

Perth and Kinross Council
Development Management Committee – 17 July 2013
Report of Handling by Development Quality Manager

Erection of three wind turbines and associated infrastructure on land at Tillyrie Hill by Milnathort

Ref. No: 12/01765/FLL
Ward No: 8 – Kinross-shire

Summary

This report recommends refusal of the application for the erection of three turbines and associated infrastructure. The development is considered to be contrary to the Development Plan resulting in unacceptable adverse landscape impact on the landscape character as well as the wider landscape setting. This landscape impact is further exacerbated due to the cumulative landscape impact associated with operational and consented windfarms. The proposal also fails to comply with the drainage policies of the Local Plan which seek to protect Loch Leven.

BACKGROUND AND PROPOSAL

- 1 This application is for the development of three wind turbines that would have an overall tip height of 74 metres. The applicant has confirmed that each turbine would likely have a generating capacity of 800kW, resulting in a maximum combined output of 2.4 megawatts (MW) for the site.
- 2 The application site is located on Tillyrie Hill at the eastern end of the Ochill Hills and on the southern side of the hill range. Milnathort is situated approximately 4km to the south-east of the site. The M90 motorway runs along in between the site and Milnathort.
- 3 Infrastructure to enable the construction, operation and decommissioning of the site will be required. This includes onsite access tracks, crane hard standings, a borrow pit to win material, onsite underground cables, a control building, a substation, site signage and a temporary construction compound and laydown area.
- 4 Should consent be granted the applicant expects construction to take place over a six month period. The development would be operational for a total of 25 years and following this period the development would either be decommissioned or a new application submitted to extend the operational life of the site.
- 5 Members should be made aware that there is a considerable history associated with this site. In 2005 a windfarm consisting of 5 turbines at a height of 76 metres was submitted and refused. A resubmission was made in 2006

consisting of 5 turbines at a height of 75 metres which was also refused and subsequently dismissed at appeal following a Public Local Inquiry in 2008.

HIERARCHY OF APPLICATIONS

- 6 This application is a local application as defined by the Town and Country Planning (Hierarchy of Development) (Scotland) Regulations 2009 as the electricity generating capacity of the three turbine proposal is below 20MW. This means there is no statutory requirement to undertake pre-application consultation activity with the local community. However, the applicant has engaged with the local community in this case and this is detailed in their submission.

Environmental Impact Assessment (EIA)

- 7 EEC Directive (No 2003/35/EC) requires an authority giving a planning consent for particular large scale projects (the 'competent authority', and in this case Perth and Kinross Council) to make its decision in the knowledge of any likely significant effects on the environment. The Directive therefore sets out a procedure that must be followed for certain types of project before they can be given 'development consent'. This procedure, known as Environmental Impact Assessment (EIA), is a means of drawing together, in a systematic way, an assessment of a project's likely significant environmental effects. This helps to ensure that the importance of the predicted effects in a given location, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 8 The Environmental Statement supports the planning application and is a key part of the submission. The key environmental concerns identified through the Scoping Opinion issued by the Council on the 24 January 2012 were:
1. Introduction and Background
 2. The Proposed Development
 3. Policy Framework
 4. Landscape and Visual Assessment
 5. Ecology
 6. Ornithology
 7. Hydrology, Hydrology and Geology
 8. Cultural Heritage and Archaeology
 9. Noise
 10. Existing Infrastructure
 11. Shadow Flicker and Reflectivity
 12. Socio-Economic
 13. Traffic and Transport
 14. Air and Climate

NATIONAL POLICY and GUIDANCE

- 9 The Scottish Government expresses its planning policies through the National Planning Framework 2, the Scottish Planning Policy (SPP) and Planning Advice Notes (PAN).

National Planning Framework

- 10 The second National Planning Framework for Scotland (NPF) was published in June 2009, setting out a strategy for Scotland's spatial development for the period up until 2030. Under the Planning etc. (Scotland) Act 2006, this is now a statutory document and a material consideration in any planning application. The document provides a national context for development plans and planning decisions as well as informing the on-going programmes of the Scottish Government, public agencies and local authorities.

The Scottish Planning Policy 2010

- 11 The SPP is a statement of Scottish Government policy on land use planning and contains:
- the Scottish Government's view of the purpose of planning,
 - the core principles for the operation of the system and the objectives for key parts of the system,
 - statutory guidance on sustainable development and planning under Section 3E of the Planning etc. (Scotland) Act 2006,
 - concise subject planning policies, including the implications for development planning and development management, and
 - the Scottish Government's expectations of the intended outcomes of the planning system.
- 12 The following sections of the SPP are of particular importance in the assessment of this application:-
- Paragraph 25: Determining planning applications
 - Paragraph 33: Sustainable Economic Growth
 - Paragraphs 34 – 44: Sustainable Development and Climate Change
 - Paragraphs 110 - 124 Historic Environment
 - Paragraphs 125 – 148: Landscape and Natural Heritage
 - Paragraphs 165 – 176: Transport
 - Paragraphs 196 – 211: Flooding and Drainage
 - Paragraphs 183 – 191 Renewable Energy & Wind Farms and sets out National planning policy.
 - Paragraph 255: Outcomes
- 13 The following Scottish Government Planning Advice Notes (PAN) are also of interest:
- PAN 1/2011 Planning and Noise
 - PAN 2/2011 Planning and Archaeology
 - PAN 3/2010 Community Engagement
 - PAN 40 Development Management
 - PAN 45 Renewable Energy
 - PAN 51 Planning, Environmental Protection and Regulation
 - PAN 58 Environmental Impact Assessment

- PAN 60 Planning for Natural Heritage
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 69 Planning & Building Standards Advice on Flooding
- PAN 75 Planning for Transport
- PAN 79 Water and Drainage

2020 Routemap for Renewable Energy in Scotland - 2011

- 14 Sets out Scottish Government's ambitions for renewable energy and highlights a strategy for the delivery of a target to meet an equivalent of 100% demand for electricity from renewable energy by 2020. As well as providing broad support for renewable energy development the strategy is underpinned by the principle of demand reduction.
- 15 S3.2 sets out key actions in respect of Onshore Wind development. In relation to the role of Planning it is advised that:

The planning system must continue to balance environmental sensitivities with the need to make progress on renewable targets, and support planning authorities in maximising opportunities. Planning Authorities should also be encouraged to complete the spatial frameworks required by Scottish Planning Policy, deliver development plans which clearly set out the spatial and policy context for renewables and implement development management procedures that allow for appropriately designed and sited onshore wind proposals to emerge.

Onshore wind turbines – 2012

- 16 Provides specific topic guidance to Planning Authorities from Scottish Government.

The topic guidance includes encouragement to planning authorities to:

- development spatial strategies for wind farms;
- ensure that Development Plan Policy provides clear guidance for design, location, impacts on scale and character of landscape; and the assessment of cumulative effects.
- the involvement of key consultees including SNH in the application determination process;
- direct the decision maker to published best practice guidance from SNH in relation to visual assessment, siting and design and cumulative impacts.

- 17 In relation to any assessment of cumulative impacts it is advised that:

In areas approaching their carrying capacity the assessment of cumulative effects is likely to become more pertinent in considering new wind turbines, either as stand-alone groups or extensions to existing wind farms. In other cases, where proposals are being considered in more remote places, the

threshold of cumulative impacts is likely to be lower, although there may be other planning considerations.

In assessing cumulative landscape and visual impacts, the scale and pattern of the turbines plus the tracks, power lines and ancillary development will be relevant considerations. It will also be necessary to consider the significance of the landscape and the views, proximity and inter-visibility and the sensitivity of visual receptors.

DEVELOPMENT PLAN

- 18 The Development Plan for the area consists of the TAYplan Strategic Development Plan 2012 – 2032 Approved June 2012 and the Adopted Kinross Area Local Plan 2004.

TAYPLAN

- 19 The vision set out in the TAYplan states that:

“By 2032 the TAYplan region will be sustainable, more attractive, competitive and vibrant without creating an unacceptable burden on our planet. The quality of life will make it a place of first choice, where more people choose to live, work and visit and where businesses choose to invest and create jobs.”

Policy 2: Shaping Better Quality Places

- 20 Seeks to ensure that climate change resilience is built into the natural and built environment, integrate new development with existing community infrastructure, ensure the integration of transport and land uses, ensure that waste management solutions are incorporated into development and ensure that high resource efficiency and low/zero carbon energy generation technologies are incorporated with development to reduce carbon emissions and energy consumption.

Policy 3: Managing TAYplan’s Assets

- 21 Seeks to identify and safeguard at least 5 years supply of employment land within principal settlements to support the growth of the economy and a diverse range of industrial requirements.

Policy 6: Energy and Waste/Resource Management Infrastructure

- 22 Relates to delivering a low/zero carbon future for the city region to contribute to meeting Scottish Government energy targets and indicates that, in determining proposals for energy development, consideration should be given to the effect on off-site properties, the sensitivity of landscapes and cumulative impacts.

Kinross Area Local Plan

Policy 01 Sustainable Development

- 23 The Council will seek to ensure, where possible that development within the Plan area is carried out in a manner in keeping with the goal of sustainable development. Where development is considered to be incompatible with the pursuit of sustainable development, but has other benefits to the area which outweigh this issue, the developer will be required to take whatever mitigation measures are deemed both practical and necessary to minimise any adverse impact. The following principles will be used as guidelines in assessing whether projects pursue a commitment to sustainable development:
- a) The consumption of non-renewable resources should be at levels that do not restrict the options for future generations.
 - b) Renewable resources should be used at rates that allow their natural replenishment.
 - c) The quality of the natural environment should be maintained or improved.
 - d) Where there is great complexity, or there are unclear effects of development on the environment, the 'precautionary principle' should be applied.
 - e) The costs and benefits (material and non-material) of any development should be equitably distributed.
 - f) Biodiversity is conserved.
 - g) The production of all types of waste should be minimised, thereby minimising levels of pollution.
 - h) New development should meet local needs and enhance access to land, employment, facilities, services and goods.

Policy 02 Kinross Development Criteria

- 24 All developments within the Plan area will be judged against the following criteria:
- A The site should have a landscape framework capable of absorbing, and if necessary, screening the development, and where appropriate opportunities for landscape enhancement will be sought.
 - B In the case of building development, regard should be had to the scale, form, colour and density of development within the locality.

- C The development should be compatible with its surroundings in land use terms and should not result in a significant loss of amenity to the local community.
- D The local road and public transport network should be capable of absorbing the additional traffic generated by the development and a satisfactory access onto that network provided.
- E Where applicable, there should be sufficient spare capacity in drainage, water and education services to cater for the new development.
- F The site should be large enough to accommodate the impact of the development satisfactorily in site planning terms.
- G Buildings and layouts for new development should be designed so as to be energy efficient.
- H Built development should, where possible, be located in those settlements which are the subject of inset maps.

Policy 03 Health and Safety consultation zones

- 25 The Proposals and Inset Maps identify pipeline consultation zones where the Council will seek the advice of the Health and Safety Executive (HSE) on development proposals. The Council will also seek the advice of the HSE on the suitability of any proposals for new notifiable installations within the Plan area or any proposals for development within the consultation distances of any notifiable installations.

Policy 05 Landscape

- 26 Development proposals should seek to conserve landscape features and sense of local identity, and strengthen and enhance landscape character. The Council will assess development that is viewed as having a significant landscape impact against the principles of the Kinross-shire Landscape Character Assessment published by Scottish Natural Heritage.

Policy 10 Drainage within Loch Leven Catchment

- 27 Total phosphorus from built development should not exceed the current level permitted by the discharge consents for the Kinross and Milnathort waste water treatment works together with the current contribution from built development within the rural area of the catchment. Where improvements reduce the phosphorus total from built development, there will be a presumption in favour of retaining such gains to the benefit of the ecological recovery of Loch Leven.
- 28 All applicants will be required to submit details of the proposed method of drainage before their application is determined and adopt the principles of best available technology not entailing excessive costs to the satisfaction of the Planning Authority in conjunction with SEPA.

Policy 11 Drainage within Loch Leven Catchment

- 29 All developments within the Loch Leven catchment area will require to connect to a publicly maintained drainage system incorporating phosphate reduction measures. Exceptions will only be permitted where one of the following criteria can be met:
- a) Where drainage can be diverted outwith the catchment.
 - b) Where, for non-residential development, it is not economic to connect to the public system and where the developer is able to implement acceptable mitigation measures.
 - c) In the case of residential developments of 5 or less houses the best available technology, not entailing excessive costs, is employed to minimise phosphorus output.
- 30 All applications for planning consent not connecting to the Kinross or Milnathort waste water treatment works will be required to provide an assessment of phosphorus input for the development. Evidence of phosphorus impact of the development will be required from a suitably qualified person. In cases of great complexity or uncertainty the 'precautionary principle' will be adopted.

Policy 12 Drainage within Loch Leven Catchment

- 31 Where a development is likely to breach drainage Policies 10 or 11, it will be refused. However, there may be exceptions to this policy where, if the developer can show that mitigation measures which are capable of removing from the catchment area 125% of the phosphorus likely to be generated by the development can be implemented and the proposed development is otherwise acceptable in terms of Council policy, a separate planning agreement in terms of Section 75 may be considered.
- 32 Mitigation measures should not include measures which are already committed in a spending programme and likely to be implemented by a statutory body within three years of the determination of the application.

Policy 13 Drainage

- 33 Proposals for individual septic tanks, bio-disc units or similar treatment facilities will only be permitted in unsewered settlements, sewerred areas or immediately adjacent to sewerred areas, in the following circumstances:
- a) Where development proposals are for up to a maximum of five houses or house equivalents in settlements identified in this Plan (except Kinross, Milnathort, Crook of Devon, Kinnesswood) a septic tank, biodisc unit or similar will be acceptable providing all the following criteria are met:-
 - i) There is no adjacent public sewerage system which is accessible at reasonable cost or the existing public sewerage system is operating at capacity and there is an embargo on further development, and there is no programmed improvement for it;

- ii) The proposed septic tank, bio-disc, or similar, and associated soakaway be within the application site and be no less than 15 metres from adjoining habitable properties and no less than 5 metres from the application boundaries for single houses; and
 - iii) The developer enters into a Section 75 Agreement to ensure that:-
 - 1. the septic tank, bio-disc, or similar, serving one or more properties, will remain within the developer's ownership or a single ownership; and
 - 2. a connection to the public sewerage system will be made at the developer's or owner's expense if and when the Planning Authority is advised by Scottish Water that capacity is available; and
 - 3. provision is made to ensure the continued maintenance of the wastewater treatment plant; and
 - 4. where appropriate, the sewerage system is constructed to a specification acceptable for adoption by the East of Scotland Water Authority in order to ensure connection to the public system when capacity becomes available.
 - iv) The development does not conflict with any other policy or proposal contained in the Local Plan.
- b) Where development proposals are for six or more houses or house equivalents in a settlement identified in this Plan with an embargo on development due to a lack of public sewerage infrastructure or capacity, private sewerage arrangements will only be acceptable where the scheme is constructed to meet the full requirements of the guidance notes for developers published by Scottish Water from time to time, including where necessary a Section 75 or similar agreement, if required, to ensure that adoption by the Scottish Water takes place. Communal private sewerage arrangements will not be acceptable within the Loch Leven Catchment Area.

Policy 17 Renewable Energy

- 34 The Council will encourage, in appropriate locations, renewable energy developments. Renewable energy developments, including ancillary transmission lines and access roads, will be assessed against the following criteria.
- a. The development will not have a significant detrimental effect on sites of nature conservation interest or sites of archaeological interest.
 - b. The development will not result in an unacceptable intrusion on the intrinsic landscape quality of the area.

- c. The development will not result in a loss of amenity to neighbouring occupiers by reasons of noise emission, visual dominance, electromagnetic disturbance or reflected light.
- 35 Windfarm developments will not be permitted on the Lomond Hills, Benarty Hill or along the ridgeline of the Cleish Hills, Ochil or Lendrick Hills, as viewed from the principal roads in the area.
- 36 Developers will be required to enter into an agreement for the removal of the development and the restoration of the site, at the end of the development's useful life.

Policy 19 International Sites

- 37 Development which would affect the conservation interests for which a Special Area of Conservation, Special Protection Area or 'Ramsar' Site has been designated, or proposed, will only be permitted where appropriate assessments have demonstrated to the satisfaction of the Council as planning authority that:
- a) There will not be an adverse effect on the integrity of the site; or
 - b) There is no alternative solution and there are imperative reasons for overriding public interest, including those of a social or economic nature.

Policy 20 Protected Species

- 38 Development which would affect:
- (i) Sites supporting species mentioned in Schedules 1, 5 and 8 of the Wildlife and Countryside Act, 1981 as amended; and Annex II or IV of the European Community Habitats Directive or Annex I of the European Community Wild Birds Directive.
 - (ii) Those habitats listed in Annex I of the European Community Habitats Directive.

will only be permitted where appropriate assessments have demonstrated to the satisfaction of the Council as planning authority that:

- (a) There will not be an adverse effect on the species or habitats; or
- (b) There is no alternative solution and there are imperative reasons for overriding public interest, including those of a social or economic nature.

Policy 21 National Nature Reserve and SSSI

- 39 Development which would affect a National Nature Reserve or a Site of Special Scientific Interest will not normally be permitted except where appropriate assessments have demonstrated to the satisfaction of the Council as planning authority that:

- (a) The objectives of designation and the overall integrity of the designated area would not be compromised; or
- (b) Any significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social or economic benefits of national importance.

Policy 23 Locally Important Habitats

- 40 The Council will seek to protect and enhance habitats of local importance to nature conservation, including grasslands, wetlands and peat-lands, and habitats that support rare or endangered species. The Council will take account of the Tayside Local Biodiversity Action Plan (LBAP), when making decisions about applications for development. Proposals that have a detrimental impact upon the ability to achieve the guidelines and actions identified in the LBAP will not be supported unless clear evidence can be provided that the ecological impacts can be satisfactorily mitigated.

Policy 24 Locally Important Habitats

- 41 Developments abutting watercourses will be required to adopt the principles of good practice set out in the River Management Strategy of the Loch Leven Catchment Management Project. Additionally, in appropriate cases, developments adjacent to watercourses will require to implement the habitat and river management improvements set out in the River Management Strategy.

Policy 26 Trees

- 42 The Council will seek to protect native woodland from development and will encourage and support the protection and expansion of existing native woods and the creation of new ones in appropriate locations.

Policy 28 Archaeology

- 43 The Council will safeguard the site, settings and archaeological landscapes associated with Scheduled Ancient Monuments (protected under the Ancient Monuments and Archaeological Areas Act 1979) from potential adverse development unless there are exceptional circumstances.

Policy 29 Archaeology

- 44 The Council will seek to protect unscheduled sites of archaeological significance and their settings. Where development is proposed in such areas, there will be a strong presumption in favour of preservation in situ and where in exceptional circumstances preservation of the archaeological features is not feasible, the developer, if necessary through appropriate conditions attached to planning consents, will be required to make provision for the excavation and recording of threatened features prior to development commencing.

Policy 31 Listed Buildings

- 45 There will be a presumption against the demolition of Listed Buildings and against works detrimental to their essential character. There will be a presumption in favour of consent for development involving the sympathetic restoration of a Listed Building, or other buildings of architectural value. The setting of Listed Buildings will also be safeguarded.

Policy 33 Historic Gardens Designed Landscapes

- 46 The Council will protect and seek to enhance the Historic Gardens and Designed Landscapes identified on Proposals Map 1 and Inset Map 2 and any others which may be identified by Historic Scotland and Scottish Natural Heritage during the Plan period.

Policy 37 Public Access and Informal Recreation

- 47 The Council will continue, with the assistance of local Community Councils and the public in general, to identify, record, assert and signpost public rights of way within the Plan Area, as resources permit.

Policy 38 Public Access and Informal Recreation

- 48 The Council directly and in association with Perth and Kinross Countryside Trust, will seek to improve public access to the countryside and informal recreation provision for a wide range of users including people with disabilities, cyclists, walkers and horse riders.

Policy 43 Transport Standards

- 49 Suitable provision for parking and where appropriate public transport, must be made in all new developments in accordance with the Perth and Kinross Council's "Roads Development Guide".

Policy 50 Agriculture

- 50 The Council will support agriculture remaining as a major land use and a source of employment in the Plan area. The best quality agricultural land which is important in a local context, generally MLCA Class 3.1 and above, will be protected from irreversible development.

Policy 54 Areas of Great Landscape Value

- 51 Within the Area of Great Landscape Value identified on Proposals Map 1 new developments, which accord with other Plan policies, will only be permitted where they can be shown to enhance the natural and man-made landscape assets of the area.

- 52 All applicants for planning consent within the area will require to submit detailed plans of buildings showing the elevations of the new development in its landscape setting together with details of landscape enhancement measures.
- 53 In appropriate cases landscape enhancement measures may require to be implemented in advance of development to ensure that the landscape framework is in place before the development commences.

PERTH AND KINROSS COUNCIL LOCAL DEVELOPMENT PLAN - PROPOSED PLAN JANUARY 2012

- 54 Members will be aware that on the 30 January 2012 the Proposed Local Development Plan was published. The adopted Local Plan will eventually be replaced by the Proposed Local Development Plan (LDP). The LDP has recently undergone a period of public consultation. The Proposed Local Development Plan may be modified and will be subject to examination prior to adoption. It is not expected that the Council will be in a position to adopt the Local Development Plan before December 2014. The Plan may be regarded as a material consideration in the determination of this application, reflecting a more up to date view of the Council.
- 55 The principal relevant policies are:-

Policy PM1: Placemaking

- 56 Policy PM1A: Development must contribute positively, to the quality of the surrounding built and natural environment. All development should be planned and designed with reference to climate change, mitigation and adaptation. The design and siting of development should respect the character and amenity of the place, and should create and improve links within and, where practical, beyond the site. Proposals should also incorporate new landscape and planting works appropriate to the local context and the scale and nature of the development.
- 57 Policy PM1B: All proposals should meet all the following placemaking criteria:(a) Create a sense of identity by developing a coherent structure of streets, spaces, and buildings, safely accessible from its surroundings.(b) Consider and respect site topography and any surrounding important landmarks, views or skylines.(c) The design should complement its surroundings in terms of appearance, height, scale, massing, materials, finishes and colours.(d) Respect an existing building line where appropriate, or establish one where none exists. Access, uses, and orientation of principal elevations should reinforce the street or open space.(e) All buildings, streets, and spaces (including green spaces) should create safe, accessible, inclusive places for people, which are easily navigable, particularly on foot, bicycle and public transport.(f) Buildings and spaces should be designed with future adaptability in mind wherever possible.(g) Existing buildings, structures and natural features that contribute to the local townscape should be retained and sensitively integrated into proposals.

Policy ED3: Rural Business and Diversification

- 58 The Council will give favourable consideration to the expansion of existing businesses and the creation of new ones in rural areas. There is a preference that this will generally be within or adjacent to existing settlements. Sites outwith settlements may be acceptable where they offer opportunities to diversify an existing business or are related to a site specific resource or opportunity. This is provided that they will contribute to the local economy through the provision of permanent employment, visitor accommodation, additional tourism or recreation facilities, or involves the re-use of existing buildings. New tourism related development will be supported where it can be demonstrated that it improves the quality of new or existing visitor facilities, allows a new market to be exploited or extends the tourism season. Proposals whose viability requires some mainstream residential development will only be supported where this fits with the Plan's housing policies. All proposals will be expected to meet all the following criteria:(a) The proposed use is compatible with the surrounding land uses and will not detrimentally impact on the amenity of residential properties within or adjacent to the site.(b) The proposal can be satisfactorily accommodated within the landscape capacity of any particular location.(c) The proposal meets a specific need by virtue of its quality or location in relation to existing business or tourist facilities.(d) Where any new building or extensions are proposed they should achieve a high quality of design to reflect the rural nature of the site and be in keeping with the scale of the existing buildings.(e) The local road network must be able to accommodate the nature and volume of the traffic generated by the proposed development in terms of road capacity, safety and environmental impact.(f) Outwith settlement centres retailing will only be acceptable if it can be demonstrated that it is ancillary to the main use of the site and would not be deemed to prejudice the vitality of existing retail centres in adjacent settlements.(g) Developments employing more than 25 people in rural locations will be required to implement a staff travel plan or provide on-site staff accommodation.

Policy TA1: Transport Standards and Accessibility Requirements

Policy TA1B: New Development Proposals

- 59 All development proposals that involve significant travel generation should be well served by, and easily accessible to all modes of transport. In particular the sustainable modes of walking, cycling and public transport should be considered, in addition to cars. The aim of all development should be to reduce travel demand by car, and ensure a realistic choice of access and travel modes is available. Development proposals should:(a) be designed for the safety and convenience of all potential users;(b) incorporate appropriate mitigation on site and/or off site, provided through developer contributions where appropriate, which might include improvements and enhancements to the walking/cycling network and public transport services, road improvements and new roads;(c) incorporate appropriate levels of parking provision to the maximum parking standards laid out in SPP;(d) fit with the strategic aims and objectives of the Regional Transport Strategy;(e) apply maximum on-site parking standards to help encourage and promote a shift to the more sustainable modes of travel of

walking, cycling and public transport. In certain circumstances developers may be required to : (a) prepare and implement travel plans to support all significant travel generating developments; (b) prepare a Transport Assessment and implement appropriate mitigation measures where required.

- 60 Development for significant travel generating uses in locations which would encourage reliance on the private car will only be supported where: (a) direct links to the core paths networks are or can be made available; (b) access to local bus routes with an appropriate frequency of service which involve walking no more than 400m are available; (c) it would not have a detrimental effect on the capacity of the strategic road and/or rail network; (d) the transport assessment identifies satisfactory mechanisms for meeting sustainable transport requirements. Where site masterplans are prepared, they should include consideration of the impact of proposals on the core paths network and local and strategic transport network. Cycling and Walking Development proposals which take into account and promote cycling and walking will be supported. Particular attention must be paid to access arrangements and cycle parking facilities.
- 61 Car Parking Development proposals should apply maximum on-site parking standards, including disabled parking, to help encourage and promote a shift to the more sustainable modes of travel of walking, cycling and public transport. Where an area is well served by sustainable transport modes, more restrictive standards may be considered appropriate. In rural areas where public transport is infrequent, less restrictive standards may be applied. Developers of town centre sites will be required to contribute to the overall parking requirement for the centre in lieu of individual parking provision.

Policy CF2: Public Access

- 62 Development proposals that would have an adverse impact upon any (proposed) core path, asserted right of way or other well used route, or that would otherwise unreasonably affect public access rights will be refused, unless those impacts are adequately addressed in the plans and suitable alternative provision is made.

Policy HE1A: Scheduled Monuments

- 63 There is a presumption against development which would have an adverse effect on the integrity of a Scheduled Monument and its setting, unless there are exceptional circumstances.

Policy HE1B: Non-Designated Archaeology

- 64 The Council will seek to protect areas or sites of known archaeological interest and their settings. Where development is proposed in such areas, there will be a strong presumption in favour of preservation in situ. Where, in exceptional circumstances, preservation of the archaeological features is not feasible, the developer, if necessary through appropriate conditions attached to the granting of planning permission, will be required to make provision for the survey,

excavation, recording and analysis of threatened features prior to development commencing. If discoveries are made during any development, work should be suspended, the local planning authority should be informed immediately and mitigation measures should be agreed.

Policy HE2: Listed Buildings

- 65 There is a presumption in favour of the retention and sympathetic restoration, correct maintenance and sensitive management of listed buildings to enable them to remain in active use, and any proposed alterations or adaptations to help sustain or enhance a building's beneficial use should not adversely affect its special interest. Encouragement will be given to proposals to improve the energy efficiency of listed buildings within Perth and Kinross, providing such improvements do not impact detrimentally on the special interest of the building. The layout, design, materials, scale, siting and use of any development which will affect a listed building or its setting should be appropriate to the buildings character, appearance and setting.

Policy HE4: Gardens and Designed Landscapes

- 66 The Council will seek to protect and enhance the integrity of those sites included on the current Inventory of Gardens and Designed Landscapes.

Policy NE1A: International Nature Conservation Sites

- 67 Development which could have a significant effect on a site designated or proposed under the Habitats or Birds Directive (Special Areas of Conservation and Special Protection Areas) or a 'Ramsar' Site, will only be permitted where the Appropriate Assessment indicates that:(a) it will not adversely affect the integrity of the site;(b) there are no alternative solutions; and(c) there are imperative reasons of overriding public interest.

Policy NE1C: Local Designations

- 68 Development which would affect an area designated as being of local nature conservation or geological interest will not normally be permitted, except where the Council as Planning Authority is satisfied that:(a) the objectives of designation and the overall integrity of the designated area would not be compromised; or(b) any locally significant adverse effects on the qualities for which the area has been designated are clearly outweighed by social and economic benefits.

Policy NE1D: European Protected Species

- 69 Planning permission will not be granted for development that would, either individually or cumulatively, be likely to have an adverse effect on European protected species (listed in Annex IV of the Habitats Directive (Directive 92/43/EEC)) unless the Council as Planning Authority is satisfied that:(a) there is no satisfactory alternative, and(b) 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. In no circumstances can a development be approved which would be detrimental to the maintenance of the population of a European protected species at a favourable conservation status in its natural range. Planning permission will also not be granted for development that would be likely to have an adverse effect on species protected under the Wildlife and Countryside Act 1981 (as amended) unless the Council as Planning Authority is satisfied that:(c) the development is required for preserving public health or safety or other imperative reasons of overriding public interest; and, in the case of development affecting a protected species;(d) there is no other satisfactory solution.

Policy NE2: Forestry, Woodland and Trees

- 70 Policy NE2A The Council will support proposals which:(a) deliver forests and woodlands that meet local priorities as well as maximising the benefits for the local economy, communities and environment;(b) protect existing woodland, especially woods with high natural, historic and cultural heritage value;(c) seek to expand woodland cover, particularly in association with larger scale development proposals and/or developments on the edges of settlements, near to existing woodland or identified green corridors, in the greenbelt and in areas of degraded landscape;(d) encourage the protection and good management of amenity trees, or groups of trees, important for amenity or because of their cultural or historic interest;(e) ensure the protection and good management of amenity trees, safeguard trees in Conservation Areas and on development sites and secure new tree planting in association with development;(f) seek to secure establishment of new woodland in advance of major developments where practicable.

Policy NE3: Biodiversity

- 71 The Council will seek to protect and enhance all wildlife and wildlife habitats, including grasslands, wetlands and peat-lands and habitats that support rare or endangered species. The Council will apply the principles of the Tayside Biodiversity Partnership Planning Manual and will take account of the Tayside Local Biodiversity Action Plan (LBAP) when making decisions about all applications for development Proposals that have a detrimental impact on the ability to achieve the guidelines and actions identified in these documents will not be supported unless clear evidence can be provided that the ecological impacts can be satisfactorily mitigated. In particular developers may be required to:(a) ensure a detailed survey is undertaken by a qualified specialist where one or more protected or priority species is known or suspected. Large developments that will have an impact on the environment may require an Environmental Impact Assessment ;(b) demonstrate all adverse effects on species and habitats have been avoided wherever possible. A Landscape Plan may be required to demonstrate the impact of the development and how good design and site layout can enhance the existing biodiversity;(c) include mitigation measures and implementation strategies where adverse effects are unavoidable;(d) enter into a Planning Obligation or similar to secure the

preparation and implementation of a suitable long-term management plan or a site Biodiversity Action Plan, together with long-term monitoring.

Policy NE4: Green Infrastructure

- 72 Development will contribute to the creation, protection, enhancement and management of green infrastructure by the:(a) incorporation of green infrastructure into new developments, particularly where it can be used to mitigate any negative environmental impact of the development;(b) incorporation of high standards of environmental design;(c) protection of the countryside from inappropriate development whilst supporting its positive use for agriculture, recreation, biodiversity, health, education and tourism;(d) protection, enhancement and management of open spaces and linkages for active travel or recreation, including links between open spaces and the wider countryside;(e) protection, enhancement and management of existing species and habitats and the creation of new habitats and wildlife corridors, including trees, hedgerows and woodlands where appropriate ;(f) protection, enhancement and management of watercourses, floodplains and wetlands which are important contributors to the network of blue and green corridors for the alleviation of flood risk, wildlife, recreation and the amenity needs of the community. Note: Supplementary Guidance will be prepared expanding on how development can comply with this policy.

Policy ER1: Renewable and Low Carbon Energy Generation

Policy ER1A: New proposals

- 73 Proposals for the utilisation, distribution and development of renewable and low carbon sources of energy, including large-scale freestanding installations, will be supported where they are well related to the resources that are needed for their operation. In assessing such proposals, the following factors will be considered:(a) The individual or cumulative effects on biodiversity, landscape character, visual integrity, the historic environment, cultural heritage, tranquil qualities, wildness qualities, water resources and the residential amenity of the surrounding area.(b) The contribution of the proposed development towards meeting carbon reduction targets.(c) The connection to the electricity distribution or transmission system.(d) The transport implications, and in particular the scale and nature of traffic likely to be generated, and its implications for site access, road capacity, road safety, and the environment generally.(e) The hill tracks and borrow pits associated with any development.(f) The effects on carbon rich soils.(g) Any positive or negative effects they may have on the local or Perth & Kinross economy either individually or cumulatively.(h) The reasons why the favoured choice over other alternative sites has been selected. Proposals for the development of renewable or low carbon sources of energy by a community may be supported where the development does not meet all of the above requirements provided it has been demonstrated that there will not be significant environmental effects and the only community significantly affected by the proposal is the community proposing and developing it.

Policy ER6: Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscapes

- 74 Development and land use change should be compatible with the distinctive characteristics and features of Perth & Kinross's landscapes. Accordingly, development proposals will be required to conserve and enhance the landscape qualities of Perth and Kinross. They will need to demonstrate that either in the case of individual developments, or when cumulatively considered alongside other existing or proposed developments:(a) they do not erode local distinctiveness, diversity and quality of Perth and Kinross's landscape character areas, the historic and cultural dimension of the area's landscapes, visual and scenic qualities of the landscape, or the quality of landscape experience;(b) they safeguard views, viewpoints and landmarks from development that would detract from their visual integrity, identity or scenic quality;(c) they safeguard the tranquil qualities of the area's landscapes;(d) they safeguard the relative wildness of the area's landscapes;(e) they provide high quality standards in landscape design, including landscape enhancement and mitigation schemes when there is an associated impact on a landscape's qualities;(f) they incorporate measures for protecting and enhancing the ecological, geological, geomorphological, archaeological, historic, cultural and visual amenity elements of the landscape; and(g) they conserve the experience of the night sky in less developed areas of Perth and Kinross through design solutions with low light impact.
- 75 Note: Until it is possible to assess the acceptability of development proposals against Perth and Kinross-wide Supplementary Guidance on Landscape, priority will be given to safeguarding and enhancing the landscape of National Scenic Areas. The Tayside Landscape Character Assessment will be used for assessing development proposals, along with other material considerations.

Policy EP2: New Development and Flooding

- 76 There will be a general presumption against proposals for built development or land raising on a functional flood plain and in areas where there is a significant probability of flooding from any source, or where the proposal would increase the probability of flooding elsewhere. In addition, built development should avoid areas at significant risk from landslip, coastal erosion and storm surges. Where a risk of flooding is known or suspected the Council will use the flood risk framework shown in the following diagram and considers that areas of:(i) medium to high flood risk are not suitable for essential civil infrastructure;(ii) low to medium flood risk are suitable for most forms of development; and(iii) little or no flood risk shown present no flood related constraints on development. All development within areas of medium to high flood risk must incorporate a 'freeboard' allowance and the use of water resistant materials and forms of construction appropriate to its function, location, and planned lifetime relative to the anticipated changes in flood risk arising from climate change. To allow for adaption to increased flood risk associated with climate change, development should not:(a) Increase the rate of surface water run-off from any site;(b) Reduce the naturalness of the river;(c) Add to the area of land requiring flood protection measures;(d) Affect the flood attenuation capability of the functional

flood plain; nor(e) Compromise major options for future shoreline or river management.

Policy EP3C: Surface Water Drainage

- 77 All new development will be required to employ Sustainable Urban Drainage Systems (SUDS) measures.

Policy EP3D: Reinstatement of Natural Watercourses

- 78 The Council will not support development over an existing culvert or the culverting of watercourses as part of a new development unless there is no practical alternative. Where deemed necessary it will be essential to provide adequate access for maintenance. Existing culverts should be opened and redundant water engineering structures removed whenever possible to benefit wildlife and improve amenity.

Policy EP7: Drainage within the Loch Leven Catchment Area

- 79 Policy EP7A: Total phosphorus from built development must not exceed the current level permitted by the discharge consents for Kinross and Milnathort waste water treatment works together with the current contribution from built development within the rural area of the catchment. Where improvements reduce the phosphorus total from the built development, there will be a presumption in favour of retaining such gains to the benefit of the ecological recovery of Loch Leven. All applicants will be required to submit details of the proposed method of drainage with their application for planning consent and adopt the principles of best available technology, not entailing excessive costs, to the satisfaction of the Planning Authority in conjunction with SEPA.
- 80 Policy EP7B: Developments within the Loch Leven catchment area will be required to connect to a publicly maintained drainage system incorporating phosphorus reduction measures. Exceptions will only be permitted where one of the following criteria can be met:(a) where drainage can be diverted outwith the catchment; or(b) where, for a non-residential development, it is not economic to connect to the public system and where the developer is able to implement acceptable mitigation measures consistent with the Council's published Supplementary Guidance. Applications for planning consent not connecting to the Kinross or Milnathort waste water treatment works will be required to provide an assessment of phosphorus input for the development. Evidence of phosphorus impact of the development will be required from a suitably qualified person. In cases of great complexity or uncertainty the Precautionary Principle will be adopted.
- 81 Policy EP7C: For proposed developments which are likely to breach policies EP7A and EP7B, unless mitigation measures can be implemented that are capable of removing 125% of the phosphorus likely to be generated by the development from the catchment; and the proposed development is otherwise acceptable in terms of Council policy, then they will be refused. The requirements of this policy may be secured by means of legal agreements to

deliver planning obligations concluded between the applicant and the Council, prior to the issue of planning permission. The delivery of agreed phosphorus mitigation will be required before the occupation of any new dwelling. Mitigation measures should not include measures which are already committed in a spending programme and likely to be implemented by a statutory body within three years of the determination of the application.

Policy EP8: Noise Pollution

- 82 There will be a presumption against the siting of development proposals which will generate high levels of noise in the locality of existing or proposed noise sensitive land uses and similarly against the locating of noise sensitive uses near to sources of noise generation. In exceptional circumstances, where it is not feasible or is undesirable to separate noisy land uses from noise sensitive uses, or to mitigate the adverse effects of the noise through the negotiation of design solutions, the Council may use conditions attached to the granting of planning consent, or if necessary planning agreements, in order to control noise levels. A Noise Impact Assessment will be required for those development proposals where it is anticipated that a noise problem is likely to occur.

OTHER POLICIES

Landscape Study – Windfarm Development in the Ochil Hills and Southern Highland Perthshire – 2004

- 83 This study was undertaken for the Council, Clackmannanshire Council and SNH by David Tyldesley & Associates, to assess the capacity of the study areas to accommodate wind farm developments, to safeguard more sensitive areas and to assist the appraisal of any detailed proposals.
- 84 The application site lies within the Central Hills: Mellock Hill to Glenfarg Area; an area of high visual sensitivity but considered to have potential for the siting of wind energy development.
- 85 The study predates the existence of the existing operational wind farms in the Ochil Hills. Although some of the recommendations have been overtaken by specific events (particularly in relation to the Ochil Hills where suitability for only a single commercial scaled wind farm was advised), the document is a useful reference when appraising proposals within identified sub-areas of the Ochil Hills.

Perth & Kinross Wind Energy Policy & Guidelines (WEPG) 2005

- 86 This supplementary planning guidance was the subject of a public consultation exercise ahead of approval by Perth and Kinross Council on 18 May 2005. Consequently, it is considered that it may be regarded as a material consideration to the current proposal.
- 87 The application site is located within an area identified in that document as '*Broad Area of Search*'. The guidance document confirms there "*will be*

supported where they would be consistent with the Council's detailed Policy Guidelines and it has been demonstrated that they utilise turbines of a size and a scale appropriate to their location, are in locations least damaging to settlements, landscape character, visual amenity, habitats, and will not have unacceptable cumulative impacts."

- 88 The SPG has not been approved by Scottish Ministers. Accordingly, whilst the document will have value to both developers and the Council in its consideration of proposals for wind energy developments, it is the case that its weighting in the determination of this application should only be limited.

Tayside Landscape Character Assessment (TLCA)

- 89 The Tayside Landscape Character Assessment (TLCA) is published by Scottish Natural Heritage. The TLCA is a 'material consideration' when considering any development proposal in Perth and Kinross. The TLCA suggests that the overall aim of any management strategy should reflect the sensitivities of the landscape and to protect it from inappropriate development.

Kinross-shire Landscape Character Assessment(KLCA)

- 90 The Kinross-shire Landscape Character Assessment(KLCA) prepared in 1995 provides more detail on the landscape of Kinross-shire. The application site is located in the Ochil Hills sub-area of the Uplands Landscape Character Area. It is stated that the uplands have an extremely low capacity for absorbing any form of built development; high, linear or large scale structures; mineral workings; or large scale engineering operations. The introduction of any of these developments into the Ochil Hills would not only be difficult to screen but would be entirely alien to the character of those hills.

The Economic Impacts of Wind Farms on Scottish Tourism (2007)

- 91 Glasgow Caledonian University was commissioned in June 2007 to assess whether Government priorities for wind farms in Scotland are likely to have an economic impact – either positive or negative – on Scottish tourism. The objectives of the study were to:

- Discuss the experiences of other countries with similar characteristics.
- Quantify the size of any local or national impacts in terms of jobs and income.
- Inform tourism, renewables and planning policy.

- 92 The overall conclusion of this research is that the Scottish Government should be able to meet commitments to generate at least 50 per cent of Scotland's electricity from renewable sources by 2020 with minimal impact on the tourism industry's ambition to grow revenues by over £2 billion in real terms in the 10 years to 2015.

- 93 Four parts of Scotland were chosen as case-study areas and the local effects were also found to be small compared to the growth in tourism revenues

required to meet the Government's target. The largest local effect was estimated for 'Stirling, Perth and Kinross', where the forecasted impact on tourism would mean that Gross Value Added in these two economies would be £6.3 million lower in 2015 than it would have been in the absence of any wind farms (at 2007 prices). The majority of this activity is expected to be displaced to other areas of Scotland, and the local effect on tourism should be considered alongside other local impacts of the developments – such as any jobs created in the wind power industry itself. This is equivalent to saying that tourism revenues will support between 30 and 339 jobs fewer in these economies in 2015 than they would have in the absence of all the wind farms required to meet the current renewables obligation. Part of this adjustment will already have taken place.

- 94 The research concluded that the evidence is overwhelming that wind farms reduce the value of the scenery (although not as significantly as pylons). The evidence from the Internet Survey suggests that a few very large farms concentrated in an area might have less impact on the tourist industry than a large number of small farms scattered throughout Scotland. However, the evidence, not only in this research but also in research by Moran, commissioned by the Scottish Government, is that landscape has a measurable value that is reduced by the introduction of a wind farm.
- 95 Based on survey responses and research findings, the research in this report suggests that from a tourism perspective:
- Having a number of wind farms in sight at any point in time is undesirable from the point of view of the tourism industry.
 - The loss of value when moving from medium to large developments is not as great as the initial loss. It is the basic intrusion into the landscape that generates the loss.
- 96 These suggest that to minimise negative tourist impact, very large single developments are preferable to a number of smaller developments, particularly when they occur in the same general area.

Planning Site History

- 97 04/02547/FUL Erection of a 50m high meteorological mast. 12 August 2005 Application Permitted
- 98 05/00517/FUL Erection of 5 wind turbines, control building, access tracks and other associated infrastructure. 13 December 2005 Application Refused
- 99 06/02472/FUL Erection of 5 wind turbines, control building, formation of an access track and other associated infrastructure including electrical connection to the local electricity network. 15 May 2007 Application Refused.
- 100 P/PPA/340/575 (Planning Appeal) Erection of 5 wind turbines, control building, formation of an access track and other associated infrastructure including

electrical connection to the local electricity network, 25 February 2008 Appeal refused.

101 10/01001/PREAPP EIA Screening Opinion for proposed windfarm. EIA required, 04 October 2010.

102 11/01228/SCOP EIA Scoping Opinion for the erection of 3 wind turbines. EIA scoped, 15 May 2012

CONSULTATIONS

Scottish Government

103 Under the Environmental Impact Assessment (Scotland) Regulations 2011 the Scottish Government are a statutory consultee to any submitted EIA. The comments detailed below are representative responses to either the content of the Environmental Statement and the appropriateness or otherwise of the submitted development proposal.

104 **Transport Scotland:-** No objection. Overall there will be a minimal increase in traffic on the trunk road.

105 **Historic Scotland:-** No objection. Whilst having some inter-visibility with a number of designated assets within Historic Scotland's remit (Burleigh Castle, Loch Leven Castle and St Serf's Priory) the impacts of the windfarm does not raise issues of national significance.

106 **Scottish Environment Protection Agency:-** Advise that planning conditions are required to be attached to the consent. If the conditions are not applied they object.

107 **Scottish Natural Heritage:-** Advise the development will have adverse cumulative impacts upon landscape character and views and visual amenity of residents and visitors in the eastern Ochils in combination with Lochelbank. Furthermore they advise that adverse cumulative impact on landscape character and views and visual amenity of residents and visitors across Loch Leven Basin in combination with Greenknowes and Lochelbank will also occur.

108 With regards to protected sites or species SNH are content with the conclusions contained within the Environmental Statement.

109 **RSPB Scotland:-** Are satisfied that the development will not have a significant adverse impact on the populations of geese using Loch Leven SPA or South Tayside Goose Roosts SPA either as a standalone development or in combination with the potential effects of other developments.

110 **Ministry of Defence:-** No objection subject to conditional control.

111 **Scottish Water:-** No objection.

- 112 **Environmental Health:-** No objection subject to conditional control covering private water supplies and noise.
- 113 **Biodiversity Officer:-** No objection. Satisfied that there will be no significant impact on protected species but recommends conditional control to secure mitigation measures.
- 114 **Access Officer:-** No objection subject to conditions. Parts of the new access track will affect core paths MTHT/110 and MTHT/153, any damage requires to be made good. It is anticipated that some temporary restrictions to public access will necessary for health & safety reasons however temporary closure must be approved in advance by Perth & Kinross Council.
- 115 **Perth & Kinross Heritage Trust (Archaeology):-** No objection subject to an archaeological condition being applied to the consent.
- 116 **Health and Safety Executive:-** Does not advise, on safety grounds, against the granting of consent.
- 117 **Fife Council:-** Note that the Environmental Statement has taken account of their comments provided at the EIA Scoping Stage.
- 118 **Milnathort Community Council:-**Object. Although the funds coming into the community will be put to good use on appropriate projects the proposal is not considered to be acceptable. There would be an adverse visual impact and cumulative impact.
- 119 **Earn Community Council:-** Object. Consider that the changes made under this application do not make any difference to the intrusion and the linkage with Lochelbank and Greenknowes windfarms. Advise that in the determination of this application the Council must refer to paragraphs 102-149 in the Reporter's decision to refuse the previous application.

REPRESENTATIONS

- 120 The application has attracted 88 letters of objection and 12 in support.

The objections can be summarised as follows:

- Landscape Impact
- Cumulative Landscape Impact with other windfarms.
- Impact on Loch Leven Basin.
- Impact on Area of Great Landscape Value.
- Concerns regarding 'community title' of company name as the proposal is a commercial venture.
- Benefits of power generation, CO2 reduction and financial donation to Milnathort do not outweigh the landscape and visual impact.
- Traffic Impact
- Adverse impact on growth of Black Grouse population and other bird populations. (Rural stewardship scheme).

- Concern regarding the impact on tax payers and costs to the Council associated with the submission of wind farm applications that have a site history of refusal including a Public Local Inquiry Decision.
- Residential Impact
- Noise Impact
- Impact on Private Water supplies
- Contrary to policy.
- Poor siting and design
- Blade flicking/Shadow Flicker.
- No details of Grid Connection.
- Impact of new access track.
- Light pollution
- Loss of trees
- Loss of open space
- Loss of sunlight/daylight.
- Impact on Tourism
- Impact on wildlife
- Determination of the application conflicts with the Aarhus Convention.
- Weakens economy.
- Concerns about CO2 numbers contained within the applicants documentation.
- Concerns about ice throw, turbine fires and turbine failure.
- Concerns about the efficiency of turbines
- Concerns regarding decommissioning.
- Adverse impact on house prices.
- Impact on agriculture.
- Impact on public access and recreation.
- Concerns regarding neighbour notification/Community engagement.
- Approval would create an undesirable precedent.
- Flooding issues.

121 The support can be summarised as follows:

- Proposal complies with the governments renewable energy policy
- The community fund will support the community and tackle local issues (flooding, fuel poverty)
- The proposal represents a small impact on the landscape.
- The previous public local inquiry has informed the new design.
- Benefits will outweigh disadvantages of scheme.
- The proposal will assist in tackling climate change
- The proposal will assist farming operations.

Response to issues raised in letter of objection and support

122 These issues are addressed in the Appraisal section of this report apart from the following elements:-

- 123 Concerns regarding community engagement have been addressed at the start of this report under Hierarchy of Development heading which provides detail on the requirements associated with the legislation.
- 124 The Planning Authority can confirm that neighbour notification has been undertaken in accordance with the necessary procedure. The Environmental Statement which accompanies the application has also been advertised in the press.
- 125 The concern expressed regarding the company name is noted but this does not affect the assessment of the planning application.
- 126 The concerns associated with the impact this submission has on tax payers and costs to the Council in determining this application fall out with the remit of this planning assessment.
- 127 The concerns relating to the loss in property value also fall out with the remit of this assessment.

ADDITIONAL STATEMENTS

Environment Statement	Submitted
Screening Opinion	Undertaken
Environmental Impact Assessment	Yes
Appropriate Assessment	Undertaken
Design Statement/Design and Access Statement	Submitted
Report on Impact or Potential Impact	Yes

APPRAISAL

Policy Appraisal

- 128 Sections 25 and 37(2) of the Town and Country Planning (Scotland) Act 1997 require that planning decisions be made in accordance with the development plan unless material considerations indicate otherwise. The Development Plan consists of the TAYplan2012 and the Kinross Area Local Plan 2004. The Perth and Kinross Council Local Development Plan – Proposed Plan January 2012 is a material consideration in the determination of the application and has progressed to examination by the Scottish Ministers.
- 129 Policy 6 of the TAYplan relates to the aim of delivering a low/zero carbon future for the city region to contribute to meeting Scottish Government energy targets and indicates that, in determining proposals for energy development, consideration should be given to the effect on off-site properties, the sensitivity of landscapes and cumulative impacts. Policy 17 of the Kinross Area Local Plan 2004 (KALP) sets out the main criterion that require to be taken into account in the assessment of renewable energy developments, Policy ER1A (a material consideration) sets out the Council’s updated position which is contained within the Proposed Local Development Plan 2012 (PLDP).

- 130 Although the policy position is generally supportive of renewable energy schemes this is subject to a number of criteria being satisfied. While renewable energy schemes may meet some environmental requirements and not others an overall judgement has to be made on the weight to be given to the 'positives' and 'negatives' which will determine whether it is environmentally acceptable. Any significant adverse effects on local environmental quality must be outweighed by the proposals energy contribution.

Environmental Impact Assessment

- 131 The purpose of the EIA process is to examine the likely significant environmental effects from a proposed development having regard to the project and its nature, size or locality. Through the EIA process, a proper understanding of the interaction between the project and its location should be assessed to determine if the effects on the environment are likely to be significant and if there are associated mitigation measures which make this acceptable.
- 132 In appraising this planning proposal I have taken into account the information contained in the ES and the comments received from consultation bodies about environmental issues. Particular consideration has been given to the mitigation measures which are proposed through the ES which have been designed to limit the negative environmental effects of development. However, as will be noted in the assessments below there are concerns that some impacts are not capable of mitigation. Furthermore there is concern that the lack of information on the grid connection method and location which hinders effective assessment.

Alternatives

- 133 Consideration of alternatives (including alternative sites) is widely regarded as good practice, and results in a more robust application for planning permission. PAN Guidance identifies that ideally EIA should start at the stage of site and process selection so that the environmental merits of practicable alternatives can be properly considered.
- 134 For each of the main alternatives studied, an indication of the main reasons for the choice, that is, why the alternative was not adopted, taking account of its environmental effects and those of the submitted project; noting that the predicted environmental effects of the alternatives rejected may have been better or worse than the submitted project. Thus, the EIA process does not absolutely constrain the selection of the submitted project in preference to alternatives studied, but it is reasonable to expect that a rational explanation would be included in the Environmental Statement as to why a more, or less, environmentally harmful project was chosen for submission.
- 135 Although no other sites are identified in the Environmental Statement. The applicant's general site selection process is detailed in Chapter 2. The consideration of layout alternatives is discussed in Chapter 2.3 and a table is

used to define the refinement process the proposer has gone through. In this case I am content with the approach.

Environmental and Economic Benefits

- 136 The submitted Environmental Statement indicates that the proposed windfarm could generate an annual electricity output of 5.7 GW hours per year and result in a saving of 2,250 tonnes of CO₂ when compared to energy production by gas. This would make a contribution to the Scottish Government's target of 100% electricity generation from renewable energy resources by 2020. It would also assist one of the aims of TAYplan Policy 6 which seeks to deliver a low/zero carbon future for the Region through a reduction in fossil fuels.
- 137 The general economic benefits associated with wind farms are detailed in the applicant's submission. The proposal expects that during the construction phase 15 short term construction jobs during the 6 month period is expected. Once the windfarm is operational the development will generate the equivalent of less than one full time worker. This will result in economic benefits but in terms of the EIA regulations the economic effect is not considered to be significant.
- 138 While the developer has indicated an intention to operate a community fund throughout the lifespan of the development and provide the opportunity for the community to buy a one turbine share of the proposal I am not aware that an agreement has been reached with the Community through a unilateral obligation or other mechanism, therefore I attach little weight to this particular factor in the determination of the application.

Landscape and Visual Impact

- 139 Policy 17 of the Kinross Area Local Plan 1998 (KALP) is one of the key development plan policies in the determination of this renewable energy application. Criterion contained within the policy seeks protect nature conservation and archaeology, safeguard the intrinsic landscape quality of the area and protect loss of amenity to neighbouring properties. There is a further requirement through policy 02, 05 and 54 of the KALP as well as policy ER6 of the PLDP to take account of the landscape. The Tayside Landscape Character Assessment 1999 (TLCA) is also a material consideration along with the earlier and more detailed Kinross-shire Landscape Character Assessment 1995 (KLCA).

Impact on Landscape

- 140 The application overlaps two Landscape Character Types in the TLCA, the turbines are located in the Igneous Igneous Hills while part of the access route falls within the Lowland Basin. The TLCA states that the Ochils may be one of the most suitable areas for wind turbine developments in Tayside, but also points out that, from an environmental perspective, such areas need to be evaluated in terms of the sensitivity of the landscape and its capacity to absorb development.

- 141 In its detailed landscape guidelines, the TLCA states that the potential should be explored to steer wind farm developments away from exposed and steep ridgelines and summits, and from locations where their visual influence would extend both north and south. Potential areas with shallow bowls and valleys away from ridges should, instead, be considered and development steered to areas already affected by masts, roads or forestry. The amount of backclothing provided by the natural landform should be maximised. The *Igneous Hills* landscape character type presently accommodates 3 operational wind farms, namely Burnfoot Hill, Green Knowes wind farm and Lochelbank.
- 142 The TLCA notes that development on the hills enclosing the Lowland Basin Landscape Type around Loch Leven could have a significant impact on its landscape character and quality. The TLCA covers a large area and only takes a broad brush approach.
- 143 The Kinross-shire Landscape Character Assessment (KLCA) provides more detail on the landscape character types and this document was used to formulate local plan policy 17 on Renewable energy and Policy 54 which resulted in the Area of Great Landscape Value (AGLV) designation.
- 144 The KLCA identifies one of the key characteristics of the basin as the dominance and enclosure of the distinctive upland skylines and slopes. It states:
- 145 *“The skylines of the Ochils, Lendrick, Benarty and Lomond Hills should be regarded as landscape features of national importance and should be safeguarded from all development proposals that may affect the skylines or landform or visual horizons.”*
- 146 The local landscape designations are to be reviewed in near future as part of the Local Development Plan. This may result in changes to designation or boundaries. Notwithstanding any changes it is clear from reviewing the TLCA and KLCA that Loch Leven has a very special ‘sense of place’ or ‘genius loci’ which occurs through the combination of landscape types typified by the Loch, Lomond Hills, Ochil Hills and surrounding agricultural landscape which are all perceived in a relatively small area.
- 147 The Environmental Statement confirms that there would be a localised significant effect on the Igneous Hills landscape character type. It also considers that there would be a localised significant effect to a small part of the Ochil Hills AGLV. The LVIA does not consider that a significant effect will occur to any other designation or landscape character types.
- 148 It is the Planning Authority’s view that the proposed wind turbines would have a very significant impact on the character of the landscape immediately surrounding the site as the turbines at a height of 74 metres would be a dominant feature. Accordingly an adverse effect on the landscape character of the Central Ochils landscape unit O.18 occurs.

- 149 The importance of the relationship between the Loch Leven Basin and the surrounding hills is well documented in the TLCA and the KLCA. Policy 17 of the Kinross Area Local Plan seeks to protect the intrinsic landscape quality of the area by protecting the ridgeline of the hills surrounding Loch Leven. While the ES only identifies an adverse impact on the Igneous Hills landscape character type the Planning Authority is of the view that this impact extends to the Lowland Basin Character Type.
- 150 Paragraph 137 of the Tillyrie Public Local Inquiry Report stipulated that ‘the existing designation of this part of the hills as an AGLV recognises its landscape sensitivity and is sufficient to warrant a cautious approach to new development’. The LVIA within the ES refers to Policy 54 in para. 4.1.3.3 but omits the exact policy wording for this requirement. In this case the proposed turbines will dominate and change the local landscape character and have a direct impact upon local views and visual amenity of the far eastern part of the AGLV. In addition, the proposal and Lochelbank turbines (the latter outwith the AGLV itself but close to the boundary) will both be seen from the eastern end of the AGLV including in successive sequential views from the minor road between Newhill and Pathstruie which crosses the AGLV. The development therefore contravenes Policy 54 of the Kinross Area Local Plan as it will not enhance the natural and man-made assets of the AGLV.
- 151 The consultation response from SNH focuses on how the proposal relates to other windfarm developments in the Ochils. The response confirms that adverse cumulative impacts upon landscape character, views and visual amenity of residents and visitors in the eastern Ochils will occur. In views from footpaths and roads within the hills the proposal would be seen in addition to Lochelbank. The 5km separation between the Lochelbank and the proposal means that the visual influence of turbines would be substantially extended and turbines would become a prominent characteristic of the eastern part of the Igneous Hills Landscape Character Type up to about 10 km from the site. As a result it is unlikely that the 20m difference in size between the turbines at Lochelbank and the proposal will be appreciable given the distance between the sites and the distance from roads.
- 152 The SNH response also confirms that adverse cumulative impacts on landscape character and views and visual amenity of residents and visitors across the Loch Leven Basin - in combination with Greenknowes and Lochelbank. They consider that the importance of the skyline as a characteristic of the basin is underplayed in the relevant section of the submitted LVIA (para 4.3.3.3). The turbines would be a new feature on the Ochils skyline. They would be more prominent than the existing turbines and would become a new focal point in northward views. They would erode the separation between existing schemes and draw the viewer’s eye across the skyline from Lochelbank to Greenknowes and thus create the impression that wind turbines are becoming a characteristic feature of the landscape. This would have a direct impact upon views across Loch Leven Basin and visual amenity in combination with Greenknowes and Lochelbank. SNH consider that the difference in height between the proposed and existing turbines would not be readily perceived in views from the south.

153 Overall, the siting, size of turbines and prominence would not enhance the landscape of the AGLV, as required by local plan policy 54. The proposal breaches policies 5 and 17 as a major adverse impact on existing landscape character and the visual amenity of the area occurs. The interaction between the proposal and operational wind farms within the Ochils would also exacerbate the detrimental impact.

Quality of visualisations and images

154 Given the importance of the Ochils skyline, it would have been more helpful for the LVIA to have included relevant paired cumulative ZTVs. These would have shown the theoretical combined visibility of the Proposal with other schemes on the Ochils skyline – and in particular with Lochelbank and Greenknowes.

155 All viewpoints from where more than one development is theoretically visible should have been included as ‘cumulative viewpoints’ – not just a selection as in this LVIA. For example Greenknowes and Lochelbank are both visible from the Vane Farm area (from the well-used RSPB cafeteria and from Vane Hill). The submitted viewpoint for this location (Figure 5 of the ES) provides a false picture of wind farm developments as seen from this part of the area. Greenknowes turbines are visible from much of the Loch Leven basin. This is illustrated in the photo wireframes produced for the Ochils Public Local Inquiry, Vane Farm (Figure 3.8f), Junction 5 on the M90 (Figure 3.10f), and Powmill (Figure 3.11f).

Residential Receptors

156 In some locations, aspects of local visual effects may be as important as wider landscape considerations, and wind energy developments should not dominate significant surrounding features. Turbine height is important, both for the distance over which a development might be visible, and also the potential dominance of such large structures to people and buildings close to them. Dominance is not just a question of height, but also of the relative angle of elevation, this depends not only on the turbine, but also on the local topography.

157 PKC Supplementary Wind Planning Guidance suggests that dominance may be addressed by keeping turbines a distance of at least the equivalent of 20 height to blade tip (hbt) lengths away from buildings and other sensitive locations to protect their setting where no assessment has been made, 1.48km in this case. The ES has taken account of receptors out to 5km and identifies those significant adverse effects to properties receptors 32, 38, 51, 52, 9 and 60.

Impact on Natural Heritage

158 The Habitats Directive is a major contribution by the European Community to implementing the Biodiversity Convention agreed by more than 150 countries at the 1992 Rio Earth Summit. As well as establishing Natura 2000 areas, the

Directive has a number of wider implications, such as those relating to European Protected Species.

- 159 The Habitats Directive sets out an obligation on Member States in relation to taking appropriate steps to avoid the deterioration of natural habitats and the habitats of species as well as disturbance of the species for which the areas have been designated. The Directive requires that any plan or project not directly connected with or necessary to the management of the SPA but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications in view of the site's conservation objectives.

Loch Leven and South Tayside Goose Roosts SPA

- 160 The qualifying interests of the Loch Leven Special Protection Area are as follows:

- Cormorant (*Phalacrocorax carbo*)
- Gadwall (*Anas strepera*)
- Goldeneye (*Bucephala clangula*)
- Pink-footed goose (*Anser brachyrhynchus*)
- Pochard (*Aythya ferina*)
- Shoveler (*Anas clypeata*)
- Teal (*Anas crecca*)
- Tufted duck (*Aythya fuligula*)
- Whooper swan (*Cygnus cygnus*)
- Waterfowl assemblage.

- 161 The scope of the Environmental Statement on the SPA was agreed with SNH and the RSPB which focused on the potential impact of geese. Consultation on this application with both these organisations has confirmed that the proposed development will not have significant adverse impacts on the populations of geese using the Loch Leven Special Protection Area or South Tayside Goose Roosts Special Protection Area either as a standalone development or in combination with the potential effects of other developments.

Protected species and habitats

- 162 The ES appears competent in identifying and surveying for protected species likely to be present across the development site and makes reasoned mitigation proposals to reduce the risk of any damaging impacts (Otter, Water vole and Reptile Species Protection Plans). The mitigation proposals described in the ES, if followed, are likely to ensure compliance with the Wildlife and Countryside Act 1981 (as amended) and avoid harmful and illegal impacts on protected species and habitats. It should be noted that the Council's Biodiversity Officer has no objection subject to mitigation measures being secured by condition.

Woodland Removal

- 163 The Environmental Statement confirms that 0.52 hectares of Coniferous and Mixed woodland will be lost, with 0.26 hectares being mature mixed woodland to the North of Upper Tillyrie. While the Environmental Statement confirms that the loss is a negative and permanent effect it considers that the magnitude is not significant.
- 164 In the Planning Authority's view the loss of the woodland is considered to have a minor effect. While the applicant has discounted providing compensatory planting Scottish Government's Policy seeks the retention of woodland cover as specified in the Forestry Commission's "Control of Woodland Removal" document. Compensatory planting requires to be secured to comply with this policy It is considered that replanting being secured as mitigation will reduce the overall effect on woodland to negligible and this can be achieved via conditional Control.
- 165 Taking all of the above into account it is considered that the proposed development would comply with the applicable requirements within policies 19, 20, 23 and 26 of the adopted KALP and policies NE1A, NE1C, NE1D, NE2 and NE3 of the PLDP if conditional control was applied.

Hydrology, Hydrogeology and Geology

- 166 Construction of the wind farm would involve activities that have the potential to affect the geology, hydrogeology and surface water hydrology at both construction and de-commissioning phases. The ES examines the direct impacts of development on these issues.

Flooding

- 167 Whilst the application site is outwith the 0.5% AEP (1:200) flood envelope of the Indicative River & Coastal Flood Map (Scotland) there are a number of small watercourses located within the site and therefore the site may be at risk of flooding. SEPA recommend the use of water resistant and resilient materials and methods of construction in accordance with PAN 69.
- 168 The widening and formation of new sections of the access track will result in the removal of trees which could have varying degrees of associated hydrological impacts. The destabilisation of soils can lead to erosion and gully formation following heavy rain resulting in increased runoff rates which may have otherwise been subject to greater interception by the tree canopy. While compensatory planting could be integrated into the design to alleviate this to a certain extent it will also be necessary that flood risk issues associated with water crossings and the new access roads accords with "Good Practice during Windfarm Construction".
- 169 It is considered that conditional control would comply with Policy 2 of the TAYplan which seeks climate resilience to be built into the natural and built environment.

Wetland ecology (including groundwater dependent terrestrial ecosystems)

- 170 Groundwater Dependent Terrestrial Ecosystems (GWDTEs), which are types of wetland, are specifically protected under the Water Framework Directive. SEPA note from the National Vegetation Classification (NVC) Survey shows that the track bisects an area of M23b, which is considered to be highly groundwater dependent, between turbines 2 and 3. SEPA recommends that construction techniques for the track (and cable) should be utilised to ensure that hydrological pathways of groundwater through the wetland are not restricted or altered with detailed mitigation proposals being included within an Environmental Management Plan (EMP).
- 171 The location of turbine number 2 lies just within an area identified as M23b. SEPA advise that the habitat loss and likely impact on this wetland is considered to be very small. However they recommend that micro-siting is considered to locate the base and crane standing outwith this area which would reduce the impact on this wetland and preserve all the hydrological processes for this area. If this is not possible then they advise that mitigation should be proposed and detailed within the EMP. This could be secured by conditional control.
- 172 SEPA'S guidance requests that NVC surveys are carried out, to identify areas of GWDTE, in wetlands for a radius of 100m from the proposed track (250m from turbine bases and borrow pits). In this case the site boundary appears to have been utilised for this survey and not 100m threshold. SEPA have advised that there is only a small area of acid grassland that may contain flushes (and possibly GWDTEs) that could be impacted beyond the surveyed area. Consequently they recommend that prior to construction this area should be assessed and if GWDTEs are present, within the above noted buffer zones, then mitigation should be provided and detailed within the EMP.

Re-use and disposal of excavated peat

- 173 Only shallow peat was found across the site. SEPA have advised that there are important waste management implications to deal with surplus peat and refer to their Regulatory Position Statement – Developments on Peat. Consequently conditional control on this matter is recommended to ensure that a Site Waste Management Plan (SWMP) is included within the EMP which addresses how all peat waste streams will be managed.

Borrow Pits

- 174 Aggregate for the hard standings and access track is to be extracted from a new borrow pit. The reinstatement of borrow pits can raise significant landscape, waste and environmental management issues. Details of borrow pit excavation and reinstatement should be included in the EMP.

Private Water Supplies

- 175 The principal risk to water supplies is during the construction. While contamination of water supplies is a private legal issue, I consider it only reasonable to ensure the safeguarding of water quality and water supplies thereby ensuring the amenity of residential and commercial premises are protected.
- 176 The development is in a rural hamlet with private water supplies known to serve properties in the vicinity. Environmental Health records show private water supplies (Athronhall Supply, Newhill Farm Supply and others) are approximately 1km or greater from the proposed site. However, from the letters of representation it appears from further local information and knowledge identifies that sources of other private water supplies may be vulnerable to change as a result of the development. Consequently a condition could be attached to the consent if approved to secure control on this matter.

Overall pollution prevention and environmental management

- 177 SEPA do not raise objection to the proposals provided that conditions are included as part of any planning approval to deliver a full site specific Environmental Management Plan (EMP), incorporating a Site Waste Management Plan (SWMP) and Drainage Management Plan (DMP).

Foul Drainage and Loch Leven

- 178 The application site falls within the Loch Leven catchment which is sensitive to nutrient loading and sedimentation. The requirement for construction method statements and pollution prevention as discussed above should secure appropriate mitigation to reduce sediment. However in accordance with Policies 10-12 of the Adopted Kinross Local Plan 2004 I am required to take account of any phosphorus that could enter the Loch from the proposed development.
- 179 As part of the construction phase there will be a requirement for welfare facilities to be provided. The Environmental Statement confirms that temporary 'Port- a-loo' type facilities will be used. In this case there would be no requirement for Phosphorus mitigation as effluent would not impact on the catchment.
- 180 The agent confirms that the proposed substation and control building would contain permanent toilet facilities. The ES confirms that waste could be held in a closed system and then collected at regular intervals or a septic tank could be installed. A closed system would not comply with legislative requirements as this would be deemed to be a cesspool. The use of a septic tank system would result in a discharge occurring within the Loch Leven Catchment. This requires Phosphorus mitigation to be secured to comply with Local Plan policies 10-12 as well as recommendations 29 and 33 of the Loch Leven Catchment Management Plan. This is not achieved therefore the proposal is contrary to policies 10, 11 and 12 of the Local Plan.

Impact on Cultural Heritage

Scheduled Ancient Monuments

181 Policy 28 of the KALP and policy HE1A of the PLDP protects Scheduled Ancient monuments (SAMs) from damage to the site and integrity of the setting. The proposal would not result in damage to the site of any scheduled ancient monument however the proposal has implications for the setting of SAMs.

- Burleigh Castle (Index No. 90045)
- Loch Leven Castle (Index No. 90204)
- St Serf's Priory (Index No. 90271)

182 Historic Scotland considers that the impact of the turbine on the designated assets is not significant and they offer no objection. In this case the proposal would comply with Policy 28 of the KALP and policy HE1A of the PLDP.

Unscheduled Archaeology

183 Archaeological sites are an important, finite and non-renewable resource and should be protected and preserved in situ wherever feasible. The presence and potential presence of archaeological assets should be considered by planning authorities when allocating sites in the development plan and when making decisions on applications. Where preservation in-situ is not possible planning authorities should, through the use of conditions or a legal agreement, ensure that developers undertake appropriate excavation, recording, analysis, publication and archiving before and/or during development.

184 Perth and Kinross Area Archaeologist (PKHT) has been consulted. They confirm that the Cultural Heritage chapter of the EIA is acceptable, containing recommendations for mitigation measures and the reporting of any new discoveries. These mitigation measures include standing building recording at Upper Tillyrie Farmstead and targeted archaeological monitoring. It is recommended that the mitigation strategy outlined in the EIA (8.5 Mitigation Measures and Residual Effects) is refined in consultation with PKHT and outlined in a written scheme of investigation.

185 In line with Scottish Planning Policy (Historic Environment sections 110-112 and 123) PKHT recommended that an archaeological condition is attached to permission if granted. This would ensure compliance with policy 29 of the KALP and policy HE1B of the PLDP.

Listed Buildings

186 While the word 'setting' is not defined in planning legislation, Historic Scotland's guidance on this matter confirms that authorities are firmly encouraged not to interpret the word narrowly. It highlights at all times the listed building should remain the focus of its setting. Attention must never be distracted by the presence of any new development whether it be within or out with the curtilage.

In this rural location I consider the appropriate factors to take into account are the principal views either of or from the listed buildings.

- 187 The ES at section 8.4.2.2 details the listed buildings that are within 5km of the turbines. Having reviewed this section of the Environmental Statement which will or may be inter-visible with the development, it is considered that the impact will not be significant. Accordingly the application accords with TAYPlan Policy 3, Policy 31 of the KALP as well as policy HE2 of the PLDP.

Historic Gardens and Designed Landscapes

- 188 An Inventory of Gardens and Designed Landscapes of national importance is compiled by Historic Scotland. Planning authorities have a role in protecting, preserving and enhancing gardens and designed landscapes included in the current Inventory and gardens and designed landscapes of regional and local importance. Relevant policies are included in the development plans to ensure the effect of developments on a garden or designed landscape are considered in the determination of planning applications.
- 189 The Garden and Designed Landscape (GDL) of Kinross House and Invermay are the only two GDL's located within 10km of the site where visibility would occur as determined by the submitted Zone of Theoretical Visibility. I have taken account of the qualities these assets have and the level of expected change is not significant. Furthermore Historic Scotland offer no objection. Accordingly I am of the view that the setting of these GDL's is maintained and the proposal does not contravene Policy 33 of the KALP and Policy HE4 of the PLDP.

Noise

- 190 The planning system has an important role to play in preventing and limiting noise pollution. Although the planning system cannot tackle existing noise problems directly, it has the task of guiding development to the most suitable locations and regulating the layout and design of new development. The noise implications of development can be a material consideration in determining applications for planning permission. Sound levels in gardens and amenity areas also need to be considered in terms of enabling a reasonable degree of peaceful enjoyment of these spaces for residents and this is an issue that has been raised in letters of representation.
- 191 The ETSU-R-97 recommendation for simplified noise criterion has been adopted for this assessment where sufficient protection of amenity is afforded by limiting turbine noise to no more than 35dB(A)LA90, 10 min at wind speeds of up to 10m/s.
- 192 Potential noise-sensitive receptors were identified at 6 locations outlined in Table 9.5; Noise Assessment Locations, with predicted operational noise levels noted in Table 9.6; Predicted Noise Emission Levels. The following table is a compilation of the noise sensitive receptors, the distance from the proposed development and the predicted noise levels at 10m/s:

Location	distance(metres)	Predicted Noise Level (L A90, 10 min dB)
New Hill	1553	27.1
Shire End House	854	33.7
Shire End Farm	902	33.4
Tannerhall	2432	22.2
Burnside, Tillyrie	2143	24.1
Athron Hill development	1073	32.4

- 193 There have been a number of objections raised regarding the possibility of noise nuisance occurring from amplitude modulation from the windfarm. Amplitude modulation is a very rare phenomenon and an impossible event to predict due to the unknown mechanism of the noise.
- 194 Environmental Health have been consulted and they do not foresee any loss of amenity in residential amenity, however in light of the above information, the concerns regarding noise within letters of representation and the possibility of the occurrence of amplitude modulation they recommend noise be controlled conditionally.

Shadow Flicker

- 195 Concerns are raised through representation that the proposal will give rise to unacceptable Shadow Flicker adversely affecting the amenity of residential occupiers.
- 196 Shadow flicker is caused by a low sun behind the rotating blades of a turbine. The shadow created by the rotating blades can cause alternating light and dark shadows to be cast on roads or nearby premises, including the windows of residences, resulting in distraction and annoyance to the residents.
- 197 A shadow flicker assessment has been undertaken and incorporated into the Environmental Statement. This identified that no properties would be affected by shadow flicker.

Light Pollution

- 198 Minimising obtrusive light and reducing lighting energy usage are important environmental factors which are detailed in the Scottish Government's guidance note entitled Controlling Light Pollution and Reducing Lighting Energy Consumption (March 2007). While lighting may be required during construction and decommissioning I consider conditional control could minimise light pollution or light spillage.

Construction Traffic Events

- 199 During construction, turbine components and material required for construction of the windfarm will be delivered to site. Some materials will be transported by heavy goods vehicles (HGVs). Turbine components need to be transported on vehicles capable of carrying 'abnormal loads' (vehicles longer than 17m and/or wider than 4m).
- 200 In the Environmental Statement the applicant confirms that the turbine components are likely to originate from the Port of Grangemouth. This would result in abnormal roads travelling from Grangemouth to the A90 then north along the M90 to Junction 5, before continuing via the B9067, B996 into Kinross, A922, onto North Street in Milnathort and C499 to the site access point. Consultation with Transport Scotland confirms there will be a minimal increase in traffic on the trunk road network and offer no objection. It should be noted that the abnormal loads would require a police escort to the site.
- 201 All other vehicles are expected to originate from local traffic generators such as concrete plants, quarries and settlements. It is anticipated that 2,936 vehicle movements (where one movement equals one arrival and departure) associated with the construction phase of the development will occur. Deployment of mitigation measures contained in the ES in the form of a Traffic Management Plan will reduce this impact. The Transportation Service of the Council offers no objection subject to conditional control.

Equipment Safety (Ice Throw, Lightning Strike and Turbine Fires).

- 202 Representations highlight concern with ice throw, and lightning strike. Guidance document 'Onshore Wind Turbines 2012' prepared by the Scottish Government confirms that:-
- 203 *Companies supplying products and services to the wind energy industry operate to a series of international, European and British Standards. The build-up of ice on turbine blades is unlikely to present problems on the majority of sites. When icing occurs the turbines' own vibration sensors are likely to detect the imbalance and inhibit the operation of the machines. Site operators also tend to have rigorous and computer aided maintenance regimes and control rooms can detect icing of blades. Danger to human or animal life from falling parts or ice is rare. Similarly, lightning protection measures are incorporated in wind turbines to ensure that lightning is conducted harmlessly past the sensitive parts of the nacelle and down into the earth.*
- 204 Accordingly I do not consider that ice throw or lightning strike to warrant refusal. The concern regarding the potential for a turbine fire is noted but the potential for this to occur does not justify withholding permission.

Aviation Electromagnetic Interference and Utilities

- 205 Wind turbines have been shown to have detrimental effects on the performance of MOD Air Traffic Control and Range Control radars. These effects include the

desensitisation of radar in the vicinity of the turbines, and the creation of "false" aircraft returns which air traffic controllers must treat as real. The desensitisation of radar could result in aircraft not being detected by the radar and therefore not presented to air traffic controllers. Controllers use the radar to separate and sequence both military and civilian aircraft, and in busy uncontrolled airspace radar is the only sure way to do this safely.

- 206 The Ministry of Defence confirm that maintaining situational awareness of all aircraft movements within the airspace is crucial to achieving a safe and efficient air traffic service, and the integrity of radar data is central to this process. The creation of "false" aircraft displayed on the radar leads to increased workload for both controllers and aircrews, and may have a significant operational impact. Furthermore, real aircraft returns can be obscured by the turbine's radar returns, making the tracking of conflicting unknown aircraft (the controllers' own traffic) much more difficult.
- 207 The MOD has undertaken an assessment which confirms they have no objection to the proposal subject to conditional control.
- 208 The applicant has confirmed that they have consulted telecommunications and infrastructure consultees. The outcome which is reported in the ES confirms that no telecommunication links are expected to be adversely affected. Television reception to homes is likely to be affected as a result of operation of the development however this could be mitigated through a technical mitigation solutions and this matter could be controlled by condition

Pipeline

- 209 HSE's role in the land use planning system is to provide authorities with advice on the nature and severity of risk to people in the surrounding area presented by major hazards. Advice on risk can then be given due weight when making planning decisions and balanced against other relevant planning considerations.
- 210 For this planning application an HSE consultation using its planning advice software tool (PADHI+) has been carried out. This process is a computer modelled risk assessment based on information entered in response to specific questions raised by the computer programme. The PADHI+ consultation returns an automated response of Does Not Advise Against. Accordingly the proposal does not conflict with Policy 3 of the Local Plan.

Public Access

- 211 Outdoor Access has now been given a new context in Scotland, since the Land Reform (Scotland) Act 2003. This establishes a duty on local authorities to uphold the outdoor access rights as specified in Section 13(1) of the Act. However, this duty on local authorities does not stop them from carrying on with the authority's other functions, an example of this is when they are considering planning applications for development on land over which access rights are exercisable, they will still be able to give consent for developments. Although,

where appropriate, local authorities should consider attaching a suitable planning condition to enable them to ensure reasonable continuing public access.

- 212 The proposal uses the existing right of way as the main vehicular access into the development with an intention to maintain public access during construction where possible.
- 213 Consultation with the Council's Public Access officer confirms that any temporary closure which may become necessary for health & safety reasons must be approved in advance by Perth & Kinross Council which should include details of the proposed diversion, a signage plan showing text and location of signs, and the times and dates when any temporary closure will apply. They note that following completion of the works the right of way should be reinstated.

Grid Connection

- 214 The development will require a connection to the grid to allow electricity to be exported. The Planning Authority in the 'EIA Scoping Response' requested that the grid connection be considered as part of the Environmental Statement. The applicant has not specified the connection method or connection point although they have highlighted that the connection would require approval via a Section 37 application to the Energy Consents Unit which would suggest that it is likely to be an overhead line.
- 215 If above ground lines are required to export electricity to the grid then this will result in the introduction of pylons and could result in adverse landscape visual impacts. The routing of the transmission line should be taken into account through the assessment of the planning application and reported in the environmental statement to fully understand the impact of the whole scheme.
- 216 Although the undergrounding the cable can reduce visual impact and would not require an application under Section 37 of the Electricity Act there is potential to have detrimental impact on groundwater, private water resources and designated sites which should also be reported on the environmental statement.
- 217 Taking this into account the Planning Authority cannot report on the potential impact this part of the scheme could have on the environment and it is a shortcoming of the Environmental Statement.

Decommission and reinstatement

- 218 At the end of the wind farm's operational life (anticipated 25 years), the process of decommission and site reinstatement will commence which will primarily include the removal of infrastructure. This matter can be controlled by condition to ensure that this process is carried out in an acceptable manner.

Aarhus Convention

219 The United Nations Economic Commission for Europe (UNECE) 'Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters' was adopted on 25 June 1998 in the Danish city of Aarhus (Århus) at the Fourth Ministerial Conference as part of the "Environment for Europe" process. The Aarhus Convention establishes a number of rights of the public (individuals and their associations) with regard to the environment. The Parties to the Convention are required to make the necessary provisions so that public authorities (at national, regional or local level) will contribute to these rights to become effective. The Convention provides for:

- right of everyone to receive environmental information that is held by public authorities ("access to environmental information"). This can include information on the state of the environment, but also on policies or measures taken, or on the state of human health and safety where this can be affected by the state of the environment. Applicants are entitled to obtain this information within one month of the request and without having to say why they require it. In addition, public authorities are obliged, under the Convention, to actively disseminate environmental information in their possession;
- the right to participate in environmental decision-making. Arrangements are to be made by public authorities to enable the public affected and environmental non-governmental organisations to comment on, for example, proposals for projects affecting the environment, or plans and programmes relating to the environment, these comments to be taken into due account in decision-making, and information to be provided on the final decisions and the reasons for it ("public participation in environmental decision-making");
- the right to review procedures to challenge public decisions that have been made without respecting the two aforementioned rights or environmental law in general ("access to justice").

220 Concern has been expressed in objection that that approval of this application would conflict with the Aarhus Convention. I have sought legal advice and I am required to proceed on the basis that both the Scottish Government's policy framework and Perth and Kinross Council's own renewable policies are a valid and lawful basis on which to assess the application.

Inefficient and unreliable technology

221 A number of representations express concern at the support given through planning policy and Government Planning Guidance to the use of wind technology contending that it offers broad support to an inefficient technology which relies on the extensive use of natural resources through the production and construction process and relies on extensive public subsidy whilst delivering minimal climate change benefits.

222 Whilst these concerns are noted it must be acknowledged that Planning Policy does provide support for appropriately sited and designed wind farm development. In those locations where landscape and visual concerns are raised it will be appropriate for any decision maker to have regard to the amount of energy contribution to be delivered by a proposal and the extent to which that will contribute to Scottish Government commitment to generating an equivalent of 100% of electricity demand from renewable sources by 2020, along with at least 11% renewable heat. This material planning consideration can be weighed in the balance with all other material planning issues. It is concluded that the balance lies in favour of Refusal of the wind turbine proposals on landscape and visual impact grounds.

PLANNING AUTHORITY WITH AN INTEREST IN THE LAND

223 The Town and Country Planning (Notification of Applications) (Scotland) Direction 2009 advises on the procedure for notification of planning applications to the Scottish Ministers for developments in which planning authorities have an interest in. The Direction states that notification to the Ministers is only required where the proposal involves a significant departure from the authority's own Development Plan. As the recommendation of refusal is not a significant departure from the Development Plan, a notification to the Ministers is not required.

LEGAL AGREEMENTS

224 None required.

DIRECTION BY SCOTTISH MINISTERS

225 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2008, regulations 30 – 32 there have been no directions by the Scottish Government in respect of an Environmental Impact Assessment screening opinion, call in or notification relating to this application.

CONCLUSION AND REASONS FOR RECOMMENDATION

226 Section 25 of the Act requires the determination of the proposal to be made in accordance with the provisions of the Development Plan unless material considerations indicate otherwise.

227 The assessment above has taken account of the development plan and where necessary provided weight to material considerations. It acknowledges that the proposal would make a contribution to the provision of energy from renewable resources, with a consequential reduction in CO2 emissions. An element of economic benefit during construction, operation and decommissioning will occur but these are limited and have to be offset against the presence of the windfarm. While details have been provided on how revenue from the proposed scheme could be reinvested into the local community there is no binding method before me to ensure this is delivered, therefore I attach little weight to this factor.

- 228 The proposal will not create any overriding problems in relation to the cultural heritage interests for the area. The proposal creates a new foul drainage source within the Loch Leven Catchment and as no phosphorus mitigation is secured the proposal will result in an impact on the integrity of Loch Leven SPA, SSSI and Ramsar site and consequently wildlife associated with this designation. While this matter could be easily rectified by the developer it is considered that the adverse landscape and visual impact of the wind turbines on their own as well as in combination with operational and consented windfarms cannot be overcome.
- 229 Whilst current Government Guidance (SPP) incorporates a broad commitment to increase the amount of electricity generated from renewable sources as a vital part of the response to climate change, in this instance it is considered that the energy contribution of the 3 turbines would not outweigh significant adverse effects on local environmental quality. Accordingly the proposal would not accord with the Development Plan; the council's SPG on Wind Farms or National Guidance and consequently the application is recommended for refusal.
- 230 Notwithstanding the adverse landscape and visual impact of the wind turbines the full impact of the scheme is not reported in the Environmental Statement as there has been a failure to provide details on the grid connection method or grid connection point.

RECOMMENDATION

A Refuse the application for the following reasons

- 1 Through the siting, size of turbines and prominence, the proposals would have a major adverse impact on existing landscape character and the visual amenity of the area. The Council is not satisfied that the benefits of the proposed turbines would outweigh the significant adverse effects on local environmental quality. Accordingly, the proposal is contrary to National Scottish Planning Policy (SPP), Policy 6 of the approved TAYplan 2012; and Policies 2, 5, 17 and 54 of the Kinross Area Local Plan 2004 as well as Policies PM1A, ER1A and ER6 of the Proposed Local Development Plan.
- 2 The siting, size of turbines, prominence and visual association with existing and approved windfarms within the locality the proposals would have a major adverse cumulative impact on existing landscape character and visual amenity. The Council is not satisfied that the benefits of the proposed turbines would outweigh the significant adverse effects on local environmental quality. Accordingly, the proposal is contrary to National Scottish Planning Policy (SPP), Policy 6 of the approved TAYplan 2012; and Policies 2, 5, 17 and 54 of the Kinross Area Local Plan 2004 as well as Policies PM1A, ER1A and ER6 of the Proposed Local Development Plan.
- 3 The proposal does not confirm that there will be no increase in phosphorus loading to Loch Leven to the development thereby failing to comply with policies 10, 11 and 12 of the Kinross Area Local Plan 2004as well as Policies

EP7 of the Proposed Local Development Plan. Consequently the proposal will have an adverse impact on Loch Leven SPA, SSSI and Ramsar site which is contrary to 19, 20 and 21 of the Kinross Area Local Plan 2004 as well as Policies NE1A of the Proposed Local Development Plan.

- 4 The applicant has failed to provide information on the grid connection and therefore the Planning Authority is not satisfied that the Environmental Statement assesses the full extent of the development impacts, the magnitude and complexity of those impacts; the probability of those impacts; and the duration, frequency and reversibility of the impacts of the whole scheme.
- 5 That approval of this application would establish a precedent for developments of a similar nature to the detriment of the overall character of the area which would undermine and weaken the established Development Plans and Supplementary Planning Guidance.

B JUSTIFICATION

The proposal is not considered to comply with the Development Plan and there are no other material considerations that would justify a departure there from.

C PROCEDURAL NOTES

- 1 None.

D INFORMATIVES

- 1 None.

Background Papers: 100 letters of representation

Contact Officer: John Russell Ext 75346

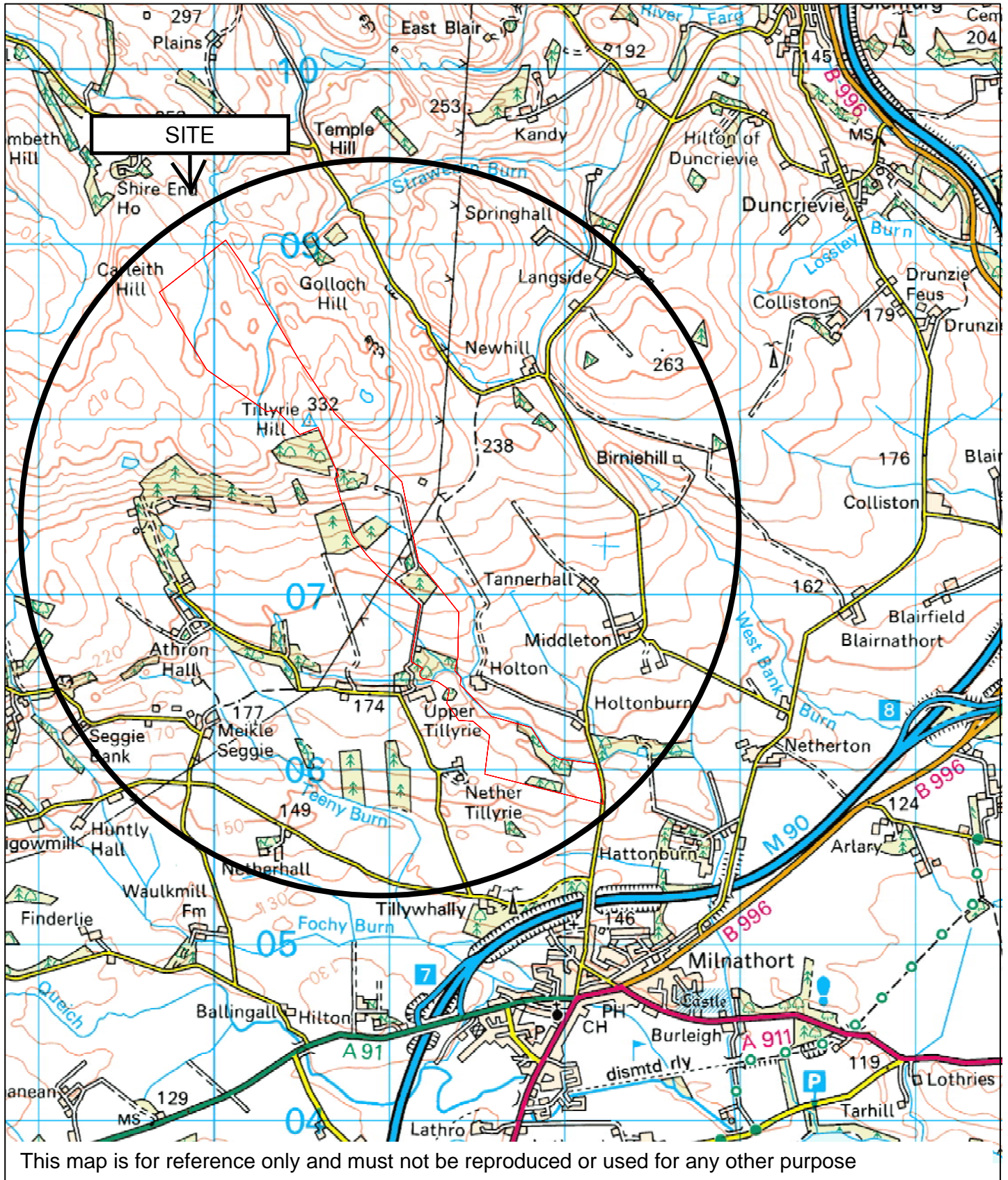
Date: 24 June 2013

Nick Brian
Development Quality Manager

If you or someone you know would like a copy of this document in another language or format, (On occasion only, a summary of the document will be provided in translation), this can be arranged by contacting the Customer Service Centre on 01738 475000



Council Text Phone Number 01738 442573



↑ Scale
1:30000

