Shetland Islands Council

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Date: 8 April 2019

Dear Sir/Madam

You are invited to the following meeting:

Planning Committee
Council Chamber, Town Hall, Lerwick
Monday 15 April 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 13 February 2019, enclosed.

Hearings:

1. 2018/186/PPF: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure, by Peel Wind Farms (No.1) Ltd.
PL-04-19-F

2. 2018/096/PPF - Provision of a 2.09 km access track and associated works, new junction and temporary construction compound - Unclassified road to Upper Kergord runs approximately 1.5km, from a junction with the B9075, approximately 70m east of B9075 of Weisdale crossing, by Mr Jamie Watt, Viking Energy Wind Farm LLP.
PL-03-19-F

Shetland Islands Council (d)

MINUTE A&B - Public

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

Present:

C Hughson	E Macdonald
D Sandison	D Simpson
C Smith	G Smith
T Smith	

Apologies:

M Bell	A Manson

In Attendance (Officers):
N Grant, Director of Development Services
I McDiarmid, Executive Manager – Planning
J Riise, Executive Manager – Governance and Law
J Holden, Team Leader – Development Management
J Barclay Smith, Planning Officer
R MacNeill, Planning Officer
C Summers, Planning Officer
P Sutherland, Solicitor
L Adamson, Committee Officer

Also in Attendance:
J Fraser, SIC
I Scott, SIC
R Thomson, SIC

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

Circular
The circular calling the meeting was held as read.

Declarations of Interest
None.

1/19 **Minutes**
The Committee confirmed the minutes of the meeting held on 8 October 2018 on the motion of Mr Sandison, seconded by Ms Macdonald.

2/19 **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).**

The Committee considered a report by the Planning Officer – Development Management, for a decision by the Committee [Record Appendix 1].

The Chair invited the Planning Officer to introduce the application on behalf of the Planning Service.

The Planning Officer (R MacNeill) gave a presentation which illustrated the following:

- New and varied boundary of the Viking WindFarm Project.
- The Key Issues as highlighted in the report.

The Planning Officer advised on the following, "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. The main issue therefore to be considered in the determination of the response to make to the consultation to the Energy Consents Unit (ECU) on this application for a proposed variation of the Section 36 Consent is whether the principle of the proposed varied 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.

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 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.

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 Shetland Local Development Plan (SLDP) 2014.

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.

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.

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 ECU and the applicant that take place with regards to planning conditions as might be presented to the Scottish Ministers for consideration.

The Chair has advised that Members have commented on planning conditions and why there is not a listed provided. The reasons are:

- The Council is a statutory consultee and the ECU is the competent authority to recommend conditions to the Scottish Ministers.
- It is also recognised that the content and requirements of any potential conditions will represent an update on those previously imposed taking account of new practices and all stakeholder inputs.
- The Planning Authority will make comment on the validity and competence of any suggested conditions that other stakeholders have recommended be applied should the ECU determine that a matter requires addressing to make the development acceptable.
- It is recognised that the conditions previously attached will form the basis for discussions with the ECU and the applicant at a meeting which has been pencilled in to take place in March."

The Chair thanked the Planning Officer for the information provided.

The Chair advised on a point of clarity, that the Planning Committee was sitting today as a statutory consultee only, to make a recommendation to the ECU, and not to determine the application, which he advised will be done by the ECU.

The Chair advised that representatives of the applicant were present at the meeting, who may be called upon to answer questions from Members. He also advised on his appreciation for technical questions to be posed to the representatives of Viking Energy and to the Planning Officer.

The Chair then welcomed questions from Members of the Committee.

Reference was made to Section 4.5 of the report, where further explanation was sought on the proposed recommendation relating to an aviation lighting landscape and visual impact mitigation plan. The Planning Officer explained that there was now a requirement, due to the proposal to increase the height of the turbines, for the turbines to be lighted for aviation purposes, and therefore that recommendation has been included for consideration by the ECU. He confirmed that the earlier planning consent for the Wind Farm did not require aviation lighting.

During the discussion, concern was expressed at the confusion on how the report has been written. Firstly, reference was made to the recommendations at Section 1.4, that the Planning Committee is to "offer no objections", but to then delegate authority to the Executive Manager – Planning to have further discussions and negotiations with the applicant and the ECU in terms of conditions to be set. In commenting on the number of conditions 'sprinkled' throughout the report, Mr G Smith sought further detail on the proposed conditions that the Planning Service have in mind in terms of modifications, appropriate conditions or legal obligations it considers necessary for this application to comply with the Shetland Local Development Plans (LDP). He said that until that full list of conditions was made available it was difficult to make a decision as proposed in the report. In responding, the Executive Manager – Planning apologised for the lack of clarity. In that regard, he explained that the application was for a variation of the previous permission. He said that what would normally apply for applications to vary consent would be to issue the planning permission again with all relevant conditions. For this application to increase the height of the turbines by 10 m and the diameter of the rotor blades by 10 m, there is a need to look at all the conditions applied to the previous application in 2012, and to use that existing conditions as a baseline, and to consider whether any conditions need to change. In that regard, he confirmed that the Planning Service can only recommend conditions to the ECU. The Executive Manager – Planning advised on the attempt to highlight in the covering report the changes and further consideration needed on proposals to the ECU to take into account when they set the conditions. He reported on the proposed meeting during March for the developers, Planning Service and ECU to meet to agree a suite of conditions. The Executive Manager – Planning acknowledged that Members may feel that they have not been fully informed on the conditions, however he gave assurance that the highlighted areas would be considered further through engagement with the ECU. In responding to a question, the Executive

Manager – Planning explained that this report and the minute from the meeting would be submitted to the ECU, as the Council's consultation response, to contribute to the final decision to be made by the ECU. He confirmed that it was within the remit of the Planning Committee to highlight conditions it considered important, which would strengthen any aspect of the application.

Comment was made that it would have been helpful to Members for a summary of the proposed conditions to be submitted with the report. This would have focused debate and ensured that no condition had been overlooked.

During the discussion, Mrs Hughson advised as she had not been an elected Member when the initial decision had been made on the Viking Wind Farm application, and therefore she did not feel fully informed to make the decision today, which she said could have huge ramifications to the Westside of Shetland, which is the area she represents. She agreed that it would have been helpful for Members to have had sight of the list of proposed conditions, that would have assisted her understanding, rather than having to go through the report and background documents. The Chair acknowledged that the various conditions spread through the report posed a difficulty, and he would also have welcomed the full list of conditions that the Planning Service are proposing to recommend to the ECU. In that regard, the Chair proposed that the Committee make a decision today regarding the recommendation in the report at 1.4, with the caveat that the Committee ask the professional advisers to come back to this Committee with those conditions as proposed. This would allow the Planning Committee to debate and agree, or otherwise, with the conditions proposed that will accompany the submission to the ECU.

In responding to a question on timescales, the Executive Manager – Planning advised on the proposal for discussion with the developer and applicant in March, and following which a draft set of conditions could be in place to come back to Committee.

Mr C Smith advised that the initial decision on the Viking Wind Farm development had been taken by the Full Council, rather than the Planning Committee, and he was of the view that all 22 Members should be given the opportunity to put forward their views on this important application, which affects the whole community of Shetland. Mr C Smith also questioned the urgency for the Council's response to be submitted by 15 February, and in that regard he referred to comments from the Executive Manager – Planning that the proposed conditions could then be reported back to the Planning Committee for a decision, following the meeting in March with the developers and the ECU. Mr C Smith proposed that the application be deferred, and to refer the decision to a full meeting of the Council. In that regard, he questioned whether, in consultation with the Convener, the application could be added to the agenda for the Council meeting next week.

The Executive Manager – Governance and Law explained that in 2012, when the initial decision had been made on the Viking Wind farm, a Scheme of Delegation was not in place and therefore the only route for the decision to be made was by the Full Council. Since that time, a new Scheme of Delegation has been approved by the Scottish Ministers. He confirmed that in terms of

legality it was therefore within the power and responsibility of the Planning Committee to make decisions such as is presented today. He added however, that when the Council has delegated authority to a particular Committee or Officer it would be within the range of possible decisions of the Committee to refer a matter back to the Full Council.

The Executive Manager – Governance and Law referred to the observation by the Chair, in terms of the opportunity to sit as the Planning Committee to consider the conditions emerging from engagement between officers and the ECU. He commented that had a timescale of 1 – 2 months been available, that route may have satisfied Members. Therefore, in terms of the decision required, he said that as a statutory consultee, the Planning Committee need to decide whether to support a positive recommendation, or an objection, adding that the former proposition could not depend upon fully designed conditions as these needed to be developed in dialogue with the ECU as they are the ultimate decision makers on the list of conditions. Mr C Smith said that he considered that the Planning Committee should have the ability and authority to revert the report to the Full Council, where all 22 Members represent the full Shetland community. He added that this deferral would also allow time for the list of conditions to be presented to all Members at the Full Council.

In responding to a question, the Executive Manager – Governance and Law advised that the Planning Scheme of Delegations provides an effective and efficient means of decision making, however he confirmed that there were no barriers to the Committee reverting the matter to the Full Council. He referred however to the deadline for the Council's response to the ECU by 15 February, and in that regard confirmed that permission would need to be sought from the ECU to allow the Full Council the necessary time to determine the matter next week.

The Team Leader – Development Management advised that the application for a proposed variation of the Section 36 consent is for minor changes which he said the ECU are satisfied can be made. He advised that the ECU allow representation within a two month period, and had already agreed an extension to the consultation by the Council, but that expires tomorrow.

Mr Sandison said that due to the significance of the matter, he supported Mr C Smith's request for the report to be referred to the Council for the decision to be taken. However he commented that the deadline as confirmed by the Team Leader – Development Management raised a further issue to be considered.

During the discussion, the Chair referred to his earlier suggestion for reporting the conditions back to Planning Committee following the March meeting, however in noting that the deadline for the Council's response was tomorrow, he questioned the benefit of reporting back to Members after the decisions on the recommended conditions had been made.

In responding to a question as to whether the Council could ask the ECU for a further extension, the Team Leader – Development Management advised that the question could be posed to the ECU. He added that the ECU are aware of

the contractual situation so he would not expect the ECU to agree a lengthy extension to the deadline.

During the discussion, Mr C Smith advised on his concern at the tight timescale granted to the Planning Committee, to be put in a situation where it is forced to make a decision today. Mr C Smith stated that he would not be content until the matter is referred to the Full Council.

Ms Macdonald commented on the reassurance offered by the Executive Manager – Planning in terms of the suite of conditions that will be developed in dialogue with Planning Officers, the developers and the ECU. Ms Macdonald moved that the Committee approve the recommendation as set out in Section 1.4 of the report. However this did not receive a seconder.

The Executive Manager – Governance and Law cautioned on any proposal to allow the consultation period that has been made available to expire, without a response from the Council. He said that the Planning Committee would not fulfil its role as a statutory consultee as there has been due notice in terms of the report being circulated, time to read the report and to raise any views from constituents. The Executive Manager – Governance and Law proposed a short adjournment to allow dialogue with the ECU to find out whether they would allow an extension for a further week.

During the discussion, Mr G Smith referred to his earlier comments, in terms of a paper to be provided to Members setting out the conditions that will be the subject to discussion with the applicant and the ECU. In that regard, the Chair commented that the new conditions and modifications for recommendation to the ECU should have particular relevance to the increase in both the height and to the rotor diameter of the turbines, rather than the previous conditions, unless these are completely relevant to this application.

Following further discussion, it was agreed that there would be a short adjournment to ascertain, in the first instance, whether the ECU would agree to an extension.

(The meeting adjourned at 2.55pm).

(The meeting reconvened at 3.20pm).

The Executive Manager – Governance and Law reported that the ECU had agreed to an extension of no later than Friday 22 February, which he said would allow the Committee to remit the matter to the Full Council. He added that the Council could also have the opportunity to consider the recommended conditions. In that regard, the Chair advised that the Planning Officials would draft the conditions for Members to consider at the Full Council meeting next week, as an appendix to the report. The Executive Manager – Governance and Law confirmed that the report being considered would be added as an addendum to the Council meeting next week, pending agreement from the Convener.

Mr C Smith moved that the Committee refer the report to the Full Council meeting on 20 February, or failing that, to another special meeting of the

Council within the extension period to 22 February, with the list of new and modified conditions appended to the report. Mr Sandison seconded.

The Chair advised on the opportunity for Members to give officials some direction in terms of particular concerns with the report. In that regard, he advised that he had referenced the proposed conditions as included within the report and background documents, which he suggested could be given to the Planning Officers to include with their submission.

In receiving the consent of his seconder, Mr C Smith agreed to include in his motion that the draft conditions and modifications be developed in dialogue between the Chair and Planning Officials, and the list appended to the report to Council next week.

Decision

The Committee RESOLVED to refer the report to the Full council meeting on 20 February, or failing that, to another special meeting of the Council within the extension period to 22 February 2019. The list of new and modified conditions, developed in dialogue between the Chair and Planning Officers, would be appended to the report.

3/19 **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**

The Committee considered a report by the Planning Officer – Development Management [Record Appendix 2].

The Planning Officer (C Summers) gave a presentation which illustrated the following:

- Aerial View of Site
- Location Plan
- Site Plan
- Proposed Elevations
- Plan showing scheduled area around Scalloway Museum
- Photos of the proposed site and existing boat shed
- SLDP Policy HE4 - Archaeology
- Key Issues

During her presentation, the Planning Officer advised on the following, “Historic Environment Scotland (HES) were consulted on the application due to the proximity to the Scalloway Castle and the scheduled area. 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 planning application.

Shetland Local Development Plan (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 HES) and the submission to and approval by the planning authority (following consultation with HES), and also before any development takes place, of proposals for: preservation of archaeological remains in situ 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 in situ preservation is to take place.

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 for example portacabin bases. They request a condition to be added to the consent to ensure that this is carried out.

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.

As the proposed development involves 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.

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 recommendation is to grant the application, subject to conditions."

Mr Sandison thanked the Planning Officer for the detailed information provided and on the specific issue of the conditions. In responding to questions, the Planning Officer confirmed that an archaeological survey had been undertaken as part of the previous planning application in 2013, for additional toilets and external display area at the museum. She advised that archaeological evaluation works was a standard requirement for proposed developments which fall within a scheduled area, and in this instance the proposed development is part of the scheduled site for the Scalloway Castle.

During the discussion, the Committee discussed the works involved in a full archaeological survey and commented on the significant costs on the applicant for the survey to be undertaken. The Planning Officer advised that the applicant was fully aware of the requirement for an archaeological survey to be undertaken, and the associated costs, as part of the works proposed at the museum.

Mr Sandison moved that the Committee approve the recommendation at Section 1.1 in the report. Mr C Smith seconded. There was no one otherwise minded.

Decision

The Committee RESOLVED to grant approval of the application, subject to conditions, and to notify Scottish Ministers in accordance with requirements.

The meeting concluded at 3.45pm.

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Chair

Shetland Islands Council

Agenda Item

1

Meeting(s):	**Planning Committee**	**15 April 2019**
Report Title:	**2018/186/PPF: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.**	
Reference Number:	**PL-04-19-F**	
Author / Job Title:	**Janet Barclay Smith / Planning Officer – Development Management**	

1.0 Decisions / Action Required:

1.1 That the Planning Committee RESOLVE to grant approval of the planning application subject to the recommended planning conditions.

2.0 High Level Summary:

2.1 This planning application proposes the development of a 12 turbine wind farm with a generating capacity of up to 50 MW on a site between Lerwick and Scalloway. The overall development site is approximately 605ha in area and is located on the hills known as Bersa Hill, Run Hill, Mossy Hill, Hill of Dale and Hill of Tagdale. The land-take of the proposed development during construction would be approximately 7.2 ha. During the operational phase, the proposed development is anticipated to occupy 6.6 ha or 1.1% of the total site area.

2.2 The proposed development consists of:

- 12 WTGs, each with three blades, with a maximum blade tip of 145m, a likely rotor diameter of 133m and likely hub height of 78m;
- WTG foundations of up to 25m diameter and to an approximate depth (depending on ground conditions) of 3m;
- Areas of hardstanding providing crane pads and laydown areas at each WTG location (approximately 28m × 45m);
- External transformer unit at the base of each WTG;
- Two temporary construction compounds, one measuring [approximately] 50m × 50m, and a second measuring 70m × 35m;
- Two substation compounds, each measuring approximately 20m × 12m;
- Access tracks and turning heads with an overall length of approximately 9.3km and an average width of 4.5m along with associated verges and drainage;
- Three site access points, two from the A970 and one from the B9073;

- A single 80m high meteorological mast;
- Eight watercourse crossings; and
- A scheme of ecological mitigation and habitat enhancement.

2.3 The construction period for the development is expected to be approximately 24 months and it is anticipated that the wind farm would generate electricity for 25 years if granted consent, after which it would be decommissioned and the site reinstated.

2.4 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.

2.5 Shetland Islands Council's commitment to delivering renewable energy is set out in Policy RE1 of the Shetland Local Development Plan (2014) (SLDP) which states that proposals for renewable energy developments will be supported where it can be demonstrated that there are no unacceptable impacts on people, the natural and water environment, landscape, historic environment and the built environment and cultural heritage of Shetland. Shetland Local Development Plan (2014) is supportive of sustainable economic developments provided and tackling climate change is a major consideration for all development proposals (Policies GP1 and ED1).

2.6 The main issue therefore to be considered in the determination of the planning application is whether the principle of development of a wind farm as proposed 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 provision of support for climate change mitigation.

2.7 The planning application was accompanied by an Environmental Impact Assessment (EIA) and an Environmental Impact Assessment Report (EIAR) that generally concluded that when all material factors are considered, the balance in this instance favours the granting of planning permission. The proposed development is in an acceptable location and those residual impacts that cannot be further mitigated are considered to be acceptable and outweighed by the considerable benefits of the proposed development in particular the generation of a meaningful amount of renewable energy and a significant reduction in greenhouse gas emissions.

2.8 A number of consultees have raised concerns and 7 representations objecting to the proposed development have been received. A suite of planning conditions which are capable of resolving or mitigating many of the concerns raised have been recommended to be attached to any planning permission granted that would allow the Planning Service to recommend that there are no conflicts with the SLDP 2014.

2.9 The Planning Service recognises that this development proposal 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_2. 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.

2.10 This being the case the Planning Service recommends that the Planning Committee approve this planning application subject to the list of planning conditions appended to this report, which will make the development acceptable in compliance with the requirements of the Shetland Local Development Plan (2014).

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. – https://www.shetland.gov.uk/documents/OurPlan2016-20final.pdf

4.0 Key Issues:

4.1
- Landscape and visual impact.
- Impact on ornithology.
- Impact on peatland.
- Impact on aviation interests.
- Impact on existing uses and users.
- Balance between environmental and other impacts and socio-economic benefit.

Landscape and Visual Impacts

4.2 Although it is acknowledged that landscape effects will be significant and the background landscape of Lerwick will be altered and will become characterised by wind turbine development, the main impacts are partly constrained by topography. The proposed development that is the subject of the planning application has been reduced from its origins when up to 21 wind turbines were being considered (Scoping Request submitted April 2017) and the development design is a response to a number of other considerations/constraints on site including landscape and visual impact. It is not considered that the landscape impacts are significant enough to warrant refusal of the planning application when balanced against the potential reduction in greenhouse gases that are anticipated as a result of the development.

4.3 The application states that mitigation for landscape and visual impact has been embedded into the design of the proposed development to reduce landscape and visual impacts from the outset and it must be noted that during the design process the development reduced the numbers of proposed wind turbines and the overall area that they will occupy. The open nature of the Shetland landscape means that most development is likely to be visible. Combined with the scattered settlement pattern and access routes means that it is inevitable that any tall development will have some visual impact. Visual impact on residential amenity, although significant in some instances, has not been found to be so overbearing or detrimental as to warrant refusal of the application. Scottish Natural Heritage (SNH) has not objected to the application in terms of impact on the National Scenic Area (NSA) and consider that the siting of the proposed wind farm will not result in significant adverse impacts on the special qualities of the NSA.

Ornithology

4.5 There are no designated sites within the application site but the site is close to the proposed East Coast Mainland proposed Special Protection Area (pSPA). This is a sea based area that supports (as a foraging area) a breeding population of red-throated divers as well as populations of common eider, long tailed duck and red-breasted merganser.

4.6 SNH advised that it had no objection to the proposal on the basis of possible impacts on the pSPA and regional populations of red-throated divers. An Appropriate Assessment as required by the Habitats Directive and Regulations has been carried out based on the information available and following advice from SNH and has concluded that the development will not give rise to a significant adverse effect on the qualifying interests of the pSPA nor will it affect the integrity of the site as a whole. Anticipated impacts are reduced to be of no significance and the mitigation proposed in the form of a Construction Environmental Management Plan (CEMP), Outline Habitat Management Plan (OHMP) and Draft Bird Breeding Protection Plan (BBPP) will contribute to ensuring that impacts are minimised.

4.7 In terms of the wider bird study carried out for the proposed development site, no likely significant adverse ornithological residual effects are predicted in the assessment but some likely non-significant adverse effects are predicted, including the death of between one and two red-throated divers, 2 to 3 great skuas, 458 great black backed gulls and 243 herring gulls as a result of collision during the lifetime of the proposed development. The assessment considers that none of the likely effects are judged to be significant as there would be no detectable effects to regional population levels and therefore the Shetland Natural Heritage Zone (NHZ) populations of these species would not be adversely affected.

4.8 It is considered that with the mitigation proposed that will be secured by planning condition and with development of the Bird Breeding Protection Plan, Habitat Management Plan and Construction Environmental Management Plan that will require to be implemented during the construction and operation of the proposed wind farm, it has been demonstrated that the impact on bird species within the site and within the vicinity of the site has been reduced to acceptable levels.

Peatland

4.9 SNH objected to the proposal on the basis that the development would have an impact on nationally important peatland habitat. SNH recommended that Turbine 1 is removed from the proposal, Turbines 2 and 3 are relocated to avoid high quality peatland and the impacts of other turbines (particularly Turbines 5 and 8) are mitigated by siting and design to minimise peat disturbance and by compensatory restoration of eroded peatland within the site or elsewhere.

4.10 Following the submission of further information in connection with peatland effects by the applicant and criticism of SNH's approach, SNH indicated that it remained their opinion that "the section of the site to the north of the A970 includes areas of high quality peatland and that damage to nationally important habitat is likely unless Turbine 1 and its track is removed from the proposal". SNH goes on to say, "We are content that Shetland Islands Council judges whether the proposal is contrary to Scottish Planning Policy with regard to carbon rich soils, deep peat and priority peatland habitat."

4.11 Having examined the information provided in the EIAR and the additional information submitted by the applicant in the context of SPP, Policy RE1 of the SLDP and the Council's Supplementary Guidance on Onshore Wind Energy (adopted 2018), all of which are supportive of renewable energy developments provided that there are no unacceptable impacts on people or on the environment, it is considered that the information submitted has demonstrated that although there will be an impact on peatland, the impact can be minimised by careful micro-siting of the wind turbines and supporting infrastructure, and any impacts can be off-set by employing construction techniques and habitat restoration to ensure carbon balance and a reduction in greenhouse gasses. In terms of SPP in relation to impacts on carbon rich soils, deep peat and priority peatland habitat it is stated that "Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation". No evidence has been presented to substantiate the claim that the peatland habitat in the vicinity of wind turbine 1 is of national importance. The information provided within the EIAR would point to the peatland in the vicinity of Turbine 1 being 'Class 2' peatland, where the proposals for micro-siting together with habitat restoration proposals and construction management techniques will ensure that the proposed development does not result in a significant adverse impact on the peatland in the area and does result in a reduction of greenhouse gases and makes a positive contribution to climate change. Given the above it is considered that the proposed development is in line with Scottish Planning Policy, policies GP1, GP2, NH5 and RE1 of the Shetland Local Development Plan (2014) and complies with the requirements of Shetland Islands Council's Supplementary Guidance on Onshore Wind Energy (adopted Feb 2018).

Aviation

Tingwall Airport

4.12 Wind Energy developments have the potential to impact on aviation interests either by creating a physical obstruction or by being visible to radar systems so that the safe provision of air traffic control services is affected. The operators of Tingwall Airport, Sumburgh Airport and Scatsta Airport as well as the Ministry of Defence (MOD) for RRH Saxa Vord were consulted on the planning application.

4.13 Without mitigation there would be a significant effect on Fair Isle flights during periods of easterly winds. Following discussions it was established that there are a number of viable alternative routing options that will avoid the risks. These consist of routes to the north of the site and approaches that involve passing above the application site at higher altitude before undertaking a steeper descent. Therefore it is considered that with the alternative routing proposed there will be no impact on the operation of Tingwall Airport and impacts on the future adoption of satellite navigation systems would be negligible. The operators of Tingwall airport raised no objections to the proposed wind farm but indicated that the wind turbines should be lit in accordance with CAP 764

Scatsta Airport

4.14 The operators of Scatsta Airport objected to the application on the basis that the proposed development conflicted with the airport's safeguarding criteria regarding the radar and potentially Instrument Flight Procedures. The operators of Scatsta Airport indicated that a full operational impact assessment would have to be commissioned by the developer to satisfy the aerodrome authority that the development would not impact both current and future air traffic service provision at Scatsta Airport.

4.15 It is proposed that a planning condition be added to any permission that requires a radar mitigation scheme for Scatsta Airport to be submitted for approval in consultation with the operators of Scatsta Airport. Similar comments were submitted in connection with the recent application for a variation to the Viking Wind Farm and a planning condition was attached to the permission for the Beaw Field Wind Farm in South Yell requiring the submission of a radar mitigation scheme.

Sumburgh Airport

4.16 Highlands and Islands Airport Ltd indicated that their calculations showed that the proposed development would not infringe the safeguarding surfaces for Sumburgh Airport, but indicated that due to its height and position a red aviation warning light may be required to be fitted at the hub height of some of the wind turbines.

4.17 The Ministry of Defence (MOD) responded to the application with an objection on the basis that the proposed wind turbines would be 75.5 km from, detectable by and will cause unacceptable interference to the Air Defence (AD) radar at RRH Saxa Vord. The MOD indicated that research into technical solutions is currently on-going and that the developer may wish to consider investigating suitable mitigation solutions. The MOD also indicated that if the issues stated above can be overcome the MOD will request that the perimeter turbines are fitted with lighting.

4.18 However, it is considered that a suspensive planning condition that again requires the submission of details, in this case, of a radar mitigation scheme for RRH Saxa Vord, for approval in consultation with the MOD before the development begins will ensure that no development can begin until appropriate mitigation has been approved. The approved scheme of mitigation would then be required to be implemented before the development can be operational. A suspensive planning condition would ensure that if no agreement is reached the development cannot proceed.

Aviation Lighting

4.19 Both the operators of Tingwall Airport and the MOD have indicated that the proposed wind farm should be lit. It is therefore proposed to attach a planning condition that requires the submission of a lighting plan for the development that addresses the safety concerns of the various aviation bodies.

Noise

4.20 A noise assessment has been undertaken and submitted as part of the EIAR. The assessment predicts no significant noise effects during the construction or decommissioning phases. For the operational phase a noise contour plan was produced and potential noise sensitive properties were identified to represent the dwellings nearest to the proposed development and where there is potential for cumulative impact. The noise assessment carried out shows that the predicted noise immission levels meet the Site Specific Noise Limits under all conditions and at all locations for both daytime and night-time periods for all noise sensitive receptors, under all conditions for daytime and night-time periods. However in order to meet the site specific noise limits at Frakkafield, The Decca, Lerwick West, and Garth Lodge (Tingwall Valley), based on the use of the current candidate turbine model, Turbines 1-3, 6 and 8-11 would need to be operated in sound reduced mode for certain wind speeds and directions during the daytime for the housing at Lerwick West and Garth Lodge, the night time for Frakkafield and both the daytime and night time for The Decca.

4.21 To ensure that residential amenity is not adversely affected by noise from the proposed development, if planning permission is granted it would be appropriate to attach a planning condition(s) that sets noise limits for the development equal to the noise limits in the noise assessment (Tables 13.11 and 13.12) for the various noise sensitive receptors identified and require the submission of details of the actual wind turbine proposed along with a scheme that shows how the development will be operated (mode management) to ensure that the noise limits set are not exceeded. This is a complex but fairly standard planning condition that is attached to planning permissions to ensure that noise output is controlled where it could have an adverse impact. The exact model of wind turbine to be used for the proposed development has not been fixed and would be the subject of a further tendering process and achievement of the noise limits set would be a determining factor in the choice of final wind turbine.

Shadow Flicker

4.22 Under certain combinations of geographical position, time of day and year, the sun may pass behind the rotor of a wind turbine and cast a shadow over the windows of neighbouring buildings. When the blades rotate and the shadow passes a window, the shadow appears to flick on and off; this effect is known as shadow flicker. It is standard to consider the potential impact of shadow flicker for properties within a certain distance of a proposed wind farm (10 times the proposed rotor diameter) and in this instance 9 properties have been identified. The study found that under worst case scenarios, shadow flicker would be likely to be at is worst at Frakkafield and at Tagdale, with theoretical predictions of 76.7, 78.1, and 74.6 hours per year when the properties are theoretically likely to be affected.

4.23 A further assessment was carried out to estimate the likely number of shadow flicker hours considering typical sunshine hours for the area. This suggests a likely occurrence of shadow flicker of 19.8 hours at Frakkafield B. Other factors as noted above such as wind direction is not incorporated into the calculations and this would further reduce the number of hours when shadow flicker occurs.

4.24 It is therefore proposed that a planning condition be attached to require a shadow flicker control scheme to be submitted for approval that would result in the shut-down of specific wind turbines during times and under conditions when shadow flicker is predicted to occur. It is considered that subject to this mitigation being a requirement of a planning condition and its being implemented sufficient protection will exist for properties affected by potential shadow flicker.

Socio-Economics and Tourism

4.25 The EIAR states that the proposed development would provide between 10 and 20 Full Time Equivalent (FTE) jobs during the 24 month construction period, and goes on to state that the applicant is committed to sourcing as much local labour as possible. There would also be further indirect jobs created when considering the supply chain for goods and service required during the construction phase estimated at being between 29 and 58 FTE's. During the operational phase of the proposed wind farm it is anticipated that between two and four direct jobs would be created and between 3 and 6 indirect FTE jobs. The EIAR points out that although the operational phase is not labour intensive, the work created would represent new opportunities and diversification of jobs.

4.26 A number of localised significant effects on tourism are identified all relating to the visual presence of the proposed development. Mitigation measures associated with cultural heritage, landscape and visual, noise, and shadow flicker are proposed aimed at reducing impacts including those on tourism. Shetland has a well-established tourist industry, and studies undertaken have concluded that tourism and recreation activities are generally of low sensitivity to wind farm developments (eg BIGGAR Economics – Wind Farms and Tourism Trends in Scotland 2017 and Visit Scotland – Wind Farm Consumer Research 2011). In the absence of substantiated evidence to the contrary, it is considered that the development would not have an overall significant effect on tourism in Shetland in general.

4.27 In their comments on the proposed development, the Economic Development Service of the Council has indicated that the development 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 the UK Mainland", and the strategy objectives to "encourage growth, development and diversification in the private sector".

4.28 Any decision for a wind farm development is a balance between potential benefits and anticipated adverse impacts. The most relevant benefits that the proposed wind farm provides is net economic benefit, the scale of contribution to renewable energy generation targets, and the effects of the development on greenhouse gas emissions. The Scottish Governments Carbon Calculator tool was developed to assess the carbon balance of onshore wind energy developments. This tool was used by the applicant for the proposed development and predictions are that the proposed development would lead to a reduction in greenhouse gas emissions of between 57,862t CO_2e and 118,507t CO_2e over a likely 25 year operational lifetime. The predicted emissions payback time is calculated at between 0.8 and 2.3 years. This being the case the proposed development would result in a positive significant effect on climate change and carbon balance throughout the lifetime of the development and make a significant contribution to meeting greenhouse gas emission and renewable energy targets.

<u>Conclusion</u>

4.29 It is concluded that the proposed development would make a significant contribution to meeting greenhouse gas emission and renewable energy targets, would provide job opportunities and contribute to the local economy, and environmental effects can be mitigated by planning conditions. Impacts would, it is considered, be outweighed by the benefits of renewable energy generation. On balance it is recommended that this application be approved subject to conditions that are set down in the schedule that is appended as Appendix A to this report.

5.0 Exempt and/or Confidential Information:

5.1 None.

6.0 Implications :		
6.1 Service Users, Patients and Communities:	None.	
6.2 Human Resources and Organisational Development:	None.	
6.3 Equality, Diversity and Human Rights:	None.	
6.4 Legal:	Town and Country Planning (Scotland) Act 1997(as amended).	
6.5 Finance:	None.	
6.6 Assets and Property:	None.	
6.7 ICT and New Technologies:	None.	
6.8 Environmental:	The environmental and socio-economic effects arising from the proposed development are raised within the Report of Handling attached.	
6.9 Risk Management:	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.	
6.10 Policy and Delegated Authority:	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.	
6.11 Previously Considered by:	Not previously considered.	

Contact Details:
Janet Barclay Smith, Planning Officer, Development Services
Date Cleared: 8 April 2019

Appendices:

1. Planning Application 2018/186/PPF, Report of Handling;
2. Appendix A: Schedule of Conditions;
3. Appendix B: Appropriate Assessment
4. Appendix C: Site Plan
5. Appendix D: Copies of Consultee Comments
6. Appendix E: Copies of Representations Received.

Background Documents:

National Planning Framework 3
Scottish Planning Policy (SPP)
Shetland Local Development Plan (2014)
Supplementary Guidance – Onshore Wind Energy (Adopted February 2018)

Delegated Report of Handling

Development: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.

Location: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour.

By: Peel Wind Farms (No.1) Ltd

Application Ref: 2018/186/PPF

1. Introduction

This planning application proposes the development of a 12 turbine wind farm with a generating capacity of up to 50 MW on a site between Lerwick and Scalloway. The overall development site is approximately 605ha in area and is located on the hills known as Bersa Hill, Run Hill, Mossy Hill, Hill of Dale and Hill of Tagdale. The land-take of the proposed development during construction would be approximately 7.2 ha. During the operational phase, the proposed development is anticipated to occupy 6.6 ha or 1.1% of the total site area.

The A970 crosses the site and runs adjacent to part of the western boundary and the B9073 crosses the southern section of the site. Overhead power lines also cross the site. The site consists predominantly of undulating peat bog. A site plan is attached to this report that shows the outline of the site boundary and the layout of the wind turbine generators (WTGs).

1.1. The proposed development consists of:

- 12 WTGs, each with three blades, with a maximum blade tip of 145m, a likely rotor diameter of 133m and likely hub height of 78m;
- WTG foundations of up to 25m diameter and to an approximate depth (depending on ground conditions) of 3m;
- Areas of hardstanding providing crane pads and laydown areas at each WTG location (approximately 28m × 45m);
- External transformer unit at the base of each WTG;
- Two temporary construction compounds, one measuring [approximately] 50m × 50m, and a second measuring 70m × 35m;
- Two substation compounds, each measuring approximately 20m × 12m;

- Access tracks and turning heads with an overall length of approximately 9.3km and an average width of 4.5m along with associated verges and drainage;
- Three site access points, two from the A970 and one from the B9073;
- A single 80m high meteorological mast;
- Eight watercourse crossings; and
- A scheme of ecological mitigation and habitat enhancement.

1.2. The construction period for the development is expected to be approximately 24 months and it is anticipated that the wind farm would generate electricity for 25 years if granted consent, after which it would be decommissioned and the site reinstated.

1.3. The grid connection for the proposed development is reliant on the construction of a new High Voltage Direct Current (HVDC) link utilising a subsea cable between Shetland and the Scottish mainland. The current likely option is reliant on the development of the Viking Wind Farm that would provide a subsea HVDC cable connecting Shetland with Caithness, a new HVDC convertor station at Upper Kergord and underground HVDC cable to the landfall site at Weisdale Voe. The grid connection for the proposed Mossy Hill wind farm is likely to be in the form of an underground cable that would leave the substation compound alongside the access track to the site boundary. It is likely that it would then follow the public road via overhead cables that may use existing poles where possible, or new wooden poles may have to be installed. The connection to the grid network would be the subject of a separate application process under the Electricity Act 1989.

1.4. The specific wind turbine manufacturer and model have not yet been selected. This will be done following a tendering process should the wind farm be granted planning permission. The assessments submitted with the planning application assumed a generic wind turbine generator of the maximum size as set out above with the exception of the noise assessment which models potential candidate turbines.

1.5. A micro-siting allowance of 50 metres is proposed for each wind turbine and associated infrastructure to allow the development to respond to local ground conditions or other environmental constraints revealed during pre-construction surveys. This is a standard industry practice, the environmental effects of which have been considered in the Environmental Impact Assessment Report (EIAR) submitted with the application.

1.6. A request to adopt a scoping opinion was submitted to the Planning Authority in April 2017 in accordance with the Regulation 14 of The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011. Up to a maximum of 21 wind turbines were proposed in the scoping report with a maximum height of 145 metres. Having considered the scoping report

submitted the Council adopted a scoping opinion in June 2017 that included information from the Planning Authority and statutory and non-statutory consultation bodies.

1.7. Under the Town and Country Planning (Hierarchy of Developments) (Scotland) Regulations 2009 the proposed development is defined as a major development and as such there is a requirement for pre-application consultation and engagement with the local community. Public exhibitions were held in the Staneyhill Hall, Gulberwick Community Hall, Scalloway Public Hall, and Tingwall Public Hall in April 2017 on the proposal for a 21 turbine wind farm. The exhibitions were open to all and members of the project team attended to answer questions. About 170 people attended the public meetings. A Pre-Application Consultation Report was prepared and included with the documentation submitted with the planning application for the proposed wind farm.

1.8. Under the Environmental Impact Assessment (Scotland) Regulations 2011, Schedule 2, an Environmental Statement is required in support of the planning application. It should be noted that the Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations came into force in May 2017, however those regulations contain transitional arrangements to the effect that the current application, which was commenced by the submission of a request to the Planning Authority for a scoping opinion in April 2017, will be processed and determined in accordance with the 2011 Environmental Impact Assessment Regulations.

1.9. A copy of the Environmental Impact Assessment Report (EIAR) and supporting technical details and visualisations is available for reference in the Members' room in Lystina House. .

1.10. Appropriate Assessment is required under the Habitats Directive and Regulations as advice from Scottish Natural Heritage is that the proposed development may have a significant effect on the qualifying interests (red-throated divers) of the Shetland East Mainland Coast Proposed Special Protection Area (pSPA), which came into being in June 2016. This area also supports populations of great-northern diver, slavonian grebe, long-tailed duck, red-breasted merganser, and eider duck. Shetland Islands Council is the competent authority, in terms of the Habitats Directive in respect of the Planning Act. Attached to this report as Appendix B is a copy of the Appropriate Assessment that has been prepared.

1.11. Supporting information submitted with the planning application comprises the following documents:

- Pre-application Consultation Report
- Design and Access Statement

- Planning Statement

Environmental Statement:

- Non-Technical Survey
- EIAR Volume 1 Main Text A
- EIAR Volume 2 Figures
- EIAR Volume 3 Visualisations
- EIAR Volume 4a Technical Appendices
- EIAR Volume 4b Technical Appendices

During the course of the application process additional responses have been received from the applicant, notably the following:

- Letter dated 5 November 2018 in response to SNH comments and including information on ornithology (collision risk assessment), cumulative impact, and landscape and visual impacts.
- Letter dated 26 November 2018 in response to the points raised by the Roads Service (consultation response dated 9 October 2018).
- Letter dated 4 December 2018 providing information on changes in predicted red-throated diver baseline mortality in response to the Viking Wind Farm S36 application to increase the height of their proposed wind turbines.

1.12 In response to consultation responses received, additional information was requested on 19 December 2018. Additional information from the applicant was received on 8 and 11 of February 2019 and the application was re-advertised and further comments were requested of the various consultees to the application.

2. Statutory Development Plan Policies

2.1 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
NH6 - Geodiversity
NH7 - Water Environment
HE1 - Historic Environment
HE2 - Listed Buildings
HE3 - Conservation Areas

HE4 - Archaeology
HE5 - Gardens and Designed Landscapes
ED1 - Support for Business and Industry
ED2 - Commercial and Business Developments
TRANS 3 - Access and Parking Standards
RE1 - Renewable Energy
W4 - Contaminated Land
W5 - Waste Management Plans and facilities in all new developments
WD1 - Flooding Avoidance
WD2 - Waste Water
WD3 - SuDs

2.2 Supplementary Guidance – Onshore Wind Energy (adopted February 2018)

DC1 Landscape and Visual Impact
DC2 Cumulative Impacts
DC3 Natural Heritage
DC4 Impacts on Communities
DC5 Water Resource
DC6 Decommissioning
DC5 Water Resource
DC6 Decommissioning
DC7 Historic Environment

2.3 National Planning Policy and Guidance

National Planning Framework 3 (2014)
Scottish Planning Policy (2014)
PAN 60 Natural Heritage 2008
PAN 1/2011 Planning and Noise
PAN 2/2011 Planning and Archaeology
Historic Environment Scotland Policy Statement 2016

3. Safeguarding

30km Radius Scatsta - 30km Sumburgh Scatsta: 2

30km Radius Scatsta - 30km Sumburgh Scatsta: 1

Burn Buffer - Name: Burn of the Gills

Burn Buffer - Name: Burn of Njugleswater

Burn Buffer - Name: John Boynes Burn

Burn Buffer - Name: North Burn of Gremista

Burn Buffer - Name: Burn of Frakkafield

Burn Buffer - Name: Burn of Fitch

Burn Buffer - Name: Trowie Burn

Burn Buffer - Name: Burn of Dale

Canmore - Canmore: 317901

Canmore - Canmore: 308674

Catchment Areas - Name: Sandy Loch Catchment Area

Crofts - Holding ID: 6217

Crofting Apportionments

Decrofted - Decrofted: 17254

Decrofted - Decrofted: 17881

Decrofted - Decrofted: 16279

Decrofted - Decrofted: 16279

Sites with Development Potential - Sites with Development Potential: Staney Hill Lerwick. Landowner: SIC

SIC Flood Priority Areas - SIC Flood Priority Areas: 1

Grazing - Grazings Farm Code: 883/0120

Grazing - Grazings Farm Code: 875/0101

Grazing - Grazings Farm Code: 883/0000

Grazing - Grazings Farm Code: 875/0026

Health and Safety Executive - Code: HSE093
Site Name: Scord Quarry Scalloway
Type: Active
HSE Ref:

Health and Safety Executive - Code: HSE086
Site Name: Staneyhill Quarry Lerwick
Type: Active
HSE Ref:

Health and Safety Executive - Code: HSE079
Site Name: Staney Hill
Type: Explosives
HSE Ref: XI13111020

Health and Safety Executive - Code: HSE076
Site Name: Staney Hill
Type: Explosives
HSE Ref: XI13111020

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

Landscape Character Assessment - Landscape Character Assessment: Peatland and Moorland

Landscape Character Assessment - Landscape Character Assessment: Inland Valleys

Landscape Character Assessment - Landscape Character Assessment: Major Uplands

Landfill - TBL Landfill: 2A2 - North Staney Hill Lerwick

Landfill - TBL Landfill: 2B16 - Windy Grind - side of road

Landfill - TBL Landfill: 2B10 - Windy Grind - head of Road

Landfill - TBL Landfill: 2A3 - Old Staney Hill quarry Landfill

Landfill - TBL Landfill: U- Scalloway Road

Landfill - TBL Landfill: 3A2 - Black Gaet

Ministry Of Defence - MOD Area: Meteorological Station Lerwick
Details: Any new construction or extensions >150ft in height (45.7m) above ground level

Rights of Way - Right of Way: 172

SEPA River Extents - SEPA River Extents: M

SEPA River Extents - SEPA River Extents: L

SEPA SW Extents - SEPA SW Extents: H

SEPA SW Extents - SEPA SW Extents: L

SEPA SW Extents - SEPA SW Extents: M

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

Waste Water Drainage Area - Waste Water Drainage Area: Dales Voe

4. Summary of Consultee Comments

Full copies of the comments received from the Consultees can be seen at Appendix D to this report.

4.1 Scottish Natural Heritage (SNH)

Landscape and Visual

SNH raised no objections on the grounds of the impact of the proposed development on the National Scenic Area (NSA) concluding that although there will be an impact on the special qualities of the NSA, adverse impacts will be limited in their extent or magnitude, and the special qualities of the NSA would essentially be maintained.

SNH also indicate that there will be significant adverse impacts on the landscape character of the areas in and around the proposed wind farm site that could be reduced with better siting and reducing the scale of the turbines. The landscape setting of Lerwick would be significantly impacted and the wind turbines, because of their size will appear large in relation to the scale of the hills on which they are located and will therefore visually dominate these hills. These impacts will be considered during the assessment of the planning application.

East Mainland Coast pSPA (proposed Special Protection Area), Ornithology
SNH originally objected to the development in connection with its potential cumulative impact on the pSPA although were satisfied that the proposed wind farm on its own would have no likely significant effect on the pSPA. Following the submission by the applicant of additional information in connection with bird specific impacts and cumulative impacts (Letter of 5 November 2018), SNH withdrew their objections to the proposal on the grounds of cumulative impact and impact on the regional population of red throated divers. However SNH did point out that the Planning Authority is required to carry out an Appropriate Assessment under the requirements of the Habitats Regulations. Attached to this report as Appendix B is a copy of the Appropriate Assessment that has been required to be carried out as part of the assessment of the application.

Peatland

SNH originally reserved its comments on the impact of the development on peatland until it had the opportunity to carry out a site specific assessment of the quality of the peatland habitat (consultation response letters of 17 September and 12 October 2018). SNH has now objected to the proposal on the basis of impact on peatland (consultation response letter of 6 December 2018). SNH point out that proposed Turbine 1 is in the middle of a sphagnum-rich pool system and it would be unlikely to be able to avoid impacts on the peatland habitat by siting, design or other mitigation, and therefore consider that Turbine 1 should be removed from the proposal. SNH also indicate that proposed Turbines 2 and 3 should be relocated to areas of shallower peat and less import and drier habitat, and that proposed Turbines 5 and 8 should be re-sited to minimise impacts on high quality peatland habitat.

Following further information received from the applicant, SNH (comments dated 6 March 2019) stated that "it remains our opinion that the section of the site to the north of the A970 includes areas of high quality peatland and that damage to this nationally important habitat is likely unless proposed Turbine 1 and its access track are removed from the proposal. SNH goes on to say that they are content that Shetland Islands Council judges whether the proposal is contrary to Scottish Planning Policy with regard to carbon rich soils, deep peat and priority peatland habitat.

4.2 Scottish Environment Protection Agency (SEPA)

SEPA originally objected to the proposal on the grounds of lack of information on impacts on private water supplies, however this was withdrawn following receipt of further information that indicated that there were no private water supplies in the vicinity of the site.

SEPA also asked for various planning conditions to be imposed on any permission that might be granted for the development such as the requirements for a PMP (Peat Management Plan), micro-siting of the turbines, a CEMP (Construction Environment Management Plan) including details of protection measures for GWDTE (Ground Water Dependent Terrestrial Ecosystems) in the area, a water features buffer (50m), water course crossing details, and a decommissioning and restoration plan.

SEPA also note that there are various flushes in the site and that temporary peat storage areas must be sited to avoid any flush areas. SEPA also indicate that there are M6 flushes in the vicinity of proposed Turbines 2 and 10 and that these turbines will need particular care when micro-siting to minimise impact on these flushes.

4.3 Royal Society for the Protection of Birds (RSPB)

The RSPB has objected to the development and notes several issues that require the submission for additional information that has largely been addressed in terms of collision risk, information on in combination effects on the pSPA and information on the impact on red throated divers.

The RSPB also suggested a number of measures that should be secured by planning conditions on any permission forthcoming for the development.

However the RSPB also were of the opinion that further information is required on the impact of the proposed development on blanket bog, a priority habitat in Annex 1 of the Habitats Directive. The RSPB were also of the opinion that a suitable scheme of off-site peatland restoration (funded by the applicant) should be implemented to reduce the carbon payback and compensate for the impacts of this proposed development.

The RSPB also had concerns about the tree planting proposed as part of the habitat management plan. The area shown for tree planting is unsuitable and supports various breeding waders. Whilst tree planting may provide nesting sites for corvids and other species this may negatively impact local breeding waders. Tree planting would be supported in suitable locations and if the applicant wishes to pursue tree planting it is suggested that it would be more appropriate for them to propose or fund tree planting elsewhere at an agreed location.

The RSPB made suggestions about conditions to be attached to any permission granted.

4.4 Scottish Water

Scottish Water pointed out that the development will impact on Scottish Water infrastructure that is located within the site and potential conflicts must be identified with Scottish Water's Asset Impact Team. The site boundary lies partly within the Drinking Water Protection Area (DWPA) that is around the Sandy Loch Reservoir and that supplies the water treatment plant. Scottish Water indicate that although the EIAR states that the design has avoided any development within the DWPA there may be uncertainties related to the actual catchment boundaries based on desk studies, and ground-truthing may be required, if not already undertaken, to determine the exact catchment boundary and whether activities could impact on the findings.

4.5 Tingwall Airport

The operators of Tingwall Airport raised no objections to the proposal but require the turbines to be lit in accordance with CAP764.

4.6 Highlands and Islands Airports Ltd (Sumburgh)

The proposed development will not impact on the safeguarding surfaces for Sumburgh Airport. However due to the height of the turbines red aviation warning lights may be required.

4.7 SERCO (Scatsta Airport)

The operators of Scatsta Airport have objected to the development as it conflicts with the safeguarding criteria for the radar and potentially Instrument Flight procedures. Scatsta therefore objects to the proposal until an operational impact assessment has been prepared that demonstrates that the development would not impact on current and future air traffic service provision at Scatsta.

Following further discussion with the operators of Scatsta Airport, the Airport Director confirmed that a suitable suspensive planning condition as proposed that requires appropriate mitigation to be put in place would satisfy concerns about impacts on Scatsta Airport.

4.8 National Air Traffic Services (NATS)

Following the submission of an objection, and following a review of operations in the vicinity of the proposed development, NATS concluded that the development is likely to impact on its electronic infrastructure. However NATS also indicated that the impact can be managed such that it does not affect the provision of a safe and efficient en-route ATC service and on this basis NATS withdrew its objection.

4.9 Ministry of Defence (MOD)

The MOD has indicated that the proposal would have a significant and detrimental effect on Air Defence operations and the MOD has objected on this basis. The MOD go on to indicate that research into technical mitigation solutions is currently ongoing and that the developer may wish to consider investigating suitable mitigation solutions. Following the submission of further information the MOD sustained its objection on the basis that a radar mitigation scheme had not been provided. An aviation lighting scheme will also be required.

4.10 Historic Environment Scotland (HES)

Do not object to the proposal and is of the opinion that although unclear about the table of significance used, is content to agree with the conclusions of the assessments for impacts on the various listed buildings and scheduled monuments in the vicinity of the site. Clickimin Broch was scoped out of detailed assessment given that the development will not be visible from this monument.

In terms of Scalloway Castle, the visualisations provided show that at least 3 of the proposed turbines will be partly visible in views from the castle and visible in the background in some views of the castle. However HES has indicated that, given that the intervening topography partly screens the turbines from view and provides a clear separation of the wind farm from the valley and the voe which forms part of the setting of the castle, the proposed development will not have a significant adverse impact on the castle's dominance within Scalloway.

4.11 Health and Safety Executive (HSE)

The HSE is the enforcing authority for occupational health and safety for the construction, operation, maintenance, decommissioning and demolition of wind farms of this type. The developer of the wind farm will have specific duties to ensure compliance with the Health and Safety at Work Etc Act 1974 and relevant statutory provisions and will include the Construction (Design and Management) Regulations 2015. The HSE note that the planning application includes provision for external transformer units at the base of each turbine, HSE believe that such provision is advantageous to safety.

Health and Safety Executive (Explosives)

The proposed development does not fall within the consultation distance for any explosive facility, therefore the Explosive Inspectorate have no comment to make.

4.12 Shetland Regional Archaeologist

The archaeologist is of the opinion that there may be a prehistoric presence which is not yet known given the size of the site and the depth of peat. Archaeological conditions are suggested that would ensure that the development proceeds in accordance with an appropriate programme of archaeological works to investigate the archaeological potential of the site.

4.13 Shetland Islands Council Roads Service

The Roads Service had some concerns about the detail of the accesses onto the A970 and the potential creation of a crossover between the north and south parts of the site that are separated by the A970. The Roads Service considered that the access point on to the B9073 is acceptable in terms of visibility but will require a considerable amount of infill to achieve the maximum acceptable gradient of 5% for the first 20 metres. The Roads Service welcomed the proposal to use as much peat as possible within the application site, but was concerned that peat from the north part of the site may require to be transported to the south part of the site for re-use, which would involve transporting it across the A970. The Roads Service pointed out that the movement of abnormal loads

from Greenhead, Lerwick to the application site will impact on various junctions with the need to remove street lighting, signs and splitter island bollards, but also indicated that this can be controlled by planning condition following more information so that details of mitigation works can be agreed. The Roads Service also point out that a number of quarries have been identified for sourcing materials for the proposed development, but no haulage routes have been determined. Haulage of materials to the site could result in impacts on the road network that may need to be mitigated/managed, as well as additional wear and tear and/or damage that may need to be addressed and therefore the Roads Service has asked for a planning condition to be attached to the effect that a road condition survey is conducted between each proposed source point for materials and the site to ensure that additional wear and tear/damage to the public road network by the proposed development can be clearly identified.

The Roads Service also raised some issues about the design of the internal roads proposed to serve the wind farm indicating that it was too narrow for 2 way traffic and suggesting that it be widened or passing places provided. The Roads Service also asked for design parameters for the proposed access roads within the site. In response to the various comments made by the Roads Service revised details of the proposed junctions into the site from the A970 were submitted that amongst other things incorporated a double width section of track at the proposed new HGV access to avoid stacking of traffic back onto the highway.

Following the receipt of further information from the applicant on 26 February 2019 in connection with the roads issues, the Roads Service has indicated that it has no objections to the proposal subject to planning conditions in the form of a Peat Management Plan (PMP) to include details of any peat movements proposed across the public road dividing the north and the south parts of the development site, and road condition surveys to be carried out on all haul routes to the development site.

4.14 Shetland Islands Council Access Officer

The access officer for the Council has pointed out that there are conflicting statements in the EIAR about access e.g. that the development “would not be open to the public” and that the tracks “would be accessible and open for public use.” This needs to be clarified they advise.

The access officer has also pointed out that for a development of this scale an Access Route Plan demonstrating how access will be incorporated and accounted for should be prepared. There is the potential to improve non-vehicular accessibility to this area with the inclusion of some additional accesses e.g. connecting existing paths to the access tracks proposed within the site. It

appears from the proposals that it is not intended to improve accessibility, but it is not clear why this is the case or what difficulties this would pose.

4.15 Shetland Islands Council Drainage Officer

The Council's drainage engineer has pointed out that sustainable drainage systems require to be provided for the various elements of the proposed development and during the construction of the proposed development and must address 3 basic drainage and flooding issues, namely: attenuation of surface water (up to 1 in 10 year rainfall event); water quality treatment; and that no flood risk is created. Detailed plans for the SUDs proposed for all constructed hard areas and for the roads will be required. This can be conditioned.

4.16 Shetland Islands Council Environmental Health Service

The Environmental Health Service noted that there were several areas where shadow flicker could occur, but also considered that the built in measures to overcome this were satisfactory. The Environmental Health Service also noted that the proposed access track from the A970 is close to a former landfill site near Staney Hill Quarry, and have concerns about the potential disturbance of waste deposited in this site. It is suggested that the quarry by-pass road could be used as an alternative.

In principle the Environmental Health Service has no objections to the development but want to be consulted further on the final details of the turbines proposed.

4.17 Economic Development

The Economic Development Service of the Council has indicated that the development 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 the UK Mainland", and the strategy objectives to "encourage growth, development and diversification in the private sector".

4.18 Community Councils

Lerwick
Acknowledged that there were arguments for and against the development but decided that the official response would be "noted".

Gulberwick, Quarff and Cunningsburgh

Concerns from the community in connection with visual impact, noise, effect on archaeology and wildlife, decommissioning plan, access and negative impact on house prices. Members would like to see more information on community benefit proposals and how decommissioning would be paid for in the event of the developer failing to be in a position to undertake decommissioning works when required.

Scalloway
Object to the proposal on the basis of:

- The proximity to the NSA and viewpoint at Scalloway and the detrimental impact on visual amenity;
- Environmental impact on hill land, moorland and water courses and a negative impact on birds, fish and trout and the integrity of the peatland;
- Impacts on Scalloway's tourism profile;
- Impacts on telecommunications and TV signals in Scalloway which is reliant on signals from transmitters close to Lerwick.
- Noise pollution in Scalloway.
- Non-compliance with policies DC1, DC2, DC3 and DC5 of the SIC's Supplementary Guidance on Onshore Wind Energy.
- Impacts on the Shetland Clay Target Club shooting range.

Tingwall, Whiteness and Weisdale
Object to the proposal raising similar concerns to the Scalloway Community Council in terms of environmental impact, impact on TV and telecommunications signals, noise pollution to the residents of Frakkafield and Tingwall and that the proposed development would detract from Dale Golf Course.

5. Statutory Advertisements

The application was advertised in the Shetland Times and the Edinburgh Gazette on 27.07.2018.

The application was further advertised in the Shetland Times and the Edinburgh Gazette on 15.02.2019.

6. Representations

6.1 Representations were received from Sustainable Shetland, the Shetland Clay Target Club and 5 individuals.

Parkville,Westerhoul,
Scalloway

Frakkafield B, Tingwall
Shetland

3 Sandyloch Drive,Lerwick,
Shetland

Tingwall House, Tingwall
Shetland

New House, Meal, Hamnavoe
Shetland

Sustainable Shetland
Burnside,Voe, Shetland

Shetland Clay Target Club
Vakkeroy,Ireland,
Bigton

The representations received are summarised as follows:

6.2 Sustainable Shetland

- Question the green credential of the development stating that the main reason for the application is the possibility of "subsidy for Remote Island Wind".
- The site boundaries to the north and south as shown on the application allow for additional wind turbine installation which is likely if this application is granted and built.
- The proposal in addition to the Burradale Wind Farm and the consented Viking Energy Wind Farm is unacceptable in terms of cumulative impact visually and on the landscape.
- Given the size of the foundations, hard standings and the length of road proposed it is considered that not enough investigation has been done to assess the quantity of materials that will need to be excavated.
- Ten properties are declared as being within 1.5 km of the wind farm. It would be of interest to know how many are within 2km, which distance, although not a statutory minimum distance, has been used as a measure of reasonable distance for affecting house prices.
- No acknowledgement of the fact that health issues may result from having to live in close proximity to windfarms.
- In terms of tourism and recreation there will be significant visual impacts for golfers on the Dale Golf Course and the Environmental Report predicts a number of localised significant effects on users of footpaths and cycleways and the road network.
- There are concerns about the proximity of turbines 5,8,10 and 12 to the A970 and to the Fitch/Dale (trout/seatrout) spawning grounds.

- 50900 Cu M of surplus peat would have to be relocated. The peat cover in this area is in good or recovering condition. It is not clear how mitigation will solve this problem.
- The noise statement relies on the out of date ETSU-R097 that does not relate to large modern turbines. Noise issues for the Frakkafield houses are likely to be significant and "mode management" a doubtful mitigation.
- A flicker control system to mitigate all theoretical shadow flicker is considered to be unnecessary, however it is considered that shadow flicker is likely to be significant at certain times and this problem would need to be addressed.

6.3 Shetland Clay Target Club

Objects to the proposal on the basis of access, boundary, siting and design, overdevelopment, over shadowing and safety. Shetland Clay target Club object to turbines 10 and 12. Turbine 12 is on the boundary of their safety zone and the access road is within an area that is not to be developed.

6.4 Individual objections are summarised as follows:

- Siting the proposed wind turbines in the most densely populated central region of Shetland will have a significant adverse impact on the landscape, amenity and quality of life for the residents of Lerwick and Scalloway and surrounding areas.
- If the development goes ahead it will make living in Shetland less appealing for those already here and make it more difficult to attract new residents to Shetland.
- Long term, the outcome of industrialisation of the Shetland Landscape will result in a vicious spiral of population decline leading to a bleak future for the Shetland community.
- Water courses within the area of the development site were used during the Second World War to source heavy water for its nuclear energy research. High concentrations of heavy water disrupts eukaryotic cell division in plants which inhibits growth and germination and therefore successful regeneration of ground cover during the construction might be impeded.
- The proposed wind turbines are too close to residential property, affecting residential amenity and which will be impacted by noise and shadow flicker and the impact of living with constantly moving structures in visual periphery.
- The proposal constitutes overdevelopment.
- Concerns have been raised about the accuracy of the photomontages submitted in support of the application and therefore the anticipated visual impact.
- Meteorologically induced hazards such as landslides/peatslides as a result of the construction of the proposed wind farm and its associated

infrastructure. The proposed development is on a ridgeline that forms the spine of the south mainland and this ridgeline has seen many land and peatslides in the recent past.

- Localised phenomenal rainfall events that cause landslides have not been considered by the developer.
- Increased turbulence from the wind farm could increase erosion of peat moorland and could affect ground nesting birds and their flight paths.
- Pollution hazards as drainage from the wind farm site flows into lochs and burns that are home to brown trout populations and provide spawning grounds for sea trout.
- Pollution hazards caused by the wind farm and its infrastructure that remain in place at the end of the wind farm. These can result in leachate that will spread out from eg. the bases of wind turbines to affect the surrounding peat.
- Visual impact on tourism. The height of the proposed wind turbines is out of proportion with the landscape in which they will be erected. Due to the low treeless hills the infrastructure associated with the wind farm will also be visible.
- Promotion of Shetlands unique landscape by the SIC, the tourism industry, national media and television and its designation as a UNESCO Global Geopark has dramatically increased visitor numbers. A recent survey by Mountaineering Scotland shows that wind farms have a clear negative impact on visitor numbers in scenic areas in mainland Scotland. For a comparatively small land area like Shetland which will be 100% visually impacted by wind farms the effect on visitor numbers will be catastrophic.

7. Report

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

7.2 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.

7.3 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.

7.2 National Policy Context

7.3 <u>National Planning Framework 3 (NPF3)</u>

NPF3 provides a statutory framework for Scotland's long-term spatial development. It is the spatial expression of the Scottish Government's Economic Strategy and plans for development and investment in infrastructure. The Government's vision for Scotland is presented as: a successful, sustainable place; a low carbon place; a natural, resilient place; and a connected place.

7.4 In the introduction to Chapter 3 of NPF3 it is stated that the Government's ambition is to achieve at least an 80% reduction in greenhouse gas emissions by 2050. Paragraph 3.7 acknowledges the varied opinions in relation to wind energy, "Whilst there is strong support for wind energy as part of the renewable energy mix, opinions about onshore wind in particular locations can vary. In some areas, concern is expressed about scale, proximity and impacts of proposed wind energy developments. In others it is recognised as an opportunity to improve the long term resilience of rural communities."

7.5 Paragraph 3.8 states the Government's aim to reduce final energy demand by 12% and to meet at least 30% of overall energy demand from renewables, noting that the Scottish Energy Strategy published in December 2017 sets two reviewed targets for the Scottish energy system, including the equivalent of 50% of the energy for Scotland's heat, transport and electricity consumption to be supplied from renewable sources by 2030. Continuing to capitalise on Scotland's wind resource is stated.

7.5 Under the heading that 'Rural communities will benefit from well-planned renewable energy development', paragraph 3.23 makes reference to the balance between allowing appropriate development and protecting the most sensitive landscapes: "Onshore wind will continue to make a significant contribution to diversification of energy supplies. We do not wish to see wind farm development in our National Parks and National Scenic Areas. Scottish Planning Policy sets out the required approach to spatial frameworks which will guide new wind energy developments to appropriate locations".

7.6 More generally, NPF3 recognises the potential of Lerwick to support renewable energy developments in the waters off Shetland and it recognises that tourism and the creative sector are priorities for growth.

<u>Scottish Planning Policy</u>

7.7 Scottish Planning Policy (SPP) sets out national planning policies which reflect Scottish Minister's priorities for the operation of the planning system and for the development and use of land and is a statement of Government policy on how nationally important land use planning matters should be addressed across the country. As a statement of Minister's priorities, the content of SPP is a material consideration that carries significant weight, though it is for the decision-maker to determine the appropriate weight in each case. SPP sits alongside NPF3, which provides a statutory framework for Scotland's long-term spatial development.

7.8 The Government's 'Purpose' is stated as creating a more successful country with opportunities for all of Scotland to flourish, through increasing sustainable economic growth, and national outcomes indicate how that 'Purpose' is to be achieved'. Three of the stated outcomes are of particular relevance in connection with the development proposed:

- Outcome 1: A successful, sustainable place – supporting sustainable economic growth and regeneration, and the creation of well-designed sustainable places.
- Outcome 2: A low carbon place – reducing our carbon emissions and adapting to climate change.
- Outcome 3: A natural resilient place – helping to protect and enhance our natural and cultural assets and facilitating their sustainable use.

7.9 In relation to Outcome 2, it is stated that NPF 3 will facilitate the transition to a low carbon economy particularly by supporting diversification in the energy sector, and the Climate Change (Scotland) Act of 2009 is highlighted along with its targets for the reduction of greenhouse gas emissions.

7.10 Under the heading of 'Policy Principles' SPP introduces a presumption in favour of development that contributes to sustainable development. A list of principles is provided that should guide policy and decision making at Paragraph 29, including the following:

- Giving weight to net economic benefit;
- Responding to economic issues, challenges and opportunities as outlined in economic strategies;
- Supporting good design and the six qualities of successful places;
- Making efficient use of existing capacities of land, buildings and infrastructure including town centre and regeneration priorities;
- Supporting the delivery of infrastructure, eg. transport, education, energy, digital and water.
- Supporting climate change mitigation and adaptation including taking account of flood risk.
- Having regard to the principles of sustainable land use set out in the land-use strategies.
- Protecting, enhancing and promoting access to natural heritage, including green infrastructure, landscape and the wider environment;
- Protecting, enhancing and promoting access to cultural heritage, including the historic environment.

7.11 Under the heading of a low carbon place, paragraph 153 addresses the delivery of renewable energy developments and states that the efficient supply of energy from renewable sources is vital to reducing greenhouse gas emissions and can

create significant opportunities for communities. Renewable energy also it states provides an opportunity for associated development, investment and growth of the supply chain.

7.12 Paragraph 154 states amongst other things that the planning system should:

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

7.13 Paragraph 161 of SPP requires planning authorities to set out a spatial framework identifying areas that are likely to be the most appropriate for wind farms as well as setting out the criteria that will be considered when deciding all planning applications for wind farms of various sizes.

7.14 Paragraph 165 of SPP confirms that grid capacity should not be used as a reason to constrain decisions on individual wind farm applications and that it is for wind farm developers to discuss connections with the relevant transmission network operator.

7.15 SPP at paragraph 169 indicates that proposed developments should always take account of spatial frameworks for wind farms and lists the considerations that must be taken into account in the development management process. These include:

- Net economic impact including benefits such as employment, associated business and supply chain opportunities;
- Scale of contribution to renewable targets;
- Effect on greenhouse gas emissions;
- Cumulative impacts;
- Impacts on communities and individuals including residential amenity, noise and shadow flicker;
- Landscape and visual impacts;
- Effects on natural heritage including birds;
- Impacts on carbon rich soils using the carbon calculator;
- Public access, including impact on long distance walking and cycling routes;
- Impacts on the historic environment, including scheduled monuments, listed buildings and their settings;
- Impacts on tourism and recreation;
- Impacts on aviation and defence interests;
- Impacts on telecommunications and broadcasting installations, particularly

ensuring that transmission links are not compromised;

- Impacts on roads traffic;
- Effects on hydrology, the water environment and flood risk;
- The need for conditions relating to the decommissioning of developments, including ancillary infrastructure, and site restoration.

7.16 **Shetland Local Development Plan (2014)**

Supplementary Guidance Onshore Wind Energy (2018)
In accordance with paragraph 161 of SPP Supplementary Guidance (SG) on Onshore Wind Energy was prepared and was adopted by Shetland Islands Council in February 2018. In accordance with this SG, the proposed Mossy Hill Wind Farm is classed as a large wind farm and a large part of the site lies on an area of significant protection due to the potential presence of Class 1 and 2 carbon-rich soils, deep peat and priority peatland habitat. However reference is made in the SG to the need for developers to consult the Carbon and Peatland 2016 map produced by Scottish Natural Heritage as the most up to date information source on Class 1 and 2 carbon-rich soils, deep peat and priority peatland habitat. The SG goes on to highlight the need for site specific surveys to establish the presence and quality of peat.

7.17 Shetland Local Development Plan (2014)
Policy RE1 sets out the Council's commitment to delivering renewable energy developments that contribute to the sustainable development of Shetland. This policy states that "Proposals for renewable energy developments will be supported where it can be demonstrated that there are no unacceptable impacts on people (benefits and disbenefits for communities and tourism and recreational 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".

7.18 Policy GP1 states that development will be planned to meet the economic and social needs of Shetland in a manner that does not compromise the ability of future generations to meet their own needs and to enjoy the area's high quality environment. Tackling climate change and associated risks is a major consideration for all development proposals.

7.19 Policy GP2 sets out the general requirements for all developments and Policy GP3 requires new development to be sited and designed to respect the character and local distinctiveness of the site and its surroundings. Particular attention is to be paid to sensitive areas such as Conservations Areas, National Scenic Areas, Local landscape Areas, Historic landscapes and the setting of Listed Buildings and Scheduled Ancient Monuments.

7.20 There are many other relevant policies in the Shetland Local Development Plan

designed to protect the natural, historic and built environment. These are listed at Paragraph 2.1 above and will be referred to during the assessment of the application in the report below.

7.21 **Shetland Islands Economic Development Strategy 2018 – 2022**

One of the aims that is stated in this recent document is to "Reduce dependence on fossil fuels through increasing installed capacity of renewable energy." This is to be achieved by supporting renewable energy developments across Shetland and by supporting local efforts to establish an interconnector between Shetland and the UK mainland.

7.22 Another stated aim is to "Increase the economic impact from visitors to Shetland." This is to be achieved by increasing year round activities and improving the quality and capacity of facilities for visitors.

7.23 **Site Selection**

The site selection for this proposed development was carried out against a background of the targets set by the Scottish Government for the delivery of 100% renewable electricity by 2020. This requires the provision of new infrastructure and generating facilities in areas that have the required natural resource and situated where there are no significant technical or environmental constraints to development.

7.24 A high level feasibility study was undertaken that examined amongst other things:

- Landscape designations
- Ecological and ornithological designations
- Protected species constraints
- Cultural heritage assets
- Residential dwellings
- Access and transportation
- Aviation and defence issues
- Grid connection feasibility
- Nearby wind farm sites (cumulative issues)
- Other constraints such as topography, ground conditions, recreation and tourism assets

7.25 Having considered the above issues the applicant identified the site as being suitable in planning and environmental terms as well as having the capability of being physically developed and supplying electricity on a viable basis to the National Grid.

7.26 Several different configurations were examined during the iterative design process starting with an initial layout of 21 wind turbines that was reduced and re-designed to the 12 proposed in this application. The design constraints and main

issues considered along with the design parameters are set out in Chapter 4 of the EIAR and in the Design and Access Statement that accompanied the planning application.

7.27 The evolution of the design of the proposed development is an important consideration as the design process effectively is used to justify the "designing out" of some potential environmental, residential, landscape and visual impacts.

7.28 The main impacts of the development are identified as landscape and visual impacts, residential impacts from noise and shadow flicker, impacts on nationally important peatland habitat, and impacts on natural heritage and birds. Other potential impacts include those on access, traffic and transport, impacts on aviation interests and telecommunications and radio-communications.

7.29 **Landscape and Visual Impact Assessment (LVIA)**

In chapter 4 of the EIAR the design development process that has been adopted by the applicant is presented and outlines the design process undertaken to finalise the proposed wind farm layout and the various technical and environmental considerations that have influenced its final siting, layout and design.

7.30 The Landscape Sensitivity and Capacity Study for Wind Farm Development on Shetland (2009) was commissioned by the Council to look at the sensitivity of the Shetland landscape and to consider the capacity of the Shetland landscape to accommodate onshore wind development. It is adopted as Planning Policy Advice and is a material consideration. Landscape character areas were defined and the capacity of the landscape for each character area considered.

7.31 <u>Landscape Assessment</u>
Landscape assessment is primarily concerned with the potential effects of the proposed development on components of the landscape as an environmental resource. Physical change to the landscape may result in changes to the distinctive character of that landscape and the surrounding landscapes and how they are perceived.

7.32 <u>Visual Assessment</u>
Visual assessment is concerned with the effects upon the people who are experiencing a view and as such will be subject to a greater degree of subjectivity. The context within which the development is seen is the main factor for consideration.

7.33 In both of the above cases it is unlikely that the introduction of large scale wind turbines to the landscape will be seen as a positive addition, however different individuals will have different opinions on aesthetics and other considerations such as the role that a development may have in providing a clean energy

source. Cumulative impact assessment of the development and other existing and consented (but as yet unbuilt) developments is also a consideration.

7.34 The Landscape and Visual Impact Assessment (LVIA) is set out in Chapter 6 of the EIAR and concludes that "whilst the proposed development would result in some significant landscape and visual effects these would be limited in extent and focused within an area that is already influenced by man-made infrastructure including existing wind turbines, overhead lines, roads, quarries and transmission masts." The LVIA also concluded that "The large scale of the receiving landscape and panoramic nature of views means that significant landscape and visual effects are generally concentrated within 2.5km – *7km of the proposed* development."

7.35 In terms of the impact on the National Scenic Area (NSA), Local landscape Designations and Designed Landscapes the LVIA concluded that, "Due to the strength and focus of the special qualities of the NSA and the limited influence that the proposed development would have on these qualities no significant effects on the reasons for designation would occur."

7.36 In their comments on the application Scottish Natural Heritage (SNH) indicated that the proposed development will result in a series of significant landscape and visual effects as a result of its layout and design. SNH go on to indicate that in their opinion although a detailed design development process has been undertaken to establish the proposed layout, significant flaws in the consideration of landscape and visual issues have limited the ability of the proposal to achieve its stated landscape and visual objective of achieving 'a balanced and rational composition of turbines from key viewpoints'. SNH consider that overall the proposal has failed to adequately consider the scale of wind farm proposed in relation to the character and capacity of the site particularly in relation to the number and height of turbines. SNH consider that the proposal will have the following landscape and visual effects:

- **localised significant adverse effect on the appreciation of *the Stunning Variety of the Extensive Coastline* special landscape quality of the Shetland NSA,**
- **significant adverse landscape impacts on four LCAs which indicates the poor siting, scale and design of the proposal in relation to its landscape character context,**
- **significant adverse cumulative impact on the landscape setting of Lerwick as a result of the proposed turbines being significantly larger than, and therefore poorly scaled in relation to, the existing and consented turbines with which they are commonly seen.**
- **significant visual effects as a result of the proposed turbines**

appearing large in relation to the scale of the hills on which they are located, such that they appear to visually dominate these hills, and

- **significant visual effects as a result of the physical separation of the proposed wind farm layout into two distinct groups of turbines which results in unbalanced and inconsistent visual compositions in many views of the proposal.**

SNH go on to indicate that with the exception of the impacts on landscape character, these effects could be reduced to the degree that they are no longer significant if the proposed turbines were to be substantially reduced in height.

7.37 However in their comments SNH go on to set out the 4 special qualities of the National Scenic Area namely: The Stunning Variety of the Extensive Coastline; Coast Views both Close and Distant; A Sense of Remoteness, Solitude and Tranquillity; and Northern Light, and conclude that any adverse effects on these special qualities would be limited in their extent or magnitude, and the special qualities would be essentially maintained. Consequently SNH consider that the siting of the proposed wind farm will not result in significant adverse impacts on the special qualities of the South West Mainland section of the Shetland NSA and have not objected to the proposal on the basis of landscape impacts. Given these comments, notwithstanding the means by which the significance of the visual effect of developing a wind farm on the proposed site having been identified, it is considered that the proposed development complies with the requirements of Policy NH1 of the Shetland Local Development Plan (2014) (SLDP) that requires development affecting a NSA will only be permitted where it will not adversely affect the integrity of the area or the qualities or protected features for which it has been designated.

7.38 The wider landscape and visual impacts of the development are a matter for the Local Planning Authority to consider. The Council's Natural Heritage Officer concurs with the findings of the LVIA in as far as that the development would have no significant effects on the three Local Landscape Areas in the vicinity of the development site (Aithness and Noss, Gletness and Skellister, "Weisdale). The EIA states that "significant cumulative landscape and visual effects would be limited to a localised area of uplands to the north-west of the site where the Viking Scheme would be prominent and the wind turbines at Luggies Knowe, Gremista, Mossy Hill and Burradale would also be prominent but in the opposite direction." The ZTV maps show that most if not all, turbines will be visible and prominent when viewed from high points around the development. Significant cumulative landscape and visual effects would be experienced in a wide area from Califf, over Tagdale, and across much of the upland west of Lerwick and east of Scalloway; the hills of Steinswall, Burradale and Herrislee; as well as the area of uplands to the north west of the site. Many of these areas are not covered by visualisations because the purpose of visualisations is to enable

assessment of impact on identified receptors, rather than enabling assessment of cumulative impact on the wider landscape per se.

7.39 However, the EIAR, Appendix 6.5: Effects on Landscape Character has reached a similar conclusion with the proposed wind farm noted as having a significant effect on Landscape Character Areas A1: South Mainland Spine; B4: South Mainland Coastal Moorland; D4: Peatland and Moorland Inland Valleys (Burn of Dale); and F5: Scattered Settlement/ Crofting and Grazing Lands (Dales Voe). These areas are important recreation and refuge areas for people to enjoy Shetland's landscape and are very accessible to residents of, and visitors to, Lerwick, Scalloway and surrounds. From many of these locations the proposed wind farm will not only be highly visible but will also be highly intrusive in terms of appreciating and enjoying the landscape. From some points (e.g. from the high ground south of the B9073) there will also be "layers" of wind farm development, with the Mossy Hill turbines in the middle distance backed by turbines from other developments in the far distance. The sense of quiet, solitude, open vista countryside free from the intrusion of major development will be significantly adversely impacted.

7.40 SNH has suggested (SNH, 17/9/18), that "the extent and significance of adverse landscape impacts of the proposed development on four LCAs which include and surround the proposal site, including the need to define new sub-character areas, indicates the poor siting, scale and design of the proposal in relation to its landscape character context. These effects on landscape character are however not uncommon with and when turbines of this height and number are proposed." SNH goes on to say that "We believe that the landscape and visual impacts of the proposal cannot be overcome without fundamental modification to the layout of the proposed wind farm, in terms of the scale of turbine proposed and the overall layout and arrangement of turbines. Even with the adoption of a considerably more sensitive layout and design strategy, issues of how a proposed wind farm relates to the existing landform scale of the ridgeline of hills comprising the site, the scale of existing turbines with which the proposal would be seen in visual combination and minimising impacts on the landscape setting of, and visual receptors within, Lerwick would result in significant landscape and visual effects."

7.41 The applicant has responded at some length to the landscape points raised by SNH (TNEI Services Ltd. letter dated 5 November 2018) pointing out that the proposed wind turbines are no more dominating of their receiving landscape than those approved at eg., Luggies Knowe and that the design iterations resulted in the southern group of wind turbines being located to the west of the Hill of Dale/Mossy Hill ridge to reduce the vertical scale of development when perceived from Lerwick and Bressay. The applicant also points out that the LVIA acknowledged that there would be significant landscape and visual effects within the valley of the Burn of Dale where the scale of the turbines would appear at

their greatest. However these significant effects would be geographically constrained by topography and therefore these significant effects need to be weighed in the planning balance. The applicant goes on to point out that, "Whilst further reductions in the visual impact of the proposed development from locations could be possible by reducing the scale and number of turbines, the design of wind farms is always a compromise between minimising the effects on a range of environmental receptors and delivering an economically viable scheme that also maximises renewable energy generation". The applicant considers that "in developing the final layout, competing factors have been balanced to deliver a scheme that is viable and which minimises environmental effects, as far as practical, and that the significantly increased energy generation and carbon savings from using larger wind turbines significantly outweighs the incremental difference in landscape and visual effects compared to using smaller wind turbines as suggested by SNH".

7.42 It must also be pointed out that the proposed development would also have a potentially significant impact on the landscape setting of Lerwick when viewed from much of the west side of Bressay, however the EIAR indicates that the existing character of this area is defined by modern development, vertical structures and movement associated with traffic and shipping. Here wind turbines and telecoms masts are already visible on the inland skyline and landscape/ townscape quality is derived more from the strong relationship of the urban area to the coast and views across the sound to Bressay and south to the open sea. The wind turbines would inevitably become the most prominent feature of the inland skyline, but this is a skyline that is already impacted by man-made features. The wind turbines will be particularly dominant when viewed from more elevated locations in Bressay but will also be visible in views on approaches to Lerwick Harbour and therefore in the views experienced by many visitors to Shetland, an impact that again is difficult to quantify, but studies have shown that wind farm development tends to have limited impacts on tourism in general.

7.43 There is no question the development will have a major adverse impact on the character of the landscape of the 4 LCAs most affected (i.e. over a considerable area of the central Mainland) and this may be to the significant detriment of the appreciation, understanding and enjoyment of those areas. However the question for the Planning Authority is whether the proposal is, on balance acceptable, taking account of the benefits and positive effects/ impacts on the one hand and the disbenefits and negative effects/ impacts, on the other. In landscape terms it can be difficult to be entirely objective in terms of understanding landscape impact since, by their very nature, "appreciation", "understanding" and "enjoyment" are at least in part, an emotional response. Balancing these (and other, more measurable aspects related to impact on landscape character) with anticipated benefits (such as those expected to result from reduced carbon output at a regional, national or global scale) is not

straightforward and there are no formulas to assist. This is further exacerbated by the fact that the anticipated benefits are in themselves predicted - only detailed monitoring after completion of the development will be able to quantify if they actually accrue.

7.44 SNH are of the opinion that the proposed development exceeds the landscape capacity of the area, however the majority of the site lies within Landscape Character Area A1 – South Mainland Spine which is the line of hills that stretch from Luggies Knowe in the north to the Ward of Scousburgh to the south. This area is characterised as a large scale upland landscape with peatland and heather moorland that forms a backdrop to adjoining landscapes. A lower sensitivity rating has been given for this area as a whole with parts within the NSA having a moderate sensitivity. There is some overlap into Landscape Character Area D4 – Peatland and Moorland Inland Valley which contains 3 of the proposed wind turbines and is identified as being of moderate sensitivity. The sensitivities of various areas within the general character area will vary according to site specific topography existing landscape and man-made features and can vary across the general Character Area. In this instance it is considered that the northern part of Area A1 has a lower sensitivity to wind farm development given the fact that the landscape in this area is more heavily influenced by the presence of existing man-made features. The Area of D4 that will be affected by the proposed development is already characterised by existing wind turbine development, the Shetland Golf course (a man-made landscape) and the A970 and is awarded an overall sensitivity level of moderate.

7.45 The Landscape Sensitivity and Capacity Study for Wind Farm Development goes on to identify a series of visual compartments to enable account to be taken of intervisibility between landscape character areas and also to give an understanding of the way topography affects potential visibility across wider areas. The proposed wind farm lies mainly within visual compartment N (Central Mainland – East) with 5 of the proposed wind turbines within visual compartment O (South Mainland – West). In addition, although in visual compartment N, the most easterly wind turbines would be located immediately adjacent to visual compartment P, (South Mainland – East and South Bressay) which includes Lerwick. In both visual compartments N and P, the landscape is considered to have the capacity to accommodate one medium or medium to large wind farm. Viking Wind Farm lies mainly within visual compartments J, K and M to the north and west of the Mossy Hill site. For the purposes of the Landscape Sensitivity and Capacity Study, a medium to large windfarm is classed as 13 to 25 wind turbines with a capacity of 20-50 MW. Wind turbine heights for the Study were assumed to be in the range of 90 – 150 metres. For the purposes of landscape impact it is therefore considered that the area of the wind farm has the capacity to accommodate a wind farm of the size and proportions proposed in this development.

7.46 It is considered that on balance, although it is acknowledged that landscape effects will be significant and the background landscape of Lerwick will be altered and will become characterised by wind turbine development, the main impacts are partly constrained by topography. The proposed development that is the subject of the planning application has been reduced from its origins when up to 21 wind turbines were being considered (Scoping Request submitted April 2017) and the development design is a response to a number of other considerations/constraints on site including landscape and visual impact. It is not considered that the landscape impacts are significant enough to warrant refusal of the planning application when balanced against the potential reduction in greenhouse gases that are anticipated as a result of the development.

7.47 In terms of visual impact, the LVIA examined the impact of the proposed wind farm from 23 viewpoints and concluded that at 9 locations people would experience significant visual effects from the proposed development. At the 14 other viewpoints examined it was concluded that visual effects would not be significant either because the proposed wind turbines would be minor background features in expansive panoramic vistas, would be seen in a man-made context and/or would be located away from the main focus of the views available from a particular location.

7.48 In general the study area for the assessment of visual impact covered a radius of approximately 1.5 km from each of the proposed wind turbines. The study area was extended in some areas to pick up properties lying just outside but within the Zone of Theoretical Visibility (ZTV). These areas are located on the edge of Lerwick and Gulberwick. Three residential properties are within 1 km of the wind turbines (Frakkafield/Tagdale), and a further 7 properties are within 1.5 km of proposed wind turbines. The remaining properties on the edges of Lerwick and Gulberwick are further than 1.5 km from the proposed wind turbines.

7.49 Wire frame drawings were generated showing the zone of theoretical visibility of the proposed wind farm to determine whether further more detailed examination of visual impact would be required. Following this a number of housing groups were found to suffer little visual impact as a result of local topography obscuring views, properties being generally oriented with main views towards to coast away from the proposed wind turbines, properties only having oblique views and/or the separation distance in combination with the wind turbines not being over dominating in views where they are visible. It was considered that further detailed assessment of visual impact would be required for the housing groups at Frakkafield, some of the housing in part of north Gulberwick, and properties in Lerwick (elevated properties at the western edge of Lerwick in the Unicorn View/Cunningham Way, Burnbank and Decca Station areas).

7.50 Assessment of the change in view that would occur as a result of the proposed wind farm development was considered further by looking at the orientation of the

affected housing and angle of view, distance from the wind turbines and any screening effects such as existing development. The assessment methodology presented seems robust and includes an assessment of cumulative impacts based on existing and proposed development (such as Viking Wind Farm) and concluded, in terms of impact on residential visual amenity, that "whilst a significant change in view would be likely to occur from some properties, this would not represent an unpleasantly overwhelming or unavoidable effect on residential amenity or lead to any marked decline in the overall living conditions of these properties due to:

- the simplicity and scale of the baseline view from the properties, which can accommodate the presence of the wind turbines;
- the level of screening provided by the landform between the wind turbines and many of the properties;
- the separation distances between the wind turbines and properties;
- the presence of the wind turbines in the background of the view, which would not prevent or obscure views of existing features; and
- in many instances, the location of the wind turbines outside the main views from each property/group of properties and/or the availability of views in other directions."

7.51 It is acknowledged that the properties that will be most affected would be those nearest to the wind turbines at Tagdale and Frakkafield (835 to 935 metres from the nearest wind turbines) due to the prominence of the southern group of wind turbines and Burradale Wind Farm in views from the curtilage and access to the houses. In assessing the impacts of the proposal it is important to note that outlook from a private property is a private interest, not a public one. The difference between that private interest and what should be protected in the public interest has been the subject of focus in wind farm appeal decisions, and the public at large may be affected differently by the visual and other impacts of wind turbines than those who live close to them. If turbines are present in such number, size and proximity that they represent an overbearing and unavoidable presence in main views from a house or garden, there is every likelihood that the property could be regarded as an unattractive place in which to live.

4.52 However in this instance it is considered that the visual impact of the development on the nearest residential properties is not so great as to be unacceptable or of such significance as to warrant refusal of the application when balanced against the wider environmental benefits of the proposed development. The proposed wind turbines would be mainly located outwith the principal views from the properties, would be partially screened by landform and overall it is considered that the proposed development would not have an overbearing effect on views from these properties.

7.53 Wider visual impact on settlement groups is also considered by the application.

In Lerwick there will be clear uninterrupted views of the wind farm from the Knab and the Sands of Sound and properties on the western and northern edges of Lerwick. More limited views of the wind farm will be available from various parts of Lerwick, but views from many parts will be partly screened by existing buildings and are therefore considered to be intermittent. There is no doubt that, as a result of the development parts of Lerwick will have a wind farm landscape as its background setting, but the distances involved and the fact that some views are limited reduce the visual impact. In Scalloway many of the properties in the east such as at East Voe will not have views of the wind farm. The wind farm will be visible from properties in more elevated positions in the west of Scalloway, however from these locations the wind turbines would be seen in the context of Scord Quarry and would occupy a narrow angle of view away from the main focus of views which is again to the coast. Other areas such as Gott and Laxfirth will experience some visual impacts as a number of the proposed wind turbines will be visible to these settlements

7.54 Sequential visual effects are examined in the assessment. These are the effects experienced by people as they pass through the landscape using various roads, pathways and access routes. In general it was concluded that from most of the road network examined the impacts would not be significant, but from the parts of the road in close proximity to the proposed wind farm the visual impact would be more significant. Impacts will vary depending on direction of travel and actual proximity but it is considered that these impacts would be relatively short term and transient. Visual impact on users of various core paths was also considered (eg.the croft trail at Burrland, the path around Tingwall Loch, Cunningham Way core path). The assessment concluded that generally visual impacts would not be considered significant as the proposed wind turbines would be experienced as "new background features introduced into simplistic and expansive views". There will be locations along routes where the presence of the proposed wind turbines would be more marked. From the Cunningham Way core path where this runs along the ridge due east of the proposed wind farm site approximately 1.55km from the nearest proposed wind turbine, the proposed wind turbines would be conspicuous at close range and it is anticipated that significant effects would occur for most of this core path route to the north and west of South Staney Hill. The section of this core path further south linking to Lerwick and around the loch of Clickimin would not experience visual effects.

7.55 The application states that mitigation for landscape and visual impact has been embedded into the design of the proposed development to reduce landscape and visual impacts from the outset and it must be noted that during the design process the development reduced the numbers of proposed wind turbines and the overall area that they will occupy. The open nature of the Shetland landscape means that most development is likely to be visible. Combined with the scattered settlement pattern and access routes this means that it is inevitable that any tall development will have some visual impact. Visual impact on

residential amenity, although significant in some instances, has not been found to be so overbearing or detrimental as to warrant refusal of the application. In this respect it is considered that the proposed development is not contrary to policies GP1, GP2 or GP3 of the SLDP as it will not compromise the future enjoyment of a high quality environment, tackles climate change, and will not have a significantly adverse effect on existing users of the area.

7.56 **Noise**

The EIAR submitted with the planning application includes an assessment of the potential noise impact of the proposed development. The assessment predicts no significant noise effects arising from the construction or decommissioning of the proposed wind farm. However a range of good practice measures would be employed during these stages of the development such as liaison with the residents of the area, careful choice of the type of plant and machinery to be used and its location on site, pneumatic or percussive tools to be fitted with silencers, and limiting working hours to 7am to 7pm Monday to Friday and 8am to 1pm on Saturday with no working on Sundays. It is considered that the measures proposed should ensure that the construction/decommissioning noise from the development does not cause a noise nuisance to the residents nearest to the development site.

7.57 A background noise study was undertaken at 9 noise monitoring locations located close to the proposed development (Frakkafirld, South Califf, Staney Hill, Newpark (Gulberwick), Uradale, Hogalee (East Voe), Rocklea (near Asta Loch), Herrislea Hill and Gremista Farm. The baseline noise data collected was analysed in conjunction with on-site measured wind speed data and noise limits were derived in accordance the relevant guidance, The Assessment and Rating of Noise from Wind Farms (ETSU-R-97) and the Institute of Acoustics, A good Practice Guide to the Application of ETSU. A noise contour plan was produced and a total of 18 noise sensitive receptors (residential properties) were chosen as noise assessment locations and represent the dwellings closest to the site in addition to where there is the potential for cumulative impacts from the proposed development and other existing and proposed noise generating wind farm developments.

7.58 Guidance set out in ETSU-R-97 the daytime limit for all schemes operating cumulatively is set at 40 dB(A) or background plus 5dB whichever is the greater. The night time noise is set at 43 dB(A) or background plus 5dB whichever is the greater. For this proposed development the site specific daytime fixed minimum limits have been based on the most cautious criteria of the greater of 35 dB, or background plus 5dB which would provide the most protection for residents. Site specific noise limits and predicted wind turbine noise at each of the 18 noise assessment locations are listed in Tables 13.11 and 13.12 of Chapter 13 of the EIAR. The noise assessment carried out shows that the predicted noise

immission levels meet the Site Specific Noise Limits under all conditions and at all locations for both daytime and night-time periods for all noise sensitive receptors, under all conditions for daytime and night-time periods. However in order to meet the site specific noise limits at Frakkafield, The Decca, Lerwick West, and Garth Lodge (Tingwall Valley), based on the use of the current candidate turbine model, proposed Turbines 1-3, 6 and 8-11 would need to be operated in sound reduced mode for certain wind speeds and directions during the daytime for the housing at Lerwick West and Garth Lodge, the night time for Frakkafield and both the daytime and night time for The Decca.

7.59 To ensure that residential amenity is not adversely affected by noise from the proposed development, if planning permission is granted it would be appropriate to attach a planning condition(s) that sets noise limits for the development equal to the noise limits in the noise assessment (Tables 13.11 and 13.12) for the various noise sensitive receptors identified and require the submission of details of the actual wind turbine proposed along with a scheme that shows how the development will be operated (mode management) to ensure that the noise limits set are not exceeded. This is a complex but fairly standard planning condition that is attached to planning permissions to ensure that noise output is controlled where it could have an adverse impact. The exact model of wind turbine to be used for the proposed development has not been fixed and would be the subject of a further tendering process and achievement of the noise limits set would be a determining factor in the choice of final wind turbine.

7.60 Provided that the set noise limits are met the proposed development will not have an adverse impact in terms of noise on the residential amenity of existing properties surrounding the development and the proposal therefore complies with SLDP Policy GP2 in that the development will be controlled to ensure that there is no significant adverse noise effect on the surrounding environment. However it must be acknowledged that the noise from with proposed wind farm could result in particularly residential development being restricted because of noise impact if it were proposed to build within the area affected by wind turbine noise. In these areas it will be up to any future applicant to demonstrate that their proposed development will not suffer a noise nuisance from the proposed development should it be constructed, that could interfere with the approved operation of the wind farm. To ensure that the proposal is one that endures as being sustainable development, and enable the planning authority to consider the implications of any proposal to expand the range of activities and uses within the site and surrounding area, it will be appropriate to also have a planning condition attached to any permission that requires the submission of a noise contour plan similar to the one the applicant has already produced, but for the final turbine model and the final locations of the wind turbines at the time when the wind farm is commissioned.

7.61 **Shadow Flicker**

Under certain combinations of geographical position, time of day and year, the sun may pass behind the rotor of a wind turbine and cast a shadow over the windows of neighbouring buildings. When the blades rotate and the shadow passes a window, the shadow appears to flick on and off; this effect is known as shadow flicker. It only occurs within buildings where the flicker appears through a window and typically only in buildings that are within 130 degrees either side of north relative to a wind turbine. Shadow flicker effects vary depending on a number of environmental conditions coinciding at a particular point in time, including, the position and height of the sun, wind speed and direction, cloudiness, topography, and position of the turbine relative to a sensitive receptor.

7.62 The assessment of shadow flicker impacts looked at a study area of 1330 metres (10 times the proposed rotor diameter) and 130 degrees either side of north around the proposed wind turbines. Shadow flicker receptors include both residential and commercial properties with residential properties having a high sensitivity to shadow flicker and commercial properties a lower sensitivity. Theoretical shadow flicker was predicted based on a 'worst case' scenario when the sun always shines in a clear sky, there are no obstructions surrounding windows such as trees of other buildings, rotors are always aligned face on to a window and are always turning. Nine properties were identified within the study area. The study found that under these worst case scenarios, shadow flicker would be likely to be at is worst at Frakkafield A and B and at Tagdale, with theoretical predictions of 76.7, 78.1, and 74.6 hours per year when the properties are theoretically likely to be affected. A further assessment was carried out to estimate the likely number of shadow flicker hours considering typical sunshine hours for the area. This suggests a likely occurrence of shadow flicker of 19.8 hours at Frakkafield B. Other factors as noted above such as wind direction is not incorporated into the calculations and this would further reduce the number of hours when shadow flicker occurs.

7.63 The assessment therefore concludes that shadow flicker could occur at several receptors and that the effects are predicted to be significant. Only one property (The Shetland Golf Club) has been identified as having the potential to be affected by shadow flicker from the proposed development and from the Burradale Wind Farm's turbines. Whilst periods of shadow flicker are predicted to occur at different times the cumulative impact is therefore considered to be significant.

7.64 The assessment notes that mitigation is available in the form of a shadow flicker control system that can be used to mitigate all theoretical shadow flicker, but considers that this is unnecessary as shadow flicker may not result in a loss of amenity (if for example it occurs at a commercial property outwith the hours of occupation or in a bedroom during the day). It is therefore proposed that a

planning condition be attached to require a shadow flicker control scheme to be submitted for approval that would result in the shut-down of specific wind turbines during times and under conditions when shadow flicker is predicted to occur. It is considered that subject to this mitigation being a requirement of a planning condition and its being implemented sufficient protection will exist for properties affected by potential shadow flicker. It is considered that it has been demonstrated that subject to a planning condition, the development is acceptable and the impacts of shadow flicker minimised in compliance with Policy GP2 of the SLDP.

7.65 **Cultural Heritage and Archaeology**

There are no designated cultural heritage assets within the application site. There are 27 Scheduled Monuments, 177 Listed Buildings, two Conservation Areas and one Inventory Garden and Designed Landscape within 5km of the site. The nearest Scheduled Monument is a burnt mound below the Scord Quarry known as Scord Junction burnt mound. The majority of listed buildings are within the conservation areas of Lerwick and Scalloway.

7.66 A desk study, a walkover study and archaeological coring has been undertaken within the site and as a result a total of 20 cultural heritage features/assets have been identified within the site, the majority of which cluster around the main watercourses and their tributaries. The identified features largely relate to historical land management practices and are typical of abandoned late post-medieval occupation evidence that abounds in this part of mainland Shetland.

7.67 Most of the impacts on these 20 features are likely to occur during the construction of the development, however it should be noted that the assessment points out that the design of the development has been done to avoid impacts where possible, and create a buffer of at least 10 metres around the edge of known features. One feature comprising a grassy mound set on the south side of the Burn of Gills could be affected by the development. To mitigate against this it is proposed that this feature and its surroundings would be subject to topographical survey before the development begins to accurately record the extent of this feature and any associated visible features. Thereafter identified features would be fenced off to avoid construction damage and a watching brief for ground breaking works in the vicinity of this site would ensure any further remains are recorded. Further representative watching briefs are proposed within the site.

7.68 Given the potential for unknown archaeological features within the site, the applicant anticipates carrying out a programme of archaeological works prior to the commencement of development. In responding to the application, the Shetland Regional Archaeologist has agreed that there are likely to be unknown features within the site and has indicated that the development as a whole should

be subject to a watching brief and not restricted to 'representative samples'. The Shetland Regional Archaeologist has requested that a planning condition is attached to any permission to the effect that a written scheme of investigation be submitted for approval that identifies a programme of archaeological works to be carried out within the site, and proposes a mitigation strategy that includes a controlled archaeological strip of the areas between proposed Turbines 5,8,10 and 12 (Burn of Fitch) and includes the methodology for a watching brief for the whole area where any ground breaking is to take place including parking/laydown areas. It is also important that post excavation research design for the analysis, publication and dissemination of results and archive deposition is agreed and secured, and again it is anticipated that this can be controlled by planning conditions that will ensure that the proposed development complies with policies HE1 and HE4 of the SLDP that requires the protection, conservation and enhancement of all elements of Shetland's historic environment and ensures that appropriate archaeological excavation, recording, analysis publication and archiving is carried out in advance of and/or during development.

7.69 The impact on the setting of the built heritage also needs to be a consideration. The proposed wind farm will be seen in the views from various Scheduled Monuments around the site and Listed Buildings in both Lerwick and Scalloway. The assessment submitted looked at the setting and the context of the listed buildings and monuments and generally concluded that the proposed development would not have a significant effect on the setting of these features, even when considered cumulatively.

7.70 Historic Environment Scotland (HES) raised no objections to the proposal and indicated that "for the most part the assessment provides an appropriate level of detail, and generally includes useful consideration of setting, including such issues as key views of and from historic assets as well as wider landscape character". HES does not object to the proposed development as it considers that the proposals would not have a significant adverse impact on the settings of nationally important designated historic environment assets and would not raise issues of national interest for its environmental remit. This includes the impact on Scalloway Castle, Gardie House and associated Inventory Garden and Designed Landscape, Fort Charlotte, Law Ting Holm, Clickimin Broch, Teind Barn (Kebbister) and Nesbister Hill cairn.

7.71 The assessment submitted with the application goes on to consider the impact on listed buildings and on the conservation areas of Lerwick and Scalloway. Lerwick Town Hall and Islesburgh Community Centre are iconic and prominent and as such have been subject to a detailed setting assessment. The remaining listed buildings are mainly located within the Lerwick and Scalloway conservation areas and effects have been assessed as part of the settings assessment for the wider conservation areas.

7.72 Lerwick Town Hall is a visually dominant structure designed to be prominent within the townscape, the building is judged to be of high sensitivity to changes in its setting. Although the wireframes provided show that 8 proposed wind turbines will be seen in views from the Town Hall, the proposed development will not interrupt the visual relationship between the Town Hall and the New Town that it was designed to overlook. The proposed development would be seen in views of the Town Hall from across Bressay Sound, however because of the separation distance of over 3km between the Town Hall and the proposed development, the assessment concludes that it would not challenge the dominance of the structure on the skyline and therefore the magnitude of the impact is considered to be low and the effects minor to moderate and not significant.

7.73 From the New Town part of the Lerwick Conservation Area, visibility of the proposed development would vary, but where visible would mainly be seen beyond intervening modern development at the western edge of Lerwick. Views from the north of the conservation area offers glimpses out to the open hills of the proposed development and up to 12 wind turbines would be visible from this location. The assessment considers that the magnitude of impact on this part of the conservation area although medium does not affect the ability to understand the character of the New Town part of the conservation area or the interrelationship and setting of the listed buildings within it. It is considered that this is a fair assessment of the potential effects of the proposed development. The Lerwick Lanes part of the Lerwick Conservation Area encompasses the historic town centre focused around Commercial Street and the lanes that run down to it. The harbour setting provides views out towards Bressay. Views west towards the proposed development from this part of the conservation area are largely restricted by existing built structures. Glimpses of the proposed development would be seen from the outer edges of this area from Church Road and Market Street, but it is not considered that this would have a significant effect on the character or appearance of the conservation area.

7.74 Scalloway Conservation Area is focused on Main Street and has a harbour setting. Glimpses of the proposed development will be seen from various parts of the Scalloway Conservation Area, but will frequently be blocked by existing buildings given the enclosed nature of the area. Between 1 and 6 of the Mossy Hill proposed wind turbines will be seen from various parts of the conservation area. The high land to the west of the conservation area gives good views over the conservation area and from there all 12 of the proposed wind turbines will be seen, but as that is at a distance, it is not considered that it would affect the character of the existing conservation area or the understanding of the role of the various listed buildings and monuments within it and therefore the impact of the proposed development is not significant. In commenting on the potential impact on Scalloway Castle, Historic Environment Scotland pointed out that at least 3 of the proposed wind turbines would be partly visible in views from the castle and visible in the background of some views towards the castle. The intervening

topography partly screens the proposed wind turbines from view and provides a clear separation of the proposed wind farm from the valley and voe that form part of the setting of the castle. Therefore Historic Environment Scotland consider that the proposed wind turbines will not have a significant adverse impact on the castle's dominance within Scalloway.

7.75 It is considered that the application and the EIAR submitted have provided sufficient information to determine that the impact of the development on the historic built environment will not be significant. Potential impact on archaeological features can be adequately controlled by attaching suitable planning conditions as discussed above. The proposed development therefore complies with policies HE2, HE3 and HE5 of the SLDP.

7.76 **Ornithology**

There are no designated sites within the application site but the site is close to the proposed East Coast Mainland proposed Special Protection Area (pSPA). This is a sea based area stretching from Samphrey and Lunna Ness in the north, encompassing the sea to the north, east and south of Whalsay, and southwards to the north coast of Bressay. The site as designated regularly supports a non-breeding population of great northern divers and Slavonian grebes. The pSPA also supports (as a foraging area) a breeding population of red-throated divers as well as populations of common eider, long tailed duck and red-breasted merganser.

7.77 The EIAR concludes that no significant residual effects on designated sites or any wider bird species are predicted and so no specific mitigation is required to offset significant effects. However as Scottish Planning Policy requires developments to not only avoid significant impacts and effects, but where possible to mitigate non-significant impacts and achieve biodiversity benefits that can be delivered for example through habitat enhancements. In this instance the mitigation measures proposed are outlined in the Outline Habitat Management Plan (OHMP) and include blanket bog/peatland restoration and native broadleaved woodland creation.

7.78 In its initial comments on the application SNH indicated that it was satisfied that the proposed development would have no likely significant effect on the pSPA however it was felt that there was insufficient information to be able to rule out cumulative and in-combination effect arising in conjunction with other developments that have been approved since the pSPA was given policy protection in July 2016. SNH and also the RSPB asked for more detail in connection with a few points as follows:

- Details of how the collision risk analysis had taken account of birds in the Tagdale section of the development site flying at levels between 12 and 40 metres;

- Recalculation of the collision risk for herring gulls and great black backed gulls using the 99.5% avoidance and assuming flapping flight; and
- Collision mortality assessed separately for the breeding season and the non-breeding season when large numbers of migrants are likely to be present.

7.79 Further information and clarification was provided by the applicant (letter dated 5 November 2018) and SNH subsequently advised that it had no objection to the proposal on the basis of possible cumulative impacts on the pSPA and regional populations of red-throated divers. An Appropriate Assessment as required by the Habitats Directive and Regulations has been carried out based on the information available and following advice from SNH and has concluded that the development will not give rise to a significant adverse effect on the qualifying interests of the pSPA nor will it affect the integrity of the site as a whole. Anticipated impacts are reduced to be of no significance and the mitigation proposed in the formats of a Construction Environmental Management Plan (CEMP), Outline Habitat Management Plan (OHMP) and Draft Bird Breeding Protection Plan (BBPP) will contribute to ensuring that impacts are minimised.

7.80 The RSPB has raised concerns about the potential impacts of the proposed development on the red-throated diver which is a species listed at Annex 1 of the EU Directive 79/409/EEC on the Conservation of Wild Birds, and consider that no turbines should be situated within 500m or any access track within 250 metres of a red-throated diver breeding site. The RSPB has requested that the layout is revised to ensure that one turbine and the access track to it is relocated to be at least this distance from the breeding sites. The EIAR has identified four red-throated diver nest sites within the proposed development site. Analysis of flight path data showed that flight paths do not generally cross the wind turbine area. However one nest site is within the suggested 500 metre distance of a proposed turbine where disturbance during construction may occur. The EIAR points out that the development proposed within the vicinity of the nest site in question is on the far side of Runn Hill with no direct line of sight to the nest site. Given this it is considered that disturbance of this nest site during construction will be minimised. It will be important to ensure that any micro siting proposed does not bring any aspect of the proposed development to within 500 or 250 metres of nesting sites to avoid the impacts of disturbance. A planning condition will be attached to this effect.

7.81 The closest infrastructure to a nest site is an access track that is 222 metres away from the nest and therefore some disturbance of this nest could be experienced. The EIAR suggests that disturbance to this nest could be negated by completing work in this area during a time when there are no nesting red-throated divers present or by the use of screening bunds to block line of site between proposed works and the nesting site. A Draft Bird Breeding Protection Plan (DBBPP) has been submitted with the EIAR and proposes that a breeding

bird survey be undertaken prior to works commencing, the results of which would then be used to update the BBPP and site constraint plans. It is considered that this has the potential to provide sufficient mitigation to reduce potential disturbance to acceptable levels, and it is proposed to attach a planning condition that requires a preconstruction bird breeding survey to be undertaken, the BBPP updated accordingly and to include details of any restrictions in timing proposed to avoid working close to nest sites, any bunding/screening proposed, and sets out the procedure to be followed should the nest of any species of bird be found during construction.

7.82 In commenting on the planning application the RSPB, although welcoming the inclusion of an Outline Habitat Management Plan (OHMP) and supporting the peatland restoration measures referred to in the OHMP, has significant concerns about the proposed tree planting as it considers that the area proposed is unsuitable for tree planting and as it supports various breeding waders. The RSPB considers that should the applicant wish to pursue tree planting, it would be more appropriate for them to propose or fund planting elsewhere at a location to be agreed.

7.83 The OHMP as presented is to be developed further into a full Habitat Management Plan and this would involve consultation with relevant bodies. Therefore the OHMP as presented can be adapted with input from relevant bodies. The OHMP has stated as one of its objectives, the enhancement of habitat including peatland restoration and this will help satisfy the requirements of local and Scottish Government policy to ensure that new development does not result in a net loss of biodiversity and potentially enhances the biodiversity of an area. This can be controlled by a planning condition that sets out the requirements of the HMP and requires that it be further developed and submitted for the approval of the Planning Authority. The submission of a site specific Construction Environmental Management Plan (CEMP) will also be required by planning condition.

7.84 In terms of the wider bird study, a total of 48 bird species were recorded within the study area. As well as red-throated divers, nine potentially important bird species were identified as using the study area. These are merlin, golden plover, curlew, lapwing, Artic skua, great skua, great black backed gull and herring gull. No likely significant adverse ornithological residual effects are predicted in the assessment but some likely non-significant adverse effects are predicted, for example:

- The potential death of between one and two red-throated divers as a result of collision during the lifetime of the proposed development;
- The potential loss of up to two pairs of golden plover as a result of construction and operational disturbance during the lifetime of the proposed development;

- The potential loss of two pairs of curlew as a result of construction and operational disturbance and one curlew killed by collision approximately every 2 years during the lifetime of the proposed development;
- The potential loss of up to one pair of Arctic skuas as a result of construction and operational disturbance during the proposed lifetime of the proposed development;
- The potential death of 2 to 3 great skuas as a result of collision during the lifetime of the proposed development;
- The potential death of 458 great black backed gulls as a result of collision during the lifetime of the proposed development; and
- The potential death of 243 herring gulls as a result of collision during the lifetime of the proposed development.

The assessment considers that none of the above likely effects are judged to be significant as there would be no detectable effects to regional population levels and therefore the Shetland Natural Heritage Zone (NHZ) populations of these species would not be adversely affected.

7.85 It is considered that with the mitigation proposed that will be secured by planning condition, and with development of the Bird Breeding Protection Plan, Habitat Management Plan and Construction Environmental Management Plan that will require to be implemented during the construction and operation of the proposed wind farm, it has been demonstrated that the impact on bird species within the site and within the vicinity of the site has been reduced to acceptable levels. It is therefore considered that the proposed development complies with policies NH1 and NH2 of the SLDP that requires that proposed developments demonstrate that they can be carried out without having an adverse impact on designated sites and/or protected species (red-throated divers).

7.86 **Ecology**

The EIAR includes details of a number of ecological surveys of the ecology of the site and the surrounding area including:

- Phase 1 habitat survey;
- National Vegetation Classification (NVC) survey;
- Ground Water Dependent Terrestrial Ecosystem (GWDTE) survey;
- Protected terrestrial mammal survey;
- Freshwater pearl mussel survey;
- Fish Survey; and
- Aquatic macro-invertebrate survey.

The important ecological receptors likely to be affected by the proposed development were identified as otter, fish and habitats.

7.87 Two otter surveys were carried out over the site in July 2016 and October 2017. No otter signs were recorded in 2016 which is surprising given the habitat in the area, however it is noted that the site is mainly surrounded with busy roads that otters would be forced to cross to access the site. In 2017 there were 4 otter signs recorded within the site. This suggests that the site is occasionally used by otters but is not important for resting, foraging or breeding, and therefore the proposed development is unlikely to have an impact on this European Protected Species (EPS). The applicant has stated that a pre-construction otter survey would be undertaken, should the proposed development be granted permission, before any work commences, which is standard practice and would be secured by planning conditions.

7.88 A total area of 11,123 m² of productive salmonid habitat was identified in the survey area, most of which was in the Burn of Dale and Burn of Fitch. It is unlikely that these burns would support salmon but appear well suited to sea/brown trout. The smaller water courses within the site were found to provide very little productive fish habitat. Mitigation to reduce impacts on fish is embedded into the design of the development particularly in relation to the design of watercourse crossings, of which there are 8 proposed, to ensure spawning grounds are safeguarded and that the crossings allow for the free passage of fish. As much of the development is within the catchment area of these burns it will be important to take measures particularly during the construction phase to safeguard water quality. The Fish Habitat Assessment submitted as part of the EIAR indicates that a water quality management plan should be developed to ensure that burn habitats and fauna are protected during the construction phase. It is also suggested that regular monitoring of turbidity and suspended solids would be required during construction and would involve a responsive element with an Ecological Clerk of Works (ECoW) checking areas where active works are taking place and areas where sediment run-off may be a concern during periods of high rainfall. This could be secured by planning condition and should be included as part of the Construction Environment Management Plan (CEMP) that would be required for the proposed development. These measures should ensure that the effects of the proposed development on fish populations and their spawning grounds are minimised.

7.89 The survey of the aquatic macro invertebrates within the site indicates that invertebrate communities are of common and widespread species typical of Scottish upland or rural watercourses and no rarities were discovered. The invertebrate community of the Burns of Fitch and Dale indicated good water quality. Measures to protect water quality within the development site will ensure that effects on the invertebrate communities are not significant.

7.90 A total of 16 Phase 1 Habitats, with an additional 11 mosaics were identified within the site. Blanket bog was the most common habitat making up 37% of the

study area. The quality of the blanket bog was found to be variable with the better quality blanket bog habitat found in wetter areas, but there were also areas of highly degraded bog, resulting in areas of exposed peat and large peat haggs. Dry dwarf scrub heath made up a further 29% of the study area. Much of this was species poor, and often dominated by ling heather with grasses only growing sparsely through the heather.

7.91 In commenting on the proposed development SEPA have raised no objections subject to certain planning conditions being attached should the application be recommended for approval. In terms of Ground Water Dependent Terrestrial Ecosystems (GWDTE), SEPA accept the assessment in the EIAR and note that the Outline Construction Environmental Management Plan (CEMP) sets out mitigation measures (summarised at 12.9 of the EIAR) that would be more stringent in the identified higher risk areas. SEPA has requested that the finalised CEMP includes details of the full range of measures to be put in place to protect surrounding GWDTE including micro-siting and any mitigation proposed.

7.92 The construction and operation of the proposed development has the potential to negatively affect habitats directly or indirectly through temporary habitat loss at construction, through a smaller, but permanent loss during operation and through severance of habitats. The evolution of the development during the design process attempted where possible to avoid identified constraints within the site and attempted to avoid important or sensitive habitats. The EIAR concludes that the effects on habitats within the proposed development site is low/negligible and not significant. Although it is clear that the majority of habitat lost underneath the proposed development would be blanket bog followed by dry dwarf scrub heath and wet modified bog, these existing habitats are currently modified through a combination of grazing pressure and peatland management activities. Micro-siting (within 50 metres) would be used to further relocate infrastructure within the site to avoid the most sensitive habitats. This along with the embedded mitigation during site layout, micro-siting and the Outline Habitat Management Plan (OHMP) that will require peatland restoration to take place, will effectively mitigate against the potential habitat lost through the development and it is considered that this effectively reduces the impact of the development on the various habitats within the site, with the exception of peat. Specific issues relating to the impact on peat will be discussed later in this report. Given the above, and subject to suitable conditions as discussed above, it is considered that the EIAR has demonstrated that the effects on ecology and habitat can be minimised and controlled, and the proposal is in compliance with the requirements of SLDP policies GP2 and NH2. The inclusion of a requirement for a Habitat Management Plan will ensure compliance with SLDP Policy NH3, which sets out the Council's duty to further the conservation of biodiversity.

7.93 **Peat and Soils**

Scottish Planning Policy advocates the adoption of spatial frameworks for wind farm developments following guidance set out at paragraph 166 of SPP1, with Group 1 areas being areas where wind farm development will not be acceptable (National Parks and National Scenic Areas). Group 2 areas are where significant protection is needed and where further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation. Group 2 areas include national and international designations such as Sites of Special Scientific Interest (SSSI), Natura 2000 and Ramsar Sites, carbon rich soils, deep peat and priority peatland habitat. Group 3 areas are those areas with potential for wind farm development.

7.94 The Council's Supplementary Guidance, Onshore Wind Energy (Feb 2018) followed this approach when establishing the spatial framework for wind farm development. The site for this proposed wind farm lies within a group 2 area because it has been identified that a large proportion of the proposed wind farm site lies on an area where potentially class 1 and 2 carbon rich soil, deep peat, and priority peatland habitat exist. Therefore proposals to develop in these areas require to demonstrate that any significant effects can be overcome.

7.95 The EIAR acknowledges that peat and soils can be impacted upon during development by stripping them away and destabilisation during the construction process. The EIAR concludes that without the adoption of the mitigation measures proposed there would be significant effects during construction as a result of peat slide risk and through the creation of large volumes of surplus stripped peat. The mitigation measures proposed include the provision of and adherence to a Peat Management Plan (PMP), as well as micro-siting to avoid excavating in areas of deep peat, the use of good construction practice, and the reuse of peat on site to restore degraded areas. The EIAR considers that this would result in any residual effects on soils and peat being minor and not significant.

7.96 The assessment of the peat and soil resource at the site was undertaken through desk based study along with onsite peat probing and peat coring to identify soil and peat depths. The results were fed back into the design process so that proposed infrastructure locations could avoid areas of deep peat wherever possible.

7.97 SNH in their initial comments on the application reiterated Scottish Planning Policy that identifies "carbon rich soils, deep peat and priority peatland habitat" as nationally important interests and that "further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation". SNH expressed some concern that the applicant had not fully recognised the potential importance of the peatland in this area or the likely impacts of the proposed development on

it. SNH point out that the NVC survey carried out for the site showed that 5 wind turbines are proposed to be located in NVC type 19a (a priority peatland habitat) and a further 6 in areas where M19a or M19 are in mosaic with other communities. SNH are of the opinion that the coincidence of a high proportion of the proposed infrastructure with priority peatland habitat and deep peat suggests that there may be significant impact on a nationally important feature. However, SNH go on to point out that this cannot be confirmed without a site specific assessment by SNH to determine habitat quality. The habitat survey undertaken for the EIAR, while adequate for the purpose of informing impacts and layout, do not, and should not need to, go into the level of detail required for this assessment. SNH indicated that they would advise further once on-site assessment work had been carried out.

7.98 Following its own assessment of the peatland on the proposed wind farm site, SNH objects to the development as proposed unless it is subject to modifications and mitigation, as set out below, to avoid impacts on nationally important peatland habitat.

1. Turbine 1 is removed from the proposal.
2. Turbines 2 and 3 are relocated to avoid high quality peatland.
3. The impacts of the other turbines, particularly numbers 5 and 8, are mitigated by siting and design to minimise peat disturbance and by compensatory restoration of eroded peatland within the site or elsewhere.

SNH point out that the high quality blanket bog is most extensive in the Hill of Tagdale area north of the A970, and the locations proposed for Turbines 1, 2 and 3 support nationally important peatland. In particular wind turbine 1 is in the middle of a Sphagnum-rich pool system with a more or less continuous carpet of Sphagnum capillifolium and Sphagnum papillosum. SNH consider it unlikely that the applicant will be able to avoid the impacts of Turbine 1 and its access track by siting, design or other mitigation and therefore SNH indicate that this turbine should be removed from the proposal. SNH indicate that it may be possible to avoid impacts from Turbines 2 and 3 by relocating them to areas of shallower peat and less important drier habitat. To the south of the A970 high quality blanket bog is more fragmentary and although turbines 5 and 8 are currently located on high quality habitat SNH believe that the impacts can be mitigated by a combination of siting design and appropriate habitat restoration.

7.99 Responding to the points raised by SNH, (letter and further information dated 7 February 2019) the applicant considers that there is scope to reduce effects through use of the proposed micro-siting allowance at all locations other than wind turbine 1 (ie. wind turbines 2,3,5 and 8) and therefore have focused on the issues around wind turbine 1 in their response. The applicant fundamentally disagrees with the premise that SNH have based its objection on, that no development should occur on nationally important peatland habitat. The

applicant is of the opinion that this approach incorrectly confuses national importance with areas subject to national protection and is at odds with both Scottish Government's and SNH's own guidance on decarbonisation and combatting climate change. SPP guidance states that in group 2 areas (areas of significant protection) where carbon rich soils, deep peat and priority peatland habitat are present "further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation". This statement indicates that SPP does not preclude development in these areas.

7.100 The applicant points to paragraph 205 of SPP that states "Where peat and other carbon rich soils are present, applicants should assess the likely effects of development on carbon dioxide (CO_2) emissions. Where peatland is drained or otherwise disturbed, there is liable to be a release of CO_2 to the atmosphere. Developments should aim to minimise this release". The applicant is of the opinion that the objection from SNH does not identify any likely significant effects but appears to adopt a far more stringent test than that within national planning policy, i.e. to request that all of the impacts of Turbine 1 are avoided without any consideration of the balance between those impacts and the wider benefits of the proposed development to the peatland resource such as the peatland restoration proposed. The applicant is of the opinion that the EIAR has demonstrated that with the adoption of the mitigation strategy proposed there will be no significant effect on the peatland resource.

7.101 Further to SNH's objection the applicant submitted a peatland-related assessment of wind turbine 1 that was undertaken by environmental consultants. This assessment pointed out that the assertion by SNH that the peatland in this area is nationally important lacks any supporting information and is based on the inclusion of peatland as a nationally important resource within SPP. This assessment goes on to point out that the SNH response contradicts the assessment of local importance as set out in the EIAR which was based on a variety of criteria, in accordance with the standard guidance for ecological impact assessment, including:

- The condition of the peatland that has been modified by drainage, peat cutting and sheep grazing;
- The quality and quantity of blanket bog habitat.

7.102 The assessment points out that 'The Carbon & Peatland Map (2016)' indicates that the peatland habitat is potentially 'Class 1', which is defined as "nationally important carbon-rich soils, deep peat, and priority peatland habitat. Areas likely to be of high conservation value." As stated on the related web site, the map is a "high-level planning, predictive tool that provides an indication of the likely presence of peat on an individually-mapped area at a coarse scale." As such it is not definitive and may include areas of degraded peatland and non-peatland

habitat. The assessment goes on to point out that the condition of the peatland in the vicinity of wind turbine 1 and beyond is modified by the factors of drainage, peat cutting and sheep grazing as observed in the EIAR and that the peatland shows evidence of being highly eroded in the past and therefore there is considerable potential for conservation of the peat and its carbon store and restoration of the peatland in this area. As a result of the additional assessment carried out the applicant considers that the peatland is 'Class 2' which is distinguished from class 1 (in the Carbon & Peatland Map 2016) by its "restoration potential".

7.103 The additional assessment submitted considers that the pool systems identified by SNH are secondary features that have developed in the base of peat haggs, rather than on primary surfaces on upstanding (un-eroded) areas of peat and that the carpet of sphagnum referred to by SNH is as a result of erosion lowering peatland surfaces so that they come into contact with the water table.

7.104 The applicant also points to the results of analysis using the Scottish Government's Carbon Balance Tool that has specifically been developed to account for the impacts of windfarm development on peatland that predicts a net reduction in greenhouse gasses of between 57862 tCO_2e and 118507 tCO_2e over a 25 year operational lifetime. The predicted emissions payback time would be between 0.8 and 2.3 years. The applicant indicates that removing wind turbine 1 from the proposed development as SNH have suggested would result in a reduction in likely power generation of between 302GWh and 451GWh over the expected 25 year lifetime of the development. The applicant has submitted a report by an environmental consultant that examines the comments from SNH in more detail and considers SNH's approach to be flawed as follows:

- Not providing any evidence to contradict the findings of the EIAR;
- Misapplied the guidance within national policy;
- Incorrectly considered the effects on peatland based on the impacts on secondary rather than primary features;
- Failed to take into account the beneficial effects of proposed mitigation and enhancement measures; and
- Not taken into account the proposals compliance with its own emerging Peatland and Energy Policy.

The applicant commits to utilising the proposed micro-siting allowance to minimise impacts, and to including additional habitat enhancement measures within the final agreed Habitat Management Plan such as damming and grazing control, and considers that given this there would be no significant effects on the peatland resource in line with the requirements of Scottish Planning Policy.

7.105 SNH were re-consulted on the response from the applicant and the additional Peatland–related assessment of Turbine 1 that was submitted by the applicant, and in response to this SNH indicated that it remained their opinion that "the

section of the site to the north of the A970 includes areas of high quality peatland and that damage to nationally important habitat is likely unless turbine 1 and its track is removed from the proposal". SNH goes on to say, "We are content that Shetland Islands Council judges whether the proposal is contrary to Scottish Planning Policy with regard to carbon rich soils, deep peat and priority peatland habitat".

7.106 Having examined the information provided in the EIAR and the additional information submitted by the applicant in the context of SPP, Policy RE1 of the SLDP and the Council's Supplementary Guidance on Onshore Wind Energy (adopted 2018), all of which are supportive of renewable energy developments provided that there are no unacceptable impacts on people or on the environment, it is considered that the information submitted has demonstrated that although there will be an impact on peatland, the impact can be minimised by careful micro-siting of the wind turbines and supporting infrastructure, and any impacts can be off-set by employing construction techniques and habitat restoration to ensure carbon balance and a reduction in greenhouse gases. In terms of SPP in relation to impacts on carbon rich soils, deep peat and priority peatland habitat it is stated that "Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation". No evidence has been presented to substantiate the claim that the peatland habitat in the vicinity of wind turbine 1 is of national importance. The information provided within the EIAR would point to the peatland in the vicinity of Turbine 1 being 'Class 2' peatland, where the proposals for micro-siting together with habitat restoration proposals and construction management techniques will ensure that the proposed development does not result in a significant adverse impact on the peatland in the area and does result in a reduction of greenhouse gases and makes a positive contribution to climate change. Given the above it is considered that the proposed development is in line with Scottish Planning Policy, policies GP1, GP2, NH5, and RE1 of the SLDP and complies with the requirements of Shetland Islands Council's Supplementary Guidance on Onshore Wind Energy (adopted Feb 2018).

7.107 **Geology, Hydrology and Hydrogeology**

The likely impacts of the proposed development on the geological, hydrological and hydrogeological environment has been assessed in the EIAR for both the construction and decommissioning phases as well as the operational phase of the development. The conclusion of the assessments undertaken is that without the adoption of effective mitigation measures there would be likely adverse significant impacts on surface water and water within the peatbog during construction and decommissioning.

7.108 Scottish Water in commenting on the proposed development noted that the development could impact on existing Scottish Water assets and that any conflict with assets identified may be subject to restrictions on proximity of construction. The applicant will require to work with Scottish Water to establish if there is any conflicts with existing infrastructure. Scottish Water also indicated that wind turbine 6 is located close to, but likely just outside the catchment area of the Sandy Loch. However Scottish Water indicated that there may be uncertainties related to the actual catchment boundaries based on desk studies and that ground-truthing may be required to determine the exact catchment boundary and establish whether any proposed activities could impact on the catchment. This aspect of the development can be controlled by a planning condition to require details of ground-truthing to be carried out.

7.109 SEPA raised no objections to the proposal following clarification about a potential private water supply within the site. However SEPA requested that planning conditions be attached to address several issues such as:

- Micro-siting;
- Details to be included in the final Construction Environmental Management Plan (CEMP);
- Watercourse crossings, type/size/design;
- Proposed infrastructure, with certain exceptions outwith buffer areas around watercourses;
- Decommissioning and restoration plan.

The conditions required by SEPA are fairly standard and it is proposed that planning conditions to address the issues raised by SEPA be applied to any permission for this proposed development.

7.110 The Council's drainage engineer has pointed out that SUDs drainage is a requirement for all parts of the proposed development and appear to be strongly influenced by environmental issues related to peat hydrology, peat stability and GWDTE. Different aspects of the proposed construction may raise different issues or be best served by different approaches and these may also vary between the construction period and the operational phase. The Council's drainage engineer also agreed with the main conclusions of the Flood Risk Assessment submitted in Technical Appendix 12.1 that across the site there is little risk of coastal, groundwater or sewer flooding and that river flooding and surface water flooding risks are likely to be limited to areas where there are watercourse crossings. The drainage engineer has confirmed that the information submitted indicates the general approach that will be taken to the drainage design and confirms that the appropriate guidance documents will be followed, but does not go further towards showing even generic drainage proposals, while information prior to site work will require further increase in location specific design details.

7.111 Baseline studies of the site included desk studies and field studies to collect geological, hydrogeological, and soil information, and to identify waterbodies and watercourses within the site, and were undertaken and used to influence the design process, with the initial layout and design being modified to avoid the Drinking Water Protection Area, to avoid the landfill site at North Staney Hill, and to ensure that existing Scottish Water infrastructure within the site is protected.

7.112 Mitigation proposed involves, amongst other things, the following measures: production and approval of a CEMP for the proposed development; careful storage of any oils and fuels required during construction; procedures to be set out for plant refuelling on site; buffers applied to drainage channels; streams and water courses in and near the application site; movement and import of materials to the site minimised as far as possible; no concrete or wash down waters to enter watercourses or be allowed to infiltrate ground water; removal of vegetation minimised; site activities to be monitored by Site Manager and Ecological Clerk of Works; and water quality monitoring to be undertaken

7.113 It is considered that the submission of a full site specific Construction Environmental Management Plan (CEMP), and Peat Management Plan (PMP) that takes account of a potentially damaging operation and sets out the mitigation to be applied or the procedures to be followed to ensure that no environmental damage occurs along with a programme of water quality monitoring to be undertaken to ensure that water quality is maintained, can be controlled by planning condition that requires the submission of these details for approval before any works begin on site. It is also proposed that a planning condition be attached requiring the submission of a full drainage plan for the development. It is considered that together these will ensure that water and drainage within the site is adequately managed to ensure that impacts on the surrounding environment are minimised. It will be important to cross reference between the various plans that will be required to be submitted before any development commences to ensure that impacts are managed and that plans are not contradictory. Given the above it is considered that subject to appropriate planning conditions the proposed development will comply with policies NH7 and WD3 of the SLDP that require the freshwater environment to be protected, and surface water run-off to be adequately controlled.

7.114 **Aviation**

Wind Energy developments have the potential to impact on aviation interests either by creating a physical obstruction or by being visible to radar systems so that the safe provision of air traffic control services is affected. Following consultation with aviation receptors, the EIAR identified 3 key issues:

- Routing implications for flights between Tingwall Airport and Fair Isle under certain weather conditions (around 10 % of Flights);

- Implications for the future design and implementation of Area Navigation (RNAV) approaches utilising Global Navigation Satellite Systems (GNSS) at Tingwall Airport; and
- Likely impacts on the recently installed Ministry of defence (MOD) air defence radar at Saxa Vord.

To address the potential issues discussions were held with the operators of Tingwall Airport and Air Task. A single route to and from Fair Isle from Tingwall would be impacted by the development as the airport currently operates. As aircraft either approach runway 02 on flights from Fair Isle or depart from 20 en-route to Fair Isle in easterly winds they cross the area above the proposed wind farm at heights (at or below turbine tip height) that would pose a risk to safety should the proposed wind turbines be installed. Analysis of met data showed that this would equate to a maximum of approximately 10% for Fair Isle departures and arrivals. During times when the wind directions differ, when the runway that is unaffected is in use and for all other routes, aircraft would not cross the proposed wind farm site. Therefore wind turbines at the proposed site would represent an obstacle hazard under those particular circumstances and generate downwind wind turbulence that would pose a risk to aircraft flying at or below blade tip heights in the vicinity of the proposed wind farm development.

7.115 Without mitigation there would be a significant effect on Fair Isle flights during easterly winds. Discussions were held and assessment and modelling was undertaken to explore Fair Isle routing options during easterly winds. It was established, following discussions with Air Task, that there are a number of viable alternative routing options that will avoid the risks. These consist of routes to the north of the site and approaches that involve passing above the application site at higher altitude before undertaking a steeper descent. Therefore it is considered that with the alternative routing proposed there will be no impact on the operation of Tingwall Airport.

7.116 In terms of the adoption of approaches to Tingwall Airport that use satellite navigation systems at some point in the future, the applicants indicated that although there are no firm plans to introduce a satellite navigation system at Tingwall Airport, the airport operators wanted to know whether the proposed wind farm would prohibit this. Therefore the applicants examined the feasibility of designing two types of satellite navigations procedures for the airport, lateral navigation (LNAV) and vertical guidance (APV). The results were that there would be no impact on the adoption of lateral navigation procedures for approaches to runway 02 as wind turbines at the Burradale Wind Farm would remain the key obstacle in that case. Approaches to runway 20 would require a raised Obstacle Clearance Altitude (OCA). These findings were shared with the two main stakeholders who would be likely to benefit from the adoption of satellite navigation systems, Gama Aviation (air ambulance), and Bristow Helicopters (coastguard search and rescue). Gamma Aviation confirmed that it would not utilise an LNAV system at its aircraft are equipped with APV systems.

Bristow Helicopters confirmed that LNAV would not provide any operational advantages and so would not be used. Therefore impacts on future adoption of satellite navigation systems at Tingwall Airport would be negligible.

7.117 In commenting on the application the operators of Tingwall Airport raised no objections to the proposed development indicating that the proposed wind turbines "…are not obstacles in our OLS and probably won't have any operational significance to the airport". However the operator of Tingwall Airport also indicated that the wind turbines should be lit in accordance with Cap 764.

7.118 Highlands and Islands Airport Ltd indicated that their calculations showed that the proposed development would not infringe the safeguarding surfaces for Sumburgh Airport, but indicated that due to its height and position a red aviation warning light may be required to be fitted at the hub height of some of the wind turbines. The Civil Aviation Authority has been consulted on the application but no reply has been received. The CAA may choose not to respond to planning applications when it considers that an application is outwith its remit.

7.119 The operators of Scatsta Airport objected to the application on the basis that the proposed development conflicted with the airport's safeguarding criteria regarding the radar and potentially Instrument Flight Procedures. The operators of Scatsta Airport indicated that a full operational impact assessment would have to be commissioned by the developer to satisfy the aerodrome authority that the development would not impact both current and future air traffic service provision at Scatsta Airport. The developer subsequently submitted an assessment of the impacts of the proposed development on Scatsta Airport (in February 2019) that concluded that the proposed wind farm would necessitate an increase in the Minimum Sector Altitude (MSA) in the south west quadrant for instrument approaches to Scatsta from 2000ft to 2100ft. This is not considered to be a significant effect because arrival altitudes in all other quadrants already equal or exceed 2100ft. In addition it should be noted that a built Viking Wind Farm will already require the MSA in the south east quadrant to be raised to 2400 ft. Five of the proposed Mossy Hill wind turbines will be within line of sight of the Compass Head Primary Surveillance Radar (PSR) and may generate primary radar returns on the screen. NATS has determined that the effects of the turbines on the Compass Head PSR are operationally acceptable.

7.120 The assessment of the impact on Scatsta Airport concluded that any effects on Scatsta Airport Air Traffic Control could be dealt with by treatment of radar returns from the wind turbines as 'clutter' in accordance with procedures set out in the Manual of Air Traffic Services Part 1 and/or with traffic information on transponding traffic only. National Air Traffic Services (NATS) submitted a holding objection in connection with the proposed development but withdrew this following a review of their operation in the vicinity of the proposed development which determined that although this is likely to impact their electronic

infrastructure, this impact can be managed such that it does not have an effect on the provision of a safe and efficient en-route ATC service.

7.121 In commenting on the further information submitted by the applicant in connection with impacts on Scatsta Airport, the operators of Scatsta Airport initially indicated that they had engaged with the authors of the report for further information specifically around modelling of the radar feed from both Fitful and Compass Head to quantify the findings. The operators of Scatsta Airport note that they are keen to reach an agreement with the developers but need to ensure that they have the correct information prior to removing their objection.

7.122 It is proposed that a planning condition be added to any permission that requires a radar mitigation scheme for Scatsta Airport to be submitted for approval in consultation with the operators of Scatsta Airport. Similar comments were submitted in connection with the recent application for a variation to the Viking Wind Farm and a planning condition was attached to the permission for the Beaw Field Wind Farm in South Yell requiring the submission of a radar mitigation scheme.

7.123 In terms of lighting the applicant has pointed out that the fitting of aviation lighting is governed by the Air Navigation Order (ANO) that requires any structures of 150 metres in height or more to be lit with a steady red light. Therefore none of the proposed wind turbines require to be lit as they are under 150 metres in height. The CAA requires structures less than 150 metres to be lit when a structure penetrates the obstacle limitation surfaces of an aerodrome and where aviation stakeholders make a case that the structure is, by virtue of its location and nature, a significant navigational hazard. The applicant has indicated that none of the proposed wind turbines will penetrate the obstacle limitation surfaces for any aerodrome. Tingwall Airport's obstacle limitation surfaces extend to a maximum of 2700 metres radius from the Aerodrome Reference Point (ARP) and the nearest proposed wind turbine is 3147 metres for the ARP. The applicant is happy to discuss the issue of lighting further and provide a lighting scheme for the development should it be approved. It is therefore proposed to attach a planning condition to any permission that requires the submission of an aviation lighting scheme for approval prior to the commencement of development.

7.124 The Ministry of Defence (MOD) responded to the application with an objection on the basis that the proposed wind turbines would be 75.5 km from, detectable by and will cause unacceptable interference to the Air Defence (AD) radar at RRH Saxa Vord. The MOD indicated that research into technical solutions is currently on-going and that the developer may wish to consider investigating suitable mitigation solutions. The MOD also indicated that if the issues stated above can be overcome the MOD will request that the perimeter turbines are fitted with lighting. This is a fairly standard comment from the MOD on proposed wind farms in the vicinity of AD radar systems. A similar comment was received by

the Energy Consents Unit (ECU) in connection with the recent Viking Wind Farm variation application.

7.125 In response to the comments from the MOD on the lighting of the proposed development, the applicants indicated that the comments on lighting is a standardised response from the MOD based on MOD policy in relation to military low flying training at night. However the applicants pointed out that this response does not take account of the location of the proposed development as Shetland is not part of the UK Night Low Flying System, whose boundaries extend no further north that the Pentland Firth. The applicant also submits that the MOD request for lighting would be addressed by any lighting scheme agreed to meet the requirements of Tingwall Airport. The MOD however has indicated that Shetland is part of the UK Military Low Flying System and that the low intensity lighting scheme proposed to address the airport's aviation requirements is not consistent with the lighting specifications identified by the MOD for maintaining the safety of low flying military aircraft. Therefore it is proposed that a suspensive planning condition be attached to any permission that requires the submission of a lighting scheme for the proposed wind farm for approval in consultation with the interested parties including Tingwall Airport operators and the MOD, before any development can commence. This will address the safety concerns of the aviation bodies.

7.126 In response to the objection on the basis of impact on the AD radar the applicant indicated that the MOD is currently considering options relating to wind farm mitigation measures with the Scottish Government, working with it to arrive at a solution to avoid retarding onshore wind development. The applicant has suggested the application of a suspensive planning condition to any permission to the effect that, should mitigation measures be required, it would secure the agreement and implementation of those measures.

7.127 In response to the further information submitted by the applicant, the MOD pointed out that it is the responsibility of the applicant to provide a mitigation of the impacts their proposed development will have upon this national defence interest. The MOD indicate that it is unable to accept the condition put forward by the applicant because it had not received a mitigation proposal from the applicant that addresses the adverse impact the proposed wind farm will have on RRH Saxa Vord.

7.128 However, it is considered that a suspensive planning condition that again requires the submission of details, in this case, of a radar mitigation scheme for RRH Saxa Vord, for approval in consultation with the MOD before the development begins will ensure that no development can begin until appropriate mitigation has been approved. The approved scheme of mitigation would then be required to be implemented before the development can be operational. A

suspensive planning condition would ensure that if no agreement is reached the development cannot proceed.

7.129 It is concluded that, subject to the conditions proposed, the development will not be able to proceed until it has been demonstrated that the development will not have a significant detrimental impact on aviation routes or airport navigation systems in or around Shetland, and adequate mitigation can be secured by condition to ensure that the proposed development will not have an impact on Air Defence radar. Therefore the proposal is considered to be in compliance with Policy TRANS1 of the SLDP that requires that development will not prejudice the development of an efficient and integrated transport system.

7.130 **Telecommunications and Radio Communications**

Wind farm developments have the potential to impact upon telecommunications and radio-communications by physically obstructing them or reflecting their signals. According to the EIAR, during the design process, impacts on identified radio links were fully mitigated and no effects were predicted on television services. The study area for radio-communication links covered the site area plus a 3.5 km radius from the site centre. Television reception was assessed within a 10 km study area from the site centre beyond which it was considered that effects on television reception was not likely.

7.131 In terms of radio communications, at its closest point, the site is located approximately 765m to the west of the telecommunications masts at Hill of Shurton that provide coverage for numerous links across mainland Shetland. A total of 38 micro-wave links were identified crossing the site. As part of the assessment, consultation was undertaken with the Joint Radio Company (JRC) that also identified UHF links within close proximity to the site that are likely to be impacted. The main impacts of the development will be during the operational phase of the development. According to the EIAR, avoidance of micro-wave links and their associated buffer zones during the design process means that there would be no effects on their operation. In terms of the UHF links likely to be impacted consultation is ongoing and should it be required the EIAR states that technical mitigation is available and would be agreed with the link operator prior to the development becoming operational. This aspect of the development can be controlled by a planning condition that requires details of the mitigation to be put in place should it be required to ensure that the radio communications are not affected.

7.132 In terms of television the assessment undertaken as part of the EIAR has concluded that no viewers of services from Bressay are located within an area where signals may be affected. Signal from the Scalloway transmitter does not propagate either to or over the proposed development and therefore the EIAR concludes that there would be no effects on reception of Digital Terrestrial

Television (DTT) services in the area. It is fairly standard to attach a planning condition that requires a television, radio and communications equipment reception mitigation plan to be submitted and implemented for a wind farm development, and it is proposed that this be the case for this proposed development. This will also ensure that impact on existing properties that could occur in the event of interference with various signals will be remedied by the developer.

7.133 From the studies undertaken, taking into account the embedded mitigation during the design proposed and subject to suitable planning conditions, it is considered that impacts on radio, television and telecommunications in the vicinity of the proposed development will be adequately safeguarded and the proposal complies with policy GP2 that safeguards existing users of the area.

7.134 Access, Traffic and Transport

It is proposed that access into the proposed wind farm site will be taken from two new junctions at the north and south sides of the A970 west of ladies drive and one new junction on the north side of B9073. The vast majority of traffic to the site would be normal construction plant and would arrive at site on low loaders. The wind turbine parts would require specialist transport vehicles and a large self-propelled crane and supporting ballast vehicles would be used to erect the wind turbines. It is proposed that components would arrive at the Green Head Base, the nearest Port of Entry (PoE) to the site and be transported to the site along the public road network either to the access off the A970 or the access from the B9073. To accommodate the movement of abnormal indivisible loads (AILs), traffic management consisting of provision of load bearing surface to accommodate overrun, road widening and street furniture removal would be required at several locations along the route. Traffic generation would be at its highest during the construction period, (estimated to last about 24 months) and the EIAR estimates that at its highest (month 9) there would be 94 traffic movements per day (47 inbound and 47 outbound trips). There would also be 66 HGV movements a day with a further 28 car and light van movements to transport construction workers to and from the site. The construction traffic will tail off after this peak period. Construction effects would be temporary and reversible.

7.135 Traffic generated during operation of the wind farm will amount to around 2 vehicles a week for maintenance. There may also be the occasional abnormal load movement to the site to deliver replacement components. Similar traffic movements to the construction phase is estimated for the decommissioning of the proposed development. The EIAR assessed the likely effects of construction traffic on the various roads making up the construction routes to the site and concluded that there would be no significant effects on traffic but there could be a significant effect on cyclists using the A970 through loss of amenity and

additional accident and safety risks. Mitigation proposed for the construction period includes ensuring that access to the National Cycle Route, which follows parts of the A970 and B9073 that could be affected by the development, is maintained. This would be managed through implementation of a Construction Traffic Management Plan (CTMP) and Traffic Management Plan.

7.136 In commenting on the planning application the Roads Service had some concerns about the detail of the accesses onto the A970 and the potential creation of a crossover between the north and south parts of the site that are separated by the A970. The Roads Service considered that the access point on to the B9073 is acceptable in terms of visibility but will require a considerable amount of infill to achieve the maximum acceptable gradient of 5% for the first 20 metres. The Roads Service welcomed the proposal to use as much peat as possible within the application site, but was concerned that peat from the north part of the site may require to be transported to the south part of the site for re-use, which would involve transporting it across the A970. The Roads Service pointed out that the movement of abnormal loads from Greenhead, Lerwick to the application site will impact on various junctions with the need to remove street lighting, signs and splitter island bollards, but also indicated that this can be controlled by planning condition following more information so that details of mitigation works can be agreed. The Roads Service also point out that a number of quarries have been identified for sourcing materials for the proposed development, but no haulage routes have been determined. Haulage of materials to the site could result in impacts on the road network that may need to be mitigated/managed, as well as additional wear and tear and/or damage that may need to be addressed and therefore the Roads Service has asked for a planning condition to be attached to the effect that a road condition survey is conducted between each proposed source point for materials and the site to ensure that additional wear and tear/damage to the public road network by the proposed development can be clearly identified. This is a fairly standard requirement that can be secured by planning condition.

7.137 The Roads Service also raised some issues about the design of the internal roads proposed to serve the wind farm indicating that it was too narrow for 2 way traffic and suggesting that it be widened or passing places provided. The Roads Service also asked for design parameters for the proposed access roads within the site. The applicant provided further information on the slopes and gradients proposed and directed the Roads Service to the Peat Management Plan for additional details. In terms of the width of the roads within the site the applicant pointed out that the design proposed sought to reduce environmental impacts by minimising habitat loss and peat disturbance and that it was not envisaged that traffic movements within the site would result in a high volume of instances where vehicles would be required to pass each other on sections of track. Where passing and manoeuvring is required spur junctions and crane pad areas can be utilised. The Roads Service responded by indicating that while this is

generally an on-site management issue for the developer it could become a road safety issue if there is any likelihood of vehicles backing up on the public road because they have to wait to get into the site.

7.138 In response to the various comments made by the Roads Service revised details of the proposed junctions into the site from the A970 were submitted that amongst other things incorporated a double width section of track at the proposed new HGV access to avoid stacking of traffic back onto the highway. Following the receipt of further information on 26 February 2019 in connection with the roads issues, the Roads Service has indicated that it has no objections to the proposal subject to planning conditions in the form of a Peat Management Plan (PMP) to include details of any peat movements proposed across the public road dividing the north and the south parts of the development site, and road condition surveys to be carried out on all haul routes to the development site.

7.139 Therefore it is considered that subject to suitable conditions, including the provision of a peat management plan that amongst other things details how peat will be moved around the site and details how it will be reused to minimise transport across the site, a construction traffic management plan that includes details of how conflict between cyclists and construction traffic would be prevented, details of the source of materials to be imported to the site, and a road condition survey for all haul routes to the site, the impacts on traffic and transport that would occur mainly during the construction and decommissioning phases will be managed to ensure that road safety is not prejudiced.

7.140 The Council's Environmental Health Service had some concerns about the proximity of one of the proposed access tracks into the site to the former landfill site at Staney Hill Quarry. The applicant proposes that prior to construction of the access track in this area, trial pits would be dug so that sampling could identify any contaminants or areas of made ground. If there is evidence of conflict with the landfill site this would be managed through micro-siting, or if that is not a viable option, adoption of an engineering solution that ensures that landfill material is not mobilised (e.g. capping of the landfill beneath the access track). It is considered that these proposed measures should be incorporated into the Construction Environmental Management Plan that will be secured by condition. This will effectively ensure that no contaminants from the existing former landfill are allowed to cause pollution in the area in compliance with Policy GP2 of the SLDP.

7.141 The Council's Outdoor Access officer was consulted and commented that there are no core paths or public rights of way directly affected within the proposed wind farm site, however it should be noted that this does not preclude the possibility that public rights exist which have yet to be claimed. The Access Officer has pointed out that there is a right to informal access to most land under the Land Reform Act (Scotland) 2003 and that for a development of this scale an

Access Route Plan demonstrating how access will be incorporated and accounted for should be prepared in accordance with the document "A Brief Guide to Preparing an Outdoor Access Plan". The Outdoor Access Officer has highlighted some possible opportunities for linkages from proposed wind farm infrastructure to existing paths/roads that are outside the application site that could be considered by the developer. However the applicant has indicated that there may be some reluctance from landowners in the area to the provision of additional pathways and has also pointed out that additional pathways could lead to added environmental effects, but has indicated that an access plan will be prepared in response to an appropriately worded planning condition. This will ensure that in future appropriate access to the site is considered and incorporated into a formally approved plan.

7.142 Socio-Economics and Tourism

The EIAR includes an assessment of the socio-economic effects of the proposed wind farm development including effects on tourism. The EIAR states that the proposed development would provide between 10 and 20 Full Time Equivalent (FTE) jobs during the 24 month construction period, and goes on to state that the applicant is committed to sourcing as much local labour as possible. There would also be further indirect jobs created when considering the supply chain for goods and service required during the construction phase estimated at being between 29 and 58 FTE's. During the operational phase of the proposed wind farm it is anticipated that between two and four direct jobs would be created and between 3 and 6 indirect FTE jobs. The EIAR points out that although the operational phase is not labour intensive, the work created would represent new opportunities and diversification of jobs.

7.143 A number of localised significant effects on tourism are identified, all relating to the visual presence of the proposed development and affecting some tourist accommodation as well as some core paths and cycle routes from which users will be able to see the proposed development. Mitigation measures associated with cultural heritage, landscape and visual, noise, and shadow flicker are proposed aimed at reducing impacts, including those on tourism.

7.144 Shetland has a well-established tourist industry, and studies undertaken have concluded that tourism and recreation activities are generally of low sensitivity to wind farm developments (eg BIGGAR Economics – Wind Farms and Tourism Trends in Scotland 2017 and Visit Scotland – Wind Farm Consumer Research 2011). In the absence of substantiated evidence to the contrary, it is considered that the development would not have an overall significant effect on tourism in Shetland in general.

7.145 In their comments on the proposed development, the Economic Development Service of the Council has indicated that the proposed development 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 the UK Mainland", and the strategy objectives to "encourage growth, development and diversification in the private sector".

7.146 Community Benefit Fund

The applicant has indicated a commitment to the provision of a Community Benefit Fund based on a value of £5000 per MW of installed capacity per annum throughout the lifetime of the development. This is in line with current government advice contained within "Scottish Government Good Practice Principles for Community Benefits from Onshore Renewable Energy Developments". However at present the provision of community benefits as set out in the guidance above is not linked to planning consent and is therefore not a material planning consideration.

7.147 Community Council Comments

The Community Councils of Lerwick, Scalloway, Gulberwick, Quaff and Cunningsburgh, and Tingwall, Whiteness and Weisdale were consulted on the proposed development.

7.148 The Lerwick Community Council noted that there were arguments both against it and for it and on balance decided to offer an official response as "noted" and provide no further comments.

7.149 Scalloway Community Council objected on the grounds of impact on the National Scenic Area (NSA); construction and long term impacts on hill and moorland and various plant, animal and bird species; impact on the B9073 which is a significant thoroughfare for tourist related traffic to Scalloway; potential impact on telecommunication signals upon which Scalloway is reliant; noise pollution; and impact on the Shetland Clay Target Club.

7.150 The Gulberwick, Quarff and Cunningsburgh Community Council indicated that they could see both the negative and positive sides of the application but took account of the views of some of their constituents who had objections/concerns. The points raised were in connection with the need for a standardised application process for wind farm applications to include an ethical and financial check on the applicant/company and decommissioning plans. Members raised similar concerns to Scalloway Community Council on potential environmental impacts and were concerned about house prices. Members would like more information on proposals for community benefits from the proposed development and information on the ring-fencing of money for decommissioning.

7.151 The Tingwall Whiteness and Weisdale Community Council objected on the grounds of environmental impact, impact on telecommunication signals, TV and radio, noise pollution to Tingwall and Frakkafield residents, impact on Dale Golf Course.

7.152 Objections Received

Most of the objections received have been addressed in the body of the report above. There were some concerns about the financial provisions to be put in place for the decommissioning of the development. It is proposed that a planning condition be attached that will ensure that a financial guarantee is in place to cover all decommissioning and restoration obligations for the proposed wind farm should planning permission be granted.

7.153 The Shetland Clay Target Club raised concerns in connection with access, siting, design, over-development, overshadowing and safety and object to turbines 10 and 12. They point out that Turbine 12 is on the boundary of their safety zone. In response to this the applicants have pointed out that shooters need to focus on clays as they move across the range and need to discern those nearfield targets against various more distant moving elements. As with other sporting activities that co-exist alongside operational wind turbines (e.g. cricket, golf) participants are expected to be sufficiently focused on their targets to be able to disregard the proposed wind turbines. The assessment in the EIAR states that views of the proposed wind farm are likely from this location, however full views would be restricted due to topography and should not prevent the near field focus required to shoot clays. Given the location of the Clay Target Club to the South of the proposed wind turbines it is not considered that there will be a significant impact as a result of shadow flicker.

8.0 Conclusions

It is clear that Scottish Planning Policy, as set out at paragraphs 7.2 to 7.15 above, that there is much support for renewable energy developments. The National Planning Framework 3 (NPF3) sets out the Scottish Government's commitment to establishing Scotland as a leading location for the development of renewable energy technology, and considers that onshore wind will continue to make a significant contribution to diversification of energy supplies, in the right places.

8.1 Scottish Planning Policy (2014) introduces a presumption in favour of development that contributes to sustainable development. Paragraph 29 of SPP sets out that policies and decisions should be guided by certain principles, including: giving due weight to net economic benefit; supporting delivery of infrastructure including energy, and: protecting natural heritage, including

landscape and the wider environment. SPP also states that the planning system should support the development of a diverse range of electricity generation from renewable energy technologies – including the expansion of renewable energy capacity (paragraph 154). Paragraph 169 states that proposals for energy infrastructure developments should always take account of spatial frameworks for wind farms and states that further considerations will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation.

8.2 The Shetland Local Development Plan (2014) is supportive of sustainable economic developments and tackling climate change is a major consideration for all development proposals (Policies GP1 and ED1). Policy RE1 sets out the Council's commitment to delivering renewable energy developments that contribute to the sustainable development of Shetland, provided that there are no unacceptable impacts on people (benefits and disbenefits for communities and tourism and recreation interests), the natural and water environment, landscape, historic environment, and the built environment and cultural heritage of Shetland.

8.3 Supplementary Guidance (SG), Onshore Wind Energy (adopted Feb 2018) sets out the detailed guidance on where, in principle large-scale onshore wind energy developments will be acceptable in Shetland, and is based on the principles set out in SPP. This SG points out that Shetland is well placed to make a positive contribution to the national targets through development of the outstanding renewable resources available such as wind, wave and tidal and states that the Council seeks to support these opportunities ensuring that Shetland's renewable energy potential is optimised.

8.4 In terms of the spatial assessment of suitability for onshore wind energy developments the site proposed in this application has been chosen to avoid any national designations in connection with landscape or natural heritage and to ensure that impacts are minimised for people living around the proposed site. However the site was defined largely as being within a Group 2 area due to the mapped presence of peat and carbon rich soils where further consideration is required to demonstrate that significant effects can substantially be overcome. SNH objected to the proposed development because of the presence of high quality peatland in the area proposed for wind turbine 1, but are content that the Council judges whether the proposal is contrary to Scottish Planning Policy in this respect. It is acknowledged that the majority of the site is classed as blanket bog, but the EIAR and supporting information submitted concluded that all the blanket bog was considered to be modified by drainage, peat cutting and sheep grazing and that there was a range of quality of blanket bog across the site. The proposed layout of the wind farm it is stated has attempted to avoid areas of deep peat, but it would not be possible to accommodate all the necessary infrastructure without disturbing some peat. A peat slide risk assessment has been prepared that indicates that the risk of peat slide is not high. An outline

Peat Management Plan, and Habitat Management Plan have also been prepared which set out the mitigation proposed to reduce impacts on peatland and improve the peatland habitat. Wind turbine 1 can be micro-sited to avoid the deepest peat and move the turbine further away from the pool system near this turbine and the route of the access track to this turbine will have to be carefully considered. The CEMP that is required detailing all aspects of construction and surface water management plan will also contribute to ensuring impacts on peat are minimised and ultimately count towards ensuring that degradation of peatland habitats observed on parts of the site is reversed, which would be a positive contribution to the peatland habitat as a whole.

8.5 Given that SPP does not state that there should be no development on areas of deep peat or carbon rich soils and that proposals for development in such areas must demonstrate how impacts can be minimised, taking account of the peat management measures and other mitigations proposed, it is considered that the proposed development is generally in compliance with SPP as it refers to development on peatland and carbon rich soils.

8.6 Any decision for a wind farm development is a balance between potential benefits and anticipated adverse impacts. The most relevant benefits that the proposed wind farm provides is net economic benefit, the scale of contribution to renewable energy generation targets, and the effects of the development on greenhouse gas emissions.

8.7 The Scottish Government's Carbon Calculator tool was developed to assess the carbon balance of onshore wind energy developments. This tool was used by the applicant for the proposed development and predictions are that the proposed development would lead to a reduction in greenhouse gas emissions of between 57,862t CO_2e and 118,507t CO_2e over a likely 25 year operational lifetime. The predicted emissions payback time is calculated at between 0.8 and 2.3 years. This being the case the proposed development would result in a positive significant effect on climate change and carbon balance throughout the lifetime of the development and make a significant contribution to meeting greenhouse gas emission and renewable energy targets.

8.8 The EIAR estimates that between 40 and 80 net additional full time equivalent (FTE) jobs would be created during the construction, operation and decommissioning phases of the development. This consists of 14-28 FTE direct jobs and a further 26-52 indirect and induced jobs in the wider economy. This level of job creation is noted as a potential significant benefit of the proposed development for the Shetland economy. The creation of new construction jobs could potentially lead to an increase in direct Gross Value Added (GVA) of a total of between £444,000 and £888,000 with a further indirect GVA of between £888,000 and £1,777,000 to the local economy during the construction phase. Jobs associated with the operational phase would lead to direct added value to

the economy of between £140,000 and £280,000 direct GVA and around a further £170,000 to £336,000 of indirect GVA to the local economy. The Council's Economic Development Service comments that "together with renewable energy projects there would be an opportunity for long term skilled jobs in the renewables sector". This would require a commitment for local skills development across renewable energy developers, local businesses and training bodies".

8.9 The Council's Economic Development Service also point out that the proposed development is in line with the Council's Economic Development Strategy 2018-2022. It is also pointed out by it that additional consented energy generation in Shetland would add support to the needs case for the High Voltage DC link between Shetland and the Scottish Mainland.

8.10 The applicant would deliver a voluntary contribution to a community benefit scheme related to the proposed wind farm based on a value of £5000 per MW of installed capacity per annum throughout the lifetime of the development. However it must be noted that these figures are not a material consideration in the assessment of the merits of the proposed development in the determination of the application.

8.11 It is recognised that there would be some localised significant effects on landscape character in some areas that cannot be mitigated, but no significant impact on the National Scenic Area as confirmed by SNH. Visual impact on residential amenity, although significant in some instances, has not been found to be so overbearing or detrimental as to warrant refusal of the application. Potential impacts from noise and shadow flicker can be managed to ensure that they do not cause an unacceptable nuisance. It is considered that the impact on potential archaeology can be controlled by planning condition, and it is considered that there will be no unacceptable impact on the historic built environment. In terms of impact on ornithology, ecology, European Protected Species and the pSPA it is considered that with the mitigation proposed that will be secured by planning condition, and with development of the Bird Breeding Protection Plan, Habitat Management Plan and Construction Environmental Management Plan that will require to be implemented during the construction and operation of the proposed development, potential effects have been reduced to acceptable levels. Potential impacts on aviation interests can be controlled by suspensive planning condition to secure the development and submission of a scheme of development that is satisfactory to the aviation bodies such as Scatsta Airport, Tingwall Airport and the MOD (Saxa Vord Radar). Traffic to and access into the site will be managed to ensure that there are no impacts on roads safety during the construction or decommissioning phases of the development.

8.12 It is concluded that the proposed development would make a significant contribution to meeting greenhouse gas emission and renewable energy targets,

would provide job opportunities and contribute to the local economy, and that environmental effects can be mitigated by planning conditions. Impacts would, it is considered, be outweighed by the benefits of renewable energy generation. On balance it is recommended that this application be approved.

8.13 The commencement recommendation of allowing five rather than three years by the making of a Direction reflects acceptance of the applicant's request, and reflects the nature and number of fully suspensive conditions that require to be addressed and discharged.

9.0 Recommendation

Approve subject to the conditions as attached at Appendix A to this report.

10.0 Reasons for Approval

Although there would be some localised significant effects on landscape character in some areas that cannot be mitigated, there would be no significant impact on the National Scenic Area as confirmed by SNH. Visual impact on residential amenity, although significant in some instances, has not been found to be so overbearing or detrimental as to warrant refusal of the application. Potential impacts from noise and shadow flicker can be managed to ensure that they do not cause an unacceptable nuisance. Any impact on potential archaeology can be controlled by planning condition and it is considered that there will be no unacceptable impact on the historic built environment. In terms of impact on ornithology, ecology, European Protected Species and the pSPA it is considered that with the mitigation proposed that will be secured by planning condition, and with development of the Bird Breeding Protection Plan, Habitat Management Plan and Construction Environmental Management Plan that will require to be implemented during the construction and operation of the proposed wind farm, potential effects have been reduced to acceptable levels. Potential impacts on aviation interests can be controlled by suspensive planning conditions to secure the development and submission of a scheme of mitigations that is satisfactory to the aviation bodies such as Scatsta Airport, Tingwall Airport and the MOD (Saxa Vord Radar). Traffic to and access into the site will be managed to ensure that there are no impacts on roads safety during the construction or decommissioning phases of the development. Appropriate mitigation measures and specific planning conditions would ensure that the impact of the development is limited to levels that can be considered to be acceptable. It is concluded that the proposed development would make a significant contribution to meeting greenhouse gas emission and renewable energy targets, would provide job opportunities and contribute to the local economy, and that environmental effects can be mitigated by planning conditions. Impacts would it is considered be outweighed by the benefits of renewable energy generation,

It is therefore considered that subject to appropriate controlling conditions the development is in compliance with Scottish Planning Policy (2014) and with the Shetland Local Development Plan (2014) policies GP1, GP2, GP3, NH1, NH2, NH3, NH4, NH5, NH7, ED1, TRANS1, RE1, W5, WD1, WD2 and WD3.

In accordance with Regulation 3 of The Environmental Impact Assessment (Scotland) Regulations 2017, Shetland Islands Council has taken into consideration the environmental information in determining the above application.

10.0 Appendices

Appendix A: Schedule of Conditions
Appendix B: Appropriate Assessment
Appendix C: Site Plan
Appendix D: Copies of Consultee Comments
Appendix E: Copies of Representations Received

2018/186/PPF Report_of_Handling.doc
Officer: Janet Barclay Smith
Date: 1 April 2019

Schedule of Conditions

Development: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.

Reference No: 2018/186/PPF

Details of Approved Plans and Drawings

Location Plan	Drawing No	11747-057
Site Plan	Drawing No	11747-058
Site Layout North	Fig 03.1A	
Site Layout South	Fig 03.1B	
Proposed HGV Site Entrance	Drawing No	11747-098
Proposed HGV Site Entrance	Drawing No	11747-099
Proposed HGV Site Entrance	Drawing No	11747-100
Proposed HGV Site Entrance	Drawing No	11747-101
Site Access Design (North)	Fig 3.2C	
Site Access Design (South)	Fig 3.2B	

Definitions

"First Commissioning" means the date on which electricity is first exported to the grid on a commercial basis from any of the wind turbines forming part of the development.

"Final Commissioning" means the earlier of (a) the date on which electricity is exported to the grid on a commercial basis from the last of the wind turbines forming part of the development erected in accordance with this permission; or (b) the date 18 months after the date of First Commissioning, unless a longer period is agreed in writing in advance by the Planning Authority.

"Final Decommissioning" means the date on which all the wind turbine generators forming part of the wind farm have been permanently decommissioned and removed from the site and the site has been restored in accordance with the conditions contained in the planning permission.

Conditions:

Approved Plans

1. The development hereby permitted shall not be carried out other than wholly in accordance with the approved plans and details (as may be amended and/or

expanded upon by a listed document following afterward) unless previously approved in writing by the Planning Authority.

Reason: For the avoidance of doubt as to what is being authorised by this permission and to ensure that the development is carried out in accordance with the approved details.

Notice of Initiation of Development

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:

i. include the full name and address of the person intending to carry out the development;

ii. 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;

iii. 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

iv. 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).

Commencement of Development

Duration of Permission

3. The consent is for a period of 25 years from the earlier of: i) the date when electricity is first exported to the electricity grid network from all of the wind turbines hereby permitted; and ii) the date falling 18 months after electricity is generated from the first of the wind turbines hereby permitted. Written confirmation of the date on which electricity is generated from the first of the turbines hereby permitted shall be submitted to the Planning Authority no later than one calendar month after that date. The consent will expire at the end of the 25 year period unless the Planning Authority has expressly approved an extension in writing.

Reason: To define the duration of the consent.

Design and Operation of Turbines

4. (1) No development shall commence unless and until full details of the proposed wind turbines (including, but not limited to, the power rating and sound power levels, the size, type, external finish and colour which should be non-reflective pale grey semi-matt), any anemometry masts, telecommunication towers and all associated apparatus have been submitted to and approved in writing by the Planning Authority;

(2) The details of the wind turbines shall be submitted to the Planning Authority for approval at least 3 months prior to the proposed commencement of development.

(3) The wind turbines shall be consistent with the candidate wind turbine or range assessed in the Environmental Impact Assessment Report, and the tip height shall not exceed 145 metres above ground level.

(4) The turbines shall be constructed and operated in accordance with the approved details and maintained in the approved colour, free from external rust, staining or discolouration, until such time as the wind farm is decommissioned;

(5) All wind turbine blades shall rotate in the same direction.

Reason: To ensure that the environmental impacts of the turbines forming part of the development conform to the impacts assessed in the Environmental Impact Assessment Report and in the interests of the visual amenity of the area in compliance with SLDP (2014) policies GP2 and GP3.

Signage

5. No wind turbine, anemometer, power performance mast, switching station, transformer building or enclosure, ancillary building or above ground fixed plant shall display any name, logo, sign or advertisement (other than health and safety signage) unless and until otherwise approved in writing by the Planning Authority.

Reason: In the interests of the visual amenity of the area in compliance with SLDP (2014) policies GP2 and GP3.

Substations and Other Ancillary Development

6. (1) No development shall commence unless and until final details of the external appearance, dimensions, and surface materials of the substation building, associated compounds, construction compound boundary fencing, external lighting and parking areas have been submitted to, and approved in writing by, the Planning Authority.

(2) The substation building, associated compounds, fencing, external lighting and parking areas shall thereafter be constructed in accordance with the approved details.

Reason: To ensure that the environmental impacts of the sub-station and ancillary development forming part of the development conform to the impacts assessed in the Environmental Impact Assessment Report and in the interests of the visual amenity of the area in compliance with SLDP (2014) policies GP2 and GP3.

Aviation – Scatsta Airport

7. (1) No development shall commence unless and until a scheme detailing the measures required to address the effects of the development on the air traffic services provided by or to the operator of Scatsta Airport has been submitted to and approved in writing by the Planning Authority in consultation with the operators of Scatsta Airport. The scheme shall set out the details of the process by which amendments to the scheme may be proposed by the developer and reviewed by the Planning Authority in consultation with the operators of Scatsta Airport.

(2) No wind turbine shall be erected unless and until those measures required by that time in terms of the approved scheme have been carried out and approved in writing by the Planning Authority in consultation with the operators of Scatsta Airport.

(3) Thereafter and for the lifetime of the development, the development shall be operated in accordance with the approved scheme, incorporating and amendments approved in wiriting by the Planning Authority in consultation with the operators of Scatsta Airport.

Reason: To secure mitigation of impacts on the Scatsta Airport aerodrome navigation systems and radar station in the interests of safety in compliance with Shetland Local Development Plan (2014) policies GP2 and TRANS1.

Aviation – MOD RRH Saxa Vord

8. (1) No development shall commence unless and until the developer has provided to the Planning Authority documentary evidence that an agreement is in place between the developer and the Ministry of Defence (MOD) to provide an Air Defence Radar mitigation scheme for the impacts of the development on RRH Saxa Vord and written confirmation has been given by the Planning Authority to the developer that the proposed mitigation scheme is satisfactory.

(2) The radar mitigation scheme shall set out the details of the process by which amendments to the scheme may be proposed by the developer, reviewed by the

MOD and notified to the Planning Authority and shall set out a timetable for the implementation of the approved mitigation scheme.

(3) Thereafter, and for the lifetime of the development, the development shall be operated in accordance with the approved scheme, incorporating any amendments approved in writing by the MOD and notified to the Planning Authority.

Reason: To mitigate against the potential impact of the operation of the wind turbines on the air defence radar at RRH Saxa Vord, and the air surveillance and control operations of the MOD, and to comply with Policy GP2 of Shetland Local Development Plan (2014).

Aviation Safety

9. (1) At least one month prior to the commencement of the development, the developer shall provide the Planning Authority, the Ministry of Defence Geographic Centre and Defence Infrastructure Safeguarding Organisation, the CAA and NATS with a written statement containing the following information, and evidence has been provided to the Planning Authority that this has been done:

(a) The proposed dates of commencement and completion of the construction phase of the development;
(b) The latitude, longtitude and height above ground level of each wind turbine;
(c) The proposed maximum extension height of any construction equipment on site;
(d) Site lighting if appropriate.

(2) The developer shall as soon as reasonable practicable provide to the Planning Authority the Ministry of Defence Geographic Centre and Defence Infrastructure Safeguarding Organisation, the CAA and NATS written notice of any proposed changes to the information provided above including any micro-siting adjustments made in compliance with the relevant condition.

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

Aviation Lighting

10. (1) No part of any turbine shall be erected above ground unless and until a scheme for aviation lighting for the development has been submitted to, and approved in writing by, the Planning Authority in consultation with the Ministry of Defence and the operators of Tingwall Airport.

(2) No lighting other than that described in the approved scheme shall be applied, other than that required for health and safety purposes, unless otherwise agreed in writing by the Planning Authority.

(3) The turbines shall be erected with the approved lighting installed and the lighting shall remain operational throughout the duration of the permission unless otherwise agreed in writing by the planning Authority.

Reason: In the interests of aviation safety and in order to comply with Shetland Local Development Plan (2014) policies GP2 and TRANS1.

Removal of Redundant or Long –Term, Non-Generating Turbines

11. Unless otherwise agreed in writing by the Planning Authority, if one or more wind turbines fails to generate electricity for a continuous period of 12 months, a scheme setting out how the relevant wind turbine(s) and associated infrastructure will be removed from the site and the ground restored, shall be submitted to and approved by the Planning Authority no later than one month after the date of expiry of the 12 month period. The approved scheme shall be implemented within 6 months of the date of its approval.

Reason: To ensure the decommissioning and removal of any redundant wind turbine(s) and associated infrastructure from the site in the interests of safety, amenity and environmental protection in compliance with Shetland Local Development Plan (2014) policies GP1, GP2 and GP3.

Site Decommissioning, Restoration and Aftercare

12. (1) The wind turbines and substations shall be decommissioned and cease to generate electricity by no later than the date falling 25 years from the date of Final Commissioning. The total period for restoration of the site in accordance with this condition shall not exceed 3 years from the date of the Final Decommissioning unless otherwise approved in writing by the Planning Authority.

(2) No development shall commence unless and until a decommissioning, restoration and aftercare strategy has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA. The strategy shall outline measures for the decommissioning of the development and restoration and aftercare of the site, and shall include proposals for the removal of the development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions.

(3) No later than three years prior to decommissioning of the Development on the expiry of the planning permission the developer shall submit a detailed decommissioning, restoration and aftercare plan, based upon the principles of the

approved decommissioning, restoration and aftercare strategy to the Planning Authority for written approval in consultation with SNH and SEPA. Should decommissioning be arising because the last of the wind turbines is required to be removed in accordance with condition 11 of this permission the developer shall submit the detailed decommissioning, restoration and aftercare plan for the site no later than one month after the date of expiry of the continuous 12 month period during which the last turbine had failed to generate electricity. The detailed decommissioning, restoration and aftercare plan shall provide a method statement, updated and detailed proposals for the removal of the development, the treatment of ground surfaces, the management and timing of the works and environmental management provisions which shall include:

(a) A site waste management plan (dealing with all aspects of waste produced during the decommissioning, restoration and aftercare phases);
(b) Details of the formation of the construction compound, welfare facilities, any areas of hardstanding, turning areas, car parking, material stockpiles, oil storage, lighting columns and any construction compound boundary fencing;
(c) A traffic management plan to address any impacts during the decommissioning period;
(d) A track construction and reinstatement plan;
(e) A dust management plan;
(f) Details of measures to be taken to prevent loose or deleterious material being deposited on the local road network including wheel cleaning and lorry sheeting facilities, and measures to clean the site entrances and the adjacent local road network;
(g) A pollution prevention and control method statement, including arrangements for the storage and management of oil and fuel on the site;
(h) Soil storage and management;
(i) A surface water and groundwater management and treatment plan, including details of the separation of clean and dirty water drains, and location of settlement lagoons for silt laden water;
(j) Details of surface water monitoring associated with decommissioning
(k) Sewage disposal and treatment;
(l) Temporary site illumination;
(m) The construction of any temporary access into the site and the creation and maintenance of associated visibility splays;
(n) Details of watercourse crossings;
(o) A species protection plan based on surveys for protected species (including birds) carried out no later than 18 months prior to the submission of the plan.
(p) Details of the method, frequency and duration of all ecological monitoring, particularly of watercourses, throughout the Decommissioning Period of the development.

(4) Thereafter, the development shall be decommissioned, the site restored and aftercare undertaken in accordance with the approved plan, unless otherwise

agreed in writing in advance with the Planning Authority in consultation with SNH and SEPA.

Reason: To ensure the decommissioning and removal of the development in an appropriate and environmentally acceptable manner and the restoration and aftercare of the site, in the interests of safety, amenity and environmental protection, in compliance with Shetland Local Development Plan (2014) policies GP1, GP2, and GP3.

Financial Guarantee

13. (1) No development shall commence unless and until a bond or other form of financial guarantee in terms reasonably acceptable to the Planning Authority which secures the cost of performance of all decommissioning, restoration and aftercare obligations referred to in condition 11 is submitted to the Planning Authority at least one month prior to the Commencement of Development.

(2)The value of the financial guarantee shall be agreed between the developer and the Planning Authority or, failing agreement, shall be determined (on application by either party) by a suitably qualified independent professional as being sufficient to meet the costs of all decommissioning, restoration and aftercare obligations in condition 11.

(3) The financial guarantee shall be maintained in favour of the Planning Authority until the date of completion of all decommissioning, restoration and aftercare obligations referred to in condition 11.

(4) The value of the financial guarantee shall be reviewed by agreement or by a suitably qualified independent professional no less than every five years and increased or decreased to take account of any variation in costs of compliance with decommissioning, restoration and aftercare obligations and best practice prevailing at the time of each review. The review shall be provided to the landowners and the Planning Authority.

Reason: To ensure that there are sufficient funds to secure performance of the decommissioning, restoration and aftercare conditions attached to this deemed planning permission in the event of default by the developer.

Procedure for Complaints

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

Reason: In order to ensure that a procedure is in place for handling complaints to ensure that the development does not have an adverse effect on existing users in compliance with Shetland Local Development Plan (2014) policies GP1 and GP2.

Planning Monitoring Officer

15. (1) No development shall commence unless and until the terms of appointment by the developer of an independent and suitable qualified environmental consultant as Planning Monitoring Officer (PMO) have been submitted to and approved in writing by the Planning Authority. The terms of appointment shall:

(a) Impose a duty to monitor compliance with the terms of the planning permission;
(b) Require the PMO to submit a monthly report to the Planning Authority summarising works undertaken on site; and
(c) Require the PMO to report to the Planning Authority any incidences of non-compliance with the terms of the planning permission and conditions attached thereto at the earliest practical opportunity.

(2) The PMO shall be appointed on the approved terms throughout the period from commencement of development to completion of post construction restoration works.

Reason: To enable the development to be suitably monitored to ensure compliance with the planning permission and planning conditions and in compliance with Shetland Local Development Plan (2014) policies GP1, GP2 and GP3.

Construction Environment Management Plan

16. (1) No development shall commence unless and until a Construction and Environmental Management Plan (CEMP) containing site specific details of all on-site construction works, post construction period reinstatement, drainage and mitigation, together with details of their timetabling, has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA.

(2) The CEMP shall be submitted at least 3 months prior to the proposed commencement of development and will define good practice as well as specific actions required to implement mitigation requirements as identified in the EIA Report, the planning process and/or other licensing or consenting processes, will incorporate current “good practice” methods from the Scottish/UK wind farm industry, including best practice methods associated with developments on peatland, and SEPA guidance documents in relation to pollution prevention and control and other issues addressed within the CEMP and shall include:

(a) A programme detailing the phasing of construction activity, together with the sequence of the development in particular the creation of the on-site tracks.
(b) A 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;
(c) Details of the temporary construction site compound(s) and lay-down areas, including, boundary fencing, surfacing, both surface and foul water drainage provisions, lighting, parking areas, any temporary structures to be erected, and of wheel cleaning equipment to prevent the transfer of mud to the public highway;
(d) Dust suppression and management;
(e) Site specific details for management and operation of any concrete batching plant/production on site (including disposal of pH rich waste water and substances);
(f) Details of any works to public roads (inclusive of any junction re-alignments);
(g) A Pollution Prevention Plan, including oil spill contingencies and foul drainage arrangements, arrangements for liquid/chemical storage areas etc;
(h) Details of the method of defining track route and location (pegging out in advance of operations);
(i) Details of track construction including floating track construction;
(j) Details of methods to deal with failing roads, sinking/sunken roads, peat rotation at road edges etc. during the construction of the development;
(k) Details of the timing, extent, design, treatment and reinstatement of embankments, track edges and other areas affected by track construction;
(l) The method of construction of the crane pads;
(m) The method of construction of the turbine foundations;
(n) Details of on-site cabling (to be located in disturbed areas adjacent to tracks unless agreed in writing by the Planning Authority);
(o) The 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;
(p) An Environmental Incident and Emergency Response Plan;
(q) Provision of a water supply and a sufficient number of water bowsers and/or dust suppression equipment;
(r) Watercourse Crossing Plan, including details of type and design of crossings, locations, required consents/licences and specific mitigation measures;

(s) Details and method statements (including timings) for the post-construction restoration/reinstatement of the working areas not required during the operation of the development, including construction access tracks, construction compounds, storage areas, laydown areas, access tracks, and other construction areas to be provided no later than 6 months prior to the date of first commissioning unless otherwise agreed in writing by the Planning Authority. Wherever possible, reinstatement is to be achieved by the careful use of turfs removed prior to construction works. Details should include all seed mixes to be used for the reinstatement of vegetation;

(t) Information on how Scheme Amendments and variations will be recorded including micro-siting (change control);

(u) Information on environmental checks and audits to be undertaken during and post construction;

(v) Information on a Site Induction Schedule;

(w) Details of the full range of measures and mitigations proposed to protect, and mitigate against the effects of the development on, Ground Water Dependent Terrestrial Ecosystems;

(x) 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 watercourses of 50 m (with the exception of any proposed watercourse crossings and directly related tracks). A map showing the demarcation of identified hydrologically sensitive areas will be included, together with a rationale for the different buffer distances;

(y) 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.

(3) Within 6 months of the Final Commissioning of the development, any remaining temporary laydown and construction compound areas not already reinstated in accordance with part (s) of this condition will be removed from the site and these uses discontinued, unless otherwise agreed in writing with the Planning Authority.

(4) Thereafter the approved CEMP shall be implemented in full by the developer unless otherwise approved in advance in writing by the Planning Authority (in consultation with SNH and SEPA) and shall be maintained and updated with the Planning Authority's agreement.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and to ensure that the mitigation measures contained in the EIA Report accompanying the planning application, or as otherwise agreed, are fully implemented in

compliance with Shetland Local Development Plan (2014) Policies GP1, GP2, WD2, WD3 and NH7.

Micro-Siting

17. (1) All wind turbines, buildings, masts, areas of hardstanding and tracks shall be constructed in the locations shown on Figure No. 1.2 Site Plan unless micro-siting is otherwise approved in writing by the Planning Authority, however micro-siting is subject to the following restrictions;

(a) No wind turbine, building, mast or hardstanding shall be moved more than 50m from the position shown on Figure 1.2 Site Plan;
(b) No access track shall be moved more than 50m from the position shown on Figure 1.2 Site Plan;
(c) No micro-siting shall take place within areas of peat of greater depth than that at the position shown on figure 1.2 Site Plan;
(d) No micro-siting shall take place within areas hosting Ground Water Dependent Terrestrial Ecosystems;
(e) No micro-siting of a wind turbine, building, mast, or hardstanding shall take place within 50m of a watercourse/waterbody;
(f) All micro-siting permissible under this condition shall be approved in advance in writing by the Ecological Clerk of Works (“ECoW”) and Archaeological Clerk of Works (“ACoW”);
(g) No micro-siting shall locate a turbine closer to a residential property unless the Planning Authority has given their prior written approval;
(h) No later than one month after the date of First Commissioning and at 6 monthly intervals until after Final Commissioning, an updated site plan shall be submitted to the Planning Authority showing the position of all constructed wind turbines, masts, areas of hard standing, tracks and associated infrastructure which have been erected in their final position at the time of submission of the updated plan. The plan shall also specify areas where micro-siting has taken place and, for each instance, be accompanied by copies of the ECoW and ACoW or Planning Authority’s approval.

Reason: To control environmental impacts while taking account of local ground conditions, in compliance with, Shetland Local development Plan (2014) policies GP1, GP2, and GP3.

Ecological Clerk of Works

18. (1) No development shall commence unless and until the terms of appointment of an independent Ecological Clerk of Works ("ECoW") by the developer have been submitted to, and approved in writing by the Planning Authority in consultation with SNH and SEPA. The terms of appointment shall:

(a) Impose a duty to monitor compliance with the ecological and hydrological commitments provided in the Environmental Statement and other information lodged in support of the planning application, the Construction and Environmental Management Plan, the Habitat Management Plan, the Surface Water Management Plan, the Peat Management Plan and the Breeding Birds Protection Plan;
(b) Require the ECoW to report to the developer's nominated construction project manager any incidences of non-compliance with the ECoW works at the earliest practical opportunity;
(c) Require the ECoW to submit a monthly report to the Planning Authority summarising the works undertaken on site; and
(d) Require the ECoW to report to the Planning Authority any incidences of non-compliance at the earliest practical opportunity.

(2) The ECoW shall be appointed on the approved terms throughout the period from Commencement of Development, throughout any period of construction activity and during any period of post construction restoration works approved in terms of condition 16 of this permission.

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

(4) No later than 18 months prior to decommissioning of the wind farm or the expiration of this permission (whichever is the earlier), the developer shall submit details of the terms of appointment by the developer of an independent ECoW throughout the decommissioning, restoration and aftercare phases of the Development to the Planning Authority for approval in consultation with SNH and SEPA.

(5)The ECoW shall be appointed on the approved terms throughout the decommissioning, restoration and aftercare phases of the development.

Reason: To secure the effective monitoring of and compliance with the environmental mitigation and management measures associated with the Development.

Drainage

19. (1) No development shall commence until a scheme for the control and disposal of surface water from the development site during the construction of the

development and during the operational phase of the development, has been submitted to and approved in writing by the Planning Authority. Thereafter the development shall be constructed and operated in accordance with the approved scheme.

(2) The scheme for the control and disposal of surface water from the development site shall be submitted to the Planning Authority at least 3 months prior to the proposed commencement of development.

Reason: To control environmental impacts while taking account of local ground conditions, in compliance with, Shetland Local development Plan (2014) policies GP1, GP2, GP3 and NH7.

Surface Water Monitoring Scheme

20. (1) No development shall commence unless and until a detailed Surface Water Monitoring Scheme (SWMS) is submitted to and approved in writing by the Planning Authority in consultation with SEPA at least 14 months prior to the Commencement of Development. The SWMS shall form an appendix to the CEMP and shall inform the CEMP. The SWMS shall include:
(a) A plan showing the monitoring positions and infrastructure and national grid references for all monitoring locations;
(b) A detailed methodology for the gathering of hydrochemical (including turbidity and stream height data) and biotic baseline surface water quality information, including where necessary details of equipment to be used;
(c) A programme setting out the frequency of monitoring/surveying that shall extend to:
i. Twelve months of monitoring and reporting preconstruction;
ii. Monthly monitoring and reporting to be undertaken during the construction phase; and
iii. Twelve months of post-construction monitoring and reporting.

(2) The SWMS shall be implemented as approved unless any revision thereto is first agreed in writing by the Planning Authority in consultation with SEPA.

Reason: To protect surface water quality and the aquatic environment in compliance with Shetland Lovcal developmetn Plan (2014) policies GP1, GP2, GP3 and NH7.

Habitat Management Plan

21. (1) No development shall commence unless and until a Habitat Management Plan (HMP) has been submitted to, and approved in writing by the Planning Authority in consultation with SNH and SEPA.

(2) The HMP shall be submitted to the Planning Authority at least 3 months prior to the proposed commencement of development.

(3) The HMP shall set out the proposed habitat management of the site during the period of construction, operation, decommissioning, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of restoration of the habitat on site as follows:

(a) Restoration of peatland (blanket mire) to support the aims of the Outline Habitat Management Plan included within the Environmental Impact Assessment Report;
(b) Measures to restore peat haggs and gullies in addition to any areas of bare peat;
(c) Measures within the Tagdale area of the site, including the damming of man-made drains, to improve bog habitats.

(3) The approved HMP shall include provision for regular monitoring and review to be undertaken to consider whether amendments are required to better meet the objectives of the Outline Habitat Management Plan within the Environmental Impact Assessment Report and shall include the submission of annual reports to the Planning Authority. Information on Schedule 1 species shall remain confidential, supplied only to the Planning Authority, SNH and any other agreed parties. The approved HMP shall be updated to reflect ground condition surveys undertaken prior to and during construction and within 3 months of Final Commissionning and shall be submitted to the Planning Authorrity for written approval in consultation with SNH and SEPA and any other parties agreed.

(4)The HMP shall include a pre-construction otter survey to be undertaken no more than two months prior to the commencement of development. An Otter Protection Plan (OPP) shall be produced and submitted to the Planning Authority for approval in consultation with SNH. The OPP shall detail the measures that shall be taken to protect otters within the development site during the construction phase of development, and should an otter holt be found at any time during construction.

(5) Unless otherwise agreed in advance in writing by the Planning Authority, the approved HMP shall be implemented in full.

Reason: In the interests of good land management and the protection of habitats and species and in compliance with Shetland Local development Plan (2014) policies GP1, GP2, GP3 and NH2.

Breeding Bird Protection Plan

22. (1) No development shall commence until a Breeding Bird Protection Plan (BBPP) has been submitted to and approved in writing by the Planning Authority in consultation with SNH.

(2) The BBPP shall be submitted to the Planning Authority at least 3 months prior to the proposed commencement of development.

(3)The BBPP shall include:
(a) A programme of bird surveys to be undertaken in connection with the development;
(b) Details of pre-construction and post-construction surveys to be undertaken;
(c) Details of the mitigation measures (including timing of construction and any bunding that may be proposed) to be implemented where any impact or potential impact on birds is identified including micro-siting; and
(c) Details of the procedure to be followed should nesting birds be found on site during the construction of the development.

(4) Unless otherwise agreed in advance in writing by the Planning Authority, the approved BBPP shall be implemented in full and shall remain operative for the lifetime of the development or such other period as may be agreed as part of the BBPP.

Reason: In order to protect breeding birds and in compliance with Shetland Local Development Plan (2014) policies GP1, GP2, GP3 and NH2.

Peat Management Plan

23. (1) No development shall commence unless and until a detailed Peat Management Plan (PMP) has been submitted to and approved in writing by the Planning Authority in consultation with SEPA and SNH.

(2) The PMP shall be submitted to the Planning Authority at least 3 months prior to the proposed commencement of development.

(3)The PMP shall provide details of the following:

(a)Volumes, depth and location of any peat disturbed including details of any laydown areas proposed for peat storage;
(b) A method statement for peat stripping, storage and stockpiling within the site during the construction period including details of the location and construction of any peat storage areas;
(c) Details of the proposed reuse of the peat within the site including a plan showing volumes, location and usage, and details of the phasing of construction works restoration;

(d) Details of disposal of any peat proposed including volumes and detailed disposal proposals;
(e) Details of any proposed movement of peat across the A970 public road; and
(f) Details of mitigation and restoration proposals proposed;
(g) Details of the monitoring of reinstated areas; and
(h) A Peat Slide Risk Assessment (PSRA).

(4) Unless otherwise agreed in advance in writing by the Planning Authority, the approved PMP shall be implemented in full and shall remain operative for the lifetime of the development or such other period as may be agreed as part of the PMP.

Reason: In order to minimise and off set disturbance of peat and ensure the appropriate reuse and management of peat on the site, in compliance with Shetland Local Development Plan (2014) policies GP1, GP2 GP3 and NH5.

Drinking Water Protection Area

24. No development shall commence unless and until the developer has undertaken an investigation to establish the precise boundaries of the Sandy Loch Reservoir Drinking Water Protection Area (DWPA), and an assessment has been undertaken of the effects of the proposed development on the DWPA. Any effects identified will require to be mitigated in accordance with a DWPA mitigation plan. Details of the investigation, the assessment of effects, and the mitigation proposed shall be submitted to and approved in writing by the Planning Authority in consultation with Scottish Water.

Reason: To ensure that there is no unacceptable impact on the DWPA and the public water supply in the interests of environmental and public safety in compliance with Shetland Local Development Plan (2014) policies GP1, GP2, GP3 and NH7.

Water Assets Protection Scheme

25. (1) No development shall commence unless and until a Water Assets Protection Scheme (WAPS), prepared in accordance with part (2) of this condition, has been submitted to, and approved by the Planning Authority in consultation with 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 public water or drainage infrastructure within the development site in the course of the construction and operation of the development. Thereafter the development shall be carried out in accordance with the approved WAPS.

Reason: To ensure that any existing public water/drainage infrastructure within the site is adequately protected in the interests of environmental and public safety in compliance with Shetland Local Development Plan (2014) policies GP1, GP2, GP3 and NH7.

Archaeological Works

26. (1) No development shall commence on site until:

(a) A Written Scheme of Investigation (WSI) for a programme of archaeological works has been submitted to and approved in writing by the Planning Authority in consultation with the Shetland Regional Archaeologist. The WSI shall include an appropriate methodology for an archaeological watching brief which shall be carried out for all ground breaking works, a strategy for dealing with any archaeology encountered, mitigation proposed to ensure that known archaeology is protected during the construction phase, and a Post Excavation Research Design that sets out the programme for the analysis, publication, dissemination of results and archive deposition of the results of the programme of archaeological works.

(b) A detailed methodology for a controlled archaeological strip of the area between turbines 5, 8, 10 and 12 has been submitted to and approved in writing by the Planning Authority in consultation with the Shetland Regional Archaeologist. This shall include a plan showing the area(s) to be stripped and details of the timing of works proposed.

(2) Thereafter the development shall take place in accordance with the approved WSI and in accordance with the approved proposals for the archaeological strip.

Reason: In order to ensure appropriate archaeological works at the development site in compliance with Shetland Local Development Plan 2014 Policies HE1 and HE4.

Archaeological Clerk of Works (ACoW)

27. (1) No development shall commence unless and until the Planning Authority in consultation with the Shetland Regional Archaeologist has approved in writing the terms of appointment by the Developer of an independent Archaeological Clerk of Works ("ACoW"). The scope of the ACoW's appointment shall include:

(a) Advising on adequate protection of archaeological interests on the site;
(b) Checking for new records of archaeological interests for which additional mitigation may be required;
(c) Monitoring compliance with the requirements of the Written Scheme of Investigation secured under condition no. 27;

(d) Approving in writing any micro-siting and placement of turbines and tracks, storage compounds, construction compounds and laydown areas; and
(e) Require the ACoW to report to the developer's nominated construction project manager and to the Planning Authority any incidences of non-compliance with the approved WSI at the earliest practical opportunity.

(2) The ACoW shall be appointed on the approved terms from commencement of development, throughout any period of construction activity and throughout any period of post construction restoration works.

(3) No later than 18 months prior to the decommissioning of the wind farm or the expiration of the planning permission (whichever is the earlier), the Developer shall submit details of the terms of appointment by the developer of an independent ACoW throughout the decommissioning and restoration phases of the development to the Planning Authority for approval in consultation with The Shetland Regional Archaeologist. The ACoW shall be appointed on the approved terms throughout the decommissioning and restoration phases of the Development.

Reason: To ensure the protection or recording of archaeological features within the development site in compliance with Shetland Local Development Plan 2014 Policies HE1 and HE4.

Outdoor Access Plan

28. (1) Prior to the commencement of development details of an Outdoor Access Plan (OAP) shall be submitted to and approved in writing by the Planning Authority. The OAP shall include:

(a) A map detailing the existing paths, Core Paths, Access Routes, Public Rights of Way and desire lines on or adjacent to the site;
(b) The consultation undertaken with local communities, local access forum and relevant recreational user groups with respect to both informal and formal access use in the area and it's development, to optimise the use of, and creation, of links to existing infrastructure and points of interest;
(c) Details of any new routes and proposed changes, including: a map detailing the diversions and management of access required during and after construction; any path construction specifications; structures, fitting and signage specifications; and a project and delivery plan; and
(d) Details of a future path maintenance plan, including an outline of: responsibility for funding path maintenance; responsibility and timescale for path maintenance; and the path maintenance schedule (monitoring, vegetation control and furniture replacement).

(2) Thereafter the development shall be implemented in accordance with the approved Outdoor Access Plan for the lifetime of the development.

Reason: To enable to the objective assessment of recreational use and mitigate the likely impact on communities and the long term impacts on amenity including outdoor access, recreation and tourism opportunities, and optimise the use of both existing infrastructure and that to be constructed as part of the development to provide safe and convenient opportunities for walking, cycling equestrianism for both recreation and active travel, in compliance with Shetland Islands Council Onshore Wind Energy Supplementary Guidance 2018 Policy DC4.

Traffic Management Plan

29. (1) No development shall commence unless and until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the Planning Authority in consultation with the Local Roads Authority. The Traffic Management Plan shall be submitted at least 3 months prior to the proposed commencement of development and shall include:

(a) The routeing of all traffic associated with the development on the local road network;
(b) Measures to ensure that the specified routes are adhered to, including monitoring procedures;
(c) Details of all signage and lining arrangements to be put in place, as well as measures to prevent conflict between construction traffic and other users of public road;
(d) Provisions for emergency vehicle access;
(e) Identification of a nominated person to whom any road safety issues can be referred;
(f) A plan for access by vehicles carrying abnormal loads; including the number and timing of deliveries; the length, width and axle configuration of all extraordinary traffic accessing the site;
(g) Detailed drawings of any proposed new access routes including any works to and any surfacing of existing tracks including public rights of way;
(h) Details of a survey of the condition of all proposed access routes to the site from sources of materials to be used for the proposed development to be carried out prior to the commencement of the development (pre- construction survey);
(i) A monitoring programme of the impacts of the development on the A970, the B9073 and any other public road to be identified as a haul road to the site, during the construction of the development and details of proposed mitigation measures as required;
(j) Details of a survey further to that carried out under paragraph (h) that shall be undertaken within three months of the Final Commissioning of the

Development or such other period as approved in writing in advance by the Planning Authority, to the same specification as the pre-construction survey to identify any deterioration in condition arising from construction activities. Thereafter details of a scheme for any reinstatement works identified as necessary to return the access routes to their condition prior to construction works taking place and a timescale for implementation to be submitted to and approved in writing by the Planning Authority and the scheme implemented in accordance with the approved details.

(k) Provision that no construction traffic shall be allowed to enter the Development Site until visibility splays as agreed by the Planning Authority have been provided at the junctions of the access roads and public highway.

(l) Provision that no later than 12 months prior to the end of the period of consent a survey shall be undertaken by the developer of the condition of proposed access routes and the surrounding local rights of way network in accordance with a scheme first submitted to and approved by the Planning Authority. A further survey shall be undertaken by the developer within three months of the decommissioning of the wind farm development or such other period as approved in writing by the Planning Authority, to the same specification as the pre-decommissioning survey, to identify any deterioration in condition arising from decommissioning activity. Details of a scheme for any reinstatement shall be submitted to and approved in writing by the Planning Authority. The scheme shall be implemented in accordance with the approved details.

(2) Thereafter the approved Traffic Management Plan shall be implemented in full during the construction of the development, unless otherwise agreed in advance in writing by the Planning Authority.

Reason: In order to safeguard road safety and in order to comply with Shetland Local Development Plan (2014) policies GP1, GP2 and TRANS3.

Road Cleaning

30. No development shall commence until a scheme for the provision of road cleaning/sweeping measures to be put in place to deal with any mud, silt or other loose material trafficked on to the road as a result of the development has been submitted to and approved in writing by the Planning Authority. Thereafter the approved scheme shall be implemented in full during the construction of the development.

Reason: In order to safeguard road safety and in order to comply with Shetland Local Development Plan (2014) policies GP1, GP2 and TRANS3.

Repair of Roads

31. No development shall commence unless and until the developer has provided documentary evidence that an agreement is in place with the Roads Authority to provide for repair to the agreed traffic routes to the site due to abnormal wear and tear arising from a level of use and purpose that is attributable to the development, and written confirmation has been given by the Planning Authority to the developer that the agreement is satisfactory. The agreement shall cover the duration of this permission.

Reason: In the interests of road safety and to ensure that any road repairs attributable to the development will be appropriately repaired in compliance with Shetland Local Development Plan (2014) policies GP1, GP2 and TRANS3.

Aggregate Sources

32. The source(s) of all aggregate to be imported into the development site shall be submitted to and approved in writing by the Planning Authority.

Reason: To ensure that all aggregate to be imported to the site is from a suitable source, in compliance with Shetland Local Development Plan (2014) policies GP1 and GP2.

Ice Throw

33. Prior to the commissioning of the first wind turbine, a scheme for mitigating the risk of ice throw from the wind turbines shall be submitted to and approved in writing by the Planning Authority. Thereafter the development shall be operated in accordance with the approved scheme.

Reason: In the interests of public safety and in compliance with Shetland Local Development Plan (2014) policies GP1 and GP2.

Shadow Flicker

34. No turbine shall be erected unless and until a scheme for the avoidance or mitigation of any shadow flicker at residential and commercial premises which lawfully exist or for which planning permission has been granted at the date of this planning permission within ten rotor diameters of any wind turbine forming part of the development, has been submitted to and approved in writing by the Planning Authority. Thereafter the approved scheme shall be implemented in full and shall be maintained for the lifetime of the development.

Reason: In order to minimise the impacts of shadow flicker on residential and commercial property amenity in compliance with Shetland Local Development Plan (2014) policies GP1 and GP2.

Protection of Telecommunications and Radio Links

35. (1) No development shall commence unless and until a Television, Radio and Communications Equipment Reception Mitigation Plan has been submitted to, and approved in writing by, the Planning Authority. The Television, Radio and Communications Equipment Reception Mitigation Plan shall provide for a baseline Television, Radio and Communications Equipment Reception survey to be carried out prior to the installation of the first wind turbine. The results of the baseline television reception survey shall be submitted to the Planning Authority.

(2) The approved Television, Radio and Communications Equipment Reception Mitigation Plan shall be implemented in full for the lifetime of the development.

(3) Any claim by any individual person regarding television picture loss, radio or communications equipment loss or interference at a residential or commercial property which lawfully exists or for which planning permission has been granted at the date of this consent which has been submitted to the Planning Authority and was made during the period from installation of any turbine forming part of the development to the date falling twelve months after the date of Final Commissioning, once notified to the developer by the Planning Authority shall be investigated by a qualified engineer appointed by the developer and the results shall be submitted to the Planning Authority. Should any impairment to the television, radio or communications equipment signal be attributable to the development, the Developer shall remedy such impairment so that the standard of reception at the affected property is equivalent to the baseline television, radio and communications equipment reception.

Reason: To ensure local television, radio and communications equipment services are sustained during the construction and operation of this development, in the interests of amenity and in compliance with Shetland Local Development Plan (2014) policies GP1 and GP2.

Construction- Publication of Programme Information

36. Prior to the commencement of development, the developer 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 of the development.

Reason: To ensure programme information is made available to the local community in the interests of amenity and in compliance with Shetland Local Development Plan (2014) policies GP1 and GP2.

Construction Hours

37. **(**1) Construction work which is audible from any sensitive receptor as detailed in condition no. 39 shall only take place on the site between the hours of 07:00 to

18:30 on Monday to Saturday inclusive with no construction work taking place on a Sunday or on public holidays. Outwith these specified hours, development on the site shall be limited to turbine erection, maintenance, emergency works, dust suppression, concrete pouring and the testing of plant and equipment, unless otherwise approved in writing by the Planning Authority.

(2) Heavy Goods Vehicles (HGV) movements to and from the site (excluding abnormal loads) during construction of the wind farm shall be limited to 07:00 to 18:30 Monday to Saturday, with no HGV movements to or from the site taking place on a Sunday or on a Bank Holiday or Public Holiday, unless otherwise approved in advance in writing by the Planning Authority.

Reason: In order to ensure that the development does not have an adverse effect on existing users in compliance with Shetland Local Development Plan (2014) policies GP1 and GP2.

Noise

38. Within 2 months of the date of Final Commissioning, the Company shall submit to the Planning Authority a revision of the Figure No.1 that forms part of Technical Appendix 13.2 (Operational Noise Report, Mossy Hill Wind Farm), Volume 4B of the EIA Report, and an associated noise contour technical note that outlines the assumptions and limitations of the figure. The revised Figure No. 1 submitted shall be based on the specific type of wind turbine that has been erected at the site and the locations at which the wind turbines have been erected as shown on the updated site plan submitted in accordance with condition no.17. Notwithstanding the fact that, under certain conditions, the turbines may be operated in noise reduced mode the contour plot shall be based on the turbines operating in full mode to present a simplified, worst case scenario unless otherwise agreed in writing with the Planning Authority. The revised Figure No. 1 shall similarly show contour plots of predicted wind turbine Noise dB(A) L90 at 1 dB and 5 dB increments.

Reason: To ensure compliance with Shetland Local development Plan (2014) policy GP1.

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

(A) Prior to the First Export Date, the wind farm operator shall submit to the Local Authority for written approval a list of proposed independent consultants who may undertake compliance measurements in accordance with this condition.

Amendments to the list of approved consultants shall be made only with the prior written approval of the Local Authority.

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

(C) Where there is more than one property at a location specified in Tables 1 and 2 attached to this condition, the noise limits set for that location shall apply to all dwellings at that location. Where a dwelling to which a complaint is related is not identified by name or location in the Tables attached to these conditions, the wind farm operator shall submit to the Local Authority for written approval proposed noise limits selected from those listed in the Tables to be adopted at the complainant's dwelling for compliance checking purposes. The proposed noise limits are to be those limits selected from the Tables specified for a listed location which the independent consultant considers as being likely to experience the most similar background noise environment to that experienced at the complainant's dwelling. The submission of the proposed noise limits to the Local Authority shall include a written justification of the choice of the representative background noise environment provided by the independent consultant. The rating level of noise immissions resulting from the combined effects of the wind turbines when determined in accordance with the attached Guidance Notes shall not exceed the noise limits approved in writing by the Local Authority for the complainant's dwelling.

(D) Prior to the commencement of any measurements by the independent consultant to be undertaken in accordance with these conditions, the wind farm operator shall submit to the Local Authority for written approval the proposed measurement location identified in accordance with the Guidance Notes where measurements for compliance checking purposes shall be undertaken. Where the proposed measurement location is close to the wind turbines, rather than at the complainant's property (to improve the signal to noise ratio), then the operators submission shall include a method to calculate the noise level from the wind turbines at the complainants property based on the noise levels measured at the agreed location (the alternative method). Details of the alternative method together with any associated guidance notes deemed necessary, shall be submitted to and agreed in writing by the Local Authority prior to the commencement of any measurements. Measurements to assess compliance

with the noise limits set out in the Tables attached to these conditions or approved by the Local Authority pursuant to paragraph (C) of this condition shall be undertaken at the measurement location approved in writing by the Local Authority.

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

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

ii) a reasoned assessment as to whether the noise giving rise to the complaint contains or is likely to contain a tonal component.

The proposed range of conditions shall be those which prevailed during times when the complainant alleges there was disturbance due to noise, having regard to the information provided in the written request of the Local Authority under paragraph (B), and such others as the independent consultant considers necessary to fully assess the noise at the complainant's property. The assessment of the rating level of noise immissions shall be undertaken in accordance with the assessment protocol approved in writing by the Local Authority and the attached Guidance Notes.

(F) The wind farm operator shall provide to the Local Authority the independent consultant's assessment of the rating level of noise immissions undertaken in accordance with the Guidance Notes within 2 months of the date of the written request of the Local Authority made under paragraph (B) of this condition unless the time limit is extended in writing by the Local Authority. The assessment shall include all data collected for the purposes of undertaking the compliance measurements, such data to be provided in the format set out in Guidance Note 1(e) of the Guidance Notes. The instrumentation used to undertake the measurements shall be calibrated in accordance with Guidance Note 1(a) and certificates of calibration shall be submitted to the Local Authority with the independent consultant's assessment of the rating level of noise immissions.

(G) Where a further assessment of the rating level of noise immissions from the wind farm is required pursuant to Guidance Note 4(c) of the attached Guidance Notes, the wind farm operator shall submit a copy of the further assessment within 21 days of submission of the independent consultant's assessment pursuant to paragraph (F) above unless the time limit for the submission of the further assessment has been extended in writing by the Local Authority.

(H)The wind farm operator shall continuously log power production, wind speed and wind direction, all in accordance with Guidance Note 1(d) of the attached Guidance Notes. The data shall be retained for a period of not less than 24 months. The wind farm operator shall provide this information in the format set

out in Guidance Note 1(e) of the attached Guidance Notes to the Local Authority on its request within 14 days of receipt in writing of such a request.

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

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

Location (easting, northing grid coordinates)	**Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods**											
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**
	L_{A90} Decibel Levels											
Frakkafield (443656, 1142635)	39	39	39	39.2	40.2	41.4	42.6	43.8	44.9	45.4	45.3	45.2
Veensgarth (443057, 1144206)	36.8	36.8	38.1	39.3	39.6	40.5	41.3	42.1	43.2	44.5	45.9	47.8
South Califf (444600, 1145357)	35	35	35	35	35	35	35	35	35.8	35.7	37.4	40.7
Gremista (446210, 1143186)	46	46	46.9	47.5	47.8	48	48.2	48.6	49.2	50.2	51.8	54
The Decca (445364, 1142301)	35	35	35	35	35	35	35	35	35	35	35	35
Lerwick West (445783, 1141903)	35	35	35	35	35	35	35	37.3	37.3	39.5	41.3	41.8
Hollanders Knowe (444070, 1139491)	37.2	37.8	38.5	39.3	40.3	41.4	42.6	44.1	45.8	47.7	49.9	52.3
Easterhoull	36.2	36.2	36.6	37.3	38.3	39.6	41.1	42.7	44.5	46.3	48	49.7

(441196, 1138144)												
Scalloway (441135, 1139879)	37.8	38.8	39.6	40.2	40.6	41.1	41.6	42.2	43	44	45.3	47
Rocklea (441062, 1140987)	35	35	35	35	36.1	37.2	38.4	39.1	40	41.1	42.1	42.8
Garth Lodge (441131, 1142031)	34.4	34.4	34.4	34.4	34.4	34.4	34.4	32.3	35.2	37.8	39.6	40.5
South Setter (441289, 1143115)	35	35	35	35	36.1	37.2	38.4	39.6	40.8	41.8	42.2	40.7
Laverock (442739, 1143495)	36.8	36.8	38.1	38.3	38.5	39.4	40.2	41.1	42.4	43.9	45.5	47.5
Saundersfield (442320, 1144247)	36.8	36.8	38.1	39.1	39.3	40.2	41	41.8	42.8	44	45.5	47.4
Valladale (442213, 1144567)	36.8	36.8	38.1	39.3	40.2	41.1	41.9	42.7	43.7	43.8	45	46.8
Midgarth (442579, 1144825)	36.8	36.8	38.1	39.3	39.8	40.7	41.5	42.3	43.3	44.5	45.9	47.7
Norvista House (442483, 1145058)	36.8	36.8	38.1	39.3	40.2	41.1	41.9	42.7	43.7	43.6	44.6	46.3

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

Location (easting, northing grid coordinates)	**Standardised wind speed at 10 metres height (m/s) within the site averaged over 10-minute periods**											
	1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**

L_{A90} Decibel Levels												
Frakkafield (443656, 1142635)	41.9	41.9	41.9	41.9	41.9	41.9	41.9	41.7	41.6	41.4	41.2	40.9
Veensgarth (443057, 1144206)	42.5	42.5	42.5	42.5	42.5	42.5	42.5	42.4	42.4	42.3	42.2	42
South Califf (444600, 1145357)	41.8	41.8	41.8	41.8	41.8	41.8	41.8	41.4	41.4	41.3	41.3	41.3
Gremista (446210, 1143186)	42.2	42.2	42.2	42.2	42.3	42.5	43	43.3	44.1	45.1	46.2	47.5
The Decca (445364, 1142301)	40.8	40.8	40.8	40.8	40.8	40.8	40.8	35	35	35	35	35
Lerwick West (445783, 1141903)	42.4	42.4	42.4	42.4	42.4	42.4	42.4	42.1	41.8	41.6	41.2	40.3
Hollanders Knowe (444070, 1139491)	43	43	43	43	43	43	43	43	43	44.3	46.6	48.4
Easterhoull (441196, 1138144)	43	43	43	43	43	43	43	43	43	43.2	45	46.1
Scalloway (441135, 1139879)	43	43	43	43	43	43	43	43	43	43	43	43.7
Rocklea (441062, 1140987)	42.6	42.6	42.6	42.6	42.6	42.6	42.6	42.6	42.5	42.5	42.5	42.4
Garth Lodge (441131, 1142031)	41	41	41	41	41	41	41	40.7	40.5	40.3	40.2	39.9
South Setter (441289, 1143115)	43	43	43	43	43	43	43	43	43	43	42.2	40.7
Laverock	41.7	41.7	41.7	41.7	41.7	41.7	41.7	41.6	41.4	41.3	41	40.7

(442739, 1143495)												
Saundersfield (442320, 1144247)	42.3	42.3	42.3	42.3	42.3	42.3	42.3	42.2	42	41.6	41	39.9
Valladale (442213, 1144567)	43	43	43	43	43	43	43	43	43	43	43	41.8
Midgarth (442579, 1144825)	42.7	42.7	42.7	42.7	42.7	42.7	42.7	42.6	42.5	42.3	42	41.4
Norvista House (442483, 1145058)	43	43	43	43	43	43	43	43	43	43	42.4	39.7

Reason:

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

The noise immission limits set out in Tables 1 & 2 are increased to 45 dB(A) L_{A90}, or the relevant ETSU-R-97 derived " daytime hours" or the "night hours" noise limit based on the measured background noise levels plus 5dB(A), whichever is the greater, at any noise sensitive premises having a financial involvement with the wind farm. The wind farm operator must provide written confirmation of the location of any such premises to the Planning Authority prior to commencement of development.

Guidance Notes for Noise Condition

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

Note 1

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

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

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

(d) To enable compliance with the conditions to be evaluated, the wind farm operator shall continuously log arithmetic mean wind speed in metres per second (m/s) and arithmetic mean wind direction in degrees from north in each successive 10-minutes period in a manner to be agreed in writing with the planning authority. Each 10-minute arithmetic average mean wind speed data as measured or calculated at turbine hub height shall be 'standardised' to a reference height of 10 metres as described in ETSU-R-97 at page 120 using a reference roughness length of 0.05 metres. It is this standardised 10 metre height wind speed data which is correlated with the noise measurements determined as valid in accordance with Note 2(b), such correlation to be undertaken in the manner described in Note 2(c). All 10-minute periods shall commence on the hour and in 10-minute

increments thereafter synchronised with Greenwich Mean Time and adjusted to British Summer Time where necessary.

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

(f) A data logging rain gauge shall be installed in the course of the independent consultant undertaking an assessment of the level of noise immissions. The gauge shall record over successive 10-minute periods synchronised with the periods of data recorded in accordance with Note 1(d).

Note 2

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

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

(c) Values of the $L_{A90,10\text{-minute}}$ noise measurements and corresponding values of the 10-minute standardised ten metre height wind speed for those data points considered valid in accordance with Note 2(b) shall be plotted on an XY chart with noise level on the Y-axis and wind speed on the X-axis. A least squares, “best fit” curve of an order deemed appropriate by the independent consultant (but which may not be higher than a fourth order) shall be fitted to the data points to define the wind farm noise level at each integer speed.

Note 3

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

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

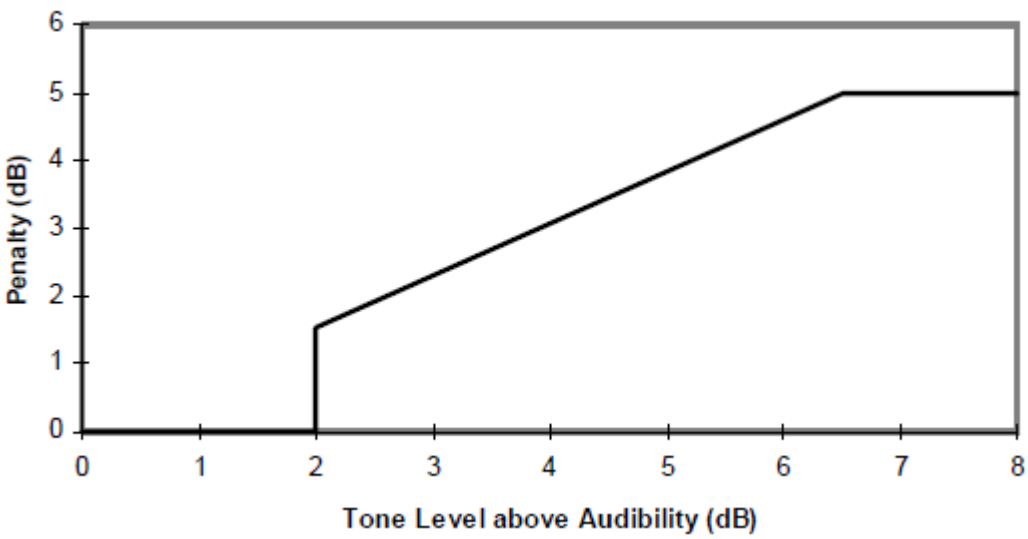
minute period out of the affected overall 10-minute period shall be selected. Any such deviations from the standard procedure shall be reported.

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

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

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

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



Note 4

(a) If a tonal penalty is to be applied in accordance with Note 3 the rating level of the turbine noise at each wind speed is the arithmetic sum of the measured noise level as determined from the best fit curve described in Note 2 and the penalty for tonal noise as derived in accordance with Note 3 at each integer

wind speed within the range set out in the approved assessment protocol under paragraph (E) of the noise condition.

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

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

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

i. Repeating the steps in Note 2, with the wind farm switched off, and determining the background noise (L_3) at each integer wind speed within the range set out in the approved noise assessment protocol under paragraph (E) of this condition.

ii. The wind farm noise (L_1) at this speed shall then be calculated as follows where L_2 is the measured level with turbines running but without the addition of any tonal penalty:

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

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

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

Local Authority for a complainant's dwelling in accordance with paragraph (C) of the noise condition, then the development fails to comply with the conditions.

Direction

The Shetland Islands Council direct that subsection 2 of section 58 of the Town and Country Planning (Scotland) Act 1997 applies as respects this permission, with the substitution for the period of 3 years referred to in subsection 1 of section 58 of the Town and Country Planning (Scotland) Act 1997, of the period of 5 years. This permission is therefore to lapse on the expiration of 5 years from the date of the permission unless the development to which the permission relates is begun before that expiration.

PLANNING APPLICATION 2018/186/PPF

APPROPRIATE ASSESSMENT OF THE IMPLICATIONS FOR THE CONSERVATION INTERESTS OF EAST MAINLAND COAST SHETLAND proposed SPECIAL PROTECTION AREA (pSPA)

Development: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.

Location: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour.

1. Introduction

1.1 Appropriate Assessment under the Habitats Directive and Regulations is required as advice from Scottish Natural Heritage is that the proposed Mossy Hill development may have a significant effect on the qualifying interests of the East Mainland Coast Shetland proposed Special Area of Conservation (SAC) that was formally proposed in June 2016. Shetland Islands Council is the competent authority, in terms of the Habitats Directive in respect of the 1997 Planning Act.

1.2 Under Article 6(3) of The Habitats Directive and Regulation 48(1) of The Conservation (Natural Habitats & c) Regulations 1994, a competent authority, before deciding to undertake, or give any consent, permission or other authorisation (including amendments to existing permissions) for, a plan or project which:

(a) is likely to have a significant effect on a European site in Great Britain (either alone or in combination with other plans or project), and

(b) is not directly connected with or necessary to the management of the site,

shall make an appropriate assessment of the implications for the site in view of that site's conservation objectives. The onus is on the competent authority to show either: conclusively that there will be no significant effects on the pSPA site before agreeing to the development; or, where (and notwithstanding exhaustive mitigation measures) it is shown there will still be a potentially negative effect on the integrity of these sites, and in the absence of alternatives, that the proposal can be found to be justifiable by imperative reasons of overriding public interest, and there exist compensatory measures to offset negative impacts.

1.3 This assessment conforms with Regulations 48(3) of the Habitats Regulations.

2. Council Policies

2.1 There are Council policies that are applicable to this type of development and development that are on or adjacent to locations, which are designated for various sensitivities and qualifying interests.

2.2 Policy RE1 Renewable Energy commits the Council to delivering renewable energy developments that contribute to the sustainable development of Shetland where there are no unacceptable impacts on people, the natural and water environment, the landscape and the historic environment of Shetland.

2.3 Policy NH1 states that any development proposal that is likely to have a significant effect on an internationally important site (Special Area of Conservation, Special Protected Area or Ramsar Site, and is not directly connected with or necessary to the conservation management of that site, will be subject to an assessment of the implications for the site's conservation objectives. The policy states that development that could have a significant effect on a site, will only be permitted where:

- An appropriate assessment has demonstrated that it will not adversely affect the integrity of the site; or
- There are no alternative solutions.

2.4 Development that affects a NSA, NNR or SSI, will only be permitted where:

- It will not adversely affect the integrity of the area of the qualities or protected features for which it has been designated, or
- Any such adverse effects are clearly outweighed by social, environmental or economic benefits of national importance.

2.5 Policy NH2 Protected Species, states that development 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
- The development will not be detrimental to the maintenance of the population of the European Protected Species concerned at a favourable status in the natural range.
- There are no alternatives and imperative reasons of overriding public interest.

3. Conservation Designations in the East Mainland Coast, Shetland proposed Special Protection Area (pSPA)

3.1 East Mainland Coast, Shetland proposed Special Protection Area (pSPA) comprises an area of 256.47 kilometres square (km2). The site stretches from Samphrey and Lunna Ness in the north, encompassing

the sea to the north, east and south of Whalsay, and southwards to the north coast of Bressay.

3.2 This site supports one of the largest concentrations of long-tailed duck and red-breasted merganser in eastern Scotland. In addition the East Mainland Coast, Shetland pSPA site comprises the largest of the six red-throated diver marine feeding areas identified. Located on the northern edge of the British range, it is a vital component of the core range of the species.

Qualifying Interests

3.3 The pSPA regularly supports a non-breeding population of great northern divers and slavonian grebes. The pSPA also supports (as a foraging area) a breeding population of red-throated divers. The site also supports populations of common eider, long tailed duck and red-breasted merganser.

4. Appropriate Assessment of the Proposal

4.1 The conservation objectives are set out in "East Mainland Coast, Shetland proposed Special Protection Area (pSPA) - Advice to Support Management"

To avoid deterioration of the habitats of the qualifying species or significant disturbance to the qualifying species, subject to natural change, thus ensuring that the integrity of the site is maintained in the long-term and it continues to make an appropriate contribution to achieving the aims of the Birds Directive for each of the qualifying species.

This contribution will be achieved through delivering the following objectives for each of the site's qualifying features:
a) Avoid significant mortality, injury and disturbance of the qualifying features, so that the distribution of the species and ability to use the site are maintained in the long-term;
b) To maintain the habitats and food resources of the qualifying features in favourable condition.

4.2 The management advice includes a list of activities that currently take place and are likely to occur in the future within or close to the East Mainland Coast, Shetland proposed SPA and includes activities such as aquaculture, fishing (both with mobile and static gear), dredging, ports and harbours, recreation, renewables (tidal energy developments) and infrastructure (eg power cables or pipelines). These are activities that could be closely associated with the site and does not include onshore wind farms.

4.3 However as onshore wind farms have the potential to affect certain bird populations that use this pSPA for foraging (in this case red-throated divers) and contribute to its conservation status, it is considered appropriate to examine the likely significant impacts that the proposed

Mossy Hill wind farm may have on this particular species and the pSPA.

4.4 Moss Hill proposed Wind Farm

The EIAR submitted in support of the proposed wind farm concluded that no disturbance to breeding red-throated divers within the pSPA would be likely. The turbine area was specifically selected to avoid any regularly used pSPA red-throated diver flight corridors. The turbine area describes the sweep of the turbines at their proposed location plus a 500m buffer. The predicted loss as a result of the proposed wind farm estimates between one and two red-throated divers associated with the pSPA during the lifetime of the development. This however was based on flight lines of both pSPA and non-pSPA birds and is not readily measurable in biological terms due to the low overall numbers and high innate variability of the pSPA population of 209 breeding pairs.

4.5 Comments from SNH (dated 17 September 2018) indicated that based on the proposed wind farm alone, it was considered that there would be no likely significant effects on the East Mainland Coast, Shetland pSPA, but that there was insufficient information provided on the cumulative and in-combination effects arising in conjunction with other developments approved since the pSPA was given protection in July 2016. Also that it was not possible at that time, to rule out cumulative impact on the regional (Shetland) population of red-throated divers. SNH also expressed concern about potential disturbance to two breeding pairs (Gossa Water and Loch of Wick). However surveyed flight lines showed that these birds do not make significant use of East Mainland Coast, Shetland pSPA.

4.6 Additional information on potential ornithological impacts and on cumulative impacts in connection with the pSPA was submitted by the applicants (5 November 2018). This concluded that the addition of the very small predicted impacts from the proposed Mossy Hill wind farm and all other recent developments on red-throated divers fall well within the range of parameters already modelled and so no significant cumulative effects on the Shetland red-throated diver population are predicted.

4.7 Advice from SNH (6 December 2018) indicated that following clarification of the implications of the European Court of Justice case of People Over Wind c. Coillte Teoranta, now designing the wind turbine layout to avoid impacts on red-throated diver might constitute mitigation in the context of this ruling (i.e.mitigation by design).

4.8 Therefore it is acknowledged that the layout of the proposed Mossy Hill wind farm has been designed to avoid displacement of those red-throated divers nesting in the vicinity of the proposed wind farm that show a strong connectivity to the pSPA (3 pairs nesting to the north-

east of the Hill of Tagdale and a pair to the south of the wind farm) and as such, will not present a barrier to flights between their nesting pools and the pSPA. Collision risk analysis suggests that one or two red-throated divers are likely to die in collisions over the lifetime of the development but this risk is associated with birds that do not show significant connectivity with the pSPA.

4.9 Examining cumulative impacts, SNH has confirmed that in its opinion that the proposed development will not itself contribute to cumulative displacement effects within the pSPA. The other developments considered included proposed wind farm developments and various aquaculture developments that have been consented in the pSPA since 2016. The impacts of increase in the size of the laydown area at the Dales Voe decommissioning base was not included in the cumulative impact assessment, however SBH has advised that the level of disturbance arising from the Dales Voe development is predicted to less than the 2016 baseline as it will result in there being fewer shipping movements to and from the base.

4.10 The current proposed S36 Variation Application submitted in respect of the Viking Wind Farm and EIAR submitted predicts no material changes to the assessment of likely effects of the Viking wind farm on red-throated diver populations during the construction stage. The S36 Variation Application does however expect there to be changes to the potential of the Viking wind farm to affect bird population during the operational stage, brought about by the larger size of turbines leading to changes in predicted collision risk and displacement. The reasons for the changes include (i) less turbines than originally submitted, (ii) increased avoidance rates as recommended by SNH, and (iii) larger turbines operating than previously submitted.

4.10 Together, it is anticipated that the above will result in an overall reduction of predicted collision risk deaths of red-throated divers from 4.2 per year in the original Viking wind farm ES to 1 per year in the S36 application and this would reduce the baseline on which the East Coast Mainland, Shetland pSPA was designated accordingly. Therefore the cumulative impacts of the Mossy Hill wind farm is correspondingly reduced.

4.11 Other species present in the pSPA such as greater northern diver, long tailed duck, red-breasted merganser and Slavonian grebe qualify as wintering species when they occur and are only found on the sea and therefore will not be affected by the wind farm development.

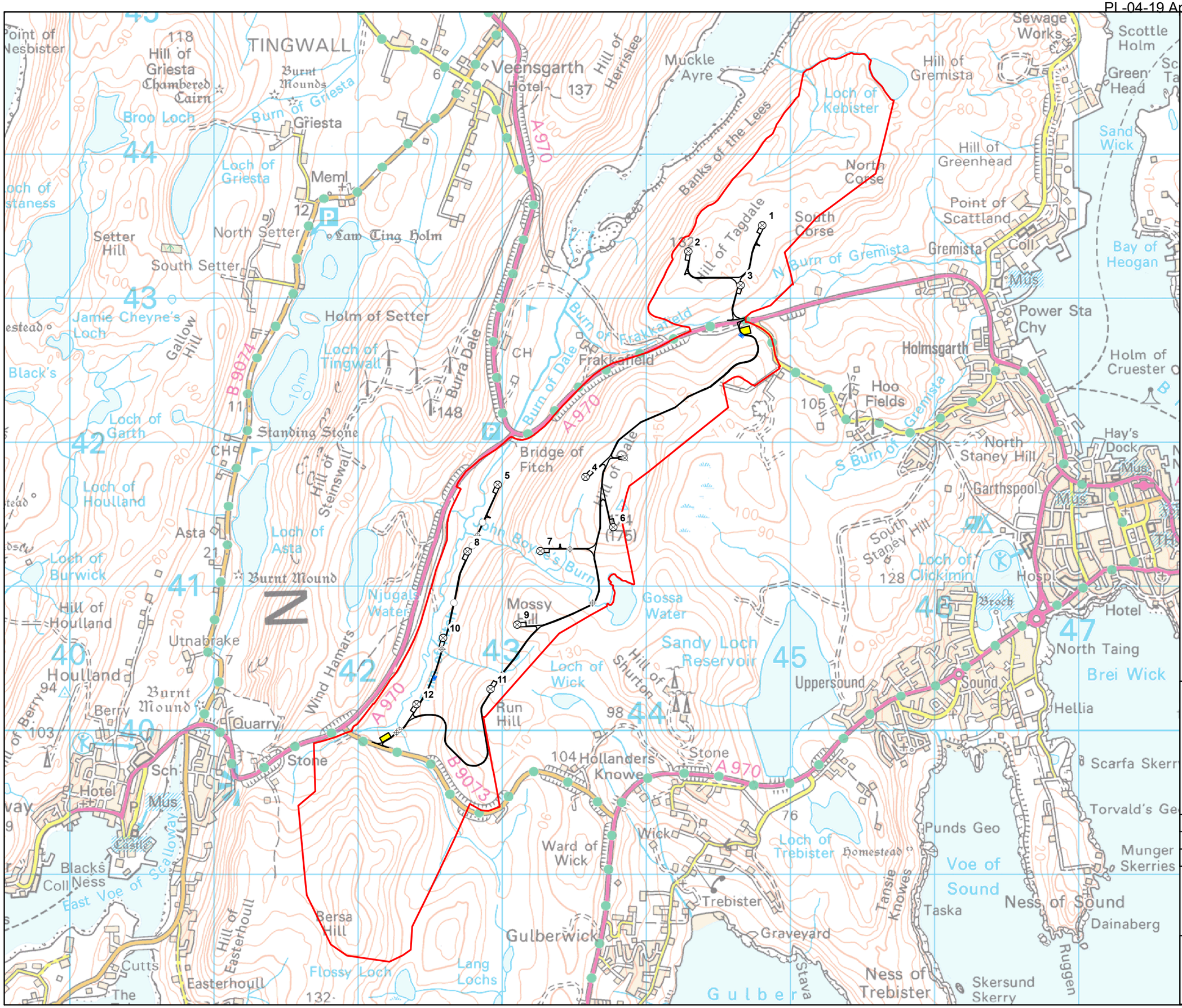
5. Conclusions

5.1 Given the above it is concluded that the proposed Mossy Hill wind farm development will not give rise to significant adverse impacts to the qualifying interests of the pSPA nor will it affect the integrity of the site as a whole.

5.2 The design of the wind turbine layout was developed following collation of baseline information and the identification and mapping of a number of constraints. This enabled environmental issues that influenced the positioning of the proposed wind turbines to be considered and examined at an early stage in the overall design process and enabled unnecessary environmental impacts to be avoided as the wind farm proposal developed. Advice from SNH is that following clarification of the implications of the ECJ case of People Over Wind v.Coillte Teoranta protective measures incorporated into the design of the development can be taken into account at the stage when the effect on the integrity of a site is being assessed (Appropriate Assessment).

5.3 In this instance from the currently available evidence and data it is considered that the proposed wind farm has been designed to ensure that the impact of the development will have no significant effect on the East Coast Mainland Shetland pSPA breeding population of red-throated divers. Anticipated impacts are reduced to be of no significance and it is considered following review and assessment of the information submitted in the planning application EIAR and supporting documents that the mitigation proposed in the form of a Construction Environmental Management Plan (CEMP), outline Habitat Management Plan (OHMP) and Draft Bird Breeding Protection Plan (BBPP) will contribute to ensuring that impacts are minimised.

5.4 This report fulfils the statutory requirements of Shetland Islands Council, as competent authority, under the Conservation (Natural Habitats & c.) Regulations 1994 (as amended) to undertake an appropriate assessment of any project that is likely to have a significant adverse effect on a Natura 2000 site.



Turbine	Easting	Northing	AOD
1	444805	1143506	116
2	444291	1143322	123
3	444655	1143089	111
4	443577	1141759	154
5	442969	1141704	25
6	443772	1141408	167
7	443266	1141245	117
8	442759	1141241	32
9	443105	1140734	140
10	442590	1140640	42
11	442919	1140287	114
12	442406	1140181	40

Project	Mossy Hill Wind Farm
Client	Peel Wind Farms (No. 1) Ltd
Title	Site Plan
Figure No.	1.2
Scale	1:24,000 @A3
Doc. Ref.	11747-058

REV.	DETAILS	DRAWN	CHK'D	APP'D	DATE
R0	FIRST ISSUE	JR	JMc	JMc	16/04/2018

PEEL Energy

tnei

From: Val Turner
Sent: 31 Jul 2018 15:31:22 +0000
To: Development Management@Development
Cc: Chris Dyer;Holden John@Development Management;Hunter Dale@Development Management
Subject: RE: Planning Consultation 2018/186/PPF Mossy Hill

Type text here

Planning Consultation 2018/186/PPF Mossy Hill

Thank you for consulting us on this application.

We note that the Cultural Heritage Statement (chapter 7) has only flagged up 20 features within the red-line area, and that these are all post-medieval. The probability, given that this is such a large area and that it is peat covered, and that the peat-depth survey did not bottom the peat in most cases, is that there is a prehistoric presence which has not yet been located.
The majority of the features identified, both in the walkover and in the peat-depth survey, are concentrated in the area between turbines 5,8,10,and 12 (Burn of Fitch). As such, no development should commence in this area until a controlled archaeological strip has taken place.

The rest of the development should be subject to a watching brief and this should not be limited to a "representative sample". Such a limitation is proposed in the report at 7.9.1 (p127) and in the summary (p111) but is not in keeping with standard archaeological practice as carried out in peatland in Shetland. This is evidenced by the situation found at the Laggan-Tormore development in Brae, where, despite the through nature of the work carried out in advance, the incredibly significant site of Crooksetter was found during the watching brief.

In addition we are disappointed in the quality of the photographs submitted in the report which do not include a standard scale (ranging rod), some of which do include some kind of wiggly snake/ tape measure? of unknown length.

We therefore propose the following archaeological condition(s)

Programme of Archaeological Work

1. Development shall not commence until a written scheme of archaeological works (Written Scheme of Investigation), which identifies a phased programme and method of archaeological work has been submitted to and agreed by the Regional Archaeologist on behalf of the Local Planning Authority in writing. Thereafter a suitable mitigation strategy shall be submitted to the Planning Authority for agreement following consultation with the Regional Archaeologist. This will included the methodology for a controlled archaeological strip of the

area between turbines 5,8,10,and 12 (Burn of Fitch). It will also include methodology for a watching brief of the whole area where any ground breaking is to take place, including for all parking/laydown areas, etc.

2. Development will not commence until a controlled archaeological strip of the area between turbines 5,8,10,and 12 (Burn of Fitch) has been conducted. The methodology for this will be contained in the WSI required by the preceding condition.

3. The development shall not be occupied until the site investigation has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under this condition and the Post Excavation Research Design for the analysis, publication and dissemination of results and archive deposition has been agreed and secured.

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

Thank you

Dr Val Turner
Shetland Regional Archaeologist
Shetland Amenity Trust, Garthspool,
Lerwick, Shetland, ZE1 0NY
Tel: [redacted]

www.shetlandamenity.org

From: development.management@shetland.gov.uk
[mailto:development.management@shetland.gov.uk]
Sent: 20 July 2018 10:40

[redacted]

Cc: john.holden@shetland.gov.uk
Subject: Planning Consultation 2018/186/PPF

Dear Sir/Madam,

Planning Ref: 2018/186/PPF
Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Address: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour
Applicant: Peel Wind Farms (No 1) Ltd.
Date of Consultation: 20 July 2018

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.
(The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)
(The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011)

All plans can be viewed on:
http://pa.shetland.gov.uk/online-applications/
The consultation period is 30 days, but if you have any queries please contact Marion Bryant, Support Officer on development.management@shetland.gov.uk or 01595 744864.
Consultation replies should be sent to: development.management@shetland.gov.uk.
We appreciate that it may not always be possible to give a full response within the 30 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.
If there are any problems with the e-consultation process, please get in touch.
Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
ZE1 0LZ

From: GQC CC Clerk
Sent: 29 Aug 2018 17:18:12 +0100
To: Development Management@Development
Subject: Re: Planning Consultation 2018/186/PPF

2018/186/PPF: The construction and operation of Mossy Hill Wind Farm, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m.

Members met and discussed this application recently. They could see both the negative and positive sides of such an application but also took account of the fact that there had been several constituents who had been in contact with concerns and objections.

The first comment they wished to return was a general one in that they believe that there should be a standardised application process for windfarm applications which covers details such as an ethical check on the applicant/company as well as a financial check on them. They also felt that it was important that there was a decommissioning plan put in place.

Members felt it was important to mention that there have been concerns from the community on the visual impact, the noise, the effect the development would have on archaeology and wildlife, whether there is a decommissioning plan, access and the possible negative impact on the price of houses.

As the design has been changed since the original proposed application members would like to see the developers back in Shetland to hold more public informationsessions. A display of visuals showing the effect the windmills would have on the landscape would be of great interest to members of the public as it is likely most people do not realise the scale and the visual impact the windmills will have.

Members would also like more information on the proposals for ongoing benefits to the community when in operation and details of proposed decommissioning plans for end of life. Members were also keen to know if contingency plans were in place and if any cash would be ringfenced for decommissioning should the developer was to go bust prior to completing the project.

Members plan to gather more views from constituents and submit another response to the consultation following the next meeting. I understand that this may be outside the official consultation period but members are keen to gather more views from their constituents due to the size and nature of the application.

Kind regards,

Kerry Geddes

Clerk
Gulberwick, Quarff and Cunningsburgh Community Council

From: development.management@shetland.gov.uk
[mailto:development.management@shetland.gov.uk]
Sent: 20 July 2018 10:40
[redacted]
Cc: john.holden@shetland.gov.uk
Subject: Planning Consultation 2018/186/PPF

Dear Sir/Madam,

Planning Ref: 2018/186/PPF
Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Address: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour
Applicant: Peel Wind Farms (No 1) Ltd.
Date of Consultation: 20 July 2018

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.

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We appreciate that it may not always be possible to give a full response within the 30 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.

If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
ZE1 0LZ

From: GQC CC Clerk
Sent: Tue, 26 Feb 2019 10:34:58 +0000
To: Development Management@Development
Subject: Re: Planning Re-Consultation 2018/186/PPF

Hello

2018/186/PPF

Members recently met and discussed the additional information for this application. They have no further comments to return.

Kind regards,

Kerry Geddes

Clerk
Gulberwick, Quarff and Cunningsburgh Community Council

On Mon, Feb 11, 2019 at 11:47 AM <development.management@shetland.gov.uk> wrote:

Dear Sir/Madam,

Planning Ref: 2018/186/PPF
Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Address: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour
Applicant: Peel Wind Farms (No 1) Ltd.
Date of Consultation: 11 February 2019

Comments are required in response to additional information received on 8 and 11 February 2019 (Additional information received attached to this email).

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.

(The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)

(The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011)

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The consultation period is 28 days, but if you have any queries please contact Marion Bryant, Support Officer on development.management@shetland.gov.uk or 01595 744864.

Consultation replies should be sent to: development.management@shetland.gov.uk.

We appreciate that it may not always be possible to give a full response within the 28 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.

If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
ZE1 0LZ

From: Clerk to Lerwick Community Council
Sent: 4 Sep 2018 13:51:43 +0100
To: Development Management@Development
Subject: RE: Planning Consultation 2018/186/PPF

Good afternoon

This application was discussed at the Lerwick Community Council meeting. There were arguments both against it and in favour of it and on balance it was decided that our official response was "noted."

Regards
Frances Valente
Clerk

From: development.management@shetland.gov.uk
[mailto:development.management@shetland.gov.uk]
Sent: 20 July 2018 10:40
[redacted]
Cc: john.holden@shetland.gov.uk
Subject: Planning Consultation 2018/186/PPF

Dear Sir/Madam,

Planning Ref: 2018/186/PPF
Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Address: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour
Applicant: Peel Wind Farms (No 1) Ltd.
Date of Consultation: 20 July 2018

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.
(The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)
(The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011)

All plans can be viewed on:
http://pa.shetland.gov.uk/online-applications/
The consultation period is 30 days, but if you have any queries please contact Marion Bryant, Support Officer on development.management@shetland.gov.uk or 01595 744864.

Consultation replies should be sent to: development.management@shetland.gov.uk.
We appreciate that it may not always be possible to give a full response within the 30 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.
If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
ZE1 0LZ

From: Scalloway Clerk
Sent: 24 Oct 2018 15:35:15 +0100
To: Development Management@Development
Subject: Fwd: Planning Consultation 2018/186/PPF

Hi Marion

Copy of our response sent on 02 September below.

Kind regards
Edna

---------- Forwarded message ---------
From: **Scalloway Clerk** <[redacted]
Date: Sun, Sep 2, 2018 at 2:51 PM
Subject: Re: Planning Consultation 2018/186/PPF
To: <development.management@shetland.gov.uk>

Good Afternoon

This application was discussed by members at the Scalloway Community Council meeting held on Monday 20 August 2018 and the decision is as follows:-

The Scalloway Community Council wish to lodge their objection to the proposed Mossy Hill development.

This objection is made on the following grounds:

- The proposal is close to the boundary of the National Scenic Area designation at Scalloway and designated view-point, so as to have significant detriment to the visual amenity.

- The construction and long term impact of the proposed development are likely to have a significant environmental impact on the hill land, moorland and water courses of the area. This may have a negative impact on several species vulnerable to disturbance, including moorland birds; diving birds; raptors; brown trout; sea trout and the integrity of peat land and related plant species.

- The B9073 is s significant thoroughfare for tourism-related traffic to Scalloway. Industrial landscaping such as that proposed in thedevelopment in close proximity to the route is considered to be to the detriment of Scalloway's growing tourism profile.

- Large areas of Scalloway are reliant on telecommunication signals received directly from transmitters near to Lerwick, via the area of the proposed development. The proposed development is therefore likely to have a negative impact on television signal reception and negative impact on mobile communications data signal reception

- The proposed development is likely to present a nuisance in regard of constant or intermittent noise pollution to the Scalloway area and its inhabitants.

- The proposed development appears to be non-compliant with sections DC1, DC2, DC3 and DC5 of Shetland Local Development Plan (2014) Supplementary Guidance - Onshore Wind Energy

- The proposed development infringes upon the area of the Shetland Clay Target Club shooting range, previously designated as not for development. There is also the likelihood of displacement of established activity in this area.

Kind regards
Edna
SCC Clerk

On Fri, Jul 20, 2018 at 10:40 AM <development.management@shetland.gov.uk> wrote:

Dear Sir/Madam,

Planning Ref: 2018/186/PPF
Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Address: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour
Applicant: Peel Wind Farms (No 1) Ltd.
Date of Consultation: 20 July 2018

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.

(The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)

(The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011)

All plans can be viewed on:

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The consultation period is 30 days, but if you have any queries please contact Marion Bryant, Support Officer on development.management@shetland.gov.uk or 01595 744864.

Consultation replies should be sent to: development.management@shetland.gov.uk.

We appreciate that it may not always be possible to give a full response within the 30 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.

If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
ZE1 0LZ

From: Scalloway Clerk
Sent: Sun, 24 Feb 2019 14:34:57 +0000
To: Development Management@Development
Subject: Re: Planning Re-Consultation 2018/186/PPF

Dear Sir

Members of the Scalloway Community Council discussed this consultation at their meeting held on Monday 18 February 2018 and are unhappy with the response from the applicant to the issues the SCC raised and wish to comment as follows:

Scalloway Community Council would wish to be informed where specifically in Peel Wind Farms (No1) Ltd documentation where, by document reference, our specific items of objection were covered given the cursory statement in the 186 Additional Information 1.pdf.

Kind regards
Edna Nicol
SCC Clerk

From: "development.management@shetland.gov.uk" <development.management@shetland.gov.uk>
Date: Monday, 11 February 2019 at 11:47

[redacted]

[redacted]

Subject: Planning Re-Consultation 2018/186/PPF

Dear Sir/Madam,

Planning Ref: 2018/186/PPF
Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Address: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour
Applicant: Peel Wind Farms (No 1) Ltd.
Date of Consultation: 11 February 2019

Comments are required in response to additional information received on 8 and 11 February 2019 (Additional information received attached to this email).

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.
(The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)
(The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011)

All plans can be viewed on:
http://pa.shetland.gov.uk/online-applications/
The consultation period is 28 days, but if you have any queries please contact Marion Bryant, Support Officer on development.management@shetland.gov.uk or 01595 744864.
Consultation replies should be sent to: development.management@shetland.gov.uk.
We appreciate that it may not always be possible to give a full response within the 28 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.
If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
ZE1 0LZ

2018/186/PPF

TINGWALL, WHITENESS AND WEISDALE COMMUNITY COUNCIL

Clerk:
Mrs Eva Ganson
Lochend
Girlsta
Shetland
ZE2 9SQ
♦
Phone [redacted]
Email
tww.[redacted]

22 September 2018

Mr I McDiarmid
Executive Manager
Planning Service
Shetland Islands Council
Train Shetland
North Gremista Industrial Estate
Lerwick
Shetland
ZE1 0LZ

SHETLAND ISLANDS COUNCIL
PLANNING
20 SEP 2018
PASS TO ISM ACTION 166992

Dear Mr McDiarmid

Proposed Wind Farm Development by Peel Energy at Mossy Hill

The Tingwall Whiteness and Weisdale Community Council wish to lodge objection to the proposed Mossy Hill Wind Farm Development by Peel Energy.

The objection is made on the following points:

- The construction and long term impact of the proposed development are likely to have a significant environmental impact on the hill land, moorland and water courses of the area. This may have a negative impact on several species vulnerable to disturbance, including moorland birds; diving birds; brown trout; sea trout and the integrity of peat land and related plant species.

- Large areas of Tingwall are reliant on telecommunication signals received directly from transmitters near to Lerwick, via the area of the proposed development. The proposed development is therefore likely to have a negative impact on television signal reception and negative impact on mobile communications data signal reception.

- The development is likely to present a nuisance in regard of constant or intermittent noise pollution to the Tingwall and Frakkafield residents and inhabitants.

- The proposed development appears to be non-compliant with sections DC1, DC2, DC3 and DC5 of Shetland Local Development Plan (2014) Supplementary Guidance- Onshore Wind Energy.

- The development would detract from the Dale Golf Course which is a well used recreational resource.

Yours sincerely

[redacted]

Eva Ganson
Clerk

HISTORIC ENVIRONMENT SCOTLAND | ÀRAINNEACHD EACHDRAIDHEIL ALBA

By email to:
development.management@shetland.gov.uk

Shetland Islands Council
Planning Service
Train Shetland
North Gremista Industrial Estate
Lerwick
ZE1 0LZ

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

Enquiry Line: [redacted]

Our ref: AMN/16/Z
Our case ID: 300021740
Your ref: 2018/186/PPF
24 August 2018

Dear Ms Bryant [redacted]

Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011
Mossy Hill Wind Farm, near Lerwick, Shetland
Environmental Statement

Thank you for your consultation which we received on 20 July 2018. We have considered it and its accompanying Environmental Statement (ES) in our role as a consultee under the terms of the above regulations and for our historic environment remit as set out under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013. 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 your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

Our Advice

We do not wish to object to the application. Our detailed comments on the application and Environmental Statement are contained in the annex to this covering letter.

Planning authorities are expected to treat our comments 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 of national significance 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.

HISTORIC ENVIRONMENT SCOTLAND | ÀRAINNEACHD EACHDRAIDHEIL ALBA

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 [redacted] 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/. Technical advice is available through our Technical Conservation website at www.engineshed.org.

Please contact us if you have any questions about this response. The officer managing this case is Victoria Clements who can be contacted by phone on [redacted] or by email on [redacted].

Yours sincerely

Historic Environment Scotland

ANNEX

Proposed Development
We understand that the proposed development would consist of 12 turbines to 145m maximum blade tip height, plus ancillary infrastructure including approximately 9.3km of access tracks, 2 temporary construction compounds, 2 substation compou[redacted] high meteorological mast, on-site cable network and a scheme of ecological mitigation and habitat enhancement.

Background
Historic Environment Scotland (HES) has previously been consulted by the applicant's team at post-scoping stage in July 2017. In our response we identified the potential for significant impacts on the setting of a number of nationally importa[redacted]heritage assets in [redacted]ing Scalloway Castle (SM 90273) and requested that these be assessed. HES is content that the ES has provided an assessment of these assets.

Environmental Statement
We are content that sufficient information has been provided in the ES for us to come to a view on the application.

Methodology
We consider that for the most part the methodology used is appropriate for our interests and we welcome that our Managing Change in the Historic Environment guidance note on Setting has been referenced, however, we do have some comments to make.

We welcome that visualisations, both wireframes and photomontages where appropriate, have been provided for historic environment assets. The provision of visualisations was particularly useful in allowing a thorough assessment of impacts.

We are mostly content with the criteria for establishing relative importance of heritage assets in Table 7.2, however, we note that in the sections on regional and local importance there are statements regarding the condition of assets which could potentially lead to confusion. The table states that sites will be considered of regional or local importance if they would ordinarily be considered nationally important but have been damaged such that their ability to inform is reduced. In our view asset types with national designations are of national importance regardless of condition. Should the assessor consider that the designation of an asset requires review, this issue should be raised with HES prior to the submission of any application or ES.

Table 7.3 gives criteria for establishing relative sensitivity for changes to setting and includes the phrase, 'where the asset itself is in such a state of disrepair that the relationship cannot be fully understood/determined'. It is not clear to us why the

condition of an asset would have any bearing on the relationship of an asset to its setting. In circumstances where an asset is not in good condition or does not have upstanding remains, setting can often be an important component of its cultural significance as the topography, landscape and views to and from a site for example, may provide important evidence of why a site was positioned in a specific location. It is therefore important not to underestimate any element of an asset's setting solely because an asset [redacted] d to be in 'disrepair'.

It is not entirely clear to us how the factors in Table 7.5 which affect magnitude of setting impact relate to Table 7.6 on criteria for establishing magnitude of setting impact. We would note that table 7.5 does not appear to cover the full range of factors included in our Managing Change guidance note on setting. Table 7.6 has a number of criteria which are very specific and we consider that it would be more appropriat[redacted]e wider criteria w[redacted] will affect the ability to understand, appreciate and experience the asset.

We would query the differences between Tables 7.7 and 7.8 which refer to the level of significance of effect for direct and setting impacts. Table 7.8 refers to setting effects and identifies fewer levels of effect which are 'significant' in the context of EIA. This gives the misleading impression that setting effects are less important or less likely to be significant than direct effects.

<u>Assessment</u>
For the most part, we consider that the assessment provides an appropriate level of detail, and generally includes useful consideration of setting, including such issues as key views of and from historic environment assets, as well as wider landscape character.

Our interest
Our post-scoping response identified a number of assets within our remit for assessment in terms of potential impacts on their setting, including:

- Scalloway Castle (SM 90273 & Property in the Care of Scottish Ministers)
- Clickimin Broch, broch and settlement (SM 90077 & Property in Care)
- Teind Barn, 120m N of Kebister (SM 11262)
- Law Ting Holm, thingstead, Loch of Tingwall (SM 2074)
- Fort Charlotte, Lerwick (SM 90145 & Property in Care)
- Nesbister Hill, cairn 350m W of Wastower (SM 2041)
- Gardie House (LB 5880) and associated Inventory Garden & Designed Landscape

We have reviewed the information and assessment provided in the ES and Technical Appendix 4 and we are content to agree with the conclusions of the assessments for the above assets.

We are content that Clickimin Broch (SM 90077) was scoped out of further detailed assessment given that the proposed development will not be visible from the scheduled monument.

Scalloway Castle (SM90073 & Property in Care)
Scalloway Castle was constructed in 1600-7 by Patrick Stewart, Earl of Orl[redacted] of Shetland, the castle consists of a rectangular tower-house measuring about 18m E-W by about 10m N-S, with a jamb attached to its SW corner measuring about 8m by 8m. Although now roofless, it stands three storeys high above a vaulted ground floor. Its cultural significance lies in its relatively good state of preservation, its late date and its association with an important historical figure.

Scalloway Castle is situated on a low natural coastal promontory w[redacted]ut into the Voe o[redacted] surrounded by the sea on all sides and was placed in this location for strategic and defensive purposes to control movement in and out of the harbour. In light of this, a key element of the setting of the castle are the outward views towards the sea. Given that the castle was also built to be a large and impressive building, views towards it from the surrounding area are of equal importance. Although there has been modern development in the vicinity, most of this is fairly low level and the castle retains a prominence within the town.

We note that the visualisations provided for the assessment of impacts on the setting of Scalloway Castle indicate that at least 3 turbines will be partly visible in views from the castle and visible in the background in some views towards the castle. The intervening topography partly screens the turbines from view and provides a clear separation of the windfarm from the valley and Voe which form part of the setting of the castle. We consider that the turbines will not have a significant adverse impact on the castle's dominance within Scalloway.

We are therefore content that although some of the turbines from the proposed development will be visible in some views when looking towards the castle from both land and sea that the turbines will not have a significant impact on the ability to understand, appreciate and experience the monument in its setting.

Our position
Historic Environment Scotland does not object to the proposed development. The proposals would not have a significant adverse impact on the settings of the surrounding nationally important designated historic environment assets and would not raise issues of national interest for our historic environment remit.

Historic Environment Scotland
23 August 2018

HISTORIC ENVIRONMENT SCOTLAND | ÀRAINNEACHD EACHDRAIDHEIL ALBA

By email to:
development.management@shetland.gov.uk

Shetland Islands Council
Planning Service
Train Shetland
North Gremista Industrial Estate
Lerwick
ZE1 0LZ [redacted]

Longmore House
Salisbury Place
Edinburgh
EH9 1SH

[redacted]

Our case ID: 300021740
Your ref: 2018/186/PPF

07 March 2019

Dear Sir/Madam

Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011
Mossy Hill Wind Farm
Additional Information

Thank you for your correspondence dated 11 February 2019 seeking our comments on the additional information for the above proposal. This letter contains our comments for our historic environment interests. That is scheduled monuments and their settings, category A listed buildings and their settings, Inventory gardens and designed landscapes (GDL), Inventory battlefields and World Heritage Sites. You should also seek advice from your archaeology and conservation service for matters including unscheduled archaeology and category B and C-listed buildings.

Having reviewed the additional information provided, as well as the original Environmental Statement, I can confirm that Historic Environment Scotland does not object to the proposed development.

The contents of the additional information relates to matters which have been raised by other consultees including SNH, RSPB, Scottish Water, Tingwall Airport and Highlands & Islands Airport, SERCO (Scatsta airport), Ministry of Defence, Shetland Islands Council's road service, access officer and environmental health service, Gulberwick, Quarff and Cunningsburgh Village Council, Scalloway and Tingwall Village Councils, Sustainable Shetland and Shetland Clay Target Club.

We have reviewed the additional information supplied and note that the assessment of impacts on the historic environment has not been revised and we are content that the additional information does not demonstrate any change to the assessed effects on the historic environment. We are content that the additional information does not demonstrate an impact that is significant for our interests. In light of this I can confirm that Historic Environment Scotland have no additional comments to add to our previous response dated 24 August 2018.

HISTORIC ENVIRONMENT SCOTLAND | ÀRAINNEACHD EACHDRAIDHEIL ALBA

Please contact us if you have any questions about this respons[redacted] this case is Victoria Clements who can be contacted by phone on [redacted] or by email on [redacted].

Yours faithfully

Historic Environment Scotland

From: Anne Phillips
Sent: Thu, 28 Feb 2019 15:54:41 +0000
To: Development Management@Development
Subject: Plan App 2018/186/PPF - Construction and operation of Mossy Hill Wind Farm (max height to blade tip 145m) 2.4km on outskirts of Lerwick

Your Ref: 2018/186/PPF
HIAL Ref: 2018/0083/LSI

Dear Sir/Madam,

PROPOSAL: Construction and operation of Mossy Hill Wind Farm, 12 turbines with maximum height to blade tip 145m
LOCATION: 2.4km on outskirts of Lerwick

The additional information does not affect HIAL's previous response dated 24/07/2018 which was as follows:

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 its height and position, a red aviation warning light may be required to be fitted at the hub height of some of the turbines.

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 5
Airspace Policy
Civil Aviation Authority
CAA House
45-59 Kingsway
London WC2B 6TE
Email [redacted]

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

Regards

Safeguarding Team
Highlands and Islands Airports Limited
Head Office, Inverness Airport, Inverness IV2 7JB
☏ [redacted] (DIRECT DIAL)
✉ [redacted] www.hial.co.uk

From: [redacted]
Sent: 24 Oct 2018 13:07:27 +0000
To: Development Management@Development
Cc: [redacted]
Subject: Planning Consultation 2018/186/PPF

Dear Marion Bright

The request for comment on the above consultation has been passed to me to respond.

HSE is the enforcing authority for occupational health and safety for the construction, operation, maintenance, decommissioning and demolition of wind farms of this type. The developer of the wind farm will have statutory duties to ensure compliance with the Health and Safety at Work Etc Act 1974 and relevant statutory provisions. This will include Construction (Design and Management) Regulations 2015 which place duties that the developer appoints designers who ensure that the wind farm assets and infrastructure is designed so as where possible risk is eliminated. Where this is not possible then risk should be reduced so far as is reasonable practicable with any residual risk managed to reduce the likelihood of harm.

While HSE do not approve specific farm layouts and design of equipment, the developer should be reminded of their legal obligations as set out above and by means of example this could include:

- Areas of hardstanding providing crane pads and laydown areas at each WTG location (approximately 28m × 45m) are of sufficient size and strength to allow cranes of sufficient capacity for safe lifting operations including preventing persons from being under suspended loads.
- The road ways are of sufficient size and strength to allow vehicles safe access to the delivery point and such infrastructure is maintained;
- There are reliable means of communication across site; etc.

It is noted that the planning application includes provision for external transformer units at the base of each turbine, HSE believe that such provision is advantageous to safety.

If you require further information then do not hesitate to contact me.

Regards

Trevor Johnson
Wind and Marine Energy Team
Energy Division
Health and Safety Executive
59 Belford Road
Edinburgh
EH4 3UE

[redacted]

****

Interested in Occupational Health and Safety information?

Please visit the HSE website at the following address to keep yourself up to date

www.hse.gov.uk

****

Defence Infrastructure Organisation

Claire Duddy
Assistant Safeguarding Officer
Ministry of Defence
Safeguarding – Wind Energy
Kingston Road
Sutton Coldfield
West Midlands B75 7RL
United Kingdom

Telephone [MOD]: [redacted]
Facsimile [MOD]: [redacted]
E-mail: [redacted]

Your Reference: 2018/186/PPF

Our Reference: DIO10040167

Iain McDiarmid
Executive Manager – Planning Service
Shetland Islands Council

16th August 2018

Dear Mr McDiarmid

Planning Ref: 2018/186/PPF

Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure

Address: Mossy Hill Wind Farm, approximately 2.4km from outskirts of Lerwick and 4.2km from Lerwick Harbour

Thank you for consulting the Ministry of Defence (MOD) about the above planning application in your communication dated 20th July 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 12 turbines, 144.5 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
1	444805	1143506
2	444291	1143322
3	444655	1143089
4	443577	1141759
5	442969	1141704
6	443772	1141408
7	443266	1141245
8	442759	1141241
9	443105	1140734
10	442590	1140640
11	442919	1140287
12	442406	1140181

Air Defence (AD) radar

The turbines will be 75.5km 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 turbine(s) weighed against a number of operational factors including:

a. Detectablity of the turbine(s).
b. Position of the development.
c. Number 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 affect on AD operations. The MOD therefore has concerns with the development. The reasons for this objection include, but are not limited to:

a. All of the turbines within the development being within radar line of sight radar.
b. The number of 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 the perimeter turbines are fitted with MOD accredited 25 candela omni-directional red lighting or infrared lighting with an optimised flash pattern of 60 flashes per minute of 200ms to 500ms duration at the highest practicable point.

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]

Claire Duddy
Assistant Safeguarding Officer - Wind Energy
Defence Infrastructure Organisation

SAFEGUARDING SOLUTIONS TO DEFENCE NEEDS

From: Wilson, Jon Mr (DIO SEE-EPS SG3)
Sent: Wed, 27 Mar 2019 14:26:12 +0000
To: Barclay Janet@Development Management
Cc: Egan, Desmond Mr (DIO SEE-EPS SG1)
Subject: 20190327_Mossy Hill Wind Farm -Proposed Condition

Janet,

Thank you for your e-mail.

The wording of the condition you have proposed below is not suitable for the delivery of any form of technical mitigation for the Ministry of Defence (MOD).

The MOD has not received any mitigation proposal from the applicant. Therefore, the current position of the MOD with respect to this application remains as stated in my letter of the 15th March 2019.

Can you please confirm whether you have received proposals from the applicant or any information on their intentions on how they would deliver any such mitigation? Please can you also confirm the timescale for the determination of this application? Can you get back to by 29th March on these points?

Please be aware that I am out of office from 29th March until 9th April, therefore please copy in my colleague Dez Egan (copy addressee above) in any response during this period.

Regards,

Jon Wilson

Senior Safeguarding Officer
Estates – Safeguarding

Defence Infrastructure Organisation

With effect from the 25th March 2019 the mobile number below will be the only phone number I can be directly contacted on.

Building 49, DIO Sutton Coldfield, Kingston Road, B75 7RL

Tel: [redacted] | **Email:** [redacted]

Website: www.gov.uk/dio/ | **Twitter**: @mod_dio

Read DIO's blog: https://insidedio.blog.gov.uk/

Defence Infrastructure Organisation

From: Janet.BarclaySmith@shetland.gov.uk <Janet.BarclaySmith@shetland.gov.uk>
Sent: 26 March 2019 10:25
To: Wilson, Jon Mr (DIO SEE-EPS SG3) [redacted] - Follow Up Query

Dear Mr Wilson

Further to our earlier correspondence in connection with the proposed wind farm at Mossy Hill in Shetland (Planning Ref: 2018/186/PPF, DIO Ref: 10040167) I have drafted a planning condition that I feel addresses your concerns about the potential impact of the development on RRH Saxa Vord (attached below). As you can see the planning condition requires an agreement to be reached with the MOD before any development can begin and also requires that the agreed mitigation scheme has to be implemented before any wind turbines become operational.
I would appreciate your comments on the planning condition as proposed. As usual I would appreciate if you could let me have your comments as soon as possible, and if possible by Friday 29 March 2018.

Regards

Janet Barclay Smith
Planning Officer
Shetland Islands Council
8 North Ness Business Park
Lerwick
Shetland
ZE1 0LZ

Aviation – MOD RRH Saxa Vord

(1) No development shall commence unless and until an Air Defence Radar mitigation scheme setting out the measures to be taken to minimise the effects of the development on the air defense radar at RRH Saxa Vord has been submitted to, and approved in writing by the Planning Authority in consultation with the MOD. The radar mitigation scheme shall set out the details of the process by which amendments to the scheme may be proposed by the developer and reviewed by the Planning Authority in consultation with the MOD.

(2) No turbines shall become operational until:
(a) The mitigation measures which the approved scheme requires to be implemented prior to the operation of the turbines have been implemented; and
(b) Any performance criteria specified in the approved scheme and which the approved scheme requires to have been satisfied have been satisfied; and
(c) That implementation and satisfaction of the performance criteria have been approved by the Planning Authority.

(3) Thereafter, and for the lifetime of the development, the development shall be operated in accordance with the approved scheme, incorporating any amendments approved in wiriting by the Planning Authority in consultation with the MOD.

Reason: To mitigate against the potential impact of the operation of the wind turbines on the air defence radar at RRH Saxa Vord, and the air surveillance and control operations of the MOD, and to comply with Policy GP2 of Shetland Local Development Plan (2014).

From: Wilson, Jon Mr (DIO SEE-EPS SG3) [redacted]
Sent: 19 March 2019 09:19
To: Barclay Janet@Development Management <Janet.BarclaySmith@shetland.gov.uk>
Subject: 20190319_Mossy Hill Wind Farm - Additional Information - Follow Up Query

Janet,

Thank you for your query. I will review this and get back to you shortly.

Regards,

Jon Wilson

Senior Safeguarding Officer
Estates – Safeguarding

Defence
Infrastructure
Organisation

Building 49, DIO Sutton Coldfield, Kingston Road, B75 7RL

Tel: [redacted] | **Email:** [redacted]

Website: www.gov.uk/dio/ | **Twitter**: @mod_dio

Read DIO's blog: https://insidedio.blog.gov.uk/

Defence Infrastructure Organisation

From: Janet.BarclaySmith@shetland.gov.uk <Janet.BarclaySmith@shetland.gov.uk>
Sent: 15 March 2019 16:12
To: Wilson, Jon Mr (DIO SEE-EPS SG3) [redacted] Response

Dear Mr Wilson

Thank you for your comments on the above proposed wind farm development. I note your position on aviation lighting and would propose to attach a planning condition that would require the submission of a lighting plan that would have to be agreed in consultation with all interested parties including the MOD.

In terms radar mitigation I would propose to attach a suspensive condition that requires the submission of details of a radar mitigation scheme for agreement/approval in consultation with the MOD that would have to be implemented before the wind farm could be developed.. This would mean that the development would not be able to proceed if agreement could not be reached. This would appear to be a way forward for the proposal. I would appreciate if you could let me have your thoughts on this approach.

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8 North Ness Business Park
Lerwick
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From: Wilson, Jon Mr (DIO SEE-EPS SG3) [mailto[redacted]
Sent: 15 March 2019 15:53
To: Development Management@Development <development.management@shetland.gov.uk>; Barclay Janet@Development Management <Janet.BarclaySmith@shetland.gov.uk>
Subject: 20190315_Mossy Hill Wind Farm - Additional Information- MOD Response

Dear Janet,

Please find attached my response confirming the position of the Ministry of Defence with respect to the additional information submitted by the applicant in relation to application ref. 2018/186/PPF for the construction and operation of Mossy Hill Wind Farm.

Regards,

Jon Wilson

Senior Safeguarding Officer

Defence
Infrastructure
Organisation

Building 49, DIO Sutton Coldfield, Kingston Road, B75 7RL

Tel: [redacted] | **Email:** [redacted]

[redacted]

[redacted] **blog**: https://insidedio.blog.gov.uk/

Defence Infrastructure Organisation

From: Wilson, Jon Mr (DIO SEE-EPS SG3)
Sent: Thu, 28 Mar 2019 16:41:12 +0000
To: Barclay Janet@Development Management
Cc: Egan, Desmond Mr (DIO SEE-EPS SG1)
Subject: 20190328_Mossy Hill Wind Farm -Proposed Condition

Janet,

Thank you for your response.

Please can you confirm how Shetland Islands Council anticipates that the proposed suspensive condition could be discharged and in what timeframe given that there does not appear to be any account of the costs, timescales or means of providing a technical mitigation to address the impacts of the development on the air defence radar?

I should also point out that the wording of the condition drafted by Shetland Islands Council is not considered suitable. This is primarily because it lacks clarity in terms of what the applicant is required to provide. A mitigation scheme that only identifies a need for a scheme that will 'minimise' the effects of the development on the air defense radar rather than to mitigate the impact of the development upon the radar is not suitable.

In the event that the MOD is able to agree to the use of a suspensive condition, we will provide wording for a suitable condition for agreement with the applicant and Shetland Islands Council.

Therefore, at this stage, the MOD is not able to support the proposed use of a suspensive condition and our safeguarding position remains as identified in my last letter (15th March 2019).

I trust this clarifies our position on this matter.

I am now on leave until the 9th April. Therefore, until then, **please direct any further correspondence on this matter to my colleague Des Egan using the e-mail address detailed above (copy addressee).**

Regards,

Jon Wilson

Senior Safeguarding Officer
Estates – Safeguarding

Defence Infrastructure Organisation

With effect from the 25th March 2019 the mobile number below will be the only phone number I can be directly contacted on.

Building 49, DIO Sutton Coldfield, Kingston Road, B75 7RL

Tel: [redacted] | **Email:** [redacted]

Website: www.gov.uk/dio/ | **Twitter**: @mod_dio

Read DIO's blog: https://insidedio.blog.gov.uk/

Defence Infrastructure Organisation

From: Janet.BarclaySmith@shetland.gov.uk <Janet.BarclaySmith@shetland.gov.uk>
Sent: 28 March 2019 14:10
To: Wilson, Jon Mr (DIO SEE-EPS SG3) [redacted]>
Subject: RE: 20190327_Mossy Hill Wind Farm -Proposed Condition

Dear Mr Wilson
Suspensive planning conditions are a fairly standard planning tool, and are used as a means of ensuring acceptable mitigation is provided by a developer before any development on site can begin. In my opinion the proposed planning condition will ensure that the developer has to come up with a mitigation scheme that is acceptable to the MOD before any work to the development can begin. This would mean that if no agreement could be reached with the MOD, the wind farm could not be developed.

I can confirm that I have not received details of a mitigation scheme from the applicants at this time, however the planning condition as proposed would mean that they cannot carry out the development until a mitigation scheme is approved in consultation with the MOD.

I am proposing to recommend approval of the planning application on this basis. The planning application is due for consideration by the Shetland Islands Council's Planning Committee on 15 April 2019.

Regards

Janet Barclay Smith
Planning Officer
Shetland Islands Council
8 North Ness Business Park
Lerwick
Shetland
ZE1 0LZ

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From: Wilson, Jon Mr (DIO SEE-EPS SG3) [mailto:[redacted]
Sent: 27 March 2019 14:26
To: Barclay Janet@Development Management <Janet.BarclaySmith@shetland.gov.uk>
Cc: Egan, Desmond Mr (DIO SEE-EPS SG1) [redacted]>
Subject: 20190327_Mossy Hill Wind Farm -Proposed Condition

Janet,

Thank you for your e-mail.

The wording of the condition you have proposed below is not suitable for the delivery of any form of technical mitigation for the Ministry of Defence (MOD).

The MOD has not received any mitigation proposal from the applicant. Therefore, the current position of the MOD with respect to this application remains as stated in my letter of the 15th March 2019.

Can you please confirm whether you have received proposals from the applicant or any information on their intentions on how they would deliver any such mitigation? Please can you also confirm the timescale for the determination of this application? Can you get back to by 29th March on these points?

Please be aware that I am out of office from 29th March until 9th April, therefore please copy in my colleague Dez Egan (copy addressee above) in any response during this period.

Regards,

Jon Wilson

Senior Safeguarding Officer
Estates – Safeguarding

Defence
Infrastructure
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Sent: 15 March 2019 16:12
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Cc: john.holden@shetland.gov.uk
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Website: www.gov.uk/dio/ | **Twitter**: @mod_dio

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Defence Infrastructure Organisation

From: NATS Safeguarding
Sent: 16 Aug 2018 07:32:50 +0000
To: Development Management@Development
Subject: RE: Planning Consultation 2018/186/PPF [Our Ref: SG26580]

We refer to the application above. The proposed development has been examined by our technical safeguarding teams. In the timeframe given to us we have been unable to thoroughly investigate the effects of the proposed development on our Operations, however, the relevant teams are being consulted.

Based on our preliminary technical findings, the proposed development does conflict with our safeguarding criteria. Accordingly, NATS (En Route) plc objects to the proposal. We will notify you within 4-6 weeks of the results of our operational assessment. Only if this assessment shows the impact to be acceptable will we be able to withdraw our objection.

We would like to take this opportunity to draw your attention to the legal obligation of local authorities to consult NATS before granting planning permission for a wind farm. The obligation to consult arises in respect of certain applications that would affect a technical site operated by or on behalf of NATS (such sites being identified by safeguarding plans that are issued to local planning authorities).

In the event that any recommendations made by NATS are not accepted, local authorities are further obliged to notify both NATS and the Civil Aviation Authority ("CAA") of that fact (which may lead to the decision made being subject to review whether by the CAA referring the matter for further scrutiny or by appropriate action being taken in the courts).

As this further notification is intended to allow the CAA sufficient time to consider whether further scrutiny is required, we understand that the notification should be provided prior to any granting of permission. You should be aware that a failure to consult NATS, or to take into account NATS's comments when deciding whether to approve a planning application, could cause serious safety risks for air traffic.
If you have any queries regarding this matter you can contact us using the details as below.

Yours faithfully

NATS Safeguarding

D: [redacted]

4000 Parkway, Whiteley,
Fareham, Hants PO15 7FL
www.nats.co.uk

From: development.management@shetland.gov.uk
[mailto:development.management@shetland.gov.uk]
Sent: 20 July 2018 10:40

[redacted]

Cc: john.holden@shetland.gov.uk
Subject: Planning Consultation 2018/186/PPF

Dear Sir/Madam,

Planning Ref: 2018/186/PPF
Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Address: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour
Applicant: Peel Wind Farms (No 1) Ltd.
Date of Consultation: 20 July 2018

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.
(The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)
(The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011)

All plans can be viewed on:
http://pa.shetland.gov.uk/online-applications/
The consultation period is 30 days, but if you have any queries please contact Marion Bryant, Support Officer on development.management@shetland.gov.uk or 01595 744864.
Consultation replies should be sent to: development.management@shetland.gov.uk.
We appreciate that it may not always be possible to give a full response within the 30 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.
If there are any problems with the e-consultation process, please get in touch.
Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate

Lerwick
ZE1 0LZ

From: NATS Safeguarding
Sent: 23 Aug 2018 09:11:40 +0000
To: Development Management@Development
Subject: RE: Planning Consultation 2018/186/PPF [Our Ref: SG26580]

We refer to the above development.

Following a review of our operation in the vicinity of the proposed development NATS (En Route) plc has determined that although this is likely to impact our electronic infrastructure, this impact can be managed such that it does not effect the provision of a safe and efficient en-route ATC service. Accordingly NATS (En Route) plc has no safeguarding objection to the proposal and as such, we are withdrawing our objection of the **SG26580**

However, please be aware that this response applies specifically to the above consultation based on the information supplied at the time of this application. 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 NATS requires that it be further consulted on any such changes prior to any planning permission or any consent being granted.

Yours Faithfully

NATS Safeguarding

D: [redacted]

4000 Parkway, Whiteley,
Fareham, Hants PO15 7FL
www.nats.co.uk

From: NATS Safeguarding
Sent: 16 August 2018 08:33
To: 'development.management@shetland.gov.uk'
Subject: RE: Planning Consultation 2018/186/PPF [Our Ref: SG26580]

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NATS Safeguarding

D[redacted]

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[mailto:development.management@shetland.gov.uk]
Sent: 20 July 2018 10:40
To:[redacted]

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Subject: Planning Consultation 2018/186/PPF

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Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
ZE1 0LZ

From: NATS Safeguarding
To: Development Management@Development
Subject: RE: Planning Consultation 2018/186/PPF [Our Ref: SG26580]
Attachments: image001.png
image002.png
image003.png
image004.gif
image005.png
image006.png
image007.png

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Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
ZE1 0LZ

MEMO

To: Development Control

From: Roads

If calling please ask for
Brian Halcrow
Direct Dial: 4883

Medium: email
Our Ref: BH/SMG/R/G2/LB/SBT
Your Ref:

Date: 9 October 2018

Application: 2018/186/PPF
Address: Mossy Hill, Wind Farm, Lerwick
Proposal: Construct 12 Wind Turbines and Associated Infrastructure
Date of Consultation: 20th July 2018

Recommended Action: REVISED DETAILS REQUIRED/ MORE INFORMATION REQUIRED

Road Authority Comments:

Looking at the submission there are a few items that raise concern, and some that need clarification:

1. The proposed access points enter onto the A970 near the Ladies Drive junction. The A970 in this location is a busy high speed section of main distributor road, and the Ladies Drive junction serves a number of commercial units as well as providing access to housing in the north area of Lerwick. The proposed access junctions will create significant conflict with the existing Ladies Drive junction and will require to be relocated.

   The south portion of the development site could be served by a new access point onto the Ladies Drive road. Any junction to serve the north portion of the site will have to enter onto the A970. This will require a more detailed consideration of location to ensure adequate visibility and space for turning vehicles away from the existing Ladies Drive junction.

   There is also a potential issue with the A970 lying being between the two parts of the site, effectively creating a crossover between the sites on a busy, high speed road.

   I would therefore recommend that the access arrangements for the two portions of the development site are reconsidered and submitted for further comment and approval.

2. The proposed access point off the B9073 Black Gaet road is acceptable in terms of visibility, but will require considerable infill to achieve the maximum acceptable gradient of 5% for the first 20 metres and get down to near existing ground levels.

3. There is a site compound areas are at each entrance point, with the exception of the site area to the north of the A970. This could lead to issues on the A970 with the number of vehicles and personnel having to cross the road from the works compound on the south side. I would recommend that a lay down area/ works compound be provided to the North of the A970 as well to reduce any unnecessary trips across A970 between the two sites.

4. I am happy to see that the applicant is proposing to re-use all of the excavated peat on site and has identified areas for restoration and storage in the main (southern) part of the development site. However, I do not see any similar proposals within the northern part of the development site. I am already concerned about the need for development traffic to cross the A970 so I would ask the applicant to explain how the peat from the northern area will be managed. If it is proposed to move it across the A970 then relevant volumes, vehicle types, and timescales will be required to appraise the likely impacts.

5. The access road through the site identifies a 4.5 metre wide carriageway with associated verges and ditches. This is obviously too narrow for two way traffic and so I would suggest that the road be widened to at least 6 metres or passing places are provided at regular inter-visible intervals.

6. A number of quarries have been identified for sourcing construction materials, but no haulage routes has been determined. It is proposed to use 4 borrow pits on site to create most of the fill mentioned in the Transport Assessment but no locations appear on any of the plans I could see. The applicant should confirm these locations to ensure that they are located across the whole site to reduce/ remove any need to us the public road network.

   Any haulage on the public road network in this area will lead to impacts that will need to mitigated/ managed. Use of the public road network could lead to additional wear and tear and / or damage and so I would ask for a road condition survey be conducted for the public road network between each proposed source point of material delivery/ supply and the site access points to ensure that any additional wear/ damage to the public road network by the development can be clearly identified.

7. An electrical connection to Kergord with overhead lines as part of the system is mentioned in the environmental statement, but is to be considered as a separate application. I would point out that the A970 already has services in both verges in many places, which may cause issues with potential routes to Kergord if underground cabling is being considered.

8. The various mitigation measures mentioned throughout the submission should be made part of the conditions imposed on the development to ensure safeguarding of the public road and other issues with the site.

9. The movement of abnormal loads from Greenhead, Lerwick to site is indicated on a number of submitted drawings and will impact on various junctions on the public road network. This gives rise to some concerns in terms of road safety given the need to remove street lighting, signs, and splitter island bollards. More details and discussion on appropriate mitigating works/ actions will need to be held.

10. Nether design levels or gradient information for the site access roads have been specified. As such information is essential in estimating material quantities I would like

the applicant to confirm what parameters they have been working to in designing the site access infrastructure, and thus what premise the construction material haulage and peat excavation quantities are based on.

11. I note that ice throw is note in the report as some 316.5 metres. I would therefore recommend that the turbines are kept at least his distance away from the public road.

Executive Manager, Roads

MEMO

To: Development Control

From: Roads

If calling please ask for
Brian Halcrow
Direct Dial: 4883

Medium: email
Our Ref: BH/SMG/R/G2/SBT
Your Ref:

Date: 4 December 2018

Application: 2018/186/PPF
Address: Mossy Hill, Wind Farm, Lerwick
Proposal: Construct 12 Wind Turbines and Associated Infrastructure
Date of Consultation: 26th November 2018

Recommended Action: REVISED DETAILS & MORE INFORMATION REQUIRED

Road Authority Comments:

I refer to agents (tnei) letter of the 26th of November and the comments raised in my consultation response dated the 9th of October. I will address the points in the same numbered order as their letter and my consultation presents.

1. Proposed Access point off the A970.

   The response provides no solutions to the concerns raised in my comments and I would re-iterate that the access arrangements as proposed <u>are not acceptable</u>.

   Some of the 'mitigating' actions, such as signage, will be required anyway but do not address the fundamental issues with the access proposals as they stand. I would also highlight that some of the suggestions are just not practical.

2. Amount of landfill required at the proposed access point off the B9073.

   I would again point out that <u>a considerable quantity of infill</u> will be required to achieve the required gradient, which is also required in order to achieve the minimum visibility splay onto the public road.

3. Site compound areas adjacent to A970.

   The outstanding issues with the accesses highlighted in point 1 above means that this issue still needs to be considered/ resolved.

4. Re-use of excavated peat.

The transporting of the peat will also be linked to the access arrangements for the development. I would point out that there will be a bulking factor to consider when handling peat and that the 900 outgoing HGV trips will have the same returning.

5. On-site Access Roads

While this is generally an on-site management issue for the contractor it becomes a Roads issue if there is any likelihood of vehicles backing up on the public road because they have to wait to get into the site. The junctions on and off the public road must be kept clear and have adequate queuing and passing space.

6. On-site borrow pits.

I am happy to agree a road condition survey scope once a preferred supply point/ route has been established.

7. Electrical Connection.

I look forward to receiving further details on this matter once the point of connection is established.

8. Planning Conditions

I accept that any mitigating measures in the Environmental Statement could be conditioned through the provision of an agreed Constitution Management Plan, which would include a Traffic Management Plan.

9. Abnormal Load Movements.

I am happy for this to be conditioned, but would highlight that more details will be required in order that we can agree appropriate mitigating works/ actions for the haulage route.

10. Material Calculations.

No further comment to make at this time.

11. Ice throw.

In terms of two wind turbines being within the predicted ice throw area. I would suggest that it is better to design out the possibility of an issue rather than have to provide a re-active measure after the event.

In summary, the responses to my comments do not address the points raised – particularly in respect of the junctions onto the A970 or the issues these will cause. Creating additional conflicts in the existing junction area are unacceptable. Once this is resolved the other items should hopefully be reasonably easy to address.

Executive Manager, Roads

MEMO

To: Development Control

From: Roads

If calling please ask for
Brian Halcrow
Direct Dial: 4883_

Medium: email
Our Ref: BH/SMG/R/G2/LB
Your Ref:

Date: 19th March 2019

Application: 2018/186/PPF
Address: Mossy Hill Wind Farm, Lerwick
Proposal: Construct 12 wind turbines and associated Infrastructure
Date of Consultation: 27th February 2019

Recommended Action: NO OBJECTIONS

Road Authority Comments:

I refer to the amended details and covering letter of the 26th February of 2019 in response to the Roads Consultation responses of the 9th of October and the 4th of December 2018.

1. Proposed Access Points off the A970

   The re-arranged layout as proposed is acceptable as proposed along with suitable signage for works accesses.

2. Site Compound Area adjacent to A970

   The site compound to the north on the proposed crane pad is an acceptable solution. The movement of peat between the north and south sections would indeed need to be agreed if this were to occur. This would be covered in any Peat Management Plan.

3. Re-use of Excavated Peat

   The suggested Planning Condition would suffice in this instance.

4. On-site Access Roads

   The proposal to provide an extended length of double width road to allow extra room for vehicles to stand clear of the public road is acceptable.

5. Road Condition Survey

   The applicant is willing to undertake this so no further comment.

6. Ice Throw

   The proposed shut down of turbines with added control measures remove any concerns that I had on this issue.

Executive Manager, Roads

giving nature a home
rspb Scotland

28th September 2018

Mr. Iain McDiarmid
Executive Manager – Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
Shetland
ZE1 0LZ

By email to development.management@shetland.gov.uk

[redacted]

Dear Iain

Planning Application Ref: 2018/186/PPF

Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with a maximum tip height of 145m with associated infrastructure.

Thank you for consulting RSPB Scotland on this application and allowing us extra time to fully consider this application.

RSPB Scotland supports the development of renewables, including wind energy generally, as a vital part of dealing with the challenge of climate change – the greatest long-term threat to birds, other wildlife and people. However, developments must be located and designed to avoid harming our most important places for wildlife. While we welcome certain elements of this proposed development, including the removal of turbines to the north of Tagdale to reduce potential impacts on red-throated divers, the proposed reduction in grazing levels and improving some of the blanket bog habitat. RSPB Scotland has significant concerns over elements of this proposed 12 turbine wind farm at Mossy Hill and therefore currently **objects** to this application pending the submission of further information to address the issues noted below and set out in the attached annexes. We consider that additional information is required in order to fully assess the potential impacts of this development and address concerns we have regarding part of the assessment and elements of the proposed mitigation.

RSPB Scotland considers that additional information or clarification is required in relation to the following issues:

- **Additional information is required to determine if there will be an in-combination effect upon the East Mainland Coast, Shetland proposed Special Protection Area.**

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- **An explanation of how the collision risk modelling was undertaken, and evidence that the results are robust, are required, given that some of the surveys are six years old and that some of the surveyed flight height bands from the Vantage Point (VP) surveys are a poor fit with the size of the proposed wind turbines in this scheme.**

- **Further assessment of the impacts of the proposed development on blanket bog, a priority habitat in Annex 1 of the Habitats Directive, and clarification of the proposed restoration, is required.**

- **A wider assessment of the potential impacts of the proposed scheme on the regional red-throated diver population is required.**

Further details are contained in the Annexes to this letter. We request that **Annex II is not published** on the Council's planning register as it contains information on the breeding locations of sensitive species and should therefore be treated as **confidential**.

Conditions:

Should the council be minded to grant permission for this scheme it is recommended that the following measures would need to be secured through appropriate planning conditions and / or a legal agreement, to reduce the environmental impacts of the development:

1. Appropriate bonds to be secured to cover the cost of decommissioning of the wind farm and delivery of the habitat management plan;
2. Mechanisms to secure the implementation of all proposed mitigation measures set out in the Environmental Statement (including those set out in the Outline Habitat Management Plan).
3. Implementation of post construction monitoring including the use of a comparable control or reference site surveyed prior to the commencement of the development. This should be carried out in accordance with Before–After–Control–Impacts methods[1].
4. The submission of the draft Construction Environmental Management Plan (CEMP) is noted and welcomed. However, the submission to and written approval of Shetland Islands Council of a fully detailed CEMP prior to the commencement of development, and the subsequent implementation of the CEMP should be required by condition. The CEMP should detail (amongst other things) measures to be taken for the protection of breeding birds (this should link to the breeding bird protection plan as outlined below); ensuring crushed rock used on site has similar chemical properties to existing site conditions; the potential for invasive non-native species to be introduced on any dirty plant or equipment, prevention of pollution from fuel storage, water course crossing and silt control (both during the water course crossings and from excavated material). Reference to water quality monitoring is noted but not considered to be sufficient; daily monitoring by the contractor will also be required and the levels triggering requirements for action will need to be agreed in additional to the more comprehensive monthly monitoring currently proposed.
5. A separate breeding bird protection plan should be submitted and approved in writing once the construction programme has been confirmed and prior to the commencement of development, and implemented thereafter.
6. Establishment of a Habitat Management Group (HMG) of which RSPB Scotland should be a member, to oversee the preparation and delivery of a Habitat Management Plan

[1] 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.

and to review and assess the information from the ongoing monitoring / surveillance results. The HMG should have the powers to make reasonable changes to the HMP necessary to deliver its agreed aims;

7. A minimum of three months prior to the commencement of development, the developer should submit the finalised Habitat Management Plan (HMP) to the planning authority for approval in consultation with the HMG. Commissioning of the turbines should not occur until such approval has been obtained and the developer has demonstrated that they have the ability to control management over any area proposed for mitigation. The HMP should operate for the full lifespan of the windfarm, including decommissioning.

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 I. Detailed Comments on the Application.

Benefits of the Proposed Development

In section 3 of the non-technical summary the first point listed is that it would "Contribute to Shetland's own secure supply of energy reducing the reliance on imported fossil fuels that feed the existing power stations". We consider that this statement is inaccurate, as Shetland has a peak energy demand of around 48MW[2] and significantly more than this has either been consented or already built in Shetland. Indeed, the applicant already has permission to build a 57.8MW wind farm on Yell.

Proposed East Mainland Coast, Shetland SPA

The site is less than 1km from the East Mainland Coast, Shetland proposed Special Protection Area (pSPA). Whilst the site has not yet been formally designated, Scottish Planning Policy states that Authorities should afford the same level of protection to proposed SACs and SPAs (i.e. sites which have been approved by Scottish Ministers for formal consultation but which have not yet been designated) as they do to sites which have been designated. It is therefore all Authorities and not just SNH (as stated in paragraph 8.5.5 of the ES) who should consider them in the same way as if they were designated.

In relation to breeding red-throated diver foraging within the East Coast Mainland pSPA it states in paragraph 8.8.1.2 of the ES that any disturbance from construction or operation on birds foraging in the pSPA would be negligible as the nests of red-throated diver associated with the pSPA were to the north of the proposed turbines. It goes on to state that nests of red-throated diver associated with the pSPA in the study area were to the north of any proposed WTGs and therefore no likely barrier effect is predicted. However, it states in the pSPA supporting document that red-throated diver may forage up to 10km from their nesting location therefore RSPB Scotland request clarification that there are no birds using the pSPA from the wider area that would be affected by barrier effects of a new wind farm at this location.

There does not appear to be any consideration of potential in-combination effects on the pSPA, these should include, but not be limited to, the consented Viking and Beaw-Field Wind Farms.

Therefore, at present the ES does not include sufficient information for a Habitats Regulations Appraisal to be completed, either to demonstrate that there is no likely significant effect upon the pSPA or to allow Shetland Islands Council to carry out an Appropriate Assessment under the terms of the Habitats Regulations.

Collision Risk Modelling:

Further information is required from the applicant to explain how the collision risk modelling was carried due to the variation in height bands that were used during the different surveys, namely;

Height bands for Vantage Point (VP) surveys at Tagdale (T1 – T3) in 2012 and 2013 were; <40m, 40-120m, and >120m.

While for the southern section of the study area, Mossy Hill (T4-T12) VPs between 2014 and 2016 the height bands were: <10, 10-20m; 20-100m; 100-120m, and >120m.

And for the northerly (Tagdale) VPs for the winter season October 2016-March 2017 height bands were: <20m, 20-150m, and >150m.

[2] https://www.ninessmartgrid.co.uk/our-project/shetland-energy-challenge/

It states in the Survey Methods Section of Appendix 8.2: Mossy Hill Birds Technical Report that:

> *"while these heights may not match the dimensions of the turbines exactly, there is a certain amount of error on the part of the fieldworker in estimating heights of birds from a distance, and field workers are practiced in estimating heights, and this is regularly reinforced by using a handheld clinometer on objects of known height. In practice, birds vary their flight height all the time, but it is usually easy to place bird heights within three bands: high flights are usually well above turbine height. Any border line records are placed within the middle height band. Only the middle height-band (20 – 120m, 40-120m or 20 – 150m) represents the 'risk height' (based on the turbine heights and rotor diameter) and is therefore relevant for the CRA. Surveyors were instructed to put all birds close to 'turbine risk height' into that height band. Consequently, all target birds at or just above the 120m height, within a margin of +25m i.e. up to 145m were included in the 'turbine height' band. Only where the flight height was judged to be well above the 'turbine height' band were flights recorded on sheets as above 'turbine height'. Thus, flights recorded as above turbine height were above the risk height i.e. >145m."*

It goes on to state:

> *"turbine models used in the wind farm industry have varied in size and at the time of writing the actual model and size of turbines available in the future at the time of construction is unknown. The turbine used in this proposed development are described in Chapter 3: Project Description as '12 turbines with a maximum tip height of up to 145m'. Thus, the turbine height bands used to record bird flight lines broadly matches the maximum height of the turbines to be used."*

While justification has been provided for the upper limit of the height band it is unclear how the assessment dealt with the minimum rotor sweep height. considering that with a hub height of 78m and rotor sweep diameter of 133m then the rotor sweep height is between 11.5 and 144.m. This requires clarification as it is not clear how the Tagdale surveys from 2012 and 2013 considered a height band of >40m as this does not relate to the size of turbines proposed in this application. We note that SNH has made similar comments regarding this matter.

SNH guidance[3] "states that data should be no more than 5 years old, however some of the information provided in support of this application dates from 2012 meaning that it is not compliant with this published guidance.

In the collision risk assessment, it states that seven summer seasons of data were used to assess the impacts on herring gulls and greater black-backed gulls, in fact six seasons of data were used, as no data were recorded in 2013 for Tagdale and it is considered the collision risk impact assessment for both herring and black-backed gulls is severely weakened and not in line with published guidelines requiring two years of data that is less than five years old as there is only summer data available for the northern section of the site in 2012. RSPB Scotland notes and supports the comments of SNH in regards to the collision risk modelling for gulls.

Peat and Blanket Bog

Much of the application area is covered by blanket bog, some of which is active (still peat-forming) which is a priority habitat on Annex1 of the EU Habitats Directive and therefore of international importance. Blanket bog is also a priority habitat in the UK BAP. RSPB recognises that the applicant has put forward measures to reduce the amount of peat impacted by this development, however, aspects of the proposed development could damage blanket

[3] Recommended Bird Survey Methods to Inform Impact Assessment of Onshore Wind Farms. 2017 v2. Scottish Natural Heritage.

bog. RSPB Scotland is concerned about the excavation of large quantities of peat together with some potentially damaging aspects of the plan for re-use of excess catotelm peat which could further damage blanket bog habitat and is not good practice. RSPB Scotland also notes and supports SEPAs comment "we find it potentially misleading to relate this to the total peat on this extensive site in a very peat rich location. Therefore, we would not necessarily agree with the description of the excavation of 87,000m^3 of peat as moderate / minor and not significant". The conclusion in section 9.9.1 that the permanent loss of 5.7ha unmodified blanket bog during the operation of the proposed development is not significant requires further justification.

RSPB Scotland considers that the applicant should submit a suitable scheme of off-site peatland restoration (funded by the applicant) that should be implemented to reduce the carbon payback and compensate for the impacts of this proposed development.

Further clarification on what is considered catotelm peat in the environmental statement is also required; in section 1.4 of the Outline Peat Management Plan (OPMP) it states that "the depth of the acrotelm layer varies and can be difficult to define in practice, typically ranging between 0.2 and 0.5m. For the purposes of this management plan it is assumed the top 0.3 – 0.35m would be stripped with the vegetation to ensure that the acrotelm structure is retained and the more humified catotelmic peat can be used for reinstatement below the top 0.3 – 0.35m, for example cable trenches". However, in section 1.6 of the OPMP it states the deeper peat generally in excess of 1.5m is classified as the catotelm, moderately decomposed with a higher fibrous content and moderate water content. It should be noted that both these values differ from the SEPA Guidance[4] which identifies that the catotelmic peat is generally below 1m. Depending on the value used gives different ratios of acrotelmic to catotelmic peat and the volume of peat that will be suitable for restoration.

Whilst it is accepted that efforts have been made to minimize the volume of catotelmic peat that will be excavated it is also acknowledged in the OPMP that some excavation would be required. In section 1.8.1 it states that catotelmic peat would be bunded / stored separately to acrotelmic peat and reserved for restoration works. RSPB Scotland recommends that no catotelm peat should be reused to restore degraded areas of blanket bog. If the Council is minded to approve this application it is suggested that further information is requested from the applicant to demonstrate how the proposed reuse of catotelmic peat on a slope as shown in figures 1.2 and 1.5 of the OPMP is acceptable. In the Outline Habitat Management Plan submitted with the application one of the objectives is restore degraded blanket bog / peatland habitats and it states "Peatland restoration will take primarily through a range of measures including removal of grazing pressure within defined (fenced) areas. The evidence from Mossy Hill suggests that a large-scale reduction in grazing pressure should result in bare peat surfaces and hags naturally revegetating with little or no interventionist management". Further clarification is required from the applicant why different approaches seem to be set out in the OHMP and the OPMP. This should include maps of the proposed 'restoration' areas from the OPMP to show how they relate to the areas identified on the proposed habitat management plan (figure 9.8) of the OHMP.

It states in Table 20.1 of Volume 1 of the EIA report that "it should be acknowledged that any proposals regarding how peat is dealt with on site will be subject to the continuing permitted actions of the crofters under and in terms of the relevant Crofting legislation and the Applicant cannot, in practice, control the exercise of those rights by the crofters". We recommend that the council should consider whether, and if so how, the delivery of the mitigation measures (set out in the Outline Habitat Management Plan, the Construction Environment Management Plan and Section 9 of the EIA Report) can be secured with certainty, given that these mitigation

[4] https://www.sepa.org.uk/media/287064/wst-g-052-developments-on-peat-and-off-site-uses-of-waste-peat.pdf

measures were taken into account in the EIA to reach the conclusion that the residual effects on peat will not be significant.

Proposed Habitat Management

The inclusion of an outline habitat management plan is welcomed and the peatland restoration measures referred to in the OHMP are supported in principle.

RSPB Scotland has significant concerns about the proposed tree planting. We would request that the applicant revisits the proposed habitat management plan as the area shown for woodland planting is unsuitable for tree planting and supports various breeding waders. It is questionable if trees would successfully grow in this location and even if they did they may provide nesting sites for corvids and other species which may negatively impact locally breeding waders.

One of the reason cited in support of tree planting is to provide habitat to support song birds which provide prey for merlin, however, we are not aware of any evidence that limited prey availability is restricting the merlin population in Shetland.

Shetland obviously has very limited tree cover and RSPB Scotland would be supportive of some tree planting in suitable locations. If the applicant wishes to pursue tree planting, we suggest that it would be more appropriate for them to propose or fund planting elsewhere at a location to be agreed.

Ornithological Assessment

The absence of recent reliable information on the trends of many Shetland bird populations could be highlighted more clearly. These data gaps limit the accuracy of the population assessments and ability to assess the conservation status of a number of species. An example of this is documented decline[5] in Arctic skua numbers and the quoted figure is likely to be a significant over estimate of the current Shetland and national population.

It sates in section 1.1 of the Draft Construction Environmental Management Plan that a draft Breeding Bird Protection Plan is included within the Outline Habitat Management Plan, however, no such document appears to have been provided in support of the application, and one should be required by condition if permission is granted.

Red-Throated Diver

The red-throated diver is in Annex 1 of the EU Directive 79/409/EEC on the Conservation of Wild Birds ('the Birds Directive') which requires the Government to take special conservation measures to protect its habitats. It is also in Schedule 1 of the Wildlife and Countryside Act 1981. The Shetland population is estimated to be 407 breeding pairs (33% of the British breeding population) and 586 non-breeding adults. There was a 3.8% decline between the censuses in 1994 and 2006 and an earlier decline of 36% between 1983 and 1994 censuses. Consequently, with recorded declines in both national surveys since 1983, we do not agree with the contention in paragraph 8.6.3 of the environmental statement that this species is likely to be in *Favorable Conservation Status* as stated in our previous response to the Beaw Field wind farm.

[5] 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.

Confidential Annex II. Specific Comments on Breeding Red-Throated Diver close to the Proposed Development Site

Despite the rationale put forward in Technical Appendix 8.1 RSPB Scotland do not consider that any turbines should be situated within 500m or any access track within 250m of a red-throated diver breeding site. Therefore, we request that the proposed layout is revised to ensure that turbine WTG11 and the track close to nest 2 are relocated to at least this distance from the breeding lochans. This is required to ensure that development is compliant with the precautionary principle set out in policy NE2 of the local development plan (LDP).

Policy NH2: *Protected Species* of the LDP states that where there is good reason to suggest that a species protected under the Wildlife and Countryside Act 1981 (as amended), Annex IV of the Habitats Directive or Annex 1 of the Birds Directive is present on site, or may be affected by a proposed development, the Council will require any such presence to be established. If such a species is present, a plan should be provided to avoid or mitigate any adverse impacts on the species, prior to determining the application.

Under this policy there are additional constraints for any development considered likely to have an adverse effect on a protected species. It states that the Council will apply the precautionary principle where the impacts of a proposed development on natural heritage are uncertain but potentially significant.

There is reference to studies from Burger Hill in Orkney, however, we do not consider this is directly applicable as at Burger Hill there is a single line of turbines and it may be that divers respond differently to turbine in a more complex array (as is proposed in the current application) and as raised previously in our comments on the Viking and Beaw-Field Wind Farm application. A cumulative impact assessment on the Shetland red-throated diver population is also required to determine if there would be regional impacts.

We note the request for micro siting of up to 50m and while we acknowledge the role it can play in avoiding small areas of deep peat or other sensitive features, it is important to ensure that this does not lead to any turbines being within 500m or tracks within 250m of a known diver breeding lochan.

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15th March 2019

Mr. Iain McDiarmid
Executive Manager – Planning
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Shetland Islands Council
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By email to development.management@shetland.gov.uk

[redacted]

Dear Iain

Planning Application Ref: 2018/186/PPF

Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with a maximum tip height of 145m with associated infrastructure. Consultation on Additional Information.

Thank you for consulting RSPB Scotland on the additional information supplied by the applicant in their letter of 7 February, headed 'Mossy Hill Wind Farm, Planning Application Reference Number 2018/186/PPF – Clarification of Points Raised during Consultation' and allowing us extra time to provide a response.

We note that in your letter to the applicant dated 19th December 2018 you stated that: "The RSPB has objected to the development and notes several issues that require the submission for additional information that has largely been addressed in terms of collision risk, information on in combination effects on the pSPA and information on the impact on red-throated divers". We would highlight that no further information has been received by RSPB Scotland in relation to these matters (specifically the matters detailed under the headings 'Proposed East Mainland Coast, Shetland SPA'; 'Collision Risk Modelling' and 'Ornithological Assessment' so our holding objection relating to those matters still stands. The comments below are in response only to the points made in the applicant's 7th February letter.

Peatland Restoration and Carbon Balance

RSPB Scotland considers that our recommendation for offsite peatland restoration measures to offset the impacts of the proposed development on peatland is appropriate. The predicted emissions payback time from the calculations presented by the applicant are between 0.8 and 2.3 years. RSPB Scotland consider that a carbon payback period of up to 2.3 years is relatively

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long and that developments should aim for as short a carbon payback period as possible. We therefore continue to recommend additional peatland restoration to reduce this payback period. The applicant states that the "forecast carbon payback periods are very low" but it is not clear what this is in relation to or how it is scored as very low.

We note that SNH have maintained their position that the areas of high quality peatland exist to the north of the A970 and that damage to this nationally important habitat is likely unless Turbine 1 and its access track are removed from the proposal.

The applicant has committed to including additional habitat enhancement measures in the form of damming of the existing drains in the Tagdale area within their letter of the 7th February. This needs to be fully detailed in the habitat management plan and there needs to be clear cross refencing between the habitat management plan and the peat management plan, although this could be addressed through suitable conditions.

Proposed Tree Planting

We welcome the applicant's consideration of contributing a commuted sum to fund offsite planting instead of continuing to propose tree planting on the site. We would be happy to discuss potential options with them and would suggest involving Sue White and Paul Harvey of the Shetland Amenity Trust in any meetings.

The MOREwoods fund can contribute 60% of the cost of trees and protective guards. For schemes which have been identified as having ecological value (by Shetland Amenity Trust or other suitable institution) it would be extremely beneficial to have a fund to make up the shortfall or pay for additional items such as fencing for schemes that would not be eligible for any other sources of grant funding.

We would appreciate confirmation that the applicant has now removed the previously proposed tree planting from their draft habitat management plan.

Suggested Planning Conditions

RSPB Scotland has no objection in principle to the conditions suggested in the applicant's letter of 7 February, however we consider that there is some overlap between the conditions relating to construction and those which relate to the (long-term) implementation of the habitat management plan. We have previously put forward our suggestions for conditions and rather than repeat these here would request that we have an opportunity to review and comment on a draft of the proposed conditions if the Shetland Islands Council is minded to grant permission for the proposed development.

Draft Breeding Bird Plan

We have now received a copy of the draft breeding bird protection plan and while we have no major concerns regarding it, we note that it is very generic and the finalised version (that should be required by condition) should be more detailed and site-specific.

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 or to meet them or yourselves to discuss any specific points.

Yours sincerely

Martin Schofield
Conservation Officer

6th August 2018

Shetland Isles Council
Development Management North Gremista Ind Est
Lerwick
ZE1 0PX

Development Operations
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow
G33 6FB

Development Operations
Freephone Number - [redacted]
E-Mail - [redacted]
www.scottishwater.co.uk

Dear Local Planner

ZE2 Lerwick Harbour outskirts Lerwick 2 4km from
PLANNING APPLICATION NUMBER: 2018/186/PPF
OUR REFERENCE: 764048
PROPOSAL: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.

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:

Water

- This proposed development will be fed from Sandy Loch Water Treatment Works. Unfortunately, Scottish Water is unable to confirm capacity at this time so to allow us to fully appraise the proposals we suggest that the applicant completes a Pre-Development Enquiry (PDE) Form and submits it directly to Scottish Water. The applicant can download a copy of our PDE Application Form, and other useful guides, from Scottish Water's website at the following link www.scottishwater.co.uk/business/connections/connecting-your-property/new-development-process-and-applications-forms/pre-development-application

Foul

- Unfortunately, according to our records there is no public Scottish Water, Waste Water infrastructure within the vicinity of this proposed development therefore we would advise applicant to investigate private treatment options.

The applicant should be aware that we are unable to reserve capacity at our water and/or waste water treatment works for their proposed development. Once a formal connection application is submitted to Scottish Water after full planning permission

has been granted, we will review the availability of capacity at that time and advise the applicant accordingly.

Infrastructure within boundary

According to our records, the development proposals impact on existing Scottish Water assets.

The applicant must identify any potential conflicts with Scottish Water assets and contact our Asset Impact Team directly at 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

The site boundary falls partly within a drinking water catchment where a Scottish Water abstraction is located. Scottish Water abstractions are designated as Drinking Water Protected Areas (DWPA) under Article 7 of the Water Framework Directive. Sandy Loch Reservoir supplies Sandy Loch Water Treatment Works (WTW) and it is essential that water quality and water quantity in the area are protected. In the event of an incident occurring that could affect Scottish Water we should be notified without delay using the Customer Helpline number **0800 0778 778**.

Scottish Water responded to the scoping stage regarding this proposal and based on the site layout at the time, turbine 13 was located within the catchment for Sandy Loch and turbines 8 and 9 were on the boundary. There have been amendments to the windfarm layout since then. It would now appear the renamed turbine 6 is close too, but likely just outside of the catchment area including the associated infrastructure. Section 12.8.1.2 DWPA of the Environmental Statement document indicates that the "Design has avoided any development within the DWPA. As a result there would be no effects on this and its protection of water quality at Sandy Loch Reservoir". We support and welcome this.

There may be uncertainties related to the actual catchment boundaries based on desk studies. Ground-truthing may be required if not already undertaken to determine the exact catchment boundary and whether activities could impact on the catchment. If this was to alter the findings, we would request to be consulted.

As the proposal is close to the catchment we would request to continue to be involved in the consultation process as the project develops and request that in advance of any works commencing on site, Scottish Water is notified at protectdwsources@scottishwater.co.uk. This will enable us to be aware of activities in the area.

Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will not normally accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification from the customer taking account of various factors including legal, physical, and technical challenges.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is anticipated, the developer should contact Scottish Water at the earliest opportunity with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

General notes:

- **Scottish Water asset plans can be obtained from our appointed asset plan providers:**

  Site Investigation Services (UK) Ltd
  Tel: [redacted]
  Email: [redacted]
  www.sisplan.co.uk

- Scottish Water's current minimum level of service for water pressure is 1.0 bar or 10m head at the customer's boundary internal outlet. Any property which cannot be adequately serviced from the available pressure may require private pumping arrangements to be installed, subject to compliance with Water Byelaws. If the developer wishes to enquire about Scottish Water's procedure for checking the water pressure in the area then they should write to the Customer Connections department at the above address.

- If the connection to the public sewer and/or water main requires to be laid through land out-with public ownership, the developer must provide evidence of formal approval from the affected landowner(s) by way of a deed of servitude.

- Scottish Water may only vest new water or waste water infrastructure which is to be laid through land out with public ownership where a Deed of Servitude has been obtained in our favour by the developer.

- The developer should also be aware that Scottish Water requires land title to the area of land where a pumping station and/or SUDS proposed to vest in Scottish Water is constructed.

- **Please find all of our application forms on our website at the following link https://www.scottishwater.co.uk/business/connections/connecting-your-property/new-development-process-and-applications-forms**

Next Steps:

- **Single Property/Less than 10 dwellings**

  For developments of less than 10 domestic dwellings (or non-domestic equivalent) we will require a formal technical application to be submitted directly to Scottish Water or via the chosen Licensed Provider if non domestic, once full planning permission has been granted. Please note in some instances we will require a Pre-Development Enquiry Form to be submitted (for example rural location which are deemed to have a significant impact on our infrastructure) however we will make you aware of this if required.

- **10 or more domestic dwellings:**

  For developments of 10 or more domestic dwellings (or non-domestic equivalent) we require a Pre-Development Enquiry (PDE) Form to be submitted directly to Scottish Water prior to any formal Technical Application being submitted. This will allow us to fully appraise the proposals.

  Where it is confirmed through the PDE process that mitigation works are necessary to support a development, the cost of these works is to be met by the developer, which Scottish Water can contribute towards through Reasonable Cost Contribution regulations.

- **Non Domestic/Commercial Property:**
  Since the introduction of the Water Services (Scotland) Act 2005 in April 2008 the water industry in Scotland has opened up to market competition for non-domestic customers. All Non-domestic Household customers now require a Licensed Provider to act on their behalf for new water and waste water connections. Further details can be obtained at www.scotlandontap.gov.uk

- **Trade Effluent Discharge from Non Dom Property:**
  Certain discharges from non-domestic premises may constitute a trade effluent in terms of the Sewerage (Scotland) Act 1968. Trade effluent arises from activities including; manufacturing, production and engineering; vehicle, plant and equipment washing, waste and leachate management. It covers both large and small premises, including activities such as car washing and launderettes. Activities not covered include hotels, caravan sites or restaurants.
  If you are in any doubt as to whether or not the discharge from your premises is likely to be considered to be trade effluent, please contact us on 0800 778 0778 or email TEQ@scottishwater.co.uk using the subject "Is this Trade Effluent?". Discharges that are deemed to be trade effluent need to apply separately for permission to discharge to the sewerage system. The forms and application guidance notes can be found using the following link https://www.scottishwater.co.uk/business/our-services/compliance/trade-effluent/trade-effluent-documents/trade-effluent-notice-form-h
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For food services establishments, Scottish Water recommends a suitably sized grease trap is fitted within the food preparation areas so the development complies with Standard 3.7 a) of the Building Standards Technical Handbook and for best management and housekeeping practices to be followed which prevent food waste, fat oil and grease from being disposed into sinks and drains.
The Waste (Scotland) Regulations which require all non-rural food businesses, producing more than 50kg of food waste per week, to segregate that waste for separate collection. The regulations also ban the use of food waste disposal units that dispose of food waste to the public sewer. Further information can be found at www.resourceefficientscotland.com

If the applicant requires any further assistance or information, please contact our Development Operations Central Support Team on [redacted] or at [redacted].

Yours sincerely

Hannah Ashby
Development Operations
[redacted]

18th February 2019

Shetland Isles Council
Development Management North Gremista Ind Est
Lerwick
ZE1 0PX

Development Operations
The Bridge
Buchanan Gate Business Park
Cumbernauld Road
Stepps
Glasgow
G33 6FB

Development Operations
Freephone Number - [redacted]
E-Mail - [redacted]
www.scottishwater.co.uk

Dear Local Planner

ZE2 Lerwick Mossy Hill Wind Farm Site At
PLANNING APPLICATION NUMBER: 2018/186/PPF
OUR REFERENCE: 773003
PROPOSAL: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure

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:

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Surface Water

For reasons of sustainability and to protect our customers from potential future sewer flooding, Scottish Water will **not** accept any surface water connections into our combined sewer system.

There may be limited exceptional circumstances where we would allow such a connection for brownfield sites only, however this will require significant justification taking account of various factors including legal, physical, and technical challenges. However it may still be deemed that a combined connection will not be accepted. Greenfield sites will not be considered and a connection to the combined network will be refused.

In order to avoid costs and delays where a surface water discharge to our combined sewer system is proposed, the developer should contact Scottish Water at the earliest opportunity

with strong evidence to support the intended drainage plan prior to making a connection request. We will assess this evidence in a robust manner and provide a decision that reflects the best option from environmental and customer perspectives.

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If the applicant requires any further assistance or information, please contact our Development Operations Central Support Team on [redacted] or at [redacted].

Yours sincerely

Pamela Strachan
Planning Consultations Administrator

SEPA
Scottish Environment Protection Agency
Buidheann Dìon Àrainneachd na h-Alba

Our ref: PCS/160349
Your ref: 2018/186/PPF

If telephoning ask for:
Alison Wilson

23 August 2018

Iain McDiarmid
Shetland Islands Council
Train Shetland
North Gremista Industrial Estate
Lerwick
ZE1 0LZ

By email only to: development.management@shetland.gov.uk

Dear Mr McDiarmid

The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017
Planning application: 2018/186/PPF
The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure
Mossy Hill Wind Farm

Thank you for your consultation email which SEPA received on 20 July 2018.

Advice for the planning authority

Unfortunately we **object** to this planning application on the grounds of lack of information on the potential impact on private water supplies. We will be pleased to review this objection if the issues detailed in Section 1 below are adequately addressed.

We also ask that the planning **conditions** in Sections 2.1 (Peat Management Plan), 4.1 (micro-siting), 5.2 (CEMP) 6.1 (water features buffer), 8.1 (watercourse crossing design) and 9.2 (Decommissioning and Restoration Plan) be attached to the consent. If any of these will not be applied, then please consider this representation as an **objection**. Please also note the advice provided below.

Advice for the determining authority

1. Existing groundwater abstractions

1.1 We welcome the information on Private Water Supplies (PWS) in Section 12.8, 12.6.10 and Table 12.8 of the report. However it appears the PWS at HU 42753 39411 has not been identified and included. The PWS site ref is SHTM11 and the source name is Scalloway, as identified by the Drinking Water Quality Regulator.

1.2 This PWS appears to be used by unidentified Works (OS maps) and may be a borehole. However the applicant should confirm the type and the source location as a proposed track is planned up gradient of this PWS and it may be impacted if the supply is a spring. As such we **object** due to a lack of information on the potential impact on the PWS.

1.3 To enable us to remove our objection the applicant should determine the location of the source of this PWS and consider the risk to it from the access track running up gradient. Information should be provided to demonstrate the relevant buffer zones (outwith a 100m radius of all excavations shallower than 1m and outwith 250m of all excavations deeper than 1m) can be achieved. If the minimum buffers above cannot be achieved, a detailed site specific qualitative and/or quantitative risk assessment will be required. We are likely to seek conditions securing appropriate mitigation for all existing groundwater abstractions affected.

1.4 Please refer to Guidance on Assessing the Impacts of Development Proposals on Groundwater Abstractions and Groundwater Dependent Terrestrial Ecosystems for further advice on the minimum information we require to be submitted.

2. Disturbance and re-use of excavated peat

2.1 We welcome the Outline Peat Management Plan (PMP) and consider it is adequate at this stage however it will need to be updated to include further details including methods on handling, storage and use in reinstatement. We therefore request that a **condition** is attached to any grant of planning consent requiring that a finalised site specific Peat Management Plan is submitted and agreed in writing with the Planning Authority in consultation with SEPA prior to any work commencing on site. Thereafter all works should be under taken in accordance with the agreed Peat Management Plan. Reason: In order to minimise disturbance of peat and ensure the appropriate reuse and management of peat on site. We have provided further advice below to assist the applicant.

2.2 We note from Section 1.4 of the Outline Peat Management Plan in Appendix 10.2 that only floating roads will be sited on peat deeper than 1m. We request that the PMP demonstrates that tracks will be floated where peat depth exceeds 1m.

2.3 The last paragraph of section 10.8.1.1 of the EIAR states that “The calculated amount of excavated peat equates to approximately 1% of the overall peat resource within the Site. This would represent a Small magnitude impact on a receptor of High sensitivity and the effect of disturbance would therefore be Moderate/Minor and not significant.” However, we are interested in the actual volume of peat disturbed. We find it potentially misleading to relate this to the total peat on this extensive site in a very peat rich location. Therefore, we would not necessarily agree with the description of the excavation of 87,000+ m^3 of peat as moderate/minor and not significant.

2.4 We welcome that an ECoW and geotechnical engineer will supervise the works and that double handling of the peat will be avoided by transporting it direct to the relevant restoration area for immediate placement.

2.5 We note that peat that cannot be placed immediately will be temporarily stored. In regard to the storage areas we advise these areas are acceptable subject to:

a) Based on the NVC map (Figure 9.4) the first rectangular storage area is acid grassland/acid flush mosaic (U4a/d: U6d@ M6c) which should be acceptable to use as a temporary storage area, providing that placing peat on top of M6 acid flush vegetation is

avoided. As this area is not blanket bog and is relatively shallow peat we would accept its use as temporary peat storage area, if flushes are marked out and avoided.

b) The triangular storage area appears to be on M19 mosaic habitat, which is a blanket bog NVC type. However, we would consider this relatively small area to be acceptable as a temporary storage area for excavated peat as it is close to turbine 6 between two access tracks therefore the hydrology may be impacted by the construction of the tracks, turbine 6 and associated hardstanding.

c) The long narrow rectangular peat storage area between turbines 10 and 12 is on mesotrophic: acid grassland mosaic at the southern end, then M19cii blanket bog and mosaics to the northern end. It would be preferable to avoid the M19cii blanket bog and the modified bog mosaic, instead using more area within the grassland habitat. If flushes are present within the peat storage area then these should be clearly marked out and avoided, i.e. peat should not be stored on top of flushes.

2.6 We welcome that ""No additional treatment of the peat would be required" but highlight the typographical error in Table 10.9 - two entries for Historical cutting (West of Site), one with an average depth of 1.5m and the other 0.75m. We note the average depth of reinstatement in Table 10.9 and request details of how these large depths of peat will be tied into the adjacent land. The applicant should ensure that these deposits taper to zero height (as in the reinstatement around crane hardstandings and of track verges) and compress edges of deposited peat to minimise lateral water loss.

2.7 Information on how these deposits will affect the existing hydrology should be provided, i.e. how will it change how water flows and drains through the area? Both surface water as overland flow (runoff) and lateral movement through the soil?

2.8 We note 4 turbines are in areas where averaged measured peat depth > 2m depth: 7, 8, 10 and 11. The micrositing allowance should be used to minimise peat excavation.

2.8 In regard to reusing peat on site we advise the following in regard to our regulatory regime. The fact that materials have a potential reuse within the site boundary is not sufficient in itself to say that they are not waste. For example, where there is no justified requirement or demonstrable need for the peat to be used or it is clearly not suitable for the identified use, it will likely be classed as a disposal operation, and the proposed activity will require authorisation from SEPA accordingly. However in this particular case we consider the proposed reuses are suitable.

3. Impacts on groundwater dependant terrestrial ecosystems (GWDTE)

3.1 We accept the assessment of GWDTE in the EIAR and therefore have **no objection** to the proposed development on the grounds of potential impacts on GWDTE. We note the outline CEMP sets out mitigation measures that are summarised in Section 12.9 and that would be more stringent in those higher risk areas identified on Figure 12.9 as being potentially GWDTE and falling within the buffer zones. We therefore **request** that the finalised CEMP includes details of the full range of measures to be put in place to protect surrounding groundwater dependant habitats including micro-siting and mitigation measures. Please refer to sections 4 and 5 of this letter for further advice on this.

4. Micro-siting

4.1 We note the applicant is seeking an allowance of up to 50m for micro siting and this has been considered within each of the environmental assessments. We consider that micro-siting can play an important role in avoiding small pockets of deep peat or other sensitive features on the site. We therefore request a **condition** is applied enabling the applicant to micro-site the built elements of the scheme, subject to the identified constraints detailed in Table 3.2.

4.2 Further to the advice in section 3.1 above we advise that M6 flushes are present downslope from turbine 2, however, direct impacts to hydrology may be limited due to the exact positioning of the turbine relative to the flushes. We **request** that the opportunity is taken during micro-siting to minimise negative impact to the hydrology feeding the flushes (i.e. move the turbine position so it is not directly upslope of the flushes) and that construction activities avoid direct impact and disturbance to those flushes.

4.3 It appears that there are M6 flushes in the footprint of turbine 10. Again, we **request** that micro-siting is used to minimise direct loss of and disturbance to the M6 flushes.

5. Pollution prevention and environmental management

5.1 We welcome the submission of the draft construction environmental management plan (CEMP), prepared by TNEI Services Ltd for the Proposed Development, dated 23 May 2018 (Appendix 3.1), and note the mitigation measures proposed to protect the environment.

5.2 To ensure that the development does not significantly negatively impact upon the environment we request that a **condition** is imposed requiring that a full finalised site specific Construction Environmental Management Plan (CEMP), is submitted for approval of the planning authority prior to the proposed commencement of the development (or relevant phase). We recommend this is submitted at least two months prior to the proposed commencement of development in order to provide consultees with sufficient time to assess the information. To assist, the following wording is suggested:

Condition: No development shall commence on site until a site specific Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. All works on site must be undertaken in accordance with the approved CEMP unless otherwise agreed in writing with the Planning Authority.

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

5.3 Please refer also comments in section 3.1 above. Further advice is provided on regulation of surface water management in the Regulatory Advice section below.

6. Engineering activities in the water environment

6.1 We welcome that “Water crossings have been minimised as far as possible and their design has minimised impacts on aquatic ecology and water quality. Bottomless arch culverts would be employed”. We welcome this approach and in order to ensure that the water environment is adequately protected, we request that a **condition** is applied to ensure that all new infrastructure (with the exception of any proposed watercourse

crossings and directly related tracks) occurs outwith the 50m buffer area from water features on site, with the exception of the constraints detailed in Table 3.2, unless justification is provided and it is agreed in writing with the planning authority, in consultation with SEPA. Reason: to protect the water environment.

6.2 We can confirm that 6 Registrations for water course crossings under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) (as amended) will be required. Based on the information submitted we consider these are likely consentable. The applicant should refer to the Regulatory Advice section below for further details on how to apply for CAR authorisation for these.

7. Borrow pits

7.1 We note "no borrow pits are proposed as stone would be obtained from already consented quarries near the Site" and as such have no requirements in regard to this aspect of the proposal

8. Flood risk

8.1 We agree with the conclusions in the Technical Appendix 12.1: Flood Risk Assessment (FRA), dated 12 April 2018 that the FRA shows that the proposed development is not at medium to high risk of flooding from tidal, groundwater and artificial sources. We also welcome the confirmation that "Culverts would be bottomless arch types and be designed to accommodate flow rates associated with the 1 in 200 year flood event (including climate change)." We welcome this commitment and ask that, should the Planning Authority be minded to approve this application, this requirement is secured by planning **condition**. Reason: in the interests of protection of the environment and to avoid flood risk

9. De-commissioning and site restoration

9.1 We welcome the submission of the draft Decommissioning Plan in Appendix 3.2 and commitment that "A Restoration and Decommissioning Plan (RDP) would be submitted and agreed with Shetland Island Council (SIC) close to the end of life of the Proposed Development." Full details will be required, including detailed plans and method statements and our advice will be dependent on the rules and regulations in place at the time of decommissioning.

9.2 In light of the above, we request that a **condition** is applied seeking a Decommissioning and Restoration Plan. The Plan should be submitted at least two years, or other period as considered appropriate by the determining authority, prior to the end of the design life of the development and be based on the best practice current at the time of submission. Our current guidance is SEPA Guidance on the life extension and decommissioning of onshore wind farms.

9.3 We would take this opportunity to highlight that any proposal to discard materials that are likely to be classed as waste would be unacceptable under current waste management licensing and under waste management licensing at time of decommissioning if a similar regulatory framework exists at that time. Further guidance on this may be found at www.sepa.org.uk/waste/waste_regulation/is_it_waste.aspx.

Regulatory advice for the applicant

10. Regulatory requirements

10.1 Authorisation is required under The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (CAR) 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).

10.2 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.

10.3 A Controlled Activities Regulations (CAR) construction site licence will be required for management of surface water run-off from a construction site, including access tracks, which:

- is more than 4 hectares,
- is in excess of 5km, or
- includes an area of more than 1 hectare or length of more than 500m on ground with a slope in excess of 25˚

See SEPA's Sector Specific Guidance: Construction Sites (WAT-SG-75) for details. Site design may be affected by pollution prevention requirements and hence we strongly encourage the applicant to engage in pre-CAR application discussions with a member of the regulatory services team in your local SEPA office.

10.4 Please note that if a construction site licence (CSL) is required this aspect of the proposal will be covered under our regulatory regime rather than through the requested CEMP condition. We therefore recommend the surface water management proposals follow the guidance in our Sector Specific Guidance: Construction Sites (WAT-SG-75), which could then be used to apply for a CSL or included as a chapter in the CEMP to support the discharge of the planning condition if applicable.

10.5 Below these thresholds you will need to comply with CAR General Binding Rule 10 which requires, amongst other things, that all reasonable steps must be taken to ensure that the discharge does not result in pollution of the water environment. The detail of how this is achieved may be required through a planning condition.

10.6 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 696926.

If you have any queries relating to this letter, please contact me by telephone on 01224 266656 or email at planning.aberdeen@sepa.org.uk.

Yours sincerely

Alison Wilson
Senior Planning Officer
Planning Service

Copy to: Liz Russell, TNEI Services Ltd, Floor 7, Forth Banks, Newcastle Upon Tyne, NE13 3PA

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.

SEPA
Scottish Environment Protection Agency
Buidheann Dìon Àrainneachd na h-Alba

Our ref: PCS/160979
Your ref: 2018/186/PPF

If telephoning ask for:
Clare Pritchett

5 September 2018

Iain McDiarmid
Shetland Islands Council
Train Shetland
North Gremista Industrial Estate
Lerwick
ZE1 0LZ

By email only to: development.management@shetland.gov.uk

Dear Mr McDiarmid

The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017
Planning application: 2018/186/PPF
The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure
Mossy Hill Wind Farm

Further to our response to you of 23 August 2018 (PCS160349), thank you for your consultation email which SEPA received on 29 August 2018.

Advice for the planning authority

Based on the information received by emails on 29 August and 5 September 2018, we **withdraw our objection** to this planning application on the grounds of lack of information on the potential impact on private water supplies.

We continue to ask that the planning **conditions** in Sections 2 (Peat Management Plan), 4 (micro-siting), 5 (CEMP), 6 (water features buffer), 7 (watercourse crossing design) and 8 (Decommissioning and Restoration Plan) be attached to the consent. If any of these will not be applied, then please consider this representation as an **objection**. Please also note the advice provided below.

Advice for the determining authority

1. Existing groundwater abstractions

1.1 We have been provided with confirmation by email from Dawn Manson EHO on 5 September 2018 that there is no private water supply (PWS) at HU 42753 39411 and that

the property at Black Gaet is not served by a PWS. We therefore **withdraw our objection** to the lack of information on the potential impact on a PWS.

2. Disturbance and re-use of excavated peat

2.1 We continue to request that a **condition** is attached to any grant of planning consent requiring that a finalised site specific Peat Management Plan is submitted and agreed in writing with the Planning Authority in consultation with SEPA prior to any work commencing on site. Thereafter all works should be under taken in accordance with the agreed Peat Management Plan. Reason: In order to minimise disturbance of peat and ensure the appropriate reuse and management of peat on site.

3. Impacts on groundwater dependant terrestrial ecosystems (GWDTE)

3.1 We continue to **request** that the finalised CEMP includes details of the full range of measures to be put in place to protect surrounding groundwater dependant habitats including micro-siting and mitigation measures. Please refer to sections 4 and 5 of this letter for further advice on this.

4. Micro-siting

4.1 We continue to request a **condition** is applied enabling the applicant to micro-site the built elements of the scheme, subject to the identified constraints detailed in Table 3.2.

4.2 We continue to **request** that the opportunity is taken during micro-siting to minimise negative impact to the hydrology feeding the flushes (i.e. move the turbine position so it is not directly upslope of the flushes) and that construction activities avoid direct impact and disturbance to those flushes. We continue to **request** that micro-siting is used to minimise direct loss of and disturbance to the M6 flushes.

5. Pollution prevention and environmental management

5.1 We continue to request that a **condition** is imposed requiring that a full finalised site specific Construction Environmental Management Plan (CEMP), is submitted for approval of the planning authority prior to the proposed commencement of the development (or relevant phase). We recommend this is submitted at least two months prior to the proposed commencement of development in order to provide consultees with sufficient time to assess the information. To assist, the following wording is suggested:

Condition: No development shall commence on site until a site specific Construction Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the Planning Authority in consultation with SEPA. All works on site must be undertaken in accordance with the approved CEMP unless otherwise agreed in writing with the Planning Authority.

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

6. Engineering activities in the water environment

6.1 We continue to request that a **condition** is applied to ensure that all new infrastructure (with the exception of any proposed watercourse crossings and directly related tracks)

occurs outwith the 50m buffer area from water features on site, with the exception of the constraints detailed in Table 3.2, unless justification is provided and it is agreed in writing with the planning authority, in consultation with SEPA. Reason: to protect the water environment.

7. Flood risk

8.1 We welcome the confirmation that "Culverts would be bottomless arch types and be designed to accommodate flow rates associated with the 1 in 200 year flood event (including climate change)." We continue to ask that this is secured by planning **condition**. Reason: in the interests of protection of the environment and to avoid flood risk

8. De-commissioning and site restoration

8.1 We continue to request that a **condition** is applied seeking a Decommissioning and Restoration Plan. The Plan should be submitted at least two years, or other period as considered appropriate by the determining authority, prior to the end of the design life of the development and be based on the best practice current at the time of submission. Our current guidance is SEPA Guidance on the life extension and decommissioning of onshore wind farms.

8.2 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: [redacted].

If you have any queries relating to this letter, please contact me by telephone on [redacted] or email at [redacted].

Yours sincerely

Clare Pritchett
Senior Planning Officer
Planning Service

Copy to: [redacted]john.holden@shetland.gov.uk>;

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.

SEPA
Scottish Environment Protection Agency
Buidheann Dìon Àrainneachd na h-Alba

Our ref: PCS/163817
Your ref: 2018/186/PPF

If telephoning ask for:
Alison Wilson

14 February 2019

Iain McDiarmid
Shetland Islands Council
Train Shetland
North Gremista Industrial Estate
Lerwick
ZE1 0LZ

By email only to: development.management@shetland.gov.uk

Dear Mr McDiarmid

The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2017
Planning application: 2018/186/PPF
The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure
Mossy Hill Wind Farm

Thank you for your consultation email, which SEPA received on 11 February 2019, enclosing a letter dated 7 February 2019, Ref: 11747, and an Assessment of Impact on Scatsta Airport, dated December 2018.

We have assessed the submitted information and can confirm this does not change our previous advice or position that we ask that the planning conditions in Sections 2 (Peat Management Plan), 4 (micro-siting), 5 (CEMP), 6 (water features buffer), 7 (watercourse crossing design) and 8 (Decommissioning and Restoration Plan) of our letter of 5 September 2018 (our reference PCS/160979) be attached to the consent. If any of these will not be applied, then please consider this representation as an objection.

In addition we have the following limited comments on the following section of the above referenced letter.

TNEI response to RSPB advice on peatlands – we note the applicant's suggestion for a Habitat Management Plan by condition that would include consultation with SEPA. We would be happy to be consulted and provide advice on this in so far as the matters relate to our interests, such as the peat restoration proposals and improving bog habitats.

Chairman
Bob Downes
Chief Executive
Terry A'Hearn

SEPA Aberdeen Office
Inverdee House, Baxter Street
Torry, Aberdeen AB11 9QA
tel [redacted] fax [redacted]
www.sepa.org.uk • customer enquiries [redacted]

We trust this information is of assistance to you. However, if you have any queries relating to this letter, please contact me by telephone on [redacted] or email at [redacted].

Yours sincerely

Alison Wilson
Senior Planning Officer
Planning Service

ECopy to: [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.

Bringing service to life

Serco UK & Europe
Scatsta Airport
Brae
Shetland
ZE2 9QP
United Kingdom

T[redacted]

www.serco.com

Shetland Islands Council
Planning
Development Services
8 North Ness Business Park
Lerwick
Shetland
ZE1 0LZ

Date: 25 October 2018

Your Ref: 2018/186/PPF

Ref:

Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.

Dear Sir/Madam

Thank you for your recent consultation regarding the above named project. The project has been reviewed by our safeguarding team and with limited time to conduct a full impact assessment (IA) we are at this stage unable to thoroughly investigate the effects the development could have on our operations.

Initial review of the development shows no impact to the safeguarding surfaces at Scatsta however does conflict with our safeguarding criteria regarding the radar and potentially our Instrument Flight Procedures (IFP's). A full operational impact assessment would have to be commissioned by the developer to satisfy the aerodrome authority the development would not impact both current and future ATS provisions at Scatsta Airport.

Scatsta Airport therefore *objects to the proposal.*

Yours sincerely

[redacted]

John Thorne
Airport Director

From: Thorne, John (UK & Europe)
Sent: Mon, 11 Mar 2019 12:08:41 +0000
To: Development Management@Development
Cc: Brimmer, Roger;Robinson, Martyn (UK & Europe)
Subject: Planning Ref: 2018/186/PPF [SIC]
Importance: High

Classification: Serco in Confidence

Good Morning,

Apologies for the delay in our response regarding the above application.

Serco has acknowledged receipt of the report produced by Aviatica Limited however document ref 11747 indicates the report has been accepted and there will be no unacceptable impacts to our operations.

To confirm we have engaged with the author of impact assessment and have requested further information specifically around modelling of the radar feed from both Fitfall and Compass head to quantify the findings. Assumptions made in the report are also based on other organisations response to the project.

Whilst we are keen to reach an agreement with the developers, Scatsta needs to ensure we have the correct information in place to allow us to assess our concerns prior to removing our objection.

Kind Regards

John Thorne
Contract/Airport Director
Serco UK & Europe
Scatsta Airport
T: +[redacted]

From: Thorne, John (UK & Europe)
Sent: Thu, 28 Mar 2019 15:55:14 +0000
To: Barclay Janet@Development Management
Cc: Brimmer, Roger;Robinson, Martyn (UK & Europe)
Subject: RE: Plan Ref:2018/186/PPF - proposed wind farm, Mossy Hill [SIC]

Classification: Serco in Confidence

Good Afternoon Janet,

Having reviewed the conditions set out below in your email I'm content from Scatsta Airport's perspective that the conditions satisfy our concerns. We have received further information from Aviatica regarding some of the proposed mitigations, that being said the planning conditions will safeguard our concerns until such time we are content to lift the full objection.

Kind Regards

John Thorne
Contract/Airport Director
Serco UK & Europe
Scatsta Airport
T: +[redacted]

From: Janet.BarclaySmith@shetland.gov.uk [mailto:Janet.BarclaySmith@shetland.gov.uk]
Sent: 26 March 2019 10:39
To: Thorne, John (UK & Europe)
Subject: Plan Ref:2018/186/PPF - proposed wind farm, Mossy Hill

Dear Mr Thorne
I refer to your e-mail of 11 March in connection with the above application in which you indicate that you are having further engagement in connection with the potential impact of the development on operations at Scatsta airport. I have drafted a planning condition that would be attached to any permission (see below) that I think will address your concerns. The condition will ensure that the developer prepares a scheme of mitigation for approval before any development can begin and goes on to ensure that the turbines are not erected until the approved scheme is in place. I would appreciate your comments on the planning condition as proposed. As usual I would appreciate if you could let me have your comments as soon as possible, and if possible by Friday 29 March 2018.

Regards

Janet Barclay Smith

Planning Officer
Shetland Islands Council
8 North Ness Business Park
Lerwick
Shetland
ZE1 0LZ

(1) No development shall commence unless and until a scheme detailing the measures required to address the effects of the development on the air traffic services provided by or to the operator of Scatsta Airport has been submitted to and approved in writing by the Planning Authority in consultation with the operators of Scatsta Airport. The scheme shall set out the details of the process by which amendments to the scheme may be proposed by the developer and reviewed by the Planning Authority in consultation with the operators of Scatsta Airport.

(2) No wind turbine shall be erected unless and until those measures required by that time in terms of the approved scheme have been carried out and approved in writing by the Planning Authority in consultation with the operators of Scatsta Airport.

(3) Thereafter and for the lifetime of the development, the development shall be operated in accordance with the approved scheme, incorporating and amendments approved in wiriting by the Planning Authority in consultation with the operators of Scatsta Airport.

Reason: To secure mitigation of impacts on the Scatsta Airport aerodrome navigation systems and radar station in the interests of safety in compliance with Shetland Local Development Plan (2014) policies GP2 and TRANS1.

From: Smith Colin@Marine Planning on behalf of Planning Flooding Drainage Coastal
Sent: 27 Jul 2018 11:09:54 +0100
To: Development Management@Development
Subject: RE: Planning Consultation 2018/186/PPF

Comments

Thank you for the opportunity to comment on planning application 2018/186 to construct a wind farm and associated access tracks near Lerwick.
To the best of my knowledge there are no core paths or public rights of way directly affected within the proposed development area. Please note that this doesn't preclude the possibility that public rights exist which have yet to be claimed.

The access proposals covered in the submitted documents are unclear and include conflicting statements; at different places suggesting that the development "would not be open to the public" and also that all tracks "would be accessible and open for public use".

The applicant should note that there is a right to responsible informal access to most land and inland water under the Land Reform Act (Scotland) 2003.
Access, both formal and informal, and where the usage is reasonable, is available for non-motorised usage, be that on foot, bicycle or horse.
By its very nature informal access is not always obvious. There may not be defined and obvious routes that are used and the reasons that the public access the land or water can be wide ranging from simply enjoying being outside to specific interests such as nature studies, photography or astronomy.
This also must take into account the principle of enabling the 'Least Restrictive Access' to allow for the less able who may wish to make use of wheel chair or electric buggies where reasonable and practical.

A guide to national policy is available in the document "A Brief Guide to Preparing an Outdoor Access Plan"
https://www.nature.scot/sites/default/files/2017-06/B639282%20-%20A%20Brief%20Guide%20to%20Preparing%20Outdoor%20Access%20Plans%20-%20Feb%202010.pdf

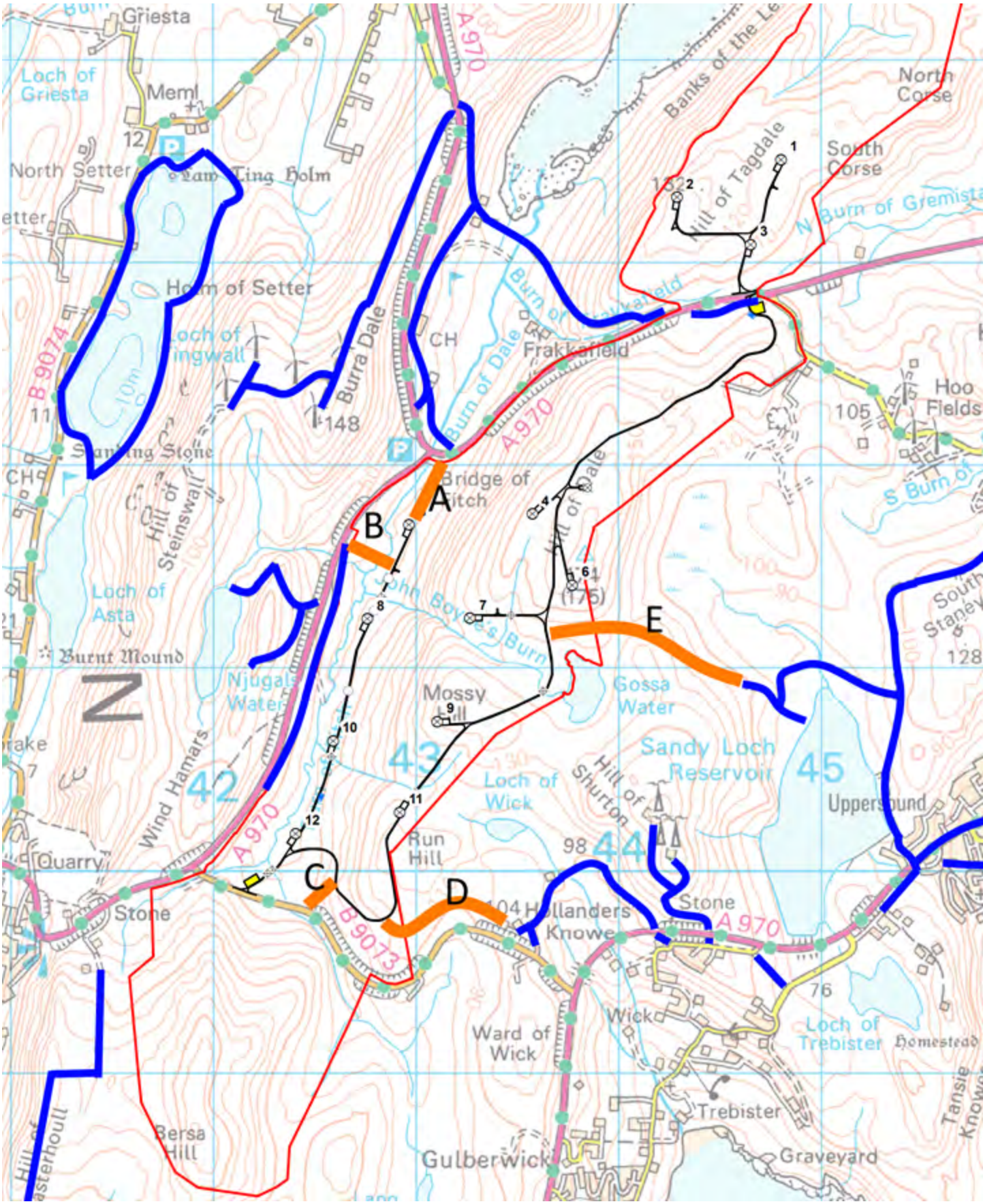
> "An Outdoor Access Plan (OAP) brings together in a single concise document the various issues, impacts and opportunities relating to public outdoor access.
> This allows them to be recognised, considered and adjusted in an integrated and open way. The OAP should assess the existing baseline outdoor access provision, predict the impact of the proposed development or policy on that baseline, and consider how any impacts will be managed and monitored, and how opportunities can be realised.
> A national or major development (e.g. a windfarm, business park, new trunk road) will probably require a more detailed approach to addressing outdoor access issues, and therefore could result in the production of a more detailed OAP document.
> In all such cases, where public outdoor access is a development issue the OAP will provide important supporting information for the planning application."

For a development on this scale 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, Core Paths, Access Routes, Public Rights of Way and desire lines on or adjacent to the site.
- A report showing consideration or consultation undertaken with local communities, the Shetland outdoor access forum and relevant recreational user groups (e.g. walking, cycling, equine, water sport, nature study) with respect to informal and formal access use.
- 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
- 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)

An initial consideration of the access track layout shown suggest some areas with issues/opportunities to be specifically addressed

The sketch plan below shows the area of the proposed development within surrounding core paths/ access tracks/paths (blue).


Griesta
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Meml
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Loch of Ingwall
B 9074
Burra Dale
148
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Burn of Dale
Frakkafield
A 970
Banks of the Le
North Corse
South Corse
Hill of Tagdale
N Burn of Gremista
Hoo Fields
105
Standing Stone
Hill of Steinswall
Bridge of Aitch
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Hill of Dale
(175)
John Boyes's Burn
E
Loch of Asta
Burnt Mound
Njugals Water
Mossy Hill
Gossa Water
Sandy Loch Reservoir
45
42
43
44
Wind Hamars
Loch of Wick
Hill of Shurton
Uppersound
Quarry
Run Hill
C
D
Stone
B 9073
Hollanders Knowe
Stone
A 970
Wick
Ward of Wick
Loch of Trebister
Homestead
Trebister
Tansie Knowe
Bersa Hill
Gulberwick
Graveyard

Particular issues:

- A and/or B – The proposed tracks will clearly result in access being taken to/from the road and car park at the Brig o Fitch. There would appear to be an opportunity for path construction to formalise that route and both improve access for users and form more attractive access routes while also helping to manage the impact on the landowner and the windfarm operator.

- C and/or D - The proposed tracks run adjacent to clay pigeon shooting range, creating a new conflict/need for access control/safety risk. I suggest consideration to forming an additional path to create an access on a route east of the shooting range and reducing need to cross downrange.

- E – I note the PAC document indicates there was public interest during consultation in a connection to Cunningham Way, presumably on the general line labelled "E". A connection there has clear routing benefits and John Boyne's burn is a popular location for photography. The Access Plan should include more information on the options considered and the reasons they were found to be "not feasible".

Colin Smith
Planning Engineer

Shetland Islands Council | Train Shetland | Gremista | Lerwick | Shetland
Tel +44 (0)1595 744881
Email colin.smith@shetland.gov.uk

From: Development Management@Development
Sent: 20 July 2018 10:40

[redacted]

Cc: Holden John@Development Management <john.holden@shetland.gov.uk>
Subject: Planning Consultation 2018/186/PPF

Dear Sir/Madam,

Planning Ref: 2018/186/PPF
Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Address: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour
Applicant: Peel Wind Farms (No 1) Ltd.
Date of Consultation: 20 July 2018

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.
(The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)
(The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011)

All plans can be viewed on:
http://pa.shetland.gov.uk/online-applications/
The consultation period is 30 days, but if you have any queries please contact Marion Bryant, Support Officer on development.management@shetland.gov.uk or 01595 744864.
Consultation replies should be sent to: development.management@shetland.gov.uk.
We appreciate that it may not always be possible to give a full response within the 30 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.
If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
ZE1 0LZ

From: Smith Colin@Marine Planning on behalf of Planning Flooding Drainage Coastal
Sent: 14 Aug 2018 14:59:56 +0100
To: Development Management@Development
Subject: RE: Planning Consultation 2018/186/PPF

Background

This is an application for construction of a windfarm and associated access roads at Mossy Hill, near Lerwick.
The submitted documents contain background information on the flood risk and hydrology of the site and covers the general approach to drainage but do not include more detailed information on location specific drainage proposals.

There does not appear to be a specific statement that SUDs features will be provided for all proposed development, but drainage features which could form parts of a SUDs drainage network are mentioned, and policy and guidance documents which include provision of SUDs drainage are referenced.

Comments

SUDs drainage is a requirement for all parts of the proposed development, under the Water Environment (Controlled Activities) Scotland regulations 2011.
The base drainage and flood risk requirements can be summarised as:

- The drainage design should include sufficient attenuation to at least reduce flows during 1 in 10 year rainfall events to the level which would have occurred on the greenfield site.

- The drainage should ensure that no flood risk is created to buildings or infrastructure during rainfall events of up to 1 in 200 year return periods.

- SUDs drainage should be selected, designed, sized and maintained in accordance with the current version of The SuDS Manual (C753).

Additionally for this development the drainage design and SUDs selection process would appear to have to be strongly influenced by environmental issues related to peat hydrology, peat stability and GWDTE protection.
Not all SUDs drainage options complying with C753 would necessarily be suitable approaches when considering these other aspects.

Different aspects of the proposed construction may raise different drainage issues, or be best served by different approaches, and these may also vary between the construction period and post construction.

Applications are required to address the 3 following drainage and flooding issues

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

2. Water quality treatment

Constructed hard areas

Suitable drainage will be required for the hard areas created by the turbine bases and associated crane pad hardstanding areas, the Substation and control building area and the temporary compound area.
Outline plans have been submitted for each of those parts of the development, but those do not include any drainage details.

SUDs drainage that provides at least 1 in 10 year attenuation of flows will be required and there are a range of SUDs devices which could provide this attenuation and be suitable for the proposed locations.
The information submitted does not include sections to indicate how the proposed hard areas will relate to adjacent ground levels, and this will have a large impact on the most appropriate drainage detailing and also on the amount of associated works required.
I would suggest that, where possible, there would be advantages to a layout with ground levels that allowed unconcentrated sheet flow from the hard areas onto the surrounding ground, which would meet the SUDs requirement of a filter strip, while also better maintaining the pre-development hydrology. Where hard areas are below the surrounding ground levels there may be additional landscaping or drainage works needed in addition to the SUDs devices themselves, in order to maintain suitable hydrology.

Access Roads

The submitted site plans show a proposed layout for new access tracks and indicate where burn crossings are required.
Indicative road construction sections are given for floating and excavated road constructions and it is stated that floating road construction will be used where peat depth is greater than ~ 1.5m.

The sections include some indication of drainage features, but it is not clear if these are intended to represent the expected construction.
The applicant notes that "Access tracks would be installed in order that they do not present a barrier to natural surface water or groundwater pathways and to ensure that the tracks themselves do not become a conduit for flow." and achieving those aims would be requirements of suitable drainage design, but on the section drawings submitted the floating road design appears that it would create a barrier to surface water flows, and would have some impact on subsurface hydrology through compression of the underlying peat and it is not clear how those aspects would be addressed.
Similarly the parallel drainage ditches indicated on the excavated road section would have the potential to create unacceptable changes in the hydrology along the road corridor and would require careful and location specific design detailing to manage the issues.

The applicant also notes that "Drainage would be designed to minimise sedimentation into

watercourses including specification of silt traps/fences, attenuation ponds, check dams etc., would not concentrate flows or cause over or under saturation of peat habitats and require minimal maintenance" and the selection and design of those drainage details will largely depend on longitudinal gradients along the tracks, and information on those have not been submitted. Again, the suitable interaction of those features, in combination with the location specific design of the road and features of the existing ground will require a careful and coordinated design approach. There are some statements made in the application which can be read to be a little at odds with this kind of approach, such as "Upslope ponding of surface water would be drained to an engineered network, ensuring discharge onto peat areas is avoided", and "Drainage outfalls would avoid large flow rates into existing drainage channels as this may increase erosion rates. If necessary, drainage channels would be upgraded." whereas discharge of surface water to adjacent peat areas needs to be maintained as close to existing as possible, neither being avoided, nor concentrated into flows causing local issues or erosion.

To confirm - Care should be taken in all small scale detailing, considering both road edge detailing and the combined effects of road crossfall and longitudinal grades, to prevent concentration of flows and/or erosion of road and soil surfaces. Velocity control in drainage features and on their discharge to natural features are likely to be required, either by designing out or by suitable mitigation, to prevent erosion particularly during heavy flow conditions.
As mentioned above each aspect of these drainage design issues also has potential overlaps with related peatland issues of reinstatement, hydrology, erosion, and ecological impact and special care in design and management of the site as a whole is needed. In particular the spreading of peat adjacent to the floating tracks is likely to need much more specific consideration for suitable locations and detailing in conjunction with natural and proposed drainage patterns.

Bridging Culverts

Generic plans for arch culvert crossings of watercourses have been submitted. Those would appear to show an approach that is dependant of achieving suitable foundations for the construction of abutments, and that may require additional ground works at a lower level. Care will be needed when carrying out earthworks adjacent to watercourses and the best approach may again need location specific construction detailing, or may be best approached by adjustment in road line and level.

3. The third general requirement is that no flood risk created during 1 in 200 year rainfall events.

The applicant has submitted a Flood Risk Assessment in Technical Appendix 12.1.
I would agree with the main conclusions of that report, that across the site there is little risk of coastal, groundwater or sewer flooding impacts and that river flooding and surface water flooding risks are likely to be limited to areas where there are watercourse crossings.
As discussed above, there is a general mention of types of drainage infrastructure that could make up an acceptable drainage system, but further information would be required to be able to confirm that suitable drainage selection and detailing would give an overall drainage proposal for the

scheme, particularly in regard to fitting into the environmental and peat management aims.

Watercourse crossings are noted as being designed to carry 1 in 200 year + climate change flows from the greenfield site. This is likely to be generally acceptable, although there should also be consideration of any flow, or overflow, changes in the drainage caused by the other parts of the development.. Other parts of the submission confirm that the need to maintain existing drainage patterns is understood, but care should be taken to consider possible changes during extreme events, such as the access tracks or associated earthworks or landscaping having an effect on overflow routes and potentially concentrating previously distributed flows.

The information submitted to date indicates the general approach that will be taken to the drainage design and confirms the appropriate guidance documents will be followed, but does not go further towards showing even generic drainage proposals, while information prior to site work will require further increase in location specific design details.
I would suggest further discussion with the Planning Officer on what level of drainage information is required at what stage, to ensure that the potential effects on related issues can be considered by myself and other consultees and so avoid unnecessary delays to the project e.g. by submission of unanticipated design approaches late on in the process.

Colin Smith
Planning Engineer

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From: Development Management@Development
Sent: 20 July 2018 10:40

[redacted]

[redacted]

Cc: Holden John@Development Management <john.holden@shetland.gov.uk>
Subject: Planning Consultation 2018/186/PPF

Dear Sir/Madam,

Planning Ref: 2018/186/PPF
Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Address: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour
Applicant: Peel Wind Farms (No 1) Ltd.
Date of Consultation: 20 July 2018

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.
(The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)
(The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011)

All plans can be viewed on:
http://pa.shetland.gov.uk/online-applications/
The consultation period is 30 days, but if you have any queries please contact Marion Bryant, Support Officer on development.management@shetland.gov.uk or 01595 744864.
Consultation replies should be sent to: development.management@shetland.gov.uk.
We appreciate that it may not always be possible to give a full response within the 30 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.
If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
ZE1 0LZ

Planning Application Consultation

Planning Application 2018/186/PPF

Address: (The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour.)

Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.

Economic Development Comments:

The Mossy Hill wind farm, the consented Beaw Field Wind Farm in south Yell, and the proposed Energy Isles project in north Yell aim to use spare capacity in the proposed 600 MW HVDC link between Shetland and the Scottish Mainland. The needs case presented to Ofgem for the 600 MW HVDC link is based on the commitment and underwrite by the consented 457 MW Viking Wind Farm and will only be constructed if the Viking project proceeds. Additional consented generation in Shetland would add support to the needs case for the HVDC link.

The Mossy Hill wind farm is a private development by Peel Energy. The applicant has committed to the provision of a community fund that is based on a value of £5,000 per MW installed and this would equate to a payment of £249,500 per annum based on a capacity of 49.9 MW. This money would provide a positive socio economic benefit over the life of the project.

The applicant states that cumulatively with other consented windfarms this proposed development would be likely to have an adverse effect on Tourism and Recreation. This is based on the applicant's landscape and visual impact assessment that identified that from the proposed increased number of wind turbines proposed in the area of Burradale, Luggies Knowe and Gremista that there would be some significant cumulative visual effects when seen in succession to the consented Viking Wind Farm by visitors to the upland North West of the Mossy Hill site. The applicant states these significant cumulative effects are localised and no sequential cumulative views are along the main tourist routes. When considered alongside consented projects this project would create a second area of significant windfarm development on Mainland Shetland.

During the 2 year construction phase of the project the developer estimates that 10 to 20 FTE direct jobs and 19 to 38 FTE indirect jobs would be created. Cumulatively, the proposed Mossy Hill Wind Farm, along with the consented projects, Viking Wind Farm, Beaw Field Wind Farm and associated grid would create a large scale construction phase across Shetand. If local contractors are successful in securing construction contracts this would have a significant positive impact on the local supply chain businesses.

The applicant states that the operational phase of the project would have a negligible impact on jobs with 2 to 4 FTE direct jobs and 3.2 to 6.4 FTE indirect jobs. Cumulatively with other renewable energy projects there would be an opportunity for long term skilled jobs in the

renewables sector. This would require commitment for local skills development across renewable energy developers, local businesses and training bodies.

This project 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"

From: Halcrow Lyall@Environmental Health & Trading Standards
Sent: 14 Sep 2018 08:46:26 +0100
To: Development Management@Development
Cc: Isbister Ian@Environmental Health & Trading Standards
Subject: 2018/186/PPF Peel Energy

Good morning

Having looked at the application we note that there are several areas where there may be problems, one being shadow flicker at some sites, there are however control measures built in to overcome these which would appear to be satisfactory.

We are aware that there is an application for a boundary change at the Staney Hill Quarry, this may cause problems for the access road leading from the A970 into the Hill of Dale. The former Landfill site is very close to this route and we would be concerned that this may be disturbed during construction. We would suggest that the applicant considers using the Staney Hill Quarry by-pass road as an access and starting point into the Hill of Dale. This road would easily handle the anticipated traffic and would keep the two operations well apart. In addition there would be no possibility on any environmental issues caused by disturbing the old Landfill site

In principle we have no objections, however we would prefer to revisit the application when a final decision on the type of turbine to be used has been made to ensure that there are no significant changes to any of the calculations originally, we would also like to examine more closely the proposals for the access road into the Hill of dale.

Regards
Lyall

- - -
Lyall Halcrow
Environmental Health & Trading Standards
Shetland Islands Council
Old Anderson High School
Shetland Islands, ZE1 0BA

Tel: 01595 744858
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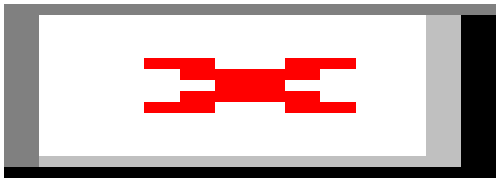

From: Taylor Ian@Environmental Health & Trading Standards
Sent: Tue, 26 Feb 2019 09:58:46 +0000
To: Development Management@Development
Cc: Dinsdale Patti@Environmental Health & Trading Standards
Subject: RE: Planning Re-Consultation 2018/186/PPF

Good afternoon

Thank you for re-consulting with the Environmental Health Department regarding The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure, located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour.

With reference to the response submitted for the above application dated 7th February I can confirm that the department still holds reservation about the routing of the access track in such close proximity to the proposed boundary of both the extended Staney Hill quarry operation and the former Staney Hill Landfill area.

The detail pertaining to managing this part of the proposed development give effective options to mitigate the risk of disturbing the former landfill but the department feel the developer has failed to fully consider the option of re siting the access track to avoid the area all together mitigating the risk completely.

As stated in our previous response I can confirm that In principle we have no objections, however we would prefer to revisit the application when a final
decision on the type of turbine to be used has been made to ensure that there are no significant changes to any of the calculations originally, we would also like to examine more closely the finalised proposals for the access road into the Hill of dale, once the developer has considered the feasibility of re locating the access track to avoid the area of the former landfill.

Should you wish to discuss any of the detail above please do not hesitate to contact the department.

My regards

Ian

Ian Taylor
Assistant Environmental Health Officer
Shetland Islands Council
Environmental Health & Trading Standards Dept.
Old Anderson High School
Lovers Loan
ZE1 0BA

Tel: [redacted]

From: Development Management@Development <development.management@shetland.gov.uk>
Sent: 11 February 2019 11:48
To: [redacted]
Cc: Barclay Janet@Development Management <Janet.BarclaySmith@shetland.gov.uk>
Subject: Planning Re-Consultation 2018/186/PPF

Dear Sir/Madam,

Planning Ref: 2018/186/PPF
Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Address: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and

approximately 4.2km from Lerwick Harbour
Applicant: Peel Wind Farms (No 1) Ltd.
Date of Consultation: 11 February 2019

Comments are required in response to additional information received on 8 and 11 February 2019 (Additional information received attached to this email).

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.
(The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)
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We appreciate that it may not always be possible to give a full response within the 28 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.
If there are any problems with the e-consultation process, please get in touch.
Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
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Scottish Natural Heritage
Dualchas Nàdair na h-Alba
nature.scot

Planning Service
Shetland Islands Council
Train Shetland
North Gremista Industrial Estate
Lerwick
ZE1 0LZ

17th September 2018

Dear Sir/Madam,

2018/186/PPF - Construction and operation of Mossy Hill Wind Farm (50MW) - 12 turbines maximum height of 145m to tip, near Lerwick.

Thank you for your consultation, by email dated 20th July 2018 over this proposal and associated Environmental Statement.

Summary

This development could adversely affect important natural heritage interests. At present it is not possible to quantify these impacts fully and we therefore object to the proposal until further information is provided to allow us to make a full assessment.

Key advice

We are satisfied that the proposed wind farm alone will have no likely significant effect on East Mainland Coast, Shetland proposed Special Protection Area (pSPA). At present however there is insufficient information to be able to rule out cumulative and in-combination effects arising in conjunction with other development approved since the pSPA was given policy protection in July 2016. It is also not possible at present to rule out cumulative impact on the regional (i.e. Shetland) population of red-throated diver.

The coincidence of a high proportion of the proposed infrastructure with priority peatland habitat and deep peat suggests that there may be a significant impact on a nationally important feature, however, this cannot be confirmed without a site-specific assessment by SNH to determine the quality of habitat. There may be opportunities to reconfigure the infrastructure to avoid areas of deep peat and priority peatland habitat and we will be happy to advise further once we have carried out our on-site assessment.

The landscape and visual impacts of the proposed wind farm will not undermine the integrity of the special qualities of the Shetland NSA, however it would have a number of localised significant adverse impacts on both the NSA and the landscape setting of Lerwick. These result primarily from the scale of the proposal relative to existing wind turbines and to the capacity of the site to accommodate such a level of development, and cannot be overcome

Scottish Natural Heritage, Ground Floor, Stewart Building, Alexandra Wharf, Lerwick, Shetland, ZE1 0LL
Tel: [redacted] [redacted] www.nature.scot

without fundamental modification to the design of the proposed wind farm. We would be happy to work with the developers to revise the design and layout such that these impacts are reduced.

Yours faithfully

Daniel Brazier
Operations Manager
Northern Isles and North Highland
[redacted]

Annex 1 - Appraisal of the Environmental Statement

Landscape and visual impacts

Nine of the viewpoints used in the visual impact assessment are assessed as having a 'significant' effect, however we believe that the LVIA has underplayed the significance of effect for an additional four viewpoint (VPs 2, 3, 16 and 20) where 'moderate' effects are identified. We consider that 'moderate' effects should also be considered as being 'significant' and that identifying such impacts at these four viewpoints would provide a more balanced and representative impression of the overall landscape and visual effect of the proposed wind farm.

We also consider that the LVIA has placed too much emphasis on the role of the horizontal and vertical extent of visibility of the proposed turbines within views from within the NSA especially in relation to other wind farms and as a result the effects on the qualities of some of the NSA have been underplayed.

The quality of the visual material provided within ES Volume 3 is poor, making an understanding of effects challenging for those who are not able to easily get on site to visit the viewpoints. The photographs are often taken in low light conditions with a substantial amount of cloud cover, making it difficult to determine detail within the landscapes.

Ornithology

The current proposal came about through a merger of two smaller proposals, for which ornithological work was carried out over an extended period and at different times in the two sections of the site. *Flight activity surveys on the Tagdale section of the proposal were carried out between April 2012 and March 2014 so much of the data is more than five years old. We generally regard data older than five years as being insufficient for an assessment, however in this instance the majority of turbines and most predicted impacts are in the Mossy Hill area which is covered by recent surveys. We are therefore content that the surveys provide a satisfactory basis for the assessment.*

Similarly, we normally recommend that surveys are not undertaken on different parts of a wind farm site in different years. In this case though there is a significant distance between the two turbine clusters, so VP observations are likely to be independent of each other. Consequently, we consider it acceptable to combine the two surveys and treat the assessment as a single entity.

*The flight line surveys used different height bands in the two areas. Those used for the Mossy Hill surveys and the winter surveys of Tagdale are satisfactory but those for the summer surveys of Tagdale – below 40 metres, 40 to 120 metres and above 120 metres - are a poor match for the proposed turbine dimensions which give a blade envelope from 12 to 145 metres above ground. Appendix 8.2 (Mossy Hill birds technical report,) states that "*Surveyors were instructed to put all birds close to 'turbine risk height' into that height band. Consequently, all target birds at or just above the 120m height, within a margin of +25m, i.e. up to 145m were included in the 'turbine height' band." This is not likely to result in significant errors as few birds are likely to fly at these heights. It is not clear though how the collision risk analysis has taken account of birds in the Tagdale section flying between 12 and 40 metres. **A clear explanation of how this has been addressed is therefore required**.

The collision risk for great black-backed gull and herring gull is calculated in Appendix 8.2 using avoidance rates of both 98% and 99.5% and for both flapping and gliding flight. Although we have not formally changed the avoidance rate for gulls, the figure for both species is considered to be closer to that used for offshore wind farms and the 99.5% figure is therefore acceptable.

The ES presents the collision risk for gulls as a simple average of the figures for flapping and gliding flight. In the absence of observational data on the proportion of flapping and gliding flight, we recommend that the most commonly adopted flight mode is used. For gulls this is likely to be flapping flight. **The collision risk for herring gull and great black backed gull should therefore be recalculated using 99.5% avoidance and assuming flapping flight.**

The ES also presents the collision risk for each of the gulls as a total figure for both breeding and non-breeding seasons. The ornithology Technical report partitions herring gull and great black-backed gull impacts according to season but this is not done in the main text or the collision risk assessment. **The NHZ population estimates apply to breeding birds so collision mortality needs to be assessed for the breeding season, separate from the non-breeding season when large numbers of migrants are likely to be present.**

The assessment of cumulative impacts on bird populations does not follow SNH guidance on calculating and assessing cumulative impacts. The text lists some developments that may be relevant but then makes no assessment of the impact arising from Mossy Hill in combination with these. **An assessment of the cumulative impact on the pSPA should be made following SNH guidance and including <u>all</u> developments – not just wind farms - approved since July 2016 when the pSPA was given policy protection.**

<u>Ecology</u>

Section 9.8 of the ES (Assessment of Effects) states that "…There appear to be no data published showing the amount of blanket bog on a regional scale (i.e. in Shetland)." However data are published on-line in In the James Hutton Institute report, The Land Cover of Scotland 1988, Executive Summary:
https://www.hutton.ac.uk/sites/default/files/files/soils/lcs88_executive_summary.pdf
This gives the following figures:

- Peatland as a single feature: 534.3 km^2 = 36.3% of Shetland
- Peatland as the primary component of a mosaic: 15.6 km^2
- Peatland as the secondary component of a mosaic: 3.4km^2

It is reasonable in this context to equate 'peatland' and 'blanket bog', since Shetland has very little fen habitat and no raised bog. Thus the wind farm site and Shetland as a whole have similar proportions of blanket bog.

The Peat Depth Data in Appendix B of Appendix 10.1: Peat Slide Risk Assessment identifies a modal peat depth of 1.88m, ranging up to 5.73m. Figure 6 Peat Depth illustrates the relationship of most of the infrastructure with peat depth, however interpreting the different shades of green, and thus the peat depth at specific points, is not easy.

Annex 2 - Appraisal of impacts

Potential impact on East Mainland Coast, Shetland proposed Special Protection Area (pSPA)

Although a small number of red-throated diver mortalities are predicted, the layout of the turbines with respect to the locations of diver breeding pools will limit collision risk. There is however a residual concern over potential disturbance to two breeding pairs (Gossa Water and Loch of Wick) however the flight line surveys show that these birds do not make significant use of use of East Mainland Coast, Shetland pSPA. The southernmost pair within the survey area may occasionally use the pSPA but the wind farm will not create a significant collision risk or a barrier to their flight lines.

We therefore agree with the conclusion of the ES that, on its own, the Mossy Hill wind farm will have no likely significant effect on East Mainland Coast, Shetland pSPA. At present however there is insufficient information to be able to assess the impact on the pSPA of the proposal in combination with other developments.

Potential impact on deep peat and priority peatland habitat

Scottish Planning Policy identifies "carbon rich soils, deep peat and priority peatland habitat" as nationally important interests for which planning authorities should develop spatial frameworks. Also that "Further consideration will be required to demonstrate that any significant effects on the qualities of these areas can be substantially overcome by siting, design or other mitigation."

The applicant therefore needs to demonstrate through the Environmental Statement and draft Construction Method Statement that a wind farm can be built on this site without significant loss and damage to these nationally important interests. We consider that the Applicant has not fully recognised the potential importance of the peatland in this area, or the likely impacts of the proposed development upon it.

The ES reproduces, as Fig 10.2, the relevant part of the Carbon and Peatland 2016 Map http://soils.environment.gov.scot/maps/thematic-maps/carbon-and-peatland-2016-map/, however there is no evidence of a clear appreciation of its significance. The map shows that all of the turbines and most of the tracks are located in Class 1 habitat, i.e. areas in which:

- All vegetation cover is priority peatland habitats
- All soils are carbon-rich soils and deep peat

Whilst the map may not be wholly accurate due to the resolution of the under-pinning data, the NVC survey carried out for the EIA shows that five turbines are located in NVC type M19a (a priority peatland habitat) and a further six in areas where M19a or M19 are in mosaic with other communities. Thus, 41% of turbines are located in 'pure' stands of blanket bog, and 92% (11 of 12 turbines) are in areas which are wholly, or predominantly blanket bog. This is disproportionate in comparison with either a Shetland or a site level of 37% blanket bog.

The coincidence of a high proportion of the proposed infrastructure with priority peatland habitat and deep peat suggests that there may be a significant impact on a nationally important feature. However, this cannot be confirmed without a site-specific assessment by SNH to determine habitat quality. The habitat surveys undertaken for the ES, while adequate for their purpose of informing impacts and layout, do not, and should not need to, go into the level of detail required for this assessment.

We support in principle the use of excavated peat to restore areas of degraded peatland and believe that there are areas on the site and nearby where this could usefully be undertaken. However, we have reservations about the restoration areas and methods proposed in the Peat Management Plan, particularly the former peat banks in the west of the site. The

vegetation in many of these abandoned cuttings is regenerating naturally and habitat restoration might be better achieved by breaking down the eroding peat banks and impeding drainage with dams rather than setting back this recovery by infilling the cuttings.

Potential impact on regional bird populations

We are satisfied that the site of the proposed wind farm has only low densities of nesting skuas and waders and the impact of the development on these is not likely to be significant at a regional level.

Impacts on herring gull and great black-backed gull appear unlikely to be significant at a regional level, however this should be confirmed by recalculating the collision risk for these species on a seasonal basis.

The two breeding pairs of red-throated diver on Gossa Water and Loch of Wick are at risk of disturbance and potentially displacement, particularly as a result of construction but also operation of the wind farm. The ES suggests that construction could avoid the most sensitive period when divers are incubating or with small chicks, however no details of how this might be achieved are provided. In the absence of suitable mitigation it should be assumed that these pairs will be displaced and an assessment made of the effect on the regional population of this together with other developments, including the Viking wind farm.

In the absence of a satisfactory assessment of potential displacement of two pairs of red-throated diver from Loch of Wick and Gossa Water and of the cumulative impact of this development together with other consented wind farms it is not possible to rule out a significant cumulative impact on the Shetland population of red-throated diver.

Landscape and Visual Impacts

Summary of effects

The proposed Mossy Hill wind farm will result in a series of significant landscape and visual effects resulting from its siting, layout and design. Whilst a detailed design development process has been undertaken to establish the proposed layout, significant flaws in the consideration of landscape and visual issues have limited the ability of the proposed development to achieve its stated landscape and visual objective of achieving a 'balanced and rational composition of turbines from key viewpoints'. Overall the proposal has failed to adequately consider the scale of wind farm proposed in relation to the character and capacity of the proposal site, particularly in relation to the number and height of turbines, as we advised in our scoping consultation response of 25 May 2015. The design approach adopted has not adequately responded to the direct relationship between topographic pattern and turbine layout and scale of the site and how this influences the overall visual appearance and composition of the proposal.

Consequently, we consider that the Mossy Hill wind farm will result in the following landscape and visual effects:

- **localised significant adverse effect on the appreciation of *the Stunning Variety of the Extensive Coastline* special landscape quality of the Shetland NSA,**

- **significant adverse landscape impacts on four LCAs which indicates the poor siting, scale and design of the proposal in relation to its landscape character context,**

- **significant adverse cumulative impact on the landscape setting of Lerwick as a result of the proposed turbines being significantly larger than, and therefore poorly scaled in relation to, the existing and consented turbines with which they are commonly seen.**

- **significant visual effects as a result of the proposed turbines appear large in relation to the scale of the hills on which they are located, such that they appear to visually dominate these hills, and**

- **significant visual effects as a result of the physical separation of the proposed wind farm layout into two distinct groups of turbines results in in unbalanced and inconsistent visual compositions in many views of the proposal.**

With the exception of the impacts on landscape character, these effects could be reduced to the degree that they are no longer significant if the proposed turbines were to be substantially reduced in height. We are happy to work with the developer should they wish to explore a reduced scheme in this location in order to minimise significant landscape and visual effects including those affecting the NSA.

Impact on the Shetland National Scenic Area

The Shetland NSA comprises seven separate areas which represent the range of coastal forms found across the island group. The ZTV plan for the proposal indicates that only parts of the South West Mainland area of the NSA - predominantly more western parts of this section and the area around Scalloway - would have theoretical visibility of the proposal. In locations around Scalloway, the proposed turbines would form visually prominent new features, poorly arranged in relation to the existing skyline profile. Further west within the NSA, views eastwards across the coastal landscapes of the NSA would contain partial views of the turbines, seen beyond higher ground forming the eastern boundary of the NSA, and where their overall visual impact would be relatively limited.

The LVIA places emphasis on the extent of the horizontal and vertical visibility of the proposed turbines within views from within the NSA. Whilst this is a relevant part of the overall assessment process, we consider that too much importance is placed on this more quantitative approach and not enough on considering in more detail the potential impacts on the 'experiential' aspects of the special qualities, and how these are experienced by people in the NSA.

The LVIA also identifies the presence of the Burradale wind turbines in views outwards from within the NSA as an established feature of the character of the NSA. However, whilst there are locations within the NSA where the Burradale turbines are visible, they do not dominate any of these views because their height is appropriate to the landscapes which they affect. We therefore consider them to have minimal influence on the overall character and appreciation of the special qualities of the NSA.

We consider that the proposed Mossy Hill wind farm will have significant adverse effects on the following four special qualities of the South West mainland section of the Shetland NSA:

- *The Stunning Variety of the Extensive Coastline*
  The LVIA states, *"Where visible, the proposed turbines would be background features located above inland ridges".* Currently, the inland ridges which form the backdrop to many views eastwards across voes and to the intricate coastline and small islands and stacks are undeveloped and form a simple, relatively uniform moorland backdrop to the drama of the coastline. The introduction of turbines into these views, albeit on a limited scale and extent in relation to the overall extent of this section of the NSA, would adversely affect the character and experience of these coastal views. **There will be localised significant adverse effect on the appreciation of the Stunning Variety of the Extensive Coastline special landscape quality of the Shetland NSA. However, the overall extent of impact is not considered to be of such a magnitude or significance to undermine the integrity of this special quality.**

- *Coast Views both Close and Distant*
  The LVIA states, *"The Proposed Development would be visible as a background feature in landwards views to central Mainland. It would not prevent, obscure or disrupt any views of coastal features".* As above, views of turbines, although present as background features, would be seen in visual combination with coastal views, although to a limited extent throughout the NSA. Views of St Ninians Isles specifically mentioned in the citation would have no theoretical visibility with the proposed wind farm and would be unaffected. Any impact is not considered to be of such a magnitude or significance to undermine the integrity of this special quality.

- *A Sense of Remoteness, Solitude and Tranquillity*
  The LVIA states*, "The presence of the Proposed Development in the background of some views from within the NSA would be seen in the context of existing WTGs and movement on this part of the skyline. As such the proposed WTGs would not give rise to any notable change in this special quality".* The LVIA fails to acknowledge how the introduction of development, however limited in extent, can affect how people experience the sensations of remoteness, solitude and tranquillity. The introduction of wind turbines into views from areas where these characteristics can be experienced is likely to dilute the quality of these experiences. However, in overall terms, any adverse impacts on this special quality are unlikely to be of such a magnitude to undermine the essential characteristics of this special quality and therefore its integrity maintained.

- *Northern Light*
  The LVIA states, *"The Proposed Development would have limited aviation lighting on selected WTGs. However, this would not result in a level of lighting that would influence any appreciation of the dark skies and long nights of mid-winter or the long days of summer in views from within the NSA".* Aviation lighting is unlikely to have a significant

visual effect on areas within the NSA, and would therefore have very limited effect on this special quality.

Consideration of the likely impact of the proposed wind farm on the special qualities of the NSA indicates that any adverse effects would be limited in their extent or magnitude, and the special qualities would be essentially maintained. Consequently**, it is considered that the siting of the proposed wind farm will not result in significant adverse impacts on the special qualities of the South West Mainland section of the Shetland NSA.**

Landscape Character Impacts of the Proposal

We agree with the conclusion concludes in section 6.8.3.2 of the LVIA that four LCAs would experience major adverse effects on their existing character, with the proposed turbines becoming new defining features of these areas due to their size and extent. These levels of effects indicate that these LCAs, where scale can be easily dominated, do not have the capacity to accommodate development of this magnitude, particularly in terms of turbine height, without their intrinsic characteristics being significantly altered.

The proposed development is mainly located in the northern part of Character Area A1 - South Mainland Spine. The combination of the proposed turbines with existing and consented turbines within this LCA would create a new LCA sub-character area – 'South Mainland Spine with Turbines'. Although the presence of other wind turbines reduces the sensitivity of the LCA to the introduction of new wind farm development, the scale and extent of this proposal would result in a major adverse impact on the characteristics of the northern part of the LCA.

Character Area B4 – South Mainland Coastal Moorland would also experience major adverse impacts on its northern and western edges which are closest to the proposal site, where the proposed turbines would be visible on the skyline in views inland. The LVIA states that the key characteristics of the LCA would be unaffected, however the scale and proximity of the proposed wind farm to parts of this LCA is a key factor in assessing the overall level of impact. We consider that the LVIA has underplayed the importance of the background hills to this LCA.

Three of the proposed turbines would be located in Character Area D4 - Peat and Moorland Inland Valleys – Burn of Dale. This LCA comprises a narrow, well defined undeveloped valley between steeply rising hillsides which contains the B9073, an important link between Shetland's two main settlements. Despite the relatively close proximity to the coast, the valley has a palpable sense of a moorland interior character typical of much of inland Shetland. Turbines up to 145m in height would visually dominate this narrow valley, and would tower over the adjacent road given their close proximity. The introduction of the proposed turbines would result in a fundamental change in landscape character to this LCA, with wind turbines becoming the new visual focus of the valley and a key defining feature of its overall character.

The proposed turbines would extend along a considerable extent of the southern boundary of Character Area F5 – Scattered Settlement/Crofting and Grazing Land - Dales Voe. This would result in the creation of a new LCA sub-character area, as the new turbines would become a defining feature of this part of the LCA.

In overall terms, the extent and significance of adverse landscape impacts of the proposed development on four LCAs which include and surround the proposal site, including the need to define new sub-character areas, indicates the poor siting, scale and design of the proposal in relation to its landscape character context. These effects on landscape character are however not uncommon with a when turbines of this height and number are proposed.

In addition, the local and regional distinctiveness of this area of Shetland is defined by the interconnection between the settled coastal fringes and the central moorland spine, where several considerably different LCAs are experienced both physically and visually within a limited geographic area. The hills form the backdrop to the coastal edges and views of the coast are integral to the character of the hills. There are sudden and sharp landscape transitions when crossing the central spine which are a crucial part of the overall landscape experience. This close physical and visual relationship between LCAs is an important factor in how people experience the landscape of this part of Shetland and how the inter-relationship between the LCAs contributes to local and regional identity. **The introduction of the proposed wind farm, on the hills which importantly form both the transition and connection between different coastal landscapes, would substantially erode the local distinctiveness of this part of Shetland.**

Visual Effects of the Proposal

The viewpoint wirelines and photomontages indicate a number of recurring visual issues, in particular:

The hills on which the turbines would be sited are of modest overall height, rising to only 175m AOD, and would be visually dominated by the proposed 145 metre turbines. The LVIA simplistically concludes that as 145m height turbines have been consented in other areas of Shetland, this height of turbine would be appropriate for the Mossy Hill site. No detailed site-specific landscape capacity study has been undertaken to support the scale of turbines proposed in relation to the topographic scale of the site, and the proposed turbines would be grossly over-scaled in relation to the scale of the landform.

The operational and consented developments with which the proposed wind farm would have the greatest level of visual association are the turbines on Burra Dale, and Luggies Knowe with heights of 67m, 71m and 121m. There will be a very poor scale relationship between these turbines and the proposed turbines at up to 145m, adding further visual complexity to the character of existing view.

The physical separation of the proposed wind farm layout into two distinct groups of turbines results in in unbalanced and inconsistent visual compositions in many views of the proposal.

The introduction of Mossy Hill wind farm would substantially fill the gap on the skyline hills forming the backdrop to Lerwick between the existing radio masts and the Burradale and Gremista turbines. It would extend wind farm and other development across the full extent of the skyline enclosing the western side of Lerwick, such that the current sense of a relatively undeveloped skyline would be substantially changed. This would result in a significant adverse cumulative impact on the landscape setting of Lerwick in combination with existing and consented wind turbines and other existing skyline development.

Conclusion and Recommendation

The proposal would have a number of significant adverse landscape and visual impacts, essentially resulting from the scale of development proposed in relation to the capacity of the site to accommodate such a level of development. **The proposal, in combination with existing and consented wind energy development, would exceed the capacity of the area to accept further wind farm development without the intrinsic landscape and visual characteristics of the area being significantly changed to its detriment.**

We believe that the landscape and visual impacts of the proposal cannot be overcome without fundamental modification to the layout of the proposed wind farm, in terms of the scale of turbine proposed and the overall layout and arrangement of turbines. Even with the adoption of a considerably more sensitive layout and design strategy, issues of how a

proposed wind farm relates to the existing landform scale of the ridgeline of hills comprising the site, the scale of existing turbines with which the proposal would be seen in visual combination and minimising impacts on the landscape setting of, and visual receptors within, Lerwick would result in significant landscape and visual effects.

Scottish Natural Heritage
Dualchas Nàdair na h-Alba
All of nature for all of Scotland
Nàdar air fad airson Alba air fad

Planning Service
Shetland Islands Council
Train Shetland
North Gremista Industrial Estate
Lerwick
ZE1 0LZ

12th October 2018

Dear Sir

2018/186/PPF - Construction and operation of Mossy Hill Wind Farm (50MW) - 12 turbines maximum height of 145m to tip, near Lerwick.

I refer to Simon Herriot's letter of 2nd October seeking clarification of SNH's response to this planning application and supporting Environmental Statement.

I confirm that our objection is solely on the grounds of potential cumulative impact of this development, in combination with others, on East Mainland Coast, Shetland proposed Special Protection Area.

We do not object on the grounds of landscape and visual impacts as we consider that these would not be of national significance. There would, however, be significant local impacts which the Planning Authority will need to consider and we have therefore provided detailed advice to help them with this.

With regard to peat, SEPA is concerned with the handling, reuse and disposal of peat as a physical material, whereas SNH's remit covers peatland habitats, hence the difference in our responses to the proposal. Our position arises from the greater emphasis now given in Scottish Planning Policy to protecting priority peatland habitat, i.e. good quality active blanket bog. The habitat surveys carried out for the EIA identify and categorise the various habitats but don't (and are not intended to) assess the quality of the peatland, hence the need for an assessment by a peatland expert.

Our peatland specialist will make a site visit on 23rd October to make this assessment, after which we will be in a position to provide further advice on whether priority peatland is present on the site and, if so, how adverse impacts on it might be minimised.

Yours faithfully

Daniel Brazier
Operations Manager
Northern Isles and North Highland
[redacted]

Scottish Natural Heritage, Ground Floor, Stewart Building, Alexandra Wharf, Lerwick, Shetland, ZE1 0LL
Tel: [redacted] [redacted] www.snh.gov.uk

Scottish Natural Heritage
Dualchas Nàdair na h-Alba
nature.scot

Planning Service
Shetland Islands Council
Train Shetland
North Gremista Industrial Estate
Lerwick
Shetland
ZE1 0PX

6th December 2018

Dear Sir

2018/186/PPF - Construction and operation of Mossy Hill Wind Farm (50MW) - 12 turbines maximum height of 145m to tip, near Lerwick.

Summary

Further to our initial response of 17th September to this proposal we have now carried out our assessment of the peatland on the wind farm site and have considered the additional information provided by the applicant. **We withdraw our holding objection to the proposal on the grounds of possible cumulative impacts on East Mainland Coast, Shetland proposed Special Protection Area (pSPA) and regional populations of red-throated diver. With regard to peatland however we object to the proposal unless it is subject to modifications and mitigation, as set out below, to avoid impacts on nationally important peatland habitat.**

1. Turbine 1 is removed from the proposal.
2. Turbines 2 and 3 are relocated to avoid high quality peatland.
3. The impacts of the other turbines, particularly numbers 5 and 8, are mitigated by siting and design to minimise peat disturbance and by compensatory restoration of eroded peatland within the site or elsewhere.

Appraisal

East Mainland Coast, Shetland pSPA

Following clarification of the implications of the ECJ case of People Over Wind v. Coillte Teoranta we now advise that designing the turbine layout to avoid impacts on red-throated diver might constitute mitigation in the context of this ruling (i.e. mitigation by design). Shetland Islands Council should therefore carry out 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 on the basis of the information provided the proposal will not adversely affect the integrity of the site.

Scottish Natural Heritage, Ground Floor, Stewart Building, Alexandra Wharf, Lerwick, Shetland, ZE1 0LL
Tel: [redacted] [redacted] www.nature.scot

The appraisal we carried out considered the impact of the proposals on the following factors:

Great northern diver, eider, long-tailed duck, red-breasted merganser and Slavonian grebe qualify as wintering species when they occur only on the sea and so will not be affected by the wind farm development.

The proposed layout of the turbines will avoid displacement of those red-throated divers nesting in the vicinity of the wind farm that show a strong connectivity with the pSPA (i.e. the three pairs nesting to the north-east of the Hill of Tagdale and the pair to the south of the wind farm) and will not present a barrier to flights between their nesting pools and the pSPA. The collision risk analysis suggests that one or two red-throated divers are likely to die in collisions over the lifetime of the wind farm, however this risk is almost entirely associated with birds flying to and from Gossa Water and the Loch of Wick which do not show significant connectivity with the pSPA.

The applicant's appraisal of cumulative impact doesn't include the decommissioning facility at Dales Voe (planning application 2018/038/PPF) which is adjacent to the pSPA and would require redundant oil rigs to be moored within the site. Nevertheless we consider that the Mossy Hill wind farm in combination with this proposal and the other developments identified will not adversely affect the integrity of the pSPA.

We confirm that the consented Viking wind farm pre-dates the pSPA so is part of the baseline for the site and need not be considered here. The combined mortality of the other wind farms, using the currently recommended avoidance rate of 99.5%, is predicted to be between 0.074 and 0.213 birds per year (i.e. one bird every 4.7 to 13.5 years) against a predicted 209 pairs of divers using the pSPA. The two finfish farms listed (Catfirth 1 and Setterness north) also pre-date the pSPA so need not be considered. The other developments may cause additional incidental mortality due to birds being displaced from foraging areas. 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. The Mossy Hill proposal will not itself contribute to cumulative displacement effects within the pSPA.

You may wish to carry out further appraisal before completing the appropriate assessment.

Wider countryside impacts

We are satisfied that the cumulative effect of the Mossy Hill proposal together with other developments, including the Viking wind farm, will not have an adverse impact on the Shetland population of red-throated diver. To further reduce the impact of the development on nesting divers the applicant's proposal to develop a Breeding Birds Protection Plan should be secured by an appropriate planning condition.

Peatland

High quality blanket bog is most extensive in the Hill of Tagdale area north of the A970, and the locations proposed for Turbines 1, 2 and 3 support nationally important peatland. In particular Turbine 1 is in the middle of a *Sphagnum*-rich pool system with a more or less continuous carpet of *Sphagnum capillifolium* and *S. papillosum*. We consider it unlikely that the applicant will be able to avoid the impacts of Turbine 1 and its access track by siting, design or other mitigation and this turbine should therefore be removed from the proposal. It

may be possible to avoid impacts from Turbines 2 and 3 by relocating them to areas of shallower peat and less important dryer habitat.

To the south of the A970 high quality blanket bog is more fragmentary. Turbines 5 and 8 are currently located on high quality habitat but we believe that the impacts can be mitigated by a combination of siting, design and appropriate habitat restoration.

Yours sincerely

Daniel Brazier
Operations Manager
Northern Isles and North Highland
[redacted]

Scottish Natural Heritage
Dualchas Nàdair na h-Alba
nature.scot

Planning Service
8 North Ness Business Park
Lerwick
Shetland
ZE1 0LZ

6th March 2019

Dear Sir,

Planning application no. 2018/186/PPF – Construction and operation of Mossy Hill wind farm

Thank you for consulting us by email dated 11th February over the additional information provided by the applicant regarding this proposal.

It remains our opinion that the section of the site to the north of the A970 includes areas of high quality peatland and that damage to this nationally important habitat is likely unless Turbine 1 and its access track are removed from the proposal.

We are content that Shetland Islands Council judges whether the proposal is contrary to Scottish Planning Policy with regard to carbon rich soils, deep peat and priority peatland habitat.

Yours faithfully

Daniel Brazier
Operations Manager
Northern Isles and North Highland
[redacted]

From: Barclay Janet@Development Management
Sent: Tue, 6 Nov 2018 08:38:17 +0000
To: Barclay Janet@Development Management
Subject: FW: PLANNING APPLICATION CONSULTATION 2018/248/PPF

From: Rosie Steve@Infrastructure Services
Sent: 05 November 2018 16:23
To: Barclay Janet@Development Management <Janet.BarclaySmith@shetland.gov.uk>
Subject: RE: PLANNING APPLICATION CONSULTATION 2018/248/PPF

Hi Janet,

Further to your email on 1st November and given the fact the CAA have no issues with the low intensity lighting proposed, Tingwall Airport has no objections with this proposal. Once the mast is fitted we will assess the visibility of the light.

Regards,
Steve

From: Barclay Janet@Development Management
Sent: 01 November 2018 15:56
To: Rosie Steve@Infrastructure Services [redacted]
Subject: FW: PLANNING APPLICATION CONSULTATION 2018/248/PPF

Hi Steve
Following our conversation earlier today, please see below the e-mail trail between the applicant and the CAA about the lighting required for the proposed temporary, 80 metre high anemometer mast at Mossy Hill.

In the earlier comments received from Tingwall Airport it appeared that a medium intensity steady red obstacle light at the top of the proposed mast would be required. The comments you forwarded to us from the CAA confirmed this and also indicated that a second red light would be need at the 45m height.

Following this the developer has been in touch with the CAA (Alison Phillips) proposing the use of a low intensity 32 candella AV light at the top of the mast only, and in their response the CAA has indicated that there are no issues with the low intensity lighting proposed. I do note that the CAA goes on to say that once the lighting has been installed the aerodrome will need to assess if they are visible of not.

I would appreciate your further comments on the proposal to use one low intensity light at the top of the mast as is now proposed.

As usual I would appreciate your comments on this proposal as soon as possible.

Regards

Janet Barclay Smith
Planning Officer
Shetland Islands Council
Train Shetland
North Gremista Industrial Estate
Lerwick
Shetland
ZE1 0PX

"If when you are sending a response to this email you are making a submission of further information (plans, particulars, documents, materials or evidence) in connection with a planning application, please make your response to development.management@shetland.gov.uk .

From: Stephen Snowdon [m[redacted]
Sent: 31 October 2018 18:39
To: Holden John@Development Management <john.holden@shetland.gov.uk>
Cc: Fred Kamstra <[redacted]>
Subject: FW: PLANNING APPLICATION CONSULTATION 2018/248/PPF

John

Met mast lighting situation – CAA is happy with the low-intensity lighting.
Please can you send this on to Janet Barclay-Smith? I should have got her email address when we spoke earlier today. If you could let me have this it would be appreciated.

Regards,

Ste□□en Sno□ □o
n BSc (Hons), DipTRP, MCD, MRTPI
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Peel Land and Property Group Management Limited
Peel Dome, intu Trafford Centre, Manches ter, TRAFFORD C□□, M17 8 PL

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From: Fred Kamstra
Sent: 29 October 2018 09:52
To: [redacted]>
Subject: FW: PLANNING APPLICATION CONSULTATION 2018/248/PPF [Filed 29 Oct 2018 09:53]

Hi All

Just received the below response from the CAA. Looks like we made the right decision going for the low intensity lights.

Thanks for your help,

Fred

Fred Kamstra
Assistant Development Manager
Peel Land and Property Group Management Limited

[redacted]

From: Phillips Allison <[redacted]k>
Sent: 29 October 2018 09:33
To: Fred Kamstra <[redacted]>

Cc: [redacted] CONSULTATION 2018/248/PPF

Hi Fred

Sorry I have taken a while to reply to your email. Given the difficulties you have in providing power for medium intensity lights and the fact that this light spec has been used elsewhere in Shetland, then I see no issues with using it.

Once the lighting has been installed the aerodrome will need to assess if they are clearly visible or not.

Regards

Allison Phillips
Inspecting Officer (Aerodromes)
Aerodromes
Civil Aviation Authority

Tel: [redacted]

Follow us on Twitter: @UK_CAA

From: Fred Kamstra [redacted]
Sent: 16 October 2018 16:03
To: Phillips Allison <[redacted]
Cc: 'steve.rosie@shetland.gov.uk' <steve.rosie@shetland.gov.uk>
Subject: PLANNING APPLICATION CONSULTATION 2018/248/PPF

Dear Allision

We have been getting in a slight tangle regarding aviation lighting for our met mast in Shetland. We have been advised by our consultant that the attached aviation lighting has been acceptable in Shetland. However, we have been recommended by the CAA an aviation light which would not be feasible to be powered from solar pv and batteries at this remote location without significant cost, and would not be viable at this remote location.

Our consultant notes:

I attach our proposed low Intensity 32 candela AV light datasheet which is normally acceptable for planning and also our "best seller". Actually, we have another on Shetland at the moment with 4 masts currently installed >150m ASL with these lights fitted (at 80m height only – not at 45m as well).

Would it be possible to confirm whether the attached piece of technology is acceptable for application on this mast.

Many thanks,

Fred

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Peel Land and Property Group Management Limited
Peel Dome, intu Trafford , Manches , TRAFFORD , M17 8
Centre ter **C□T□** PL

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□ **:** www.peel.co.u
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From: Rosie Steve@Infrastructure Services
Sent: Thu, 15 Nov 2018 10:19:41 +0000
To: Barclay Janet@Development Management
Subject: RE: Mossy Hill Wind Farm - Planning application Ref:2018/186/PPF

Good Morning Janet,

The proposed 12x 144.5m high wind turbines are not obstacles in our OLS and probably won't have any operational significance to the airport ,
Therefore Tingwall Airport has no objections to the proposed wind farm.
The wind turbines should however be lit in accordance with CAP764.
This response comes in good faith after seeking advice from our safeguarding consultant.

Regards

Steve

- - -
Steve Rosie
Airport Manager - Tingwall Airport,
Shetland Islands Council, ZE2 9XJ

Tel:[redacted]

From: Barclay Janet@Development Management <Janet.BarclaySmith@shetland.gov.uk>
Sent: 15 November 2018 09:29
To: Rosie Steve@Infrastructure Services <[redacted]>
Subject: Mossy Hill Wind Farm - Planning application Ref:2018/186/PPF

Hi Steve

This is a reminder that we are still waiting for comments from Tingwall Airport in connection with the planning application for the mossy hill wind farm.
Date of initial consultation – 20 July 2018. Date of follow up reminder 24 October 2018.
I look forward to receiving your comments as soon as possible on this application.

Regards

Janet Barclay Smith
Planning Officer
Shetland Islands Council
Train Shetland
North Gremista Industrial Estate
Lerwick
Shetland
ZE1 0PX

“If when you are sending a response to this email you are making a submission of further information (plans, particulars, documents, materials or evidence) in connection with a planning application, please make your response to development.management@shetland.gov.uk .

From: Rosie Steve@Infrastructure Services
Sent: Mon, 11 Feb 2019 14:07:37 +0000
To: Development Management@Development
Subject: RE: Planning Re-Consultation 2018/186/PPF

After checking with our safe guarding consultant, Tingwall Airport has no further comments or objections to the Mossy Hill wind farm,
I have forwarded your email to Airtask, who are the current operator at Tingwall for their information,

Regards

Steve

- - -

Steve Rosie
Airport Manager - Tingwall Airport,
Shetland Islands Council, ZE2 9XJ

Tel: [redacted]

From: Development Management@Development <development.management@shetland.gov.uk>
Sent: 11 February 2019 11:48
[redacted] <Janet.BarclaySmith@shetland.gov.uk>
Subject: Planning Re-Consultation 2018/186/PPF

Dear Sir/Madam,

Planning Ref: 2018/186/PPF
Proposal: The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Address: The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour
Applicant: Peel Wind Farms (No 1) Ltd.
Date of Consultation: 11 February 2019

Comments are required in response to additional information received on 8 and 11 February 2019 (Additional information received attached to this email).

This e-mail is a formal consultation under the Town and Country Planning (Scotland) Acts.
(The Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013)
(The Town and Country Planning (Environmental Impact Assessment) (Scotland) Regulations 2011)

All plans can be viewed on:
http://pa.shetland.gov.uk/online-applications/
The consultation period is 28 days, but if you have any queries please contact Marion Bryant, Support Officer on development.management@shetland.gov.uk or 01595 744864.
Consultation replies should be sent to: development.management@shetland.gov.uk.
We appreciate that it may not always be possible to give a full response within the 28 days. If this is the case, please email development.management@shetland.gov.uk to indicate your continuing interest in the proposal.
If there are any problems with the e-consultation process, please get in touch.

Iain McDiarmid
Executive Manager - Planning Service
Shetland Islands Council
Train Shetland, North Gremista Industrial Estate
Lerwick
ZE1 0LZ

From: publicaccess@shetland.gov.uk
Sent: Wed, 19 Dec 2018 17:00:32 +0000
To: Development Management@Development
Subject: Comments for Planning Application 2018/186/PPF

Planning Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 5:00 PM on 19 Dec 2018 from Mr Angus Nicol.

Application Summary

Address:	The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour.
Proposal:	The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Case Officer:	Janet Barclay Smith

Click for further information

Customer Details

Name:	Mr Angus Nicol
Email:	[redacted]
Address:	Frakkafield B, Frakkafield, Tingwall, Shetland ZE2 9SB

Comments Details

Commenter Type:	Neighbour
Stance:	Customer objects to the Planning Application
Reasons for comment:	- Daylighting - Design and Siting - Overdevelopment - Overshadowing - Residential Amenity - Safety - Various Reasons
Comments:	Only seen the first plan. Several windmills were too close to our house for comfort, Noise, Flicker, Negative impact on Visitors and those ticked.

William C.T. Smith
Parkville
Westerhoul
Scalloway
Shetland
ZE1 0XB

17/08/2018

Shetland Islands Council
Planning Department

Dear Sir/Madam,

Peel Energy's proposed Mossy Hill Wind Farm (2018/186/PPF)

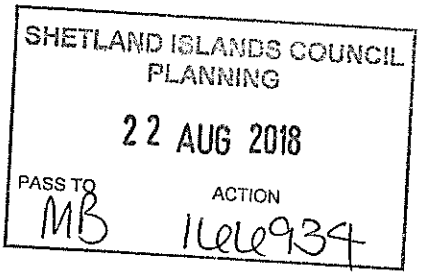
I wish to object to the above planning application, on the grounds that siting the proposed wind turbines in the most densely populated central region of Shetland will have a significant adverse impact on the landscape, amenity and quality of life for residents of Lerwick, Scalloway and the surrounding areas.

If this development goes ahead it will make living in Shetland less appealing for those already here. It will also become more difficult to attract new residents to Shetland, including essential workers for the NHS and SIC.

I understand that it is the SIC's long term aim to grow the Shetland economy by growing the population. I believe that this development will have the opposite effect. The long term outcome of this industrialisation of the Shetland landscape will be a vicious spiral of population decline, leading to a bleak future for the Shetland community.

Yours faithfully,

William C.T. Smith.



From: publicaccess@shetland.gov.uk
Sent: 25 Jul 2018 10:14:16 +0100
To: Development Management@Development
Subject: Comments for Planning Application 2018/186/PPF

Planning Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 10:14 AM on 25 Jul 2018 from Mr Ewen Johnson.

Application Summary

Address:	The grid reference is the approximate centre of the site for Mossy Hill Wind Farm. The centre of the Site is located approximately 2.4km from outskirts of Lerwick and approximately 4.2km from Lerwick Harbour.
Proposal:	The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.
Case Officer:	Dale Hunter

Click for further information

Customer Details

Name:	Mr Ewen Johnson
Email:	[redacted]
Address:	Vakkeroy, Ireland, Bigton, Shetland ZE2 9JA

Comments Details

Commenter Type:	Neighbour
Stance:	Customer objects to the Planning Application
Reasons for comment:	- Access - Boundary - Design and Siting - Overdevelopment - Overshadowing - Safety
Comments:	Shetland Clay Target Club object to turbines 12 & 10. 12 is on the boundary of our safety zone, access road is within and in area not to be developed.

Tingwall House
Tingwall
Shetland
ZE2 9SF

Tel: 01595 840300

22 December 2018

Shetland Islands Council
Development Management
Development Services
8 North Ness Business Park
Lerwick
ZE1 0NT

Dear Sirs

Reference: Planning Application 2018/186/PPF
The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50 MW, comprising 12 wind turbine generators with maximum tip heights of 145m with associated infrastructure

We write to submit an objection to the above planning application. We appreciate that this is late in the progress of this application but the approval of an associated application has led to this submission.

We viewed the photomontages submitted with the above application back in the summer. Whilst we were unhappy about the submission of the application in general terms, it appeared from the photomontages that other than viewing the tip of the blades the impact on our house here in Tingwall would be minimal.

However, since the erection in the last few days of the temporary mast at Hill of Dale (Planning Reference: 2018/248/PPF) it has become clear that the photomontages are totally incorrect.

We are able to view a considerable portion of the mast from the south and east facing windows of our house. At night it is possible to view two hazard lights, so it should be possible to measure how much of the mast we are actually seeing (we have not been able to do this from the approved drawings). It would appear that the mast is located either on the site, or in the region of Turbine No. 4. In photomontage 6.5a.1 (taken from the churchyard opposite our house) only the very tip of the turbine is visible. However, the mast that has been erected is only 80 metres high, yet the turbines will be 145 metres high.

We cannot therefore accept that the photomontages submitted with the application are correct and seriously request that you check and raise this

situation with the developers. We should be grateful for your confirmation that this will be investigated.

We have lived in close proximity to the Burradale Wind Turbines for over 20 years. We have never found this easy. They are located to the south of our house and in the winter months we experience SEVERE and very disturbing shadow flicker as the sun rises. We now expect this to be exacerbated if large turbines are visible to the east as well.

We have also found it extremely difficult living with a constant moving structures within our visual periphery, whether inside or outside the house. This is only something that anyone who has lived alongside wind turbines can verify. The impact of moving structures in addition to impacts in terms of shadow flicker and noise should be something that is considered in terms of residents having to live in close proximity to such large industrial structures.

If this application is approved we believe that we will be surrounded by wind turbines and find this totally unacceptable. We believe that this application cannot be considered independently of the existing wind turbines at Burradale. The cumulative impact of both wind farms on the surrounding area and residents has to be considered.

We therefore strongly object to this application on the grounds of the visual and disturbing impact these additional turbines will have on our life and that the submitted information in support of the application is incorrect and favours the developer's submission.

Yours faithfully

[redacted] [redacted]

Jennie Atkinson Terry Atkinson

Copy:
Tingwall, Whiteness and Weisdale Community Council

MICHAEL PETERSON
3 SANDY LOCH DRIVE, LERWICK, SHETLAND, ZE1 0SR

13 August 2018

Development Management
Development Services
8 North Ness
Lerwick
Shetland
ZE1 0NT

Dear Sirs

Planning application 2018/186/PPF: Mossy Hill Wind Farm

I wish to object to the proposal to ring Lerwick with a wind farm for the benefit a company which has been accused by the Westminster Parliament's Public Accounts Committee of tax dodging, and of electricity consumers on mainland Britain, not only on grounds of amenity, but because the template used in its environmental impact assessment has failed to encompass the unique hydrology of the development area.

Sadly, because this speculative proposal has been hatched by an outside conglomerate, the collective memory of the community has not been harnessed, for if it had been, then the environmental impact assessment would have included the implications of disturbing the potentially impacted peatland.

In the race to develop an atomic weapon during the Second World War, Germany commandeered supplies of heavy water from occupied Norway, while across the North Sea, the British Government obtained heavy water for its nuclear energy research facilities from water courses in the area covered by the above Planning application.

Heavy water contains a higher than normal concentration of the hydrogen isotope deuterium which gives the area's water different nuclear properties, and the increase in mass gives it different physical and chemical properties compared to normal water. It is the only chemical substance which effects the period of circadian oscillations in unicellular organisms, plants, insects, birds and mice. Research has also demonstrated that high concentrations of heavy water disrupts eukaryotic cell division in plants, which inhibits growth and germination.

Successful regeneration of ground cover during the construction phase of the proposed wind farm may be fantastical or fitful at best, and in light of the unknown ramifications of the disturbance of moorland and water courses in the area, it is my view that the application be refused.

Yours faithfully

[redacted]

Michael Peterson

Member of Lerwick Community Council

Peter Allen Fraser BSc (Hons). Dip Pol Con.
New House, Meal,
Hamnavoe,
Shetland. ZE2 9LB.

10th January 2019.

Development Management,
Development Services,
8 North Ness Business Park,
Lerwick, ZE1 0NT

Planning Application: 2018/186/PPF Mossy Hill Windfarm. Objection.

Dear Sir,
I am writing to you to object to the above planning application and development of this windfarm. I have an honours degree in Earth Sciences and a diploma in pollution control and have worked as a meteorologist in Shetland, Scotland, England and Northern Ireland for 34 years and as a geologist and tour guide in Shetland for 15 years.

My objection is with regard to meteorologically induced hazards relating to building this windfarm with its associated access tracks and other infrastructure on a steep hill ridge most of which is peat cover.

My objection also relates to effects of visual impact on the tourism industry as part of a cumulative visual impact when combined with other planned and proposed windfarm developments in Shetland.

In the following I give my reasons for my objection to this application it forms an unacceptable landslide/peatslide risk and that it adds to an unacceptable scale of industrial development and environmental degradation being imposed on a small populated land area.

The hazards and risks outlined below are not adequately considered in the developer's planning applications or in any consultation reports submitted so far.

1. Landslide/peatslide hazards. The planned location of the windfarm falls within areas of very high and high landslide/peatslide risk as defined by the British Geological Survey (in fact the highest risk for such a small land area in Britain). The construction of access roads and turbine bases will disrupt the natural moorland drainage of the area. The steep ridge on which the windfarm is planned is part of a long ridge of smooth, steeply dipping strata of metamorphic rock which forms the 'spine' of South Mainland. This ridge has historically seen many landslide/peatslides of various sizes; most notable in recent times was the life threatening event of September 2003 when series of 30 peatslides from the hills between Cunningsburgh and Channerwick were triggered by a phenomenal rainfall event. In August 2012 another series of landslides occurred on the same ridge, also caused by phenomenal rainfall, included the life-threatening landslide near Uradale farm. When landslides/peatslides occur the local topography is such that they can accumulate in old glacial drainage valleys (now burns) to form devastating debris flows.

2. Meteorological hazards (a): Localised phenomenal rainfall events that cause these landslides and their periodicity have ***not*** been considered by the developer, planning authority or the consultees. Shetland is best described as narrow ridges of peat covered hills steeply rising from the sea with nowhere further from the sea than 5 km. This configuration of steep narrow hills surrounded by ocean makes Shetland's hills, particularly this windfarm area, prone to convergence zone cloudbursts. In a convergence zone inflow of air from each side of the island is forced upwards to trigger the formation of self-perpetuating giant shower clouds. In the past this convergence zone has experienced outbursts of phenomenal, localised rainfall on the 'spine' ridge near the proposed windfarm. During the September 2003 event a rainfall rate of 40mm per hour for at least 2 hours was recorded in Sandwick. These extraordinary cloudbursts cause flash floods and peatslides where natural drainage of blanket bog cannot cope. Climate change is likely to increase the incidence and intensity of these convergence zone phenomenal rainfall events. Disruption of drainage (as outlined in 1 above) will make peatslides more commonplace from this hill ridge. It is very likely that any attempts at restoration of blanket bog (or bulk storage of peat removed by construction of the windfarm) would certainly be washed away by flash floods from these phenomenal cloudbursts.

3. Meteorological hazards (b): Downwind turbulence from the windfarm will disrupt the natural surface wind laminar flow over the ground surface and increase wind erosion of peat moorland. Increased turbulence and erosion will have detrimental effect on ground nesting birds and migratory flight paths.

4. Pollution hazards (a): Drainage from the proposed windfarm area flows into lochs and burns that are linked to Shetland's main reservoir in the east and Fitch Burn and Dale Burn and Dales Voe in the west. The burns and lochs are home to genetically isolated and unique populations of brown trout and spawning beds of sea trout. These populations are at high risk of being eradicated by spillage of oil or cement during windfarm construction or by oil spillage and alkaline run-off during windfarm operation.

5. Pollution hazards (b): Unlike the oil industry infrastructure, wind farm companies are ***not*** required to remove access roads and turbine bases at the end of wind farming. Access roads will be left un-maintained *in situ* to continue disrupt natural drainage and destroy tracts of moorland. The tonnes of concrete and steel that make up turbine bases will be sunk into the peat and will also be left *in situ*. The alkaline concrete in the acid peat environment will form a leachate that will spread out from the turbine base to kill peat forming sphagnum moss for many hundreds of years. Ferrous salts from the steel reinforcing will also eventually leach out in the acid environment to kill the moss in an ever increasing area for many hundreds of years.

Flash flood volumes, landslide/peatslides, debris flows and their likely increased incidence has not been taken into account by the developer, planning authority or consultees. Long term pollution and erosion has not been taken into account by the developer, planning authority or consultees or post windfarm monitoring by the developer.

I submit that the main A970 along the length of the windfarm site is at a major risk from landslide/peatslide from the events outlined above. A landslide/peatslide on the east side of the Hill of Tagdale may well be funnelled into the North Burn of Gremista and build into a large

destructive debris flow. Such an event could well be of the magnitude of that in the Catpund Burn in 2003 and severely impact the Gremista industrial site.

Also the carbon release from these inevitable hazards and long term destruction of carbon capturing moss, particularly post-windfarm operation, have not been considered in the planning process.

If the "Polluter Pays" principle is to be applied and enforced then I submit that the environmental and financial costs of these hazards have not been considered in the planning process.

Visual impact on tourism.

Shetland is a small narrow landmass of ridges of treeless low hills surrounded by ocean. The height of these hills, valley floor to hilltop, average about 100 metres so are less than the height of the 145 metre tall turbines planned. The height of these turbines is out of proportion with the landscape in which they will be erected.

As well as the negative visual impact of this windfarm will have by itself it will add to the overall negative visual impact afforded by other windfarms planned for Mainland and the island of Yell.

Planning already granted of 535MW:

1. Area of VE 457MW windfarm of 129 sq km = 13.3% of Shetland Mainland.
2. Area of Peel Energy 60MW windfarm of 11.3 sq km = 5.3% of island of Yell.

Planning applications now being considered for 250MW:

1. Peel Energy Scalloway 50MW windfarm of 10 sq km = 1% of Shetland Mainland.
2. Energy Isles 200MW windfarm of 22.12 sq km = 10.5% of the island of Yell.

So far the windfarm footprint for total of 785 MW will cover 14.3% of Shetland Mainland and 15.3% of Yell.

The visual footprint this windfarm along with existing windfarms will be added to that of Viking Energy and the Yell windfarms. With increased turbine height to 155 metres for Viking Energy and 200 meters for the North Yell wind farm the total visual footprint of wind farms on all of Shetland will be 100%.

It is not just the turbines that visually impact the landscape but, because Shetland hills are low and treeless, the network of access roads, open quarries, pylons and other infrastructure greatly add to the detrimental visual footprint.

Shetland has 6 National Scenic Areas, 8 Nature Reserves and 81 Sites of Special Scientific Interest all of which will be severely impacted by the combined 100% visual footprints of the planned and proposed wind farms.

Promotion of Shetland's unique landscape by Shetland Islands Council, the tourism industry, national media and television, and its designation as a UNESCO Global Geopark has dramatically increased visitor numbers. The value of tourism to Shetland now makes it one of its top industries for earnings and employment.

A recent survey by Mountaineering Scotland shows that wind farms have a clear negative impact on visitor numbers in scenic areas on Mainland Scotland. For a comparatively small land area like Shetland which will be 100% visually impacted by windfarms the effect on visitor numbers will be catastrophic.

I submit that negative permanent visual impact of industrial windfarms on Shetland will result in a severe decline of Shetland tourism with a loss to the Shetland economy and employment far in access of any possible gains from the windfarm industry.

Yours sincerely,
P A Fraser.

www.sustainableshetland.org

[redacted]

Chair: Frank Hay
Burnside, Voe, Shetland

Date 23rd August 2018

Development Management,
Development Services,
8 North Ness Business Park,
Lerwick,
ZE1 0NT

Dear Sir/Madam,

Ref: 2018/186/PPF | The construction and operation of Mossy Hill Wind Farm with a maximum generating capacity of up to 50MW, comprising 12 wind turbine generators (WTGs) with maximum tip heights of 145m with associated infrastructure.

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) which contains the usual exaggerated claims that windfarm developers make to justify their applications. Any potential drawbacks are glossed over or ignored.
In the NTS it is stated in justification for this application that it will provide a "secure reliable energy supply". This is not possible for an energy source which relies on favourable weather conditions. Irrespective of whether this wind farm is built or not there must be a robust back up power source available locally for the significant occasions when conditions are not favourable. It is stated in the NTS that a sub sea cable **will be** constructed, we are not aware that Ofgem have approved the provision of such a cable or that the results of the CfD auction are a foregone conclusion. SSE have still to submit a needs case for the interconnector. Even if a cable is constructed a local back up power source would still be required to ensure security of supply in case of cable failure and again the fact that wind turbines cannot necessarily supply power on demand.
In spite of statements made regarding renewable targets etc. the main reason for this application is the possibility of subsidy for "Remote Island Wind". The so called green credentials for this project are highly questionable.

The Site

The site comprises 605 ha. Although the number of proposed turbines has been reduced from 21 to 12, we note that the site boundaries to the North and South allow for additional turbine installation. It is common for developers, if they gain planning consent and build a wind farm (WF), to apply for further development. Given that the site boundaries are those outlined in the original draft proposal, we consider that this is likely, should the applied-for WF be granted consent and be built.

Even as the current proposal stands, we believe that this windfarm, in addition to the existing Burradale Windfarm, and the consented Viking Energy Windfarm, would be of such cumulative effect, visually and in terms of landscape sensitivity (as adopted by Shetland Islands Council) to be unacceptable.

The 12 turbines proposed are described as c. 145m high to blade tip, with a hub height of c. 78m, and rotor diameter of a maximum of 133m. Elsewhere in the Non-Technical Summary, the model - used for noise impact assessment - is described as the Nordex N131 (3.6 MW) turbine, with a minimum hub height of 84m. This has a rotor diameter of 131 m., and is designed for "medium wind locations". The Nordex N133 turbine (designed for "strong wind regions" – which would reasonably include Shetland), however, has the hub height of 78m, and a rotor diameter of 133 m., but a 4.8 MW power output. It should be noted that 12 of these turbines would exceed the 50 MW limit for local authority planning consent authorisation.

The foundations of the turbines proposed are of "25m diameter x 3m depth depending on ground conditions. We understand that the foundations require to be in contact with bedrock, rather than subsoil (including boulder clay etc.) beneath peat. We consider that not enough investigation has been done to assess the quantity of subsoil that might require excavation, and the means of dealing/disposing of it.

The "laydown hardstanding areas" at each turbine are to be 28m x 45m. This is a significant addition to the turbine foundation area. 9.3 km access tracks approximately 4.5m wide are proposed. These include floating roads, although in the NTS the quantity of these is not given. Floating roads are known to sink under prolonged heavy traffic and thus disrupt the hydrology of blanket bog.

The carbon savings projected are: 57,862 – 118,507 tCO2e over the projected 25 years lifetime of the wind farm.
The "carbon payback" period is predicted to be between 0.8 and 2.3 years. Apparently these and the above figures were arrived by application of the government's Carbon Calculator Tool (CCT), which was "populated with data collected throughout the EIA process or from external publications and studies." Such bland declarations do not inspire confidence, and we note that the authors of the CCT have publicly declared that building wind farms on active blanket bog is counter-productive in terms of carbon savings.

The construction period is given as approximately 24 months. This could well be prolonged, due to adverse weather conditions, and breeding bird constraints.

Landscape & Visual Impact Assessments.

10 properties (households/dwellings) are declared to be within 1.5 km of the wind farm. It would have been of interest to know how many would be within 2 km, which distance, although not a statutory minimum distance between industrial turbines, has frequently been used as a measure of reasonable minimum distance (for example affecting house prices). Two properties at Frakkafield are within I km of 3 turbines. The NTS states: "Whilst a number of [unspecified] properties…would experience significant effects.., the effects upon residential visual amenity would not be so overwhelming as to make any of the properties an unacceptable place to live. Beyond these..., some localised significant effects would be experienced within the surrounding settlements but with many views heavily screened by topography and built form."
The first of these sentences can only be described as subjective, if not arrogant. The second is effectively meaningless. The "many views etc." do not necessarily originate from the surrounding settlements and mitigate the "localised significant effects"; they could just as well be seen from elsewhere.
There is no acknowledgement of the fact that health issues may result from having to live in close proximity to windfarms. Research is continuing into the issues surrounding low frequency noise which is increasingly being recognised as a problem for some people forced to live in an area where wind turbines are present.

Tourism and recreation. It is admitted that "a number of localised significant effects on tourism and recreational activities" are predicted. There would be "…some localised significant effects on users of footpaths, cycleways and the road network…" Again, any such view would be "often screened by topography and would be constantly changing as the viewer travelled along the route." This is not likely to be the case for pedestrians and cyclists, let alone vehicle drivers. There will be significant visual impacts for golfers on the Dale Golf course with turbines virtually surrounding the course.

We are concerned by the proximity of turbines 5,8,10,12 to the A970 road & to Burn of Fitch/Dale (trout/seatrout spawning gds.) It would seem strange to site these turbines within the valley close to the road and burn rather than nearer the ridge line.

Peat. Much of the peat cover in the area is in good or recovering condition. 50,900 Cu M of surplus peat would have to be relocated. It is not clear how "mitigation" will solve this problem and there are uncertainties about using such materials for restoration purposes.

Noise. The statement on this relies on the hopelessly out of date ETSU-R-97 which simply doesn't relate to modern very large turbines only the much smaller turbines available 20+ years ago when the guidelines were produced. Noise issues for the Frakkafield houses are likely to be significant and "mode management" a doubtful mitigation.

Shadow flicker. A flicker control system to mitigate all theoretical shadow flicker is considered to be unnecessary. We would assert that shadow flicker is likely to be significant at certain times and this problem would need to be addressed.

We have other concerns about this application like ornithology, drainage, proximity to Tingwall airport, pollution from turbine base construction and the effects of wind farm traffic on the local roads. We are aware that these concerns will mostly be taken up by statutory consultees and would support any objections that they choose to make.

We would strongly recommend that you refuse this application.

Frank Hay.

Chairman
Sustainable Shetland

Shetland Islands Council

Agenda Item

2

Meeting(s):	**Planning Committee**	**15 April 2019**
Report Title:	**2018/096/PPF - Provision of a 2.09 km access track and associated works, new junction and temporary construction compound - Unclassified road to Upper Kergord runs approximately 1.5km, from a junction with the B9075, approximately 70m east of B9075 of Weisdale crossing**	
Reference Number:	**PL-03-19-F**	
Author / Job Title:	**Richard MacNeill / Planning Officer – Development Management**	

1.0 Decisions / Action Required:

1.1 That the Planning Committee RESOLVE to grant approval of the application, subject to conditions.

2.0 High Level Summary:

2.1 This application seeks full planning permission to create a 2.09 km long access track, associated works, a temporary construction compound and a new junction with the public road.

2.2 The proposed development for which planning permission is sought will comprise:

- a new junction and access from the B9075;
- formation of approximately 2,090m of new permanent track;
- a new watercourse crossing over the Burn of Weisdale; and
- a temporary construction compound.

2.3 The 43.09 hectare site area comprises in the main a corridor for the approximately 2.09 km of permanent access track that is proposed, extending from a new junction that will be created with the B9075, east of the Burn of Weisdale and the existing unclassified road, to the location of the converter station at Upper Kergord which was initially approved under application 2009/224/PCO.

2.4 The proposed access track is a total width of 8 metres (6 metres plus two 1 metre verges) and will be constructed by laying and compacting crushed stone to the required level. The proposal has stated that the use of floating road techniques is proposed in areas of deep peat, however the full details of this area of the proposal are yet be finalised. The application site includes a 50m micrositing allowance along the length of the new track to minimise peat disturbance.

2.5 A previous application for the now proposed development (2016/268/PPF) was withdrawn.

2.6 The proposal has been supported by the submission of an Environmental Appraisal Report prepared in June 2016 and also submitted under the previous submission, which covers an appraisal of areas of environmental significant impact and provides an assessment of the main issues.

2.7 It has been concluded within the Environmental Appraisal report that the proposed development will not give rise to any significant or unacceptable environmental effects. Consultee responses have also concluded that when appropriate mitigation measures, secured by means of appropriate planning conditions, are undertaken there will be no unacceptable adverse impacts. The proposal is therefore, subject to the foregoing, considered to be in compliance with Policies GP1,GP2, GP3, NH1, NH2, NH3, NH4, NH5, HE1, HE4, ED1, TRANS 3, RE1, WD1 WD3, of the Shetland Local Development Plan 2014 and the adopted Supplementary Guidance - Onshore Wind Energy February 2018.

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.https://www.shetland.gov.uk/documents/OurPlan2016-20final.pdf.

4.0 Key Issues:

4.1 The key issues requiring to be considered include;

- The acceptability of the principle of the development.
- Impact on existing uses and users.
- Impact on Natural Heritage and Biodiversity.
- Flood Risk and Surface Water.
- Impact on Built Heritage.
- Road and Access.

4.2 The main issue to be considered in the determination of this application 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 relevant is making a balanced judgement between the potential for environmental impact against the economic benefits and providing support for climate change mitigation.

4.3 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.

4.4 The principle of an access track requirement to serve the convertor station and other buildings at Upper Kergord was established with the approval of the Viking Wind Farm by the Scottish Ministers (2009/191/ECU) and the granting by the Council of planning permission in principle for the convertor station (2009/224/PCO).

4.5 The proposal to create the access track is one which is related to the commercial operation of the proposed Viking Wind Farm and will allow direct access to the approved and related convertor station site at Upper Kergord.

4.6 Policy GP2 of the Shetland Local Development Plan (2014) (SLDP) seeks to ensure that development will not have a significant adverse effect on existing uses in the vicinity of the site. Objections have been raised that the proposed development, together with the convertor station and Viking Wind Farm developments will result in a massive industrialisation of the Upper Kergord area, which will be detrimental to the lives of the people living there. While any new development will result in a change to the existing environmental conditions it is likely that the main impact will take place during the construction phase, including that of the access track. Planning conditions to protect the environment and restrict working hours are to be recommended for an approval of the proposal. The imposition of appropriate planning conditions to limit the impacts will ensure that there is no significant adverse impact on the surrounding area or residents.

4.7 The Environmental Appraisal Report submitted in support of the application has assessed the likely significance of the effects of the development, and has concluded that with suitable effective mitigation measures the residual effects have been assessed as being minor and therefore not significant. Objections to the proposal have raised concerns and questioned this conclusion. These objections come from Sustainable Shetland and a landowner resident in the area. The objections have raised concerns in terms of the impact on blanket mire habitats and have questioned the assessment in the submitted Habitat Management Plan regarding the displacement of peat caused by the road construction and how the peat is to be managed and re-used. Objections have also commented on the peat landslide hazard risk and concerns that much of the route has been classed as medium to high risk in that regard. A concern has also been raised about the impact on the Weisdale Burn during the construction of the track and the impact on its water quality.

4.8 Tingwall Whiteness and Weisdale Community Council following consultation indicated that they wished to support the letter of representation sent in by Mr and Mrs Morrison on 16 September 2018 regarding this application (See Appendix 4(2)), but not Point 3 regarding access.

4.9 In terms of the impact on natural heritage, the environment and peat management consultation responses have been received from two statutory consultees, Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA) as well as from the Royal Society for the Protection of Birds (RSPB). The Natural Heritage Officer has also made comments.

4.10 Following initial objections by SEPA further information was submitted by the applicant. The further information submitted has been reviewed by SEPA and they have confirmed that as a result of the revisions made by the applicant they are in a position to remove their previous objections in relation to peat management and ground water dependant terrestrial ecosystems subject to planning conditions it requests in their response being attached to any future consent.

4.11 The Royal Society for the Protection of Birds (RSPB) have commented that whilst they do not object to the application, they consider that additional information is required in order to fully assess the potential impacts of this application. Their comments relate to a Bird Protection Plan, Peat Management Plan and Habitat Management Plan. Conditions relating to the submission of these reports have been recommended.

4.12 SNH have raised no objections but have commented that breeding bird and otter surveys are required before it can be ascertained whether the proposal will result in offences under wildlife law. The securing of these surveys by means of a planning condition will allow no conflict with SLDP Policies NH2 and NH3.

4.13 SEPA have advised that they have no objection to the proposed development on flood risk grounds, provided that details are provided of the flow capacity of the crossings, with accompanying annotated drawings with the 1 in 200 year (plus 20% climate change allowance) flood level to demonstrate that the structures would not restrict flow or increase flood risk elsewhere. This should also be made a planning condition attached to a consent.

4.14 The Drainage and Flooding Officer commented that the suggested drainage approach has been accepted in principle. As a design and build project the detailed drainage design cannot be confirmed at this time; on-going discussions regarding the specific drainage proposals will take place with SEPA and the Council.
The final design for a sustainable drainage system (SuDS) can be secured via a pre-commencement planning condition, thereby avoiding abortive work or the provision of inaccurate information.

4.15 A suitable Construction Environmental Management Plan and a Water Quality Monitoring Programme has been proposed by the applicant, and this too can be required and delivered by attaching a planning condition to a consent. This will ensure the protection of the water environment and therefore compliance with SLDP Policy WD3.

4.16 The Shetland Regional Archaeologist (SRA) commented that the Environmental Appraisal Report has identified a number of "heritage assets" within 1km of the proposed development and that there is a background of both post-medieval and potential prehistoric occupation in the area. The SRA has therefore recommended that development on the access track should not commence until a written scheme of archaeological works (Written Scheme of Investigation), which identifies a phased programme and method of archaeological work has been submitted to and agreed in writing beforehand. Attaching an appropriately worded condition that makes this a requirement will ensure that there are no conflicts with the SLDP Policy HE4.

4.17 The Outdoor Access Officer commented that there are no known core paths or public rights of way affected by the proposed development but has added the caveat that this doesn't preclude the possibility that public rights exist which have yet to be claimed.

4.18 Objections have been received with regard to the location of the construction compound and its impact for the property opposite. Objection has also been made with regard to construction vehicle movements on the B9075 single track road associated with the construction phase of the development, and the impact on other road users.

4.19 The Council’s Roads Traffic Service were consulted on the proposal and have raised no objections. They did however comment in terms of the aggregate to be used to create the access track and that various quarries have been identified around Shetland as potential sources. A road condition survey on the haulage routes proposed is recommended prior to the works commencing to ensure that any extra burden from wear and tear does not fall on the Council. This can be made a requirement of a condition.

Conclusion

4.20 It is inevitable that the construction of the access track will have an impact on the natural heritage and the ecosystems in and around the site boundary for the proposed development. However, as stated previously, what has to be considered is whether these impacts are so adverse that we should put aside the inherent presumption within the planning system which is in favour of development unless the adverse impacts of a development would significantly and demonstrably outweigh the benefits, in this case a key enabling component to a sustainable energy development.

4.21 Objections received have raised material planning concerns, as have the comments from statutory consultees. Further submissions of information have been forthcoming from the applicant and as a result SEPA have now removed their objections subject to conditions they recommend being attached to any consent.

4.22 When considered against the relevant polices within the SLDP the evidence gives rise to the conclusion that while there will be impacts on peatland, the water environment and habitat, these can be satisfactorily managed. Appropriate conditions attached to a consent will ensure that all the aspects of concern raised will be the subject of the further submission of information or survey work, and be addressed so as to allow development to take place.

5.0 Exempt and/or Confidential Information:

5.1 None.

6.0 Implications :

6.1 Service Users, Patients and Communities:	None.
6.2 Human Resources and Organisational Development:	None.
6.3 Equality, Diversity and Human Rights:	None.
6.4 Legal:	Town and Country Planning (Scotland) Act 1997(as amended).
6.5 Finance:	None.
6.6 Assets and Property:	None.

6.7 ICT and New Technologies:	None.	
6.8 Environmental:	The environmental impacts arising from the proposed development are raised within the Report of Handling attached.	
6.9 Risk Management:	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.	
6.10 Policy and Delegated Authority:	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.	
6.11 Previously Considered by:	None.	

Contact Details:
Richard MacNeill, Planning Officer, Development Services
Date Cleared: 8 April 2019

Appendices:

1. Report of handling on planning permission application.
2. Submitted plans and supporting information.
3. Schedule of recommended conditions.
4. Letters of representation from: 1) Sustainable Shetland; and 2) John & Evelyn Morrison, Setter

Background Documents:
Scottish Planning Policy (SPP)
Shetland Local Development Plan (2014)

END

Report of Handling

Development: Provision of a 2.09 km access track and associated works, new junction and temporary construction compound.

Location: Unclassified road to Upper Kergord runs approximately 1.5km, from a junction with the B9075, approximately 70m east of B9075 of Weisdale crossing.

By: Mr Jamie Watt, Viking Energy Wind Farm LLP

Application Ref: 2018/096/PPF

1. Introduction

This is an application for full planning permission to create a 2.09 km long access track, associated works, a temporary construction compound and a new junction with the public road.

The proposed development for which planning permission is sought will comprise:

- a new junction and access from the B9075;
- formation of approximately 2,090m of new permanent track;
- a new watercourse crossing over the Burn of Weisdale; and
- a temporary construction compound.

The 43.09 hectare site area comprises in the main a corridor for the approximately 2.09 km of permanent access track that is proposed, extending from a new junction that will be created with the B9075, east of the Burn of Weisdale and the existing unclassified road, to the location of the converter station at Upper Kergord which was initially approved under application 2009/224/PCO.

The proposed access track is a total width of 8 metres (6 metres plus two 1 metre verges) and will be constructed by laying and compacting crushed stone to the required level. The proposal has stated that the use of floating road techniques is proposed in areas of deep peat, however the full details of this area of the proposal are yet be finalised. The application site includes a 50m micrositing allowance along the length of the new track to minimise peat disturbance.

A previous application for the now proposed development (2016/268/PPF) was withdrawn.

The proposal has been supported by the submission of an Environmental Appraisal Report prepared in June 2016 and also submitted under the previous submission, which covers an appraisal of areas of environmental significant impact and provides an assessment of the main issues.

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
TRANS 3 - Access and Parking Standards
RE1 - Renewable Energy
W5 - Waste Management Plans and facilities in all new developments
WD1 - Flooding Avoidance
WD3 – SuDs
Supplementary Guidance Onshore Wind Energy February 2018

3. Safeguarding

Burn Buffer - Name: Burn of Scallafield

Burn Buffer - Name: Kergord Burn

Burn Buffer - Name: Burn of Droswall

Landscape Character Assessment - Landscape Character Assessment: Inland Valleys

SEPA River Extents - SEPA River Extents: L

SEPA River Extents - SEPA River Extents: M

Shetland Local Landscape Designations - Shetland Local Landscape Designations: Weisdale

SMR - SMR: MSN1928
Name: Burn of Weisdale

Type: BANK (EARTHWORK)

SMR - SMR: MSN6855
Name: North of North House
Type: CROFT

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: MSN8201
Name: Upper Kergord
Type: CLEARANCE CAIRN

SMR - SMR: MSN6855
Name: North of North House
Type: CROFT

SMR - SMR: MSN8193
Name: Upper Kergord
Type: MOUND, NATURAL FEATURE

SMR - SMR: MSN8200
Name: Upper Kergord
Type: DITCH, PIT

SMR - SMR: MSN8199
Name: Upper Kergord
Type: QUARRY, STRUCTURE

SMR - SMR: MSN8194
Name: Upper Kergord
Type: MOUND

SMR - SMR: MSN1929
Name: Burn of Weisdale
Type: BANK (EARTHWORK)

SMR - SMR: MSN5461
Name: Burn of Weisdale
Type: BUILDING

4. **Consultations**

Planning - Flooding Drainage Coastal was consulted on the 6 July 2018.Their comments dated 11 July 2018 can be summarised as follows:

The general requirements for surface water drainage remain as for the previous application, 2016/268/PPF.
o The drainage design should include sufficient attenuation to at least reduce flows during 1 in 10 year rainfall events to the level which would have occurred on the greenfield site.
o There are suitable areas within the application area to locate the SuDS devices without creating a flood risk.
o SEPA's standard guidance sets a requirement of 2 levels of water quality treatment for a road.
o The drainage and culvert design should ensure that no flood risk is created during rainfall events of up to 1 in 200 year return periods.
Where issues of peat stability have been identified, the drainage design should consider any potential flood risk from blocking of drains or culverts.
o SuDs drainage should be designed in accordance with the current version of The SuDS Manual (C753).
There are a range of appropriate SuDS devices which could be specified to provide the above requirements.

In the previous application the Environmental Statement (*sic*), in chapters 4.3, and the Outline Construction Environmental Management Plan, in chapters 7, 8 and 9, covered the types of intended drainage and the performance required from them, and I noted that designing in accordance with those principles would have met the above drainage requirements in principle.

The information submitted for the current application does not include any indication of SUDs drainage approach, beyond the statement in the supporting outline planning statement noting:
The suggested drainage approach has been accepted in principle. As a design and build project the detailed drainage design can not be confirmed at this time, on-going discussions regarding the specific drainage proposals will take place with SEPA and SIC.

The drainage details can be secured via a pre-commencement planning condition, avoiding abortive work or the provision of inaccurate information.
and a corresponding CEMP has not been submitted at this time.

In my comments on the previous application I raised the following issues that a suitable drainage design would need to address:

- The indicative drawings of the proposed road section show initial drainage by way of roadside ditches, rather than SuDS source control devices such as swales, filter strips or filter drains. This removes an option to have one stage of water quality treatment close to the road and leaves a drainage layout where both stages of quality treatment would have to be accommodated further downstream in the drainage network.
- The submitted information states that drainage devices will not discharge within 50m of a watercourse, and the watercourses and 50m envelopes identified in figure 4.7 restricts available areas for drainage.
- There will be a requirement to provide 2 stages of water quality treatment through SuDS devices and the above 2 points appear to indicate a situation where some care would be needed in detailed drainage design.

These remain relevant issues for the drainage design in the current application. I would also note that the earthworks profiles submitted do not include the additional width which would be required to construct SuDS drainage as linear source control along the line of the proposed road.

In commenting on the previous application I noted that "the suggested drainage approach appears to be acceptable in principle but, given the scale of the project and the drainage issues which remain to be detailed, I would suggest that there should be an on-going discussion as the specific drainage proposals are developed further, to try to avoid abortive work or delays in approval of the design details prior to the start of work".

The applicant is asking for submission of the drainage details to follow, subject to a pre-commencement planning condition and while that should still be achievable there have not been any further discussions or outline design proposals submitted since the previous application, and given the significant potential overlaps in impacts between the drainage design, visual impact and hydrology aspects, I do have some concerns on the amount of issues that would leave to be resolved in the immediate run up to construction.

Natural Heritage Officer was consulted on the 6 July 2018 and responded on the 19th October 2018

The applicant has responded to consultees' comments made in response to application 2016/268/PPF at table 1 of the Supporting Statement. I now comment on the applicant's responses to my earlier comments as set out in that table.

Project justification (page 6); this is now explicit (rather than taken as read in the 2016 submission) and is based upon the consent granted for the Viking Wind Farm as a whole.

Loss of blanket bog (page 6); the applicant has sought to demonstrate that the loss will be kept to a minimum by demarcating working areas, advising on best practice and complying with legislation. I should expect no less than this but a large area of blanket bog, which I assume to be active, is still predicted to be lost. This will be a negative impact but, as I said before, such loss was already implied at this location in the original 2009/191/ECU consent. As I also stated before, I was expecting a justification of this particular route, including an assessment of alternatives to show that this route balanced the minimisation of the overall amount of peat displaced, loss of carbon stores, biodiversity and landscape, hydrology etc. with all the other matters considered by the applicant. In particular, it may be that a differently aligned route has potential to reduce the overall amount of peat to be displaced. The developer clearly has reasons for locating the route as chosen, but we don't know what they are. Proposing the option of floated roads on part of the route (which would have significant benefits in terms of reducing overall amount of peat excavated/ displaced) does not answer the question of, "is this the least environmentally damaging route alignment". This is especially true since the planning authority doesn't yet know with certainty what parts of the route, if any, will be floated.

Species (page 7); applicant's comments noted.
Mitigation (page 7); applicant's comments noted and I'm content with their suggested condition
Ornithology (page 8); applicant's comments noted. In view of the time that will have elapsed from the 2015 surveys until commencement of construction, I should further suggest that pre-construction surveys should be undertaken, to confirm the presence or absence of birds, and to determine appropriate exclusion zones so as to ensure that works do not result in disturbance to species or other offences under the Wildlife and Countryside Act 1981 (as amended).
Peat Landslide Hazard Risk (page 8); applicant's comments noted and I'm content with their suggested condition.
Peat Storage and Reuse (page 8); the applicant's comments in response to my comments raise additional questions and uncertainty. Firstly, where will the floating road go and how much peat will not be displaced as a result? Will there be other environmental benefits? How will this affect the carbon calculation?

Furthermore, "…either remove from site to Staney Hill Quarry or store locally until such times that it is required for reinstatement of the windfarm borrow pits" seems too vague to me to be capable of being monitored or for determining compliance. Also, this appears to be at variance with the map at p28 of document "Peat Management Plan Kergord Access Track Stage 2: Post-Consent / Pre-Construction Phase", which identifies 4 peat storage locations.
The applicant has stated that this application is "fully and wholly the same as…" application ref 2016/268/PPF and that the EAR submitted with this application is the same as that submitted with the 2016 application. However, I now see that "Peat Management Plan Kergord Access Track Stage 2: Post-Consent / Pre-Construction Phase", dated 2 October 2018, has been added to the system on 2 October 2018 but that the original "Appendix K Peat Management Plan", dated 21 June 2016 has not been marked as superseded; is the new document supplemental, or a replacement?
SEPA has made a number of detailed comments on the 2018 Peat Management Plan in its letter dated 12 October 2018 and I defer to its advice on those aspects. However, I have some additional queries, below.

There is no location map and site plans for the 4 locations of peat storage referred to at p28 of document "Peat Management Plan Kergord Access Track Stage 2: Post-Consent / Pre-Construction Phase". Some of these are wholly outwith the red line boundary for this application, possibly on other areas of active blanket mire that should be protected from damage. If large volumes of peat are to be stored on any such areas, how will any currently active peat be protected?
SEPA, in its letter dated 12 October 2018 states (at 1.12) that "The PMP lacks any information on monitoring processes. We require these plans to be drawn up including criteria for when rehabilitation/ reinstatement is not responding and what actions will then be taken". Additionally, SNH, in its response dated 11 July 2018, "…recommend…: 2. Peatland restoration, as proposed in the Viking Wind Farm Habitat Management Plan, is implemented to offset predicted impacts on peatland of this proposal and the wider Viking Wind Farm development". I should say that monitoring of the volumes of blanket mire removed, peat displaced, peat storage, restoration and habitat management is vital but that the Viking habitat management plan includes inadequate monitoring proposals (see my consultation response on 2009/191/ECU 2018 Conditions 23 and 26), even if its terms could be applied to this development, as suggested by SNH. This development, in common with every other standalone development displacing large volumes of peat or damaging active blanket mire requires its own habitat management plan, which should include a robust monitoring programme.

Planning Assessment

I am content with the applicant's policy assessment of LDP Policies NH3 and 7. In response to NH5 Soils, I note the applicant's comments but reiterate here what I said in response to my comments above under "Loss of blanket bog (page 6)…." I am content with the applicant's policy assessment of LDP Supplementary Guidance Natural Heritage.

Outdoor Access Officer was consulted on the 6 July 2018.Their comments dated 16 July 2018 can be summarised as follows:

To the best of my knowledge there are no core paths or public rights of way affected by the proposed development. Please note that this doesn't preclude the possibility that public rights exist which have yet to be claimed.

The supporting Outline Planning Statement states that there will be "Mitigation or minimisation of disturbance of cycle routes and popular tourist routes. A separate application will be submitted for the realignment of the B9075 to ensure that disruption caused to users of B9075 will be minimised" and I consider this to be an acceptable approach regarding existing public access along the B9075 corridor near the site.

Regarding wider public access, this application overlaps physically with the Sandwater Road application, 2016/268/PPF, and the proposed Viking Energy Wind Farm. An Access Management Plan forms part of the mitigation in the Viking Energy Wind Farm Environmental Statement, and recent discussions on the Sandwater Road application have confirmed that the intention is for the Sandwater Road corridor to be a hub for the public access into the windfarm in that plan. A draft diagram covering the intentions for access was to be provided, and I would welcome the opportunity to consider that alongside this proposal to ensure that there are no conflicts or unnecessary overlaps in the access provision across the area.

Roads Traffic was consulted on the 6 July 2018.Their comments dated 11 September 2018 can be summarised as follows:

The proposal is to have a 6 metre wide road with 1 metre verges. This proposal would appear to be suitable for the intended use. The only comment on this is that the drainage ditch should be out with the 1 metre verge, unlike the detail indicated on the standard drawing.

It is indicated in the supporting statement that 30% of the access is to be constructed as a floating road. However, this has not been identified elsewhere within the submission.

The amount of peat to be stored/ landscaped on site has also not been identified. Although, I am generally happy with the peat management plan provided that no peat is transported off-site and along any of the nearby public roads.

In terms of the aggregate to be used to create the access track various quarries have been identified around Shetland as potential sources. A road condition survey on the haulage routes proposed would be required prior to the works commencing to ensure that any extra burden from wear and tear does not fall on the Council.

The tie in with the existing public road/ new alignment of the Sandwater road would need to be constructed under a Roads Construction Consent.

In terms of the details submitted for the long-sections, no checks can be done on levels as the existing level and the proposed levels as submitted are exactly the same. The levels should be indicated at each change of gradient for ease of checking.

The Archaeology Service was consulted on the 6 July 2018.Their comments dated 12 July 2018 can be summarised as follows:

Thank you for consulting us on this application. It appears to be the same as the revised Kergord access road application made in 2016 (2016/218). On that basis our advice remains the same - included below for your convenience.

Programme of Archaeological Work
The Environmental Statement (*sic*) has identified a number of "heritage assets" within 1km of the proposed development. There is a background of both post-medieval and potential prehistoric occupation in the area. Therefore, development shall not commence until a written scheme of archaeological works (Written Scheme of Investigation), which identifies a phased programme and method of archaeological work has been submitted to and agreed by the Regional Archaeologist on behalf of the Local Planning Authority in writing. We anticipate that this will include geophysical survey and evaluation excavation and a methodology for a watching brief to be carried out for all ground breaking works within the red-line area and for any subsequent landscaping associated with the development. This will include all laydown areas, temporary compounds, etc.

Thereafter a suitable mitigation strategy shall be submitted to the Planning Authority for agreement following consultation with the Regional Archaeologist. This might include further excavation, micro-siting, and/or fencing off areas, either prior to or during development, as appropriate.

The condition shall not be fully discharged until the site investigation has been completed in accordance with the programme set out in the Written Scheme of

Investigation approved under this condition and the Post Excavation Research Design for the analysis, publication and dissemination of results and archive deposition has been agreed and secured.

Tingwall Whiteness & Weisdale Community Council Clerk was consulted on the 6 July 2018. Tingwall Whiteness and Weisdale Community Council wish to support the letter sent in by Mr and Mrs Morrison on 16 September 2018 regarding this application, but not Point 3 regarding access.

RSPB was consulted on the 6 July 2018.Their comments dated 16 August 2018 can be summarised as follows:

Thank you for consulting us on this application and allowing us additional time to comment. Whilst we do not object to the application, we consider that additional information is required in order to fully assess the potential impacts of this application.
Peat and blanket bog
We note that Policy NH3 of the Shetland Local Development Plan states that development will be considered against the Councils obligation to further the conservation of biodiversity and the ecosystem services it delivers. It also states that proposals that would have a significant adverse effect on various habitats or species including those in the Scottish Biodiversity List and Annex 1 of the Habitats Directive, or on the ecosystem services of biodiversity, will only be permitted where it has been demonstrated 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.
We consider that insufficient information has been submitted to allow the proposals to be fully assessed in relation to these policy requirements.
In addition to the above policy point we would highlight the following issues
It states in the supporting statement that it is hoped to construct 30% of the track using floating roads". This is potentially in the region of 600m track, however, no further information is provided. It is not clear what assessments have been undertaken to determine the suitability of the location for this type of construction. Further clarification is required on how the use of floating roads would affect the volume of peat to be extracted or how this would impact the habitat. In the 2016 Environmental Appraisal (EA) Report that supports the application it states that due to the nature of peat full cut and fill is required for road construction so further justification on why floating roads are now being proposed is required.
The EA Report concludes that before mitigation, the proposals would have a significant effect on blanket mire (which is a peat-forming habitat included in Annex 1 of the Habitats Directive and an important carbon sink). Paragraph 4.1.14.1 of

the EA Report sets out proposed mitigation measures to reduce the effects of the development on blanket mire habitats. We recommend that if permission is granted, it should be subject to conditions requiring submission of a finalised construction environmental management plan and peat management plan that detail these and other measures to be agreed by the Council prior to the commencement of development, and requiring the full implementation of those plans as approved.

We support the comments made by SEPA regarding the lack of justification as to why the track could not be relocated to avoid areas of deep peat and why the peat thickness probing was carried out over a relatively small area.

Even with the first two mitigation measures set out in paragraph 4.1.14.1 of the EA report, there would be considerable impacts on peatland/blanket mire habitats. Whilst the EA Report states that mitigation for the loss of habitats is included within the Viking Wind Farm Habitat Management Plan (HMP), as far as we are aware a detailed HMP for Viking Wind Farm has yet to be submitted and consulted upon. It is also not guaranteed that the wind farm (and therefore its associated HMP) will be implemented. We understand that the proposed track is intended to be constructed prior to the potential commencement of the wind farm development. We recommend that the council should seek further information from the applicant on this matter and consider how best to secure blanket bog restoration sufficient to offset the impacts of the access track development, even in the event that the Viking Wind Farm and its HMP are not implemented.

Breeding birds

The application is supported by bird survey undertaken in 2015. Bird species protected under Schedule 1 of the Wildlife and Countryside Act 1981 (as amended in Scotland) (W&CA), including the very rare whimbrel which is a red-listed bird of conservation concern, are present in the vicinity. Pre-construction surveys are therefore required, to ensure that these works do not result in disturbance to those species or other offences under that Act. Guidance on this issue is available in the SNH (2016) guidance, dealing with construction and birds (available on the SNH web site).There appears to be no information within the application regarding the proposed timing of works. Full information on this, and proposed measures to ensure that the works do not result in an offence under the W&CA, including pre-construction surveys, should be detailed in a species protection plan (which should be required by condition if permission is granted).

Water Quality Monitoring

Within the draft Construction Environmental Management Plan (CEMP) there is inclusion of water monitoring. This is welcomed, however, it is considered that additional daily monitoring by the contractor will also be required and the levels triggering requirements for action will need to be agreed. This could be agreed through a condition requiring a finalised CEMP, and RSPB Scotland can provide

further input if required. It should also be highlighted that the best way to treat silty or polluted water is to avoid creating it in the first place and minimising the amount of water that requires treatment.
If further information is provided to address these outstanding issues RSPB Scotland would be able to provide further comments on this application.

Scottish Water was consulted on the 6 July 2018.Their comments dated 16 July 2018 can be summarised as follows:

Scottish Water has no objection to this planning application.

SEPA Aberdeen was consulted on the 6 July 2018.Their comments dated 30 July 2018 can be summarised as follows:

We understand that this application is a resubmission (of 2016/268/PPF, our reference PCS 148006). We have reviewed the information provided with this development proposal and unfortunately we still **object** to the peat management. We will review this objection if the issues detailed in Section 1 are adequately addressed. We also ask that a condition is applied requiring the submission of a finalised Peat Management Plan (PMP).

We have no objection to the proposed development on flood risk grounds, provided that the planning condition in Section 3 below is attached to the consent.

Please note the advice provided below.

1. <u>Peat management</u>
1.1 We find that no information has been provided to justify why the track could not be relocated to avoid areas of deep peat. We would like to know what other routes have been looked at for track location.
1.2 In figure A3, Indicative Peat Thickness, probing was only done in a relatively narrow envelope around the proposed track. Justification has not been provided to explain why only this area was probed. This could lead to the avoidance of peat excavation on site.
1.3 It is stated in the Supporting Statement by Arcus (April 2018) Table 1 that 30% of floating roads is proposed. There does not appear to be information on where the floating sections of road are going to be other than confined to areas of shallow gradient where the deep peat lies. Further information on the plans of this part of the track are needed including a map with floating track section clearly marked. The peat depth data would imply this is between chainage 500 and 1200.
1.4 It is also stated in the Supporting Statement by Arcus (April 2018) Table 1 that the proposed 30% of floating roads would reduce the volumes of peat that will be excavated, stored or reused. If the floating track changes the estimated volumes of excavated peat what are the new volumes of excavated, stored or reused peat? This is not clear in the information submitted with this application. A

more specific set of estimates of the amounts of peat reused should be clarified. For example the amounts of peat to be reused and displaced vary in several sections (for example sections 7.2 and 8 and Table 5-6 and Table 7-1) of the peat management plan in appendix L, (PMP). Also more specific details on storage areas (currently only areas where peat cannot be placed are given) and on the management of stored peat to ensure its viability on re-use should be provided. Clear and specific plans for the fate of 30,000 plus cubic metres of catotelmic peat are needed and also specific plans for the re-use of the 49700 m3 of peat (i.e. if it is the case) which has been deemed suitable for re-use on site are required. With regards to any reuse proposals we also require information on timescales as well as this will have a bearing on the duration that the peat will be stored for prior to reuse.

1.5 The areas between chainage 1200 and 1400 and chainage 1650 and 1850 seem reasonable to allow the micro-siting allowance of 50m to allow reduced peat volumes to be extracted.

1.6 In summary we require information; demonstrating attempts to avoid areas of deep peat; suitable mitigations measures proposed to protect areas of peat and clear information on the fate of the disturbed material. We therefore object to the proposed development and ask for this information is provided.

1.7 We also ask that a condition is applied requiring the submission of a finalised Peat Management Plan (PMP). The PMP should concentrate on the following issues outlined in section 4.

2. <u>Pollution prevention an environmental management</u>

2.1 A schedule of mitigation which includes reference to best practice pollution prevention and construction techniques and regulatory requirements supported by site specific maps should be provided. We note that it has been stated in the Environmental Appraisal report by Jacobs (June 2016) that a Construction Environmental Management Plan (CEMP) will be submitted. We therefore request that a condition is imposed on any planning consent requiring that a finalized CEMP is submitted for approval to the planning authority at least two months prior to the proposed commencement of the development.

2.2 In Table 4.1.8 of the Environmental Appraisal report, the predicted unmitigated significance of effect to M6 mire is predicted as Moderate-Minor (Minor). Section 4.3.2.1.9 of the Environmental Appraisal report states that Potential disruption to groundwater and soil interflows would largely be mitigated where possible through appropriate engineering design of the works. The condition of GWDTEs on-site would be assessed by the ECoW during and post-construction in comparison with baseline conditions. These statements are most welcome, as is the commitment made to industry standard good practice throughout all stages of the development to decrease the potential significance of these effects further to the surrounding receptors.

2.3 Permeable track construction should be implemented for the width of the M6 flush where it is bisected by the track. This mitigation should be included in the finalised CEMP.

3. Flood risk

3.1 We have no objection to the proposed development on flood risk grounds provided that, should the Planning Authority be minded to approve this application, the following planning conditions are imposed:

Details are provided of the flow capacity of the crossings, with accompanying annotated drawings with the 1 in 200 year (plus 20% climate change allowance) flood level to demonstrate that the structures would not restrict flow or increase flood risk elsewhere.

3.2 The supporting statement by Arcus (April 2018) highlights that the access track and crossing proposals are the same as those submitted for the 2016 application 2016/268/PPF for which we provided flood risk comments (PCS/148006). As we are not aware of any new information that would indicate the risk to the site has changed, we reiterate many of our previous comments.

3.3 Generally, the access track lies outwith the medium likelihood (0.5% annual probability or 1 in 200 year) flood extent of the SEPA Flood Map, however there are small watercourses to be crossed by the track that are not modelled by the SEPA fluvial Flood Map, which may be a source of flood risk. Please note that the SEPA Flood Maps have been produced for catchment areas equal to or greater than 3km2 using a Digital Terrain Model (DTM) to define river corridors and low-lying coastal land. The maps are indicative and designed to be used as a strategic tool to assess, flood risk at the community level and to support planning policy and flood risk management in Scotland. For further information please visit http://www.sepa.org.uk/flooding/flood_maps.aspx.

3.4 In line with SEPAs Standing Advice, access tracks should be designed in such a way as to ensure that they do not result in an elevation of the land within the functional floodplain. If this is not possible, then the track should be relocated to be outwith the area thought to be at risk of flooding.

3.5 As in the 2016 proposals, the culverts and bridges are to be designed to be able to convey the 1 in 200 year (plus climate change) flow. We previously agreed that this would be an acceptable approach and hold no new information to suggest that this wouldn`t be acceptable now. We reiterate that the applicant should submit the details of the flow capacity of the crossings, and drawings annotated with the 1 in 200 year (plus 20% climate change allowance) flood level to demonstrate that the structures would not restrict flow or increase flood risk elsewhere. We advise that this should be secured by condition.

3.6 We recently provided advice to SSE regarding a crossing at the Weisdale Burn (PCS/159634) where we understood that it was proposed to design the bridge to the 1 in 2 year flow, but mitigate to the 1 in 200 year. We are assuming that this is a different bridge, or is no longer proposed as a design option. If this is not the case then we request that appropriate site specific flood risk information is provided to demonstrate that there is no increase in flood risk as a result of the bridge design or mitigation.

Detailed advice for the applicant

4. Peat management

4.1 As stated previously (PCS/148006) the excavated peat is to be put in low-height bunds next to the track. Peat is generally not a suitable material for construction of bunds, but it can be used to dress the lower edges if steps are taken to ensure that it is kept wet. Information on how the right hydrological conditions will be maintained for any reuse proposals should be included in the finalised PMP. Peat material should only be used on undisturbed areas; no spreading on vegetated areas. Edges of peat deposits should be compressed to reduce lateral flows.

4.2 Information on any proposed re-use elsewhere. This must include information to demonstrate that the proposals are genuinely to make beneficial use. For example an ecological report to justify reuse in peatland restoration works along with other measures such as drain blocking, or written confirmation from quarry operator for need for material for restoration purposes. Proposals for re-use of this material as part of any other local project seem unlikely to be acceptable as they are likely to be in a similar situation. Also note that only temporary storage of peat material will be acceptable; if not it will be considered as a landfill operation.

4.3 For further guidance on peat management we would refer the applicant to Guidance on the Assessment of Peat Volumes, Reuse of Excavated Peat and Minimisation of Waste and our Regulatory Position Statement - Developments on Peat.

SEPA Aberdeen was re-consulted on the 4 October 2018 and responded on the 12 October 2018.

Unfortunately we **object** to this planning application unless the modifications to the Peat Management Plan, as outlined in in Section 1 of this letter, can be accommodated.

We also **object** to this planning application on the grounds of lack of information with regard to impact on Ground Water Dependant Terrestrial Ecosystems. We will review this objection if the issues detailed in Section 2 below are adequately addressed.

1. Peat Management Plan

1.1 We note from the submitted Peat Management Plan (PMP) (dated Sept 2018) and Drawing S118021-TG-HML-KA-DR-CH-0001 Rev P02 (dated 17.8.18) entitled 'Kergord Access Location Plan' that there is a proposal to realign the track to that originally submitted and assessed in July 2018 and shown in the Environmental Appraisal Report (EAR) (dated 28 June 2016) .

Peat volumes and mitigation

1.2 We note and very much welcome that in the 'worst case scenario' i.e. with a fully excavated track scenario, there will be a 40% reduction in peat excavated

from that of the original alignment. However, the Peat Management Plan also shows that with further mitigation measures, mainly with floating sections of the track, further substantial reductions in peat excavation can be attained.

1.3 We are disappointed to note from 3.1.10 that the fully excavated scenario is the applicants preferred option at present. Considering the potential for substantial further reductions in total peat volume excavation, we request that the floating track scenario be the favoured option by the applicant unless shown to be non-viable from an engineering or other (such as safety) stand point. Our preference would be for this to be a commitment made from the applicant in the first instance with a modification of this section of the Peat Management Plan. Alternatively we would want the mitigation measure of floating the access track, unless shown to be non-viable, to be secured by condition.
Further information/ modification of the Peat Management Plan requirements

1.4 Whilst we note more detailed investigation was made in July/August we would question why the new alignment covers an area of suspected deep peat that has not been probed after crossing the Burn of Droswall. This reduces the confidence of the peat estimates if full excavation was needed in this section. We wish to see either a commitment to float this section of the track, or the provision of peat depths at this location to show whether deep peat does occur here with a recalculation of peat volumes and further mitigation if required.

1.5 Within the PMP we request more specific drawings of the proposed cross-sectional plans for the track, including gradients of shoulders etc., this should also include potential cabling options.

1.6 Section 4.8 "Re-use Activities" lacks detailed proposed designs and locations. We request further information on point 4.8.1 i-v including drawings and measurements of depths.

1.7 Section 4.8.2. describes "…if any wet, amorphous peat is encountered…" in a manner that is contradictory to Table 6 where it is estimated at least 10% of peat excavated will be in this form. Therefore clear plans for the re-use/mitigation of such peat is needed. This point is continued in 4.8.3. Although, again, without clear plans outlined. We would disagree with the final sentence in this point as any amorphous catotelmic peat is difficult to manage.

1.8 Point 4.10.2 recognises one of the key dangers of having exposed peat faces but does not outline one of the best methods for protecting against slippage - having adequate gradients on open peat faces (I.e. at the edges of the track). If a suitable gradient is created it can be finished with vegetated peat, gently compressed and tapered to running level with far less risk of slippage or drying of associated peat.

1.9 Section 5.2. Cable Trenches indicates the plan to site cables within the shoulders of floating tracks. Given that, at present, it is proposed not all the route is going to be on floating track and therefore the rest of the cabling needs to be cut into trenches, this information then contradicts Table 8. If any peat is excavated for cabling then this volume needs to be taken into account. Further to that, the cabling will of course take up a significant volume itself so it needs to be made clear how the cable routes will be used to reinstate 23,100 m3 of peat.

1.10 Temporary Storage, 5.2.5. Needs to specifically state that vegetated turves will not be stacked. We welcome the plans to remove peat in large, deep turves.

1.11 We require section 5.3 "Restoration" to contain, as much as is practicable, the plans outlined in the first two bullet points. Areas for restoration/rehabilitation are mentioned elsewhere in the documents but they are not supported by mapping or photographic plates. This reflects our position on section 4.8 above. Where it is likely bare peat will be the final surface of an area we require plans of planting/seeding/brash use to indicate how revegetation is going to be encouraged. We welcome bullet point 4 as being essential in good practice.

1.12 The PMP lacks any information on monitoring processes. We require these plans to be drawn up including criteria for when rehabilitation/reinstatement is not responding and what actions will then be taken.

2. <u>Ground Water Dependant Terrestrial Ecosystems (GWDTE)</u>

2.1 Although we were specifically consulted on the PMP, unfortunately, it is unclear from the above Kergord Access Location Plan, whether previously missed GWDTEs are now within the new proposed access footprint. We therefore **object** due to lack of information on the potential impact on GWDTE. We will consider removing this objection once we have received a new map overlaying the new route onto the NVC map previously supplied.

SEPA Aberdeen was re-consulted on the 14 December 2018 and responded on the 10 January 2019.

Thank you for your consultation email which SEPA received on 14 December 2018.

Advice for the planning authority

We are pleased to confirm we are now in a position to remove our previous objections in relation to peat management and ground water dependant terrestrial ecosystems if the planning conditions requested in Section 1.2 and 2.2 are attached to any future consent.

We also confirm that our previous request for a conditions relating to flood risk and a Construction Environmental Management Plan (CEMP) in our response dated 30 July 2018 (PCS/160104) also still apply.

If any of these will not be applied, then please consider this representation as an objection.

1. Peat Management Plan (PMP)

1.1 We welcome the further information provided and modifications made in the updated PMP submitted (dated November 2018, Revision 1). This now forms an acceptable PMP at this stage.

1.2 However, we note from sections 1.2.5 and 1.2.6, the applicant suggests the 'Stage 2 PMP 'presents sufficient information to meet our requirement for a finalised PMP'. Unfortunately, as final construction methods, and therefore final volumes of peat, are not included in the PMP we cannot agree with this statement. Whilst we will welcome further consultation on peat management throughout the construction period, contrary to section 1.3.6, we will wish to see a finalised PMP prior to construction once finalised detailed design is complete. As such we request a condition is attached to any consent securing the submission of a finalised PMP for approval at least 2 months prior to construction. It would be preferable for the finalised PMP to be a standalone document rather than contained within the finalise CEMP.

1.3 The finalised PMP should commit to final construction methods for the track and cabling with Table 8 subsequently revised and give the information listed on section 4.3.4 of the current PMP. In addition, the PMP should indicate how long peat is planned to be stored at each temporary storage location.

1.4 Suggested condition wording:

Two months prior to commencement of any works on site a finalised peat management plan shall 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) finalised volumes, depth and location of peat disturbed,

(b) details of temporary storage of peat (including a detailed plan showing locations, volumes, time period of storage, and management during storage period)

(c) details of the proposed reuse of the peat within the site (including a detailed plan showing volumes, location and usage),

(d) details of any disposal of peat proposed (including volumes and detailed disposal proposals),

(e) details of mitigation and restoration proposals.

Reason: In order to minimise disturbance of peat and ensure the appropriate reuse

and management of peat on site

2. Groundwater dependant terrestrial ecosystems (GWDTE)
2.1 We thank the applicant for submitting drawing LN0000046-VIK-ENV-SK-0015 showing the location of potential GWDTE overlain with the revised road alignment. Notwithstanding our request below, we confirm we can now remove our objection in this regard.

2.2 However, we highlight our requirement that permeable track construction should be implemented for the width of the M6 flush identified previously. Whilst the current alignment does not bisect the habitat it is directly upslope therefore will cause an effect to the habitat. If, post-consent plans micro-siting places the track directly on top of the habitat again then this requirement is paramount. This mitigation should be included in the CEMP and request this is secured by condition.

Detailed advice for the applicant

3. Peat Management Plan
3.1 We welcome the commitment to float track where technically feasible. We acknowledge the advisory limit of slopes in the region of 5% and request that when the design and construction plan is made post-consent, it is confirmed whether the length of track in the region of Chainage 1400 - 1900 (which runs roughly along a contour line) is suitable for floating.

3.2 We note the response to our query regarding cable trenching and its use of peat where tracks are floated. However, we feel that there are still questions to be answered regarding volumes of peat in Table 8. We acknowledge that this will not be possible to confirm until specific design decisions have been made. We assume this will be in the further PMP which we will consult on.

3.3 Whilst we welcome most of the detail in Section 4 "Peat Management" we have some concerns over distances peat might be moved and the potential length of time peat will be stored. We would recommend the applicant consults closely with SNH - Peatland Action on appropriate storage times and hauling distances of peat before finalising the PMP. This recommendation extends to the Viking Energy Wind Farm as a whole.

3.4 We note and have some concern with point 5.3.1 bullet point 3, where peat shoulders are described as between 1 and 1.5m thick. These are unlikely to connect to underlying hydrology and therefore likely to dry out and degrade, we recommend reducing this thickness or ensuring appropriate, valid reasoning as to why this will not happen in the finalised PMP.

3.5 Section 6.3 "Peatland restoration" states the Habitat Management Plan

(HMP) of the wider wind farm will be the plan used for the Kergord developed peat. However, the HMP does not currently have sufficient detail on location and specific re-use of peat. This document will need to be more fully developed in order to meet the objective in point 6.3.6 of the PMP and will consequently need to be finalised at the same time as the PMP unless a site specific HMP is done for this application.

3.6 With reference to your response in relation to the cable trenching, if the cables take up little to no volume in dug trenches we would question the use of extra peat in filling in these trenches (section 6.2.3). We will expect Table 8 in the finalised PMP to confirm volumes in this regard.

3.7 We request thought is given to which side of the track the cabling will go in the final design, especially around the M6 habitat above, as this will dictate what habitats are effected.

SNH was consulted on the 6 July 2018.Their comments dated 11 July 2018 can be summarised as follows:

Summary
Breeding bird and otter surveys are required before it can be ascertained whether the proposal will result in offences under wildlife law.
We recommend that conditions are put in place to mitigate impacts on blanket mire, and water courses.

Background
We provided a consultation response for the original planning application (2016/268/PPF) on 21 July 2016.

Appraisal of the impacts of the proposal and advice

Blanket Mire
The Environmental Appraisal Report predicts unmitigated likely significant effects (as defined by EIA Regulations) on blanket mire. To protect this habitat (which is peat-forming, and an important carbon sink) we recommend the following:
1. Mitigation minimising impacts on blanket mire and peat, as detailed in the Environmental Appraisal Report, is implemented.
2. Peatland restoration, as proposed in the Viking Wind Farm Habitat Management Plan, is implemented to offset predicted impacts on peatland of this proposal and the wider Viking Wind Farm development.
We note SEPA's concerns regarding management of peat, and defer to their advice on that aspect.

Burn of Weisdale
The Burn of Weisdale is a significant water body in a Shetland context, and

supports Atlantic salmon, sea trout and common eel. These three fish species are of conservation significance and have undergone significant population declines. The Environmental Appraisal Report predicts unmitigated likely significant effects (as defined by EIA Regulations) on watercourses and freshwater fauna during construction and initial operation, and so we recommend the following:
3. Sufficient control measures are in place to protect the Burn of Weisdale and its tributaries from sediment runoff and other pollution.

Schedule 1 Birds
Bird surveys were carried out in 2015 in support of the original application. These should be repeated to establish whether the works are likely to affect species protected under Schedule 1 of the Wildlife and Countryside Act (as amended), and details of mitigation that avoids offences under that Act provided.

Otter
Data from an otter survey carried out in 2015 is provided. The otter survey should be repeated, and species protection plan provided, before it can be ascertained whether the proposal is likely to result in an offence under wildlife law or whether a species licence is required.

SNH was consulted on the 14 January 2019.Their comments dated 18 January 2019 can be summarised as follows:

The indicative peatland map shows class 1 peatland along part of the route of the access track, but it is clear from aerial photographs that much of it has been modified by erosion, peat cutting and, in the northern part, agricultural improvement. If any high quality blanket bog remains it will be fragmentary and we are satisfied that impacts will be minimised by the mitigation identified in the EIA report and compensated by the peatland restoration to be carried out under the Viking Wind Farm HMP

5. Statutory Advertisements

The application was advertised in the Shetland Times on 06.07.2018

A site notice was not required to be posted.

6. Representations

Two letters of representation have been received and the issues raised can be summarised as follows;

Vehicle movements and material import volumes
Mitigation measures
Impact on Blanket Mire Habitats

Construction disturbance
Peat landslide hazard risk
Flood risk and drainage
Peat storage, management and reuse and recycling
Noise and Air Quality
Community relations
Impact on the Weisdale Burn ecosystem
Construction Compound location
Access and parking
Contradiction with policy GP3:
Maintaining identity and character
Safe and Pleasant Space

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 section 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.

Policy Context

The following paragraphs outline the main Shetland Local Development Plan (2014) (SLDP) polices under which this development has to be considered.

Policies GP1, GP2 and GP3 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 uses 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 which concerns protected species 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.

It adds that 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.

and also that 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.

Policy NH2 also carries with it a requirement that 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 policy concludes by stating that the Council will apply the precautionary principle where the impacts of a proposed development on natural heritage are

uncertain but potentially significant, and also that 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 – Furthering the Conservation of Biodiversity states; "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."

Policy NH4 which addresses Local Designations requires 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 NH5 on Soils states that development will only be permitted where appropriate measures are taken to maintain soil resources and functions to an extent that is considered relevant and proportionate to the scale of development. It further states that proposals that will have an unacceptable effect on soil resources and functions will only be permitted where it has been demonstrated 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 soil functions;
- Any harm or disturbance to the soil resources and functions is avoided or reduced to acceptable levels by suitable mitigation.

Policy NH5 also carries a requirement that evidence of the adoption of best practice in the movement of, storage, management, reuse and reinstatement of soils must be submitted along with any planning application. It adds that for certain scales of development a soil management plan will be required, in which case this

should demonstrate the risks to soils, such as unnecessary disturbance, degradation and erosion have been avoided.
Policy ED1 – Support for Business and Industry states that the Council encourages the creation of sustainable economic development opportunities and business developments in accordance with General Policies (GP1, GP2, and GP3).

Policy RE1 on Renewable Energy 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. It also confirms that all proposals for renewable energy developments will be assessed with consideration of their cumulative impacts.

Principle of Development

The main issue therefore to be considered in the determination of this application 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 relevant is making of a balanced judgement between the potential for environmental impact against the economic benefits and providing support for climate change mitigation.

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.

The principle of an access track requirement to serve the convertor station and other buildings at Upper Kergord was established with the approval of the Viking Wind Farm by the Scottish Ministers (2009/191/ECU) and the granting by the Council of planning permission in principle for the convertor station (2009/224/PCO).

The proposal to create the access track is therefore development which is related to the commercial operation of the Viking Wind Farm, and will allow direct access to the approved and related convertor station site at Upper Kergord.

Impact on existing uses
Policy GP2 of the SLDP seeks to ensure that development will not have a significant adverse effect on existing uses in the vicinity of the site. Objections

have been raised that the proposed development, together with the convertor station and Viking Wind Farm developments will result in a massive industrialisation of the Upper Kergord area, which will be detrimental to the lives of the people living there. While any new development will result in a change to the existing environmental conditions it is likely that the main impact will take place during the construction phase, including that of the access track. Planning conditions to protect the environment and restrict working hours are to be recommended for an approval of the proposal. The imposition of appropriate planning conditions to limit the impacts will ensure that there is no significant adverse impact on the surrounding area or residents.

Impact on Natural Heritage and Biodiversity

The Environmental Appraisal Report submitted in support of the application has assessed the likely significance of the effects of the development, and has concluded that with suitable effective mitigation measures the residual effects have been assessed as being minor and therefore not significant. Objections to the proposal have raised concerns and questioned this conclusion. These objections come from Sustainable Shetland and a landowner resident in the area. The objections have raised concerns in terms of the impact on blanket mire habitats and have questioned the assessment in the submitted Habitat Management Plan regarding the displacement of peat caused by the road construction and how the peat is to be managed and re-used. Objections have also commented on the peat landslide hazard risk and concerns that much of the route has been classed as medium to high risk in that regard. A concern has also been raised about the impact on the Weisdale Burn during the construction of the track and the impact on its water quality.

Tingwall Whiteness and Weisdale Community Council following consultation indicated that they wished to support the letter sent in by Mr and Mrs Morrison on 16 September 2018 regarding this application, but not Point 3 regarding access.

Adopted Supplementary Guidance - Onshore Wind Energy February 2018 identifies that the area where the access track is proposed contains peatland classified by Scottish Natural Heritage as Class 1 and 2 which is nationally important for carbon rich soils, deep peat and priority peatland habitat. These areas are likely to be of high conservation or potentially high conservation value and restoration potential.

In terms of the impact on natural heritage, the environment and peat management consultation responses have been received from two statutory consultees, Scottish Natural Heritage (SNH) and the Scottish Environment Protection Agency (SEPA) as well as from the Royal Society for the Protection of Birds (RSPB). The Natural Heritage Officer has also made comments.

SEPA commented following initial consultation that having reviewed the information provided with this development proposal they objected to the peat management proposals. SEPA indicated however that they would review this objection if the issues detailed in Section 1 of their consultation response were adequately addressed. SEPA also asked that a condition be applied requiring the submission of a finalised Peat Management Plan (PMP).

In relation to the peat management issue raised by SEPA, the agent submitted revised details. Further consultation was made with SEPA on 2nd October 2018, but they did not find that the new information provided satisfactorily addressed their concerns. In their response dated 12th October 2018 therefore they maintained their objection in relation to the detail of the proposed Peat Management Plan.

In this response SEPA also raised an additional previously unmentioned objection on the grounds of the lack of information with regard to the impact on Ground Water Dependant Terrestrial Ecosystems. SEPA commented that they would review this objection once they received a new map overlaying the new route for the proposed access track onto the National Vegetation Classification (NVC) map previously supplied.

The applicant responded and further peat probing was undertaken in October 2018, followed by the submission of a revised Kergord Peat Management Plan in November 2018. The report has stated the additional probing has resulted in a predicted 40% reduction in excavated peat volumes.

The further information submitted has been reviewed by SEPA and they have confirmed that as a result of the revisions made by the applicant they are in a position to remove their previous objections in relation to peat management and ground water dependant terrestrial ecosystems subject to planning conditions it requests in their response being attached to any future consent.

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The Royal Society for the Protection of Birds (RSPB) have commented that whilst they do not object to the application, they consider that additional information is required in order to fully assess the potential impacts of this application. Raising concerns about peat management the RSPB have recommend that if permission is granted, it should be subject to conditions requiring submission of a finalised construction environmental management plan and peat management plan that detail these and other measures to be agreed by the Council prior to the commencement of development, and requiring the full implementation of those plans as approved. These concerns have also been raised by SEPA as discussed above.

In terms of breeding birds RSPB have pointed out that no information regarding the proposed timing of works has been submitted and recommend that full

information on this, and proposed measures to ensure that the works do not result in an offence under the Wildlife &Countryside Act 1981 as amended, including pre-construction surveys, should be detailed in a species protection plan which should be required by condition if permission is granted. The applicant has indicated an undertaking to submit a Bird Protection Plan prior to construction implemented by a suitably qualified and experienced ornithologist. The delivery of this plan can be required by means of a planning condition of any approval.

The RSPB have also made comment on habitat management plans for this proposal and the Viking Wind Farm as a whole, referring to the Habitat Management Plan (HMP) which was proposed and approved by the Energy Consents Unit in 2011. It has been noted that the recent Section 36C variation proposal to increase the maximum tip height and rotor diameter of the turbines on the Viking Wind Farm has proposed a smaller site area and excludes areas which were previously part of a wider area of improvement under the HMP. It is considered that this was considered by the Scottish Ministers as being fundamental to the merits of the proposed wind farm. As such, and because an access track as is currently being considered was also proposed by the wider Viking Wind Farm proposal , it is considered important that an HMP is required by condition attached to any consent to ensure that the benefits to habitats within Shetland are delivered as was initially intended.

SNH have raised no objections but have commented that breeding bird and otter surveys are required before it can be ascertained whether the proposal will result in offences under wildlife law. The securing of these surveys by means of a planning condition will allow no conflict with SLDP Policies NH2 and NH3.

Flood Risk and Surface Water

Objections lodged in respect of the proposal for the access track have also highlighted the potential for major flooding in the vicinity of Weisdale Burn and have commented that insufficient precautions have been made to guard against flooding incidents.

SEPA have advised that they have no objection to the proposed development on flood risk grounds, provided that details are provided of the flow capacity of the crossings, with accompanying annotated drawings with the 1 in 200 year (plus 20% climate change allowance) flood level to demonstrate that the structures would not restrict flow or increase flood risk elsewhere. This should be also be made a planning condition attached to a consent.

The Drainage and Flooding Officer commented that the suggested drainage approach has been accepted in principle. As a design and build project the detailed drainage design cannot be confirmed at this time; on-going discussions regarding the specific drainage proposals will take place with SEPA and the

Council.

The final design for a sustainable drainage system (SuDS) can be secured via a pre-commencement planning condition, thereby avoiding abortive work or the provision of inaccurate information.

A suitable Construction Environmental Management Plan and a Water Quality Monitoring Programme has been proposed by the applicant, and this too can be required and delivered by attaching a planning condition to a consent. This will ensure the protection of the water environment and therefore compliance with SLDP Policy WD3.

Impact on Built Heritage

The Shetland Regional Archaeologist (SRA) commented that the Environmental Appraisal Report has identified a number of "heritage assets" within 1km of the proposed development and that there is a background of both post-medieval and potential prehistoric occupation in the area. The SRA has therefore recommended that development on the access track should not commence until a written scheme of archaeological works (Written Scheme of Investigation), which identifies a phased programme and method of archaeological work has been submitted to and agreed in writing beforehand. Attaching an appropriately worded condition that makes this a requirement will ensure that there are no conflicts with the SLDP Policy HE4.

Road and Access

The Outdoor Access Officer commented that there are no known core paths or public rights of way affected by the proposed development but has added the caveat that this doesn't preclude the possibility that public rights exist which have yet to be claimed.

Objections have been received with regard to the location of the construction compound and its impact for the property opposite. Objection has also been made with regard to construction vehicle movements on the B9075 single track road associated with the construction phase of the development, and the impact on other road users.

The Council's Roads Traffic Service were consulted on the proposal and have raised no objections. They did however comment in terms of the aggregate to be used to create the access track and that various quarries have been identified around Shetland as potential sources. A road condition survey on the haulage routes proposed is recommended prior to the works commencing to ensure that any extra burden from wear and tear does not fall on the Council. This can be made a requirement of a condition.

Conclusion

It is inevitable that the construction of the access track will have an impact on the natural heritage and the ecosystems in and around the site boundary for the proposed development. However, as stated previously, what has to be considered is whether these impacts are so adverse that we should put aside the inherent presumption within the planning system which is in favour of development unless the adverse impacts of a development would significantly and demonstrably outweigh the benefits, in this case a key enabling component to a sustainable energy development.

Objections received have raised material planning concerns, as have the comments from statutory consultees. Further submissions of information have been forthcoming from the applicant and as a result SEPA have now removed their objections subject to conditions they recommend being attached to any consent.

When considered against the relevant polices within the SLDP the evidence gives rise to the conclusion that while there will be impacts on peatland, the water environment and habitat, these can be satisfactorily managed. Appropriate conditions attached to a consent will ensure that all the aspects of concern raised will be the subject of the further submission of information or survey work, and be addressed so as to allow development to take place.

8. Recommendation

Grant subject to conditions.

Reasons for Council's decision:

An Environmental Appraisal Report has been submitted in support of the application proposal and has considered the impacts on ecology, hydrology and flood risk, peat management, landscape and visual receptors, heritage, traffic and transport, noise and air quality. It has been concluded within the report that the proposed development will not give rise to any significant or unacceptable environmental effects. Consultee responses have also concluded that when appropriate mitigation measures, secured by means of appropriate planning conditions, are undertaken there will be no unacceptable adverse impacts. The proposal is therefore, subject to the foregoing, considered to be in compliance with Policies GP1,GP2, GP3, NH1, NH2, NH3, NH4, NH5, HE1, HE4, ED1, TRANS 3, RE1, WD1 WD3, of the Shetland Local Development Plan 2014 and the adopted Supplementary Guidance - Onshore Wind Energy February 2018

9. List of approved plans:

- Road Layout Plan LN000046-VIK-SID-SK-0003-03

18.06.2018

- Road Section S118021-TG-HGT-XX-DR-CH-0001 26.11.2018
- Road Section S118021-TG-HGT-XX-DR-CH-0002 26.11.2018
- Location Plan S118021-TG-HML-KA-DR-CH-0001 26.11.2018
- Road Layout Plan S118021-TG-HML-KA-DR-CH-0002 18.06.2018
- Road Layout Plan S118021-TG-HML-KA-DR-CH-0003 18.06.2018
- Road Layout Plan S118021-TG-HML-KA-DR-CH-0004 18.06.2018
- Road Layout Plan S118021-TG-HML-KA-DR-CH-0005 18.06.2018
- Road Layout Plan S118021-TG-HML-KA-DR-CH-0006 18.06.2018
- Road Layout Plan S118021-TG-HML-KA-DR-CH-0007 18.06.2018

10. **Conditions:**

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

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

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

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

development;

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

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

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

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

(3.) No development shall commence unless and until a habitat management plan (HMP) has been submitted to, and approved in writing by the Planning Authority in consultation with SNH and SEPA. The HMP shall include details of how the plan is linked and associated with a consent for the Viking Wind Farm.

Reason: In the interests of the protected species and in compliance with Polices NH2 and NH3 of the Shetland Local Development Plan 2014.

(4) The HMP shall set out proposed habitat management of the site during the period of construction, operation, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of restoration of the habitat on site as follows:
a) Restoration of peatland (blanket mire) in line with the approved Peat Management Plan.
b) Measures to protect Ground Water Dependant Terrestrial Ecosystems.

Reason: In the interests of the protected species and in compliance with Polices NH2 and NH3 of the Shetland Local Development Plan 2014.

(5) Two months prior to commencement of any works on site a finalised Peat Management Plan (PMP) shall 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) finalised volumes, depth and location of peat to be disturbed;
(b) details for the temporary storage of peat (including a detailed plan showing locations, volumes, time period of storage, and management during storage period);
(c) details for the proposed reuse of the peat within the site (including a

detailed plan showing volumes, location and usage);
(d) details of any disposal of peat proposed (including volumes and detailed disposal proposals);
(e) details of mitigation and restoration proposals.

Reason: In order to minimise disturbance of peat and ensure the appropriate reuse and management of peat on site and in compliance with Shetland Local Development Plan 2014 Policy NH5.

(6) No development shall commence unless and until a Construction and Environmental Management Plan ("CEMP") containing site specific details of all on-site construction works, drainage and mitigation, together with details of their timetabling, and covering all the matters set down in condition 7 of this permission, has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Report accompanying the application, or as otherwise agreed, are fully implemented in accordance with Polices GP2, WD3, TRANS 3, and NH7 of the Shetland Local Development Plan 2014.

(7) The Construction and Environmental Management Plan (“CEMP”) shall be submitted at least 2 months prior to the proposed Commencement of Development and shall include:

a) A site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment and minimisation of waste, re-use of materials and if necessary disposal of surplus materials;

b) Details of the formation of the construction compound, welfare facilities, any areas of hard standing, and turning areas, internal access tracks (including construction methods thereof), car parking, material stockpiles, oil storage, lighting columns, and any construction compound boundary fencing;

c) A dust management plan;

d) Details of on-site activities including earth moving, aggregate mixing, crushing, screening, on site storage and transportation of raw material;

e) The height and location of all stockpiles of road stone;

f) Details of measures to be taken to prevent loose or deleterious material being deposited on the local road network for a distance of 160 metres either side of the Development's site entrance including wheel cleaning facilities and sheeting gantry to be retained for the duration of construction work and used by all construction traffic with an operating weight exceeding three tonnes 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, sheeting of all open bodied heavy commercial vehicles carrying dust creating materials into and/or out of the Development Site and measures to clean the site entrances, public right(s) of way and the adjacent local road network;

g) monitoring proposals, contingency measures and emergency plans,including an environmental checklist to monitor and plan the timing of works to avoid construction of roads, de-watering of pits and other potentially polluting activities during periods of high rainfall. This should cover:

- daily visual inspections and regular sampling and testing for silt, and the recording of required environmental actions (e.g. in relation to silt management);
- proposals for planning activities in relation to heavy rain (up to 3 day forecast);
- identification of all construction elements and their location in relation to sensitive receptors, including any waterbodies, water supplies, and water-dependent species;
- details how works will be programmed to avoid any adverse impact on sensitive receptors (e.g. construction should not take place close to sensitive receptors during wet periods).

(h) the proposed location and design of construction elements, including fuel or oil storage and refuelling facilities, concrete batching, rock crushing, materials storage, soil storage, waste disposal facilities and any proposals for micro-siting away from sensitive receptors;

(i) Surface Water Management plan including proposals for Sustainable Drainage Systems (SuDs) to provide for 2 stages of water quality treatment;(j) measures to prevent sedimentation or discolouration of any water features which may be affected by the proposals, including management of temporary soil and vegetation storage areas to minimise environmental impact;

(k) specific measures to address silt-laden run-off from temporary access tracks, temporary compounds and other engineering operations during construction based on sustainable drainage principles, which also protects any

surface water drainage facilities required for the operational phases of the development;

(l) measures to ensure that the timing of works is planned to avoid conditions when pollution is going to be more likely or when ground conditions are sufficiently poor as to make construction works present a risk of pollution, to the agreement of the Planning Authority, in consultation with SEPA;

(m) proposals and mitigation measures for the de-watering of excavations which demonstrate sufficient area to allow for settlement of silty water (or other appropriate measures for treatment);

(n) specific measures to ensure that works do not cause oil, mud, silt, aggregate material or concrete to be washed away either during construction or as a result of subsequent erosion, vehicular movement or maintenance works at the site;

(o) a Site Waste Management Plan (SWMP) which identifies all waste streams and proposals for their management, including peat and other materials excavated on site and the importation of any waste materials to the site;

(p) temporary foul drainage facilities for workers on site. The preference being for waste water and solid waste to be transported away from the site and disposed of using standard waste handling facilities during the construction period;

(q) implementation of permeable track construction for the width of the M6 flush identified previously on drawing LN0000046-VIK-ENV-SK-0015 should post-consent plans micro-siting place the access track directly on top of the habitat.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment (including groundwater dependant terrestrial ecosystems (GWDTE)), and that the mitigation measures contained in the Environmental Report accompanying the application, or as otherwise agreed, are fully implemented in accordance with Polices GP2, WD3, TRANS 3, NH3 and NH7 of the Shetland Local Development Plan 2014.

(8) The approved Construction and Environmental Management Plan (“CEMP”) shall be implemented in full unless otherwise approved in advance in writing by the Planning Authority in consultation with SNH and SEPA.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Report accompanying the

application, or as otherwise agreed, are fully implemented in accordance with Polices GP2, WD3, TRANS 3, NH3 and NH7 of the Shetland Local Development Plan 2014.

(9) No development shall commence unless and until a detailed Water Quality Monitoring Programme (WQMP) is submitted to and approved in writing by the Planning Authority in consultation with SEPA prior to the Commencement of Development. The WQMP shall include:
a) A plan showing the monitoring positions and infrastructure and national grid references for all monitoring locations;
b) A detailed methodology for the gathering of hydrochemical (including turbidity and stream height data) and biotic baseline surface water quality information, including where necessary details of equipment to be used;
c) A programme setting out the frequency of monitoring/surveying that shall extend to:

i. Twelve months of monitoring and reporting preconstruction;
ii. Monthly monitoring and reporting to be undertaken during the construction phase; and
iii. Twelve months of post-construction monitoring and reporting.

Reason: To protect surface water quality and fish populations and water quality in the Weisdale Burn and in compliance with Policies GP2, NH2, NH3, and NH7 of the Shetland Local Development Plan 2014.

(10) The Water Quality Monitoring Programme (WQMP) approved under condition 9 of this permission shall be implemented as approved unless any revision thereto is first agreed in writing by the Planning Authority in consultation with SEPA.

Reason: To protect surface water quality and fish populations and water quality in the Weisdale Burn and in compliance with Policies GP2, NH2, NH3, and NH7 of the Shetland Local Development Plan 2014.

(11) Development shall not commence until a written scheme of archaeological works (Written Scheme of Investigation), which identifies a phased programme and method of archaeological work has been submitted to and agreed in writing by the Planning Authority in consultation with the Regional Archaeologist. Thereafter a suitable mitigation strategy shall be submitted to the Planning Authority for agreement following consultation with the Regional Archaeologist. This may include further excavation, micro-siting, and/or fencing off areas, either prior to or during development, as appropriate.

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

(12) Development shall commence not until a scheme detailing the proposed surface water disposal methods has been submitted to and approved in writing by the Planning Authority. Details of the scheme shall be supported by:

a) details of existing and proposed site levels, including a measured sectional drawing, showing the gradients of the access road within the development site and at the junction of the access with the public road;
b) details of the surface water drainage on site pre and post development (catchment topography, local rainfall and runoff);
c) the flow rate of any existing ditches, watercourses and culverts pre and post development;
d) details of any flow attenuation measures to address any adverse impacts (if infiltration measures are proposed this should include details and results of a test pit for ground water level and soil infiltration test); and
e) details of how any sustainable drainage scheme is to be maintained.
f) details of the flow capacity of crossings, with accompanying annotated drawings with the 1 in 200 year (plus 20% climate change allowance) flood level to demonstrate that the structures would not restrict flow or increase flood risk elsewhere.

Reason: To ensure the provision of adequate surface water drainage as insufficient information has been submitted with the application in order to satisfy the Planning Authority that the development will not result in flooding, or be liable to flooding, and to ensure that no works are undertaken which have an adverse impact on any neighbouring properties or landownership in compliance with Shetland Local Development Plan (2014) Policies GP2 and WD3.

(13) No development shall commence until an otter survey has been undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall cover both the application site and an area of 150 metres in all directions from the boundary of application site and the report of survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

Should an otter holt be found at any time during construction, an exclusion zone of at least 100 metres radius shall be established around the holt until an Otter Protection Plan (OPP) has been approved by the Planning Authority in consultation with SNH. The OPP shall detail measures that shall be taken to protect the otters.

Reason: In the interests of the protected species and in compliance with Polices NH2 and NH3 of the Shetland Local Development Plan 2014

(14) Development shall not commence until a bird survey is undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall cover both the application site and an area of 150 metres in all directions from the boundary of application site and the report of survey shall include mitigation measures where any impact, or potential impact, on protected birds or their habitat has been identified. A Bird Protection Plan (BPP) shall also be developed and submitted to and approved in writing by the Planning Authority. Development and work shall progress in accordance with any mitigation measures contained within the BPP and the timescales contain therein.

Reason: In the interests of the protection of protected bird species and in compliance with Policies NH2 and HN3 of the Shetland Local Development Plan 2014

(15) No development shall commence until an Environmental Clerk of Works (ECoW) has been appointed by the developer. Their appointment and remit shall first be approved in writing by the Planning Authority (in consultation with SEPA and SNH). For the avoidance of doubt, the ECoW shall be appointed as a minimum for the period from the commencement of development to the time the development's construction in accordance with the approved plans and details is complete, and their remit shall, in addition to any functions approved in writing by the Planning Authority, include:
i. Providing training to the developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;
ii. Monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under this consent;
iii. Advising the developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;
iv. Directing the placement of the development (including any micro-siting, if permitted by the terms of this consent) and the avoidance of sensitive features; and
v. The power to call a halt to development on site where environmental considerations warrant such action.

Reasons: In the interests of the protection of the environment and in compliance with Policies NH2, NH2 and GP2 of the Shetland Local Development Plan 2014

(16) (a) Hours of working shall be 07:00 to 18:30 on Monday to Friday inclusive and 08:00 to 14:00 on Saturdays, with no construction work taking place on a Sunday or on public holidays, unless otherwise approved in writing by the Planning Authority.

(b) Heavy Goods Vehicles (HGV) movements to and from the site (excluding

abnormal loads) during construction shall be limited to 07:00 to 18:30 Monday to Friday, and 08:00 to 14:00 on Saturdays, with no HGV movements to or from the site taking place on a Sunday or on a Bank Holiday or Public Holiday, unless otherwise approved in advance in writing by the Planning Authority.

Reason: In the interests of local amenity and in compliance with Policy GP2 of the Shetland Local Development Plan 2014

(17) Development shall not commence until a road condition survey on the haulage routes proposed to be used in the transportation of materials associated with the construction of the access track shall be submitted to and approved in writing by the Planning Authority in consultation with the Roads Service.

Reason: To ensure that any extra burden from wear and tear does not fall to be met by the Shetland Islands Council and in the interests of road safety in compliance with Policy TRANS 3 of the Shetland Local Development Plan 2014.

(18) Any land disturbed by the construction of the development shall be graded and reinstated with topsoil and seeded or turfed with grass or otherwise landscaped. All planting, seeding or turfing shall be carried out by the end of the first planting and seeding seasons following the completion of the development, which run from 1st May to 15th August for the sowing of grass seed mixtures, and between 1st March and 15th May or before new leaf growth takes place (whichever is the soonest) for the planting of bare root stock trees, shrubs and hedges, and between 1st March and 15th August for potted and cell grown stock trees, shrubs and hedges). If the site is to be reinstated other than by seeding or turfing with grass, a scheme for the landscaping of the site shall first be submitted to and approved in writing by the Planning Authority before the commencement of any landscaping works.

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

(19) 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.

(20) Unless otherwise agreed, following the commencement of development of the access track hereby permitted, if a convertor station is not developed at Upper Kergord that makes use of the access track within 3 years of the date of commencement of development of the access track, the access track shall be reinstated in accordance with a reinstatement plan to be submitted to and approved in writing by the Planning Authority beforehand, the completion of which shall be achieved before the expiry of a period lasting 4 years from the date of commencement of the access track. The access track shall also be reinstated if, following the development of a convertor station at Upper Kergord that convertor station ceases to be operational for a period lasting longer than 12 months. Submission of the reinstatement plan in the circumstance of the convertor station ceasing to be operational for that 12 month period shall take place within 2 years of the convertor station having ceased to be operational, and the approved reinstatement plan shall be implemented in full and the site reinstated within 3 years of the date the convertor station ceased to be operational.

Reason: To ensure that the site is reinstated in an environmentally acceptable manner in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

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.

SEPA
Detailed advice for the applicant

Peat Management Plan
SEPA welcome the commitment to float track where technically feasible. We acknowledge the advisory limit of slopes in the region of 5% and request that when the design and construction plan is made post-consent, it is confirmed whether the length of track in the region of Chainage 1400 - 1900 (which runs roughly along a contour line) is suitable for floating.

SEPA note the response to our query regarding cable trenching and its use of peat where tracks are floated. However, we feel that there are still questions to be answered regarding volumes of peat in Table 8. We acknowledge that this will not be possible to confirm until specific design decisions have been made. We assume this will be in the further PMP which we will consult on.
Whilst we welcome most of the detail in Section 4 "Peat Management" we have some concerns over distances peat might be moved and the potential length of time peat will be stored. SEPA would recommend the applicant consults closely with SNH - Peatland Action on appropriate storage times and hauling distances of peat before finalising the PMP. This recommendation extends to the Viking Energy Wind Farm as a whole.

SEPA notes and has some concern with point 5.3.1 bullet point 3, where peat shoulders are described as between 1 and 1.5m thick. These are unlikely to connect to underlying hydrology and therefore likely to dry out and degrade, we recommend reducing this thickness or ensuring appropriate, valid reasoning as to why this will not happen in the finalised PMP.

Section 6.3 "Peatland restoration" states the Habitat Management Plan (HMP) of the wider wind farm will be the plan used for the Kergord developed peat. However, the HMP does not currently have sufficient detail on location and specific re-use of peat. This document will need to be more fully developed in order to meet the objective in point 6.3.6 of the PMP and will consequently need to be finalised at the same time as the PMP unless a site specific HMP is done for this application. With reference to your response in relation to the cable trenching, if the cables take up little to no volume in dug trenches we would question the use of extra peat in filling in these trenches (section 6.2.3). We will expect Table 8 in the finalised PMP to confirm volumes in this regard.

SEPA requests thought is given to which side of the track the cabling will go in the final design, especially around the M6 habitat above, as this will dictate what habitats are effected.
If you have any queries relating to this letter, please contact me by telephone on 01224 266636 or e-mail at planning.aberdeen@sepa.org.uk.

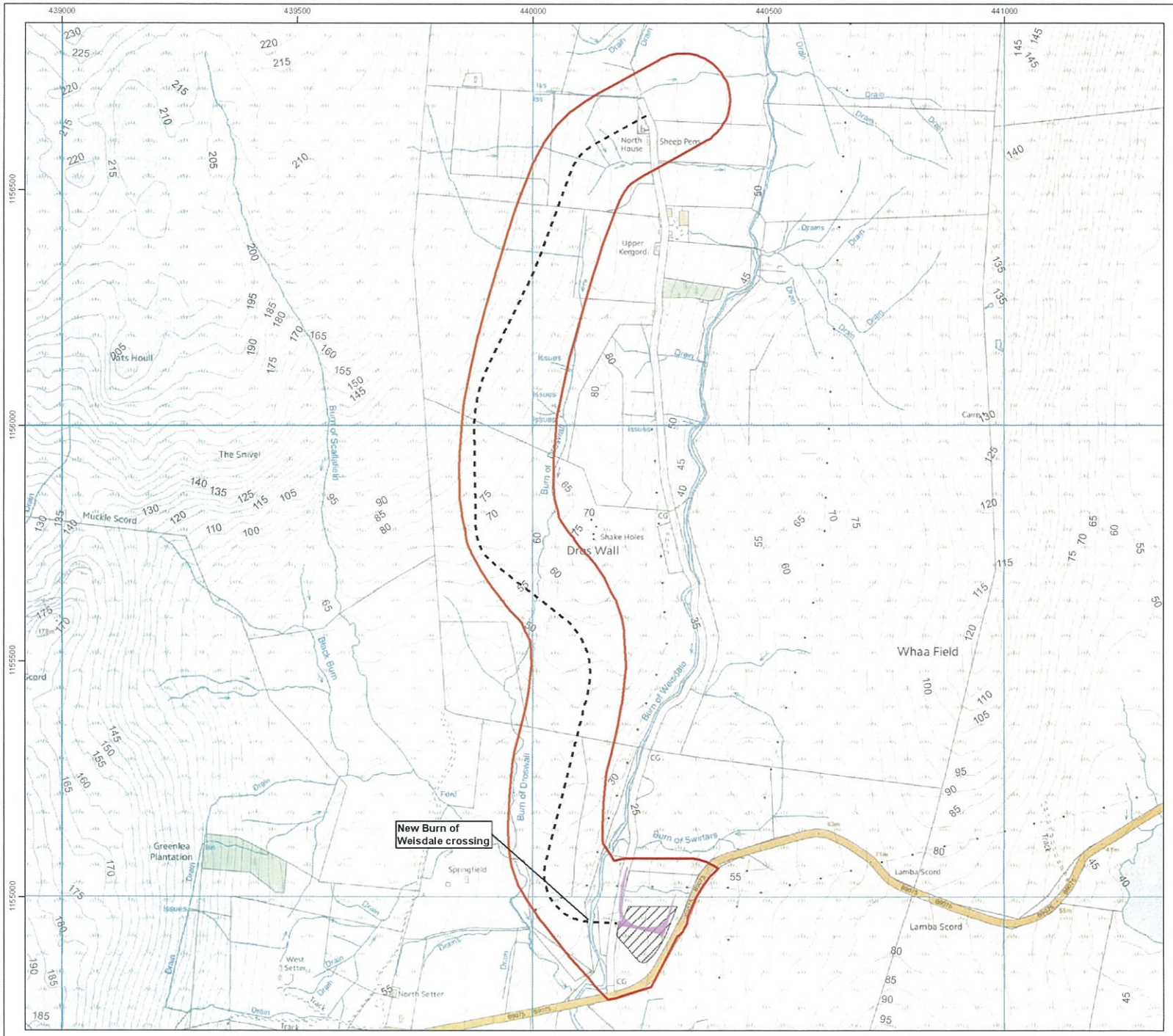
11. Further Notifications Required

Notification to representations received of outcome.

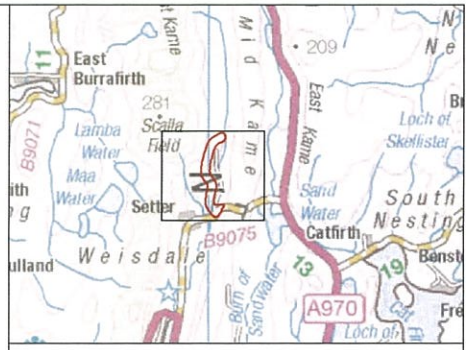
12. Background Information Considered

2009/191/PPF

2018/096/PPF_Delegated_Report_of_Handling.doc
Officer: Richard MacNeill
Date: 29 March 2019



File ref: E:\PORTFOLIO\01_Onshore_Wind\01_Development\Viking\Drawings\01_Site_Design\Standard_Drawings\0003_RoadAlignments\LN000046-VIK-SID-SD-0003-02-KergordRoadAlignment-R01.mxd



Legend

- Kergord Site Boundary
- Proposed Upper Kergord Track (2018 revised/microsited design post planning submission)
- Proposed Kergord and Sandwater Junction
- Proposed Indicative Compound

0 112.5 225 450 m

N

Project Name

VIKING WIND FARM

Drawing Title

FIGURE 2 KERGORD TRACK ALIGNMENT

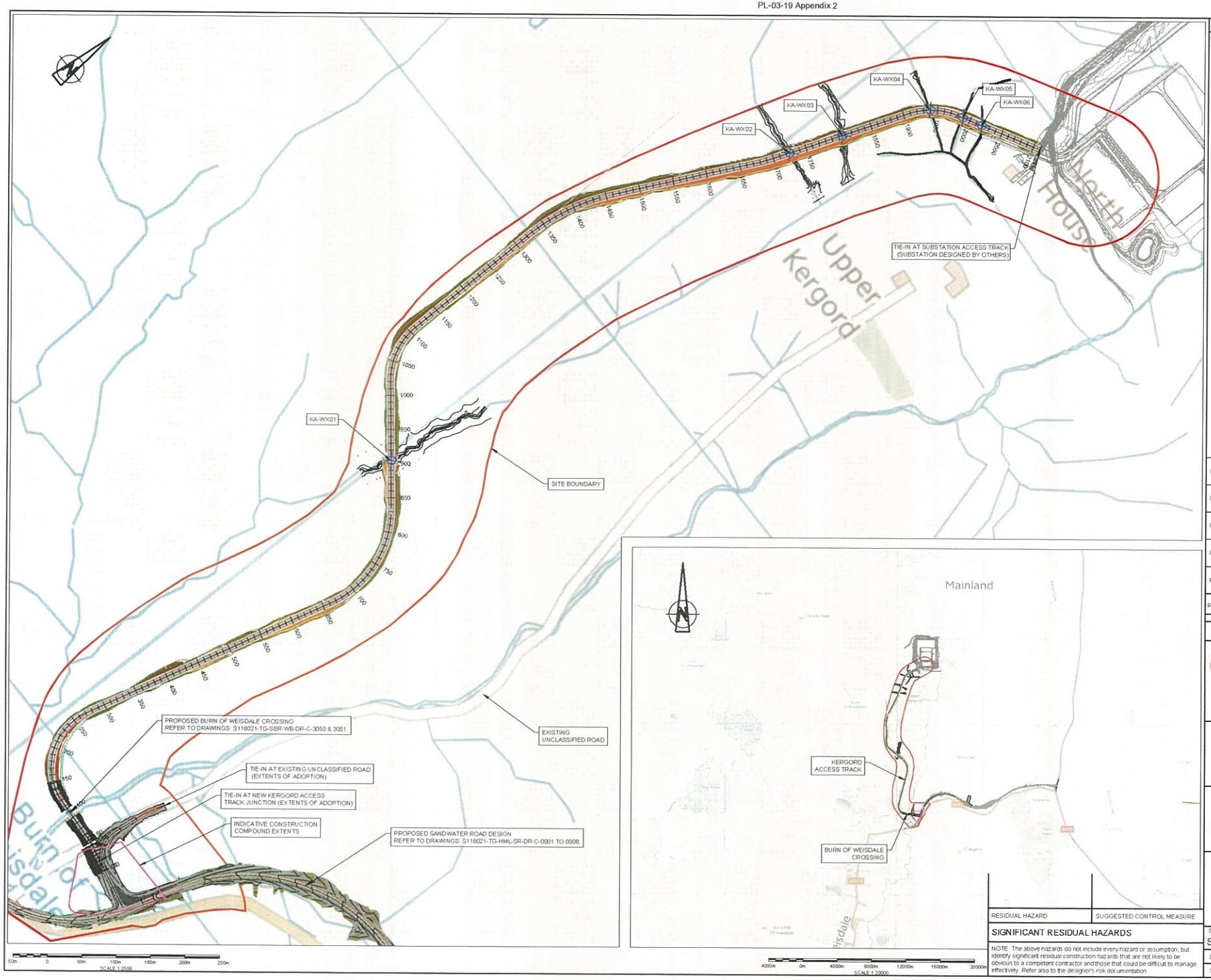
Rev	Date	Remarks	Drwn	Chkd
R0	19/09/2018	Updated layout and template	TD	DH
R1	22/11/2018	Updated for peat management plan, Rev1, Nov 2018	TD	JM

Drawing Number

LN000046-VIK-SID-SD-0003-02

Scale	Plot Size	Datum	Projection
1:8,000	A3	OSGB36	BNG

sse viking energy



DO NOT SCALE FROM THIS DRAWING

NOTES

1. FOR PLAN AND PROFILE DRAWINGS REFER TO S118021-TG-HML-KA-DR-CH-0002 TO 0008

LEGEND

- CUT
- FILL
- SITE BOUNDARY
- WATER CROSSING LOCATION

REV	BY	CHKD	APPD	DATE	DESCRIPTION
P05	EMcG	RCB	KJJ	20.11.18	KERGORD BOUNDARY AMENDED
P04	EMcG	RCB	KJJ	15.11.18	KERGORD BOUNDARY AMENDED
P03	HM	RCB	KJJ	21.09.18	TENDER ISSUE
P02	EMcG	RCB	KJJ	17.08.18	WEISDALE TIE-IN AMENDED
P01	EMcG	RCB	KJJ	13.06.18	FIRST ISSUE

CODE	DRAWING STATUS
D2	FOR TENDER

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ON BEHALF OF

viking energy
Harnessing Shetland's natural resources

VIKING WIND FARM KERGORD ACCESS TRACK

KERGORD ACCESS LOCATION PLAN

SHEET 1 OF 1

RESIDUAL HAZARD	SUGGESTED CONTROL MEASURE

SIGNIFICANT RESIDUAL HAZARDS

NOTE: The above hazards do not include every hazard or assumption, but identify significant residual construction hazards that are not likely to be obvious to a competent contractor and those that could be difficult to manage effectively. Refer also to the designer's risk documentation.

DRAWING No: S118021-TG-HML-KA-DR-CH-0001

DRAWN: EMcG | DESIGNED: GM | REVISION P05

SCALE: AS SHOWN | ORIGINAL SIZE: A1

Appendix 3 – Schedule of Recommended Conditions

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

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

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

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

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

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

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

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

(3.) No development shall commence unless and until a habitat management plan (HMP) has been submitted to, and approved in writing by the Planning Authority in consultation with SNH and SEPA. The HMP shall include details of how the plan is linked and associated with a consent for the Viking Wind Farm.

Reason: In the interests of the protected species and in compliance with Polices NH2 and NH3 of the Shetland Local Development Plan 2014.

(4) The HMP shall set out proposed habitat management of the site during the period of construction, operation, restoration and aftercare, and shall provide for the maintenance, monitoring and reporting of restoration of the habitat on site as follows:
a) Restoration of peatland (blanket mire) in line with the approved Peat Management Plan.
b) Measures to protect Ground Water Dependant Terrestrial Ecosystems.

Reason: In the interests of the protected species and in compliance with Polices NH2 and NH3 of the Shetland Local Development Plan 2014.

(5) Two months prior to commencement of any works on site a finalised Peat Management Plan (PMP) shall 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) finalised volumes, depth and location of peat to be disturbed;
(b) details for the temporary storage of peat (including a detailed plan showing locations, volumes, time period of storage, and management during storage period);
(c) details for the proposed reuse of the peat within the site (including a detailed plan showing volumes, location and usage);
(d) details of any disposal of peat proposed (including volumes and detailed disposal proposals);
(e) details of mitigation and restoration proposals.

Reason: In order to minimise disturbance of peat and ensure the appropriate reuse and management of peat on site and in compliance with Shetland Local Development Plan 2014 Policy NH5.

(6) No development shall commence unless and until a Construction and Environmental Management Plan ("CEMP") containing site specific details of all on-site construction works, drainage and mitigation, together with details of their timetabling, and covering all the matters set down in condition 7 of this permission, has been submitted to and approved in writing by the Planning Authority in consultation with SNH and SEPA.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment, and that the mitigation measures contained in the Environmental Report accompanying the application, or as otherwise agreed, are fully implemented in accordance with Polices GP2, WD3, TRANS 3, and NH7 of the Shetland Local Development Plan 2014.

(7) The Construction and Environmental Management Plan (“CEMP”) shall be submitted at least 2 months prior to the proposed Commencement of Development and shall include:

a) A site waste management plan (dealing with all aspects of waste produced during the construction period other than peat), including details of contingency planning in the event of accidental release of materials which could cause harm to the environment and minimisation of waste, re-use of materials and if necessary disposal of surplus materials;

b) Details of the formation of the construction compound, welfare facilities, any areas of hard standing, and turning areas, internal access tracks (including construction methods thereof), car parking, material stockpiles,

oil storage, lighting columns, and any construction compound boundary fencing;

c) A dust management plan;

d) Details of on-site activities including earth moving, aggregate mixing, crushing, screening, on site storage and transportation of raw material;

e) The height and location of all stockpiles of road stone;

f) Details of measures to be taken to prevent loose or deleterious material being deposited on the local road network for a distance of 160 metres either side of the Development's site entrance including wheel cleaning facilities and sheeting gantry to be retained for the duration of construction work and used by all construction traffic with an operating weight exceeding three tonnes 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, sheeting of all open bodied heavy commercial vehicles carrying dust creating materials into and/or out of the Development Site and measures to clean the site entrances, public right(s) of way and the adjacent local road network;

g) monitoring proposals, contingency measures and emergency plans,including an environmental checklist to monitor and plan the timing of works to avoid construction of roads, de-watering of pits and other potentially polluting activities during periods of high rainfall. This should cover:

- daily visual inspections and regular sampling and testing for silt, and the recording of required environmental actions (e.g. in relation to silt management);
- proposals for planning activities in relation to heavy rain (up to 3 day forecast);
- identification of all construction elements and their location in relation to sensitive receptors, including any waterbodies, water supplies, and water-dependent species;
- details how works will be programmed to avoid any adverse impact on sensitive receptors (e.g. construction should not take place close to sensitive receptors during wet periods).

(h) the proposed location and design of construction elements, including fuel or oil storage and refuelling facilities, concrete batching, rock crushing, materials storage, soil storage, waste disposal facilities and any proposals for micro-siting away from sensitive receptors;

(i) Surface Water Management plan including proposals for Sustainable Drainage Systems (SuDs) to provide for 2 stages of water quality treatment;(j) measures to prevent sedimentation or discolouration of any water features which may be affected by the proposals, including

management of temporary soil and vegetation storage areas to minimise environmental impact;

(k) specific measures to address silt-laden run-off from temporary access tracks, temporary compounds and other engineering operations during construction based on sustainable drainage principles, which also protects any surface water drainage facilities required for the operational phases of the development;

(l) measures to ensure that the timing of works is planned to avoid conditions when pollution is going to be more likely or when ground conditions are sufficiently poor as to make construction works present a risk of pollution, to the agreement of the Planning Authority, in consultation with SEPA;

(m) proposals and mitigation measures for the de-watering of excavations which demonstrate sufficient area to allow for settlement of silty water (or other appropriate measures for treatment);

(n) specific measures to ensure that works do not cause oil, mud, silt, aggregate material or concrete to be washed away either during construction or as a result of subsequent erosion, vehicular movement or maintenance works at the site;

(o) a Site Waste Management Plan (SWMP) which identifies all waste streams and proposals for their management, including peat and other materials excavated on site and the importation of any waste materials to the site;

(p) temporary foul drainage facilities for workers on site. The preference being for waste water and solid waste to be transported away from the site and disposed of using standard waste handling facilities during the construction period;

(q) implementation of permeable track construction for the width of the M6 flush identified previously on drawing LN0000046-VIK-ENV-SK-0015 should post-consent plans micro-siting place the access track directly on top of the habitat.
Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the environment (including groundwater dependant terrestrial ecosystems (GWDTE)), and that the mitigation measures contained in the Environmental Report accompanying the application, or as otherwise agreed, are fully implemented in accordance with Polices GP2, WD3, TRANS 3, NH3 and NH7 of the Shetland Local Development Plan 2014.

(8) The approved Construction and Environmental Management Plan ("CEMP") shall be implemented in full unless otherwise approved in advance in writing by the Planning Authority in consultation with SNH and SEPA.

Reason: To ensure that all construction operations are carried out in a manner that minimises their impact on road safety, amenity and the

environment, and that the mitigation measures contained in the Environmental Report accompanying the application, or as otherwise agreed, are fully implemented in accordance with Polices GP2, WD3, TRANS 3, NH3 and NH7 of the Shetland Local Development Plan 2014.

(9) No development shall commence unless and until a detailed Water Quality Monitoring Programme (WQMP) is submitted to and approved in writing by the Planning Authority in consultation with SEPA prior to the Commencement of Development. The WQMP shall include:
a) A plan showing the monitoring positions and infrastructure and national grid references for all monitoring locations;
b) A detailed methodology for the gathering of hydrochemical (including turbidity and stream height data) and biotic baseline surface water quality information, including where necessary details of equipment to be used;
c) A programme setting out the frequency of monitoring/surveying that shall extend to:

i. Twelve months of monitoring and reporting preconstruction;
ii. Monthly monitoring and reporting to be undertaken during the construction phase; and
iii. Twelve months of post-construction monitoring and reporting.

Reason: To protect surface water quality and fish populations and water quality in the Weisdale Burn and in compliance with Policies GP2, NH2, NH3, and NH7 of the Shetland Local Development Plan 2014.

(10) The Water Quality Monitoring Programme (WQMP) approved under condition 9 of this permission shall be implemented as approved unless any revision thereto is first agreed in writing by the Planning Authority in consultation with SEPA.

Reason: To protect surface water quality and fish populations and water quality in the Weisdale Burn and in compliance with Policies GP2, NH2, NH3, and NH7 of the Shetland Local Development Plan 2014.

(11) Development shall not commence until a written scheme of archaeological works (Written Scheme of Investigation), which identifies a phased programme and method of archaeological work has been submitted to and agreed in writing by the Planning Authority in in consultation with the Regional Archaeologist. Thereafter a suitable mitigation strategy shall be submitted to the Planning Authority for agreement following consultation with the Regional Archaeologist. This may include further excavation, micro-siting, and/or fencing off areas, either prior to or during development, as appropriate.

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

(12) Development shall commence not until a scheme detailing the proposed surface water disposal methods has been submitted to and approved in

writing by the Planning Authority. Details of the scheme shall be supported by:

a) details of existing and proposed site levels, including a measured sectional drawing, showing the gradients of the access road within the development site and at the junction of the access with the public road;
b) details of the surface water drainage on site pre and post development (catchment topography, local rainfall and runoff);
c) the flow rate of any existing ditches, watercourses and culverts pre and post development;
d) details of any flow attenuation measures to address any adverse impacts (if infiltration measures are proposed this should include details and results of a test pit for ground water level and soil infiltration test); and
e) details of how any sustainable drainage scheme is to be maintained.
f) details of the flow capacity of crossings, with accompanying annotated drawings with the 1 in 200 year (plus 20% climate change allowance) flood level to demonstrate that the structures would not restrict flow or increase flood risk elsewhere.

Reason: To ensure the provision of adequate surface water drainage as insufficient information has been submitted with the application in order to satisfy the Planning Authority that the development will not result in flooding, or be liable to flooding, and to ensure that no works are undertaken which have an adverse impact on any neighbouring properties or landownership in compliance with Shetland Local Development Plan (2014) Policies GP2 and WD3.

(13) No development shall commence until an otter survey has been undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall cover both the application site and an area of 150 metres in all directions from the boundary of application site and the report of survey shall include mitigation measures where any impact, or potential impact, on protected species or their habitat has been identified. Development and work shall progress in accordance with any mitigation measures contained within the approved report of survey and the timescales contain therein.

Should an otter holt be found at any time during construction, an exclusion zone of at least 100 metres radius shall be established around the holt until an Otter Protection Plan (OPP) has been approved by the Planning Authority in consultation with SNH. The OPP shall detail measures that shall be taken to protect the otters.

Reason: In the interests of the protected species and in compliance with Polices NH2 and NH3 of the Shetland Local Development Plan 2014

(14) Development shall not commence until a bird survey is undertaken and a report of survey has been submitted to, and approved in writing by, the Planning Authority. The survey shall cover both the application site and an area of 150 metres in all directions from the boundary of application site and the report of survey shall include mitigation measures where any impact, or

potential impact, on protected birds or their habitat has been identified. A Bird Protection Plan (BPP) shall also be developed and submitted to and approved in writing by the Planning Authority. Development and work shall progress in accordance with any mitigation measures contained within the BPP and the timescales contain therein.

Reason: In the interests of the protection of protected bird species and in compliance with Policies NH2 and HN3 of the Shetland Local Development Plan 2014

(15) No development shall commence until an Environmental Clerk of Works (ECoW) has been appointed by the developer. Their appointment and remit shall first be approved in writing by the Planning Authority (in consultation with SEPA and SNH). For the avoidance of doubt, the ECoW shall be appointed as a minimum for the period from the commencement of development to the time the development's construction in accordance with the approved plans and details is complete, and their remit shall, in addition to any functions approved in writing by the Planning Authority, include:
i. Providing training to the developer and contractors on their responsibilities to ensure that work is carried out in strict accordance with environmental protection requirements;
ii. Monitoring compliance with all environmental and nature conservation mitigation works and working practices approved under this consent;
iii. Advising the developer on adequate protection for environmental and nature conservation interests within, and adjacent to, the application site;
iv. Directing the placement of the development (including any micro-siting, if permitted by the terms of this consent) and the avoidance of sensitive features; and
v. The power to call a halt to development on site where environmental considerations warrant such action.

Reasons: In the interests of the protection of the environment and in compliance with Policies NH2, NH2 and GP2 of the Shetland Local Development Plan 2014

(16) (a) Hours of working shall be 07:00 to 18:30 on Monday to Friday inclusive and 08:00 to 14:00 on Saturdays, with no construction work taking place on a Sunday or on public holidays, unless otherwise approved in writing by the Planning Authority.

(b) Heavy Goods Vehicles (HGV) movements to and from the site (excluding abnormal loads) during construction shall be limited to 07:00 to 18:30 Monday to Friday, and 08:00 to 14:00 on Saturdays, with no HGV movements to or from the site taking place on a Sunday or on a Bank Holiday or Public Holiday, unless otherwise approved in advance in writing by the Planning Authority.

Reason: In the interests of local amenity and in compliance with Policy GP2 of the Shetland Local Development Plan 2014

(17) (1) No development shall commence unless and until a Traffic Management Plan (TMP) has been submitted to and approved in writing by the Planning Authority in consultation with the Local Roads Authority. The Traffic Management Plan shall be submitted at least 3 months prior to the proposed commencement of development and shall include:

(a) The routeing of all traffic associated with the development on the local road network;
(b) Measures to ensure that the specified routes are adhered to, including monitoring procedures;
(c) Details of all signage and lining arrangements to be put in place, as well as measures to prevent conflict between construction traffic and other users of public road;
(d) Provisions for emergency vehicle access;
(e) Identification of a nominated person to whom any road safety issues can be referred;
(f) A plan for access by vehicles carrying abnormal loads; including the number and timing of deliveries; the length, width and axle configuration of all extraordinary traffic accessing the site;
(g) Detailed drawings of any proposed new access routes including any works to and any surfacing of existing tracks including public rights of way;
(h) Details of a survey of the condition of all proposed access routes to the site from sources of materials to be used for the proposed development to be carried out prior to the commencement of the development (pre-construction survey);
(i) A monitoring programme of the impacts of the development on the A970, the B9075 and any other public road to be identified as a haul road to the site, during the construction of the development and details of proposed mitigation measures as required;
(j) Details of a survey further to that carried out under paragraph (h) that shall be undertaken within three months of the completion of the Development or such other period as approved in writing in advance by the Planning Authority, to the same specification as the pre-construction survey to identify any deterioration in condition arising from construction activities. Thereafter details of a scheme for any reinstatement works identified as necessary to return the access routes to their condition prior to construction works taking place and a timescale for implementation to be submitted to and approved in writing by the Planning Authority and the scheme implemented in accordance with the approved details.
(k) Provision that no construction traffic shall be allowed to enter the Development Site until visibility splays as agreed by the Planning Authority have been provided at the junctions of the access roads and public highway.
(l) Provision that <u>both</u> no later than 12 months prior to the end of the period of 3 years following the commencement of development of the access track hereby permitted, if a convertor station is not developed at Upper Kergord that makes use of the access track within 3 years of the date of commencement of development of the access track, a survey shall be undertaken by the developer of the condition of proposed access routes and the surrounding local rights of way network in accordance with a

scheme first submitted to and approved by the Planning Authority, or, if following the development of a convertor station at Upper Kergord that convertor station ceases to be operational for a period lasting longer than 12 months, a survey shall be undertaken by the developer of the condition of proposed access routes and the surrounding local rights of way network in accordance with a scheme first submitted to and approved by the Planning Authority within 2 years of the convertor station having ceased to be operational. A further survey shall be undertaken by the developer within three months of the completion of the reinstatement of the development or such other period as approved in writing by the Planning Authority, to the same specification as the pre-reinstatement survey, to identify any deterioration in condition arising from reinstatement activity at the site. Details of a scheme for any reinstatement shall be submitted to and approved in writing by the Planning Authority. The scheme shall be implemented in accordance with the approved details.

(2) Thereafter the approved Traffic Management Plan shall be implemented in full during the construction of the development, unless otherwise agreed in advance in writing by the Planning Authority.

Reason: In order to safeguard road safety and in order to comply with Shetland Local Development Plan (2014) policies GP1, GP2 and TRANS3.

(18). No development shall commence until a scheme for the provision of road cleaning/sweeping measures to be put in place to deal with any mud, silt or other loose material trafficked on to the road as a result of the development has been submitted to and approved in writing by the Planning Authority. Thereafter the approved scheme shall be implemented in full during the construction of the development.

Reason: In order to safeguard road safety and in order to comply with Shetland Local Development Plan (2014) policies GP1, GP2 and TRANS3.

(19) No development shall commence unless and until the developer has provided documentary evidence that an agreement is in place with the Roads Authority to provide for repair to the agreed traffic routes to the site due to abnormal wear and tear arising from a level of use and purpose that is attributable to the development, and written confirmation has been given by the Planning Authority to the developer that the agreement is satisfactory. The agreement shall cover the duration of this permission.

Reason: In the interests of road safety and to ensure that any road repairs attributable to the development will be appropriately repaired in compliance with Shetland Local Development Plan (2014) policies GP1, GP2 and TRANS3.

(20) Any land disturbed by the construction of the development shall be graded and reinstated with topsoil and seeded or turfed with grass or

otherwise landscaped. All planting, seeding or turfing shall be carried out by the end of the first planting and seeding seasons following the completion of the development, which run from 1st May to 15th August for the sowing of grass seed mixtures, and between 1st March and 15th May or before new leaf growth takes place (whichever is the soonest) for the planting of bare root stock trees, shrubs and hedges, and between 1st March and 15th August for potted and cell grown stock trees, shrubs and hedges). If the site is to be reinstated other than by seeding or turfing with grass, a scheme for the landscaping of the site shall first be submitted to and approved in writing by the Planning Authority before the commencement of any landscaping works.

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

(21) 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.

(22) Unless otherwise agreed, following the commencement of development of the access track hereby permitted, if a convertor station is not developed at Upper Kergord that makes use of the access track within 3 years of the date of commencement of development of the access track, the access track shall be reinstated in accordance with a reinstatement plan to be submitted to and approved in writing by the Planning Authority beforehand, the completion of which shall be achieved before the expiry of a period lasting 4 years from the date of commencement of the access track. The access track shall also be reinstated if, following the development of a convertor station at Upper Kergord that convertor station ceases to be operational for a period lasting longer than 12 months. Submission of the reinstatement plan in the circumstance of the convertor station ceasing to be operational for that 12 month period shall take place within 2 years of the convertor station having ceased to be operational, and the approved reinstatement plan shall be implemented in full and the site reinstated within 3 years of the date the convertor station ceased to be operational.

Reason: To ensure that the site is reinstated in an environmentally acceptable manner in compliance with Shetland Local Development Plan (2014) Policies GP2 and GP3.

www.sustainableshetland.org

[redacted]

SustainableShetland

Chair: Frank Hay
Burnside, Voe, Shetland

Date 16th July 2018

Development Management,
Development Services,
8 North Ness Business Park,
Lerwick,
ZE1 0NT

Dear Sir/Madam,

Reference 2018/096/PPF

Provision of a 2.09 km access track and associated works, new junction and temporary construction compound.

This is a revived application from 2016. We note that some details in the new application have not been updated from the previous one with particular regard to timescales. For accuracy the new application should have been scrutinised more thoroughly.

(Reference 2016/268/PPF
Proposed access track running from point approximately 70 metres East of road B9075 Burn of Weisdale crossing to North House, Upper Kergord and associated works, new road junction and temporary construction compound)

On behalf of Sustainable Shetland, I wish to **object** to the above proposal.
Our comments, which have led to this objection, can be found below, in blue accompanying the relevant sections or subjects in the developer's Environmental Appraisal Report (EAR).

3.6 Vehicle Movements and Material Import Volumes

Aggregate will be imported to the site for road construction. The source of aggregate has not been confirmed at this stage, but is expected to be sourced from local quarries as detailed in Table 3.1. The likely haul route to site will be the A970 and B9075 from the west, or the A971 and B9075 from the east, depending on the quarry location(s). It is anticipated that approximately 15,000m3 of aggregate will be required and transported to site in standard HGV Tipper vehicles carrying around 10m3 of aggregate per vehicle. This would result in around 30 return vehicles movements per day, assuming a 5 day week and 12 week construction programme.

We do not believe the use of the B9075 (N.B., and A971) from the west (presumably from the Aith quarry) is desirable or practicable for such traffic, as this is only a standard single track road, and the noise and air quality effects on residents along that section of road would be highly significant. We also consider that the amount of return vehicle movements per day is very high, and would have a severe impact on other road users, even on the widened B9075 proposed between the Burn of Weisdale and Sandwater.

Such impact would be continued through the operational phase (between 18 months and three years according to the EAR (see below 4.2.1.1), when components for the windfarm and converter station would be transported. (We presume that the majority of this would be transported from Sellaness via the B9075 from Sandwater, thence to Upper Kergord, Scallafield and beyond.)

4.1.14 Mitigation

4.1.14.1 Blanket Mire Habitats

Mitigation for the loss of all habitats is included within the Viking Wind Farm Habitat Management Plan which will run for the 25 year lifespan of the wind farm development. The plan details the blanket bog restoration which will be completed to offset predicted effects from all construction related activities associated with the wind farm (included this proposed development), providing enhancement over and above these requirements for the wider benefit of the Shetland landscape.

As we have stated on previous occasions, we do not consider the VWF HMP to be a reliable indicator of either sufficient mitigation or "enhancement over and above these requirements". The significance of the loss of blanket mire habitat for this particular development should not be regarded as "negligible" during the operational phase (4.1.10, and cf. SEPA's comments on peat management), particularly as the cut and replace construction of the road, and associated drainage, will permanently alter the hydrology of the area. The extent of blanket bog (35%, 58.2 ha) and wet modified bog (14.4%, 23.9 ha) identified in the study area is significantly high (4.1.1.2 Ecological Background).

There should not be a favourable assessment of the relatively small quantities of peat to be displaced in this and the likely associated development of the B9075 compared to the quantities estimated for the rest of the Viking Windfarm. The quantities in these two road developments (which themselves constitute over one quarter of a million cubic metres of peat) are *additional* to the latter, and in no way should be judged as insignificant.

4.2.1.1 Construction disturbance

Once construction of the proposed development is completed the source of disturbance will be reduced greatly and will be limited to the vehicle traffic and occasional pedestrians using the track. The great majority of the anticipated vehicle traffic will be in connection with the Viking Wind Farm and associated electricity converter station. Initially (2018 to 2021) (?) the traffic will be relatively high due to wind farm and converter station construction activities.

We note that the period of construction is from 2018 to 2021 (this clearly requires to be updated), while earlier in the EAR, the period is given as 18 months following completion of the track (4.1.10).

4.3.1.6 Peat Landslide Hazard Risk

The PLHRA (Appendix J) indicates that the alignment between chainage 0m to 2000m has been assessed as medium to high risk, with a section of very high risk located between 900m to 1000m. Between chainage 2000m to 2090m the site has been assessed as low risk. Approximately 1200m of the proposed development was assessed to present a medium risk of peat sliding (Table 4.3.10). The high risk areas have been allocated due to the sites' proximity to water bodies, greater peat thicknesses and surface slope angles.

We are very concerned that so much of the proposed route is of medium to high, and even of very high risk, especially as the incidence of peat slides in Shetland has been frequent lately, and we would point out the following cautionary conclusions of the report into the 2003 peat slides at Channerwick:

"Assessment of the potential future landslide hazard from blanket bog environments presents a difficult challenge because of insufficient knowledge of the properties and geotechnical behaviour of peat and peat-covered hillslopes....Without this knowledge, the precise roles of natural or anthropogenic slope factors that have been implicated in previous peat failures, such as sharp breaks of slope....or ditches cut into a slope...., cannot be adequately assessed in terms of their influences on slope stability....
"A further imperative for more detailed research is the recently demonstrated susceptibility of blanket peat to failure due to loading during engineering activities....

"In terms of climate forcing and climate change, predictions are for drier springs, increased summer storminess and more extreme winter rainfall.... The combination of dry spring/summers followed by sudden thunderstorms seems to be the key historical context in Shetland. Unfortunately, improved understanding of peat instability may only be obtained from investigations of the many more such failures that may be predicted to occur in future years." A. P. Dykes, J. Warburton, *Characteristics of the Shetland Islands (UK) peat slides of 19 September 2003* pp12-13 (references excluded).

Flood risk.

We are aware of at least two occasions in the last decade or so, when major flooding has taken place in the vicinity of the Weisdale Burn crossing on the B9075; on one occasion the road had to be closed to traffic. The potential extent of flooding is illustrated below.

Photo by Frank Hay

We are not convinced that sufficient precaution has been or will be made to guard against or withstand major (and relatively frequent) flooding incidents.

Drainage (4.3.2.1.3, 4.3.2.1.4 and Consultee Summary Response Comment/Action Taken)

SEPA had stated that: "The EAR should include information showing the proposed drainage of the road. The new road should be provided with at least two levels of SuDS treatment."

The developer, however, had responded thus: "In the event that a detailed drainage scheme is required, design of SuDs will be agreed between VEWF, SIC and SEPA at the detailed design stage.

We consider this response to be inadequate.

4.3.2.1.7 Peat Storage and Reuse

Reuse of removed peat is explained in the PMP (Appendix K). It is estimated that approximately 86,500m3 of peat would be excavated for the proposed development. Of this it is anticipated 49,700m3 (i.e. 57% of the total) will be suitable for re-use on site, and in line with guidance (Scottish Renewables and SEPA, 2012), such as dressing off and reinstating peat on the slopes and road verges and as soon as practicable for hardstanding areas. There are also likely to be opportunities for further reuse of peat material in habitat restoration across the Viking Wind Farm site. This will be subject to further investigation and in accordance with the relevant legislation and guidance. Accordingly, it is expected that the volumes of peat generated can be re-used and excess peat volumes minimised such that there will be no need for peat to be disposed of off-site. Further details of anticipated peat reuse are included in the PMP.

However, the PMP itself has this to say (in its conclusions):

"Excluding the temporary excavation for the site compound, the total volume of peat excavation anticipated for the whole site is approximately 86,500m3, which is based on specific assumptions and limitations. Of this estimated total volume of excavated peat, there is scope to re-use 9,000m3 of material in the backfilling of temporary excavations. The remaining 77,500m3 of peat would be displaced permanently. Of the total volume of peat to be excavated, approximately 31,400m3 is estimated to comprise catotelmic peat. Reuse options for the permanently displaced peat have been explored in accordance with the waste hierarchy guidance15 [?], with possibilities including use of low-height bunds parallel to and adjacent the highway, to provide a visual screen (c. 4,900m3). Other restoration includes using peat to block drainage ditches for raising water tables in order to restore blanket or raised bog. The permanently displaced catotelm peat volume is subject to further assessment and classification to ensure it behaves in a plastic manner."

Therefore there appears to be a large discrepancy in the volume of peat assessed as being "suitable for re-use on-site "and that which is actually proposed to be used.
NB. It is important to clarify the use of the terms "Acrotelmic peat" and "Acrotelm" to avoid confusion. While SEPA refers to the former as relatively fibrous peat containing plant roots and extending in depth to c. 1 metre, the acrotelm itself is normally defined as the top-most layer of peatland, within a fluctuating water table, containing living plant matter, and with depths of between 10 and 40 centimetres.

In practice the depth of acrotelmic peat can vary substantially, and we are of the opinion that the estimated volume of catotelmic peat (highly amorphous and subject to structural disintegration when excavated and transported) may well have been underestimated. This would obviously have implications for its disposal. (We are unsure how further assessment and classification will ensure catotelmic peat behaves in a plastic manner. We note also however that: "Catotelm peat may need to be processed to be rendered suitable for reuse." **No details are given of processing methods, but we believe that it would inevitably entail such loss of its properties that it would lose its restorative potential.**

We do not regard the re-use of peat within the wider windfarm as justifiable or practical. The VWF ES and Addendum calculated that borrow pits would be filled to capacity with peat displaced during its construction (outwith this development and that of the B9075 "upgrade"). As construction of the windfarm is, on the developer's own admission, due to take place after construction of these roads, the peat intended for such re-use would have to be stored for an unacceptable length of time.

7.3 Recycling

Peat may be used as fertilizer. The peat would require drying/dewatering post excavation and prior to the peat being milled. Fertilizer would be a by-product of the excavation exercise, from which surplus peat would be classified as waste, unless covered by an exemption.

N.B. Peat itself is not a fertilizer; in horticultural use it is mostly used as a compost or growing medium, to which fertilizer nutrients are added.

4.3.4.4.3 Burn of Droswall

N.B. While this section accurately states that the above burn joins the Burn of Weisdale "close to the B9075", a few sentences later, it contradictorily and inaccurately states: "The Burn of Droswall flows southward from the Upper Kergord to reach Weisdale Burn, approximately 1.5km south of the proposed development."

5.5 Noise and Air Quality

5.5.1 Noise

Changes in noise due to the construction of the proposed Kergord Access Track where works may be in the vicinity of noise-sensitive receptors have been considered. Given the very limited use of the proposed development during operation, for operation and maintenance of the converter station, noise impacts during operation have been scoped out of this assessment.

We are surprised that noise impacts during operation were scoped out. The operational phase includes construction of the converter station and windfarm. To suggest that it is merely for operation and maintenance of the converter station is highly misleading.

Please also note our comments above (Section 3.6) regarding potential noise effects during construction.

5.5.1.1 Community Relations

The establishment and maintenance of good community relations will be a priority. This may include informing local residents on progress of the works by way of leaflet drops and/or public meetings and ensuring measures are put in place to minimise noise impacts. A designated contact telephone number during construction and agreed procedure for the contractor to investigate and report on complaints would be set up.

While the intent is laudable, we doubt very much that "good community relations" are likely to occur, given the strength of opposition to the windfarm in the affected area.

Conclusion

Cumulative Effect

This track, combined with the likely alterations to the B9075, the converter station and Viking Windfarm itself represent a massive industrialisation of the Upper Kergord area, which we believe can only be detrimental to the lives of people living there.

Furthermore, the adverse effects on the environment would only add to those that would be caused by the windfarm and its necessary infrastructure. This is particularly so with regard to the methods of peat management proposed in this EAR.

We also note that it is claimed that an ecological clerk of works is to be appointed for this project. We have also noted that Viking Energy have recently applied to have the condition for such an appointment for their project to be discharged. (Ref. 2009/191/DCON1 date 25/06/2018) We therefore do not have confidence that an ecological clerk of works will be appointed.

In conclusion, for these reasons and on account of our comments detailed above, we feel that we must object to this proposal.

Setter
Weisdale
Shetland
16.07.18

SHETLAND ISLANDS COUNCIL
PLANNING
18 JUL 2018
PASS TO MB
ACTION 1Ce0853

Shetland Islands Council
Planning Department
Lerwick

Planning Reference No 2018/096/PPF

Dear Sir

As landowners within the site location we are objecting to the above planning application on the following grounds.

1. The track construction will affect the quality of the ecosystem of the section of the Weisdale burn that is owned by us. The Freshwater Invertebrate Study 2015 states that the water quality is good and the invertebrate colonies stable. The construction of the track will be upwater of our section of the burn and will lead to a detrimental effect of this part of the watercourse.
This is not acceptable to us as we have consciously tried to keep it as ecologically healthy as possible and even water lilies have appeared due to the good health of the burn. Otters are also present. The Aquaterra Ecology assessment states;

'there was no significant organic pollution or acidification and that the Burn of Weidale and the tributary burn are healthy and well-oxygenated with low anthropogenic impacts. The water quality, invertebrate communities and productivity should support sustainable salmonoid populations, if other environmental factors are suitable.'

The pollution of the burn during construction of the bridge and track of this size cannot constitute suitable environmental factors.

2. We are not aware of any concise details regarding the storage of peat during the construction. Jacob's Peat Management Plan states that 77.500 m3 will be displaced permanently during construction of a bridge and the new track – this is not acceptable.
Restoration of peat landscape in areas of redundant highway is seemingly 'only an option'. Recycling 7.3, Other Recovery 7.4 and Disposal 7.5 of the report states this requires further consideration.
We also note it is advised that no disruption should take place during wet weather and question if this will be adhered to given the climate in Shetland.

3. Construction of the compound is on the opposite side of the road from our property. This will compromise access to our land and the livestock. At 4.2.1 GP3 it is stated 'Ensuring Ease of Movement and Access for all' we fail to see how this will be possible.
At 4.2.6 Access and Parking – there will not be safe and adequate access to our property during the construction.

4. As the report by Aquaterra Ecology states this site may contain Class 1 and Class 2 areas of peatland we do not believe planning permission should be granted until this is confirmed one way or another.

4.4.1 Shetland Local Development Plan.
When we responded to this with regard to a small house site on our land opposite the proposed compound area , we were advised that it had 'No Development Potential at This Time'. This was on the grounds that 'the location of this site is not considered sympathetic to the existing settlement pattern and would not contribute to the strengthening, enhancement and vitality of existing rural communities.'
Therefore how can a track of the proposed size be appropriate?

4.2.1 GP3 Maintaining Identity and Character.

Our home at Setter was given a category B listed building status by Historic Scotland. It was registered in the Particular Register of Sasines for Orkney and Shetland on 15th December 1790. Due to impossible building regulations and the poor condition of the building we had the building delisted and endeavoured to reinstate it in keeping with it's previous appearance in order to maintain the character of the building and surrounding area.
Therefore we cannot conceive how a large track will in any way maintain the identity and character of the area.

4.2.1 GP3 Safe and Pleasant Space

The road alongside the Weisdale burn is very popular with walkers due to it's peaceful location but this will neither be safe nor possible if permission is granted for this development.

Serious consideration must be made with regards to the above points when considering this planning application.

Your faithfully [redacted]

John J Morrison & Evelyn M Morrison