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Council Building  
2 High Street  
Perth  
PH1 5PH

2 April 2019

A Meeting of the **Planning and Development Management Committee** will be held in the **Council Chamber, 2 High Street, Perth, PH1 5PH** on **Wednesday, 10 April 2019** at **10:00**.

If you have any queries please contact Committee Services on (01738) 475000 or email [Committee@pkc.gov.uk](mailto:Committee@pkc.gov.uk).

**KAREN REID**  
**Chief Executive**

***Those attending the meeting are requested to ensure that all electronic equipment is in silent mode.***

**Members:**

Councillor Roz McCall (Convener)  
Councillor Bob Brawn (Vice-Convener)  
Councillor Henry Anderson  
Councillor Bob Band  
Councillor Michael Barnacle  
Councillor Harry Coates  
Councillor Eric Drysdale  
Councillor Tom Gray  
Councillor Ian James  
Councillor Anne Jarvis  
Councillor Lewis Simpson  
Councillor Richard Watters  
Councillor Willie Wilson



**Planning and Development Management Committee**

**Wednesday, 10 April 2019**

**AGENDA**

***MEMBERS ARE REMINDED OF THEIR OBLIGATION TO DECLARE ANY FINANCIAL OR NON-FINANCIAL INTEREST WHICH THEY MAY HAVE IN ANY ITEM ON THIS AGENDA IN ACCORDANCE WITH THE COUNCILLORS' CODE OF CONDUCT.***

- 1 WELCOME AND APOLOGIES/SUBSTITUTES**
- 2 DECLARATIONS OF INTEREST**
- 3 DEPUTATIONS**
- 4 MINUTE OF MEETING OF PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE OF 13 MARCH 2019 FOR APPROVAL AND SIGNATURE (copy herewith) 5 - 34**
- 5 APPLICATIONS FOR DETERMINATION**
  - 5(1) MAJOR APPLICATION**
    - 5(1)(i) 19/00120/AMM - APPLICATION UNDER SECTION 42 OF THE TOWN AND COUNTRY PLANNING (SCOTLAND) ACT 1997 TO MODIFY CONDITION 15 (CYCLE AND FOOTPATH LINK) OF PLANNING PERMISSION 08/01123/AMM (ERECTION OF CHALETS - RESERVED MATTERS), SAND AND GRAVEL PIT, GOWRIE, STANLEY 35 - 52**

Report of Handling by Interim Development Quality Manager  
(Recommendation - Approval) (copy herewith 19/103)
  - 5(2) LOCAL APPLICATION**
    - 5(2)(i) 18/00586/FLL - ERECTION OF FOUR WIND TURBINES AND ANCILLARY INFRASTRUCTURE, BINN ECO PARK WIND FARM, GLENFARG 53 - 88**

Report of Handling by Interim Development Quality Manager  
(Recommendation - Refuse) (copy herewith 19/104)

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PERTH AND KINROSS COUNCIL  
PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE  
13 MARCH 2019

## PLANNING AND DEVELOPMENT MANAGEMENT COMMITTEE

Minute of meeting of the Planning and Development Management Committee held in the Council Chamber, Ground Floor, Council Building, 2 High Street, Perth on Wednesday 13 March 2019 at 10.00am.

Present: Councillors R McCall, B Brawn, H Anderson, B Band, E Drysdale, T Gray, D Illingworth (substituting for Councillor I James), A Jarvis, L Simpson, R Watters and W Wilson.

In Attendance: A Condliffe, J Scott, G Bissett, M Lee, M Barr, L Reid, K Paton, J Escott, P Dickson (all Housing and Environment); C Elliott, L Potter and D Williams (all Corporate and Democratic Services).

Apologies: Councillors M Barnacle, H Coates and I James.

Councillor B Brawn, Vice Convener, Presiding.

### . WELCOME AND APOLOGIES

The Vice Convener welcomed everyone present to the meeting.

### . DECLARATIONS OF INTEREST

There were no Declarations of Interest in terms of the Councillors' Code of Conduct.

### . MINUTES

The minute of meeting of the Planning and Development Management Committee of 13 February 2019 (Arts) was submitted, approved as a correct record and authorised for signature.

### . DEPUTATIONS

In terms of Standing Order 72, the Committee agreed to hear deputations in relation to the following planning applications:

#### Planning Application No.

18/02139/FLM  
18/01614/FLL  
18/01941/FLL  
18/01908/FLL  
18/02009/FLL

#### Art. No.

(Item 5)(1)(i)  
(Item 5)(2)(i)  
(Item 5)(2)(ii)  
(Item 5)(2)(iii)  
(Item 5)(2)(iv)

**APPLICATIONS FOR DETERMINATION**

**(1) Major Applications**

- (i) 18/02139/FLM - SCONE - Erection of 51 retirement flats and cycle store, formation of parking and associated works, land at Wheel Inn, 37 Angus Road, Scone – Report 19/68 – Juniper Residential Ltd**

Mr M Myles and Mr K Dillon, on behalf of the applicant, and Mr J Steele, applicant, addressed the Committee, and following their representation, withdrew to the public gallery.

Motion (Councillors L Simpson and W Wilson)

Refuse, for the following reason: The proposal is contrary to policies PM1A, PM1B(c) and RD1 of the Perth and Kinross Local Development Plan 2014, as the proposal does not contribute to or respect the character of the immediate surrounding area due to the scale, massing and height of the main block.

**Amendment (Councillors E Drysdale and T Gray)**

**Grant, subject to the following direction, terms, conditions and informatives:**

**Conditions**

- 1. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.  
Reason – To ensure the development is carried out in accordance with the approved drawings and documents.**
- 2. The occupation of the residential accommodation hereby approved shall be restricted to occupants aged 55 and over and shall not be occupied as the sole or main residence of any occupant aged under 55 years of age.  
Reason – For the avoidance of doubt and to ensure occupation of the development hereby approved complies with Policy PM3 – Infrastructure Contributions, of the Perth and Kinross Local Development Plan 2014.**
- 3. Prior to the occupation of any phase of the development, the detail and timing of the on-site affordable apartment delivery shall be submitted to and agreed in writing by the Council as Planning**

**Authority.** The approved scheme shall thereafter be delivered and managed in accordance with the agreed delivery mechanism and timing.

**Reason –** To ensure the development is in accordance with the terms of the Perth and Kinross Council Local Development Plan 2014 and to comply with the Council's policy on Developer Contributions and Affordable Housing Supplementary Guidance 2016.

4. Prior to the commencement of the development hereby approved, details of the specification and colour of the proposed external finishing materials to be used shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

**Reason –** In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

5. Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction. Any works required within the Root Protection Areas shall be fully justified by an arborist and a detailed construction method statement shall be submitted to and approved in writing by the Council as Planning Authority with subsequent works being undertaken to fully comply with the arborist recommendations.

**Reason –** To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Council as Planning Authority.

6. Prior to the commencement of the development hereby approved, further detail (including the detailed specification and planting numbers satisfying required compensatory planting and biodiversity opportunities) of the proposed landscaping and planting scheme shall be submitted to and agreed in writing by the Council as Planning Authority. The detailed scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March)

after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained to the satisfaction of the Council as Planning Authority.

Reason – In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.

7. The recommendations within the supporting Bat Activity Survey Report (plan: 18/02139/28) hereby approved shall be fully adhered to, respected and undertaken as part of the construction phase of development.

Reason – In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as identified under the Wildlife and Countryside Act (1981).

8. No removal of hedgerows, trees or shrubs or works to, or demolition of, buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared or building affected, and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local Planning Authority.  
Reason – In the interests of employing best practice ecology and to ensure there is no adverse impact on any protected species as identified under the Wildlife and Countryside Act (1981).

9. Prior to the commencement of development hereby approved, details of the location, number and specification of swift brick(s) or swift nest box(s) shall be submitted for the further written agreement of the Council as Planning Authority. Thereafter, the swift brick(s) or swift nest box(s) shall be installed in accordance with the agreed details prior to the occupation of the relevant residential block.

Reason – In the interests of enhancing biodiversity opportunities on the site.

10. Prior to the commencement of works on site, further detailed drawings showing locations for bin collection presentation shall be submitted for the

**further written agreement of the Council as Planning Authority and thereafter implemented as part of the development.**

**Reason – In order to ensure adequate servicing facilities are provided.**

- 11. All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 25 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.**

**Reason – In the interests of public health and to prevent noise pollution.**

- 12. Prior to the commencement of the development, a construction traffic management scheme (CTMS) shall be submitted for the written approval of the Planning Authority. The CTMS shall include the following:**
- (a) Restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;**
  - (b) Timing of construction traffic to minimise impact on local communities, particularly at school start and finishing times, on days when refuse collection takes place, on Sundays or during local events;**
  - (c) Arrangements for liaison with the Roads Authority regarding winter maintenance;**
  - (d) Emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;**
  - (e) Arrangements for the cleaning of wheels and chassis of vehicles to prevent material from the construction site associated with the development being deposited on the public road;**
  - (f) Arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;**
  - (g) Arrangements for signage at site access and crossovers in order to provide safe access for pedestrians and cyclists;**
  - (h) Details of information signs to inform other road users of construction traffic;**
  - (i) Arrangements to ensure that access for emergency service vehicles are not impeded;**

- (j) **Monitoring, reporting and implementation arrangements; and**
- (k) **Arrangements for detailing with non-compliance.**

**The CTMS as approved shall be adhered to during the entire site construction programme.**

**Reason – In the interests of pedestrian and traffic safety and in the interests of free traffic flow.**

- 13. Prior to the development hereby approved being completed or brought into use, the accesses at Angus Road and Stormont Road shall be upgraded to the satisfaction of the Council as Roads Authority and footpath links, including dropped kerbs shall be provided at both accesses in accordance with the standards required by the Council as Roads Authority.**

**Reason – In the interest of pedestrian and cycle safety.**

- 14. Prior to the development hereby approved being completed or brought into use, a scheme for the location and specification of a 3 bay cantilever bus shelter and information board shall be submitted to and approved in writing by the Council as Planning Authority, in consultation with the Council's Public Transport Unit. The approved scheme shall thereafter be installed at the applicants expense, in accordance with the agreed details and confirmed as operational by the Council's Public Transport Unit, prior to the occupation of the last residential unit.**

**Reason – In the interest of promoting sustainable public transport.**

- 15. Development shall not commence on site until further details for the proposed sustainable urban drainage system (SUDS) has been submitted to, and approved in writing by, the Council as Planning Authority, in consultation with SEPA (where necessary). The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C753) and the Council's Flood Risk and Flood Risk Assessments Developer Guidance, and shall incorporate source control and clarify future ownership and maintenance of the proposed system. All works shall be carried out in accordance with the agreed scheme and be operational prior to the bringing into use of the development.**

**Reason – For clarity and in order to ensure that surface water arising from the development is adequately dealt with and that any sustainable urban**

**drainage system (SUDS) does not increase flood risk elsewhere.**

**Justification**

**The proposal is considered to comply with the Development Plan and there are no other material considerations that would justify a departure therefrom.**

**Informatives**

- 1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).**
- 2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.**
- 3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.**
- 4. This development will require the 'Display of notice while development is carried out', under Section 27C (1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. According to Regulation 41 the notice must be:**
  - Displayed in a prominent place at or in the vicinity of the site of the development;**
  - Readily visible to the public; and**
  - Printed on durable material.**
- 5. No work shall be commenced until an application for building warrant has been submitted and approved.**
- 6. The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a**

**criminal act under the Habitats Regulations and penalties are severe for non compliance.**

7. **The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.**
8. **Swift brick installation should proceed in accordance with Swift Conservation guidance available from [swift-conservation.org](http://swift-conservation.org). Installation of lighting and bat boxes should proceed in accordance with Bat Conservation Trust guidance.**
9. **The applicant is advised to refer to Perth & Kinross Council's [Supplementary Guidance on Flood Risk and Flood Risk Assessments 2014](#) as it contains advice relevant to your development.**
10. **The applicant should be advised that in terms of Section 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.**
11. **The applicant is advised to allow for a maximum of 10 linear metres of level hard standing from bin storage or presentation point to refuse collection vehicle to reduce manual handling for bin collection crews.**
12. **The applicant is recommended to discuss potential options with the Councils waste service team for securing an onsite glass recycling point for the benefit of the development.**

In terms of Standing Order 58 a roll call vote was taken.

9 members voted for the Amendment as follows:

Councillors Anderson, Band, Brawn, Drysdale, Gray, Illingworth, Jarvis, McCall, and Watters.

2 members voted for the Motion as follows:

Councillors Simpson and Wilson.

**Resolved:**

In accordance with the Amendment.



**(2) Local Applications**

Prior to the consideration of Arts (Item 5)(2)(i) and (Item 5)(2)(ii), it was agreed due to the nature of both applications to consider deputations and questions from members for both applications together, before considering separate decisions for each application.

Mr S Howie, the applicant, answered questions from the Committee, and, following the conclusion of questions, withdrew to the public benches.

**(i) 18/01614/FLL - DUNNING - Erection of an agricultural building, land South East of A M Howie Yard, Yetts Road, Dunning – Report 19/69 – Simon Howie Farms**

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives:

**Conditions**

1. The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.  
Reason - To ensure that the development is carried out in accordance with the plans approved.
2. Prior to the commencement of development, an Odour Management Plan (OMP) taking account of the one approved under application 15/02097/FLL dated 7 October 2016 shall be submitted and agreed in writing with the Council as Planning Authority. The plan as agreed shall be fully implemented and maintained as part of the planning permission to the satisfaction of the Council as Planning Authority.  
Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.
3. Should any aspect of the development result in verified odour complaint determined by the Council as Planning Authority in consultation with Environmental Health, within 14 days of written request by the Council as Planning Authority, the applicant shall arrange for an Odour Impact Assessment (OIA) to be carried out by a qualified consultant. The OIA findings shall be submitted for the written approval of the Council as Planning Authority, in consultation with Environmental Health and must draw conclusions and make recommendations as necessary. Thereafter any necessary measures to ameliorate the odour nuisance shall be put in place, and a new or revised Odour Management Plan must be

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submitted to the Council within a specified agreed timescale.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

4. Noise levels arising from the development shall not exceed a Rating Level of LAeq time rating 52 dB, when measured over any given 1 hour period, at the façade of any residential property. All measurements shall be determined using the guidance of BS4142:2014 RATING FOR INDUSTRIAL NOISE AFFECTING MIXED RESIDENTIAL & INDUSTRIAL AREAS, and measurements shall be corrected appropriately for acoustic features as described by this standard.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

5. Should any aspect of the operation of this facility lead to a breach of the condition 4, within 14 days of written request by the Council as Planning Authority the applicant shall arrange for an investigation by a suitably qualified noise consultant with the scope and timescale submitted to and agreed in writing with the Council as Planning Authority in consultation with Environmental Health. Thereafter the agreed measures shall be implemented to ameliorate the nuisance.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

6. Prior to the commencement of development details of the specification and colour of the proposed external finishing materials to be used shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

7. The hours of operations shall be restricted to 0700 hours to 1900 hours daily.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

8. Servicing of and deliveries to the premises shall be carried out between 0700 and 1900 Monday to Saturday only, with no servicing or deliveries permitted on Sundays.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

9. Audible vehicle reversing alarms shall be operated on the method that they only emit the warning if necessary, e.g. on an infrared signal which detects persons to the rear of the vehicle.

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- Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.
10. Prior to the installation of any external lighting the details shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of light spill, brightness of the lighting and the proposed hours of operation. The agreed lighting scheme shall be implemented and maintained in full accordance with the agreed scheme.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

11. Prior to the commencement of development a detailed landscaping and planting scheme for the site shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include an area of planting to the northeast to provide a buffer between the site and the residential properties to the north. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

12. During construction the public road shall be kept free from mud and debris at all times and suitable wheel cleaning facilities shall be provided within the site to prevent the deposition of mud and debris on to the public road.

Reason - To ensure the appropriate management of construction surface water run-off to minimise flooding and avoid discharge of sediment/pollution to the local water environment or neighbouring property, in the interests of residential and environmental amenity.

13. Development shall not commence on site until a detailed sustainable urban drainage system (SUDS) has been submitted for the further written agreement of the Council as Planning Authority, in consultation with SEPA where necessary. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C753) and the Council's Flood Risk and

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Flood Risk Assessments Developer Guidance, and shall incorporate source control. All works shall be carried out in accordance with the agreed scheme and be operational prior to the bringing into use of the development.

Reason - To ensure the provision of effective drainage for the site.

**Justification**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

**Informatives**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the Planning Authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
4. An application for Building Warrant may be required.

(ii) **18/01941/FLL - DUNNING - Erection of 2 agricultural building, land South East of A M Howie Yard, Yetts Road, Dunning – Report 19/70 – Simon Howie Farms**

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives:

**Conditions**

1. The proposed development must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed on the planning permission.

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Reason - To ensure that the development is carried out in accordance with the plans approved.

2. Prior to the commencement of development, an Odour Management Plan (OMP) taking account of the one approved under application 15/02097/FLL dated 7 October 2016 shall be submitted and agreed in writing with the Council as Planning Authority. The plan as agreed shall be fully implemented and maintained as part of the planning permission to the satisfaction of the Council as Planning Authority.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

3. Should any aspect of the development result in verified odour complaint determined by the Council as Planning Authority in consultation with Environmental Health, within 14 days of written request by the Council as Planning Authority, the applicant shall arrange for an Odour Impact Assessment (OIA) to be carried out by a qualified consultant. The OIA findings shall be submitted for the written approval of the Council as Planning Authority, in consultation with Environmental Health and must draw conclusions and make recommendations as necessary. Thereafter any necessary measures to ameliorate the odour nuisance shall be put in place, and a new or revised Odour Management Plan must be submitted to the council within a specified agreed timescale.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

4. Noise levels arising from the development shall not exceed a Rating Level of LAeq time rating 52 dB, when measured over any given 1 hour period, at the façade of any residential property. All measurements shall be determined using the guidance of *BS4142:2014 RATING FOR INDUSTRIAL NOISE AFFECTING MIXED RESIDENTIAL & INDUSTRIAL AREAS*, and measurements shall be corrected appropriately for acoustic features as described by this standard.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

5. Should any aspect of the operation of this facility lead to a breach of the condition 4, within 14 days of written request by the Council as Planning Authority the applicant shall arrange for an investigation by a suitably qualified noise consultant with the scope and timescale submitted to and agreed in writing with the Council as Planning Authority in consultation with Environmental Health. Thereafter the agreed measures shall be implemented to ameliorate the nuisance.

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Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

6. Prior to the commencement of development details of the specification and colour of the proposed external finishing materials to be used shall be submitted to and agreed in writing by the Council as Planning Authority. The scheme as agreed shall be implemented prior to the completion or bringing into use of the development, whichever is the earlier.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

7. The hours of operations shall be restricted to 0700 hours to 1900 hours daily.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

8. Servicing of and deliveries to the premises shall be carried out between 0700 and 1900 Monday to Saturday only, with no servicing or deliveries permitted on Sundays.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

9. Audible vehicle reversing alarms shall be operated on the method that they only emit the warning if necessary, e.g. on an infrared signal which detects persons to the rear of the vehicle.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

10. Prior to the installation of any external lighting the details shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of light spill, brightness of the lighting and the proposed hours of operation. The agreed lighting scheme shall be implemented and maintained in full accordance with the agreed scheme.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

11. Prior to the commencement of development a detailed landscaping and planting scheme for the site shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include an area of planting to the northeast to provide a buffer between the site and the residential properties to the north. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season

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(October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained.  
Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

12. During construction the public road shall be kept free from mud and debris at all times and suitable wheel cleaning facilities shall be provided within the site to prevent the deposition of mud and debris on to the public road.

Reason - To ensure the appropriate management of construction surface water run-off to minimise flooding and avoid discharge of sediment/pollution to the local water environment or neighbouring property, in the interests of residential and environmental amenity.

13. Development shall not commence on site until a detailed sustainable urban drainage system (SUDS) has been submitted for the further written agreement of the Council as Planning Authority, in consultation with SEPA where necessary. The scheme shall be developed in accordance with the technical guidance contained in The SUDS Manual (C753) and the Council's Flood Risk and Flood Risk Assessments Developer Guidance, and shall incorporate source control. All works shall be carried out in accordance with the agreed scheme and be operational prior to the bringing into use of the development.

Reason - To ensure the provision of effective drainage for the site.

**Justification**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

**Informatives**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A

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failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.

3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
4. An application for Building Warrant may be required.

**(iii) 18/01908/FLL - ARDLER - Erection of a free range egg production unit and associated works, land 800 metres South West of East Ardler Farm, Main Street, Ardler – Report 19/71 – Mr P Grewar**

Mr A Mulholand and Mr B Ellis, objectors to the application, followed by Mr M Sharp, on behalf of the applicant, and Mr J Grewar, applicant, addressed the Committee, and following their respective representations, withdrew to the public gallery.

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives:

**Conditions**

1. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.  
Reason - To ensure the development is carried out in accordance with the approved drawings and documents.
2. Prior to the commencement of the development hereby approved, the applicant shall submit for the further written agreement of the Council as Planning Authority, in consultation with the Roads Authority (Structures), a Construction Traffic Management Scheme (TMS) which shall include the following:
  - (a) restriction of construction traffic to approved routes and the measures to be put in place to avoid other routes being used;
  - (b) timing of construction traffic to minimise impact on local communities particularly at school start and finishing times, on days when refuse collection is undertaken, on Sundays and during local events;
  - (c) a code of conduct for HGV drivers to allow for queuing traffic to pass;
  - (d) arrangements for liaison with the Roads Authority regarding winter maintenance;



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- (e) emergency arrangements detailing communication and contingency arrangements in the event of vehicle breakdown;
- (f) arrangements for the cleaning of wheels and chassis of vehicles to prevent material from construction sites associated with the development being deposited on the road;
- (g) arrangements for cleaning of roads affected by material deposited from construction sites associated with the development;
- (h) arrangements for signage at site accesses and crossovers and on roads to be used by construction traffic in order to provide safe access for pedestrians, cyclists and equestrians;
- (i) details of information signs to inform other road users of construction traffic;
- (j) arrangements to ensure that access for emergency service vehicles are not impeded;
- (k) co-ordination with other significant developments known to use roads affected by construction traffic;
- (l) traffic arrangements in the immediate vicinity of temporary construction compounds;
- (m) the provision and installation of traffic counters at the applicant's expense at locations to be agreed prior to the commencement of construction;
- (n) monitoring, reporting and implementation arrangements;
- (o) arrangements for dealing with non-compliance; and
- (p) details of HGV movements to and from the site.

The TMS as approved shall be strictly adhered to during the entire site construction programme.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

3. All plant or equipment shall be so enclosed, attenuated and/or maintained such that any noise therefrom shall not exceed Noise Rating 35 between 0700 and 2300 hours daily, or Noise Rating 20 between 2300 and 0700 hours daily, within any neighbouring residential property, with all windows slightly open, when measured and/ or calculated and plotted on a rating curve chart.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

4. Should any aspect of the operation of this facility lead to a breach of condition 3, within 14 days of a written request by the Council as Planning Authority the applicant shall arrange for an investigation by a suitably qualified noise consultant with the scope and timescale submitted to and agreed in writing with the Council as Planning Authority in

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consultation with Environmental Health. Thereafter the agreed measures shall be implemented to ameliorate the nuisance.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

5. The operation of the building shall be conducted strictly in accordance with the approved Noise and Odour Management Plan (NOMP) hereby approved (doc ref:18/01908/14). The Noise and Odour Management Plan is approved as a fluid document and any variations to the mitigation measures which are required as a result of any review shall be submitted to and approved in writing by the Council as Planning Authority and thereafter adhered to.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

6. Should any aspect of the development result in verified odour complaint determined by the Council as Planning Authority in consultation with Environmental Health, within 14 days of written request by the Council as Planning Authority, the applicant shall arrange for an Odour Impact Assessment (OIA) to be carried out by a qualified consultant. The OIA findings shall be submitted for the written approval of the Council as Planning Authority, in consultation with Environmental Health and must draw conclusions and make recommendations as necessary. Thereafter any necessary measures to ameliorate the odour nuisance should be put in place, and a new or revised Odour Management Plan must be submitted to the Council as Planning Authority within a specified agreed timescale.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

7. Prior to the installation of any external lighting, the details of all external lighting shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of light spill, brightness of the lighting and the proposed hours of operation. The agreed lighting scheme shall be implemented and maintained in full accordance with the agreed scheme.

Reason - In the interests of visual and residential amenity; to ensure a satisfactory standard of local environmental quality; to reserve the rights of the Planning Authority.

8. All external lighting shall be sufficiently screened and aligned so as to ensure that there is no direct illumination of neighbouring land and that light spillage beyond the boundaries of the site is minimised to a degree that it

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does not adversely affect the amenity of the neighbouring land.

Reason - In the interests of visual and residential amenity; to ensure a satisfactory standard of local environmental quality; to reserve the rights of the Planning Authority.

9. Prior to the commencement of any works on site the woodland to the south east of the site shall be retained protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

10. Prior to the commencement of development, details of additional tree planting along the north west and north east boundaries of the site shall be submitted to and approved in writing by the Planning Authority. The agreed detail shall thereafter be implemented prior to the completion of the development and completed in accordance with the timescales outlined in condition 11.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

11. The planting scheme as approved under condition 10 shall be implemented fully within one calendar year of the commencement of development and thereafter maintained.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

12. Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size, species and number.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

13. Storm water drainage from all paved surfaces, including the access, shall be disposed of by means of suitable Sustainable Urban Drainage Systems to meet the requirements of best management practices.

Reason - To ensure the provision of effective drainage for the site.

14. The conclusions and recommended action points within the supporting biodiversity survey (doc ref: 18/01908/12) submitted and hereby approved shall be fully adhered to, respected and undertaken as part of the construction phase of development.

Reason - In the interests of protecting environmental quality and of biodiversity.

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15. No removal of hedgerows, trees or shrubs or works to or demolition of buildings or structures that may be used by breeding birds shall take place between 1st March and 31st August inclusive, unless a competent ecologist has undertaken a careful, detailed check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting bird interest on site. Any such written confirmation should be submitted to the local Planning Authority.  
Reason - In the interests of protecting environmental quality and of biodiversity.
16. Measures to protect animals from being trapped in open excavations and/or pipe and culverts shall be implemented for the duration of the construction works of the development hereby approved. The measures may include creation of sloping escape ramps for animals, which may be achieved by edge profiling of trenches/excavations or by using planks placed into them at the end of each working day and open pipework greater than 150 mm outside diameter being blanked off at the end of each working day.  
Reason - In the interests of protecting environmental quality and of biodiversity.
17. All operational traffic movements to and from the site shall be undertaken in accordance with the routing outlined on approved drawing 18/01908/15 to the satisfaction of the Council as Planning Authority.  
Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
18. No lighting of the outdoor range area is permitted. Any lighting in this area will require further planning permission.  
Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

**Justification**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

**Informatives**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).

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2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
4. No work shall be commenced until an application for building warrant has been submitted and approved.
5. The applicant is reminded that, should any protected species be present a licence may be required from Scottish Natural Heritage to disturb a protected species. Failure to obtain a licence may constitute a criminal act under the Habitats Regulations and penalties are severe for non-compliance.
6. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended, it is an offence to remove, damage or destroy the nest of any wild birds while that nest is in use or being built. Planning consent for a development does not provide a defence against prosecution under this act.
7. The applicant should be aware of the SEPA's General Binding Rules of The Water Environment (Controlled Activities) (Scotland) Regulations 2011 (as amended) and the Intake and Outfall Good Practice Guide [https://www.sepa.org.uk/media/150984/wat\\_sg\\_28.pdf](https://www.sepa.org.uk/media/150984/wat_sg_28.pdf) with regards the proposed treatment and discharge of treated surface water to the burn. Further information is available to the applicant in the CAR Practical Guide
8. This development will require the 'Display of notice while development is carried out', under Section 27C(1) of the Town and Country Planning Act 1997, as amended, and Regulation 41 of the Development Management Procedure (Scotland) Regulations 2013. The form of the notice is set out in Schedule 7 of the Regulations and a draft notice is included for your guidance. In accordance with Regulation 41 the notice must be:  
Displayed in a prominent place at or in the vicinity of the site of the development, readily visible to the public, printed on durable material.
9. The applicant is advised that the granting of planning consent does not guarantee a connection to Scottish

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Water's assets. The applicant must make a separate application to Scottish Water Planning & Development Services team for permission to connect to the public wastewater system and/or water network and all their requirements must be fully adhered to.

COUNCILLOR DRYSDALE REQUESTED THAT HIS DISSENT TO THE DECISION TAKEN BE RECORDED.

THE COMMITTEE ADJOURNED FOR 5 MINUTES AT THIS POINT BEFORE RECONVENING.

- (iv) **18/02009/FLL - CRIEFF - Erection of 4 dwellinghouses, 10 flats, bin and cycle storage, fencing and gates, formation of steps, parking area, landscaping and associated works, land at disused bowling green and 42 Mitchell Street, Crieff – Report 19/72 – Struan Homes**

J Scott, Team Leader, delivered an update on proposed conditions, which were circulated to members prior to the meeting.

Mrs V Kirk, objector to the application, followed by Mr C Stewart, on behalf of the applicant, addressed the Committee, and following their respective representations, withdrew to the public gallery.

**Motion (Councillors R McCall and R Watters)**

**Grant, subject to the following terms, conditions and informatives, including the updates provided by Development Management:**

**Conditions**

1. **The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision.  
Reason - To ensure the development is carried out in accordance with the approved drawings and documents.**
2. **Prior to the commencement of the development, a dust management plan for the construction stage of the development, detailing prevention, control and mitigation measures for dust and noise control, shall be submitted for further written agreement of the Council as Planning Authority in consultation with PKC Environmental Health. Thereafter the agreed**

**scheme will be undertaken in full to the satisfaction of the Council as Planning Authority.**

**Reason - In order to safeguard the residential amenity of the area.**

- 3. Prior to the commencement of development, full details of all road levels must be submitted to and agreed in writing by the Council as Planning Authority in consultation with PKC Structures and Flooding. Thereafter, the scheme as agreed must be implemented for the life of the development.**

**Reason – In the interest of flood risk.**

- 4. Prior to the commencement of development, an evaluation for the potential of the site to be affected by contamination by a previous use will be undertaken and, as a minimum, a Preliminary Risk Assessment (Phase 1 Desk Study) shall be submitted to, and approved in writing by, the Council as Planning Authority. If the preliminary risk assessment identifies the need for further assessment, an intrusive investigation shall be undertaken to identify;**

- I. the nature, extent and type(s) of contamination on the site**
- II. measures to treat/remove contamination to ensure the site is fit for the use proposed**
- III. measures to deal with contamination during construction works**
- IV. condition of the site on completion of decontamination measures.**

**Prior to the completion or bringing into use of any part of the development the measures to decontaminate the site shall be fully implemented in accordance with the scheme subsequently agreed by the Council as Planning Authority. Verification that the scheme has been fully implemented must also be submitted to the Council as Planning Authority.**

**Reason - In order to deal with any potential contamination of the site as a result of its former use.**

- 5. Prior to the development hereby approved being completed or brought into use, the vehicular access shall be formed in accordance with Perth & Kinross Council's Road Development Guide Type A junction Figure 5.5 access detail. A kerbed footway build-out (3m radius) should be constructed either side of the junction to aid vehicle and pedestrian visibility.**

**Reason - In the interests of road safety; to ensure an acceptable standard of construction within the public road boundary.**

6. Prior to the installation of any external lighting, the details of all external lighting shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of light spill, brightness of the lighting and the proposed hours of operation. The agreed lighting scheme shall be implemented and maintained in full accordance with the agreed scheme. Lighting cables in the footway should be lowered with twin wall ducting following any access improvements.  
Reason - In the interests of road safety; to prevent a possible danger to road users by avoiding excessive glare or brightness.
7. The recommendations contained within Section 6 of the Air Quality Management Plan hereby approved (18/02009/34), prepared by Resource and Environmental Consultants Limited (January 2019), shall be fully adhered to, all to the satisfaction of the Council as Planning Authority.  
Reason - In the interests of air quality.
8. Prior to the commencement of development, a detailed site plan containing proposed site levels for the entire development site shall be submitted for further written agreement of the Council as Planning Authority. Thereafter the agreed scheme will be undertaken in full to the satisfaction of the Council as Planning Authority.  
Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.
9. Prior to the commencement of development details of the proposed external storage identified within plots 2 and 3 shall be submitted for further written agreement of the Council as Planning Authority. Thereafter the agreed details will be undertaken in full to the satisfaction of the Council as Planning Authority.  
Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.
10. Prior to the commencement of any works on site, all trees on site (other than those marked for felling on the approved plans) and those which have Root Protection Areas which fall within the site shall be retained and protected. Protection methods shall be strictly in accordance with BS 5837 2012: Trees in Relation to Design, Demolition and Construction. Protection measures, once in place, shall remain in place for the duration of construction.



**Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.**

- 11. Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted and the ongoing maintenance of these elements. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained to the satisfaction of the Council as Planning Authority.**

**Reason - In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.**

**Justification**

**The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.**

**Procedural Notes**

**The planning permission decision notice shall not be issued until such time as the required Developer Contributions have been secured or paid in full.**

**In the event the applicant does not either make the required payment within 28 days from the date the agent/applicant is advised of the need for the contributions, or complete a legal agreement for delayed payment within a 4 month period from the date the agent/applicant is advised of the need for the contributions the application may be refused under delegated powers without any further discussion with the applicant.**

**Informatives**

- 1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).**
- 2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.**
- 3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.**
- 4. No work shall be commenced until an application for building warrant has been submitted and approved.**
- 5. The applicant is advised that in terms of Sections 56 of the Roads (Scotland) Act 1984 he must obtain from the Council as Roads Authority consent to open an existing road or footway prior to the commencement of works. Advice on the disposal of surface water must be sought at the initial stages of design from Scottish Water and the Scottish Environment Protection Agency.**
- 6. The applicant should be aware of the requirements of the Council's Environment and Regulatory Services in relation to waste collection from the site and should ensure adequate measures are provided on site to allow for the collection of waste.**
- 7. The presence of protected species, and the extent to which they could be affected by the proposed development, should be established before works commence. Should protected species be identified within the site the developer should ensure that all appropriate measures required to comply with the relevant legislation are carried out.**
- 8. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above dates. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended**

(section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.

9. Application for a new postal address should be made via the Street Naming and Numbering page on the Perth & Kinross Council website at [www.pkc.gov.uk/snn](http://www.pkc.gov.uk/snn).
10. The applicant is advised to refer to Perth & Kinross Council's Supplementary Guidance on Flood Risk and Flood Risk Assessments 2014 as it contains advice relevant to your development.  
<http://www.pkc.gov.uk/article/15061/Supplementary-guidance-Flood-risk-and-flood-risk-assessments>

Amendment (Councillor W Wilson and L Simpson)

Refuse, for the following reasons:

- (i) The proposal is contrary to Policy PM1A of the Perth and Kinross Local Development Plan 2014 as the development as proposed creates visual clutter by virtue of too many houses for the site.
- (ii) The proposal is contrary to Policy PM1B(a) of the Perth and Kinross Local Development Plan 2014 as the proposal does not create a sense of identity due to the design, layout and number of units and visual clutter.
- (iii) The proposal is contrary to Policy RD1 of the Perth and Kinross Local Development Plan 2014 as the proposal does not respect the residential amenity of adjacent dwellings due to the number of units proposed.
- (iv) The proposal is contrary to Policy HE3A of the Perth and Kinross Local Development Plan 2014 as the proposal does not preserve or enhance the Crieff Conservation Area based on the number of units proposed for the site.

In terms of Standing Order 58 a roll call vote was taken.

2 members voted for the Amendment as follows:  
Councillors Simpson and Wilson.

9 members voted for the Motion as follows:  
Councillors Anderson, Band, Brawn, Drysdale, Gray, Illingworth, Jarvis, McCall, and Watters.

**Resolved:**

In accordance with the Motion.

- (v) **18/02168/FLL - MEIKLEOUR - Change of use from agricultural land to form extension to car park, Meikleour Arms Hotel and Restaurant, Meikleour, Perth – Report 19/73 – Mr S Mercer-Nairne**

**Resolved:**

**Grant**, subject to the following terms, conditions and informatives:

**Conditions**

1. The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.  
Reason - To ensure the development is carried out in accordance with the approved drawings and documents.
2. Development shall not commence until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted by the applicant, and agreed in writing by the Council as Planning Authority, in consultation with Perth and Kinross Heritage Trust. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented including that all excavation, preservation, recording, recovery, analysis, publication and archiving of archaeological resources within the development site is undertaken. In addition, the developer shall afford access at all reasonable times to Perth and Kinross Heritage Trust or a nominated representative and shall allow them to observe work in progress.  
Reason - To ensure a programme of archaeological works is carried out to safeguard and record any archaeological remains within the development area.
3. Prior to the commencement of development hereby approved a strategy to restrict car parking directly in front of the Meikleour Arms Hotel and Restaurant (to the south east) shall be submitted for the further written agreement of the Council as Planning Authority. Thereafter the strategy as subsequently approved shall be implemented and maintained before the car park extension is brought into use.  
Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.
4. Prior to the commencement of the development hereby approved, a detailed landscaping and planting scheme for the site shall be submitted for the further written agreement of the Council as Planning Authority. The scheme shall include details of the height and slopes of

any mounding or recontouring of the site, full details of all hard landscaping proposals including materials and installation methods and, species, height, size and density of trees and shrubs to be planted. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after the completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied in writing to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained to the satisfaction of the Council as Planning Authority. Any planting failing to become established within five years shall be replaced in the following planting season with others of similar size, species and number.

Reason - In the interests of visual amenity and to ensure the satisfactory implementation of the proposed planting scheme.

#### **Justification**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

#### **Informatives**

1. This planning permission will last only for three years from the date of this decision notice, unless the development has been started within that period (see section 58(1) of the Town and Country Planning (Scotland) Act 1997 (as amended)).
2. Under section 27A of the Town and Country Planning (Scotland) Act 1997 (as amended) the person undertaking the development is required to give the planning authority prior written notification of the date on which it is intended to commence the development. A failure to comply with this statutory requirement would constitute a breach of planning control under section 123(1) of that Act, which may result in enforcement action being taken.
3. As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the Planning Authority written notice of that position.
4. Trees and scrub are likely to contain nesting birds between 1st March and 31st August inclusive. Trees and scrub are present on the application site and are to be assumed to contain nesting birds between the above

dates. The applicant is reminded that, under the Wildlife and Countryside Act 1981, as amended (section 1), it is an offence to remove, damage or destroy the nest of any wild bird while that nest is in use or being built. Planning permission for a development does not provide a defence against prosecution under this Act.

5. The applicant is advised that to enable the negative suspensive condition to be fulfilled (the car park strategy directly in front of the Meikleour Arms Hotel and Restaurant to the south east) may, depending on the strategy to be deployed, constitute operational development and these works themselves may require the submission of a planning application.

**(3) Proposal of Application Notice (PAN)**

- (i) 18/00016/PAN - COUPAR ANGUS - Formation of an energy storage compound including 15 battery storage units, inverters and transformers, a substation, ancillary equipment, store, vehicular access, track and associated works, South East of Coupar Angus Substation, Pleasance Road, Coupar Angus – Report 19/74 – Coronation Power Limited**

Councillors Anderson and Wilson both requested more in-depth information be available to the public at the forthcoming second public consultation.

Members also noted the issues identified by the Interim Development Quality Manager.

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Perth and Kinross Council  
Planning & Development Management Committee – 10 April 2019  
Report of Handling by Interim Development Quality Manager (Report No. 19/103)

**PROPOSAL:** Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to modify condition 15 (cycle and footpath link) of planning permission 08/01123/AMM (Erection of chalets - Reserved Matters)

**LOCATION:** Sand And Gravel Pit, Gowrie, Stanley

Ref. No: [19/00120/AMM](#)

Ward No: P5 - Strathtay

**Summary**

This report recommends approval of the application as the development is considered to comply with the relevant provisions of the Development Plan and there are no material considerations apparent which outweigh the Development Plan.

**BACKGROUND AND DESCRIPTION OF PROPOSAL**

- 1 This application has been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 and seeks to modify condition 15 of planning permission 08/01123/AMM (Erection of chalets - Reserved Matters) which relates to the provision of a cycle and pedestrian path through the application site as part of a wider proposed new cycle and footpath to link the settlements of Stanley and Luncarty. The wider cycle and pedestrian path between Stanley and Luncarty is being promoted by the Stanley Development Trust. A small part of the wider route, linking Stanley and Luncarty is proposed to travel through the application site and it is that small part of the route which is subject to this application. The 2008 permission, which has been implemented and is therefore live, allows for the erection of 262 chalets and 30 touring caravan stances at the former Gowrie Quarry, Sand and Gravel Pit near Stanley.
- 2 The wider development site relates to an area of land measuring approximately 33 hectares that was previously operated as a sand and gravel quarry. The site is located midway between the village settlements of Luncarty and Stanley and is accessed via the B9099 that runs adjacent to the southern boundary of the site. The majority of the site lies within the former quarry which is largely screened from public views from the south-west, south and south-east by substantial earth bunding.
- 3 The condition on the existing consent relating to the cycle/pedestrian path is worded as follows:

- 4 "The proposed cycle and footpath link illustrated on the approved plans shall be completed to the satisfaction of the Planning Authority prior to the occupation of the development and/or operation of the central leisure facilities.
- 5 Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow and to encourage the use of sustainable means of transport."
- 6 The associated approved plan shows the cycle path route entering the site on the eastern side of the site adjacent to the burn which runs through the site and travelling along the length of the burn in an east/west direction before leaving the site on the western boundary.
- 7 The applicant is now seeking to amend the route of the cycle and pedestrian path solely within the application site. It is proposed that the cycle path will enter the site on the eastern boundary at a point further south to tie in with what is now considered to be the preferred route of the Stanley Development Trust for the wider cycle path route. The path is then proposed to utilise the approved road network within the application site to travel in a south westerly direction towards the main vehicular access into the wider site. The cycle route will then cross the public road southbound out of the application site and continue along a route towards Luncarty. It should be noted that the finalised route of the wider cycle path outwith the application site will require separate planning permission and that no application for the path has been received to date.
- 8 As such this application seeks to vary Condition 15 of the permission to alter the route of the cycle and pedestrian path solely within the application site to cater for the change in the wider route linking the two settlements which will be subject to a separate planning application.

## **ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

- 9 Directive 2011/92/EU (as amended) requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for particular large scale projects to do so 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 'development consent' can be given.
- 10 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. The EIA Report helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 11 This proposal relates to a Section 42 application to modify condition 15 to facilitate an amendment to the cycle/footpath link through the application site. The wider development as a whole was screened to not be EIA development in 2008 and on that basis I am required to consider whether this new application,



seeking a physical change to the proposal in the form of the revised cycle/footpath route, would require EIA. I am satisfied that the proposal does not fall under Schedule 1 or 2 of the Environmental Impact Assessment (Scotland) Regulations 2017 given that the development as a whole was not previously considered to be EIA development. Therefore an Environmental Impact Assessment Report (EIAR) is not required.

## **PRE-APPLICATION CONSULTATION**

- 12 The proposal relates to a Section 42 application to vary the terms of a condition associated with a major application. There is no requirement to carry out statutory public consultation as part of the consideration of a Section 42 application.

## **NATIONAL POLICY AND GUIDANCE**

- 13 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

### **National Planning Framework**

- 14 NPF3 is a long-term strategy for Scotland and is a spatial expression of the Government's Economic Strategy and plans for development and investment in infrastructure. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and 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.

### **Scottish Planning Policy 2014**

- 15 The Scottish Planning Policy (SPP) was published in June 2014 and sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- The preparation of development plans;
  - The design of development, from initial concept through to delivery; and
  - The determination of planning applications and appeals.
- 16 The following sections of the SPP will be of particular importance in the assessment of this proposal:
- Sustainability : paragraphs 24 – 35
  - Placemaking : paragraphs 36 – 57

## **Planning Advice Notes**

- 17 The following Scottish Government Planning Advice Notes (PANs) and Guidance Documents are of relevance to the proposal:

- PAN 40 Development Management
- PAN 51 Planning, Environmental Protection and Regulation
- PAN 61 Planning and Sustainable Urban Drainage Systems
- PAN 75 Planning for Transport

## **National Roads Development Guide 2014**

- 18 This document supports Designing Streets and expands on its principles and is considered to be the technical advice that should be followed in designing and approving of all streets including parking provision.

## **DEVELOPMENT PLAN**

- 19 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

## **TAYPlan Strategic Development Plan 2016-2036**

- 20 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:
- 21 *“By 2036 the TAYplan area 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, study and visit, and where businesses choose to invest and create jobs.”*
- 22 There are no elements of the TAYPlan which are directly relevant to consideration of this application to vary the terms of the condition relating to the provision of the cycle path link through the site.

## **Perth and Kinross Local Development Plan 2014**

- 23 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 24 The principal relevant policy is, in summary;

## **Policy CF2 - Public Access**

- 25 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

## **Proposed Perth and Kinross Local Development Plan 2 (LDP2)**

- 26 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.
- 27 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 28 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision.

## **SITE HISTORY**

- 29 00/00804/MW Amendment of condition two to extend period for extraction by five years to 1 April 2008 at Decision Issued 24 August 2000 Application Approved
- 30 02/01545/MOD Variation of planning permission PK88/647, Condition to extend permission for concrete batching plant until December 2004 at Decision Issued 4 December 2002 Application Approved
- 31 03/01446/FUL Extraction of sand and gravel from Decision Issued 13 January 2004 Application Approved Development Management Committee

- 32 [06/00187/OUT](#) Erection of chalet/touring caravan site (indicatively 300 chalets and 20 touring caravan stances) and associated administrative accommodation, indoor and outdoor leisure facilities, access roads and planting/landscaping works (in outline) Decision Issued 14 July 2006 Application Approved – Development Management Committee
- 33 [08/00771/AML](#) Erection of indoor leisure and reception facilities (reserved matters) Decision Issued 5 September 2011 Application Approved – Development Management Committee
- 34 [08/01123/AMM](#) Erection of chalets (Reserved Matters) Decision Issued 5 September 2011 Application Approved – Development Management Committee
- 35 [18/00229/FLL](#) Formation of a sales area including the siting of a sales reception building and 6no. holiday accommodation show units for a temporary period, alterations to vehicular access, landscaping and associated works Decision Issued 1 May 2018 Application Refused – Delegated Powers
- 36 [18/00365/ADV](#) Display of a sign Decision Issued 17 April 2018 Application Approved – Delegated Powers

## **CONSULTATIONS**

- 37 As part of the planning application process the following bodies were consulted:

### **External**

#### **Perth and Kinross Heritage Trust**

- 38 Condition recommended to ensure archaeological investigation.

#### **Stanley Development Trust**

- 39 No objection to proposal as it forms an integral part of the proposed cycle and pedestrian route between Stanley and Luncarty. Further agreement requires to be reached relating to the width and surfacing of the proposed route.

### **Internal**

#### **Transport Planning**

- 40 No objection

#### **Community Greenspace**

- 41 No objection to proposal as it forms an integral part of the proposed cycle and pedestrian route between Stanley and Luncarty. Further agreement requires to be reached relating to the width and surfacing of the proposed route.

## REPRESENTATIONS

- 42 The following points were raised in the one representation received:
- Further details on the exact routing, width, signage and surfacing of the route require to be provided.
- 43 These issues are addressed in the Appraisal section of the report.

## ADDITIONAL STATEMENTS

44

|                                                |                                |
|------------------------------------------------|--------------------------------|
| Environment Statement                          | Not Required                   |
| Screening Opinion                              | Undertaken and no EIA required |
| Environmental Impact Assessment                | Not Required                   |
| Appropriate Assessment                         | Not Required                   |
| Design Statement / Design and Access Statement | Not Required                   |
| Reports on Impact or Potential Impact          | Not Required                   |

## APPRAISAL

- 45 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary which are also outlined above.
- 46 As, outlined above, there is a live permission on this site for the wider development of 262 chalets and 30 caravans and this application solely relates to the amendment to Condition 15 of that permission in order to alter the route of the cycle and pedestrian path and the timing of delivery within the application site. As this is the only element of the proposal to change the policy assessment of the remainder of the site remains as per the conclusions of the 2008 permission. A brief summary of each element is outlined below.

### Cycle Route

- 47 As part of the ongoing development of the core path network throughout Perth and Kinross the Council, in conjunction with the Perth and Kinross Countryside Trust, has identified the desirability of a cycle path linking Luncarty and Stanley. It will link into the Perth - Luncarty cycle path, and provide a safer commuting route than the B9099. It had initially been proposed that the cycle path would follow the route of the railway line to the north of the site. However, following

the submission of the 2008 application an alternative route running through the site was been identified as the preferable route. This cycle/footpath link will be of significant benefit to the proposed development and shall promote the use of sustainable methods of transport.

- 48 The modification to the condition will allow the revised route to be formed through the application site to tie in with the wider proposed cycle/footpath route between Stanley and Luncarty. On that basis a modification to the condition to allow for this is considered to be acceptable and still ensures the link through the application site will occur. As there is no firm agreement or planning consent in place on the finalised wider route of the cycle/footpath it is proposed that a revised condition reflects this but ensures that the applicant still has responsibility for providing and installing the cycle/footpath route through the application site within an appropriate timescale. On that basis the following revised wording is proposed for a new Condition 15:
- 49 “Prior to completion of the Stanley to Luncarty cycle/pedestrian path or the occupation/completion of the 30th lodge on site, whichever is the earliest, full details of a cycle/footpath link through the site which shall tie in with the proposed Stanley to Luncarty cycle/pedestrian path shall be submitted to and approved in writing by the Planning Authority. These details shall include a site plan showing the route within the application site, a full specification of the route including its width and surfacing, together with appropriate signage. The details, as approved in writing, shall be implemented as part of the site development and completed prior to the completion of the Stanley to Luncarty cycle/pedestrian path or the occupation/completion of the 30th lodge on site , whichever is the earliest.”

### **Design and Layout**

- 50 The revised cycle and pedestrian link is considered to be appropriate in terms of the wider design and layout of the site and the exact detail on the surfacing and position of the route can be agreed by condition (Condition 15).

### **Landscape**

- 51 The revised cycle and pedestrian link is not considered to have any detrimental impact on the landscape character of the area.

### **Residential Amenity**

- 52 The revised cycle and pedestrian link is not considered to have any detrimental impact on the residential amenity of the area.

### **Roads and Access**

- 53 As outlined above the revised cycle and pedestrian route is considered to be acceptable from a sustainable transport perspective and forms an integral part of the proposed wider Stanley to Luncarty pedestrian and cycle path link.

### **Drainage and Flooding**

- 54 The revised cycle and pedestrian link is not considered to have any detrimental impact on the site in relation to drainage and flooding. As per the existing consent, the proposed surface water drainage scheme for the site will be secured by condition (Condition 14).

### **Waste Collection**

- 55 The waste collection provision for the site was agreed as part of the assessment of the previous application and this permission will ensure that the agreed details are adhered to (Condition 16).

### **Natural Heritage and Biodiversity**

- 56 The impact on natural heritage and biodiversity was considered as part of the previous application and this proposal to amend the terms of the condition relating to the cycle and pedestrian link is not considered to have any further impact on natural heritage or bio diversity interests. In any case the same conditions relating to natural heritage are proposed on this recommendation (Conditions 11 and 12).

### **Developer Contributions**

- 57 A developer contribution of £56,000 towards the wider Stanley to Luncarty cycle and pedestrian link will be secured through a Section 75 Legal Agreement.

### **Social and Economic Impact**

- 58 The revision to the condition to amend the cycle and pedestrian route through the site is considered to be of social and economic benefit to the area as it will help to form part of a wider improved cycle and pedestrian route between the settlements of Stanley and Luncarty. Furthermore the proposal will also connect the application site to the wider cycle and pedestrian path and therefore provide improved linkages to the wider community and facilities located within the nearby settlements.

### **Conditions**

- 59 The remaining elements of the development as outlined above will remain as per the 2008 approval, other than the amendment to Condition 15. As these elements are not changing the policy assessment on the wider site remains the same, as per the conclusions of the 2008 permission. Nevertheless the previously attached planning conditions are required to address the above matters as a new permission is being granted.

## **LEGAL AGREEMENTS**

- 60 The existing permission was subject to a legal agreement with the previous owner to secure a contribution of £56,000 towards the wider cycle and pedestrian path network between Stanley and Luncarty. In order to secure this contribution going forward the applicant has agreed to enter into a new Section 75 Agreement with the Council under consideration of this application. This will secure provision of the required contribution on a phased basis at £1000 per lodge up to the total £56,000.

## **DIRECTION BY SCOTTISH MINISTERS**

- 61 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 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**

- 62 To conclude, the application must be determined in accordance with the adopted Development Plan unless material considerations indicate otherwise. In this respect, I have taken account of the Local Development Plan and material considerations and in this case I am content that the development proposed does not conflict with the Development Plan.
- 63 Accordingly the proposal to amend the condition relating to the position of the pedestrian and cycle path link in the site is recommended for approval.

## **RECOMMENDATION**

### **Approve the application**

### **Conditions and Reasons for Recommendation**

- 1 The development hereby approved must be carried out in accordance with the approved drawings and documents, unless otherwise provided for by conditions imposed by this decision notice.

Reason - To ensure the development is carried out in accordance with the approved drawings and documents.

- 2 The chalets hereby approved shall be used solely for holiday accommodation only and shall not be occupied as the sole or main residence of the occupant.

Reason - To prevent permanent residential use of the site in view of its location within a rural area and in accordance with the Planning Authority's policy of restricting sporadic housing development in the countryside.

- 3 Prior to the development hereby approved being completed or brought into use, all matters regarding access, car parking, road layout, design and specification,



including the disposal of surface water, shall be in accordance with the standards required by the Council as Roads Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 4 Prior to the occupation of the development the vehicular access to the B9099 public road shall be formed in accordance with specification Type E, Fig 5.8, access detail to the satisfaction of the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 5 Prior to the development hereby approved being completed or brought into use, the gradient of the access shall not exceed 3% for the first 5 metres measured back from the edge of the carriageway and the access shall be constructed so that no surface water is discharged to the public highway.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 6 Prior to the occupation of the first lodge full visibility splays of 3m by 180 m shall be provided to the right and left of the access measured between points 1m above the adjacent B9099 road channel level and maintained permanently thereafter to the satisfaction of the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 7 Prior to the occupation of the first lodge turning facilities shall be provided within the site to enable all vehicles to enter and leave in a forward gear and shall be maintained permanently thereafter to the satisfaction of the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 8 'Pick up and drop off' areas for bus passengers shall be provided on both sides of the B9099 public road adjacent to the access to the development prior to the occupation of the first lodge. The areas shall be a minimum of 6m long by nominally 1.8m wide kerbed and surfaced to the requirements of the Council as Roads Authority to the satisfaction of the Council as Planning Authority. In addition a bus shelter shall be provided on the south side of the road unless otherwise agreed in writing by the Council as Planning Authority.

Reason - In the interests of pedestrian and traffic safety and in the interests of free traffic flow.

- 9 Within 6 months of the date of this decision notice a detailed landscaping and planting scheme for the site shall be submitted to and approved in writing by

the Planning Authority. The scheme shall include details of the height and slopes of any mounding or re-contouring of the site, full details of all hard landscaping proposals including materials and installation methods and species, height, size and density of trees and shrubs to be planted. The plans shall also include planting to a depth of 40 metres adjacent to the B9099 and shall also incorporate bunding. The submission shall also include full details of the phasing of the landscaping. The scheme as subsequently approved shall be carried out and completed within the first available planting season (October to March) after completion or bringing into use of the development, whichever is the earlier, and the date of Practical Completion of the landscaping scheme shall be supplied to the Council as Planning Authority within 7 days of that date. The scheme as agreed and implemented shall thereafter be maintained.

Reason - To ensure a satisfactory standard of development and environmental quality and to reserve the rights of the Planning Authority.

- 10 The wastewater treatment facility and associated drainage, storage and pumping installations shall be designed, operated and maintained such that noise and or odour therefrom, are not perceptible in any domestic property.

Reason - In the interests of residential amenity; to ensure a satisfactory standard of local environmental quality.

- 11 Tree felling and vegetation clearance shall be undertaken out with the bird breeding season (i.e. not between 1st April and 31st July).

Reason - In the interests of protecting environmental quality and of biodiversity.

- 12 No work shall take place within the Thistle Brig Site of Special Scientific Interest (SSSI), including the storage of materials or machinery

Reason - In order to safeguard the protected Thistle Brig Site of Special Scientific Interest (SSSI).

- 13 No chalets or touring caravans are permitted within the south eastern area of the site between the B9099 and the bund which delineates the former quarry until this area has been effectively screened by the landscaping required by Condition 9 of this permission.

Reason - In the interests of visual amenity; to ensure a satisfactory standard of local environmental quality.

- 14 The drainage strategy for the site is not hereby approved. Within 3 months of the date of this decision notice a revised drainage strategy shall be submitted to and approved in writing by the Planning Authority. The revised drainage strategy, as approved in writing, shall be implemented as part of the site development and thereafter maintained to the satisfaction of the Council as Planning Authority.

Reason - In order to ensure the provision of an acceptable surface water drainage scheme.

- 15 Prior to completion of the Stanley to Luncarty cycle/pedestrian path or the occupation/completion of the 30th lodge on site, whichever is the earliest, full details of a cycle/footpath link through the site which shall tie in with the proposed Stanley to Luncarty cycle/pedestrian path shall be submitted to and approved in writing by the Planning Authority. These details shall include a site plan showing the route within the application site, a full specification of the route including its width and surfacing, together with appropriate signage. The details, as approved in writing, shall be implemented as part of the site development and completed prior to the completion of the Stanley to Luncarty cycle/pedestrian path or the occupation/completion of the 30th lodge on site, whichever is the earliest.

Reason - In the interests of pedestrian and traffic safety and to encourage the use of sustainable means of transport and to ensure the provision of an appropriate link through the application site for the Luncarty to Stanley cycle/footpath.

- 16 The recycling facilities hereby approved shall be installed on site prior to the occupation of the first lodge on site.

Reason - To ensure adequate provision for waste disposal from the site.

- 17 The cycle parking hereby approved shall be installed on site prior to the occupation of the first lodge on site.

Reason - To ensure the provision of cycle parking on site and to encourage the use of sustainable means of transport.

- 18 No further development shall take place on site until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of archaeological investigation which has been submitted by the applicant, and agreed in writing by the Council as Planning Authority, in consultation with Perth and Kinross Heritage Trust. Thereafter, the developer shall ensure that the programme of archaeological works is fully implemented including that all excavation, preservation, recording, recovery, analysis, publication and archiving of archaeological resources within the development site is undertaken. In addition, the developer shall afford access at all reasonable times to Perth and Kinross Heritage Trust or a nominated representative and shall allow them to observe work in progress.

Reason - To ensure the scheme of archaeological investigation is fully undertaken on site.

## **B JUSTIFICATION**

The proposal is in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan.

## **C PROCEDURAL NOTES**

None

## **D INFORMATIVES**

- 1 As soon as practicable after the development is complete, the person who completes the development is obliged by section 27B of the Town and Country Planning (Scotland) Act 1997 (as amended) to give the planning authority written notice of that position.

Background Papers: 1 letters of representation  
Contact Officer: John Williamson 01738 475360  
Date: 28 March 2019

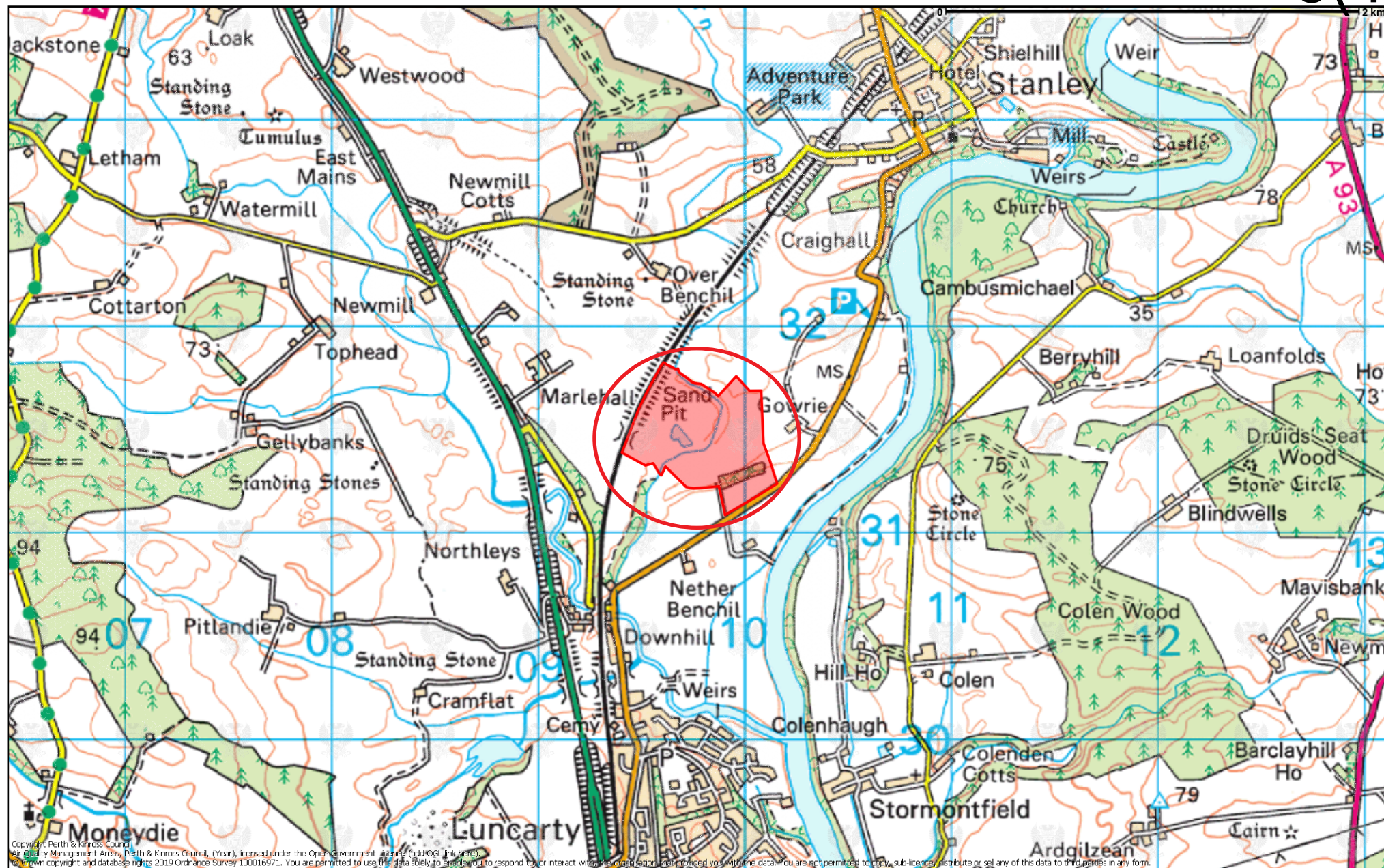
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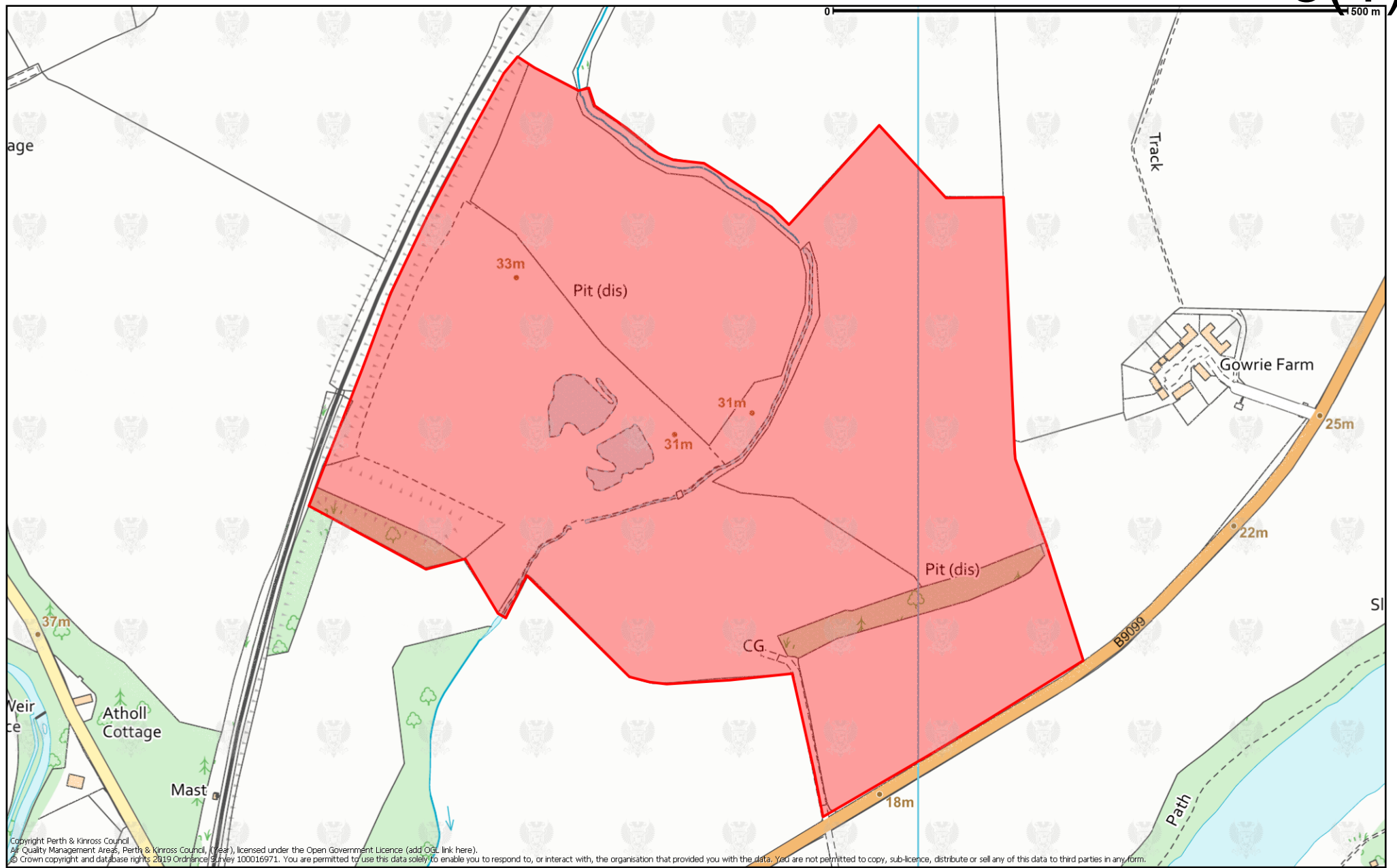
19/00120/FLM

Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to modify condition 15 (cycle and footpath link) of planning permission 08/0123/AMM (Erection of chalets - Reserved Matters) at Sand and Gravel Pit, Gowrie, Stanley









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19/00120/FLM

Application under Section 42 of the Town and Country Planning (Scotland) Act 1997 to modify condition 15 (cycle and footpath link) of planning permission 08/01123/AMM (Erection of chalets - Reserved Matters) at Sand and Gravel Pit, Gowrie, Stanley







Perth and Kinross Council  
Planning & Development Management Committee – 10 April 2019  
Report of Handling by Interim Development Quality Manager (Report No. 19/104)

**PROPOSAL:** Erection of four wind turbines and ancillary infrastructure

**LOCATION:** Binn Eco Park Wind Farm, Glenfarg

Ref. No: [18/00865/FLL](#)

Ward No: P9 - Almond And Earn

### Summary

This report assesses changes to the wind turbine dimensions associated with the approved Binn Wind Farm. A previous application, for four turbines, was referred to the Development Management Committee with a recommendation of refusal in August 2015 (14/01970/FLL). The application was approved by the Development Management Committee and subsequently the pre commencement conditions have been discharged and a material operation commenced on site. As such, the previous permission remains live.

This report recommends refusal of the application for the erection of four turbines and associated infrastructure, at Binn Eco Park. The proposed 9m increase in height of the turbines would have unacceptable adverse landscape impacts, including cumulative landscape impacts on the immediate landscape character as well as the wider landscape setting, against a generation capacity gain of 0.2MW.

Although the policy position in the Perth and Kinross Council Local Development Plan 2014 is generally supportive of renewable energy schemes, the magnitude of the adverse effects associated with the increased height of the turbines are significant and environmentally unacceptable. Accordingly, the proposal is not considered to comply with the Development Plan and there are no material considerations of sufficient weight which would justify departing from the Development Plan. The application is recommended for refusal.

### BACKGROUND AND DESCRIPTION OF PROPOSAL

- 1 Full planning consent is sought for the erection of four wind turbines and associated infrastructure at Binn Eco Park which is located 350m to the south of Binn Hill which is 277m AOD (above Ordnance Datum), approximately 2.7 km to the southwest of Abernethy and 12km to the southeast of Perth. The Binn Eco Park site lies immediately to the northwest. The site is proposed to be served partly by the existing vehicular access which serves the adjacent Eco Park. A new access track is proposed to extend eastwards from the existing access track to serve each of the proposed four turbines.
- 2 As well as the four turbines and upgraded access, a substation, borrow pits, a temporary construction compound, including parking and welfare facilities and

other ancillary works are proposed as part of the works. The proposed turbines will be 78m to hub height with a rotor diameter of 92m making a tip height of up to 124m. This is an increase in the tip height of each turbine by 9m from the extant permission. Each wind turbine has a generating capacity of 2.35 megawatts (MW), which would provide a total site capacity of 9.4MW. The turbines are proposed to be coloured in a pale grey semi-matt finish.

- 3 The current use of the site is mainly farmland within a wider context of the industrial buildings and infrastructure associated with Binn Eco Park which is designated as a waste management facility in the Perth and Kinross Local Development Plan 2014.
- 4 Planning permission was granted on this site in August 2015 by the Development Management Committee (14/01970/FLL) for the erection of four turbines of a blade tip height of 115m and hub height of 69m. This 2015 permission also included the change of use of Catochil House and Catochil Cottage from residential use to offices given their proximity to the turbines.
- 5 This revised application seeks to erect the turbines in the same location but with a slight variation to the position and layout of part of the access tracks serving the site.
- 6 Legislation requires decisions on planning applications to be made in accordance with the Development Plan unless material considerations indicate otherwise. The Local Development Plan (LDP) which was used to assess the previous application remains the adopted LDP at this time, although the TAYplan Strategic Development Plan has been updated to the 2016-2036 plan from the previous 2012 plan.
- 7 It should be noted that it is not appropriate to re-visit the concept of a wind farm in this location through this application. The assessment can only consider whether the change in turbine dimensions is acceptable.
- 8 Whilst it was concluded by officers that the landscape and visual impact of the turbines of the previous scheme was unacceptable, it remains the case that the view of the Council, given the decision by the Development Management Committee, is that the previously consented and extant scheme was acceptable and accorded with the Development Plan. As such the decision on the previous application is a significant material consideration in the assessment of this application and must be given appropriate weight in the decision making process on this revised application to increase the turbine heights.

## **ENVIRONMENTAL IMPACT ASSESSMENT (EIA)**

- 9 Directive 2011/92/EU (as amended) requires the 'competent authority' (in this case Perth and Kinross Council) when giving a planning permission for particular large scale projects to do so 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 'development consent' can be given.

- 10 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. The EIA Report helps to ensure that the importance of the predicted effects, and the scope for reducing any adverse effects, are properly understood by the public and the relevant competent authority before it makes its decision.
- 11 As outlined above, an Environmental Statement was submitted with the previous application for this site and an update Environmental Statement relating to issues which would be affected by the proposed increase in turbine height accompanies this application.
- 12 The earlier approved Environmental Statement covered the full range of potential environmental effects associated with the Binn Wind Farm. In support of this application the applicant has submitted supplementary environmental information to bolster the original ES for the increase in turbine heights. It assesses only those topic areas where the effects may be altered by the modification to the turbine dimensions, namely:-
- Landscape and Visual
  - Ecology and Ornithology
  - Noise
  - Cultural Heritage and Archaeology
  - Infrastructure
  - Shadow Flicker
  - Surface and Groundwater Hydrology
- 13 Further Supplementary Environmental Information (SEI) was also submitted to bolster the initial submission. This provided further information on noise and residential amenity, shadow flicker, ecology and landscape and visual impact.

## **NATIONAL POLICY AND GUIDANCE**

- 14 The Scottish Government expresses its planning policies through The National Planning Frameworks, the Scottish Planning Policy (SPP), Planning Advice Notes (PAN), Creating Places, Designing Streets, National Roads Development Guide and a series of Circulars.

### National Planning Framework

- 15 The third National Planning Framework for Scotland (NPF) was published in June 2014, setting out a strategy for Scotland's spatial development for the next 20 – 30 years. Under the Planning etc. (Scotland) Act 2006 this is now a statutory document and 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.

## Scottish Planning Policy 2014

- 16 The Scottish Planning Policy (SPP) was published on 23 June 2014. It sets out national planning policies which reflect Scottish Ministers' priorities for operation of the planning system and for the development and use of land. The SPP promotes consistency in the application of policy across Scotland whilst allowing sufficient flexibility to reflect local circumstances. It directly relates to:
- the preparation of development plans;
  - the design of development, from initial concept through to delivery; and
  - the determination of planning applications and appeals.
- 17 The following sections of SPP (2014) are of particular importance in the assessment of this application:-
- Valuing the Historic Environment, paragraphs 135 – 151
  - Delivering Heat and Electricity, paragraphs 152 – 174
  - Valuing the Natural Environment, paragraphs 193 – 218
  - Maximising the Benefits of Green Infrastructure, paragraphs 219 – 233
  - Managing Flood Risk and Drainage, paragraphs 254 – 268
- 18 The following Scottish Government Planning Advice Notes (PAN) are also of interest:-
- PAN 3/2010 Community Engagement
  - PAN 1/2011 Planning and Noise
  - PAN 1/2013 Environmental Impact Assessment
  - PAN 40 Development Management
  - PAN 51 Planning, Environmental Protection and Regulation
  - PAN 60 Planning for Natural Heritage
  - PAN 75 Planning for Transport
  - PAN 79 Water and Drainage

## **Onshore wind turbines – Online Renewables Advice May 2014**

- 19 Provides specific topic guidance to Planning Authorities from Scottish Government.
- 20 The topic guidance includes encouragement to planning authorities to:
- develop spatial strategies for wind farms;
  - ensure that Development Plan Policy provide clear guidance for design, location, impacts on scale and character of landscape; and the assessment of cumulative effects.
  - involve 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.

## **DEVELOPMENT PLAN**

- 21 The Development Plan for the area comprises the TAYplan Strategic Development Plan 2016-2036 and the Perth and Kinross Local Development Plan 2014.

### **TAYPlan Strategic Development Plan 2016-2036**

- 22 TAYPlan sets out a vision for how the region will be in 2036 and what must occur to bring about change to achieve this vision. The vision for the area as set out in the plans states that:
- 23 *“By 2036 the TAYplan area 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, study and visit, and where businesses choose to invest and create jobs.”*
- 24 The following sections of the TAYplan 2016 are of particular importance in the assessment of this application.

### **Policy 7: Energy, Waste and Resources**

- 25 Seeks to deliver a low/zero carbon future. Development proposals should ensure all areas of search, sites and routes for energy, waste and resource management infrastructure have been justified against a series of considerations including: the specific land take requirements, the proximity of resources, the sensitivity of the surrounding environment, health and safety considerations, cumulative impacts, strategic cross-boundary impacts, and consistency with the National Planning Framework.

### **Perth and Kinross Local Development Plan 2014**

- 26 The Local Development Plan (LDP) was adopted by Perth and Kinross Council on 3 February 2014. The LDP sets out a vision statement for the area and states that, *“Our vision is of a Perth and Kinross which is dynamic, attractive and effective which protects its assets whilst welcoming population and economic growth.”* It is the most recent statement of Council policy and is augmented by Supplementary Guidance.
- 27 The principal relevant policies are, in summary:

#### **Policy PM1A - Placemaking**

- 28 Development must contribute positively to the quality of the surrounding built and natural environment, respecting the character and amenity of the place. All development should be planned and designed with reference to climate change mitigation and adaption.

#### **Policy PM1B - Placemaking**

- 29 All proposals should meet all eight of the placemaking criteria.

### **Policy EP8 - Noise Pollution**

- 30 There is a presumption against the siting of proposals which will generate high levels of noise in the locality of noise sensitive uses, and the location of noise sensitive uses near to sources of noise generation.

### **Policy TA1B - Transport Standards and Accessibility Requirements**

- 31 Development proposals that involve significant travel generation should be well served by all modes of transport (in particular walking, cycling and public transport), provide safe access and appropriate car parking. Supplementary Guidance will set out when a travel plan and transport assessment is required.

### **Policy CF2 - Public Access**

- 32 Developments will not be allowed if they have an adverse impact on any core path, disused railway line, asserted right of way or other well used route, unless impacts are addressed and suitable alternative provision is made.

### **Policy HE1A - Scheduled Monuments**

- 33 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**

- 34 Areas or sites of known archaeological interest and their settings will be protected and there will be a strong presumption in favour of preservation in situ. If not possible provision will be required for survey, excavation, recording and analysis.

### **Policy HE2 - Listed Buildings**

- 35 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. 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 building's character, appearance and setting.

### **Policy HE4 - Gardens and Designed Landscapes**

- 36 The integrity of sites included on the Inventory of Gardens and Designated Landscapes will be protected and enhanced.

### **Policy ER1A - Renewable and Low Carbon Energy Generation**

- 37 Proposals for the utilisation, distribution and development of renewable and low carbon sources of energy will be supported where they are in accordance with the 8 criteria set out. Proposals made for such schemes by a community may be supported, 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 NE1A - International Nature Conservation Sites**

- 38 Development which could have a significant effect on a site designated or proposed as a Special Area of Conservation, Special Protection Area or Ramsar site will only be permitted where an Appropriate Assessment shows that the integrity of the site will not be adversely affected, there are no alternative solutions and there are imperative reasons of overriding public interest.

#### **Policy NE1B - National Designations**

- 39 Development which would affect a National Park, National Scenic Area, Site of Special Scientific Interest or National Nature Reserve will only be permitted where the integrity of the area or the qualities for which it has been designated are not adversely affected or any adverse impacts are clearly outweighed by benefits of national importance.

#### **Policy NE3 - Biodiversity**

- 40 All wildlife and wildlife habitats, whether formally designated or not should be protected and enhanced in accordance with the criteria set out. Planning permission will not be granted for development likely to have an adverse effect on protected species.

#### **Policy ER1A - Renewable and Low Carbon Energy Generation**

- 41 Proposals for the utilisation, distribution and development of renewable and low carbon sources of energy will be supported where they are in accordance with the 8 criteria set out. Proposals made for such schemes by a community may be supported, 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**

- 42 Development proposals will be supported where they do not conflict with the aim of maintaining and enhancing the landscape qualities of Perth and Kinross and they meet the tests set out in the 7 criteria.

#### **Policy EP3C - Water, Environment and Drainage**

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

#### **Policy ED3 - Rural Business and Diversification**

- 44 Favourable consideration will be given to the expansion of existing businesses and the creation of new business. There is a preference that this will generally

be within or adjacent to existing settlements. Outwith settlements, proposals 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 permanent employment is created or additional tourism or recreational facilities are provided or existing buildings are re-used. New and existing tourist related development will generally be supported. All proposals are required to meet all the criteria set out in the policy.

### **Policy EP13 - Airfield Safeguarding**

- 45 Developments will be refused if they are likely to have an unacceptable impact on the safe operation of aircraft from listed airfields.

### **Proposed Perth and Kinross Local Development Plan 2 (LDP2)**

- 46 Perth & Kinross Council is progressing with preparation of a new Local Development Plan to provide up-to-date Development Plan coverage for Perth & Kinross. When adopted, the Perth & Kinross Local Development Plan 2 (LDP2) will replace the current adopted Perth & Kinross Local Development Plan (LDP). The Proposed Local Development Plan 2 (LDP2) was approved at the Special Council meeting on 22 November 2017.
- 47 The representations received on the Proposed LDP2 and the Council's responses to these were considered at the Special Council meeting on 29 August 2018. The unresolved representation to the Proposed Plan after this period is likely to be considered at an Examination by independent Reporter(s) appointed by the Scottish Ministers, later this year. The Reporter(s) will thereafter present their conclusions and recommendations on the plan, which the Council must accept prior to adoption. It is only in exceptional circumstances that the Council can elect not to do this.
- 48 The Proposed LDP2 represents Perth & Kinross Council's settled view in relation to land use planning and as such it is a material consideration in the determination of planning applications. It sets out a clear, long-term vision and planning policies for Perth & Kinross to meet the development needs of the area up to 2028 and beyond. The Proposed LDP2 is considered consistent with the Strategic Development Plan (TAYplan) and Scottish Planning Policy (SPP) 2014. However, the outcome of the Examination could potentially result in modifications to the Plan. As such, currently limited weight can be given to its content where subject of a representation, and the policies and proposals of the plan are only referred to where they would materially alter the recommendation or decision.

### **OTHER POLICIES**

#### **Tayside Landscape Character Assessment (TLCA) 1999**

- 49 The Tayside Landscape Character Assessment (TLCA), 1999, is published by Scottish Natural Heritage and remains a valid baseline resource. Whilst some of its guidance on wind energy is dated, owing to the much smaller size of



turbines considered in the TLCA, other aspects of the study remain a useful resource.

**The David Tyldesley and Associates – Landscape Study to Inform Planning for Wind Energy (2010)**

- 50 This documents purpose is to inform the development of the 'spatial strategy for Wind' which will be subject to consultation and ultimately approval by the Council as supplementary guidance. The need for the preparation of this Supplementary Guidance is detailed in the Local Development Plan under the heading 'Guidance to be published later' in Appendix 1: List of Supplementary Guidance.

**Scottish Natural Heritage – Siting and Designing Windfarms in the Landscape Version 3A (2017)**

- 51 Guides windfarms towards those landscapes best able to accommodate them and advises on how windfarms can be designed to best relate to their setting and minimise landscape and visual impacts.

**Scottish Natural Heritage – Assessing the Cumulative Impact of Onshore Wind Energy Developments 2012**

- 52 This document sets out methods to be used to assess cumulative impacts on landscapes and birds.

**Scottish Natural Heritage – Visual Representation of Windfarms December 2014.**

- 53 This document sets out guidance in producing visual representations of windfarms. It builds on experience gained since the first publication of the document in 2006 on how to represent proposed windfarm developments in a more accessible and realistic way.

**Perth & Kinross Supplementary Planning Guidance – Landscape 2015**

- 54 This supplementary guidance has been prepared to support LDP Policy ER6 *"Managing Future Landscape Change to Conserve and Enhance the Diversity and Quality of the Area's Landscapes"*. Publication on the documentation ran for a period of 8 weeks from 28 November until 19 January 2015. Comments received through the consultation process were analysed and the Council's response and amended draft guidance document was reported on 25 March 2015 at the Enterprise and Infrastructure Committee. The Supplementary Guidance was submitted to the Scottish Ministers and approved on the 17<sup>th</sup> of June 2015.

**SITE HISTORY**

- 55 [09/00008/PAN](#) Formation of an eco park. Application Withdrawn 21 December 2009

- 56 12/01004/SCRN Proposed wind turbine Decision Issued 21 June 2012
- 57 [12/01915/SCOP](#) Scoping opinion for wind farm Decision Issued 4 December 2012
- 58 [13/01931/FLL](#) Erection of a meteorological mast Decision Issued 16 January 2014 Application Approved
- 59 [14/01970/FLL](#) Erection of four wind turbines, ancillary infrastructure and change of use of two dwellinghouses to offices Application Approved by Development Management Committee 13 August 2015
- 60 [15/01737/FLL](#) Erection of substation, installation of underground cable and associated works Decision Issued 7 December 2015 Application Approved

## **CONSULTATIONS**

- 61 As part of the planning application process the following bodies were consulted:

### **External**

#### **Historic Environment Scotland (HES)**

- 62 Overall HES agree that the increase in turbine heights would not substantially alter the proposals magnitude of impact on nearby nationally important heritage assets. HES consider the impact would remain moderate and therefore do not object.
- 63 HES expressed concern regarding potential impact on Balmanno Castle, however following receipt of additional information HES concluded that the impact on their interests were not of national significance and therefore they advised that they had no objection.

#### **National Air Traffic Services**

- 64 No safeguarding objection to the application

#### **Scottish Natural Heritage (SNH)**

##### Landscape and Visual

- 65 The proposal would result in significant adverse visual and landscape and cumulative impacts as identified in SNH's comments on the previous application but these are not of national concern and are content for Perth and Kinross to determine the application without further reference to SNH. These concerns would be exacerbated by raising the height of the turbines by 9 metres. They initially indicated that there was insufficient information to allow an assessment of the increased impacts. They considered the EIA to be inadequate in that it excludes key viewpoints. They do not agree with using the previous scheme as a baseline and consider the impacts have to be considered in their entirety.

- 66 Following the submission of Supplementary Environmental Information (SEI), SNH remain concerned regarding the overall landscape and visual impact and consider the height difference to be apparent in viewpoints (VP) 16 and 20 and also at VP3 and VP15. These issues are addressed within the appraisal section below.

#### Ecology

- 67 Following submission of additional information relating to Great Crested Newts (GCN) and the proposals for mitigation of these species in the form of a Species Protection Plan SNH have no objection. They are also satisfied with the information submitted in relation to other species subject to a condition relating to pre-construction survey requirement.

#### **Scottish Water**

- 68 No objection.

#### **Royal Society for the Protection of Birds (RSPB)**

- 69 No objection.

#### **Glenfarg Community Council**

- 70 No response received.

#### **Fife Council**

- 71 No objection.

#### **Abernethy Community Council**

- 72 The Community Council consider the proposal to be contrary to the Perth and Kinross Local Development Plan 2014 due to adverse effects on biodiversity, landscape character, visual integrity, tranquil qualities and the residential amenity of the area. They also consider there to be no measureable or viable effects in terms of carbon reduction, adverse effects relating to site access and a negative impact on tourism. They consider the noise assessment to be flawed and that the impact on residential properties will be significant.

#### **Ministry Of Defence**

- 73 No objection subject to condition which ensures they are advised on the date of construction starting and ending, the maximum height of construction equipment and the latitude and longitude of every turbine.

#### **Clackmannanshire Council**

- 74 No response received.

### **Dundee Airport Ltd**

- 75 Aviation lighting is recommended for each turbine.

### **Transport Scotland**

- 76 No response received.

### **Earn Community Council**

- 77 Concern expressed regarding accuracy of submission in terms of Zone of Theoretical Visibility (ZTV) plan.

### **Scottish Environment Protection Agency**

- 78 No objections subject to conditions relating to groundwater dependent terrestrial ecosystems, groundwater hydrology, borrow pits, peat and pollution prevention.

### **Internal**

### **Environmental Health (Noise and Odour)**

#### **Noise**

- 79 Environmental Health initially expressed concern regarding the accuracy and detail of the submitted Noise Impact Assessment, including concern relating to those properties which were indicated to have a financial interest in the development and how the financial interest impacts on acceptable noise levels at those properties.
- 80 Following the submission of an updated Noise Impact Assessment, and clarity being provided on which properties have or do not have a financial involvement in the development, Environmental Health do not object to this application, provided that a series of conditions are applied which control noise. These proposed conditions are an updated and more robust set of conditions than those applied to the consented scheme.

#### **Shadow Flicker**

- 81 There are no concerns relating to shadow flicker in comparison with the consented scheme and shadow flicker can be managed by an appropriately worded condition.

### **Community Greenspace**

- 82 No response.

### **Structures and Flooding**

- 83 No objection.

## **Perth and Kinross Heritage Trust**

- 84 No objection subject to a condition relating to archaeological monitoring.

## **Biodiversity Officer**

- 85 The Biodiversity Officer initially raised concern regarding the timing of ecological surveys. Updated surveys have now been submitted which are considered acceptable by the Bio Diversity Officer.
- 86 The same conditions as the previous consent in relation to re-surveying, vegetation clearance and the provision of an ecological clerk of works and construction controls should be applied.

## **Transport Planning**

- 87 No objection.

## **REPRESENTATIONS**

- 88 The following points were raised in the 49 representations received during the first period of advertisement for the application, all of which object to the application. There is also a petition with a total of 250 names which objects to the application. Of the 49 letters received, one is from Abernethy Community Council, objecting to the application, and one is from Earn Community Council, which seeks clarification on some elements of the submission but does not offer an objection. The following is a summary of the issues raised in the letters and petition:

- Impact on landscape and cumulative landscape impact
- Impact on visual amenity
- Contrary to Development Plan and National Guidance
- Loss of open space and agricultural land
- Impact on recreation uses
- Impact on residential amenity
- Noise generation
- Shadow flicker
- Impact on water supplies
- Lack of social and economic benefit
- Accuracy of neighbour notification
- Health and Safety (Ice Throw)
- Impact on cultural heritage
- Lack of public consultation
- Impact on bio diversity/ecology
- Road Safety
- Accuracy of submission
- Concern regarding micro siting allowance

89 The issues below were also identified but are not material considerations in the assessment of this application:

- Approval of previous consent was flawed
- Loss of value to property

90 Following the submission of Supplementary Environmental Information (SEI) a further advertisement period was undertaken where seven further letters of representation were received, all of which had commented during the first advertisement period. No additional issues than those outlined above were raised.

91 These issues are addressed in the Appraisal section of the report.

### **ADDITIONAL STATEMENTS**

92

|                                                |                                                                 |
|------------------------------------------------|-----------------------------------------------------------------|
| Environment Statement                          | Submitted                                                       |
| Screening Opinion                              | Undertaken and Environmental Impact Assessment Report submitted |
| Environmental Impact Assessment                | Yes                                                             |
| Appropriate Assessment                         | Not undertaken following guidance from SNH                      |
| Design Statement / Design and Access Statement | Not submitted                                                   |
| Reports on Impact or Potential Impact          | Incorporated into Environmental Impact Assessment Report        |

### **APPRAISAL**

93 Sections 25 and 37(2) of the Town & Country Planning (Scotland) Act 1997 (as amended) require the determination of the proposal to be made in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The adopted Development Plan comprises the TAYplan Strategic Development Plan 2016–2036 and the Perth and Kinross Local Development Plan 2014. The relevant policy considerations are outlined in the policy section above and are considered in more detail below. In terms of other material considerations, this involves considerations of the Council's other approved policies and supplementary guidance which are also outlined above.

#### **Policy Appraisal**

94 The determining issues in this case are whether: - the proposal complies with Development Plan policy; or if there are any other material considerations which justify a departure from policy.

- 95 In terms of TAYPlan, Policy 7 is directly applicable as are the aforementioned Policies of the approved Development Plan.
- 96 Policy 7 of TAYPlan states that LDPs and development proposals should ensure that all areas of search, allocated sites, routes and decisions on development proposals for energy and waste/resource management infrastructure have been fully justified.
- 97 Policy ER1 of the LDP supports development of renewable and low carbon sources of energy where they accord with associated policy criteria. The associated policy criteria elements are addressed within this report. Policy ED3 of the LDP offers support for the expansion of existing businesses in rural areas. Policy HE1A refers to Scheduled Monuments (SM) and states that there is a presumption against development which would have an adverse effect on the integrity of SM. Policy HE2 refers to listed buildings and states that the scale and siting of new development should be appropriate to the building's character, appearance and setting. Policy ER6 of the LDP seeks to protect the landscape qualities of Perth and Kinross.
- 98 In terms of other material considerations, this principally includes an assessment against national planning guidance in the form of the Scottish Planning Policy 2014 and consideration of supporting guidance including the Tayside Landscape Character Assessment. Other relevant material considerations include the Perth and Kinross Council Supplementary Landscape Guidance and the Draft Supplementary Guidance on Renewable and Low Carbon Energy.
- 99 Accordingly, based on the above, it is considered that the key determining issues for this proposal are:
- a) whether or not the proposed increase in turbine heights will have an unacceptable impact on the visual amenity and landscape character of the area;
  - b) whether the increased turbine heights will have an adverse impact on any neighbouring residential amenity;
  - c) whether or not the proposal is compatible with the surrounding land uses;
  - d) whether or not there will be an adverse impact on any protected species and/or habitats; and
  - e) whether or not the proposal will adversely affect any cultural heritage assets, bearing in mind the provisions of the Development Plan and other material considerations.

### **Site Selection**

- 100 As outlined above, there is an extant planning permission on this site for a four wind turbine development. The main purpose of the application is to expand, support and secure the future development of the main industries at Binn Eco Park through the provision of sustainable renewable energy production. The proposal will significantly reduce carbon emissions at the park and make an

important contribution towards Scottish Government's renewables and climate change policy targets.

- 101 As there is an extant consent for a wind farm development on this site, development of which has commenced, and therefore it is not considered necessary to revisit the issue of site selection.

### **Landscape Impact**

- 102 The application for the extant permission for the site included a viewpoint analysis relating to the visual impact of the proposals from 25 viewpoints (VP) and the Landscape and Visual Impact Assessment (LVIA) was based on a study area of 35 km from the proposed development. The Cumulative Landscape and Visual Impact Assessment (CLVIA) considered the relationship between wind farms and single turbines within a 70 km search area. This further application includes a similar level of assessment however the number of viewpoints selected was reduced to 17. Following consideration of the application and a consultation response from SNH an assessment for a further 8 viewpoints was submitted.

### **Landscape and Visual Effects**

- 103 In order to ascertain the likely difference caused by the increased turbine height, a comparative Zone of Theoretical Visibility drawing (ZTV) has been prepared by the applicant along with a series of comparative photomontages and wireline images. This outlines the theoretical visibility of the turbine to tip and also up to hub height. The comparative ZTV shows that there would be additional visibility of the turbines within the 35km search area.
- 104 The turbines are located on the edge of the Igenous Hills Landscape character area at the transition with the Fife Upland foothills, Lowland Hills and Valleys and the Firth Lowlands. Compared to the existing Ochil wind farms, which are set back further into the large scale Ochil landscape, the turbines at Binn would be predominantly seen in context with these surrounding smaller scale landscape areas such as the Fife Upland Foothills and Lowland Valleys, Lowland River Basin, Loch Leven Basin Low Hills and Loch Leven Basin and also from within the flat landscape of the Tay estuary. The rotors and blades would be an obvious feature on the horizon in many views from the lower ground in the wider landscape including Strathearn, the Carse of Gowrie and in the Fife Upland foothills, Lowland Hills and Valleys and Loch Leven basin as shown in VP20 from Vane Farm, south of Loch Leven. Turbines would also appear to be a prominent feature in views from higher ground such as from the Lomond Hills (VP18) and Pitlour Hill (VP5). Following consideration of the updated viewpoints of this revised application it is evident that the increased in height of the turbines serves to exacerbate the prominence of the turbines from these viewpoints.
- 105 Scottish Natural Heritage (SNH) have raised concerns which are similar to those identified by them in consideration of the consented application in that the turbines will have a significant impact on the landscape and the increase in turbine heights will exacerbate this. Their key concerns relate to the proposal



having an adverse landscape and visual impact on the landscape character of the area and on the landmark features of the Lomond Hills Special Landscape Area due to the size, layout and scale of the turbines.

- 106 In some locations the increase in height of the turbines results in hubs and rotors becoming visible over the skyline in comparison with the consented scheme and this increase is considered to be significant. This includes in viewpoint (VP03) at Abernethy where the blades are visible whereas the consented scheme indicates that the blades would not be visible. Furthermore at Kinnoull Hill (VP15), representative of an important recreational resource within Perth and Kinross, shows that the hubs of the turbines would rise above the skyline backdrop of the Lomond Hills whereas the consented scheme shows the only the blade tips breaking the skyline. The Tayside Landscape Character Assessment and SNH's Guidance on Siting and Designing Wind Farms in the Landscape both identify skylines to be of critical importance in the assessment of wind turbine impact. These documents state that the design of a wind farm from key viewpoints and routes should ensure it does detract from the character of that distinctive skyline. The SNH guidance goes on to state that the wind farm should not overwhelm the skyline and that prominent skylines should not be interrupted by turbines. The viewpoints for the consented scheme indicate that only the blade tips of the turbines would break the skyline when viewed from Kinnoull Hill, helping to limit the impact. Furthermore, none of the consented turbines can be seen from Abernethy (VP03). As indicated above, the increased turbine heights now shows that the hubs would rise above the skyline backdrop of the Lomond Hills when viewed from Kinnoull Hill and the blades would be visible on the skyline from VP03. It is considered important to ensure that wind turbines are back-clothed by existing landscape as much as possible.
- 107 The increased turbine height proposed therefore exacerbates the visibility of the turbines from these viewpoints, breaching the skyline to a more significant degree than the approved scheme, to the detriment of the visual amenity and landscape character of the area.
- 108 The LVIA submission also concludes that from views of 10km and beyond, that the exacerbation would not be noticeable (para 5.7, page 20). SNH disagree with this conclusion and in my assessment of the viewpoints I also disagree with the LVIA conclusions. I consider the height difference to be apparent in certain viewpoints to the detriment of the landscape character and visual amenity of the area. The height difference between the consented scheme and this proposal is evident in VP16 (Glendoick) and VP20 (Vane Farm) where the turbines would be seen on the skyline. Both of these VP's are located beyond 10km from the development site.
- 109 On the basis of the above the increased height of the turbines is considered to exacerbate the visual and landscape impact of the consented scheme to an unacceptable level and on that basis the proposed increase in turbine heights is considered to be contrary to Policy ER1A and ER6 of the LDP and the recommendations and guidance contained within the Tayside Landscape Character Assessment (1999) and Scottish Natural Heritage Siting and Designing Wind Farms in the Landscape Guidance August 2017.

## **Cumulative Impact**

- 110 The proposed development would be located within the TAY 8b Igneous Hills: the Ochils Landscape character unit of the TCLA. There are other wind turbine developments within this unit including East Blair Farm, Easter Fordel Farm, Greenknowes, Lochelbank, Temple Hill and Turflundie, whilst Scottish Offroad Driving Centre would lie on the boundary with Strathmiglo and Lumbennie Hill, Raemore Farm and Pitmedden Farm are or would be located within the Upland Hills: The Ochils unit.
- 111 In considering the impact on the landscape character, the Tayside Landscape Character Assessment 1999 (TLCA) is a key material consideration as is the Council's Supplementary Guidance on Landscape referred to within Policy ER6 of the LDP. Within the TLCA the application site lies within the Lowland Loch Basin classification. Within the Council's Guidance the area is referred to as the Loch Leven Basin.
- 112 The turbines will be seen in combination with Lochelbank from a wide range of viewpoints including from Kinnoull Hill, the Lomond Hills and Loch Leven. The Lochelbank turbines are 60m to hub and 91m to blade tip in height. The proposed turbines are larger than and have different proportions to those at Lochelbank. Whilst Lochelbank is set back from the smaller scale landscape character areas of Fife Upland and Lowland Hills and Valleys, the Binn Wind Farm would be more associated with this smaller landscape which would create an inverse relationship of larger turbines seen in a smaller scale landscape next to smaller turbines.
- 113 The proposal would be visible alongside Lochelbank from Strathearn, with large rotors being partly visible alongside smaller completely visible rotors of Lochelbank. From Vane Farm/Loch Leven (VP20) the three schemes of Binn, Lochelbank and Greenknowes would be seen in combination. The Binn turbines break the existing pattern and scale, with fewer turbines of much larger rotors and height. Similar impacts are seen from the Lomonds (VP18). However, the increased height of the turbines is not considered to exacerbate the cumulative landscape impact to significant level in comparison with the consented scheme

## **Siting and Layout of Turbines**

- 114 SNH remain concerned with the overall design and composition of the proposed turbines and state that a frequently recurring composition in a number of views is characterised by irregular spacing of the turbines with significant level changes between turbines with some overlapping. They state that VP5 from Pitlour Hill would be improved if there had only been three turbines instead of four to prevent the overlap. Also in VP15 Kinnoull Hill and VP18 Lomond Hills the turbines descend without any visible relationship to the landforms, particularly from Kinnoull Hill where the turbines descend behind the skyline and create a confusing image. Whilst the opinion of SNH is noted in this regard the increased height of the turbines does not alter the siting and layout of the turbines nor exacerbate the issues identified by SNH above. I therefore

consider the siting and layout of the turbines to be acceptable in comparison with the consented scheme.

### **Residential Impact Assessment**

- 115 The original EIA contained an assessment of 70 residential properties within 2km of the nearest turbine and concluded that approximately 36 properties have no theoretical visibility and no visual effects. It goes on to state that 34 dwellings would have theoretical visibility and 9 of these would have no views from the curtilage of the dwelling due to screening by various features. It concludes that 17 of the 70 dwellings within 70km would experience a medium or medium to large magnitude of effect giving rise to major (significant) visual effects. This level of impact was consented by the existing permission.
- 116 Given the close proximity of residential receptors and the potential for the increase in height to be clear in views from within 2km an assessment of this requires to be undertaken to establish the extent of additional impact on residential receptors. This was therefore requested as part of the SEI.
- 117 The additional visibility ZTV of the LVIA illustrates areas where new hub visibility would change from having no hubs visible to having hubs visible. The submission concludes that one dwelling would change from having no hubs visible to hubs being visible. Five dwellings would move from having one or two hubs visible to two or three being visible and a further three dwellings would be subject to a single additional blade tip being theoretically visible.
- 118 Clarification was sought from the applicant's agent regarding the blade tip visibility from properties. It was confirmed that the increase in height caused no new blade tip visibility amongst the residential views for those properties which experience blade tip views from the consented scheme. For example, those properties which have visibility of the turbines of the consented scheme experienced a very similar impact when the proposed taller turbines were assessed. No new properties experienced visibility of the turbine tips.
- 119 However, the agent has advised that the increase in tower height did cause turbine hubs to become visible from one of the properties in the study area that previously only experienced blade tip visibility. In addition, a further five properties which had some level of hub visibility before, now have additional hubs visible.
- 120 The agent advised that it was decided that the assessment should relate to the impact on the properties where the hubs were now visible, as this represented the most significant change of impact. I consider this to be an appropriate method of assessment.
- 121 Given that no additional properties experience visibility of the turbines than those of the consented scheme the additional impact on residential receptors from the turbines, in comparison with the approved scheme, is considered to be acceptable. Therefore the proposed landscape and visual impact on residential receptors is considered to comply with the LDP.

## **Micro Siting**

- 122 Concerns are expressed in letters of representation regarding the potential micro siting allowance of the turbines of up to 25 metres. The extant consent includes a condition which restricts the micro siting of the turbines to ensure that it does not increase the height of the turbines from the approved AOD of greater than 5m. As such the Council would retain control over the level of micro siting.

## **Conclusion on Landscape and Visual Impact**

- 123 As outlined above, my view is that the issues identified by SNH in relation to cumulative impact and the siting and layout of the turbines are insufficient to merit refusal of the application. Furthermore the impact on residential receptors is considered to be acceptable. However, I consider the increased height of the turbines to exacerbate the landscape and visual impact of the development from key viewpoints to an unacceptable level. The increase in the turbine heights is therefore considered to be contrary to the criteria contained within the policies ER1A and ER6 of the LDP and contrary to the recommendations and guidance contained within the Tayside Landscape Character Assessment (1999) and Scottish Natural Heritage Siting and Designing Wind Farms in the Landscape Guidance August 2017.

## **Compatibility with Existing Land Uses**

- 124 In regards to compatibility with existing land uses, Policy PM1 of the LDP seeks to ensure that all new developments are compatible with existing land uses. There are no direct concerns regarding the impact that the turbine will have on the commercial activities of the land on or surrounding the site. There will be no loss of prime agricultural land and the proposed turbines will not have any adverse impact on farming practices at Binn Farm. It is considered that the proposal is compatible and complementary to the functional operation of Binn Eco Park.
- 125 In terms of the impact on any existing residential properties Environmental Health have raised no objections regarding noise related issues and shadow flicker subject to suitable conditions on any consent (which are referred to the paragraphs below),. The proposed increased turbine height will not have any adverse impact on any recreational routes or paths within the vicinity of the application site in comparison with the extant permission. There is generally no conclusive evidence to suggest that wind farm development has an adversely negative impact on countryside recreational use.

## **Protected Species/Habitats**

- 126 Policy NE3 seeks to protect and enhance existing wildlife and their habitats. The site is not protected by any specific designation. Nevertheless this does not necessarily indicate that the proposed development would not impact on protected wildlife and it is important to consider the impact the development could have on local wildlife interests. Updated survey information accompanies this application.

- 127 The application site consists of farmland under rotation which provides both improved and disturbed habitats. There are a number of small water bodies on site with narrow drains feeding off site watercourses.
- 128 The submitted Ecology Report was undertaken in January. This was not an appropriate time of year to undertake an ecological survey and therefore a request was made to ensure a further survey was undertaken at a more appropriate time of the year.
- 129 Following the above request, updated survey work was undertaken in July 2018 and clarity provided in relation to mitigation measures for Great Crested Newts (GCN) in the form of a Species Protection Plan. SNH have accepted this approach and the updated surveys are considered to be sufficient to protect the above species. All of the above could be covered by conditions; including the requirement for construction method statements and an ecological clerk of works which can be worded similarly to the extant permission should consent be granted. The proposal is therefore considered to accord with policy NE3 of the LDP.

### **Ornithology**

- 130 The proposed development is located in an area designated as being of low sensitivity by the RSPB and they had no objections to the extant consent in terms of impact on birdlife. They have been consulted on this application for the increased turbine height and provided no further comments.
- 131 SNH have concluded that the proposal is likely to have a significant effect on Loch Leven, South Tayside Goose Roosts and the Firth of Tay and Eden Estuary Special Protection Area (SPA) but will not adversely affect the integrity of these sites and conclude that an appropriate assessment would not be required.

### **Cultural Heritage**

- 132 The LDP seeks to ensure that matters of cultural heritage are protected from inappropriate development.
- 133 The supporting statement has identified Listed Buildings, Scheduled Monuments (SM) and Historic Gardens and Designed Landscapes. These are:
- Catochil Farmhouse (Category B listed building)
  - Catochil Steading (Category C listed building)
  - Balvaird Castle (SM and Category A listed building)
  - Castle Law Hillfort SM
  - Balmanno Castle Historic Garden and Designed Landscape
- 134 The cultural heritage assessment contained within the original ES looked at the possible impacts of the proposal on cultural heritage assets within close proximity to the application site and possible impacts on the settings of heritage assets within the wider landscape.

- 135 In relatively close proximity to the site is Balvaird Castle which is a Scheduled Monument and category 'A' listed building. In the wider landscape surrounding the site, there is a mixture of cultural assets including castles, Iron Age forts, Roman camps and medieval burghs.
- 136 Mitigation measures for screening the development from Balvaird Castle through planting remain as part of this proposal and the increased height of the turbines is not considered to have any additional increased impact on Balvaird Castle as outlined in the submitted cultural viewpoints. HES have no objection in terms of the impact on Balvaird Castle subject to appropriate mitigation which can be secured by condition should any consent be granted.
- 137 Similarly in relation to Castle Law Fort above Abernethy, the turbines clearly represent the addition of substantial modern structures into a landscape that is otherwise comparatively open, however they do not impact the key outward views from the fort looking to the lower ground and neither will reciprocal views looking up from lower ground. The increase in height does not alter this conclusion.
- 138 Historic Environment Scotland (HES) have provided comments on the potential impact which the increased turbine height would have on the category A listed Balmanno Castle and its Historic Garden and Designed Landscape (HGDL) near Dron to the south of Bridge of Earn. They sought clarification on the interpretation of the submitted ZTVs. The information concludes that Balmanno Castle had theoretical visibility of the blade tips of all four turbines under the consented extant permission but no theoretical visibility of any hubs. Now the castle will have theoretical visibility of the blade tips of all four turbines and the hub of one turbine now being marginally visible. As such I conclude that the impact remains largely unchanged from the consented turbine heights, particularly as the southern edge of the HGDL is lined by mature trees which restricts views in the direction of the turbines.
- 139 There is no argument that the proposed turbines will impact on the setting of the Catochil Farmhouse and Catochil Steading which are category B and C listed buildings located immediately adjacent to the turbines. I do not consider the 9m increased height to result in any more significant an impact on the setting of these building as the consented scheme.
- 140 It is concluded that the proposed increased turbine heights will not have any significantly adverse impact on cultural heritage assets in the area in comparison with the consented scheme. Therefore the proposal is considered to comply with policies HE1A, HE2 and HE4 of the LDP in this regard.

### **Residential Amenity and Noise**

- 141 The extant permission has been granted subject to a series of conditions to control noise from the turbines and to protect residential amenity. This also included the change of use of Catochil Cottage and Catochil House from residential use to office use as the required noise levels at these properties could not be met. There were also a number of properties declared as having a financial interest (FI) in the project and therefore such an involvement allows a

greater acceptable noise threshold to be applied in assessing the noise impact from the proposed turbines.

- 142 The letters of representation for this application raise concerns relating to those properties which are considered to be FI with many stating that any FI was agreed with a previous agent and therefore no longer applied to this scheme. The submission required to accurately reflect those properties which do or do not have a financial interest in the site. Concern was also expressed from the owner of Catochil House which was indicated in the previous submission to be subject to a change of use to office accommodation given its proximity to the turbines. The owner stated that it was their intention to remain in the dwelling and no agreement had been reached on the sale of this property to the applicant to allow a change of use to occur.
- 143 Furthermore there is a consented house adjacent to Grampian View (PKC ref: 17/00811/AML) which has not been considered in the noise assessment and required to be included.
- 144 As such the assessment relating to both shadow flicker and noise required to be updated to address the above matters and clarify what properties are FI and what properties will or will not be subject to a change of use.
- 145 There was a significant delay (approximately 6 months) in the submission of the SEI by the applicant's agent and this was apparently related to the agreement with some of the above properties in relation to FI.
- 146 This application does not include a change of use for the two residential properties at Catochil Cottage and Catochil House to office accommodation and they have not been included in the noise assessment contained in the Supplementary Environmental Information dated May 2018 & September 2018. However a letter has been received from the owner of Catochil House which states that they now have a legal agreement drawn up relating to the sale of their property to the applicant. The applicant's agent has also clarified that Catochil Cottage is already in the ownership of the applicant and will not be in residential use for the length of the operational of the wind farm.
- 147 EH have considered this matter and stated that unless these properties can be restricted so as not be occupied as residential properties for the lifetime of the wind farm development, EH would have no option but to object to this application on the ground that the development would have an adverse impact on the residential amenity of these properties. However this matter could be controlled by appropriately conditions should planning consent be granted.
- 148 The noise assessment has been updated to reflect the requirements of EH and to address the issues raised in the assessment of the previous application. This relates to the adoption of a night time noise level of 38 dB(A) and further assessment of the impact of noise on Barclayfield which is located to the north west of the site.
- 149 The SEI dated September 2018 has adopted this approach and applied the 35 dB limit outlined within the ETSU-R-97 guidance – The Assessment and Rating

of Noise from Windfarms – September 1996 and it has been demonstrated that based on predicted background noise levels, the noise limit would be achievable at this property.

- 150 In relation to the previous planning consent, it was stated that a number of properties had a financial involvement in the development, by this I mean that the occupants had a legal agreement in place to financially benefit from the wind farm development, which allowed for the lower fixed noise limit to be increased to 45 dB(A).
- 151 A review of all financially involved properties has been undertaken and that it has been stated by the applicant's agent that the following properties only will have a financial interest in the development:
- Easter Catochil
  - Balvaird House
  - West Bungalow
  - Binn Farm Cottage
  - Binn House Farm
- 152 The previous application indicated that Mountquharrie House, Gamekeepers Cottage and Balvaird Cottage were FI properties but it has been confirmed they are no longer FI properties.
- 153 For the avoidance of any doubt, provided that this can be demonstrated prior to the development commencing that a financial agreement is in place so that the occupier of the above properties benefit financially to the wind farm development for the lifetime of the development, a higher noise levels of 45 dB(A) could be applied. However, should the occupiers of these properties, at any time, no longer have a financial interest in the development then the noise levels shall revert back to the lower derived levels. An appropriately worded condition can ensure this should permission be granted.
- 154 The revised noise assessment has predicted that Mountquharrie House will exceed the noise limits during the daytime at certain wind speeds. Noise mitigation has therefore been proposed to operate the wind turbine in a reduced power mode (100kw) at these wind speeds which will reduce the noise to within 0 dB of the limit. EH have some reservations as to whether this would be achievable in practice, however, this could be controlled by condition should permission be granted.
- 155 As such on the basis of the information submitted and through the use of appropriately worded conditions, the proposal is considered to comply with policies EP8 and ER1A (relating to residential amenity) of the Perth and Kinross Local Development Plan 2014 (LDP). It should be noted that a series of more robust conditions relating to noise in comparison with the previous scheme are now recommended by Environmental Health based upon the additional information submitted and in relation to those properties with a financial interest.



## **Shadow Flicker**

- 156 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.
- 157 Environmental Health has assessed this matter and with regards to shadow flicker, UK Government Reports such as “Onshore Wind Energy Planning Conditions Guidance Note” for BERR state that only properties within a 10 rotor diameter need be considered. The rotor diameter for the proposed turbines is 92m and therefore properties within 920m of the turbines may be susceptible to shadow flicker. Mountquharry House is around 500m from the nearest turbine, which will sit to the south-west, and would be clearly affected by shadow flicker. Furthermore Gamekeepers Cottage is located approximately 780m from the nearest turbine. In the ES for the original application, it was concluded that the potential for shadow flicker has been assessed for the surrounding properties, where it is seen that there is potential for shadow flicker levels to exceed the guidelines of 30 minutes in a single day or 30 hours in a single year.
- 158 In order to mitigate shadow flicker satisfactorily and protect residential amenity a condition was applied to the extant consent whereby prior to commencement of the development, the applicant had to submit a scheme for an operational protocol for the assessment of any complaints of shadow flicker. EH have considered the revised submission and have come to the same conclusion as the previous application that shadow flicker can be adequately controlled by condition through the requirement for an operational protocol for the assessment of any complaints regarding shadow flicker. Therefore the issues of shadow flicker can be controlled by condition and the proposal complies with Policy ER1A of the LDP in this regard.

## **Hydrology and Private Water Supplies**

- 159 Concerns were raised by objectors about the impact of the proposals on private water supplies in close proximity to infrastructure associated with the proposed development. Furthermore SEPA made comment on the extant permission relating to the impact on Ground Water Dependent Terrestrial Ecosystem (GWDTE) and their comments remain applicable to this application. In order to mitigate any adverse impact it is proposed to reduce and control runoff from the access tracks using best practice and controlled through the Construction Method Statement and water quality management plan as part of a wider Construction Environmental Management Plan (CEMP) which could be secured by condition. This will prevent and managing and leakage and prevent concrete contamination of ground water and surface water and protection of private water supplies. SEPA have no objections with regard to hydrology subject to conditions being attached to any consent to mitigate ground water and surface runoff impacts from the development.
- 160 Local private water supplies, in particular the Mountquharry House and Grampian House supplies, have been acknowledged in the environmental investigations already completed in the EIA for the extant permission.

Environmental Health therefore recommended that the proposed water quality management plan should include full details of the sources, infrastructure including treatment and properties served by private water supplies arising within, or likely to be affected by the development. Details of the proposed nature and frequency of baseline water supply monitoring prior to commencement, during and subsequent to completion of the development must also be included. Details of proposed methods of alerting affected individuals as a result of a contamination issue arising from the development should be included along with alternative water supply arrangements. I do not consider the increased height of the turbines and minor changes to the access track locations to alter these conclusions. These matters could be secured by condition, similar to that outlined in the extant permission.

### **Traffic and Road Safety**

- 161 The likely increases in traffic volumes as a result of the construction phase of the proposed development have been predicted and referred to in the EIA for the extant permission. The construction programme estimates the duration of construction activity to be approximately nine months. The predicted traffic flows take into account specific construction activities and associated HGV trip generation. The potential effects associated with the construction traffic on site will be reduced through the use, where available, of existing access tracks within the proposed development site, reducing construction materials required. In addition, borrow pits are to be utilised to reduce the need to import aggregate to site. There will be no significant vehicle movements during the operational phase of the development.
- 162 There are no objections to the proposed development on traffic or road safety grounds from the Council's Transport Planner or from Transport Scotland on the impact of the proposal on the trunk road network subject to a condition being recommended on any consent for a Construction Traffic Management Scheme and an informative for the applicant to consult with Transport Scotland on the transportation of infrastructure and turbines to the site. The increase in turbine heights is not considered to alter the above conclusions subject to the same conditions as the extant consent.

### **Archaeology**

- 163 Perth and Kinross Heritage Trust have been consulted on the application and recommended a condition relating to the provision of archaeological monitoring on the site similar to the extant consent.

### **Economic Benefits and Renewable Energy Generation/Carbon Reduction**

- 164 The anticipated economic benefits of the proposed development are important material considerations within the context of supporting the operation and development of Binn Eco Park, which is a significant employer within Perth and Kinross, currently employing around 150 employees. Securing such economic and employment benefits can be recognised as being consistent with key Scottish Government and Development Plan economic objectives. The

submission indicates that the turbines will provide energy to the Eco Park and this will therefore clearly be of economic benefit to the existing facility.

- 165 There are a number of ways in which a wind turbine can bring jobs to a local community. Firstly, the construction stage itself requires a range of workers to construct and assemble the turbine on site and connect to the national grid. In addition, for the duration of the construction this short term work supports other local businesses. Secondly, there is the on-going maintenance of the turbine which contributes to the predicted 130,000 jobs in the renewables sector in Scotland by 2020.
- 166 In addition to the benefits to the environment the proposed renewable energy project will bring it is proposed that the electricity generated will partly be exported to the grid. It would also help to serve the existing Eco Park and the income generated would help sustain the existing business.
- 167 The generation of renewable energy production is an important consideration for the operational future of Binn Eco Park. This is considered to be in accordance with the goals of sustainable development and accords with the principles and ethos of the Eco Park as a significant renewable energy centre within the Scottish economy. It is accepted Scottish Government policy states there is a need to increase the amount of electricity generated from renewable sources in order to reduce reliance on fossil fuels and that wind power plays an important role in this aim. The potential electricity generated at Binn Eco Park by the proposal (9.4MW compared with 9.2MW of the consented scheme) will offset the need to generate electricity from fossil fuels where it is estimated by the applicant that the proposal could displace between 7723 tonnes (gas) and 17733 tonnes (coal) of CO<sub>2</sub> emissions each year of generation. It is estimated that the electricity generated would be able to provide electricity for the equivalent of up to 4623 homes.
- 168 The Scottish Government, through its planning policies and guidance, is also broadly supportive of wind energy as a vital part of the response to climate change. Policy ER1A states that any positive or negative effects which the development may have on the economy require to be taken into account. It is also acknowledged that, in some circumstances, there may be an additional justification associated with an existing economic use.
- 169 This proposal to increase turbine heights will increase energy generation only marginally from 9.2MW to 9.4MW in comparison with the consented scheme, equating to an increase of energy generation of approximately 2%. This increase is considered to be small in scale and the increased energy provision to the Eco Park and wider grid, together with the associated economic benefits to the Eco Park, in comparison with the consented scheme are not considered to be so significant to outweigh the concerns relating to landscape and visual impact which are outlined above.

#### **Community Fund/Benefit**

- 170 The extant permission made reference to a considerable level of community benefit through a proposed package of at least £40,000 per annum over the 25

year operational life of the proposed development, based on a figure of £5,000 per MW. There is no reference to these figures in this revised application. Clarity has been sought from the planning agent regarding this and they have stated that a Community Interest Company (CIC) has now been set up on the back of the Scottish Government seeking for wind farm development to be in shared ownership. According to the agent there is an offer for part ownership of the scheme for the four Community Councils in the area. This would allow them to take ownership of 50% of the project. Whilst Policy ER1 states that proposals for a project which is supported by a community will be supported there is no evidence at this stage of any agreement with the community in this regard.

- 171 The economic, employment and community benefits, renewable energy contribution and carbon reduction associated with the proposed development have to be balanced against the potential significant adverse effects on local environmental quality. I do not consider the small scale increase in energy generation associated with the increased turbine heights to hold significant weight in the determination of this application and do not consider these to outweigh the concerns outlined above relating to the landscape and visual impact of the increased turbine heights.

### **Health and Safety (Ice Throw)**

- 172 The build-up of ice on turbines blades is unlikely to present problems as when icing does occur on the turbines, their vibration sensors would detect the imbalance and prohibit the operation of the turbines.

### **Aviation**

- 173 Wind turbines have been identified 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.
- 174 The increased height and location of the proposed wind turbines have been assessed by the MOD and they have advised that they do not object to the proposal. They have however requested that if planning permission is granted the following information is provided to the MOD:
- the date construction starts and ends;
  - the maximum height of construction equipment;
  - the latitude and longitude of the turbine.
- 175 This can be addressed in a suitably worded condition should planning consent be granted.

## **TV Reception**

- 176 It is not anticipated that the proposed increased turbine heights would have any significant impact on television reception. However, an appropriately worded condition could be attached to any permission which would provide mitigation measures for any person(s) affected directly by this proposal.

## **Neighbour Notification and Advertisement and Public Consultation**

- 177 The application has been advertised in accordance with the requirements of the relevant legislation in relation to both the Planning Act and Environmental Impact Assessment Regulations. There is no statutory requirement to undertake a public consultation exercise within an application of this scale.

## **Accuracy of Submission**

- 178 It is noted that concerns have been expressed regarding the accuracy of the submission. The information provided in support of the application is considered to be sufficiently accurate to enable a detailed assessment of the relevant issues to be undertaken.

## **Loss of Open Space and Agricultural Land**

- 179 The increase in turbine heights associated with this application is not considered to result in the significant loss of open space or agricultural land when compared with the extant approval for a wind farm on this site.

## **LEGAL AGREEMENTS**

- 180 None required

## **DIRECTION BY SCOTTISH MINISTERS**

- 181 Under the Town and Country Planning (Development Management Procedure) (Scotland) Regulations 2013, regulations 30 – 33 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**

- 182 In conclusion, Section 25 of the Town and Country Planning (Scotland) Act 1997, as modified, states that determination should be in accordance with the Development Plan unless other material considerations indicate otherwise. With respect to the above assessment, despite the proposal having important economic, employment and environmental benefits, with a significant proposed reduction in carbon emissions in accordance with national energy policy, it is considered that the proposed increase in turbine heights exacerbates the landscape and visual impact of the development to an unacceptable level which is contrary to the criteria contained within the Local Development Plan.

- 183 Furthermore the limited increase in renewable energy generation (9.2mw to 9.4mw) as a result of the increased turbine height is not considered to be sufficient to outweigh the concerns relating to landscape and visual impact.
- 184 I am satisfied that all other relevant matters relating to the application, including noise and residential amenity, ecology and impact on cultural heritage have been addressed and could be controlled through appropriately worded conditions should consent be granted.
- 185 However, on balance, it is concluded that the increased turbine heights exacerbates the landscape and visual impact of the development to an unacceptable level.
- 186 While there is considerable support in the Scottish Planning Policy for this form of development this support is not unconditional, planning policy and national guidance makes it clear that environmental, visual and cumulative impacts must be addressed. The extant permission is a significant material consideration in the assessment of this application however I do not consider this to be of sufficient to outweigh the increased landscape and visual impact which results from the increased turbine heights. Furthermore I also do not consider the marginal increase in energy generation and the associated economic benefit and carbon reduction levels to be of such merit to outweigh the policy concerns relating to landscape and visual impact.
- 187 The proposed increase in turbine heights would therefore result in unacceptable adverse landscape impacts and visual impacts, having regard to landscape character and setting within the immediate landscape and wider landscape character types contrary to Policies ER1A, and ER6 of the Perth and Kinross Local Development Plan 2014 and the guidance contained within the Tayside Landscape Character Assessment (1999) and Scottish Natural Heritage Siting and Designing Wind Farms in the Landscape Guidance August 2017.
- 188 The application, on balance, is therefore recommended for refusal.

## **RECOMMENDATION**

### **A Refuse the application for the following reasons**

- 1 The proposed increase in turbine heights would result in unacceptable adverse landscape impacts and visual impacts. The proposal will result in the hubs and blades of the turbines breaching the skyline and ridgelines from key viewpoints including Kinnoull Hill, Abernethy, Pitlour Hill and West Lomond which would contravene the recommendations made within the Tayside Landscape Character Assessment (TLCA) 1999 and the guidance contained within the Scottish Natural Heritage Siting and Designing Wind Farms in the Landscape Guidance 2017. This would have an adverse landscape and visual impact which cannot be economically or socially justified given the limited increase in energy production associated with the proposed increased turbine heights. The proposal is therefore contrary to policies ER1A, and ER6 of the Perth and Kinross Local Development Plan 2014.

## **B JUSTIFICATION**

The proposal is not in accordance with the Development Plan and there are no material reasons which justify departing from the Development Plan

## **C PROCEDURAL NOTES**

None

## **D INFORMATIVES**

None

Background Papers: 49 letters of representation and a petition with 250 names objecting to the application

Contact Officer: John Williamson

Date: 28 March 2019

### **ANNE CONDLIFFE INTERIM DEVELOPMENT QUALITY MANAGER**

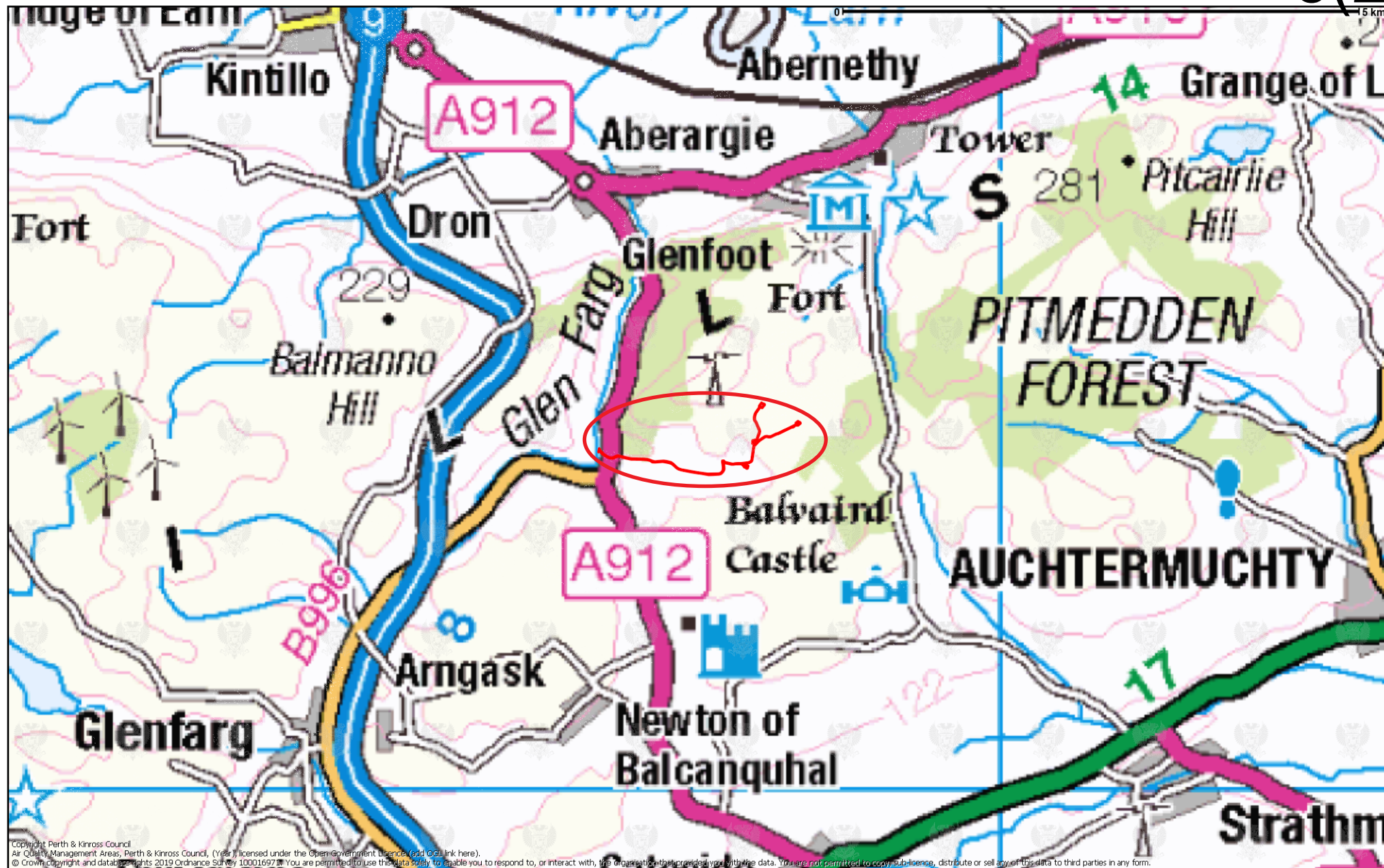
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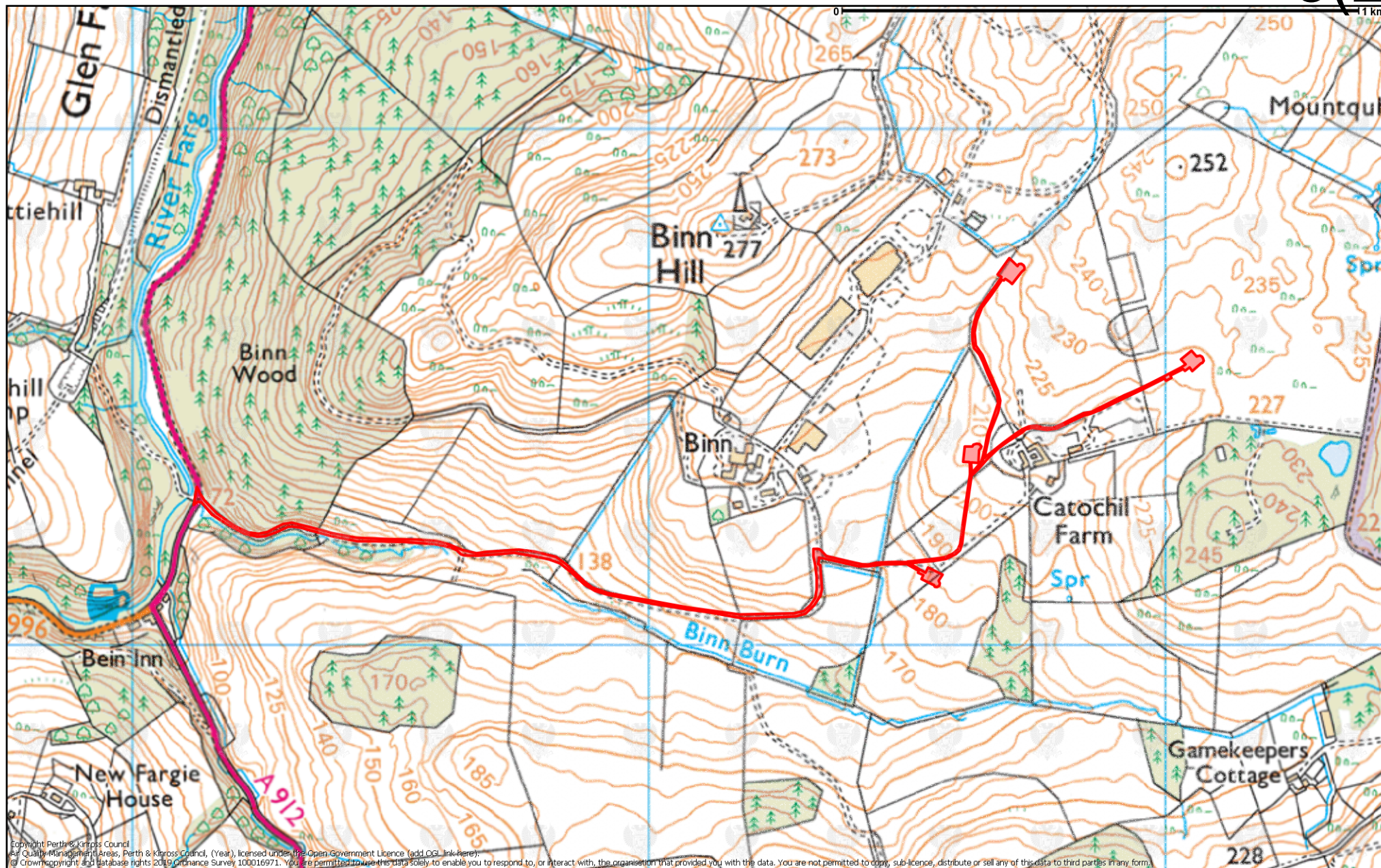




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18/00865/FLL

Erection of four wind turbines and ancillary infrastructure at Binn Eco Park, Glenfarg



