffering extensive degradation. The windfarm's expansive Habitat Management Plan (HMP) will restore peatland and offers benefits to a whole range of species and habitats, a factor which has been recognised by SNH, and which Ministers have taken into account. In particular, the HMP will include habitat restoration and protection for red-throated diver, merlin, whimbrel (and by association arctic skua) and peatland management actions to restore, enhance and protect blanket bog and thereby benefit birds and other species that depend on this habitat. The HMP is far more ambitious and expansive than HMPs which have formed part of mitigation for previously consented windfarms, in total encompassing an area of some 12,800 hectares. SNH have welcomed the HMP and recognise that it offers the possibility of significant biodiversity benefits and is an excellent opportunity to explore various habitat management methods.

### *Whimbrel*

Shetland has some 95% of the UK population of whimbrel, a species of wading bird, and it is estimated that there are some 290 breeding pairs in Shetland. Ministers recognise that it has been difficult for either SNH or Viking Energy to give precise estimates for the impact of the development on the whimbrel. It has been estimated that 5.5 pairs will be displaced by the windfarm itself. The collision mortality rate of birds is estimated at 2.1 or 4.2 birds per annum, according to Viking Energy and SNH respectively. A reduction in the scale of the development to 103 turbines results in a reduced estimate from SNH of a rate of approximately 3.7 birds per year. This number is a net loss figure and takes into account the effects of displacement, construction and habitat loss.

Ministers accept that the loss of 3.7 whimbrel per year as a result of the windfarm would be likely to have some impact on what is a small and declining subset of the species. However, in numerical terms, the estimated mortality rate of only 3.7 fatalities per year is very small and must be considered in the context of annual deaths estimated at between 72-108 (based on the two figures submitted in the Addendum to the Environmental statement) per year from other causes, including predation.

Ministers note that SNH are of the view that the reduction of the scale of the development is still likely to result in a significant impact of national interest on the conservation status of the national population of whimbrel, and that the RSPB have expressed related concerns. Ministers are not satisfied that the estimated impact of

the development on whimbrel demonstrates such a level of significance. In addition, Ministers consider that the potential beneficial effects of the Habitat Management Plan (HMP) can reasonably be expected to provide some counterbalancing positive benefits.

SNH have expressed concerns that despite the extensive proposals within the HMP, it cannot be relied upon with certainty to adequately mitigate the estimated impacts. Ministers accept that the beneficial effects of the HMP cannot be predicted with certainty, given the lack of any precedent for an HMP for whimbrel in Shetland. SNH have, however recognised that the HMP has the potential to benefit birds, including the whimbrel. SNH's concern relates to the fact that the benefits of the HMP cannot be currently quantified. They are of the opinion, however, that the HMP does include habitat management and predator control measures that they accept should favour whimbrel and other breeding birds. Uncertainties over the factors influencing whimbrel numbers in Shetland, the habitats that whimbrel prefer and hence the goals for habitat management, and the likelihood of reaching these habitat goals through practical land management remain. Despite this, over the course of the lifetime of the wind farm, SNH expect that habitat and predator management would provide some mitigation of the effects of the wind farm on whimbrel.

Ministers note that the HMP will take one third of the of the UK population of whimbrel under active management, and will target some 100 whimbrel "hotspots". Based on the detailed environmental information provided in the environmental statement and addendum, Ministers are satisfied that the measures proposed by the HMP are likely to have a positive value to the conservation status of the whimbrel. These measures include a variety of management techniques, including predator control, habitat restoration, protection and management. Ministers are satisfied that an HMP which includes significant predator control from the outset, as well as ongoing habitat restoration, protection and management, is likely to counteract the relatively small estimated rate of bird mortality. Further reassurance is gained from the commitment to ongoing development and improvement built into the HMP as understanding of its effect improves, and from the fact that this commitment will be required by condition.

In any case, if, despite the implementation of the HMP, the estimated negative impact on the species were to remain, Ministers consider that the level of impact on the conservation status of the whimbrel is outweighed by the benefits of the project, including the very substantial renewable energy generation the development would bring and the support this offers to tackling climate change and meeting EU Climate Change Targets.

The whimbrel is in decline on Shetland. Ministers consider that the HMP represents an opportunity - currently the sole opportunity - to try to improve the conservation status of the species. Without the Viking Windfarm HMP, there currently appears to be no prospect of any significant work being undertaken to reverse the decline of the whimbrel in the UK.

Conditions will require that comprehensive monitoring takes place, both of mortality against predicted levels, and of the success or otherwise of measures implemented for the HMP. This ongoing work will inform ongoing initiatives for the conservation of

whimbrel, and will provide data on behaviour and conservation to improve knowledge of the species and to inform the necessary improvements to the HMP.

### *Landscape and Visual*

Scottish Ministers are mindful of the various objections, including that of SNH, highlighting the landscape and visual impacts which would result from these proposals. They accept that the proposals would lead to significant change to the landscape character for a considerable area of Shetland and have detrimental visual impacts. Ministers consider that some of these impacts have been alleviated by the reduction from 150 turbines to 127 with the submission of the addendum, and can be further alleviated to a degree by the removal of the 24 turbines in the Delting Parish area. Ministers accept that significant impacts will remain, but consider that these are outweighed by the very considerable economic benefits which the development will bring to the Islands, and more widely, and by the benefits of generating at least 370.8MW of renewable electricity.

### *Economic and Renewable Energy Benefits*

Scottish Ministers aim to achieve a thriving renewables industry in Scotland. The focus being to enhance Scotland's manufacturing capacity, to develop new indigenous industries, particularly in rural areas, and to provide significant export opportunities. A scheme of at least 370.8MW (pro rata) in Shetland is entirely consistent with these goals. Scottish Ministers have considered material details of how this proposal can contribute to local or national economic development priorities as stated in Scottish Planning Policy (SPP). For the proposed 127 turbine development, estimates were of capital expenditure of £707M, of income into the islands of £38.2M per year, and of 42 operational jobs with an additional 174 jobs during 5 years of construction. Shetland Island Council have estimated there would be a total of 435 FTE jobs created (including jobs created by the Shetland Charitable Trust). Furthermore, the Islands' aspiration to seek to benefit from the renewable energy revolution, including by embracing marine renewables, will rely upon the construction of an interconnector to the mainland to export electricity. It is very likely that the construction of such an interconnector is not viable without the Viking Windfarm development or at least one of a comparable scale.

Scottish Ministers welcome the islands aspirations regarding renewables and expect SSE to maximise the potential for local employment and use of local businesses wherever possible and will work with the Partnership to achieve this.

### *Other Considerations*

Scottish Ministers have considered the Public Standards Commissioner of Scotland's decision and conclusions in response and to complaint no: LA/SI/1122 alleging a Breach of the Provisions in the Councillors Code of Conduct. The complaint stemmed from the participation of members of the Council, and subsequently the Shetland Charitable Trust, in Viking Energy Ltd, and the issues which arose from the respondents' individual roles as Councillors, trustees of Shetland Charitable Trust or Directors or employees of Viking Energy Ltd. Scottish Ministers note that following his investigations the Commissioner concluded that the

named Councillors in the complaint had not in any way contravened the Councillors' Code of Conduct.

Given that the development is 45% owned by the Shetland Charitable Trust, it will represent a huge step towards the Scottish Government's target of 500 MW community and locally-owned renewable energy by 2020. Pro rata, the 103 turbine development would offer around 167MW towards that target.

Ministers have also considered the 3881 public representations received, of which 2772 were objections and 1109 were in support of the development. The objections raised concerns on a number of subjects including habitat, wildlife, visual impact and infrastructure. Ministers are of the view that these issues will be appropriately addressed by way of mitigation and, where impacts remain, these are outweighed by the economic benefits and renewable energy generation which the Development will bring.

The Scottish Ministers consider that environmental impacts will for the most part be satisfactorily addressed by way of mitigation and conditions, and that the residual impacts are outweighed by the benefits the development will bring.

#### **The Scottish Ministers' Determination**

Subject to the conditions set out in Part 1 of Annex 2, Scottish Ministers **grant consent** under section 36 of the Electricity Act 1989 for construction and operation of a 103 turbine Viking Wind Farm in central Mainland, Shetland (as described in Annex 1). Ministers refuse consent for the 24 turbines of the Delting Parish area.

Subject to the conditions set out in Part 2 of Annex 2, Scottish Ministers direct under section 57 (2) of the Town and Country Planning (Scotland) act 1997 that **planning permission be deemed to be granted** in respect of the Development described in Annex 1. Deemed planning permission is not granted for the 24 turbines of the Delting Parish area.

The Scottish Ministers direct that section 58(1) of the Town and Country Planning (Scotland) Act 1997 is not to apply with regard to that planning permission because of the constraints of constructing a generating station with a capacity of over 50MW within 3 years and that planning permission is to lapse on the expiry of a period of 5 years from the date of this direction if there has not been Commencement of the Development within that period.

The Scottish Ministers direct that within 2 months of the date of this consent (and within 2 months of the final commissioning if there has been any variation on the original approved plan), the Partnership shall provide to Scottish Ministers a detailed plan showing the site boundary and all turbines, anemometer masts, access tracks and infrastructure in a format compatible with the Scottish Government's Spatial Data Management Environment (SDME), along with appropriate metadata. The SDME is based around Oracle RDBMS and ESRI ArcSDE and all incoming data should be supplied in ESRI shapefile format. The SDME also contains a metadata recording system based on the ISO template within ESRI ArcCatalog (agreed standard used by the Scottish Government), all metadata should be provided in this format.

In accordance with the Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2000 (as amended), the Partnership must publicise this determination for two successive weeks in the Edinburgh Gazette and one or more newspapers circulating in the locality in which the land to which the Application relates is situated.

In reaching their decision, the Scottish Ministers have taken into account the environmental information submitted with the Application, including the Environmental Statement, Addendum and the representations made by statutory consultative bodies and others, in accordance with the Electricity Works (Environmental Impact Assessment)(Scotland) Regulations 2000; the Application; further representations received, including all objections, in the context of the expert advice provided by statutory consultees, and Government energy and climate change policy.

As the relevant Planning Authority has not objected to the Application, the Scottish Ministers have considered all material considerations and have concluded that there is no need to conduct a public inquiry before reaching their decision. In reaching their decision they have had regard to all relevant considerations and, subject to the conditions of this consent and deemed planning permission, are satisfied that it is appropriate for the Partnership to construct and operate the generating station in the manner set out in the Application.

Copies of this letter and the consent have been sent to the Planning Authority. This letter has also been published on the Scottish Government Energy Consents and Deployment Unit website.

The Scottish Ministers' decision is final, subject to the right of any aggrieved person to apply to the Court of Session for judicial review. Judicial review is the mechanism by which the Court of Session supervises the exercise of administrative functions, including how the Scottish Ministers exercise their statutory function to determine Applications for consent. The rules relating to the judicial review process can be found on the website of the Scottish Courts –

<http://www.scotcourts.gov.uk/session/rules/print/rules/CHAP58.pdf>. Your local Citizens' Advice Bureau or your solicitor will be able to advise you about the applicable procedures.

Yours sincerely



**SIMON COOTE**

Head of Energy Consents and Deployment Unit  
A member of the staff of the Scottish Ministers



## ANNEX 1

### Description of the Development

The development as indicated on figures A4.1.1. and A4.1.2. (of the Environmental Statement Addendum) excluding the Delting Parish turbines D5-7, D9-18 and D23-33 and associated ancillary developments inclusive, with a maximum generating capacity of 457MW, and comprising a wind-powered electricity generating station including:

1. Not more than 103 turbines each with a maximum tip height of 145m, and associated crane pads;
2. all site tracks and foundations;
3. 7 permanent anemometry masts (as detailed in ES Addendum table A4.5 with the deletion of masts at Duddin Hill and Hill of Neegarh) for monitoring wind farm (free standing lattice masts up to 90m tall);
4. substation at Moo Field and associated control buildings and compounds and a central sub-station/control building and workshop adjacent to Scottish Hydro Electric Transmission Ltd's converter station in the Kergord valley;
5. up to 10 borrow pits for the excavation of rock; (as detailed in ES addendum table A4.8 with the deletion of pits DBP02 and DBP03);
6. temporary turbine component laydown areas;
7. underground power cables;
8. watercourse crossings;
9. temporary construction compound areas providing site offices, welfare facilities and storage for plant and materials and satellite construction compounds; and concrete batching plants; and

all as specified in the Application, the Environmental Statement and the Supplementary Environmental Information Addendum, (excluding the Delting Parish area turbines D5-7, D9-18 and D23-33 and ancillary developments inclusive), and references in this consent and deemed planning permission to "the Development " will be construed accordingly.

## **ANNEX 2**

### **Part 1**

#### **Conditions applying to section 36 consent**

The consent granted in accordance with section 36 of the Electricity Act 1989 is subject to the following conditions:

1. The consent is for a period from the date of this consent until the date occurring 25 years after the Final Commissioning of the Development . Written confirmation of the date of the Final Commissioning of the Development shall be provided to the Planning Authority and Scottish Ministers no later than one calendar month after that event.

#### **Reason: To define the duration of the consent.**

2. The Commencement of Development will be no later than 5 years from the date of this consent, or such other period as the Scottish Ministers may hereafter direct. If this does not occur by the end of such period, then by no later than the date occurring 6 months after the end of the period, the site and the ground will be fully reinstated by the Partnership to the specification and satisfaction of the Scottish Ministers following consultation with the Planning Authority.

#### **Reason: To ensure construction is commenced within a reasonable time period.**

3. The Partnership will not be permitted to assign the consent without the prior written authorisation of the Scottish Ministers. The Scottish Ministers may grant consent (with or without conditions) or refuse authorisation as they may, in their own discretion, see fit. The consent will not be capable of being assigned, alienated or transferred otherwise than in accordance with the foregoing procedure.

#### **Reason: To safeguard the obligations of the consent if transferred to another company.**

4. In the event that any wind turbine installed and commissioned fails to produce electricity on a commercial basis to the public network for a continuous period of 6 months, then unless otherwise agreed in writing with the Scottish Ministers, after consultation with the Planning Authority and SNH, such wind turbine will be deemed to have ceased to be required. If deemed to have ceased to be required, the wind turbine and its ancillary equipment will be dismantled and removed from the site by the Partnership within the following 6 month period, and the ground reinstated to the specification and satisfaction of the Scottish Ministers after consultation with the Planning Authority and SNH.

#### **Reason: To ensure that any redundant wind turbine is removed from Site, in the interests of safety, amenity and environmental protection.**

5. In the event of the Development, not generating electricity on a commercial basis to the grid network for a continuous period of 12 months from 50% or more turbines installed and commissioned from time to time, the Partnership must immediately notify the Scottish Ministers in writing of that situation and shall, if the Scottish Ministers direct, decommission the Development and reinstate the site to the specification and satisfaction of Scottish Ministers. The Scottish Ministers shall have due regard to the circumstances surrounding the failure to generate and shall take the decision on decommissioning following discussions with the Partnership, the Planning Authority and other such parties as the Scottish Ministers consider appropriate.

**Reason: To ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration of the site. in the interests of safety, amenity and environmental protection.**

6. In the event of a serious health and safety, environmental or construction incident occurring on site during the period of consent, the Partnership must notify Scottish Ministers within 24 hours of the incident occurring.

**Reason: To ensure compliance with Health and Safety legislation.**

7. (1) No construction works associated with the Affecting Turbines other than those agreed with the Airport Operator shall commence, and no erection shall commence of the towers and blades of the Affecting Turbines, until-
- (a) an Aviation Mitigation Scheme has been submitted to, and approved by Scottish Ministers in consultation with the Planning Authority and the Airport Operator;
  - (b) any necessary technical requirements identified within the approved Aviation Mitigation Scheme as necessary to deliver the appropriate revised Instrument Flight Procedures have been installed and are operational at Scatsta Airport; and
  - (c) confirmation has been provided by the Airport Operator to Scottish Ministers that the Aviation Mitigation Scheme has been implemented and is operational.

(2) In this condition-

“Affecting Turbines” means the following turbines as identified on figure A4.1.2. (of the Environmental Statement Addendum) attached to this consent: K42, K43, K44, K45, K46, K47, K48, K50, K51, K52, K53, K54, K55, K56, K57, K58, K59, K73, K75, K76, K77, K81, K82, K83, K84, N107, N109, N117;

“Aviation Mitigation Scheme” means a scheme agreed between the Partnership and the Airport Operator setting out measures to mitigate the impact of the Development on the safety of flights arriving and departing from Scatsta Airport and which-

- (a) identifies and designs the adjustments which are necessary to the Instrument Flight Procedures for Scatsta Airport to maintain the safety of flights arriving and departing at Scatsta Airport (such as the installation of a localiser/distance measuring equipment);
- (b) sets out the process which will be undertaken for the adjusted Instrument Flight Procedures to be approved by the Airport Operator and the Civil Aviation Authority; and
- (c) sets out the process by which these adjusted Instrument Flight Procedures will be implemented once approved..

“Airport Operator” means Serco Defence, Science and Nuclear who operate the Scatsta Airport or such other airport operator licensed to operate the Airport at the relevant time.

**Reason: To mitigate the impacts of the development on safety of flights landing and taking off at Scatsta Airport**

## **Part 2**

### **Conditions applying to deemed planning permission**

#### **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.

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

2. Prior to the Commencement of Development, detailed plans and method statements for reinstatement proposals concerning access tracks (including the reduction of double width tracks) borrow pits, construction compound areas and other construction areas at the end of the construction period, as part of the development hereby permitted, will be submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. The approved reinstatement method statements shall then be followed, and the approved plans will be implemented to the satisfaction of the Planning Authority within 6 months of commissioning of the development or when otherwise directed by the Planning Authority.

**Reason: In order to define the terms of this permission, to minimise the level of visual intrusion, and to ensure the satisfactory reinstatement of the site.**

3. Within 6 months of the Commencement of Development the details of all seed mixes to be used for reinstatement of vegetation will be submitted to, and approved in writing by, the Planning Authority in consultation with SNH.

Wherever possible, reinstatement work should be achieved by the careful use of turfs removed prior to construction works.

**Reason: To ensure the satisfactory reinstatement of the site.**

**4. Financial bond**

- (a) At least one month prior to the Commencement of Development, the Partnership will provide to the Planning Authority written details of the bond or other financial provision which it proposes to put in place to cover all decommissioning and site restoration costs on the expiry of this consent. The Partnership 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 the partnership has provided documentary evidence that the proposed bond or other financial provision is in place and written confirmation has been given by the Planning Authority that the proposed bond or other financial provision is satisfactory.
- (c) The Partnership 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 Partnership, from the Commencement of Development, to be conducted by a competent independent professional, whose appointment is approved by the Planning Authority and who has relevant experience within the wind energy sector and provided to the Partnership, 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.**

- 5. Within 5 years prior to the expiry of the consent granted under section 36 of the Electricity Act 1989, a Decommissioning Method Statement shall be submitted for the approval of the Planning Authority outlining the programme of decommissioning of the Development. The Decommissioning Method Statement will include details of all site decommissioning, the work to remove the infrastructure from the site, and any subsequent aftercare following site restoration, management and timing of works, environmental management provisions and a traffic management plan to address any traffic impact issues during the decommissioning period. It will include provision for the appointment by the Partnership of an Ecological Clerk of Works (ECoW) acceptable to the Planning Authority (in consultation with SNH and the SEPA), whose role will be to oversee implementation of the plans so approved. These plans will include the method, frequency and duration of ecological monitoring, particularly of watercourses, over the decommissioning period of the Development. Six months prior to the expiry of the section 36 consent, and at any other subsequent point as appropriate, the Decommissioning Method Statement shall be reviewed by the

Partnership and the Planning Authority, and any alterations deemed appropriate and mutually acceptable shall be made.

**Reason: To ensure the satisfactory reinstatement of the site.**

6. A detailed restoration method statement will be submitted by the Partnership to the Planning Authority for written approval, after consultation with SNH and such other parties as they consider appropriate, within three months of the date of a direction given by the Scottish Ministers to decommission and reinstate the site or at least 12 months prior to the scheduled commencement of the Decommissioning of the Development. The approved restoration method statement will subsequently be implemented, following the approved Decommissioning Method Statement, unless otherwise agreed in writing by the Planning Authority.

**Reason: To ensure the satisfactory reinstatement of the site.**

7. Within 36 months following the end of the period of the consent granted under section 36, all wind turbines, ancillary equipment and buildings will be dismantled and removed from the Site and the land will be reinstated in accordance with the approved Decommissioning Method Statement.

**Reason: To ensure the timely satisfactory reinstatement of the site.**

8. Within 6 months of the Final Commissioning of the Development, any remaining temporary laydown and construction compound areas not already reinstated in accordance with Deemed Planning Condition 2 will be removed from the site and these uses discontinued, unless otherwise agreed in writing with the Planning Authority. Any works required for the reinstatement of the land will be carried out following the approved reinstatement method statement referred to at condition 2 and in accordance with the reinstatement plans, within 6 months of commissioning of the last part of the development

**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.**

**Construction**

9. No construction will take place unless a timetable for the Construction Period has been agreed in writing with the Planning Authority. It will include a start and finish date, noting that the work will not extend beyond a period of six years from the date of commencement unless with the express written consent of 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**

10. No construction work will commence until a site-specific Construction Method Statement (CMS) has been submitted to and approved by the Planning Authority following consultation with SNH and SEPA. Thereafter, the approved method statement will be implemented by the Partnership. The method statement will incorporate “good practice” methods from the Scottish/UK wind farm industry, including best practice methods associated with developments on peatland.

The CMS will include the following:

#### CMS – General

- A programme detailing the phasing of construction activity, together with the sequence of the development in particular the creation of the on-site tracks.
- Details of the temporary construction site compound(s), including, boundary fencing, surfacing, both surface and foul water drainage provisions, lighting, any temporary structures to be erected, and of wheel cleaning equipment to prevent the transfer of mud to the public highway.
- Dust suppression and management,
- Any works to public roads (inclusive of any junction re-alignments)
- Access, signing and re-routing arrangements, including those for recreational users during construction activity.
- Details on concrete production.
- The appointment of suitably qualified specialists

#### CMS – Track Construction

- Method of defining track route and location (pegging out in advance of operations).
- Details on track design approach: Maps of tracks indicating approved locations for double and single tracks and position of passing places. Full extent of anticipated track ‘footprint(s)’ including extent of supporting geogrid below roadstone and cabling at edges of the track.
- Details on track construction including floating track construction over peat >1m deep and gradients of 1:10 or less.
- Methods to deal with failing roads, sinking/sunken roads, peat rotation at road edges etc during the processes of constructing and decommissioning the wind farm.
- Timing, extent, design, treatment and reinstatement of embankments, track edges and other areas affected by track construction.
- Design of crossing points for water courses such as culverts and bridges.
- Details on on-site cabling (to be located in disturbed areas adjacent to tracks unless agreed with the Planning Authority)
- Procedure for the monthly reporting to the Planning Authority in writing of all departures from the agreed method statement and design parameters for the tracks.
- Provision of a water supply and a sufficient number of water bowzers and/or dust suppression equipment.

#### CMS – Peat General

The Partnership will undertake on-going assessment of ground conditions as construction progresses. The results of this monitoring will be fed into a geotechnical risk register which will include peat stability risks. On-going analysis and call out services will be provided by suitably qualified geotechnical personnel (Geotechnical Clerk of Works, GCoW) whose appointment has been approved by the Planning Authority. If a risk of peat failure is identified, the Partnership will install and monitor ground conditions using suitable geotechnical instrumentation as recommended by the approved geotechnical personnel. This may take the form of a line of stakes, levelling points or more complex installations such as inclinometers. Any remediation considered necessary will be approved in writing by the Planning Authority prior to implementation.

The Partnership will develop and adopt a formalised reporting procedure which records Site workings, monitoring results and any observations that may be pertinent to the stability of the works, under which terms the records shall always be available at the offices of the site contractor carrying out workings in the area being reported on, and which shall be made available to all persons with responsibility for the site management, and officers of the Planning Authority or its nominees.

#### CMS – Borrow Pit(s)

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, any crushing plant 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 and in accordance with the Management of Extractive Waste (Scotland) Regs 2010.
- Programme of implementation (phased approach) to reinstatement of the borrow pit; and
- Design and programme of reinstatement, restoration and aftercare, including type and volumes of restoration materials (and where this is to be placed in the restoration horizon).



**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.**

11. Construction work with potential to create a nuisance as measured from the boundary of any noise-sensitive receptor will only take place between the hours of 07.00 to 19.00 on Monday to Friday inclusive, 07.00 to 16.00 on Saturdays, with no construction work taking place on a Sunday or on local or national public holidays. Outwith these said hours, development at the site will be limited to turbine erection, maintenance, emergency works, dust suppression, and the testing of plant and equipment, or construction work that is not audible from any noise-sensitive property located outwith the application site unless otherwise approved in writing by the Planning Authority. The receipt of any materials or equipment for the construction of the development hereby permitted, by track, other than turbine blades, nacelles and towers, is not allowed outwith the said hours, unless otherwise agreed by the Planning Authority with it having been given a minimum of 2 working days notice of the occurrence of the proposed event. Deliveries to site (excluding abnormal loads) during construction of the wind farm will be limited to 08.00 to 18.00 Monday to Friday, and 09.00 to 12.00 on Saturdays, with no deliveries taking place on a Sunday or on local or national public holidays.

**Reason: In the interests of local amenity**

12. Prior to the Commencement of the Development, plans to a scale of 1:500 will be submitted to the Planning Authority for approval in writing showing the location of the temporary construction site compounds and laydown areas required temporarily in connection with the construction of the development. Each plan will indicate the location of any buildings, car parking, material stockpiles, oil storage, lighting columns, wheel cleaning and lorry sheeting facilities, and boundary fencing. The plans will detail the surfacing of each site compound, the means of drainage and dust suppression within the compound, the arrangement for the on-site storage of fuel oil, the maximum heights to which materials will be stockpiled, and will set out the activities that will take place within the compound. The plans must also demonstrate how environmental sensitivities in proximity to the site are to be protected during construction.

**Reason: To ensure compliance with all commitments made in the Environmental Statement to minimise pollution risks arising from construction activities.**

13. The Partnership shall publicise the programme for the commencement and duration of operations, provide details of the project programme, and provide named contacts for daytime and out-of-hours by means of a public notice placed in a paid newspaper circulating in the locality prior to Commencement of Development of the site. Thereafter, the Partnership shall convene at least every six months during the process of constructing and commissioning the wind farm a liaison committee and invite representatives of the Partnership and its site contractors, the Planning Authority, the Scottish Environmental Protection Agency, relevant Community Councils the Shetland Windfarm Environmental

Advisory Group (SWEAG), and interested local residents for the purpose of exchanging information and comment about the construction of the wind farm.

**Reason: To ensure programme information is made available to the local community**

14. All electricity and control cables between the turbines, substations and control buildings will be laid underground alongside tracks which are to be constructed on the site unless otherwise agreed with the Planning Authority.

**Reason: In the interests of visual amenity and to minimise disruption to habitats**

15. No blasting activities will take place on the site until a detailed assessment of noise and vibration from borrow pit blasting has been undertaken, and a plan to deal with noise and vibration has been submitted to and approved in writing by the Planning Authority. If blasting is required to fully assess the impact in line with best practice, this should be included in the detailed proposals. Thereafter, the development will be implemented in accordance with the approved plan unless otherwise agreed in writing with the Planning Authority.

**Reason: To ensure that borrow pit excavation is controlled in the interests of local amenity**

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

**Reason: In order to define the terms of this permission, and to ensure that borrow pit excavation is controlled in the interests of local amenity.**

**Design and Siting**

17. No development will take place unless the exact details of the 103 turbines at the positions shown on figures A4.1.1. and A4.1.2. (of the Environmental Statement Addendum) and detailed in Appendix 4.2 of the Environmental Statement as amended by Tables A4.1 and A4.2 of the Environmental Statement Addendum, and excluding the Delting Parish turbines D5-7, D9-18 and D23-33 and associated ancillary developments inclusive, (including size, type, external finish / colour, power rating, sound levels), the 7 meteorological mast and all associated apparatus (substation and associated control buildings, and central sub-station/control building and workshop in the Kergord valley), have been submitted to and approved in writing by the Planning Authority. For the avoidance of doubt, the tip height of the turbines hereby granted planning permission will not exceed 145 metres in height above ground level. The development will be implemented in accordance with the approved details.

**Reason: In the interests of visual amenity**

18. Following the formation of the access tracks, for all turbine, crane pad and meteorological mast locations approved by this consent, a variation of their indicated position by less than 50 metres either side of the centre of the track, and the positions shown on figures A4.1.1. and A4.1.2. (of the Environmental Statement Addendum) and detailed in Appendix 4.2 of the Environmental Statement as amended by Tables A4.1, A4.2 and A4.4 of the Environmental Statement Addendum (as is relevant) and excluding the Delting Parish turbines D5-7, D9-18 and D23-33 and associated ancillary developments inclusive, will only be permitted in consultation with the Ecological and Archaeological Clerk of Works. A variation of between 50 metres and 100 metres either side of the centre of the track and the positions shown on figures A4.1.1. and A4.1.2. (of the Environmental Statement Addendum) and detailed in Appendix 4.2 of the Environmental Statement as amended by Tables A4.1, A4.2 and A4.4 of the Environmental Statement Addendum (as is relevant) and excluding the Delting Parish turbines D5-7, D9-18 and D23-33 and ancillary developments inclusive, will only be permitted following written approval of the Planning Authority, following consultation with SEPA and SNH.

Details of how micrositing will be implemented and controlled will be detailed within the Site Environmental Management Plan (SEMP) referred to in condition 22. No re-siting outwith micrositing boundaries will be permitted.

**Reason: In the interests of visual amenity and in order to define the terms of this planning permission**

19. The wind turbine blades on all the turbines hereby approved will rotate in the same direction.

**Reason: In the interests of visual amenity**

20. No symbols, signs or logos or other lettering, other than those required for health and safety and for traffic management, shall be displayed on any part of the turbines nor any other building or structures without the written consent of the Planning Authority.

**Reason: In the interests of visual amenity**

21. Full details of the proposed substation building and associated control buildings, and the control & maintenance buildings in the Kergord valley, including external finishes, colour, dimensions and orientation proposed will be submitted to and approved in writing by the Planning Authority at least 3 months prior to construction of the aforementioned structures. The substation and operations & maintenance buildings will be implemented in accordance with such details as have been so approved.

**Reason: In the interests of visual amenity**

**Ecology & Pollution Prevention**

22. A site-specific Environmental Management Plan(SEMP) shall be submitted to and approved in writing by Planning Authority following consultation with SNH and SEPA at least 3 months prior to Commencement of Construction Works. Thereafter the approved Site Environmental Management Plan (SEMP) will be implemented by the Partnership and shall throughout the construction period be maintained and updated with the Planning Authority's agreement. The SEMP will incorporate "good practice" methods from the Scottish/UK wind farm industry and applicable SEPA guidance documents to ensure that environmental impacts are reduced.

The site-specific SEMP will define good practice as well as specific actions required to implement mitigation requirements as identified in the Environmental Statement (ES), the ES Addendum, the planning process and/or other licensing or consenting processes. Unless already covered in the CMS, the SEMP will include (but are not limited to):

- Information on how Scheme Amendments and variations will be recorded including micro-siting (change control);
- An Environmental Communication Plan detailing roles and responsibilities as well as lines of communication (to include the Planning Authority);
- Information on environmental checks and audits to be undertaken during and post construction;
- Information on a Site Induction Schedule;
- Pollution Prevention Plan, including oil spill contingencies and foul drainage arrangements, arrangements for liquid/chemical storage areas etc;
- Site Waste Management Plan, including information on expected waste streams and volumes, management of each waste stream (including excavated materials which may be classed as waste under the Management of Extractive Waste (Scotland) Regs 2010, waste contractors, storage locations, and waste documentation;
- Drainage Management Plan, including details on permanent and temporary drainage and silt pollution mitigation measures (as far as not covered within CMS or Pollution Prevention Plan);
- Watercourse Crossing Plan, including details on type of crossings, locations, required consents/licences and specific mitigation measures;
- Water Quality Monitoring Plan, including information on monitoring programmes pre, during and post construction in relation to water quality chemistry, visual observations, sampling and analysis and the actions that will be taken if monitoring indicates a deterioration in water quality;
- Excavated Materials and Reinstatement Plan, including a site plan indicating all the areas which will be subject to reinstatement and proposed reinstatement objectives in terms of final ground conditions, details on type and volumes of materials to be excavated and areas, volumes and methodology for reinstatement. Furthermore any areas that may be subject to further disturbance during the operation of the windfarm, within the terms of the defined description of the development for the Section 36 consent and deemed planning permission, should be detailed including the likely frequency of disturbance and rational for disturbance.
- Ecological (Habitats and Species) Protection Plan, including information on monitoring and mitigation measures in relation to species and habitat

protection as identified in the ES and other relevant documents relating to this consent; and

- Environmental Incident and Emergency Response Plan.

**For the avoidance of doubt, the SEMP will include details on the following:**

- A minimum buffer between all infrastructure, to include access tracks (but excluding access tracks leading to watercourse crossings) to be set at 50 m. Exceptions to this by agreement of the Planning Authority in consultation with SEPA, and other parties relevant to interests being considered.
- A scheme of site specific buffer distances which are determined by the sensitivity of the soil, terrain, vegetation and other site specific characteristics, applying a minimum buffer to at-risk watercourses of 50 m. A map showing the demarcation of identified hydrologically sensitive areas will be included, together with a rationale for the different buffer distances.
- Contingency planning measures for storm events or the risk of localised peat slide, which may increase the rate of sediment transport and cause damage to fish habitats and populations.
- The terms of appointment, roles, responsibilities and powers (including the stopping of construction and reinstatement/restoration activities) of the Ecological Clerk of Works (ECoW), Geotechnical Clerk of Works (GCoW) and other roles relating to the implementation and monitoring of this consent and compliance with the terms of its relating documents.
- Information on environmental auditing and monitoring during construction (in relation to e.g. environmental, ecological and geotechnical monitoring pre-, during and post-construction, independent monitoring and auditing), to include frequency, methodology and details of parties to be invited to participate, which shall include the Planning Authority.

**Reason: in the interests of ensuring that the development is implemented in full accordance with submitted and approved details and to provide details in a single location for ease of update and interrogation.**

23. Prior to the Commencement of Development, the Partnership will appoint an Ecological Clerks of Works (ECoW), at its own expense, for the period from the Commencement of Development until the final commissioning of the development and again from the commencement of the decommissioning of the wind farm until the completion of the restoration of those parts of the site to be restored in accordance with the approvals given under the terms of conditions of this consent. The Ecological Clerk of Works will be a member of the Institute of Ecology and Environmental Management or equivalent. He/she will be appointed by the Partnership, subject to the approval of the Planning Authority, following consultation with SNH and SEPA.

The scope of the work of the Ecological Clerk of Works will include:

- Monitoring compliance with the ecological, hydrological and other environmental mitigation works that have been approved in this consent.

- Advising the Partnership on adequate protection of nature conservation interests on the Site, and prevention of off-site adverse environmental impacts.
- Checking for new recordings of protected species with any additional mitigation required
- Directing the micro-siting and placement of turbines and tracks
- Monitoring the compliance with mitigation, reinstatement and restoration measures approved by this consent.

**Reason: to protect the natural heritage of the area**

24. Any crossing works to a watercourse and waterbody must not restrict migratory fish and must be designed and constructed to protect fish interests.

Prior to commencement of construction works, an additional pre-construction survey will be undertaken by the Partnership in streams, details to be agreed with the Planning Authority in consultation with SEPA and SNH beforehand, in order to assess “natural” annual variation in fish abundance” and to support establishment of a baseline for post-construction monitoring. This survey will also include an assessment of artificial barriers to fish passage as identified within the ES, and proposals to remove or modify those structures which result in poor ecological status as part of a habitat management plan.

There will be no commencement of engineering works to any standing water within the site boundary unless fully agreed by the Planning Authority in consultation with SNH and SEPA.

**Reason: In the interests of ensuring minimal disruption to habitats.**

25. The Partnership should carry out baseline Hydrochemistry surveys at least one year prior to construction, and submit the findings, along with all monitoring programmes, including control sampling sites and additional quantitative fish survey sites, to which the Partnership have agreed upon, to Marine Scotland Science-Freshwater Laboratory (MSS-FL) for review. This information should be accompanied by a map outlining wind farm infrastructures and proposed sampling sites.

**Reason: To protect fish stocks and aquatic environment.**

**Habitat Management Plan**

26. (1) The construction of the Development shall not commence until:

- (a) a proposed Habitat Management Plan has been prepared in accordance with this condition and in consultation with SNH;
- (b) that proposed Habitat Management Plan has been submitted to the planning authority for approval;

(c) the planning authority have, in consultation with SNH, approved the Habitat Management Plan in writing; and

(d) all Necessary Consents have been granted or have been obtained by the Partnership.

(2) The Habitat Management Plan (based on the Habitat Management Plan set out in the Viking ES Addendum Appendix 10.9) is to set out measures and works to mitigate the impacts of the Windfarm by enhancement, restoration and conservation of priority species (in particular whimbrel, red-throated diver and merlin) and priority habitats (especially blanket bog) over the life of the development, and in particular is to include:

(a) an implementation programme, including details of the baseline surveys, initial phase of works and monitoring for the first 3 years of implementation;

(b) provisions requiring annual summary progress reports to be submitted to the Planning Authority and the Shetland Wind Farm Environmental Advisory Group (SWEAG) [as defined in Condition 27];

(c) provisions requiring a review of the Habitat Management Plan which are to include provisions-

(i) requiring periodic reviews of the operation and effectiveness of the Habitat Management Plan to be carried out and submitted to SWEAG; and

(ii) requiring such reviews to be carried out at recurring intervals of no more than 3 years commencing from the date of initial approval of the Habitat Management Plan; and

(iii) for implementation of works on a phased basis between reviews;

(iv) requiring (in addition to the regular reviews) the monitoring of implementation works and how this will (including all monitoring outputs) be reported to SWEAG; and

(v) for adaptation and modification (with the written approval of the planning authority in consultation with SNH and SWEAG) of the management techniques and monitoring within the approved Habitat Management Plan in the light of monitoring and reviews.

(3) Following a review of the operation and effectiveness of the Habitat Management Plan any proposed modifications to the Habitat Management Plan are to be submitted to the Planning Authority for approval in writing.

(4) The Habitat Management Plan prepared and approved in accordance with paragraph (1) (or such Plan as amended following any modifications approved under paragraph (3)) shall be implemented to the satisfaction of the Planning Authority in consultation with SNH and SWEAG.

(5) In this condition—

(a) “Necessary Consents” means—

(i) any consent or permission required by an enactment to enable the approved Habitat Management Plan (or as the case may be, (or

- such Plan as amended following any modifications approved under paragraph (3)) to be implemented; and
- (ii) any right of ownership or right or permission to use or take access over land required by the applicant in order to implement the Habitat Management Plan (or amended Plan); and

- (b) references to SWEAG are references to the bodies comprising the Shetland Wind Farm Environmental Advisory Group constituted by virtue of condition 27(1).

**Reason: In the interests of ensuring minimal disruption to habitats.**

27. (1) Prior to the commencement of construction, details of the constitution, terms of reference (including procedures for the review of the Habitat Management Plan) membership and working arrangements of the Shetland Wind Farm Environmental Advisory Group (SWEAG) shall be submitted to and approved in writing by the Planning Authority in consultation with SNH, and the first meeting of SWEAG held.

- (2) The approved details must within 2 months of such approval be published in accordance with the publicity requirements set out under Planning Condition 13.

**Reason: In the interests of ensuring minimal disruption to habitats.**

28. (1) No works comprised in the Development shall commence until a Water Assets Protection Scheme, prepared in accordance with this condition, has been submitted to, and approved by the Planning Authority in consultation with the Scottish Water.

(2) The Water Assets Protection Scheme is a Scheme setting out measures to protect against the risk of contamination of water or damage to water infrastructure in the course of the construction and operation of the Development and is to include-

- (a) measures relating to the location of works, including the placement of plant or excavated materials, in relation to water mains or other water assets;
- (b) arrangements for, and specification of works relating to, the altering of the level of any chambers;
- (c) details of how any excavation or pumping in the proximity of a water main is to be undertaken; and
- (d) details of how any piling or other construction methods which create vibrations in pipelines or ancillary apparatus are to be carried out.

(3) The Development shall be carried out in accordance with the approved Water Assets Protection Scheme.

**Reason: For the protection of public water assets from the risk of contamination and damage.**

**Ornithology**



29. Prior to the Commencement of Development, relevant preconstruction ornithological surveys shall have been completed, and the HMP and a Bird Protection Plan (as specified in A11-17 of the ES addendum) shall be submitted to and approved in writing by the Planning Authority in consultation with SNH. A revised Bird Protection Plan will be produced and submitted for approval to the Planning Authority for works beyond the anniversary of any current approved plan.

**Reason: In the interest of protection of breeding birds.**

## **Roads and Traffic**

30. Prior to the Commencement of Development, a Traffic Management Plan (TMP) will be submitted to and approved in writing by the Planning Authority. The said Traffic Management Plan will include, inter alia, the following:

- a) the routing of all site traffic to be provided strictly in accordance with the submitted Environmental Statement and Addendum with appropriate policing /supervision procedures being specified and in place,
- b) arrangements for the control of contractors / sub-contractors,
- c) provision of appropriate signing / lining arrangements,
- d) arrangements for emergency vehicle access,
- e) identification of a nominated person to whom any road safety issues can be referred.

Thereafter, the Development will be implemented in full accordance with the approved Traffic Management Plan.

**Reason: In the interests of road safety**

31. Prior to abnormal loads accessing the site, a plan for such access including further information in respect of the length / width / weight / axle configuration of all extraordinary traffic accessing the site will be approved in writing by the Planning Authority (in consultation with the roads authority and the local police Chief Inspector).

**Reason: In the interests of road safety.**

32. No development will take place unless a scheme for the provision of road cleaning / sweeping measures to deal with any mud, silt or other loose material trafficked onto the road as a result of the development has been submitted to and approved in writing by the Planning Authority. Such scheme will be implemented as approved.

**Reason: In the interests of road safety.**

## **Archaeology**

33. Prior to the commencement of development (and in consultation with Shetland Island's Council Regional Archaeologist) an Archaeological Clerk of Works (ACoW) will be appointed by the Partnership for the duration of the construction period. This ACoW will be qualified to a minimum of AlfA level.

The scope of the work of the ACoW will include:

- Monitoring compliance with the archaeological mitigation works that have been approved in this consent.
- Advising the Partnership on adequate protection of archaeological interests on the Site
- Checking for new records of archaeological interest for which additional mitigation may be required
- Directing the micro-siting and placement of turbines and tracks
- Monitoring the compliance with mitigation, reinstatement and restoration measures approved by this consent.

**Reason: To ensure that the Partnership meets its obligation to minimise impacts on the archaeological resource.**

34. Prior to the commencement of any intrusive/groundbreaking works, the Partnership will undertake the works specified in Appendix A13.5 3.3 of the ES Addendum, excluding any works specified for the Delting Parish turbines D5-7, D9-18 and D23-33 and associated ancillary developments inclusive.

**Reason: To ensure that any visible archaeological remains are not damaged by the proposed development and that adequate mitigation is put in place to safeguard the archaeological heritage.**

35. In order to protect any archaeologically significant areas the Partnership will undertake the works specified in Appendix A13.3 3.4 of the ES Addendum, excluding any works specified for the Delting Parish turbines D5-7, D9-18 and D23-33 and associated ancillary developments inclusive, as modified to include archaeological monuments/sites or parts of sites within 50 m of all groundbreaking works.

**Reason: In order to safeguard known archaeological monuments and sites from accidental disturbance or damage during development and to ensure that the limits of the site which may be underground will also be protected.**

36. The Partnership will undertake the geophysical survey works specified in Appendix A13.5 3.5.1-3.5.8 of the ES Addendum, , excluding any works specified for the Delting Parish turbines D5-7, D9-18 and D23-33 and associated ancillary developments inclusive. Precise working methods will be agreed with the Planning Authority's Regional Archaeologist in advance of development in accordance with Appendix A13.5 3.5.11- 3.5.16 of the ES Addendum. This programme of works will be interdigitated with the phased development of the project, separate reports being prepared for each phase of work.

**Reason: To maximise the amount of information known about the archaeology as rapidly and cost effectively as possible and to inform subsequent work.**

37. The Partnership will undertake palaeoenvironmental cores as defined by paragraphs 3.5.9 and 3.5.10 of the ES Addendum, excluding any works specified for the Delting Parish turbines D5-7, D9-18 and D23-33 and associated ancillary developments inclusive.

**Reason: The development has the potential to impact on the hydrology of the peat which may lead to loss of information about the Central Mainland's past environment. This work will ensure preservation by record.**

38. The Partnership will undertake an archaeological watching brief in accordance with the works specified in A13.5 3.6 of the ES Addendum, excluding any works specified for the Delting Parish turbines D5-7, D9-18 and D23-33 and associated ancillary developments inclusive.

**Reason: To ensure that buried features disturbed by ground-breaking works can be identified and recorded as appropriate.**

39. The Partnership will undertake Archaeological Trial Trenching / Area Excavation / Machine Evaluation in accordance with the works specified in A13.5 3.7 and 3.8. of the ES Addendum, excluding any works specified for the Delting Parish turbines D5-7, D9-18 and D23-33 and associated ancillary developments inclusive.

**Reason: It is recognised that the development has the potential to impact on archaeological remains and that where preservation in situ cannot be carried out, then preservation by record is required (SPP 2010, 123).**

40. The Partnership will give the Regional Archaeologist at least 15 working days notice prior to the beginning of the archaeological work in each quadrant. The Partnership will keep the Regional Archaeologist informed of the timetable and progress of the archaeological work and ensure they are informed of significant discoveries immediately. The Partnership will afford the Regional Archaeology Service reasonable access at all times.

**Reason: The Regional Archaeologist will monitor the archaeological component of the development on behalf of the Planning Authority. Speedy access and good communication will facilitate efficient working and timely resolution of archaeological issues.**

41. Prior to the Commencement of Development a heritage strategy will be submitted to and approved in writing by the Planning Authority in consultation with Historic Scotland.

This Heritage Strategy will include measures to improve public access, improve knowledge base and interpretation of the agreed archaeological assets, in consultation with Historic Scotland and the Planning Authority's archaeological advisor.

The Heritage strategy will be implemented as approved.

**Reason: To improve the knowledge base and secure the appropriate recording of certain archaeological assets affected by the development and to improve access to and interpretation of these assets, in mitigation of the indirect impact on the amenity value of these assets and visual impact of the wind farm on visitors.**

## **Noise**

42. The Partnership will log wind speed and wind direction data continuously and will retain the data, which has been obtained for a period of no less than the previous 12 months using latest best practice. The data will include the average wind speed in metres per second for each 10 minute period. The measuring periods will be set to commence on the hour and in 10 minute increments thereafter. The wind speed data will be made available to the Planning Authority on request. The data will be provided on a Microsoft Excel spreadsheet in electronic format or other format agreed with the Planning Authority. In the case where the wind speed is measured at a height other than 10 m, the data will be supplemented by adjusted values which allow for wind shear, normalised to 10 m height. Details of the wind shear calculation shall be provided to the Planning Authority on request.

**Reason: To ensure data is available to assist noise monitoring and protect residential amenity**

43. The nominal overall sound power level at each octave band for the turbines will not exceed the levels specified in Table 12.9 of Chapter 12, Viking Wind Farm Environmental Statement Volume 2, dated May 2009, submitted by the Partnership. The Partnership will secure a warranty, from the turbine supplier and / or manufacturer that the sound power levels of the turbines will not exceed the broadband levels stated in Table A12.9 of the May 2009 document. The turbines will be designed to permit individually controlled operation, or cut-out, at specified wind speeds and directions in order to facilitate compliance with noise level criteria, should the need arise.

**Reason: To limit noise generated by the development and protect residential amenity**

44. At Wind Speeds not exceeding 12m/s, (as measured, or calculated, at a height of 10m above ground level, at the location of one of the turbines), the Wind Turbine Noise Level, when measured at any dwelling, will not exceed:-

- a) During Night Hours, 43dB LA90,10min or the Night Hours LA90,10min Background Noise Level plus 5 dB(A), whichever is the greater.
- b) During Daytime Hours, 35 dB LA90,10min or the Daytime Hours LA90,10min Background Noise Level plus 5 dB(A), whichever is the greater.

(The background Noise Level in this condition means the level determined at each property at the time of the Background Noise Level survey submitted with this application and as reported in Table A12.8 of the Environmental Statement

Addendum. The condition will only apply to dwellings vacant or occupied, existing at the date of this Planning Permission).

**Reason: To assist in the evaluation of any complaints, in the interests of the amenity of local residents.**

45. At the request of the Planning Authority, following a complaint to the Planning Authority relating to noise emissions from wind turbines, the Partnership will engage a suitably qualified and competent person to measure, at its own expense, the level of noise emissions from the wind turbines (inclusive of existing background noise). A competent person would be a corporate member of The Institute of Acoustics or an appropriately qualified employee of a company that is a member of the Association of Noise Consultants.

The LA90 index will be used over a minimum of 20 periods each of 10 minutes duration. At least 10 of the periods of measurement will be made at wind speeds between a wind speed specified by the Planning Authority and a wind speed of not more than 2 metres per second above the wind speed(s) specified by the Planning Authority. At least 10 measurements will be made at wind speeds between the wind speed specified by the Planning Authority and a wind speed not less than 2 metres per second below the wind speed(s) specified by the Planning Authority. Measurements of noise emissions will, so far as is reasonably practicable, be made in consecutive 10-minute periods provided that they fall within the wind speed range defined in this clause.

The LA90, 10min noise level from the combined effect of the wind turbines (inclusive of existing background noise) will be correlated with wind speed and derived using a Best Fit Curve and, where appropriate, allowing for a correction for the influence of the background noise level as described on page 88 of the ETSU-R-97 document, which may also necessitate measurement of the background noise level in the absence of the turbines operating.

The locations of monitoring will be agreed with, the Planning Authority.

**Reason: To monitor noise and protect residential amenity**

46. At the request of the Planning Authority the Partnership will be required to engage a competent person to carry out an assessment for tonal noise in accordance with the procedure recommended in Section 6 of the document "The Assessment and Rating of Noise from Wind Farms" (ETSU - R-97) i.e. the procedure based on the Joint Nordic Method.

Where the tone level above audibility is greater than 2 dB a tonal penalty will be applied to permitted noise levels, in accordance with figure 16 of the document; so that the permitted levels specified in these conditions will be reduced by the tonal penalty.

A competent person would be a corporate member of the Institute of Acoustics or an appropriately qualified employee of a company that is a member of the Association of Noise Consultants.

**Reason: To monitor noise and protect residential amenity**

47. In the event of the noise levels referred to in these conditions be exceeded, the Partnership will take all reasonable steps forthwith, to ensure that noise emissions from the wind farm are reduced to the prescribed noise levels, or below.

Turning off a particular turbine, or group of turbines, will be required while an engineering solution to any issue or defect is developed and put in place.

**Reason: To protect residential amenity**

**Aviation**

48. Prior to the erection of any wind turbine, a scheme of aviation lighting will be submitted to and approved in writing with the Planning Authority in consultation with the Ministry of Defence. Thereafter the approved scheme will be fully implemented on site, unless otherwise agreed in writing with the planning authority.

**Reason: In the interest of aviation safety.**

49. No work will commence on site until the Partnership has provided the Ministry of Defence, Defence Geographic Centre, and NATS with the following detailed information:

- (i) the date of commencement of each phase of construction;
- (ii) the date of completion of each phase of construction;
- (iii) the height above ground level of the tallest structure;
- the maximum extension height of any construction equipment;
- the position of the turbines and met masts in latitude and longitude; and
- (vi) site lighting if appropriate.

**Reason: To ensure that the development is notified to relevant consultees and the position of tall plant and infrastructure is properly recorded.**

**Television and Radio Reception**

50. Prior to the installation of the turbines, the Partnership will commission a survey measuring existing television reception quality, which will be submitted to the Planning Authority. In the event that the Development is found to cause interference to television reception in the vicinity, following a complaint made to the Planning Authority within one year of the Final Commissioning of the Development, the Partnership will take whatever action the Planning Authority deem necessary to remedy such impairment and alleviate the problem, to the satisfaction of the Planning Authority.

**Reason: For the protection of amenity of local residents.**

## **Definitions**

In this consent and deemed planning permission:-

“Partnership” means Viking Energy Partnership (A Scottish General Partnership) having its Office at The Gutters’ Hut, 7 North Ness, Lerwick, Shetland, ZE1 0LZ and its permitted successors and assignees

“Application” means the application and Environment Statement submitted by the Partnership on 20 May 2009 and the subsequent addendum on 29 September 2010

“the Development” means the wind powered electricity generating station on the Shetland Islands, North of Lerwick, as defined in Annex 1

“ES addendum” means the supplementary environmental information supplementary to the environmental statement submitted by Viking Energy Partnership 29 September 2010

“Commencement of Development” means the date on which development will be taken as begun in accordance with section 27 of the Town and Country Planning (Scotland) Act 1997.

“Final Commissioning of the Development” means the date on which all wind turbines generators forming the Development have supplied electricity on a commercial basis or such earlier date as the Scottish Ministers deem the Development to be complete;

“Decommissioning of the Development ” means the date on which those elements of the Development have been permanently decommissioned and removed from the site, in accordance with the conditions of this consent

“Construction Period” means the period from the Commencement of Development until the approved site compounds areas have been reinstated in accordance with the conditions of this consent;

“Environmental Statement” means the Environmental Statement submitted by Viking Energy Partnership on the 20 May 2009;

“Planning Authority” means Shetland Islands Council

“site” means the area of land defined in the application(ES) and outlined in red on the boundary map attached to this consent;

“SEPA” means the Scottish Environmental Protection Agency;

“SNH” means Scottish Natural Heritage;

“NATS” means National Air Traffic Services;

"Wind Turbine Noise Level" means the rated noise level due to the combined effect of all the Wind Turbines at Viking Wind Farm, excluding existing background noise level but including any tonal penalty incurred under the methodology described in ETSU-R-97.

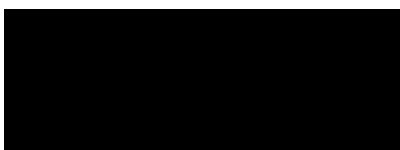
"Background Noise Level" means the noise level in the absence of noise generated by the development as measured and correlated with wind speeds and determined from the regression analysis polynomials stated Section A12.5.2 of the Environmental Statement Addendum, October 2010, at wind speeds between 4 metres per second and 12 metres per second.

"Wind Speeds" means wind speeds measured or calculated at a height of 10 metres above ground level on the wind farm site.

"Night Hours" means 23:00 - 07:00 hours on all days.

#### Noise Measurement Equipment

Measurements will be made using a measurement system preferably of Type 1 but at least of Type 2, , (as defined in the relevant British Standard eg. BS7580 Part 1:1997 -), using a fast time weighted response incorporating a windshield using a half inch diameter microphone, at a height of between 1.2m and 1.5m above ground level and at least 10m from any wall, hedge or reflective surface. The applicable standard is dependant on the type of meter e.g. the whether the meter is an integrating sound level meter. Standards other than BS 7580 include BS3539:1986; BSEN60541:1994; BSEN60804:1994 or BSEN60804:2001

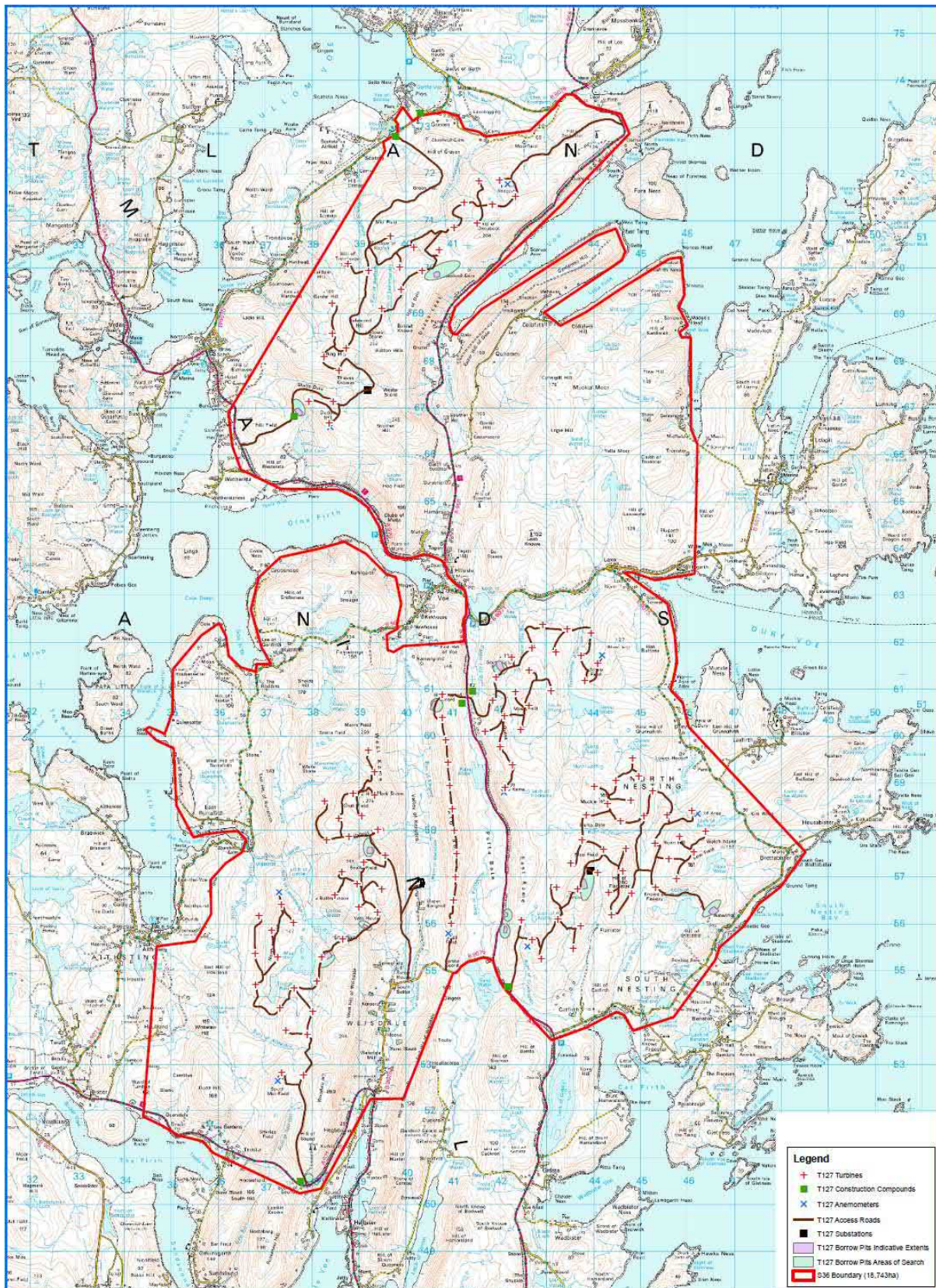


**SIMON COOTE**

Head of Energy Consents and Deployment Unit  
A member of the staff of the Scottish Ministers



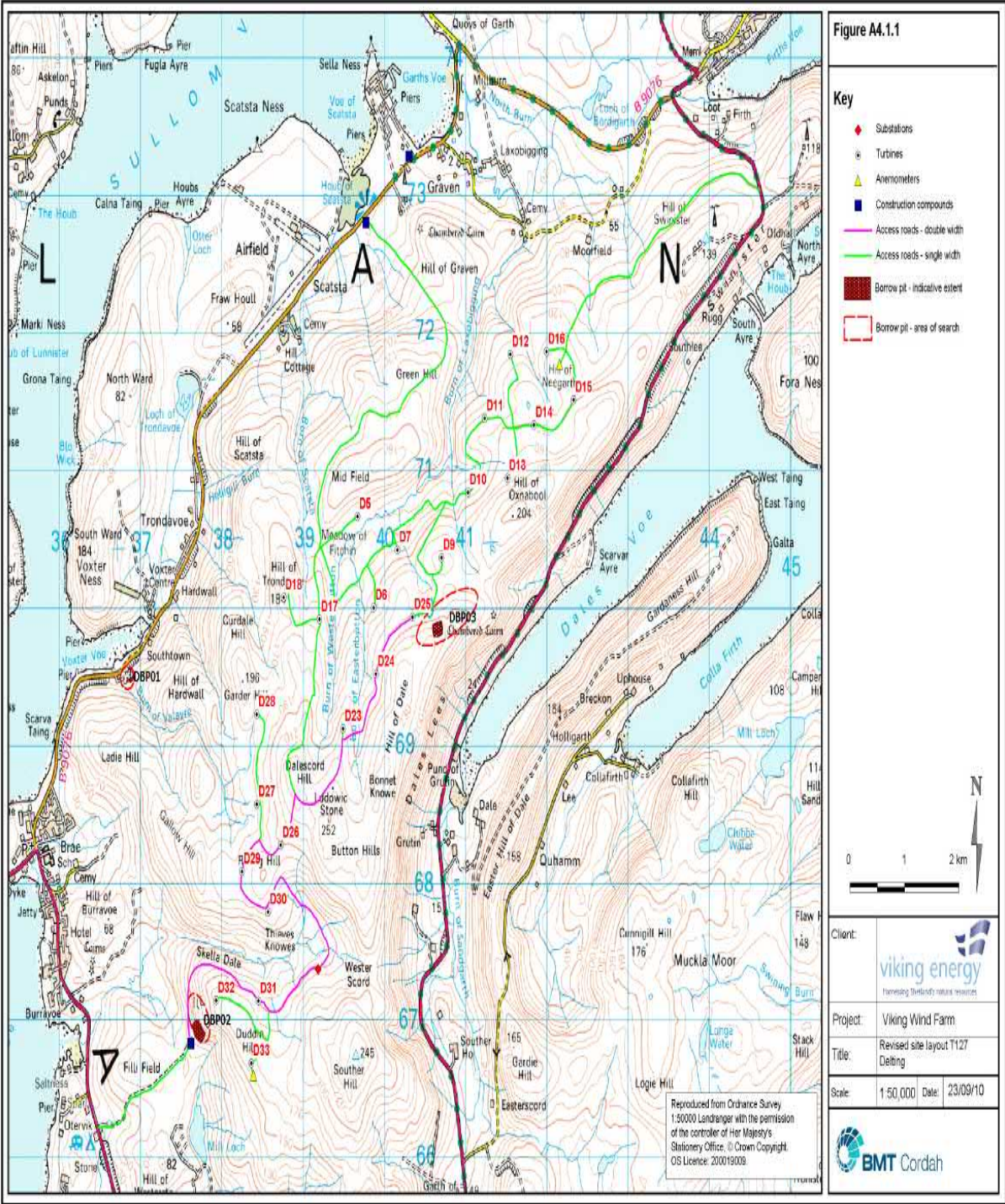
## ANNEX E - RED LINE BOUNDARY MAP



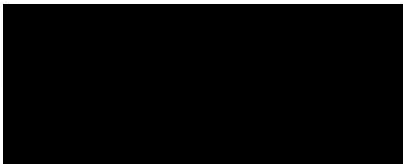
This is the map referred to in the consent by the Scottish Ministers in terms of Section 36 of the Electricity Act 1929 for the construction and operation of a [REDACTED] powered electricity generating station at [REDACTED] as confirmed by the Scottish Ministers.



ANNEX F – DELTING PARISH TURBINE LOCATIONS

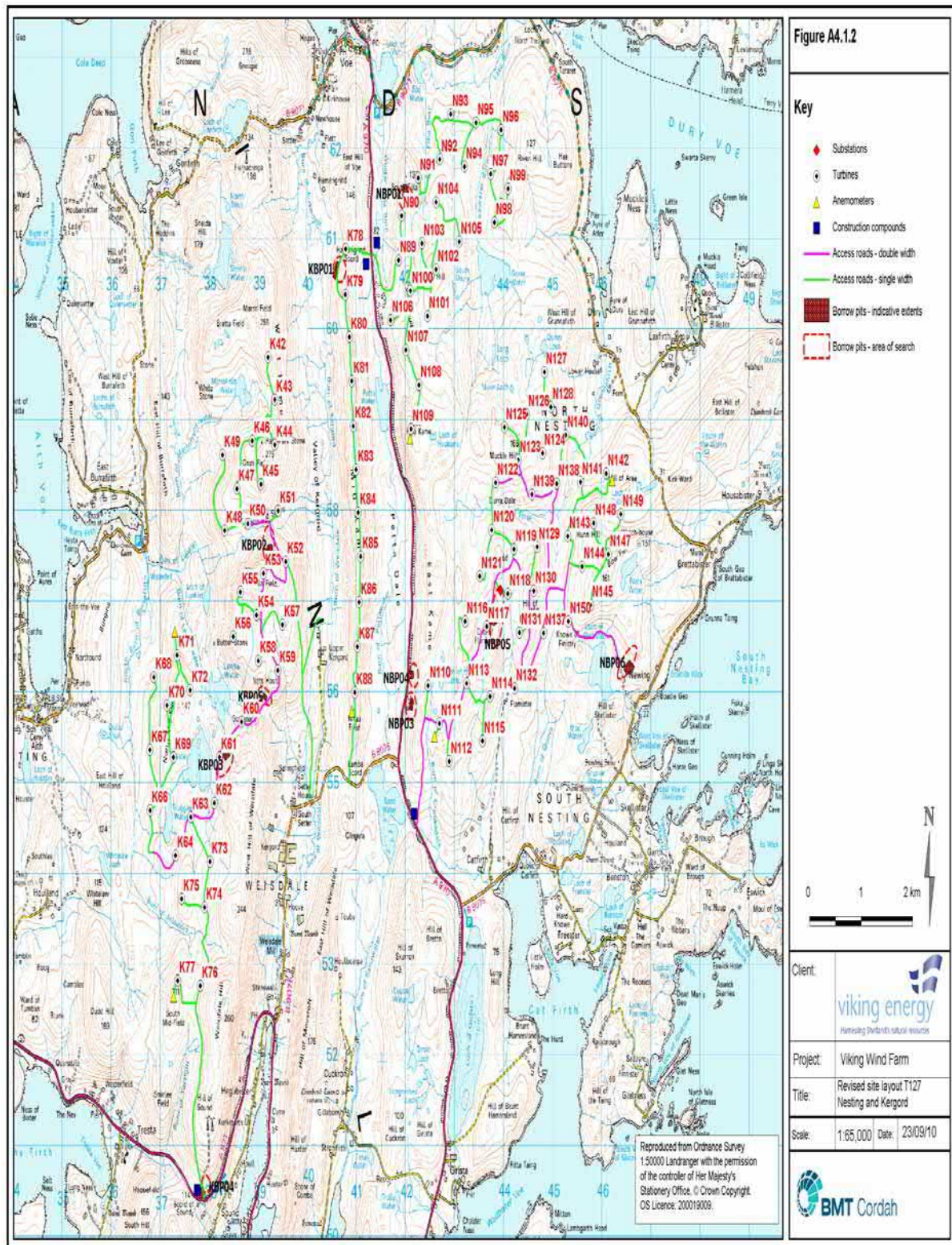


This is the map referred to in the report submitted to the Scottish Ministers in terms of Section 36 of the Electricity Act 1989 for the construction and operation of a powered electricity generating station at as confirmed by the Scottish Ministers.





## ANNEX G – NESTING AND KERGORD TURBINE LOCATIONS



This is the map returned to the Scottish Ministers in terms of Section 36 of the Electricity (Scotland) Act 1988, the construction and operation of a powered and controlled station at as confirmed by the Scottish Ministers.

Energy and Climate Change Directorate  
Energy Consents Unit



T: [REDACTED]  
E: [REDACTED]

Mr Jon Soal  
Viking Energy  
Inveralmond House  
200 Dunkeld Road  
Perth  
Perthshire  
PH1 3AQ

29 March 2017

Dear Mr Soal,

Thank you for your letter dated 25 January 2017 seeking an extension to the timescale for implementation of the consent for the Viking Wind Farm, Central Mainland, Shetland

The section 36 consent for the Viking Wind Farm development was granted on 4 April 2012 by Scottish Ministers to Viking Energy Partnership, a company having their registered office at The Gutters' Hut, North Ness Business Park, North Ness, Lerwick Shetland ZE1 0LZ. The consent was then subsequently assigned on 22 December 2015 to Viking Energy Wind Farm LLP a company having a registered office The Gutters' Hut, North Ness Business Park, North Ness, Lerwick Shetland ZE1 0LZ Company Number SO305400

The section 36 consent states at condition 2 of Part One:

The Commencement of the Development must be no later than 5 years from the date of this consent, or such other period as the Scottish Ministers may direct in writing. If Commencement of the Development does not occur within the relevant period the Site must (unless otherwise agreed in writing by the Scottish Ministers), within 6 months of the expiry of that period, be fully reinstated by the Company to the specification and satisfaction of the Scottish Ministers, in consultation with the Planning Authority.

**Reason:** *To ensure the commencement of the Development is undertaken within five years*



## **Consultation**

Scottish Ministers sought the views of SEPA, SNH, Historic Environment Scotland and the Shetland Islands Council on your request to extend the period for implementation of your consent.

**SEPA** confirmed they have no objection to this request to extend the time period stated in Condition 2.

**SNH** confirmed that their overall position and the advice they submitted on the original Section 36 consent application still stands, and this proposed extension of the implementation date will not have any additional natural heritage impacts.

**The Shetland Islands Council** confirmed that whilst they have not conducted a review of the Environmental Impact Assessment data, they are not aware of any changes to the local planning policy which would have effect on the conditions of the existing consent. The Council confirms the policy context within which the initial decision was made remains unchanged.

**Historic Environment Scotland** (previously Historic Scotland) confirmed that an extension to the consent implementation date does not present any environmental issues for Historic Environment Scotland's remit.

The Scottish Ministers see no disadvantage in allowing an additional time period to enable the Viking Wind Farm project to be fully realised. However, as the environmental impact assessment data is over 5 years old, the period within which development must commence for the purpose of the section 36 consent is extended by a period of 3 years instead of 5 years as requested. Commencement of the Development (as defined in the consent), must be no later than 4 April 2020, or such other period as the Scottish Ministers may direct in writing.

If Commencement of the Development does not occur within the relevant period, the Site must (unless otherwise agreed in writing by the Scottish Ministers), within 6 months of the expiry of that period, be fully reinstated by the Company to the specification and satisfaction of the Scottish Ministers, in consultation with the Planning Authority.

Yours sincerely,



**Theresa McInnes**  
**Energy Consents and Deployment Unit**  
**A member of staff of the Scottish Government**  
**For and on behalf of the Scottish Ministers**

### **APPENDIX 3: DRAFT PROPOSED SECTION 57 DIRECTION**

Subject to the conditions set out in Part 2 of Annex 2, the Scottish Ministers direct under section 57 (2) of the Town and Country Planning (Scotland) act 1997 that planning permission be deemed to be granted in respect of the proposed varied development as described in Annex 1, as so varied in accordance with the variation application.

Updated and revised conditions are sought in relation to the following conditions contained in Part 2 of Annex 2 to the relevant section 36 consent: Conditions 1, 4, 10, 17, 18, 19, 20, 21, 22, 24, 26, 27, 29, 30, 33 – 41, 42 – 47, 48 – 49.

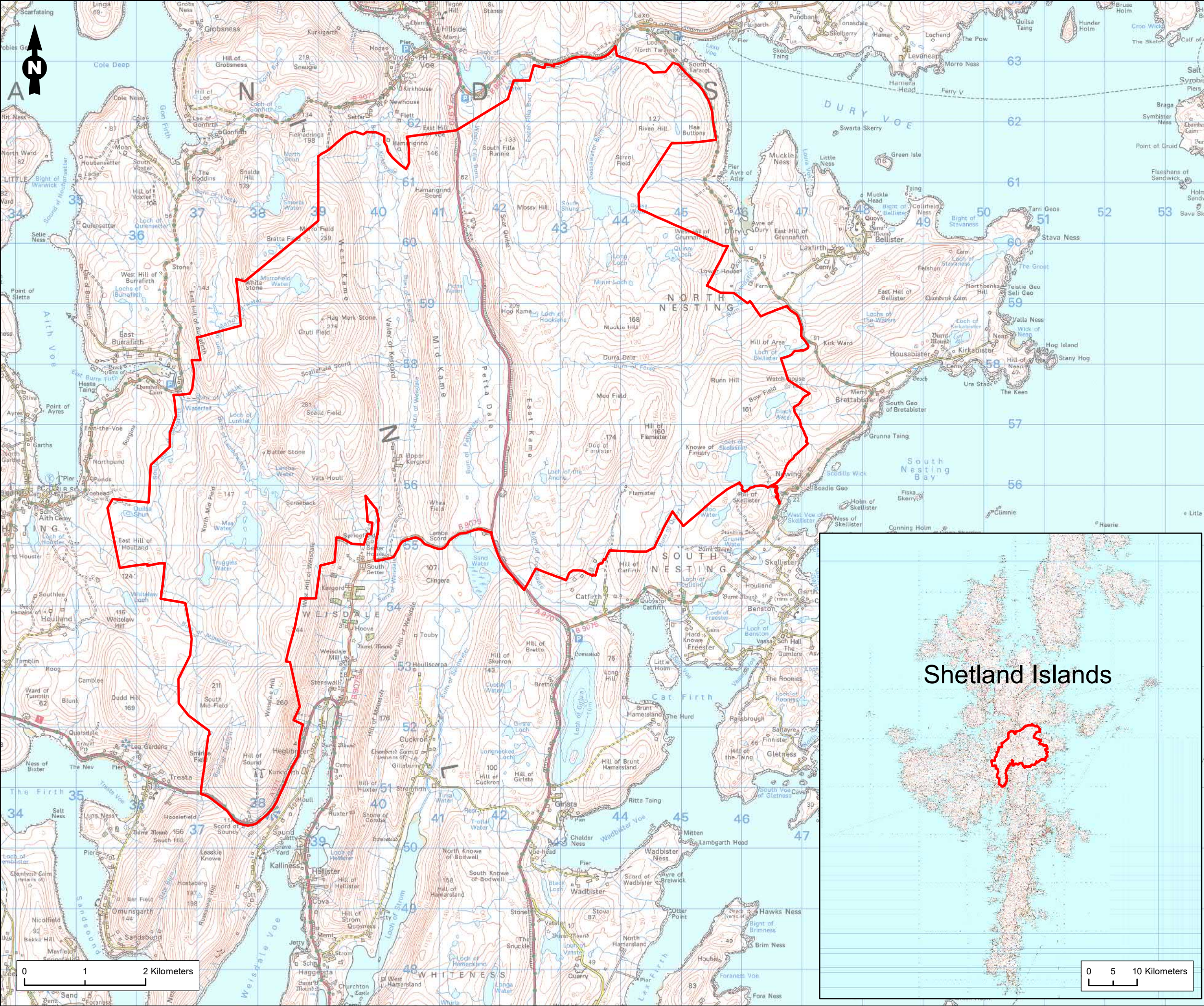
**APPENDIX 4: MAPS TO BE REFERENCED IN THE RELEVANT SECTION 36 CONSENT AS SO  
VARIED**

The Applicant encloses the following:

Figure 1.1: Site Location;

Figure 1.2: Site Layout;





**Legend**

S36c Variation Application Boundary

Figure Title  
Figure 1.1: Site Location

Project Name  
Viking Wind Farm

|                              |                   |
|------------------------------|-------------------|
| Project Number<br>1700001846 | Figure No.<br>1.1 |
|------------------------------|-------------------|

|                     |                   |
|---------------------|-------------------|
| Date<br>August 2018 | Prepared By<br>FB |
|---------------------|-------------------|

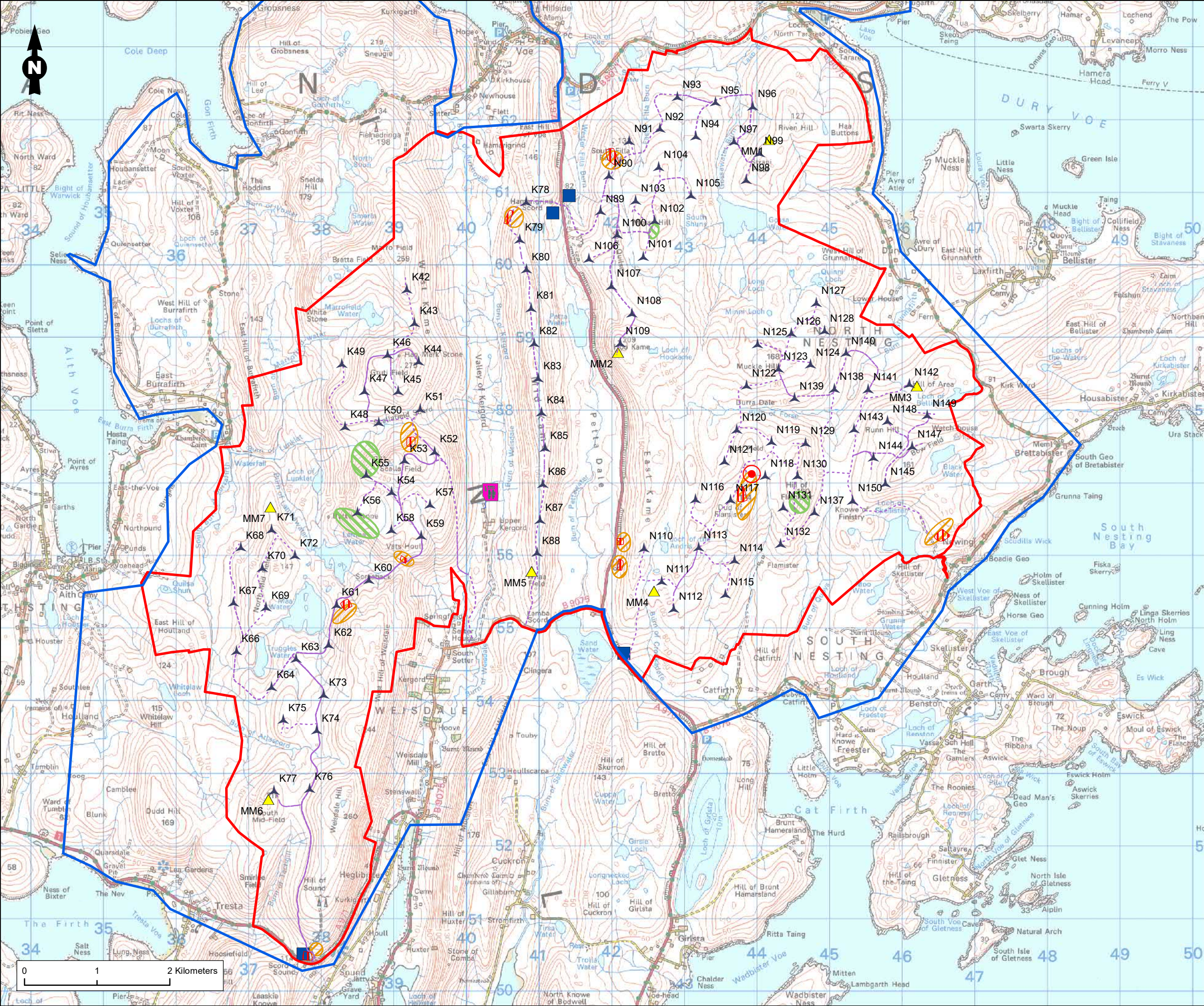
|                       |            |
|-----------------------|------------|
| Scale<br>1:60,000 @A3 | Issue<br>1 |
|-----------------------|------------|

Client









Legend

Consented S36 Site Boundary

S36c Variation Application Boundary

Converter Station Platform

Converter Station

Converter Station Access

Borrow Pit Extraction Area

Borrow Pit Search Area

Secondary Borrow Pit Search Area

Turbines

AccessTracks

Permanent Met Masts

Substation

Construction Compound

|                         |             |
|-------------------------|-------------|
| Figure Title            |             |
| Figure 1.2: Site Layout |             |
| Project Name            |             |
| Viking Wind Farm        |             |
| Project Number          | Figure No.  |
| 1700001846              | 1.2         |
| Date                    | Prepared By |
| October 2018            | FB          |
| Scale                   | Issue       |
| 1:50,000 @A3            | 1           |
| Client                  |             |
| viking energy           |             |





**APPENDIX 5: COPY OF PUBLIC NOTICE/ADVERT**

**VIKING ENERGY WIND FARM LLP**  
**ELECTRICITY ACT 1989 (SECTION 36C)**  
**THE ELECTRICITY GENERATING STATIONS (APPLICATIONS FOR VARIATION OF**  
**CONSENT)(SCOTLAND) REGULATIONS 2013**  
**TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997**  
**THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND)**  
**REGULATIONS 2017**

Notice is hereby given that **Viking Energy Wind Farm LLP, The Gutters Hut, North Ness Business Park, Lerwick, Shetland, ZE1 0LZ**, company registration number **SO305400**: has applied to the Scottish Ministers to vary the section 36 consent to construct and operate Viking Wind Farm at **Central Mainland, Shetland Islands** (Central Grid Reference **[HU 41 2576]**) previously consented on **4<sup>th</sup> April 2012** by Scottish Ministers ("the variation application").

The variation application seeks to make the following variations: The applicant is proposing to vary the consent by increasing the maximum tip height of the turbines from 145 metres (m) to a maximum of 155 m and increasing the maximum rotor diameter of the turbines by 10 m to a maximum of 120 m. The installed capacity of the proposed generating stated would be greater than 50 MW. The proposed varied development is subject to Environmental Impact Assessment and an Environmental Impact Assessment (EIA) report has been produced.

**Viking Energy Wind Farm LLP** has also applied for a direction under Section 57(2) of the Town and Country Planning (Scotland) Act 1997 that planning permission for the development be deemed to be granted.

A summary of the variation application, a copy of the variation application, a link to the original section 36 consent decision letter and the environmental reports prepared in relation to the proposed varied development can be found at the following website: **[www.vikingenergy.co.uk](http://www.vikingenergy.co.uk)**.

The variation application and environmental reports are also available for inspection, free of charge, during normal office hours at:

|                           |                          |                  |
|---------------------------|--------------------------|------------------|
| Viking Energy Partnership | Shetland Islands Council | Shetland Library |
| The Gutters Hut           | 8 North Ness Business    | Lower Hillhead   |
| North Ness Business Park  | Park                     | Lerwick          |
| Lerwick                   | Lerwick                  | Shetland         |
| Shetland                  | Shetland                 | ZE1 0EL          |
| ZE1 0LZ                   | ZE1 0LZ                  |                  |

They can also be viewed at the Scottish Government Library at Victoria Quay, Edinburgh, EH6 6QQ and at the following website: [www.energyconsents.scot](http://www.energyconsents.scot).

Copies of the variation application and environmental reports may be obtained from **Viking Energy, contact** 01595 743 840 at a charge of **£250** hard copy and **£10** on CD. Copies of a non-technical summary are available free of charge.

Any representations to the application may be submitted via the Energy Consents Unit website at [www.energyconsents.scot/Register.aspx](http://www.energyconsents.scot/Register.aspx) or by email to the Scottish Government, Energy Consents Unit mailbox at [REDACTED] or alternatively by post to the Scottish Government, Energy Consents Unit, 4<sup>th</sup> Floor, 5 Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU, identifying the proposal and specifying the grounds for representation.

Written or emailed representations should be dated, clearly stating the name (in block capitals), full return email and postal address of those making representations. Only representations sent by email to the address stipulated will receive acknowledgement.

All representations should be received not later than 24<sup>th</sup> December 2018, although Ministers may consider representations received after this date.

Should additional substantive information be made available in relation to this application, then further public notices will give advice on how this information may be viewed by members of the public, and how representations may be made to Scottish Ministers.

Where Scottish Ministers decide to exercise their discretion to do so, Scottish Ministers may cause a Public Local Inquiry (PLI) to be held.

Following receipt of all views and representations, Scottish Ministers will determine the application for consent in one of two ways:

- Consent the proposal, with or without conditions attached; or
- Reject the proposal

#### General Data Protection Regulations

The Scottish Government Energy Consents Unit processes consent applications and consultation representations under The Electricity Act 1989. During the process, to support transparency in decision making, the Scottish Government publishes online at [www.energyconsents.scot](http://www.energyconsents.scot). A privacy notice and a fair processing notice are published on the help page at [www.energyconsents.scot](http://www.energyconsents.scot). These explain how the Energy Consents Unit processes your personal information. If you have any concerns about how your personal data is handled, please email us at: [REDACTED] or write to Energy Consents Unit, 4<sup>th</sup> Floor, 5 Atlantic Quay, 150 Broomielaw, Glasgow, G2 8LU

**Flaherty D (Debbie)**

---

**From:** Helen McDade <helen.mcdade@johnmuirtrust.org>  
**Sent:** 11 January 2019 17:24  
**To:** Econsents Admin  
**Cc:** Helen McDade  
**Subject:** JMT objection to Viking WF variation ECU0000723  
**Attachments:** JMT 2018 Objection Viking variation final.pdf; JMT 2018 Objection Viking variation final.docx

Dear ECU team,  
 Please find attached a John Muir Trust objection to the Viking windfarm variation application ECU0000723. I apologise that we did not manage to get it in by Christmas eve, due to staff resource issues.  
 Best wishes,

**Helen McDade**  
**Head of Policy**

**John Muir Trust**

a: Tower House, Station Road, Pitlochry PH16 5AN  
 t: Redacted general office 01796 470080 e [helen.mcdade@johnmuirtrust.org](mailto:helen.mcdade@johnmuirtrust.org)  
 w: [www.johnmuirtrust.org](http://www.johnmuirtrust.org) tw: [@johnmuirtrust](https://twitter.com/johnmuirtrust)

#KnoydartAppeal – [Help us](#) plant 50,000 trees and expand native woodland in Knoydart.

The John Muir Trust is a charity that protects, enhances and engages people with wild places. [Join us](#)

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 \*\*\*\*\*



Helen McDade  
John Muir Trust  
Station Road  
Pitlochry  
Perthshire  
PH16 5AN

Ms. Debbie Flaherty  
Consents Manager,  
Energy Consents Unit,  
4<sup>th</sup> Floor,  
5 Atlantic Quay,  
150 Broomielaw,  
Glasgow  
G2 8LU.

By email to [EconsentsAdmin@gov.scot](mailto:EconsentsAdmin@gov.scot)  
Copied to [development.management@shetland.gov.uk](mailto:development.management@shetland.gov.uk)

Dear Ms Flaherty,

ECU Reference: ECU0000723

Proposal: A variation under Section 36C of the Electricity Act 1989 and the Electricity Generating Stations (Applications for Variation of Consent (Scotland) Regulations 2013 by increasing the maximum tip height of the turbines from 154 metres (m) to a maximum of 155 m and increasing the maximum rotor diameter of the turbines by 10 m to a maximum of 120 m. The installed capacity of the proposed generating wind farm would be greater than 50MW.

### **The John Muir Trust objects to this application**

The Trust notes that an official date of Christmas Eve 2018 was given for responses to this application to be submitted. Issues of staff resource, illness and time off prevented the Trust from responding within that time frame. We note that the Minister will consider all relevant responses and request that he takes this into consideration.

**The John Muir Trust objected to the original Viking proposal** and that objection is attached here as an Appendix. The grounds for that objection remain relevant.

**The Trust maintained its objection when the scheme was reduced to 103 turbines**, having assessed the revision. We note that SNH at that time recorded that there were still significant landscape, visual and cumulative impacts from that 103 turbine scheme and we note that SNH maintains its concerns on these aspects in their response to this variation.

### **The John Muir Trust objects to this application for the following reasons:**

1. The visual, landscape and cumulative information provided for this application is seriously inadequate - for instance, in the number of viewpoints and in their siting. In particular, the Muckle Roe National Scenic Area was not included. The inadequacy of the information means that an informed view and decision cannot currently be taken, either by the Trust or by the Scottish Government.
2. The previously consented Viking development, of 103 turbines of 145 metres, was assessed by the Trust as unacceptable in its visual, landscape and cumulative impacts. The revised scheme would have further impacts which have been obscured by the way in which the Landscape and Visual Assessment has been done.
3. The application acknowledges that the requirement for lighting on turbines will potentially cause significant issues with visual impact at night. In an area known for its dark sky and views of the Northern Lights, this could significantly impact on the growing tourism economy.
4. In the period since the previous application was assessed and consented, there have been significant changes in the tourism sector in Shetland and Scotland, which affect the “net economic benefit” of the scheme. The planning process is now required to take into account “net” economic benefit but this application fails to address that.
5. For the above reasons, the Trust believes that a Public Local Inquiry to allow this huge development to be adequately assessed must be held in Shetland.

### **VISUAL, LANDSCAPE AND CUMULATIVE IMPACTS**

#### **Inadequate visualisations and photomontages**

The Viewpoints provided in the Environmental Impact Assessment Report (EIAR) are inadequate in number and location and, therefore, impacts from this proposed height variation are obscured. Further, the Trust’s view is that the distance out from the development which is assessed by the chosen Viewpoints is insufficient for a development of this size with turbines of this size. The topography of Shetland mainland inevitably means there will be very considerable visibility beyond 10kms. Built windfarms on the Scottish mainland and on the islands demonstrate that significant visual impact can occur considerably further out than 10kms.

**There are only six Viewpoints between the 5km and 10km distance and only one, Lerwick, beyond 10kms.**

As a comparison of good practice, the proposed Caplich windfarm had a photomontage of the development viewed from Stac Pollaidh and the turbine array could be seen clearly at a distance of 25 kms.

Photomontages are one of the ways in which the public can consider for themselves whether a development will have significant visual impacts rather than having to rely

on professional opinion, which is generally commissioned by the developer. So it is important that key viewpoints and a sufficient range of positions are provided as visualisations with photomontages. With the scale of this development, and the varied and narrow shape of the Shetland mainland, there need to be more Viewpoints provided than might be required for, for instance, a development in an open rolling hill panorama on the UK mainland. This should be addressed.

### **Muckle Roe National Scenic Area**

There is no Viewpoint in the EIA Report from the Muckle Roe National Scenic Area (NSA) – the south east corner and coast of which is about 10kms from the development. Unfortunately the Figure which shows designated landscape areas, Figure 4.5, uses colours which make it difficult to see the edge of the Zone of Theoretical Visual influence (ZTV) where it crosses into the NSA. However, Figure 4.2 clearly shows potential visual impact. So the Trust believes that an assessment of a Viewpoint there is required to ensure protection of this natural heritage asset.

### **Interpretation of the Visual, Landscape and Cumulative evidence**

Aside from the visual impact of lighting on turbines which the EIA Report considers separately (see below), the EIA Report for the variation concludes that,

*“The LVA concluded that considering the minimal changes in the baseline since 2012 and a marginally increased magnitude associated with the 10 m tip height increase and rotor diameter increase, all of the effects ratings for landscape, visual and cumulative effects would be the same as those for the consented Viking Wind Farm.”*

This is a peculiar conclusion – that an increase of 10m height (equivalent to three storeys of a block of flats) with the same rotor diameter increase would have the “same effects ratings”. In the time given, the Trust has been unable to commission work on this. However, what is immediately apparent is that one possible reason for this EIAR coming to this conclusion is that the impacts of the previously consented scheme led to so many significant effects that it obscured any further impacts from the variation when considered in a desk-top exercise. The level of impacts is stated in the EIA Report which notes that:

13 of 17 key Viewpoints had significant visual effects

9 of 24 Landscape Character Areas/designations had significant cumulative effects

3 of the 17 Viewpoints also had significant cumulative effects.

### **Tourism economy and Dark Skies**

The Application acknowledges that the required lighting for the increased height of the turbines would be a visual impact at night. As noted by Visit Scotland, the increase of tourism to Shetland, particularly from cruise ships, has been very



significant in the time since this development was approved. Those visiting Shetland expect to find it as it is now - with beautiful unspoiled landscapes and seascapes which have a wonderful birdlife and unique habitats, and which bring a feeling of wildness, even though the road runs along the spine of the mainland. Tourists visiting Shetland also hope to see the Northern Lights, in the dark far north skies.

The impact of this development as now proposed, both from the turbines themselves and also when lit, on the views when approaching from the sea or from the main A970 road can be seen, from Figure 4.2, to be very significant.

### **Net economic benefit**

The Minister has to consider the **net economic benefit** of the proposed development and that must include very careful consideration of any negative impact on tourism, as noted by Visit Scotland in their response.

### **Public Local Inquiry**

The John Muir Trust believes that the only fair and democratic way for this development to be considered in depth, with technical analysis of the mass of information put forward by the Applicant, and in a transparent way open to the Shetland public, is for a Public Local Inquiry to be held.

**The Trust requests that the Minister calls that Public Local Inquiry.**

**In over ten years of assessing the landscape and visual impacts of industrial-scale windfarms, I have never seen a development which would cause such a massive degree of change to a natural landscape or result in such extreme impacts on local residents.**

Yours sincerely,

Redacted

Helen McDade, Head of Policy, John Muir Trust



## Appendix to Objection to Viking variation

### Objection to the original Viking wind farm development July 2009

The John Muir Trust wishes to lodge a formal objection to the planning application by Viking Energy to develop a 150 turbine wind farm on mainland Shetland. The John Muir Trust believes that this scheme should be refused. If the Scottish Executive does not wish to refuse the proposal, it is imperative, for a scheme of this scale, that a Local Public Inquiry be held to examine the issues in more detail.

**Grounds for objection** The John Muir Trust opposes this application because of the following grounds:

- The size and scale of this development is not reasonable, in relation to the area of mainland Shetland, and will very significantly impact on that island
- It is not reasonable to consider an application of this size and scale as a single development
- However, if these 150 turbines are to be considered as a single development, for planning purposes, the transmission infrastructure – substations and sub-sea cable- which is necessary to enable this development to be of any use must also be considered in the same process
- There would be major adverse visual and landscape impacts, including cumulative, of the proposed development
- There would be significant adverse ecological impacts
- There would be significant adverse impacts on peat, taking into account carbon release; ecological disturbance and other adverse impacts
- The way in which alternatives were assessed is not reasonable
- Government energy policies do not require this damaging proposal to proceed
- Evidence suggests that there would be significant adverse impacts on tourism, recreation and the Shetland economy

**Background** The John Muir Trust is a Scottish based, UK charity whose aim is to conserve and protect wild places with their indigenous animals, plants and soils for the benefit of present and future generations, and to increase awareness and understanding of the value of such places. The John Muir Trust is concerned about the effects of climate change and the implications of global warming for people, the environment and wild land. The John Muir Trust supported the introduction of strong Climate Change Bills, incorporating targets of 80% greenhouse gas (GHG) reductions by 2050 – based on the Intergovernmental Panel on Climate Change conclusions in its 2007 Reports. The John Muir Trust has only submitted objections to nine wind development planning applications in Scotland over the past five years.

**It is within that context that the Trust makes this submission.**

**Size and scale** The Non Technical Summary (NTS) is the part of the ES which is used by most of the public who will be affected and it is totally inadequate. For example, the paragraph on access tracks

does not give the amount of new track which will be required – actually 118km – so the public cannot reasonably assess the scale of the development from the NTS. There are numerous other omissions which would be expected in a reasonable NTS. The Applicant should have to provide more detailed information to the public and other parties. This proposal is described by the developers as a “community” project and the Environmental Statement (E.S.) stresses this aspect and the benefits they claim will result. However, another description might be that this is a huge industrial development – it would be one of the largest in Europe – on what is a small island. As such, it will dominate the vast majority of the island. The application, depending on which of the various boundaries given in the E.S. are used, occupies between 13 and 20% of the Shetland mainland. Due to the shape of that island, it will dominate an even bigger percentage of that mainland and adjacent islands.

**Single application** If this application was on the Scottish mainland, there is little doubt that it would have been put forward in several different applications – probably four. The applicant tacitly acknowledges the discontinuity of the proposal by dividing the application into four “quadrants”. It may be that one or more of those, considered separately, would be acceptable, regarding local environmental and social impacts. However, the difficulties of this project have led to such a huge proposal. In landscape and visual impact terms, the question is what number and size of turbines is excessive, in this setting. This question was not considered in this application because of the necessity for about 600 MW to “justify” a subsea cable. The applicant could not consider this to be too much as it is all, or nothing – using the current model.

**Transmission infrastructure** Given that these 150 turbines are being put forward together as one application, and that the subsea cable is essential for this to go ahead, the application for the subsea cable and associated infrastructure must be put forward to be considered together with this.

### **Visual and landscape impacts**

It is our view that a development of this scale, with its associated roads and transmission infrastructure, will still have a serious and hugely damaging detrimental impact on the landscape and visual quality of these unique and outstanding islands. Due to the relatively flat topography, there is very little screening and views from all around the Shetland mainland are affected. The ES itself gives figures showing that about one-third of the views from the viewpoints and buildings assessed would have significant adverse effects. Most Environmental Statements are at pains to show there are hardly any significant effects. This one takes a different tack, stating “In conclusion, the majority of significant effects upon the visual amenity of Shetland would occur within 15km of the periphery of the proposed Viking Wind Farm. These would generally be located in the central and northern mainland and parts of Yell and Whalsay, where views are orientated towards the proposed

development.” The matter-of-fact way in which this is stated does nothing to alter the position that the fact that the significant impacts are mostly within 15km (there being mostly sea beyond that) is incredibly worrying since that is where most of the Shetland mainland is. The Trust has not had the capacity to calculate the number of significant adverse impacts detailed in this application, at this stage, but it is clear that this is an unimaginable level of impact and unlike any predicted level the Trust has seen in other applications.

**Ecological impacts** The NTS states that “Significant negative effects are likely to be caused to the blanket bog and mire communities on the site, and it is partly for this reason that a Habitat Management Plan has been developed which will provide compensatory habitat enhancement elsewhere within the planning application area.”. Habitat Management Plans should not be used as a substitute for selecting a site with due care to avoid important habitats. The NTS notes that the condition of the blanket bog habitat ranges from good to poor but it should be noted that the figures given for this, figures 10.7 – 10.11 show considerable amounts of intact bog. These figures are inadequate to assess the whole area, as they only show survey work where the developer expects to site infrastructure. Survey results over a wider area should be available. Nevertheless, the results given show that this area has important blanket bog areas. The statistics given in the NTS make it clear that this is a very important area for several bird species – and, for several of them, the numbers present on the site are nationally and regionally significant.

**Adverse effects on peat** There are several aspects to be considered. Peat is a very important store for carbon and inappropriate development could release significant amounts of carbon into the atmosphere – the very issue which has led to the regime which is bringing forward this development so far from the need for its electricity. The ES itself gives figures of a “carbon payback period” of between 2.3 years and 14.9 years. In fact, there is major uncertainty about how much carbon might be released from such developments and the Trust believes that a precautionary approach should be used. It makes little sense to develop such a major windfarm on deep peat when it could be sited on suitable land on the UK mainland, nearer the consumers its electricity is for. Another aspect of concern is the risk of peat slides. These could have major impacts on the residents and also would contribute even more to the carbon released into the atmosphere. The ES acknowledges there are considerable concerns about peat slides.

**Alternatives to this site** The consideration of alternatives is given in the NTS as if the output from the development is for Shetland – listing various other renewable options and dismissing them as not practical for Shetland. This is not the case – the production is for the population much further south in the UK. In fact, there are two very different partners in the Applicant, Viking Energy Partnership. The alternatives that Scottish and Southern Energy should have included would be to seek other renewable energy opportunities on the Scottish and UK mainland nearer consumers, and on sites which were not deep peat, for instance.

The alternatives that the local partner, Viking Energy Ltd., could have considered would be smaller, genuinely “community-scale” renewable energy schemes which could contribute to supplying local needs. They could learn from the expertise and innovation in their local Pure project on Unst to utilise intermittent wind energy to produce hydrogen and use it locally for developing local businesses, etc. This is one example of many now emerging around the country of more innovative, more sustainable, decentralised production and use of electricity. So the evidence is not given that genuine consideration was given to less damaging alternatives.

**Energy Policies and Targets** The Trust does not consider this application is required for the success of government or local authority targets and policies. The Scottish Government figure given in December 2008 for installed and consented renewable energy capacity in Scotland was 5.5GWs out of a total target for 2020 of 8.4GWs. More large schemes have been brought onstream since then. It is untrue to portray this application as essential for either Scottish and UK renewable targets. Both

UK and Scottish Governments have indicated, in their Climate Change Bills, that the highest priority should be given to reducing greenhouse gas emissions. Following on from that, it should be noted that renewable energy targets are a secondary target – they exist primarily to contribute to the top priority target of reducing greenhouse gas emissions. Government carbon emissions reductions targets can be more efficiently achieved by concentrating on energy conservation and efficiency measures and tackling transport emissions, rather than aiming to vastly exceed current renewables targets, and with much less adverse environmental and social effects. The government’s sustainable development commitment would require that least damaging actions should be prioritised over other actions, if the essential aim can be achieved.

**Tourism** The Trust believes that this application would impact on the tourism industry in the area and also affect government tourism policy targets. In particular, the Trust notes that “account has been taken of the most recent study which provides information and data on tourists’ responses to wind farms in Scotland (Glasgow Caledonian University, 2008)”. The Trust believes that both that Report authors and others have been very selective in quoting from their findings. Some of the less quoted findings of that study, “The economic impacts of wind farms on Scottish tourism”. are given below: The report states that “Scottish tourism depends heavily on the country's landscape, with 92% of visitors stating that scenery was important in their choice of Scotland as a holiday destination, the natural environment being important to 89% of visitors (Tourism Attitudes Survey 2005).” p.2

“There is often strong hostility to developments at the planning stage on the grounds of the scenic impact and the perceived knock on effect on tourism. However developments in the most sensitive locations do not appear to have been given approval so that where negative impacts on tourism might have been a real outcome there is, in practice, little evidence of a negative effect.” p.4 This paragraph highlights what is at stake here and now. This would be the first, industrial-scale

incursion of a wind power development into Shetland. Discussing the internet survey part of the study, the Report states that: “A much higher percentage of respondents indicated that they would not visit an area if a wind farm was constructed (17.8%) than was found in the intercept survey. It should be noted that this result is less robust than the estimate provided by the intercept survey and should therefore be treated with caution, as, unlike the intercept study, respondents were not made aware of what constituted the “local area”. However, the result is indicative of the level of negative feeling some people have towards wind farms.” p.8

“Willingness To Pay” “In 6.9.2 and Table 6.7 and 6.8, on page 166, the amount extra that tourists are willing to pay to have a room with a view which does not have wind turbines in it. The average loss, per room per night, is assessed as £6.90, or 18% (Table 6.8).”

At the national planning level the research..... identifies that from a tourism viewpoint:.....The loss of value when moving from medium to large developments is not as great as the initial loss. It is the basic intrusion into the landscape that generates the loss.

“Finally this research found that, in general, the public did not recognise that some areas had been protected from development. Currently those tourists who do find wind turbines an objectionable presence are most likely simply to move to another area in Scotland. To ensure substitution opportunities it is important that areas are retained where turbine development is limited to

supplying local needs in small remote communities, and indeed the wilderness nature of these areas publicised.” P.16

**The Local Economy** There is a lot in the ES about the opportunities economically this development would bring to the local economy. In reality, a very substantial part of the investment is coming from the local people, through the Trust money which Viking Energy Ltd. hold in trust for them. It is questionable whether it would be considered good financial practice if the Trust were to suggest investing in such a development elsewhere. There are major uncertainties in such projects as is currently demonstrated by many large-scale wind developments which have been given planning permission, such as Griffin windfarm in Perthshire, not proceeding. Moreover, there are very limited opportunities for permanent, local jobs in such schemes. There is an alternative vision which could bring job opportunities and a more sustainable lifestyle to Shetlanders – one of investment in energy conservation and decentralised energy production and use. The John Muir Trust urges the Scottish Executive to refuse this application.

**Submitted to Energy Consents Unit**

**17 July 2009**

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Debbie Flaherty  
The Scottish Government  
5 Atlantic Quay  
150 Broomielaw  
Glasgow  
G2 8LU

19<sup>th</sup> December 2018

Dear Debbie,

**Re: Viking Wind Farm, Peat Stability Assessment - Variation Application**

Thank you for your request for consultation in relation to the above application. We have received and reviewed the relevant information supplied by the applicant and provide our response below.

**1. Background**

A Peat Stability Assessment (PSA) was undertaken for the Viking Wind Farm in support of the original Viking Wind Farm application for 150 turbines in 2009 (Mouchel, 2009). The PSA was prepared by Mouchel Ltd on behalf of the Viking Energy Partnership. This PSA has been resubmitted in support of a variation to the scheme. The purpose of this letter is to respond to the PSA in the context of the variation.

**2. Requirements for PSA**

Peat Landslide Hazard and Risk Assessments (PLHRAs), sometimes referred to as peat stability assessments (PSAs) are required for all Section 36 applications for electricity generation (including wind farms). The requirements and indicative format of reporting are documented in Scottish Government Best Practice Guidance (BPG), first issued in 2006 and then updated in 2017. PSAs are usually submitted as technical appendices to an environmental statement. The PSAs are checked by a technical authority acting on behalf of the Scottish Government Energy Consents Unit (ECU), and under the current (2017) guidance are reported as meeting one of the following criteria:

- i) **The PLHRA is considered to be satisfactory:** the checking report has determined that the PLHRA is sufficiently robust in all respects; although some recommendations may be made for clarity, no further revisions are required.
- ii) **The PLHRA requires minor revisions:** although much of the PLHRA is sound, one or two key elements are considered to be insufficiently robust to support the PLHRA conclusions and minor revisions are required; areas for attention will be advised in the review findings and may be

progressed by the developer through either an appendix to the original submission or by clarification letter.

- iii) **The PLHRA requires resubmission:** there are significant shortcomings throughout the PLHRA and reworking of the PLHRA report is required to support a robust assessment; areas for attention will be advised in the review findings and outline guidance offered to support the developer in preparing a satisfactory PLHRA.

A report that 'requires resubmission' can be rejected based on the uncertainties around peat landslide hazards alone, while a report that 'requires minor revisions' is considered to be satisfactory *provided* the revisions cited in the checking report are included in an amended version of the PSA or in clarifications. A PSA that is considered satisfactory does not require changes to be made prior to consent, though the applicant may consider it good practice to implement minor recommendations.

### 3. The Viking Wind Farm PSA

On review of the Viking PSA, no changes have been made to reflect the revisions to the proposed wind farm, no updates have been made to reflect changes in site conditions since the original report, and there have been no changes to reflect differences between the 2006 and 2017 guidance. These issues are considered below.

#### 3.1 Changes to wind farm layout

In relation to the wind farm layout, the lack of update of the PSA is acceptable, since the proposed scheme in the variation comprises the same layout as that submitted in 2009 but with some omissions. Specifically, the application letter of 14/11/2018 (Viking Energy Wind Farm LLP, 2018) states that *"It is important to note that there are no changes proposed to the site layout and footprint of the consented Viking Wind Farm."* This means that the layout in the variation has been fully assessed.

#### 3.2 Changes to ground conditions

Since submission of the 2009 PSA, the Shetland mainland has experienced a number of large-scale peat landslide events similar to the Channerwick peat landslides of 2003. In general, based on reported incidents, the Shetland mainland appears to have experienced significantly more peat landslides than anywhere else in Scotland between 2003 and the present.

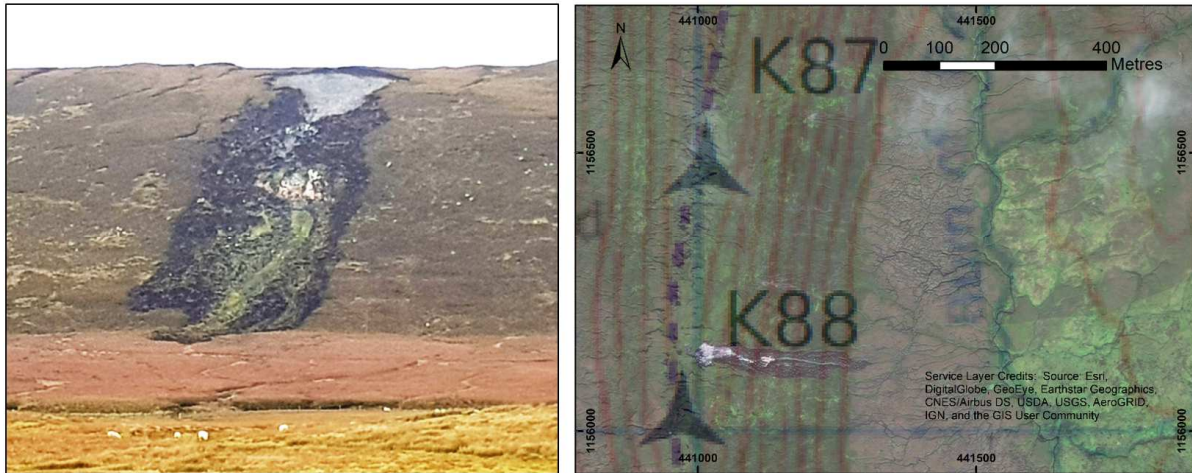
The peat landslides that have occurred since 2009 on the Shetland mainland include but are not necessarily limited to:

- A peat landslide within the site boundary at Mid Kame (The Shetland Times, 30/10/2015)
- A peat landslide at Vatster in Bigton (The Shetland Times, 10/08/2014)
- A cluster of peat landslides in Uradale, including at Uradale Farm between Scalloway and Trondra (The Shetland Times, 22/08/2012)

Images of the Mid Kame landslide, which lies within the site, are shown below. These have been compared with the proposed layout for the variation of the Viking Wind Farm and indicate the landslide source area to lie along the ridge crest proposed for Turbines K78 to K88, specifically between K87 and K88.

Landslide features pre-dating or occurring during a wind farm application within the application boundary would normally be expected to require review and commentary in a PSA, and estimates of landslide likelihood undertaken as part of the PSA process would be sense-checked (or calibrated) against the observed features.





*Figure 1 Left: Mid Kame Peat Landslide photographed from the A970 in November 2018; Right: Mid Kame Peat Landslide (from Google Earth basemap layer) superimposed on the georeferenced 'current' layout (note that the three pronged stars are the turbine locations (with labels above to the right) and that the hashed line is the access track)*

### 3.3 Changes to the BPG and to general good practice in peatlands

The PSA was prepared in response to the 2006 Scottish Government PLHRA Best Practice Guide (BPG), which has since been superseded by the 2017 version. The primary changes between the 2006 and 2017 editions of the BPG are of clarification, with updates to reflect wider best practice approaches in peatland relevant to wind farms and to enable new and relevant publications on peat landslides to be included in the guidance.

Outside the BPG, key guidance has also been issued in relation to the density and type of peat depth probing and sampling (Scottish Government et al, 2014) and the excavation, storage and re-use of peat displaced during construction (Scottish Renewables & SEPA, 2012). Typically, PSAs incorporate site-wide maps of peat stability or calculated peat landslide risk and areas of lower stability or higher concern are highlighted for avoidance by temporary peat storage during construction. While an up-to-date (November 2018) peat management plan (PMP) has been submitted as Appendix 2.4 of the ES, and includes commentary on stability, the PMP contains no site-specific commentary on avoidance of low stability areas, presumably because these are not summarised in graphical form in the 2009 PSA.

While the PSA is still 'current' with respect to the layout, it has a number of shortcomings relative to current best practice. These are best identified following summary of the original checking report findings (attached as Annex 1 to this letter).

### 4. ECU review of the 2009 PSA

The 2009 PSA was checked on behalf of ECU in accordance with the 2006 BPG (Halcrow Group Limited, 2009). The PSA has not changed since original submission, therefore a new checking report has not been issued. The checking report findings were summarised in a 'Conclusions' section. At the time, checking reports did not adopt the three criteria outlined in section 2 above, and the expectation on applicants was that 'Key Recommendations' outlined in the conclusions would be actioned. This expectation and the key actions are equivalent to criteria ii) in section 2 above.

The 2009 checking report (dated 14/07/2009) concluded that *“the peat stability report provides a clear assessment of peat landslide risk at the proposed Viking Windfarm site. The work conducted is considered (with some notable exceptions) to be of a high standard and follows the Best Practice Guide where applicable”*. Following this statement, a series of *“key actions which should be addressed”* were listed. These are summarised below (see Halcrow Group Ltd (2009) for full commentary):

- a) A field visit undertaken in support of the checking report identified peat landslides not documented in the PSA and their presence should have been taken into account in the report
- b) No aerial photograph analysis was demonstrated in the report, and this should have been undertaken to help identify evidence of past landslides
- c) A database (or list) of peat landslides within the site should have been present in the report
- d) Information should have been provided as to how peat depths were interpolated from peat depth data points
- e) The qualitative approach to calculation of risk should have been documented in the report
- f) At the detailed design stage, more detailed mitigation measures should be provided to accommodate the potential impacts of landslide runout and flooding caused by peaty debris
- g) More information should have been provided on which parts of the site were subject to site reconnaissance
- h) Borehole logs should have been provided as an appendix
- i) A sensitivity analysis of the infinite slope modelling should have been presented to indicate how reliable the modelling was given uncertainties in geotechnical parameters for the peat on site

All of these, bar f), remain applicable to the report submitted for the variation, and none of these actions have been addressed since issue of the original PSA, despite the lengthy period between submission of the original report and the current variation.

## 5. Suitability of the 2009 PSA

Based on the above, it is ECU's view that the PSA submitted in support of the variation requires minor revisions to be considered satisfactory for construction to progress. This reflects an uplift in expectations on PSAs since 2009, a general improvement in good practice over the last ten years and the continued occurrence of peat landslide events in the Shetland mainland, a factor which is in some ways unique to Shetland and which justifies extra prudence for applications on the island.

However, it is recognised that the original scheme was granted consent on the basis of the 2009 ES (and addenda) and therefore, at the time, the supporting environmental impact assessment was considered satisfactory. Given this, ECU's view in relation to peat stability is that the PSA submitted for the variation shall be considered satisfactory for consent subject to conditions that require to be attached to either the Section 36 Consent or Deemed Planning Conditions. Annex 2 to this letter provides these conditions.

Best regards,

Redacted

**Dr Andy Mills**  
Director

Registered in England, No. 8827692

## References

Halcrow Group Limited (2009) Viking Wind Farm, Shetland, Peat Stability Assessment. Report prepared for ECU. 25p.

Mouchel Ltd (2009) Viking Wind Farm – Technical Appendix 14.1 Peat Stability Assessment. Report prepared for Viking Wind Farm Ltd (submitted as Appendix 2.3 of the 2018 EIA).

Scottish Executive (2006) Peat Landslide Hazard and Risk Assessments, Best Practice Guide for Proposed Electricity Generation Developments. Scottish Government, 72p.

Scottish Government, Scottish Environment Protection Agency, Scottish Natural Heritage and The James Hutton Institute (2014) Guidance on Developments on Peatland – Site Surveys 7p.

Scottish Government (2017) Peat Landslide Hazard and Risk Assessments, Best Practice Guidance for Proposed Electricity Generation Developments, 72p.

Scottish Renewables and Scottish Environmental Protection Agency (2012) Developments on Peatland: Guidance on the assessment of peat volumes, reuse of excavated peat and the minimisation of waste. Version 1, January 2012. SR and SEPA Joint Publication, 23p.

The Shetland Times (22/08/2012) Landslide hit parts of central Mainland including Uradale. Accessed 17/12/2018 from <https://www.shetlandtimes.co.uk/2012/08/22/landslides-hit-central-mainland-including-uradale-farmhouse>

The Shetland Times (10/08/2014) Floods and landslides after a day of deluge. Accessed 17/12/2018 from <https://www.shetlandtimes.co.uk/2014/08/10/floods-and-landslides-after-a-day-of-deluge>

The Shetland Times (30/0/2015) Mid Kame landslip on proposed windfarm site. Accessed 17/12/2018 from <https://www.shetlandtimes.co.uk/2015/10/30/mid-kame-landslip-on-proposed-windfarm-site>

Viking Energy Wind Farm LLP (2018) Application Letter from J Watt to D Flaherty dated 14/11/2018, 57p.

**Annex 1 – Halcrow Group Ltd (2009) Conclusions and Recommendations from  
Checking Report for 2009 PSA**

## 4 Conclusions and Recommendations

### 4.1

#### ***Conclusion***

It is considered that the peat stability report provides a clear assessment of peat landslide risk at the proposed Viking Windfarm site. The work conducted is considered (with some notable exceptions) to be of a high standard and follows the Best Practice Guide where applicable. Given the evidence presented we would consider that peat landslide hazards and risks have been identified in the investigation; and where appropriate, the requirements for further detailed investigation or potential mitigation measures have been reported.

### 4.2

#### ***Key Recommendations***

The document is of a general high standard however we recommend a series of key actions which should be addressed:

- Following site reconnaissance a number of peat landslides were identified at sites which are not recorded in the report. In particular the presence of a large peat landslide in the Hill of Flamister area (Nesting) has been identified and the ground conditions assessment should be modified accordingly to reflect this.
- The available aerial photographs should be used more effectively to identify peat landslides and features indicative of peat instability to ensure the robustness of the hazard and risk assessment. It is advised that such an approach should be included in the current report;
- The report should provide a comprehensive register (database and map) of hillslope peat landslide features across the study area;
- The report should provide further explanation of the method used in the generation of the indicative peat depth map, to improve the understanding and demonstrate its accuracy and precision, given that these data provide a key input into subsequent analytical phases;
- The qualitative methodology adopted to classify hazard, exposure and landslide risk should be included within the text of the report.
- Whilst the mitigation options outlined in the report provide a suitable level of consideration at this stage of planning it is advised that further engineering mitigation measures should be considered during detailed design. The potential secondary impacts of peat landslide runout and peat

flooding should also be accounted for in the risk assessment. It is advised that this should be developed during the next stage of detailed design

- The report should clarify the selection, location, and distribution of all site reconnaissance surveys, in order to demonstrate how comprehensive and representative this peat stability assessment is;
- The report should provide full data on borehole log data, as an appendix, thereby extending the factual reporting;
- The report should demonstrate the sensitivity of the infinite slope model to changes in the angle of internal friction and other input values, in order that the robustness of the calculated factor of safety values can be further demonstrated;

## Annex 2 – Conditions

- (1) No development shall commence unless and until a revised peat landslide risk assessment, addressing the construction phase of the Development and post-construction monitoring, has been submitted to, and approved in writing by, the Planning Authority in consultation with Scottish Ministers.
- (2) The revised peat landslide risk assessment shall comply with best practice contained in “Peat Landslide Hazard and Risk Assessments: Best Practice Guide for Proposed Electricity Generation Developments” published by the Scottish Government in April 2017, or such replacement standard as may be in place at the time of submission of the peat landslide risk assessment for approval.
- (3) The revised peat landslide risk assessment shall address all the key actions in the 2009 checking report (pages 14 and 15 of Halcrow Group Ltd (2009)) and any further actions deemed appropriate from review of the revised report.
- (4) The revised peat landslide risk assessment shall include a scaled plan of the full site showing existing landslides within and adjacent to the site, calculated peat landslide risk and mitigation measures for all infrastructure and calculated peat landslide risk and mitigation measures for all areas proposed for temporary and permanent peat storage in the Peat Management Plan.
- (5) The Peat Management Plan and CEMP shall be updated to reference the findings and proposed landslide risk mitigation measures contained within the revised peat landslide risk assessment.
- (6) The approved revised peat landslide risk assessment shall be undertaken in full prior to Commencement of Development.
- (7) No development shall commence unless and until the terms of appointment for an independent and suitably qualified geotechnical engineer (including specification of duties and duration of appointment) have been submitted to, and approved by, the Planning Authority, and the approved engineer has been appointed.
- (8) Continuous monitoring of ground conditions during the construction and deforestation phases of the Development shall be carried out.
- (9) Continuous analysis and call out services shall be provided by the geotechnical engineer throughout the construction phase of the Development.
- (10) If a risk of peat failure is identified such geotechnical instrumentation to monitor ground conditions as is recommended by the geotechnical engineer shall be installed and ground conditions shall be monitored.
- (11) Any remediation work considered necessary by the geotechnical engineer shall be implemented to the satisfaction of the geotechnical engineer.
- (12) Monitoring results shall be fed into risk analysis reports, which shall be submitted to the Planning Authority on a quarterly basis during the construction and deforestation phases of the Development.

*Reason: To minimise the risk of peat failure arising from the Development.*

---

**From:** paul.3.atkinson@openreach.co.uk <paul.3.atkinson@openreach.co.uk> **On Behalf Of** radionetworkprotection@bt.com  
**Sent:** 21 November 2018 12:57  
**To:** Econsents Admin <Econsents\_Admin@gov.scot>  
**Cc:** Flaherty D (Debbie) <Debbie.Flaherty@gov.scot>  
**Subject:** FW: Viking Wind Farm, Shetland - Variation Application

## **OUR REF; WID10870**

Dear Sir/Madam,

Thank you for your email dated 20/11/2018.

We have studied this Windfarm variation proposal with respect to EMC and related problems to BT point-to-point microwave radio links.

The conclusion is that, the Project indicated should not cause interference to BT's current and presently planned radio network.

Kind Regards,  
**Paul Atkinson**  
**Fibre and Network Delivery**  
**Radio Frequency Allocation & Network Protection (BNJ553)**  
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Mobile <sup>Redacted</sup>  
Web: [www.openreach.co.uk](http://www.openreach.co.uk)  
**PLEASE ALWAYS RESPOND TO [radionetworkprotection@bt.com](mailto:radionetworkprotection@bt.com)**

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# Defence Infrastructure Organisation

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G2 8LU

27<sup>th</sup> November  
2018

Dear Ms Flaherty

**Please quote in any correspondence: DIO 7680**

**Site Name: Viking Wind Farm**

**Planning Application Number: ECU00000723**

**Site Address: Shetland Main Land**

Thank you for consulting the Ministry of Defence (MOD) about the above planning application in your communication dated 16/11/2018.

I am writing to advise you that the MOD objects to the proposal. Our assessment has been carried out on the basis that there will be 103 turbines, 155.00 metres in height from ground level to blade tip and located at the grid references below as stated in the planning application or provided by the developer:

| Turbine | Easting | Northing  |
|---------|---------|-----------|
| 42      | 439,200 | 1,159,693 |
| 43      | 439,331 | 1,159,224 |
| 44      | 439,334 | 1,158,729 |
| 45      | 439,057 | 1,158,289 |
| 46      | 438,876 | 1,158,772 |
| 47      | 438,563 | 1,158,245 |
| 48      | 438,313 | 1,157,780 |
| 49      | 438,270 | 1,158,616 |
| 50      | 438,785 | 1,157,856 |
| 51      | 439,404 | 1,158,000 |
| 52      | 439,561 | 1,157,442 |
| 53      | 439,101 | 1,157,308 |

|     |         |           |
|-----|---------|-----------|
| 54  | 438,962 | 1,156,847 |
| 55  | 438,632 | 1,157,104 |
| 56  | 438,491 | 1,156,615 |
| 57  | 439,489 | 1,156,742 |
| 58  | 438,999 | 1,156,347 |
| 59  | 439,398 | 1,156,236 |
| 60  | 438,654 | 1,155,671 |
| 61  | 438,208 | 1,155,282 |
| 62  | 438,100 | 1,154,776 |
| 63  | 437,621 | 1,154,621 |
| 64  | 437,312 | 1,154,199 |
| 66  | 436,798 | 1,154,695 |
| 67  | 436,790 | 1,155,360 |
| 68  | 436,872 | 1,156,166 |
| 69  | 437,266 | 1,155,282 |
| 70  | 437,141 | 1,155,852 |
| 71  | 437,342 | 1,156,409 |
| 72  | 437,608 | 1,156,020 |
| 73  | 438,014 | 1,154,128 |
| 74  | 437,905 | 1,153,627 |
| 75  | 437,434 | 1,153,720 |
| 76  | 437,817 | 1,152,764 |
| 77  | 437,356 | 1,152,817 |
| 78  | 440,776 | 1,160,883 |
| 79  | 440,772 | 1,160,385 |
| 80  | 440,854 | 1,159,914 |
| 81  | 440,900 | 1,159,430 |
| 82  | 440,933 | 1,158,934 |
| 83  | 440,988 | 1,158,452 |
| 84  | 441,035 | 1,157,978 |
| 85  | 441,080 | 1,157,495 |
| 86  | 441,054 | 1,156,994 |
| 87  | 441,013 | 1,156,498 |
| 88  | 440,965 | 1,155,996 |
| 89  | 441,852 | 1,160,765 |
| 90  | 441,915 | 1,161,255 |
| 91  | 442,257 | 1,161,670 |
| 92  | 442,691 | 1,161,878 |
| 93  | 442,916 | 1,162,371 |
| 94  | 443,200 | 1,161,794 |
| 95  | 443,433 | 1,162,282 |
| 96  | 443,943 | 1,162,196 |
| 97  | 443,735 | 1,161,713 |
| 98  | 443,806 | 1,161,179 |
| 99  | 444,086 | 1,161,553 |
| 100 | 442,098 | 1,160,426 |
| 101 | 442,442 | 1,160,143 |
| 102 | 442,621 | 1,160,660 |
| 103 | 442,333 | 1,160,948 |
| 104 | 442,620 | 1,161,400 |
| 105 | 443,093 | 1,160,969 |
| 106 | 441,689 | 1,160,100 |
| 107 | 442,006 | 1,159,772 |
| 108 | 442,271 | 1,159,384 |
| 109 | 442,108 | 1,158,903 |
| 110 | 442,458 | 1,156,070 |
| 111 | 442,687 | 1,155,652 |
| 112 | 442,884 | 1,155,239 |

|     |         |           |
|-----|---------|-----------|
| 113 | 443,239 | 1,156,095 |
| 114 | 443,721 | 1,155,951 |
| 115 | 443,562 | 1,155,460 |
| 116 | 443,208 | 1,156,783 |
| 117 | 443,652 | 1,156,725 |
| 118 | 444,080 | 1,157,082 |
| 119 | 444,204 | 1,157,575 |
| 120 | 443,752 | 1,157,787 |
| 121 | 443,509 | 1,157,280 |
| 122 | 443,835 | 1,158,308 |
| 123 | 444,294 | 1,158,559 |
| 124 | 444,792 | 1,158,632 |
| 125 | 444,013 | 1,158,919 |
| 126 | 444,469 | 1,159,061 |
| 127 | 444,829 | 1,159,527 |
| 128 | 444,960 | 1,159,141 |
| 129 | 444,681 | 1,157,604 |
| 130 | 444,612 | 1,157,115 |
| 131 | 444,316 | 1,156,655 |
| 132 | 444,379 | 1,156,174 |
| 137 | 444,806 | 1,156,649 |
| 138 | 445,073 | 1,158,295 |
| 139 | 444,570 | 1,158,179 |
| 140 | 445,257 | 1,156,832 |
| 141 | 445,562 | 1,158,314 |
| 142 | 446,086 | 1,158,412 |
| 143 | 445,302 | 1,157,718 |
| 144 | 445,595 | 1,157,383 |
| 145 | 445,766 | 1,156,959 |
| 147 | 446,130 | 1,157,523 |
| 148 | 445,828 | 1,157,861 |
| 149 | 446,380 | 1,157,963 |
| 150 | 445,315 | 1,156,780 |

### **Air Defence (AD) radar**

The turbines will be 61.8 km from, detectable by, and will cause unacceptable interference to the AD radar at RRH Saxa Vord.

Wind turbines have been shown to have detrimental effects on the operation of radar. These include the desensitisation of radar in the vicinity of the turbines, and the creation of "false" aircraft returns. The probability of the radar detecting aircraft flying over or in the vicinity of the turbines would be reduced, hence turbine proliferation within a specific locality can result in unacceptable degradation of the radar's operational integrity. This would reduce the RAF's ability to detect and deter aircraft in United Kingdom sovereign airspace, thereby preventing it from effectively performing its primary function of Air Defence of the United Kingdom.

An operational assessment has been conducted by an AD Subject Matter Expert (SME) who considered the position of the turbines weighed against a number of operational factors including:

- a) Detectability of the turbines.
- b) Position of the development.
- c) Quantity of turbines within the development.
- d) Other developments within the vicinity.
- e) Loss of coverage due to the development's electromagnetic shadow.

Close examination of the proposal has indicated that the proposed turbines would have a significant and detrimental effect on AD operations. The MOD therefore objects to the Viking development. The reasons for this objection include, but are not limited to:

- a) Several of the turbines within the development being RLOS.
- b) The quantity of the turbines visible to the radar at RRH Saxa Vord would exceed our 'cumulative effect' thresholds.

Research into technical mitigation solutions is currently ongoing and the developer may wish to consider investigating suitable mitigation solutions.

If the developer is able to overcome the issues stated above, the MOD will request that all turbines be fitted with aviation safety lighting in accordance with the Civil Aviation Authority, Air Navigation Order.

MOD Safeguarding wishes to be consulted and notified about the progress of planning applications and submissions relating to this proposal to verify that it will not adversely affect defence interests.

I hope this adequately explains our position on the matter. Further information about the effects of wind turbines on MOD interests can be obtained from the following website:

**MOD:** <https://www.gov.uk/government/publications/wind-farms-ministry-of-defence-safeguarding>

Yours sincerely

Redacted

Teena Oulaghan  
Safeguarding Officer  
Defence Infrastructure Organisation

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**From:** Redacted  
**Sent:** 29 November 2018 10:51  
**To:** Flaherty D (Debbie)  
**Cc:** Econsents Admin  
**Subject:** Re: Viking Wind Farm, Shetland - Variation Application

Dear Ms Flaherty

HSE is a statutory consultee on relevant developments within the consultation distance of a hazardous installation or a major accident hazard pipeline and which meet the following criteria.

- Residential Accommodation
  - more than 250m<sup>2</sup> of retail floor space;
  - more than 500m<sup>2</sup> of office floor space;
  - more than 750m<sup>2</sup> of floor space to be used for an industrial process;
  - transport links;
  - or which is otherwise likely to result in a material increase in the number of persons working within or visiting the notified area.

There are additional areas where HSE is a statutory consultee. For full details, please refer to annex 2 of HSE's Land Use Planning Methodology: [www.hse.gov.uk/landuseplanning/methodology.htm](http://www.hse.gov.uk/landuseplanning/methodology.htm)

There is also further information on HSE's land use planning here: [www.hse.gov.uk/landuseplanning/](http://www.hse.gov.uk/landuseplanning/)

Wind turbines are not a relevant development in relation to land-use planning in the vicinity of major hazard sites and major accident hazard pipelines. This is because they do not, in themselves, involve the introduction of people into the area. HSE's land use planning advice is concerned with the potential risks posed **by** major hazard sites and major accident hazard pipelines **to** a new development; it does not deal with the potential risks which a new development may pose to a major hazard site or major accident hazard pipeline. The Office for Nuclear Regulation (ONR) however does wish to be consulted over such proposals.

HSE's role in relation to wind farms is to enforce health and safety legislation. The Health and Safety at Work Act etc., and Regulations issued under it, outline general duties on employers to ensure that the risks to worker and public safety from their activities are, so far as is reasonably practicable, safe and without risks to health.

Most health and safety law does not come into effect until a development has been approved allowing commencement of construction activities (the one exception being the Construction (Design & Management) Regulations 2015 (CDM 2015) – see <http://www.hse.gov.uk/construction/cdm/2015/index.htm>). At this point HSE's interest is in the employer's responsibility to ensure the safety of workers (employees and self-employed persons) from hazards arising from the construction, commissioning, operation, maintenance and eventual decommissioning of the site.

The protection of the public from any hazards arising from the operation of the turbines is also covered within this remit; the public safety aspects of the Electricity Safety, Quality and Continuity Regulations 2002 (ESQCR) specify standards aimed at protecting the general public and consumers from danger from the operation of electricity generation, distribution and supply equipment. Electricity generating companies and other duty holders are required to do all that is reasonably practicable to ensure their equipment is safe.

Should you have any queries, please do not hesitate to contact us.

Regards

Sue Howe

HSE's Land Use Planning Support Team

Harpur Hill,  
Buxton,  
SK17 9JN

Please note our new number is Redacted

For HSE's Land Use Planning Advice Terms and Conditions, please click on the following link  
<https://www.hsl.gov.uk/planningadvice> and then click on 'terms and conditions'.

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Redacted

## Flaherty D (Debbie)

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**From:** Safeguarding <Safeguarding@hial.co.uk>  
**Sent:** 05 December 2018 15:39  
**To:** Econsents Admin  
**Cc:** Flaherty D (Debbie)  
**Subject:** RE: Viking Wind Farm, Shetland - Variation Application

**Your Ref:** ECU00000723  
**HIAL Ref:** 2018/0111/LSI

Dear Sir/Madam,

**PROPOSAL: VARIATION OF CONSENT TO THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017**  
**ELECTRICITY ACT 1989 SECTION 36: VIKING WIND FARM**

**LOCATION: Central Mainland, Shetland Islands**

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With reference to the above, our calculations show that, at the given position and height, this development would not infringe the safeguarding surfaces for **Sumburgh Airport**.

However, due to the change in height, aviation warning lights are now required to be fitted at the hub height of the turbines.

Please note that the Civil Aviation Authority specifications are for a steady red omnidirectional light at a minimum of 32cd.

Provided that this condition is met Highlands and Islands Airports Limited would not object to this proposal.

As a minimum the Civil Aviation Authority (CAA) recommends that all proposed developments over 90m in height should be notified to the CAA through:

Off Route Airspace  
Airspace Policy  
Civil Aviation Authority  
CAA House  
45-59 Kingsway  
London WC2B 6TE  
Email [airspace@caa.co.uk](mailto:airspace@caa.co.uk)

Regards

**Safeguarding Team**  
**Highlands and Islands Airports Limited**  
Head Office, Inverness Airport, Inverness IV2 7JB  
 Redacted (DIRECT DIAL)  
 [safeguarding@hial.co.uk](mailto:safeguarding@hial.co.uk)  [www.hial.co.uk](http://www.hial.co.uk)

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Redacted



HISTORIC  
ENVIRONMENT  
SCOTLAND

ÀRAINNEACHD  
EACHDRAIDHEIL  
ALBA

By email to: [Debbie.Flaherty@gov.uk](mailto:Debbie.Flaherty@gov.uk);  
[EconsentsAdmin@gov.scot](mailto:EconsentsAdmin@gov.scot)

Ms Debbie Flaherty  
Energy Consents Unit  
The Scottish Government  
5 Atlantic Quay  
Glasgow

Longmore House  
Salisbury Place  
Edinburgh  
EH9 1SH

Enquiry Line: 0131-668-8716  
[HMConsultations@hes.scot](mailto:HMConsultations@hes.scot)

Our case ID: 300031108  
Your ref: ECU00000723

20 December 2018

Dear Ms Flaherty

Electricity Act 1989  
The Electricity Generating Stations (Applications for Variation of Consent) (Scotland)  
Regulations 2013  
The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations 2017  
Viking Wind Farm, Shetland Islands – Variation Application for 103 turbines of 155m  
blade tip height

Thank you for your consultation which we received on 20 November 2018. We have considered it and its accompanying EIA Report in our role as a consultee under the terms of the above regulations and for our historic environment remit. Our remit is world heritage sites, scheduled monuments and their setting, category A-listed buildings and their setting, and gardens and designed landscapes (GDLs) and battlefields in their respective inventories.

You should also seek advice from the relevant local authority's archaeology and conservation advisors for matters including unscheduled archaeology and category B and C-listed buildings.

### **Our Advice**

We do not object to the proposed variation application for the Viking Wind Farm. Our detailed comments on the application and its accompanying EIA Report can be found in the Annex below.

Our comments should be treated as a material consideration, and this advice should be taken into account in your decision making. Our view is that the proposals do not raise historic environment issues in the national interest and therefore we do not object. Our decision not to object should not be taken as our support for the proposals. This application should be determined in accordance with national and local policy on development affecting the historic environment, together with related policy guidance.



### Further Information

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at [www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/](http://www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/). Technical advice is available through our Technical Conservation website at [www.engineshed.org](http://www.engineshed.org).

Please contact us if you have any questions about this response. The officer managing this case is Urszula Szupczynska who can be contacted by phone on 0131 668 8653 or by email on [Urszula.Szupczynska@hes.scot](mailto:Urszula.Szupczynska@hes.scot).

Yours sincerely

**Historic Environment Scotland**



## **ANNEX - Our detailed comments**

### **Background**

Our predecessor body Historic Scotland (HS) objected to the original scheme for 150 turbines for its likely significant effects on a number of scheduled monuments in the vicinity of the then proposed development. The scheme was subsequently reduced to 127 turbines in 2010 at which point HS removed its objection, noting that some significant impacts remained but that these effects did not raise issues in the national interest such that it warranted an objection from them. We note that the development received consent in 2012 for 103 turbines of 145m blade tip height.

In Historic Scotland's previous response of 19 November 2010, while not objecting, HS provided advice in relation to what were considered the most significant historic environment impacts on the setting of the chambered cairns at Graven (Index no 3524) and Hill of Dale (Index no 3564). HS recommended the removal or relocation of turbines D9, D10, D11 and D13 to address their concerns and reduce the proposal's level of impact on these heritage assets. We note that all of these turbines have been removed from the consented scheme in 2012 and they do not form part of the proposed variation.

For the sites at Hayfield and Burrovoe in 2010 HS considered the effect of the proposal on their setting to be major but less significant than on Graven and Hill of Dale chambered cairns. HS did not recommend that Scottish Ministers examine these impacts further. This was on the basis that the coastal element of their setting remained unaffected by the proposal. HS also concluded that there was sufficient separation distance between these monuments and the then proposed turbines. This meant that HS did not consider these impacts to raise issues in the national interest such that it would warrant an objection from them.

### **Proposed Development**

We understand that the proposed variation is to vary 2012 consent by increasing the maximum tip height of the consented 103 turbines from 145m to a maximum of 155m and increasing the maximum rotor diameter of the turbines by 10m to a maximum of 120m.

We note that all of the turbines within the Delting and Collafirth turbine areas have been removed from the Scheme.

### **Historic Environment Scotland's interest**

Our key interests in this case are the potential impacts of the proposed variation development on the 4 scheduled monuments that we focused our advice when commenting on the previous iteration of the Viking Wind Farm in 2010. These monuments are:



- Graven, chambered cairn 150m NE of (Index no 3524)
- Hill of Dale, chambered cairn (Index no 3564)
- Hayfield, chambered cairn 150m ESE of (Index no 5722)
- Burravoe, chambered cairn and cairn 470m NE of (Index no 3469)

### Potential impacts

We note that as a result of the removal of all of the turbines within the Delting area, the Graven chambered cairn will now have no visibility of the proposed variation development, as illustrated in Figure 11.5.3.2.

The Hill of Dale chambered cairn will still have some visibility of the proposed turbines, with the nearest one now being at a distance of 7.7km. However, we agree that the removal of the turbines in the Delting area (which were previously the closest turbines to the Hill of Dale cairn) has assisted in reducing the impact on the monument, previously assessed as 'major', to a 'minor' impact. This impact is illustrated in Figure 11.5.2.2.

In terms of the proposal's impacts on the Burravoe cairns, we note that all turbines in the Delting turbine area which we previously considered had the most significant effect on the setting of the monument, have now been removed from the proposed scheme. We therefore agree that the overall impact on this scheduled monument is likely to be 'minor'. There is no visualisation illustrating this impact but we note that the distance to the nearest turbine will be approximately 7.7km.

In terms of the proposal's potential impacts on the Hayfield cairn, we consider that the proposed variation development would have a setting impact which is likely to be greater than a 'minor' impact predicted in the EIA report. However, we do not consider this impact to raise issues of national significance for us. This is on the basis that the coastal element of the cairn's setting remains unaffected by the proposed varied development and we remain of a view that there is sufficient separation distance between the monument and the turbines.

Figure 11.5.4.2 illustrates the change in visibility between the consented turbines and the proposed varied development for this heritage asset. We do not consider this change in visibility to be so significant as to render the proposed varied development objectionable.

### EIA report

We have reviewed the information provided in the EIA report. This includes the updated Cultural Heritage chapter and the visualisations provided for 6 scheduled monuments. We are satisfied that this information is sufficient to come to a conclusion on the application. While this updated chapter is largely based on the previous assessment included in the 2009 Environmental Statement and 2010 Environmental Statement Addendum, it also provides some additional details and a new framework for assessing

impacts on heritage assets. For instance, we note and welcome that there is no longer reference being made to an archaeological version of Hegel's Wheel and the role which amenity value and frequency of visitors plays in affecting the scale of impacts on cultural heritage assets.

We note that no significant impacts on nationally important heritage assets have been identified in the EIA report. We agree with this conclusion for most heritage assets within our remit. However, we disagree with this prediction in respect of the Hayfield chambered cairn as we consider that the impact on the setting of this monument is likely to be more significant than minor. On balance, however, we remain of the view that the proposed turbines, even with their increased height by 10m, do not raise issues of national significance for us.

### **Mitigation**

We understand that the currently proposed mitigation is as described in condition 41 of the consented scheme, which reads:

'Prior to the Commencement of Development a heritage strategy will be submitted to and approved in writing by the Planning Authority in consultation with Historic Scotland (now Historic Environment Scotland).

This Heritage Strategy will include measures to improve public access, improve knowledge base and interpretation of the agreed archaeological assets, in consultation with Historic Scotland (now Historic Environment Scotland) and the Planning Authority's archaeological advisor.

The Heritage strategy will be implemented as approved.

Reason: To improve the knowledge base and secure the appropriate recording of certain archaeological assets affected by the development and to improve access to and interpretation of these assets, in mitigation of the indirect impact on the amenity value of these assets and visual impact of the wind farm on visitors.'

We welcome the proposal to adopt a heritage strategy, although we remain of the view this forms a compensatory mitigation measure which does not avoid or reduce the likely effects of the proposed development.

### **Our position**

We do not object to the proposed variation application for the Viking Wind Farm as we do not consider that the proposals raise historic environment issues of national significance.

### **Historic Environment Scotland**

20 December 2018

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH

Scottish Charity No. **SC045925**

VAT No. **GB 221 8680 15**

## Flaherty D (Debbie)

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**From:** JRC Windfarm Coordinations <windfarms@jrc.co.uk>  
**Sent:** 20 December 2018 15:36  
**To:** Flaherty D (Debbie)  
**Subject:** FW: Viking Wind Farm, Shetland - Variation Application [WF623783]

Dear debbie,

A Windfarms Team member has replied to your coordination request, reference **WF623783** with the following response:

*Dear Sir/Madam,*

*JRC analyses proposals for wind energy developments on behalf of the UK Energy Industry. We assesses the potential of such developments to interfere with radio systems operated by UK and Irish Energy Industry companies in support of their regulatory operational requirements.*

*The Energy Industry considers that any wind energy development within:*

- \* 1000m of a link operating below 1GHz; or*
- \* 500m of a link operating above 1GHz, requires detailed coordination.*

*For turbines with a blade diameter of 32m or less this distance is reduced to:*

- \* 500m for links below 1GHz; and*
- \* 300m for links above 1GHz before a detailed coordination is required.*

*There is an EXCLUSION ZONE around most Base Station sites of 500m, i.e. no development is permitted. This will be evaluated on a case by case basis for smaller turbines.*

*Unfortunately, part (or all) of the proposed development breaches one or more of these limits.*

*The affected links are:*

**Name:** Viking Wind Farm, Shetland

**Turbines:**

**T29 437315 115367**  
**T34 437837 1152798**  
**T50 442667 1161885**  
**T76 444118 1159348**  
**T89 444363 1157304**

**Hub Height 97m Rotor Radius: 60m**

**460MHz Telemetry and Telecontrol:**

**N/A**

**>1GHz Microwave Point to Point:**

**2 links -- details withheld for reasons of confidentiality**

***Operated by: The Local Electricity Utility***

***Therefore JRC OBJECTS TO THE PROPOSED DEVELOPMENT.***

*Please note that this development is the subject of a JRC report. The developer is aware of the situation with respect to the adjacent microwave links and will consider mitigation options.*

*Unfortunately no link details apart from the link identifiers can now be supplied due to persistent breaches in confidentiality. This can be reviewed on a case by case basis and may require a non-disclosure agreement to be drawn up. However, JRC are still willing to work with developers in order to clear as many turbines as possible, including those that may initially fall within the coordination zone. For more information about what to do next, please click [Objections: What to do next.](#)*

*The JRC objection shall be withdrawn after simple analysis shows no issues; when a satisfactory coordination has been achieved and the zone of protection is implemented; or when an appropriate mitigation agreement is in place.*

***NOTE:***

***The protection criteria determined for Energy Industry radio systems can be found at <http://www.jrc.co.uk/wind-farms/>***

*Regards*

*Wind Farm Team*

*The Joint Radio Company Limited  
Delta House  
175-177 Borough High Street  
LONDON  
SE1 1HR  
United Kingdom*

*Office: 020 7706 5199*

***JRC Ltd. is a Joint Venture between the Energy Networks Association (on behalf of the UK Energy Industries) and National Grid.***

***Registered in England & Wales: 2990041***

***<http://www.jrc.co.uk/about-us>***

***JRC is working towards GDPR compliance. We maintain your personal contact details in accordance with GDPR requirements for the purpose of "Legitimate Interest" for communication with you. However you have the right to be removed from our contact database. If you would like to be removed, please contact [anita.lad@jrc.co.uk](mailto:anita.lad@jrc.co.uk).***

We hope this response has sufficiently answered your query.

If not, please **do not send another email** as you will go back to the end of the mail queue, which is not what you or we need. Instead, **reply to this email keeping the subject line intact or login to your account** for access to your coordination requests and responses.

<https://breeze.jrc.co.uk/tickets/view.php?auth=o1xdmcaaahbguaaaE6Qq0m8qaac8jA%3D%3D>

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## Flaherty D (Debbie)

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**From:** Clerk to Lerwick Community Council <sup>Redacted</sup> >  
**Sent:** 04 December 2018 13:02  
**To:** Flaherty D (Debbie)  
**Subject:** RE: Viking Wind Farm, Shetland - Variation Application

Hi Debbie

This application was discussed at Lerwick Community Council meeting yesterday. Members did not have any objections or comments to make about it.

Kind regards  
Frances Valente  
Clerk

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Redacted



T: Redacted  
DD: Redacted

e-mail: emily.bridcut@gov.scot

Ms Debbie Flaherty  
Energy Consents Unit  
Scottish Government  
5 Atlantic Quay  
150 Broomielaw  
Glasgow  
G2 8LU

Our ref: FL/60-7

December 13<sup>th</sup> 2018

Dear Debbie,

## VIKING WIND FARM, SHETLAND

Thank you for giving Marine Scotland Science (MSS) the opportunity to comment on the Environmental Impact Assessment Report (EIAR) for a variation of the consent for the Viking wind farm in Shetland. The developer proposes to increase the maximum tip height of the turbines from 145m to a maximum of 155m and increase the rotor diameter of the turbines by 10m to a maximum of 120m. No changes to the footprint of the development are proposed.

The proposed varied development consists of 103 turbines and associated crane pads, access tracks (including 53 watercourse crossings), 7 permanent anemometry masts, substations/control buildings, up to 10 borrow pits, underground cables and construction compound areas. There are a number of watercourses and lochans within the proposed development area which is dominated by blanket bog. Salmon, trout and European eel populations were recorded during electrofishing surveys carried out in 2008; salmon is listed in the European Habitats Directive, both salmon and trout are listed as species for conservation in the Scottish Biodiversity List and European eel is protected under European legislation (EU No 1100/2007).

The EIAR considers how the likely significant effects on the environment of the proposed varied development differ from those discussed in the Environmental Statement (ES) and the addendum of the ES of the consented Viking wind farm. This assessment was prepared with reference to baseline information collected and presented as part of the ES and the ES addendum. The EIAR states that the potential for a difference in environmental effects is limited to either where material changes in the baseline are likely to have occurred, and/or where effects are related to the tip height or rotor diameter of the proposed turbines. From a fisheries perspective the former is more likely and MSS therefore requests that the developer carries out up to date electrofishing, macroinvertebrate and hydrochemical surveys such that baseline, pre-construction surveys take place at least 12 months prior to construction commencing- hydrochemical sampling is recommended on a minimum of a monthly frequency, covering both high and low flows. Information from these surveys can be used to inform appropriate site specific mitigation measures e.g. fish requirements for the proposed watercourse crossings and to establish a robust integrated water quality (hydrochemical and macroinvertebrate) and fish monitoring programme before, during and for at least 12 months after construction is complete, the latter time period is dependent on the results obtained during the construction phase. MSS recommends sampling is carried out at sites with the potential to be impacted and at control sites where an impact is unlikely and that the same sites are used for both hydrochemical and biological sampling. MSS welcomes the proposed visual inspections of watercourses by the appointed Ecological Clerk of Works and the reporting mechanism of environmental reports as outlined in the Site Environmental Management Plan. Further information regarding hydrochemical, macroinvertebrate and fish population survey/monitoring associated with wind farm developments can be found at <https://www2.gov.scot/Topics/marine/Salmon-Trout-Coarse/Freshwater/Research/onshoreren>.

In our previous comments on the ES for the consented wind farm MSS noted the proposed location of turbines and infrastructure in areas identified in the peat stability assessment, as “probable” and “likely” peat hazard zones and that careful micro siting is required to ensure minimal impact on adjacent watercourses and aquatic biota (e.g. Mid Kame in Kergord).

MSS also welcomes the proposed mitigation measures including a 50m exclusion zone at watercourses, the use of floating roads where peat depths exceed 1m, the design of watercourse crossings to consider the free passage of fish and the implementation of SuDS in the proposed drainage scheme. We further welcome the proposals within the Habitat

Management Plan to remove artificial barriers to fish and promote the regeneration of riparian vegetation as a means of improving habitat and food sources for salmonids.

The EIAR concludes that there is no difference in the potential for impacts between the consented Viking wind farm and the proposed varied development for fish and hydrology related issues. MSS recommends the developer incorporates our advice, as outlined above, when carrying out hydrochemical, macroinvertebrate and fish population survey/monitoring work, the latter monitoring forms part of the planning condition 25 for the consented Viking wind farm.

Kind regards,

Dr Emily E. Bridcut

## Flaherty D (Debbie)

---

**From:** NATS Safeguarding <NATSSafeguarding@nats.co.uk>  
**Sent:** 30 November 2018 11:25  
**To:** Econsents Admin  
**Cc:** Flaherty D (Debbie)  
**Subject:** RE: Viking Wind Farm, Shetland - Variation Application [Our Ref: SG07983]

The proposed development has been examined from a technical safeguarding aspect and does not conflict with our safeguarding criteria. Accordingly, NATS (En Route) Public Limited Company ("NERL") has no safeguarding objection to the proposal.

However, please be aware that this response applies specifically to the above consultation and only reflects the position of NATS (that is responsible for the management of en route air traffic) based on the information supplied at the time of this application.

This letter does not provide any indication of the position of any other party, whether they be an airport, airspace user or otherwise. It remains your responsibility to ensure that all the appropriate consultees are properly consulted.

If any changes are proposed to the information supplied to NATS in regard to this application which become the basis of a revised, amended or further application for approval, then as a statutory consultee NERL requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

Yours Faithfully

**NATS**

**NATS Safeguarding**

D: Redacted

E: [NATSSafeguarding@nats.co.uk](mailto:NATSSafeguarding@nats.co.uk)

4000 Parkway, Whiteley,  
Fareham, Hants PO15 7FL  
[www.nats.co.uk](http://www.nats.co.uk)



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Redacted

21<sup>st</sup> December 2018

Ms. Debbie Flaherty  
Consents Manager Energy Consents Unit  
The Scottish Government  
5 Atlantic Quay  
150 Broomielaw  
Glasgow  
G2 8LU

By email to [EconsentsAdmin@gov.scot](mailto:EconsentsAdmin@gov.scot)

Redacted

Dear Debbie

**ECU Reference: ECU0000723**

**Proposal: A variation under Section 36C of the Electricity Act 1989 and the Electricity Generating Stations (Applications for Variation of Consent (Scotland) Regulations 2013 by increasing the maximum tip height of the turbines from 154 metres (m) to a maximum of 155 m and increasing the maximum rotor diameter of the turbines by 10 m to a maximum of 120 m. The installed capacity of the proposed generating wind farm would be greater than 50MW.**

Thank you for consulting RSPB Scotland on this application for a variation to the S36 consent for the Viking Wind Farm and a Section 57 direction for a deemed planning permission. This response is made on the basis that the only proposed variation to the consented development is an increase in the maximum tip height of the turbines from 145 m to a maximum of 155 m and increasing the maximum rotor diameter of the turbines by 10 m to a maximum of 120 m.

RSPB Scotland **objects** to this application as currently submitted for the following reasons:

- the EIA has been informed by inadequate bird survey work; has been insufficiently precautionary; and has underestimated and not adequately assessed the effects of the proposed varied development.
- insufficient mitigation and offsetting measures have been proposed to address the potentially significant effects of the proposed varied development on several nationally and internationally important bird species (including red-throated diver, whimbrel, golden plover and curlew) and on blanket bog.

We note that SNH has responded to this application (letter of 20/12/18) but their advice appears to consider only the proposed *variation* and the difference that this alone is predicted to make to impacts on birds. They state that the increase in turbine size will result

**Shetland Office**  
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**[rspb.org.uk](http://rspb.org.uk)**



The RSPB is part of BirdLife International,  
a partnership of conservation organisations  
working to give nature a home around the world.

**Patron:** Her Majesty the Queen **Chairman of Council:** Kevin Cox **President:** Miranda Krestovnikoff  
**Chairman, Committee for Scotland:** Professor Colin Galbraith **Director, RSPB Scotland:** Anne McCall **Regional Director:** Martin Auld  
The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654

in greater impacts, but that none of these changes are significant at the regional or national level. The SNH response does not appear to provide any view or advice on the impacts of the proposed varied development as a *whole* and whether they are significant, nor recommend any appropriate measures to mitigate or offset those impacts.

The attached annex expands on these points and includes more detailed comments on the application, and some key points and recommendations are set out below.

Breeding populations of several important bird species are found on this site, with many species 'red listed' Birds of Conservation Concern, and / or listed in Annex 1 of EU Directive 2009/147/EC on the Conservation of Wild Birds (the 'Birds' Directive) and / or Schedule 1 of the Wildlife and Countryside Act (WCA) 1981 (as amended). The attached annex discusses the various species and their conservation and legal status.

We have reviewed the submitted EIA Report which in relation to ornithology (Chapter 5) presents information on the predicted effects of the consented Viking Wind Farm and the predicted effects of the proposed varied development, to allow a comparison of effects between the two schemes. However, we consider that the EIA Report has been informed by inadequate bird survey work; has been insufficiently precautionary; and has underestimated and not adequately assessed the effects of the scheme. These concerns are explained in the attached annex. In our opinion the effects on various birds of conservation concern / listed in Annex 1 of the Birds Directive / listed on Schedule 1 of the WCA 1981 (as amended) are likely to be substantially greater than predicted in the EIA Report. The EIA Report also confirms that the negative effects (of displacement and collision mortality) on most of the assessed bird species of the proposed varied development would be greater than those of the consented development.

For the reasons discussed in the annex, we consider that the EIA Report does not demonstrate that the proposed varied development would not have significant effects on various bird species of nature conservation importance including red-throated diver, whimbrel, curlew and golden plover.

We therefore recommend that further survey and assessment work should be undertaken, and further environmental information should be submitted, seeking to address the concerns summarised in the annex. In the absence of such further information, the precautionary principle should be applied and it should be assumed that the proposed varied development would have significant effects on several nationally and internationally important bird species (including red-throated diver, whimbrel, golden plover and curlew). **We therefore also recommend that if Scottish Ministers are minded to vary the consent and make a Section 57 direction, they should ensure that adequate mitigation and offsetting measures for all of those species can be secured as part of a revised habitat management plan (HMP).**

The applicant has submitted a HMP (Appendix 8.9 of the EIA Report) prepared in relation to the previously consented scheme, however this HMP needs to be revised and updated. The submitted HMP does not have any objectives or measures specifically targeted towards golden plover and curlew, and should be expanded to do so. As stated in paragraph 5.2.13, the applicant consulted RSPB Scotland on ornithology matters to inform the development of the HMP up until the end of 2011. However, the applicant has not engaged in detail with RSPB

Scotland on the preparation of the HMP since then and we would welcome the opportunity to discuss this with the applicant prior to the finalisation of a HMP as we are concerned that the current version is inadequate.

We note that the applicant is seeking a direction under Section 57(2) of the Town and Country Planning (Scotland) Act that planning permission be deemed to be granted in respect of the proposed varied development. We also note that the previous deemed planning permission associated with the existing Section 36 consent has lapsed, so the scheme to which the existing Section 36 consent relates does not currently benefit from planning permission.

The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 require that if an applicant is seeking a Section 57 direction, the application should include a draft of that proposed direction. The applicant's covering letter refers to a "draft proposed Section 57 direction" in Appendix 3 of the letter, but the draft is incomplete as it does not include the actual text of the proposed "updated and revised conditions". Appendix 3 suggests that updates and revisions are sought in relation to several conditions on the (now lapsed) previous deemed planning permission – including the conditions relating to a required habitat management plan and preconstruction ornithological surveys. It is essential that the conditions ensure that appropriate and sufficient long-term habitat management is secured to offset the impacts of the development on blanket bog and birds including red-throated diver, whimbrel, golden plover and curlew. We would have significant concerns if the deemed planning permission conditions simply require the implementation of the submitted HMP (Appendix 8.9 of the EIA Report) rather than requiring the submission, approval and implementation of a revised HMP. **We therefore request an opportunity to comment on proposed conditions of the deemed planning permission, should Ministers be minded to vary the S36 consent and make a Section 57 direction.**

Finally, we do not consider it has yet been demonstrated that the proposed revised development would not have an adverse effect on the integrity of the East Mainland Coast proposed Special Protection Area (pSPA).

Please contact me if you want to discuss any of these comments and we would be pleased to review any further information submitted by the applicant.

Yours sincerely

Martin Schofield  
Conservation Officer

## **Annex 1. RSPB Scotland Detailed Comments on the Application**

### **The Importance of the Site for Birds**

As has been previously highlighted, breeding populations of several important bird species are found on this site. These include red-throated diver, merlin, golden plover, dunlin, Arctic tern and whooper swan, all of which are listed in Annex 1 of EU Directive 2009/147/EC on the Conservation of Wild Birds (the 'Birds' Directive). Red-throated diver, merlin, whimbrel and whooper swan are also included in Schedule 1 of the Wildlife and Countryside Act 1981, which affords them special protection whilst breeding. In addition, whimbrel, curlew, merlin, Arctic skua, lapwing and skylark are 'Red-listed' and great skua, dunlin and whooper swan are 'Amber-listed', in Birds of Conservation Concern (BoCC<sup>1</sup>).

Shetland is particularly important for whimbrel as it supports over 95% of the UK population of this declining species. There is evidence of further declines within other parts of Shetland. At least two previously important whimbrel sites on the Shetland mainland sites showing a 50% decline (or greater) over the last 5 years (P Harvey, Shetland Biological Records Centre, *pers. comm.*). Declines may have been even greater in the Northern Isles with the number dropping from 24 Apparently Occupied Territories (AOT) in SE Unst in 2003 to 5 AOT in 2015<sup>2</sup>. The monitoring of the Viking Wind Farm area has shown that the Whimbrel population has remained approximately stable (EIA Report Appendix 5.1, Table 5.1.2) and therefore this area is even more important for this species than when the original application was submitted due to the on-going decline in other areas (including other parts of Shetland).

Great skua are present in large numbers in Shetland, which was identified as holding over 40% of the world population during Seabird 2000<sup>3</sup>. While the numbers of Arctic skua are declining and the recent paper by Perkins *et. al.* 2018<sup>4</sup> suggests that Scotland's Arctic skua population is declining rapidly, with bottom up and top-down pressures simultaneously reducing breeding success to unsustainably low levels and therefore any impact on this species must be considered significant.

Article 4 of the Birds Directive requires that Annex 1 species shall be the subject of "special conservation measures concerning their habitat in order to ensure their survival and reproduction in their area of distribution." Those measures include the designation of Special Protection Areas, but should also include taking development management decisions with due regard to the species' conservation. Such decisions can also contribute to the "requisite measures" taken by Member States to secure the objectives of Articles 2 and 3: to maintain the populations all wild bird species at a favourable conservation status and preserve, maintain or restore sufficient habitats for those species.

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<sup>1</sup> Eaton, M A, Aebischer, N J Brown, A F, Hearn, R D, Lock, L, Musgrove, A J, Noble, D G, Stroud, D A and Gregory, R D (2015) Birds of Conservation Concern 4: the population status of birds in the United Kingdom, Channel Islands and Isle of Man. *British Birds* 108, 708–746. Available online at [britishbirds.co.uk/wp-content/uploads/2014/07/BoCC4.pdf](http://britishbirds.co.uk/wp-content/uploads/2014/07/BoCC4.pdf)

<sup>2</sup> Shetland Bird Report 2015.

<sup>3</sup> Mitchell, I, Newton, S, Ratcliffe, N and Dunn, T. Seabird Populations of Britain and Ireland. (2004)

<sup>4</sup> Perkins A, Ratcliffe N, Suddaby D, et al. Combined bottom-up and top-down pressures drive catastrophic population declines of Arctic skuas in Scotland. *J Anim Ecol.* 2018;00:1-14.



### Shortcomings in assessment

We note that Chapter 5 of the EIA Report presents information on the predicted ornithological effects of the consented Viking Wind Farm and the predicted ornithological effects of the proposed varied development, to allow a comparison of effects between the two schemes. However, we consider that the **EIA Report has underestimated and not adequately assessed the effects of the schemes**. This arises from several shortcomings of the EIA which are discussed below. In our opinion the effects on various birds of conservation concern/listed in Annex 1 are likely to be substantially greater than predicted in the EIA Report.

### Inadequate bird survey work

The bird survey work detailed in the EIA Report does not fully conform to Scottish Natural Heritage guidance on recommended bird survey methods to inform impact assessment of onshore wind farms (SNH, 2017<sup>5</sup>). The guidance states that for revised proposals, bird survey data from previous EIAs can be used for the EIA for revised proposals where the earlier data are reliable and not too dated (collected within the last 5 years or within 3 years if the populations of key species are known to be changing rapidly). This includes vantage point (VP) survey data, related to the level of bird flight activity and its distribution across application sites, and which is needed in order carry out collision risk modelling to predict bird mortalities from collision with turbines.

It appears that the EIA Report relies on VP survey data from surveys carried out in 2005 and 2006; flight activity studies conducted in 2007 and 2008; and studies on whimbrel flight behavior in 2011. **All this data is out of date, so the assessment of collision risk associated with the consented and proposed varied development is not robust and the predictions of collision mortality (Tables 5-9 and 5-10) may be underestimates.**

### Inappropriate population estimates

It states in the EIA Report that the Shetland population of Merlin is assumed to be 50 pairs, however, the 36 pairs recorded in 2018 was by far the most successful breeding season recorded (P Ellis *pers. comm.*). RSPB Scotland considers that it would be more appropriate to make an assessment assuming a Shetland population of 20 breeding pairs, as the Zetland Raptor Study Group usually record around this number annually (P Ellis *pers. comm.*).

There is limited information on the size of the golden plover population in Shetland, however, the figure (5195 pairs) used in the EIA Report (from Wilson *et al.*, 2015<sup>6</sup>) is based on estimates derived from Habitat Models and is significantly higher than the figure of 1450 pairs in Pennington *et al.*, 2004<sup>7</sup> which was used in the 2009 assessment. It is important to note that the figures from Wilson *et al.* are derived from Massimino *et al.* (2011)<sup>8</sup> which have the following caveat “*Estimates for these two regions are likely to be significant over-estimates of true*

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<sup>5</sup> Scottish Natural Heritage (SNH) (2017) Recommended Bird Survey Methods to Inform Impact Assessment of Onshore Wind Farms. 2017 v2

<sup>6</sup> Wilson, M. W., Austin, G. E., Gillings S. and Wernham, C. V. (2015). Natural Heritage Zone Bird Population Estimates. SWBSG Commissioned report number SWBSG\_1504. pp72. Available from: [www.swbsg.org](http://www.swbsg.org)

<sup>7</sup> Pennington, M., Osborn, K., Harvey, P., Riddington, R., Okill, D., Ellis, P., Heubeck, M. (2004) The Birds of Shetland.

<sup>8</sup> Massimino, D., Johnston, A., Pearce-Higgins, J.W. (2011). Producing Regional Population Estimates for Upland Wader. BTO Research Report 58. BTO, Thetford.

*abundance, due to the limited data from these regions which mean that the spatial smooth fitted to the GAM is fitted with considerable uncertainty (see text for more details)”. Shetland is one of the two regions to which this caveat refers. In view of this RSPB Scotland considers that the 2015 golden plover population number is likely to be an over estimate and that the assessment should be based on the 2004 estimate.*

#### Insufficiently precautionary assumptions in relation to bird displacement

##### *Waders and skuas*

The EIA Report assumes that displacement of nesting waders and skuas around turbines will occur only within a distance of 200m from turbines in the consented scheme, and only within a distance of 250m from turbines in the proposed varied scheme, with displacement of 50% of pairs within these distances. No basis for these figures is given, and this assumption is not precautionary and is contrary to the evidence presented in Pearce-Higgins *et al.* (2009)<sup>9</sup> and other studies. For example the Pearce-Higgins *et al.* study found that displacement effects for curlew extend up to 800m from turbines, with densities within 500m of turbines estimated to decrease by up to 42%. While Sansom *et al.* (2016)<sup>10</sup> found that breeding golden plover abundance may be reduced by 79% up to 400 m away from operational turbines.

There does not appear to be any published information on the displacement of either great or Arctic skuas due to wind farm development. In view of the lack of evidence and the importance of both species it would be appropriate to apply the precautionary principle and assume a similar disturbance to waders as outlined above.

##### *Red-throated Diver*

The calculations of diver disturbance vulnerability index (DVI) would seem to be largely applicable to disturbance by people and vehicles when present on tracks and in the vicinity of other infrastructure. The DVI seems almost to discount any disturbance effects arising from the turbines themselves, which is unsupported by published data. Consequently, we consider that a precautionary approach should be adopted and no turbines should be located within 500m of any lochs used by breeding, or non-breeding, red-throated divers or in diver flight lines (this should also apply to anemometer masts) and tracks should not pass within 250m of these lochs.

**The assumed numbers of wader, skua and red-throated diver pairs displaced by the consented and proposed varied developments (as detailed in Tables 5-12 and 5-13 of the EIA Report) are therefore likely to be considerable underestimates, and insufficiently precautionary.** This concern over displacement and population estimates means that a reassessment of the magnitude and significance of effects for all assessed species is required.

#### Collision mortality arising from the varied development

As previously noted, the collision mortality estimates detailed in the EIA Report are based on

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<sup>9</sup> Pearce-Higgins, J., Stephen, L., Langston, R., Bainbridge, I. & Bullman, R. (2009) The Distribution of Breeding Birds Around Upland Wind Farms. *Journal of Applied Ecology*.

<sup>10</sup> Sansom, A., Pearce-Higgins, & Douglas, D. (2019). Negative impacts of wind energy development on a Breeding Shorebird Assessed with a BACI design.

outdated data and may be underestimates. However, the figures presented indicate that the varied windfarm would over its 25-year lifetime result in the deaths of (amongst other species), 998 golden plovers, 288 curlews, 220 great skuas and up to 42 whimbrels, due to collision with the turbines. This is illustrated in the table below which uses figures from the EIA Report.

The EIA Report also indicates that for the species assessed, the collision mortality risk would be between 9.1% and 18.4% higher than that associated with the development as currently consented – significant increases in collision risk for all of the species. Notably, the variation to the development would mean an extra 128 golden plover and an extra 38 curlew collision mortalities over the lifetime of the windfarm, according to the EIA figures.

**Table 1 – The additional bird collisions likely to be caused by the proposed variation.**

|                                   | Consented development |  | Varied development   |  | <b>Additional collisions over windfarm lifetime, due to variation</b> |
|-----------------------------------|-----------------------|--|----------------------|--|---|
|                                   | Collisions per annum  | Collisions over windfarm lifetime (25 years) | Collisions per annum | Collisions over windfarm lifetime (25 years) |   |
| Golden plover                     | 34.8                  | 870  | 39.9                 | 998  | <b>128</b>  |
| Dunlin                            | 1.2                   | 30   | 1.4                  | 35   | <b>5</b>  |
| Whimbrel                          | 1.2 – 1.5             | 30 - 38                                      | 1.45 – 1.69          | 36 - 42                                      | <b>4 - 6</b>  |
| Curlew                            | 10                    | 250  | 11.5                 | 288  | <b>38</b>   |
| Great skua                        | 7.6                   | 190  | 8.8                  | 220  | <b>30</b>   |
| Red-throated Diver (non-breeding) | 0.63                  | 16   | 0.68                 | 17   | <b>1</b>  |
| Red-throated Diver (breeding)     | 0.3                   | 8  | 0.32                 | 8  | <b>0</b>  |

#### Lack of population modelling

Despite the proportionally high numbers of some bird species predicted to be displaced or killed by collision due to the proposed varied windfarm over its lifetime, no population modelling appears to have been carried out as part of the EIA. RSPB Scotland consider that such modelling is important to ensure a robust assessment of the impacts of the scheme over its lifetime.

### Inadequate Assessment of Cumulative Effect

We consider that the cumulative impact assessment included within the EIA report is incomplete and should include the actual numbers of birds of the species predicted to be affected by all of the relevant schemes so that an assessment of potential cumulative can be made against actual numbers.

### Effects on bird species of international and national importance

For the reasons discussed above, we consider that the EIA Report does not demonstrate that the proposed varied development would not have significant effects on various bird species of nature conservation importance including red-throated diver, whimbrel, curlew and golden plover. Several of these species are on the Scottish Biodiversity List of species that Scottish Ministers consider to be of principal importance for biodiversity conservation in Scotland and many are Schedule 1 and / or Annex 1 species as highlighted earlier in this response.

Scottish Planning Policy states that the precautionary principle should be applied where the impacts of a proposed development on nationally or internationally significant natural heritage resources are uncertain but there is sound evidence indicating that significant irreversible damage could occur.

We therefore recommend that further survey and assessment work should be undertaken, and further environmental information should be submitted, seeking to address the concerns summarised above. In the absence of such further information, the precautionary principle should be applied and it should be assumed that the proposed varied development would have significant effects on several nationally and internationally important bird species (including red-throated diver, whimbrel, golden plover and curlew). **If Scottish Ministers are minded to vary the consent and make a Section 57 direction, we recommend that they should ensure that adequate mitigation and offsetting measures for all of those species can be secured as part of a revised habitat management plan (HMP). The submitted HMP does not have any objectives or measures specifically targeted towards golden plover and curlew, and should be expanded to do so.**

### Effects on Designated Sites

Given the issues and assessment shortcomings outlined above regarding collision risk and disturbance effects we do not consider it has yet been demonstrated conclusively that the proposed revised development would not have an adverse effect on the integrity of the East Mainland Coast proposed Special Protection Area (pSPA).

The Habitats Regulations Appraisal of the proposal should take account of the cumulative/in-combination effects of all relevant developments (not limited to wind farms).

### Carbon Payback

RSPB Scotland objected to the original (127 turbine) scheme on several grounds including that

- the development would cause unacceptable damage to active blanket bog; and
- the carbon balance remains uncertain and may be insufficient to outweigh other, significant, adverse environmental effects of the development.

These grounds of objection still stand in relation to the proposed varied development. In order to off-set these impacts it is considered that a significantly larger extent of peatland restoration than indicated in the submitted habitat management plan must be undertaken.

#### Habitat Management Plan

It is noted that the applicant has submitted a Habitat Management Plan (Appendix 8.9 of the EIA Report) prepared in relation to the previously consented scheme, however this HMP needs to be revised and updated. As stated in paragraph 5.2.13, the applicant consulted RSPB Scotland on ornithology matters to inform the development of the HMP up until the end of 2011. However, the applicant has not engaged in detail with RSPB Scotland on the preparation of the HMP since then and we would welcome the opportunity to discuss this with the applicant prior to the finalisation of a HMP as we are concerned that the current version is inadequate.

In particular it is not clear what management is proposed for the off-site mitigation areas. All the peatland restoration is at present located within the application area when it was previously agreed to include off-site areas. It is considered vital that the proposed Shetland Windfarm Environmental Advisory Group (condition 27 of the previous deemed planning permission, which has now lapsed) is established at the earliest possible opportunity to advise on the requirements of the Habitat Management Plan. RSPB Scotland requests that it is granted membership of this group.

To allow a proper assessment of the proposals it would be useful if the Habitat Management Plan figures included an overlay of the scheme infrastructure and the areas identified for the disposal of peat created during the development.

#### Deemed planning permission and conditions regarding HMP

The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 require that if an applicant is seeking a Section 57 direction, the application should include a draft of that proposed direction. The applicant's covering letter refers to a 'draft proposed Section 57 direction' in Appendix 3 of the letter, but the draft is incomplete as it does not include the actual text of the proposed "updated and revised conditions". Appendix 3 suggests that updates and revisions are sought in relation to several conditions on the (now lapsed) previous deemed planning permission – including the conditions relating to a required habitat management plan and preconstruction ornithological surveys. It is essential that the conditions ensure that appropriate and sufficient long-term habitat management is secured to offset the impacts of the development on blanket bog and birds including red-throated diver, whimbrel, golden plover and curlew. **We would have significant concerns if the deemed planning permission conditions simply require the implementation of the submitted HMP (Appendix 8.9 of the EIA Report) rather than requiring the submission, approval and implementation of a revised HMP. We therefore request an opportunity to comment on proposed conditions of the deemed planning permission, should Ministers be minded to vary the S36 consent and make a Section 57 direction.**

#### Long Term Monitoring of the Development and a Suitable Control Site

Implementation of post construction monitoring, including the use of a comparable control or reference site surveyed prior to the commencement of the development, should be required.

This should be carried out in accordance with Before–After–Control–Impacts methods<sup>11</sup>.

#### Miscellaneous - Whooper Swan

Although not referenced in the EIA Report we remain concerned that the construction compound located at the south-east corner of Sand Water (HU422546) could cause disturbance to the pair of whooper swans that regularly nest. Although it would be possible to reduce the disturbance to this species, which is a very rare breeder in the UK, by relocating the compound further to the south-east and out of sight of the loch, this would move it closer to two merlin breeding sites. Therefore, we suggest that alternative measures to reduce disturbance to both whooper swans and merlins from work at this compound should be included in the BPP.

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<sup>11</sup> Anderson, R.L., Morrison, M., Sinclair, K. & Strickland, D. with Davis, H. & Kendall, W. (1999) Studying Wind Energy / Bird Interactions: A Guidance Document. National Wind Coordinating Committee, c/o RESOLVE, Washington DC.

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**From:** Laurena Fraser<sup>Redacted</sup>  
**Sent:** 17 December 2018 21:13  
**To:** Econsents Admin

## **SANDSTING & AITHSTING COMMUNITY COUNCIL**

Hello

VIKING WIND FARM, SHETLAND – Variation Application

Thank you for your email dated 20 November requesting our comments on the above variation application and also for the disc received.

This item was discussed at our December meeting.

Our members feel that they must object to the variation on the grounds of increased visual impact on some parts of our area, especially Aith, due to the increased height and rotor diameter of the turbines.

We trust that our comment will be taken into consideration.

Thank you  
*L Fraser*  
Clerk  
Sandsting & Aithsting Community Council  
Shetland

PS Please acknowledge receipt of our email. Thank you



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23<sup>rd</sup> November 2018

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[www.scottishwater.co.uk](http://www.scottishwater.co.uk)

Dear Administrative Team

**ZE2 Shetland Viking Wind Farm Site At**  
**PLANNING APPLICATION NUMBER: ECU00000723**  
**OUR REFERENCE: 769620**  
**PROPOSAL: Viking Wind Farm, Shetland - Variation Application**

**Please quote our reference in all future correspondence**

Scottish Water has no objection to this planning application; however, the applicant should be aware that this does not confirm that the proposed development can currently be serviced and would advise the following:

**Infrastructure close to boundary**

According to our records, the development proposals may impact on existing Scottish Water assets.

The applicant should identify any potential conflicts with Scottish Water assets and contact our Asset Impact Team directly at [service.relocation@scottishwater.co.uk](mailto:service.relocation@scottishwater.co.uk).

The applicant should be aware that any conflict with assets identified may be subject to restrictions on proximity of construction.

**Scottish Water Disclaimer**

*"It is important to note that the information on any such plan provided on Scottish Water's infrastructure, is for indicative purposes only and its accuracy cannot be relied upon. When the exact location and the nature of the infrastructure on the plan is a material requirement then you should undertake an appropriate site investigation to confirm its actual position in the ground and to determine if it is suitable for its intended purpose. By using the plan you agree that Scottish Water will not be liable for any loss, damage or costs caused by relying upon it or from carrying out any such site investigation."*



## **Drinking Water Protected Areas**

A review of our records indicates that there are no Scottish Water drinking water catchments or water abstraction sources, which are designated as Drinking Water Protected Areas under the Water Framework Directive, in the area that may be affected by the proposed activity.

### **General notes:**

- **Scottish Water asset plans can be obtained from our appointed asset plan providers:**

**Site Investigation Services (UK) Ltd**

**Tel: 0333 123 1223**

**Email: [sw@sisplan.co.uk](mailto:sw@sisplan.co.uk)**

**[www.sisplan.co.uk](http://www.sisplan.co.uk)**

If the applicant requires any further assistance or information, please contact our Development Operations Central Support Team on 0800 389 0379 or at [planningconsultations@scottishwater.co.uk](mailto:planningconsultations@scottishwater.co.uk) Yours sincerely

**Angela Allison**

[Angela.Allison@scottishwater.co.uk](mailto:Angela.Allison@scottishwater.co.uk)

21 December 2018

Debbie Flaherty  
Scottish Government  
Energy Consents and Deployment Unit  
5 Atlantic Quay  
150 Broomielaw  
Glasgow  
G2 8LU

By email only to: [EconsentsAdmin@gov.scot](mailto:EconsentsAdmin@gov.scot)

Dear Ms Flaherty

**The Electricity Generating Stations (Applications for Variation of Consent) (Scotland) Regulations 2013 Application for Variation under Section 36C of the Electricity Act 1989 and Direction for Deemed Planning Permission under Section 36 Consent to Construct and Operate Viking Wind Farm, in the Shetland Islands Planning Authority Area.**

Thank you for your consultation email which SEPA received on 20 November 2018.

**Advice for the planning authority**

In order for the development to follow up-to-date best practice, we ask that the **modifications and new planning conditions** as detailed in the attached Appendix be attached to any consent. If any of these will not be applied, then please consider this representation as an **objection**. Please also note the advice provided below:

We note that the EIA Report re-iterates the conclusion of the ES for the consented Viking Wind Farm “all activities with potential to affect hydrology, hydrogeology, geology, soils and peat would be appropriately managed and there would be no significant effects.” (EIA Report, Non Technical Summary). Given the scale and nature of this development, and its site-specific circumstances, we do not agree with this conclusion. Realistically, significant impacts are inevitable, and it is therefore crucial that measures to minimise and offset such impacts are implemented.

**1. The proposal**

- 1.1 We note the variation sought comprises an increase in the maximum tip height from 145m to 155m and to increase the rotor diameter from 100m to 120m and that there are no changes proposed to the site layout and footprint of the consented Viking Wind Farm.

**2. General comments**

2.1 Whilst we welcome the updating of several sections of the original Environmental Statement submitted in 2009, we note a number of the documents submitted within the EIA Report do not relate to the same information and are not aligned. For the purposes of clarifying issues raised in this response, and to ensure areas not covered under our remit are also aligned properly, we **request** all documents are fully reviewed, revised and cross referenced before they are submitted to purify any conditions. We include several examples with regards to our remit below:

- a) *Technical Schedule 3 Site Waste Management Plan* (SWMP), section 5 Excavated Materials point 5.2.2 states floating roads will be placed where peat depths exceed 1m and is later qualified to also be where gradients are less than 1:10 (*Technical Schedule 7 Excavated Materials and Reinstatement Plan* (EMRP), section 2.2.2). However, not all appropriate track areas are shown on the relevant plans as floated where these criteria appear to be met, for example the Kergord ridge track along which turbines K88 to K79 run is not shown as floating, and we therefore request these areas are reviewed.
- b) Following on from this, the peat volume estimate is given as 742,000m<sup>3</sup> in the EMRP, however this contradicts the estimate of 962,407m<sup>3</sup> in the Peat Management Plan (dated 7.11.18). It is not clear why there is such a discrepancy in estimated volumes. Given the importance of peat management, we **request** this is clarified.
- c) Section 5.4 of the SWMP refers to Waste Management Exemptions, however the PMP makes no reference to waste exemptions or the treatment of Catotelmic peat that would require these exemptions – these documents will need to be cross referenced and aligned.

2.2 A second general point is that much of the information presented is in line with 2008-2010 best practice and technology. We **request** that a review of track construction techniques and crane/turbine piling methods be undertaken to identify less peat disruption and excavation in line with modern best practice.

### 3. Regulatory Advice for the Applicant

- 3.1 The main change in regulation since the original application was granted consent is that a development of this size will now require a Construction Site Licence to ensure that discharges of water run-off from the site do not cause pollution. We recommend that the Construction Site Licence Pollution Prevention Plan is cross referenced in the Construction Method Statement required by condition 10. It should be noted that up to four months will be required for SEPA to issue an authorisation and consider the Pollution Prevention Plan. More information on Construction Site Licences can be found on our [website](#).
- 3.2 Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 to carry out engineering works in or in the vicinity of inland surface waters (other than groundwater) or wetlands. Inland water means all standing or flowing water on the surface of the land (e.g. rivers, lochs, canals, reservoirs). We highlight additional position statements on [culverting](#) and guidance on [river crossings](#).
- 3.3 Management of surplus peat or soils may require an exemption under The Waste Management Licensing (Scotland) Regulations 2011. Proposed crushing or screening will require a permit under The Pollution Prevention and Control (Scotland) Regulations 2012. Consider if other environmental licences may be required for any installations or processes.
- 3.4 Further details of regulatory requirements and good practice advice for the applicant can be found on the [Regulations section](#) of our website. If you are unable to find the advice you need for a specific regulatory matter, please contact a member of the regulatory services

team in your local SEPA office at: The Esplanade, Lerwick, Shetland, ZE1 0LL, Tel: 01595 696946.

If you have any queries relating to this letter, please contact me by telephone on Redacted or e-mail at [planning.aberdeen@sepa.org.uk](mailto:planning.aberdeen@sepa.org.uk).

Yours sincerely

Zoe Griffin  
Senior Planning Officer  
Planning Service

ECopy to: Viking Energy Wind Farm LLP, [info@vikingenergy.co.uk](mailto:info@vikingenergy.co.uk) ; Shetland Council,  
Redacted NH, Redacted

*Disclaimer*

*This advice is given without prejudice to any decision made on elements of the proposal regulated by us, as such a decision may take into account factors not considered at this time. We prefer all the technical information required for any SEPA consents to be submitted at the same time as the planning or similar application. However, we consider it to be at the applicant's commercial risk if any significant changes required during the regulatory stage necessitate a further planning application or similar application and/or neighbour notification or advertising. We have relied on the accuracy and completeness of the information supplied to us in providing the above advice and can take no responsibility for incorrect data or interpretation, or omissions, in such information. If we have not referred to a particular issue in our response, it should not be assumed that there is no impact associated with that issue. For planning applications, if you did not specifically request advice on flood risk, then advice will not have been provided on this issue. Further information on our consultation arrangements generally can be found on our [website planning pages](#)*

## **Appendix: SEPA Review of Conditions**

### **1. Draft Section 36 consent (Appendix 1)**

- 1.1 We note Appendix 1 of the application letter (dated 14.11.18) contains a draft of the proposed variations to the Section 36 consent shown as track changes to the Description of Development and Conditions 2 and 7 to the relevant section 36 consent that have been identified as requiring variation.

We confirm we have no objections to the proposed track changes relating to Annex 1 and Annex 2, Part 1 contained in Appendix 1 of the Application Letter

### **2. Section 57(2) planning conditions (Appendix 3)**

- 2.1 Appendix 3 of the application letter gives a list of those planning conditions contained in Part 2 of Annex 2 of the relevant section 36 consent the applicant proposes should be revised and updated.

- 2.2 We have reviewed the conditions alongside the application documents submitted and provide the following detailed comments and advice. Please note we have requested a number of **modifications to the existing conditions** and a number of **additional conditions** in Section 3 of this Appendix to our response:

- 2.3 Condition 1 - Implementation

No comments

- 2.4 Condition 2 – Reinstatement of construction area

We consider this condition to still be relevant and should be retained.

- 2.5 Condition 3 – Seeding/turfs

We consider this condition to still be relevant and should be retained. However, as there is the potential for peat and peat turves to be used which fall within our remit, we **request the following modification**: SEPA is added as a required consultee for this Condition.

- 2.6 Condition 4 – Financial bond

No comments

- 2.7 Condition 5 – Decommissioning statement

Whilst we consider this condition to still be relevant, we **request the following modification**: the reference to SEPA is removed in relation to the appointment of the Ecological Clerk of Works (ECoW).

- 2.8 Condition 6 – Restoration method statement

We consider this condition to still be relevant and should be retained. However, considering our interests, we **request the following modification**: SEPA is added as a required consultee for this Condition.

- 2.9 Condition 7 – Site reinstatement period

We consider this condition to still be relevant and should be retained.

- 2.10 Condition 8 – Temporary works reinstatement period

We consider this condition to still be relevant and should be retained.

2.11 Condition 9 – Construction Period

We consider this condition to still be relevant and should be retained.

2.12 Condition 10 – Construction Method Statement

The former condition 22 makes reference to our guidance documents with the text “*and applicable SEPA guidance documents*” and we **request the following modification**: any future condition relating to a Construction Method Statement (CMS) similarly to refer to “*and SEPA guidance documents in relation to pollution prevention and control and other issues addressed within the CMS.*”

We have more detailed comments on some of the elements to be covered in the CMS below:

*Borrow Pits*

The potential hydraulic link between the borrow pits (NBP03 and NBP04) (Figure 1) and Sand Water SSSI has not been fully considered within the EIA Report. Although sections 9.3 and 9.4 are consistent with the British Geological Survey groundwater productivity categorisation of the area (low or very low productivity) it is likely, due to the Whiteness Limestone Formation that is present in the area and upon which the Sand Water SSSI is located, that the productivity is greater and there is likely to be a hydraulic link.

However, since the nearest borrow pit is in excess of 800m from the Sand Water SSSI it is deemed the risk is not significant. To reduce risk further we recommend the following:

- a) Borrow pit NBP03 which is a greater distance from Sand Water SSSI than NBP04 is developed in preference
- b) The depth of the borrow pit excavation should not be below the groundwater table

2.13 Condition 11 – Working hours

No comment

2.14 Condition 12 – Construction site compounds

Due to the potential for the construction site compounds to have an impact upon interests within our remit, we **request the following modification**: any future condition relating to the construction site compound plan submissions to include the following: “*submitted to...and SEPA for approval in writing...*”

2.15 Condition 13 – Local advisory group

We consider this condition to still be relevant and should be retained. However, we would wish to see ecological interests being represented at these Partnership meetings but without Ecology specific SEPA staff presence on Shetlands and no guarantee that a team member will always be available for the 6-monthly meeting, we **request** that at least one appropriate local group/ecological interested party also be involved as standard. This could be Shetland Amenity Trust if they have the capacity. If a SEPA Ecology representative cannot be present then we would request documentation at least two weeks in advance of the meeting to and minutes from the meeting.

2.16 Condition 14 – Cables

We consider this condition to still be relevant and should be retained.

2.17 Condition 15 – Blasting

We consider this condition to still be relevant and should be retained.

2.18 Condition 16 – Material from borrow pits

We consider this condition to still be relevant and should be retained.

2.19 Condition 17 – Turbine design

This condition will require rewording that should be agreed between the consenting authority and the applicant.

2.20 Condition 18 – Infrastructure micro siting

This condition is still relevant to our interests but will require rewording in terms of reference to tables and figures contained in the Environmental Impact Assessment Report. The exact rewording should be agreed between the consenting authority and the applicant.

Notwithstanding the above we have concerns that micro siting will not meet current best practice due to the original NVC survey (as shown on Figure 8.3.3) only being undertaken within 100m radius of some, but not all, the proposed development. As such we have requested an **additional condition** in Section 3.3 below.

2.21 Condition 19 – Turbine rotation

No comment

2.22 Condition 20 – Turbine appearance

No comment

2.23 Condition 21 – Substation building

We have no comment on this condition if our comment relating to the converter station in Section 3.1 below is covered by another condition.

2.24 Condition 22 – SEMP

We consider this condition to still be relevant and should be retained with any revision of wording as requested below. Also, in addition to our comments in Section 2 of our letter above, we **request** the following detailed comments on the SEMP and the various documents are considered before submission of the final SEMP for approval.

- We highlight the need for the SEMP to be submitted to approval at least three months prior to Commencement of Construction Works and as such **request** section 1.1.4 of the SEMP contained in Technical Appendix 14.6, which currently states the Contractor will submit this to the Employer at least 4 weeks prior to construction commencing on site, is amended accordingly.
- It should be noted water pollution will be dealt with through the Construction Site Licence Pollution Prevention Plan and **request** the SEMP and the CSLPPP are aligned before submission for approval.
- *Technical Schedule 4 Drainage Management Plan*  
Section 3.1.2 describes clean run-off water being discharged over areas of vegetation. We wish to highlight we would **object** to this proposal unless the ECoW has reviewed the habitat to be discharged onto and has established, a) It is not within the GWDTE/sensitive habitats on site; and b) vegetation will not be unduly affected by the discharge. This also applies to section 3.2.6 in this document and request that the final Drainage Management Plan is amended accordingly.  
Also, section 3.2 *Silt Mitigation and Settlement Ponds* does not describe any necessary cleaning of silt traps or other silt attenuation methods. We **request** this is added to be in line with Chapter 9, section 9.5 “Mitigation” bullet point 5 “Silt traps and sediment

attenuation ponds will be inspected and cleaned...” Instead of the use of the word “regularly” which means nothing in practice, an actual proposed frequency of inspection and cleaning should be provided, along with commitment to additional inspection and cleaning following periods of heavy rainfall.

- *Technical Schedule 7 Excavated Materials & Reinstatement Plan*  
Section 3.2 Temporary Storage specifically mentioned storage of peat in points 3.2.6, 3.2.7 and 3.2.8. Where we agree with most points we request that 3.2.8 is aligned with the PMP i.e. all peat must be monitored and wetted where required (not just top turves) and top turves should be stored turf side up and not stacked.  
4.4.1 describes the potential for creating a raised bank of up to 1m around platforms and turbine bases. We object to this height as it is unlikely hydrological connection with the surrounding peat can be maintained and therefore the peat can dry out and lead to carbon loss. We will accept bunds/shoulders of up to 0.5m if they are suitably tied into adjacent areas (tapered from max height to the surrounding soil and lightly compressed to reduce lateral water loss). This will also be objected to within track bunding.
- We **request the addition of Ground Water Dependent Terrestrial Ecosystem (GWDTE)** and their monitoring, avoidance and care throughout the construction phase to be included within the specific wording of this condition if not covered by a separate condition (see Section 3.1 below). We would suggest they are included wherever watercourses and their inherent buffer zones are cited but also within the “Ecological Protection Plan” bullet point.
- We **request the Peat Management Plan (PMP)** to be included in this Condition unless it can be added as a stand-alone condition. We would prefer this latter option and advise it for convenience to the applicant.

2.25 Condition 23 – EcoW

Whilst we consider this condition to still be relevant, we **request** the reference to SEPA is removed.

2.26 Condition 24 – Watercourse crossings

We consider this condition to still be relevant and should be retained.

2.27 Condition 25 – Hydrochemistry

We consider this condition to still be relevant and should be retained.

2.28 Condition 26 – Habitat Management Plan (HMP)

We consider this condition to still be relevant and should be retained. However, considering our interests in relation to peat re-use, habitat restoration and habitat monitoring, we **request the following modification**: SEPA is added as a required consultee for this Condition.

If the additional condition requested in Section 3.1 below is not included as a standalone condition we would be content for it to sit within the Habitat Management Plan condition. Notwithstanding this, we **request** the proposals for the future management of any GWDTE should be included within the Habitat Management Plan.

2.29 Condition 27 – Environmental Advisory Group

We consider this condition to still be relevant and should be retained.

2.30 Conditions 28 – 50 Various

No comments



### 3. Additional Conditions

#### Ground Water Dependant Ecosystems (GWDTE)

- 3.1 Our guidance for assessing GWDTE ([Land Use Planning System SEPA Guidance Note 31](#)) has been updated since the original Environmental Statement was produced and unfortunately this has not been reflected in the new EIA Report submitted. Consequently the development would not follow best practice as the NVC and GWDTE mapping provided in Figures 8.3.1 to 8.3.23 and figures 8.4.1 to 8.4.9 has not been carried out to the appropriate distances for depth of excavation. It appears the NVC survey presented was originally carried within a 100m wide buffer of the proposed infrastructure but, with redesign prior to the application being approved, the approved infrastructure layout shown in Figures 8.3.1 to 8.3.23 lies close to the edge, and in some instances, outwith the NVC surveyed areas. Therefore it appears there has been no assessment of the potential presence of GWDTE within the required distances set out in our guidance. Some infrastructure such as the converter station in the Kergord Valley (figures 8.3.6) appear to have had no NVC survey undertaken at their location at all. It follows that no informed micro-siting of infrastructure could take place by the ECoW without this information.
- 3.2 We therefore will **require** revised maps that extend out to 250 metres from excavations of deeper than 1 metre with the described communities clearly annotated on the map. Where mosaics are present this can be presented as the mosaic and then the proportion of each habitat type. Where tracks are planned to be floated this should be represented on the new maps. In particular, where NVC communities that are listed in Appendix 4 of SEPA Guidance Note 31 are present within 100 metres of excavation up to 1 metre below surface, OR within 250 metres of excavation to greater than 1 metre below surface, then detailed site-specific risk assessment should be provided. This should consider the results of the NVC habitat survey (in terms of communities, and also in the target notes where soligenous influence is observed) in addition to hydrological conditions. An initial review of available information to identify likely water supply mechanisms for each relevant NVC type, in proximity to specific windfarm infrastructure, should be conducted to identify relative risk.
- 3.3 The hydrological assessment in Chapter 9 of the EIA Report, paragraph 9.3.21 states "... that there is low likelihood of groundwater dependency for all the potential GWDTEs within the site". We disagree. The habitat survey reports describe the presence of springs and base-rich NVC communities which clearly indicate groundwater influence. Whilst it is likely that the majority of the potentially groundwater dependent GWDTE are rainfall-fed, the observations of groundwater-fed communities on site means that groundwater dependency cannot be ruled out for the whole site. The conclusion of minor and not significant effect on GWDTE is not robust, due to lack of assessment of specific wetland communities which have been identified as having a groundwater component to their water supply (identified as soligenous influence in the habitat survey report). Therefore further detailed assessment by the applicant is **required** with the location of relevant wetlands annotated on the NVC maps.
- 3.3 Considering the above, we request the following **additional condition** is attached to any consent:

#### *Groundwater Dependant Terrestrial Ecosystems*

*The construction of the development shall not commence until revised maps are submitted to the planning authority following consultation with SEPA showing clearly:*

- (a) All proposed infrastructure including temporary works;*
- (b) Overlain with details of the extent and depths of all proposed excavations;*
- (c) Overlain with GWDTE;*
- (d) Showing the relevant buffer zones (100m for excavations less than 1m in depth and 250m for excavations deeper than 1m); and*
- (e) Where avoidance of infrastructure within these buffer zones is impossible and GWDTE are found to be present, details of how impacts upon GWDTE are minimised and mitigated along with monitoring measures will be required to be submitted for approval and implemented as approved before construction starts on site.*

If the applicant does not wish to have the condition attached to any consent they must provide detailed qualitative and/or quantitative risk assessments to GWDTE to the satisfaction of SEPA prior to consent being given.

### 3.4 Detailed comments and information for the applicant:

- a) Our [GWDTE guidance](#) should be closely followed in the further assessment of GWDTE. Any wetlands found to be groundwater dependent should be demarcated on the ground on site, and all disturbance including the placement of stored materials and vehicle trafficking should be avoided. Impacts from drainage, pollution, and waste management should also be avoided. Preventative/mitigation measures to avoid significant drying or oxidation of peat through, for example, the construction of access tracks, dewatering, excavations, drainage channels, cable trenches, or the storage and re-use of excavated peat should be outlined. Any mitigation proposals should also be detailed within the SEMP
- b) Where drainage management has potential to impact GWDTE then works should be supervised by the ECoW, and pre-construction groundwater quantity and quality supplied to the wetland should be maintained.
- c) The geology mapping shows various underlying bedrock geology. In particular, the calcareous pelite and calcsilicate rock types have the potential to introduce base-rich GW to habitats well as GW through-flow if in the right situation. Within the NVC appendix there is reference to basic flushes (M10) and calcareous grassland (CG10), the flushes can be quite intermingled within mosaics so will require careful examination. The CG10 grassland is only really found once and appears to be situated on some relatively bare rock outcrop and therefore is not regarded as ground water dependant.

### Peat Management Plan

- 3.5 Appendix 2.4 of the EIA Report comprises Stage 1 Peat Management Plan which we give detailed comments on below. There appears to be no specific condition requiring a Peat Management Plan in the former consent. We **request** that either a separate **condition** is attached to any new consent or an existing condition is modified to ensure an acceptable Peat Management Plan will be submitted for approval and suggest the following wording:

*Prior to the commencement of any works on site a detailed peat management plan should be submitted to and approved in writing by the Planning Authority in consultation with SEPA, and thereafter shall be implemented in full on site. This plan should set the following:-*

- (a) volumes, depth and location of any peat disturbed,*
- (b) details of any proposed reuse of the peat within the site (including a plan showing volumes, location and usage),*

- (c) *details of any disposal of peat proposed (including volumes and detailed disposal proposals);*
- (d) *details of mitigation and restoration proposals, including measures to achieve peat management on land within the reasonable control of the applicant which will increase carbon sequestration.*

*Reason: In order to minimise and offset disturbance of peat and ensure the appropriate reuse and management of peat on site*

### 3.6 Detailed comments and information for the applicant

- a) We welcome the Stage 1 Peat Management Plan (PMP) which forms Appendix 2.4 of the EIA Report. We **request** the final Peat Management Plan submitted should follow good practice/industry best practice to avoid delay in approval by ourselves.
- b) Within the final PMP we will **require** details of any peat that is planned to be stored for 3 months or more. It should be noted the proposals in sections 5.2.3 and 5.2.4 of the Stage 1 PMP are only appropriate for very temporary storage and are a matter of concern.
- c) Section 5.3.4 refers to a c. 68,000m<sup>3</sup> potential re-use within the HMP, however no such volume or estimated volume of peat re-use can be found in the HMP therefore we **request** that this is clarified and these two documents to be aligned.
- d) Section 5.3.5 also requires clarification. If peat restoration works are to be carried out outwith the HMP then they must be described and approved elsewhere, we presume this is within the PMP but we **request** that this be stated and described in what way.
- e) Section 5.5.2 suggests peat faces of excavated tracks will be steep enough to pose a risk of peat slippage. We would recommend cutting the faces at a gentle angle (no steeper than 1:4), covering with vegetated turves and gently compressing.
- f) We **request** that Section 5.9 regarding peat storage include assurances provided in other documents that peat will not be stored within 50m of watercourses and 20m of GWDTEs.
- g) We **request** that Table 6 in the PMP be revised to correct volumes of extracted peat. There appear to be discrepancies in the description of how and where cables are to be buried and the resulting peat volumes. We appreciate that the final design has yet to be carried out, but the documents highlight that extraction of peat will likely occur before cables are laid. In addition, Table 6 at present does not give estimates for the volumes of extracted peat for the Kergord Valley substation/Converter station.
- h) We **request** that the mapping of the figures for the final PMP be reviewed for quality as the base layer is illegible in some cases.
- i) We **require** the final peat depth maps to have the floating track locations and piling of any foundations marked on them.
- j) Further guidance can be found in our [Development on Peat and Off-Site Uses of Waste Peat](#)
- k) We also **request** that our comments on the Kergord access track PMP (application 2018/096/PPF) is read in conjunction with this response.

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**From:** Thorne, John (UK & Europe) <John.Thorne@serco.com>  
**Sent:** 21 December 2018 14:14  
**To:** Econsents Admin  
**Cc:** Redacted  
**Subject:** Viking Variation Application [PROTECT]

**Importance:** High

**Classification:** PROTECT

Dear Debbie,

Many thanks for the reminder regarding the Viking variation application.

Unfortunately Scatsta Airport will have to object to the variation due to a number of factors that could affect our operations. I appreciate the turbines shall remain in the same coordinates detailed in the original application however the 10 metre increase will have to be reviewed against the Aviation Report produced by Cyrrus Limited on behalf of SSE and Viking. The application change shall bring in lighting requirements due to increasing above 150 metres as detailed in CAP 764. Additionally the airport shall need assurance the increase will not affect our instrument flight procedures and radar feeds (PSR & SSR) currently provided by NATS

I'm conscious Viking are keen to discharge the aviation concerns of the airport and we are working with them to try and find the correct mitigations in order for us to retract our objection.

Kind Regards

**John Thorne**  
Contract/Airport Director  
Serco UK & Europe  
Scatsta Airport  
T: Redacted  
M: Redacted  
F: Redacted

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Mr Gary Bell  
SBC Chairman  
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ZE3 9JS  
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21<sup>st</sup> December 2018

Dear Ms Flaherty

**Application under section 36C of the Electricity Act 1989 to vary the existing section 36 consent to construct and operate the Viking Energy wind farm by increasing the maximum tip height of the turbines from 145 metres to 155 metres and increasing the maximum rotor diameter of the turbines to 120 metres. ECU00000723**

Shetland Bird Club **objects** to the above application.

As mentioned in our objection to the original application, Shetland holds important populations of a number bird species including red-throated diver, whimbrel, curlew, golden plover, great skua (bonxie) and merlin and important peatland and other habitats. We consider that the development of this wind farm will cause serious damage to these important bird populations and habitats. This variation would, in our view, further increase the severity of the damage caused. In addition, we consider that aspects of the data referred to in the application are outdated and, in some cases, inaccurate. We also consider that proposed mitigation measures should be improved and updated.

We are particularly concerned that:

- The increased size of the proposed turbines including the area swept by the rotors would further increase the number of collisions of important species including whimbrel, curlew, golden plover and bonxie.
- The effects of displacement, by the turbines, of important species that breed in the area of the application are underestimated and in the case of red-throated diver ignored.
- Several aspects of the data presented have not been updated since as far back as 2005 and so do not adequately take into account changes in bird populations.
- The population of merlins known to breed in Shetland has been exaggerated. In 2018 a record number of 36 pairs of merlins was known to have nested. The previous record number was 28 pairs, which has only been recorded in two years. In most years only around 20 nesting pairs have been located (Zetland Raptor Study

Group). Thus, the statement in the application that 50 pairs breed in Shetland has no basis in fact.

- Should Scottish Ministers be minded to approve this application, it is essential that mitigation measures be updated and enhanced in order to fully take account of the increased damage to important bird populations and habitats caused by the variation.

Should you require any further information, please let me know.

Yours Sincerely

Redacted

Mr Gary Bell  
Chairman of Shetland Bird Club





Energy Consents Unit,  
4<sup>th</sup> Floor,  
5 Atlantic Quay,  
150 Broomielaw,  
Glasgow  
G2 8LU.

**Planning Application: Viking Wind farm Variation: Reference ECU00000723.**

On behalf of Sustainable Shetland I wish to **object** to the above development. Sustainable Shetland is a local environmental group with over 800 members concerned about the possible proliferation of large scale wind developments on Shetland

We wish to make the following observations about this planning application.  
In the main our comments relate to the non technical summary (NTS).

**Introduction.** Essentially the reason for this application is a financial one, to make the project more likely to gain subsidy through the CfD auction. The NTS highlights the potential “community benefit” of the Viking windfarm, if it were to proceed. However, it must be noted that this project has a highly controversial history and does not have general community support. The original planning application attracted more than 2700 objections, mostly from locals, and these objectors are very unlikely to have changed their opinions about Viking Energy. The lack of a local public inquiry at the time of original planning application left many objectors extremely dissatisfied. Community relations have been very strained by the long drawn out debates about the merits or otherwise of the Viking windfarm and this new application has rekindled the controversy. For many in the communities closest to the planned windfarm this new development is like rubbing salt into the wounds.

**Benefits.** The alleged project benefits (Section 2 NTS) require close scrutiny. In particular the carbon calculations (Table 1) really require to be independently verified. The Addendum to Viking Energy’s original planning application contained highly questionable calculations (or lack of them), and were not independently verified. This was a major omission on the part of the Energy Consents Unit, and should not be repeated in this case. When the construction phase of the wind farm is taken into account the carbon payment time must be much greater. The construction phase of a wind farm on deep peat would be anything but green and will cause lasting environmental damage unlikely to be alleviated by the oft quoted “mitigation measures”.

**Tourism.** The predicted financial benefits of the increased height may well be offset by negative impacts on the local tourism industry. Increasing the size of the turbines would not be likely to encourage tourists to visit the area. The NTS states: “With regard to tourism effects, there are not considered to be any sensitive tourism receptors that have the potential to be adversely affected by the proposed varied development, due to its location away from key tourist sites in Shetland. This conclusion is considered valid for both the consented Viking Wind Farm and the proposed varied development.” There is no description of what such key sites may be, and the very notion that there are “key sites” is inappropriate in the Shetland context, as far as visitors – and their movements through the islands - are concerned.

**Community Ownership.** The community ownership share of the project is mentioned in the NTS and we wish to comment on this. (2.1.3) This “ownership” started as a joint venture between Shetland Islands Council and SSE before the SIC share was transferred to the Shetland Charitable Trust (SCT). Details about the original agreement between SSE and the local council have not been available for public scrutiny. The SCT is an organisation set up to disburse funds acquired from the oil industry in compensation for the disturbance caused by the industry in Shetland. Originally the trustees were mostly councillors but conflict of interest accusations resulted eventually in a change to trustees being (undemocratically) appointed. The SCT continue to pursue the Viking windfarm as a major part of their investment strategy, in so doing reducing the support available to local good causes. Many locals do not support the actions of the SCT which, they feel, are not for the benefit of all Shetlanders. A small number of Shetland investors, the operators of the Burradale windfarm, also have a small share in the project (5%). For the majority of Shetland residents financial benefits from the windfarm are likely to be very limited and the projected benefits are unlikely to compensate adequately for what will be lost environmentally.

**Visual Impact.** The original planning consent was for a turbine height of 145m. In our opinion, this height was already grossly out of scale to the surrounding landscape. The heights of the hills in the Viking windfarm site are around 250m above sea level. A turbine height of 155m will be even more out of scale and visible over a far greater area. Many homes are within 2km of the windfarm site and a 10m increase in height will be very noticeable for people living in these homes. It should be noted that over 70 turbines could be sited less than 2km from homes and from these homes a 10m increase in height would be obvious. The NTS states that the main change to be noted is that aviation lighting will be required since the turbine height is proposed to be greater than 150m. Day and night the turbines will now be more obvious in the landscape seriously impacting on peoples’ appreciation of it. That “the aviation lights do not result in light pollution (in terms of glare, spill or sky glow)” is irrelevant.

**Size Limit.** From the statement: “The installed capacity of the proposed generating stated (sic) would be greater than 50 MW” we note that the upper limit for the power rating of the windfarm has been removed and there is now no upper limit. In cases where turbine height has been increased there is usually a decrease in the number of turbines so that the overall capacity remains the same. For Viking this will not now apply .

**Construction Implications.** The increased turbine size will, of necessity, result in larger foundations and increased peat disturbance. Transportation of turbine components may well require larger vehicles to transport them. It is questionable if the local roads in Shetland will be able to accommodate even larger wind farm traffic without major alterations and disruption.

**Ornithology.** (see Table 2, NTS). We strongly dispute that the proposed HMP will provide sufficient mitigation to allow “no significant residual effects” on merlin and whimbrel. There is no guarantee that the HMP will benefit these two species. Indeed, as far as whimbrel is concerned, the key part of the Addendum’s HMP was the (controversial) proposal to introduce lethal crow control, a measure that was specifically highlighted in the Minister’s letter of consent of 4<sup>th</sup> April 2012. This proposal has now been dropped. The current HMP, much reduced in scope, and no doubt in potential cost to the developer, concentrates on re-wetting areas of eroded blanket bog, which, if effective, would take many years to produce results that would favour whimbrel and merlin.

We dispute that the large increase (approximately 19%) in the “swept area” of turbine rotors, combined with the distance between turbines (unaltered from their original proposed locations) will not have a significant impact on avian species. Table 2 states that: “The activity of all priority species is disproportionately concentrated below 35m above ground level”. Not only is there no supporting evidence for this, nor is the disproportion enumerated, but it does not alter the fact that the swept area of individual turbine rotors and the cumulative effect of turbines’ proximity to each other are bound to have a significant adverse effect on avian species, in spite of the rotor height above ground level remaining unaltered.

**Noise.** It is a matter of some concern that noise guidelines quoted rely on the hopelessly out of date ETSU-R-97 regulations. These were produced for much smaller turbines. Given the proximity of turbines to peoples’ homes



and the number of turbines we do not feel that noise considerations have been treated adequately. There are conflicting expert opinions on the noise implications of wind turbines and research is ongoing, particularly into infrasound. Caution should be exercised before allowing very large turbines near to peoples' homes.

**Conclusion.**

The original consented Viking windfarm already has the potential to have a major negative impact on the area in which the project is planned. It is questionable if the original planning application would have been approved without a Public Inquiry had the increased turbine height been specified at that time. This should be considered when the merits of this new application are being reviewed.

This application has added to the anxieties of the people living in the affected areas and we would urge you to reject it.

Frank Hay,  
Chairman,  
Sustainable Shetland.

## Flaherty D (Debbie)

---

**From:** McGrogan, Joan <joan.mcrogan@crownestatescotland.com>  
**Sent:** 20 December 2018 13:24  
**To:** Flaherty D (Debbie); Econsents Admin  
**Subject:** 20181220 - Viking Wind Farm, Shetland - Variation Application - CES interest not affected

Dear Debbie

Thank you for your email.

I confirm that the assets of Crown Estate Scotland are not affected by this proposal.

Kind regards

Joan.

**Joan McGrogan**  
**Portfolio Co-ordinator**  
**Crown Estate Scotland (Interim Management)**  
0131 260 6082 / Redacted  
6 Bell's Brae, Edinburgh, EH4 3BJ  
Tel: +44 (0) 131 260 6082  
[www.crownestatescotland.com](http://www.crownestatescotland.com)  
[@crownestatescot](mailto:@crownestatescot)

### **Legal disclaimer – important notice**

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Redacted

**Flaherty D (Debbie)**

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**From:** Tingwall, Whiteness & Weisdale Community Council  
<Redacted>  
**Sent:** 05 December 2018 11:31  
**To:** Econsents Admin  
**Subject:** Viking Energy Wind Farm Variation Application

Tingwall Whiteness and Weisdale community Council wish to object to this variation on the grounds of increased disturbance to visual amenity.

Eva Ganson

**Eva Ganson – Clerk**  
**Tingwall, Whiteness & Weisdale Community Council**

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Debbie Flaherty  
Energy Consents Unit  
The Scottish Government  
5 Atlantic Quay  
150 Broomielaw  
Glasgow  
G2 8LU

Your ref:  
ECU00000723

Our ref:  
TS00538

Date:  
28/11/2018

[EconsentsAdmin@gov.scot](mailto:EconsentsAdmin@gov.scot)

Dear Sirs,

**ELECTRICITY ACT 1989 (SECTION 36C)**

**THE ELECTRICITY GENERATING STATIONS (APPLICATIONS FOR VARIATION OF CONSENT) (SCOTLAND) REGULATIONS 2013**

**THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT) (SCOTLAND) REGULATIONS 2017**

With reference to your recent correspondence on the above development, we acknowledge receipt of the Section 36 Variation Application - Environmental Impact Assessment Report prepared by Ramboll in support of the above development.

This information has been passed to SYSTRA Limited for review in their capacity as Term Consultants to Transport Scotland – Roads Directorate. Based on the review undertaken, we would provide the following comments.

**Proposed Development**

It is understood that Viking Energy Wind Farm LLP has applied for a variation to the consent for the proposed 103 turbine Viking Wind Farm located on Mainland Shetland. This was granted consent in April 2012, and on 29 March 2017, the Scottish Ministers extended the period for commencement of development up to the 4th April 2020.

As there are no trunk roads on the Shetland Isles and turbine components will be transported by sea, Transport Scotland has no comment to make on this application, and has no objection to the development in terms of environmental impacts on the trunk road network.

I trust that the above is satisfactory but should you wish to discuss then please do not hesitate to contact Alan DeVenny at SYSTRA's Glasgow Office Redacted

Yours faithfully  
Redacted

**John McDonald**

**Transport Scotland  
Roads Directorate**

cc Alan DeVenny – SYSTRA Ltd.

11 December 2018

Debbie Flaherty  
Consents Manager  
Energy Consents Unit  
The Scottish Government

Dear Ms Flaherty,

### **Section 36 Application – Viking Wind Farm, Shetland**

Thank you for giving VisitScotland the opportunity to comment on the above wind farm development. Our response focuses on the crucial importance of tourism to Scotland's local and national economy, and of the natural landscape for visitors.

#### Background Information

VisitScotland, as Scotland's National Tourism Organisation, has a strategic role to develop Scottish tourism in order to get the maximum economic benefit for the country. It exists to support the development of the tourism industry in Scotland and to market Scotland as a quality destination.

While VisitScotland understands and appreciates the importance of renewable energy, tourism is crucial to Scotland's economic and cultural well-being. It sustains a great diversity of businesses throughout the country. According to a recent independent report by Deloitte, tourism generates £11 billion for the economy and employs over 200,000 - 9% of the Scottish workforce. Tourism provides jobs in the private sector and stimulates the regeneration of urban and rural areas.

One of the Scottish Government and VisitScotland's key ambitions is to grow tourism revenues and make Scotland one of the world's foremost tourist destinations. This ambition is now common currency in both public and private sectors in Scotland, and the expectations of businesses on the ground have been raised as to how they might contribute to and benefit from such growth.

#### Importance of scenery to tourism

Scenery and the natural environment have become the two most important factors for visitors in recent years when choosing a holiday location.

The importance of this element to tourism in Scotland cannot be underestimated. The character and visual amenity value of Scotland's landscapes is a key driver of our tourism product: a large majority of visitors to Scotland come because of the landscape, scenery and the wider environment, which supports important visitor activities such as walking, cycling wildlife watching and visiting historic sites.

The VisitScotland Visitor Experience Survey (2015/16) confirms the basis of this argument with its ranking of the key factors influencing visitors when choosing Scotland as a holiday location. In this study, over half of visitors rated scenery and the natural environment as the main reason for visiting Scotland.

#### Taking tourism considerations into account

We would suggest that full consideration is also given to the Scottish Government's 2008 research on the impact of wind farms on tourism. In its report, you can find recommendations for planning authorities which could help to minimise any negative effects of renewable energy developments on

the tourism industry. The report also highlights a request, as part of the planning process, to provide a tourism impact statement as part of the Environmental Impact Analysis. Planning authorities should also consider the following factors to ensure that any adverse local impacts on tourism are minimised:

- The number of tourists travelling past en route elsewhere
- The views from accommodation in the area
- The relative scale of tourism impact i.e. local and national
- The potential positives associated with the development
- The views of tourist organisations, i.e. local tourist businesses or VisitScotland

The full study can be found at [www.scotland.gov.uk/Publications/2008/03/07113507/1](http://www.scotland.gov.uk/Publications/2008/03/07113507/1)

#### Position statement - Shetland

- Shetland tourism is a growth industry - figures from the last 2 Island Visitor Surveys shows that leisure tourism increased from 26,702 visitors in 2013 to 38,096 in 2017 (+43%). Visitor spend increased from £16million to £23million.
- Cruise ship passenger numbers increased over the same period from 27k to 92k (240%).
- The key reason for visiting Shetland cited by leisure visitors were the scenery & landscape (57%)
- 71% of leisure visitors visited the Central Mainland
- The top three activities for tourists to Shetland are Walking (87%), Scenery (70%) & Nature (69%)
- At least half of leisure visitors participated in the top four most popular activities - beaches/coastal scenery, short walks, longer walks & bird watching.

#### Conclusion

Given the aforementioned importance of Scottish tourism to the economy, and of Scotland's landscape in attracting visitors to Scotland, VisitScotland would strongly recommend any potential detrimental impact of the proposed development on tourism - whether visually, environmentally and economically - be identified and considered in full.

VisitScotland strongly agrees with the advice of the Scottish Government –the importance of tourism impact statements should not be diminished, and that, for each site considered, an independent tourism impact assessment should be carried out. This assessment should be geographically sensitive and should consider the potential impact on any tourism offerings in the vicinity.

VisitScotland would also urge consideration of the specific concerns raised above relating to the impact any perceived proliferation of developments may have on the local tourism industry, and therefore the local economy.

We hope this response is helpful to you.

Yours sincerely

Redacted

Douglas Keith  
Government and Parliamentary Affairs  
VisitScotland



[www.sustainablesketland.org](http://www.sustainablesketland.org)  
[info@sustainablesketland.org](mailto:info@sustainablesketland.org)

Chair: Frank Hay  
Burnside, Voe, Shetland

Date 19th December 2018

Energy Consents Unit,  
4<sup>th</sup> Floor,  
5 Atlantic Quay,  
150 Broomielaw,  
Glasgow  
G2 8LU.

**Planning Application: Viking Wind farm Variation: Reference ECU00000723.**

On behalf of Sustainable Shetland I wish to **object** to the above development. Sustainable Shetland is a local environmental group with over 800 members concerned about the possible proliferation of large scale wind developments on Shetland

We wish to make the following observations about this planning application.  
In the main our comments relate to the non technical summary (NTS).

**Introduction.** Essentially the reason for this application is a financial one, to make the project more likely to gain subsidy through the CfD auction. The NTS highlights the potential “community benefit” of the Viking windfarm, if it were to proceed. However, it must be noted that this project has a highly controversial history and does not have general community support. The original planning application attracted more than 2700 objections, mostly from locals, and these objectors are very unlikely to have changed their opinions about Viking Energy. The lack of a local public inquiry at the time of original planning application left many objectors extremely dissatisfied. Community relations have been very strained by the long drawn out debates about the merits or otherwise of the Viking windfarm and this new application has rekindled the controversy. For many in the communities closest to the planned windfarm this new development is like rubbing salt into the wounds.

**Benefits.** The alleged project benefits (Section 2 NTS) require close scrutiny. In particular the carbon calculations (Table 1) really require to be independently verified. The Addendum to Viking Energy’s original planning application contained highly questionable calculations (or lack of them), and were not independently verified. This was a major omission on the part of the Energy Consents Unit, and should not be repeated in this case. When the construction phase of the wind farm is taken into account the carbon payment time must be much greater. The construction phase of a wind farm on deep peat would be anything but green and will cause lasting environmental damage unlikely to be alleviated by the oft quoted “mitigation measures”.

**Tourism.** The predicted financial benefits of the increased height may well be offset by negative impacts on the local tourism industry. Increasing the size of the turbines would not be likely to encourage tourists to visit the area. The NTS states: “With regard to tourism effects, there are not considered to be any sensitive tourism receptors that have the potential to be adversely affected by the proposed varied development, due to its location away from key tourist sites in Shetland. This conclusion is considered valid for both the consented Viking Wind Farm and the proposed varied development.” There is no description of what such key sites may be, and the very notion that there are “key sites” is inappropriate in the Shetland context, as far as visitors – and their movements through the islands - are concerned.



**Community Ownership.** The community ownership share of the project is mentioned in the NTS and we wish to comment on this. (2.1.3) This “ownership” started as a joint venture between Shetland Islands Council and SSE before the SIC share was transferred to the Shetland Charitable Trust (SCT). Details about the original agreement between SSE and the local council have not been available for public scrutiny. The SCT is an organisation set up to disburse funds acquired from the oil industry in compensation for the disturbance caused by the industry in Shetland. Originally the trustees were mostly councillors but conflict of interest accusations resulted eventually in a change to trustees being (undemocratically) appointed. The SCT continue to pursue the Viking windfarm as a major part of their investment strategy, in so doing reducing the support available to local good causes. Many locals do not support the actions of the SCT which, they feel, are not for the benefit of all Shetlanders. A small number of Shetland investors, the operators of the Burradale windfarm, also have a small share in the project (5%). For the majority of Shetland residents financial benefits from the windfarm are likely to be very limited and the projected benefits are unlikely to compensate adequately for what will be lost environmentally.

**Visual Impact.** The original planning consent was for a turbine height of 145m. In our opinion, this height was already grossly out of scale to the surrounding landscape. The heights of the hills in the Viking windfarm site are around 250m above sea level. A turbine height of 155m will be even more out of scale and visible over a far greater area. Many homes are within 2km of the windfarm site and a 10m increase in height will be very noticeable for people living in these homes. It should be noted that over 70 turbines could be sited less than 2km from homes and from these homes a 10m increase in height would be obvious. The NTS states that the main change to be noted is that aviation lighting will be required since the turbine height is proposed to be greater than 150m. Day and night the turbines will now be more obvious in the landscape seriously impacting on peoples’ appreciation of it. That “the aviation lights do not result in light pollution (in terms of glare, spill or sky glow)” is irrelevant.

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**Construction Implications.** The increased turbine size will, of necessity, result in larger foundations and increased peat disturbance. Transportation of turbine components may well require larger vehicles to transport them. It is questionable if the local roads in Shetland will be able to accommodate even larger wind farm traffic without major alterations and disruption.

**Ornithology.** (see Table 2, NTS). We strongly dispute that the proposed HMP will provide sufficient mitigation to allow “no significant residual effects” on merlin and whimbrel. There is no guarantee that the HMP will benefit these two species. Indeed, as far as whimbrel is concerned, the key part of the Addendum’s HMP was the (controversial) proposal to introduce lethal crow control, a measure that was specifically highlighted in the Minister’s letter of consent of 4<sup>th</sup> April 2012. This proposal has now been dropped. The current HMP, much reduced in scope, and no doubt in potential cost to the developer, concentrates on re-wetting areas of eroded blanket bog, which, if effective, would take many years to produce results that would favour whimbrel and merlin.

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and the number of turbines we do not feel that noise considerations have been treated adequately. There are conflicting expert opinions on the noise implications of wind turbines and research is ongoing, particularly into infrasound. Caution should be exercised before allowing very large turbines near to peoples' homes.

**Conclusion.**

The original consented Viking windfarm already has the potential to have a major negative impact on the area in which the project is planned. It is questionable if the original planning application would have been approved without a Public Inquiry had the increased turbine height been specified at that time. This should be considered when the merits of this new application are being reviewed.

This application has added to the anxieties of the people living in the affected areas and we would urge you to reject it.

Frank Hay,  
Chairman,  
Sustainable Shetland.

Debbie Flaherty  
Consents Manager  
Energy Consents Unit  
The Scottish Government  
5 Atlantic Quay  
150 Broomielaw  
Glasgow  
G2 8LU

20<sup>th</sup> December 2018

Dear Ms Flaherty

**Electricity Act 1989 (Section 36c).  
The Electricity Generating Stations (Applications for Variation of Consent) (Scotland)  
Regulations 2013.  
The Electricity Works (Environmental Impact Assessment) (Scotland) Regulations  
2017.  
Viking Wind Farm, Shetland - Variation Application**

Thank you for your consultation by email dated 20<sup>th</sup> November over this application and its associated EIA Report.

**Summary**

1. There are natural heritage interests of international importance adjacent to the wind farm, but in our view these will not be adversely affected by the proposed variation.
2. The proposed development will impact on the Shetland population of whimbrel. The predicted effect of the increase in turbine height is displacement of one additional pair of whimbrel. We do not consider this significant. We also note that, following further work undertaken since 2010 to refine the collision risk assessment, the collision mortality for the enlarged scheme is likely to be less than that on which the current consent was based. We accept these revised figures.
3. We also accept that the collision risk to red-throated diver will be less than originally predicted for the consented scheme as a result of the increased avoidance rate now used in the assessment.
4. The increase in turbine size will result in greater impacts on other bird species but none of these changes are significant at the regional or national level.

5. We advise that the proposed variation would increase the magnitude and nature of the landscape and visual impacts of the consented scheme, but do not consider the additional impacts to be of national importance.

**Appraisal of impacts:  
East Mainland Coast, Shetland pSPA**

Our website has details of the legislative requirements for SPAs and all Natura sites (<http://www.snh.gov.uk/protecting-scotlands-nature/protected-areas/international-designations/natura-sites/hra-appropriate-assessment/>).

In our view, this proposal is likely to have a significant effect on the breeding red-throated divers which are a qualifying interest of this site. Consequently you are required to undertake an Appropriate Assessment in view of the site's conservation objectives for its qualifying interests.

To help you do this we advise that in our view, based on the information provided to date, the proposal will not adversely affect the integrity of the site. The appraisal we carried out considered the impact of the proposals on the following factors:

1. The consented wind farm forms part of the baseline for selection of the pSPA, therefore only the additional impact resulting from change in turbine size need be considered.
2. We conclude Likely Significant Effect because the increased turbine size would result in greater collision risk to red-throated divers nesting in the vicinity of the wind farm that are associated with the pSPA. The other interests of the pSPA are all non-breeding bird populations which spend winter mainly at sea and so will not be affected by the wind farm.
3. An additional 0.07 collisions per annum are predicted over and above those that would result from the consented wind farm. Of these, 30% (0.021 p.a.) are assumed to be associated with the pSPA. Set against the estimated background mortality for the pSPA population of 58 per annum this represents only a 0.03% increase in mortality.
4. The predicted displacement of an additional pair of divers is the result of an increase in the number nesting in the vicinity of the wind farm, rather than the change in turbine size.
5. The EIA considers the cumulative impact of the Viking variation together with the consented and/or constructed wind farms at Burra Dale, Luggies Knowe (Gremista) and Beaw Field, and the proposed Mossy Hill wind farm. The first two of these pre-date the identification of the pSPA and so form part of the baseline for the site and do not need to be considered. Mossy Hill wind farm is predicted to result in between 0.043 and 0.109 collisions per annum, although the risk is mainly to birds that do not show a strong association with the pSPA. Beaw Field is predicted to result in between 0.031 and 0.104 collisions. In the worst case therefore the two wind farms in combination with the Viking variation would cause an additional 0.234 diver deaths per annum: 0.33% of the natural mortality rate.
6. A number of recent non-wind farm developments may also contribute to the cumulative impact:
  - i) Several mussel farm developments within the pSPA
  - ii) A loading pontoon at Girlsta hatchery, also within the pSPA
  - iii) The proposed decommissioning facility adjacent to the pSPA at Dales Voe.

These developments may cause additional incidental mortality due to birds being displaced from foraging areas, however displacement from the vicinity of mussel farms and the Girlsta pontoon will occur only infrequently when there is activity on the site and is unlikely to significantly restrict feeding. The level of disturbance arising from the Dales Voe development is predicted to be less than the 2016 baseline as it will result in there being fewer shipping movements to and from the base.

You may wish to carry out further appraisal before completing the appropriate assessment.

### **Whimbrel**

Further surveys of whimbrel and reappraisal of flight activity undertaken since 2010 have resulted in a significant decrease in collision risk compared with the previous assessments. In the original ES, the collision risk was reduced by a factor of 50% to account for displacement, which we argued was not appropriate because displacement was already accounted for in the avoidance rate. It is not clear whether this correction has been applied in the current EIA, however we accept that the mortality for the varied scheme is likely to be less than the 3.7 birds per annum that Ministers judged acceptable for the consented scheme.

Whilst the additional mortality arising from the variation is relatively small, and noting that we still disagree with the incorporation of 50% displacement which lowers estimated mortality, we believe that it is likely to significantly exacerbate the risk of a decline in the Shetland whimbrel population.

### **Red-throated diver**

The collision risk for red-throated divers for both the consented scheme and the variation has been recalculated using recent survey data and the current agreed 99.5% avoidance rate rather than 98% used in the original EIA. Although the variation will increase predicted mortality over the revised baseline for the consented scheme, the impact is less than predicted by the original EIA. The current EIA also identifies an additional two pairs of divers at risk of displacement however this is the result of an increase in the nesting population in the area rather than the increase in turbine height.

### **Other bird species**

The EIA predicts that the variation will result in mortality of other birds being increased by between 14.6% and 18.4% depending on species. We do not consider these increases to be significant at the regional level.

We consider that the displacement of golden plover is likely to be underestimated by the assumption that only birds nesting within 250 metres of turbines will be affected. Work at operational wind farms has shown displacement effects out to at least 400 metres. Nevertheless, we do not believe that the additional mortality and displacement as a result of the variation is likely to have a significant additional effect on Shetland golden plover populations.

## **Landscape and visual impacts**

We previously advised that significant landscape and visual impacts would remain from the consented 103 turbine wind farm. The proposed variation would increase the magnitude of these impacts in two respects:

- Increased scale and visibility due to the 10 metre increase in turbine height and corresponding increase in the swept area of the blades.
- Additional impact, particularly at night, resulting from the need for aviation lighting.

We agree with the conclusion of the EIA Report that the first of these is unlikely to result in a significant change to the assessed impact of the consented scheme. As such our previous advice for the consented scheme remains valid.

From the limited visual information presented in the EIA report and experience elsewhere in Scotland of assessing the impacts of aviation lighting, we broadly agree with the level of impacts identified. We consider however that the extent of effects is likely to extend beyond 9km given the wide spread of lighting that will be visible, the potential for overlapping and the difference in nacelle heights typical in many views. Furthermore the uniform overlapping line of turbines on the Mid Kame will have a corresponding line of lights at night, which is likely to be visually striking.

The EIA Report states that radar activated lighting (RAL) is likely to be used to mitigate the effects. We welcome this, especially in the context of the dark sky qualities that the Shetland Islands possess. We understand that the CAA will be publishing a new policy statement on this early in 2019 and that they have accepted the principle of this technology for use in the UK. We also understand that in advance of the policy statement, the CAA is willing to discuss this approach on a case by case basis.

Should RAL not be possible, the addition of lighting will introduce continuous, change into the Shetland landscape for the lifetime of the wind farm. The effect of this change is likely to be significant at the local level but we do not consider that the effects of lighting in isolation (over and above the significance of effects previously consented) raise issues of national importance.

Our previous advice regarding the limitations on the future capacity of the Shetland Islands to accommodate further development due to the scale of the Viking wind farm remain. This is of particular relevance should the continued advancement in turbine efficiencies entail the requirement for larger structures, with associated lighting.

Yours sincerely

Daniel Brazier  
Operations Manager  
Northern Isles and North Highland  
Redacted



|                            |   |                         |
|----------------------------|---|-------------------------|
| <b>Meeting(s):</b>         | <b>Planning Committee</b>   | <b>13 February 2019</b> |
| <b>Report Title:</b>       | <b>2018/297/PPF – Change of use of land and development of a new external display area comprising new timber-framed boat shelters (enclosed on 3 sides), new concrete slab paving, gravel/chipped display areas and associated surface water drainage, Scalloway Museum, Castle Street, Scalloway</b> |                         |
| <b>Reference Number:</b>   | <b>PL-02-19-F</b>   |                         |
| <b>Author / Job Title:</b> | <b>Claire Summers, Planning Officer – Development Management</b>  |                         |

### 1.0 Decisions / Action Required:

- 1.1 That the Planning Committee RESOLVE to grant approval of the application, subject to conditions, and to notify Scottish Ministers in accordance with requirements.

### 2.0 High Level Summary:

- 2.1 This application seeks to change the use of land and construct a new external display area comprising of new timber-framed boat shelters and the creation of a new concrete slab paving, gravel/chipped display area including associated surface water drainage, north-east of the existing Scalloway Museum.
- 2.2 It is considered the application can be approved in compliance with Shetland Local Development Plan (2014) Policies GP2, GP3, HE1, HE3, HE4, WD3, ED2 and CF1 on the basis of the benefits of the development and that controlling conditions to prevent development taking place that would have an adverse effect on the scheduled monument and its setting can be imposed.

### 3.0 Corporate Priorities and Joint Working:

- 3.1 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 live in well designed, sustainable places. Please refer to Our Plan 2016-2020 – <https://www.shetland.gov.uk/documents/OurPlan2016-20final.pdf>.

### 4.0 Key Issues:

- 4.1 The proposal is located in the north part of the scheduled area around Scalloway Castle. The Castle was built in the early 17th-century and is a Property in Care. The standing tower is an impressive monument and the Castle would have had ancillary buildings and yards extending over the area around it. While these are no longer apparent on the surface, they survive as archaeological remains and form an integral part of the Castle's significance.

- 4.2 Although Historic Environment Scotland do not consider that the proposal would have a significant adverse impact on the setting or character of the Castle (a Scheduled Monument) and have no objection to it in principle, they do object to the application because of a lack of information in the application. It is not known whether the proposal would have an adverse impact on archaeological remains within the scheduled monument or on the significance of any affected remains, because an evaluation of the archaeological potential of the affected area in support of the application has not been submitted.
- 4.3 Archaeological field evaluation work would both define the character and extent of archaeological remains that exist in the area of proposed development and indicate the strength of case for preservation (based on the significance of archaeological resource assessed as being present and the degree of impact on the Scheduled Monument (Scalloway Castle). Historic Environment Scotland recommend that this is undertaken pre-determination, and points out that Planning Advice Note: Planning and Archaeology (2/2011) states that where the planning authority's archaeological advisor indicates that significant archaeological remains may exist, it is reasonable for the planning authority to request the prospective developer to arrange for this to be carried out before the planning application is determined. This would confirm the point (if any) at which the development would have an adverse effect so as not to permit them in accordance with Shetland Local Development Plan (2014) Policy HE4.
- 4.4 It is considered the carrying out of the necessary evaluation work and the submission and agreement of a scheme of mitigations (to include preservation in situ) can be made the subject of conditions. The proposed boat sheds will enhance the space and facilities at the museum, improving the existing high quality tourist attraction which along with the Castle brings benefit to the local area and so complies with the principles laid out in SLDP Policies CF1 and ED2. A decision is needing to be taken that:
- 4.4.1 it is considered that the benefits of the development and controlling conditions to prevent development taking place that would have an adverse effect on the Scheduled Monument (Scalloway Castle) and its setting, enable the application to be approved in compliance with Shetland Local Development Plan (2014) Policies GP2, GP3, HE1, HE3, HE4, WD3, ED2 and CF1; and
- 4.4.2 if the proposal is to grant planning permission, to notify Scottish Ministers of the application and the reasons for taking the decision to do so under the terms of the Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015.

## **5.0 Exempt and/or confidential information:**

5.1 None.



| <b>6.0 Implications:</b>                                   |   |
|--|---|
| <b>6.1 Service Users, Patients and Communities:</b>        | None.   |
| <b>6.2 Human Resources and Organisational Development:</b> | None.   |
| <b>6.3 Equality, Diversity and Human Rights:</b>           | None.   |
| <b>6.4 Legal:</b>  | Town and Country Planning (Scotland) Act 1997(as amended).<br>Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015  |
| <b>6.5 Finance:</b>  | None.   |
| <b>6.6 Assets and Property:</b>                            | None.   |
| <b>6.7 ICT and New Technologies:</b>                       | None.   |
| <b>6.8 Environmental:</b>                                  | There are no adverse environmental impacts arising from this report.  |
| <b>6.9 Risk Management:</b>                                | If Members are minded to refuse the application, it is imperative that clear reasons for proposing the refusal of planning permission on the basis of the proposal being contrary to the development plan policy and the officer's recommendation be given and minuted. This is in order to provide 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. |
| <b>6.10 Policy and Delegated Authority:</b>                | The application is for planning permission made under the terms of the Town and Country Planning (Scotland) Act 1997 (as amended). As the Appointed Person would propose to recommend approval but a consultee has specifically objected, and conditions cannot address those issues, the decision to determine this application is therefore delegated to the Planning Committee under the Planning Scheme of Delegations that has been approved by the Scottish Ministers.  |

|   |   |                  |
|---|---|------------------|
| <b>6.11</b><br><b>Previously considered by:</b> | Planning application 2013/381/PPF for an extension to the existing Scalloway Museum was approved under delegated powers by the Appointed Person, with a condition attached stating that 'The development shall not commence until a scheme identifying a programme and implementation of archaeological works has been submitted to, and approved in writing by, the Planning Authority.' | 12 February 2014 |
|---|---|------------------|

**Contact Details:**

Claire Summers, Planning Officer, Development Services  
Report Cleared: 6 February 2019

**Appendices:**

1. Report of handling on planning permission application.
2. Submitted plans and supporting information.
3. Schedule of recommended conditions.

**Background Documents:**

[Shetland Local Development Plan \(2014\)](#)  
[Planning Permission 2013/381/PPF](#)

## **Report of Handling**

**Development:** Change of use of land and development of a new external display area comprising new timber-framed boat shelters (enclosed on 3 sides), new concrete slab paving, gravel/chipped display areas and associated surface water drainage

**Location:** Scalloway Museum, Castle Street, Scalloway, Shetland, ZE1 0TP

**By:** Scalloway Museum

**Application Ref:** 2018/297/PPF

### **1. Introduction**

This is a full planning application for the change of use of land and erection of a new external display area, north-east of the existing Scalloway Museum. The total area of the proposed development site is 240 square metres.

The development includes three new timber framed boat shelters which shall be enclosed on three sides, new concrete slab paving/chipped areas and associated surface water drainage.

### **2. Statutory Development Plan Policies**

#### **Shetland Local Development Plan**

GP2 - General Requirements for All Development

GP3 - All Development: Layout and Design

HE1 - Historic Environment

HE3 - Conservation Areas

HE4 - Archaeology

WD3 – SuDs

ED2 – Community and Business Developments

CF1 – Community Facilities and Services

### **3. Safeguarding**

30km Radius Scatsta - 30km Sumburgh Scatsta: 1

5m Contour Area - 5m Contour Area: 1

Canmore - Canmore: 318905

Canmore - Canmore: 986

Canmore - Canmore: 217248

Canmore - Canmore: 992

Conservation Areas - Conservation Area: Conservation Area

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

Scheduled and Ancient Monuments - Details: Scalloway Castle

SMR - SMR: MSN2533  
Name: Scalloway Castle  
Type: CASTLE, FINDSPOT

SMR - SMR: MSN937  
Name: Scalloway Harbour  
Type: HARBOUR

SMR - SMR: MSN2533  
Name: Scalloway Castle  
Type: CASTLE, FINDSPOT

SMR - SMR: MSN1766  
Name: Braehead, Castle Road  
Type: HOUSE

Tingwall 10km Safeguarding - Tingwall 10km Safeguarding: Wind Turbine applications require consultation with Airport.

#### 4. **Consultations**

**Roads Traffic was consulted on the 24 October 2018. Their comments dated 31 October 2018 can be summarised as follows:**

NO OBJECTIONS

Road Authority Comments:

Given this proposal is for external shelters for boats, and not buildings as such, I do not consider that it requires additional parking on the development since it is ancillary to the existing use.

I therefore have no objections to this proposal.

**Scalloway Community Council Clerk was consulted on the 24 October 2018. Their comments dated 3 December 2018 can be summarised as follows:**

The SCC have no objections or comments to make on the application.

**Scottish Water Customer Connections was consulted on the 24 October 2018. There was no response from this consultee at the time of report preparation.**

**Historic Environment Scotland was consulted on the 29 October 2018. Their comments dated 21 December 2018 can be summarised as follows:**

I have looked into the planning application you mention [2013/381/PPF <https://pa.shetland.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MV8B4EOA01E00>] This dates to 2013 and was located within the scheduled area of the monument.

Since 2013, there have been changes in the SMC process and it is no longer possible to agree development up front, due to the requirement to Notify Scottish Ministers of any works which are not the minimum necessary for conserving the monument (further information on this is available here: <https://www.historicenvironment.scot/archives-and-research/publications/publication/?publicationId=ec209755-9bf8-4840-a1d8-a61800a9230d>) It is also presently unclear what the proposed impact of the development would be. Given this, we cannot not agree to a suspensive condition (*sic*).

If you want our view on the current application (with no additional information), possibly the best thing to do would be to re-consult us and we will issue a holding objection.

**The Archaeology Service was consulted on the 29 October 2018. Their comments dated 29 October 2018 can be summarised as follows:**

You appear to have omitted us from the consultation on this application. The application is for work which falls within the scheduled area of Scalloway Castle, so please note that you also need to consult Historic Environment Scotland and obtain SMC (assuming that they grant it).

Since the proposed works fall within the Scheduled Area of Scalloway Castle, our own requirements are that a watching brief be carried out for all ground breaking works, including construction of the soakaway and any temporary buildings (eg portacabin bases). We would therefore ask for this condition to be included:

No development shall proceed until a brief for archaeological work has been prepared and agreed with the Regional Archaeologist on behalf of the Local Planning Authority. This will include appropriate methodology for an archaeological watching brief which will be carried out for all ground breaking works, by an appropriately experienced archaeologist, agreed with the Regional Archaeologist. If archaeology is encountered, time will be made available for the appropriate level of investigation and recording which will also be agreed between the contracting archaeologist and the Regional Archaeologist on behalf of the Local Authority. The Regional Archaeologist will be notified 14 days in advance of the commencement of work on site in order to facilitate monitoring. Access will be permitted for this purpose. Please note that this is advice is additional to any advice or conditions which may be required by HES. The applicant may wish to note that their contractor will need to build in the cost for the archaeological work to be carried out by an appropriate archaeological contractor.

**Historic Environment Scotland was consulted on the 7 January 2019. Their comments dated 18 January 2019 can be summarised as follows:**

Thank you for your consultation which we received on 29 October 2018. We have assessed it for our historic environment interests and consider that the proposals have the potential to affect the following:

**SM90273 Scalloway Castle, Scheduled Monument**

You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

**Our Advice**

We object to the application because of a lack of information in the application. The proposed development is for a new external display area to the rear of Scalloway Museum. The proposal includes for new hard surfaces, timber-framed structures, drains and a soakaway.

The proposal is located in the north part of the scheduled area around Scalloway Castle. The Castle was built in the early 17th-century and is a Property in Care. The standing tower is an impressive monument and the Castle would have had ancillary buildings and yards extending over the area around it. While these are no longer apparent on the surface, they survive as archaeological remains and form an integral part of the Castle's significance. Archaeological excavations in 1979 and 1980 revealed evidence for remains associated with the Castle to its northeast. This work also included trenches closer to the proposed development, which uncovered evidence for features and deposits that may be related to

landscaping or gardening. The proposed development area itself was not the subject of archaeological excavation.

The proposed development would involve ground disturbance for foundations, drainage, and other infrastructure. Any ground disturbance has the potential to disturb or destroy archaeological remains. The application has not been supported by an evaluation of the archaeological potential of the affected area. The proposed development would involve a relatively small extension to an existing museum that would include sympathetically designed shelters and other landscaping. We do not consider that it would have a significant adverse impact on the setting or character of the Castle and have no objection to it in principle. However, excavations associated with the proposed development have the potential to disturb or destroy archaeological remains within a scheduled monument. At present, it is not known whether the proposed development would have an adverse impact on any such archaeological remains or on the significance of any affected remains.

Section 145 of Scottish Planning Policy (2014) notes that 'Where there is potential for a proposed development to have an adverse effect on a scheduled monument or on the integrity of its setting, permission should only be granted where there are exceptional circumstances'. Shetland Council's policy HE4 sets out a similar position and we are not aware of any exceptional circumstances in this instance. Consequently, the application would be contrary to local and national planning policy.

Planning Advice Note: Planning and Archaeology (2/2011) provides further advice on archaeological evaluation in the planning system. Of particular relevance is Paragraph 17 which states that 'where the professional judgement of the authority's archaeological advisor indicates that significant archaeological remains may exist, it is reasonable for the planning authority to request the prospective developer to arrange for an archaeological field evaluation to be carried out before the planning application is determined. However, where archaeological field evaluation is proposed on the site of a scheduled monument, separate consent will be required. In such cases, the planning authority should seek advice from Historic Scotland. Evaluations of this kind help to define the character and extent of any remains that exist in the area of a proposed development, and thus indicate the strength of the case for preservation. They also provide information useful in identifying potential options for minimising or avoiding damage'.

In accordance with this guidance, and as advised on a recent site visit, we would recommend the applicant undertakes a pre-determination evaluation to test for archaeological remains within the footprint of the proposed development. These works would require scheduled monument consent (SMC) from us, and the applicant can find further information on how to apply [here](#):

<https://www.historicenvironment.scot/advice-and-support/applying-for-consents/scheduled-monument-consent/scheduled-monument-consent-process/>.

### **Conclusion**

In summary, the proposed development is located within a scheduled monument and has not been informed by an archaeological evaluation to establish its impact on that monument and inform mitigation if appropriate. This is contrary to national and local planning policies for the historic environment and we therefore object to it.

We would however be happy to provide further comment and advice on the scope of an archaeological evaluation within the scheduled monument, or other aspects of the proposed development, as appropriate. Once the evaluation has been satisfactorily completed we would be happy to review our objection. If you are minded to grant consent, with or without conditions, you are required under the terms of the Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015 to notify Scottish Ministers.

### **Further Information**

This response applies to the application currently proposed. An amended scheme may require another consultation with us. Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at [www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/](http://www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/). Technical advice is available through our Technical Conservation website at [www.engine shed.org](http://www.engine shed.org).

## **5. Statutory Advertisements**

The application was advertised in the Shetland Times on 26.10.2018  
The application was advertised in the Edinburgh Gazette on 26.10.2018  
The application was advertised in the Shetland Times on 26.10.2018

A site notice was posted on 26 October 2018.

## **6. Representations**

Representations were received from the following properties: None.

## **7. Report**

Section 25 of the Town and Country Planning (Scotland) Act 1997 (as amended) 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 and these are listed at paragraph 2 above. The determining issues to be considered are whether the proposal complies with Development Plan Policy, or there are any other material considerations which would warrant the setting aside of Development Plan Policy.

As stated in the introduction section the proposal is to create boat sheds and a surfaced area for display purposes to the East of the existing Scalloway Museum building. There is an existing boat shed and gravel surfaced display area which was part of the 2013/381/PPF planning application to extend the existing Scalloway Museum building. The boat sheds will be clad in vertical Siberian larch weatherboarding to match the existing boat shed. The site is located within the Scalloway Conservation Area and development within this area should preserve or enhance its character. As the proposed boat sheds will match the existing boat shed and the proposed materials used will be appropriate for the proposed development and will not have a negative effect on the Conservation Area, this is in compliance with SLDP Policy HE3.

Historic Environment Scotland (HES) were consulted on the application due to the proximity to the Scalloway Castle. HES have objected to the application because of a lack of information submitted with the application. The proposed development would involve ground disturbance for foundations, drainage, and other infrastructure. Any ground disturbance has the potential to disturb or destroy archaeological remains. An evaluation of the archaeological potential of the area has not been submitted to support the application.

The grounds of the Scalloway Museum are part of the scheduled area around the Scalloway Castle. The Castle would have had ancillary buildings and yards extending over the area around it. While these are no longer apparent on the surface, they survive as archaeological remains and form an integral part of the Castle's significance. Archaeological excavations in 1979 and 1980 revealed evidence for remains associated with the Castle to its northeast. This work also included trenches closer to the proposed development, which uncovered evidence for features and deposits that may be related to landscaping or gardening. The proposed development area itself was not the subject of archaeological excavation.

The proposed development would involve a relatively small extension to the existing museum that would include sympathetically designed shelters and other landscaping. HES do not consider that the proposed development would have a significant adverse impact on the setting or character of the Castle and have no

objection to it in principle. However, excavations associated with the proposed development have the potential to disturb or destroy archaeological remains within a scheduled monument. At present, it is not known whether the proposed development would have an adverse impact on any such archaeological remains or on the significance of any affected remains.

The Shetland Regional Archaeologist commented that a watching brief will be required to be carried out for all ground breaking works, including construction of the soakaway and any proposed temporary buildings e.g. portacabin bases. They request a condition to be added to the consent to ensure that this is carried out.

SLDP Policy HE4 states that 'Scheduled monuments, designated wrecks and other identified nationally important archaeological resources should be preserved in situ, and within an appropriate setting. Developments that have an adverse effect on scheduled monuments and designated wrecks or the integrity of their settings should not be permitted unless there are exceptional circumstances.' The policy then goes on to say 'All other significant archaeological resources should be preserved in situ wherever feasible. Where preservation in situ is not possible the planning authority should ensure that developers undertake appropriate archaeological excavation, recording, analysis, publication and archiving in advance of and/ or during development.'

It is difficult at this stage to determine whether or not the proposed development would have an adverse effect on the site with regards to archaeological remains relating to the castle without appropriate archaeological excavation being undertaken. The agent has advised that there is an issue in terms of obtaining permission for a funding application for the proposal, with the likelihood being that it will take several months for archaeological field evaluation to be carried out and reported upon, but they have nevertheless confirmed that the applicant is intending to proceed with the evaluation and required Scheduled Monument Consent Application for this work. It is considered possible for conditions to be attached to an approval to cover the carrying out of a full archaeological evaluation prior to the commencement of development (to include testing for archaeological remains within the footprint of the proposed development as would take place under a required scheduled monument consent (SMC) from Historic Environment Scotland). and the submission to and approval by the planning authority (following consultation with Historic Environment Scotland), and also before any development takes place, of proposals for: preservation of archaeological remains insitu where the evaluations confirm a strength of case for preservation; and for archaeological excavation, recording, analysis, publication and archiving where development under the terms of the permission is still then proposed to be carried out in accordance with its terms outside of those areas where insitu preservation is to take place.

SLDP Policy CF1 encourages proposals for the provision of community facilities, services and infrastructure that respect Shetland's culture and natural and historic environment. The boat sheds would be an extension to the existing facilities provided by the museum and would allow the museum to display more artefacts that are currently in storage. SLDP Policy ED2 supports proposals for business developments that promote employment opportunities, community benefits, rural diversification and tourism related ventures and contribute to the viability of existing settlements. The proposed development complies with the principles laid out in SLDP Policies CF1 and ED2.

The Council's Flooding and Drainage Engineer was consulted on the application with regards to the proposed soakaway. The plans show the roof area draining through filter trenches to a SUDs soakaway. Generally any SUDs device making use of infiltration should be at least 5m from any house, site boundary or public road, to ensure suitable hydraulic performance, the location indicated appears to be acceptable. There do not appear to be any site specific issues with regards to the proposed drainage scheme; this is in compliance with SLDP Policy WD3 where it requires all development proposals that will give rise to surface water run-off should incorporate SUDs.

No other objections apart from that received from Historic Environment Scotland have been received and there are no further safeguarding issues that require consideration with regards to this proposed development other than that of Scalloway Castle as a Scheduled Monument.

It is considered that subject to controlling conditions the proposed development will have no adverse impact upon the visual amenity of the surrounding area generally, or a significant adverse impact on the setting or character of the Castle, given that all external materials shall match the existing boat shed and are appropriate in terms of scale, form and design. Albeit archaeological field evaluation work has not been carried out which would both define the character and extent of archaeological remains that exist in the area of proposed development and indicate the strength of case for preservation (based on the significance of archaeological resource assessed as being present and the degree of impact on the scheduled monument), which would confirm the point (if any) at which the development would have an adverse effect so as not to permit them in accordance with Shetland Local Development Plan (2014) Policy HE4, the carrying out of the necessary evaluation work and the submission and agreement of a scheme of mitigations (to include preservation insitu) can be made the subject of conditions. The proposed boat sheds will enhance the space and facilities at the museum, improving the existing high quality tourist attraction which along with the Castle brings benefit to the local area and so complies with the principles laid out in SLDP Policies CF1 and ED2. The benefits of the development and controlling conditions to prevent development taking place that would have an adverse effect on the Scheduled Monument (Scalloway Castle)

and its setting, it is considered enable the application to be approved in compliance with Shetland Local Development Plan (2014) Policies GP2, GP3, HE1, HE3, HE4, WD3, ED2 and CF1.

## 8. Recommendation

Grant subject to conditions

### Reasons for Council's decision:

( 1.) It is considered that subject to controlling conditions the proposed development will have no adverse impact upon the visual amenity of the surrounding area generally, or a significant adverse impact on the setting or character of the Castle, given that all external materials shall match the existing boat shed and are appropriate in terms of scale, form and design. Albeit archaeological field evaluation work has not been carried out which would both define the character and extent of archaeological remains that exist in the area of proposed development and indicate the strength of case for preservation (based on the significance of archaeological resource assessed as being present and the degree of impact on the scheduled monument), which would confirm the point (if any) at which the development would have an adverse effect so as not to permit them in accordance with Shetland Local Development Plan (2014) Policy HE4, the carrying out of the necessary evaluation work and the submission and agreement of a scheme of mitigations (to include preservation insitu) can be made the subject of conditions. The proposed boat sheds will enhance the space and facilities at the museum, improving the existing high quality tourist attraction which along with the Castle brings benefit to the local area and so complies with the principles laid out in SLDP Policies CF1 and ED2. The benefits of the development and controlling conditions to prevent development taking place that would have an adverse effect on the Scheduled Monument (Scalloway Castle) and its setting, it is considered enable the application to be approved in compliance with Shetland Local Development Plan (2014) Policies GP2, GP3, HE1, HE3, HE4, WD3, ED2 and CF1.

## 9. List of approved plans:

- Existing Site Plan 394618 SB02-MMD-XX-00-DR-C-0005 12.10.2018
- Site Plan 394618 SB02-MMD-XX-00-DR-C-0002 12.10.2018
- Location Plan 394618 SB02-MMD-XX-00-DR-C-0001 12.10.2018
- Elevations 394618 SB02-MMD-XX-00-DR-C-0004 08.10.2018
- Site Plan 394618 SB02-MMD-XX-00-DR-C-0002 08.10.2018

- General Arrangement 394618 SB02-MMD-XX-00-DR-C-0003 08.10.2018

**10. Further Notifications Required**

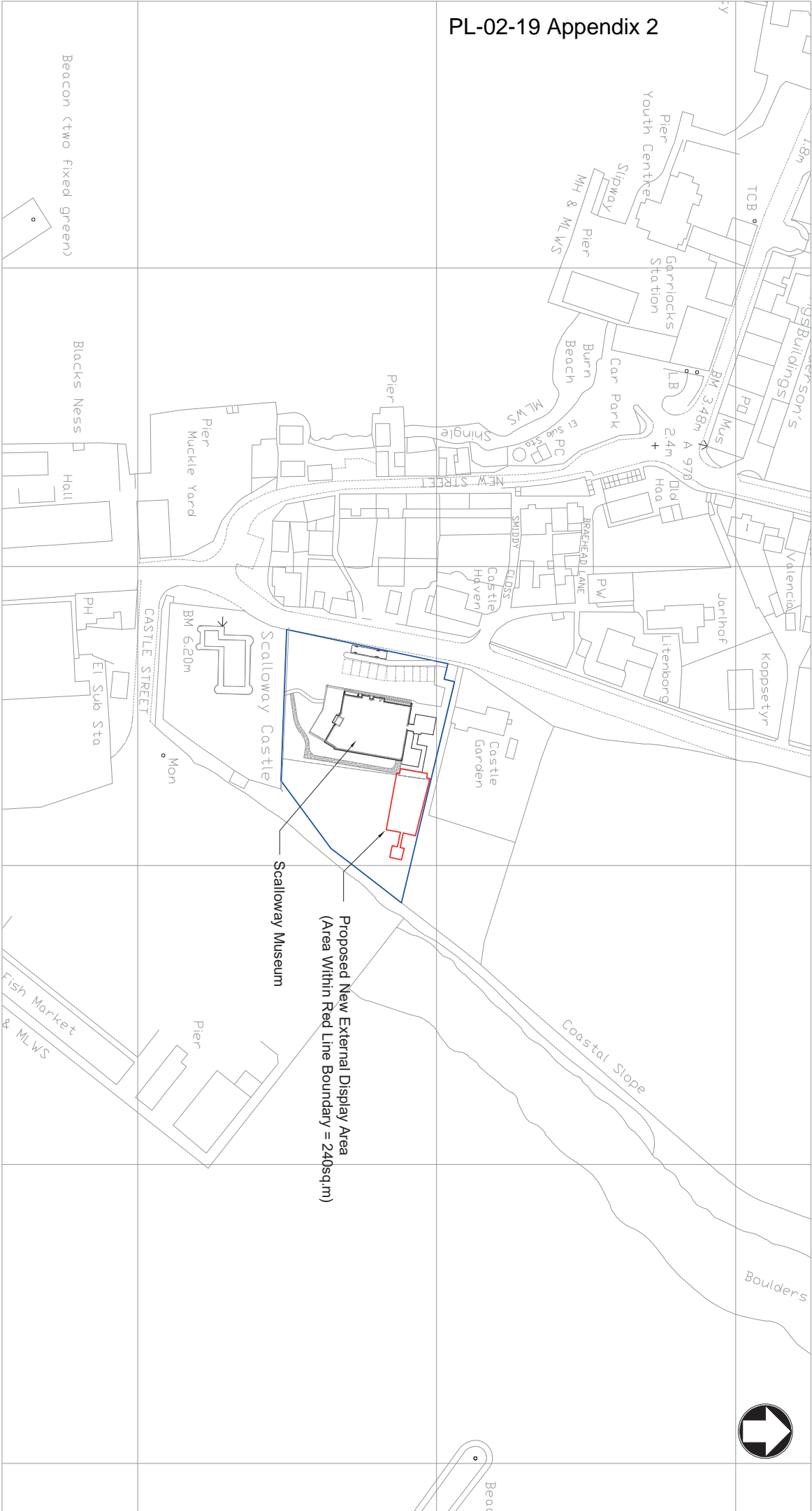
Under the terms of the Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015 the planning authority is required to notify Scottish Ministers of the application and the proposal to grant planning permission (including the reasons for taking the decision it has) with Historic Environment Scotland having objected (advised against the granting of planning permission).

**11. Background Information Considered**

Planning application 2013/381/PPF - Erect extension to provide additional toilets and creation of external display area, Scalloway Museum, Castle Street, Scalloway

2018/297/PPF\_Delegated\_Report\_of\_Handling.doc  
Officer: Claire Summers  
Date: 23 January 2019





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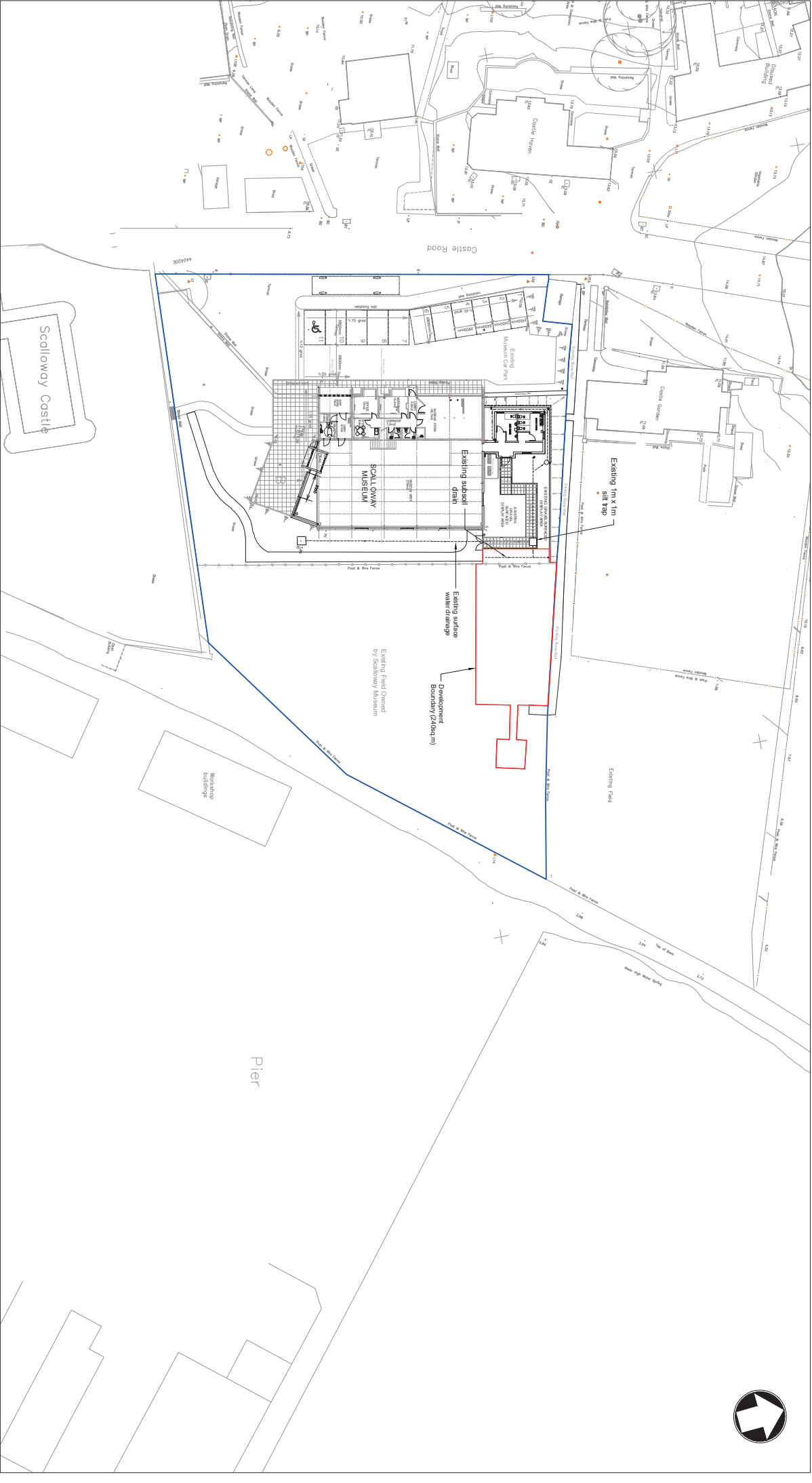


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| Rev | Date  | Drawn | Description                               | Cr'd | App'd | Title   |
|-----|-------|-------|---|------|-------|---|
| P1  | 10/18 | EW    | Preliminary Issue - For Planning          | AS   | JM    | Scalloway Museum<br>Proposed External Display Area<br>Location Plan |
| P2  | 10/18 | EW    | Amended for Planning<br>Comments 09-10-18 | AS   | JM    |   |

|                |                                 |          |         |          |             |             |        |
|----------------|---------------------------------|----------|---------|----------|-------------|-------------|--------|
| Drawing Number | 394618 SB02-MMD-XX-00-DR-C-0001 | Security | STD     | Status   | PRE         | Rev         | P2     |
| Drawn          | E Wishart                       | Checked  | A Stout | Approved | J Moncrieff | Scale at A3 | 1:1250 |



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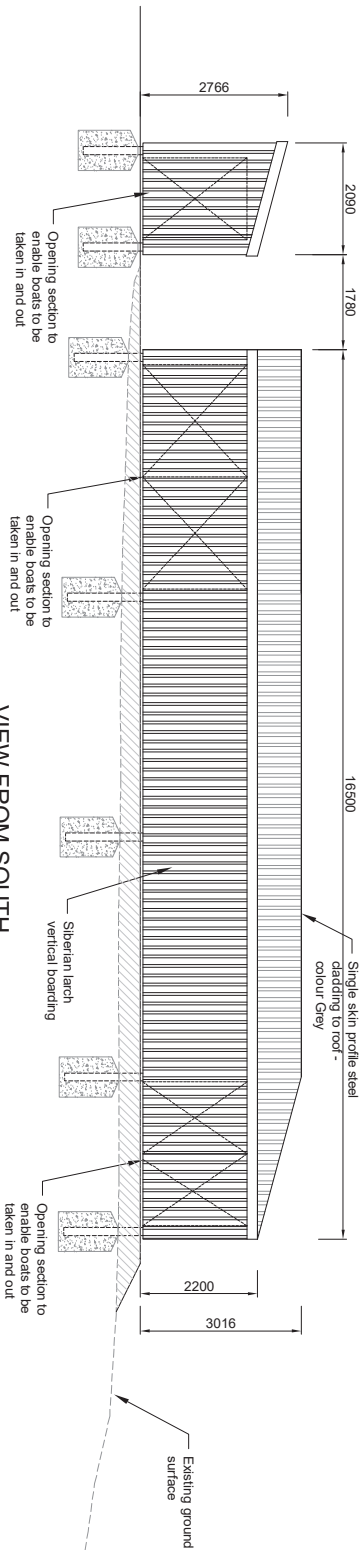
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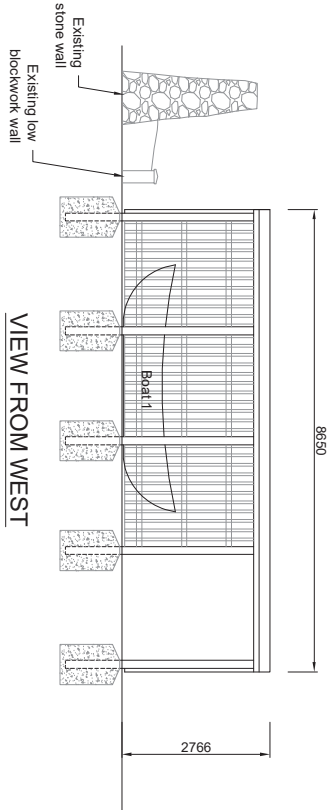
| Rev | Date  | Drawn | Description                      | Ch'k'd | App'd | Title  | Drawn    | E Wsheet    | Rev |
|-----|-------|-------|----------------------------------|--------|-------|--|----------|-------------|-----|
| P1  | 10/18 | EW    | Preliminary Issue - For Planning | AS     | JM    | Scalloway Museum<br>Proposed External Display Area<br>Existing Site Plan | Checked  | A Stout     | AS  |
| P2  | 10/18 | EW    | Scale changed to 1:500           | AS     | JM    |  | Approved | J Moncrieff | JM  |
|     |       |       |                                  |        |       | Drawing Number   | Security | Status      | Rev |
|     |       |       |                                  |        |       | 394618 SB02-MMD-XX-00-DR-C-0005  | STD      | PRE         | P2  |



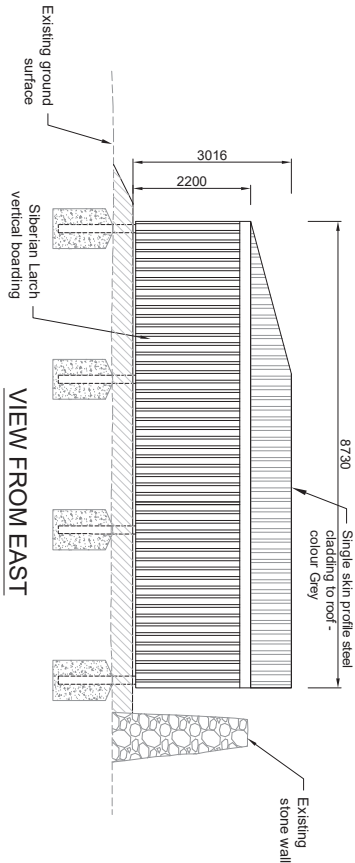




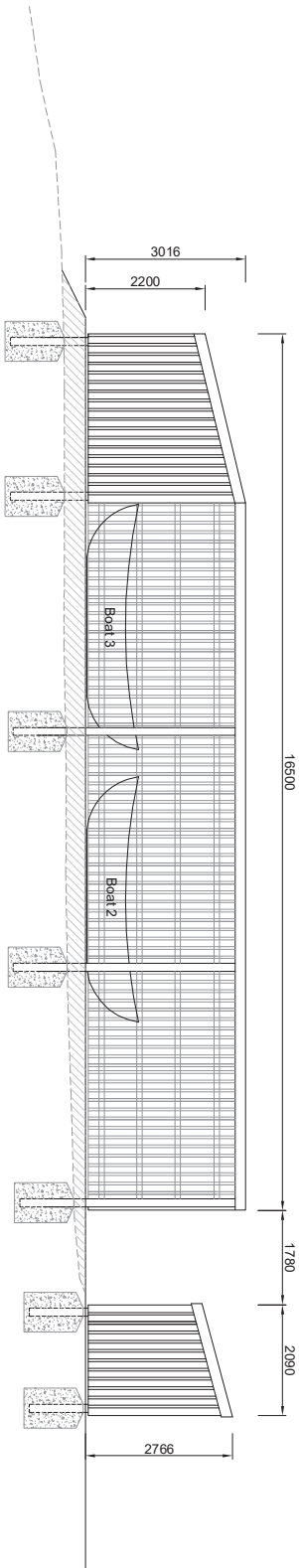
VIEW FROM SOUTH



VIEW FROM WEST



VIEW FROM EAST



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Scalloway  
Shetland  
ZE1 0TP

| Rev | Date  | Drawn | Description                      | Ch'k'd | App'd |
|-----|-------|-------|----------------------------------|--------|-------|
| P1  | 10/18 | EW    | Preliminary Issue - For Planning | AS     | JM    |

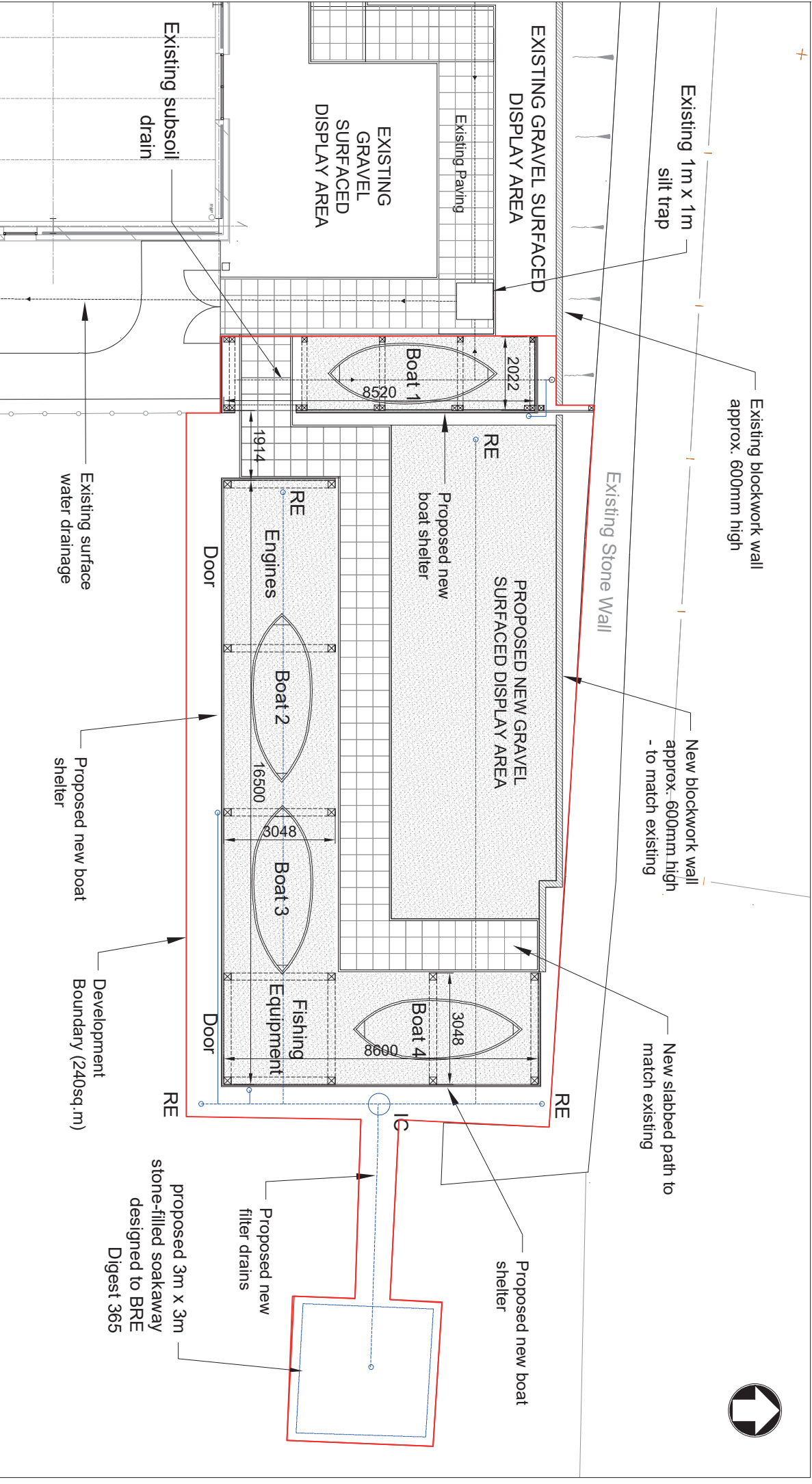
Title  
Scalloway Museum  
Proposed External Display Area  
Elevations

Drawing Number  
394618 SB02-MMD-XX-00-DR-C-0004

| Drawn    | E Wihart    | EW |
|----------|-------------|----|
| Checked  | A Stout     | AS |
| Approved | J Moncrieff | JM |

Scale at A3  
1:100

| Security | Status | Rev |
|----------|--------|-----|
| STD      | PRE    | P1  |



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Client  
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Castle Street  
Scalloway  
Shetland  
ZE1 0TP

| Rev   | Date  | Drawn | Description                      | Ch'k'd | App'd | Title   | Drawn               | E Wishart              | EW        |
|---|-------|-------|----------------------------------|--------|-------|---|---------------------|------------------------|-----------|
| P1  | 10/18 | EW    | Preliminary Issue - For Planning | AS     | JM    | Scalloway Museum<br>Proposed External Display Area<br>General Arrangement | Checked<br>Approved | A Stout<br>J Moncrieff | AS<br>JM  |
| Drawing Number<br>394618 SB02-MMD-XX-00-DR-C-0003 |       |       |                                  |        |       |   | Security<br>STD     | Status<br>PRE          | Rev<br>P1 |



**From:** Val Turner  
**Sent:** Mon, 29 Oct 2018 14:38:25 +0000  
**To:** Development Management@Development  
**Cc:** [REDACTED]  
**Subject:** Scalloway Museum 2018/297

Hi

You appear to have omitted us from the consultation on this application. The application is for work which falls within the scheduled area of Scalloway Castle, so please note that you also need to consult Historic Environment Scotland and obtain SMC (assuming that they grant it).

Since the proposed works fall within the Scheduled Area of Scalloway Castle, our own requirements are that a watching brief be carried out for all ground breaking works, including construction of the soakaway and any temporary buildings (eg portacabin bases). We would therefore ask for this condition to be included:

No development shall proceed until a brief for archaeological work has been prepared and agreed with the Regional Archaeologist on behalf of the Local Planning Authority. This will include appropriate methodology for an archaeological watching brief which will be carried out for all ground breaking works, by an appropriately experienced archaeologist, agreed with the Regional Archaeologist. If archaeology is encountered, time will be made available for the appropriate level of investigation and recording which will also be agreed between the contracting archaeologist and the Regional Archaeologist on behalf of the Local Authority.

The Regional Archaeologist will be notified 14 days in advance of the commencement of work on site in order to facilitate monitoring. Access will be permitted for this purpose.

Please note that this is advice is additional to any advice or conditions which may be required by HES.

The applicant may wish to note that their contractor will need to build in the cost for the archaeological work to be carried out by an appropriate archaeological contractor.

Many thanks  
Val

**Dr Val Turner**  
**Shetland Regional Archaeologist**  
Shetland Amenity Trust, Garthspool,  
Lerwick, Shetland, ZE1 0NY  
Tel: [REDACTED]

[www.shetlandamenity.org](http://www.shetlandamenity.org)

The Shetland Amenity Trust is a registered  
Scottish charity, No: SC017505

**From:** Hall N (Nicola)  
**Sent:** Fri, 21 Dec 2018 12:50:48 +0000  
**To:** Summers Claire@Development Management  
**Cc:** Development Management@Development  
**Subject:** RE: Planning Application 2018/297/PPF - Scalloway Museum Boat Shelters

Dear Claire,

**Planning Application 2018/297/PPF - Scalloway Museum Boat Shelters**

I said I would get back to you about this. I note that you have your out of office reply on, so I have copied this to the generic development management email address.

I have looked into the planning application you mention [2013/381/PPF <https://pa.shetland.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=MV8B4EOA01E00>] This dates to 2013 and was located within the scheduled area of the monument.

Since 2013, there have been changes in the SMC process and it is no longer possible to agree development up front, due to the requirement to Notify Scottish Ministers of any works which are not the minimum necessary for conserving the monument (further information on this is available here: <https://www.historicenvironment.scot/archives-and-research/publications/publication/?publicationId=ec209755-9bf8-4840-a1d8-a61800a9230d>) It is also presently unclear what the proposed impact of the development would be. Given this, we cannot not agree to a suspensive condition.

If you want our view on the current application (with no additional information), possibly the best thing to do would be to re-consult us and we will issue a holding objection.

I hope this is of assistance to you.

Kind regards,  
Nicki

**Nicki Hall | Senior Casework Officer | Heritage Directorate**

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Longmore House, Salisbury Place, Edinburgh. EH9 1SH.

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**From:** claire.summers@shetland.gov.uk [mailto:claire.summers@shetland.gov.uk]  
**Sent:** 21 December 2018 11:40  
**To:** Hall N (Nicola) [REDACTED]  
**Subject:** FW: Planning Application 2018/297/PPF - Scalloway Museum Boat Shelters

Hi Nicki,

I have received the email below from Jon. Would HES consider a condition being placed on this permission the same at the previous 2013/381/PPF permission or would a holding objection just be submitted if the further information is not received?

From the email below they are keen for HES to submit a consultation response now and if a holding objection is received then aim for the February Planning Committee.

Hope you have a lovely Christmas and New Year.

Kind regards  
Claire

Claire Summers | Planning Officer - Development Management | Development Services  
8 North Ness Business Park | Lerwick | ZE1 0LZ  
Tel: 01595744814  
Working Days: Tuesday, Wednesday, Thursday

---

**From:** Moncrieff, Jon L [REDACTED]  
**Sent:** 21 December 2018 10:54  
**To:** Summers Claire@Development Management <claire.summers@shetland.gov.uk>  
**Cc:** Jim Young [REDACTED]  
**Subject:** RE: Planning Application 2018/297/PPF - Scalloway Museum Boat Shelters

Hi Claire,

Regarding the above Planning Application, we have had communication with Historic Environment Scotland (HES) during the last week regarding the pre-determination evaluation of the affected area, to identify the depth and extent of archaeological remains within the footprint of the development, and are now in the process of putting together the Scheduled Monument Consent (SMC) Application for this

work, which will be a site strip and map exercise. The Client is intending to proceed with this so that an archaeological evaluation report can be produced and submitted to you and onwards to HES as soon as possible, however in reality this is likely to take several months, which is an issue in terms of obtaining planning permission before the deadline required for their funding application. Note - the Client requires planning approval or written confirmation that the application has been recommended at officer level for approval, by 21<sup>st</sup> Jan 2019.

Their last planning permission (2013/381/PPF), received in Feb 2014 for the museum extension, was granted with a Condition that stated, 'the development will not commence until a scheme identifying a programme and implementation of archaeological works is approved by the Planning Authority'. In that instance, the proposed scheme to satisfy the condition, and the associated investigation work on site, was completed prior commencement of the museum extension. We appreciate that based on HES's email below from 10 December 2018, that putting the archaeological evaluation work on as a condition, does not seem to be an option this time. Can you please confirm that this is the case.

After discussing with the Client we feel that if planning consent cannot be given with the archaeological evaluation work put on as a condition, the best option is probably for HES to respond now (based on the current information) with a holding objection and for you to recommended it for approval with the holding objection (assuming you are minded to do so) and then it be presented to the Planning Committee. The consultant who has prepared the funding application on behalf of the Client believes that confirmation the application is recommended for approval but passed to the planning committee because of the HES holding objection, will be sufficient for the funding application - provided this is confirmed before 21 January 2019. Can you please confirm if you are happy to proceed on this basis and that the timescale is achievable.

If you have any queries relating to this or if you would like to discuss further, please do not hesitate to contact me.

Kind regards,  
Jon

**Jon Moncrieff**

BSc (Hons) CEng MICE  
Manager, Shetland



Mott MacDonald  
Greenhead  
Lerwick  
Shetland ZE1 0PY  
United Kingdom

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**From:** [claire.summers@shetland.gov.uk](mailto:claire.summers@shetland.gov.uk) <[claire.summers@shetland.gov.uk](mailto:claire.summers@shetland.gov.uk)>  
**Sent:** 13 December 2018 09:23  
**To:** Moncrieff, Jon L [REDACTED]  
**Subject:** RE: Planning Application 2018/297/PPF - Scalloway Museum Boat Shelters

Hi Jon,

Many thanks for that.

Kind regards

Claire

Claire Summers | Planning Officer - Development Management | Development Services  
8 North Ness Business Park | Lerwick | ZE1 0LZ  
Tel: 01595744814  
Working Days: Tuesday, Wednesday, Thursday

---

**From:** Moncrieff, Jon L [REDACTED]  
**Sent:** 13 December 2018 09:17  
**To:** Summers Claire@Development Management <[claire.summers@shetland.gov.uk](mailto:claire.summers@shetland.gov.uk)>  
**Subject:** RE: Planning Application 2018/297/PPF - Scalloway Museum Boat Shelters

Thanks Claire,

My understanding of the situation is:

Before HES can provide a response to the planning consultation we need to undertake a strip and map exercise for pre-determination evaluation of the affected area, to identify the depth and extent of archaeological remains within the footprint of the development (including drainage areas). If HES do not have this information their response will be a holding objection. The strip and map exercise will require scheduled monument consent (SMC).

I will discuss with the Client, but I expect that we will need to proceed with the SMC application and subsequent strip and map exercise as soon as possible to avoid the HES objection.

I will keep you updated.

Regards  
Jon



**Jon Moncrieff**

BSc (Hons) CEng MICE  
Manager, Shetland





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**From:** [claire.summers@shetland.gov.uk](mailto:claire.summers@shetland.gov.uk) <[claire.summers@shetland.gov.uk](mailto:claire.summers@shetland.gov.uk)>

**Sent:** 12 December 2018 09:59

**To:** Moncrieff, Jon L 

**Subject:** Planning Application 2018/297/PPF - Scalloway Museum Boat Shelters

Hello Jon,

I have been in contact with Nicki from Historic Environment Scotland (HES) regarding the application for the boat shelters at the Scalloway Museum. Her email below requests further information to identify the depth and extent of archaeological remains within the footprint of the development (including drainage areas). They will then respond once this information is received. Without this information then HES will submit a holding objection on the application and if I were minded to approve the application with an HES objection then it would have to be presented in front on the Planning Committee which would cause time delays.

Please have a look through her email and if there are any questions please do not hesitate to get in contact with myself or Nicki.

Kind regards  
Claire

Claire Summers | Planning Officer - Development Management | Development Services  
8 North Ness Business Park | Lerwick | ZE1 0LZ  
Tel: 01595744814  
Working Days: Tuesday, Wednesday, Thursday

---

**From:** Hall N (Nicola) [REDACTED]  
**Sent:** 10 December 2018 14:39  
**To:** Summers Claire@Development Management <[claire.summers@shetland.gov.uk](mailto:claire.summers@shetland.gov.uk)>  
**Subject:** RE: Scalloway Museum, Castle Street, Scalloway, Shetland. ZE1 OTP [Ref: 2018/297/PPF]

Dear Claire,

Thanks for your message and sorry for not replying sooner to it.

As we explained at the meeting there are two issues; the unauthorised works and the planning application. Scheduled monuments are protected under the Ancient Monuments and Archaeological Areas Act 1979 and any works require scheduled monument consent (SMC) in advance from HES. We explained that HES have a range of enforcement powers which range from advisory letters to prosecution. We will shortly be sending our letter informing them of our findings of the unauthorised works.

In terms of the planning application, the development within the scheduled monument is contrary to national and local planning policies and the applicant has not as yet submitted sufficient information for us to determine the impact on the scheduled monument. On site we discussed the potential of pre-determination evaluation of the affected area, to identify the depth and extent of archaeological remains within the footprint of the development (including drainage areas). This is supported by Planning Advice Note: Planning and Archaeology 2/2011. I would be grateful whether you could clarify whether your council intends to request further information from the applicant in this respect. As mentioned, these works would require scheduled monument consent (SMC), but we would be supportive of a strip and map exercise to inform the planning application.

If you are intending to request further information, then we would be content to wait until this information is available, and provide a response through re-consultation. Alternatively, we would be happy to respond on the basis of the current information - though it is likely that our response would be a holding objection. Please can you let me know your decision.

Kind regards,  
Nicki

**Nicki Hall | Senior Casework Officer | Heritage Directorate**

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**From:** [claire.summers@shetland.gov.uk](mailto:claire.summers@shetland.gov.uk) [mailto:[claire.summers@shetland.gov.uk](mailto:claire.summers@shetland.gov.uk)]  
**Sent:** 06 December 2018 16:41  
**To:** Hall N (Nicola) [REDACTED]  
**Subject:** RE: Scalloway Museum, Castle Street, Scalloway, Shetland. ZE1 OTP [Ref: 2018/297/PPF]

Hi Nicki,

I have been allocated the application today for the boat shelters at the Scalloway Museum. Can you confirm if the applicants have submitted any Schedule Monuments consents to yourselves for the proposed works? I doubt I will have much time to spend on the application before the Christmas break as we have training 2 days next and 3 the week after so I only have a couple of working days left this year. Can you confirm if there would be anything in your consultation response for the planning application that might require me to make a further information request from the applicants agent? Just to try and get ahead of everything with the Christmas break coming up and with the time pressures the applicants have with regard to funding.

Kind regards  
Claire

Claire Summers | Planning Officer - Development Management | Development Services  
8 North Ness Business Park | Lerwick | ZE1 0LZ  
Tel: 01595744814  
Working Days: Tuesday, Wednesday, Thursday

---

**From:** Hall N (Nicola) [REDACTED]  
**Sent:** 29 November 2018 11:38  
**To:** Summers Claire@Development Management <[claire.summers@shetland.gov.uk](mailto:claire.summers@shetland.gov.uk)>  
**Subject:** Scalloway Museum, Castle Street, Scalloway, Shetland. ZE1 OTP [Ref: 2018/297/PPF]

Dear Claire,

**Scalloway Museum, Castle Street, Scalloway, Shetland. ZE1 OTP [Ref: 2018/297/PPF]**

Many thanks once again for meeting with us to discuss the above.

As discussed, we are due to respond to the planning application by tomorrow and therefore I appreciate the extension of this deadline by 2 weeks until 14 December 2018.

I await further clarification of how your Council are wanting to proceed in terms of a non-determination. If we don't hear back from you before the deadline, we will have to send a holding objection.

Kind regards,  
Nicki

**Nicki Hall | Senior Casework Officer | Heritage Directorate**

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**By email to:**

[development.management@shetland.gov.uk](mailto:development.management@shetland.gov.uk)

Longmore House  
Salisbury Place  
Edinburgh  
EH9 1SH

Shetland Islands Council  
Planning Service  
Train Shetland  
North Gremista Industrial Estate  
Lerwick  
ZE1 0LZ

Our ref: AMH/90273/1/1  
Our case ID: 300032438  
Your ref: 2018/297/PPF  
18 January 2019

Dear Sir/Madam,

**Town and Country Planning (Development Management Procedure) (Scotland)  
Regulations 2013**

Scalloway Museum, Castle Street, Scalloway, Shetland ZE1 0TP

Development of a new external display area comprising new timber-framed boat shelters (enclosed on 3 sides), new concrete slab paving, gravel/chipped display areas and associated surface water drainage

Thank you for your consultation which we received on 29 October 2018. We have assessed it for our historic environment interests and consider that the proposals have the potential to affect the following:

| Ref     | Name             | Designation Type   |
|---------|------------------|--------------------|
| SM90273 | Scalloway Castle | Scheduled Monument |

You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

**Our Advice**

We **object** to the application because of a lack of information in the application.

The proposed development is for a new external display area to the rear of Scalloway Museum. The proposal includes for new hard surfaces, timber-framed structures, drains and a soakaway.

The proposal is located in the north part of the scheduled area around Scalloway Castle. The Castle was built in the early 17th-century and is a Property in Care. The standing tower is an impressive monument and the Castle would have had ancillary buildings and

Historic Environment Scotland – Longmore House, Salisbury Place, Edinburgh, EH9 1SH

Scottish Charity No. **SC045925**

VAT No. **GB 221 8680 15**





yards extending over the area around it. While these are no longer apparent on the surface, they survive as archaeological remains and form an integral part of the Castle's significance. Archaeological excavations in 1979 and 1980 revealed evidence for remains associated with the Castle to its northeast. This work also included trenches closer to the proposed development, which uncovered evidence for features and deposits that may be related to landscaping or gardening. The proposed development area itself was not the subject of archaeological excavation.

The proposed development would involve ground disturbance for foundations, drainage, and other infrastructure. Any ground disturbance has the potential to disturb or destroy archaeological remains. The application has not been supported by an evaluation of the archaeological potential of the affected area.

The proposed development would involve a relatively small extension to an existing museum that would include sympathetically designed shelters and other landscaping. We do not consider that it would have a significant adverse impact on the setting or character of the Castle and have no objection to it in principle.

However, excavations associated with the proposed development have the potential to disturb or destroy archaeological remains within a scheduled monument. At present, it is not known whether the proposed development would have an adverse impact on any such archaeological remains or on the significance of any affected remains.

Section 145 of Scottish Planning Policy (2014) notes that 'Where there is potential for a proposed development to have an adverse effect on a scheduled monument or on the integrity of its setting, permission should only be granted where there are exceptional circumstances'. Shetland Council's policy HE4 sets out a similar position and we are not aware of any exceptional circumstances in this instance. Consequently, the application would be contrary to local and national planning policy.

Planning Advice Note: Planning and Archaeology (2/2011) provides further advice on archaeological evaluation in the planning system. Of particular relevance is Paragraph 17 which states that 'where the professional judgement of the authority's archaeological advisor indicates that significant archaeological remains may exist, it is reasonable for the planning authority to request the prospective developer to arrange for an archaeological field evaluation to be carried out before the planning application is determined. However, where archaeological field evaluation is proposed on the site of a scheduled monument, separate consent will be required. In such cases, the planning authority should seek advice from Historic Scotland. Evaluations of this kind help to define the character and extent of any remains that exist in the area of a proposed





development, and thus indicate the strength of the case for preservation. They also provide information useful in identifying potential options for minimising or avoiding damage'.

In accordance with this guidance, and as advised on a recent site visit, we would recommend the applicant undertakes a pre-determination evaluation to test for archaeological remains within the footprint of the proposed development. These works would require scheduled monument consent (SMC) from us, and the applicant can find further information on how to apply here: <https://www.historicenvironment.scot/advice-and-support/applying-for-consents/scheduled-monument-consent/scheduled-monument-consent-process/>.

## **Conclusion**

In summary, the proposed development is located within a scheduled monument and has not been informed by an archaeological evaluation to establish its impact on that monument and inform mitigation if appropriate. This is contrary to national and local planning policies for the historic environment and we therefore object to it.

We would however be happy to provide further comment and advice on the scope of an archaeological evaluation within the scheduled monument, or other aspects of the proposed development, as appropriate. Once the evaluation has been satisfactorily completed we would be happy to review our objection.

If you are minded to grant consent, with or without conditions, you are required under the terms of the Town and Country Planning (Neighbouring Planning Authorities and Historic Environment) (Scotland) Direction 2015 to notify Scottish Ministers.

## **Further Information**

This response applies to the application currently proposed. An amended scheme may require another consultation with us.

Guidance about national policy can be found in our 'Managing Change in the Historic Environment' series available online at [www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/](http://www.historicenvironment.scot/advice-and-support/planning-and-guidance/legislation-and-guidance/managing-change-in-the-historic-environment-guidance-notes/). Technical advice is available through our Technical Conservation website at [REDACTED]

Please contact us if you have any questions about this response. The officer managing this case is Nicola Hall who can be contacted by phone on [REDACTED] or by email on [REDACTED]





**Schedule of Recommended Planning Conditions**

**Development:** Development of a new external display area comprising new timber-framed boat shelters (enclosed on 3 sides), new concrete slab paving, gravel/chipped display areas and associated surface water drainage

**Location:** Scalloway Museum, Castle Street, Scalloway, Shetland, ZE1 0TP

**By:** Scalloway Museum

**Application Ref:** 2018/297/PPF

**List of approved plans:**

- Existing Site Plan 394618 SB02-MMD-XX-00-DR-C-0005 12.10.2018
- Site Plan 394618 SB02-MMD-XX-00-DR-C-0002 12.10.2018
- Location Plan 394618 SB02-MMD-XX-00-DR-C-0001 12.10.2018
- Elevations 394618 SB02-MMD-XX-00-DR-C-0004 08.10.2018
- Site Plan 394618 SB02-MMD-XX-00-DR-C-0002 08.10.2018
- General Arrangement 394618 SB02-MMD-XX-00-DR-C-0003 08.10.2018

**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 or amended by approvals given under the terms of other conditions of this permission) 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.) No development shall take place until a scheme for archaeological field evaluation for the site has been submitted to and approved in writing by the Planning Authority (following consultation with Historic Environment Scotland). The scheme shall be one whose contents (either in whole or part) is capable of receiving Scheduled Monument Consent from Historic Environment Scotland, and shall detail as a minimum: the techniques to be used; the name of the archaeological organisation and qualifications of the individual(s) who are to carry out the evaluation; confirm that the work will conform to the Standards and Guidance for Field Evaluation (2009) prepared by the Institute for Archaeologists; and the timescale for and format of the Report to be submitted in accordance with condition 4 of this permission, which shall include assessment of the significance of the archaeological remains which the evaluation identifies and the strategy of mitigation of the impact of the development upon them.

Reason: To define the character and extent of any remains that exist in the area of the proposed development, and indicate the strength of case for insitu preservation as part of the strategy to prevent adverse effects on the scheduled monument and the integrity of its setting, in compliance with Shetland Local Development Plan (2014) Policies HE1 and HE4.

( 4) No development shall take place until the archaeological field evaluation work approved under condition 3 of this permission has been carried out, and a Report which: assesses the significance of the archaeological remains that this evaluation finds and proposes a strategy of mitigation of the impact of the development upon them (a scheme of mitigations); and confirms the extent of archaeological excavation to take place as well as proposals for recording, analysis, publication and archiving where preservation in situ is not the proposal has been submitted to, and approved in writing by, the planning authority following consultation with Historic Environment Scotland The scheme of mitigations shall also include the following:

- Detail of the designated access route to be taken to the development site (to be used both for the delivery of materials and workers required to carry

- out the development);
- A scheme of observation, investigation and recording conducted throughout the excavation of the site;
- Measures to be taken to prevent works from taking place outside of the development site and in areas within it where archaeological remains have been identified for insitu preservation (which may include fencing);
- A mitigation strategy to be implemented should any archaeology not identified by the archaeological field evaluation be found during the excavation of the site (to include as a minimum: notification to the planning authority and Shetland Regional Archaeologist; and time allowed for investigation and recording by the contracting archaeologist and the Shetland Regional Archaeologist) ;
- Details of a watching brief to be undertaken during the excavation of the site by an appropriately experienced archaeologist.

Following written approval the scheme of mitigations shall be followed and implemented in full during the development of the site.

Reason: In order to protect archaeological and historical features within, or adjacent to, the area of development which are of significant historical importance to Shetland, in compliance with Shetland Local Development Plan (2014) Policies HE1 and HE4.

( 5) The developer shall afford access at all times to the Shetland Regional Archaeologist or their representative, or any other archaeologist nominated by the planning authority, and allow them to observe the works and record items of interest and finds.

Reason: In order to protect archaeological and historical features within, or adjacent to, the area of development which are of significant historical importance to Shetland, in compliance with Shetland Local Development Plan (2014) Policies HE1 and HE4.

( 6.) If any top soil, spoil or waste materials arising from the excavation of the site and the construction of the development are to be removed from or disposed of outwith the site, details of the method of storage or disposal of any such materials, including details of the location of any storage or disposal sites, shall be submitted and approved in writing by the Planning Authority prior to the commencement of development.

Reason: To ensure that any top soil or waste material arising from the construction of the development is disposed of to an authorised site and in an environmentally acceptable manner in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

( 7.) Notwithstanding the provisions of the Town and Country (General Permitted Development) (Scotland) Order 1992 or any subsequent, replacement or

amendment Order, no buildings, moveable structures, works, plant or machinery required temporarily in connection with and for the duration of operations being or to be carried out on, in, under or over the land the subject of this permission and which are authorised by it, or on land adjoining the land the subject of this permission without planning permission being granted on an application made to the Planning Authority.

Reason: In order to protect archaeological and historical features within, or adjacent to, the area of development which are of significant historical importance to Shetland, in compliance with Shetland Local Development Plan (2014) Policies HE1 and HE4.

**Notes to Applicant:**

**Commencement of Development**

The development hereby permitted must be commenced within 3 years of the date of this permission in order to comply with Section 58 of the Town and Country Planning (Scotland) Act 1997, as amended by Section 20 of the Planning etc (Scotland) Act 2006.

**Notice of completion of development**

As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.

**Building Warrant**

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

**Ancient Monument Consent**

You are advised to contact the Historic Environment Scotland on 0131 668 8716 to discuss the Scheduled Monument Consent requirements for your development, which include the requirement for such consent for works for the evaluation of archaeological remains within the footprint of the proposed development as required by condition 4 of this permission.